

1996

CHAPTER F-19.1

An Act respecting the Management of Forest Resources

(Assented to June 25, 1996)

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

PRELIMINARY

Short title

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

Interpretation

2(1) In this Act:

- (a) **“Crown”** means the Crown in right of Saskatchewan;
- (b) **“Crown resource land”** means all lands administered by the department other than park land within the meaning of *The Parks Act* but does not include any Crown mineral or Crown mineral lands within the meaning of *The Crown Minerals Act*;
- (c) **“department”** means the department over which the minister presides;
- (d) **“dues”** means any money owed to the Crown pursuant to this Act, the regulations or a licence, for rights to harvest forest products;
- (e) **“fees”** means any money, other than dues, including administrative penalties, interest charges and fees for renewal of forest products, reforestation, fire protection and suppression, forest inventory, seedlings and insect and disease control, that is owed pursuant to this Act, the regulations or a licence, to:
 - (i) the Crown; or
 - (ii) a forest management fund;
- (f) **“forest land”** means any Crown land where a forest ecosystem is the predominant ecosystem but does not include any Crown mineral or Crown mineral lands within the meaning of *The Crown Minerals Act*;
- (g) **“forest management agreement”** means an agreement entered into by the minister pursuant to section 33;
- (h) **“forest management committee”** means a committee established pursuant to section 11;
- (i) **“forest management plan”** means a forest management plan required to be approved by the minister pursuant to clause 38(1)(a) or 45(a);
- (j) **“forest product permit”** means a permit granted by the minister pursuant to section 49;
- (k) **“forest products”** means all vegetation on or from forest land or waters on or associated with forest land, whether alive, dead or cut, and includes trees, shrubs, herbs, grasses, mosses, fungi and any parts or

components of that vegetation;

(l) **"forest resources"** means all resources and values associated with forest ecosystems, whether biotic, abiotic, social or economic, and includes animals, vegetation, land, water, air and recreational, spiritual and heritage values but does not include any Crown mineral within the meaning of *The Crown Minerals Act*;

(m) **"harvest"** means to cut, pick, gather, collect, accumulate or remove forest products by any means;

(n) **"integrated forest land use plan"** means a plan prepared pursuant to section 14;

(o) **"licence"** means a forest management agreement, a term supply licence or a forest product permit granted pursuant to this Act, and includes any licence granted pursuant to the regulations respecting the harvesting, transporting, importing, manufacturing or marketing of forest products;

(p) **"licence area"** means an area with respect to which the right to harvest or manage forest products, exclusive or otherwise, has been granted to any person by a licence;

(q) **"management unit"** means an area of provincial forest designated as a management unit by the minister pursuant to section 13;

(r) **"manufacture"** means any step taken to prepare a forest product for market, and includes the sawing, peeling, preserving, cleaning, drying, extracting and packaging of forest products, but does not include harvesting;

(s) **"minister"** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(t) **"Northern Saskatchewan Administration District"** means the Northern Saskatchewan Administration District continued pursuant to *The Northern Municipalities Act*, not including any area within the boundaries of a town, northern village or northern hamlet or recreation subdivision consisting of six or more contiguous lots;

(u) **"officer"** means any employee of the department designated as an enforcement officer by the minister pursuant to section 8, and includes:

(i) a peace officer; and

(ii) a traffic officer appointed for the purpose of enforcing *The Highway Traffic Act*;

(v) **"operating plan"** means an operating plan required to be approved by the minister pursuant to clause 38(1)(b) or 45(b);

(w) **"processing facility"** means a pulp mill, sawmill, plywood mill, fibreboard mill, post plant or any other facility, fixed or mobile, designed for manufacturing forest products, whether or not the facility is completed or is in operation;

(x) **"provincial forest"** means any Crown resource land designated by the Lieutenant Governor in Council pursuant to section 12;

(y) **"reforestation"** means the natural or artificial restocking of an area with trees;

(z) **"renewal"** means the natural or artificial renewal of any forest product and includes reforestation;

(aa) **"resource monitor"** means a person hired by a licensee and approved by the minister for the purposes of ensuring and verifying that specified obligations of the licensee are being met;

(bb) **"scale"** means, for the purpose of estimating dues and fees payable, to measure any section of the stem, or of the thicker branches, of a tree that has been cut but has not been processed beyond being split or having the limbs or bark removed;

(cc) **"term supply licence"** means a licence granted by the minister pursuant to section 42;

(dd) **"traffic"** means to offer for sale, sell, buy, exchange, barter, deal, solicit or trade;

(ee) **"vehicle"** means any conveyance for transporting people or forest products on land, over water or in the air.

(2) Subject to *The Wildlife Act* and *The Fisheries Act (Saskatchewan), 1994*, nothing in any licence granted pursuant to this Act or the regulations abrogates or derogates from any right to hunt, trap or fish on Crown land.

(3) The Crown is bound by this Act.

Purpose

3 The purpose of this Act is to promote the sustainable use of forest land for the benefit of current and future generations by balancing the need for economic, social and cultural opportunities with the need to maintain and enhance the health of forest land.

ADMINISTRATION

Department to administer Act

4 This Act and the regulations are to be administered by the department.

Minister's responsibilities

5 The minister is responsible for all matters not by law assigned to any other minister, department, branch or agency of the Government of Saskatchewan relating to the acquisition, promotion, conservation, development, enhancement, maintenance, management, protection and utilization of forest resources.

Powers of minister

6 The minister, subject to the regulations, may:

(a) specify standards for reforestation, reclamation, renewal and tree preservation;

(b) specify procedures for the sale and disposition of forest products;

(c) specify terms governing the harvesting, classifying, measuring, scaling, transporting, manufacturing, marking, branding, inspecting, exporting and importing of forest products;

(d) specify requirements and procedures for the licensing of processing facilities;

(e) control the use of pesticides on Crown resource land;

(f) specify procedures for the development, preparation, approval, implementation, amendment and revision of plans prepared pursuant to this Act;

(g) allocate forest products on Crown resource land to any person or category of persons;

(h) specify terms to which a licensee is subject;

- (i) appoint members, assign duties and set out procedures for the operation of the Provincial Forest Policy Advisory Committee and forest management committees; and
- (j) do any thing the minister considers necessary to conserve, develop, enhance, maintain, manage, protect and utilize forest products on Crown resource land in a sustainable manner.

Power to enter into agreements

7(1) The minister may enter into agreements with the Government of Canada, the government of any other province or territory of Canada, or a minister, agent, or official of that government, or any person, agency, board, commission, organization, association, institution, body or forest management committee for the purposes of furthering activities authorized by this Act, including the following:

- (a) the protection, on any land, of forests, trees or other arboraceous vegetation from damage due to insects, diseases, animals or abiotic factors;
- (b) the protection of watersheds;
- (c) the renewal and reclamation of all components of a forest ecosystem;
- (d) the acquisition, promotion, conservation, development, enhancement, maintenance, management, protection and utilization of forest resources;
- (e) the development, operation and maintenance of forest inventories and other information systems;
- (f) the publication of information respecting forests;
- (g) research;
- (h) education and training;
- (i) the location, clearing, closure and reclamation of roads;
- (j) the preparation of a report on the state of provincial forests or a Saskatchewan Forest Accord or the preparation, amendment or revision of an integrated forest land use plan, forest management plan or operating plan;
- (k) the management of any land, including community forests, woodlots, land owned by the Government of Canada, privately owned land or land owned by a municipality, for the purposes of conserving, developing, enhancing, maintaining, managing, protecting and utilizing forest resources in a sustainable manner.

(2) Subject to subsection (3), the minister shall obtain the approval of the Lieutenant Governor in Council before entering into an agreement pursuant to subsection (1) whereby the Government of Saskatchewan is liable to make expenditures in excess of \$50,000 in any fiscal year.

(3) The Lieutenant Governor in Council may prescribe, by regulation, the agreements or categories of agreements to which subsection (2) does not apply.

Designation of officers

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

MANAGEMENT OF FOREST RESOURCES

State of the forest report

9(1) At least once every 10 years commencing on the day this Act comes into force, the department shall prepare and submit to the minister a report on the state of provincial forests.

(2) The minister, in accordance with *The Tabling of Documents Act, 1991*, shall lay before the Assembly each report prepared pursuant to subsection (1).

Saskatchewan Forest Accord

10(1) The minister, within two years of laying a report on the state of provincial forests before the Assembly, shall consult with the public and prepare, for approval by the Lieutenant Governor in Council, a Saskatchewan Forest Accord.

(2) The Saskatchewan Forest Accord is to:

- (a) be released to the public after it is approved; and
- (b) set out the general, long-term, province-wide principles, policies and goals for the management of forest resources and the preparation of plans pursuant to this Act and the regulations.

Forest management committees

11 The minister, pursuant to the regulations:

- (a) shall establish a Provincial Forest Policy Advisory Committee to advise the minister on matters relating to the management of forest resources, including the preparation, approval, implementation, amendment, revision or audit of any plan or Saskatchewan Forest Accord prepared pursuant to this Act; and
- (b) may establish forest management committees for those areas that are designated by the minister to facilitate local involvement in the management of forest resources.

Provincial forests

12(1) The Lieutenant Governor in Council, by regulation, may designate any Crown resource land as a provincial forest to be managed in a sustainable manner for the purposes of conserving, developing, enhancing, maintaining, managing, protecting and utilizing the forest resources on that land.

(2) All lands designated as provincial forest are withdrawn from disposition, sale, settlement or occupancy except pursuant to the authority of this Act and the regulations.

(3) All statutory road allowances, surveyed roads, streets, lanes and public reserves between or within parcels of land in a provincial forest, for the purposes of forest administration, are part of the provincial forest, subject to:

- (a) *The Highways and Transportation Act* respecting highways; and
- (b) the exercise of the powers conferred on a rural municipality by *The Rural Municipality Act, 1989* respecting the construction, repair and maintenance of roads, lanes, bridges and culverts.

**MANAGEMENT UNITS AND INTEGRATED
FOREST LAND USE PLANS****Management units**

13 The minister shall designate all provincial forests into one or more management units in accordance with the regulations.

Integrated forest land use plan

14(1) The minister shall ensure that an integrated forest land use plan is prepared for every management unit for the purpose of co-ordinating policies, programs and activities to guide and regulate existing and potential uses of land within that management unit.

(2) Where the boundaries of a management unit coincide with the boundaries of a licence area respecting a forest management agreement, the integrated forest land use plan prepared for the management unit pursuant to subsection (1) is to be revised in conjunction with the revision of the forest management plan respecting the forest management agreement pursuant to subsection 38(2).

Integrated forest land use plan to be approved by minister

15(1) The minister shall approve an integrated forest land use plan where he or she is satisfied that the plan:

- (a) meets all requirements prescribed by this Act and the regulations;
- (b) is consistent with any Saskatchewan Forest Accord in effect when the plan is being prepared;
- (c) satisfies the purposes of the provincial forest designation pursuant to section 12;
- (d) prescribes objectives and strategies for:
 - (i) integrating forest land uses in a way that sustains forest resources and functions;
 - (ii) providing the public the opportunity to participate in the implementation, monitoring, assessing and amending of the plan; and
 - (iii) monitoring and assessing the results of implementing the plan;
- (e) has undergone a public review in accordance with any procedures set out in the regulations; and
- (f) contains appropriate provisions for amending the plan.

(2) An integrated forest land use plan comes into effect when it is approved by the minister.

(3) Nothing in an integrated forest land use plan is to be construed as reducing the number or amount of forest products made available to a licensee under a licence granted prior to the approval of that plan.

Amendments to integrated forest land use plans

16 Notwithstanding anything in any Act or licence, whenever changes to an integrated forest land use plan are considered by the minister to be necessary in the interests of the conservation, development, enhancement, maintenance, management, protection or utilization of forest resources in provincial forests, the minister may amend that plan subject to a public review in accordance with any procedures set out in the regulations.

HARVESTING OF FOREST PRODUCTS**Forest products Crown property**

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

(2) Subject to subsection (3), no person shall harvest or acquire any right or property in any forest product except in accordance with this Act or the regulations.

(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) Nothing in this Act precludes:

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

Minister may grant licences

18(1) Subject to subsection (2), the minister may grant licences to harvest forest products.

(2) No licence to harvest forest products on forest lands administered by the Department of Agriculture and Food pursuant to *The Provincial Lands Act* is effective unless the Minister of Agriculture and Food consents to the granting of the licence.

(3) Every licence is to describe:

- (a) the area within which the licence rights apply;
- (b) the location, quantity and type of forest products that may be harvested;
- (c) the dues and fees payable;
- (d) the date it is granted and the date it expires; and
- (e) any terms that are specific to the licence area.

(4) Notwithstanding anything in any licence, a licence does not confer on the licensee any interest in land or any right to exclusive possession of land.

(5) Notwithstanding anything in any licence, nothing in any licence prevents or impedes the Crown from using, or granting the use of, land within the licence area for any purpose that, in the opinion of the minister, is compatible with the rights granted by the licence.

Licences subject to this Act

19 All licences are subject to this Act and the regulations and compliance with this Act and the regulations is a term to which every licence is subject.

Designations by the minister

20 Subject to the regulations, the minister, in any licence respecting the harvesting of forest products, may set out the following:

- (a) the size of harvest areas;
- (b) harvest methods;
- (c) forest product utilization standards;
- (d) terms applicable to harvesting and renewing forest products for the purpose of ensuring that forest products are used in accordance with the terms of any plan made pursuant to this Act or any Saskatchewan Forest Accord in effect;
- (e) conditions governing location, construction and use of roads;
- (f) any other terms that the minister considers appropriate.

Licensees liable for dues

21(1) A licensee who holds a management licence issued pursuant to section 19 of *The Forest Act* shall pay dues in the amount and in the manner set out in that licence until the first extension date of that licence after the coming into force of this section.

(2) Following the first extension date of the licence mentioned in subsection (1) after the coming into force of this section and following every second extension date after that, the licensee shall pay dues:

- (a) where the amount of dues and manner of payment are set out in the licence for the 10-year period following the extension date, in the amount and in the manner set out in that licence; or
- (b) where the amount of dues and manner of payment are not set out in the licence for the 10-year period following the extension date, in the amount and in the manner prescribed in the regulations.

(3) A licensee who holds a licence respecting a forest management agreement entered into after the coming into force of this section shall pay dues:

- (a) where the amount of dues and manner of payment are set out in the forest management agreement for the 10-year period after the agreement is entered into, in the amount and in the manner set out in that agreement; or
- (b) where the amount of dues and manner of payment are not set out in the forest management agreement for the 10-year period after the agreement is entered into, in the amount and in the manner prescribed in the regulations.

- (4) Following the second extension date of the agreement mentioned in subsection (3) and following every second extension date after that, the licensee shall pay dues:
- (a) where the amount of dues and manner of payment are set out in the agreement for the 10-year period following the extension date, in the amount and in the manner set out in that agreement; or
 - (b) where the amount of dues and manner of payment are not set out in the agreement for the 10-year period following the extension date, in the amount and in the manner prescribed in the regulations.
- (5) Notwithstanding any other provision in this Act, where dues and the manner of payment are set out in a licence or agreement respecting a period mentioned in this section, no changes may be made during that period respecting those dues or the manner of payment except in accordance with the licence or agreement.
- (6) A licensee who holds a licence respecting the harvesting of forest products, other than a licensee mentioned in subsection (1) or (3), shall pay the dues in the amount and in the manner prescribed in the regulations.
- (7) Dues payable on all forest products harvested under a licence are a debt due to and recoverable by the Crown from the licensee.
- (8) Property in forest products that may be harvested under a licence remains in the Crown until all dues on those forest products have been paid.
- (9) A person in possession of forest products on which dues are owing holds those forest products in trust for the Crown.

Licensees liable for fees

22(1) A licensee who holds a management licence issued pursuant to section 19 of *The Forest Act* shall pay fees in the amount and in the manner set out in that licence until the first extension date of that licence after the coming into force of this section.

- (2) Following the first extension date of the licence mentioned in subsection (1) after the coming into force of this section and following every second extension date after that, the licensee shall pay fees:
- (a) where the amount of fees and manner of payment are set out in the licence for the 10-year period following the extension date, in the amount and in the manner set out in that licence; or
 - (b) where the amount of fees and manner of payment are not set out in the licence for the 10-year period following the extension date, in the amount and in the manner prescribed in the regulations.
- (3) A licensee who holds a licence respecting a forest management agreement entered into after the coming into force of this section shall pay fees:
- (a) where the amount of fees and manner of payment are set out in the forest management agreement for the 10-year period after the agreement is entered into, in the amount and in the manner set out in that agreement; or
 - (b) where the amount of fees and manner of payment are not set out in the forest management agreement for the 10-year period after the agreement is entered into, in the amount and in the manner prescribed in the regulations.
- (4) Following the second extension date of the agreement mentioned in subsection (3) and following every second extension date after that, the licensee shall pay fees:

- (a) where the amount of fees and manner of payment are set out in the agreement for the 10-year period following the extension date, in the amount and in the manner set out in that agreement; or

(b) where the amount of fees and manner of payment are not set out in the agreement for the 10-year period following the extension date, in the amount and in the manner prescribed in the regulations.

(5) Notwithstanding any other provision in this Act, where fees and the manner of payment are set out in a licence or agreement respecting a period mentioned in this section, no changes may be made during that period respecting those fees or the manner of payment except in accordance with the licence or agreement.

(6) A licensee who holds a licence respecting the harvesting of forest products, other than a licensee mentioned in subsection (1) or (3), shall pay the fees in the amount and in the manner prescribed in the regulations.

(7) Fees payable by a licensee are a debt due to and recoverable by the Crown from the licensee.

Lien for dues and fees

23(1) Dues and fees owing on forest products are a lien and charge in favour of the Crown on any forest products harvested by the person owing the dues or fees, and on any prescribed products manufactured from those forest products, in preference and priority to all other claims.

(2) If forest products or prescribed products manufactured from forest products are subject to a lien and charge pursuant to subsection (1) and are under seizure or attachment by a sheriff or bailiff of a court, are claimed by or in the possession of an assignee for the benefit of creditors, liquidator, receiver or secured creditor, or have been converted into cash that has not been distributed:

(a) the minister may give the sheriff, bailiff, assignee, liquidator, receiver or secured creditor notice of the amount owing under the lien and charge; and

(b) that person shall pay the amount owing to the Crown in preference to and priority over all other claims.

Import controls

24 No person, without the written authority of the minister, shall import any thing into Saskatchewan that, in the minister's opinion, could cause the spread of insects or diseases harmful to Saskatchewan's forests, trees or other arboraceous vegetation.

Minister may invite offers

25(1) The minister may invite offers to pay a bonus, in addition to prescribed dues and fees, for the rights to be granted in a licence to harvest forest products.

(2) Before inviting offers respecting forest management agreements, the minister must obtain approval from the Lieutenant Governor in Council.

Fees for forest management

26(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 licensee; or

(ii) by any person designated by the minister.

(2) Where those fees are paid into a forest management fund established and administered by the licensee or any person designated by the minister, the licensee or other person shall ensure that those fees are used for the purposes of renewal, protection, development and management of forest products as set out in the licence or regulations, as the case may be.

Renewal activities

27 A licensee shall carry out renewal activities in accordance with the regulations and the terms of the licensee's licence.

Information

28 The minister may require a licensee or an applicant for a licence to provide the minister with any information prescribed in the regulations.

Prior rights

29 If, as a result of any error, a licence is found to include any land previously sold, granted, leased or lawfully set apart for any public purpose pursuant to this Act or any other Act, the licence is void to the extent that it interferes with any prior sale, grant, lease or setting apart.

Disputes between licensees

30(1) A licence may be granted respecting forest products on land that is subject to another licence.

(2) If more than one licence is granted for the same land, the licensees shall make every reasonable effort to cooperate in the exercise of their respective rights and, in the event of a dispute between licensees, the minister may direct that the dispute be resolved in accordance with procedures prescribed in the regulations.

Transfer of licence

31(1) No licence granted pursuant to this Act is assignable or transferable unless authorized by the minister in accordance with the regulations.

(2) No person shall:

(a) allow his or her licence to be used or carried by any other person unless authorized in writing to do so by the minister; or

(b) use or carry another person's licence unless authorized in writing to do so by the minister.

Production of licence

32 On the request of an officer, every person who has a licence shall immediately produce it for examination.

FOREST MANAGEMENT AGREEMENTS

Forest management agreement

33 Subject to the approval of the Lieutenant Governor in Council, the minister may enter into a forest management agreement with any person.

Term of forest management agreement

34(1) Subject to subsection (2), the term of a forest management agreement is not to exceed 20 years.

(2) A forest management agreement may provide that in every fifth year of the agreement a forest management agreement may be extended for five years so that the term of the agreement after each extension is 20 years.

(3) An extension is subject to:

(a) the licensee not being in default of any part of the agreement;

(b) where the licensee must obtain the minister's approval of a revised forest management plan pursuant to subsection 38(2), the minister reviewing and approving that plan; and

(c) those terms that are not inconsistent with this Act and the regulations and that are approved by the Lieutenant Governor in Council.

Licensee's rights

35 Every forest management agreement shall contain provisions:

(a) setting out the rights of the licensee for the harvesting of forest products and the responsibilities of the licensee for the renewal of specified forest products;

(b) entitling the licensee, respecting the withdrawal of land from the licence area:

(i) to be consulted respecting proposed land withdrawals; and

(ii) to be compensated for the loss of improvements and forest products on the withdrawn land; and

(c) entitling the licensee to be notified by the minister of every grant, lease, licence or permit that affects the rights conferred by the agreement.

Changes, amendments and alterations

36(1) In this section, “**terms**” means those provisions in a management licence issued pursuant to section 19 of *The Forest Act* or in a forest management agreement entered into after the coming into force of this Act respecting:

- (a) the rights of the holder of the licence or agreement for the harvesting of forest products;
- (b) the area within which the licence rights apply and the location, quantity and type of forest products specified in a licence or agreement; and
- (c) the compensation for the loss of improvements and forest products respecting land withdrawals.

(2) No changes, amendments or alterations shall be made to terms set out in a management licence issued pursuant to section 19 of *The Forest Act*, except in accordance with the licence, until the first extension date of that licence after the coming into force of this Act.

(3) At the first extension date of the licence mentioned in subsection (2) and at every second extension date after that, the licensee and the minister may agree in the licence to the manner of changing, amending or altering the terms, and no changes, amendments or alterations shall be made to those terms for the 10-year period following that extension date except in accordance with that licence.

(4) At each extension date mentioned in subsection (3), where the licensee and the minister do not agree in the licence to the manner of changing, amending or altering the terms, the Lieutenant Governor in Council may make regulations respecting those terms.

(5) Subsections (3) and (4) apply, with any necessary modification, to a forest management agreement.

Right of Crown

37(1) Every forest management agreement is subject to the right of the Crown pursuant to any Act to make dispositions of land or other Crown rights within the boundaries of the licence area.

(2) Any person who receives a disposition pursuant to subsection (1):

- (a) has the right to use and occupy the land described in the disposition for the purposes stated; and
- (b) shall pay to the licensee who holds the licence respecting the forest management agreement, in accordance with the regulations, the value of all forest products to which that licensee is entitled and that have been cut, damaged or destroyed as a consequence of anything done by the person receiving the disposition.

(3) A forest management agreement is to set out the circumstances in which a disposition mentioned in subsection (1) entitles the licensee to be compensated for a withdrawal of land from the licence area.

Forest management plans and operating plans

38(1) Prior to commencing any activity authorized by the forest management agreement, the licensee shall obtain the minister's approval of:

- (a) a forest management plan for the full term of the agreement; and
- (b) a five-year operating plan produced annually commencing and submitted on dates specified in the agreement.

(2) Once every 10 years, before a forest management agreement is extended pursuant to section 34, the licensee shall obtain the minister's approval of a revised forest management plan for the full term of the agreement.

Preparation of plans

39(1) A licensee who holds a licence respecting a forest management agreement shall prepare the forest management plan and the operating plan in accordance with:

- (a) this Act and the regulations;
- (b) any Saskatchewan Forest Accord or integrated forest land use plan in effect for land within the licence area; and
- (c) the terms of the forest management agreement.

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

- (a) describe how the licensee proposes to manage the forest, including descriptions of long-term strategies for inventory, harvest, renewal, protection and road development;
- (b) identify other forest products and resources of value in the licence area and:
 - (i) indicate how those products and resources may be affected by the proposed activities of the licensee; and
 - (ii) explain what actions the licensee will take to protect those products and resources;
- (c) indicate how aboriginal and other people using land within the licence area and other persons interested in the licensee's activities have been consulted;
- (d) indicate as a consequence of the consultations mentioned in clause (c) 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;
- (e) describe the monitoring, assessment and reporting process the licensee will use to demonstrate to the minister the degree to which the objectives of the forest management plan and operating plan are being achieved;
- (f) contain any information the minister may require.

(3) Operating plans are to do the following to the minister's satisfaction:

- (a) describe the manner in which the licensee proposes to implement the forest management plan during the five years to which the operating plan relates, including detailed proposals for the location and timing of activities during the first year and general proposals for the remaining four years; and
- (b) contain any information the minister may require.

Activities to conform to plans

40(1) Subject to subsection (2), the operations of a licensee who holds a licence respecting a forest management agreement are to conform to the terms of the approved forest management plan and operating plan prepared by the licensee pursuant to this Act and the regulations.

(2) The minister, in exceptional circumstances, may waive compliance with the terms of an approved forest management plan or operating plan prepared by a licensee pursuant to this Act and the regulations.

Salvage of damaged timber

41 Except where specifically provided in a licence respecting a forest management agreement, the minister, in order to minimize the waste of merchantable timber damaged or likely to be damaged by fire, pests or other destructive

agents, may direct a licensee who holds a licence respecting a forest management agreement to conduct harvesting operations in an area designated by the minister by amending an operating plan respecting the forest management agreement.

TERM SUPPLY LICENCES

Term supply licence

42 The minister, in accordance with the regulations, may grant a term supply licence conferring the right to harvest specified forest products.

Duration of term supply licence

43(1) The term of a term supply licence is not to exceed 10 years.

(2) On the expiration of the term supply licence, the minister, if the licensee is not in default of any part of the licence and there is a sufficient supply of the forest product as determined by the minister, may renew the expired term supply licence subject to any terms the minister specifies.

Right of Crown re term supply licence

44(1) Every term supply licence is subject to the right of the Crown pursuant to any Act to make dispositions of land or other Crown rights within the boundaries of the licence area.

(2) Any person who receives a disposition pursuant to subsection (1):

(a) has the right to use and occupy the land described in the disposition for the purposes stated; and

(b) shall pay to the licensee who holds the term supply licence, in accordance with the regulations, the value of all forest products to which that licensee is entitled and that have been cut, damaged or destroyed as a consequence of anything done by the person receiving the disposition.

(3) A term supply licence may set out the circumstances in which a disposition mentioned in subsection (1) entitles the licensee to be compensated for a withdrawal of land from the licence area.

Plans re term supply licence

45 Prior to commencing any activity authorized by the term supply licence, the licensee shall obtain the minister's approval of:

(a) a forest management plan for the full term of the licence to be revised at times specified in the term supply licence; and

(b) an operating plan produced annually commencing and submitted on dates specified in the licence.

Preparation of plans

46(1) A licensee who holds a term supply licence shall prepare the forest management plan and the operating plan in accordance with:

(a) this Act and the regulations;

(b) any Saskatchewan Forest Accord or integrated forest land use plan in effect for land within the licence area; and

(c) the terms of the term supply licence.

(2) Plans prepared by the licensee who holds a term supply licence are to contain any information the minister may require.

Activities to conform to plans

47 The operations of a licensee who holds a term supply licence are to conform to the terms of the approved forest management plan and operating plan prepared by the licensee pursuant to this Act and the regulations.

Salvage of damaged timber

48 Except where specifically provided in a term supply licence, the minister, in order to minimize the waste of merchantable timber damaged or likely to be damaged by fire, pests or other destructive agents, may direct a licensee who holds a term supply licence to conduct harvesting operations in an area designated by the minister by amending an operating plan respecting the term supply licence.

FOREST PRODUCT PERMITS

Forest product permit

49(1) The minister, in accordance with the regulations, may grant forest product permits conferring the right to harvest specified forest products.

(2) Every forest product permit expires on the sooner of the date specified in the permit or the March 31 following the date that it is granted.

Salvage of damaged timber

50 Except where specifically provided in a forest product permit, the minister, in order to minimize the waste of merchantable timber damaged or likely to be damaged by fire, pests or other destructive agents, may direct a licensee who holds a forest product permit to conduct harvesting operations in an area designated by the minister by amending the forest product permit.

SCALING AND MEASUREMENTS

Dues and fees based on scale or other measurement

51 Dues and fees payable on the number or amount of forest products harvested, or to be harvested, under authority of a licence are to be based on a scale or other measurement taken prior to manufacture that is in accordance with procedures and standards determined by the minister.

Persons authorized to scale and measure

52 No person, other than an officer, is authorized to scale or measure forest products for the purpose mentioned in section 51 unless that person is:

- (a) licensed in accordance with the regulations; or
- (b) authorized in writing by the minister.

WOOD RESIDUE

Minister may direct delivery and sale of wood residue

53(1) Unless otherwise specified in a licence, the minister, in order to maximize the use of wood residue or to prevent damage to forest resources on Crown resource land, may:

- (a) direct a person licensed to operate a processing facility or harvest timber to deliver any or all wood residue resulting from the operation of the processing facility or harvesting activity to any place that the minister may designate; and
- (b) direct that person to sell the wood residue to the owner of any processing facility that the minister may specify.

(2) Where the parties agree to an acceptable price at the place of delivery, the party receiving the delivery shall offer to buy the wood residue at that price.

(3) If the parties cannot agree on a price at the place of delivery or on any other term, the price to be paid or other term is to be fixed by arbitration.

(4) For the purposes of an arbitration pursuant to section 54, the person directed to deliver the wood residue is the party demanding the arbitration.

(5) In this section:

- (a) **"timber"** means any trees or parts of trees from Crown land, whether standing, fallen, cut, alive or dead;
- (b) **"wood residue"** means:
 - (i) wood chips from timber; and
 - (ii) all timber or parts of timber that result from a harvesting operation or a processing facility and that have not been manufactured into a usable product but, in the minister's opinion, could be manufactured into a usable product without undue financial hardship to either party mentioned in this section.

Arbitration

- 54(1)** An arbitration pursuant to this Act is to be before three arbitrators, and *The Arbitration Act, 1992* applies to the arbitration.
- (2) The party demanding the arbitration shall inform the other party of the name of the person he or she names as one of the arbitrators, and within 15 days of receiving that name, the other party shall name a person as one of the arbitrators.
 - (3) The two arbitrators shall choose a third arbitrator, who is the chairperson of the arbitrators.
 - (4) In the event the party receiving the demand for arbitration fails to name a person as one of the arbitrators within the time specified, a judge of the Court of Queen's Bench may name a person as one of the arbitrators on behalf of that party.
 - (5) In the event the two arbitrators named fail to name a person as the third arbitrator, the Chief Justice of the Queen's Bench may name a judge of the Court of Queen's Bench or any other judge or person as the third arbitrator, who shall be chairperson of the arbitrators.

ZONING AND DEVELOPMENT

Application of *The Planning and Development Act, 1983*

55 Notwithstanding section 3 and subsection 213(1) of *The Planning and Development Act, 1983*, neither that Act nor any provision of any basic planning statement, development plan, zoning bylaw, interim development control bylaw, municipal development plan, district development plan or district zoning bylaw made pursuant to that Act or any former Act relating to urban and rural planning and development applies to:

- (a) the harvesting of forest products in a provincial forest; or
- (b) any activities relating to or in any way connected with forest management carried out in a provincial forest pursuant to this Act, the regulations or any plan approved by the minister pursuant to this Act.

ROADS AND RAILWAYS

Minister may establish roads

- 56(1)** Notwithstanding anything in any other Act, the minister may construct roads within a provincial forest and may:
- (a) maintain and administer those roads;
 - (b) limit the loads carried by vehicles using those roads; and

(c) by order, close the whole or any specified part of those roads.

(2) Nothing in this section operates to withdraw any road from a provincial forest.

Construction of roads

57(1) Notwithstanding anything in this Act or any other Act but subject to subsection (2), no person shall clear any forest land for the purpose of constructing a road, trail or other right of way, except with prior authorization from the minister or in accordance with the regulations.

(2) On forest land administered by the Department of Agriculture and Food, the minister responsible for that department may control any clearing for purposes of constructing a road, trail or other right of way and may issue dispositions for that purpose.

(3) The sale or disposal of any forest products taken from land mentioned in subsection (2) is subject to this Act.

Closure of roads

58(1) Notwithstanding anything in any licence or agreement, where 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) No person shall operate a vehicle on any road closed pursuant to subsection (1) unless authorized to do so by an officer.

Exceptions to road closures

59(1) Section 58 does not apply respecting:

(a) provincial highways established pursuant to *The Highways and Transportation Act*; or

(b) roads administered by a rural municipality pursuant to *The Rural Municipality Act, 1989*.

(2) No person shall travel on any road closed pursuant to section 58 unless authorized to do so by an officer.

Land required for railway purpose

60(1) The Lieutenant Governor in Council may sell or lease land within a provincial forest when the land is required for the right of way or station grounds of a railway, but the land, subject to the use for which it is sold or leased, remains part of the provincial forest within which it is situated.

(2) If any land sold or leased pursuant to subsection (1) is no longer used for the purpose for which it was sold or leased, it reverts to the Crown.

PROTECTION OF FOREST PRODUCTS, FORESTS AND TREES

Damage prevention and repair

61(1) An officer may make an order requiring any person to stop harvesting or to stop any activity where the officer believes, on reasonable grounds, that:

(a) the person has harvested or is harvesting forest products without authority to do so pursuant to this Act or the regulations; or

(b) the person has done or is doing anything that:

(i) has damaged, is damaging or is likely to damage Crown resource land or forest products on Crown land; and

(ii) is not authorized by a licence or other privilege granted pursuant to this Act or the regulations or any other Act or regulations administered by the minister.

(2) The officer's order remains in effect for seven days or any shorter period designated by the officer.

(3) The officer making the order may rescind it prior to the time set for its expiration.

(4) During the period of the officer's order, the minister may make an order:

(a) confirming the officer's order and directing the person to stop the activity mentioned in clause (1)(a) or (b) for any period designated by the minister;

(b) directing the person to take any action the minister considers appropriate to repair the damage or prevent further damage;

(c) specifying the manner, method or procedures to be used in carrying out the measures required by the minister;

(d) specifying the time that any measure required by the minister is to begin and the period within which the order or any portion of the order is to be complied with; and

(e) specifying that the person to whom it is directed pay for the appointment of a resource monitor approved by the minister in accordance with the regulations.

(5) The minister may make an order rescinding or amending an order made pursuant to subsection (1) or (4).

(6) Neither the minister nor an officer is required to grant any person a hearing or an opportunity to make representations prior to making an order pursuant to this section.

(7) An order made pursuant to this section must be served on the person to whom it is directed.

Minister may take action

62(1) The minister may take any action that the minister considers necessary to repair or prevent damage to Crown resource land or forest products on Crown land where:

- (a) the minister considers it in the public interest to take immediate action;
- (b) an officer is unable to readily identify or locate the person responsible for an activity mentioned in subsection 61(1); or
- (c) the person who is served with an order made pursuant to section 61 fails to comply with the order within the specified time.

(2) The amount of any costs and expenses incurred respecting any action taken by the minister is a debt due to and recoverable by the Crown from the person engaging in, or otherwise responsible for, the activity mentioned in subsection 61(1).

Insects and diseases

63(1) If the minister determines that there are on any lands insects or diseases that are causing or are likely to cause damage to forests, trees or other arboraceous vegetation, the minister may make an order requiring the owner or occupant to:

- (a) take measures to control the insects or diseases in a manner specified by the minister; or
- (b) dispose of the trees or vegetation in a manner specified by the minister.

(2) Clauses 61(4)(b) to (d) and subsections 61(5) to (7) apply, with any necessary modification, to an order made by the minister respecting insects or diseases.

(3) The minister may take any action that the minister considers necessary to control or prevent damage to forests, trees or other arboraceous vegetation from insects or diseases on any lands where:

- (a) the minister considers it in the public interest to take immediate action; or
- (b) the person who is served with an order made pursuant to subsection (1) fails to comply with the order within the specified time.

(4) The amount of any costs and expenses incurred respecting any action taken by the minister is a debt due to and recoverable by the Crown from the owner or occupant of those lands.

(5) The minister, an officer or any person designated by the minister, and any person lawfully accompanying the minister, officer or designated person, may enter on any land in Saskatchewan without the consent of the owner or occupant, and may take any samples that may be necessary for the purposes of:

- (a) exercising the minister's powers pursuant to this section; or
- (b) monitoring or recording the extent and severity of insect or disease infestations on any land with forests, trees or other arboraceous vegetation.

(6) In subsections (1) and (3):

- (a) **"any lands"** means any lands within those areas specified by the Lieutenant Governor in Council;
- (b) **"insects or diseases"** means those insects and diseases specified by the Lieutenant Governor in Council.

Appeal

64(1) Any person aggrieved by an order of the minister made pursuant to section 61 or 63 may appeal on a question of law or jurisdiction to a judge of the Court of Queen's Bench at any time within 30 days after the order is served.

(2) 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.

(3) 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.

Order enjoining person

65(1) The minister may apply, by notice of motion, to the Court of Queen's Bench for an order enjoining any person from proceeding contrary to this Act, the regulations or a term of a licence.

(2) The Court of Queen's Bench may grant the order on any terms that it considers appropriate.

(3) The minister or any person against whom an order is made may appeal the order to the Court of Appeal at any time within 30 days after the date of the order.

POWERS OF OFFICERS

General powers of officers

66 All officers have the power of peace officers to enforce this Act and the regulations and are entitled, while performing their duties, to all the protection that peace officers are entitled to pursuant to the *Criminal Code*.

Conduct of searches

67 Where an officer is conducting a search pursuant to this Act, the officer may be accompanied by any person who, by virtue of his or her expertise in a particular field or his or her knowledge of facts relevant to the matter being investigated, may assist the officer in carrying out the officer's duties.

Arrest without warrant

68 Any officer may arrest, without a warrant, any person found committing an offence against this Act or the regulations.

Search of person

69 Any officer may search any person where the officer has reasonable grounds to believe that the person has concealed on his or her person any evidence of an offence against this Act or the regulations.

Entry on land

70 Any officer and any person lawfully accompanying the officer, for the purposes of carrying out the officer's duties, may enter on or pass over any land, whether enclosed or not, without the consent of the owner or occupant.

Investigations

71(1) On the oath of an officer that there are reasonable grounds to believe that an offence against this Act or the regulations has occurred and that evidence of that offence is likely to be found, a justice of the peace or a judge of the Provincial Court of Saskatchewan may issue a warrant to:

(a) enter and search any place or premises named in the warrant;

(b) search any vehicle described in the warrant;

- (c) seize anything that may be evidence of an offence against this Act or the regulations.
- (2) An officer with a warrant issued pursuant to subsection (1) may:
- (a) enter and search any place or premises named in the warrant;
 - (b) search any vehicle described in the warrant;
 - (c) open and examine any trunk, box, bag, parcel, closet, cupboard or other receptacle that the officer finds in the place or premises or the vehicle;
 - (d) require the production of and examine any books, records, papers or documents that the officer believes, on reasonable grounds, may contain information related to an offence against this Act or the regulations;
 - (e) remove, for the purpose of making copies, any books, records, papers or documents examined pursuant to this section;
 - (f) seize and remove any equipment or vehicle used in connection with the offence; and
 - (g) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act or the regulations.
- (3) Subject to subsection (4), an officer may exercise all or any of the powers mentioned in subsection (2) without a warrant issued pursuant to this section if:
- (a) the conditions for obtaining a warrant exist; and
 - (b) the officer has reasonable grounds to believe that the delay necessary to obtain a warrant would result:
 - (i) in danger to human life or safety; or
 - (ii) in the loss, removal or destruction of evidence.
- (4) No officer shall enter premises that are ordinarily occupied as a private residence without a warrant issued pursuant to this section unless the occupant of those premises consents to the entry.

Copies of documents

72(1) Where any books, records, papers or documents are removed pursuant to section 71, an officer may make copies of those books, records, papers or documents.

- (2) An officer shall:
- (a) make those copies with reasonable dispatch; and
 - (b) promptly return the originals of the books, records, papers or documents to:
 - (i) the place they were removed from; or
 - (ii) any other place that may be agreed to by the officer and the person who furnished them or from whom they were seized.
- (3) A document certified by the minister, an officer or any person authorized by the minister to be a copy made pursuant to this section:
- (a) is admissible in evidence without proof of the office or signature of that person; and

- (b) has the same probative force as the original document.

Inspections

73(1) Subject to subsection 71(4), for the purpose of ensuring compliance with this Act, an officer may, at any reasonable time without a warrant:

- (a) enter and inspect any commercial premises used by a person required to be licensed pursuant to this Act or the regulations;
 - (b) enter and inspect any premises for which a licence has been issued pursuant to this Act or the regulations; or
 - (c) enter any premises containing any books, records, papers or documents that are required to be kept pursuant to this Act or the regulations.
- (2) Every person required to keep any books, records, papers or documents pursuant to this Act or the regulations shall produce them on the request of the officer.
- (3) An officer who requests any books, records, papers or documents required to be kept pursuant to this Act or the regulations may examine them and make copies in accordance with section 72.

Search of vehicle, etc., on reasonable grounds

74(1) Where an officer has reasonable grounds to believe that there is evidence in a vehicle of an offence against this Act or the regulations, the officer may:

- (a) request or signal to the person in charge of or operating the vehicle to stop the vehicle;
 - (b) search the vehicle for evidence of an offence; and
 - (c) seize anything that may be evidence of an offence.
- (2) The person in charge of or operating a vehicle, when requested or signalled to stop by an officer pursuant to subsection (1), shall:
- (a) immediately bring the vehicle to a safe stop; and
 - (b) permit the officer to search the vehicle.

Search of vehicle, etc., in high incidence area

75(1) Where, due to the circumstances, time or location, there could reasonably be expected to be a high incidence of offences against this Act or the regulations in any area, an officer may:

- (a) request or signal to the person in charge of or operating a vehicle in the area to stop the vehicle;
 - (b) search the vehicle for evidence of an offence; and
 - (c) seize anything that may be evidence of an offence.
- (2) The person in charge of or operating a vehicle, when requested or signalled to stop by an officer pursuant to subsection (1), shall:
- (a) immediately bring the vehicle to a safe stop; and

- (b) permit the officer to search the vehicle.

Operator to produce documents

76(1) An officer may request or signal a person in charge of or operating a truck transporting forest products, whether or not those products are from Crown land, to stop the truck and produce any documents relating to those products that the officer may request.

(2) The person in charge of or operating the truck, when requested or signalled to stop by an officer pursuant to subsection (1), shall:

- (a) immediately bring the vehicle to a safe stop; and
- (b) produce any documents related to the products that the officer may request.

Seizure of forest products

77(1) An officer may seize any forest products, or any products manufactured from forest products, where:

(a) the person in possession or control of the forest products or manufactured products refuses or fails to inform the officer of the name and address of the person from whom the products were received, or of any fact within the person's knowledge respecting the products;

(b) the officer believes, on reasonable grounds, that those forest products or any other forest products from which the products were manufactured have not been scaled or measured as required by this Act or the regulations;

(c) the officer believes, on reasonable grounds, that dues are owing respecting those forest products or any other forest products from which the products were manufactured;

(d) the officer believes, on reasonable grounds, that those forest products or any other forest products from which those products were manufactured were harvested in contravention of this Act or the regulations; or

(e) the officer believes, on reasonable grounds, that those products are subject to a lien pursuant to section 23.

(2) Forest products or manufactured products that are seized pursuant to subsection (1) may be removed to any place that the officer considers appropriate for the preservation of the products.

(3) An officer seizing forest products or manufactured products may also seize any vehicle that is being used for the purpose of transporting those products, and may impound the vehicle for any reasonable period, not exceeding 30 days, that the officer considers necessary to determine the disposition of the seized products.

(4) Any person in charge of or operating a vehicle mentioned in subsection (3) shall convey the seized forest products or manufactured products to any place that an officer may direct.

(5) If forest products or manufactured products liable to seizure have been mixed with other similar products so as to render it impractical or difficult to distinguish or separate the products liable to seizure from the other products with which they are mixed, all of those products so mixed may be seized.

(6) An officer or any employee of the department who has custody of any forest products or manufactured products seized pursuant to this Act may dispose of them, in whole or in part, in any manner the officer or employee considers appropriate, and any proceeds realized from the disposition are to be dealt with in the same manner as the products would have been dealt with according to this Act.

ADMINISTRATIVE PENALTIES, PROSECUTIONS AND FORFEITURE

Administrative penalties

- 78**(1) The minister may assess a penalty prescribed in the regulations against any person where that person:
- (a) fails to pay dues or fees owing by the time specified pursuant to this Act or a licence;
 - (b) harvests forest products in excess of the amount permitted by a licence;
 - (c) harvests forest products in contravention of the terms of a licence where those terms are prescribed in the regulations for the purposes of this section.
- (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 his or her 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, in the minister's opinion, renders the person liable to a penalty.
- (4) A person to whom notice is sent, within 30 days after receiving the notice, may make representations to the minister respecting whether a penalty should be assessed and the amount of any penalty.
- (5) 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.
- (6) The minister shall send notice of his or her decision to the person.
- (7) The penalty is a debt due to and recoverable by the Crown.

Offences and penalties

- 79**(1) No person shall:
- (a) harvest forest products except in accordance with this Act and the regulations;
 - (b) possess any forest products that the person knows or ought to have known were taken in contravention of this Act or the regulations;
 - (c) possess any forest products without a licence where, pursuant to this Act or the regulations, 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 or the regulations;
 - (e) fail to comply with an order made pursuant to section 61 or 63;
 - (f) traffic in forest products unless authorized to do so pursuant to this Act or the regulations;
 - (g) without lawful authority, damage, deface or remove any notice, poster or sign posted or placed by the minister, the department or an officer pursuant to this Act or the regulations;
 - (h) resist, obstruct, hinder, delay or interfere with an officer, or a person aiding an officer, in the performance of the officer's duties;
 - (i) refuse to provide his or her licence or any record or information required by this Act or the regulations to an officer or the department when required to do so;
 - (j) provide an officer with false information relating to an offence or alleged offence against this Act or the regulations;
 - (k) falsify, in any particular, any application, licence, record or return required by this Act or the regulations to be made or kept;
 - (l) apply for a licence when prohibited from doing so; or
 - (m) fail to comply with any provision of this Act or the regulations.
- (2) Any person who contravenes any provision of this Act or the regulations is guilty of an offence and liable on summary conviction:
- (a) in the case of an individual, to a fine not exceeding \$250,000, to imprisonment for a term not exceeding five years or to both;
 - (b) in the case of a corporation, to a fine not exceeding \$1,000,000.
- (3) A person shall not be convicted of an offence pursuant to this section respecting the same act or omission for which a penalty was imposed on the person pursuant to section 78.

Additional powers of court

80(1) In addition to any penalty imposed on a person pursuant to subsection 79(2), the court, having regard to the nature of the offence and the circumstances surrounding its commission, may make an order doing any one or more of the following:

- (a) prohibiting the person from doing any act or engaging in any activity that, in the opinion of the court, may result in the continuation of the offence;
- (b) directing the person to take any action the court considers appropriate to:
 - (i) repair any damage to any Crown resource land or forest products on Crown land that resulted from the commission of the offence; or
 - (ii) prevent any damage to any Crown resource land or forest products on Crown land that may result from the commission of the offence;
- (c) directing the person to pay the minister an amount of money as compensation, in whole or in part, for:
 - (i) dues payable respecting forest products;

- (ii) fees owing;
 - (iii) the costs associated with the seizure, transportation and storage of articles seized;
 - (iv) the cost of any remedial or preventative action taken by or at the direction of the minister as a result of the commission of the offence;
- (d) directing the person to perform community service in accordance with any reasonable terms that may be specified in the order;
- (e) directing the person to provide a surety instrument or pay into the court an amount of money the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement mentioned in this subsection;
- (f) requiring the person to comply with any terms that the court considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences pursuant to this Act or the regulations;
- (g) cancelling any licence held by the person;
- (h) cancelling any licence held by the person and prohibiting the person from applying for or obtaining a licence for not more than five years from the date of conviction.

(2) Where a person has been convicted of an offence pursuant to this Act or the regulations and the court is satisfied that as a result of the commission of the offence the person benefitted monetarily, the court, notwithstanding the maximum amount of any fine that may otherwise be imposed pursuant to this Act, may order the person to pay an additional fine in an amount equal to the court's finding of the amount of those monetary benefits.

Offences by officers, directors or agents

81 Any officer, director or agent of a corporation who directed, authorized or participated in an act or omission by a corporation that would constitute an offence by that corporation is guilty of that offence, whether or not the corporation has been prosecuted or convicted.

Vicarious liability

82 In any prosecution for an offence, it is sufficient proof of the offence to establish that it was committed by an employee, helper or agent of the defendant, whether or not the employee, helper or agent is identified or has been prosecuted or convicted for the offence, in the absence of any evidence that the offence was committed without the defendant's knowledge.

Limitation of prosecution

83(1) No prosecution for any contravention of the provisions of this Act or the regulations may be commenced more than three years from the date of the alleged contravention.

(2) For the purposes of this Act, a prosecution is commenced when the information is sworn or a summons is issued.

Proof of licence

84(1) The certificate of the minister that a licence or notice has or has not been granted or given pursuant to this Act is, in the absence of evidence to the contrary, proof of its contents without proof of the office or signature of the minister.

(2) A copy of a licence certified by the minister to be a correct copy is, in the absence of evidence to the contrary,

proof of its contents without proof of the office or signature of the minister.

Certificate re evidence

85 In a prosecution for a contravention of this Act or the regulations, the certificate or report of any of the following persons is admissible in evidence as proof of its contents, in the absence of evidence to the contrary, respecting any forest product or thing that, according to the certificate or report, has been examined in a laboratory by that person without proof of the office or signature of that person:

- (a) a person in charge of a laboratory:
 - (i) designated in the regulations;
 - (ii) maintained by the Government of Saskatchewan; or
 - (iii) maintained by the Royal Canadian Mounted Police;
- (b) any person employed in a laboratory mentioned in clause (a).

Onus on person charged

86 In any prosecution pursuant to this Act in which the validity or existence of a licence is in question, the onus is on the person charged to prove the validity or existence of the licence.

Forfeiture and return of forest products and manufactured products

87(1) Any forest products or manufactured products seized pursuant to this Act, or any proceeds realized from their disposition, shall be returned to the person from whom they were seized if, within 30 days after the seizure:

- (a) no prosecution is commenced for an offence in relation to the seized products; and

(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 and the regulations and that all dues and fees that may be a lien on the seized products have been paid.

(2) If no prosecution is commenced for an offence in relation to seized forest products or manufactured products within 30 days of the seizure, but the person from whom the products were seized fails to satisfy the minister or an officer as to the matters mentioned in clause (1)(b), the seized products, or any proceeds realized from their disposition, shall be forfeited to the Crown and disposed of in a manner prescribed in the regulations.

(3) If a prosecution is commenced within 30 days of the seizure of forest products or manufactured products, those products, or any proceeds realized from their disposition, may be retained by the minister or an officer until they are forfeited or proceedings relating to them are finally concluded.

(4) Where a person is convicted of an offence, any forest products, or products manufactured from forest products, seized respecting the offence, or any proceeds realized from their disposition, shall be forfeited to the Crown and disposed of in a manner prescribed in the regulations.

Consequences where no conviction obtained

88(1) Where a person is not convicted of an offence, any forest products or products manufactured from forest products seized respecting the alleged offence, or any proceeds realized from their disposition, shall be returned to the person from whom they were seized within 60 days after the date that:

- (a) the person is found not guilty, unless the verdict is appealed within 60 days;
- (b) the charge is dismissed or stayed, unless the dismissal or stay is appealed within 60 days; or
- (c) the proceedings are finally concluded, in the event of an appeal.

(2) Notwithstanding subsection (1), where a person is not convicted of an offence but it is proved that the seized forest products, or any other forest products from which the seized products were manufactured, were harvested in contravention of this Act or the regulations, the court may order that the seized products, or any proceeds realized from their disposition, be forfeited to the Crown and disposed of in a manner prescribed in the regulations.

Forfeiture and return of equipment, etc.

89(1) Any equipment, vehicle or other article seized pursuant to this Act, other than forest products or products manufactured from forest products, shall be returned to the person from whom it was seized:

- (a) if no prosecution is commenced within 30 days of the seizure;
- (b) subject to subsection (2), if a prosecution is commenced within 30 days of the seizure, within 60 days after the date that:

- (i) the person is found not guilty, unless the verdict is appealed within the 60 days;
- (ii) the charge is dismissed or stayed, unless the dismissal or stay is appealed within 60 days; or
- (iii) the proceedings are finally concluded, in the event of an appeal.

(2) Where a person is convicted of an offence, the court may order that any equipment, vehicle or other article seized respecting the offence, other than forest products or products manufactured from forest products, be forfeited to the Crown and disposed of in a manner prescribed in the regulations.

Forfeiture where person cannot be located

90 Where any property is to be returned pursuant to sections 87 to 89 to the person from whom it was seized and that person and anyone authorized to act on that person's behalf cannot be located, the item seized shall be forfeited to the Crown and disposed of in a manner prescribed in the regulations.

Crown not liable

91 The Crown, the minister or any person appointed, retained or employed by the minister or the department is not liable for 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(6).

Possession

92 For the purposes of any provision of this Act and the regulations creating an offence for possession of a thing:

(a) a person has possession of any thing when it is in that person's personal possession or custody or when, for that person's use or benefit and with that person's knowledge and consent, it is:

- (i) in any place, whether or not that place belongs to or is occupied by that person; or
- (ii) in the actual possession or custody of another person;

(b) a person has possession of any thing where that person is the owner or occupier of a place at which any thing is located and that person has knowledge of and consents to the thing being located at that place.

GENERAL**Suspension or cancellation of licence**

93(1) The minister may suspend or cancel a licence, in whole or in part, where:

(a) the licensee:

- (i) has failed to comply with the licence;
- (ii) has contravened this Act, the regulations or any order made pursuant to this Act or the regulations;
- (iii) has failed to pay dues or fees or has made a fraudulent return respecting dues or fees;
- (iv) becomes insolvent; or
- (v) has failed to provide information to the minister, an officer or the department as required pursuant to this Act or the regulations; and

(b) the period, if any, provided in the licence within which the holder may cure his or her default has expired.

(2) Before suspending or cancelling a licence, the minister shall:

(a) give the licensee written notice of the minister's intention to suspend or cancel the licence and the reasons for the suspension or cancellation; and

(b) give the licensee an opportunity to make representations to the minister on why the licence should not be suspended or cancelled.

(3) The minister shall not suspend or cancel a forest management agreement, without the approval of the Lieutenant Governor in Council.

Delegation

94(1) The minister may delegate to any officer or employee of the department the exercise of any of the minister's powers, or the carrying out of any of the minister's responsibilities, pursuant to this Act or the regulations, including, without limitation, those powers or responsibilities set out in sections 53, 61 to 63, 78, 93, 96 and 97.

(2) The minister may delegate the exercise of any of the minister's powers, or the carrying out of any of the minister's responsibilities, pursuant to this Act or the regulations that are prescribed in the regulations for the purposes of this section to:

(a) any forest management committee; or

(b) any person or category of persons other than an officer or employee of the department.

(3) The exercise by an officer or employee of the department, forest management committee, person or category of persons of any of the minister's powers, or the carrying out of any of the minister's responsibilities, delegated pursuant to this section is deemed to be the exercise or the carrying out, as the case may be, by the minister.

Immunity

95 No action lies or shall be instituted against the Crown, the minister or any person appointed, retained or employed by the minister or the department 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 of them:

- (a) pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations; or
- (b) in the carrying out or supposed carrying out of any decision or order made pursuant to this Act or the regulations or any duty imposed by this Act or the regulations.

Collection of debts

96(1) Where a person owes any debt due to the Crown pursuant to this Act or the regulations and the amount owing has remained unpaid for at least 30 days since it became owing, the minister may:

- (a) certify the amount due in a certificate in the prescribed form; and
 - (b) file that certificate at any judicial centre with the local registrar of the Court of Queen's Bench.
- (2) A certificate filed pursuant to subsection (1):
- (a) is to be served, within 30 days of filing, on the person who is the subject of the certificate, but failure to serve the certificate within 30 days does not affect the validity of the certificate; and
 - (b) 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 charges respecting its filing.
- (3) A person against whom a certificate is issued may appeal the amount of the certificate to a judge of the Court of Queen's Bench at any time within 30 days after the certificate is served.
- (4) 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.
- (5) An appeal does not stay the operation of the certificate with respect to which the appeal is taken unless a judge of the court to which the appeal is taken orders otherwise.

Collection from third parties

97(1) In this section, "**third party**" means a person who is, or is about to become, indebted to or liable to pay money to a person liable to pay a debt due to the Crown pursuant to this Act or the regulations.

- (2) Where a certificate has been filed pursuant to section 96, the minister may serve a notice of intention in the prescribed form on the person liable to pay the debt advising that person of the minister's intention to serve a demand on a third party.
- (3) No sooner than seven days after serving the notice of intention, the minister may serve a demand in the prescribed form on a person who is a third party in relation to the person who is the subject of the certificate requiring that all or any part of the money payable by the third party to that person be paid to the minister immediately on it becoming payable to that person.
- (4) A demand does not apply to any amount payable by a third party where that amount is payable:
- (a) after 30 days following the day on which the demand is served; or
 - (b) after a period not greater than six months following the day on which the demand is served that the minister may specify in the demand.
- (5) Payment to the minister by a third party of an amount pursuant to this section discharges the liability of the third party to the person who is the subject of the certificate to the extent of that amount.

(6) Where a third party is served with a demand pursuant to this section and subsequently discharges any liability to the person who is the subject of the certificate or fails to comply with the demand, that third party is liable to the Crown to the extent of the lesser of:

- (a) the amount of liability discharged to the person who is the subject of the certificate; and
- (b) the amount specified in the demand.

Service

98(1) Any notice, order, certificate or other document required to be given by the minister pursuant to this Act or the regulations is to be served personally or by registered mail to the last known address of the person being served.

(2) A notice, order, certificate or other document served by registered mail is deemed to have been received on the seventh day following the date of its mailing, unless the person to whom it was mailed establishes that it was not received or was received on a later date through no fault of that person.

(3) Where, in the opinion of the minister, it is not practical to serve a person personally or by registered mail, the person may be served by any method the minister considers appropriate.

Regulations

99(1) The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) respecting the establishment and operation of a Provincial Forest Policy Advisory Committee and forest management committees;
- (c) respecting procedures for classifying provincial forests into management units;
- (d) prescribing products for the purposes of section 23;
- (e) respecting procedures for public reviews of integrated forest land use plans, including amendments;

- (f) respecting the harvesting, classifying, measuring, scaling, transporting, manufacturing, marking, branding, inspecting, exporting and importing of forest products;
- (g) governing the alteration or disturbance of any forest vegetation on Crown land;
- (h) respecting procedures for the sale and disposition of forest products;
- (i) respecting standards for the utilization and manufacture of forest products, the methods of harvesting forest products and the disposal of debris resulting from harvest practices;
- (j) respecting the licensing of persons to harvest forest products or to scale or measure including:
 - (i) eligibility for a licence;
 - (ii) terms to which a licence is subject;
 - (iii) the duties and responsibilities of a person holding a licence;
 - (iv) the information and material to be submitted to the minister;
 - (v) the transfer and assignment of a licence; and
 - (vi) the amendment, renewal, revocation and suspension of a licence;
- (k) prescribing the fee for any licence granted pursuant to this Act or the regulations;
- (l) prescribing dues and fees and respecting the collection of dues and fees;
- (m) respecting the charging of interest and respecting and authorizing the waiving or reducing of dues or fees;
- (n) respecting procedures for obtaining the consent of the Minister of Agriculture and Food for the purposes of section 18;
- (o) designating laboratories for the purposes of section 85;
- (p) respecting the granting of leases, permits or any other disposition conveying the right to enter on, use and occupy a portion or portions of Crown resource land and prescribing the rents and fees respecting those dispositions;
- (q) respecting fire and the management of forest resources when matters pertaining to the control and use of fire are not regulated pursuant to any other Act;
- (r) respecting standards for tree preservation and the renewal, reforestation or reclamation of Crown resource land or portions of Crown resource land;
- (s) respecting the use and application of pesticides on Crown resource land;

- (t) respecting the zoning of Crown resource land within the Northern Saskatchewan Administration District or provincial forests, where no zoning or development controls have been adopted pursuant to *The Planning and Development Act, 1983*, for the purpose of regulating or restricting various uses of resources and land;
- (u) respecting the development, preparation, implementation, amendment and revision of integrated forest land use plans, operating plans and forest management plans;
- (v) respecting standards and forms for applying for any authority pursuant to this Act;
- (w) respecting the operation and licensing of processing facilities;
- (x) respecting the resolution of disputes between licensees;
- (y) respecting the collection of any money owing pursuant to this Act;
- (z) respecting programs, procedures, measures and orders for the control of damage to forests, trees or other vegetation by insects, diseases, animals or abiotic factors;
- (aa) prescribing penalties that may be assessed by the minister;
- (bb) respecting the right of licensees to be compensated for damage to improvements and forest products and for the loss of improvements and forest products on withdrawn land;
- (cc) respecting the seizure and disposal of things seized;
- (dd) respecting the seizure and disposal of animals trespassing on any Crown resource land and prescribing the dues and fees payable by the owner in connection with the trespass, seizure and disposal, including the costs of care and sustenance of animals seized;
- (ee) respecting the construction and use of roads, trails, streets or lanes within provincial forests, other than provincial highways established pursuant to *The Highways and Transportation Act* or roads administered by rural municipalities pursuant to *The Rural Municipality Act, 1989*, including the compensation of licensees or other persons for the use of roads maintained by them;
- (ff) respecting the granting of authorization to clear forest land for the purposes of constructing any road, trail or right of way;
- (gg) subject to subsection (2), respecting the use of roads constructed by the minister within provincial forests, including:
 - (i) the speeds of vehicles on those roads;
 - (ii) designating the routes that any vehicle or class of vehicles is required to follow in entering or crossing a provincial forest;
 - (iii) preventing, restricting, controlling or regulating the parking of vehicles on those roads;
 - (iv) authorizing the erection of traffic and other signs on those roads;
- (hh) respecting the right of officers to remove or cause the removal of a vehicle that is unlawfully placed, left or kept on any road, trail, street, lane, parking place or other area within Crown resource land, to impound or store the vehicle and to release it to the owner on payment of the cost of removal and impoundment or storage;
- (ii) respecting the right of officers to remove or cause the removal of any personal property that has apparently been abandoned by the owner within Crown resource land or placed within Crown resource land

without proper authority and to dispose of it and recover the cost of the disposal from the owner as a debt due to the Crown;

(jj) respecting the keeping of books, records, paper or documents;

(kk) respecting the exemption of any person or category of persons from any or all of the provisions of this Act or the regulations;

(ll) prescribing the minister's powers and responsibilities that may be delegated pursuant to subsection 94(2);

(mm) prescribing any other matter or thing that is required or authorized by this Act to be prescribed in the regulations;

(nn) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

(2) A regulation made pursuant to clause (1)(gg) that is inconsistent with *The Highway Traffic Act* is subject to the approval of the Highway Traffic Board.

CONSEQUENTIAL AMENDMENTS

S.S. 1979-80, c.E-10.1 amended

100(1) *The Environmental Assessment Act* is amended in the manner set forth in this section.

(2) The following section is added after section 9:

"Assessment of forest management plans

9.1(1) In this section:

(a) **'forest management activities'** includes:

(i) harvesting of forest products;

(ii) site preparation or improvement, including drainage, fertilization, irrigation and prescribed burning;

(iii) reforestation or renewal of forest products on harvested areas;

(iv) road construction and camp development;

- (v) forest product improvement, including weeding, thinning, pruning and salvage of damaged forest products;
- (vi) the application of chemical or biological agents to protect or renew forest products;
- (vii) protection of forest products from insects, disease and fire;
- (viii) any other activity prescribed in the regulations;

(b) **`forest products'** means forest products as defined in *The Forest Resources Management Act*;

(c) **`management licence'** means a management licence issued pursuant to section 19 of *The Forest Act* and continued pursuant to subsection 107(1) of *The Forest Resources Management Act*.

(2) Subject to subsections (3) and (4), forest management activities pursuant to a 20-year forest management plan within the meaning of *The Forest Resources Management Act* are deemed to be a development, and no person shall proceed with those activities until ministerial approval has been obtained for that plan.

(3) The holder of a management licence with a 20-year forest management plan that was approved pursuant to *The Forest Act* prior to the coming into force of this section but that has not received ministerial approval pursuant to this Act:

(a) must prepare and submit a statement and obtain ministerial approval pursuant to this Act respecting the next revised 20-year forest management plan due after the coming into force of this section by the date specified in the management licence for submission of that plan; and

(b) notwithstanding anything contained in this Act, in the absence of ministerial approval, may continue carrying out forest management activities that are consistent with the forest management plan approved pursuant to *The Forest Act* until the earlier of:

(i) the expiry of the period mentioned in clause (a); or

(ii) the denial of ministerial approval respecting the plan mentioned in clause (a).

(4) Subject to the requirements of section 16, where ministerial approval is given respecting a 20-year forest management plan, no further ministerial approval is required for any subsequent revised forest management plan required pursuant to subsection 38(2) of *The Forest Resources Management Act*.

(5) Subject to clause (3)(b), nothing in this section is to be construed as exempting from any of the requirements of this Act any project, operation or activity or any alteration or expansion of a project, operation or activity that would otherwise be a development”.

(3) The following clause is added after clause 27(e):

“(f) prescribing activities for the purposes of section 9.1”.

S.S. 1993, c.N-3.1 amended

101(1) *The Natural Resources Act* is amended in the manner set forth in this section.

(2) Subclause 2(d)(iii) is repealed and the following substituted:

“(iii) forest products within the meaning of *The Forest Resources Management Act*”.

(3) Subsection 20(8) is amended by striking out “section 43 of *The Forest Act*” and substituting “subsection 12(2) of *The Forest Resources Management Act*”.

S.S. 1986, c.P-1.1 amended

102 Section 25 of *The Parks Act* is amended by striking out "*The Forest Act*" wherever it appears and in each case substituting "*The Forest Resources Management Act*".

S.S. 1982-83, c.P-22.1 amended

103 Clause 2(q) of *The Prairie and Forest Fires Act, 1982* is repealed and the following substituted:

"(q) '**provincial forest**' means the provincial forests designated pursuant to section 12 of *The Forest Resources Management Act*".

R.S.S. 1978, c.P-31 amended

104(1) *The Provincial Lands Act* is amended in the manner set forth in this section.

(2) Section 3 is amended by striking out "*The Forest Act*" wherever it appears and in each case substituting "*The Forest Resources Management Act*".

(3) The following section is added after section 7:

"Exemptions

7.1(1) The Lieutenant Governor in Council may, on the recommendation of the Minister of Agriculture and Food, exempt any provincial lands administered by the Department of Agriculture and Food, except those lands designated as wildlife habitat lands pursuant to *The Wildlife Habitat Protection Act*, from any or all of the provisions of *The Forest Resources Management Act*.

(2) An exemption made pursuant to subsection (1) is to be published in the Gazette".

(4) Section 10 is amended by striking out "*The Forest Act*" and substituting "*The Forest Resources Management Act*".

(5) Subsection 17(3) is amended by striking out "*The Forest Act*" and substituting "*The Forest Resources Management Act*".

(6) Subsection 58(1) is amended by striking out "*The Forest Act*" and substituting "*The Forest Resources Management Act*".

S.S. 1989-90, c.R-26.1 amended

105 Clause 192(4)(d) of *The Rural Municipality Act, 1989* is repealed and the following substituted:

“(d) a road established pursuant to section 56 of *The Forest Resources Management Act*”.

S.S. 1990-91, c.S-57.1 amended

106 The following section is added after section 5 of *The State of the Environment Report Act*:

“Report of the state of provincial forests

5.1 Notwithstanding any other provision in this Act, where a report on the state of provincial forests is prepared and laid before the Assembly pursuant to section 9 of *The Forest Resources Management Act*, that report is to serve as the State of the Environment Report and is deemed to have been prepared and tabled in accordance with this Act”.

TRANSITION, REPEAL AND COMING INTO FORCE

Transition

107(1) Subject to subsection (2), a management licence, term cutting agreement or timber permit issued pursuant to *The Forest Act* as that Act existed immediately prior to the day this section comes into force:

- (a) continues in effect according to its terms until it expires; and
- (b) notwithstanding its terms, is deemed to be a forest management agreement, term supply licence or forest product permit, as the case may be, entered into or granted pursuant to this Act and is subject to the provisions of this Act and the regulations.

(2) Where a management licence issued pursuant to section 19 of *The Forest Act* contains provisions that are expressly inconsistent with this Act or the regulations:

- (a) those provisions are void to the extent that they are inconsistent with this Act and the regulations; and
- (b) within one year of the coming into force of this section, the management licence is to be amended to make its provisions consistent with this Act and the regulations.

(3) Section 9.1 of *The Environmental Assessment Act* as enacted by this Act applies notwithstanding subsection (2).

(4) Notwithstanding anything in any licence, no action or other proceeding lies or shall be instituted against any of the following based on any claim for loss or damage arising from the enactment or application of this section:

- (a) the Crown;
- (b) any member or former member of the Executive Council; or

(c) any officer, director, employee or agent or former officer, director, employee or agent, of the Crown.

(5) Every claim for loss or damage resulting from the enactment or application of this section is extinguished.

R.S.S. 1978, c.F-19 repealed

108(1) *The Forest Act* is repealed.

(2) Notwithstanding the repeal of *The Forest Act*, subsection 7(2) of *The Forest Amendment Act, 1986* remains in force.

Coming into force

109 This Act comes into force on proclamation.