



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

FOREST MANAGEMENT ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to May 6, 2022. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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FOREST MANAGEMENT ACT

CHAPTER F-14

1. Definitions

In this Act

- (a) **“best end use”** means the utilization of trees or the management of forest stands to favour the production of trees of sufficient dimensions and quality to produce either peeler logs for veneer or logs for saw timber or otherwise to procure the highest value to the province;
- (a.1) not proclaimed;
- (b) **“Crown”** means the Government;
- (c) **“Crown forest lands”** means all or any part of the forest lands vested in the Crown through the *Public Works Act* R.S.P.E.I. 1988, Cap. P-34 or forest lands on which forest management rights have been transferred to a Government Department or Division by a Crown agency;
- (d) **“Crown forest product sales permit”** or **“permit”** where used in sections 11 and 12, means a permit authorizing a person to cut, harvest or remove timber or other forest products;
- (e) **“Department”** means the Department of Environment, Energy and Climate Action;
- (f) **“District Manager”** means a person employed by the Department to fill the position so designated;
- (g) **“forest fire”** means a fire burning on forest land or threatening forest land;
- (h) **“forest land”** means
 - (i) any land, excluding the cleared land immediately adjacent to an occupied building, on which living or dead trees are the tallest type of vegetation,
 - (ii) any land on which tree seedlings exist or have been planted and are retained for the purposes of producing forest products, or
 - (iii) any land which is being manipulated by tree harvesting, site preparation, tree planting, and or other techniques that promote the establishment of tree seedlings;
- (i) **“forest management”** means the manipulation of forest land at any stage of the life cycle of the trees occupying it in such a manner that the stand of trees on an area of forest land is replaced by a stand of trees of equivalent or higher quality;
- (j) **“forest product”** means a type of product harvested from a tree and includes but is not limited to logs, pulp, fuelwood (either round or chips), maple sap and its derivatives, Christmas trees, fence posts, stakes, rails, and box wood;
- (j.1) not proclaimed;

- (k) “**forest road**” means a road on Crown forest lands to the fullest extent of the right-of-way of such road and includes the bridges thereon but does not include a highway as defined in the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5;
- (l) “**forest service officer**” means
- (i) a person employed as a forest technician or forester by the Department, or
 - (ii) a conservation officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1.
- (m) “**forested natural area**” means an area of forest land selected because it is representative of a rare or uncommon forest ecosystem and which is designated as such by regulation;
- (m.1) not proclaimed;
- (n) “**integrated management**” with respect to a parcel of forest land, means the application of silvicultural techniques and forest access construction techniques in a manner which
- (i) ensures that the forest land on an individual property produces forest products,
 - (ii) makes a positive contribution to the conservation of the soil, water and wildlife resources both on that parcel and on adjacent lands, and
 - (iii) meets other objectives set for the property that are consistent with the provincial Forest Policy;
- (o) “**Minister**” means the Minister of Environment, Energy and Climate Action;
- (p) “**multiple use**” with respect to forest lands, means the application of forest management in such a manner as to meet two or more specified objectives;
- (q) “**private land**” means land owned by someone other than the Crown;
- (r) “**Provincial Forest**” means an area of Crown forest land designated as such under the regulations;
- (r.1) not proclaimed;
- (s) “**scaling**” means the determination of the gross and net volumes of round wood in cords, cubic feet, cubic metres, board feet or assumed standards;
- (t) “**silvics**” means the life history, characteristics and ecology of stands of forest trees;
- (u) “**silviculture**” means the application of the knowledge of silvics in the treatment of forest land for the sustained or enhanced production of tree growth;
- (v) “**site preparation**” means the preparation of an area of land for the planting of trees or to facilitate increased natural regeneration of tree species;
- (w) “**sustain**” in relation to forest management, means the use of silvicultural treatments which
- (i) provide for a consistent flow of forest products and other benefits from a defined forest land base,
 - (ii) retain the capability of that forest land base to produce equivalent or higher quality forest products, and
 - (iii) retain the long term capability of the soil on that forest land base to produce forest products;
- (x) “**wildlife**” means any vertebrate animal that is wild by nature in the province. *1988,c.27,s.1; 1993,c.29,s.4; 1997,c.20,s.3; 1998,c.88,s.1; 2004,c.36,s.3; 2009,c.73,s.2; 2006,c.16,s.63(4.1); 2012,c.17,s.2; 2015,c.28,s.3; 2019,c.1,s.3; 2021,c.8,s.3; 2022,c.62,s.29.*

2. Administration

The Minister has the general supervision and management of this Act and may designate persons to act on his behalf. *1988,c.27,s.2.*

3. Responsibilities of Minister

The Minister is responsible for the conservation, management and protection of forest lands in accordance with this Act and the regulations. *1988,c.27,s.3.*

4. Forest Policy

- (1) The Minister shall prepare and cause to be publicly reviewed a Forest Policy which shall include
- (a) information on the growth, yield and utilization of the forest, with and without management;
 - (b) policy objectives and principles of management for forest lands;
 - (c) assessment strategy and actions to be employed to achieve those objectives and principles of forest management; and
 - (d) such other information relating to the forest as is prescribed by regulation.

Revision

- (2) The Minister shall cause the Forest Policy to be reviewed by the Department and, if revisions are considered necessary based on this review, he may cause the revisions or the entire Forest Policy to be reviewed publicly in such manner as may be prescribed by regulation.

Availability

- (3) The Minister shall make the Forest Policy readily available to any individual requesting it. *1988,c.27,s.4.*

5. Forest Improvement Advisory Council

The Minister may establish a Forest Improvement Advisory Council to provide advice on

- (a) the effectiveness of forest management activities;
- (b) forest research;
- (c) the training of workers for the forest industry;
- (d) forest wildlife conservation;
- (e) forest multiple use;
- (f) forest education programs; and
- (g) other matters relating to the conservation and use of forest land. *1988,c.27,s.5.*

6. Forest inventory and report

- (1) The Minister shall monitor forest growth and, in 1992 and every ten years thereafter, shall provide to the Lieutenant Governor in Council a State of the Forest Report which includes
- (a) an inventory of the forest in the province identifying the area of the forest by cover type, the volume of forest products available in the forest, the age distribution of the forest, and an estimate of the growth by product type that the forest can sustain with and without management;

- (b) a summary of the forest management activities for both Crown forest lands and private land implemented during each year of the ten year reporting period;
- (c) an estimate of the wood supply shortfalls or surpluses based on projections of forest growth and demand for forest products;
- (d) an outline of programs proposed to manage the forest in the next reporting period; and
- (e) such other information as may be prescribed by regulation.

Release of information

- (2) The Minister may compile and release the information gathered in the development of a forest inventory but shall not release information specific to any individual landowner without the permission of that landowner. *1988,c.27,s.6.*

7. Trespass rights

- (1) A forest service officer or any person assisting him in the performance of his duties may, under the direction of the Minister, enter upon private lands whenever necessary for the proper performance of his duties under this Act.

Idem

- (2) No action for trespass or nuisance may be brought against the Crown or its agents for the doing of any act or the carrying out of any operation necessarily incidental to the exercise of any duty or power pursuant to this Act or the regulations. *1988,c.27,s.7.*

8. Management of private forest land

- (1) The Minister shall encourage the management of private forest lands for the sustained production of forest products in a manner consistent with the Forest Policy and the Provincial Conservation Strategy.

Programs

- (2) The Minister may initiate programs or enter into agreements to implement subsection (1).

Management plans

- (3) The Minister may prepare or promote the preparation of forest management plans for private forest landowners, in such form and containing such information as may be prescribed by the regulations.

Preparation of plans

- (4) Private forest management plans shall
 - (a) comply with the Forest Policy and Provincial Conservation Strategy;
 - (b) be consistent with the silvics of the species; and
 - (c) be prepared by
 - (i) a forester or forest technician, or
 - (ii) a landowner or his representative.

Review and approval

- (5) Private forest management plans prepared under subsection (4) must be reviewed by the District Manager and the District Manager shall have the right to approve a private land forest

management plan if it complies with subsections (3) and (4) or order its alteration if it does not.

Certified forest producers

- (6) The Minister, in the manner prescribed by regulations, may designate certified forest producers.

Grants to producers

- (7) The Minister may, in accordance with the regulations, grant financial aid to a certified forest producer. *1988, c.27, s.8.*

9. Crown forest land management

- (1) The Minister is responsible for the conservation, utilization, protection and integrated management of Crown forest lands including
- (a) harvesting, regeneration and improvement of the timber resource;
 - (b) utilization of Crown timber resources for the best end use;
 - (c) protection of timber resources from fire, insect and disease, and unlawful harvesting, damage or removal;
 - (d) access to and travel on Crown forest lands;
 - (e) conservation and or enhancement of wildlife resources utilizing Crown forest lands;
 - (f) protection of representative areas of the forest as forested natural areas;
 - (g) provision of forest recreation opportunities on Crown forest lands.

Districts

- (2) The Minister may divide Crown forest lands into forest management districts.

Management plan for district

- (3) The Minister shall cause to be prepared a Crown Forest Land Management Plan for each forest management district in accordance with subsection (4).

Content of management plan

- (4) A Crown Forest Land Management Plan shall
- (a) define the lands to which it applies and the purpose and scope of the plan for a twenty year period;
 - (b) provide a general description of the forest land and its ownership for the area under consideration;
 - (c) provide an inventory of the forest for that forest management district;
 - (d) identify the protection needs of the forest;
 - (e) describe the silvics of the major species groupings which will be managed;
 - (f) identify biological, physical and legal constraints on the development of the forest;
 - (g) specify the twenty year planning objectives for the forest management plan;
 - (h) state the management policy for Crown forest land;
 - (i) specify management priorities for the Crown forest land;
 - (j) set out the management strategy and programs for the Crown forest land;
 - (k) set out five year and twenty year operational projections on silvicultural activities and estimates of their impact on supply of forest products and other values for a hundred year period;

- (l) include such other items as may be prescribed by the regulations.

Operations plan

- (5) The Minister shall cause to be prepared a Crown Forest Land Operations Plan for each forest management district.

Content of operations plan

- (6) Each Crown Forest Land Operations Plan shall
 - (a) cover a five year period;
 - (b) identify the Crown properties on which management and silvicultural work are to be implemented in the first year of the plan;
 - (c) describe the amount and type of work to be undertaken in the following areas:
 - (i) silviculture,
 - (ii) timber harvesting,
 - (iii) road construction and maintenance,
 - (iv) forest protection,
 - (v) forest extension;
 - (d) identify provisions made for multiple use of the forest; and
 - (e) include such other items as may be prescribed by the regulations.

Publication

- (7) The Minister shall make available to the public copies of the District Crown Forest Land Management Plans and the District Crown Forest Land Operations Plans. *1988, c.27, s.9.*

10. Acquisition of Crown lands for forestry

- (1) The Minister may acquire Crown lands for the following purposes:
 - (a) establishing or increasing the land in a Provincial Forest;
 - (b) establishing tree seedling production facilities;
 - (c) establishing seed orchards and testing tree seed sources;
 - (d) establishing or testing silvicultural enhancement techniques;
 - (e) conserving representative forested natural areas and rustic roads;
 - (f) monitoring forest growth;
 - (g) gaining access to Crown forest land;
 - (h) managing surface water levels and runoff on Crown land;
 - (i) establishing demonstration woodlots;
 - (j) establishing parks or acquiring lands for wildlife conservation;
 - (k) producing forest products.

Disposal

- (2) The Minister may dispose of Crown forest lands not considered essential for the implementation of subsection (1) if
 - (a) the sale agreement ensures the proper management and conservation of that Crown forest land;
 - (b) the sale agreement ensures the retention of free public access rights by foot up to all lakes and streams on a corridor ten metres wide measured horizontally from the edge of the lake or stream.

Lease

- (3) The Minister may lease Crown forest land.

Terms of lease

- (4) A lease of Crown forest land shall
- (a) be for a period not exceeding ten years except where a longer period is provided for the protection of forested natural areas;
 - (b) designate the terms and conditions for the management of the forest and multiple use resources on the forest lands;
 - (c) be assignable only if
 - (i) the area to be assigned is not a forested natural area, and
 - (ii) the assignee is a bank, trust company or other financial institution approved by the Minister;
 - (d) be made on such other terms and conditions as may be prescribed by regulation;
 - (e) include a termination clause effective upon failure of the lessee to fulfill the terms and conditions of the lease. *1988, c.27, s.10.*

11. Sales permit

- (1) The Minister may grant a Crown forest product sales permit to cut, harvest or remove such quantities of timber and other forest products as he considers to be sustainable based on the District Crown Forest Land Management Plan.

Conditions of permit

- (2) A permit shall
- (a) be provided only for publicly tendered timber or other forest products;
 - (b) identify the type and location of forest products to be sold;
 - (c) specify the utilization standards on trees that are to be harvested;
 - (d) specify the price for which the forest product is being sold;
 - (e) specify the condition in which Crown forest roads are to be left at the completion of harvesting, extraction and removal of forest products from the property;
 - (f) not be issued to an individual with outstanding commitments to the Crown for a previously issued Crown forest product sales permit which has expired;
 - (g) indemnify the Crown from any and all legal actions brought as a result of work carried out under the permit;
 - (h) not be valid until signed by the applicant for the permit;
 - (i) give the right to the Crown to inspect the property subject to the permit at any time;
 - (j) specify such other conditions and terms as may be specified by the regulations.

Lien for payment

- (3) The timber or other forest products cut, harvested or removed under a permit shall remain the property of the Crown until payment in full is received and the Crown shall have a first lien and charge upon all property subject to the permit until all conditions of the permit are satisfied.

Errors

- (4) If in consequence of an incorrect survey or other error or cause whatsoever, a permit is found to cover lands not owned by the Crown, the permit shall be void in so far as it interferes with the lands not owned by the Crown.

Refund of fee

- (5) Where a permit is, pursuant to subsection (4), rendered void in whole or in part, the permit holder shall have no claim for compensation except for a refund of the permit fee calculated on a prorated basis on the area of land for which the permit was issued.

Cease and desist orders

- (6) A forest service officer may order a permit holder or his agents to cease and desist harvesting or removing forest products from all or part of the land subject to the permit if in the officer's opinion the permit holder is in violation of the permit.

No claim for compensation

- (7) The holder of a permit in respect of which a cease and desist order is issued pursuant to subsection (6) shall have no claim upon the Crown for indemnity or compensation by reason of the order. *1988, c.27, s.11.*

12. Unlawful cutting or removal of timber

- (1) Except as authorized by a valid permit, no person shall
- (a) cut down or damage timber or other forest products on Crown lands; or
 - (b) remove from Crown forest land timber or any other property belonging to the Crown.

Penalty

- (2) Any person who violates subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$100 and not more than \$5000.

Reforestation costs

- (3) A person who is convicted of an offence under clause (1)(a), in addition to any penalty imposed under subsection (2), is liable for the costs of site preparation and reforestation of the area illegally cut or damaged and the maintenance of the area until it is free to grow.

Seizure

- (4) Where, in contravention of subsection (1)
- (a) timber or other forest products are cut down or damaged on Crown land;
 - (b) timber, forest products or other property belonging to the Crown is removed from Crown forest lands,

a forest service officer may seize such timber, forest products or other property, together with any equipment or vehicle used in cutting down, damaging or removing of such timber, forest products or other property.

Idem

- (5) Where timber or other forest products on Crown forest land have been cut down or removed without authority and found mixed with other timber or other forest products
- (a) other than from Crown forest lands; or
 - (b) authorized to be harvested on Crown forest lands,
- a forest service officer may seize any such other timber or other forest products.

Notice

- (6) Where a forest service officer has seized timber or other property in accordance with this section, that officer shall
- (a) without delay, report the particulars of the seizure to the Minister; and
 - (b) where he has knowledge of the person who is in actual or apparent possession of the timber or other forest products at the time of the seizure, give notice to that person of the seizure, either by personal service or by registered mail.

Possession of seized timber

- (7) Any timber, forest products or equipment seized pursuant to subsection (4) or (5) shall remain in the possession of the Department, pending the outcome of a prosecution under this section.

Return

- (8) In the event that a prosecution has not been initiated within six months of the offence, the property seized shall be returned, within a reasonable time, to the owner or the person who was in actual or apparent possession at the time of the seizure.

Exception

- (9) Notwithstanding subsection (8), property which cannot be distinguished or separated from Crown timber or Crown forest products, shall remain in the possession of the Department.

Property of Crown on conviction

- (10) Timber or forest products seized under this section, become the property of the Crown in the event that a guilty plea or verdict is entered on a prosecution under subsection (2).

Return to owner of equipment seized

- (11) Subject to subsection (12), equipment seized under this section shall be returned to the owner or person from whom it was seized, within sixty days of the final disposition of a prosecution under this section or at the expiry of six and a half months from the date of the offence, if no prosecution is instituted.

Forfeiture

- (12) The judge may order, in addition to any penalty imposed under this section, that any or all equipment seized in connection with the offence is forfeited to the Crown. *1988,c.27,s.12; 1994,c.58,s.6.*

13. Obstruction of forest service officer

- (1) No person shall
- (a) obstruct;
 - (b) cause to be obstructed; or
 - (c) incite others to obstruct,

a forest service officer in the exercise of his authority under the Act, or any person assisting him in the exercise of that authority.

Penalty

- (2) Any person who violates subsection (1) commits an offence and is liable on summary conviction to a fine of not less than \$100 and not more than \$2000. *1988,c.27,s.13; 1994,c.58,s.6.*

14. Crown forest land roads

- (1) The Minister may construct and maintain a forest road on Crown forest land.

Standards

- (2) The construction or maintenance of a forest road shall be in accordance with standards prescribed by regulation.

Closure

- (3) The Minister may by order close a forest road to travel by any class of vehicle or by any person as specified in the order.

Signs

- (4) Where the Minister issues an order under subsection (3) he shall post or erect signs to indicate the closure.

Violation of order

- (5) No person other than a forest service officer or other person authorized by the Minister shall violate an order made under subsection (3).

Defacement, etc. of signs

- (6) No person other than a forest service officer or a person authorized by him shall remove or deface a sign posted or erected by the Minister pursuant to subsection (4).

Vehicle weight

- (7) No person may operate on a forest road bridge a vehicle having a total loaded weight in excess of that determined by the Minister and posted at the site.

Penalty

- (8) A person who violates subsection (5), (6) or (7) commits an offence and is liable on summary conviction to a fine of not less than \$100 and not more than \$1000.

Claims

- (9) No claim for damages may be made by any person using a forest road by reason of damage or personal injury resulting from a defect in construction, improvement or maintenance of a forest road. *1988, c.27, s.14; 1994, c.58, s.6.*

15. Facilities

The Minister may build and operate facilities to

- (a) produce seedlings for reforestation, conservation of land, wildlife, and water, or for beautification;
- (b) produce genetically improved tree seed for use in seedling production programs;
- (c) deliver forest education programs;
- (d) deliver private land forest management plans;
- (e) deliver forest management on Crown land;
- (f) deliver technology transfer programs;
- (g) deliver forest fire detection, prevention and control programs;
- (h) implement forest management programs. *1988, c.27, s.15.*

16. Fuelwood categories

The Minister may, by regulation, designate classes of fuelwood. *1988,c.27,s.16.*

17. Scaling and grading

- (1) The Minister may issue scaling and grading licenses in accordance with the regulations.

Disputes

- (2) Where a dispute arises regarding a scaled volume of wood, the Minister may designate an individual holding a valid scaling license under subsection (1) for that type of wood to arbitrate the volume of wood under dispute.

Remuneration

- (3) An arbitrator appointed under subsection (2) shall receive such compensation and shall report on the arbitration decision in such manner as may be prescribed by the regulations. *1988,c.27,s.17.*

18. Disease control

The Minister may, by regulation, establish forest insect and disease control measures pertaining to the importation, destruction, seizure, movement and inspection of plants or plant materials which may harbour insects or cryptogamic disease. *1988,c.27,s.18.*

19. Forest conservation

The Minister may place such restrictions on the harvesting or extraction of trees within twenty metres of a body of water or within forty metres on either side of the midline of a designated scenic heritage road, as may be prescribed by regulation. *1988,c.27,s.19.*

20. Market development

The Minister may initiate programs to support and encourage

- (a) the further development of markets for forest products if growth, yield and availability studies show the forest resource can produce the forest products for those markets on a sustainable basis;
- (b) the further development of the forest industry to produce graded lumber or other forest products;
- (c) the further development of the abilities of landowners to conserve, protect and utilize the forest in a manner consistent with the Forest Policy and Provincial Conservation Strategy. *1988,c.27,s.20.*

21. Information

The Minister may request any person engaged in the forest industry to provide such information as the Minister may request for the better administration of this Act. *1988,c.27,s.21.*

22. Forest fire recovery program

The Minister may enter into agreements with private landowners to reclaim or regenerate forest land devastated by fire. *1988,c.27,s.22.*

23. Liability

An official or employee of the Department is not personally liable for any damages occasioned by the performance in good faith of his duty or by his carrying out orders or instructions received by him from a supervisor. *1988,c.27,s.23.*

24. *Idem*, Crown land

The Crown shall not be liable for any injury or damage occurring on Crown land howsoever caused. *1988,c.27,s.24.*

25. Regulations

The Lieutenant Governor in Council may make regulations

- (a) prescribing the contents of a Forest Policy and the manner in which it is to be reviewed;
- (b) respecting the composition, appointment of members, term of appointment of members, remuneration of members, and operating procedures for the Forest Improvement Advisory Council;
- (c) regarding the training of forest workers;
- (d) respecting forest inventories;
- (e) prescribing the contents of a forest inventory and report;
- (f) establishing methods of calculating sustained yield;
- (g) establishing a site index designation system;
- (h) respecting Crown forest land boundaries;
- (i) establishing programs for the management of private forest land;
- (j) establishing the format, information content, and term of forest management plans for private lands;
- (k) establishing the criteria for the certification of forest producers, the items for which a certified forest producer shall be eligible, the manner of application and the amount of any fees payable, and the criteria for payment for eligible claims;
- (l) establishing Provincial Forests;
- (m) establishing forest management districts;
- (n) respecting Crown Forest Land Management Plans, Crown forest land operations plans and the management of Crown forest land;
- (o) respecting the leasing or sale of Crown forest lands;
- (p) specifying the terms and conditions of a Crown forest product sales permit;
- (q) respecting utilization standards for the harvesting, extraction and sale of forest products from Crown forest lands;
- (r) prescribing classes, construction and maintenance standards and restriction of access on forest roads;
- (s) designating fuelwood classes and advertising standards for fuelwood;
- (t) respecting the scaling of wood, the measurement or estimation of wood chip volume, the grading of forest products, and the issuing of scaling licenses and grading licenses;
- (u) respecting the appointment, terms of payment, and reports applicable to scaling arbitrators;

- (v) respecting the importation, destruction, seizure, movement and identification of plants or plant materials which harbour insects or cryptogamic disease;
- (w) respecting the conservation and harvesting or the extraction of forest products from forests along streams, lakes and scenic heritage roads;
- (x) regarding the collection, use and confidentiality of forest product sales information;
- (y) prescribing penalties for failure to comply with this Act or the regulations;
- (z) prescribing any fees or other charges to be payable pursuant to this Act or the regulations. 1988,s.25,c.27; 1998,c.88,s. 25.