

Forestry Act

R.S.O. 1990, CHAPTER F.26

Consolidation Period: From December 15, 2009 to the e-Laws currency date.

Last amendment: 2009, c. 33, Sched. 22, s. 4.

Definitions

1. (1) In this Act,

“forest tree pest” means any vertebrate or invertebrate animal or any virus, fungus, or bacterium or other organism that is injurious to trees commonly found growing in a forest or windbreak or the products from such trees; (“parasites d’arbres forestiers”)

“forestry purposes” includes the production of wood and wood products, provision of proper environmental conditions for wild life, protection against floods and erosion, recreation, and protection and production of water supplies; (“fins forestières”)

“good forestry practices” means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to forest values including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape; (“bonnes pratiques forestières”)

“improvement” does not include a treatment designed solely to produce immediate revenue; (“amélioration”)

“infestation” means an actual or potential infestation or infection by a forest tree pest; (“infestation”)

“Minister” means the Minister of Natural Resources; (“ministre”)

“Ministry” means the Ministry of Natural Resources; (“ministère”)

“nursery stock” means coniferous or hardwood seedlings, transplants, grafts, or trees propagated or grown in a nursery and with the roots attached, and includes cuttings with or without the roots attached; (“plants de pépinière”)

“officer” means a person appointed by the Minister for the purposes of this Act; (“agent”)

“owner” means a person having any right, title, interest or equity in land; (“propriétaire”)

“woodlands” means land with at least,

- (a) 1,000 trees, of any size, per hectare,
- (b) 750 trees, measuring over five centimetres in diameter, per hectare,
- (c) 500 trees, measuring over 12 centimetres in diameter, per hectare, or
- (d) 250 trees, measuring over 20 centimetres in diameter, per hectare,

but does not include a cultivated fruit or nut orchard or a plantation established for the purpose of producing Christmas trees. (“terrain boisé”) 1998, c. 18, Sched. I, s. 20; 2000, c. 26, Sched. L, s. 4 (1); 2002, c. 17, Sched. C, s. 12 (1); 2009, c. 33, Sched. 22, s. 4 (1).

Same

(2) For the purpose of the definition of “woodlands”, all measurements of the trees are to be taken at 1.37 metres from the ground. 1998, c. 18, Sched. I, s. 20.

Agreements re forestry development

2. (1) The Minister may enter into agreements with owners of land suitable for forestry purposes that provide for the management or improvement of the land for these purposes upon such conditions as the Minister considers proper. 1998, c. 18, Sched. I, s. 20.

Grants

(2) The Minister may make grants of the sums provided for in the agreement, on such conditions as the Minister considers appropriate, out of the money appropriated by the Legislature to any conservation authority or municipality for the purpose of assisting it in the acquisition of land that is suitable for forestry purposes and that is to be managed under an agreement. 1998, c. 18, Sched. I, s. 20.

Forestry purposes only

(3) A conservation authority or municipality that has entered into an agreement under subsection (1) or a predecessor provision shall not, without the approval of the Minister, use any land in respect of which grants have been made under subsection (2) or a predecessor provision for any purpose that is inconsistent with forestry purposes at any time during or after the term of the agreement. 1998, c. 18, Sched. I, s. 20.

Repayment

(4) A conservation authority or municipality that uses land covered by an agreement authorized under subsection (1) or a predecessor provision for a purpose that is inconsistent with forestry purposes shall repay to the Province of Ontario all grants that it received under the agreement to acquire the land unless the Minister provides that the grants need not be repaid. 1998, c. 18, Sched. I, s. 20.

Sale of land

(5) Land in respect of which grants have been made under subsection (2) or a predecessor provision shall not, without the approval of the Minister, be sold, leased or otherwise disposed of during or after the term of the agreement. 1998, c. 18, Sched. I, s. 20.

Proceeds shared

(6) The proceeds from any sale, lease or other disposition of land in respect of which grants have been made under subsection (2) or a predecessor provision shall be divided as the Minister directs between the conservation authority or municipality, as the case may be, and the Province of Ontario, with the conservation authority or municipality receiving not less than 50 per cent of the proceeds. 2000, c. 26, Sched. L, s. 4 (2).

Exception

(7) Subsection (6) does not apply to a sale, lease or other disposition for the use of the Province of Ontario. 1998, c. 18, Sched. I, s. 20.

Registration of agreements

3. The Minister may direct that an agreement entered into under section 2 shall be registered by the owner of the land in respect of which the agreement is made in the proper land registry office, and thereupon such agreement is binding upon and inures to the benefit of every successor-in-title to such owner during the term of the agreement. R.S.O. 1990, c. F.26, s. 3.

Woodlands improvement agreements

4. An Agreement made under the Woodlands Improvement Act shall be deemed to be an agreement made under section 2. 1998, c. 18, Sched. I, s. 21.

Programs

5. The Minister may establish programs to protect, manage or establish woodlands and to encourage forestry that is consistent with good forestry practices. 2002, c. 17, Sched. C, s. 12 (2).

Nursery stock

6. No person shall, directly or indirectly, sell or offer for sale or dispose of by gift or otherwise any nursery stock furnished by the Ministry under this Act. 1998, c. 18, Sched. I, s. 21.

Control measures

7. If, in the opinion of the Minister, the control of an infestation on any land is in the public interest, the Minister may direct an officer to enter upon the land and, at the expense of the Crown, take such measures to prevent, retard, suppress, eradicate or destroy the infestation as the officer considers advisable. 1998, c. 18, Sched. I, s. 21.

Powers of entry

8. An officer, with or without the consent of the owner, may enter upon any land between sunrise and sunset to inspect the land and its trees and forest products for infestation and to survey and examine the timber and other natural resources on the land in order to determine the suitability of the land for forestry purposes. 1998, c. 18, Sched. I, s. 21.

Obstruction of officers

9. No person shall obstruct an officer in the performance of his or her duty. 1998, c. 18, Sched. I, s. 21.

Boundary trees

10. (1) An owner of land may, with the consent of the owner of adjoining land, plant trees on the boundary between the two lands. 1998, c. 18, Sched. I, s. 21.

Trees common property

(2) Every tree whose trunk is growing on the boundary between adjoining lands is the common property of the owners of the adjoining lands. 1998, c. 18, Sched. I, s. 21.

Offence

(3) Every person who injures or destroys a tree growing on the boundary between adjoining lands without the consent of the land owners is guilty of an offence under this Act. 1998, c. 18, Sched. I, s. 21.

By-laws for acquiring lands for forestry purposes

11. (1) The council of a municipality may pass by-laws,

(a) for acquiring by purchase, lease or otherwise, land for forestry purposes;

- (b) for declaring land that is owned by the municipality to be required by the municipality for forestry purposes;
- (c) for planting and protecting trees on any land acquired for or declared to be required for forestry purposes;
- (d) for the management of any land acquired for or declared to be required for forestry purposes and the sale or other disposition of the trees thereon;
- (e) for issuing debentures, without the assent of the electors, for the purpose of purchasing land for forestry purposes to an amount not exceeding the amount prescribed by the Minister to be owing at any one time;
- (f) for entering into agreements for the management of any land acquired for or declared to be required for forestry purposes;
- (g) for leasing, selling or otherwise disposing of any land acquired for or declared to be required for forestry purposes. 2002, c. 17, Sched. C, s. 12 (3).

Land in another municipality

(2) Land may be acquired under subsection (1) in another municipality with the consent of the council of that municipality. 2002, c. 17, Sched. C, s. 12 (3).

Payment in lieu of taxes

(3) If a municipality acquires land or declares land to be required for forestry purposes in another municipality under this section, the council of the first-mentioned municipality may agree to pay annually to the municipality in which the land is situate a sum not exceeding the amount that would have been payable to the municipality as taxes if the land were not exempt from taxation. 2002, c. 17, Sched. C, s. 12 (3).

Regulations

(4) The Minister may make regulations prescribing the amount under clause (1) (e). 2002, c. 17, Sched. C, s. 12 (3).

Application for minor exceptions

(5) Despite the repeal of the Trees Act, section 9 of that Act, as it read immediately before its repeal, continues to apply in respect of by-laws passed under that Act before December 18, 1998. 2002, c. 17, Sched. C, s. 12 (3).

Agreements for forestry purposes

12. (1) The council of any municipality may enter into agreements with the owners of land located in the municipality providing for,

- (a) the reforestation of portions of the land;
- (b) the entry and planting of trees upon such portions by the employees or agents of the council;

and

- (c) the fencing of the portions and conservation of all growing trees thereon by the owner.

2002, c. 17, Sched. C, s. 12 (4).

Acreage

(2) No agreement shall provide for the reforestation of less than five acres of land for every 100 acres belonging to the same owner. 2002, c. 17, Sched. C, s. 12 (4).

Cutting

(3) Every agreement shall prescribe the conditions under which the cutting of timber upon the portions may be carried out. 2002, c. 17, Sched. C, s. 12 (4).

Exemption from taxation

(4) The council of the municipality may exempt any portion from general taxation as long as it continues to be used for the purposes set out in the agreement. 2002, c. 17, Sched. C, s. 12 (4).

Agreements with Ministers of Labour

(5) The council of the municipality may enter into agreements with the Minister of Labour for Canada and the Minister of Labour for Ontario regulating the conditions of labour and the payment of wages in respect of labour performed in connection with the planting and conservation of trees in the portions. 2002, c. 17, Sched. C, s. 12 (4).

Evidence in prosecutions

13. In any prosecution under this Act,

(a) a copy of an instrument certified under section 17 of the Registry Act or a certificate of search issued under section 117 of the Land Titles Act is admissible in evidence as proof, in the absence of evidence to the contrary, of the matters therein contained; and

(b) a certificate of the Minister or Deputy Minister of Natural Resources in respect of the right, title and interest of the Crown in any trees on any land is admissible in evidence as proof, in the absence of evidence to the contrary, of the matters therein contained. 1998, c. 18, Sched. I, s. 21.

14. REPEALED: 2002, c. 17, Sched. C, s. 12 (4).

15. REPEALED: 2002, c. 17, Sched. C, s. 12 (4).

16. REPEALED: 2002, c. 17, Sched. C, s. 12 (4).

17. REPEALED: 2002, c. 17, Sched. C, s. 12 (4).

18. REPEALED: 2009, c. 33, Sched. 22, s. 4 (2).

Offence

19. (1) Every person who,

(a) contravenes a provision of this Act;

(b) alone or through any other person, contravenes any provision of a by-law passed under this Act, or a predecessor of this Act;

(c) obstructs or interferes with an officer or any person acting under the officer's instructions, in the discharge of his or her duties; or

(d) fails, without just cause, to comply with an order made under subsection (2), is guilty of an offence and on conviction is liable to a fine of not more than \$20,000 or to imprisonment for a term of not more than three months, or to both. 1998, c. 18, Sched. I, s. 21; 2002, c. 17, Sched. C, s. 12 (5).

Replanting

(2) If a person is convicted of an offence under clause (1) (b), the court shall consider all evidence given in respect of the necessity of replanting the area on which trees have been destroyed and may order the owner of the area to,

(a) replant the trees, in the manner and within the time that the court considers appropriate; and

(b) adequately maintain the replanted trees in the manner the court considers proper. 1998, c.

18, Sched. I, s. 21.

Where inconsistent penalties

(3) The penalty set out in subsection (1) applies despite any lower penalty set out in a by-law. 1998, c. 18, Sched. I, s. 21.

20. REPEALED: 2002, c. 17, Sched. C, s. 12 (6).