



CHAPTER 38.

An Act to amend the "Forest Act."

[Assented to 3rd April, 1947.]

R.S.B.C. 1926, c. 102;
 1927, c. 21; 1928,
 c. 18; 1929, c. 20,
 1940, c. 13; 1941-42,
 c. 12; 1943, c. 24;
 1945, c. 31;
 1946, c. 29.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

1. This Act may be cited as the "Forest Act Amendment Act, 1947." short title.

2. Section 2 of the "Forest Act," being chapter 102 of the "Revised Statutes of British Columbia, 1936," is amended by inserting immediately before the definition of "Minister" the following definition:— Amends s. 2.

" 'Forest land' means land that in the opinion of the Minister will find its best economic use under forest crop "

3. Section 3 is amended by striking out "twelve" in the first line, and substituting "thirteen." Amends s. 3.

4. Section 17 is amended by inserting after "Minister," in the first line of subsection (1), the following: "or any officer of the Forest Service authorized so to do by the Minister." Amends s. 17.

5. Section 17 is further amended by deleting from the third and fourth lines of subsection (2) the words "all royalties and taxes reserved or imposed by Statute," and substituting "taxes imposed by Statute." Further amends s. 17.

6. Section 17 is further amended by inserting after "stampage," in the first line of clause (c) of subsection (2), the words "inclusive of royalty." Further amends s. 17.

- Commencement of ss. 4, 5, 6.** 7. The amendments enacted by sections 4, 5, and 6 shall come into operation on the first day of June, 1947.
- Repeals s. 19.** 8. Section 19 is repealed.
- Amends s. 24.** 9. Section 24 is amended by deleting "shall be entitled" in the first line of subsection (2), and substituting "may be permitted"; and by adding to subsection (2) the following as clause (f) :—
 "(f.) Persons cutting trees or other forest-growth for purposes of scientific investigation."
- Amends s. 30.** 10. Section 30 is amended by inserting after "reserves," in the first line of subsection (2), the words "except lands included in a forest management licence."
- Amends s. 32.** 11. Section 32 is amended by striking out the word "Fund" in the fourth and sixth lines of subsection (4), and substituting in each case the word "Account."
- Re-enacts s. 32A. Interpretation.** 12. Section 32A is repealed, and the following is substituted :—
 "32A. (1.) In this section, unless the context otherwise requires :—
 "' Management licence ' means a forest management licence given pursuant to the provisions of this section :
 "' Licence area ' means the area of land in respect of which a management licence is given :
 "' Licensee ' means a person to whom a management licence has been given :
 "' Other tenure ' means any title, licence, lease, or berth whereby a person has the right to cut timber, but does not include a management licence.
 "(2.) The Minister may enter into an agreement, to be described as a forest management licence, with any person for the management of Crown lands specified in the agreement and reserved to the sole use of the licensee for the purpose of growing continuously and perpetually successive crops of forest products to be harvested in approximately equal annual or periodic cuts adjusted to the sustained-yield capacity of the lands in the area covered by the licence, or may enter into an agreement, to be known as a forest management licence, with the owner of other tenures to combine such other tenures and Crown forest lands into a single unit reserved by mutual consent and contract to the sole use of the licensee for the like purpose.
 "(3.) A person intending to apply for a management licence shall notify the Minister of that intention in writing.
 "(4.) The Minister may approve a submission of a management working-plan, and upon his approval being given the applicant shall :—
- Power to give a forest management licence**
- Notice to Minister of application**
- Submission by applicant of management and working plan**

“(a.) Publish in one issue of the Gazette a notice of the application with a description of the area applied for:

“(b.) Deposit with the Minister, if required so to do by the Minister, a bond or cash in such sum as the Minister requires but not to exceed five hundred dollars per million feet of the estimated annual yield capacity of the proposed licence area, which deposit shall be repayable to the applicant when in the opinion of the Minister the working-plan is being implemented and an appurtenant manufacturing plant is in operation:

“(c.) Prepare and submit a management and working plan for the proposed licence area designed to maintain perpetual yield and operation.

“(5.) The management and working plan prepared under the provisions of subsection (4) shall be submitted for the approval of the Chief Forester, and no management licence shall be issued until the management and working plan has been approved. Approval of plan required.

“(6.) Every application for a management licence under this section shall include an offer on behalf of the applicant to pay to the Crown:— Applicant to offer to make certain payments.

“(a.) The cost incurred by the Forest Service in cruising, surveying, and investigating the lands applied for, and their productive capacity and the management and working plan:

“(b.) A cash deposit in such sum as the Minister shall determine, to be held by the Forest Service for such time and under such conditions as the Minister may determine:

“(c.) A deposit in such sum per unit of wood harvested from the management licence lands to such total sum, and to be held for such time and under such conditions as the Minister may determine.

“Deposits under this subsection shall be for the purpose of ensuring compliance on the part of the licensee with the terms of this Act, the regulations, the licence, and the management and working plan, and shall be subject to such payments to the Crown as this Act, the regulations, or the licence provides.

“(7.) An application for a management licence under this section shall be accompanied by a statement of other tenures owned by the applicant, together with any information relating thereto that the Minister may require. Applicant to furnish statement of other tenures

“(8.) A management licence shall have included therein, as an integral part of the licence area, all lands of other tenure owned by the applicant that are located within any watershed or drainage-basin or part thereof as defined in the management licence included in the licence area or on which the licence area encroaches. Inclusion of other tenures in licence area.

Inclusion of tenures subsequently acquired.

"(9.) If a licensee acquires any additional forest land subsequent to the issuance of a management licence, he shall, within thirty days of acquisition, advise the Minister that he has acquired such lands, and such lands, if they are located within the boundaries of the licence area, or within any watershed or drainage-basin or part thereof as defined in the management licence on which the management licence encroaches, shall forthwith be included in the licence area and shall be subject to the management licence.

Other tenures to be subject to law applicable to such tenures.

"(10.) Other tenures incorporated in a management licence shall be subject to the like terms, conditions, taxes, rental, royalties, and stumpage as under any Act of the Legislature and regulations made thereunder, or the 'Dominion Lands Act' and regulations made thereunder, or the contract by which the tenure is established, except as provided under subsection (26).

Other tenures not to be sold except as provided.

"(11.) Other tenures included in a management licence shall not be sold, transferred, or otherwise disposed of except as provided in this section.

Crown lands in licence area to be withdrawn from sale, etc.

"(12.) (a.) After a management licence has been given all Crown lands within the licence area shall be withdrawn from sale, settlement, and occupancy under the 'Land Act' and 'Taxation Act,' and no Crown lands in the licence area shall be sold, leased, or otherwise disposed of, or be located or settled upon, and no person shall use or occupy any part of such lands except under the provisions of this part or of the regulations

"(b.) In respect of the 'Mineral Act,' 'Placer-mining Act,' 'Coal Act,' and 'Petroleum and Natural-gas Act,' the lands shall be subject to such conditions as the Lieutenant-Governor in Council may impose.

Other tenures when logged to become part of licence area.

"(13.) Land held under other tenure (other than Crown-granted land) included within a licence area, when logged off, shall revert to the Crown but shall continue to constitute a part of the licence area and shall be operated in accordance with the provisions of the management and working plan. Crown-granted land included in the licence area that has been logged off shall, subject to the provisions hereinafter provided, continue to be a part of the licence area and subject to all the terms and conditions of the management and working plan. At any time during the continuance of the licence after the Crown-granted land has been logged off the licensee may elect that such land shall revert to the Crown and on written notice of such election served on the Minister it shall so revert subject to the reservation to the licensee of the coal or mineral rights of the licensee in such land, if any, and the land shall continue to constitute a part of the licence area and shall be operated in accordance with the provisions of the management licence.

"(14.) The Minister may, subject to the terms of the management licence, add lands to the licence area, or may reduce the area thereof, but any such increase or decrease shall be made in accordance with the principles of sustained-yield management of the forest and the estimated yield capacity as set forth in the management and working plan.

Increase or reduction of licence area

"(15.) The licensee shall manage the licence area in accordance with the provisions of this section and of the regulations and of the management and working plan for the purpose of growing continuously and perpetually successive crops of forest products to be harvested in approximately equal annual or periodic cuts adjusted to the sustained-yield capacity of the licence area.

Duty of licensee to manage in accordance with this section

"(16.) Except as provided in subsections (17) and (18), a licensee shall employ one fully qualified forester, who shall be a graduate of a school of forestry approved for the purpose by the Minister, and as many additional similarly qualified foresters as the licensee or the Minister may deem necessary.

Requirement to employ qualified forester.

"(17.) Where, in the opinion of the Minister, the annual cut on a management licence does not warrant the employment of a forester, the Minister may provide the licensee with all necessary technical advice and assistance, for which the licensee shall pay actual costs as assessed by the Chief Forester, and the licensee in such case shall not be required to employ a forester.

Exemption from requirement to employ forester.

"(18.) Where the combined annual cut on any two or more management licences is not large, the Minister may permit the licensees of the said management licences jointly to employ a forester or foresters.

Joint employment of forester.

"(19.) A rental of one cent per acre per year shall be due and payable to the Crown on all Crown land in a licence area that is not held under another tenure or subject to provisional reserve under subsection (25).

Rental.

"(20.) (a.) Except as provided in subsection (21), there shall be due and payable to the Crown on all timber on Crown lands in the licence area not held under other tenure which is deemed to be merchantable at the time the management licence is issued and is so described in the management licence, stumpage, inclusive of royalty, as and when the timber is cut, in such sum per unit of measurement as shall be appraised and assessed by the Forest Service. The method of appraisal shall be the method of appraisals currently in use by the Forest Service at the time the appraisal is made.

Stumpage.

"(b.) On all other timber cut on Crown lands in the management licence area not held under other tenure, there shall be due and payable to the Crown, stumpage, inclusive of royalty, in the sum of sixteen per centum of the stumpage value as appraised

by the Forest Service by methods currently in use by the Forest Service at the time the appraisal is made.

Provision respecting rates where there are several tenures.

"(21.) In the case of timber cut on Crown lands in a licence area not held under other tenure, the licensee shall have the privilege of electing that timber cut on such Crown land within the licence area shall be deemed to have been cut, and shall be treated as if it had been cut, on land of other tenure owned or controlled by the licensee within the licence area; and such election having been made, that Crown timber as cut shall be charged and paid for at the appropriate rates applying to the land from which it was deemed to have been cut. For the purposes of this section, every parcel of land of other tenure included in the licence area shall be listed and shall be credited with a quantity of merchantable timber as shall be agreed upon, or with an average stand per acre as shall be agreed upon. When the timber cut from Crown lands not held under other tenure and charged under this section to a parcel of land of other tenure equals the timber agreed to be on the parcel of land of other tenure then in good standing, then that other tenure shall be extinguished and the lands held under the other tenure shall revert to the Crown, but shall continue to constitute a part of the licence area.

Provision as to rates on cancellation of licence

"(22.) On the cancellation of a management licence, if timber has been cut and charged to lands of other tenure as provided for in subsection (21) but not in sufficient quantity to extinguish that other tenure, then on the timber so cut and charged to lands in respect of which the tenure has not been extinguished there shall be due and payable to the Crown the difference between the amount that has been paid on such timber and the amount that would have been payable thereon if a licence had been purchased under the provisions of section 17.

Taxation

"(23.) Such improvements on a licence area as are designed to facilitate the management and operation of, and the growing and harvesting of wood on, any lands in the licence area shall be exempt from taxes under the 'Taxation Act.'

Licence not transferable without consent.

"(24.) Where a forest management licence is given for the maintenance of an existing or proposed mill or manufacturing plant, the Minister may make the licence appurtenant to the mill or manufacturing plant, and any such licence shall not be sold or transferred separately from the mill or plant during the continuance of the licence; and any other forest management licence shall not be transferable except on written consent of the Minister.

Provisional reserve

"(25.) At the time a management licence is issued, the Minister may place under provisional reserve any part of the licence area not otherwise alienated. The timber on any area under provisional reserve shall be subject to disposition by the Crown

under this Part, and following such disposition any area logged shall be withdrawn from the provisional reserve and become an unencumbered part of the licence area.

"(26.) Timber cut from lands included in any management licence, regardless of the tenure of the lands, shall be subject in all respects to the provisions of Part X. of this Act as they relate to lands granted after the twelfth day of March, 1906. Licence area subject to Part X.

"(27.) Notwithstanding anything elsewhere in this Act contained, the Minister may, by agreement or in the management plan, exempt lands in any licence area from the payment of the forest-protection tax, but he shall not do so unless forest-protection is otherwise adequately provided to the satisfaction of the Minister; but all other provisions of Part XI. shall apply to a management licence; and if, after an exemption has been granted, the Minister is of the opinion that forest-protection is not adequately provided, he may withdraw the exemption. Forest-protection tax.

"(28.) Officers and employees of the Forest Service shall at all times be entitled to free and unhampered access to any part of a licence area and any operation conducted on a licence area for the purpose of inspection, or for such survey, study, or investigation as the Chief Forester may consider to be necessary to maintain adequate forest records or to administer this section. Right of access

"(29.) (a.) Where a licensee is not complying with the provisions of this section or of the regulations or of his licence, the Minister, on the recommendation of the Chief Forester, may, after giving three months' notice in writing of his intention so to do, stop any operation on the licence area. Power to stop operations on default.

"(b.) The Minister shall stop an operation pursuant to clause (a) by causing to be delivered to the licensee a stop notice in writing, stating the operation that is to be stopped and the reason for the stop notice.

"(c.) When a stop notice has been delivered pursuant to clause (b), the licensee shall stop the operation specified in the notice, and shall not recommence until he receives from the Minister a notice countermanding the stop notice.

"(d.) A stop notice shall be deemed to have been delivered if it is mailed by registered letter to the last-known address of the licensee.

"(e.) If within the period of three months mentioned in clause (a) the licensee has complied with the provisions of this Part and of the regulations and of his licence a stop order shall not be issued.

"(30.) If a licensee violates the provisions of this Act or of the management licence in a manner to frustrate the objects of the management licence, the Minister may cancel the management licence. Power of cancellation.

“(31.) (a.) Where a stop notice has been delivered pursuant to section 29, or a management licence has been cancelled pursuant to section 30, the licensee may, within two months after the delivery of the stop notice or after the date of cancellation, as the case may be, appeal to the Supreme Court in a summary manner, and such appeal shall be in the form of a petition, verified by affidavit, to any Judge of the Supreme Court, setting out the points relied upon, and a copy of the petition shall be served upon the Minister and such time shall be allowed for his answer to the petition as to the Judge of the Supreme Court may seem advisable. On the hearing of the appeal the Judge may hear evidence either viva voce or upon affidavit and may confirm, reverse, or alter the stop notice or cancellation appealed from.

“(b.) The Minister or licensee, if dissatisfied with the decision of the Judge of the Supreme Court, may appeal to the Court of Appeal upon notice of appeal being filed and given to the opposite party within thirty days after the decision, and such appeal shall be dealt with as nearly as may be as in the case of an ordinary appeal to the said Court from the decision of an action in the Supreme Court. On the hearing of the appeal the Court of Appeal may confirm, reverse, or alter the decision appealed from and its decision shall be final.

“(c.) Notwithstanding an appeal under this section a stop notice or cancellation shall remain in force pending the appeal unless the Minister otherwise orders.

Provision where sawmill dependent on timber from licence area.

“(32.) Where, at the time a forest management licence is issued, a sawmill or other forest industry is already established and is depending in whole or in part for its wood-supply on some of the lands included within the licence area, the provisions of subsections (32) and (33) shall apply.

Further provision.

“(33.) (a.) Notwithstanding anything contained in this Act, the Minister may, at his discretion from time to time and in such quantities and for such period as is provided in the licence, give to the owner of such sawmill or other forest industry a licence to cut Crown timber within the licence area, at an appraised stumpage price and without public competition.

Further provision.

“(b.) Every offer to purchase Crown timber under this subsection shall include an offer to pay to the Crown in addition to stumpage the cost incurred by the Forest Service in cruising and surveying the timber limit and an annual rental as provided under section 17.

Further provision.

“(34.) Where a licence to cut timber is given under this section, the forest management licensee shall be exempted from the obligation to pay rent in respect of the area covered by the licence given under this section so long as such licence remains in force.

Right of appeal.

“(35.) (a.) Where the Minister exercises any power or discretion conferred upon him by this section, any person affected

thereby shall have a right of appeal to the Lieutenant-Governor in Council.

“(b.) An appeal under clause (a) shall be brought within thirty days after the person bringing the appeal has knowledge of the exercise of the power or discretion.”

13. Section 32B, which was inserted in said chapter 102 by section 4 of chapter 31 of the Statutes of 1945, is repealed, and the following is substituted:—

Re-enacts s. 32a.

“32B. Notwithstanding anything in this or in any other Act contained, it shall be lawful for the Minister to enter into an agreement with the University of British Columbia for the use of not more than ten thousand acres of any vacant Crown lands and the forests thereon for purposes of demonstration of the practice of forestry and instruction in forestry and forest engineering under such terms and conditions as he may see fit.”

14. Section 41 is amended by striking out “two” in the third line of subsection (5), as enacted by section 7 of chapter 29 of the Statutes of 1946, and substituting “three.”

Amends s. 41.

15. Section 47 is repealed.

Repeals s. 47

16. Section 48 is repealed, and the following is substituted:—

Re-enacts s. 48.

“48. (1.) The annual renewal fee for a pulp licence shall be an amount equal to one-half of the annual renewal fee payable in respect of a special timber licence, and the provisions of this Act relating to payment of annual renewal fees and to the renewal of special timber licences shall apply to the pulp licence except that the additional sum payable on default shall be one-half the additional sum provided in section 41 in respect of special timber licences.

“(2.) Upon any saw-timber cut or removed from any area held under a pulp licence, there shall be due and payable per thousand feet of the saw-timber, in addition to royalty on saw-timber, an amount equivalent to one-half of the annual rental that would have been payable under the special timber licence that was surrendered for the purpose of obtaining the pulp licence as if it had continued to be held during the rental period ending on the next renewal date of the pulp licence after the scaling of the saw-timber, fifteen thousand feet, board measure, of saw-timber being taken as the equivalent of one acre in computing said amount.

“(3.) If the holder of a pulp licence sublets, assigns, or transfers any part thereof or interest therein, the right to obtain a renewal of the pulp licence shall become forfeited, but upon surrender of the pulp licence (including one sublet, assigned, or

transferred) at any time within the period otherwise allowed for the renewal of the same and upon payment of the difference between the amount of the renewal fees paid under the pulp licence and the amount of the renewal fees that except for the surrender of the special timber licence would have accrued under the special timber licence and interest, the holder may obtain in exchange for the pulp licence a special timber licence covering the lands comprised in the surrendered pulp licence.

"(4.) Except in respect of pulp licences included under a forest management licence, nothing herein contained shall prevent the Powell River Company Limited or Pacific Mills Limited from subletting, assigning, or transferring any pulp licence to the other of them."

Repeals s. 49

17. Section 49 is repealed.

A.mends s. 57

18. (1.) Section 57 is amended by striking out the first and second lines of clause (a) of subsection (4), as enacted by section 13 of chapter 29 of the Statutes of 1946, and substituting the following:—

"(a.) Poles, piling, crib timber, and hop-poles, a royalty per lineal foot as follows:—"

(2.) Section 57 is further amended by striking out clause (f) of subsection (4), as enacted by section 13 of chapter 29 of the Statutes of 1946, and substituting the following:—

"(f.) Fence-posts as follows:—"

8 feet and under	Each ½ cent
Over 8 feet to 16 feet	1½ cents "

Amends s. 58

19. Section 58, as enacted by section 15 of chapter 29 of the Statutes of 1946, is amended by deleting the word "standing" in the seventh line.

Amends s. 59

20. Section 59 is amended by inserting after "licence," in clause (b) of subsection (1), the words "or wood-pulp lease."

Re-enacts s. 60.

21. Section 60 is repealed, and the following substituted:—

"60. Where any merchantable timber is left uncut or is destroyed on any logging operation upon Crown lands, or upon lands held under pre-emption entry or record, or upon lands acquired and granted on or subsequent to the seventh day of April, 1887, and where the timber if utilized would have been subject to royalty or stumpage under this Act, all timber that in the opinion of the Minister is merchantable so left uncut or destroyed by the intentional act or negligence of the operator may be subject to royalty or stumpage at the same rates to which it would have been subject if it had been cut at the time the logging operation ceased."

22. Section 64 is amended by striking out all the words after "be" in the fifth line of subsection (3), which was added to that section by section 6 of chapter 24 of the Statutes of 1943, and substituting the words "recoverable by the Crown from the person carrying on the lumbering operation at the discretion of the Minister." Amends s. 64.
23. Section 86 is amended by striking out the words "Every holder of a timber-mark registered under this Part who uses it" in the first and second lines of subsection (2), and substituting the words "A person who uses a timber-mark registered under this Part." Amends s. 86.
24. Section 91 is amended by adding after "licence," in the first line, the words "or forest management licence." Amends s. 91.
25. Section 92 is amended by adding after "record," in the sixth line of subsection (2), the words "or on lands included in any forest management licence." Amends s. 92.
26. Section 93 is amended by adding thereto the words "or lands included in a forest management licence." Amends s. 93.
27. Section 95, as re-enacted by section 21 of chapter 29 of the Statutes of 1946, is amended by striking out "1947" in the third line, and substituting "1948." Amends s. 95.
28. Section 113A, as re-enacted by section 23 of chapter 29 of the Statutes of 1946, is amended by inserting a comma after "plant" in the fourth line of subsection (12). Amends s. 113A.
29. Section 123 is amended by adding after "million," in the fourteenth line of subsection (1), as re-enacted by section 28 of chapter 29 of the Statutes of 1946, the words "two hundred and fifty thousand." Amends s. 123.
30. Section 144, as renumbered by section 18 of chapter 20 of the Statutes of 1939, is amended by deleting the words "All timber, wood, or bark in respect or which, or in respect of the timber lease or timber licence under which it is cut" in the first, second, and third lines, and substituting the words "All timber, wood, or bark cut upon Crown lands or upon lands granted in respect of which." Amends s. 144.
31. Section 145, as renumbered by section 18 of chapter 20 of the Statutes of 1939, is amended by deleting the words "or the 'Timber Royalty Act'" in the third line of subsection (1). Amends s. 145.

- Further amends s. 145.** 32. Said section 145 is further amended by inserting after "contract," in the third line of subsection (1), the words "or stumpage and other charges payable under a forest management licence."
- Amends s. 146.** 33. Section 146, as renumbered by section 18 of chapter 20 of the Statutes of 1939, is amended by adding after "licence," in the second line of subsection (1), as re-enacted by section 9 of chapter 21 of the Statutes of 1937, the words "or forest management licence."
- Further amends s. 146.** 34. Said section 146 is further amended by deleting from the fourth and fifth lines and also from the eighth and ninth lines of subsection (1), as reenacted by section 9 of chapter 21 of the Statutes of 1937, the words "or the 'Timber Royalty Act.'"
- Amends s. 149.** 35. Section 149, as renumbered by section 18 of chapter 20 of the Statutes of 1939, is amended by inserting after "tax," in the third line, and also after "due," in the twelfth line of subsection (1), the words "or stumpage and other charges payable under a forest management licence."
- Amends s. 159.** 36. Section 159, as renumbered by section 18 of chapter 20 of the Statutes of 1939, is amended by adding to clause (a) of subsection (2) the words "or forest management licence."
- Further amends s. 159.** 37. Said section 159 is further amended by adding to clause (b) of subsection (2) the words "or forest management licence."
- Further amends s. 159.** 38. Said section 159 is further amended by adding to subsection (2) the following as clause (i) :—
“(i.) Providing for the sale or disposition by the Crown of Crown timber and Crown forest products from lands in a forest management licence area, and providing generally for the regulation of forest management licences.”
- Amends s. 161.** 39. Section 161, as enacted by section 34 of chapter 29 of the Statutes of 1946, is amended by deleting from the last line of subsection (1) the words "forest administration," and substituting the words "administration under the provisions of this Act."

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