

NATIONAL ASSEMBLY
Thirty-third Legislature, second session

1988, chapter 73
**AN ACT TO AMEND THE FOREST ACT
AND OTHER LEGISLATION**

Bill 84

Introduced by Mr Albert Côté, Minister for Forests

Introduced 15 November 1988

Passage in principle 1 December 1988

Passage 22 December 1988

Assented to 23 December 1988

Coming into force: 23 December 1988

Acts amended:

Labour Code (R.S.Q., chapter C-27)

Forest Act (R.S.Q., chapter F-4.1)

Act respecting the lands in the public domain (R.S.Q., chapter T-8.1)

Mining Act (1987, chapter 64)



CHAPTER 73

An Act to amend the Forest Act and other legislation

[Assented to 23 December 1988]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. F-4.1,
s. 9, re-
placed

1. Section 9 of the Forest Act (R.S.Q., chapter F-4.1) is replaced by the following section:

Privilege

“9. The Crown has, for the purpose of securing the payment of dues exigible for the allocation or harvest of timber under this Act, a privilege on the timber harvested on forest land by or on behalf of the debtor of such dues, whatever the destination of the timber.

Privilege

The privilege shall cease to encumber the harvested timber from the time it is alienated and removed from the public domain; the privilege is, in that case, transferred to any other timber harvested in forests of the public domain under this Act by or on behalf of the debtor. Failing any other harvested timber, the privilege is transferred to the price of alienation of any other timber so harvested.

Rank

The privilege shall rank immediately after court costs.”

c. F-4.1,
s. 10, am.

2. Section 10 of the said Act is amended by inserting, at the end, the following paragraph:

“(7) for a punctual management activity referred to in section 24.1.”

c. F-4.1,
s. 11.1,
added

3. The said Act is amended by inserting, after section 11, the following section:

Firewood

“11.1 The harvest of firewood for the exclusive use of an outfitting operation, a wildlife management area or a wildlife preserve within the meaning of Divisions II, III and IV of Chapter IV of the Act

respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) shall be regarded as the harvest of firewood for domestic purposes.

Attestation

Every application under the first paragraph must be filed by the person responsible for the management of the outfitting operation, of the wildlife management area or of the wildlife preserve. It must be accompanied with a statement attesting that the harvest of firewood is intended for the exclusive use of an outfitting operation, the wildlife management area or the wildlife preserve.

Authorized volume

The permit authorizes its holder to harvest, in the contemplated territorial unit, a volume of timber of the species determined by the Minister.”

c. F-4.1,
s. 12,
repealed

4. Section 12 of the said Act is repealed.

c. F-4.1,
s. 13, am.

5. Section 13 of the said Act is amended

(1) by replacing the introductory phrase by the following: “The Minister may issue a sugar bush management permit to every person who applies therefor in writing and furnishes”;

(2) by striking out paragraph 1;

(3) by inserting, at the end of paragraph 2, the following words: “including, in particular, the area and tapping capacity of the sugar bush;”.

c. F-4.1,
ss. 15, 16,
repealed

6. Sections 15 and 16 of the said Act are repealed.

c. F-4.1,
ss. 16.1,
16.2, added

7. The said Act is amended by inserting, after section 16, the following sections:

Report

“16.1 The holder shall prepare and submit to the Minister a report of his activities in the form, at the time and with the content determined by regulation of the Government.

Renewal requirements

“16.2 A permit holder who operates a sugar bush for acericultural purposes is entitled to the renewal of his permit if he meets the following requirements:

(1) he complies with the prescriptions of the permit;

(2) he has submitted his report of activities to the Minister;

(3) he has operated his sugar bush at 70% or more of its tapping capacity during the last year.

New operator In the case of a new operator, the percentage provided in subparagraph 3 shall be 50%.”

c. F-4.1, s. 17, replaced **8.** Section 17 of the said Act is replaced by the following sections:

Added area **“17.** On renewing a permit the Minister may, at the request of the holder, increase the area of the territory covered by the permit, if the holder meets the following requirements:

(1) he has operated the sugar bush at 90% or more of its tapping capacity for at least two years;

(2) he has completed the construction of the roads and buildings as described and located in his application.

Operation **“17.1** A permit holder must, within three years of the date on which he obtained the permit, operate any part of the sugar bush added to the territory covered by his permit at 90% or more of its tapping capacity.

Unused tapping capacity If the permit holder does not meet that requirement, the Minister may remove, from the part added to the sugar bush, that part which corresponds to the unused tapping capacity.

Refusal **“17.2** The Minister may, for public utility purposes, refuse to renew a sugar bush management permit.”

c. F-4.1, s. 23, am. **9.** Section 23 of the said Act is amended by adding the following paragraph:

Consultation **“Where** the permit authorizes its holder to carry out forest management work in a forest management unit covered by a timber supply and forest management agreement, the Minister must beforehand have consulted the agreement holder concerned.”

c. F-4.1, s. 24, replaced **10.** Section 24 of the said Act is replaced by the following section:

Holders of forest management permits **“24.** The Minister shall not issue a forest management permit for the supply of a wood processing plant except to

(1) the holder of a timber supply and forest management agreement or the holder of a wood processing plant operating permit for energy production or metallurgical purposes who is entitled thereto under Chapter III;

(2) the holder of a wood processing plant operating permit who complies with section 92.1.”

c. F-4.1, ss. 24.1 to 24.3, added **11.** The said Act is amended by inserting, after section 24, the following subdivision:

“§ 7.—*Punctual activity*

Harvest of unallocated timber **“24.1** In a forest management unit, the Minister may issue to a person who applies therefor, on the conditions he determines and with the authorization of the Government, a forest management permit for the harvest of timber not allocated under a timber supply and forest management agreement where he is of opinion that such harvest will promote the growth of stands in the forest areas in which it is carried out.

Purposes The permit may be issued only in respect of a punctual management activity for experimental or research purposes or to execute a guaranty of auxiliary timber supply provided in an agreement entered into by the Minister.

Agreement **“24.2** The Minister shall issue the permit only to a person who has entered into an agreement with the holder of any agreement currently in force in the forest area concerned, in respect of the carrying out of the required forest management activities and the allocation of the costs thereof.

Execution of guaranty Notwithstanding the first paragraph, in the case of the execution of a guaranty of auxiliary timber supply, the permit may be issued despite the absence of an agreement. The terms and conditions prescribed by the Minister as regards the carrying out of the required forest management activities and the allocation of the costs thereof between the parties have, in such a case, the same effect as an agreement between the parties.

Dues **“24.3** The holder of a management permit shall pay the dues prescribed by the Minister for the harvest of timber; the dues shall correspond to the product obtained by multiplying the harvested volume by the unit rate established under section 72.”

c. F-4.1, s. 26.1, added **12.** The said Act is amended by inserting, after section 26, the following section:

Work by third person **“26.1** Where the holder of a management permit entrusts the carrying out of work authorized under his forest management permit to a third person, he must inform that person in writing of the requirements of this Act and the regulations thereunder and of the prescriptions of the management permit relating to the forest management activities to be carried out.

- Compliance The third person must comply with such requirements.”
- c. F-4.1,
s. 28,
replaced **13.** Section 28 of the said Act is replaced by the following sections:
- Use of
machinery **“28.** No person may operate a machine used for a forest management activity on the bed of a lake or watercourse, except
- (1) for the purpose of erecting a bridge or a culvert or completing bridging work;
- (2) in accordance with the norms prescribed by regulation under the Environment Quality Act (R.S.Q., chapter Q-2), where such is the case.
- Dumping of
contaminants
prohibited **“28.1** No person may dump earth, slash, oil, chemical products or other contaminants of the same nature contemplated in the Environment Quality Act into a lake or watercourse in carrying on a forest management activity.”
- c. F-4.1,
s. 30, am. **14.** Section 30 of the said Act is amended by inserting the words “or improve” after the word “construct” in the first line.
- c. F-4.1,
s. 31, am. **15.** Section 31 of the said Act is amended
- (1) by inserting the words “or improve” after the word “construct” in the first line of the first paragraph;
- (2) by replacing the second paragraph by the following paragraph:
- Forest road “A forest road is a road constructed or used on land in the public domain in view of forest management activities under this Act.”
- c. F-4.1,
s. 32, am. **16.** Section 32 of the said Act is amended by replacing the words “Chapter III of this Title” in the third line by the words “this Act”.
- c. F-4.1,
s. 33, am. **17.** Section 33 of the said Act is amended by replacing the second paragraph by the following paragraph:
- Access to
forest road “Notwithstanding the first paragraph, the Minister may, for reasons of public interest, limit or prohibit access to a forest road.”
- c. F-4.1,
s. 49, am. **18.** Section 49 of the said Act is amended by adding, at the end, the following paragraph:
- Several
volumes allo-
cated on the
same forest
area “Notwithstanding the first paragraph, where the Minister is of opinion that the distribution of timber according to quality, the

distribution of stands according to classes based on age or the volume of timber to be allocated does not permit the delimitation of separate forest management units, he may allocate in the same forest area, volumes of timber of the same species intended for the same use to several agreement holders.”

c. F-4.1,
s. 51, am.

19. The first paragraph of section 51 is amended by adding, at the end, the following sentence: “The plan shall be approved by a forest engineer.”

c. F-4.1,
s. 52, am.

20. The first paragraph of section 52 is amended by inserting the words “approved by a forest engineer” after the word “plan” in the second line of the first paragraph.

c. F-4.1,
s. 53, am.

21. Section 53 of the said Act is amended

(1) by replacing the words “and at the time” in the second line of the first paragraph by the words “, at the time and with the content”;

(2) by replacing the words “at the time and in the form” in the first and second lines of the second paragraph by the words “in the form, at the time and with the content”.

c. F-4.1,
s. 54, am.

22. Section 54 of the said Act is amended by replacing the words “and at the time” in the second line by the words “, at the time and with the content”.

c. F-4.1,
s. 55, re-
placed

23. Section 55 of the said Act is replaced by the following sections:

Agreement
between
several
agreement
holders

“55. Where several agreements are carried out in the same forest area, the agreement holders shall come to an agreement as to terms for the orderly integration of forest management activities, as to timber transportation activities and as to the allocation of the costs of such activities.

Dues

The agreement holders shall also come to an agreement as to the proportion of the prescribed dues which each agreement holder will pay by way of silvicultural treatments.

Dispute

Any dispute in respect of matters referred to in the first and second paragraphs shall be submitted to arbitration, on the application of an interested agreement holder, in accordance with the provisions of Book VII of the Code of Civil Procedure (R.S.Q., chapter C-25). The decision of the arbitrator shall have the same effect as stipulations agreed upon between the parties in respect of the subject of the dispute.

Stipulations **“55.1** The stipulations of the agreement as to terms for the orderly integration of forest management activities and, where applicable, the stipulations as to the arbitration procedure shall be set out in the general, annual and five-year plans of each agreement holder referred to in section 55.

Stipulations The stipulations as to timber transportation and as to the allocation of the costs of forest management activities and of timber transportation and the stipulations provided for in the second paragraph of section 55 shall be set out in the annual plan of each such agreement holder.

Representa- **“55.2** Each year, the agreement holders referred to in section tive 55 shall, in respect of each common area or part of a common area in which forest management activities are carried on, authorize one agreement holder to receive from the Minister and to transmit to him, on their behalf, any information or document necessary for the purposes of this Act. The annual management plan of each agreement holder shall indicate the name of the person so designated.

Forest Where the agreement holders entrust the carrying out of forest cooperative management activities in a common area or in part of a common area to a forest cooperative, they may designate the latter as the authorized person for the purposes of the first paragraph as regards that area.”

c. F-4.1,
s. 56,
repealed

24. Section 56 of the said Act is repealed.

c. F-4.1,
s. 57, am.

25. Section 57 of the said Act is amended by inserting the words “approved by a forest engineer” after the word “plan” in the first line.

c. F-4.1,
s. 58, am.

26. Section 58 of the said Act is amended by replacing the words “and at the time” in the second line by the words “, at the time and with the content”.

c. F-4.1,
s. 58.1,
added

27. The said Act is amended by inserting, after section 58, the following section:

Examination
by the public

“58.1 The Minister shall make the general plan and the five-year plan available for examination by the public for a period of 45 days prior to their approval.”

c. F-4.1,
s. 60,
replaced

28. Section 60 of the said Act is replaced by the following section:

Undertaking

“60. Every agreement shall include an undertaking by the agreement holder

(1) to carry out every year at his own expense, in the forest management unit, all silvicultural treatments necessary for the attainment of the annual yield indicated in the agreement, in accordance with the annual forest management plan and the standards of forest management applicable under section 171;

(2) to evaluate the silvicultural treatments he has carried out, in terms of their quality and quantity.”

c. F-4.1,
s. 66, am.

29. Section 66 of the said Act is amended by inserting the words “of such species or groups of species as may be” after the word “timber” in the third line.

c. F-4.1,
s. 67, am.

30. Section 67 of the said Act is amended by replacing the words “by the Minister under section 55” in the third and fourth lines by the words “under sections 55.1 and 55.2”.

c. F-4.1,
ss. 68, 69,
repealed

31. Sections 68 and 69 of the said Act are repealed.

c. F-4.1,
s. 70,
replaced

32. Section 70 of the said Act is replaced by the following section:

Annual
report

“70. At the end of each year, every agreement holder shall prepare and submit to the Minister, in the form, at the time and with the content determined by regulation of the Government, a report approved by a forest engineer on the forest management activities carried out in the year and on the evaluation of the quality and quantity of silvicultural treatments applied in accordance with the terms and conditions prescribed in the agreement.

Silvicultural
treatment

The report shall indicate, in particular, the proportion of the silvicultural treatments stipulated in the annual forest management plan which have been effectively applied during the year.”

c. F-4.1,
s. 72, am.

33. Section 72 of the said Act is amended by inserting the words “and quality of timber” after the words “group of species” in the first line.

c. F-4.1,
s. 77, am.

34. Section 77 of the said Act is amended

(1) by replacing paragraph 2 by the following paragraph:

“(2) changes in the availability of timber from private woodlots, of wood chips, sawdust, shavings or timber from outside Québec;”;

(2) by adding, at the end, the following paragraph:

“(5) the forest management activities carried out in the last five years.”

c. F-4.1,
s. 79, am.

35. Section 79 of the said Act is amended

(1) by replacing the words “for such period” in the fourth and fifth lines of the first paragraph by the words “, notwithstanding sections 25, 27 and 171, for such period and on such conditions”;

(2) by replacing the third paragraph by the following paragraph:

Financial
assistance

“The Minister may, for the implementation of a special plan, grant to any agreement holder who applies therefor in writing, financial assistance which may be in the form of a credit on the dues payable by the agreement holder under this Act.”;

(3) by adding, after the third paragraph, the following paragraph:

Wood
salvage

“This section also applies to ensure wood salvage in a forest area required for a hydroelectric development and designated for that purpose by order of the Government.”

c. F-4.1,
s. 82, am.

36. Section 82 of the said Act is amended by inserting, after subparagraph 3 of the first paragraph, the following subparagraph:

“(4) if the agreement holder fails to comply with the obligations set out in sections 41 and 166.”

c. F-4.1,
s. 89, am.

37. Section 89 of the said Act is amended by replacing the second paragraph by the following paragraph:

Silvicultural
treatments

“Silvicultural treatments shall be admitted as payment of prescribed dues if the treatments are applied to attain the annual yield in accordance with section 60 and if they are accepted by the Minister following the presentation of the annual report prescribed under section 70.”

c. F-4.1,
s. 89.1,
added

38. The said Act is amended by inserting, after section 89, the following section:

Progress
report

89.1 The person referred to in section 89 may prepare and submit to the Minister, in the form and with the content determined by regulation of the Government, a silvicultural treatment progress report approved by a forest engineer. The report shall not be submitted to the Minister until 30 days have elapsed since the date of the last report.

Provisional credit On the presentation of that report, the Minister may grant a provisional credit, for a value corresponding to the value of the silvicultural treatments which have been carried out, applicable to the payment of the prescribed dues.

Adjustment Following the presentation of the annual report, the credit shall be adjusted, if need be, to ensure that it corresponds to the value of the silvicultural treatments accepted by the Minister in accordance with section 89.”

c. F-4.1, s. 92, am. **39.** The second paragraph of section 92 of the said Act is repealed.

c. F-4.1, ss. 92.1, 92.2, added **40.** The said Act is amended by inserting, after section 92, the following subdivision:

“§ 1.1—*Holder of a wood processing plant operating permit who is a party to an agreement with an agreement holder*

Authorization to harvest **“92.1** The Minister may, at any time, authorize the holder of a wood processing plant operating permit to harvest in place of an agreement holder in his forest management unit such volume of timber as is required to replace the chips, sawdust and shavings that the agreement holder fails to provide to the permit holder notwithstanding an agreement between them to that effect.

Permit The authorization shall be granted by means of a forest management permit. Such a permit shall not be granted unless

(1) the agreement referred to in the first paragraph has been entered into for a term of not less than one year;

(2) the holder of a wood processing plant operating permit has notified the Minister, by written notice, of the existence of the agreement within 15 days of its signing;

(3) the holder of the operating permit is unable to obtain timber from a source of supply comparable to the source which has failed him.

Obligations **“92.2** Every holder of a plant operating permit to whom the Minister issues a forest management permit pursuant to section 92.1 is subject to the same obligations as an agreement holder respecting the management of forest areas in which he exercises his right to timber supply.”

c. F-4.1, s. 94, am. **41.** Section 94 of the said Act is amended by replacing the words “slash hardwood and cull promotes the growth of mixed and hardwood

stands” in the second and third lines by the words “slash and cull promotes the growth of stands”.

c. F-4.1,
s. 95, am.

42. Section 95 of the said Act is amended by striking out the word “hardwood” in the second line.

c. F-4.1,
ss. 95.1 to
95.4, added

43. The said Act is amended by inserting, after section 95, the following division:

“DIVISION III

“GUARANTY OF AUXILIARY TIMBER SUPPLY

Auxiliary
timber
supply

“95.1 The Minister may, if forest production is sufficient, enter into an agreement guaranteeing an auxiliary timber supply, on the conditions and for the time fixed by the Government, with the holder of a wood processing plant operating permit who does not hold a timber supply and forest management agreement in respect of that plant.

Purpose

An agreement for auxiliary timber supply shall not be entered into except to promote the establishment and expansion of a wood processing plant.

Nature of
undertaking

“95.2 By an agreement guaranteeing auxiliary timber supply, the Minister, on the conditions and for the time fixed by the Government, makes an undertaking to provide, where necessary, an auxiliary timber supply where a timber supplier with whom the holder of a wood processing plant operating permit is bound by a long-term agreement has defaulted.

Source of
supply

“95.3 The Minister shall provide the auxiliary timber supply, pursuant to his obligation under an agreement, out of the timber harvested in public forest reserves or in accordance with section 24.1, in a forest management unit.

Other source
unavailable

The Minister is required to fulfil the obligation mentioned above only when he is unable to suggest to the agreement holder another available source of supply comparable to the defaulting supplier.

Priority

“95.4 Where, under an agreement guaranteeing auxiliary timber supply, a permit holder is entitled to obtain an auxiliary supply of timber harvested in public forest reserves, the Minister shall sell to him, in preference to any other purchaser, the volume of timber which is deficient, on the terms and conditions stipulated in the agreement.”

c. F-4.1,
s. 97, am.

44. Section 97 of the said Act is amended

(1) by replacing the figure "101" in the second line by the figure "95.4";

(2) by adding, at the end, the following paragraphs:

Powers

"The Minister may, with the authorization of the Government,

(1) determine classes of bidders;

(2) limit the sale to the holders of wood processing plant operating permits of a particular region;

(3) fix the minimum price of a sale.

Exception

This section does not apply to timber harvested under a management contract contemplated in section 102 in an experimental forest, a forest educative centre, a research forest or a forest station.

Sales by
Rexfor

Where the Minister entrusts the carrying out of forest management activities in forest reserves to Rexfor, he may authorize the latter to sell, for its own account, any timber harvested by it in carrying out such activities. Except for the purposes of section 95.4, the sales shall be made by public auction and shall comply, as the case may be, with the provisions of the second paragraph."

c. F-4.1,
ss. 98 to 101,
repealed

45. Sections 98 to 101 of the said Act are repealed.

c. F-4.1,
s. 106,
replaced

46. Section 106 of the said Act is replaced by the following section:

Payment of
dues

"106. The contractor shall pay the dues prescribed by the Minister for the harvest of timber; the dues shall correspond to the product obtained by multiplying the harvested volume by the unit rate established under section 72 unless the Government, by regulation, fixes another unit rate or determines a rule of computation in respect of such dues.

Scaling

The contractor shall scale any harvested timber according to the method prescribed by government regulation where the unit rate is established under section 72."

c. F-4.1,
s. 108, am.

47. Section 108 of the said Act is amended by adding the words ", notwithstanding sections 25, 27 and 171" at the end of the second paragraph.

c. F-4.1,
s. 113, am.

48. Section 113 of the said Act is amended by replacing the words "determined by the Government" in the first and second lines by the words "he determines".

c. F-4.1,
s. 114, am.

49. Section 114 of the said Act is amended by adding, at the end, the following paragraph:

Departure

“Where the research activities relate to the standards of forest management prescribed by the Government under section 171, the contract may provide for a departure from the standards.”

c. F-4.1,
s. 115, am.

50. The second paragraph of section 115 of the said Act is repealed.

c. F-4.1,
s. 117.1,
added

51. The said Act is amended by inserting, after the heading of Title II, the following section:

Applicability

“117.1 This Title applies to private forests and to forests situated on lands held and owned by a native landholding corporation and whose intended use is forest production.”

c. F-4.1,
ss. 118 and
119, replaced

52. Sections 118 and 119 of the said Act are replaced by the following sections:

Plans and
programs

“118. The Minister may prepare or promote the preparation of plans and programs to facilitate the gathering of inventory data, the calculation of the allowable annual cut and the development of forests. For such purposes, he may, on the conditions he determines, grant financial assistance therefor

(1) to a forest producer certified by the Minister;

(2) to an organization providing services which qualify for financial assistance for forest development to certified producers only;

(3) to a group of organizations referred to in paragraph 2.

Reforesta-
tion

“119. The Minister shall promote reforestation through

(1) the gathering of forest seeds;

(2) the maintenance and development of nurseries;

(3) the distribution of plants;

(4) the planting of trees;

(5) the lending of machinery;

(6) the purchase and reforestation of land;

(7) any other measure of the same nature.

Distribution
of plants

The Minister may, in addition, ensure the distribution of plants not intended for ornamentation, resale or the production of Christmas trees, to any person or organization making a request therefor.”

c. F-4.1,
s. 121,
replaced

53. Section 121 of the said Act is replaced by the following section:

Forest
producer

“121. To qualify as a forest producer a person shall

(1) own a forest area of not less than 4 hectares in a single block, or be the lessee of such an area of land in the public domain, on which the main income is derived from acericulture or from the production of ligneous matter or Christmas trees;

(2) register any forest area meeting the conditions set out in subparagraph 1 of the first paragraph for which he claims a reimbursement of real estate taxes or for which he applies for financial assistance under section 118, and any modification relating to its content or effecting a change in it.

Require-
ments

The person shall also, in respect of a registered forest area, undertake to comply with

(1) a simple management plan, prepared and signed by a forest engineer, which specifies the identity of the forest producer, the location of the forest area and its description, and sets out the objectives of the forest producer and the forest development work having priority;

(2) in the case of an industrial enterprise, a general forest management plan and a five-year forest management plan prepared and signed by a forest engineer and approved by the Minister.”

c. F-4.1,
ss. 123 and
124, replaced

54. Sections 123 and 124 of the said Act are replaced by the following sections:

Reimburse-
ment of real
estate taxes

“123. To obtain a reimbursement of real estates taxes under the Act respecting municipal taxation (R.S.Q., chapter F-2.1), a person shall

(1) meet the requirements set out in section 121;

(2) apply therefor in writing each year;

(3) produce, with the application, a report containing a statement of the forest development work referred to in section 121, that has been performed within the last fiscal year and representing an amount of expenses equal to or greater than the amount of real estate taxes to be reimbursed.

Forest pro-
ducers

124. The following organization and person may be certified as forest producers, obtain a certificate to that effect and be granted financial assistance under this Title:

- (1) an organization which assumes the management of a research forest in a public forest reserve in accordance with section 113;
- (2) a person who has entered into a management contract within the meaning of section 102."

c. F-4.1,
ss. 127.1,
127.2, added

55. The said Act is amended by inserting, after section 127, the following sections:

Failure to
join forest
protection
organization

127.1 The Minister may refuse to issue a forest management permit if the holder of a timber supply and forest management agreement fails to join the forest protection organization or if he fails to pay the assessment fixed by the organization.

Failure to
pay assess-
ment

127.2 The Minister may refuse to certify the owner of a private forest 800 hectares or more in a single block as a forest producer, or revoke the certificate issued to that effect, if he refuses to join the forest protection organization or if he fails to pay the assessment fixed by the organization."

c. F-4.1,
s. 128, am.

56. Section 128 of the said Act is amended by adding, at the end, the following paragraph:

Consolidated
revenue fund

"The expenses referred to in the second paragraph shall be paid out of the consolidated revenue fund."

c. F-4.1,
s. 155, am.

57. Section 155 of the said Act is amended by replacing the words "and at the time" in the third line by the words ", at the time and with the content".

c. F-4.1,
s. 163, am.

58. Section 163 of the said Act is amended

- (1) by replacing the words "authorization to construct" in the first line by the words "the authorization referred to in section 162";
- (2) by adding, at the end, the following paragraph:

Validity

"The authorization shall be valid for a maximum period of one year."

c. F-4.1,
s. 168, am.

59. Section 168 of the said Act is amended by adding, after the word "form" in the second line of the first paragraph, the words ", at the time and with the content".

c. F-4.1,
s. 170.1,
added

60. The said Act is amended by inserting, after section 170, the following section:

Reserved
timber

“170.1 The Minister may enter into an agreement with any person who plans to construct a wood processing plant or anticipates an increase in the timber consumption capacity of a wood processing plant, whereby he undertakes to reserve for that person, for a period of six months, a volume of standing timber in forests forming part of the public domain.

Criteria

The Minister may enter into such an agreement where he is of opinion that the timber supply sources are sufficient and forest production is respected. The volume of timber reserved under the agreement shall be determined by taking into account, in particular, the criteria set out in section 43.

Payment of
dues

The agreement shall entail, for that person, the obligation to pay the dues prescribed by the Minister. The dues shall correspond to 20 % of the product obtained by multiplying the volume of standing timber reserved by the unit rate established under section 72. Where the plan is carried out, the dues shall be deductible from the amount of the dues prescribed under sections 5, 71, 73, 88 and 234, and according to the time limits fixed therein, from the date of issue of the plant permit, in the case of the construction of a plant, or when the expansion work is completed.

Renewal of
agreement

The agreement may be renewed on the same terms and conditions until a plant permit is issued or until the expiry of the fifth six-month period, whichever occurs first.”

c. F-4.1,
s. 172, am.

61. Section 172 of the said Act is amended

(1) by inserting, after paragraph 3, the following paragraph:

“(3.1) prescribe the form and content of the silvicultural treatment progress report submitted to the Minister under section 89.1;”;

(2) by inserting, after paragraph 5, the following paragraph:

“(5.1) prescribe the form and content of the progress report to be submitted to the Minister by the holder of a sugar bush management permit for acericultural purposes, and the time at which the report must be submitted;”;

(3) by inserting the words “and content” after the word “form” in the first line of paragraph 7;

(4) by replacing paragraph 10 by the following paragraph:

“(10) fix another unit rate or determine a rule of computation for the purposes of section 106;”;

(5) by inserting the words “and content” after the word “form” in the first line of paragraph 15;

(6) by replacing the words “of the register he must keep pursuant to section 168”, in the third and fourth lines of paragraph 17 by the words “and content of the register he must keep pursuant to section 168, and the time at which the register must be transmitted”;

(7) by replacing paragraph 18 by the following paragraphs:

“(18) define the works referred to in section 218 and determine the method of calculation of the residual value of the works;

“(18.1) fix another unit rate or determine a rule of calculation for the purposes of section 213.1 of the Mining Act;”.

c. F-4.1,
s. 173,
replaced

62. Section 173 of the said Act is replaced by the following section:

Offences

“**173.** The following persons are guilty of an offence:

(1) every person who, without a permit, cuts, removes, carries away or harvests timber or taps a maple tree on lands in the public domain;

(2) every permit holder or the third person to whom he entrusts the carrying out of the work authorized by his permit who, in contravention of a prescription of the permit, cuts, removes, carries away or harvests timber or taps a maple tree on lands in the public domain.

Fine

The offender is liable to a maximum fine of \$50 and, for each subsequent offence within two years, to a maximum fine of \$100, for each tree in respect of which an offence was committed.

Power of the
judge

In addition, the judge who imposes a fine may, on the conditions he determines, order the offender to reforest the site.”

c. F-4.1,
s. 175, am.

63. Section 175 of the said Act is amended by inserting the word and figure “or 28.1” after the figure “28” in the first line of the first paragraph.

c. F-4.1,
s. 175.1,
added

64. The said Act is amended by inserting, after section 175, the following section:

False statement

175.1 Every person who produces a report under section 70 which contains any statement which he knows to be false or misleading is liable, in addition to costs, to a maximum fine of \$10 000.

Prescription

Any penal proceedings in respect of the offence is prescribed by one year from the date evidence sufficient to justify such proceedings comes to the knowledge of the Minister. Proof of the date of knowledge shall be established by the filing of a certificate produced by the Minister.”

c. F-4.1, s. 184.1, added

65. The said Act is amended by inserting, after section 184, the following section:

Maximum fine

184.1 Every person who contravenes section 205 is liable, in addition to costs, to a maximum fine of \$1 000.”

c. F-4.1, ss. 187 to 206, replaced

66. The said Act is amended by replacing Chapter II of Title VI by the following chapter:

“CHAPTER II

“SEIZURE

“DIVISION I

“INSPECTION

Timber cut without permit

187. Any department employee designated by the Minister may, when making an inspection on lands in the public domain, seize any timber that has been cut and to which this Act applies, if he has reasonable cause to believe that the timber was cut without a permit.

Seizable timber

188. The employee may, in addition, seize any timber mixed with the timber he believes to have been cut without a permit, where it is impossible or very difficult to distinguish one from the other.

Minute

189. The employee who seizes timber under section 187 shall draw up a minute setting out, in particular,

- (1) the grounds for the seizure;
- (2) the place where the timber was seized;
- (3) the date and time of the seizure;
- (4) the quantity and the description of the timber seized;
- (5) the name of the person from whom the timber is seized or of the person responsible for the premises, or an indication of the fact that there was no one on the premises;

(6) any information permitting to identify the persons who may have an interest in the timber;

(7) the name and capacity of the seizer.

Duplicate
and notice

“190. The employee shall remit a duplicate of the minute to the person from whom the timber has been seized or to the person responsible for the premises, as the case may be; if there is no one on the premises, the employee shall leave, in a conspicuous place on the premises where the timber was seized, a notice stating that a seizure has been made and indicating the place where the duplicate of the minute of the seizure has been filed.

Custody

“191. The employee shall have custody of the timber seized; where it is introduced as evidence, the clerk of the court shall have custody of it.

Detention

The person having custody of the timber seized may detain it or see to it that it is detained in a manner that will ensure its preservation.

Sale of
seized
timber

“192. Where the timber is susceptible of rapid deterioration or depreciation, a judge may authorize the sale of the timber on an application by the employee.

Notice

One clear day's notice of the application shall be served on the person from whom the timber has been seized and on the persons who claim to be entitled to the seized timber.

Sale and
proceeds

The sale shall be made by a representative authorized by the Minister on the terms and conditions determined by the judge. The proceeds of the sale shall be deposited with the Ministère des Finances in accordance with the Deposit Act (R.S.Q., chapter D-5).

Detention
period

“193. The seized timber may be detained for 90 days from the date of the seizure unless proceedings are instituted, except in the cases provided for in sections 195 and 196.

Return of
seized prop-
erty

“194. On an application by a person who claims to be entitled to the seized timber, or to the proceeds of its sale, a judge shall order that the timber or proceeds be released to the applicant if he is convinced that the person is entitled thereto and that the course of justice will not be hindered by the release.

Notice

A five clear days' notice shall be served on the employee or, as the case may be, on the prosecutor, on the defendant and, if he is not the applicant, on the person from whom the timber has been seized.

Release order

The release order shall be executory at the expiry of a thirty-day period, unless the period is waived by the parties.

Return of seized property

“195. The timber seized, or the proceeds of its sale, shall be released to the person from whom the timber has been seized or to a person entitled thereto

(1) as soon as the employee has ascertained that, in his opinion, no offence has been committed under this Act or the regulations thereunder;

(2) as soon as the employee is notified that no proceedings will be instituted in relation to the seized timber or that the timber will not be introduced as evidence;

(3) at the expiry of the detention period;

(4) when a release order becomes executory.

Owner unknown

“196. If the owner or possessor of the timber seized is unknown or cannot be found, the timber seized, or the proceeds of its sale, shall be confiscated 90 days after the day of the seizure and shall subsequently be disposed of according to the Minister’s instructions.

“DIVISION II

“SEARCH

Search

“197. Any employee of the department designated by the Minister may make a search in accordance with the Summary Convictions Act (R.S.Q., chapter P-15), in order to seize any timber to which this Act applies.

Seizable timber

The employee may, in addition, seize any timber mixed with the timber that is the subject of the search, where it is impossible or very difficult to distinguish one from the other.

Minute

“198. Where he makes a seizure, the employee shall draw up a minute indicating, in addition to the information prescribed in section 189, the number of the search warrant or the reasons for which the seizure was made without a warrant.

Duplicate

The employee shall remit a duplicate of the minute to the person from whom the timber has been seized or to the person responsible for the premises, as the case may be; if no one is on the premises, the employee shall, forthwith, file a duplicate in the office of the clerk of the Court of Québec of the judicial district in which the search was made.

Notice	“199. Where a search is made while no one is on the premises, the person making the search shall leave, in a conspicuous place, a notice stating that a search has been made.
Content	Where timber has been seized, the notice shall also indicate the clerk’s office where the duplicate of the minute of the seizure will be filed and the place where information on the place of detention of the timber can be obtained.
Report	“200. Every employee who has executed a search warrant or, if the warrant was not executed, the person who applied for its issue, shall make a report thereof in writing.
Report and warrant re-mitted to judge	The report shall be remitted with the warrant and, if a seizure has been made, with the minute of the seizure, to a judge having competence to issue a search warrant in the judicial district in which the warrant was issued.
Time limit	The report shall be remitted within 15 days of the expiry of the period fixed for the execution of the warrant, unless an extension is granted by the judge who issued it.
Search without warrant	“201. Every employee who makes a search without a warrant shall make a report forthwith to a judge having competence to issue a search warrant in the judicial district in which the search was made.
Declaration of employee	The employee shall, in that case, remit to the judge a declaration, in writing and under oath, in which he states the reasons for which he decided to make a search at such place, the thing searched for therein and, where that is the case, the exigent circumstances which prevented him from applying for a warrant, or the name of the person who consented to the search and the manner in which the consent was given.
Minute of seizure	Where timber has been seized, the person who made the seizure shall also remit to the judge the minute of the seizure, either on making a report of the search or within 15 days of the seizure, unless the judge grants an extension.
Provisions applicable	“202. Sections 191 to 196, adapted as required, apply to this division.
Confiscation	“203. A judge imposing a penalty for an offence under this Act or the regulations may, on an application, where a seizure has been made under section 187 or 197, order that the timber seized be confiscated.

Disposal of seized timber The Minister shall prescribe the manner in which the timber confiscated under this section is to be disposed of.

Report **“204.** The employee shall, without delay, forward a report in writing to the Minister of any seizure made by him in the course of an inspection or search.

Prohibitions **“205.** No person may use or remove the timber seized in the course of an inspection or search, or allow it to be removed, except with the authorization of the employee.

Competent judge **“206.** Any judge having competence to issue a search warrant in the judicial district where the search or seizure is to be made or in the district where the offence has been committed is competent to exercise the powers conferred on a judge by this chapter.”

c. F-4.1, s. 207, am. **67.** Section 207 of the said Act is amended by inserting the words “or part of any river” after the word “river” in the second line of the first paragraph.

c. F-4.1, s. 226, am. **68.** Section 226 of the said Act is amended
 (1) by replacing the figure “98” in the sixth line by the figure “95.1”;
 (2) by adding, at the end, the following paragraph:

Timber supply and forest management agreement “Notwithstanding section 95.1, the operator shall also be eligible for a timber supply and forest management agreement.”

c. F-4.1, s. 233, replaced **69.** Section 233 of the said Act is replaced by the following section:

Requirements **“233.** The holder of a permit issued under sections 230 to 232 must join the certified forest protection organization in his territory and comply with the standards of forest management prescribed pursuant to section 171.

Refusal The Minister may refuse to issue the permit if the holder fails to join the forest protection organization or fails to pay the assessment fixed by the organization.”

c. F-4.1, s. 236.1, added **70.** The said Act is amended by inserting, after the heading of Title IX, the following section:

Precedence **“236.1** This Act applies to every forest management activity carried out in forests of the public domain, notwithstanding the provisions of the first paragraph of section 42 of the Interpretation Act

(R.S.Q., chapter I-16) and any other rule of law providing for similar immunity.”

c. F-4.1,
s. 239.1,
added

71. The said Act is amended by inserting, after section 239, the following section:

Credit on
export duties

“239.1 The Minister may grant a credit on the amount of dues payable yearly under section 5, 71, 88, 89 or 234 by the holder of a management permit who exports softwood lumber subject to export duties.

Credit

The credit shall be granted to the extent and for the period determined by the Government in such a manner as to take into account any increase in dues having effect on or after 1 April 1987.

Application

This section applies from 1 April 1987 to 1 April 1988.”

c. C-27, s. 1,
am.

72. Paragraph *o* of section 1 of the Labour Code (R.S.Q., chapter C-27) is amended

(1) by inserting the words “the holder of a timber supply and forest management agreement entered into under the Forest Act (R.S.Q., chapter F-4.1),” after the word “means” in the first line;

(2) by replacing the words “the Forest Act (R.S.Q., chapter F-4.1)” in the third line, by the words “the said Act”.

c. T-8.1,
s. 55, am.

73. Section 55 of the Act respecting the lands in the public domain (R.S.Q., chapter T-8.1) is amended by inserting the words “or improve” after the word “construct” in the first line.

1987, c. 64,
s. 213.1,
added

74. The Mining Act (1987, chapter 64), amended by the Act to amend the Mining Act (1988, chapter 9), is again amended by inserting, after section 213, the following section:

Payment of
dues

“213.1 The holder of a mining right who obtains an authorization under section 213 shall pay the dues prescribed by the minister responsible for the administration of the Forest Act as regards the harvest of timber.

Calculation

The dues correspond to the product obtained by multiplying the harvested volume by the unit rate established under section 72 of the Forest Act, unless the Government, by regulation, fixes another unit rate or determines a rule of calculation in respect of such dues.”

Agreement
deemed noti-
fied

75. The existence of an agreement referred to in section 68 of the Forest Act, entered into before 23 December 1988, is deemed to

have been notified to the Minister pursuant to section 92.1 as enacted by section 40 of this Act if the holder of a wood processing plant operating permit notifies the Minister, in writing, of the existence of the agreement before 21 February 1989.

Coming into
force

76. This Act comes into force on 23 December 1988.