



Province of Alberta

## **FORESTS ACT**

Revised Statutes of Alberta 2000  
Chapter F-22

Current as of December 17, 2014

Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Regulations

The following is a list of the regulations made under the *Forests Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Forests Act</b>		
Exploration.....	284/2006 .....	35/2007, 68/2008, 187/2011, 170/2012
Forest Resources Improvement.....	152/97 .....	27/99, 68/99, 101/2000, 206/2001, 251/2001, 170/2002, 233/2004, 8/2005, 167/2005, 79/2007, 206/2009, 37/2010, 6/2011, 31/2012, 170/2012, 38/2013, 5/2018
Hinton Training Centre Rates (Incorporation of Directive) .....	39/2014	
Metallic and Industrial Minerals		
Exploration.....	213/98 .....	206/2001, 251/2001, 27/2002, 63/2003, 227/2003, 35/2007, 68/2008, 189/2009, 104/2011, 31/2012,

		170/2012, 62/2013, 206/2013, 198/2014, 183/2015, 178/2017
Scaling.....	195/2002 .....	41/2010, 99/2012
Timber.....	404/92 .....	250/94, 206/2001, 26/2003, 261/2005, 42/2010, 170/2012, 30/2016
Timber Management .....	60/73 .....	72/73, 102/73, 127/73, 298/73, 123/74, 163/74, 284/74, 16/75, 175/75, 10/76, 220/77, 378/78, 338/79, 124/80, 301/81, 181/82, 245/84, 163/85, 297/87, 60/91, 18/94, 119/94, 182/95, 206/95, 296/95, 67/96, 200/96, 153/97, 28/99, 102/2000, 242/2000, 206/2001, 27/2002, 109/2003, 265/2003, 266/2003, 234/2004, 168/2005, 78/2007, 238/2007, 68/2008, 205/2008, 205/2009, 27/2010, 76/2010, 31/2012, 170/2012, 39/2013, 62/2013, 60/2017



# **FORESTS ACT**

## Chapter F-22

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### **Definitions**

**1** In this Act,

- (a) “annual allowable cut” means the total volume of timber that may be harvested in one year or the total amount of forested land on which the timber may be harvested in one year;
- (b) “Crown charges” means all charges, fees, assessment levies and dues in respect of Crown timber, costs, expenses and penalties imposed under this Act or the regulations or payable to the Crown by virtue of any contract;
- (c) “Crown timber” means timber grown on public land, except timber harvested pursuant to a timber disposition;
- (c.1) “director” means, except in sections 66 and 67, a person designated as a director under section 2.1;

- (d) “forest land” means public land intermittently covered with forest growth;
- (e) “forest officer” means
  - (i) a forest officer appointed under section 2, and
  - (ii) a person who is a forest officer under section 3;
- (f), (g) repealed 2009 cA-26.8 s77(2);
- (h) “management unit” means an area of forest land designated by the Minister as a management unit;
- (i) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (j) “primary timber products” includes rough and dressed lumber, logs, untreated round wood and ties, wood chips and any other products that are designated in the regulations;
- (k) “quota holder” means a holder of a coniferous timber quota or a deciduous timber allocation;
- (l) “timber” means all trees living or dead, of any size or species and whether standing, fallen, cut or extracted;
- (m) “timber disposition” means a forest management agreement, timber licence or timber permit;
- (n) “timber quota” means a share of the allowable cut of coniferous timber within a forest management unit and may also include an allocation by area or volume of deciduous timber within a forest management unit.

RSA 2000 cF-22 s1;2009 cA-26.8 s77(22)

## **Part 1 Administration**

### **Forest officers**

**2(1)** There may be appointed in accordance with the *Public Service Act* forest officers as required for the purposes of this Act and the regulations.

**(2)** In addition to the forest officers appointed pursuant to subsection (1), the Minister may appoint as a forest officer any employee of the Government.

RSA 1980 cF-16 s2



**Designation of directors**

**2.1(1)** The Minister may by order designate any person as a director for the purposes of all or part of this Act and the regulations.

**(2)** The Minister may, with respect to any director, and a director may, with respect to that director personally, designate any person as an acting director to act in the director's place in the event of the director's absence or inability to act.

**(3)** A designation under this section may direct that the authority conferred by the designation is to be exercised subject to any terms and conditions prescribed in the designation, including limitations on the scope of the designation.

2009 cA-26.8 s77(3)

**Forest officers by virtue of appointments to other offices**

**3** The following individuals are forest officers by virtue of their appointments to the offices respectively referred to, namely individuals appointed as

- (a) members of the Royal Canadian Mounted Police,
- (b) conservation officers, under section 1 of Schedule 3.1 to the *Government Organization Act*,
- (c) wildlife officers, under section 1.1(1) of the *Wildlife Act*,
- (d) members of a police service other than the Royal Canadian Mounted Police whom the director may instruct in writing to act in respect of this Act and the regulations,
- (e) a peace officer under the *Peace Officer Act* authorized by the peace officer's appointment under that Act to enforce all or part of this Act and the regulations, and
- (f) officers appointed under section 5 of the *Public Lands Act*.

RSA 2000 cF-22 s3;2002 c30 s9;2009 cA-26.8 s77(4)

**Regulations**

**4** The Lieutenant Governor in Council may make regulations

- (a) governing the procedures and methods by which and the terms and conditions on which permits, licences, timber quotas and agreements may be acquired, used or assigned;
- (b) governing the procedures and circumstances by which permits, licences, timber quotas and agreements may be varied, suspended, cancelled or reinstated;

- (c) respecting the various Crown charges that may be collected, timber appraisal procedures, rates of Crown charges, the time and method of payment of Crown charges and the means of enforcement of payment;
- (d) prescribing the charges to be made for damage to timber stands in the cutting of roads, lines, rights of way, or other disturbance of the forest;
- (e) establishing fees to be paid to the Minister for the giving of the Minister's consent to an assignment of a timber disposition or a timber quota;
- (f) governing all aspects of reforestation and afforestation on public land;
- (g) designating primary timber products;
- (h) regulating all primary timber processing and primary timber processing plants;
- (i) regulating the transport of timber and timber products and all matters incidental to that transport;
- (j) governing the keeping of records relating to timber production and sales and purchases of timber and timber products;
- (k) governing the management and use of forest land;
- (l) prescribing contraventions of an ALSA regional plan, this Act or the regulations in respect of which an administrative penalty may be imposed;
- (l.1) prescribing the form and contents of notices of administrative penalties for the purposes of section 60;
- (l.2) prescribing the amounts, or respecting the manner of determining the amounts, of administrative penalties that may be imposed under section 59;
- (l.3) respecting any other matter necessary for the administration of the system of administrative penalties;
- (l.4) prescribing the form and manner of publication of information respecting any enforcement action taken under this Act or the regulations for the purpose of section 65;

- (l.5) prescribing provisions of this Act or the regulations as provisions the contravention of which is an offence for the purposes of section 50;
- (l.6) prescribing provisions of this Act or the regulations as provisions the contravention of which is an offence to which section 54(3) applies;
- (l.7) providing for the recovery of proceeds and economic benefits derived from a contravention of this Act or the regulations;
- (m) respecting any other matter necessary or advisable to carry out effectively the intent and purposes of this Act.

RSA 2000 cF-22 s4;2009 cA-26.8 s77(5)

### **Regulations**

#### **5** The Minister may make regulations

- (a) governing logging methods and wood utilization standards;
- (b) specifying standard terminology and other specifications to be adhered to in the preparation of plans, maps and other related documents required by this Act or the regulations;
- (c) prescribing forms, notices, records and accounts;
- (d) prescribing rates to be charged for the use of employees and equipment and facilities of the Minister's Department;
- (e) governing all matters pertaining to scaling and scalers;
- (f) establishing training programs and facilities.

RSA 1980 cF-16 s5

### **Adoption or incorporation of rules, directives, etc.**

**5.1** A regulation under this Act may adopt or incorporate, in whole or in part, with or without modification, any rule, directive, code, standard or guideline that relates to any matter in respect of which a regulation may be made under this Act.

2009 cA-26.8 s77(6)

### **Administration of public land**

**6** If the member of the Executive Council charged with the administration of the *Public Lands Act* is a person other than the Minister,

- (a) the Minister has the administration of all public land that is contained in or subject to timber dispositions for the purposes of this Act, and

- (b) the member of the Executive Council charged with the administration of the *Public Lands Act* has the administration of the public land referred to in clause (a) for the purposes of the *Public Lands Act*.

RSA 2000 cF-22 s6;2009 cA-26.8 s77(7)

#### **Public land**

**7** The Minister shall administer and manage timber on public land under the Minister's administration and standing and cut timber on all road allowances.

RSA 1980 cF-16 s7

#### **Delegation of powers**

**8(1)** The Minister may in writing delegate to any employee of the Minister's Department or to any forest officer empowered under section 3 any power, duty or function conferred on the Minister by this Act other than the power to make regulations.

**(2)** If, pursuant to subsection (1), the Minister delegates to any person any power, duty or function, any reference in this Act to the Minister in connection with that power, duty or function shall be construed as also referring to that person.

RSA 1980 cF-16 s8

#### **Prohibited uses**

**9** Unless authorized by the director, no person shall use except in an emergency, damage, destroy or remove any sign, tool, equipment, material or structure left, situated or erected on forest land by the director or any officer.

RSA 2000 cF-22 s9;2009 cA-26.8 s77(8)

#### **Forest growth**

**10** Except as may be authorized under this Act or the regulations, no person shall

- (a) cut, damage or destroy, or
- (b) cause to be cut, damaged or destroyed

any forest growth on forest land.

RSA 2000 cF-22 s10;2009 cA-29.8 s77(9)

**11** Repealed 2009 cA-26.8 s77(10).

#### **Order to comply with Act**

**12(1)** When, on reasonable and probable grounds, the director believes that a person is contravening this Act or the regulations,

the director may order that person to do or discontinue doing any act, as the case may be.

(2) When a person fails to comply with an order of the director under subsection (1), the director or any person authorized by the director may apply to a Court of Queen's Bench judge sitting in chambers for an order

- (a) restraining the person, the person's employees or agents from continuing the contravention, or
- (b) requiring the person, the person's employees or agents to comply with the provisions of this Act or the regulations referred to in the director's order.

RSA 2000 cF-22 s12;2009 cA-26.8 s77(11)

## **Part 2 Crown Timber**

### **Application of Part**

**13** This Part applies to Crown timber.

RSA 1980 cF-16 s13

### **Forest management units**

**14(1)** For the purposes of administration of this Part, the director may divide forest land into forest management units.

(2) The director may determine the annual allowable cut of timber with respect to each forest management unit.

RSA 2000 cF-22 s14;2009 cA-26.8 s77(12)

### **Disposal of Crown timber**

**15** Crown timber may be disposed of under this Act or the regulations in one or more of the following ways:

- (a) pursuant to a forest management agreement;
- (b) pursuant to the sale of timber quota certificates and the issue of timber licences to timber quota holders;
- (c) pursuant to a timber permit.

RSA 2000 cF-22 s15;2009 cA-26.8 s77(13)

### **Forest management agreements**

**16(1)** The Minister, with the approval of the Lieutenant Governor in Council, may enter into a forest management agreement with any person to enable that person to enter on forest land for the purpose of establishing, growing and harvesting timber in a manner designed to provide a yield consistent with sustainable forest management principles and practices.

(2) Except as against the Crown and subject to any agreement to the contrary, ownership of all Crown timber on land subject to a forest management agreement or forest management lease is, during the term of the agreement or lease, vested in the holder of the agreement or lease, who is entitled to reasonable compensation from any person who causes loss of or damage to any of the timber or any improvements created by the holder.

(3) No person shall assign a forest management agreement without the prior consent in writing of the Minister and an assignment without the consent of the Minister is void.

(4) An assignment of the whole or part of the area or volume comprising a forest management agreement must be an unconditional assignment of the entire interest of the assignor in the whole or part of the forest management agreement.

RSA 2000 cF-22 s16;2009 cA-26.8 s77(14)

#### Quotas

**17(1)** When a forest management unit has been established and an annual allowable cut of timber specified, the director may allocate timber quotas.

(2) A coniferous timber quota shall allocate the volume or area of coniferous timber that the quota holder may harvest.

(3) A deciduous timber quota shall allocate the volume or area of deciduous timber that the quota holder may harvest.

(4) Notwithstanding that a quota is issued for coniferous timber or deciduous timber, the director may

- (a) with respect to a coniferous timber quota authorize the holder to harvest a limited amount of deciduous timber as incidental to the holder's main harvesting, and
- (b) with respect to a deciduous timber quota authorize the holder to harvest a limited amount of coniferous timber as incidental to the holder's main harvesting

but in either case the authorization shall specify the location, time and the amount of forest land on which the timber may be so harvested or the volume of timber that may be so harvested in addition to the quota held.

RSA 2000 cF-22 s17;2009 cA-26.8 s77(15)

#### Conditions

**18(1)** Subject to compliance with the regulations and with any terms and conditions the director may prescribe, the purchase of a

timber quota entitles the holder to harvest timber in accordance with the quota for a specified period not exceeding 20 years.

(2) When a timber quota certificate has been issued, the quota holder shall prepare, at the request of the director, a general development plan for the director's approval with respect to the forest land for which the quota was issued.

(3) Following the issue of a timber quota certificate, the quota holder is liable to pay holding and forest protection charges at the rates and at the times prescribed by the regulations.

(4) A timber quota holder shall not commence harvesting timber until the quota holder has obtained a timber licence.

(5) The harvesting of timber under the authority of a quota certificate must be carried out, subject to section 19, in consecutive 5-year harvest periods, each called a quadrant.

RSA 2000 cF-22 s18;2009 cA-26.8 s77(16)

#### **Depletion of timber**

**19(1)** In order to attain within a forest management unit a proper balance between growth and depletion of timber, the director may from time to time fix or alter the volume of timber that may be harvested or the amount of forest land on which the timber may be harvested by a timber quota holder during each quadrant.

(2) A quota holder who fails to harvest the authorized volume of timber or the timber on the authorized amount of forest land during a quadrant is not entitled to an increased authorized cutting volume of timber or an increased authorized amount of forest land on which to cut timber for any of the other quadrants.

RSA 2000 cF-22 s19;2009 cA-26.8 s77(17)

#### **Renewal of quota**

**20** If a timber quota holder is not and has not been in default or in breach of this Act or the regulations either during the term or at the expiration of the quota holder's quota and in the director's opinion there is adequate timber available in the forest management unit to justify the renewal of the quota, the quota holder is entitled to have the quota holder's quota renewed, subject to any modifications or conditions that the director considers necessary.

RSA 2000 cF-22 s20;2009 cA-26.8 s77(18)

#### **Timber licence**

**21(1)** A timber quota holder shall be issued a timber licence on compliance with subsection (2).

(2) An applicant for a timber licence shall

- (a) deposit with the director security in a form and an amount prescribed by the regulations to ensure the performance of the applicant's obligations as a licensee,
  - (b) comply with all other requirements of the regulations, and
  - (c) pay the assessed fees and costs in relation to cruising and the issue of the licence.
- (3)** A holder of a timber licence shall prepare an operating plan for each year of operations and have the plan approved by the director.
- (4)** The timber licence authorizes the person named in it to harvest timber and shall state
- (a) the land on which the timber may be harvested,
  - (b) the period of time within which the timber may be harvested,
  - (c) the timber to be harvested, and
  - (d) the terms and conditions on which the licence is granted.
- (5)** Subject to the regulations, a holder of a timber licence shall pay timber dues as prescribed by the licence, the Act or the regulations on the timber cut by the holder and
- (a) pay a reforestation levy based on the volume of timber cut, or
  - (b) progressively reforest any land where the holder has harvested or an equivalent amount of forest land within the management unit, whichever the director directs.

RSA 2000 cF-22 s21;2009 cA-26.8 s77(19)

#### **Timber permit**

- 22(1)** The director may grant or sell timber permits in accordance with the regulations.
- (2)** An applicant for a timber permit shall
- (a) deposit with the director security in a form and in an amount prescribed by the regulations to ensure the performance of the applicant's obligations as a permittee,
  - (b) comply with all other requirements of the regulations, and
  - (c) pay the fees and costs as specified in the regulations.



(3) A holder of a timber permit shall, if requested by the director, prepare an operating plan for the holder's first and each subsequent year of operation and have the plan approved by the director.

(4) The timber permit authorizes the person named in it to harvest timber and shall state

- (a) the land on which the timber may be harvested,
- (b) the period of time within which the timber may be harvested,
- (c) the timber to be harvested, and
- (d) the terms and conditions on which the permit is issued.

(5) Subject to the regulations, a holder of a timber permit shall pay timber dues as prescribed by the permit, the Act or the regulations on the timber cut by the holder and

- (a) pay a reforestation levy based on the volume of timber cut, or
- (b) progressively reforest any land where the holder has harvested or an equivalent amount of forest land within the management unit, whichever the director directs.

RSA 2000 cF-22 s22;2009 cA-26.8 s77(20)

#### Restrictions

**23** No timber licence or timber permit, except for non-commercial use, may be issued until the applicant has satisfied the director that the applicant has complied with the *Workers' Compensation Act*.

RSA 2000 cF-22 s23;2009 cA-26.8 s77(21)

#### Minors

**24** No person who is a minor shall acquire an agreement, licence or permit by application or transfer.

RSA 1980 cF-16 s24

#### Non-compliance

**25(1)** The director may, with respect to a timber quota, timber licence or timber permit,

- (a) suspend it indefinitely or for a fixed period,
- (b) cancel it,
- (c) reduce its term, or

(d) realize on the security deposited by the holder,

if the holder of the quota, licence or permit does any of the things referred to in subsection (2).

**(2)** The director may act under subsection (1) if the holder of a timber quota, timber licence or timber permit

- (a) fails to cut the authorized volume of timber or the timber on the authorized amount of forest land during a quadrant,
- (b) harvests more timber than is authorized during a quadrant,
- (c) fails to pay Crown charges as they become due,
- (d) fails to comply with any term or condition of the quota, licence or permit,
- (e) fails to carry on operations in accordance with the holder's approved operating plan,
- (f) contravenes this Act or the regulations, or
- (g) fails to comply with an order of the director made pursuant to this Act, the *Forest and Prairie Protection Act* or the *Public Lands Act*.

**(3)** With respect to a forest management agreement the Minister may, notwithstanding the provisions of the agreement,

- (a) suspend it,
- (b) with the prior approval of the Lieutenant Governor in Council, cancel it, or
- (c) realize on the security deposited by the holder

if the holder does any of the things referred to in subsection (4).

**(4)** The Minister may act under subsection (3) if the holder

- (a) contravenes this Act or the regulations,
- (b) fails to comply with any term or condition of the agreement, or
- (c) fails to comply with any order of the director authorized by this Act or the *Forest and Prairie Protection Act*.

**(4.1)** The director may cancel or suspend a timber disposition or timber quota if the holder of the timber disposition or timber quota is indebted to the Crown.

**(5)** The Minister may reinstate

- (a) a suspended or cancelled timber quota, or
- (b) with the approval of the Lieutenant Governor in Council, a suspended or cancelled forest management agreement,

on application by the holder within 6 months after the date of suspension or cancellation if the Minister is satisfied that the holder has reasonably complied with any order that the Minister has made for the purpose of reinstating the quota or agreement.

**(6)** The Minister may reinstate a suspended or cancelled timber licence or timber permit on application by the holder within 60 days after the date of suspension or cancellation if the Minister is satisfied that the holder has reasonably complied with any order that the Minister has made for the purpose of reinstating the timber licence or timber permit.

RSA 2000 cF-22 s25;2009 cA-26.8 s77(22)

#### **Alteration of quota, etc.**

**26** When in the opinion of the director it is in the public interest to change any provision or condition or the area of a timber quota, timber licence or timber permit, the director may

- (a) alter or vary any provision, condition or area of, or
- (b) cancel

the quota, licence or permit 30 days after serving a notice of the director's intention to do so by registered mail on the holder of the quota, licence or permit.

RSA 2000 cF-22 s26;2009 cA-26.8 s77(23)

#### **Compensation**

**27** When

- (a) a timber quota holder,
- (b) the holder of a timber licence, or
- (c) the holder of a timber permit

has the holder's quota, licence or permit altered or varied in any manner other than under section 19 or cancelled by the director, if the alteration, variation or cancellation was not due to any default

of the holder, the Minister may pay compensation to the holder in an amount that the Minister considers just.

RSA 2000 cF-22 s27;2009 cA-26.8 s77(24)

### Ownership

**28(1)** A timber quota holder, whether or not the quota holder holds a timber licence, and a holder of a timber permit do not acquire any right or interest in the forest land that is the subject of the quota, licence or permit, but may enter on the land for the purpose of doing or complying with those things specified in the licence or permit or in this Act or the regulations.

**(2)** No person shall assign a timber quota, timber licence or timber permit without the prior consent in writing of the director and any assignment without the consent of the director is void.

**(3)** An assignment of the whole or part of the area or volume comprising a timber quota, timber licence or timber permit must be an unconditional assignment of the entire interest of the assignor in the whole or part of the timber quota, timber licence or timber permit.

**(4)** The holder of a timber licence or timber permit becomes the owner of timber authorized to be cut pursuant to the licence or permit when the timber is actually cut by the holder or on the holder's behalf, but is nonetheless entitled, except as against the Crown, to compensation from any person who deprives the holder of the holder's right to cut and recover any timber.

RSA 2000 cF-22 s28;2009 cA-26.8 s77(25)

### Prohibition

**28.1** No person shall directly or indirectly buy, sell, trade or barter or offer to buy, sell, trade or barter access to any forest land for the purpose of establishing, growing, harvesting or removing timber on or from any forest land.

2009 cA-26.8 s77(26)

### Records

**29(1)** The holder of a timber licence or timber permit or a party to a forest management agreement shall in accordance with the regulations keep complete and accurate records of the quantity of timber harvested, manufactured and disposed of by the holder or party and shall produce the records at the request of a forest officer.

**(2)** The holder of a timber licence or timber permit or a party to a forest management agreement shall in accordance with the regulations keep complete and accurate records of the holder's or party's reforestation operations and shall produce the records at the request of a forest officer.

(3) A purchaser shall keep an accurate record of all timber and primary timber products purchased by the purchaser and shall produce the records at the request of a forest officer.

RSA 2000 cF-22 s29;2009 cA-26.8 s77(27)

#### **Minister or director to determine compliance**

**29.1(1)** The Minister or director, in the exercise of the Minister's or director's respective powers and duties under this Act or the regulations, or under any applicable ALSA regional plan, may determine whether the terms and conditions of a timber disposition or timber quota are being performed, observed or complied with, and the Minister's or the director's decision, as the case may be, is final and binding on the holder of the timber disposition or timber quota.

(2) At a time and in a form required by the Minister or the director, as the case may be, the holder of a timber disposition or timber quota shall furnish proof by declaration or otherwise that the holder has complied with any or all of the provisions of the holder's timber disposition or timber quota.

2009 cA-26.8 s77(28)

#### **Rates of timber dues**

**30** The Lieutenant Governor in Council may make regulations respecting the rates of timber dues payable in respect of Crown timber and may make provision in the regulations for the determination of timber dues on the basis of the appraised value of the standing timber.

RSA 1980 cF-16 s30;1996 c28 s20

#### **Transport**

**31(1)** No person shall transport or cause to be transported logs, trees or wood chips, except dry pulpwood or Christmas trees, to any destination outside Alberta from any forest land.

(2) Notwithstanding subsection (1), the director may

- (a) authorize any person to transport logs, trees or wood chips to be used for research or experimental purposes to any destination outside Alberta from any forest land, or
- (b) exempt any logs, trees or wood chips from any specified forest land from the application of this subsection for a period not to exceed one year.

RSA 2000 cF-22 s31;2009 cA-26.8 s77(29)

#### **Crown lien**

**32** When timber has been harvested as the result of a timber disposition and there are unpaid Crown charges owing in respect of

it, the Minister has a lien against the timber that has priority over all other encumbrances.

RSA 1980 cF-16 s32

### Recovery of Crown charges

**33** If any timber to which a lien attaches

- (a) is seized or attached by a civil enforcement agency, or is claimed by or is in the possession of an assignee or trustee for the benefit of creditors or a liquidator, or
- (b) has been converted into money that is undistributed,

the Minister may give to the civil enforcement agency, assignee or liquidator in possession of the timber or money, notice of the amount of the lien and, on receiving that notice, the civil enforcement agency, assignee or liquidator shall pay the amount so due and owing to the Minister in preference to and in priority over all other fees, charges, liens or claims whatsoever, except that the person who initiated the seizure or attachment is entitled to the person's allowable costs of all proceedings or proper and necessary steps taken by the person from the time the seizure or attachment was initiated by the person until the Minister's notice was given.

RSA 2000 cF-22 s33;2009 c53 s67

### Seizure

**34(1)** A forest officer may seize and detain any timber or primary timber product that has not become the property of a bona fide retail purchaser for value without notice of the unpaid Crown charges by attaching one copy of a notice of seizure in the prescribed form to a conspicuous part of the timber or primary timber product if

- (a) the person in actual possession or control of the timber or primary timber product refuses or fails to inform the forest officer of the name and address of the person from whom the timber or timber product was received, or of any fact known to the first mentioned person respecting the timber,
- (b) the forest officer believes on reasonable grounds that any Crown charges payable in respect of timber have not been paid, or
- (c) the forest officer believes on reasonable grounds that timber was cut on public land but not under the authority of a timber disposition or a disposition under the *Public Lands Act*.

(2) Any timber or primary timber product seized under subsection (1) may be removed to any place the forest officer considers necessary for the safekeeping of the timber, and if the timber or primary timber product is seized when in possession of a carrier it shall be removed by the carrier on behalf of the Minister to any place the forest officer directs, and

- (a) the Minister is liable for transportation and all other proper charges incurred resulting from the directions given by the forest officer, and
- (b) the seizure does not, subject to section 37, prejudice or affect any lien to which the carrier may be entitled in respect of the timber or primary timber product at the time of the seizure.

(3) A forest officer may after making a seizure appoint any person as the agent of the Minister to hold and keep the timber or primary timber product seized on behalf of the Minister, on the person signing an undertaking to hold the timber or timber product as bailee for the Minister and to deliver up possession of it to a forest officer on demand.

(4) If timber liable to seizure under this section has been so mixed as to render it impractical or difficult to distinguish it from other timber with which it is mixed, the whole of the timber may be seized and detained.

RSA 1980 cF-16 s34

#### **Notice of seizure**

**35(1)** When a seizure is made pursuant to section 34, a copy of the notice of seizure must be served within 10 days after the date of the seizure

- (a) on the person in actual or apparent possession of the timber or primary timber product in the case of a seizure made under section 34(1)(a) or (c), and
- (b) on the holder of the forest management agreement or of the timber licence or permit, as the case may be, in the case of a seizure made under section 34(1)(b).

(2) A notice under subsection (1) may be served

- (a) by personal service,
- (b) by leaving it with a responsible person at the place of residence of the person to be served, or

(c) by mailing it by ordinary prepaid post to the last known address of the person to be served.

(3) A notice served by mail is deemed to be served on the day the notice was mailed.

RSA 1980 cF-16 s35

#### **Forfeiture of seized timber**

**36(1)** When timber or a primary timber product has been seized and notice of seizure has been served but no claim to recover it is made within 30 days from the date of the seizure, the timber or timber product is forfeited to the Crown and may be dealt with at the discretion of the Minister.

(2) When timber or a primary timber product has been seized but no person is in actual or apparent possession or control of the timber or timber product and no notice of seizure has been served and no claim to recover it is made within 30 days from the date of the seizure, the timber or timber product is forfeited to the Crown and may be dealt with at the discretion of the Minister.

RSA 1980 cF-16 s36

#### **Interference with seizure**

**37** A person who, without the Minister's consent, in any manner interferes with any seized timber or primary timber product or with the notice of seizure attached to it, is guilty of an offence.

RSA 1980 cF-16 s37

#### **Release from seizure**

**38(1)** A person claiming to be the owner of timber or primary timber products that have been seized under this Act may, on at least 7 days' notice to the Minister, apply to the Court of Queen's Bench for an order for their release from seizure and their delivery to the person.

(2) On receipt of a bond of the claimant, with 2 sureties, in an amount not less than the market value of the timber or primary timber products and the expenses of the seizure, the Court may order the timber or timber products to be released from seizure and to be delivered to the claimant.

(3) On the application of the Minister or the claimant, and on at least 7 days' notice, the Court shall determine the propriety of the claim for Crown charges or the ownership of the timber or primary timber product, whether or not it has been released and delivered to the claimant under subsection (2), and shall make an order

(a) declaring the claimant to be the owner



- (i) free of any claim for Crown charges, or
- (ii) subject to payment of any Crown charges and expenses that the Court finds to be owing,

or

- (b) declaring the claimant not to be the owner and the bond, if any, forfeited to the Crown.

**(4)** The Court may in its discretion order the payment of costs with respect to proceedings under this section and the expenses of seizure.

**(5)** If the claimant is declared not to be the owner of the timber or primary timber product, it must be disposed of in a manner the Minister determines.

**(6)** Notwithstanding anything in this section, the Court may dispose of all or any matters relating to the timber or primary timber product at the same time including

- (a) a declaration as to ownership,
- (b) a declaration as to the liability or otherwise for payment of Crown charges, and
- (c) costs

whether proceedings under this section are commenced by the claimant or the Minister.

RSA 2000 cF-22 s38;2009 c53 s67

#### **Perishable goods**

**39(1)** If the timber seized is of a perishable nature or of a seasonal value, the director may dispose of the timber at any time prior to its release from seizure or confiscation to the Crown in order to prevent or minimize any loss in value of the timber and the director is not liable for any loss resulting from that disposition.

**(2)** When the director disposes of timber pursuant to this section, the proceeds of the sale or, when the goods are put to public use instead of a sale, the fair market value at that time, must be dealt with as the subject-matter in dispute under section 38.

RSA 2000 cF-22 s39;2009 cA-26.8 s77(30)

**Refusal of bid or tender**

**40** When bids or tenders are received by the director for any purpose related to this Act or the regulations, the director is not obliged to accept the highest or any bid or tender.

RSA 2000 cF-22 s40;2009 cA-26.8 s77(31)

**Reforestation**

**41** The Minister may carry on afforestation or reforestation programs on any public land or on private land in respect of which the Minister has entered into an agreement for that purpose with the owner of the land.

RSA 1980 cF-16 s41

**Transitional**

**42** This Act and the regulations apply to every licence or permit granted before or after the commencement of this Act and if there is any conflict between this Act or the regulations and any licence or permit, this Act and the regulations govern.

RSA 1980 cF-16 s42

**Right of entry**

**43(1)** In this section and sections 44, 44.1, 44.2 and 44.4,

- (a) “civil enforcement bailiff” has the same meaning as it has in the *Civil Enforcement Act*;
- (b) “computing device” includes a personal computer, telephone and any other device capable of creating or storing electronic records whether or not the device is wireless or connected by wires to a computer system;
- (c) “conveyance” includes a motor vehicle, off-highway vehicle, trailer, watercraft, aircraft, bicycle, animal and tack when used as a conveyance, and any other means of conveyance pulled by animals or people, but does not include any conveyance used as a private dwelling;
- (d) “justice” has the same meaning as it has in the Provincial Offences Procedure Act;
- (e) “order to enter and inspect” means an order issued under section 44.1;
- (f) “peace officer” has the same meaning as it has in the *Peace Officer Act*;
- (g) “record” means a record of information in any form and includes notes, images, audiovisual recordings, x-rays, books, documents, maps, drawings, photographs, letters,

vouchers and papers and any other information that is written, photographed, recorded or stored in any manner, but does not include software or any mechanism that produces records;

- (h) “warrant” means a search warrant issued by reason of the operation of section 3 of the *Provincial Offences Procedure Act*.

(2) For the purpose of the administration of this Act and the regulations, a forest officer may, subject to subsection (3), without warrant or order at any time do one or more of the following:

- (a) enter on any land and in any thing on land to conduct an inspection, investigation or survey;
- (b) enter on and inspect any land and any thing on land on or in which the forest officer on reasonable grounds believes an offence under this Act or the regulations has been, is being or is about to be committed;
- (c) enter on any land and in any thing on land that the forest officer on reasonable grounds believes contains records relevant and material to any timber disposition, timber quota, order or offence under this Act or the regulations for the purpose of reviewing and obtaining copies of the records;
- (d) require the production of any records that are required to be kept under any applicable ALSA regional plan, this Act or the regulations, or any other records that are related to the purpose for which the officer is exercising any power under clauses (a) to (c) or section 44(1).

(3) A forest officer may not enter a private dwelling or any part of a place that is designed to be used and, in the opinion of the forest officer based on reasonable grounds, is being used as a permanent or temporary private dwelling place except

- (a) with the consent of the occupant, or
- (b) under the authority of an order to enter and inspect or a warrant.

RSA 2000 cF-22 s43;2009 cA-26.8 s77(32)

#### **Right of search**

**44(1)** A forest officer may at any time do one or both of the following:

- (a) stop, enter and inspect any conveyance that the forest officer on reasonable grounds believes is being operated in contravention of this Act or the regulations or is being used in the commission of an offence under this Act or the regulations;
- (b) stop, enter and inspect any conveyance to ascertain whether it or the manner in which it is being operated is in compliance with this Act and the regulations.

(2) Every person using or travelling on forest land shall, on request, provide a forest officer with any information as to the person's name, address, routes to be followed, location of camps and any other information requested by the forest officer pertaining to the forest officer's duties and to forest management.

RSA 2000 cF-22 s44;2009 cA-26.8 s77(33)

#### **Order to enter and inspect**

**44.1(1)** Where a justice is satisfied on evidence under oath by a forest officer

- (a) that there are reasonable grounds for believing that it is material to the administration of this Act or the regulations for the forest officer to do anything set out in section 43 or 44(1), and
- (b) one or more of the following applies:
  - (i) no person is present to grant access to land, or a thing on the land, that is locked or otherwise inaccessible;
  - (ii) a person has denied the forest officer access to land or a thing on the land or there are reasonable grounds for believing that a person will deny the forest officer access to land or a thing on the land;
  - (iii) a person has interfered with the forest officer or prevented the forest officer from doing anything set out in section 43 or 44(1) or denied the forest officer access to any thing, as a result of which the forest officer is unable to do anything set out in section 43 or 44(1);
  - (iv) there are reasonable grounds for believing that a person will prevent a forest officer from doing anything set out in section 43 or 44(1), or will deny the forest officer access to any thing, as a result of which the forest officer may be unable to do anything set out in section 43 or 44(1);

- (v) it is convenient, because of the remoteness of the land or thing on the land to be inspected or any other reason, for the forest officer to obtain an order under this section without delay in the event access might be denied;
- (vi) there are reasonable grounds for believing that an attempt by the forest officer to do anything set out in section 43 or 44(1) without an order might defeat the purpose of this Act or the regulations or present a reasonable apprehension of harm to the forest officer or any person,

the justice may issue an order to enter and inspect authorizing the forest officer to do anything set out in section 43 or 44(1) that is specified in the order for the period of time set out in the order.

(2) The period of time referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed on application for any reason set out in subsection (1) for one or more periods each of which is not more than 30 days.

(3) An application under subsection (2) may be made before or after the expiry of the period.

(4) An order under this section may be issued or renewed on application without notice.

(5) A forest officer exercising powers under this section must do so at a reasonable time unless otherwise authorized in an order granted under this section.

2009 cA-26.8 s77(34)

#### **Seizure of evidence without order or warrant**

**44.2(1)** A forest officer may, without order or warrant, seize any thing that is produced to the forest officer, or that is in plain view of the forest officer, during an inspection under section 43, 44(1) or 44.1 if the forest officer has reasonable grounds to believe that there has been an offence committed under this Act or the regulations and that the thing will afford evidence as to the commission of the offence.

(2) The forest officer may remove the thing seized or may detain it in the place where it is seized.

(3) The forest officer must inform the person from whom the thing is seized of the reason for the seizure and must give the person a receipt for it.

(4) A forest officer who seizes any thing under the authority of this section must deal with it in the same way as if it were seized under the authority of a warrant.

2009 cA-26.8 s77(34)

#### **Disposal of things seized**

**44.3(1)** Where a person is convicted of an offence under this Act or the regulations and any thing relating to the conviction that was seized under section 44.2 is then being detained, the thing must, on the expiration of the time for making an appeal from the conviction or on the final conclusion of the proceedings, as the case may be,

- (a) be forfeited to the Crown, if the court orders it, or
- (b) be restored to the person from whom it was seized or to any other person who is entitled to possession of it, subject to any terms and conditions imposed by the court.

(2) If a thing is forfeited to the Crown in accordance with subsection (1),

- (a) the director may dispose of or destroy the thing in any manner the director considers appropriate, and
- (b) the costs of the forfeiture and disposal or destruction are recoverable from the offender as a debt owing to the Crown.

2009 cA-26.8 s77(34)

#### **Assistance by other officials**

**44.4** While exercising powers or carrying out duties under this Act or the regulations, a forest officer may be accompanied by any person authorized by the director, a peace officer, a civil enforcement bailiff or a member of a police service.

2009 cA-26.8 s77(34)

#### **Assistance to forest officers**

**44.5** Every person found in any place in respect of which a forest officer is exercising powers or carrying out duties under this Act or the regulations shall

- (a) give the forest officer all reasonable assistance to enable the forest officer to exercise those powers and carry out those duties, and
- (b) furnish all information that the forest officer may reasonably require for the exercising of those powers and the carrying out of those duties.

2009 cA-26.8 s77(34)

**Reporting programs**

**44.6** The Minister may establish programs to promote the reporting of contraventions under this Act and the regulations.

2009 cA-26.8 s77(34)

**No review by court**

**44.7** Subject to a right of appeal under this Act or the regulations, where this Act or the regulations empower or compel the director or Minister, as the case may be, to do anything under this Act or the regulations, the director or Minister has exclusive and final jurisdiction to do that thing, and no decision, order, direction, ruling or proceeding of the director or the Minister shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court to question, review, prohibit or restrain the director or Minister from doing the thing.

2009 cA-26.8 s77(34)

**Maintenance of public peace**

**45** A forest officer in the exercise and discharge of the forest officer's powers and duties is a person employed for the preservation and maintenance of the public peace.

RSA 1980 cF-16 s45

## **Part 2.1**

### **ALSA Regional Plans**

**Relation to ALSA regional plans**

**45.1(1)** In the event of a conflict between either a timber disposition or a timber quota and the provisions of any applicable ALSA regional plan, the ALSA regional plan prevails to the extent necessary to resolve the conflict.

**(2)** The provisions or conditions of timber dispositions or timber quotas issued under this Act must be in accordance with the provisions of any applicable ALSA regional plan.

**(3)** A general development plan or annual operating plan that is required to be approved under this Act must not be approved by the director unless it is, in the opinion of the director, consistent with any applicable ALSA regional plan.

**(4)** A timber disposition or timber quota must not be issued or renewed if in the director's opinion the issuance or renewal would be contrary to any applicable ALSA regional plan.

**(5)** If in the opinion of the director it is necessary to change any provision or condition, or the area, of a timber quota, timber licence

or timber permit in order to comply with an ALSA regional plan, the director may

- (a) alter or vary the provision, condition or area, or
- (b) cancel the timber quota, timber licence or timber permit

30 days after serving by registered mail a notice of the director's intention to do so on the holder of the timber quota, timber licence or timber permit.

(6) When the director alters, varies or cancels a timber quota, timber licence or timber permit under subsection (5), the Minister may pay compensation to the holder of the timber quota, timber licence or timber permit in an amount the Minister considers just.

2009 cA-26.8 s77(35)

**Part 3** Repealed 2009 cA-26.8 s77(36).

## **Part 4 Offences and Penalties**

### **Offences**

**50(1)** A person who

- (a) wilfully destroys, tampers or meddles with any goods under seizure,
- (b) destroys, tampers or meddles with any goods under seizure,
- (c) destroys, tampers or meddles with a Notice of Seizure of Goods attached to any goods under seizure,
- (d) wilfully contravenes section 9,
- (e) contravenes section 9,
- (f) wilfully contravenes section 10,
- (g) contravenes section 10,
- (h) fails to comply with an order of the director under section 12,
- (i) contravenes section 28.1,
- (j) contravenes section 44.5,
- (k) contravenes section 52,



- (l) wilfully provides false or misleading information to a forest officer,
- (m) as the holder of a timber disposition or timber quota, wilfully contravenes a provision of the timber disposition or timber quota,
- (n) as the holder of a timber disposition or timber quota, contravenes a provision of the timber disposition or timber quota, or
- (o) contravenes a provision of this Act or the regulations that is prescribed in the regulations for the purposes of this section

is guilty of an offence.

**(2)** Every person who is guilty of an offence under this Act or the regulations is liable on conviction for each day or part of a day on which the offence occurs or continues.

2009 cA-26.8 s77(37)

#### **Limitation period**

**51** A prosecution in respect of an offence under this Act or the regulations may not be commenced later than 2 years after

- (a) the date on which the offence was committed, or
- (b) the date on which evidence of the offence first came to the notice of the director,

whichever is later.

2009 cA-26.8 s77(37)

#### **Interference**

**52** No person shall interfere with, or attempt to interfere with,

- (a) a forest officer who is exercising powers or carrying out duties, or attempting to do so, under this Act or the regulations, or
- (b) a person accompanying or assisting an officer under the authority of section 44.4 or 44.5.

2009 cA-26.8 s77(37)

#### **Court order re interference**

**53** If a person interferes with another person contrary to section 52, the forest officer may apply to the Court of Queen's Bench for an order prohibiting the person from so interfering, and the Court may make any order it considers appropriate in the circumstances.

2009 cA-26.8 s77(37)

**General penalty**

**54(1)** A person who is guilty of an offence referred to in subsection (3) is liable

- (a) in the case of an individual, to a fine of not more than \$25 000, or
- (b) in the case of a corporation, to a fine of not more than \$100 000.

**(2)** Unless otherwise provided in this Act or the regulations, a person who is guilty of an offence under this Act or the regulations is liable

- (a) in the case of an individual, to a fine of not more than \$100 000, or
- (b) in the case of a corporation, to a fine of not more than \$1 000 000.

**(3)** No person may be convicted of an offence under

- (a) section 50(1)(b), (c), (e), (g), (h), (i), (j), (k), (n) or (o), or
- (b) a provision of this Act or the regulations that is prescribed in the regulations for the purposes of this section,

if the person establishes on a balance of probabilities that the person took all reasonable steps to prevent its commission.

2009 cA-26.8 s77(37)

**Court orders relating to penalty**

**55(1)** Where a person is convicted of an offence under an ALSA regional plan, this Act or the regulations, in addition to any other penalty that may be imposed under this Act or the regulations, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

- (a) prohibiting the offender from doing anything that might result in the continuation or repetition of the offence;
- (b) directing the offender to take any action the court considers appropriate to remedy or prevent any damage or destruction to timber that results or might result from the act or omission that constituted the offence;
- (c) directing the offender to publish, in the prescribed manner and at the offender's cost, the facts relating to the conviction;

- (d) directing the offender to notify any person aggrieved or affected by the offender's conduct of the facts relating to the conviction, in the prescribed manner and at the offender's cost;
- (e) directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made under this section;
- (f) on application to the court by the Minister made within 3 years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender as the court considers appropriate in the circumstances;
- (g) directing the offender to provide a full accounting of the proceeds derived directly or indirectly from the commission of the offence and to remit any proceeds to the Crown;
- (h) directing the offender to compensate the Minister, in whole or in part, for the cost of any remedial or preventive action that was carried out or caused to be carried out by the Crown and was made necessary by the act or omission that constituted the offence;
- (i) directing the offender to perform community service;
- (j) requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

**(2)** If an offender contravenes an order made under subsection (1)(c), the Minister may publish the facts in compliance with the order.

**(3)** If the Minister incurs publication costs under subsection (2), the costs constitute a debt due to the Crown.

**(4)** An order made under subsection (1) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period specified in the order, not to exceed 3 years.

2009 cA-26.8 s77(37)

#### **Compensation for loss of property**

**56(1)** Where a person is convicted of an offence under an ALSA regional plan, this Act or the regulations, the court may, at the time sentence is imposed and on the application of the Crown or an

aggrieved person, order the offender to pay to the Crown or aggrieved person an amount by way of satisfaction or compensation for loss of or damage to property suffered by the Crown or that person as a result of the commission of the offence.

(2) The Crown or a person in whose favour an order is made under subsection (1) may file the order with the clerk of the Court of Queen's Bench and, on filing, the order may be enforced as if it were a judgment of the Court of Queen's Bench in civil proceedings.

2009 cA-26.8 s77(37)

#### **Variation of court orders**

**57(1)** Subject to subsection (2), where a court has made an order under section 55, the court may, on application by the offender or the Minister of Justice and Solicitor General, require the offender to appear before it and, after hearing the offender and the Minister of Justice and Solicitor General, may make any or all of the following orders if it considers that the circumstances of the offender have changed so as to warrant such an order:

- (a) an order changing the original order or the conditions specified in it;
- (b) an order relieving the offender absolutely or partially from compliance with any or all of the original order;
- (c) an order reducing the period for which the original order is to remain in effect;
- (d) an order extending the period for which the original order is to remain in effect for an additional period not to exceed one year.

(2) Before making an order under subsection (1), the court may direct that notice be given to any persons the court considers to be interested and the court may hear any of those persons.

(3) Where an application made under this section in respect of an offender has been heard by a court, no other application under this section may be made with respect to the offender except with permission of the court.

2009 cA-26.8 s77(37);2013 c10 s34;2014 c13 s50

#### **Proceeds of unauthorized harvest**

**58(1)** The director may require a person who, without authority, harvests, cuts, damages or destroys timber from forest land to pay a sum of money that the director prescribes in addition to the regular rate prescribed for that use.

(2) The sum of money required by the director under subsection (1) is a debt payable to the Crown on demand by the director.

(3) The director may require a person who on reasonable grounds the director believes is in receipt of proceeds derived directly or indirectly from harvesting, cutting, damaging or destroying timber in contravention of this Act or the regulations to provide a full accounting of the proceeds believed by the director to have been received by the person.

(4) A person in receipt of proceeds derived directly or indirectly from harvesting, cutting, damaging or destroying timber in contravention of this Act or the regulations is deemed to hold the proceeds in trust for the Crown, and to hold such proceeds separate and apart from the person's property until the proceeds or an amount equal to the value of the proceeds is paid to the Crown.

2009 cA-26.8 s77(37)

#### **Administrative penalty**

**59** The director may, in accordance with the regulations, require a person to pay an administrative penalty in an amount determined by the director if a person

- (a) contravenes a provision of an ALSA regional plan, this Act or the regulations that is prescribed in the regulations for the purposes of this section, or
- (b) contravenes a term or condition of a timber quota or timber disposition.

2009 cA-26.8 s77(37)

#### **Notice of administrative penalty**

**60(1)** If the director requires a person to pay an administrative penalty under section 59 or the regulations, the director shall serve by personal service or registered mail a notice of administrative penalty demanding payment of the penalty.

(2) A notice of administrative penalty must state the grounds on which the penalty was assessed.

(3) An administrative penalty to which a notice under subsection (1) relates must be paid within 30 days of the date of service of the notice.

(4) A notice of administrative penalty under this section may require one or more of the following:

- (a) payment of the penalty determined by the director under section 59;

- (b) any person who in the director's opinion is in receipt of proceeds derived directly or indirectly from harvesting, cutting, damaging or destroying timber in contravention of this Act or the regulations to provide an accounting of the proceeds believed by the director to have been received by that person;
- (c) payment by a person referred to in clause (b) of any proceeds referred to in that clause, or an amount equal to the value of the proceeds if the person has converted the proceeds.

2009 cA-26.8 s77(37)

#### **Daily penalty**

**61** A person is liable for an administrative penalty for each day or part of a day on which the contravention occurs or continues, and where the regulations prescribe the maximum amount of an administrative penalty, the maximum is the maximum for each day or part of a day on which the contravention occurs or continues.

2009 cA-26.8 s77(37)

#### **Protection from prosecution**

**62** A person who pays an administrative penalty in respect of a contravention by the person shall not be prosecuted under this Act for an offence in respect of the same contravention.

2009 cA-26.8 s77(37)

#### **Limitation period**

**63** A notice of administrative penalty may not be issued more than 2 years after

- (a) the date on which the contravention to which the notice relates occurred, or
- (b) the date on which evidence of the contravention first came to the notice of the director,

whichever is later.

2009 cA-26.8 s77(37)

#### **Enforcement in Court of Queen's Bench**

**64(1)** Subject to any right to appeal the notice of administrative penalty, the director may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench and, on filing, the notice may be enforced as though it were a judgment of the Court.

(2) On application by the director, the Court may make any order necessary to compel the person receiving a notice under section 60 to carry out the terms of the notice.

2009 cA-26.8 s77(37)

#### **Publication of information**

**65** The director shall publish particulars of enforcement action taken under this Act in accordance with the regulations.

2009 cA-26.8 s77(37)

#### **Liability of directors and officers**

**66** If a corporation commits an offence or is subject to an administrative penalty as a result of a contravention of this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence or contravention is guilty of the offence or contravention and is liable to the punishment provided for the offence or the administrative penalty, whether or not the corporation has been prosecuted for or convicted of the offence or has been given notice of the administrative penalty.

2009 cA-26.8 s77(37)

#### **Vicarious responsibility**

**67** For the purposes of this Act and the regulations, an act or thing done or omitted to be done by a director, officer, official, employee or agent of a corporation in the course of employment or in the exercise of powers or the performance of duties is deemed also to be an act or thing done or omitted to be done by the corporation.

2009 cA-26.8 s77(37)

#### **Protection of officials from legal suit**

**68** No action lies and no proceeding may be brought against the Crown, the Minister, the director or a forest officer, or any person acting under the direction of the Crown, the Minister, the director or a forest officer, for damages resulting from any order or decision under this Act or the regulations made or taken in good faith by the Crown, the Minister, the director, the forest officer or the person.

2009 cA-26.8 s77(37)

## **Part 5 Appeals**

#### **Regulations**

**69** The Lieutenant Governor in Council may make regulations respecting appeals from decisions made under this Act or the regulations, including, without limitation, regulations

- (a) establishing or designating an appeal body;

- (b) respecting the composition and manner of appointment of an appeal body, designation of a chair, convening of a panel to hear a particular appeal and provision for the remuneration and travelling and living expenses that are payable to members of an appeal body;
- (c) respecting the process for providing notice of
  - (i) a timber disposition or timber quota application, or
  - (ii) a timber disposition or timber quota application decision;
- (d) prescribing the decisions under this Act or the regulations from which an appeal is available;
- (e) respecting the persons or class of persons to whom an appeal is available;
- (f) respecting the form and contents of a notice of appeal;
- (g) respecting the extension of deadlines specified in this Act and the regulations regarding appeals;
- (h) respecting the conduct of proceedings before an appeal body;
- (i) respecting the evidence to be considered by an appeal body and the factors that the appeal body is to consider in reaching its decision;
- (j) respecting the awarding and review of costs;
- (k) generally, respecting the conduct and work of an appeal body with respect to proceedings;
- (l) authorizing an appeal body to charge fees for services or materials provided by an appeal body or things done by an appeal body under this Act or the regulations, and prescribing the amounts of those fees or the manner in which the amounts are to be determined;
- (m) generally for the carrying out of appeals according to the intent of this Act.

2009 cA-26.8 s77(37)

#### **Appeal on the record**

**70** An appeal under this Act must be based on the decision and record of the decision-maker.

2009 cA-26.8 s77(37)



**Notice of appeal**

**71(1)** A notice of appeal of a prescribed decision may be submitted to the appeal body by a prescribed person in accordance with the regulations.

**(2)** A notice of appeal must contain the information, and be submitted, in a form and manner in accordance with the regulations.

**(3)** A notice of appeal submitted under subsection (2) initiates an appeal of the decision objected to.

**(4)** Submitting a notice of appeal does not operate to stay the decision objected to.

2009 cA-26.8 s77(37)

**Hearing**

**72(1)** On receipt of a notice of appeal under this Act and compliance with the applicable processes set out in this Act, the regulations and the rules established by the appeal body, the appeal body has jurisdiction to determine an appeal.

**(2)** In conducting a hearing of an appeal, the appeal body is not bound to hold an oral hearing but may instead make its decision on the basis of written submissions.

**(3)** The appeal body may, with the consent of the parties to the appeal, make its report to the Minister without conducting a hearing of the appeal.

2009 cA-26.8 s77(37)

**Powers of appeal body**

**73(1)** The appeal body may, on the application of a party to a proceeding before the appeal body, stay a decision in respect of which a notice of appeal has been submitted.

**(2)** Prior to conducting a hearing of an appeal, the appeal body may, in accordance with the regulations, determine which matters included in notices of appeal properly before it will be included in the hearing of the appeal.

**(3)** Where the appeal body determines that a matter will not be included in the hearing of an appeal, no representations may be made on that matter at the hearing.

**(4)** The appeal body may require the submission of additional information.

**(5)** The appeal body may dismiss a notice of appeal if

- (a) it considers the notice of appeal to be frivolous or vexatious or without merit,
  - (b) for any other reason the appeal body considers that the notice of appeal is not properly before it, or
  - (c) the person who submitted the notice of appeal fails to provide further information required by the appeal body.
- (6) The appeal body shall dismiss a notice of appeal if a matter has been adequately dealt with through a hearing or review under any enactment.
- (7) The appeal body shall give the opportunity to make representations on the matter before the appeal body to any persons who the appeal body considers should be allowed to make representations.
- (8) The appeal body shall discontinue its proceedings in respect of a notice of appeal if the notice of appeal is withdrawn, once the appeal body is satisfied that all issues related to the appeal have been resolved.
- (9) Subject to the regulations, the appeal body may establish its own rules and procedures for dealing with matters before it.
- (10) The *Regulations Act* does not apply to rules made under this section.
- (11) The appeal body may award costs of and incidental to any proceedings before it on a final or interim basis and may, in accordance with the regulations, direct by whom and to whom any costs are to be paid.

2009 cA-26.8 s77(37)

#### **Decisions of appeal body**

- 74(1)** The appeal body shall, within 30 days after the completion of the hearing of the appeal, submit a report to the Minister, including recommendations and the representations or a summary of the representations that were made to it.
- (2) The report may recommend confirmation, reversal or variance of the decision appealed.
- (3) On receiving the report of the appeal body, the Minister may, by order, confirm, reverse or vary the decision appealed and make any decision that the person whose decision was appealed could have made, and make any further order that the Minister considers necessary for the purpose of carrying out the decision.

(4) The Minister shall immediately give notice of any decision made under this section to the appeal body, and the appeal body shall immediately, on receipt of the notice of the decision, give notice of the decision to all persons who submitted notices of appeal or made representations or written submissions to the appeal body and to all the persons who the appeal body considers should receive notice of the decision.

(5) On complying with subsection (4), the appeal body shall publish or otherwise make available the appeal body's report, or a summary of it, and a notice of the Minister's decision in the manner the appeal body considers appropriate.

(6) An order of the Minister under subsection (3) may be filed with the clerk of the Court of Queen's Bench and, on filing, is enforceable as if it were a judgment of the Court.

2009 cA-26.8 s77(37)

#### **Variation of decisions**

**75** The appeal body may reconsider, vary or revoke any report made by it.

2009 cA-26.8 s77(37)

#### **No review by court**

**76** Where this Act empowers or compels the Minister to do anything respecting an appeal, the Minister has exclusive and final jurisdiction to do that thing, and no decision, order, direction, ruling, proceeding, report or recommendation of the Minister or the appeal body shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court to question, review, prohibit or restrain the Minister or the appeal body or any of its proceedings.

2009 cA-26.8 s77(37)



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