

No. 23

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BILL 23

A Bill to amend The Forests Act

HON. MR. WILLMORE

EDMONTON, ALBERTA
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Explanatory Note

2. Section 3 provides that *The Forests Act* does not apply to forest reserves, while section 44 of *The Forest Reserves Act* makes certain provisions of *The Forests Act* apply thereto. The amendment will remove the conflict.

3. Section 10, subsection (1) now reads:

"10. (1) Timber berths for the cutting thereon of pulp-wood shall be of such area as may be determined by the Minister and disposition of such berths may be made by the Minister under an agreement approved by the Lieutenant Governor in Council."

The amendment will enable the Minister with the approval of the Lieutenant Governor in Council to reserve for future disposition timber suitable for pulp-wood, plywood or other products as well as enabling him to dispose thereof to persons engaged in the manufacture of such wood products.

4. Section 12, subsection (1), clause (d) reads as follows:

"12. (1) Each application for a berth must be accompanied by a deposit as follows, - -

"(d) for an area of more than ten square miles and up to the maximum of twenty-five square miles, \$500.00".

The reference to a maximum area is removed as larger areas are likely to be covered by agreements.

5. Will permit the Minister to refuse licences, permits or tenders for specified causes.

BILL

No. 23 of 1956

An Act to amend The Forests Act

(Assented to _____, 1956)

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

PART I

1. *The Forests Act*, being chapter 43 of the Statutes of Alberta, 1949, is hereby amended.

2. Section 3, subsection (2) is amended by adding immediately after the word "Act" the words "unless otherwise provided by *The Forest Reserves Act*,".

3. Section 10 is amended by striking out subsection (1) and by substituting the following:

"**10.** (1) Notwithstanding any of the provisions of this Part, the Minister may

"(a) make a disposition of pulp-wood or timber suitable for manufacture into plywood or other products, or

"(b) reserve pulp-wood or timber suitable for manufacture into plywood or other products for future disposition to any person,

by an agreement with any person engaged in the manufacture of pulp or plywood or other products, and upon such terms and conditions and in respect of such area as may be approved by the Lieutenant Governor in Council."

4. Section 12, subsection (1), clause (d) is amended by striking out the words "and up to the maximum of twenty-five square miles,".

5. The following section is added immediately after section 17:

"**17a.** The Minister may reject any bid or tender made by any person indebted to the Minister for any royalties, dues, rents, charges, penalties or fees required to be paid by this Act or the regulations, and may refuse to issue any licence or permit to the person so indebted."

6. Section 18 is amended to enable a person submitting more than one tender to submit one guarantee deposit. Section 18 reads at present as follows:

18. Every tender to purchase a berth shall be
- “(a) accompanied by a guarantee cash deposit which shall be enclosed in the sealed container;
 - “(b) presumed to include on behalf of the person making the same an undertaking to pay to the Crown in addition to the purchase price and all dues, charges and taxes reserved or imposed by this Act or any other Act,
 - “(i) the cost incurred in cruising, surveying and advertising the berth,
 - “(ii) an annual rent based on the square miles contained in the lands covered by the license, license fee and fire-guarding charges.”

By the present section a tender is *presumed* to include an undertaking to pay specified costs to the Crown; the amended section would require such undertaking to be in writing.

7. Section 28, subsection (3) now reads:

- “(3) The Director may from time to time call upon the holder of a license to furnish to the Department a cruise of the berth or any portion thereof comprised in the license and,
- “(a) if such cruise is not furnished; or
 - “(b) if in his opinion any portion of a berth has not a sufficient quantity of the kind and dimensions of timber specified in the license for such berth; or
 - “(c) if such portion of the berth is not necessary for the proper working of the remainder of the berth;
- he may withdraw such portion in whole or in part from the berth.”

The amendment will permit holders of berths to apply for cancellation of parts thereof that have been cut and no longer required for the operation of the berth.

8. The amendment allows a reduction of the charges for ground rent and fire-guarding charges during the first and last year of the berth.

6. Section 18 is struck out and the following is substituted:

“**18.** (1) Subject to subsection (2), every tender to purchase a berth shall be

“(a) accompanied by the guarantee cash deposit enclosed in a sealed container,

“(b) accompanied by an undertaking in writing by the tenderer that in the event that his tender is eventually successful he will pay to the Crown in addition to all dues, charges and taxes reserved or imposed by this or any other Act,

“(i) the costs incurred in cruising, surveying and advertising the berth,

“(ii) an annual rent based on the number of square miles in the berth,

“(iii) the licence fee, and

“(iv) fire-guarding charges.

“(2) Where any person submits more than one tender for the same berth at any sale, the guarantee deposit accompanying the first tender made shall be deemed to accompany any of the additional tenders.”.

7. Section 28 is amended by striking out subsection (3) and by substituting the following:

“(3) Where the Director finds upon examination of a berth

“(a) that any portion of the berth does not contain sufficient quantity of the kind and dimensions of timber specified in the license for such berth, or

“(b) that any portion of the berth is not necessary for the proper working of the remainder of the berth, he may, upon application by the licensee, withdraw such portion from the berth.

“(3a) Subsection (3) does not apply unless the portion of the berth to be withdrawn is of an area of six hundred and forty acres or more.”.

8. Section 33 is amended

(a) by renumbering the section as subsection (1),

(b) by adding immediately after the renumbered subsection (1) the following subsection:

“(2) With respect to the year during which the license is issued and the year during which the license is eventually terminated, the ground rent and fire-guarding charges referred to in subsection (1) may be reduced proportionately for every quarter of such year during which the license has not been in effect.”.

9. (a) section 37, subsection (1) which is amended for clarification of timber isolation reads at present:

"37. (1) Permits may be granted without competition to cut for sale timber occurring in areas of adjoining lands isolated from other areas of merchantable timber and not exceeding one hundred and sixty acres or one quarter section, estimated to contain not more than one hundred and twenty-five thousand feet board measure of spruce, pine, tamarack, and species of timber other than poplar, where a survey is not necessary."

(b) Subsection (3) is amended to allow special and settlers' timber permits to be dealt with by regulations as conditions change.

10. Section 38 now reads:

"38. (1) No permit shall issue under section 37 unless the application has been approved by the timber officer for the district in which the land is situate.

"(2) Where a permittee returns a permit issued pursuant to subsection (3) of section 37 giving thereon a statement of the amount of material cut, no refund of dues shall be made to the permittee unless fifty per cent of the material covered by the permit has been cut."

The amendment will enable a refund to be made when the permittee has been unable to cut the timber.

11. Section 42, subsection (1), clause (a) now reads:

"42. (1) Any settler who

"(a) obtains a homestead or a lease under the provisions of The Public Lands Act; and

"(b) has no timber on his lease or on lands owned by him which could be used to meet his requirements; and

"(c) has not obtained a free allowance of timber from public lands: may be granted a permit to cut within the first three years of the term of the lease such timber on other lands as he may require for use on the land held under lease."

By the amendment the section will apply only to a homestead lessee and will allow four years instead of three for the acquisition of a permit.

12. Section 43 now reads:

"43. (1) Any settler residing on a farm and cutting timber on public lands held as a homestead or cultivation lease or an agreement for sale in the preparation of such land for cultivation may dispose of any forest product on obtaining a permit and paying the dues as prescribed by the Lieutenant Governor in Council.

9. Section 37 is amended

- (a) by striking out subsection (1) and by substituting the following:

“**37.** (1) Permits may be granted without competition to cut for sale timber occurring in areas of adjoining lands isolated from other areas of such timber and not exceeding one hundred and sixty acres or one quarter section, estimated to contain not more than one hundred and twenty-five thousand feet board measure of spruce, pine, poplar or other species of timber.”,

- (b) by striking out subsection (3) and by substituting the following:

“(3) Permits may be granted upon payment of dues and fees, without competition, to cut timber on public lands in such quantities and of such species as the Lieutenant Governor in Council may prescribe by regulation.

“(3a) The Lieutenant Governor in Council may by regulation restrict the classes of persons to whom permits may be issued pursuant to subsection (3).”.

10. Section 38 is struck out and the following is substituted:

“**38.** (1) Where a holder of a permit issued pursuant to subsection (3) of section 37 has not cut all the material authorized to be cut by the permit, the Director may refund the dues for the material not cut.

“(2) No refund of the dues shall be made unless the permittee

“(a) returns the permit to the Director within three months of its expiration, and

“(b) files an affidavit with the Director setting out the quantity of the material cut.”.

11. Section 42, subsection (1) is amended

- (a) by striking out clause (a) and by substituting the following:

— “(a) acquires a homestead lease pursuant to *The Public Lands Act*; and”,

- (b) by striking out the word “three” and by substituting the word “four”.

12. Section 43 is struck out and the following is substituted:

“**43.** (1) Any person cutting timber on public lands held by him as a homestead lessee, cultivation lessee or as a purchaser under an agreement for sale, may, in the prepar-

"(2) If cultivation is performed on the area from which the timber is taken within twelve months from such cutting, the dues paid shall be refundable if application is made within eighteen months from the time the permit is issued, supported by a sworn statement that the land has been cultivated within the required twelve months."

The amendment will extend the time within which cultivation must be undertaken as well as the time in which application for refund must be made.

13. Section 44, subsection (1) now reads:

"44. (1) Any settler who has lost his dwelling or other building by accidental fire not due to his own carelessness, may obtain a permit free of dues, within a period of two years from the date of such fire, to cut the quantity of timber required for the replacement of such building."

By the amendment to rights it is intended to confine the rights here dealt with to persons residing on homesteads.

14. Section 50, subsections (1) to (3) now read:

"50. (1) The licensee or his lawful attorney shall file a sworn return with the Director not later than the twenty-first day of each month on forms prescribed by the Minister, accounting for,

"(a) the number of pieces of round timber cut upon the berth held or occupied by him;

"(b) the number manufactured and the product thereof; and

"(c) the quantity sold and the quantity on hand.

"(2) Dues shall be paid forthwith on the product of manufacture or on the sale of the timber or on the measurement or scale of the timber and on all timber cut upon the land comprising the berth, as required by the Director.

"(3) A person who makes default in complying with the requirements of subsection (1) shall pay a penalty of ten dollars."

The purpose of the amendment is to allow returns to be made and dues to be based on material scaled, to clarify the date of returns and to provide that no returns need be made until operations begin, or application made for cancellation and all material sold.

15. Subsections (1) and (2) of section 62 presently read as follows:

"62. (1) No license shall be issued until evidence has been furnished to the Director by the applicant that he has complied with all the provisions of The Workmen's Compensation Act.

"(2) If at any time after the issue of any license, default is made by the licensee under the provisions of The Workmen's Compensation Act, the Minister may, in his discretion, by writing under his hand cancel the licence."

ation of such lands for cultivation, dispose of any forest product upon obtaining a permit and paying the dues prescribed by the Lieutenant Governor in Council.

“(2) Where cultivation is performed on the lands from which the timber is taken within two years of such cutting, the dues shall be refunded where application is made within three years of the time the permit is issued and is supported by an affidavit stating that the lands have been cultivated within the required two years.”.

13. Section 44 is amended by striking out subsection (1) and by substituting the following:

“**44.** (1) Any settler residing on a homestead lease who loses his dwelling or other building by accidental fire not due to his own carelessness may, within a period of one year from the date of such fire, obtain free of dues a permit to cut timber for replacement of the dwelling or building.”.

14. Section 50 is amended by striking out subsections (1), (2) and (3) and by substituting the following:

“**50.** (1) The licensee or person authorized by him shall, with respect to every month and in the form prescribed by the Minister, make a return accounting for

“(a) the number of pieces of round timber cut upon the berth held or occupied by him,

“(b) the quantity of timber scaled, where the pieces of round timber are scaled,

“(c) the number of pieces of round timber manufactured and the product thereof, and

“(d) the quantity of timber sold and the quantity on hand.

“(2) The return shall

“(a) be filed with and received by the Director not later than the twenty-first day of the next succeeding month,

“(b) be verified by an affidavit of the licensee or the person authorized by him to make the return.

“(3) Dues shall be paid on all timber cut on the berth.

“(3a) A person who makes default in complying with clause (a) of subsection (2) shall pay a penalty of ten dollars.

“(3b) Subsections (1) and (2) do not apply

“(a) where the licensee has not commenced operations on the berth, or

“(b) where the licensee has applied for cancellation of his license and has no stock on hand either as logs, lumber or other material.”.

15. Section 62 is amended

(a) by adding at the end of subsection (1) the words “and *The Industrial Wages Security Act*”,

(b) as to subsection (2) by adding immediately after the word “Act” the words “or *The Industrial Wages Security Act*”.

**16. Section 63, subsections (1), (4), (5) and (7) read:
(Subsections (2) and (3) were repealed)**

"63. (1) All dues on timber cut under license shall be payable upon the day the sworn return is required to be made.

"(4) In case of non-payment of dues whether in consequence thereof the license of the berth has or has not been cancelled, the Director or other person authorized may seize so much of the timber cut on public lands by the licensee or under his instructions, or in the possession of the licensee, as will in his opinion be sufficient to secure the payment of the dues, the interest thereon, the expenses of seizure and sale, and expenses incidental to the protection of the timber and may detain the timber as security for payment.

"(5) If payment is not made within one month after seizure, the Director or other person authorized may sell the timber by public auction, and after deducting the sums due, the interest thereon and the expenses aforesaid, he shall pay over the balance, if any, to the licensee, if the timber was in his possession at the time of the seizure, or if it was not, to the person who had possession thereof at that time.

"(7) Dues that are not paid when they become due bear interest at the rate of eight per cent per annum until paid and the Crown has a lien for unpaid dues and interest thereon on any timber cut on public lands by the licensee or under his instructions."

The purpose of the amendment is to fix the dates dues are payable and to remove interest charges on unpaid dues on such date.

17. Section 65, subsection (3) now reads:

"(3) The lien shall constitute a first charge in priority to all other liens and to all incumbrances or charges created by any contract or arising under any Statute or otherwise howsoever, and shall confer the same rights and shall be recoverable in the same manner as the lien and rights of recovery of dues conferred by the provisions in that behalf of this Act, including an absolute unconditional power to sell."

The amendment is to clarify procedure on seizure of material.

18. Clarifies references.

19. Section 109 reads:

"109. If any money, other than dues upon timber cut, which is payable under any sale, lease, license or permit is not paid within one month from the date on which it became due, it shall bear interest at the rate of five per cent per annum from the due date."

Part II will relate amendments to the revision and consolidation.

16. Section 63 is amended

- (a) by striking out subsection (1) and by substituting the following:

“63. (1) Dues on the timber cut in any month shall be payable to and received by the Minister not later than the twenty-first day of the next succeeding month.”,
- (b) as to subsections (4) and (5) by striking out the words “the interest thereon”,
- (c) by striking out subsection (7).

17. Section 65 is amended

- (a) as to subsection (3) by striking out the words “, and shall confer the same rights and shall be recoverable in the same manner as the lien and rights of recovery of dues conferred by the provisions in that behalf of this Act, including an absolute unconditional power to sell”,
- (b) by adding immediately after subsection (3) the following subsection:

“(3a) The lien referred to in subsection (2) may be recovered by a seizure made by a forest officer and sale in accordance with section 100.”.

18. Section 100, subsection (1) is amended by striking out the words “When any property is seized under this Act,” and by substituting the words “Where a seizure is made under section 65, 77 or 85,”.

19. Section 109 is repealed.

PART II

20. *The Forests Act*, being chapter 118 of the Revised Statutes of Alberta, 1955, is hereby amended.

21. Section 3, subsection (2) is amended by adding immediately after the word “Act” the words “, unless otherwise provided by *The Forest Reserves Act*,”.

22. Section 11 is amended by striking out subsections (1) and (2) and by substituting the following:

“11. (1) Notwithstanding any of the provisions of this Part, the Minister may

“(a) make a disposition of pulp-wood or timber suitable for manufacture into plywood or other products, or

“(b) reserve pulp-wood or timber suitable for manufacture into plywood or other products for future disposition to any person,

by an agreement with any person engaged in the manufacture of pulp or plywood or other products, and upon such terms and conditions and in respect of such area as may be approved by the Lieutenant Governor in Council.”.

23. Section 13, subsection (1), clause (d) is amended by striking out the words “and not more than twenty-five square miles”.

24. The following section is added immediately after section 18:

“**18a.** The Minister may reject any bid or tender made by any person indebted to the Minister for any royalties, dues, rents, charges, penalties or fees required to be paid by this Act or the regulations, and may refuse to issue any licence or permit to the person so indebted.”.

25. Section 19 is struck out and the following is substituted:

“**19.** (1) Subject to subsection (2), every tender to purchase a berth shall be

“(a) accompanied by the guarantee cash deposit enclosed in a sealed container,

“(b) accompanied by an undertaking in writing by the tenderer that in the event that his tender is eventually successful he will pay to the Crown in addition to all dues, charges and taxes reserved or imposed by this or any other Act,

“(i) the costs incurred in cruising, surveying and advertising the berth,

“(ii) an annual rent based on the number of square miles in the berth,

“(iii) the licence fee, and

“(iv) fire-guarding charges.

“(2) Where any person submits more than one tender for the same berth at any sale, the guarantee deposit accompanying the first tender made shall be deemed to accompany any of the additional tenders.”.

26. Section 29 is amended by striking out subsection (3) and by substituting the following:

“(3) Where the Director finds upon examination of a berth

“(a) that any portion of the berth does not contain sufficient quantity of the kind and dimensions of timbers specified in the licence for such berth, or

“(b) that any portion of the berth is not necessary for the proper working of the remainder of the berth, he may, upon application by the licensee, withdraw such portion from the berth.

“(3a) Subsection (3) does not apply unless the portion of the berth to be withdrawn is of an area of six hundred and forty acres or more.”.

27. Section 34 is amended

- (a) by renumbering the section as subsection (1),
- (b) by adding immediately after the renumbered subsection (1) the following subsection:

“(2) With respect to the year during which the licence is issued and the year during which the licence is eventually terminated, the ground rent and fire-guarding charges referred to in subsection (1) may be reduced proportionately for every quarter of such year during which the licence has not been in effect.”.

28. Section 39 is amended

- (a) by striking out subsection (1) and by substituting the following:

“**39.** (1) Permits may be granted without competition to cut for sale timber occurring in areas of adjoining lands isolated from other areas of such timber and not exceeding one hundred and sixty acres or one quarter section, estimated to contain not more than one hundred and twenty-five thousand feet board measure of spruce, pine, poplar or other species of timber.”.

- (b) by striking out subsection (3) and by substituting the following:

“(3) Permits may be granted upon payment of dues and fees, without competition, to cut timber on public lands in such quantities and of such species as the Lieutenant Governor in Council may prescribe by regulation.

“(3a) The Lieutenant Governor in Council may by regulation restrict the classes of persons to whom permits may be issued pursuant to subsection (3).”.

29. Section 40 is struck out and the following is substituted:

“**40.** (1) Where a holder of a permit issued pursuant to subsection (3) of section 39 has not cut all the material authorized to be cut by the permit, the Director may refund the dues for the material not cut.

“(2) No refund of the dues shall be made unless the permittee

“(a) returns the permit to the Director within three months of its expiration, and

“(b) files an affidavit with the Director setting out the quantity of the material cut.”.

30. Section 44, subsection (1) is amended

(a) by striking out clause (a) and by substituting the following:

“(a) acquires a homestead lease pursuant to *The Public Lands Act*,”,

(b) by striking out the word “three” and by substituting the word “four”.

31. Section 45 is struck out and the following is substituted:

“**45.** (1) Any person cutting timber on public lands held by him as a homestead lessee, cultivation lessee or as a purchaser under an agreement for sale, may, in the preparation of such lands for cultivation, dispose of any forest product upon obtaining a permit and paying the dues prescribed by the Lieutenant Governor in Council.

“(2) Where cultivation is performed on the lands from which the timber is taken within two years of such cutting, the dues shall be refunded where application is made within three years of the time the permit is issued and is supported by an affidavit stating that the lands have been cultivated within the required two years.”.

32. Section 46 is amended by striking out subsection (1) and by substituting the following:

“**46.** (1) Any settler residing on a homestead lease who loses his dwelling or other building by accidental fire not due to his own carelessness may, within a period of one year from the date of such fire, obtain free of dues a permit to cut timber for replacement of the dwelling or building.”.

33. Section 52 is amended by striking out subsections (1), (2) and (3) and by substituting the following:

“**52.** (1) The licensee or person authorized by him shall, with respect to every month and in the form prescribed by the Minister, make a return accounting for

“(a) the number of pieces of round timber cut upon the berth held or occupied by him,

“(b) the quantity of timber scaled, where the pieces of round timber are scaled,

“(c) the number of pieces of round timber manufactured and the product thereof, and

“(d) the quantity of timber sold and the quantity on hand.

“(2) The return shall

“(a) be filed with and received by the Director not later than the twenty-first day of the next succeeding month,

“(b) be verified by an affidavit of the licensee or the person authorized by him to make the return.

“(3) Dues shall be paid on all timber cut on the berth.

“(3a) A person who makes default in complying with clause (a) of subsection (2) shall pay a penalty of ten dollars.

“(3b) Subsections (1) and (2) do not apply

“(a) where the licensee has not commenced operations on the berth, or

“(b) where the licensee has applied for cancellation of his licence and has no stock on hand either as logs, lumber or other material.”.

34. Section 64 is amended

(a) by adding at the end of subsection (1) the words “and *The Industrial Wages Security Act*”,

(b) as to subsection (2) by adding immediately after the word “Act” the words “or *The Industrial Wages Security Act*”.

35. Section 65 is amended

(a) by striking out subsection (1) and by substituting the following:

“**65.** (1) Dues on the timber cut in any month shall be payable to and received by the Minister not later than the twenty-first day of the next succeeding month.”,

(b) as to subsection (2) by striking out the words “the interest thereon,”,

(c) as to subsection (3), clause (b) by striking out the words “, the interest thereon”,

(d) by striking out subsection (5).

36. Section 67, subsection (4) is amended by striking out clause (b) and by substituting the following:

“(b) may be recovered by a seizure made by a forest officer and sale in accordance with section 103.”.

37. Section 103, subsection (1) is amended by striking out the words “When property is seized under this Act,” and by substituting the words “When a seizure is made under section 67, 79 or 87,”.

38. Section 113 is repealed.

39. Part I and this section come into force on the day this Act is assented to, and Part II, except this section, comes into force and Part I is repealed on the day the Revised Statutes of Alberta, 1955, come into force.

SECOND SESSION
THIRTEENTH LEGISLATURE
4 ELIZABETH II
1956

BILL

An Act to amend The Forests Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. WILLMORE
