

Forests Act

CHAPTER 179

OF THE

REVISED STATUTES, 1989

amended 1992, c. 18; 1998, c. 18, s. 559; 1998, c. 29; 2010, c. 2, s. 101

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An Act Respecting Forests

Short title

1 This Act may be cited as the Forests Act. R.S., c. 179, s. 1 .

Purpose

2 The intent and purpose of this Act is directed towards

(a) developing a healthier, more productive forest capable of yielding increased volumes of high quality products;

(b) encouraging the development and management of private forest land as the primary source of forest products for industry in the Province;

(c) supporting private landowners to make the most productive use of their forest land;

(d) providing effective management of all Crown lands;

(e) maintaining or enhancing wildlife and wildlife habitats, water quality, recreational opportunities and associated resources of the forest;

(f) enhancing the viability of forest-based manufacturing and processing industries;

(g) doubling of forest production by the year 2025;

(h) creating more jobs immediately and in the longer term through improved productivity. R.S., c. 179, s. 2 .

Interpretation

3 In this Act,

(a) "buyer of forest products" means a person who

(i) is an owner or operator of a wood processing facility in the Province which processes primary forest products,

(ii) exports primary products from the Province,

(iii) imports primary forest products into the Province,

(iv) acts as a fuelwood dealer in accordance with the regulations, or

(v) acquires primary forest products for producing energy;

(aa) "Chief Forester" means the Chief Forester for the Province appointed pursuant to this Act;

(b) "conservation officer" means a conservation officer appointed pursuant to this Act and includes a conservation officer as defined in the Wildlife Act;

(c) "Crown" means Her Majesty in right of the Province;

(d) "Crown lands" means all or any part of land under the administration and control of the Minister;

(e) "Crown timber" includes trees, timber and other products of the forest in respect of which the Crown is able to demand and receive stumpage or other fees;

(f) "Department" means the Department of Lands and Forests;

(g) "fire season" means the period in each year prescribed by the regulations when a permit to burn is required before a fire may be set;

(h) "forest" means a plant association consisting predominantly of trees;

(i) "forest land" means land bearing forest growth or land from which the forest has been removed but which shows surface evidence of past forest occupancy and is not now in other use;

(j) "forest management" means the practical application of scientific, economic and social principles to the administration of forest land for specified objectives;

(k) "forest management program" means a program designed to provide for more effective management of Crown lands and to encourage and assist private landowners to manage their land more effectively by providing professional and technical advice and assistance, training programs and suitable financial incentives;

(l) "forestry operation" means any work within or upon forest land for the purpose of forest management;

(m) "group management venture" means a co-operative or company formed for the purpose of implementing forest management activities on land of any members of the co-operative or company;

(n) "inventory" means a stock taking of forest-stand characteristics and volumes by means of aerial mapping and sampling on the ground to arrive at estimates of volume, growth and drain by selected categories;

(o) "Minister" means the Minister of Lands and Forests;

(p) "nursery stock" means coniferous or hardwood seedlings, transplants, grafts or trees propagated or grown in a nursery and having the roots attached and includes cuttings having or not having roots attached;

(q) "primary forest products" means any of the commercially valuable raw materials cut or harvested from a forest;

(qa) "producer" means a person, other than a buyer of forest products, who owns the primary forest product at the time it is cut and prepared for sale from a forest;

(r) "public highway" means a highway to which the Public Highways Act applies;

(s) "silviculture" means the science and art of cultivating forest crops and, more particularly, the theory and practice of controlling the establishment, composition, constitution and growth of forests;

(t) "wildlife" means any species of vertebrate which is wild by nature and hence not normally dependent on man to directly provide its food, shelter or water;

(u) "wood processing facility" means a mill in which timber is manufactured into secondary wood products;

(v) "woods" means forest land and rock barren, brush land, dry marsh, bog or muskeg. R.S., c. 179, s. 3; revision corrected 1999; 1998, c. 29, s. 1 .

Supervision of Act

4 (1) The Minister has the general supervision and management of this Act and the regulations.

(2) The Minister may from time to time designate persons to act on behalf of the Minister. R.S., c. 179, s. 4 .

Forest management programs

5 (1) The Minister shall be responsible for the development and implementation of forest management programs, including

(a) encouraging and assisting private landowners to manage their land more effectively by providing professional and technical advice and assistance, training programs and suitable financial incentives;

(b) entering into agreements with the Government of Canada to jointly fund forest management programs;

(c) entering into agreements with group management ventures to provide for the more effective management of woodlots served;

(ca) entering into agreements with buyers of forest products or producers to provide for the more effective management of forest lands in the Province;

(d) prevention, detection and suppression of forest fires;

(e) the protection of forest land from insects and disease;

(f) providing for forest inventories and associated forest planning activities;

(g) conduct of forest research on behalf of the Province;

(h) the development and operation of forest nurseries; and

(i) any matter assigned pursuant to this Act or the regulations.

(2) The Minister shall endeavor to achieve the best economic use of the forests of the Province. R.S., c. 179, s. 5; 1999, c. 29, s. 2 .

Personnel

6 (1) Conservation officers and other persons required for the administration of this Act and the regulations shall be appointed in accordance with the Civil Service Act.

(2) Notwithstanding subsection (1), the Minister may engage, upon such terms and conditions as the Minister deems fit, the services of such persons as the Minister deems necessary for the efficient carrying out of the intent and purpose of this Act and the regulations.

(3) The Minister may appoint or designate a senior employee of the Department to direct and co-ordinate policy and program development and the conduct of strategic studies in support of the continuing development and utilization of the forest resources of the Province and promote more and better marketing opportunities.

(4) The Minister may appoint or designate a senior employee of the Department to be Chief Forester of the Province to direct the development of an increased forest management program including resource planning, silviculture, research and protection.

(5) The Minister may appoint or designate a senior employee of the Department to co-ordinate a forestry extension service which will enhance the capability to serve and support private woodlot owners and to develop communication programs to display a strong commitment to forestry to the people of the Province and promote greater public awareness of the importance of good forestry.

(6) In the exercise of duties pursuant to this Act, a conservation officer has the powers, authority, privileges and immunities of a conservation officer appointed pursuant to the Wildlife Act. R.S., c. 179, s. 6 .

Principles of forest management programs

7 The principle of sustainable forest management forms the basis of all forest management programs in the Province, including

(a) the desirability of scheduling harvesting so that the most appropriate stands are harvested at the optimum times;

(b) the advantages of allocating such stands to the most beneficial end use;

(c) the need to create a suitable environment for the orderly, more efficient marketing of forest products;

(d) a continuing vigorous silviculture program ensuring that all species will receive appropriate attention;

(e) the importance of protecting the forest from fire, insects, diseases and unwanted competing vegetation; and

(f) the importance of making the best economic use possible of all primary forest products harvested. R.S., c. 179, s. 7; 1998, c. 29, s. 3 .

Forest management planning process

8 (1) The Minister may undertake a forest management planning process involving the prediction of the effects of various forest management alternatives on wood supply requiring

(a) the consideration of a wide variety of factors, including desired rotation, availability of land for forest management, eligibility and priority of harvesting, forest renewal and stand tending, and size of silviculture programs required;

(b) full consideration of wildlife conservation requirements, potential ecological impacts and outdoor recreation opportunities and needs; and

(c) the preparation of operational forest management plans for Crown lands and the development and implementation of compatible forest management programs for privately owned lands in co-operation with the owners or occupiers of private land.

(2) To assist in this process, the Minister shall provide for a periodic inventory of the forest land carried out in accordance with good forestry practices. R.S., c. 179, s. 8.

Forest management techniques

9 The forest management techniques to be used on Crown lands and to be recommended for use on privately owned land shall

(a) be designed to facilitate suitable natural regeneration wherever practical and involve selection cutting or the harvesting of individual trees or groups of trees within a stand and the shelterwood harvest system involving one or more partial cuts carried out a decade or two before the final harvest;

(b) permit consideration of the size and configuration of areas to be clearcut where circumstances warrant;

(c) ensure that planting is undertaken where sites are not expected to regenerate adequately on their own;

(d) make provision for early spacing or cleaning where naturally regenerated stands contain too many seedlings for good diameter growth;

(e) provide for weeding or the removal of unwanted competing vegetation in stands to be managed;

(f) provide for commercial thinning to enhance the future sawlog harvest where stand and site conditions permit;

(g) provide for any silviculture technique designed to promote improved growth and vigour of forest stands;

(h) provide for the maximum utilization of primary forest products harvested; and

(i) reflect prevailing hazards with respect to forest insects, diseases and fire and related protection requirements and provide appropriate information and advice to owners or occupiers of forest land. R.S., c. 179, s. 9.

Wildlife management

10 The Minister shall ensure that wildlife, wildlife habitats and the long term diversity and stability of the forest ecosystems, water supply watersheds and other significant resources are managed. R.S., c. 179, s. 10 .

Regulations binding

10A Notwithstanding Section 9, where the Governor in Council, pursuant to clause (j) of Section 40, makes regulations respecting mandatory standards for sustainable forest management practices to protect wildlife habitats, watercourses, wetlands and other significant resources, those regulations are binding on privately owned lands and lands owned by the Crown. 1998, c. 29, s. 4 .

Industrial forest operator information

10B (1) An industrial forest operator shall provide such information on forest harvesting operations conducted by the operator as prescribed by regulation.

(2) Subsection (1) does not apply to the owner of forest land or a producer who harvests less than four hundred and fifty cubic metres solid, or such greater amount as prescribed by regulation, or the equivalent of primary forest products in any calendar year. 1998, c. 29, s. 4 .

Forest nurseries

11 (1) The Minister may authorize the establishment of forest nurseries to be operated by the Department at designated sites for the growing and production of nursery stock.

(2) The Minister shall ensure that tree seedlings produced in any forest nursery operated by the Department are of acceptable quality and suitable for forest planting.

(3) The Minister, upon application, may furnish nursery stock to any owner upon terms and conditions prescribed by the Minister.

(4) Except as approved by the Minister, no person shall directly or indirectly sell or offer for sale or dispose of by gift or otherwise nursery stock furnished pursuant to this Act. R.S., c. 179, s. 11.

Selective forest research

12 The Minister may undertake selective forest research on the forest land to

(a) further develop growth and yield predictive capability to better estimate future harvest potentials and to evaluate various strategies;

(b) further develop and refine ecological methods of land classification, reforestation and silvicultural prescriptions, and continue to evaluate strategies for the control of competing vegetation;

(c) undertake trials to evaluate cultural practices for Christmas tree production, provenance trials to determine the best seed sources and site suitability, and nursery trials to improve stock quality and minimize production costs;

(d) undertake further research on the forestry and wildlife interface and the environmental impacts of various forestry operations;

(e) investigate any matter deemed essential to the execution of forest management programs. R.S., c. 179, s. 12.

Training of silvicultural workers

13 The Minister may facilitate and promote appropriate training of silvicultural workers in consultation and in co-operation with various departments and agencies of government and the private sector. R.S., c. 179, s. 13 .

Private Land Directorate

14 The Minister may establish a Private Land Directorate staffed to assist private landowners in meeting their needs of better forest management techniques. R.S., c. 179, s. 14.

Development of forest products sector

15 (1) The Minister may undertake programs to support and encourage the further development of the forest products sector consistent with the capability of the forests to sustain a larger harvest.

(2) To achieve the objective set out in subsection (1), the Minister shall

(a) undertake and implement a forestry trade development strategy as outlined in the Trade Development Authority Act; and

(b) encourage and assist in the development of new products and new markets and in the production of higher value-added products. R.S., c. 179, s. 15.

Agreements

16 With the approval of the Governor in Council, the Minister may enter into agreements with the Government of Canada or an agency thereof, with another provincial government or an agency thereof, with a municipality or an agency thereof or with any person for any purpose related to this Act or the regulations. R.S., c. 179, s. 16.

Agreements with group management ventures

17 (1) The Minister may enter into agreements with group management ventures to provide incentive assistance and professional and technical advice to manage private land included within a service area agreed upon by the Minister and the group.

(2) The Minister may permit a group management venture to manage Crown lands or a portion thereof situate within a service area as provided for pursuant to subsection (1). R.S., c. 179, s. 17.

Agreements with owners of private land

18 (1) The Minister may enter into agreements with owners or occupiers of privately owned land concerning forest management on that land.

(2) The Minister may enter into agreements with owners or occupiers of privately owned land for the integration of any aspect of the forest management of their land with the management of Crown lands.

(3) The Minister may provide incentive assistance and scientific and technical advice to owners or occupiers of privately owned land to assist them in improving the management of their land. R.S., c. 179, s. 18 .

Buyer of forest products

19 (1) No person shall, directly or indirectly, act as a buyer of forest products in the Province unless the person

(a) maintains a registration with the Minister in accordance with the regulations;

(b) submits to the Minister the statistical information respecting primary forest products required by the regulations; and

(c) where applicable, acquires primary forest products in accordance with an approved wood acquisition plan.

(2) A buyer of forest products who intends to acquire primary forest products shall submit to the Minister for approval, on an annual basis and in accordance with the regulations, a wood acquisition plan setting out the manner in which the acquisition may be made on a sustainable basis.

(3) For the purpose of subsection (2), where it is proved that a person acquired primary forest products in a year in the Province, in an amount greater than the volume prescribed by regulation, the acquisition is prima facie evidence that the person intended to acquire that amount of primary forest products in that year.

(4) A wood acquisition plan shall provide such information as is required by regulation.

(5) A buyer of forest products who holds an approved wood acquisition plan shall make available to the Department any information necessary for the purpose of monitoring the implementation of the wood acquisition plan.

(6) The Minister may revoke the registration of a buyer of forest products where the person fails to comply with the requirements of this Section or the regulations. 1998, c. 29, s. 5.

Sustainable Forestry Fund

19A (1) There is hereby established a fund to be known as the Sustainable Forestry Fund for the purpose of funding programs to encourage the sustainable use of privately owned forest land.

(2) There shall be paid into the Sustainable Forestry Fund

(a) contributions for silviculture programs on privately owned forest lands from buyers of forest products or producers where an agreement providing for a contribution has been entered into with the Minister in accordance with an approved wood acquisition plan;

(b) income accruing to the Fund; and

(c) in accordance with the Finance Act, money that accrues from any programs of the Province, including programs conducted under agreements with other governments, entered into for any of the purposes for which the Fund is established.

(3) Money may only be expended from the Sustainable Forestry Fund in accordance with the Finance Act and only for the purpose of funding silviculture programs on privately owned lands. 1998, c. 29, s. 5; 2010, c. 2, s. 101 .

Timber Loan Board continued

20 (1) The Timber Loan Board established pursuant to Chapter 7 of the Acts of 1965 is hereby continued and the chairman, members and staff thereof shall be the persons who from time to time are the chairman, members and staff, respectively, of the Nova Scotia Farm Loan Board.

(2) The Timber Loan Board may make loans to persons for the purchase of forest land in such amounts and upon such terms and conditions as may be prescribed by regulations made pursuant to subsection (4).

(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 the Timber Loan Board in making loans and in defraying its expenses.

(4) The Governor in Council may make regulations

(a) 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;

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

(c) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Section. R.S., c. 179, s. 20 .

Protection of forests

21 (1) The Minister shall undertake all measures which the Minister determines to be reasonable to provide for effective protection of the forests whether Crown lands, other land vested in the Crown or privately owned land from various injurious agents, including fires, insects and diseases.

(2) The Minister shall undertake programs to ensure that the capability to detect and suppress forest fires is enhanced.

(3) In co-operation with the Canadian Forestry Service, the Minister shall monitor forest insect and disease conditions and provide appropriate information and advice to owners and occupiers of privately owned land.

(4) Except with the approval of the Governor in Council, no privately owned forest land shall be treated for insects or diseases without the consent of the owner or occupier. R.S., c. 179, s. 21 .

Prevention and suppression of fires

22 (1) Subject to subsection (2), the Minister has control over the prevention and suppression of fires in the woods.

(2) Every city or incorporated town, and a regional municipality with respect to that area of the regional municipality that was a city or town immediately prior to the incorporation of the regional municipality, shall at its own expense take reasonable steps to extinguish fires in the woods within its boundaries and, where a conservation officer deems the action being taken is not adequate, the Minister may take reasonable steps to control and extinguish the fire.

(3) Nothing in this Act imposes any obligation on the Minister to fight fires on any land or the Crown to pay compensation for any property destroyed or damaged by fire or as a result of fighting a fire. R.S., c. 179, s. 22; 1998, c. 18, s. 559 .

Fire season

23 (1) The fire season in the various counties shall be prescribed by the regulations.

(2) Notwithstanding subsection (1), where the Minister deems it advisable and in the public interest, the Minister may extend or shorten the fire season for the whole or any part of the Province.

(3) During the fire season no person shall ignite a fire or cause a fire to be ignited in the woods or within one thousand feet of the woods without a valid permit to burn.

(4) Except when a fire proclamation is in effect, no offence is committed where a fire is ignited during the fire season

(a) by or on behalf of a person if the fire is for cooking or obtaining warmth or as a distress signal and the fire is made in a suitable place and precautions are taken against the spreading of the fire;

(b) by a conservation officer in the performance of duties;

(c) by a person for the disposal of household refuse or garbage if the fire is confined to a suitable container equipped with a spark arrester, is in an area where there is no brush or flammable material and precautions are taken against the spreading of the fire; or

(d) in woods in any federal, provincial, municipal or private campground providing the fire is enclosed in grills designed for that purpose.

(5) A permit to burn shall be in the form prescribed by the Minister and may be issued by a conservation officer or other person authorized by the Minister.

(6) A person authorized to issue permits to burn may impose such additional terms and conditions or may refuse to issue permits to burn as that person deems necessary.

(7) The Minister may designate certain people within the boundaries of a city or incorporated town or village to issue permits to burn.

(8) A fire permit may by verbal or written notice be cancelled or suspended at any time by a conservation officer and upon receiving notice of such cancellation or suspension, the permit holder shall extinguish any fire started under the permit.

(9) The possessor of a valid burning permit or any person acting on that person's behalf who ignites or causes a fire to be ignited shall take every reasonable precaution to prevent the fire from spreading and shall not leave the fire unattended until it is extinguished. R.S., c. 179, s. 23 .

Fire proclamation

24 (1) Notwithstanding any other provision of this Act, the Minister may, whenever the Minister deems it necessary for the protection of woods, by proclamation, prohibit the setting of fires for any purpose in woods or within one thousand feet of woods in any part or parts of the Province during the period specified in the proclamation.

(2) Where a proclamation is made pursuant to subsection (1), no person shall ignite or cause to be ignited a fire in the woods or within one thousand feet of woods in a part or parts of the Province during the period specified in the proclamation.

(3) Notice of any proclamation issued pursuant to this Act shall be given in such manner as the Minister deems will give the most prompt and adequate publicity.

(4) A copy of any newspaper containing the proclamation shall be evidence in court of the publication and the content of the proclamation without further proof of the matter. R.S., c. 179, s. 24 .

Restricted travel zone

25 (1) Whenever deemed necessary for the protection of the woods, the Minister may at any time by proclamation set aside for any period of time a restricted travel zone in any area of woods upon which no person shall enter for the purpose of travelling, camping, fishing or picnicking, or any other purpose, without a travel permit.

(2) A travel permit may be issued by the Minister, a conservation officer or other person authorized by the Minister.

(3) Subsections (1) and (2) do not apply to the owner or occupier of woods or the servants, agents or assigns thereof, conservation officers, surveyors and any other person designated from time to time by order of the Minister.

(4) A forest travel permit may be cancelled or suspended at any time by the Minister, a conservation officer or other person authorized by the Minister. R.S., c. 179, s. 25.

Fire fighting

26 (1) For the purpose of controlling and extinguishing a fire in the woods, a conservation officer may requisition the use of any privately owned equipment and encourage people to assist in extinguishing a fire.

(2) Rates of pay for persons fighting fire in the woods and remuneration for privately owned equipment used by the Department may be set by the Minister.

(3) Every person refusing the use of that person's equipment pursuant to subsection (1) is guilty of an offence.

(4) Every person who is aware that a fire has started and exists in any woods shall notify a conservation officer or the Department and any person who neglects or refuses to do so is guilty of an offence. R.S., c. 179, s. 26 .

Fire prevention

27 (1) No person who is in the woods or within one thousand feet of the woods during the fire season shall throw, drop or otherwise deposit any burning match, cigarette, cigar or smoking material, live coals, hot ashes or burning substance, or fail to extinguish any such thing.

(2) Where a person is permitted to ignite a fire pursuant to this Act, that person shall take every reasonable effort to prevent the fire from spreading and shall not leave the fire unattended until it is completely extinguished.

(3) No person shall ignite or cause to be ignited a fire on privately owned land without the permission of the owner or occupier except in an emergency situation for cooking or warmth or as a distress signal and only if the fire is made in a suitable place and precautions taken against the spreading of the fire.

(4) Every person in charge of a forestry operation, or any other activity, conducted in the woods or within one thousand feet of the woods shall provide and maintain at the place of the forestry operation such fire fighting equipment as is required by the regulations.

(5) No person shall operate in the woods or within one thousand feet of the woods any burner, engine, incinerator or other spark emitting outlet that is not provided with an adequate device for arresting sparks.

(6) No person shall refuel or leave unattended a power saw or like equipment in the woods or within one thousand feet of the woods unless the equipment has cooled to the point where it is unlikely to cause fire or has been put in a place where it is unlikely to start a fire.

(7) No person shall, in the woods, store or transport gasoline, fuel oil or a similar volatile flammable substance in a container other than one approved for the purpose by the Canadian Standards Association.

(8) During the fire season, any person in charge of a group entering the woods for any purpose shall ensure that that person and any persons under that person's charge are fully informed of the provisions of this Act and the regulations pertaining to forest fire protection. R.S., c. 179, s. 27 .

Fire safety

28 (1) Every person having charge of any camp, mine, mill, wood processing facility, or garbage dump located in the woods or within one thousand feet of the woods shall have the area surrounding the site cleared of flammable debris for a distance of at least one hundred feet or such further distance as may be required by a conservation officer.

(2) During the fire season or at any other time as directed by a conservation officer, any owner or operator or person in charge of a wood processing facility who ignites a fire or allows a fire to be ignited in any trimming, edgings, sawdust or refuse on the premises shall not leave the fire unattended.

(3) Where a fire is burning or starts in woods where a forestry operation or any other operation is being carried on, the person in charge of the operation shall take immediate action to control and extinguish the fire and for that purpose shall employ at that person's expense the necessary personnel and equipment.

(4) When the person in charge of the forestry operation or any other operation in woods is unable to control or extinguish a fire, that person shall report the same to the Department and be available, with any services under the person's control, to assist the Department. R.S., c. 179, s. 28 .

Removal of fire hazard

29 (1) Where a conservation officer finds on any land, structure or equipment a condition that in the opinion of the conservation officer may cause a fire resulting in damage to any property or woods, the conservation officer may direct the owner or occupier thereof or the person who has caused the fire hazard to take such action as the conservation officer considers necessary to remove the fire hazard.

(2) Where a person has been directed to remove the fire hazard described in subsection (1) and fails to comply, a conservation officer may enter upon the land to take such action as the conservation officer deems necessary and the Minister may recover any associated costs and expenses.

(3) Any person failing to comply with subsection (1) is guilty of an offence. R.S., c. 179, s. 29.

Prohibition

30 (1) No owner or occupier of land shall leave any slash, brush or flammable material within the boundaries of a public highway or within fifty feet of the travelled portion of any public highway for longer than ten days.

(2) Any conservation officer, upon inspection of any such slash, brush or other flammable material may by a statement in writing describing the same and the place where it is situate, exempt the same from the application of subsection (1) for a definite period of time to be defined in such statement.

(3) Any person who clears forest land near a public highway for any purpose shall dispose of the debris to the satisfaction of a conservation officer or, if that person intends to burn the debris, shall pile and burn the debris in accordance with a permit to burn. R.S., c. 179, s. 30 .

Prevention and control of fires by railways

31 The provisions of any order, rule or direction of the Canadian Transport Commission or its successors and of the railway transport committee established by that Commission respecting the prevention and control of fires and the payment of costs apply mutatis mutandis to any railway that is subject to the legislative jurisdiction of the Province. R.S., c. 179, s. 31 .

Entry and inspection

32 Conservation officers, employees of the Department and such other persons as are appointed by the Minister pursuant to this Act, together with people assisting them, may, for the purpose of ensuring compliance with this Act and the regulations and any order made under this Act or the regulations,

(a) at a reasonable hour of the day, enter and inspect a forestry operation or a forest harvesting operation and make such examinations as the person considers necessary or advisable;

(b) require the production of records or documents in the possession of a buyer of forest products that relate to the registration and statistical returns required of a buyer of forest products;

(c) make any examination or inquiry as the person considers necessary to ascertain whether there is compliance with this Act and the regulations and any order made under this Act or the regulations;

(d) in an inspection or an examination, be accompanied and assisted by a person having special, expert or professional knowledge of any matter;

(e) enter upon any land for the purpose of performing the person's duties and functions pursuant to this Act and the regulations, including the monitoring of the implementation of a wood acquisition plan.
1998, c. 29, s. 6 .

Order to cease or alter activity

32A Where a conservation officer believes on reasonable and probable grounds that a person responsible for a forest harvesting operation has contravened or will contravene this Act or the regulations, the conservation officer may, whether or not the person has been charged or convicted in respect of the contravention, issue an order requiring the person, at that person's expense, to

(a) cease the specified activity; or

(b) alter the procedures to be followed in carrying out the activity. 1998, c. 29, s. 6 .

Appeal

32B A person aggrieved by an order made pursuant to Section 32A may appeal to the Provincial Court and the Court may confirm, amend or vary the order. 1998, c. 29, s. 6.

Offence

33 Every person who, without legal justification, removes a sign or notice posted by the Department is guilty of an offence. R.S., c. 179, s. 33 .

Arrest by conservation officer

34 (1) A conservation officer may arrest a person for any offence pursuant to this Act and detain that person in custody after arrest if on reasonable and probable grounds the officer believes that the arrest and detention is necessary

(a) to prevent the continuation or repetition of the offence; or

(b) to establish the identity of the person.

(2) Where a conservation officer arrests or detains a person pursuant to subsection (1), the conservation officer shall comply with the provisions of the Summary Proceedings Act. R.S., c. 179, s. 34 .

Obstruction of conservation officer prohibited

35 No person shall obstruct or cause or incite another to obstruct a conservation officer in the exercise of authority pursuant to this Act or the regulations or any person assisting the conservation officer in the exercise of that authority. R.S., c. 179, s. 35.

Offence and penalty

36 (1) Every person who fails to comply with this Act or the regulations or with an order made pursuant to this Act or the regulations is guilty of an offence and is liable on summary conviction

(a) in the case of a corporation, to a fine not exceeding one hundred thousand dollars; or

(b) in the case of an individual, to a fine not exceeding fifty thousand dollars or to imprisonment for a term of not more than six months, or to both.

(2) Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

(3) Where a person has been convicted of an offence under this Act or the regulations and the court is satisfied that monetary benefits accrued to the person as a result of the commission of the offence,

(a) the court may order the person to pay an additional fine in an amount equal to the court's estimation of the amount of the monetary benefits; and

(b) the additional fine may exceed the maximum amount of any fine that may otherwise be imposed pursuant to this Act. 1998, c. 29, s. 7 .

Proof of offence

36A (1) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(2) Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation of this Act or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted.

(3) Unless otherwise provided in this Act, no person shall be convicted of an offence under this Act or the regulations if the person establishes that the person exercised all due diligence to prevent the commission of the offence. 1998, c. 29, s. 7 .

Additional penalty

36B Where a person is convicted of an offence, the court may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing one or more of the following prohibitions, directions or requirements:

(a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the court, result in the continuation or repetition of the offence;

(b) directing the person to take any action that the court considers appropriate to remedy or to prevent any adverse effect that resulted or may result from the commission of the offence;

(c) directing the person to post a bond or to pay into court an amount of money that the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement pursuant to this Section;

(d) requiring the person to undertake remedial action to control, reduce or mitigate the contravention. 1998, c. 29, s. 7 .

Limitation period

36C (1) Proceedings by way of summary conviction in respect of an offence under this Act or the regulations may not be commenced more than two years after the later of

(a) the date on which the offence was committed; or

(b) the date on which evidence of the offence first came to the attention of the Minister.

(2) A document purporting to have been issued by the Minister certifying the day on which the Minister became aware of evidence of the offence is admissible without proof of the signature or the official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified. 1998, c. 29, s. 7 .

Additional penalty imposed by court

37 In addition to any penalty imposed pursuant to this Act, the court may impose the full cost or any portion of the cost or expense incurred by the Minister or Department or city or incorporated town or regional municipality in controlling or extinguishing a fire, together with costs or expenses related to

the loss of fibre and rehabilitation of the area burned or for removing a fire hazard. R.S., c. 179, s. 37; 1998, c. 18, s. 559.

Civil action not affected

38 Nothing in this Act shall be held to limit or interfere with the right of any person to bring and maintain a civil action for damages occasioned by fire. R.S., c. 179, s. 38.

Restriction on action against Crown

39 No action in trespass or nuisance may be brought against the Crown or its agents for the doing of any act or the carrying out of any operation necessarily incidental to the exercise of any duty or power pursuant to this Act or the regulations except where such trespass or nuisance results in actual injury to the person or actual damage to property. R.S., c. 179, s. 39 .

Regulations

40 The Governor in Council may make regulations

- (a) respecting terms of employment, responsibility and authority of conservation officers;
- (b) governing the terms and conditions of issue, refusal and cancellation of permits;
- (c) designating classes of operations and activities and governing the equipment, staff and precautions to be provided or observed in respect of fire prevention or suppression by persons engaged in any class of operation or activity;
- (d) repealed 1998, c. 29, s. 8.
- (e) prescribing forms and providing for their use;
- (f) prescribing fees for any licence or permit issued pursuant to this Act;
- (g) respecting the Timber Loan Board;

(h) respecting the establishment of fire seasons;

(i) respecting procedures regarding fire proclamations and restrictions during such periods;

(ia) respecting the training, licensing and supervision of Christmas tree graders;

(ib) respecting quality requirements and standards for various grades of Christmas trees;

(ic) providing for the issuance and use of grade stamps or tags on Christmas trees;

(id) requiring the payment of a levy on the production of Christmas trees for use in research in and promotion of the Christmas tree industry, including provisions for enforcement of the collection of the levy, requiring registration of those members of the industry designated to collect the levy, increases in the levy and refunds of the levy;

(j) prescribing methods and standards for sustainable forest management practices to protect wildlife habitats, watercourses, wetlands and other significant resources and requiring compliance with the prescribed methods and standards;

(k) determining the form and manner of registration of buyers of forest products in the Province;

(l) determining the statistical information respecting forest products required to be filed with the Minister by a buyer of forest products, including information respecting the volumes of forest products processed, imported, exported, sold or acquired;

(m) prescribing the categories or classes of buyers of forest products and who is required to submit a wood acquisition plan;

(n) prescribing the information required to be included in a wood acquisition plan and the monitoring of a wood acquisition plan;

(o) prescribing the options for sustainable acquisition of forest products that may be considered in approving a wood acquisition plan;

(p) prescribing records or reports to be kept or made by a buyer of forest products in the Province;

(q) respecting the operation and administration of the Sustainable Forestry Fund;

(r) prescribing information required to be provided respecting industrial forest harvesting operations;

(s) exempting persons or classes of persons from the requirements of this Act or the regulations;

(t) defining any word or expression used but not defined in this Act;

(u) respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Act. R.S., c. 179, s. 40; 1992, c. 18, s. 1; 1998, c. 29, s. 8.

Public review of regulations

40A (1) The Minister shall conduct a public review in each county of the Province of

(a) any new regulations; or

(b) any substantive amendments to the regulations,

before they become law.

(2) The Minister shall cause a public report to be prepared containing recommendations with respect to the proposed regulations. 1998, c. 29, s. 9 .

Regulations Act

41 The exercise by the Governor in Council of the authority contained in Sections 20 and 40 and the exercise by the Minister of the authority contained in subsection (2) of Section 26 shall be regulations within the meaning of the Regulations Act. R.S., c. 179, s. 41.

Fire season

42 Until a regulation is made pursuant to clause (h) of Section 40, "fire season" means, in the case of the Counties of Queens, Shelburne, Yarmouth, Digby and Annapolis, the period between the first day of April and the fifteenth day of October in each year and, in the case of other counties of the Province, the period between the fifteenth day of April and the fifteenth day of October in each year. R.S., c. 179, s. 42.

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