

Crown Forest Sustainability Act, 1994  
Loi de 1994 sur la durabilité des forêts de la Couronne

## **ONTARIO REGULATION 167/95**

### **GENERAL**

Consolidation Period: From April 1, 2011 to the e-Laws currency date.

Last amendment: O. Reg. 101/11.

This Regulation is made in English only.

### **Crown Charges**

1. For the purposes of sections 2, 3 and 4, the land referred to as the productive area in a forest resource licence granted before April 1, 1995 shall be deemed to be the land specified under subsection 32 (2) of the Act. O. Reg. 167/95, s. 1.
2. (1) The area charge to be paid under subsection 32 (1) of the Act for the 12-month period beginning on April 1 in each year by a holder of a forest resource licence is,
  - (a) \$51 for each square kilometre or part of a square kilometre of land specified under subsection 32 (2) of the Act, if the licence was granted under section 26 of the Act; or
  - (b) \$102 for each square kilometre or part of a square kilometre of land specified under subsection 32 (2) of the Act, if the licence was granted under section 27 of the Act. O. Reg. 167/95, s. 2 (1); O. Reg. 397/96, s. 1.
- (2) For the purpose of subsection 32 (3) of the Act, the following classes of forest resource licences are prescribed as classes of licences in respect of which subsections 32 (1) and (2) of the Act do not apply:
  1. Licences that authorize the harvesting of forest resources only for the licensee's own non-commercial use and for which the price determined under section 31 of the Act for the forest resources that are harvested is \$500 or less.
  2. Licences in respect of land that is subject to a previously-granted forest resource licence. O. Reg. 167/95, s. 2 (2).
  - 3.-5. Revoked: O. Reg. 448/97, s. 1.
6. (1) Interest is payable on payments of Crown charges that are overdue using the rate of interest determined in accordance with the following rules:
  1. A base rate of interest shall be determined for January 1, 2006 and for each adjustment date after January 1, 2006 and shall be equal to the average prime rate on,
    - i. October 15 of the previous year, if the adjustment date is January 1,
    - ii. January 15 of the same year, if the adjustment date is April 1,
    - iii. April 15 of the same year, if the adjustment date is July 1, and

iv. July 15 of the same year, if the adjustment date is October 1.

2. The base rate of interest in effect on a particular date shall be,

i. the base rate for the particular date, if the particular date is an adjustment date, and

ii. the base rate for the last adjustment date before the particular date, otherwise.

3. The rate of interest payable by a person under this section in respect of a particular day shall be an annual interest rate that is three percentage points higher than the base rate of interest in effect on that day. O. Reg. 257/06, s. 1.

(2) In subsection (1),

“adjustment date” means January 1, April 1, July 1 or October 1;

“average prime rate”, on a particular date, means the mean, rounded to the nearest whole percentage point, of the annual rates of interest announced by each of The Royal Bank of Canada, The Bank of Nova Scotia, the Canadian Imperial Bank of Commerce, the Bank of Montreal and The Toronto-Dominion Bank to be its prime or reference rate of interest in effect on that date for determining interest rates on Canadian dollar commercial loans by that bank in Canada. O. Reg. 257/06, s. 1.

#### Terms and Conditions of Forest Resource Licences

7. Every forest resource licence is subject to the following terms and conditions:

1. The licensee shall pay the prices determined under section 31 of the Act for forest resources harvested under the licence.

2. All forest operations shall be conducted in a manner that permits forest resources harvested under the licence to be measured, counted and weighed in accordance with the Scaling Manual. O. Reg. 167/95, s. 7.

#### Forest Resource Licences on Same Land

8. The matters on which licensees shall endeavour to agree under subsection 38 (2) of the Act are the following:

1. The amount of the contribution to be made by the prospective licensee to the existing licensee in respect of the area charges and forestry futures charges required to be paid by the existing licensee.

2. The amount of the contribution to be made by the prospective licensee to the existing licensee in respect of costs associated with the forest management plan, the work schedules and the forest operations prescriptions applicable to the licences.

3. The performance of the renewal and maintenance work that is required to be carried out, including payment for that work.

4. The provision of information required to be provided under the Act and the sharing of that information.

5. The road construction and maintenance to be done, including contributions to their cost.

6. The proper identification and marking of the area covered by the prospective licence and of the forest resources that shall not be harvested within that area, including contributions to the costs of the identification and marking.

7. The manner in which the licensees will conduct forest operations in the area covered by the licences.
  8. The amount and species of forest resources that may be harvested by the prospective licensee.
  9. The amount of any payments to be made by each licensee to the other licensee, including a breakdown of those payments.
  10. A procedure to resolve disputes under the agreement. O. Reg. 167/95, s. 8.
9. (1) The following is the dispute resolution procedure that shall be followed if the Minister so directs under subsection 38 (2) of the Act:
1. The Minister shall appoint a mediator to resolve the dispute according to terms of reference provided by the Minister.
  2. The mediator may require the parties to meet the mediator, separately or together, at times and places specified by the mediator.
  3. The mediator shall discuss with each party the reasons for the dispute.
  4. The mediator may require the parties to meet each other in an attempt to resolve the dispute.
  5. If the parties do not agree on a resolution of the dispute, the mediator shall recommend to the parties a manner for resolving the dispute and the parties shall consider the mediator's recommendation.
  6. If the parties are able to agree on a resolution of the dispute within a time that the mediator considers reasonable after the making of the recommendation, the mediator shall advise the Minister of the agreement but shall not advise the Minister of the recommendation.
  7. If the parties are unable to agree on a resolution of the dispute within a time that the mediator considers reasonable after the making of the recommendation, the mediator shall advise the Minister of the recommendation and shall advise the Minister that no agreement has been reached. O. Reg. 167/95, s. 9 (1).
- (2) If a licensee fails to comply with subsection 38 (2) of the Act or with the procedure described in subsection (1), the Minister may, in accordance with section 34 of the Act and section 10 of this Regulation, amend the licensee's licence. O. Reg. 167/95, s. 9 (2).
- (3) If, under paragraph 7 of subsection (1), the Minister is advised that no agreement has been reached, the Minister may, in accordance with section 34 of the Act and section 10 of this Regulation, amend any forest resource licence held by a party to the dispute. O. Reg. 167/95, s. 9 (3).
- (4) The parties may at any time agree on the matters that were previously in dispute, in which case the procedure described in subsection (1) may be terminated. O. Reg. 167/95, s. 9 (4).
- (5) An amendment made to a forest resource licence in accordance with section 34 of the Act and section 10 of this Regulation in respect of a matter agreed on under subsection 38 (2) of the Act or the procedure described in this section need not conform with the agreement. O. Reg. 167/95, s. 9 (5).
- (6) Subject to paragraphs 6 and 7 of subsection (1), no information provided during the mediation shall be disclosed by the mediator or the parties except to each other during the course of the mediation. O. Reg. 167/95, s. 9 (6).
- (7) The Minister may require that the procedure described in subsection (1) be completed within a period of time specified by the Minister. O. Reg. 167/95, s. 9 (7).

10. (1) A forest resource licence may be amended under section 34 of the Act in respect of the following matters:

1. The area covered by the licence and the land specified under subsection 32 (2) of the Act.
2. The amount, species and price of forest resources that may be harvested under the licence.
3. The harvesting of killed or damaged forest resources.
4. The renewal and maintenance of the area covered by the licence and other activities carried out in that area, including the funding of those activities.
5. The preparation of a forest management plan, including the requirement to prepare a plan.
6. The silvicultural and other standards and the forest operations prescriptions that apply to forest operations.
7. The methods used to measure compliance with silvicultural and other standards and with forest operations prescriptions.
8. The construction and maintenance of forest roads, including the funding of those activities.
9. The supply of forest resources to a forest resource processing facility.
10. The conduct of inventories, tests and studies.
11. The provision of information.
12. The certification of the area covered by the licence, including the standard to be met for certification. O. Reg. 167/95, s. 10 (1); O. Reg. 186/07, s. 1.

(2) An amendment to a forest resource licence may not be made under section 34 of the Act unless the amendment is authorized by subsection (1). O. Reg. 167/95, s. 10 (2).

#### Cancellation of Forest Resource Licences

11. A forest resource licence may be cancelled in whole or in part for one or more of the following reasons, in addition to the reasons set out in subsection 59 (1) of the Act:

1. The licensee has purported to transfer, assign, charge or otherwise dispose of the forest resource licence without the consent required by section 35 of the Act.
2. The licence was granted in respect of forest resources on land subject to a previous forest resource licence and an agreement made between the licensees under subsection 38 (2) of the Act or the resolution of a dispute under that subsection is no longer in effect.
3. The licence was granted in respect of forest resources that were subject to an agreement under section 25 of the Act and that agreement is no longer in effect.
4. The licence is a sustainable forest resource licence under section 26 of the Act and, for the purpose of improved management of forest resources in the management unit to which the licence relates, a new sustainable forest resource licence is to be granted to a company that was formed for the purpose of carrying out forest management responsibilities in the unit, that is not associated with any particular forest resource processing facility and in which the holder of the cancelled licence was offered an opportunity to participate. O. Reg. 167/95, s. 11; O. Reg. 572/06, s. 1.

## Transfer of Forest Resource Licences

12. (1) The fee for obtaining a consent under subsection 35 (1) of the Act is \$1,000. O. Reg. 167/95, s. 12 (1).

(2) Despite subsection (1), if consents in respect of more than one forest resource licence are obtained at the same time, the fee is \$500 for each consent. O. Reg. 167/95, s. 12 (2).

13. Subsection 35 (2) of the Act does not apply in the following circumstances:

1. A forest resource licence is surrendered to the Minister.

2. A transfer, assignment, charge or other disposition of an interest in a forest resource licence is required by an agreement under subsection 38 (2) of the Act or by the resolution of a dispute under that subsection. O. Reg. 167/95, s. 13.

14. When a forest resource licence is transferred, the licensee shall, not less than 30 days before the transfer, provide the Minister with the following information:

1. A description of the transfer, including the reason for it.

2. Information in respect of the transfer, including information in respect of the valuation of assets, the employees of the transferor and the assumption by the transferee of the transferor's liabilities and obligations to the Crown.

3. The location of the forest resource processing facility that will process forest resources harvested after the transfer.

4. Information in respect of the operation of any forest resource processing facility to be transferred, including information in respect of forest resource supply arrangements and forest resource licences that will supply the facility with forest resources. O. Reg. 167/95, s. 14.

## Scalers

15. Revoked: O. Reg. 101/11, s. 1.

16. (1) The Minister may issue a scaler's licence to a person who,

(a) has completed a scaler's course approved by the Minister;

(b) has passed the examination for a scaler's licence set by the Minister, or before April 1, 2011, by the board of examiners; and

(c) has paid the fee set out in subsection (2). O. Reg. 167/95, s. 16 (1); O. Reg. 101/11, s. 2 (1).

(1.1) Despite subsection (1), the Minister may issue a scaler's licence to a person who,

(a) holds a scaler's certificate, licence, registration or similar official recognition,

(i) that is issued by a provincial or territorial government in Canada or by regulatory authority authorized or permitted to issue such recognition by a provincial or territorial government in Canada, and

(ii) that attests that the person is authorized to scale Crown forest resources;

(b) has not had his or her scaler's certificate, licence, registration or similar official recognition cancelled, suspended or revoked; and

- (c) has paid the fee set out in subsection (2). O. Reg. 483/10, s. 1.
- (2) The fee for a scaler's licence or a renewal of a scaler's licence is \$15. O. Reg. 167/95, s. 16 (2).
- (3) A scaler's licence is subject to such terms and conditions as may be specified in the licence. O. Reg. 167/95, s. 16 (3).
- (4) The term of a scaler's licence shall not exceed three years. O. Reg. 167/95, s. 16 (4).
- (5) The Minister may renew a scaler's licence for further terms not exceeding three years if the scaler has paid the fee set out in subsection (2). O. Reg. 167/95, s. 16 (5); O. Reg. 101/11, s. 2 (2).

17. A licensed scaler is not qualified to measure, count or weigh forest resources for the Crown unless,

- (a) the scaler has received the written approval of the Minister; and
- (b) within the preceding three years, the scaler,
- (i) was issued a scaler's licence under subsection 16 (1) or (1.1), or
- (ii) completed a scaler's refresher course approved by the Minister and passed the refresher examination set by the Minister. O. Reg. 167/95, s. 17; O. Reg. 483/10, s. 2; O. Reg. 101/11, s. 3.

#### Forest Resource Processing Facilities

18. The following forest resource processing facilities are exempt from section 53 of the Act:

1. Facilities that use less than 1,000 cubic metres of forest resources in a year.
2. Facilities that process or alter forest resources solely to facilitate the harvesting of the resources or the transportation of the resources to a facility licensed under section 53 of the Act. O. Reg. 167/95, s. 18.

19. (1) An applicant for a forest resource processing facility licence shall provide the Minister with the following:

1. A business plan that shows the applicant's ability to finance, operate and manage the facility.
2. An analysis showing the source, species and volume of the forest resources that will supply the facility. O. Reg. 167/95, s. 19 (1).

(2) An applicant for the renewal or amendment of a forest resource processing facility licence shall provide the Minister with the same information required under subsection (1) if the renewal or amendment will authorize a change in the forest resource supply requirements of the facility. O. Reg. 167/95, s. 19 (2).

20. (1) A forest resource processing facility licence is subject to such terms and conditions as may be specified in the licence. O. Reg. 167/95, s. 20 (1).

(2) The term of a forest resource processing facility licence shall not exceed five years and shall run from April 1 in a year until March 31 in another year. O. Reg. 167/95, s. 20 (2).

21. The annual fee for a forest resource processing facility licence is the amount set out in Column 4 of Schedule 3 opposite the characteristics of the facility described in Columns 1, 2 and 3. O. Reg. 167/95, s. 21.

22. The Minister may transfer a forest resource processing facility licence. O. Reg. 33/04, s. 1.

23. The Minister may amend a forest resource processing facility licence if,

(a) the licensee fails to comply with the licence;

(b) there is a significant change in the volume or kind of products produced by the facility; or

(c) there is a significant change in the source, species or volume of supply of forest resources to the facility.  
O. Reg. 167/95, s. 23.

24. The Minister may suspend or cancel a forest resource processing facility licence, in whole or in part, if,

(a) the licensee fails to comply with the licence;

(b) the licensee fails to pay the annual fee for the licence;

(c) there is no longer a sufficient supply of forest resources to operate the facility;

(d) there is a significant change in the volume or kind of products to be produced by the facility;

(e) the licensee becomes insolvent; or

(f) the licensee purports to transfer the licence contrary to section 22. O. Reg. 167/95, s. 24.

25. Before amending, suspending or cancelling a forest resource processing facility licence, the Minister shall,

(a) give the licensee written notice of the Minister's intention to amend, suspend or cancel the licence and the reasons for the amendment, suspension or cancellation; and

(b) give the licensee an opportunity to make representations to the Minister on the proposed amendment or on why the licence should not be suspended or cancelled. O. Reg. 167/95, s. 25.

26. The holder of a forest resource processing facility licence shall make an annual return to the Minister in the form provided by the Minister. O. Reg. 167/95, s. 26.

## Manuals

26.1 The Forest Management Planning Manual prepared by the Ministry under paragraph 1 of subsection 68 (1) of the Act and dated November 2009 is approved. O. Reg. 473/09, s. 1.

26.2 The Forest Information Manual prepared by the Ministry under paragraph 2 of subsection 68 (1) of the Act and dated November 2009 is approved. O. Reg. 473/09, s. 1.

27. The Forest Operations and Silviculture Manual prepared by the Ministry under paragraph 3 of subsection 68 (1) of the Act, dated February 20, 1995 and amended on April 1, 2000 is approved. O. Reg. 283/00, s. 1.

28. The Scaling Manual prepared by the Ministry under paragraph 4 of subsection 68 (1) of the Act and dated February 15, 2011 is approved. O. Reg. 101/11, s. 4.

28.1 (1) Where the Minister is considering making amendments to the Forest Management Planning Manual and is of the opinion that any of the amendments under consideration would, if implemented, have a significant effect on the environment as determined in accordance with the factors set out in section 14 of the Environmental Bill of Rights, 1993, the Minister shall,

(a) post notice of the amendments under consideration on the environmental registry in accordance with the Environmental Bill of Rights, 1993 and otherwise fulfil the requirements of that Act; and

(b) notify in writing the following persons of the proposed amendment-making process for the purpose of obtaining their comments:

1. Persons who have indicated to the Ministry in writing that they are interested in providing comments on the next revision of the Forest Management Planning Manual.
2. Persons to whom, in the Minister's opinion, an opportunity to provide comments should be given.
3. The Director of the Environmental Assessment and Approvals Branch of the Ministry of the Environment. O. Reg. 428/03, s. 1.

(2) The notice referred to in clause (1) (b) shall include,

(a) details about how to obtain further information about the amendment-making process;

(b) a statement that the notice will be or has been posted on the environmental registry under the Environmental Bill of Rights, 1993 and, if the notice has been posted, the registry number for the posting; and

(c) the deadline for expressing an interest in participating in the amendment-making process and for providing comments on that process. O. Reg. 428/03, s. 1.

(3) After comments have been received that arise out of the posting of a notice on the environmental registry under clause (1) (a) or a notice provided under clause (1) (b), the Minister may, if he or she intends to make changes to the process proposed in the notice, post an updated notice on the environmental registry, and provide a copy of it to the persons referred to in subsection (1). O. Reg. 428/03, s. 1.

28.2 Where the Minister is considering making amendments to the Forest Management Planning Manual and is of the opinion that the amendments under consideration, if implemented, would not have a significant effect on the environment as determined in accordance with the factors set out in section 14 of the Environmental Bill of Rights, 1993, the Minister may notify in writing the following persons of the amendment-making process for the purpose of obtaining comments:

1. Persons who have indicated to the Ministry in writing that they are interested in providing comments on the next revision of the Forest Management Planning Manual.
2. Persons to whom, in the Minister's opinion, an opportunity to provide comments should be given. O. Reg. 428/03, s. 1.

Crown Trees Not in Crown Forests

29. (1) The Minister may, without the approval of the Lieutenant Governor in Council, grant a licence to harvest trees that are not in a Crown forest but are reserved to the Crown. O. Reg. 167/95, s. 29 (1).

(2) The licence is subject to such terms and conditions as may be specified in the licence. O. Reg. 167/95, s. 29 (2).

(3) The licence may specify how the trees harvested under the licence shall be disposed of. O. Reg. 167/95, s. 29 (3).

30. Omitted (revokes other Regulations). O. Reg. 167/95, s. 30.

31. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 167/95, s. 31.

SCHEDULES 1, 2 Revoked: O. Reg. 448/97, s. 2.

SCHEDULE 3  
LICENCE FEES FOR FOREST RESOURCE PROCESSING FACILITIES

Column 1  
Column 2  
Column 3  
Column 4

Type of Facility  
Typical Products  
Capacity  
Annual Licence Fee

A  
pulp, paper, newsprint, linerboard, corregating medium, etc.  
any quantity  
\$100

Pulp, Paper & Paperboard Products

B  
lumber, specialty solid wood products, by-product chips, shavings, sawdust, bark & hog fuel, etc.  
less than 25 cubic metres per 8 hour shift (all products)  
10

Sawmill

C  
lumber, specialty solid wood products, by-product chips, shavings, sawdust, bark & hog fuel, etc.  
25 to 200 cubic metres per 8 hour shift (all products)  
30

Sawmill

D  
lumber, specialty solid wood products, by-product chips, shavings, sawdust, bark & hog fuel, etc.  
more than 200 cubic metres per 8 hour shift (all products)  
50

Sawmill

E  
veneer, cores, fines, bark, hog fuel, by-product chips, etc.  
any quantity  
50

Veneer Mill

F  
oriented strand board, waferboard, medium density fibreboard, particle board, hardboard, laminated veneer  
lumber, plywood, fines, bark & hog fuel, etc.  
any quantity

50

Composite Panel or other Composite Solid Wood Processing Facility

G

wood chips, bark, etc.

up to 5,000 cubic metres per year

10

Whole Tree Chippers

H

wood chips, bark, etc.

more than 5,000 cubic metres per year

50

Whole Tree Chippers

I

fuelwood, etc.

more than 35 cubic metres per year

30

Firewood Processing Facility

J

any product not specified in A to I

up to 5,000 cubic metres per year

10

Other Wood Fibre Product Facility

K

any product not specified in A to I

more than 5,000 cubic metres per year

50

Other Wood Fibre Product Facility

O. Reg. 167/95, Sched. 3.