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# NATIONAL ASSEMBLY

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FIFTH SESSION

THIRTY-SECOND LEGISLATURE

Bill 26

## Cullers Act

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### Introduction

Introduced by  
Mr Jean-Pierre Jolivet  
Minister for Forests



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## EXPLANATORY NOTES

*This bill proposes a thorough reform of the legislation on cullers. It replaces the existing Cullers Act which, on the whole, dates back to 1941.*

*The object of the bill is to ensure that cullers have the required competence.*

*Division I determines the scope of the Act and extends it to all cullers holding licences.*

*Division II deals with the duties and powers of cullers.*

*Division III establishes a new board of examiners for cullers which will consist of three members, one of whom will be chosen from among the persons recommended by the Professional Association of Licensed Cullers of the Province of Quebec. The board will be responsible, in particular, for holding examinations and issuing licences for cullers.*

*Division IV contains provisions relating to licences. It establishes certain administrative sanctions which the board may impose and provides for a mechanism of appeal from decisions of the board in such matters to the Provincial Court.*

*Division V contains the regulation-making powers of the Government.*

*Division VI creates offences and determines the penalties.*

*Finally, Division VII contains the transitional and final provisions.*

# Bill 26

## Cullers Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### DIVISION I

#### SCOPE

**1.** This Act applies to every person who measures timber cut upon public lands including cross cut trees, lopped trees, trees with no crown or trees reduced to chips.

**2.** No person other than a culler licensed under this Act may make measurements of timber cut on public lands.

The culler shall make the measurements in accordance with the standards adopted under the Lands and Forests Act (R.S.Q., chapter T-9).

**3.** This Act also applies to a culler licensed under this Act who makes measurements of timber cut on private land.

The culler shall make the measurements in accordance with the standards contained, where such is the case, in a contract relating to such timber.

### DIVISION II

#### CULLERS' DUTIES AND POWERS

**4.** A culler shall determine the quantity of timber cut on public lands or, as the case may be, on private land and carry out the necessary operations for that purpose.

**5.** A culler may, in the performance of his duties, enter and pass over private land.

He shall, upon request, produce the identity card provided for in section 30 attesting to his office.

### DIVISION III

#### BOARD OF EXAMINERS FOR CULLERS

**6.** The Government shall establish a board of examiners for cullers, consisting of three members, one of whom shall be the chief examiner.

The board shall be under the direction of the chief examiner.

**7.** The members of the board shall be appointed by the Government for a term of three years; two members shall be chosen from among the personnel of the public service and the third member among the persons recommended by the Professional Association of Licensed Cullers of the Province of Quebec.

**8.** The members of the board shall remain in office, notwithstanding the expiry of their term, until they are replaced or reappointed.

**9.** If a member of the board is absent or prevented from acting, the minister responsible for the administration of this Act may, on the conditions he determines and in the manner provided in section 7, appoint a person to replace the member in the interim.

**10.** The Government shall fix, as the case may be, the salary, allowances, indemnities and other conditions of employment of the members of the board.

**11.** The employees of the board shall be appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

**12.** The signature of the chief examiner shall give effect to every document within the competence of the board.

**13.** No deed, document or writing binds the board unless it is signed by the chief examiner.

**14.** The Government may, by regulation published in the *Gazette officielle du Québec*, allow, on the conditions it determines, the signature to be affixed by means of an automatic device to the documents it determines.

The Government may also allow a facsimile of the required signature to be engraved, lithographed or printed on documents it determines. The facsimile shall be authenticated by the countersignature of a person authorized by the chief examiner.

**15.** Every document or copy of a document emanating from the board or its records, signed and certified true by the chief examiner, is authentic.

**16.** The duties of the board are, in particular,

(1) to develop a program of examinations and to hold examinations for persons wishing to obtain a culler's licence;

(2) to issue licences to persons deemed capable of performing the duties of culler;

(3) to hold examinations to verify, when it deems it expedient, the competence of holders of culler's licences;

(4) to keep an up-to-date register of holders of culler's licences.

#### DIVISION IV

##### LICENCES

**17.** No person may perform the duties of culler within the meaning of this Act without holding a licence issued by the board.

**18.** The board shall issue a culler's licence to every person who

(1) meets the prescribed conditions and pays the duties fixed by regulation of the Government;

(2) successfully passes the examinations prescribed for obtaining a licence.

**19.** The board may suspend or repeal a licence if the holder

(1) no longer meets the conditions prescribed by regulation of the Government for obtaining a licence;

(2) fails an examination provided for in paragraph 3 of section 16;

(3) is found guilty of an offence against this Act;

(4) does not respect, when measuring timber cut on public land, the measurement standards adopted under the Lands and Forests Act;

(5) does not respect, when measuring timber cut on private land, the measurement standards contained in a contract relating to that timber.

**20.** The board shall give the holder of a licence an opportunity to express his point of view before suspending or revoking his licence.

**21.** Revocation or suspension of a licence has effect from the date of its service upon the holder of the licence.

**22.** A culler whose licence is suspended or revoked may appeal from the decision of the board to the Provincial Court.

**23.** The appeal shall be brought by a motion served on the board.

The motion shall be filed in the office of the Provincial Court in the judicial district in which the appellant is domiciled or has his establishment within 30 days following receipt of the decision of the board by the appellant.

**24.** Upon service of the motion, the board shall transmit to the Provincial Court the record relating to the decision being appealed.

**25.** The appeal shall be heard and decided by preference.

**26.** Subject to any additional proof that it may require, the court shall render its decision on the record transmitted to it by the board, after giving an opportunity to the parties to express their points of view.

**27.** The appeal does not suspend execution of the decision of the board unless the court decides otherwise.

**28.** No appeal lies from the decision of the Provincial Court.

**29.** The Provincial Court may, in the manner prescribed in section 47 of the Code of Civil Procedure (R.S.Q., chapter C-25), make the rules of practice judged necessary for the carrying out of this division.

#### DIVISION V

#### REGULATIONS

**30.** The Government may, by regulation,

(1) determine the conditions for issuing a culler's licence;

(2) determine the form and content of a culler's licence;

(3) determine the form and content of the identity card of a licence holder;

(4) prescribe the duties payable under this Act for the issue of a culler's licence or identity card or the issue of a duplicate thereof.

**31.** The board may, by regulation subject to government approval, prescribe rules for its internal management or for the conduct of its business.

**32.** Every regulation made or approved under this division shall come into force ten days after its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

#### DIVISION VI

##### PENAL PROVISIONS

**33.** Every person who

(1) falsely leads to the belief, by his title or designation or otherwise, that he holds a culler's licence issued under this Act,

(2) performs the duties of culler within the meaning of this Act without holding the prescribed licence,

is guilty of an offence.

**34.** Every person who contravenes a provision of section 33 is liable, in addition to costs, to a fine of not less than \$200 nor more than \$500.

**35.** Proceedings are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

#### DIVISION VII

##### TRANSITIONAL AND FINAL PROVISIONS

**36.** This Act replaces the Cullers Act (R.S.Q., chapter M-12).

**37.** The board of examiners for cullers established under the Cullers Act (R.S.Q., chapter M-12) is replaced by the board of examiners for cullers established under this Act.

Cases pending before the former board are continued and decided by the board established under this Act.

**38.** Members of the board of examiners for cullers in office on (*insert here the date of the day preceding that of the coming into force of this Act*) shall remain in office until they are replaced or reappointed in the manner provided in section 7.

**39.** The records and other documents of the board of examiners for cullers established under the Cullers Act (R.S.Q., chapter M-12) become the records and documents of the board of examiners for cullers established under this Act.

**40.** Every person holding a culler's licence issued under the Cullers Act (R.S.Q., chapter M-12) is considered to hold a licence issued under this Act.

**41.** Every provision of a regulation, order in council or order passed under the Cullers Act (R.S.Q., chapter M-12) remains in force, to the extent that it is consistent with this Act, until it is repealed, replaced or amended by a regulation or an order passed under this Act.

**42.** A reference to the Cullers Act (R.S.Q., chapter M-12) or to any provision thereof is deemed to be a reference to this Act or to the equivalent provision of this Act.

[[**43.** The sums required for the administration of this Act shall be taken, for the fiscal period 1985-86, out of the consolidated revenue fund to the extent determined by the Government.]]

**44.** The Government shall appoint the minister responsible for the administration of this Act.

**45.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

**46.** This Act comes into force on the date fixed by proclamation of the Government.