



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 136

(2001, chapter 6)

**An Act to amend the Forest Act and
other legislative provisions**

Introduced 30 May 2000

Passage in principle 21 November 2000

Passage 22 May 2001

Assented to 23 May 2001

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EXPLANATORY NOTES

The object of this bill is to establish new rules governing sustainable forest management, to apply mainly in forests under state ownership.

Under the bill, the Minister of Natural Resources will, no later than September 2002, make public a division of Québec's territory into forest management units, which will constitute, from 1 April 2005, the basic forest management land units used in allocating supplies for wood processing plants. The boundaries of management units will be changed only in exceptional circumstances, and no management units will be established to the north of the limit determined by the Minister. For each forest management unit, the Minister will fix the annual allowable cut for each species or group of species, and the annual yield. The Minister may also assign other objectives for a management unit, including objectives for the protection or development of resources in the forest environment and objectives of increased yield, designed to increase the annual allowable cut in the long term.

The bill changes the rules governing timber supply and forest management agreements to take the new territorial divisions into account, and to link the harvesting rights granted to agreement holders to obligations designed to ensure that the yield and objectives for the management unit are attained. Where several agreements are granted for the same management unit, the agreement holders concerned will be required to submit joint plans, evaluations and reports. Each agreement holder will be bound to carry out only the work assigned to that holder in the annual management plan, but will be warrantor for all the work to be carried out under the plan as though bound as solidary surety. More specifically, the bill adds a new obligation to the contractual commitments of agreement holders that will require them to evaluate their activities using the methods determined by the Minister and to present the results of their evaluation in an annual report. The contributions paid into the forestry fund by agreement holders will be allocated to the financing of activities relating to forest management.

Under the bill, agreement holders will be required to invite various individuals and groups to take part in the drafting of the general forest management plan, including the regional county

municipalities whose territory contains any part of the management unit, the Native communities concerned, and managers of controlled zones and wildlife reserves, holders of outfitter's licences, and holders of sugar bush management permits on land included in the unit, and holders of leases of land intended for agricultural purposes within the unit. The general plan may, with regard to forest lands in which other forest users have expressed an interest, include a schedule and other conditions for the carrying out of forest management activities.

The bill maintains the five-year revision of the land and of timber volumes allocated under an agreement, but specifies that the revision will be conducted by management unit following the approval of the general plan. The bill adds new elements that will be taken into account by the Minister when revising a plan: the completion of all the forest management activities and their impact on the forest and the environment as well as any change or lack of improvement in the industrial performance achieved by the agreement holder in terms of use of timber resources. No increase in volume will be awarded if the Minister considers that the overall quality of the work carried out in the management unit is unsatisfactory. Where the annual allowable cut is to be reduced, the Minister is empowered to take into account the impact of the reduction on economic activity in order to apportion the reduction between agreement holders.

The bill introduces a new type of agreement, the forest management agreement, that will be granted to a legal person or body that does not hold a wood processing plant operating permit. The agreement holder will be subject to the same obligations as the holder of a timber supply and forest management agreement, with some changes. Several of the obligations will also apply to the holders of forest management contracts.

The bill includes a process for the classification of exceptional forest ecosystems, where all forest management and mining activities will be prohibited or subject to specific rules.

Under the bill, forest management permits may be issued to the holders of wood processing plant operating permits to enable them to harvest timber on a one-time basis where an allocated volume of timber has not been harvested or when timber must be salvaged following a natural disaster. The bill adds a new type of management permit for the harvest of shrubs and half-shrubs to supply a wood processing plant, and will allow certain holders of a permit for the cultivation and operation of a sugar bush to be issued an authorization to harvest a volume of timber to supply a wood

processing plant, if the work concerned is likely to improve maple syrup and forest production.

The bill amends the Act respecting the Ministère des Ressources naturelles to enable the delegation to a legal person, as part of a program, of the carrying out of certain provisions of the Forest Act concerning the management of forest resources.

Lastly, the bill revises the penal provisions, determines the rules of the provisional regime that will govern management agreements and contracts awarded before the new forest management approach based on forest management units is implemented, and defines rules for the introduction of the new approach.

LEGISLATION AMENDED BY THIS BILL :

- Cities and Towns Act (R.S.Q., chapter C-19) ;
- Municipal Code of Québec (R.S.Q., chapter C-27.1) ;
- Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) ;
- Act respecting municipal taxation (R.S.Q., chapter F-2.1) ;
- Forest Act (R.S.Q., chapter F-4.1) ;
- Mining Act (R.S.Q., chapter M-13.1) ;
- Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-25.2) ;
- Act to preserve agricultural land and agricultural activities (R.S.Q., chapter P-41.1) ;
- Environment Quality Act (R.S.Q., chapter Q-2) ;
- Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., chapter R-13.1) ;
- Act to amend the Forest Act (1997, chapter 33).

Bill 136

AN ACT TO AMEND THE FOREST ACT AND OTHER LEGISLATIVE PROVISIONS

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 striking out “Subject to the first paragraph of section 73.3.3,” in the first line.

2. Section 9 of the said Act is amended by replacing “common area” wherever it occurs in the third paragraph by “forest management unit”.

3. Section 10 of the said Act is amended

(1) by replacing “or recreational” in paragraph 5 by “, recreational or agricultural”;

(2) by replacing “a punctual management activity referred to in section 24.1” in paragraph 7 by “an experimental or research activity”.

4. Section 11.2 of the said Act is amended by inserting “or forest management agreement” after “agreement” in the second line of the fourth paragraph.

5. Section 13 of the said Act is amended

(1) by adding the following subparagraph at the end of the first paragraph :

“(5) any other information or document required by the Minister.”;

(2) by adding the following paragraph at the end :

“Where the permit covers an area intended for forest production within a forest management unit covered by a timber supply and forest management agreement or a forest management agreement, the Minister must beforehand have consulted the agreement holder concerned.”

6. The said Act is amended by inserting the following section after section 13 :

“13.1. The Minister shall refuse to issue a permit to an applicant who, during the five years preceding the application, has held such a permit that has

been cancelled or the renewal of which has been refused, except on the ground provided for in section 17.2.”

7. The said Act is amended by inserting the following sections after section 14:

“14.1. The permit may, where the Minister considers it expedient and if, in the Minister’s opinion, the activities concerned will improve acericultural and forest production, authorize the holder, during the time specified in the permit, to harvest in the sugar bush, elsewhere than within an area intended for forest production within a forest management unit, a volume of round timber of one or several species to supply wood processing plants in accordance with the management plan approved by the Minister, and to carry out the other forest management activities specified in the plan.

The plan submitted to the Minister for approval must accompany the application for authorization and must be approved by a forest engineer. The Minister may approve the plan with or without amendment.

The permit shall indicate, by species or group of species, the authorized volumes and specify, where the Minister considers it expedient, the wood processing plant or plants to be supplied.

The Minister may include in the authorization any condition considered advisable by the Minister.

“14.2. The holder of a permit authorizing the harvesting of timber to supply wood processing plants must evaluate, according to the method provided for in the Minister’s instructions relating to the application of a ministerial order on the value of silvicultural treatments eligible in payment of dues, the quality and quantity of the treatments carried out by the holder since the date of issue of the authorization or of the last annual report.

“14.3. The holder of a permit authorizing the harvesting of timber to supply wood processing plants must, in addition to paying the dues prescribed for the operation of the sugar bush, pay the dues prescribed in sections 71 and 72 for the timber harvested; the dues are payable in cash or by way of silvicultural treatments or other forest management activities carried out by the permit holder, according to the terms and conditions set out in sections 73.1 to 73.3. For that purpose, the permit holder is considered to be an agreement holder.

Every amount credited for the payment of dues that exceeds the dues payable for the timber harvested may be applied in payment of the dues prescribed for the operation of the sugar bush.”

8. Section 16.1 of the said Act is amended by adding the following paragraphs at the end:

“Where the permit authorizes the harvesting of timber to supply wood processing plants, the report shall include

(1) a statement of the forest management activities carried out since the date of issue of the authorization or of the last annual report, as the case may be, and a map, drawn to the scale determined by the Minister, showing where the activities were carried out;

(2) the result of the evaluation referred to in section 14.2;

(3) any other element related to the conditions of the permit required by the Minister.

The elements of the report listed in the second paragraph must be approved by a forest engineer.”

9. The said Act is amended by inserting the following sections after section 16.1:

“16.1.1. The report of activities of the holder of a permit authorizing the harvesting of timber to supply wood processing plants must be accompanied with a sworn statement identifying the wood processing plants for which the timber harvested during the period covered by the report was intended and setting out, in each case, the volume involved.

“16.1.2. The Minister or a person authorized by the Minister shall exercise with regard to the annual report and, where applicable, the evaluation referred to in section 14.2, the same powers and functions as those set out in sections 70.1 to 70.4 in the same conditions as those set out in section 70.4.”

10. Section 16.2 of the said Act is amended

(1) by adding “and, where applicable, the sworn statement referred to in section 16.1.1” at the end of paragraph 2;

(2) by adding the following paragraph at the end:

“However, the Minister may exclude from the territory of the sugar bush any area that has been classified as an exceptional forest ecosystem, where the Minister considers that the operation of the sugar bush is liable to have an adverse effect on the maintenance of biological diversity. In such a case, the Government shall, after giving the permit holder an opportunity to present observations, compensate the permit holder for the loss suffered, in the amount considered fair by the Government on the basis of the value of the property and infrastructures used to operate the sugar bush.”

11. The said Act is amended by inserting the following sections after section 17.1:

“17.1.1. The Minister may include in the permit any condition considered advisable by the Minister.

“17.1.2. The authorization to carry out forest management activities to supply wood processing plants is renewable only on the conditions set out in section 14.1 and if the permit holder meets the conditions set out in section 16.2. The Minister shall redetermine the authorized volumes upon renewal.”

12. Section 17.3 of the said Act is amended

(1) by inserting “, or amend it to withdraw authorization to carry out forest management activities to supply wood processing plants,” after “permit” in the first line of the first paragraph;

(2) by adding “or the sworn statement referred to in section 16.1.1” at the end of subparagraph 2 of the first paragraph.

13. The heading of subdivision 5 of Division II of Chapter II of Title I of the said Act is replaced by the following heading:

“§5. — *Wildlife, recreational or agricultural development project*”.

14. Section 22 of the said Act is amended by replacing “wildlife or recreational” in the third line by “wildlife, recreational or agricultural”.

15. Section 23 of the said Act is amended by inserting “or forest management agreement, or in a forest area covered by a forest management contract” after “agreement” in the third line of the second paragraph.

16. Section 24 of the said Act is replaced by the following sections:

“24. Subject to sections 14.1 and 24.0.1, the Minister shall not issue a forest management permit for the supply of a wood processing plant except to

(1) the holder of a timber supply and forest management agreement who is entitled thereto under Division I of Chapter III;

(2) the holder of a forest management agreement who is entitled thereto under Division I.1 of Chapter III;

(3) the holder of a wood processing plant operating permit in the cases provided for in section 92.0.3, 92.0.12 or 92.1;

(4) the holder of a wood processing plant operating permit for energy production or metallurgical purposes who is entitled thereto under sections 93 to 95;

(5) the holder of a forest management contract who is entitled thereto under Division II of Chapter IV.

“24.0.1. The Minister may issue to any person, if he considers it expedient, a forest management permit for the harvest of a specified volume of shrubs or half-shrubs, or of branches from shrubs or half-shrubs, to supply a wood processing plant.

The permit authorizes its holder to harvest, in a given area, a specified volume of shrubs, half-shrubs or branches from one or several species and, where applicable, to carry out the other forest management activities indicated in the permit.

Where the permit authorizes the harvest in a management unit covered by a timber supply and forest management agreement or forest management agreement, or in a forest area covered by a forest management contract, the Minister must beforehand have consulted the agreement or contract holder concerned.

The permit shall indicate the authorized volume for each species or group of species and specify the processing plant to be supplied.

The Minister may include in the permit any condition considered advisable by the Minister.

“24.0.2. The Minister may renew the permit issued pursuant to section 24.0.1, if he considers it expedient and on the conditions he determines, provided the permit holder has complied with the conditions applicable to his forest management activities during the term preceding the renewal. However, the Minister may, after consulting the agreement or contract holder referred to in the third paragraph of section 24.0.1 where applicable, revise the volume of timber authorized under or the territory covered by the permit.”

17. The heading of subdivision 7 of Division II of Chapter II of Title I of the said Act is replaced by the following heading :

“§7. — *Experimental or research activity*”.

18. Section 24.1 of the said Act is amended

(1) by striking out “and with the authorization of the Government” in the second and third lines of the first paragraph and by inserting “or a forest management agreement” after “agreement” in the fourth line of that paragraph ;

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

“The permit may be issued only for an experimental or research activity.”

19. Section 24.2 of the said Act is amended by striking out the second paragraph.

20. The said Act is amended by inserting the following after section 24.3 :

“DIVISION II.1**“SPECIAL PROVISIONS APPLICABLE TO EXCEPTIONAL FOREST ECOSYSTEMS**

“24.4. Forest ecosystems presenting a special interest for the maintenance of biological diversity, in particular because of their scarcity or age, may be classified as exceptional forest ecosystems.

Such forest ecosystems shall be delimited by the Minister, with the agreement of the Minister of the Environment and the Minister responsible for Wildlife and Parks.

“24.5. Before making a classification, the Minister shall consult any municipality or urban community whose territory contains any part of the forest lands concerned.

The Minister must also consult any Native community concerned.

The Minister must, in addition, give holders of management permits issued for the cultivation and operation of a sugar bush, the holders of agreements issued under Chapter III or of forest management contracts, and the holders of mining rights referred to in section 8 of the Mining Act (chapter M-13.1), an opportunity to present observations concerning the forest lands concerned.

“24.6. The Minister shall forward a copy of the decision to classify forest lands to the persons and communities referred to in the first and second paragraphs of section 24.5, and shall cause a notice of classification to be published in the *Gazette officielle du Québec*.

The perimeter of the exceptional forest ecosystem must be delimited on the land use plan drawn up in accordance with section 21 of the Act respecting the lands in the public domain (chapter T-8.1).

“24.7. The Minister may, subject to the same conditions, extend the boundaries of an exceptional forest ecosystem or, where the Minister considers that the grounds for classification no longer exist, declassify part or all of the site.

“24.8. All forest management activities, except the activities specially authorized under a management permit, are prohibited in an exceptional forest ecosystem.

The Minister may, on the conditions determined by the Minister and after consulting the Minister of the Environment and the Minister responsible for Wildlife and Parks, authorize a forest management activity where the Minister considers it expedient and if, in the Minister's opinion, the activity is not likely to have an adverse effect on the maintenance of biological diversity.

“24.9. Where the Minister considers that the exercise of a mining right referred to in section 8 of the Mining Act, within the boundaries of an exceptional forest ecosystem, may have an adverse effect on the maintenance of biological diversity, the Minister may order that all work cease and either enter into an agreement with the holder of the mining right providing for the abandonment of the right according to the procedure set out in the said Act, or expropriate the right in accordance with the Expropriation Act (chapter E-24).”

21. Section 25 of the said Act is amended by replacing the first paragraph by the following paragraph :

“25. Every holder of a forest management permit must comply with the standards of forest management applicable to the holder’s forest management activities, whether their application is prescribed by government regulation or imposed by the Minister pursuant to section 25.2.”

22. Section 25.1 of the said Act is amended

(1) by replacing “standards of forest management prescribed under this Act” in the third line of the first paragraph by “annual forest management plan or the standards of forest management applicable to the permit holder’s forest management activities”;

(2) by replacing “or to” in the seventh line of the first paragraph by “, comply with the management plan, or submit to”.

23. Sections 25.2 and 25.3 of the said Act are replaced by the following sections :

“25.2. When approving or finalizing a general forest management plan, a management plan or an amendment to a plan, the Minister may, for all or part of the management unit or territorial unit concerned, impose on the holders of forest management permits subject to the plan the application of standards of forest management that differ from those prescribed by government regulation, where the latter do not provide adequate protection for all the resources in that unit due to the characteristics of the forest in that unit and the nature of the project to be carried out.

The Minister may, similarly, impose the application of different standards of forest management, at the request of a Native community or on the Minister’s own initiative following consultation with a Native community, to facilitate the conciliation of forest management activities with the activities pursued by the community for food, ritual or social purposes.

The Minister shall define, in the plan, the standards of forest management to be imposed and specify the places where they are applicable and any regulatory standards they replace.

Before imposing the application of standards, the Minister shall consult the other ministers concerned.

“25.2.1. The Minister may amend or revoke any decision made under section 25.2 and, for that purpose, amend the plan concerned where

- (1) the grounds for applying different standards no longer exist;
- (2) new data tend to indicate that the protection objectives targeted by the different standards cannot be met;
- (3) the regulatory standards have been amended.

Before making a decision, the Minister shall consult the other ministers and, where applicable, the Native communities concerned. The Minister must also inform the holders of forest management permits subject to the plan of the impending decision and give them an opportunity to present observations.

“25.3. Where a general forest management plan, or an amendment to such a plan, is submitted to the Minister for approval, the Minister may, for all or part of the management unit or territorial unit concerned, permit a departure from the standards for forest management prescribed by government regulation if it is shown that the substitute measures proposed by the agreement or contract holder offer equivalent or superior protection for forest resources and the forest environment.

The plan must indicate the regulatory standards from which a departure is to be permitted and specify the scope of the substitute measures, the places where they will apply, the results they are designed to achieve and the mechanisms that will ensure their application.

Before giving authorization, the Minister shall consult the other ministers concerned.

A person does not contravene the regulatory provisions indicated in the general plan approved by the Minister if the person complies with the corresponding provisions of the plan.

“25.3.1. The Minister may amend or revoke an authorization given under section 25.3 and make a corresponding amendment to the general plan where

- (1) the Minister observes that all or some of the substitution measures have failed to achieve the results specified in the plan; or
- (2) the regulatory standards have been amended.

Before making a decision, the Minister shall consult the other ministers concerned. The Minister must also inform the holders of forest management

permits subject to the plan of the impending decision and give them an opportunity to present observations.”

24. Section 25.4 of the said Act is amended by replacing “25.3” in the first line by “25.3.1”.

25. Section 26 of the said Act is replaced by the following section :

“26. The holder of a forest management permit shall scale all timber harvested in forests in the domain of the State according to the scaling standards prescribed by regulation of the Government. The choice of the scaling method by the holder from among the scaling methods prescribed by regulation of the Government must be approved by the Minister.

The holder of a forest management permit shall comply with the scaling instructions provided by the Minister in connection with the scaling method selected.”

26. Section 29 of the said Act is amended by replacing “yields contemplated in timber supply and forest management agreements” in the second and third lines of the third paragraph by “annual yields and the objectives for forest protection or forest development assigned by the Minister to a given forest territory”.

27. Section 30 of the said Act is repealed.

28. Section 31 of the said Act is amended by inserting the following paragraph after the first paragraph :

“A person who obtains authorization under the first paragraph shall comply with the forest management standards and scale any timber harvested when the road is constructed in accordance with section 26.”

29. Section 32 of the said Act is amended by replacing “unless he holds a forest management permit issued by the Minister under this Act” in the second and third lines by “unless special authorization to do so is contained in the person’s forest management permit”.

30. The said Act is amended by inserting the following after the heading of Chapter III of Title I :

“DIVISION 0.1

“MANAGEMENT UNITS

“35.1. The management unit is the basic territorial unit for forest management activities carried out to supply a wood processing plant, and more specifically for the determination of the annual allowable cut, forest

protection and forest development objectives, and the means to be implemented to meet those objectives.

“35.2. The Minister shall establish and make public, not later than 1 September 2002, the delimitation for management units. The delimitation shall come into force on 1 April 2005.

For the purposes of the delimitation, the Minister shall, as far as possible, take into account, in particular, the bio-physical characteristics and historical use of the territory.

“35.3. Each management unit shall consist, as far as possible, of a single block containing, in particular, the areas intended for forest production.

The perimeter of each unit shall be drawn on the maps kept by the department.

No management unit may be established to the north of the territorial limit determined by the Minister.

“35.4. The Minister shall determine the annual allowable cut for the management unit, by species or group of species, and the annual yield of the areas intended for forest production, using the method and hypotheses prescribed in the forest management manual.

“35.5. The annual allowable cut is the maximum volume of timber of a particular species or group of species that may be harvested annually in perpetuity from a given management unit without reducing the productive capacity of the forest environment.

The annual yield is the annual allowable cut for a particular species or group of species, expressed as the volume that may be harvested on average per hectare in an area intended for forest production, taking into consideration the age-class distribution of stands in the area concerned, the silvicultural techniques that may be applied and the bio-physical characteristics of the area.

Where the forest area contains high-quality hardwood or softwood species, the annual yield must be established taking into consideration the silvicultural techniques that permit not only to maintain the yield in volume but also to increase the quality of the timber harvested.

“35.6. The Minister may also assign objectives, for the management unit, concerning the protection or development of forest environment resources, including increased yield objectives to increase, through the carrying out of silvicultural treatments, the annual allowable cut over the long term.

Before assigning objectives, the Minister shall consult the other ministers concerned, if applicable, and, in conformity with the consultation policy referred to in section 211, the regional organizations or bodies concerned.

“35.7. The annual allowable cut, annual yield and objectives assigned to the management unit shall be integrated into the general forest management plan for the unit.

The Minister shall supervise the preparation of the general plan.

“35.8. The Minister may, in order to exercise the powers and functions set out in sections 35.4, 35.6 and 35.7, impose special requirements on the holders of timber supply and forest management agreements or forest management agreements.

“35.9. A forest management unit may be the subject of several agreements under this chapter. In no case may the total volume of timber allocated under the agreements, by species or group of species, exceed the annual allowable cut for the management unit.

“35.10. Where a management unit is the subject of several agreements, the plans, evaluations and corrective program referred to in section 61 and the annual report that must be filed in connection with the unit shall be filed jointly by all the agreement holders.

The agreement holders shall designate one of their number to act as their representative with the Minister as regards the preparation of a plan, corrective program or annual report of activities, and they shall advise the Minister of the designation. The agreement holders are solidarily liable for the payment of the costs incurred by the Minister pursuant to section 59.2 for establishing the general plan.

Each agreement holder is bound, for the purposes of paragraph 1 of section 60, only for the carrying out of the silvicultural treatments for which that holder is responsible according to the annual management plan, but the holder is also warrantor for the carrying out of the other treatments provided for by the plan as if the holder were bound as solidary surety.

In addition, the agreement holders are solidarily liable for the carrying out of the evaluations referred to in section 60, for the application of the corrective program referred to in section 61 and, in a case of failure to pay, for the payment of the costs incurred by the Minister pursuant to section 61.1.

“35.11. Where a management unit is the subject of several agreements, the holders of the agreements must, at the request of one of the holders and unless otherwise provided under any other agreement between them, agree upon rules of management to facilitate the fulfilment, in whole or in part, of their obligations referred to in section 35.10.

If the holders have not come to an agreement 45 days after the notification of the request, one of them may require that the dispute be submitted to arbitration.

“35.12. The arbitration proceedings are governed by the provisions of Book VII of the Code of Civil Procedure (chapter C-25), with the necessary modifications.

In making their decision, the arbitrators may take into account the rules of management applicable in other management units or in similar circumstances and those already agreed upon in respect of the unit concerned. The arbitration award operates as stipulations agreed upon between the parties with respect to the subject of the dispute.

“35.13. No agreement under section 35.11 or arbitration award may be set up against the State. Any such agreement or award applies subject to the provisions of the general forest management plan that are referred to in paragraph 9 of section 52.

“35.14. The Minister may, as an exceptional measure, modify the boundaries of a management unit, subdivide it or join it to another unit, where the Minister considers that the unit, or another unit, because of a reduction in the areas intended for forest production or for any other reason, no longer has the characteristics required for optimum forest management. The same applies where the Minister considers it expedient to modify the northern limit.

The Minister shall make the new delimitation public at least two years before the date set for the forwarding of new general forest management plans; the date of coming into force of the new delimitation shall be the same as the date applicable to the general plans.

For the establishment of the first general plan of a new management unit and the related consultations, and for the following five-year revision of the agreements, every holder of a current agreement covering all or part of the new unit is deemed to be the holder of an agreement concerning that unit and allocating, by species or group of species, a volume of timber equal to the percentage allocated under the current agreement in the common area.

Where production areas are withdrawn from a forest production area in circumstances described in section 35.15, sections 77.4 and 77.5 apply. The same applies where production areas are withdrawn following a modification to the northern limit.

“35.15. The Minister may, without modifying the boundaries of a management unit, modify the areas intended for forest production on the grounds of public interest, and in particular in response to:

- (1) the classification of an exceptional forest ecosystem or a change to the boundaries of a previously classified ecosystem;
- (2) the application of another Act;

(3) a modification to a land use plan referred to in Division III of Chapter II of the Act respecting the lands in the public domain (chapter T-8.1).

The Minister may, as an exceptional measure, so modify the areas intended for forest production by reason of the issue of a permit for the cultivation and operation of a sugar bush or by reason of the carrying on of an agricultural activity.

“35.16. In addition to the modifications that may be made when the Minister approves or finalizes the general plan, the annual allowable cut, annual yield and objectives assigned to the management unit shall be revised every five years.

They may be revised by the Minister, where the Minister considers it expedient, following a modification to the areas intended for forest production, the issue of a permit for the cultivation and operation of a sugar bush in an area intended for forest production, the occurrence of an event mentioned in section 79 or the issue of an order under section 80.1. The same applies where considered expedient by the Minister by reason of the carrying on of an agricultural activity in an area intended for forest production.

“35.17. The information contained in general forest management plans, annual management plans and corrective programs mentioned in sections 61 and 77.3, as approved or finalized by the Minister, and the information contained in the reports filed under section 55 or 70, is public information.”

31. Section 37 of the said Act is amended by replacing “exigible from” in the third line of the second paragraph by “, contributions to the forestry fund and assessments to forest protection organizations payable by”.

32. Section 38 of the said Act is amended by inserting “or units” after “unit” in the fourth line of the second paragraph.

33. Section 42 of the said Act is amended

(1) by replacing “on the forest land” in the second line by “for the forest management unit or units”;

(2) by replacing “that he carries out silvicultural treatments to attain the annual yield indicated in the agreement for each area intended for forest production” in the fifth, sixth and seventh lines by “provided he attains the annual yields and objectives assigned to the management units concerned, and subject to approval by the Minister of his annual management plan”.

34. Section 43 of the said Act is amended by inserting “the volumes of timber allocated under forest management agreements, the volumes of timber that may be harvested by the holders of forest management contracts,” after “forests” in the first line of paragraph 2.

35. The said Act is amended by inserting the following sections after section 43:

“43.1. The Minister shall indicate, in the agreement, the volume of round timber of each species or group of species allocated for each management unit covered by the agreement.

“43.2. The Minister may, as an exceptional measure, allow that part of the round timber harvested by the agreement holder, in the course of a year, be intended for a processing plant other than the plant specified in the agreement, in particular where the Minister considers it necessary to avoid a deterioration or loss of timber or to ensure the optimal use of the timber.”

36. Sections 44 to 46 of the said Act are repealed.

37. Section 46.1 of the said Act is amended

(1) by inserting “other than timber from outside Québec” after “43” in the second line of the first paragraph and by adding the following sentence at the end of that paragraph: “The Minister may, if he considers it appropriate, take that measure only in respect of the territory he determines.”;

(2) by striking out “total” in the second line of the third paragraph and by replacing “may not exceed the volumes allocated under the agreement reduced” in the eighth and ninth lines of that paragraph by “in a management unit situated in the territory delimited by the Minister may not exceed the volume allocated by species or group of species for that unit reduced”.

38. The heading of subdivision 3 of Division I of Chapter III of Title I of the said Act is replaced by the following heading:

“§3. — *Management area covered by an agreement*”.

39. Section 47 of the said Act is amended by replacing the first and second paragraphs by the following paragraph:

“47. The management area covered by an agreement shall comprise one or more management units.”

40. Sections 48 and 49 of the said Act are repealed.

41. Section 50 of the said Act is replaced by the following section:

“50. The management area covered by an agreement cannot be altered during the period covered by the agreement, except during the five-year revision under section 77 or pursuant to section 77.5, 80, 81, 81.1 or 81.2.”

42. Sections 51 to 58 of the said Act are replaced by the following sections :

“51. Every agreement holder must, before 1 April 2004 and every five years thereafter, establish and submit to the Minister, for approval, a general forest management plan for each management unit covered by the holder’s agreement. Where several agreements concern the same management unit, the agreement holders must submit a joint plan.

The plan must be approved by a forest engineer.

“52. A general plan must include

(1) a description of the management unit concerned with a summary description of its socio-economic context, indicating the sectors to be protected, the areas intended for forest production and the bio-physical characteristics of those areas ;

(2) the annual allowable cut, the annual yield and the objectives assigned to the management unit ;

(3) a description of the forest management strategies selected to achieve the annual allowable cut, annual yield and objectives ;

(4) a description of the prevention methods and suppression methods to be used to minimize the impact on the annual yield and the objectives of entomological and pathological problems that may affect the management unit ;

(5) a five-year program describing the forest management activities to be carried out for the implementation of the forest management strategies, on the basis of the bio-physical characteristics of the areas concerned and the resulting operational constraints ;

(6) a forecast, for the five years following the period covered by the plan, of the siting of the main infrastructures and the approximate location of cutting areas ;

(7) a map, drawn to the scale determined by the Minister, showing the site of programmed activities and the main infrastructures ;

(8) a summary of the forest management activities carried out in the area corresponding to the forest management unit since the beginning of the period covered by the general plans in force, setting out the management strategies implemented, the results of the evaluations provided for in section 60 and the advancement of the work to implant or renew the main infrastructures ;

(9) where several agreements concern the same area, a decision-making and dispute settlement procedure applicable to the preparation and implementation of the annual management plan ;

(10) where applicable, a summary of ecoforest knowledge of the forest management unit gathered pursuant to section 59.4;

(11) any other element determined by regulation of the Government.

“53. The five-year program for forest management activities shall identify among the areas in which forest management activities are carried out, the areas in which other users have expressed an interest. Where applicable, the general plan shall determine the implementation schedule for the activities concerned and the other management procedures that are to apply.

“54. In order to take into consideration the interests and concerns of the other users of the land in the forest management unit and to avoid disputes concerning the carrying out of forest management activities, the agreement holders must issue invitations to take part in the preparation of the general plan to

(1) the regional county municipalities and, where applicable, the urban community whose territory contains any part of the management unit concerned;

(2) the Native communities concerned, represented by their band councils;

(3) any person or body that, for the area covered by the forest management unit concerned, in accordance with the Act respecting the conservation and development of wildlife (chapter C-61.1), has entered into an agreement for the management of a controlled zone, is authorized to organize activities or provide services in a wildlife sanctuary, or holds an outfitter's licence; and to

(4) any person holding a sugar bush management permit in an area intended for forest production within the management unit and any person leasing land within such an area for agricultural purposes.

The agreement holders may also issue invitations to any other person, organization or body to take part in the preparation of the plan.

“55. The agreement holders shall forward to the Minister, with the general plan, a report identifying the persons or bodies invited to take part in the preparation of the plan and those that have taken part, describing the participation process applied and stating, where applicable, the points on which the proposals of the participants diverged from the provisions of the plan.

The agreement holders shall forward a copy of the report to the participants.”

43. Section 58.1 of the said Act is amended by replacing “and the five-year plan available for examination by the public for a period of 45 days prior to their approval” in the first, second and third lines by “and the report referred to in section 55 available for examination by the public for a period of 45 days prior to the approval of the plan”.

44. Section 58.2 of the said Act is amended

- (1) by replacing “20” in the third line of the first paragraph by “25”;
- (2) by striking out the third paragraph.

45. Section 58.3 of the said Act is amended

- (1) by inserting “a participant referred to in section 55 or” after “and” in the first line;
- (2) by replacing “10” in the third line by “20”.

46. Section 59 of the said Act is replaced by the following sections :

“59. Every agreement holder must, before 1 January of the year 2005 and of every subsequent year, establish an annual management plan for every forest management unit covered by the agreement holder’s agreement and submit the plan to the Minister for approval. Where several agreements concern the same management unit, the agreement holders must submit a joint plan.

The plan must be approved by a forest engineer.

“59.1. The annual plan must include

- (1) a description of the forest management activities to be carried out during the period covered by the plan for the implementation of the five-year program included in the general plan. Where the general plan contains an implementation schedule or specific management procedures for the areas referred to in section 53, they must be complied with;
- (2) a map, drawn to the scale determined by the Minister, showing the site of the forest management activities;
- (3) where several agreements cover the same area, an indication of the agreement holder responsible for carrying out each forest management activity;
- (4) where several agreements concern the same area, the rules and method for allocating among the agreement holders the credits to which they are entitled under this Act;
- (5) an estimate of the volume of round timber, by species or group of species, intended for the wood processing plant of each agreement holder;
- (6) every other element determined by regulation of the Government.

The annual plan must be accompanied with collated and analyzed forest inventory data that, in the opinion of the Minister, allows the relevance of the silvicultural treatments to be carried out during the year to be validated.

“59.2. The Minister may approve a plan, reject it, or approve it with the amendments the Minister indicates.

If the holders of agreements concerning the same management unit fail to agree on a joint general plan before the deadline for submitting it to the Minister, they must submit to the Minister, before the same deadline, a document setting out the points on which they agree and disagree, together with the report referred to in section 55. The plan shall be finalized by the Minister at the expense of the agreement holders, once at least 45 days' public notice has been given of the place where the draft plan and the report may be consulted.

If the disagreement among the agreement holders concerns the annual plan, they shall give the Minister notice, before the prescribed deadline for submitting the plan to the Minister, of the date on which they expect to reach agreement.

“59.3. The general plan approved or finalized by the Minister shall come into force on 1 April of the year following the year during which the plan is to be submitted to the Minister, except the elements listed in paragraph 9 of section 52 which apply immediately; the general plan shall cover a period of five years.

The annual management plan shall come into force on 1 April following its transmission to the Minister, or on the date of approval, if later; the period covered by the annual management plan shall terminate on the following 31 March.

“59.4. Within a reasonable time after approving or drawing up the general plan, the Minister shall specify the ecoforest information on the forest management unit that the agreement holders must acquire before preparing the following plan. The Minister shall set a deadline for making the ecoforest information available to the Minister.

“59.5. The agreement holders may, at any time, submit modifications to the general forest management plan or annual management plan to the Minister for approval.

“59.6. The agreement holders must submit to the Minister for approval, at the request of the Minister and within the time fixed by the Minister, the modifications to the general plan needed following the revision, pursuant to the second paragraph of section 35.16, of the annual allowable cut, annual yield and objectives.

The same rule applies, but only with regard to the five-year program of activities, if the Minister, even where no revision has been carried out pursuant to the said section, considers it expedient in a circumstance described in the above-mentioned section.

“59.7. If the Minister enters into a new agreement concerning a management unit already covered by an approved or finalized general forest management plan, or if the Minister modifies the management area under an existing agreement to include such a unit, the new agreement holder shall be subject to the existing plan.

However, the Minister may require that the agreement holders submit for approval, within the time fixed by the Minister, modifications to the five-year plan of activities under the general plan if the general plan does not allow for the new agreement.

If the annual management plan has already been approved when the new agreement is entered into or the management area of the agreement is modified, the agreement holders must submit modifications to the plan for approval within the time fixed by the Minister.

“59.8. All modifications made to the general plan or annual plan under sections 59.5 to 59.7 shall be established and approved or finalized in accordance with the rules applicable to the initial plan.

If the only elements to be called into question are those referred to in paragraph 9 of section 52, the modifications to the general plan shall not be subject to the participation or consultation process provided for in the Act.

“59.9. The Minister may, on his own initiative and with no further formalities, rectify a plan to correct a clerical error.

“59.10. An agreement holder must, at the request of the Minister and within the time fixed by the Minister, provide to the Minister any additional information, research or survey the Minister considers necessary before approving a plan or modifications to a plan or, where applicable, before finalizing a general plan.

“59.11. Plans approved or finalized by the Minister, and modifications to such plans, are part of the agreement concerning the management unit.

Only general forest management plans and modifications to such plans shall be registered in the public register mentioned in section 38.”

47. Sections 60 and 61 of the said Act are replaced by the following sections :

“60. Every agreement shall include an undertaking by the agreement holder, for every management unit covered by the agreement,

(1) to carry out every year, at the agreement holder’s expense, the silvicultural treatments provided for in the annual plan approved by the Minister;

(2) to apply any corrective program established pursuant to section 61 ;

(3) to evaluate, using the method provided for in the Minister's instructions concerning the application of a ministerial order establishing the value of silvicultural treatments eligible in payment of dues, the quality and quantity of the treatments carried out during the period covered by the annual agreement ;

(4) to evaluate, using the method provided for in the forest management manual, the state of the forest stands following the application of silvicultural treatments, to determine their ability to produce the desired results ;

(5) to evaluate, using the method provided for in the Minister's instructions concerning the inventory of ligneous matter, the volume of ligneous matter left on harvested sites.

Notwithstanding the first paragraph, an agreement holder may, with the authorization of and on the conditions determined by the Minister, carry out an evaluation using another method of equal or superior effectiveness.

The sampling units and sample design used in applying an evaluation method must be submitted to the Minister for approval.

“61. The Minister may, after observing that the substitution measures authorized pursuant to section 25.3 have not led to the achievement of the results described in the general forest management plan, require the holder of the agreement concerning the management unit to submit, on the conditions and within the time fixed by the Minister, a corrective program of measures designed to ensure the achievement of the results. Where the management unit is covered by several agreements, the agreement holders must present a joint program.

The Minister shall approve the program with or without modification. The Minister may finalize a program if an agreement holder fails to submit a program within the time fixed pursuant to the first paragraph or, where several agreements concern the same management unit, if the agreement holders have failed to agree on a joint program within that time ; the costs incurred by the Minister for the purpose of the program must be reimbursed by the agreement holder, solidarily with the other agreement holders concerned where applicable.

“61.1. The Minister may, where an agreement holder fails to perform a contractual obligation referred to in section 60, perform the obligation at the expense of the agreement holder.”

48. Section 62 of the said Act is repealed.

49. Section 63 of the said Act is amended by adding “, on payment of the cost of copying and forwarding the data” at the end.

50. Section 64 of the said Act is amended by replacing “annual yield indicated in the agreement” in the third line by “the annual yields and the objectives assigned to a management unit under an agreement”.

51. Sections 65 to 67 of the said Act are repealed.

52. Section 70 of the said Act is replaced by the following section :

“70. Every agreement holder must, before 1 September each year, prepare and submit a report of activities to the Minister for each management unit covered by the agreement holder’s agreement. Where several agreements concern a management unit, the agreement holders must present a joint report.

An annual report must contain

(1) a statement of the forest management activities carried out during the period covered by the preceding annual management plan and a map, drawn to the scale determined by the Minister, of the site of the activities ;

(2) the results of evaluations made under subparagraphs 3 to 5 of the first paragraph of section 60 ;

(3) a progress report, as of the preceding 31 March, on the five-year program provided for in the general forest management plan ;

(4) a statement of the volume of round timber, by the species or group of species specified in the agreement and by the quality of the timber, that each agreement holder has intended for the processing plant mentioned in the agreement during the period covered by the preceding annual plan ;

(5) any other element determined by regulation of the Government.

The report must be approved by a forest engineer.”

53. The said Act is amended by inserting the following after section 70 :

“ii.1. VERIFICATION

“70.1. The Minister may, for the purposes of this Act, authorize an inspector to verify the data and information contained in an annual report. An inspector authorized by the Minister may, in particular, for verification purposes,

(1) gain access, at any reasonable time, to a place where the inspector has reasonable cause to believe that books, registers or other documents used by the agreement holder in preparing the report are to be found ;

(2) examine and make copies of such documents, and require all information relating to the forest management activities of the agreement holder or to evaluations of silvicultural treatments;

(3) require the agreement holder or any other person on the premises to provide reasonable assistance for the purposes of the verification.

“70.2. On request, an inspector authorized by the Minister shall produce identification and a certificate of authorization signed by the Minister.

“70.3. The Minister shall verify each year, using a sampling technique or otherwise, the reliability of the results of the evaluations appearing in the annual report. The Minister shall prepare a report on the verification and forward a copy to the holders of agreements concerning the management unit concerned.

“70.4. The verification shall not release the agreement holder from the obligations incumbent upon the holder; more specifically, the verification shall not be considered as an attestation of compliance with the applicable management standards or, with regard to silvicultural treatments, as recognition of their ability to achieve the desired results or their eligibility in payment of dues.”

54. Section 71 of the said Act is amended by replacing the last sentence by the following sentence: “The dues are payable by the agreement holder at the times determined by government regulation.”

55. Section 72 of the said Act is amended by adding the following paragraph at the end:

“However, the Minister may, in a forest tariffing zone, adjust for each species or group of species and quality of timber the unit rate calculated in accordance with the first paragraph according to the volumes of timber harvested annually by the agreement holder and determined by the Minister.”

56. Section 73.1 of the said Act is amended

(1) by replacing “to attain the annual yield in accordance with section 60” in the second and third lines of the first paragraph by “, in accordance with section 60, to attain the annual yields and the objectives assigned to the management unit”;

(2) by striking out “forest management” in the first and second lines of the second paragraph;

(3) in the fourth paragraph by replacing “forest management activity” in the second line by “activity for the protection or development of forest resources”, by replacing “a plan of the forest management activities” in the seventh and eighth lines by “the establishment of an activity plan” and by

replacing “on the forest management activities” in the ninth and tenth lines by “in the case of forest management activities or, in any other case, by a professional designated by the Minister, on the activities”.

57. Section 73.2 of the said Act is amended

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

“73.2. An agreement holder may prepare and submit to the Minister, in the form and tenor determined by regulation of the Government, a periodic progress report on silvicultural treatment or other activities the holder carries out as payment of dues in accordance with section 73.1, approved by a forest engineer in the case of forest management activities or, in other cases, by a professional designated by the Minister.”;

(2) by striking out “forest management” in the third line of the second paragraph;

(3) by replacing “forest management activities accepted by the Minister in accordance with the third paragraph of section 73.1” in the third and fourth lines of the third paragraph by “activities accepted by the Minister in accordance with section 73.1”.

58. Sections 73.3.1 to 73.3.4 of the said Act are repealed.

59. Section 73.4 of the said Act is amended by replacing “seedling production, forest inventory data and forest research” in the third and fourth lines of the first paragraph by “forest management”.

60. Section 75 of the said Act is replaced by the following section:

“75. At the expiry of each period covered by a general forest management plan during which an agreement holder has fulfilled his obligations under this Act, the term of the agreement shall be extended for five years or, if the agreement was entered into during the term concerned, for a period equal to the period elapsed since its effective date.”

61. Section 76 of the said Act is repealed.

62. Section 77 of the said Act is replaced by the following sections:

“77. The Minister may, every five years after approving or finalizing a general forest management plan and after giving the agreement holder an opportunity to present observations, revise the volume of timber allocated under any agreement concerning the management unit, withdraw the management unit from the agreement or add other management units to the agreement so as to reflect

- (1) changes in the requirements of the wood processing plant;
- (2) changes in the availability of timber from private forests or from outside Québec, changes in the availability of timber in the form of wood chips, sawdust, shavings or recycled wood fibres, and changes in the availability of volumes of timber allocated under forest management agreements or in the evaluation of the volumes that may be harvested by the holders of forest management contracts;
- (3) the average annual volume of timber, by origin, used by the plant since the beginning of the period covered by the preceding general management plans;
- (4) the annual allowable cuts assigned to the management unit in the new plan;
- (5) all the forest management activities carried out in the management unit since the beginning of the period covered by the preceding general plans, and especially the impact of those activities on the state of conservation of the forest and the forest environment and the effectiveness of the silvicultural treatments and the other protection and conservation measures applied;
- (6) a change or lack of improvement in the industrial performance of the agreement holder in the use of ligneous matter in the processing plant mentioned in the agreement since the beginning of the period covered by the preceding general plans.

Modifications to the agreements are applicable in respect of forest management activities carried out after the coming into force of the new general plans.

The Minister may reserve or allocate any volume of timber that becomes available pursuant to this section, as the Minister considers expedient.

“77.1. No increase in volume may be allocated pursuant to section 77 if the Minister considers that the forest management activities carried out in the management unit are unsatisfactory, having regard to the elements mentioned in subparagraph 5 of the first paragraph of section 77.

“77.2. Following a reduction in the annual allowable cut assigned to a management unit covered by several agreements, the Minister may take account of the impacts on regional or local economic activity of the apportionment of the reduction in volume among the agreement holders for the species or group of species concerned, and vary the reduction based on the impacts.

“77.3. Where the Minister decides, taking into account the elements mentioned in subparagraphs 5 and 6 of the first paragraph of section 77, to reduce the volume allocated under an agreement, the Minister may postpone

the revision and require the agreement holder to submit for approval, within the time and on the conditions fixed by the Minister, a corrective program containing measures to ensure that the results determined by the Minister are attained.

The Minister may approve the program, reject it or approve it with amendments.

If the agreement holder fails to apply the program, the Minister shall terminate it, cancel the postponement and apply the reduction in volume.

“77.4. Where the annual allowable cut assigned to a management unit is reduced following a modification of the areas intended for forest production pursuant to section 35.15, or the issue of a permit for the cultivation and operation of a sugar bush in an area intended for forest production or to take into account an agricultural activity carried on within such an area, the Minister may reduce the volumes of the species or group of species concerned allocated under any agreement ; the provisions of section 77.2 apply where the unit is covered by several agreements.

Before modifying an agreement, the Minister shall give the agreement holder an opportunity to present observations.

“77.5. Where an agreement holder is affected by a reduction in timber volume pursuant to section 77.4, the Minister shall allocate to the holder a volume equivalent to the lost volume in one or more other management units, where forest production is sufficient. If forest production is not sufficient to allocate an equivalent volume to each of the agreement holders whose agreement is affected by a reduction, the Minister shall take into account the criteria set out in section 77.2.

Where the agreement holder has carried out forest management activities, as part of a plan approved by the Minister under subdivision 4 of Division I, that have not been credited in payment of dues, the Government shall, after giving the agreement holder an opportunity to present observations, grant the agreement holder compensation for the loss suffered in the amount considered fair by the Government based on the value of the activities.”

63. Section 78 of the said Act is repealed.

64. Section 79 of the said Act is replaced by the following sections :

“79. Where substantial damage has been caused to timber stands in a forest area intended for forest production by natural disasters such as forest fires, windfalls, infestations of insects or cryptogamic diseases, the Minister shall prepare and administer a special forest management plan, notwithstanding sections 25, 27 and 171, for such period and on such conditions as the Minister determines, to ensure the salvage of the timber. The plan shall apply in the place and stead of the other plans approved or finalized by the Minister in accordance with this division.

The holders of agreements concerning the management unit covered by the special plan who are designated by the Minister to salvage the timber and, where the Minister considers that the amount of timber to be salvaged or the urgency of the situation so requires, any other agreement holder designated by the Minister to take part in the salvage, or any holder of a wood processing plant operating permit authorized by the Minister to take part in the salvage, must comply with the special plan.

The Minister shall indicate, in the special plan, the volume of timber that each participant must salvage and the silvicultural treatments that each must carry out, beginning with the holders of agreements concerning the management unit covered by the special plan.

“79.1. The volume of timber to be salvaged under a special plan forms part of the volume that an agreement holder is authorized to harvest in the management unit covered by the special plan under the management permit provided for in section 86. Where the agreement of the agreement holder does not concern the management unit affected by the natural disaster, the volume to be salvaged is substituted for a corresponding volume to which the agreement holder is entitled in another management unit, designated by the Minister among the management units covered by the agreement holder’s agreement. The Minister may, where the Minister considers that there is a risk of timber being lost, allow the annual volume under the agreement to be exceeded, for the time and on the conditions determined by the Minister.

Where an agreement holder fails to participate in a special plan, the annual volume authorized under the management permit concerned shall be reduced, for the current or for the following year, by a volume equal to the volume that has to be harvested by the agreement holder.

“79.2. The Minister may, for the implementation of a special plan, grant financial assistance to an agreement holder who applies to the Minister in writing, in particular in the form of a credit on the dues payable by the agreement holder under this Act.”

65. Section 80 of the said Act is amended

(1) by inserting “, after giving the agreement holder an opportunity to present observations,” after “may” in the third line;

(2) by adding the following paragraph at the end:

“The Minister may also, for the same purpose and only during the period covered by the general forest management plan in force, authorize the holder of an agreement concerning a management unit affected by a natural disaster to obtain a volume of timber in another unit where the harvest has been reduced because of the participation, or failure to participate, of one or more agreement holders in a special plan for the salvage of timber in another unit. The volume of timber obtained shall be substituted for the corresponding

volume to which the holder is entitled in the unit affected by the natural disaster. In no case may the total of the substituted volumes obtained in a unit exceed the total of the volumes that the holders of agreements concerning the management unit have obtained in the management unit affected by the natural disaster under the special plan.”

66. The said Act is amended by inserting the following section after section 80:

“80.1. Sections 79 to 80 also apply to ensure timber salvage in an area intended for forest production that is required for a hydroelectric development and is designated for that purpose by order of the Government.”

67. Section 81 of the said Act is amended by replacing “the area and location of the forest management unit” in the third line by “management area covered”.

68. Section 81.1 of the said Act is amended by inserting “and the management area covered” after “agreement” in the second line.

69. The said Act is amended by inserting the following section after section 81.1:

“81.2. The Minister may, after reaching an agreement with the agreement holder concerned, revise the volume allocated under or the area covered by an agreement, where the Minister considers such action necessary to ensure optimal use of the timber, especially where the agreement holder renounces part of the volume allocated, where the production of the processing plant changes, or where the enterprise undergoes restructuring.”

70. Section 82 of the said Act is amended

(1) by adding “or the contribution payable under section 73.4” at the end of subparagraph 2 of the first paragraph;

(2) by replacing “61” in the second line of subparagraph 3 of the first paragraph by “59.2 or 61.1”;

(3) by inserting the following paragraph after the first paragraph:

“In the cases provided for in subparagraph 1 or 3 of the first paragraph, the Minister may, instead of terminating the agreement, modify it to withdraw the management unit concerned from the application of the agreement.”;

(4) by replacing “terminate the agreement” in the second line of the last paragraph by “terminate or amend the agreement, as the case may be,”.

71. The said Act is amended by inserting the following after section 84:

“DIVISION I.1**“FOREST MANAGEMENT AGREEMENTS**

“84.1. The Minister may, on the conditions determined by the Minister, enter into a forest management agreement with any legal person or body that does not hold a wood processing plant operating permit and that is not related, within the meaning of the Taxation Act (chapter I-3), to the holder of such a permit, if forest production is sufficient and if the Minister considers it in the public interest.

“84.2. The term of a forest management agreement is ten years. The agreement shall take effect on the date on which it is registered in the register established under section 38.

The term of an agreement shall be extended subject to the conditions set out in section 75.

“84.3. A forest management agreement entitles its holder to obtain, each year, for one or more management units described in the agreement, a management permit to harvest a volume of round timber of one or several species to be sold for the supply of wood processing plants, on condition that the agreement holder performs the obligations under this Act and the agreement, provided the annual yields and objectives assigned to the management units concerned are attained, and provided the Minister has approved the annual management plan.

“84.4. The agreement may not be transferred.

“84.5. The agreement holder must, before 1 September each year, provide the Minister with a sworn statement listing the holders of wood processing plant operating permits for whom the timber harvested during the period covered by the annual management plan by the agreement holder was intended, and specifying, in each case, the volumes involved.

“84.6. The Minister may, every five years, after approving or finalizing the general forest management plan and after giving the agreement holder an opportunity to present observations, review the conditions set out in the agreement where the Minister considers it expedient.

“84.7. The Minister may terminate the agreement on becoming aware of a change in the control of the legal person or body holding the agreement.

The Minister must, in such a case, give the holder notice of the Minister's intention to terminate the agreement.

The Minister shall enter any notice given under this section in the register provided for in section 38.

“84.8. Sections 38, 41, 43.1 and 50 to 64, section 70 except subparagraph 4 of the second paragraph, sections 70.1 to 73.6 and 77 to 80.1, section 82 except subparagraph 5 of the first paragraph, and the reference to section 166 in subparagraph 4 of the first paragraph, and section 83 apply, with the necessary modifications, to forest management agreements as if they were timber supply and forest management agreements.

“84.9. The Minister shall terminate an agreement without prior notice where

(1) the agreement holder ceases timber marketing operations permanently ;

(2) the agreement holder has made an assignment of property or has been under a bankruptcy order pursuant to the Bankruptcy and Insolvency Act (Revised Statutes of Canada, chapter B-3) or, in the case of a legal person, has been under a winding-up order ;

(3) the agreement holder becomes related, within the meaning of the Taxation Act, to the holder of a wood processing plant operating permit.”

72. Section 85 of the said Act is replaced by the following section :

“85. The Minister shall issue a forest management permit to the holder of a timber supply and forest management agreement or of a forest management agreement upon approval of the annual forest management plan for the management unit concerned.”

73. Section 86 of the said Act is replaced by the following section :

“86. A forest management permit authorizes the permit holder to harvest a volume of timber of one species or several species in a management unit, during the period covered by the annual plan and subject to the reductions in volume made under this Act, up to the annual volume fixed in the holder’s agreement or the volume as increased under this Act, and to carry out the other forest management activities under the agreement holder’s responsibility.

The permit authorizes harvesting for the supply of wood processing plants and, in the case of a timber supply and forest management agreement, only for the supply of the plant mentioned in the agreement, except if a contrary decision has been made by the Minister under section 43.2.

The permit must state, by species or group of species, the authorized volume of timber and, where applicable, the processing plant supplied.”

74. The said Act is amended by inserting the following section after section 86:

“86.1. Where the Minister observes that, for a given year, the volume authorized under this Act has been exceeded, the Minister may, after giving

the agreement holder an opportunity to present observations, reduce the volume authorized for the current or a subsequent year.

In calculating whether an authorized volume has been exceeded, the following are taken into account :

- (1) the volume of ligneous matter left on site ;
- (2) the trees or parts of trees, by species or group of species, that the agreement holder has failed to harvest in carrying out the silvicultural treatments under the annual management plan that are the responsibility of the agreement holder.

Where the Minister is unable, because several agreements cover the same management unit, to determine which agreement holder is to be subject to the reduction, the Minister shall apply the reduction to all the holders of agreements concerning the species or group of species concerned in proportion to the volume allocated to each.”

75. Section 92 of the said Act is repealed.

76. Section 92.0.1 of the said Act, amended by section 23 of chapter 4 of the statutes of 2000, is again amended

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

“92.0.1. Where, for a particular year, an agreement holder does not harvest the full volume of timber allocated under the holder’s agreement for a management unit, the agreement holder may do so during the subsequent years preceding the end of the period covered by the general forest management plan, except in respect of a year in which the Minister applies the reduction provided for in section 46.1 or 79.1 in the management unit concerned or, after obtaining authorization from the Minister, in another management unit covered by the holder’s agreement in which the holder has also accumulated an equivalent or greater volume of unharvested timber.”;

- (2) by inserting “, 79.1 or 86.1” after “46.1” in the second line of the second paragraph ;

- (3) by replacing the third paragraph by the following paragraph :

“In no case may the agreement holder harvest, in a year, a volume greater than the total annual volume of a species or group of species allocated for all the management units covered by the holder’s agreement, increased by 15%, and that increase will be authorized only if the agreement holder has harvested the entire volume allocated to the holder for the current year.”

77. Section 92.0.2 of the said Act is amended

(1) by replacing “his forest management permit” in the second and third lines by “the annual plan for a forest management unit”;

(2) by replacing “is not allocated to him by agreement, and where such timber cannot be used at the wood processing plant of an agreement holder whose agreement is carried out in the same common area” in the fourth, fifth and sixth lines by “is not allocated under an agreement concerning the management unit concerned”.

78. The said Act is amended by inserting the following after section 92.0.2:

“§1.0.1. — *One-time harvest*

“92.0.3. The Minister may, if considered expedient by the Minister, accredit the holder of a wood processing plant operating permit to enable the permit holder to obtain a management permit in a management unit to supply the holder’s plant where

(1) an agreement holder has renounced all or part of the volume of timber the agreement holder was or could have been authorized to harvest in the management unit during the period covered by the annual plan or the remainder of that period, as the case may be;

(2) a volume of timber is made available following the application of the limits provided for in the third paragraph of section 92.0.1;

(3) a volume of timber is made available following the renunciation by the holder of a wood processing plant operating permit to exercise the right provided for in a reservation agreement entered into pursuant to section 170.1 or by reason of the failure by the permit holder to exercise such right in a previous year;

(4) a volume of timber is made available by reason of the non-fulfilment, in a previous year, of an auxiliary timber supply guarantee agreement entered into pursuant to section 95.1;

(5) in the cases referred to in section 80, the holder is to be allowed to harvest a volume of timber in a management unit other than the management unit affected by the disaster.

The Minister shall, for the same purposes, accredit a permit holder with whom the Minister has entered into an auxiliary timber supply guarantee agreement, so that it may be fulfilled.

“92.0.4. The accreditation shall indicate the volume of round timber, by species or group of species, to which it applies and specify the processing plant involved.

The Minister may include in the accreditation any condition considered advisable by the Minister.

“92.0.5. The annual management plan for the unit must integrate the forest management activities related to the volume of timber to which the accreditation applies and indicate whether the related forest management work is to be carried out by the accredited permit holder or by the agreement holders concerned.

The accredited permit holder shall collaborate in the preparation of the part of the plan integrating the activities concerned, even where that holder is not the holder of an agreement concerning the management unit; the permit holder shall not, however, take part in the designation of the person responsible for carrying out the work.

“92.0.6. If the annual plan has already been approved when the accreditation is granted, the accredited permit holder and the holders of agreements concerning the management unit must, at the request of and within the time fixed by the Minister, submit modifications to the annual plan to the Minister for approval.

“92.0.7. Once the annual plan or the modifications to the annual plan have been approved, the Minister shall issue a special management permit to the accredited permit holder or, if the permit holder is the holder of a timber supply and forest management agreement concerning the unit, shall amend the permit referred to in section 86 to add the volume of timber specified in the accreditation.

“92.0.8. The special permit authorizes the holder to harvest the volume of round timber specified in the accreditation or to have the work related to the harvest carried out by the holder of an agreement concerning the unit, as provided for in the annual plan, and to carry out the other forest management activities for which the holder is responsible under the plan.

The permit shall indicate the volume of each species or group of species that may be harvested and specify the processing plant that will be supplied.

The Minister may include in the permit any condition considered advisable by the Minister.

“92.0.9. The agreement holder designated in the annual plan, if any, shall be responsible for carrying out the work relating to the harvest at the expense of the holder of the special permit.

“92.0.10. The holder of the special permit is considered to be the holder of an agreement concerning the management unit as regards the establishment of the annual report of activities, the verifications referred to in sections 70.1 to 70.4 and the payment of the dues under sections 71 and 72 for the timber harvested. The dues are payable in cash or by way of silvicultural

treatments or other activities carried out by the holder, in accordance with sections 73.1 to 73.3.

“92.0.11. The accredited permit holder must, in the cases set out in paragraphs 1 and 2 of section 92.0.3, reimburse the agreement holder who would have been entitled to harvest the volume of timber concerned for the part of the contribution to the forestry fund or of the assessment to the forest protection organizations that the latter has paid for that volume of timber.

“92.0.12. The Minister shall also issue a management permit in the cases referred to in section 79, to allow the application of a special management plan in a management unit affected by a natural disaster, where required by the amount of timber to be salvaged or the urgency of the situation.

The permit shall indicate the volume of each species or group of species that may be harvested and specify the processing plant that will be supplied.

The Minister may include in the permit any condition considered advisable by the Minister.

Section 92.0.10 applies to the holder of such a permit.

“92.0.13. The Minister may revoke an accreditation or a permit issued under this subdivision, or modify a permit referred to in section 86 to withdraw the new volume authorized, if the permit holder fails to comply with the conditions of the permit.

Before making a decision, the Minister must send the permit holder the written notice prescribed by section 5 of the Act respecting administrative justice and grant the holder at least 10 days to present observations.”

79. Section 92.1 of the said Act is amended

(1) by replacing “his forest management unit” in the third line of the first paragraph by “any forest management unit covered by the agreement, where forest production is sufficient”;

(2) by replacing “and shavings” in the fourth line of the first paragraph by “, shavings or other processing residue, except bark,”;

(3) by adding “and the notice is accompanied with a copy of the notification to the agreement holder” at the end of subparagraph 2 of the second paragraph;

(4) by adding the following paragraph at the end:

“Before granting an authorization, the Minister shall give the agreement holder an opportunity to present observations, in particular with regard to the volumes of timber of which the wood processing plant permit holder may have failed to take delivery in accordance with the agreement referred to in the first paragraph.”

80. Section 95.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

“95.1. The Minister may, if forest production is sufficient, enter into an auxiliary timber supply guarantee agreement with the holder of a processing plant operating permit, on the conditions and for the time fixed by the Minister.”

81. Section 95.2 of the said Act is amended

(1) by replacing “fixed by the Government” in the second line by “fixed by the Minister”;

(2) by adding the following paragraph at the end:

“The agreement shall specify the territory within which the auxiliary timber supply guarantee will be executory and the volumes involved.”

82. The said Act is amended by inserting the following section after section 95.2:

“95.2.1. Sections 73.4 and 73.5 apply to the permit holder who has entered into an auxiliary timber supply guarantee agreement as if the holder were the holder of a timber supply and forest management agreement. The contribution to be paid to the Minister shall be established on the basis of the auxiliary volume specified in the agreement.”

83. Section 95.3 of the said Act is amended by replacing “section 24.1” in the third line of the first paragraph by “the second paragraph of section 92.0.3”.

84. The said Act is amended by inserting the following section after section 95.4:

“95.5. The Minister may terminate an auxiliary timber supply guarantee agreement if

(1) the agreement holder fails to comply with his obligations under the agreement or the conditions governing his forest management activities;

(2) the agreement holder fails to pay the contribution established under section 95.2.1;

(3) the wood processing plant operated by the agreement holder has not been in operation for one-and-a-half years;

(4) the agreement holder’s wood processing plant ceases permanently to be in operation;

(5) the agreement holder has made an assignment of property or a receiving order has been made against him under the Bankruptcy and Insolvency Act (Revised Statutes of Canada, 1985, chapter B-3), or in the case of a legal person, a winding-up order been made against it.”

85. Section 96 of the said Act is amended

(1) by inserting “or forest management agreement” after “agreement” in the second line of the first paragraph;

(2) by replacing “prescribed under section 171” in the second and third lines of the third paragraph by “applicable to those forest management activities”.

86. Section 96.1 of the said Act is amended

(1) by adding the following sentence at the end of the first paragraph: “The Minister may, where it is considered necessary by the Minister because of the potential loss of a volume of timber, allow the annual allowable cut to be exceeded, for the time and on the conditions determined by the Minister.”;

(2) by replacing “volume of timber allocated in the contract shall be reduced” in the third and fourth lines of the second paragraph by “annual volume of timber authorized under the management permit shall be reduced, for the current or a subsequent year,”.

87. Section 97 of the said Act is amended by striking out “a forest educative centre,” in the fourth and fifth lines of the third paragraph.

88. The said Act is amended by inserting the following sections after section 102:

“102.1. The contract takes effect from the date of its registration in the register established under section 38, and expires on the date appearing in the contract.

“102.2. The contract may not be transferred.

“102.3. A forest management contract entitles its holder to obtain, each year, for the management area described in the contract, a management permit to supply wood processing plants, on condition that the contract holder performs the obligations under this Act and the contract, provided the annual yields and objectives assigned by the Minister to the area covered by the contract are attained, and provided the Minister has approved the annual management plan.”

89. Section 103 of the said Act is replaced by the following section:

“103. The area covered by a forest management contract must be managed according to a general forest management plan and an annual management plan drawn up by the contract holder and approved by the Minister.

The Minister shall determine, in the contract, the time within which the holder must submit a general plan for approval; until the general plan is approved, only the annual management plan is required.

The plans submitted to the Minister must be approved by a forest engineer.”

90. Section 104 of the said Act is amended

(1) by replacing “The contract shall stipulate, in particular,” in the first line by “Subject to the provisions made applicable by section 104.1, the Minister shall stipulate in the contract, in particular,”;

(2) by replacing “forest management plan” in the second line of paragraph 1 by “general forest management plan and annual management plan” and “in the forest management plan” in the fifth line of the same paragraph by “in the plans”;

(3) by replacing “forest management plan” in the first and second lines of paragraph 2 by “general forest management plan and annual management plan”.

91. The said Act is amended by inserting the following sections after section 104:

“104.1. Sections 35.4 to 35.8 and 35.15, the second paragraph of section 35.16, sections 35.17 and 54 to 58.3, the first paragraph of section 59.2, sections 59.5, 59.6, 59.8 to 64, section 70 except subparagraph 4 of the second paragraph, sections 70.1 to 70.4, 73.4 to 73.6 and section 82, except subparagraphs 4 and 5 of the first paragraph and the second paragraph, section 84 except paragraph 1 and section 86.1 apply, with the necessary modifications, to forest management contracts. For such purposes,

(1) the management unit is the management area specified in the forest management contract;

(2) the holder of the timber supply and forest management agreement is the holder of the forest management contract;

(3) the volume allocated under the agreement is the annual allowable cut assigned to the management area covered by the contract.

“104.2. The Minister shall issue a management permit for the supply of a wood processing plant to the holder of the contract once the annual management plan has been approved.

“104.3. The permit authorizes the holder to harvest in the territory covered by the contract, during the period covered by the annual forest management plan and subject to any reductions made under this Act, a volume of round timber of one or several species to supply wood processing plants, and to carry out the other forest management activities specified in the annual management plan.

The permit shall indicate the authorized volumes by species or group of species, which may not exceed the annual allowable cut or the additional cut authorized pursuant to section 96.1.

“104.4. The contract holder must, before 1 September each year, submit a sworn statement to the Minister listing the wood processing plants for which the timber harvested by the holder during the period covered by the preceding annual management plan was intended and indicating the volume concerned in each case.

“104.5. The Minister shall establish the contract holder’s contribution to the forestry fund on the basis of the rate per cubic metre of timber fixed by regulation of the Government applicable to the volume authorized under the management permit.

“104.6. The Minister may, where the Minister considers it expedient to promote economic development and on the conditions determined by the Minister, renew the contract provided that the contract holder has, during the period covered by the agreement, performed the obligations imposed by this Act.

When a contract is renewed, the Minister may, after giving the holder an opportunity to present observations, revise the management area covered by the contract.”

92. Sections 105 and 105.1 of the said Act are repealed.

93. Section 106 of the said Act is amended

(1) by striking out the second paragraph;

(2) by striking out “forest management” in the second line of the third paragraph;

(3) by replacing the fourth paragraph by the following paragraph:

“The provisions of this section do not apply where the contract holder is a municipality or a Native band council.”

94. Section 109 of the said Act is amended by replacing “the timber supply and forest management agreement holder” in the second and third lines by “the holder of a timber supply and forest management agreement or of a forest management agreement that concerns the management unit involved”.

95. Division II of Chapter V of Title I of the said Act, comprising sections 110 and 111, is repealed.

96. Section 116 of the said Act is replaced by the following section :

“116. The Minister may, with the authorization of the Government, erect forest stations in public forest reserves to concentrate within the same territory the exercise of two or more activities governed by Division I or III of this chapter and other activities compatible therewith that may foster the development and enhancement of a forest station.”

97. Section 117 of the said Act is replaced by the following sections :

“117. The forest stations shall be developed by the Minister who shall see that all the activities exercised in a forest station remain compatible with the pursuit of its mission.

“117.0.1. The Minister may, to foster the development and enhancement of a forest station, entrust a legal person with the mandate to carry out all or part of the operations to develop the forest station, on the terms and conditions determined by the Minister.

Before carrying out the forest management activities authorized by the Minister within the framework of a mandate, the mandatary must submit a management plan to the Minister for approval.

The mandatary must comply with the standards of forest management applicable to the mandatary's forest management activities as if the mandatary were the holder of a management permit, whether their application is prescribed by government regulation or imposed by the Minister pursuant to section 25.2.

“117.0.2. The Minister may allow the mandatary to sell for his own account any timber harvested in carrying out the forest management activities authorized by the Minister within the framework of the mandate.

The mandate may include special provisions concerning the sale and destination of the timber, the reports of activities the mandatary must submit to the Minister or any other provision to ensure the carrying out of the mandate.

“117.0.3. In addition to the powers that may otherwise be exercised by the Société des établissements de plein air du Québec, the Société may accept any mandate pertaining to the carrying out of forest management activities entrusted to it by the Minister pursuant to this division.

“117.0.4. The mandates or authorizations pertaining to experimentation, teaching or research activities, including related forest management activities, shall be governed by the second paragraph of section 108, section 113, the second paragraph of section 114 and section 115.”

98. Section 118 of the said Act is amended by replacing “and the development of forests” in the third line by “and the protection or development of forests, including increased yield”.

99. Section 120 of the said Act is amended

(1) by replacing “its forested area” in the fourth line of subparagraph 2 of the first paragraph by “the total forested area of the unit of assessment within the meaning of section 34 of the Act respecting municipal taxation (chapter F-2.1)”;

(2) by replacing “dues” in the second line of the second paragraph by “fees”.

100. Section 123 of the said Act is amended

(1) by striking out “form and” in the first line of paragraph 3;

(2) by inserting “protection or” after “eligible” in the third line of paragraph 3;

(3) by inserting “paid” after “taxes” in the seventh line of paragraph 3;

(4) by striking out the last sentence of paragraph 3.

101. Section 124.18 of the said Act, amended by section 157 of chapter 56 of the statutes of 2000, is again amended by adding the following at the end of the first paragraph: “; that part of the plan must be approved by a forest engineer. The plan must also include a five-year program of forest protection and development activities fostered by the agency and state the indicators selected to achieve the objectives.”

102. The said Act is amended by inserting the following section after section 124.21:

“124.21.1. The agency must revise its plan every five years, on the same conditions as when preparing its initial plan.”

103. Section 124.25 of the said Act is amended by replacing the second paragraph by the following paragraph:

“However, financial participation in the carrying out of forest development work shall be limited to forest areas registered in accordance with section 120, regardless of the person or body eligible under a program of the agency.”

104. Section 125 of the said Act is amended by inserting “, forest management agreements, forest management contracts or auxiliary timber supply guarantee agreements” after “agreements” in the second line of the first paragraph.

105. The said Act is amended by inserting the following section after section 126:

“126.1. Any amendment to the by-laws must be submitted to the Minister for approval.”

106. Section 127 of the said Act is amended by replacing the first paragraph by the following paragraph:

“127. Every holder of an agreement or contract must be a member of the forest protection organization certified by the Minister for the management units covered by the agreement holder’s agreement or the management area covered by the contract holder’s contract.”

107. Section 127.1 of the said Act is amended

(1) by replacing “a timber supply and forest management agreement” in the second line by “an agreement or a contract”;

(2) by adding the following paragraph:

“The Minister may terminate an auxiliary timber supply guarantee agreement for the same reasons.”

108. Section 146 of the said Act is amended by inserting “, forest management agreements, forest management contracts or auxiliary timber supply guarantee agreements” after “agreements” in the second line of the first paragraph.

109. The said Act is amended by inserting the following section after section 147:

“147.O.1. Any amendment to the by-laws must be submitted to the Minister for approval.”

110. Section 147.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

“147.1. Every holder of an agreement or contract must be a member of the forest protection organization certified by the Minister for the management units covered by the agreement holder’s agreement or the management area covered by the contract holder’s contract.”

111. Section 147.2 of the said Act is amended by adding at the end, after “organization.” the following sentence: “The Minister may, for the same reasons, terminate an auxiliary timber supply guarantee agreement.”

112. Section 147.3 of the said Act is amended by inserting “, forest management agreement and forest management contract” after “agreement” in the second line of the second paragraph.

113. Section 165 of the said Act is amended by inserting “, as well as the authorized volumes for those species or groups of species” after “regulation” in the third line of the second paragraph.

114. Section 170 of the said Act is amended by inserting “suspend or cancel” after “or” in the second line.

115. Section 170.1 of the said Act is amended by replacing the fourth paragraph by the following paragraph:

“The Minister may, if he considers it expedient, renew the agreement on the same conditions no more than four times.”

116. Section 170.2 of the said Act is amended

(1) by adding, at the end of the first paragraph, the following words: “and financing other activities designed to maintain or improve the protection, development or processing of forest resources”;

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

“However, the amounts paid by the Minister pursuant to section 73.5 and any related surplus shall be allocated only to the financing of activities connected with forest management.”

117. Section 170.5.1 of the said Act is amended

(1) by replacing “forest management activities referred to in the second paragraph of” in the first and second lines by “activities referred to in”;

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

“(1) the amounts that may be paid into the fund;”;

(3) by striking out “forest management” in the second line of paragraph 2.

118. The said Act is amended by inserting the following section after section 171:

“171.1. The regulations made by the Government under section 171 may be adapted to better reconcile forest management activities with the activities pursued by Native persons for food, ritual or social purposes.

The regulatory provisions made pursuant to the first paragraph shall indicate, where applicable, the Native communities or the territories to which they apply.

Every draft regulation providing for such adaptations shall be submitted to the Native communities concerned for their opinion at least 45 days before the regulation is made by the Government.”

119. Section 172 of the said Act is amended

(1) by inserting “or, where applicable, for each area of land” after “timber” in the first line of paragraph 1;

(2) by striking out “forest management” in the second line of paragraph 3 and by replacing “in the fourth paragraph of section 73.1” in the fifth line of that paragraph by “in section 73.1, including the information, reports or other documents to be prepared or submitted”;

(3) by striking out “forest management” in the second line of paragraph 3.1;

(4) by replacing paragraph 4 by the following paragraph:

“(4) establish the scaling standards for timber harvested in forests in the domain of the State, specifying, in particular, scaling methods, the place where scaling must take place, the standards applicable depending on whether scaling takes place before or after the timber is transported, and the standards applicable to transportation, the forwarding of scaling or inventory data, the verification of data and the scaling corrections to be made, including the assistance that the permit holder must provide to the Minister;”;

(5) by replacing paragraph 7 by the following paragraph:

“(7) determine the elements, in addition to those prescribed by this Act, that must be contained in a general forest management plan, an annual management plan, and the annual report of activities that the holder concerned must prepare and submit to the Minister;”;

(6) by replacing “fees for” in the third line of paragraph 18.3 by “file processing fees for”;

(7) by replacing paragraph 19 by the following paragraph:

“(19) determine, among the provisions of a regulation for which no penal sanction is otherwise provided, those the contravention of which constitutes an offence and determine, among the fines provided for in section 186.9, the fine to which the offender is liable.”;

(8) by adding the following paragraph after the first paragraph:

“The Minister shall define, in an instruction manual, for each of the scaling methods determined by the Government under subparagraph 4 of the first paragraph, the various scaling and sampling techniques, the content and form of the various applications and other types of forms relating to scaling, inventories and transportation, and any other instruction relating to the application of any such scaling method. The instruction manual is not subject to the provisions of the Regulations Act (chapter R-18.1). However, it must be supplied by the Minister to every management permit holder once the scaling method selected has been approved.”

120. Section 172.1 of the said Act is amended

(1) by inserting “protection or” after “eligible” in the first line of subparagraph 1 of the first paragraph;

(2) by striking out “form and” in the first line of subparagraph 3 of the first paragraph.

121. The said Act is amended by inserting the following after the heading of Title VI:

“CHAPTER 0.1

“CIVIL REMEDIES

“172.3. The court may, besides awarding damages for damage caused to a forest ecosystem classified as an exceptional forest ecosystem by the Minister, order the person responsible to pay punitive damages.”

122. Sections 173 to 185.1 of the said Act are replaced by the following sections :

“173. Every person who, without holding a management permit, cuts, displaces, removes or harvests timber on lands in the domain of the State, or who damages trees or taps a maple tree on such lands, is guilty of an offence and is liable to a fine of

(1) \$5 to \$450 for each tree in respect of which an offence is committed;

(2) \$200 to \$5,000 where the offence involves a shrub, half-shrub, slash or cull.

“174. Every holder of a management permit or third person entrusted with the execution of work authorized by a permit who cuts timber outside the cutting areas indicated in the permit or the management plan with which the permit holder is bound to comply is guilty of an offence and is liable to a fine of \$4,000 to \$50,000 for each hectare or part of a hectare cut outside the perimeter of the area where cutting was authorized.

“175. Every holder of a management permit who harvests timber in excess of the volume authorized under this Act is guilty of an offence and is liable to a fine of \$40 to \$200 for each cubic metre of timber harvested in excess of the authorized volume.

Every holder of a management permit who harvests timber of a species or group of species the permit holder is not authorized to harvest under this Act is guilty of an offence and is liable to a fine of \$40 to \$200 for each cubic metre of timber harvested without authorization.

“176. Every holder of a management permit who ships timber the permit holder is authorized to harvest under this Act to a destination other than the processing plant specified in the permit, or who allows such timber to be so shipped, is guilty of an offence and is liable to a fine of \$40 to \$200 for each cubic metre of timber shipped to such a destination, unless authorized to do so pursuant to section 43.2.

“177. Every holder of a management permit or third person entrusted with the execution of work authorized by a permit who carries out a forest management activity on lands in the domain of the State in contravention of a provision of the permit is guilty of an offence and is liable, in all cases where the offence is not otherwise punishable, to a fine of

- (1) \$5 to \$450 for each tree in respect of which an offence is committed;
- (2) \$200 to \$5,000 where the contravention concerns a provision of a management permit issued under section 24.0.1 or 94.

“178. Every holder of a management permit who fails to comply with an order given by the Minister pursuant to section 25.1 or who neglects to follow up on the order is guilty of an offence and is liable to a fine of \$500 to \$5,000.

“179. Every holder of a management permit who contravenes the first paragraph of section 26.1 is guilty of an offence and is liable to a fine of \$500.

“180. Every person who contravenes one of the provisions of sections 27, 28 and 28.1 is guilty of an offence and is liable to a fine of \$1,125 to \$5,600.

“181. Every person who contravenes section 28.2 or a forest management standard prescribed under subparagraph 2 or 7 of the first paragraph of section 171 is guilty of an offence and is liable to a fine of \$10 to \$450 for each tree the person cut or failed to cut in contravention of the applicable standard.

Every person who contravenes a forest management standard relating to a matter referred to in subparagraph 2 or 7 of the first paragraph of section 171, the application of which was imposed by the Minister pursuant to section 25.2, is guilty of an offence and is liable to a fine of \$20 to \$900 for each tree the person cut or failed to cut in contravention of the applicable standard.

“182. The following persons are guilty of an offence and are liable to a fine of \$500 to \$10,000:

(1) every person who contravenes the first paragraph of section 31 or fails to comply with the conditions of an authorization obtained from the Minister pursuant to the first paragraph of that section;

(2) every person who contravenes section 32 or fails to comply with the provisions of the management permit issued to that person by the Minister pursuant to this Act relating to the construction or improvement of a forest road;

(3) every person who destroys or damages a road in a forest environment on lands in the domain of the State.

“183. Every person who fails to comply with a restriction or prohibition concerning access to a forest road imposed by the Minister pursuant to the second paragraph of section 33, or who contravenes section 34, is guilty of an offence and is liable to a fine of \$600 to \$6,000.

“184. Every holder of a management permit issued for the cultivation and operation of a sugar bush who fails to submit a report of activities to the Minister within the time fixed in section 16.1 or, where applicable, the sworn statement referred to in section 16.1.1, is guilty of an offence and is liable to a minimum fine of \$800.

The following persons are guilty of an offence and are liable to a minimum fine of \$1,000:

(1) every holder of a timber supply and forest management agreement or of a forest management agreement who fails to submit to the Minister, within the time fixed in section 51, the document or report that is to be submitted under the second paragraph of section 59.2;

(2) every holder of such an agreement who fails to submit modifications to a general forest management plan to the Minister for approval within the time fixed by the Minister under section 59.6 or the second paragraph of section 59.7;

(3) every holder of such an agreement, or of an accreditation under section 92.0.3, who fails to submit modifications to an annual forest management plan to the Minister for approval within the time fixed by the Minister under the third paragraph of section 59.7;

(4) every holder of such an agreement or accreditation who fails to submit modifications to an annual forest management plan to the Minister for approval within the time fixed by the Minister under section 92.0.6;

(5) every holder of a forest management agreement or forest management contract, and every holder of an accreditation under section 92.0.3 or of a

management permit issued under section 92.0.11 who fails to submit an annual report of activities under that section to the Minister within the time fixed in section 70;

(6) every holder of a forest management agreement or forest management contract who fails to submit a sworn annual statement to the Minister within the time fixed in section 84.5 or 104.4.

“185. The following persons are guilty of an offence and are liable to a fine of \$500 to \$50,000:

(1) every person who fails to comply with a prohibition or restriction governing access to or travel in a forest imposed by the Minister pursuant to section 134, or who contravenes a measure prescribed by the Minister pursuant to that section;

(2) every person who contravenes the first paragraph of section 135 or fails to comply with the precautions determined by the fire-ranger when issuing a permit;

(3) every person who contravenes one of the provisions of paragraph 1 or 2 of section 136 or of section 137 or 138;

(4) every person who operates an industrial or household waste disposal site in or near the forest and who fails to comply with the first paragraph of section 139;

(5) every owner or operator of a waste disposal site referred to in paragraph 4 who refuses to comply with an order given by the fire-ranger pursuant to the second paragraph of section 139, or who contravenes section 140;

(6) every person referred to in section 141 or 142 who fails to comply with the safety standards prescribed under subparagraph 13 of the first paragraph of section 172 for the prevention and extinction of forest fires;

(7) every person referred to in section 143 who fails to inform the forest fire protection organization of the person's intention to carry on work or cause work to be carried on in the forest, or who fails to obtain from that organization the forest protection plan referred to in that section;

(8) every holder of a management permit who uses fire as a silvicultural treatment and contravenes section 144.

“186. Every person who sells or uses seedlings for purposes other than ornamental purposes before the certificate referred to in section 150 has been issued for those seedlings, or who contravenes one of the provisions of section 151 or 152 is guilty of an offence and is liable to a fine of \$200 to \$5,000.

“186.1. Every person who ships outside Québec incompletely processed timber from land in the public domain in Québec without authorization in the form of an order under section 161, or who contravenes a provision of the order, is guilty of an offence and is liable to a fine of \$2,450 to \$6,075 in the case of a natural person and \$7,300 to \$18,225 in the case of a legal person, and, for a second or subsequent offence, to a fine of \$12,150 to \$60,700 in the case of a natural person and \$36,425 to \$182,100 in the case of a legal person.

“186.2. Every person who contravenes one of the provisions of the first paragraph of section 162 or section 164, and every wood processing plant operating permit holder who contravenes section 169, is guilty of an offence and is liable to a fine of \$200 to \$1,000 from the thirtieth day following the date on which a notice is sent to the offender by an authorized representative of the Minister ordering the offender to comply with the applicable provisions.

“186.3. Every person who contravenes a forest management standard prescribed under subparagraph 1 or 8 of the first paragraph of section 171 is guilty of an offence and is liable to a fine of \$5 to \$450 for each tree the person cut or failed to cut in contravention of the applicable standard.

However, where the forest management standard is a standard relating to the salvage of a volume of useful ligneous matter, the offender is liable to a fine of \$40 to \$200 for each cubic metre of timber the person fails to salvage, in contravention of the applicable standard.

Every person who contravenes a forest management standard concerning a matter referred to in subparagraph 1 or 8 of the first paragraph of section 171, whose application is imposed by the Minister pursuant to section 25.2, is guilty of an offence and is liable to a fine of \$10 to \$900 for each tree the person cut or failed to cut in contravention of the applicable standard or, in the case referred to in the second paragraph, to a fine of \$80 to \$400 for each cubic metre of timber the person fails to salvage, in contravention of the applicable standard.

“186.4. Every person who contravenes a forest management standard prescribed under one of subparagraphs 3 to 6 of the first paragraph of section 171 is guilty of an offence and is liable to a fine of \$1,000 to \$40,000.

Every person who contravenes a forest management standard concerning a matter referred to in one of subparagraphs 3 to 6 of the first paragraph of section 171 whose application is imposed by the Minister pursuant to section 25.2 is guilty of an offence and is liable to a fine of \$2,000 to \$80,000.

“186.5. Every person who contravenes a forest management standard prescribed under subparagraph 9 of the first paragraph of section 171 is guilty of an offence and is liable to a fine of \$1,000 to \$5,000 for each hectare or part of a hectare affected by the offence or that falls above or below the applicable standard.

Every person who contravenes a forest management standard concerning a matter referred to in subparagraph 9 of the first paragraph of section 171 whose application is imposed by the Minister pursuant to section 25.2 is guilty of an offence and is liable to a fine of \$2,000 to \$10,000 per hectare or part of a hectare affected by the offence or that falls above or below the applicable standard.

“186.6. Every person who contravenes section 205 is guilty of an offence and is liable to a fine of \$1,000 to \$10,000.

“186.7. The following persons are guilty of an offence and are liable to a fine of \$5,000 to \$25,000:

(1) every holder of a management permit issued for the cultivation and operation of a sugar bush who submits to the Minister a report of activities under section 16.1 or a sworn statement under section 16.1.1 which contains an entry which the holder knows to be false or misleading;

(2) every holder of a timber supply and forest management agreement, forest management agreement, accreditation under section 92.0.3 or forest management contract who submits an annual management plan or accompanying forest inventory data to the Minister which contains an entry which the holder knows to be false or misleading;

(3) every holder of such an agreement, accreditation or contract who provides the Minister with any information, research or survey referred to in section 59.10 which contains an entry which the holder knows to be false or misleading;

(4) every holder of such an agreement, accreditation or contract, and every holder of a management permit issued under section 92.0.12 who submits an annual report of activities to the Minister under section 70 which contains an entry which the holder knows to be false or misleading;

(5) every holder of a forest management agreement or forest management contract who provides the Minister with a sworn annual statement under section 84.5 or 104.4 which contains an entry which the holder knows to be false or misleading.

The following persons are also guilty of an offence and are liable to a fine of \$500 to \$25,000:

(1) every person who makes false or misleading statements or false representations in order to obtain a management permit or a wood processing plant operating permit;

(2) every person producing seedlings for purposes other than ornamental purposes who provides the Minister with a detailed annual inventory of seedlings under section 155 which contains an entry which the person knows to be false or misleading;

(3) every person referred to in section 167 who makes a statement which the person knows to be false or misleading concerning the provenance of any timber in the person's possession;

(4) every holder of a wood processing plant operating permit who provides the Minister with a copy of the register referred to in section 168 or provides the Minister with information under section 169 which contains an entry which the holder knows to be false or misleading.

“186.8. The following persons are guilty of an offence and are liable to a fine of \$500 to \$5,000:

(1) every person who hinders the work of an inspector referred to in section 70.1 or 169.1 in the performance of the inspector's functions, refuses to provide the inspector with any information or document the inspector may require under those sections, provides the inspector with any information or document the person knows to be false or misleading, or refuses to provide the inspector with reasonable assistance during a verification;

(2) every person who hinders the work of a representative of a forest fire protection organization in the performance of the representative's functions;

(3) every person who contravenes a provision of section 156 or refuses to comply with an order given by the inspector in the performance of the inspector's functions;

(4) every person who hinders the work of an employee of the department designated by the Minister pursuant to section 187 or 197 in the performance of the employee's functions.

“186.9. Every person who contravenes a regulatory provision the contravention of which constitutes an offence pursuant to a regulation made under section 172 is liable, as specified in the regulation, to a fine of

(1) \$200 to \$1,000;

(2) \$500 to \$2,000;

(3) \$1,000 to \$5,000.

“186.10. Where an offence referred to in this chapter is committed in a forest ecosystem that is classified by the Minister as an exceptional forest ecosystem, the prescribed fine shall be doubled.

The fines prescribed in this chapter shall also be doubled in the case of a second or subsequent offence, except the fines prescribed in section 186.1.

“186.11. Where a person is convicted of an offence under paragraph 1 of section 173, section 175 or section 176, paragraph 1 of section 177, section

181 or section 186.3, the person may not be sentenced to a fine of less than \$200, notwithstanding the fines prescribed in those sections.

“186.12. In determining the amount of a fine, the court shall take into account, in particular,

- (1) the gravity of the damage resulting from the commission of the offence ;
- (2) the degree of fragility of the forest environment or the resources affected by the commission of the offence ;
- (3) the monetary gain and other advantages derived from the commission of the offence by the offender.

“186.13. In addition to any other penalty imposed on an offender, a judge may order that the offender, on the conditions and within the time fixed by the judge,

- (1) reforest, at the offender’s expense, the site concerned, where the offender is convicted of an offence under one of the provisions of sections 173 to 177 ;
- (2) remove, at the offender’s expense, the slash dumped into the lake or watercourse concerned, where the offender has contravened one of the provisions of section 28.1 and is convicted of the offence ;
- (3) restore, at the offender’s expense, the site concerned, or take the corrective measures considered necessary, where the offender is convicted of an offence under one of the provisions of section 182 or section 186.4.

No order may be made unless the prosecutor has forwarded prior notice of the application for an order to the defendant, except if the latter is before the judge.

“186.14. Every officer, director or representative of an enterprise or legal person who fails to take reasonable steps, given the circumstances, to prevent or forestall the commission of an offence, or who orders, authorizes, consents to or takes part in an offence is guilty of an offence and is liable to the penalty prescribed for the offence, whether or not the enterprise or legal person is prosecuted or convicted.

The same applies to any person who employs or retains the services of another person or of an enterprise to carry out activities governed by this Act.

“186.15. Subject to the second paragraph, all penal proceedings must be instituted within three years of the commission of the offence.

Penal proceedings instituted under a provision of section 186.7 must be instituted within two years from the date of the opening of the inquiry leading to the proceedings. However, no penal proceedings may be instituted if more than five years have elapsed since the date of commission of the offence.

A statement by the Minister as to the day on which the inquiry was opened constitutes, in the absence of evidence to the contrary, conclusive proof of the date on which it commenced.”

123. Section 192 of the said Act is amended

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

“Any timber seized may be sold with authorization from a judge, except in the case referred to in section 188, if the employee shows that over 7 days have elapsed since a notice was left on the premises pursuant to section 190 and that, since that time, no person has laid claim to the timber seized.”;

(2) by replacing “of the application” in the first line of the second paragraph by “an application under the first paragraph”.

124. Section 193 of the said Act is amended

(1) by replacing “may be detained for 90 days” in the first line by “or the proceeds from the sale thereof may be retained for 120 days”;

(2) by adding the following paragraph :

“However, the employee may apply to a judge for an extension of the detention period of up to 90 days, or to obtain any other extension in accordance with the procedure set out in article 133 of the Code of Penal Procedure (chapter C-25.1).”

125. The said Act is amended by inserting the following section after section 198:

“198.1. Notwithstanding article 132 of the Code of Penal Procedure, the period during which seized timber or the proceeds of the sale thereof is detained shall be 120 days from the date of seizure.

The employee may, before the expiry of that period, apply to a judge for an extension of the detention period of up to 90 days.”

126. Section 203 of the said Act is amended by replacing the first and second paragraphs by the following paragraph :

“203. Timber cut in contravention of a provision of this Act or the regulations under it that has been seized pursuant to the provisions of Chapter II of Title VI of this Act is, when the offender pleads guilty to or is found guilty of the offence, confiscated by the Minister.”

127. Section 209 of the said Act is replaced by the following section :

“209. In order to promote forest conservation and development, the month of May of each year shall be “Forest Conservation Month”.”

128. Section 211 of the said Act is replaced by the following section:

“211. In order to foster the participation of persons and bodies concerned by the development of the main orientations concerning the forest environment, the Minister shall prepare, propose to the Government and implement throughout Québec and at the regional level a consultation policy on priorities for the management and development of the forest environment.

The policy shall include a special procedure for the consultation of Native communities.”

129. The said Act is amended by inserting the following section after section 211:

“211.1. The Minister is responsible for promoting the development and implementation of measures designed to facilitate the comprehension of the content of the plans and reports that must be filed under this Act.”

130. Section 212 of the said Act is amended by adding the following paragraph at the end:

“The report must focus, in particular, on the management of forest resources in the domain of the State and the results of that management, and must contain information on the implementation of the programs for the development of forest resources in the domain of the State referred to in section 17.13 of the Act respecting the Ministère des Ressources naturelles (chapter M-25.2), specifying the objectives of the programs, the results targeted and the results obtained.”

AMENDING PROVISIONS

CITIES AND TOWNS ACT

131. The heading of subdivision 1.1 of Division IV of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by inserting “*or forest resources*” after “*lands*”.

132. Section 29.14 of the said Act is amended

(1) by inserting “or of forest resources” after “land” in the first line of subparagraph 4 of the second paragraph;

(2) by adding “or under section 171, 171.1 or 172 of the Forest Act (chapter F-4.1)” at the end of subparagraph 5 of the second paragraph.

133. Section 29.14.2 of the said Act is amended by inserting “or under section 25.1 of the Forest Act (chapter F-4.1)” after “(chapter T-8.1)” in the third line.

134. Section 29.18 of the said Act is amended

(1) by inserting “or of forest resources” after “land” in the third line of the first paragraph;

(2) by adding “or the costs relating to the management of forest resources in the domain of the State or a forest management contract, excepting any expenditure on forest management” at the end of the third paragraph.

135. Section 466.1.1 of the said Act is amended by replacing “development operations on land in the domain of the State or private land situated in its territory” in the fifth line by “operations to develop lands or forest resources in the domain of the State or private lands or forest resources”.

MUNICIPAL CODE OF QUÉBEC

136. Article 14.12 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended

(1) by inserting “or of forest resources” after “land” in the first line of subparagraph 4 of the second paragraph;

(2) by adding “or under section 171, 171.1 or 172 of the Forest Act (chapter F-4.1)” at the end of subparagraph 5 of the second paragraph.

137. Article 14.12.2 of the said Code is amended by inserting “or under section 25.1 of the Forest Act (chapter F-4.1)” after “(chapter T-8.1)” in the third line.

138. Article 14.16 of the said Code is amended

(1) by inserting “or of forest resources” after “land” in the third line of the first paragraph;

(2) by adding “or the costs relating to the management of forest resources in the domain of the State or a forest management contract, excepting any expenditure on forest management” at the end of the third paragraph.

139. Article 627.1.1 of the said Code is amended by replacing “development operations on land in the domain of the State or private land situated in its territory” in the fifth and sixth lines by “operations to develop lands or forest resources in the domain of the State or private lands or forest resources”.

140. Article 688.7 of the said Code is amended by replacing “lands in the domain of the State or private lands” in the third line by “lands or forest resources in the domain of the State or private lands or forest resources”.

ACT RESPECTING THE CONSERVATION AND DEVELOPMENT OF WILDLIFE

141. Section 36.1 of the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1) is amended by striking out “in the territory of a forest educative centre or” in the first and second lines.

ACT RESPECTING MUNICIPAL TAXATION

142. Section 220.3 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) is amended by replacing “referred to in paragraph 3 of section 123” in the third line of the first paragraph by “referred to in section 122”.

MINING ACT

143. Section 32 of the Mining Act (R.S.Q., chapter M-13.1), amended by section 11 of chapter 24 of the statutes of 1998, is again amended by adding “or the preservation of an exceptional forest ecosystem classified by the Minister under section 24.4 of the Forest Act (R.S.Q., chapter F-4.1)” at the end of paragraph 5.

144. Section 155 of the said Act, amended by section 70 of chapter 24 of the statutes of 1998, is again amended by replacing subparagraph 2 of the third paragraph by the following subparagraph:

“(2) a forest road within the meaning of section 31 of the Forest Act (chapter F-4.1) by the holder of a management permit issued under section 85 or 104.2 of the said Act;”.

145. Section 213 of the said Act is amended by adding the following paragraph at the end:

“Notwithstanding the foregoing, in any area classified as an exceptional forest ecosystem in accordance with section 24.4 of the Forest Act (chapter F-4.1), the holder of the mining right must follow the rules set forth in that Act.”

146. Section 213.1 of the said Act is amended by replacing “pay the dues prescribed by the minister responsible for the administration of the Forest Act (chapter F-4.1)” in the second and third lines of the first paragraph by “scale the harvested timber in accordance with section 26 of the Forest Act and pay the duties prescribed by the minister responsible for the administration of that Act”.

147. Section 213.2 of the said Act is amended by adding “or the preservation of an exceptional forest ecosystem classified by the Minister” at the end.

148. Section 232 of the said Act is amended by replacing “or plant-life or wildlife conservation,” in the fifth line of the first paragraph by “, plant-life or wildlife conservation or the preservation of an exceptional forest ecosystem classified by the Minister”.

149. Section 304 of the said Act is amended

(1) by adding, at the end of subparagraph 1 of the first paragraph,

“ — classification as an exceptional forest ecosystem under section 24.4 of the Forest Act;”;

(2) by replacing “or plant-life or wildlife conservation” in subparagraph 1.1 of the first paragraph by “, plant-life or wildlife conservation or the preservation of an exceptional forest ecosystem classified by the Minister”.

ACT RESPECTING THE MINISTÈRE DES RESSOURCES NATURELLES

150. Section 17.13 of the Act respecting the Ministère des Ressources naturelles (R.S.Q., chapter M-25.2) is amended by inserting “or forest resources” after “lands” in the third line.

151. Section 17.14 of the said Act is amended by replacing the second and third paragraphs by the following paragraphs :

“The Minister may, for the same purposes, in addition to exercising in respect of a forest in the domain of the State that is covered by a program all the powers devolving on the Minister under the Forest Act (chapter F-4.1), apply any measure the Minister considers necessary for the purpose of fostering sustainable forest development, including a measure granting, for that purpose, any right other than a right under that Act to a legal person the Minister designates. The rights so granted may not, however, limit the rights previously granted on the forest lands.

The Minister may, for the purposes of such programs, to the extent of and in accordance with their terms and conditions, entrust the management of any land in the domain of the State that is under the Minister’s authority and the property situated thereon or, in a forest reserve, the management of forest resources in the domain of the State, to a legal person, or entrust the management of the management permits for the harvest of firewood for domestic or commercial purposes, in a management unit, to a municipality; such legal person or municipality may in that case exercise the powers and responsibilities entrusted to it by the Minister that are defined in the program. The program shall identify, among the provisions of the Act respecting the lands in the public domain (chapter T-8.1) or among those of Divisions I and II of

Chapter II of Title I of the Forest Act as concerns the management permits referred to in paragraphs 1, 2 and 5 of section 10 and those referred to in paragraph 5 of section 24 or in section 24.0.1 of that Act, of Divisions III and IV of that chapter or of Division II of Chapter IV of Title I or of Title VI of the latter Act, the provisions whose application may be delegated to the legal person, as well as the powers and responsibilities vested in the Minister that may be exercised by the legal person.

Where the management of land or forest resources in the domain of the State is entrusted to a municipality by the Minister in accordance with the third paragraph, the Minister may, to the extent necessary to implement a program and according to the terms and conditions specified in the program, determine, among the powers provided for in section 71 of the Act respecting the lands in the public domain or in sections 171, 171.1 and 172 of the Forest Act, those that may be exercised by the municipality by means of regulations.”

152. Section 17.15 of the said Act is amended

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

“17.15. The Minister may, to the extent specified in a program, exempt land and property made subject by the Minister to a program from the application of all or part of the Act respecting the lands in the public domain (chapter T-8.1), or exempt a forest in the domain of the State made subject by the Minister to a program from the application of all or part of the Forest Act (chapter F-4.1).”;

(2) by adding “or the Forest Act” at the end of the second paragraph.

153. Section 17.16 of the said Act is amended by adding the following paragraph after the second paragraph :

“This section does not apply to a program for the development of forest resources in the domain of the State.”

ACT RESPECTING THE PRESERVATION OF AGRICULTURAL LAND AND AGRICULTURAL ACTIVITIES

154. Section 97 of the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., chapter P-41.1) is amended by adding the following paragraph :

“Where an application for a permit referred to in section 14.1 of the Forest Act (chapter F-4.1) concerns a management activity referred to in section 27 of this Act, the permit may be issued only if the authorization required by that latter section has been given by the commission.”

ENVIRONMENT QUALITY ACT

155. Section 144 of the Environment Quality Act (R.S.Q., chapter Q-2) is amended

- (1) by inserting “or finalizing” after “approving” in the second line;
- (2) by striking out “and five-year” in the second line.

156. Section 178 of the said Act is amended

- (1) by inserting “or finalizing” after “approving” in the second line;
- (2) by striking out “and five-year” in the second line.

ACT RESPECTING THE LAND REGIME IN THE JAMES BAY AND NEW QUÉBEC TERRITORIES

157. Section 90 of the Act respecting the land regime in the James Bay and New Québec territories (R.S.Q., chapter R-13.1) is amended

- (1) by inserting “or forest management agreement” after “agreement” in the second line of the second paragraph;
- (2) by replacing “59” in the fourth line of the second paragraph by “59.11”.

OTHER AMENDMENTS

158. Section 17 of the Act to amend the Forest Act (1997, chapter 33) is repealed.

159. From 1 April 2005, in all regulations, orders in council, orders, proclamations, ordinances, contracts, agreements, understandings and other documents, unless otherwise required by the context, a reference to a common area is a reference to a forest management unit delimited in accordance with section 35.2 of the Forest Act, introduced by section 30 of this Act.

PROVISIONAL REGIME APPLICABLE TO TIMBER SUPPLY AND FOREST MANAGEMENT AGREEMENTS

160. The provisions of the provisional regime apply to forest management activities carried out before 1 April 2005 by the holders of timber supply and forest management agreements.

161. The planning of forest management activities shall be governed by the legislative and regulatory provisions in force on 31 August 2002, subject to the following provisions. The same applies to the annual report relating to such activities.

162. The general forest management plans in force on 31 March 2004 shall expire on 1 April 2005, and shall not require updating.

163. The period covered by five-year forest management plans submitted to the Minister for approval after *(insert here the date of coming into force of this section)* need not extend beyond 1 April 2005.

164. In order to ensure that the interests and concerns of other users of land in a common area are taken into account, and to prevent disputes concerning the carrying out of forest management activities, agreement holders must invite the following persons and bodies to take part in the preparation of the five-year plan :

(1) regional county municipalities and, where applicable, the urban community whose territories contain part of the common area concerned ;

(2) the Native communities concerned, represented by their band council ;

(3) every person or body that, for the common area concerned, in accordance with the Act respecting the conservation and development of wildlife (chapter C-61.1), has entered into an agreement for the management of a controlled zone, is authorized to organize activities or provide services in a wildlife preserve, or holds an outfitter's licence ;

(4) every holder of a sugar bush management permit for an area intended for forest production within a management unit and every holder of a lease of land intended for agricultural purposes within the common area.

The agreement holder may also issue invitations to any other person, organization or body to take part in the preparation of the plan.

165. The agreement holder shall transmit to the Minister, with the five-year plan, a report identifying the persons or bodies invited to participate in preparing the plan and those that actually participated in the preparation of the plan, describing the participation process and stating, where applicable, the points on which the proposals of the participants and the provisions of the plan diverged.

The agreement holder shall transmit a copy of the report to the participants.

166. The provisions of section 58.1 of the Forest Act apply to the report referred to in section 165 of this Act, and the provisions of section 58.3 of the Forest Act apply to a dispute between an agreement holder and a participant.

167. The provisions of sections 164 to 166 apply to five-year plans and modifications to those plans submitted to the Minister for approval after *(insert here the date of coming into force of this section)*.

168. The new provisions of sections 25.2 to 25.3.1 of the Forest Act apply to five-year plans and the modifications to such plans.

169. Annual plans submitted to the Minister for approval after (*insert here the date of coming into force of this section*) must be accompanied by a compilation and analysis of forest inventory data which, in the opinion of the Minister, allow the pertinence of the silvicultural treatments carried out during the year to be validated.

170. Every agreement shall include an undertaking by the holder

(1) to evaluate the quality of the silvicultural treatments carried out using the method specified in the Minister's instructions regarding the application of the ministerial order concerning the value of the silvicultural treatments admitted as payment of dues ;

(2) to evaluate, using the method specified in the forest management manual, the state of the forest stands resulting from the silvicultural treatments carried out by the holder, in order to determine their ability to achieve the expected results ;

(3) to evaluate, using the method specified in the Minister's instructions concerning the inventory of ligneous matter, the volume of ligneous matter left on the harvest site ;

(4) to apply the remedial program referred to in section 171.

Notwithstanding the first paragraph, an agreement holder may, with the authorization of and on the conditions determined by the Minister, carry out an evaluation using any other method of equal or superior effectiveness.

The sampling units and sample design used in an evaluation method must be submitted to the Minister for approval.

171. After observing that the substitution measures authorized pursuant to section 25.3 have failed to achieve the results set out in the general forest management plan, the Minister may require the holder of an agreement concerning the common area to submit a remedial program, on the conditions and within the time fixed by the Minister, containing measures to ensure that the results are achieved.

The Minister shall approve the program with or without modifications. The Minister may finalize the program if the agreement holder fails to submit a program within the time fixed under the first paragraph ; the agreement holder is bound to reimburse the Minister for the costs incurred in finalizing the program.

172. The Minister may, where an agreement holder fails to perform a contractual obligation referred to in section 170, perform the obligation at the expense of the agreement holder.

173. The annual report submitted to the Minister by an agreement holder after (*insert here the date of coming into force of this section*) must include the result of the evaluations referred to in section 170.

174. The information contained in a general, five-year or annual plan, or in the remedial program referred to in section 171, that is approved by the Minister after (*insert here the date of coming into force of this section*), and the information contained in the report referred to in section 165 and the annual report submitted to the Minister after that date may be consulted.

PROVISIONAL REGIME APPLICABLE TO FOREST MANAGEMENT AGREEMENTS AND FOREST MANAGEMENT CONTRACTS

175. The planning of forest management activities prior to 1 April 2005 under a forest management agreement is subject to the rules governing timber supply and forest management agreements during the same period, as if the agreement were a timber supply and forest management agreement.

176. The provisions of sections 73.4 to 73.6 concerning the contributions to be paid into the forestry fund apply to forest management agreements and forest management contracts taking effect or renewed after (*insert here the date preceding the date of coming into force of this section*).

An agreement or contract may provide for the application of any provision of Chapter III of Title I of the Forest Act, and of any provision of sections 170 to 174 of this Act.

IMPLEMENTATION OF FOREST MANAGEMENT ACTIVITIES ON THE BASIS OF NEW MANAGEMENT UNITS

177. For the establishment of the first general forest management plan for a new management unit delimited by the Minister pursuant to section 35.2 of the Forest Act and the related consultations, every holder of a current timber supply and forest management agreement or forest management agreement concerning an area containing all or part of the new unit is deemed to be the holder of an agreement concerning that unit.

The Minister shall prepare and send the report referred to in paragraph 8 of the new section 52 of the Forest Act to the holder of the forest management agreement, to allow it to be integrated into the general plan.

178. Once the first general plan for a new unit has been approved or established by the Minister, the Minister shall revise the territory covered by current agreements and the volumes of timber allocated, applying the new provisions of sections 77 to 77.3 of the Forest Act governing the five-year

revision of agreements and, in the case of a forest management agreement, the provisions of section 84.6 of that Act.

For that purpose, the presumption set out in section 177 is applicable to the percentage of the volume of timber, by species or group of species, that is allocated under the current agreement for the common area.

Where areas intended for forest production are withdrawn in the circumstances described in the new section 35.15 of the Forest Act, the new sections 77.4 and 77.5 of that Act shall apply. The same rule applies where areas are withdrawn following the establishment of the northern limit.

179. The Minister, after approving the annual management plan for a new unit, shall issue management permits under the new provisions of sections 85 and 86 of the Forest Act.

180. On 1 April 2005, the term of every agreement shall be extended by the length of time corresponding to the time elapsed since its last five-year extension or, if the agreement was granted less than five years previously, since the date on which it took effect, provided that the agreement holder has complied during the period concerned with the obligations imposed by this Act and the Forest Act.

181. The Minister shall update the acts evidencing agreements to take into account the revision of the areas and allocated volumes, the extension of their term, where applicable, and the other rules provided for by this Act by which they will be governed on 1 April 2005.

OTHER TRANSITIONAL PROVISIONS

182. For the purposes of the provisions of the Forest Act introduced by this Act in respect of forest management activities prior to 1 April 2005, a reference to a forest management unit is a reference to a common area, a reference to a plan for a management unit is a reference to the plan prepared by an agreement holder, a reference to the annual yields assigned to a unit is a reference to the annual yields provided for in an agreement and a reference to the annual yields assigned to a unit is a reference to the annual yields under the agreements.

183. The Minister may withdraw from a management unit an area used in calculating the annual allowable cut to take into account the classification of an exceptional forest ecosystem or a change in the boundaries of a classified ecosystem taking effect before 1 April 2005; the provisions of section 50 of the Forest Act shall apply.

The Minister may, as an exceptional measure, so modify the areas intended for forest production to take into account the issue of a permit for the cultivation and operation of a sugar bush or to take into account an agricultural activity.

184. The provisions of this Act apply to an agreement in force on the date of their coming into force.

However, the provisions introduced by sections 80 to 82 and 84 of this Act do not apply to current auxiliary timber supply guarantee agreements.

In addition, an agreement entered into under section 170.1 of the Forest Act before (*insert here the date of coming into force of section 115*) is renewable on the conditions that are applicable before that date.

185. Section 181 of the Forest Act (R.S.Q., chapter F-4.1), as it existed prior to (*insert here the date of coming into force of section 122 of this Act*), continues to apply in respect of offences under the regulatory provisions indicated pursuant to paragraph 19 of section 172 of that Act which were committed before (*insert here the date of coming into force of section 186.9, enacted by section 122 of this Act*).

186. No provision of this Act shall affect the existence of the sureties resulting from transfers of rights made pursuant to section 39 of the Forest Act.

The sureties shall affect the rights arising from the changes made with no further formalities and without requiring new entries in the public registers.

187. Any preparatory measure required to give effect to the new provisions upon their coming into force may be validly taken, including the holding of consultations and the issue of authorizations.

188. The Government may, by regulation, enact any other provision required for the carrying out of this Act.

A regulation made under this section may, once published and if it so provides, apply from any date not prior to the date of coming into force of the provision concerned.

Such a regulation must, however, be made no later than three years after the date of coming into force of the provision concerned.

189. The provisions of this Act come into force not later than 1 April 2005, on the date or dates to be fixed by the Government.

However, the following provisions come into force on the date fixed for each provision and will apply to forest management activities carried out after 31 March 2005 :

(1) section 30, on 1 September 2002;

(2) sections 42 to 46, 62 and 63, paragraphs 2 and 3 of section 70, section 71, to the extent that it enacts section 84.8, section 78, to the extent that it enacts sections 92.0.5 and 92.0.6, paragraph 5 of section 119, section 122,

to the extent that it enacts the second paragraph of section 184, sections 155 and 156, paragraph 2 of section 157 and sections 177 to 181, on 31 March 2004 ;

(3) sections 2, 32, 33, section 35, to the extent that it enacts section 43.1, sections 36, 38 to 41, 47, 50, 51, paragraph 1 of section 56 and sections 72 and 73, on 1 April 2005 ;

(4) section 52, on 31 August 2006.

In addition, the provisions of section 103 come into force on 23 May 2001.