

No. 108

4th Session, 14th Legislature, Alberta
10 Elizabeth II

BILL 108

A Bill to amend The Forests Act, 1961

HON. MR. WILLMORE

Explanatory Note

2. Section 4, subsections (1) and (2) presently read:

- "4. (1) The Minister, in his discretion,
(a) may offer Crown timber for sale by auction or by sealed tender,
and
(b) may grant a licence to cut timber for any period of time,
subject to such terms and conditions as may be prescribed by the
regulations and subject to such other terms and conditions as he
deems necessary that are not inconsistent with the regulations.
(2) The Minister is not obliged to accept the highest bid or tender."

3. Section 5 presently reads:

- "5. (1) The Minister may grant special and fringe permits to cut
Crown timber at such rates and subject to such terms and conditions
as he deems necessary.
(2) A special permit may be granted to cut a maximum of one
hundred and twenty-five thousand feet board measure or its equivalent,
and the maximum amount that may be cut under a fringe permit
shall be determined by the regulations."

4. Section 7 presently reads:

- "7. (1) The Minister may grant permits to cut Crown timber without
competition upon payment of dues and fees.
(2) A permit issued under this section shall allow the cutting of
such species and quantities of timber and under such conditions as the
Lieutenant Governor in Council may prescribe by regulation."

5. Section 8, subsections (1), (2) and (3) presently read:

- "8. (1) The Minister may grant licences and permits to cut
(a) killed or damaged timber to permit the salvage of such timber, or
(b) any other Crown timber that in his opinion should be cut in
the interests of economic forest utilization,
at such prices and subject to such terms and conditions as the
Minister deems necessary.
(2) Where Crown timber in respect of which a licence or permit
has been granted has been killed or damaged, the Minister may order
the licensee or permittee to cut such timber and any other Crown
timber that in his opinion should be cut in the interests of economic
forest utilization at such prices and subject to such terms and con-
ditions as the Minister deems necessary.
(3) Where a licensee or permittee refuses or fails to comply with an
order given by the Minister under subsection (2), the Minister
(a) may cancel or vary the licence or permit in respect of the
timber directed to be cut, and
(b) may grant licences or permits to persons other than the licensee
or permittee,
to permit the salvaging of such timber and also the cutting of any
other Crown timber that in his opinion should be cut in the interests
of economic forest utilization at such prices and subject to such terms
and conditions as the Minister deems necessary."

BILL

No. 108 of 1962

An Act to amend The Forests Act, 1961

(Assented to _____, 1962)

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

1. *The Forests Act, 1961*, being chapter 32 of the Statutes of Alberta 1961, is hereby amended.

2. Section 4 is amended by striking out subsections (1) and (2) and by substituting the following:

4. (1) The Minister may

(a) sell Crown timber, or

(b) grant a licence to cut Crown timber,

by auction or sealed tender, subject to the regulations and to such terms and conditions as the Minister may prescribe.

(2) The Minister is not obliged to accept the highest or any bid or tender.

3. Section 5 is amended

(a) as to subsection (1) by striking out the words "and fringe",

(b) as to subsection (2) by striking out the words "and the maximum amount that may be cut under a fringe permit shall be determined by the regulations".

4. Section 7 is struck out and the following section is substituted:

7. The Minister may grant miscellaneous permits to cut Crown timber without competition, at such rates of dues and subject to such terms and conditions as prescribed by regulation.

5. Section 8 is amended

(a) as to subsection (1)

(i) by striking out the word "killed" in clause (a) and by substituting the word "dead",

(ii) by striking out the words "economic forest

6. Self-explanatory.

7. Section 10 presently reads:

"10. A licence or permit does not grant to a licensee or permittee any rights to the surface of the land in respect of which the licence or permit is issued except the right to occupy the land for the purpose of cutting timber according to the terms and conditions of the licence or permit."

8. Section 11 presently reads:

"11. (1) Subject to the payment of Crown charges, the 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 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."

9. Section 12 presently reads:

"12. (1) A licence entitles the licensee

(a) to replevy, as his property, any product of the forest cut within the limits of the berth and that is found in the possession of any unauthorized person, and

(b) to bring any action or suit for damages or any other appropriate remedy against any person who

(i) is unlawfully in possession of such product of the forest, or

(ii) has unlawfully cut any product of the forest in derogation of any rights of the licensee under his licence.

(2) Any proceedings commenced before and pending at the expiration of any such licence may be continued and completed as if the licence had not expired."

utilization” in clause (b) and by substituting the words “good forest management”,

- (b) as to subsection (2)
 - (i) by striking out the words “has been killed” and by substituting the words “is dead”,
 - (ii) by striking out the words “economic forest utilization” and by substituting the words “good forest management”,
- (c) as to subsection (3) by striking out the words “economic forest utilization” and by substituting the words “good forest management”.

6. The following new section is added immediately after section 8:

8a. Every licensee shall, before commencing operations under the licence, mark the boundaries of the area described in the licence in a manner satisfactory to an officer.

7. Section 10 is amended by renumbering the section as subsection (1) and by adding immediately after the renumbered subsection (1) the following:

(2) A licence or permit grants only the exclusive right to cut Crown timber of the kind and in the areas described in the licence or permit.

8. Section 11 is struck out and the following section is substituted:

11. (1) Subject to the payment of Crown charges, property rights in timber of the kind set out in the licence or permit vest in a licensee or permittee during the term of the licence or permit when the timber is actually cut, whether the timber is cut by the licensee or permittee or someone else, either with or without consent.

(2) Crown charges for timber of the kind described in a licence or permit and cut from the area described in the licence or permit shall be paid by the licensee or permittee whether the timber is cut by the licensee or permittee, or someone else, with or without consent.

9. Section 12 is struck out and the following section is substituted:

12. A licensee or permittee may commence any appropriate legal action against any person who

- (a) unlawfully cuts any timber of the kind and from the area described in the licence or permit,
- (b) is unlawfully in possession of such timber, or
- (c) does any act in derogation of any right granted to the licensee or permittee under the licence or permit.

10. Section 15, subsection (1) presently reads:

"15. (1) Every licensee shall keep such records relating to the quantity of timber cut, manufactured or disposed of as may be required by the Minister, and such records may be examined at any time by an officer."

11. Section 18, subsection (1) reads:

"18. (1) An officer may seize and detain any timber and any product manufactured from timber,

- (a) where the person in actual possession or control of timber or product refuses or fails to inform the officer of the name and address of the person from whom the timber or product was received, or of any fact known to him respecting the timber or product,
- (b) where the officer believes on reasonable grounds that any Crown charge payable in respect of timber or product has not been paid, or
- (c) where the officer believes on reasonable grounds that the timber or the timber from which a product is manufactured was not cut under the authority of a licence or permit."

12. Section 22 presently reads:

"22. The Lieutenant Governor in Council may

- (a) amend or vary the conditions or provisions of any licence for a berth,
- (b) insert such further clauses, conditions, provisions and restrictions as he considers warranted by the circumstances in connection with each berth, and
- (c) amend or vary the description of the land comprising a berth."

13. Sections 25 and 26 presently read:

"25. Where a lessee, licensee or permittee fails to comply with or contravenes this Act, the regulations, the terms and conditions of a lease, licence or permit, or any order of the Minister, the Minister may

- (a) suspend the lease, licence or permit with respect to the whole or any part of the operations of the lessee, licensee or permittee for a period not exceeding six months, and
- (b) order the lessee, licensee or permittee to do such acts as the Minister deems necessary.

26. Where a lessee, licensee or permittee fails to comply with an order of the Minister made under section 25 within the period of six months, the Lieutenant Governor in Council may cancel the lease, licence or permit in whole or in part, and upon such cancellation any money paid to the Crown as a guarantee deposit in respect of the lease, licence or permit is automatically forfeited."

10. Section 15 is amended by striking out subsection (1) and by substituting the following:

15. (1) Every licensee shall keep complete and accurate records of the quantity of timber cut, manufactured or disposed of, and such records may be examined at any time by an officer.

11. Section 18 is amended by adding immediately after subsection (2) the following:

(2a) An officer may after making a seizure appoint any person as the agent of the Minister to hold and keep the timber or product seized on behalf of the Minister, upon the person signing an undertaking to hold the timber or product as bailee for the Minister and to deliver up possession thereof to an officer on demand.

12. Section 22 is struck out and the following section is substituted:

22. Where the Minister considers it in the interests of good forest management or that it is necessary and in the public interest he may

- (a) amend or vary the conditions and provisions in a licence,
- (b) amend or vary the description of the land described in a licence, and
- (c) increase or decrease the area of the land described in a licence,

with the written consent of the licensee, or upon giving the licensee thirty days' notice in writing.

13. Sections 25 and 26 are struck out and the following sections are substituted:

25. Where a lessee, licensee, or permittee fails to comply with or contravenes this Act, the regulations, the terms and conditions of a lease, licence or permit, or any order of the Minister, the Minister may

- (a) suspend the lease, licence or permit with respect to the whole or any part of the operations of the lessee, licensee or permittee for a period not exceeding six months,
- (b) order the lessee, licensee or permittee to do such acts as the Minister deems necessary, or
- (c) cancel the lease, licence or permit.

26. Where a lease, licence or permit is cancelled by the Minister or at the request of the lessee, licensee or permittee,

14. Sections 29 to 35, dealing with scalers' licences, are repealed. See subclause (c) of clause 15 of this Bill.

15. Section 43, clauses (c), (j), (n) and (r) presently read:

- "43. The Lieutenant Governor in Council may make regulations:

 (c) fixing the Crown dues to be paid in respect of any species of timber, other than damaged timber;

 (j) 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) respecting methods of scaling to be carried out by licence and permit scalers;

 (r) prescribing the conditions under which lumber or other timber products may be exported;"

16. Definition added in the Fire Prevention Part of the Act.

17. Section 48, subsections (4), (5) and (6) read:

"(4) No person shall without a fire permit set out fire during a fire season for any purpose except cooking or obtaining warmth in any part of the Province not contained within a municipal district.

(5) No person shall without a fire permit set out fire during a fire season for any purpose except cooking or obtaining warmth in any part of the Province within a municipal district.

(6) Notwithstanding subsection (5), a municipal district may, with the consent of the Minister, allow the setting out of fire during a fire season within all or any part of the municipal district without first obtaining a fire permit, but the consent of the Minister may be withdrawn if he finds that setting of fires without a fire permit is causing damage to property or forest."

The substance of these provisions now appears in the proposed section 65a. See clause 26 of this Bill.

18. Section 52 presently reads:

"52. Where fire originates in any area in which any person either by himself or his employees or someone on his behalf, is carrying on, in a forest area,

- (a) any logging, mining or industrial operation,
- (b) clearing of land for a right of way for any road, trail, tote-road, ditch or flume, or for any microwave installation, telephone, telegraph, power or pipe line,
- (c) clearing land to be flooded for water storage purposes,
- (d) constructing a dam, bridge or camp or any other woods operation of any kind, or
- (e) operating any mill for the purpose of manufacturing timber,

in the absence of reasonable evidence that the fire may have occurred from causes other than such operations, except where the person has entered into an agreement under section 59, the onus is upon that person to prove that the fire did not result from such operations, and in the absence of such proof that person shall bear the full cost of controlling and extinguishing the fire."

19. Self-explanatory.

20. Sections 54 and 55 presently read:

"54. The Minister may

- (a) close a forestry road at any time when it appears that traffic may damage the road, and
- (b) recover the cost of repairing damage caused by a person at any time as a debt owing to the Crown.

55. The Minister may

- (a) enter into an agreement with any person who wishes to pay the cost of improving and maintaining a forestry road to allow traffic by his vehicles in the course of his business, and
- (b) require any other person who uses a forestry road so improved in the course of his business to share such portion of the cost of building and maintaining the road as the Minister may decide."

all or any part of any money paid as a guarantee deposit may be forfeited to the Crown at the Minister's discretion.

14. Sections 29 to 35 are repealed.

15. Section 43 is amended

- (a) by striking out clause (c) and by substituting the following:
 - (c) fixing the Crown dues to be paid for all timber except dead and damaged timber and timber that in the Minister's opinion should be cut in the interest of good forest management;
- (b) by striking out clause (j) and by substituting the following:
 - (j) imposing conditions respecting the location of mills and camps, the operation of mills and the disposal of waste and refuse from mills and camps;
- (c) by striking out clause (n) and by substituting the following:
 - (n) respecting the issuing of scaling licences and permits and the methods and procedures of scaling;
- (d) by striking out clause (r) and by substituting the following:
 - (r) prescribing the conditions under which timber or timber products may be transported within the Province or exported from the Province;

16. Section 44 is amended by adding immediately after clause (b) the following new clause:

- (b1) "forestry road" includes all bridges, culverts, ditches and other structures made in connection with a road;

17. Section 48 is amended by striking out subsections (4), (5) and (6).

18. Section 52 is amended by striking out the words "in a forest area,".

19. Section 53 is amended by adding the following new subsection:

(3) The Crown is not under any duty to repair or maintain a forestry road or to erect road signs or warning signs of road conditions on any forestry road, and except in the case of gross negligence the Crown is not liable for injury to any person or property caused by the condition or the standard of construction of a forestry road.

20. Sections 54 and 55 are struck out and the following sections are substituted:

21. Section 58 is amended to state that the section does not apply to the Crown.

22. Section 59 presently reads:

"59. The Minister may enter into an agreement with respect to the prevention and control of forest fires with a licensee or a lessee under a pulpwood lease."

23. Section 61 presently reads:

"61. (1) A municipal district shall do all necessary things to extinguish grass, brush or forest fires in the municipal district, and the costs and expenses thereof shall be borne by the municipal district.

(2) If the action taken by the municipal district in fighting any such fires is in the opinion of an officer not adequate, the officer may do what in his opinion is necessary to control and extinguish such fires, and any costs and expenses incurred by the Crown in controlling or extinguishing such fires shall be a debt due by the municipal district to the Crown and upon presentation of an account of such costs and expenses certified by the Minister, the municipal district shall pay the same."

54. (1) The Minister may open or close a forestry road to the use of the public at any time.

(2) A person who operates a vehicle of any kind on a closed forestry road without a permit is guilty of an offence, and if the road is damaged by the operation of the vehicle, the Minister may recover the cost of repairing the damage from the operator or owner of the vehicle as a debt owing to the Crown.

(3) Where a vehicle of any kind is operated on a forestry road by or on behalf of a person for commercial purposes, the Minister may

- (a) require the owner or operator of the vehicle, or the person on whose behalf the vehicle is operated to pay a deposit in such amount as the Minister may decide, and
- (b) where a forestry road is damaged by such a vehicle
 - (i) declare all or part of the deposit to be forfeited to the Crown,
 - (ii) recover the cost of repairing the damage as a debt owing to the Crown, or
 - (iii) require the owner or operator of the vehicle, or the person on whose behalf the vehicle is operated, to repair the road in a manner satisfactory to the Minister.

55. The Minister may

- (a) enter into an agreement with any person who wishes to pay the cost of improving and maintaining a forestry road in order to use the road for commercial purposes, and
- (b) require any other person who uses such a forestry road for commercial purposes to share such portion of the cost of improving and maintaining the road as the Minister may decide.

21. Section 58, subsection (1) is amended by adding immediately after the word "occupant" the words ", but does not include the Crown".

22. Section 59 is amended by striking out the words "licensee or lessee under a pulpwood lease" and by substituting the words "timber licensee, a lessee under an agreement entered into pursuant to section 6 or any other person having authority to cut Crown timber".

23. Section 61 is amended by striking out subsection (2) and by substituting the following:

(2) Where the council of a municipal district considers it necessary to take any action to extinguish a fire in a municipal district, any costs incurred may be recovered as a debt owing to the municipal district by the person who is the owner of the land within the meaning of section 58.

24. Section 62 presently reads:

"62. (1) Upon satisfactory proof being furnished by the municipal district that any fire has started on Crown land within the municipal district, half of the total cost of extinguishing the fire shall be borne by the Crown.

(2) Where any such fire is confined entirely to Crown lands other than the lands of an owner as defined by subsection (1) of section 58, the total cost of extinguishing such fire shall be borne by the Crown."

25. Section 64 reads:

"64. Every owner, within the meaning of subsection (1) of section 58, of land upon which there is a fire, except

(a) a fire set out for cooking or obtaining warmth and kept under control, or

(b) a fire set out under the authority of this Act and kept under control,

shall use all reasonable efforts to extinguish such fire and shall report it without undue delay to an officer, and in any prosecution or action the onus is upon the owner to prove that he used all such reasonable efforts or that he so reported such fire, as the case may be."

The substance of this provision is contained in the proposed section 65b. See clause 26 of this Bill.

26. Self-explanatory.

27. Limitation of actions removed.

(3) Where an officer is of the opinion that a municipal district is not taking satisfactory action to control and extinguish a fire, and that the fire may damage Crown timber, the officer may take any action he considers necessary to control or extinguish the fire and subject to section 62 any costs incurred by the Crown are a debt owing to the Crown by the municipal district, and the municipal district shall pay such costs upon receiving an account of costs certified by the Minister.

24. Section 62 is amended by striking out subsection (1) and by substituting the following:

62. (1) Where an officer takes action to control or extinguish a fire pursuant to subsection (3) of section 61, and where the municipal district proves to the Minister's satisfaction that the fire started on Crown land within the municipal district, the Minister shall reduce the amount of any costs payable to the Crown as a debt by one-half, and the balance shall be paid in the manner prescribed in the subsection.

25. Section 64 is repealed.

26. The following new sections are added immediately after section 65:

65a. (1) No person shall set out fire during a fire season for any purpose except cooking or obtaining warmth in any part of the Province without first obtaining a fire permit.

(2) Notwithstanding subsection (1), a municipal district may, with the consent of the Minister, allow the setting out of fire during a fire season within all or any part of the municipal district without a fire permit, but the Minister may withdraw his consent if he is satisfied that the setting of fires without a fire permit is causing damage to property or the forest.

65b. Any person who fails to prevent a fire on land owned or occupied by him from spreading to other land or fails to keep the fire under control, or fails to keep a fire under control that is under his charge or custody, or under the charge or custody of a servant, agent or contractor, is guilty of an offence.

27. The following new section is added immediately after section 69:

69a. Notwithstanding any period of limitation contained in any other Act, the Crown may at any time commence an action under this Act to recover expenses incurred by the Crown in controlling or extinguishing a fire.

28. Section 70, clauses (i) and (m) presently read:

"70. The Lieutenant Governor in Council may make regulations
.....

- (i) respecting the control of forestry roads,
- (m) respecting any other matter necessary or advisable to carry out effectively forest fire prevention and the intent and purpose of this Part."

29. Commencement of Act.

28. Section 70 is amended

- (a) by striking out clause (i) and by substituting the following:
 - (i) for the use and control of forestry roads and to govern the granting of permits to travel on forestry roads,
- (b) by striking out clause (m) and by substituting the following:
 - (m) respecting the storage of explosives,
 - (n) respecting the conduct of fire fighting, and prescribing the rates of wages paid to fire-fighters and rates for the hiring of equipment and horses for fire fighting,
 - (o) respecting any other matter necessary or advisable to carry out effective forest fire prevention and the intent and purposes of this Part.

29. This Act comes into force on the day upon which it is assented to.

No. 108

FOURTH SESSION

FOURTEENTH LEGISLATURE

10 ELIZABETH II

1962

BILL

An Act to amend The Forests Act,
1961

Received and read the

First time

Second time

Third time

HON MR. WILLMORE
