



1980

## c 109 Crown Timber Act

Ontario

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## CHAPTER 109

## Crown Timber Act

## 1. In this Act,

Interpre-  
tation

- (a) "Crown charges" includes all charges and dues in respect of Crown timber, interest, costs, expenses and penalties imposed under this Act or the regulations or by a licence, and all other charges, rents and claims of the Crown in connection with a licensed area;
- (b) "Crown timber" means timber on public lands or timber that is the property of the Crown under the management of the Minister on lands other than public lands;
- (c) "cull" means a defective log as defined by the manual of scaling instructions;
- (d) "licence" means a document heretofore or hereafter granted that authorizes the cutting of Crown timber and, subject to subsection 6 (3), includes an agreement entered into under subsection (1) of that section;
- (e) "licensed area" means the lands upon which the right to cut Crown timber is authorized by a licence;
- (f) "licensee" means a person,
- (i) to whom a licence has been granted,
  - (ii) with whom the Minister has entered into an agreement under subsection 6 (1),
  - (iii) to whom a licence has been assigned with the consent of the Minister, or
  - (iv) in whom a licence has become vested by operation of law;
- (g) "mill" means a plant in which logs or wood-bolts are initially processed, and includes a saw mill and a pulp mill;

- (*h*) "Minister" means the Minister of Natural Resources;
- (*i*) "Ministry" means the Ministry of Natural Resources;
- (*j*) "officer or agent" means a person employed or appointed to assist in the administration of this Act;
- (*k*) "productive lands" means lands that are not rock barrens, muskeg or lands covered with water;
- (*l*) "professional forester" means a person registered under *The Ontario Professional Foresters Association Act, 1957*;
- (*m*) "public lands" means the lands vested in Her Majesty in right of Ontario and under the management of the Minister, and includes the lands in respect of which a lease, licence of occupation or permit has been granted or issued under the *Mining Act*, the *Provincial Parks Act* or the *Public Lands Act*;
- (*n*) "regulations" means the regulations made under this Act;
- (*o*) "stumpage charges" means the amount equal to the total of the amount of the Crown dues and any other amounts added thereto in fixing the price to be paid for Crown timber;
- (*p*) "unproductive lands" means rock barrens, muskeg or lands covered by water. R.S.O. 1970, c. 102, s. 1; 1972, c. 4, s. 12; 1979, c. 92, s. 1.

1957, c. 149

R.S.O. 1980,  
cc. 268, 401,  
413

## LICENCES TO CUT CROWN TIMBER

Sale of  
Crown  
timber by  
tender

2.—(1) The Minister may offer Crown timber for sale by tender either,

- (*a*) to the public generally; or
- (*b*) to any particular class or group of persons who in his opinion are or may be interested in such timber as a source of supply of raw materials for mills in existence at the time the offer is made.

(2) The Minister may grant a licence to cut such timber to the person making the highest tender therefor for such period as he considers proper, subject to such terms and conditions as are prescribed in the regulations and subject to such other terms and conditions as he considers proper and that are not inconsistent with the regulations.

Licences to cut Crown timber

(3) The Minister is not obliged to accept the highest tender.

Acceptance of tenders

(4) The Minister shall not grant a licence under subsection (2) until the highest tenderer has furnished proof that he owns and is operating a mill or that he has a contract to supply wood to a mill.

Proof of ability to use timber

(5) Where the highest tenderer fails to furnish the proof mentioned in subsection (4) within thirty days of the sending to him by the Minister of notice to furnish such proof, the Minister may, subject to the furnishing of the proof mentioned in subsection (4), grant to the next highest tenderer a licence having the same terms, conditions and prices as those tendered by the highest tenderer.

Grant of licence to next highest tenderer

(6) Where a licence has been granted under subsection (2) and the cutting of the timber authorized by the licence was not completed before the licence expired, the Minister may renew the licence for one term not exceeding three years, subject to such terms and conditions as are prescribed by the regulations and subject to such other terms and conditions as he considers proper and that are not inconsistent with the regulations. R.S.O. 1970, c. 102, s. 2 (1-6).

Renewal of licence

(7) Notwithstanding subsection (1), the Minister may grant a licence to cut Crown timber at such prices and subject to such terms and conditions as he considers proper, if the licensed area does not exceed 160 acres. 1979, c. 92, s. 2.

Licence where licensed area not more than 160 acres

(8) Where for any reason the holder of a licence issued under subsection (2) or (6) does not operate a mill or does not supply wood from the licensed area to a mill during a period of twelve months ending on the 31st day of March in any year, the Minister may cancel the licence as of that day. R.S.O. 1970, c. 102, s. 2 (8).

Failure to operate

**3.—(1)** The Minister, with the approval of the Lieutenant Governor in Council, may grant licences to cut Crown timber for such periods and subject to such terms and conditions as are prescribed by the regulations and at such prices and subject to such other terms and conditions as the Minister considers proper and that are not inconsistent with the regulations.

Licences granted with approval of Lieutenant Governor in Council

Renewal of  
licence

(2) Where a licence has been granted under subsection (1) and the cutting of the timber authorized by the licence was not completed before the licence expired, the Minister may renew the licence for one term of one year, subject to the same terms and conditions as were contained in the licence.

Terms and  
conditions

(3) Where a licence to cut Crown timber is granted under subsection 2 (2) or under subsection (1) or is renewed under subsection 2 (6) or under subsection (2), the Minister may,

- (a) determine from time to time the prices at which species of timber may be cut where the prices for such species are not specifically set out in the licence; and
- (b) grant to a licensee, from time to time during the term of the licence, rights to cut on the licensed area additional species not set out in the licence at such prices and upon such terms and conditions as he considers proper. R.S.O. 1970, c. 102, s. 3.

Crown  
management  
units

4. The Minister may designate any public lands and other lands on which trees are vested in Her Majesty in right of Ontario as a Crown management unit and, subject to the approval of the Lieutenant Governor in Council, may enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as they agree upon. 1979, c. 92, s. 3.

Salvage  
licences

5.—(1) Where Crown timber that is not subject to a licence has been killed or damaged, the Minister may grant licences to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper. 1979, c. 92, s. 4.

Direction to  
licensee to  
cut killed  
or damaged  
timber

(2) Where Crown timber in respect of which a licence has been granted has been killed or damaged, the Minister may direct the licensee to cut such timber and any other timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper.

Failure or  
neglect of  
licensee

(3) Where a licensee refuses or neglects to comply with a direction of the Minister under subsection (2) within such time as is fixed by the Minister, the Minister may cancel or vary the licence in respect of the timber directed to be cut

and may grant licences to persons other than the licensee to permit the salvage of such timber and the cutting of any other Crown timber that in his opinion should in the interest of economic forest utilization be cut with such killed or damaged timber at such prices and subject to such terms and conditions as he considers proper. R.S.O. 1970, c. 102, s. 5 (2, 3).

6.—(1) Subject to the approval of the Lieutenant Governor in Council, the Minister may enter into an agreement with any person for the management of Crown timber on a sustained yield basis and for carrying out all operations necessary for such management and, without restricting the generality of the foregoing, every such agreement shall set out,

Authority to enter into a forest management agreement

- (a) the silvicultural specifications that are to be observed and performed in respect of the harvesting, regeneration and tending of the forest areas that are subject to the agreement; and
- (b) the standards of regeneration to be achieved on the forest areas that are subject to the agreement,

and may provide for,

- (c) the cutting of Crown timber and the prices therefor;
- (d) the cutting of killed or damaged Crown timber and any other Crown timber that in the Minister's opinion should in the interest of economic forest utilization be cut with such killed or damaged Crown timber subject to such prices, if any, and to such terms and conditions as the Minister and such person may agree upon;
- (e) the construction, reconstruction and maintenance of any road necessary for such management and operations;
- (f) a reduction of the stumpage charges to be paid by such person for any increase in the volume of Crown timber that is cut and is the direct result of any silvicultural treatment applied at the expense of such person;
- (g) the preparation of plans, rules, reports and any other documents necessary for such management and operations; and
- (h) such other terms and conditions as the Minister and such person may agree upon that are not inconsistent with the regulations,

and, except in the case of a provision made under clause (d) or (f), any such agreement shall be subject to the terms and conditions prescribed in the regulations.

Meaning of "sustained yield"

(2) In subsection (1), the expression "sustained yield" means the growth of timber that a forest can produce and that can be cut to achieve a continuous approximate balance between growth of timber and timber cut.

Certain sections do not apply to agreement

(3) Subsections 5 (2) and (3), section 17, clause 20 (b), sections 26, 27, 28 and 33 and clause 48 (1) (k) do not apply in respect of an agreement entered into under subsection (1).

Tabling

(4) If the Assembly is then in session, the Minister shall,

- (a) within five days after entering into an agreement under subsection (1) or an amending agreement, lay before the Assembly a copy of the agreement or amending agreement, as the case may be;
- (b) after the end of each year of an agreement entered into under subsection (1), lay before the Assembly a report in respect of the areas harvested, regenerated and tended under such agreement in the year that has ended; and
- (c) after the end of each term of five years of an agreement entered into under subsection (1), lay before the Assembly a report in respect of the relationship between the harvest and growth, including regeneration, of timber during the said term on the area subject to the agreement,

or, if the Assembly is not then in session, at the beginning of the next ensuing session. 1979, c. 92, s. 5.

Areas to be stated

7.—(1) Every licence shall state the total area of the lands comprised therein and the area of the productive lands and the area of the unproductive lands included in such total area. R.S.O. 1970, c. 102, s. 6 (1).

Area charge

(2) Every licensee shall pay annually an area charge in respect of the productive lands comprised in the licensed area. 1978, c. 51, s. 1.

Survey

8.—(1) The Minister may at any time cause a survey to be made to establish or re-establish the boundaries of any licensed area and the cost of such survey shall be borne by the licensee or, where the boundary in question is a division line between two licensed areas, the cost of such survey shall be borne by the respective licensees in such proportions as the Minister considers proper.

(2) Where it appears that Crown timber has been cut <sup>Idem</sup> without the authority of a licence and there is a dispute as to the boundaries of the area of the cutting, the Minister may cause a survey to be made to establish or re-establish such boundaries, and, where as a result of the survey it is established that Crown timber was cut without authority, the cost of the survey, in addition to any penalty that may be imposed, shall be borne by the person responsible for such cutting. R.S.O. 1970, c. 102, s. 7.

9.—(1) Every licence shall name the species of timber <sup>Species and lands to be described</sup> and describe the lands upon which such timber may be cut.

(2) If a licence is found to comprise a species of timber <sup>Conflicting licences</sup> or lands included in an earlier licence, the later licence is void in so far as it conflicts with the earlier licence, and the person holding the later licence has no claim against the Minister for indemnity or compensation by reason thereof. R.S.O. 1970, c. 102, s. 8.

10. A licence does not confer on the licensee any right to <sup>Rights of licensee in area limited</sup> the soil or freehold of the licensed area or to the exclusive possession thereof except as is in the opinion of the Minister necessary for the cutting and removal of the timber thereon and the management of the licensed area and operations incidental thereto. R.S.O. 1970, c. 102, s. 9.

11.—(1) Subject to the payment of Crown charges, the <sup>Effect of licence</sup> property in all timber of the species set out in a licence and cut during the term of the licence vests in the licensee at the time the timber is cut.

(2) Crown charges in respect of all timber of the species <sup>Crown charges to be paid</sup> set out in the licence cut on a licensed area during the term of the licence shall be paid by the licensee whether the timber is cut by the licensee or by any other person with or without his consent. R.S.O. 1970, c. 102, s. 10.

12.—(1) Every licence entitles the licensee to seize all <sup>Rights of licensee in his timber</sup> timber of the species set out in the licence cut on the licensed area during the term of the licence wherever the timber is found in the possession of a person not entitled thereto and to maintain an action against a person wrongfully cutting or damaging or having wrongful possession of the timber.

(2) All proceedings pending at the expiration of a licence <sup>Continuation of proceedings</sup> may be continued to final termination as if the licence had not expired. R.S.O. 1970, c. 102, s. 11.



Express right  
necessary to  
cut on certain  
lands

**13.**—(1) A licence does not confer any right to cut Crown timber on lands for which at the time the licence comes into force a patent, lease, licence of occupation, or permit has been issued, unless the right to so cut is expressly conferred by the licence.

No right to  
cut on located  
or sold lands  
R.S.O. 1980,  
c. 413

(2) A licence does not confer any right to cut Crown timber on unpatented lands that at the time the licence comes into force have been located or sold under the *Public Lands Act*. 1979, c. 92, s. 6.

Commence-  
ment of  
cutting  
operations

**14.**—(1) No licensee shall commence cutting operations in any year until the Minister has approved in writing the area in which the cutting operations are to be carried on in that year.

Default of  
charges

(2) Where a licensee does not pay the Crown charges within thirty days of the date the account therefor was sent to him, the Minister may withhold the approval mentioned in subsection (1) until such Crown charges are paid. R.S.O. 1970, c. 102, s. 13.

Timber to be  
manufac-  
tured in  
Canada

**15.**—(1) Every licence is subject to the condition that all timber cut thereunder, except timber that is used in Canada in an unmanufactured state for fuel, building or other purposes, shall, except as provided in subsection (3), be manufactured in Canada into ties, poles, pit props, lumber, veneer or such like products or into pulp.

Lumber  
chips  
deemed  
to be manu-  
factured

(2) For the purpose of subsection (1), chips produced as a by-product of the manufacture of lumber shall be deemed to be manufactured into lumber.

Power to  
suspend  
operation  
of subs. (1)

(3) The Lieutenant Governor in Council, after giving thirty days notice of his intention so to do by publication in *The Ontario Gazette*, may suspend the operation of subsection (1) as to any kind or class of timber that he designates and as to any area that he defines and for such period and upon such other terms and conditions as he considers proper. R.S.O. 1970, c. 102, s. 14.

Certificate  
and  
affidavit or  
declaration

**16.** Every person who applies to the Ministry for a customs clearance document relating to the export of timber shall make a statement by affidavit or by statutory declaration respecting the timber in such form as the Minister prescribes. R.S.O. 1970, c. 102, s. 15; 1972, c. 1, s. 1.

Supplying  
mills with  
timber

**17.**—(1) The Minister, by written notice containing such provisions as he considers proper, may direct a licensee to

offer to the owner or operator of the mill specified therein the first opportunity to purchase the kind or class of timber produced from time to time by the licensee.

(2) The Minister may by written notice amend, vary or revoke any notice issued pursuant to subsection (1). 1971, c. 23, s. 2. <sup>Amendment of notice</sup>

**18.**—(1) A licence shall not be assigned, pledged or charged without the consent in writing of the Minister and permission to cut timber on a licensed area shall not be granted by a licensee without the consent in writing of the Minister, and he is not under any circumstances bound to give such consent and he may impose such terms and conditions as he considers proper. <sup>Assignment, etc., of licences</sup>

(2) An assignment, pledge or charge of a licence or permission to cut on a licensed area does not have any force or validity unless the Minister has consented thereto in writing. <sup>Consent of Minister</sup>

(3) Where an application is made to the Minister for his consent under subsection (1) and he is of opinion that the licensee's cutting operations on and improvements of the licensed area have not been adequate in all the circumstances, he may cancel the licence. R.S.O. 1970, c. 102, s. 16. <sup>Cancellation of licence</sup>

**19.** Every licensee shall keep in connection with every cutting operation such records relating to the quantity of timber cut as are required by the Minister and such records shall be open at all times to the inspection of any officer or agent and shall at the end of each cutting season be delivered to an officer or agent. R.S.O. 1970, c. 102, s. 17. <sup>Records</sup>

**20.** Notwithstanding any licence, the Minister may, <sup>Additional powers</sup>

(a) subject to this Act, dispose of any Crown timber not expressly mentioned in the licence; and

(b) after thirty days written notice to the licensee specifying the action proposed to be taken and giving him an opportunity to be heard, sell, lease, grant or otherwise dispose of any public lands included in a licensed area for any purpose for which public lands may be disposed of under the *Public Lands Act*, and upon such sale, lease or grant being made all rights of the licensee in respect of the timber on such lands cease. R.S.O. 1970, c. 102, s. 18; 1979, c. 92, s. 7. <sup>R.S.O. 1980, c. 413</sup>

## LIEN FOR CROWN CHARGES AND SEIZURE OF TIMBER

Lien for  
Crown  
charges

**21.** All Crown charges are a lien and charge upon timber cut by a licensee under the authority of any licence and upon any product manufactured from such timber in preference and priority to any and all other fees, charges, liens or claims whatsoever. R.S.O. 1970, c. 102, s. 19.

Seizure of  
timber and  
products

**22.—(1)** Any officer or agent may seize and detain any timber and any product manufactured from such timber,

- (a) where the person for the time being in possession or control of the timber or product refuses or fails to inform the officer or agent of the name and address of the person from whom the timber or product was received or of any fact within his knowledge respecting the timber or product; or
- (b) where the officer or agent believes on reasonable grounds that the timber or the timber from which the product was manufactured has not been measured or counted by a scaler as required by this Act; or
- (c) where the officer or agent believes on reasonable grounds that Crown charges are owing by the licensee in respect of the timber or the timber from which the product was manufactured or any other timber; or
- (d) where the officer or agent believes on reasonable grounds that the timber or the timber from which the product was manufactured was not cut under the authority of a licence.

Removal  
of seized  
timber and  
products

(2) Any timber or product that is seized under subsection (1) may be removed to such place as the officer or agent considers proper for the protection of the timber or product and, if it is seized when in possession of a carrier, it shall be removed by the carrier on behalf of the Minister to such place as the officer or agent may direct, but,

- (a) the Minister is liable for transportation and all other proper charges incurred in consequence of the directions given by the officer or agent; and
- (b) such seizure does not prejudice or affect any lien to which the carrier is entitled in respect of the timber or product up to the time of such seizure.

(3) Where timber liable to seizure under this section has been made up with other timber into a crib, dam or raft, or in any other manner has been so mixed at a mill or elsewhere as to render it impractical or difficult to distinguish such timber from other timber with which it is mixed, the whole of the timber so mixed may be seized and detained. R.S.O. 1970, c. 102, s. 20.

Timber  
mixed with  
other timber

**23.** Where timber or any product manufactured therefrom has been seized and no claim to recover it is made within thirty days from the date of the seizure, the timber or product shall be deemed to be forfeited to and becomes the property of the Crown and may be dealt with in such manner as the Minister may direct. R.S.O. 1970, c. 102, s. 21.

Forfeiture  
of seized  
timber and  
products

**24.** Where timber or any product manufactured therefrom is subject to a lien and charge under section 21 and is under seizure or attachment by a sheriff or a bailiff of a court, or is claimed by or is in the possession of any assignee for the benefit of creditors, or any liquidator, or any trustee in bankruptcy, or where such timber or product has been converted into cash that has not been distributed, the Minister may give to the sheriff, bailiff, assignee, liquidator or trustee in possession of such timber or product, or cash, notice of the amount due or owing under such lien and charge, and thereupon the sheriff, bailiff, assignee, liquidator or trustee shall pay the amount so due or owing to the Treasurer of Ontario in preference to and in priority over all other fees, charges, liens or claims whatsoever. R.S.O. 1970, c. 102, s. 22.

Notice  
of lien

#### PROCEEDINGS FOLLOWING SEIZURE OF TIMBER

**25.—(1)** A person claiming to be the owner of timber or a product manufactured therefrom that has been seized under this Act, upon at least four days notice to the Minister, may apply to a judge of the county or district court of the county or district in which the timber or product is held under seizure for an order for its release from seizure and its delivery to him.

Order for  
release from  
seizure

(2) Upon receipt of a bond of the claimant, with two good and sufficient sureties, in an amount not less than the market value of the timber or product and the expenses of the seizure, to be forfeited to the Crown if the claimant is declared by the judge not to be the owner of the timber or product, the judge may order the timber or product to be released from seizure and to be delivered to the claimant.

Order for  
release and  
delivery to  
claimant

Order as to  
ownership

(3) Upon the application of the Minister or the claimant, and upon at least seven days notice, the judge shall determine the ownership of the timber or 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 such Crown charges and expenses as he finds to be owing; or

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

Costs of  
proceedings

(4) The judge shall make such order as he considers proper as to the costs of proceedings under this section and the expenses of seizure.

Disposal

(5) If the claimant is declared not to be the owner of the timber or product, it shall be disposed of in such manner as the Minister determines. R.S.O. 1970, c. 102, s. 23.

#### FOREST MANAGEMENT

Management  
plans

**26.**—(1) Every licensee shall, when required by the Minister, furnish within such period as is fixed by the Minister a management plan,

(a) consisting of a report, inventory, maps and an operating plan prepared in conformity with the manual of management plan requirements authorized by the Minister; and

(b) prepared under the supervision of a professional forester and certified by him in the following form:

I hereby certify that this plan has been prepared under my personal supervision and that all field work and calculations have been carried out to the best of my skill and judgment in accordance with the manual of management plan requirements.

When  
operating  
plan to be  
furnished

(2) Every licensee who is not required to submit a management plan under subsection (1) shall, when required by the Minister and within such period as is fixed by the Minister, furnish an operating plan showing the proposed operations and a statement of the purpose for which the timber is to be used.

(3) The Minister may approve a management plan or operating plan as submitted to him or may approve it with such alterations therein as he considers advisable. Approval of plans

(4) A licensee shall conduct all operations on his licensed area in accordance with the approved management plan or operating plan, as the case may be. Management of the area according to plan

(5) Where a licensee fails to furnish a management plan or an operating plan, as the case may be, within the period fixed by the Minister, the Minister may cause the plan to be prepared, and the cost thereof shall be a claim of the Crown in connection with the licensed area. R.S.O. 1970, c. 102, s. 24. Plans not submitted on time

27.—(1) Every licensee shall furnish to the Minister, Information to be furnished annually

(a) at least thirty days before cutting operations commence in each year, an annual plan for the cutting operations to be conducted by him during the twelve-month period commencing on the 1st day of April in that year; and

(b) not later than the 31st day of October in each year a map showing the boundaries and the acreages of the areas cut over and the parts thereof that were not cut during the twelve-month period ending on the 31st day of March of that year together with a statement of the acreages of the areas cut over, the parts thereof that were not cut and the amount, species and size of timber cut from each cutting area during such period.

(2) The Minister may approve an annual plan or may approve it with such alterations as he considers advisable, and, where the alterations involve the alteration of an approved management plan or operating plan, the management plan or the operating plan, as the case may be, shall be deemed to be altered accordingly. Alteration of plan

(3) Cutting operations in each year shall be conducted in accordance with the approved annual plan. R.S.O. 1970, c. 102, s. 25 (1-3). Cutting operations

(4) The Minister may enter into an agreement with a licensee for the promotion and maintenance of the productivity of the licensed area by establishing, regenerating and tending forests and employing silvicultural cutting systems to regenerate forests. 1978, c. 51, s. 2. Minister may enter into agreements

Cancellation  
or variation of  
licence, etc.

**28.**—(1) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council,

- (a) having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him; and
- (b) with the consent of the licensee, may cancel or vary any term or condition of a licence. 1979, c. 92, s. 8.

Idem

(2) Notwithstanding anything in any general or special Act or in any regulation or in any licence or in any management plan or operating plan, the Minister may,

- (a) limit the cutting of the timber included in any licence in respect of the size, age, quality, species, types and distribution thereof as he considers consistent with the best forestry practices;
- (b) determine the species and quantities of Crown timber that may be cut by any licensee for the manufacture of lumber, pulp, paper or other products; and
- (c) for the purpose of forest management, watershed protection, fire protection, or the preservation of beauty of landscape, game preserves or game shelters, direct the marking of trees to be left standing or to be cut in any area designated by him, and direct the licensee to pay the cost of such marking.

Idem

(3) Any action by the Lieutenant Governor in Council under subsection (1) or any action by the Minister under subsection (2) in respect of matters other than fire protection does not affect operations being carried out or to be carried out pursuant to an approved annual plan. R.S.O. 1970, c. 102, s. 26 (2, 3).

Wasteful  
practices

**29.** No person shall commit wasteful practices in forest operations. R.S.O. 1970, c. 102, s. 27.

Information  
to be  
furnished  
by licensee

**30.** Every licensee shall, when required by the Minister and within the time specified, furnish to him in writing and under oath such information relating to the utilization, transformation or disposal of the timber cut on the licensed area and any products manufactured therefrom as he requires. R.S.O. 1970, c. 102, s. 28.

**31.** Where a licensee contravenes any provision of sections 26 to 30 or any order of the Minister made thereunder, the Minister may suspend the operation of the licence in whole or in part for a period not exceeding six months. R.S.O. 1970, c. 102, s. 29. Non-compliance with ss. 26-30

**32.** Where a licensee contravenes any provision of sections 26 to 30 or any order of the Minister made thereunder, the Lieutenant Governor in Council may, Idem

- (a) suspend the operation of the licence in whole or in part for such period as he determines; or
- (b) cancel the licence in whole or in part. R.S.O. 1970, c. 102, s. 30.

**33.** The Minister may authorize a manual of management plan requirements prescribing the method of preparing management plans, operating plans, annual plans, and inventories, and the form thereof. R.S.O. 1970, c. 102, s. 31. Manual of management plan requirements authorized

SCALERS

**34.—(1)** The Minister may in writing appoint boards of examiners, each consisting of three skilled persons, any two of whom form a quorum, whose duty is, Boards of examiners, appointment and duties

- (a) to examine and report upon the ability and knowledge of persons desiring to be licensed to measure all classes of timber; and
- (b) to perform such other duties as are assigned to them by the Lieutenant Governor in Council. R.S.O. 1970, c. 102, s. 32 (1); 1979, c. 92, s. 9.

(2) The Minister shall determine the standard and method of examination. R.S.O. 1970, c. 102, s. 32 (2). Standard and method of examination

**35.—(1)** Every examiner, before entering upon his duties, shall take and subscribe an oath in the following form: Oath of examiners

I, ....., will act as examiner of scalers to the best of my ability and knowledge, and will conduct the examination without fear, favour or affection and recommend for licences only those persons who have satisfactorily proved their fitness to discharge the duties of measuring timber. So help me God.

(2) The oath shall be transmitted to the Minister. R.S.O. 1970, c. 102, s. 33. Transmission of oaths

**36.** The members of boards of examiners shall be paid such remuneration and travelling expenses as are determined by the Lieutenant Governor in Council. R.S.O. 1970, c. 102, s. 34. Remuneration of examiners



Examinations

**37.**—(1) Every board of examiners shall sit at such places and on such days as are determined by the Minister, and shall examine all candidates who present themselves, and at the close of the examination, or as soon after as may be, shall transmit to the Minister the names of such of the candidates as they believe are trustworthy and of good character and who on examination have satisfactorily proved their fitness to discharge the duties of measuring all classes of timber or of measuring pulpwood and whom they recommend as having the requisite skill and knowledge to warrant their being licensed as scalers.

Examination fee

(2) The Minister may determine the amount of the examination fee to be paid by candidates. R.S.O. 1970, c. 102, s. 35.

Scalers' licences

**38.**—(1) The Minister may issue a scaler's licence to any person who has been recommended by a board of examiners and who has taken the oath prescribed by section 40.

Term

(2) Every scaler's licence expires with the 31st day of March of the third year after the 31st day of March that preceded the date of issue.

Renewal

(3) A scaler's licence may, upon application to the Minister, be renewed from time to time either before or after the expiration thereof or of the last renewal, and every renewal expires with the 31st day of March of the third year after the 31st day of March that preceded the date of issue, but, where a licence has not been renewed within three years after its expiration or after the expiration of the last renewal, it shall not be further renewed. R.S.O. 1970, c. 102, s. 36.

Special permits

**39.** Where a licensed scaler is not available, the Minister may issue a special permit to anyone whose trustworthiness and skill have been established by the affidavits of two responsible persons. R.S.O. 1970, c. 102, s. 37.

Scaler's oath

**40.**—(1) Before a scaler's licence or special permit is issued, the applicant shall take an oath in the following form:

I, ....., while acting as a licensed scaler (or as holder of a special permit), without fear, favour or affection, and to the best of my judgment and skill, will measure correctly in accordance with the authorized manual of scaling instructions all Crown timber that I am employed to measure, and make true return of the same to the Ministry of Natural Resources or its officer or agent. So help me God.

(2) The oath shall be transmitted to the Minister. R.S.O. <sup>Transmission of oaths</sup> 1970, c. 102, s. 38 (2).

41. The Minister may authorize a manual of scaling <sup>Manual of scaling instructions authorized</sup> instructions prescribing the method of measuring Crown timber. R.S.O. 1970, c. 102, s. 39.

42.—(1) It is the duty of every licensed scaler or holder <sup>Duties of scalers</sup> of a special permit to measure in accordance with the authorized manual of scaling instructions all Crown timber that he is employed to measure, making only such deductions as are authorized by the manual, and to enter in a book of record, for the purpose of a return to the Ministry, the contents of the timber or pulpwood measured by him and the number of logs rejected as culls. R.S.O. 1970, c. 102, s. 40 (1); 1972, c. 1, s. 1.

(2) It is the duty of every licensed scaler or holder of a <sup>Idem</sup> special permit to stamp upon every cull the word "cull". R.S.O. 1970, c. 102, s. 40 (2).

43. All Crown timber shall be measured by a licensed <sup>Where timber to be measured</sup> scaler or a holder of a special permit at the place of cutting or at a concentration point adjacent to the place of cutting, and no Crown timber shall be manufactured or removed from the place of cutting or from the concentration point before being so measured, without the written authority of the Minister. R.S.O. 1970, c. 102, s. 41.

44.—(1) Pulpwood cut in lengths of more than eight feet <sup>Measurement of pulpwood</sup> shall be measured in cubic feet of solid wood and not in stacked cords.

(2) Pulpwood cut in lengths of eight feet or less may be <sup>Idem</sup> measured in cubic feet of solid wood or in stacked cords, as the Minister directs.

(3) Where a licensee is required or permitted to measure <sup>Idem</sup> pulpwood in cubic feet of solid wood, he is entitled to convert 85 cubic feet of solid wood into 128 cubic feet of stacked wood. R.S.O. 1970, c. 102, s. 42.

45. Every licensed scaler and every holder of a special <sup>Inspection of scalers' books</sup> permit shall submit his books and records of measurements of Crown timber for the inspection of any officer or agent when called upon so to do, and shall furnish all information and statements or copies of statements that the Minister or any officer or agent requires. R.S.O. 1970, c. 102, s. 43.

46. The Minister may <sup>Suspension and cancellation of scalers' licences and permits</sup> suspend or cancel the licence or special permit of any scaler who undermeasures or mis-

measures or improperly culls any Crown timber, or makes a false return, or fails to make a return when required. R.S.O. 1970, c. 102, s. 44.

#### LICENSING OF MILLS

Licence  
required

**47.**—(1) No person shall construct, reconstruct or operate a mill, or increase the productive capacity of a mill, or convert an existing mill into a mill of any other type, without a licence from the Minister.

Condition  
precedent  
to grant  
of licence

(2) A licence under subsection (1) shall not be granted unless the applicant has, in the opinion of the Minister, a sufficient supply of logs or wood-bolts.

Effect of  
licence

(3) The granting of a licence under subsection (1) does not imply any obligation on the part of the Minister to make Crown timber available for the mill. R.S.O. 1970, c. 102, s. 45.

#### PENALTIES

Penalties

**48.**—(1) Every person who,

- (a) commences cutting operations without the approval of the Minister under section 14, or carries on cutting operations beyond the limits of the area approved by the Minister under section 14, is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber so cut and not more than five times the amount of such charges;
- (b) contravenes subsection 15 (1) or any order or direction made under section 28 or any regulation made under clause 53 (h) is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges;
- (c) except under a licence, cuts or employs or induces or assists any other person to cut Crown timber or removes or employs or induces or assists any other person to remove Crown timber is liable to a penalty of an amount not less than the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges;

- (d) contravenes section 43 is liable to a penalty of an amount not less than twice the amount of the stumpage charges on the timber in respect of which such contravention occurred and not more than five times the amount of such charges;
- (e) contravenes section 19 is liable to a penalty of not less than \$50 and not more than \$5,000;
- (f) when in possession or control of any timber or any product manufactured therefrom, upon request refuses or fails to inform any officer or agent of the name and address of the person from whom the timber or product was received or of any fact within his knowledge respecting the timber, is liable to a penalty of not less than \$10 and not more than \$500;
- (g) interferes with any officer or agent who seizes timber under this Act, is liable to a penalty of not less than \$100 and not more than \$500;
- (h) removes or attempts to remove or interferes or attempts to interfere with any timber or any product manufactured therefrom after it has been seized under this Act, is liable to a penalty of not less than \$100 and not more than \$500;
- (i) makes or avails himself of any false statement or oath with respect to any matter under this Act or the regulations, is liable to a penalty of not less than \$100 and not more than \$500;
- (j) contravenes section 47 or any regulation made under clause 53 (m) or (o), is liable to a penalty of not less than \$25 and not more than \$1,000 for the first contravention and to a penalty of not less than \$50 and not more than \$5,000 for each subsequent contravention;
- (k) fails to comply with a written notice issued under section 17 is liable to a penalty of not less than \$25 and not more than \$1,000 for the first failure to comply and not less than \$50 and not more than \$5,000 for each subsequent failure to comply.  
R.S.O. 1970, c. 102, s. 46 (1); 1971, c. 23, s. 3; 1978, c. 51, s. 3 (1).

(2) Where in the opinion of the Minister a person is liable to a penalty under subsection (1) or the regulations, he may give notice to the person by registered mail, Demand for penalty

- (a) setting out the facts and circumstances that in his opinion render the person liable to a penalty;
- (b) requiring the person to pay such penalty as he considers proper in the circumstances; and
- (c) specifying the time within which the penalty shall be paid. R.S.O. 1970, c. 102, s. 46 (2); 1978, c. 51, s. 3 (2).

Right of  
action

(3) If a person fails to pay a penalty in accordance with a notice under subsection (2), the Minister may bring an action for the recovery of the penalty in a court of competent jurisdiction, and in such action it is the duty of the court,

- (a) to determine whether such person is liable to a penalty under subsection (1) or the regulations;
- (b) if it is determined that the person is liable to a penalty, to confirm or vary the amount thereof claimed by the Minister;
- (c) to give such judgment as it considers proper; and
- (d) to make such order as to costs or otherwise as it considers proper. R.S.O. 1970, c. 102, s. 46 (3); 1978, c. 51, s. 3 (3).

#### GENERAL

Acts of  
Minister  
deemed  
adminis-  
trative

**49.** Every thing done by the Minister under the authority of this Act shall be deemed to be of an administrative and not of a legislative nature. R.S.O. 1970, c. 102, s. 48.

Regula-  
tions re  
Crown  
charges

**50.** Notwithstanding anything in this Act or any general or special Act or in any order, regulation, agreement or licence, any regulation made under clause 53 (c) or (d) may be made to come into force on the 1st day of April immediately preceding its filing or on any day subsequent to that 1st day of April. 1978, c. 51, s. 4, *part*.

Determina-  
tion of  
Crown dues

**51.** Unless otherwise provided in the regulations, the Crown dues to be paid in respect of timber by a licensee or class of licensee are those Crown dues fixed or determined under the regulations in force at the time the timber is

measured, notwithstanding that the timber is cut before the regulations come into force. 1978, c. 51, s. 4, *part*.

**52.**—(1) Every licence granted under a predecessor of this Act and subsisting when this Act comes into force shall, subject to subsection (2), continue in force in accordance with the terms of the licence. <sup>Existing licences and permits</sup>

(2) This Act and the regulations apply to every licence heretofore or hereafter granted and, where there is any conflict between this Act or the regulations and any licence, this Act and the regulations govern. R.S.O. 1970, c. 102, s. 50. <sup>Application of Act and regulations</sup>

#### REGULATIONS

**53.** The Lieutenant Governor in Council may make regulations, <sup>Regulations</sup>

- (a) prescribing the terms and conditions that shall apply to licences, other than those granted under subsection 2 (7) or section 5;
- (b) prescribing terms and conditions, in addition to those prescribed under clause (a), that shall apply to licences to cut Crown timber in a provincial park;
- (c) fixing the amount of area charge and other charges to be paid in respect of licensed areas;
- (d) fixing or determining the Crown dues to be paid by a licensee or class of licensee in respect of any kind or class of timber, other than killed or damaged timber, cut under licence and, without limiting the generality of the foregoing, such regulations may provide for,
  - (i) the fixing or determining of Crown dues by a formula employing any index number existing before or coming into existence after the regulations come into force, of any price index, or any average of any such index numbers,
  - (ii) a method of categorizing any licensee or class of licensee in respect of the application of any such formula,

- (iii) any forfeiture or suspension considered necessary to administer effectively any such method,
  - (iv) the filing of any certificate, affidavit and other material considered necessary for the purposes of any such method,
  - (v) determining, when a licensee shall be deemed to have failed or neglected to file any such certificate, affidavit or other material, and
  - (vi) informing licensees of Crown dues determined by any formula;
- (e) fixing the times at which Crown charges are payable and the rate and kind of interest to be charged on overdue accounts and prescribing the method of calculating or compounding any such interest;
  - (f) fixing the fees to be paid on the transfer of a licence;
  - (g) prescribing the manner in which a seizure of timber may be effected under section 22;
  - (h) fixing the minimum size of any species of trees that may be cut under licence;
  - (i) defining wasteful practices in forest operations and prescribing the penalties that may be imposed for contravention of any such regulation;
  - (j) classifying mills and providing for the issue of licences therefor;
  - (k) prescribing the form of mill licences and the fees to be paid therefor;
  - (l) prescribing the term of mill licences and providing for the transfer, renewal, suspension and cancellation thereof;
  - (m) imposing conditions as to the location of mills, the mechanical efficiency thereof and operating methods of mill licensees, including the disposal of waste or refuse;
  - (n) providing for the periodical inspection of mills;
  - (o) prescribing the returns that mill licensees shall make to the Minister as to their mills and operations,

including the sources, species, quantities and disposition of materials processed;

- (p) prescribing the form of scalers' licences, special permits and renewals and the fees payable in respect thereof;
- (q) prescribing penalties for the contravention of any provision of this Act or the regulations where no penalty has been fixed by this Act;
- (r) governing the cutting of timber before the issue of a patent by a purchaser or locatee of lands for agricultural purposes under the *Public Lands Act* and prescribing the extent to which and the conditions under which such cutting may be carried on;
- (s) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1970, c. 102, s. 51; 1972, c. 26, s. 1; 1978, c. 51, s. 5.

R.S.O. 1980,  
c. 413

**54.** Any regulation may be limited territorially or as to time or otherwise. 1971, c. 23, s. 4. Regulations  
may be  
limited



