

CHAPTER 114

Forest Improvement Act

1 In this Act,

(a) "buyer" means a person who as principal or agent buys or otherwise acquires a primary forest product of a commercial forest operation;

(b) "commercial forest operation" means an operation involving the cutting or felling of trees for primary forest products but does not include.

(i) the cutting or felling of trees for fuel wood;
or

(ii) an operation by a proprietor or wood lot owner who employs not more than two helpers in a cutting operation of less than twenty-five thousand feet board measure or fifty cords or an equivalent volume by any other method of measurement on his own wood lot or farm in any calendar year;

(c) "Department" means Department of Lands and Forests;

(d) "Forest Practices Improvement Board" or "Board" means a board appointed by the Governor in Council pursuant to this Act;

(e) "forest district" means an area described and defined as a forest district by the Minister;

(f) "immature stand" means an area of not less than three acres of young healthy spruce, pine, hemlock or yellow birch which according to the criteria established as a result of studies carried out

by the Minister pursuant to subsection (3) of Section 9 is an immature stand;

(ff) "lake" or "designated lake" means a lake designated by the Governor in Council pursuant to this Act as a designated lake;

(g) "Minister" means Minister of Lands and Forests;

(h) "operator" means a person who carries on or causes to be carried on a commercial forest operation;

(i) "primary forest product" means any part or parts of commercial value of a tree which has been felled but has not been processed beyond removing the limbs or bark or both;

(j) "river" or "designated river" means a river or a portion thereof designated by the Governor in Council pursuant to this Act as a designated river;

(k) "spruce" means red and black spruce. 1965, c. 7, s. 1., 1968, c.28, s.1.

2 (1) No person shall buy or otherwise acquire except by inheritance or other process of law a primary forest product except for his personal use or consumption or for fuel wood unless he holds a buyer's certificate of registration issued by the Minister under this Act.

(2) No person shall conduct a commercial forest operation unless he holds an operator's certificate of registration issued by the Minister under this Act. 1965, c. 7, s. 2.

3 (1) Subject to the regulations, the Minister may issue certificates of registration.

(2) The Minister may cancel or suspend for such period as he thinks advisable the certificate of registration of any buyer or operator convicted of an offence under this Act.

(3) Every certificate is valid for the calendar year in which it is issued and, upon application, shall be re-

newed from year to year so long as the holder makes the reports and returns required under this Act and has not been convicted of an offence under this Act. 1965, c. 7, s. 3.

4 Every holder of a certificate of registration issued under this Act shall keep such records and make such reports and returns as are prescribed or required by the regulations. 1965, c. 7, s. 4.

5 A certificate signed or purporting to be signed by the Minister and bearing the seal of the Department that on a date or within a period stated in the certificate a person was or was not the holder of a certificate of registration under this Act or did or did not file a report as required by this Act or the regulations shall be received in evidence without proof of the signature or of the official character of the person appearing to have signed it and shall be *prima facie* proof of the facts stated therein. 1965, c. 7, s. 5.

5A (1) There shall be a Provincial Forest Practices Improvement Board for the Province, consisting of six members,

(a) one of whom shall be the Minister or a person appointed by the Minister who shall act as Chairman of the Provincial Board; and

(b) five of whom shall be appointed by the Governor in Council to represent the following; namely,

(i) the Nova Scotia Voluntary Planning Board,

(ii) the sawn products segment of the forest industry,

(iii) the pulp products segment of the forest industry,

(iv) the owners of small wood lots, and

(v) the Nova Scotia Section of the Canadian Institute of Forestry.

(2) The Governor in Council may prescribe the term of office of each member of the Provincial Board appointed pursuant to clause (b) of subsection (1).

(3) The Minister shall appoint an officer employed in the Department to act as secretary and executive officer of the Provincial Board.

(4) The function of the Provincial Board shall be to encourage better forest practices in the Province and the Provincial Board shall:

(a) assist, co-operate with, foster and initiate activity by the Forest Practices Improvement Boards;

(b) co-ordinate the activities of the Forest Practices Improvement Boards by establishing and maintaining contact with each Board;

(c) establish educational and other programs for the benefit of persons engaged or interested in the forestry industry;

(d) report annually to the Governor in Council on the activities of the Forest Practices Improvement Boards and make recommendations for the improvement of the administration of this Act.

(5) Members of the Provincial Board other than the Minister shall be paid by the Department such reasonable and necessary expenses as are incurred by them in carrying out their functions under this Act and may be reimbursed at such rate and in such manner as the Governor in Council determines. 1968, c.28, s.2.

6 The Minister may by order published in the Royal Gazette designate and describe an area as a forest district for the purposes of this Act. 1965, c. 7, s. 6.

7 (1) The Governor in Council may appoint for any forest district a Forest Practices Improvement Board consisting of a forester and four other persons representing so far as is practicable the following interests; namely, small wood lot owners, a municipality in which the district or part of it is located, the owners of woodlands of one thousand acres or more, and one member at large.

(2) The Governor in Council may prescribe the term of office of each member of a Board and may designate one member to be chairman.

(3) The forester who is a member of the Board shall act as technical adviser and forester to the

Board and may act as secretary unless another member is appointed by the Board.

(4) The members of a Board shall be paid by the Department such reasonable and necessary expenses as are incurred by them in carrying out their functions under this Act and may be reimbursed at such rate and in such manner as the Governor in Council determines. 1965, c. 7, s. 7. 1968, c.28, s.3.

8 Every Board shall:

(a) work closely and in co-operation with representatives of the Department in the district for which the Board is appointed;

(b) do everything in its power to encourage better forest management practices through education, persuasion, and the enforcement of this Act and the regulations;

(c) with the approval of the Minister, cause to be prepared a manual of good forest practice;

(d) tender the manual or make it available to operators and buyers in the district;

(e) make available to operators and buyers the forms prescribed for making their reports and returns; and

(f) prescribe, advise and make recommendations concerning cutting practices and reforestation procedures in the district for which it has been appointed. 1965, c. 7, s. 8.

9 (1) Except for the purpose of providing necessary roadways or brow or camp sites no person, as part of a commercial forest operation, shall fell healthy immature spruce, pine, hemlock or yellow birch trees in an immature stand of any of such species unless he has first obtained permission to do so from the Board of the district in which the stand is situated.

(2) On an application for permission under this Section the Board with such advice as it considers necessary or advisable will determine whether or not the stand is an immature stand and will use its best judgment in establishing a satisfactory criterion for maturity and whether

and upon what conditions having regard to all relevant circumstances such permission should be granted.

(3) In order to help achieve a satisfactory criterion, the Minister may carry out scientific studies to ascertain the point of economic culmination and growth on average stands at which the peak of potential yield or volume can be expected or the stage of growth at which a given acre will on the average produce the greatest volume of wood, and the Board in making a judgment under subsection (2) shall give due weight to the findings of such a study.

(4) The Minister shall ensure that the studies mentioned in subsection (3) are carried out in all reasonable consultation with representatives of the Nova Scotia Voluntary Planning Board, the Nova Scotia Forest Products Association, the Nova Scotia Section of the Canadian Institute of Forestry, the Nova Scotia Federation of Agriculture, the Small Woodlot Owners' Association and the Nova Scotia Section of the Canadian Forestry Association. 1965, c. 7, s. 9.

10 (1) A person who is carrying on a commercial forest operation shall not fell or cause to be felled trees in any stand except in accordance with practices recommended by the Board for the district in which the stand is situated.

(2) The Board in prescribing or recommending cutting practices shall require that cutting be carried out in such a manner as to promote the likelihood of regeneration and preserve existing young growth of desirable species of trees.

(3) When in the opinion of the Minister a forest-cutting operation is being carried on in such a manner as is clearly likely substantially to destroy the future potential of the stand on which it is being carried on or its normal regeneration the Minister, with the approval of the Governor in Council, may apply to the judge of the County Court having jurisdiction in the place where the stand is for an injunction to restrain the further carrying on of the operation.

(4) The judge shall as soon as reasonably possible hear the application and may grant or refuse it upon such terms as appear to him to be just and reasonable in accordance with the general law and rules of court relating to injunctions.

(5) An appeal shall lie from the decision of the judge of the County Court to the Appeal Division of the Supreme Court.

(6) Upon the hearing of an application or an appeal under this Section, the judge of the County Court or the Appeal Division of the Supreme Court may award costs against the Minister but not against the defendant. 1965, c. 7, s. 10.

11 (1) The person conducting any commercial forest operation shall use every effort to harvest all possible saleable wood of commercial value contained in tops, stumps, fir and other like species and diseased wood.

(2) When in the opinion of the Board for the district in which an operation was carried on the person conducting the operation has not complied with subsection (1) and a market exists for the wood that was not harvested that will afford sufficient remuneration to cover the normal cost of harvesting and transportation by reasonably efficient methods appropriate to the size and nature of the operation and the location of the market, the Board may require the operator within a reasonable time to be prescribed by the Board to harvest wood that was not harvested in the original operation and that is specified in the order of the Board.

(3) A person who without reasonable grounds fails to obey an order of a Board given under subsection (2) is guilty of an offence under this Act.

(4) The Board in carrying out its duties shall give appropriate weight to the principle that all trees cut will be used as far as reasonably practicable for the purpose which will best contribute to the sustained development of the economy of the Province. 1965, c. 7, s. 11.

12 (1) No person shall fell a tree within one hundred feet of

(a) the outside boundary of any trunk highway or such other highway as is designated by the Governor in Council; or

(b) the bank of any designated river, part of a river or lake;

except for the purpose of providing roadways or brow sites or except with the approval of the Board and under the conditions prescribed by the Board and under the supervision of the Board's forester.

(2) When an application is made to a Board under subsection (1) the Board shall approve the cutting under supervision of mature trees or of any trees or thinning or select cutting on condition that all reasonable precautions are taken to minimize fire hazards and to maintain a green border of healthy growing trees along the margin of the highway or designated river or lake

(3) The Governor in Council may designate any river in the Province or any portion of a river as a designated river or any lake as a designated lake for the purposes of this Section and of this Act. 1965, c. 7, s. 12., 1968, c.28, s.4.

13 The Minister, subject to the approval of the Governor in Council and after all reasonable consultation with representatives of the organizations mentioned in subsection (4) of Section 9, may make regulations:

(a) prescribing the records to be kept and maintained by buyers and operators and the forms of reports and returns and the information to be contained therein to be made by buyers and operators;

(b) prescribing the time or times at which reports and returns shall be made;

(c) prescribing the forms of certificates of registration and the manner and form of making application therefor;

(d) prescribing the terms, conditions and restrictions to which certificates of registration may be subject;

(e) prescribing the fees payable for certificates of registration and the time of payment thereof;

(f) prescribing the amounts of loans that may be made by the Timber Loan Board and the terms and conditions upon which such loans may be made;

(g) prescribing the procedure to be followed in any appeal to the Minister from a decision of a Board;

(h) respecting any other matter indicated in this Act. 1965, c. 7, s. 13., 1968, c.28, s.5.

14 A person who violates or fails to observe any provision of this Act or the regulations or an order or direction of a Board given under this Act is guilty of an offence and upon conviction for a

(a) first offence may be ordered to pay the costs of the prosecution and, until the Minister orders otherwise, shall not be eligible to receive any assistance of any kind from or through the Department or the Timber Loan Board or to engage in any transaction of any kind relating to Crown lands except as a *bona fide* employment as an individual wage earner; and

(b) second or subsequent offence is liable in addition to any penalty that may be imposed under clause (a) and the disqualification arising under that clause to the penalty prescribed by Section 89 of the Summary Convictions Act. 1965, c. 7, s. 14.

15 No prosecution under this Act shall be instituted except with the written consent of the Minister. 1965, c. 7, s. 15.

16 Any person affected by a decision of a Board may appeal from the decision to the Minister. 1965, c. 7, s. 16.

17 (1) There is hereby established a Timber Loan Board, the chairman, members and staff of which shall be the persons who from time to time are the chairman, members and staff of the Nova Scotia Farm Loan Board.

(2) The Timber Loan Board may make loans to persons for the purchase of forest lands in such amounts and upon such terms and conditions as may be prescribed by regulations made pursuant to Section 13.

(3) The authority contained in the Agriculture and Rural Credit Act for the provision of funds for the use

of the Nova Scotia Farm Loan Board shall extend and be applicable to and the authority of the provision of funds for the use of the Timber Loan Board in making loans and in defraying its expenses. 1965, c. 7, s. 17.

18 Notwithstanding the provisions of the Assessment Act or of any other Act, land that is planted with trees in accordance with practices recommended by a Board pursuant to this Act shall not until after a period of twenty years has elapsed from the date of such planting be assessed for a greater amount than that for which it was assessed immediately before such planting, except as may be necessary to compensate for changes in the value of money or to maintain its assessment in the proper relation to the assessment of other lands where there has been a general re-assessment of property throughout the municipality in which the lands are situated. 1965, c. 7, s. 18.

19 The individual Sections of this Act shall come into force on and not before such date and in such part or parts of the Province as the Governor in Council from time to time orders and declares by proclamation. 1965, c. 7, s. 21.

Note: Sections 9, 10, 11 and 18 had not been proclaimed at the date of preparation of this consolidation.