



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 49

(2006, chapter 45)

An Act to amend the Forest Act and other legislative provisions and providing for special provisions applicable to the Territory of application of chapter 3 of the Agreement Concerning a New Relationship Between Le Gouvernement du Québec and the Crees of Québec for the Years 2006-2007 and 2007-2008

Introduced 15 November 2006

Passage in principle 30 November 2006

Passage 13 December 2006

Assented to 13 December 2006

EXPLANATORY NOTES

The main object of this bill is to establish new rules governing forest management activities in forests in the domain of the State.

Firstly, the bill grants the holder of a timber supply and forest management agreement the right to send, during a given year, a certain quantity of timber harvested in forests in the domain of the State to wood processing plants not referred to in the agreement. It also provides for other cases where changes in the destination of timber may be authorized by the Minister. The bill provides that, except in certain cases, an agreement holder may, with the authorization of the Minister, harvest an additional volume of timber in advance during a given year, specifying, however, that the average annual volume harvested during the period covered by the general forest management plan must not exceed the annual volume determined in the agreement for the management unit and the species or group of species concerned.

Secondly, as regards forest planning, the bill provides that the management strategies are determined by the Minister and that the decommissioning of road infrastructures and the restoration of forest productivity are to be planned in the five-year forest management activities program included in the general plan. Also, the bill specifically grants the Minister the power to decommission a road on land in the domain of the State with a view to sustainable development and integrated management of natural resources and lands in the domain of the State, or for any reason the Minister deems in the public interest.

The bill grants the Minister the power to delegate to a member of the personnel of the department the exercise of the powers conferred on the Minister under the Forest Act or a special Act relating to forest matters. It introduces changes to the financial assistance granted in the form of credit for carrying out a special forest management plan, to the process for recognizing the status of forest producer, to the functioning of regional agencies for private forest development and to the report on the state of Québec forests that the Minister is to submit to the National Assembly.

Lastly, special provisions applicable to the Territory of application of chapter 3 of the Agreement Concerning a New Relationship Between Le Gouvernement du Québec and the Crees of

Québec for the Years 2006-2007 and 2007-2008 are introduced in the bill to ensure that certain provisions provided for in chapter 3 of the agreement are applied. Amendments to the provisional regime applicable to timber supply and forest management agreements and consequential provisions are also provided for in the bill.

LEGISLATION AMENDED BY THIS BILL:

- Forest Act (R.S.Q., chapter F-4.1);
- Act respecting the Ministère des Ressources naturelles et de la Faune (R.S.Q., chapter M-25.2);
- Act to amend the Forest Act and other legislative provisions (2001, chapter 6).

Bill 49

AN ACT TO AMEND THE FOREST ACT AND OTHER LEGISLATIVE PROVISIONS AND PROVIDING FOR SPECIAL PROVISIONS APPLICABLE TO THE TERRITORY OF APPLICATION OF CHAPTER 3 OF THE AGREEMENT CONCERNING A NEW RELATIONSHIP BETWEEN LE GOUVERNEMENT DU QUÉBEC AND THE CREES OF QUÉBEC FOR THE YEARS 2006-2007 AND 2007-2008

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

- 1.** Section 2 of the Forest Act (R.S.Q., chapter F-4.1) is amended by inserting “other than road maintenance” after “forest management activity”.
- 2.** Section 3 of the Act is amended by replacing “the installation and maintenance of infrastructures, the carrying out of silvicultural treatments including reforestation and the use of fire, the repression of” by “installing, improving, maintaining and closing infrastructures, carrying out silvicultural treatments including reforestation and the use of fire, suppressing”.
- 3.** Section 32 of the Act is amended by replacing “construction or improvement work on” by “work to construct, improve or decommission”.
- 4.** Section 35.10 of the Act is amended by replacing “is bound” in the third paragraph by “is liable”, by inserting “and other forest management activities” after “the carrying out of the silvicultural treatments” in that paragraph and by inserting “and activities” after “the carrying out of the other treatments” in that paragraph.
- 5.** The Act is amended by inserting the following section after section 43.1:

“43.1.1. An agreement holder may, with no further formality than that described in the third paragraph, send timber harvested during the year which, under the agreement, was intended for the agreement holder’s wood processing plant to other processing plants operating under a timber supply and forest management agreement; the sum of the volumes of timber that may be sent to other processing plants during a given year may not exceed the volume of timber determined by regulation of the Government.

The sum of the volumes of timber from other wood processing plants operating under a timber supply and forest management agreement that are sent to the processing plant referred to in the agreement holder’s agreement during a given year may not exceed the volume of timber determined by

regulation of the Government. Additional volumes of timber equal to the volumes of timber that the agreement holder may have sent to other processing plants under the first paragraph may be added to that volume.

The agreement holder must, beforehand, submit to the approval of the Minister any modification to the annual management plan, specifying the wood processing plant or plants to which the timber is to be sent and the volume of timber of the species or groups of species sent to each. After making sure the change in destination is in conformity with this section, the Minister shall approve the annual plan and modify the management permit accordingly.

Volumes of timber whose destination was changed under section 43.2 are not taken into account in calculating volumes of timber under this section.”

6. Section 43.2 of the Act is amended by adding the following paragraph after the first paragraph:

“The Minister may also, on the request of an agreement holder, authorize the agreement holder to send part of the round timber harvested in the course of a year to a wood processing plant not referred to in the agreement to make up for an inadequate supply for that processing plant resulting from the economic context, if the Minister considers that transferring the timber will prevent the temporary closure or reduce the duration of the closure of the processing plant. The Minister may also, on the request of agreement holders, authorize exchanges of timber between two wood processing plants to reduce timber transportation costs. In making a decision, the Minister must take into account the impact the decision will have on the local and regional economy and on the marketing of timber from private forests.”

7. Section 52 of the Act, replaced by section 42 of chapter 6 of the statutes of 2001, is amended by inserting “by the Minister” after “selected” in paragraph 3.

8. Section 53 of the Act, replaced by section 42 of chapter 6 of the statutes of 2001, is amended by inserting the following sentence after the first sentence: “It shall also identify, among the existing road infrastructures and the road infrastructures to be built, those to which access must be blocked or that must be decommissioned during the period covered by the general plan, and in the case of decommissioning, it shall state which roads or rights-of-way are to be returned to forest productivity.”

9. Section 59.1 of the Act, enacted by section 46 of chapter 6 of the statutes of 2001 and amended by section 17 of chapter 16 of the statutes of 2003, is again amended

(1) by inserting “or for decommissioning road infrastructures and, where applicable, returning them to forest productivity” after “for the areas referred to in section 53” in the second sentence of subparagraph 1 of the first paragraph;

(2) by adding “or, under section 43.1.1, intended for other wood processing plants” at the end of subparagraph 5 of the first paragraph.

10. Section 60 of the Act, replaced by section 47 of chapter 6 of the statutes of 2001 and amended by section 19 of chapter 16 of the statutes of 2003, is again amended by replacing “the silvicultural treatments” in subparagraph 1 of the first paragraph by “the silvicultural treatments and other forest management activities”.

11. Section 70 of the Act, replaced by section 52 of chapter 6 of the statutes of 2001, is amended by replacing “for the processing plant mentioned in the agreement” in subparagraph 4 of the second paragraph by “for the processing plant referred to in the agreement or, under this Act, for another processing plant”.

12. Section 79.2 of the Act is amended by adding the following paragraph after the first paragraph:

“Where financial assistance is granted in the form of credit and the credit exceeds the dues payable by the agreement holder, the excess of the credit over the dues payable is paid out to the holder by the Minister if the document attesting the financial assistance so states. However, the excess amount must in all cases be reduced by the unpaid contributions and assessments that the agreement holder owes respectively to the forestry fund or to a forest protection organization recognized by the Minister under this Act.”

13. Section 86 of the Act is amended by replacing the first paragraph by the following paragraph:

“**86.** A forest management permit authorizes an agreement holder to harvest, in the management unit, during the period covered by the annual forest management plan and subject to the reductions made in accordance with the law, a volume of timber of one or several species up to the annual volume set in the agreement or the volume increased under this Act, and to carry out the other forest management activities set out in the annual plan.”

14. The Act is amended by inserting the following section after section 92.0.1:

“**92.0.1.1.** During a year other than the last year of the period covered by the general forest management plan, and with the authorization of the Minister, an agreement holder may harvest in advance an additional volume of timber not exceeding 10% of the annual volume allocated under an agreement for the management unit and the species or group of species concerned. However, at no time may the sum of the additional volumes harvested in advance during such years exceed, for a management unit and the species or group of species concerned, 15% of the allocations mentioned in the agreement.

Despite the first paragraph, no agreement holder may harvest in advance an additional volume of timber if the Minister, during the year concerned, applies the reduction under section 46.1 or 79.1, or if the agreement holder has not previously, during that year, harvested all the timber possible under section 92.0.1.

During the last year of the period covered by the general plan, the Minister must adjust, where applicable, the management permit for that year to ensure that the average annual volume harvested by the agreement holder does not exceed, for the period covered by the general plan, the volume of timber allocated under the agreement for the management unit and species or group of species concerned.”

15. Section 120 of the Act is amended

(1) by replacing “ownership of a forest area of not less than four hectares in a single block,” in subparagraph 1 of the first paragraph by “ownership of a parcel of land or group of parcels of land that may constitute a unit of assessment within the meaning of section 34 of the Act respecting municipal taxation (chapter F-2.1) and whose total forest area is not less than four hectares,”;

(2) by replacing the second sentence of the second paragraph by the following sentence: “The period covered by the certificate must correspond to that covered by the forest management plan, which cannot exceed 10 years.”

16. The Act is amended by inserting the following section after section 124.10:

“124.10.1. In order to standardize the rules of ethics and professional conduct applicable to agency board members, the Minister may require that all, or one or more, agencies, make the amendments the Minister determines to their internal by-laws. The Minister may also require that an agency make the amendments the Minister determines to the provisions in its internal by-laws that deal with the quorum for meetings of the board if the Minister considers that the rules no longer facilitate the holding of meetings.

An agency to which the request is made must enact the amending by-law. The by-law comes into force on the date it is enacted by the board and need not be ratified by all the board members.

The Minister may enact the amending by-law if the agency delays unduly in doing so. The by-law then comes into force as soon as the chairman is notified.”

17. Section 124.18 of the Act is amended by adding the following sentences at the end of the second paragraph: “The plan is available for consultation at the agency’s head office or any other place determined by the agency. Any person or body may obtain a copy of all or part of the plan by paying the agency the cost of copying it.”

18. Section 124.21.1 of the Act is replaced by the following section:

“**124.21.1.** On the request of the Minister, the agency must revise its protection and development plan, on the same conditions as when preparing its initial plan.

On the same conditions, the agency may revise its plan on its own initiative.”

19. Section 124.36 of the Act is amended by adding the following paragraph after the second paragraph:

“The agency must publish its financial statements and its annual report of activities.”

20. Section 172 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 6 of the first paragraph:

“(6.1) determine, for the purposes of the first and second paragraphs of section 43.1.1, the volume of timber that, during a given year, may be sent to wood processing plants not referred to in the holder’s agreement and the volume of timber that, during a given year, may be sent from other wood processing plants to a wood processing plant referred to in a holder’s agreement; these volumes of timber may be expressed as a percentage of the annual volumes set in the holder’s agreement or be based on any other rule for calculating them determined by regulation of the Government;”;

(2) by inserting the following subparagraph after subparagraph 18.3 of the first paragraph:

“(18.3.1) limit the total amount of all or part of the fees a person must pay during a given year for the examination, during that year, of the files opened under subparagraph 18.3;”.

21. Section 176 of the Act is amended

(1) by replacing “to a destination other than the processing plant specified in the permit” by “to a destination other than the processing plant or processing plants specified in the permit”;

(2) by adding the following paragraphs after the first paragraph:

“Every holder of a timber supply and forest management agreement who, contrary to section 43.1.1, sends to a processing plant specified in the permit that is not the plant referred to in the agreement, timber of a species or groups of species the holder was not authorized to send or that exceeds the volume determined in the agreement, or who sends to that plant timber that was not harvested during the year, is guilty of an offence and liable to a fine of

\$40 to \$200 for each cubic metre of timber sent to that plant in contravention of this section.

The following persons are guilty of an offence and liable to a fine of \$40 to \$200 for each cubic metre of timber exceeding the volumes referred to in the first or second paragraph of section 43.1.1:

(1) every holder of a timber supply and forest management agreement who, during a given year, sends volumes of timber in excess of the volume determined in the first paragraph of section 43.1.1 to wood processing plants not referred to in the agreement;

(2) every holder of a timber supply and forest management agreement who, during a given year, allows volumes of timber from other wood processing plants in excess of the volume determined in the second paragraph of that section to be sent to the wood processing plant referred to in the agreement.”

22. Section 182 of the Act is amended by replacing “relating to the construction or improvement of a forest road” in paragraph 2 by “relating to the construction, improvement or decommissioning of a forest road”.

23. Section 212 of the Act is amended by replacing the first paragraph by the following paragraph:

“**212.** During the year 2009, the Minister shall table in the National Assembly a report on the state of Québec forests covering the period between 1 April 2000 and 31 March 2008. Every five years thereafter, the Minister shall table in the National Assembly a report on the state of Québec forests covering the five-year period following the period covered by the previous report.”

24. Section 256.1 of the Act is amended by replacing the second paragraph by the following paragraph:

“The Minister may also, in writing and to the extent the Minister determines, generally or specially delegate the exercise of the powers conferred on the Minister under this Act or a special Act relating to forest matters under the Minister’s administration to a member of the personnel of the department or to the incumbent of a position. If the Minister delegates a power under which the Minister is required by law to hold consultations with other ministers in the exercise of that power, the delegate must hold the necessary consultations with the departments concerned and, if no agreement is reached, so inform the Minister.”

25. The Act respecting the Ministère des Ressources naturelles et de la Faune (R.S.Q., chapter M-25.2) is amended by inserting the following section after section 11.2:

11.3. Unless the law provides otherwise, the Minister may, with a view to sustainable development and integrated management of natural resources and lands in the domain of the State, or for any reason the Minister deems of public interest, decommission a road in the lands in the domain of the State.”

26. Section 73 of the Act to amend the Forest Act and other legislative provisions (2001, chapter 6) is amended by replacing “only for the supply of the plant mentioned in the agreement” in the second paragraph of the section 86 it replaces by “only for the supply of the plants referred to in the agreement” and by replacing “the processing plant supplied” in the third paragraph of that section by “the processing plant or plants supplied”.

27. Section 173 of the Act is amended by adding the following paragraph after the first paragraph:

“The annual report on the forest management activities carried out by the agreement holder between 1 April 2007 and 31 March 2008 must also state, in addition to the volume of round timber the agreement holder intended for the wood processing plant referred to in the agreement, the volume of round timber, by species or group of species determined in the agreement and by quality of timber, that the agreement holder, under the Forest Act, intended during that year for a wood processing plant not referred to in the agreement.”

SPECIAL PROVISIONS APPLICABLE TO THE TERRITORY
OF APPLICATION OF CHAPTER 3 OF THE AGREEMENT
CONCERNING THE NEW RELATIONSHIP BETWEEN LE
GOUVERNEMENT DU QUÉBEC AND THE CREES OF QUÉBEC
FOR THE YEARS 2006-2007 AND 2007-2008

28. For the purposes of sections 3.55 to 3.59 of chapter 3 of the Agreement referred to in section 95.6 of the Forest Act (R.S.Q., chapter F-4.1), the Minister calculates, at 31 December 2006, the shortfall in the annual volume that needs to be made up to reach the annual volume of 350,000 cubic meters of timber set in section 3.59 of the Agreement.

29. The shortfall in the annual volume calculated by the Minister at 31 December 2006 must, if it cannot be made up otherwise under the Forest Act, be recovered from one or more holders of a timber supply and forest management agreement, determined by the Minister, that carry on their activities in the common areas located wholly or partly in the territory referred to in section 95.7 of the Forest Act, except Nabakatuk Forest Products Inc. and Société en commandite Scierie Opitciwan, the holders of the agreements registered as No. 34595031601 and No. 36699011101, respectively.

For that purpose, the Minister deducts from the 2006-2007 and 2007-2008 management permits of the agreement holder or agreement holders concerned a volume of timber belonging to the FSPL group of species (fir, spruce, grey pine and larch) that the Minister determines; the sum of the volumes to be recovered from the agreement holder or agreement holders must correspond to the shortfall in the annual volume referred to in section 28.

In exercising the discretionary power under this section, the Minister must try to avoid dispersing the timber allocations of Cree enterprises.

30. If a reduction cannot be applied to an agreement holder during the year 2006-2007, it is postponed until the following year and added to the reduction for 2007-2008.

31. For the purposes of sections 28 to 30, the Minister may require that the agreement holder or agreement holders concerned submit modifications to their 2006-2007 and 2007-2008 annual forest management plans within the time the Minister determines.

32. Financial compensation is granted to an agreement holder affected by the reduction who has carried on, as part of a plan approved by the Minister under the Forest Act, forest management activities that have not been credited for the payment of dues, if the agreement holder proves that he may no longer carry on such activities, either at the present time or in the future, owing to the application of sections 28 to 31.

Compensation is determined by the Government on the basis of the value of the activities concerned, and granted once the agreement holder has been given the opportunity to submit observations.

The application of sections 28 to 31 does not entitle the agreement holders to any other compensation.

FINAL PROVISIONS

33. For the purposes of the first paragraph of section 86 of the Forest Act enacted by section 13, a reference to a management unit in relation to a forest management activity carried on before 1 April 2008 is a reference to a common area.

34. Section 4, sections 7 to 11 and section 26 of this Act apply to forest management activities carried on after 31 March 2008.

35. This Act comes into force on 13 December 2006, except

- (1) sections 7 to 9, which come into force on 31 March 2007;
- (2) section 13, which comes into force on 1 April 2007;
- (3) sections 10, 14 and 26, which come into force on 1 April 2008;
- (4) section 11, which comes into force on 31 August 2009; and

(5) sections 5 and 21, which come into force on the date of coming into force of the first regulation made under subparagraph 6.1 of the first paragraph of section 172 of the Forest Act, enacted by paragraph 1 of section 20 of this Act.