

**2010**

**CHAPTER 13**

An Act to amend *The Forest Resources Management Act* and to make related amendments to *The Parks Act*

(Assented to May 20, 2010)

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

**Short title**

**1** This Act may be cited as *The Forest Resources Management Amendment Act, 2010*.

**S.S. 1996, c.F-19.1 amended**

**2** *The Forest Resources Management Act* is amended in the manner set forth in this Act.

**Section 2 amended**

**3(1) Subsection 2(1) is amended:**

**(a) in subclause (a.1)(i) by striking out “Act or the regulations” and substituting “Act, the regulations or the code”;**

**(b) by adding the following clauses after clause (a.1):**

“(a.11) ‘**audit**’ means an audit or examination by an auditor of the activities of a licensee as they relate to compliance with this Act, the regulations, the code and the terms of the licensee’s licence and approved plan;

“(a.12) ‘**auditor**’ means:

(i) a person appointed by the minister to conduct or assist with an audit; or

(ii) a person designated as an enforcement officer pursuant to section 8;

“(a.13) ‘**code**’ means the code adopted by the Lieutenant Governor in Council in the regulations”;

**(c) in clause (b) by striking out “department other than park land within the meaning of *The Parks Act*” and substituting “ministry”;**

**(d) by repealing clause (c);**

**(e) by repealing clause (f) and substituting the following:**

**“(f) “forest land” means:**

- (i) any Crown resource land that is designated as a provincial forest pursuant to the regulations;
- (ii) any Crown land described in a forest management agreement, a term supply licence or a forest product permit;
- (iii) any Crown land administered by the Ministry of Agriculture or the Ministry of Environment that:
  - (A) in the opinion of the minister, has a forest ecosystem as the predominant ecosystem; or
  - (B) is prescribed as forest fringe timber supply land; and
- (iv) an undeveloped road allowance that:
  - (A) in the opinion of the minister, has a forest ecosystem as the predominant ecosystem; and
  - (B) shares a boundary with lands described in subclauses (i) to (iii);

but does not include any Crown mineral or Crown mineral lands as those terms are defined in *The Crown Minerals Act*”;

**(f) by repealing clause (h);**

**(g) in clause (k) by adding “, but does not include wild rice, peat moss or sphagnum moss” after “that vegetation”;**

**(h) in clause (o):**

- (i) in the portion preceding subclause (i) by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”;**
- (ii) by adding “or” after subclause (ii);**
- (iii) by repealing subclause (iii);**
- (iv) by striking out “or” after subclause (iii); and**
- (v) in subclause (iv) by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”;**

**(i) by repealing clause (q);****(j) by adding the following clause after clause (s):**

“(s.01) ‘ministry’ means the ministry over which the minister presides”;

**(k) in clause (u) in the portion preceding subclause (i) by striking out “department” and substituting “ministry”;**

**(l) by adding the following clauses before clause (w):**

“(v.2) ‘**planning area**’ means an area of provincial forest designated as a planning area by the minister pursuant to section 13;

“(v.3) ‘**prescribed**’ means prescribed in the regulations”;

**(m) by adding the following clause after clause (x.1):**

“(x.2) ‘**qualified person**’ means:

(i) a member of a class of persons that is prescribed or is set out in the code; or

(ii) an individual designated by the minister for one or more purposes or activities that are governed by this Act”;

**(n) by adding the following clause after clause (aa):**

“(aa.1) ‘**road allowance**’ means a road allowance:

(i) as defined in the first, second and third Dominion Land Survey System; or

(ii) laid out pursuant to the authority of an Act or an Act of the Parliament of Canada”; **and**

**(o) in clause (bb.1) by striking out** “a manual established pursuant to section 19.1” **and substituting** “the code”.

**(2) Subsection 2(2) is amended by striking out** “this Act or the regulations” **and substituting** “this Act, the regulations or the code”.

**(3) The following subsection is added after subsection 2(3):**

“(4) Nothing in this Act shall be construed or interpreted so as to abrogate or derogate, directly or indirectly, any treaty or aboriginal rights recognized and affirmed by subsection 35(1) of the *Constitution Act, 1982* ”.

**New section 4****4 Section 4 is repealed and the following substituted:**

“**Ministry to administer Act**

4 This Act, the regulations and the code are to be administered by the ministry”.

**Section 5 amended**

**5 Section 5 is amended by striking out** “department” **and substituting** “ministry”.

## Section 6 amended

**6 Section 6 is amended:**

- (a) by renumbering it as subsection 6(1);**
- (b) in subsection (1):**
  - (i) by repealing clause (d);**
  - (ii) in clause (e) by striking out “Crown resource land” and substituting “land within the provincial forest”;**
  - (iii) in clause (g) by striking out “Crown resource land” and substituting “forest land”;**
  - (iv) by repealing clause (i) and substituting the following:**
    - “(i) appoint members, assign duties and set out procedures for the operation of any advisory committee established pursuant to subsection 11(1)”;
  - (v) by striking out “and” after clause (i);**
  - (vi) by adding the following after clause (i):**
    - “(i.1) specify activities on forest land that are required to be registered with the ministry;
    - “(i.2) specify conditions respecting financial assurances that must be provided to the minister, including their type, form and content and the circumstances under which those assurances may be realized;
    - “(i.3) develop or establish standards or requirements respecting any matter governed by this Act; and”; **and**
  - (vii) in clause (j) by striking out “Crown resource land” and substituting “forest land”; and**
- (c) by adding the following subsections after subsection 6(1):**
  - “(2) The minister shall recommend to the Lieutenant Governor in Council the adoption of a code.
  - “(3) The minister shall cause notice of any standards or requirements that are developed or established pursuant to clause (1)(i.3) and that are set out in the code, and of any amendments to those standards and requirements, to:
    - (a) be published in the Gazette; and
    - (b) be made public in any other manner that the minister considers appropriate.

“(4) Notwithstanding any other provision of this Act, the regulations or the code, at the request of a person proposing to engage in an activity governed by this Act, the minister may approve criteria, terms, conditions or requirements submitted by that person as an alternative to those set out in the code if the minister is satisfied that:

- (a) those alternative criteria, terms, conditions or requirements provide an equivalent or better level of protection to Crown resource lands or forest products on Crown resource lands; and
- (b) it is in the public interest to do so.

“(5) Notwithstanding any other provision of this Act, the regulations or the code, a person may comply with the alternative criteria, terms, conditions or requirements approved by the minister pursuant to subsection (4) instead of the criteria, terms, conditions or requirements set out in the code”.

**Section 7 amended**

**7 Subsection 7(1) is amended:**

- (a) in the portion preceding clause (a) by striking out “forest management” and substituting “advisory”; and
- (b) in clause (j) by striking out “or a Saskatchewan Forest Accord”.

**New section 8**

**8 Section 8 is repealed and the following substituted:**

**“Designation of officers**

8 The minister may designate any employee of the ministry as an enforcement officer or any category of employees of the ministry as enforcement officers for the purposes of enforcing this Act, the regulations and the code”.

**Section 9 amended**

**9 Subsection 9(1) is amended by striking out “department” and substituting “ministry”.**

**Section 10 repealed**

**10 Section 10 is repealed.**

**New section 11**

**11 Section 11 is repealed and the following substituted:**

**“Advisory committee**

11(1) The minister may establish one or more advisory committees to advise and assist the minister with respect to any matter concerning forest resources that the minister considers appropriate.

(2) The minister shall obtain the approval of the Lieutenant Governor in Council before appointing an advisory committee.

(3) An advisory committee shall report to the minister within the time that the minister may direct”.

**Section 12 amended****12 The following subsection is added after subsection 12(3):**

“(4) The following lands are deemed to be withdrawn from the provincial forest:

- (a) all lands within the boundaries of recreational subdivisions and towns as those terms are defined in *The Northern Municipalities Act*;
- (b) all lands within the boundaries of northern hamlets and northern villages”.

**Heading amended****13 The heading preceding section 13 is amended by striking out “MANAGEMENT UNITS” and substituting “PLANNING AREAS”.****New sections 13 and 14****14 Sections 13 and 14 are repealed and the following substituted:****“Planning areas**

**13** The minister may divide a provincial forest into one or more areas and designate those areas as planning areas.

**“Integrated forest land use plan**

**14** The minister may require that an integrated forest land use plan be prepared for a planning area for the purpose of co-ordinating policies, programs and activities to guide and regulate existing and potential uses of land within that planning area”.

**Section 15 amended****15 Subsection 15(1) is amended:**

- (a) in clause (a) by striking out “this Act and the regulations” and substituting “this Act, the regulations and the code”;
- (b) by repealing clause (b);
- (c) by adding “and” after clause (d);
- (d) by repealing clause (e); and
- (e) by striking out “and” after clause (e).

**Section 16 amended****16 Section 16 is amended:**

- (a) by striking out “Act or licence” and substituting “Act or licence or the code”; and
- (b) by striking out “subject to a public review in accordance with any procedures set out in the regulations”.

## New sections 17 and 17.1

**17 Section 17 is repealed and the following substituted:****“Forest products Crown property**

17(1) All forest products, including forest products resulting from renewal, are property of the Crown.

(2) Subject to subsections (3), (5) and (6) and section 17.1, no person shall harvest or acquire any right or property in any forest product except in accordance with this Act, the regulations or the code.

(3) A person may engage in subsistence gathering without a licence.

(4) In subsection (3), ‘**subsistence gathering**’ means gathering on Crown land of any forest product solely for the ceremonial, consumptive or medicinal use of:

- (a) the person gathering; or
- (b) a member of that person’s immediate family;

but does not include gathering of trees, other than dead or down trees for fuelwood.

(5) A person may, without a licence, harvest berries, fruits, renewable parts of plants and mushrooms for sale or barter only if the harvesting does not damage the plant or otherwise permanently affect the growth, health or reproductive capacity of the plant.

(6) A person may, without a licence, harvest a reasonable number of trees for his or her personal use only if:

- (a) the trees are harvested for the purpose of being used as Christmas trees;
- (b) each tree does not exceed a height of four metres; and
- (c) the trees are not the result of actions or activities undertaken by the ministry or by a licensee pursuant to the requirements of this Act, the regulations or the code.

(7) Nothing in this Act precludes:

- (a) the Minister of Agriculture from issuing or continuing with dispositions pursuant to *The Provincial Lands Act* on forest lands administered by the Ministry of Agriculture; or
- (b) the holder of a disposition mentioned in clause (a) from engaging in the activities that are specifically authorized by the disposition.

**“Forest lands used for agricultural purposes**

17.1(1) Subject to subsections (2) and (3), a person may, without a licence, harvest timber from forest land administered by the Minister of Agriculture when, in the opinion of that minister, the forest land is suitable for the production of cereal or other seed or forage crops and can be improved for those purposes by clearing the timber.

(2) A licence is required if the timber harvested pursuant to subsection (1) is to be:

- (a) manufactured into products; or
- (b) removed from the land on which it was harvested.

(3) Subsection (1) does not apply with respect to lands designated as wildlife habitat lands pursuant to *The Wildlife Habitat Protection Act*”.

**Section 18 amended**

**18 Subsection 18(2) is amended:**

**(a) by striking out “Department of Agriculture and Food” and substituting “Ministry of Agriculture”; and**

**(b) by striking out “Minister of Agriculture and Food” and substituting “Minister of Agriculture”.**

**Section 18.1 repealed**

**19 Section 18.1 is repealed.**

**New section 18.2**

**20 The following section is added before section 19:**

**“Processing facility records**

18.2 Every person who operates a processing facility shall:

- (a) maintain records in accordance with this Act, the regulations and the code; and
- (b) produce those records for inspection on the request of an officer or an auditor”.

**Section 19 amended**

**21(1) Clause 19(1)(d) is repealed and the following substituted:**

“(d) subject to section 19.1, the code”.

**(2) Subsection 19(3) is amended by striking out “Act and the regulations” and substituting “Act, the regulations and the code”.**

**New section 19.1**

**22 Section 19.1 is repealed and the following substituted:**

**“Licensee to comply with code**

19.1 A licensee shall comply with the code unless otherwise specified in a licence or an approved plan”.



Sections 19.2 to 19.5 repealed

**23 Sections 19.2 to 19.5 are repealed.**

Section 20 amended

**24 Clause 20(d) is amended by striking out “or any Saskatchewan Forest Accord in effect”.**

Section 26 amended

**25(1) Subsection 26(1) is repealed and the following substituted:**

“(1) In this section, ‘**trustee**’ means a person appointed by the licensee and approved by the Lieutenant Governor in Council to act as a trustee pursuant to a licence and includes a substituted trustee.

“(1.1) The fees for the renewal, protection, development and management of forest products are to be paid, in accordance with section 22, to:

- (a) the Crown; or
- (b) a forest management fund established:
  - (i) by the minister, in conjunction with a licensee and a trustee; or
  - (ii) by any person designated by the minister”.

**(2) Subsection 26(2) is amended:**

**(a) by striking out “licensee” wherever it appears and in each case substituting “minister”; and**

**(b) by striking out “the licence or regulations” and substituting “the licence, the regulations or the code”.**

Section 34 amended

**26 Subsection 34(3) is amended:**

**(a) in clause (b) by striking out “38(2)” and substituting “38(3)”; and**

**(b) in clause (c) by striking out “this Act and the regulations” and substituting “this Act, the regulations and the code”.**

Section 36 amended

**27 Subsection 36(3) is amended by adding “or an agreement between the licensee and the minister” after “except in accordance with that licence”.**

Section 38 amended

**28(1) Subsection 38(2) is amended in the portion preceding clause (a) by striking out “The licensee” and substituting “Subject to subsection (2.1), the licensee”.**

**(2) The following subsection is added after subsection 38(2):**

“(2.1) The minister may authorize the licensee, in writing, to produce and submit a five-year operating plan at a time or times other than those required pursuant to subsection (2) if the minister is satisfied that the plan submitted pursuant to clause (1)(b) is:

- (a) prepared in accordance with the requirements of this Act, the regulations and the code; and
- (b) signed by a qualified person”.

**Section 39 amended****29(1) Clauses 39(1)(a.1) and (b) are repealed and the following substituted:**

“(a.1) the code;

“(b) any integrated forest land use plan in effect for land within the licence area”.

**(2) Subsection 39(2) is repealed and the following substituted:**

“(2) Forest management plans are to do the following to the minister’s satisfaction:

- (a) describe how the licensee proposes to manage the forest in the licence area;
- (b) indicate how Aboriginal and other people using land within the licence area and other persons interested in the licensee’s activities have been consulted;
- (c) indicate as a consequence of the consultations mentioned in clause (b) what concerns and issues were brought to the licensee’s attention and what the licensee will do in response to the concerns and issues raised;
- (d) if the plan is a development within the meaning of *The Environmental Assessment Act*, include the requirements of that Act;
- (e) contain any information that the minister may require”.

**Section 39.1 amended****30(1) Subsection 39.1(2) is repealed and the following substituted:**

“(2) The minister shall review a plan submitted to the minister pursuant to section 38 and:

- (a) approve the plan if, in the minister’s opinion:
  - (i) the plan complies with this Act;
  - (ii) in the case of a plan that is a development within the meaning of *The Environmental Assessment Act*, the plan complies with the requirements set out in clause 39(2)(d); and
  - (iii) it is in the public interest to do so; or

- (b) refuse to approve the plan if the minister is not satisfied that:
  - (i) the plan complies with this Act;
  - (ii) in the case of a plan that is a development within the meaning of *The Environmental Assessment Act*, the plan complies with the requirements set out in clause 39(2)(d); or
  - (iii) it is in the public interest to do so.

“(2.1) Before the minister acts pursuant to clause (2)(b), the minister shall provide the licensee with:

- (a) written notice of the minister’s intended action and the reasons for that intended action; and
- (b) an opportunity to make written representations to the minister, within a period set by the minister, as to why the intended action should not be taken.

“(2.2) The minister is not required to give an oral hearing to any licensee to whom a notice has been provided pursuant to subsection (2.1).

“(2.3) Subject to subsection (2.4), after considering the representations mentioned in subsection (2.1), the minister shall issue a written decision and shall serve a copy of the decision on the licensee.

“(2.4) In the prescribed circumstances, the minister shall obtain the approval of the Lieutenant Governor in Council before issuing a written decision pursuant to subsection (2.3)”.

**(2) The following subsection is added after subsection 39.1(3):**

“(4) An approval granted pursuant to this section with respect to a plan that is a development within the meaning of *The Environmental Assessment Act* is deemed to be an approval pursuant to section 15 or 16 of that Act”.

**Section 45 amended**

**31(1) Subsection 45(2) is amended by striking out “The licensee” and substituting “Subject to subsection (3), the licensee”.**

**(2) The following subsection is added after subsection 45(2):**

“(3) The minister may authorize the licensee, in writing, to produce and submit an operating plan at a time or times other than those required pursuant to subsection (2) if the minister is satisfied that the plan submitted pursuant to clause (1)(b) is:

- (a) prepared in accordance with the requirements of this Act, the regulations and the code; and
- (b) signed by a qualified person”.

**Section 46 amended****32(1) Clauses 46(1)(a.1) and (b) are repealed and the following substituted:**

“(a.1) the code;

“(a.2) if the plan is a development within the meaning of *The Environmental Assessment Act*, the requirements of that Act;

“(b) any integrated forest land use plan in effect for land within the licence area”.

**(2) Subsection 46(2) is repealed and the following substituted:**

“(2) Plans prepared by the licensee are to do the following to the minister’s satisfaction:

(a) describe how the licensee proposes to manage the forest in the licence area;

(b) contain any information that the minister may require”.

**Section 46.1 amended****33(1) Subsection 46.1(2) is repealed and the following substituted:**

“(2) The minister shall review a plan submitted to the minister pursuant to section 45 and:

(a) approve the plan if, in the minister’s opinion:

(i) the plan complies with this Act;

(ii) in the case of a plan that is a development within the meaning of *The Environmental Assessment Act*, the plan complies with the requirements set out in clause 46(1)(a.2); and

(iii) it is in the public interest to do so; or

(b) refuse to approve the plan if the minister is not satisfied that:

(i) the plan complies with this Act;

(ii) in the case of a plan that is a development within the meaning of *The Environmental Assessment Act*, the plan complies with the requirements set out in clause 46(1)(a.2); or

(iii) it is in the public interest to do so.

“(2.1) Before the minister acts pursuant to clause (2)(b), the minister shall provide the licensee with:

(a) written notice of the minister’s intended action and the reasons for that intended action; and

(b) an opportunity to make written representations to the minister, within a period set by the minister, as to why the intended action should not be taken.

“(2.2) The minister is not required to give an oral hearing to any licensee to whom a notice has been provided pursuant to subsection (2.1).

“(2.3) Subject to subsection (2.4), after considering the representations mentioned in subsection (2.1), the minister shall issue a written decision and shall serve a copy of the decision on the licensee.

“(2.4) In the prescribed circumstances, the minister shall obtain the approval of the Lieutenant Governor in Council before issuing a written decision pursuant to subsection (2.3)”.

**(2) The following subsection is added after subsection 46.1(3):**

“(4) An approval granted pursuant to this section with respect to a plan that is a development within the meaning of *The Environmental Assessment Act* is deemed to be an approval pursuant to section 15 or 16 of that Act”.

**Section 49.2 amended**

**34 Clauses 49.2(1)(b) and (c) are repealed and the following substituted:**

“(b) the code;

“(c) any integrated forest land use plan in effect for land within the licence area”.

**New section 50.1**

**35 The following section is added after section 50:**

**“Changes to approval**

**50.1(1)** The minister may cancel, amend, alter or suspend any approved operating plan or any licence other than a licence issued with respect to a forest management agreement, in whole or in part, if:

(a) the minister is satisfied, based on any information that comes to the attention of the minister, that the activity of a licensee pursuant to an approved operating plan or a licence has resulted or will result in a contravention of any Act or regulation or any other law;

(b) in the case of a licensee that is exempt from the requirement to submit an operating plan, the licensee has contravened any Act or regulation or any other law; or

(c) the minister is satisfied that it is in the public interest to do so.

(2) Before the minister does any of the things mentioned in subsection (1), the minister shall give the licensee:

(a) written notice of the minister’s intended action and the reasons for that intended action; and

(b) an opportunity to make written representations to the minister, within 30 days after the written notice mentioned in clause (a) is given, as to why the intended action should not be taken.

(3) The minister is not required to give an oral hearing to any licensee to whom a notice has been given pursuant to subsection (2).

(4) After considering the representations mentioned in subsection (2), the minister shall issue a written decision and shall serve a copy of the decision on the person who made the representations as soon as is practicable after the decision is made”.

**Section 51 amended**

**36 Section 51 is amended by striking out “Scaling Manual” and substituting “code”.**

**Section 57 amended**

**37 Subsection 57(2) is amended:**

**(a) by striking out “Department of Agriculture and Food” and substituting “Ministry of Agriculture”; and**

**(b) by striking out “responsible for that department” and substituting “presiding over that ministry”.**

**Section 58 amended**

**38(1) Subsection 58(1) is repealed and the following substituted:**

“(1) In this section and in section 59, ‘close’, with respect to a road, means to decommission, barricade, place a gate on or place a sign on a road or road allowance with the intent of preventing travel by a vehicle on that road or road allowance.

“(1.1) Notwithstanding anything in any licence or agreement, if the minister considers it necessary for the purposes of managing or protecting forest resources, the minister may close, by order, or require any person responsible for the construction or maintenance of the road to close, any road within a provincial forest”.

**(2) Subsection 58(2) is amended by striking out “subsection (1)” and substituting “subsection (1.1)”.**

**Section 61 amended**

**39 Subsection 61(1) is amended:**

**(a) in clause (a) by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”; and**

**(b) in clause (b):**

**(i) by striking out “and” after subclause (i) and substituting “or”; and**

**(ii) in subclause (ii) by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”.**

New sections 62 to 62.7

**40 Section 62 is repealed and the following substituted:**

**“Minister may take action**

**62(1)** The minister may do all or any of the things mentioned in subsection (2) if a person on whom an order is served pursuant to section 61 fails to comply with that order:

- (a) within the period specified in that order; or
  - (b) if no period is specified in the order, within a reasonable period after the order was served.
- (2) In the circumstances mentioned in subsection (1), the minister may:
- (a) carry out the order; and
  - (b) recover the costs and expenses incurred pursuant to clause (a) on behalf of the Crown as a debt due and recoverable by the Crown from the person who failed to comply with the order.

**“Forest remediation order**

**62.1(1)** If the minister is satisfied that activities being carried out on Crown resource land are being carried out in contravention of this Act, the regulations or the code and may cause, are causing or have caused damage to Crown resource lands or forest products on Crown resource lands, the minister may issue a forest remediation order against a person responsible directing that person to take any measures that the minister considers necessary.

(2) The minister shall cause the measures mentioned in subsection (3) to be set out in the forest remediation order.

(3) For the purposes of subsection (1), the minister may, in a forest remediation order, require a person to whom the forest remediation order is directed to do all or any of the following:

- (a) investigate the situation;
- (b) lessen or prevent further damage to the Crown resource land or forest products;
- (c) remedy the damage;
- (d) restore the Crown resource land or forest products to a condition satisfactory to the minister;
- (e) maintain records on any matter relevant to the measures specified in the order;
- (f) report periodically to the minister or a person designated by the minister with respect to the measures specified in the order;

(g) cease or suspend any activity for a period specified in the order or permanently;

(h) take any measure, in addition to or other than one described in clauses (a) to (g), that the minister considers necessary to:

(i) facilitate compliance with any forest remediation order; or

(ii) protect or restore the Crown resource lands or forest products.

(4) A forest remediation order may specify:

(a) the method or procedures to be used in carrying out the measures required by the order and the manner in which those methods or procedures are to be carried out; and

(b) the period within which any measure required by the order is to be commenced and the period within which the order or any portion of the order is to be complied with.

**“Service of forest remediation order**

**62.2** The minister shall serve a copy of a forest remediation order on the person to whom the order is directed.

**“Process for issuing and amending forest remediation orders**

**62.3(1)** The minister may amend, alter or replace a forest remediation order, in whole or in part, if:

(a) the person to whom the forest remediation order is issued fails to comply with the terms of the order; or

(b) the minister considers it appropriate to do so.

(2) Before the minister issues a forest remediation order, or takes any action pursuant to subsection (1), the minister shall give to the person to whom the order is intended to be issued or whose order is to be amended, altered or replaced:

(a) written notice of the minister’s intended action and the reasons for that intended action; and

(b) an opportunity to make written representations to the minister, within 30 days after the written notice mentioned in clause (a) is given, as to why the intended action should not be taken.

(3) The minister is not required to give an oral hearing to any person to whom a notice has been given pursuant to subsection (2).

(4) After considering the representations mentioned in clause (2)(b), the minister shall issue a written decision:

(a) confirming the forest remediation order;

(b) amending, altering or replacing the forest remediation order; or

(c) revoking the forest remediation order.

(5) The minister shall serve a copy of the decision made pursuant to this section on the person who made the representations as soon as is practicable after the decision is made.



**“When minister may carry out forest remediation order**

**62.4(1)** The minister may do all or any of the things mentioned in subsection (2) if a person on whom a forest remediation order is served fails to comply with that order:

- (a) within the period specified in that order; or
- (b) if no period is specified in the order, within a reasonable period after the order was served.

(2) In the circumstances mentioned in subsection (1), the minister may:

- (a) carry out the order; and
- (b) recover the costs and expenses incurred pursuant to clause (a) on behalf of the Crown as a debt due and recoverable by the Crown from the person who failed to comply with the forest remediation order.

**“Recovery of minister’s costs – filing of certificate**

**62.5(1)** If the minister undertakes any work for the purposes of this Part and incurs any costs and expenses as a result, the minister may file in the office of the local registrar of the Court of Queen’s Bench at the judicial centre nearest to the place where the work or the greatest portion of the work was done a certificate that is signed by the minister and that sets out:

- (a) the amount of the costs and expenses; and
- (b) the person from whom the costs and expenses are recoverable.

(2) If the minister files a certificate pursuant to subsection (1), the minister shall serve a copy of the certificate on the person from whom the certificate states the costs and expenses are recoverable.

(3) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the Court of Queen’s Bench for the recovery of a debt in the amount specified in the certificate, together with any reasonable costs and expenses with respect to its filing.

(4) A person who has been served with a copy of a certificate pursuant to subsection (2) may, within 30 days after receiving the copy, make written representations to the minister requesting the minister to reconsider the amount of the costs and expenses.

(5) After considering the representations mentioned in subsection (4), the minister may:

- (a) withdraw the certificate;
- (b) vary the amount of the costs and expenses and, for that purpose, withdraw the certificate and file a new certificate with the new costs and expenses; or
- (c) confirm the certificate.

(6) The minister shall serve a copy of the decision made pursuant to this section on the person who made the representations as soon as is practicable after the decision is made.

**“Appeals to Court of Queen’s Bench re forest remediation order or certificate**

**62.6(1)** Any person aggrieved by a forest remediation order may appeal the order on a question of law to a judge of the Court of Queen’s Bench within 30 days after the date of service of the order.

- (2) The record of an appeal pursuant to subsection (1) consists of:
  - (a) the forest remediation order;
  - (b) the written representations made to the minister by the person named in the forest remediation order;
  - (c) the minister’s decision pursuant to subsection 62.3(4); and
  - (d) any other material that the Court of Queen’s Bench may require.
- (3) A person with respect to whom a certificate has been entered as a judgment pursuant to section 62.5 may appeal to a judge of the Court of Queen’s Bench only on the grounds that the costs and expenses set out in the certificate are not reasonable.
- (4) An appeal pursuant to subsection (3) must be made within:
  - (a) 30 days after the date of service of the certificate; or
  - (b) if the person has made representations to the minister pursuant to section 62.5, within 30 days after the minister has issued a decision.
- (5) On hearing an appeal pursuant to this section, the judge of the Court of Queen’s Bench may issue an order:
  - (a) confirming the forest remediation order or the entering of the certificate against the appellant, as the case may be;
  - (b) amending the forest remediation order or the certificate, as the case may be;
  - (c) quashing the forest remediation order or the certificate, as the case may be; or
  - (d) doing any other thing that the judge considers appropriate.
- (6) In an order issued pursuant to subsection (5), the judge of the Court of Queen’s Bench may specify the period within which the forest remediation order must be complied with.

**“Appeal does not stay order or decision**

**62.7** An appeal pursuant to section 62.6 does not stay the operation of the forest remediation order or the certificate with respect to which the appeal is taken, unless a judge of the Court of Queen’s Bench orders otherwise”.

**New section 64****41 Section 64 is repealed and the following substituted:****“Appeal**

**64(1)** Any person aggrieved by an order of the minister, an officer or an inspector made pursuant to section 61 or 63.2 may appeal the order on a question of law or jurisdiction to a judge of the Court of Queen’s Bench within 30 days after the date of service of the order.

(2) The record of an appeal pursuant to subsection (1) consists of:

- (a) the order;
- (b) the notice of motion commencing the appeal to the Court of Queen’s Bench; and
- (c) any other material that the Court of Queen’s Bench may require.

(3) On hearing an appeal pursuant to this section, the judge of the Court of Queen’s Bench may issue an order:

- (a) confirming the order;
- (b) amending the order;
- (c) quashing the order; or
- (d) doing any other thing that the judge considers appropriate.

(4) In an order issued pursuant to subsection (3), the judge of the Court of Queen’s Bench may specify the period within which the order must be complied with.

(5) Any person who is a party to an appeal and is aggrieved by a decision of the judge of the Court of Queen’s Bench may appeal to the Court of Appeal at any time within 30 days after the date of the decision.

(6) An appeal does not stay the operation of the order with respect to which the appeal is taken unless a judge of the court to which the appeal is taken orders otherwise”.

**Section 72 amended**

**42 Subsection 72(3) is amended by striking out “department” and substituting “ministry”.**

**New section 75.1**

**43 The following section is added after section 75:**

**“Audits**

**75.1** Sections 71, 71.1, 74 and 75 apply, with any necessary modification, to an audit conducted pursuant to this Act”.

## Section 77 amended

**44(1) Subsection 77(2) is amended:**

- (a) in clause (b) by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”;
- (b) in clause (d) by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”; and
- (c) by repealing clause (f).

**(2) Clause 77(3)(b) is amended by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”.**

## New sections 78 and 78.1

**45 Section 78 is repealed and the following substituted:****“Administrative penalty**

**78(1)** The minister may assess a penalty in the prescribed amount against any person if the person:

- (a) fails to pay dues or fees owing in the amount or by the time specified pursuant to this Act or a licence;
- (b) harvests forest products in excess of the volume permitted by a licence or an approved plan;
- (c) harvests forest products in contravention of the terms of a licence, an approved plan or the code;
- (d) conducts renewal activities in contravention of the terms of a licence, an approved plan or the code;
- (e) fails to submit any records or documents with respect to the transportation, scaling, measurement, harvesting, renewal or manufacturing of forest products by the time or in the manner specified pursuant to a licence, an approved plan or the code;
- (f) grazes livestock in contravention of the terms of a licence or an approved plan;
- (g) scales forest products in contravention of the terms of a licence, an approved scaling plan or the code; or
- (h) contravenes any other prescribed provision of this Act, the regulations or the code.

**(2)** Before assessing a penalty, the minister shall provide notice to the person:

- (a) setting out the facts and circumstances that, in the minister’s opinion, render the person liable to a penalty;
- (b) specifying the amount of the penalty that the minister considers appropriate in the circumstances; and
- (c) informing the person of the person’s right to make representations to the minister.

- (3) No penalty is to be assessed by the minister more than three years after the act or omission that renders the person liable to a penalty first came to the knowledge of the minister.
- (4) A person to whom notice is sent pursuant to subsection (2) may make representations to the minister respecting whether or not a penalty should be assessed and the amount of any penalty.
- (5) Representations pursuant to subsection (4) must be made within 30 days after the person received the notice pursuant to subsection (2).
- (6) After considering any representations, the minister may:
- (a) assess a penalty and set a date by which the penalty is to be paid in full; or
  - (b) determine that no penalty should be assessed.
- (7) The minister shall serve a copy of his or her decision pursuant to subsection (6) on the person who made the representations.
- (8) The minister may file in the Court of Queen's Bench a certificate signed by the minister and setting out:
- (a) the amount of the penalty assessed pursuant to subsection (6); and
  - (b) the person from whom the penalty is to be recovered.
- (9) A certificate filed pursuant to this section has the same force and effect as if it were a judgment obtained in the Court of Queen's Bench for the recovery of a debt in the amount set out in the certificate, together with reasonable costs and charges with respect to its filing.
- (10) The minister may assess a penalty pursuant to this section notwithstanding that the facts and circumstances giving rise to the penalty arose due to the actions of an employee, helper, contractor or agent of the person required to pay the penalty.

**“Appeal to Court of Queen's Bench re administrative penalty**

**78.1(1)** Any person aggrieved by a decision of the minister to impose a penalty pursuant to section 78 may appeal that decision on a question of law to a judge of the Court of Queen's Bench within 30 days after the date of service of the minister's decision.

- (2) The record of an appeal pursuant to subsection (1) consists of:
- (a) the minister's decision;
  - (b) any written representations made to the minister by the person named in the decision;
  - (c) the notice of motion commencing the appeal; and
  - (d) any other material that the Court of Queen's Bench may require.

- (3) On hearing an appeal pursuant to this section, the judge of the Court of Queen's Bench may issue an order:
- (a) confirming the penalty;
  - (b) amending or varying the amount of the penalty; or
  - (c) quashing the minister's decision to assess a penalty".

**Section 79 amended**

**46(1) Subsection 79(1) is repealed and the following substituted:**

- "(1) No person shall:
- (a) harvest forest products except in accordance with this Act, the regulations and the code;
  - (b) possess any forest products that the person knows or ought to have known were taken in contravention of this Act, the regulations or the code;
  - (c) possess any forest products without a licence where, pursuant to this Act, the regulations or the code, a licence is required to possess those products;
  - (d) fail to comply with the terms of any licence or plan approved pursuant to this Act, the regulations or the code;
  - (e) fail to comply with an order made pursuant to section 61, 62.1 or 63.2;
  - (f) traffic in forest products unless authorized to do so pursuant to this Act, the regulations or the code;
  - (g) treat, remove, store, transport or utilize any infected material except in accordance with this Act, the regulations or the code;
  - (h) without lawful authority, damage, deface or remove any notice, poster or sign posted or placed by the minister, a licensee or an officer pursuant to this Act, the regulations or the code;
  - (i) provide an officer with false information relating to an offence or alleged offence against this Act, the regulations or the code;
  - (j) falsify, in any particular, any application, licence, record or return required by this Act, the regulations or the code to be made or kept;
  - (k) apply for a licence when prohibited from doing so; or
  - (l) fail to comply with any provision of this Act, the regulations or the code".

- (2) Subsection 79(2) is amended in the portion preceding clause (a) by striking out "this Act or the regulations" and substituting "this Act, the regulations or the code".**

**New section 81****47 Section 81 is repealed and the following substituted:****“Offences by officers, directors or agents**

**81** Every director, officer or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in an act or omission of the corporation that would constitute an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for that offence whether or not the corporation has been prosecuted or convicted”.

**New section 83****48 Section 83 is repealed and the following substituted:****“Limitation on prosecutions**

**83** No prosecution for a contravention of this Act, the regulations or the code is to be commenced more than three years after the facts on which the alleged contravention is based first came to the knowledge of the minister”.

**Section 85 amended**

**49 Section 85 is amended in the portion preceding clause (a) by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”.**

**Section 87 amended****50 Clause 87(1)(b) is repealed and the following substituted:**

“(b) the minister or an officer is satisfied that the seized forest products, or any other forest products from which the seized products were manufactured, were harvested in accordance with this Act, the regulations and the code and that all dues and fees that may be a lien on the seized products have been paid”.

**Section 88 amended**

**51 Subsection 88(2) is amended by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”.**

**New section 91****52 Section 91 is repealed and the following substituted:****“Crown not liable**

**91** The Crown, the minister or any person appointed, retained or employed by the minister or the ministry is not liable for:

(a) any damages sustained by any person or his or her vehicle by reason of disrepair or non-repair of any of the following:

- (i) a road closed pursuant to section 58;
- (ii) a road allowance in the provincial forest that is not developed;
- (iii) a road made or laid out by a licensee;
- (iv) a road made or laid out in the provincial forest;
- (v) any other work performed on a road in the provincial forest by a licensee or any other person; or

(b) any deterioration, diminution or other devaluation of property seized pursuant to this Act but not forfeited to the Crown, including any loss resulting from the disposal of any property pursuant to subsection 77(8)”.

## New section 93.1

**53 The following section is added after section 93:****“Public information**

**93.1(1)** Subject to subsection (4), all applications, information, data, reports, returns and records and responses to a direction of the minister submitted to the minister pursuant to this Act, the regulations, the code or an approved plan are deemed to be public information.

(2) The minister may disclose to the public any application, information, data, report, return or record or response to a direction of the minister mentioned in subsection (1) at any time and in any manner that the minister considers appropriate.

(3) Subject to the regulations, a person who submits an application or any information, data, report, return or record or responds to a direction of the minister pursuant to this Act may request in writing that all or any part of the application, the information, data, report, return, record or response be kept confidential for a period of up to five years after the date of submission on the basis that the application, information, data, report, return, record or response contains matters that:

- (a) are of a commercial, financial, scientific or technical nature; and
- (b) would reveal proprietary business, competitive or trade secret information about that person's business.

(4) A request made pursuant to subsection (3) is to be dealt with in the prescribed manner”.

## Section 94 amended

**54(1) Subsection 94(2) is amended:**

**(a) in the portion preceding clause (a) by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”; and**

**(b) in clause (a) by striking out “forest management” and substituting “advisory”.**

**(2) Subsection 94(3) is amended by striking out “a forest management” and substituting “an advisory”.**

## New section 95

**55 Section 95 is repealed and the following substituted:****“Immunity**

**95** No action or other proceeding lies or shall be commenced against the minister, the ministry, the minister's designate, any inspector, any municipality, any municipal council, any person appointed, retained or employed by a municipality if that person is acting pursuant to the authority of this Act, the regulations or the code, any officer, any person lawfully accompanying an officer, the Crown or officers and employees of the Crown for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by any one or more of them, pursuant to or in the exercise or supposed exercise of any power conferred by this Act, the regulations or the code or in the carrying out or supposed carrying out of any function or duty imposed by this Act, the regulations or the code”.



## Section 96 amended

**56 Subsection 96(1) is amended in the portion preceding clause (a) by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”.**

## Section 97 amended

**57 Subsection 97(1) is amended by striking out “this Act or the regulations” and substituting “this Act, the regulations or the code”.**

## New section 98

**58 Section 98 is repealed and the following substituted:**

**“Service of notice or documents**

**98(1)** In this section, **‘business day’** means a day other than a Saturday, Sunday or holiday.

(2) Any notice, order or decision required by this Act or the regulations to be given or served is to be served personally or mailed by ordinary or registered mail to the last known address of the person being served or by any other prescribed means.

(3) A document served by ordinary mail or registered mail is deemed to have been received on the tenth business day following the day of its mailing, unless the person to whom it was mailed establishes that, through no fault of the person, he or she did not receive the document or that he or she received it at a later date.

(4) Irregularity in the service of a notice, order or decision does not affect the validity of an otherwise valid notice, order or decision”.

## Section 99 amended

**59(1) Subsection 99(1) is amended:**

**(a) by adding the following clause after clause (a.1):**

“(a.2) for the purposes of clause 2(1)(x.2), prescribing a class of persons”;

**(b) by repealing clause (b);**

**(c) by repealing clause (b.1);**

**(d) in clause (c) by striking out “management units” and substituting “planning areas”;**

**(e) in clause (e) by striking out “procedures for”;**

**(f) by repealing clause (i);**

**(g) by repealing clause (m.1);**

**(h) in clause (n) by striking out “Minister of Agriculture and Food” and substituting “Minister of Agriculture”;**

**(i) by repealing clause (p);**

- (j) in clause (s) by striking out “Crown resource land” and substituting “land within the provincial forest”;**
- (k) by adding the following clauses after clause (s):**
- “(s.1) respecting the registration with the ministry of activities on forest land;
- “(s.2) respecting financial assurances to be provided to the minister, including their type, form and content and the circumstances under which those assurances may be realized;
- “(s.3) for the purposes of sections 39.1 and 46.1, prescribing circumstances when the minister shall obtain the approval of the Lieutenant Governor in Council before issuing a written decision pursuant to subsection 39.1(2.3) or 46.1(2.3)”;
- (l) by repealing clause (t);**
- (m) by repealing clause (w);**
- (n) in clause (kk) by striking out “this Act or the regulations” and substituting “this Act, the regulations, the code or the requirements of a licence”; and**
- (o) by adding the following clause after clause (ll):**
- “(ll.1) adopting a code”.
- (2) The following subsection is added after subsection 99(2):**
- “(2.1) The code may contain all or any of the following provisions:
- (a) provisions respecting any matter, activity or thing that is governed by this Act or that may be prescribed;
- (b) provisions determining any criteria, terms, conditions or requirements that must be met in order to carry out any activity governed by this Act and set out in the code;
- (c) provisions adopting a standard, including a standard developed or established by the minister, as amended from time to time or otherwise”.

**Coming into force**

- 60** This Act comes into force on proclamation.