



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 111

(1997, chapter 33)

An Act to amend the Forest Act

Introduced 6 May 1997
Passage in principle 21 May 1997
Passage 10 June 1997
Assented to 12 June 1997

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EXPLANATORY NOTES

The object of this bill amending the Forest Act is to enable the Minister of Natural Resources to establish, in advance, the dues payable by each holder of a timber supply and forest management agreement, in particular on the basis of the data contained in the annual management plans submitted by the agreement holders, after the data are adjusted to take account of the forest management activities carried out by agreement holders in previous years. The bill specifies the procedure to be followed by the Minister in adjusting the amounts paid by agreement holders based on the dues payable by them under the Forest Act, and sets out provisions relating to the payment of interest on unpaid balances and on excess amounts collected by the Minister. In addition, the Minister is authorized to revise the amount of and the terms of payment applicable to the prescribed dues if he comes to the conclusion that a significant discrepancy is likely to occur between prescribed dues and dues payable under the Forest Act.

The bill also proposes certain amendments that pertain to the forestry fund. The Government is empowered to authorize the payment into the fund of part of the dues collected from the holders of timber supply and forest management agreements. Those sums will be used to finance forest management activities intended to maintain and improve the protection or development of forest resources. The bill also provides that the forestry fund will include the sums collected in respect of the goods and services financed by the fund and that the Minister of Finance will be authorized to deposit into the fund sums borrowed from the financing fund established under the Financial Administration Act.

Under the bill, the measure for reducing the volumes of timber allocated under timber supply and forest management agreements to promote the use of surpluses available in sources of supply other than public forests may be applied differently according to the different classes of wood processing plants. In that respect, the percentage by which volumes are reduced may vary among agreement holders on the basis of certain criteria used for the purpose of evaluating their performance with respect to the use of timber in the plan mentioned in the agreement.

In another connection, the bill provides that the sale of standing timber in public forest reserves may be carried out by public auction.

Finally, the bill provides that the rate applicable to the contribution payable to regional agencies for private forest development by holders of a wood processing plant operating permit may vary according to species or groups of species and to the quality of the timber.

Bill 111

AN ACT TO AMEND THE FOREST ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 6.1 of the Forest Act (R.S.Q., chapter F-4.1) is amended by replacing the word “Interest” in the first line by the words “Subject to the first paragraph of section 73.3.3, interest”.

2. Section 46.1 of the said Act, amended by section 3 of chapter 14 of the statutes of 1996, is again amended

(1) by replacing the words “in respect of a species or a group of species he determines, either of the measures set out in the third and fourth paragraphs” in the fifth and sixth lines of the first paragraph by the words “in respect of agreement holders for any category of wood processing plant he identifies and in respect of a species or a group of species he determines, the measure set out in the third paragraph”;

(2) by replacing the second paragraph enacted by section 3 of chapter 14 of the statutes of 1996 by the following paragraph:

“The Minister may, in September of the year concerned, take the measure set out in the third paragraph or change or terminate any measure taken previously.”;

(3) by replacing the third and fourth paragraphs by the following paragraph:

“The Minister may, for the year concerned, fix a percentage by which the total volume of timber allocated under the agreements of the agreement holders concerned is to be reduced, and determine criteria that may vary according to classes of wood processing plants for the evaluation by the Minister of the performance of the agreement holders as regards the use of ligneous matter in the plant mentioned in the agreement. In order to attain the specified reduction, the Minister shall prescribe that the volume of timber which each agreement holder concerned will be authorized to harvest may not exceed the volumes allocated under the agreement reduced by a percentage that the Minister may cause to vary between agreement holders on the basis of their performance.”;

(4) by replacing the words “The fourth paragraph” in the first line of the last paragraph by the words “This section”.

3. The said Act is amended by inserting, after section 46.1, the following section :

“**46.2.** A ministerial order under section 46.1 is not subject to the provisions of sections 8 and 17 of the Regulations Act (chapter R-18.1). It shall be published in the *Gazette officielle du Québec* and comes into force on the date indicated therein.”

4. Section 71 of the said Act is replaced by the following section :

“**71.** Every agreement holder shall pay, in respect of the timber harvested during the term of his forest management permit, such amount of dues as is obtained by multiplying the volume of timber harvested by the applicable unit rate, less any credits to which the agreement holder may be entitled pursuant to this Act. The dues are payable according to the terms and conditions set out in section 73.3.1.”

5. Section 73 of the said Act is repealed.

6. Section 73.1 of the said Act, amended by section 4 of chapter 14 of the statutes of 1996, is again amended by replacing the words “Where financing is in the form of assessments paid to an organization for the protection of the forest, it” in the second sentence of the fourth paragraph by the word “It”.

7. Section 73.3 of the said Act is amended by striking out the words “assessments or other” in the first line.

8. The said Act is amended by inserting, after section 73.3, the following sections :

“**73.3.1.** Every agreement holder shall, on the dates fixed by the Minister, pay as dues the amount determined prospectively for each date and representing the difference between

(1) the portion of the dues payable by the agreement holder, determined by the Minister on the basis of the volume of timber indicated in the annual management plan submitted by the agreement holder, and on the basis of the unit rate that will be applicable at the beginning of the term of the forest management permit; and

(2) the portion, determined by the Minister, of the value of the silvicultural treatments and other forest management activities to be carried out as stipulated in the annual management plan that may be admitted as payment of dues.

However, the data in the annual management plan is not binding on the Minister who may, for the purpose of calculating the dues payable, adjust the data, on the basis of the agreement holder’s past timber harvests in the case of subparagraph 1 and, in the case of subparagraph 2, on the basis of the agreement holder’s past record in respect of silvicultural treatments and other forest management activities.

At the end of the term of a forest management permit, any amount representing the difference between the dues payable under section 71 and those prescribed under this section shall, where due by the agreement holder, be paid within 30 days of the date of the statement determining the balance due; any amount payable by the Minister must be refunded within 90 days of the end of the term of the permit up to the amounts collected during that term.

“73.3.2. The Minister may, on any of the dates fixed pursuant to the first paragraph of section 73.3.1, deduct from the amount of dues payable under that section any credits, other than credits referred to in subparagraph 2 of the first paragraph of that section, to which the agreement holder may be entitled pursuant to this Act.

“73.3.3. Any balance remaining on the amount of dues payable under section 73.3.1, on the dates fixed by the Minister pursuant to the first paragraph of that section, bears interest from those dates at the rate fixed under section 28 of the Act respecting the Ministère du Revenu (chapter M-31). The interest is capitalized monthly.

Any excess amount collected by the Minister during the term of a forest management permit and not refunded before the expiry of the 90-day limit provided in the third paragraph of section 73.3.1 bears interest, from the expiry of that time limit, at the rate fixed under section 28 of the Act respecting the Ministère du Revenu. The interest is capitalized monthly.

“73.3.4. The Minister may revise the amount and terms and conditions of payment of the dues prescribed in respect of an agreement holder under section 73.3.1 if the Minister determines that, unless a revision is made, there is likely to be a substantial difference between the dues prescribed under that section and the dues payable under section 71.”

9. Section 92.0.1 of the said Act is amended by replacing the first paragraph by the following paragraphs :

“92.0.1. Where, for a particular year, an agreement holder does not harvest the full volume of timber allocated under his agreement, he may do so during the subsequent years preceding the end of the five-year period referred to in section 77, except in respect of a year in which the Minister applies the reduction provided for in section 46.1, after having subtracted the volumes harvested in his forest management unit under section 92.1. Where the application of section 46.1 by the Minister prevents the agreement holder from harvesting that volume before the expiry of the five-year period, the agreement holder may harvest it in the first year after the end of that period in respect of which the Minister does not apply section 46.1.

Where the Minister applies a reduction under section 46.1 in respect of a year, an agreement holder may not in subsequent years harvest that part of the volume of timber allocated under his agreement which was not harvested owing to the application of the reduction.”

10. Section 97 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

“**97.** Subject to section 95.4, the Minister may, on the conditions he determines, sell standing timber and timber harvested in public forest reserves by public auction.”;

(2) by inserting the words “or to standing timber in forest areas the management of which has been entrusted to a person by the Minister under such a contract, or to timber harvested” after the words “section 102” in the second line of the third paragraph.

11. The said Act is amended by inserting, after section 169, the following sections:

“**169.1.** The Minister may, for the carrying out of this Act, authorize a person to verify the data of the register kept in accordance with section 168 and any information required under section 169. The person authorized by the Minister may, to that end,

(1) have access, at any reasonable time, to any place where the authorized person has reasonable cause to believe information necessary to his verification is kept;

(2) examine and make copies of books, registers, plans, accounts, records and other documents relating to the activities governed by this Act and require any information or document related to those activities;

(3) require the permit holder or any other person on the premises to give him reasonable assistance in carrying out his verification.

“**169.2.** On request, the person authorized by the Minister must identify himself and show a certificate, signed by the Minister, attesting his capacity.”

12. Section 170.1 of the said Act is amended by striking out the figure “,73” in the fifth line of the third paragraph.**13.** Section 170.4 of the said Act, enacted by section 17 of chapter 14 of the statutes of 1996, is amended

(1) by inserting, after paragraph 1, the following paragraph:

“(1.1) the sums collected after 31 March 1997 in respect of the sale of the property and services financed by the fund;”;

(2) by replacing paragraph 2 by the following paragraphs:

“(2) the sums paid into the fund pursuant to section 170.5.1;

“(2.1) the sums paid into the fund by the Minister of Finance pursuant to section 170.5.2 and to the first paragraph of section 170.6;”.

14. The said Act is amended by inserting, after section 170.5 enacted by section 17 of chapter 14 of the statutes of 1996, the following sections :

“170.5.1. The Government may, for the financing of forest management activities referred to in the second paragraph of section 170.2, authorize the payment into the fund of part of the sums paid by holders of timber supply and forest management agreements under section 71 and, to that end, determine for a fiscal year

(1) the percentage of the sums that represents the amount of dues for that year, without regard to the credits referred to in section 71, that may be paid into the fund and the maximum amount of the sums that may be paid into the fund ;

(2) the terms and conditions according to which the sums are paid into the fund as well as the forest management activities to which the sums will be allocated.

“170.5.2. The Minister, as manager of the fund, may borrow from the Minister of Finance sums taken out of the financing fund established under section 69.1 of the Financial Administration Act (chapter A-6).”

15. Section 170.7 of the said Act, enacted by section 17 of chapter 14 of the statutes of 1996, is amended by replacing the words “paragraph 3” by the words “paragraphs 1.1, 2 and 3”.

16. Section 172 of the said Act, amended by section 18 of chapter 14 of the statutes of 1996, is again amended

(1) by striking out the words “assessments or other” in the second line of paragraph 3 ;

(2) by inserting the words “, for every species and group of species and for every quality of timber,” after the word “fix” in the first line of paragraph 18.4.

17. Until such time as the Government determines by a regulation under section 8 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-25.2) the persons authorized to sign, on behalf of the Minister of Natural Resources, any deed, document or writing relating to the terms and conditions of payment of dues payable by holders of a timber supply and forest management agreement pursuant to section 73.3.1 of the Forest Act, enacted by section 8 of this Act, the associate deputy minister for regional services, a regional director or the head of a management unit of the Ministère des Ressources naturelles is authorized to sign, on behalf of the Minister, such deeds, documents or writings.

18. The terms and conditions of payment of the dues payable by holders of a timber supply and forest management agreement pursuant to section 73.3.1 of the Forest Act, enacted by section 8 of this Act, are established for the term of the forest management permits issued on 12 June 1997 for the harvests and other forest management activities carried out from the beginning of the term of such permits.

19. This Act comes into force on 12 June 1997.