

## CONSOLIDATED NEWFOUNDLAND AND LABRADOR REGULATION 1108/96

*Cutting of Timber Regulations*  
under the  
*Forestry Act*  
(O.C. 96-937)

Amended by:

54/96 s1  
2001 c42 s45  
52/02  
34/08  
43/14  
87/19

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Under the authority of [section 38](#) of the *Forestry Act* and the *Subordinate Legislation Revision and Consolidation Act*, the Lieutenant-Governor in Council makes the following regulations.

### REGULATIONS

#### Short title

1. These regulations may be cited as the *Cutting of Timber Regulations*.

163/93 s1

#### Definitions

2. In these regulations

- (a) "Act" means the *Forestry Act*;
- (b) "commercial cutting permit" means a permit issued under these regulations to cut timber for sale or barter;
- (c) "commercial cutting permit return" means a form showing the total of all volumes cut and royalty owing for each of the prescribed 3 month periods ending March 31, June 30, September 30 and December 31 of the year in accordance with a commercial cutting permit;

- (c.1) "commercial timber" means timber, excluding wood chips and timber slabbed on one or more sides, that is cut for sale or barter;
- (d) "Crown timber" means timber that has not been alienated from the Crown and includes timber in respect of which the Crown may demand and receive a royalty;
- (e) "Crown timber licence" means a licence issued under [section 15](#) of the [Act](#);
- (f) "cut" means to fell, uproot, remove or otherwise damage timber from Crown lands or public lands;
- (g) "cutting permit" means either a "commercial cutting permit" or "domestic cutting permit";
- (h) "department" means the Department of Forestry and Agrifoods;
- (i) "domestic cutting permit" means a permit issued under these regulations to cut up to 36 cubic metres stacked of timber for personal use and to give as a gift and not for sale or barter;
- (j) "domestic return" means a signed declaration of the volume of timber cut under a domestic cutting permit;
- (j.1) "highway" means a place or way, including a structure forming a part of the place or way, designed and intended for use by the public for the passage of traffic and includes all the space between the boundary lines of the place or way and forest access roads;
- (k) "immature stand" means a stand of timber where less than 50% of the timber is merchantable timber;
- (k.1) "load slip" means a written load slip document as described in [section 3.1](#);
- (l) "merchantable tree" means a live tree having a diameter outside bark of 9 centimetres or greater at a point 1.3 metres above mean ground level and is greater than 40 years old measured at the same point;
- (m) "minister" means the minister appointed under the [Executive Council Act](#) to administer the [Act](#);
- (n) "pulpwood" means that portion of a tree unsuitable for a sawlog that can yield a piece of wood with a top diameter 8 centimetres or greater outside bark and of a length specified in the cutting permit with defects within the limits prescribed by the [Timber Scaling Regulations](#);
- (o) "purchase" means to acquire by payment of money or by barter;
- (p) "royalty" means a fee paid to the Crown for use of the forest resource;
- (q) "sawlog" means a portion of a tree that can yield as measured in accordance with the Manual of Scaling Instructions of the Province of Newfoundland and Labrador, a log 2.5 metres or more in length and an equivalent net top diameter, after deduction for cull and defects of 12 centimetres or more inside bark;
- (r) "timber purchase licence" means a licence issued under [section 34](#) of the [Act](#);
- (s) "timber sale agreement" means an agreement entered into under [section 22](#) of the [Act](#); and
- (t) "vehicle" means a device in, upon or in which a person, property or timber may be transported or drawn over a highway, land, water, snow, ice, marsh, swampland and other

natural terrain and includes aircraft and air cushioned devices.

163/93 s2; 2001 c42 s45; 52/02 s1; 34/08 s1; 87/19 s1

### **Prohibition**

3. (1) A person shall not cut Crown timber for sale or barter without a commercial cutting permit, a timber sale agreement or a Crown timber licence.

(2) A person shall not cut Crown timber for personal use or to give as a gift without a domestic cutting permit.

(2.1) Notwithstanding section 25, a person shall not offer for sale or barter timber that was cut under a domestic cutting permit and acquired as a gift.

(3) Every holder of a cutting permit shall comply with the terms and conditions stated on the permit, and the provisions of these regulations and the Act.

(4) A person shall not operate a vehicle on a highway in the province that carries a full or partial load of commercial timber without having in his or her possession a load slip that relates to that timber.

163/93 s3; 52/02 s2; 87/19 s2

### **Load slip**

3.1 (1) The minister shall establish the form and content required for a load slip in the province and the manner in which a load slip is to be carried and produced for inspection with respect to the timber to which it relates.

(2) A person who carries a load slip in accordance with subsection 3(4) that does not contain the information required under these regulations is guilty of an offence.

(3) Where a forestry official or other person who may carry out the enforcement of these regulations inspects a load slip and determines that the load slip is incorrectly completed, he or she shall require that the correct required information be provided on that load slip and that load slip shall not be considered to be in compliance with these regulations until approved by that forestry official or other person.

(4) The operator of a vehicle carrying commercial timber upon a highway shall, upon the request of a forestry official or other person who may carry out the enforcement of these regulations, produce the load slip applicable to that timber.

(5) A person required to produce a load slip under this section or who is inspected under these regulations shall provide all reasonable assistance to the forestry official or other person who requires that production or inspection.

(6) The operator of a vehicle carrying commercial timber upon a highway shall ensure that a properly completed load slip relating to that timber is delivered to the person in charge of the place to which that timber is to be delivered.

(7) A forestry official may establish a forestry check station for the purpose of inspecting load slips, cutting permits and timber carried on vehicles to ensure compliance with the Act and these regulations and the operator of a vehicle that is carrying timber shall stop at a forestry check station when directed to do so by a forestry official or by a sign posted by a forestry official.

52/02 s3

### **Load slip administration**

**3.2** (1) The minister or forestry officials may issue load slips to persons for distribution and use in accordance with these regulations.

(2) A person who has been issued load slips under subsection (1) may distribute those load slips to his or her agent and that agent shall comply with these regulations as if he or she had been issued the load slips under that subsection.

- (3) A person or agent who has been issued load slips under subsection (1) or (2) shall
- (a) issue those load slips to those persons who require them in order to comply with these regulations;
  - (b) require identification satisfactory to him or her from the person receiving those load slips;
  - (c) maintain, in a manner that is satisfactory to the minister, a record of the load slips issued by him or her;
  - (d) when completed, return all load slips to the forestry office that issued them;
  - (e) at the request of the minister or a forestry official, return all load slips, whether or not completed;
  - (f) account for all load slips that are missing or cancelled; and
  - (g) return all load slips, whether used or unused, to the forestry office that issued them not later than January 31 of the year following the year in which they were issued.

52/02 s3; 34/08 s2

### **Employer and employee duties**

**3.3** (1) A person who receives load slips under [section 3.2](#) may distribute those load slips to their agents or employees for use for the purposes of their employment.

(2) Where a vehicle carrying commercial timber to which a load slip applies changes operators, the new operator shall sign and date that load slip and upon signing, the responsibility for that timber passes to the new operator.

(3) Where timber to which a load slip applies is transferred from one vehicle to another, the change of vehicle shall be recorded by recording on that load slip the identification plate numbers and letters of the vehicle to which that timber was transferred.

(4) A person who receives commercial timber that has been moved over a highway in the province

- (a) shall not accept that timber without a load slip that applies to that timber; and
  - (b) shall remit completed load slips received by him or her to the forestry office from which they were issued on or before the 20<sup>th</sup> of the month following the month in which that commercial timber was received.
- (5) Subsection (4) does not apply to a person who receives timber for personal domestic use.

52/02 s3

### **Domestic cutting permit**

4. (1) An applicant for a domestic cutting permit must be 18 years of age or older unless it can be demonstrated that the applicant is the head of a household.

(2) Only one domestic cutting permit may be issued per household per year unless otherwise approved by the minister in consideration of the following:

- (a) a documented one-time-only extraordinary requirement for one additional permit; or
- (b) where it can be demonstrated that one permit will not meet the household firewood needs.

163/93 s4

### **Permit expiry**

5. (1) Unless otherwise stated, all Crown timber licences and cutting permits shall expire on December 31 following the date of issue or when the permit volume has been reached, whichever occurs first.

(2) A forestry official may designate the effective starting date of a cutting permit or Crown timber licence.

163/93 s5; 34/08 s3

### **Legally obtained timber**

6. (1) A person in the possession of timber must be able to demonstrate that the timber was legally obtained

- (a) from Crown land by referencing the cutting permit, Crown timber licence, timber purchase licence or timber sale agreement and the cutting area;
- (b) from private land by
  - (i) providing proof of that person's ownership of that land, or
  - (ii) providing proof of the ownership of that land as well as written proof of the permission from the owner of that land for that person to obtain that timber;
- (c) by purchase from the holder of a commercial cutting permit, Crown timber licence, timber purchase licence, timber sale agreement or from private land, by showing a receipt containing the name and address of the seller and describing the title the seller had to the timber; or
- (d) as a gift, by showing documentation from the person who gave the timber confirming that the timber was given as a gift to the person in possession of the timber and containing the following information:
  - (i) the name and address of the holder of the domestic cutting permit under which the timber was cut,
  - (ii) the domestic cutting permit number,
  - (iii) the name of the person who gave the timber as a gift,
  - (iv) the name of the person in possession of the timber,

- (v) the date that the timber was given as a gift, and
  - (vi) the quantity of the timber.
- (2) Failure to supply this information within 48 hours shall be an offence.

163/93 s6; 52/02 s4; 87/19 s3

### **Presumption**

7. For the purpose of these regulations, timber within 100 metres of a highway and not enclosed by a fence shall be treated as Crown timber.

163/93 s7

### **On site inspection**

8. (1) Unless otherwise stated in the cutting permit, a cutting permit must be available for inspection by a forestry official at the harvesting site.

- (2) Failure to provide the permit for immediate on site inspection shall be an offence.

163/93 s8

### **Cutting prohibited**

9. A person may not cut timber in areas designated as no cutting areas or in silviculturally treated areas.

163/93 s9

### **Boundaries to be described**

10. A cutting permit may not be granted unless the boundaries of the cutting area have been identified on the ground and reproduced on a map which shall accompany the cutting permit.

163/93 s10

### **Harvest of mature stands**

11. Unless otherwise specified in a cutting permit, timber sale agreement or Crown timber licence, all mature stands within the cutting boundary as stated in a cutting permit, timber sale agreement or Crown timber licence shall be harvested

- (a) if they contain a gross merchantable volume of 60 m<sup>3</sup> /ha or greater of the species or species group identified; and
- (b) if the slope of the area is less than or equal to 40%.

163/93 s11

### **Utilization of trees**

12. Unless otherwise specified in the cutting permit, the holder of a cutting permit shall utilize all portions of trees to a top diameter of 8 centimetres outside bark.

163/93 s12

### **Stumps**

**13.** Unless otherwise specified in the cutting permit, stumps shall be as low as can be conveniently cut and shall not exceed 15 centimetres in height.

163/93 s13

### **Harvest for sawlogs**

**14.** Unless otherwise specified in the cutting permit, the permit holder must harvest all timber suitable for sawlogs as sawlogs.

163/93 s14

### **Harvest of pulpwood**

**15.** (1) Unless otherwise specified in the cutting permit, pulpwood shall be harvested provided that it does not contain the following defects:

- (a) heart rot or clean holes that are more than one-half the diameter inside bark on either end;
- (b) red stain (soft) shall not exceed one-half the diameter inside bark on either end; or
- (c) advanced sap rot
  - (i) shall not be evident on less than 18 centimetres top diameter outside bark,
  - (ii) shall not be more than one centimetre on pulpwood with a top diameter outside bark from 18 centimetres to 25 centimetres,
  - (iii) shall not be more than 2 centimetres on pulpwood over 25 centimetres top diameter outside bark.

(2) Where excessive cull is encountered in pulpwood, it shall be removed in lengths not to exceed 0.5 metres until the pulpwood does not contain the defects described in subsection 15(1).

163/93 s15

### **Conditions to be met**

**16.** All conditions under [sections 12, 13, 14 and 15](#) must be met as individual trees are harvested.

163/93 s16

### **Harvest of immature stand**

**17.** A holder of a cutting permit shall not harvest an immature stand of timber

- (a) without having first obtained permission in writing to do so from the minister or a forestry official; or
- (b) unless the immature stand is less than 2 hectares in area and constitutes a minor part of a larger mature stand that is permitted to be harvested.

163/93 s17

### **Timber to be removed**

18. All timber cut shall be removed from the cutting area to a roadway while harvesting operations are in progress unless otherwise specified in the cutting permit.

163/93 s18

### **No additional rights created**

19. A person who cuts Crown timber, whether under a Crown timber licence, a cutting permit or otherwise, shall not have a right of property in timber which has not been removed from Crown lands to a place under private ownership or control under the terms of the cutting permit or Crown timber licence.

163/93 s19

### **Harvestable volume**

20. (1) Forest land required for a road right of way, landing, borrow pit or other use requiring clearing shall be logged of all merchantable timber under a commercial cutting permit before construction commences.

(2) Forestry officials shall determine the harvestable volume for each of the conditions in subsection (1).

(3) The volume determined under subsection (2) shall be considered to be the minimum volume harvested for royalty rates.

163/93 s20

### **Restoration of work areas**

21. All bulldozed timber storage areas and temporary access routes to these areas shall, after the operation has ceased, be levelled taking care to leave topsoil and to leave the area in the condition that a forestry official may instruct.

163/93 s21

### **Residual volumes**

22. (1) The residual volume of timber, both standing and on the ground within the boundaries of the cutting area remaining after harvesting, shall not exceed 6 m<sup>3</sup> /ha of the species or the species group identified.

(2) An additional royalty shall be assessed against the permit or licence holder for residual volumes exceeding the limit in the amount of twice the royalty rate for pulpwood, in the government accessed category, with no deductions, according to Schedule A of the *Timber Royalty Regulations*, multiplied by the volume in excess of 6 m<sup>3</sup> /ha.

163/93 s22

### **Cutting of sawlogs**

23. (1) Where a domestic cutting permit is requested to allow cutting of sawlogs, the applicant

must provide specific reference as to the intended use of the lumber and in addition provide verification through inspection of the use of lumber from previous permits.

(2) If the conditions of subsection (1) cannot be met or if in the opinion of the forestry officer the stated use is unreasonable, the cutting permit shall not be issued.

163/93 s23

### **Permit return**

24. The holder of a domestic cutting permit must make a permit return when the permit volume has been reached or immediately following the date of expiry, whichever occurs first.

163/93 s24

### **Acquisition of timber**

25. A person may not purchase or otherwise acquire timber cut on Crown lands or public land for subsequent sale or barter or for processing into a product which is intended to be sold or bartered except under a licence issued in accordance with this Act and the regulations.

163/93 s25

### **Security bond**

26. (1) The minister or a designated forestry official may require that the applicant for a timber purchase licence post a security bond in an amount prescribed by the minister or the forestry official to provide security for the payment of royalties under the Act and regulations.

(2) Upon payment of royalties under the Act and regulations, the security bond shall be returned to the holder of the timber purchase licence.

(3) If royalties under the Act and regulations are not paid when due and owing, the minister may look to the security bond for payment.

(4) Realization of security shall not affect liability to pay the balance of the royalty or another remedy available to the Crown to enforce payment.

163/93 s26

### **Timber purchase licence**

27. The holder of a timber purchase licence shall

- (a) sign and submit to the district forestry office forms prescribed by the department, showing for each transaction
  - (i) the volume and form of timber purchased,
  - (ii) the seller's name and address,
  - (iii) the seller's cutting permit or Crown timber licence number,
  - (iv) the location where the timber was harvested, and
  - (v) scaler's name and licence number; and
- (b) forward to the district forestry office on or before the 20th of each month following a

month during which the licence is outstanding copies of all receipts issued, together with all amounts of royalty collected during the previous month.

163/93 s27

#### **Timber export permit**

**28.** (1) A person shall not export timber from the province without having first obtained a timber export permit.

(2) The minister or a forestry official may issue a timber export permit in a form prescribed by the minister containing the terms and conditions that the minister or the forestry official shall determine.

163/93 s28

#### **Return**

**29.** The holder of a cutting permit or Crown timber licence, under which royalty is payable, shall make a return in accordance with the return forms prescribed by the minister.

163/93 s29

#### **Permits and licences**

**30.** (1) Cutting permits and timber purchase licences issued under these regulations shall contain the information and be in a form prescribed by the minister.

(2) Cutting permits and licence returns shall contain the information and shall be made at the times as the forms of the cutting permit or licence may specify.

163/93 s30

#### **Rep. by 43/14 s1**

**31.** [Rep. by 43/14 s1]

43/14 s1

#### **Cancellation of permit or licence**

**32.** A cutting permit or licence may be cancelled by the minister or a forestry official if the holder of the permit contravenes the conditions of the permit, licence, these regulations or the Act.

163/93 s32

#### **Licence or permit not issued**

**33.** A new cutting permit or licence shall not be issued while any required information, royalty, penalty or fee has not been submitted, paid or returned to the minister.

163/93 s33

#### **Consequence of breach**

**34.** A breach of the provisions of the Act or these regulations may result in refusal on the part of a forestry official to issue a cutting permit or licence.

**Minister may refuse permit or licence**

35. Notwithstanding section 27 of the Act, the minister retains the right not to issue a cutting permit or licence.

**Offence and penalty**

36. (1) A person who contravenes subsection 3(1), (2), (3), section 8, 12 or 13 is guilty of an offence and is liable

- (a) where the summons is issued by means of a violation ticket, on the first conviction, to a fine of \$75 or in default of payment of the fine to imprisonment for 3 days and on each subsequent conviction, to a fine of \$150 or in default of payment, to imprisonment for 6 days; or
- (b) on summary conviction where the summons is issued other than by means of a violation ticket, on the first offence, to a fine of not less than \$500 and in the case of a subsequent offence, to a fine of not less than \$1,000 and in either case in default of payment, to imprisonment for a term not exceeding 3 months.

(2) Where a person contravenes subsection 3(4) or section 3.1, 3.2 or 3.3 of these regulations, that person is guilty of an offence and liable on summary conviction

- (a) where the summons is issued by means of a violation ticket and for a first offence, to a fine of not less than \$500; and
- (b) where the summons is for a subsequent offence and is not issued by means of a violation ticket, to a minimum fine of \$1000 or to not more than 3 months imprisonment.

**Repeal**

37. The Cutting of Timber Regulations, Newfoundland Regulation 163/93, are repealed.