



Forest Act

Plain Language Summary

The Plain Language Summary of Bill 44 is provided solely to facilitate review of this Bill which is currently before a Standing Committee of the NWT Legislative Assembly. It is not intended to subsequently be an interpretive tool. For clarity, the legislative proposals set out in the Bill and described in this summary may be stated as if they have already been adopted or were in force. It is important to note, however that the Bill may be amended pending its review by Committee, and has no force or effect unless and until it is passed by the Legislative Assembly, receives Assent, and comes into force.

The Plain Language Summary is without prejudice to the position that the Government of the Northwest Territories may subsequently take on the interpretation of any provision in Bill 44.

About the Forest Act

The proposed Forest Act, or Bill 44, recognizes that forests should be managed for our benefit and for the benefit of our children and our children's children.

It acknowledges the need to continue learning and improving upon how forests are managed, especially in response to climate change, and that wildfire plays an important and necessary role in forest health.

The Act considers the importance of working together to manage forests, and the value of using local, community, traditional and scientific knowledge in making decisions. It recognizes that all people in the Northwest Territories (NWT) have an interest in making sure forests are used responsibly and remain healthy over time.

It also recognizes the importance of Aboriginal and treaty rights, and that there are rights and processes set out in land, resources and self-government agreements relating to the management of forests.

What are the goals of the Act?

- Provide tools for managing forests and the use of forests in the NWT so that all parts of the natural forest environment can remain healthy through time
- Provide tools for preventing and responding to wildfires in the NWT

How are Aboriginal and treaty rights protected?

- The rights of Indigenous peoples are protected under the Canadian Constitution. Nothing in the proposed Act changes those rights.
- Anything done under the Act must be done in a way that is consistent with land, resources and self-government agreements.

Definitions

Biomass

- organic matter, such as wood or dead plants, that can be used as fuel

Ecological integrity

- things in the natural environment (e.g. plants, animals, soil and water), as well as processes (e.g. water flow and reproduction) are likely to continue into the future

Forest ecosystem

- the plants, soil, water, natural processes like wildfire, and animals that rely on forests

Forest harvesting agreement

- an agreement between the GNWT and a government, corporation or organization for the harvesting of trees

Forest resources

- any live or dead plants, fungi or other vegetation, that come from a forest

Managing forests

Who is responsible for managing forests under the Act?

The Minister of Environment and Natural Resources (ENR) is ultimately responsible for preventing and responding to wildfires, and for protecting and managing the use of forests, under the proposed Act.

The Minister will have the ability to develop policies and programs that encourage everyone to work together to manage and protect forests in the NWT for the benefit of people now and in the future. These policies and programs need to be developed in a way that makes use of the best available scientific, local and traditional knowledge.

The Minister will appoint a **Forest Supervisor** to:

- create and carry out plans or programs to manage forests
- do research
- approve permits, licences, applications, reports and/or notices used under the Act

How will the Forest Supervisor manage forests?

The Forest Supervisor is responsible for managing forests and the use of forests so that all parts of the natural forest environment remain healthy through time.

This work will be carried out in a way that is consistent with land, resources and self-government agreements, and that considers any traditional, scientific, local or community knowledge that is available.

The Forest Supervisor's work may include:

- describing clear goals for how forests should be managed
- monitoring different parts of the forest environment
- reporting on the health of the forests
- using lessons learned over time to improve how things are done
- setting limits on the amount of forest products (e.g. trees or mushrooms) people can harvest

The Forest Supervisor can make plans that describe how forests will be taken care of so they stay healthy through time. These plans are called **forest ecosystem management plans**. The Forest Supervisor will make sure the forest ecosystem management plans are followed.

The Forest Supervisor can check on the health of forests by monitoring different parts of the forest environment over time. Monitoring may be used to understand changes in the growth of plants and trees, the number of wildfires, or the ways that forests are used, for example.

Definitions (cont.)

Land, resources and self-government agreement

- land claim agreements
- land and resources agreements
- self-government agreements
- other similar agreements between Indigenous governments and organizations, the GNWT and Canada about forests or forest management

Non-timber forest product

- includes live or dead plants, fungi and parts of trees other than timber, that come from a forest

Sustainable use

- an activity that can continue over time without harming the ability of plants and animals to survive and grow

Timber

- any part of a tree, alive or dead, standing or fallen

Wildfire

- fire that happens in a forest

Protecting forests

How will the Act be used to protect forests from harm caused by wildfire?

In the NWT, the season when wildfires are most likely to occur is from May 1 to September 30 each year. This period of time is called the wildfire season. If there is danger of wildfires in a given year outside of that time period, the Minister can lengthen or change the dates of wildfire season.

Industrial activities

Under the proposed Act, anyone who wants to carry out industrial activities (such as land clearing, wood harvesting, oil and gas exploration, etc.) in or near a forest will need to submit a plan describing how they will prevent and prepare for wildfires if the regulations say they must. If so, the plans must be consistent with the regulations.

The plan, called a **wildfire prevention and preparedness plan**, has to be given to the Forest Supervisor either before the start of wildfire season or before beginning the industrial activity. The Forest Supervisor can ask for changes to be made to a wildfire prevention and preparedness plan.

Putting out and controlling fires

If someone or a group has started a fire, they must make sure the fire is completely out before they can leave the area, unless the fire was started in a stove or furnace that was made to contain fires and will not cause a wildfire.

If someone has used an explosive or thrown a burning object in or near a forest, they must make sure there is no chance of a wildfire starting before they leave the area.

Anyone who starts a fire outside needs to make sure they do everything they can to make sure their fire doesn't spread. For example, they need to choose an area that doesn't have material, like dry wood or plants, that would be easy to set on fire.

Burning for work

Anyone working in or near a forest must make sure that any fire burning as part of their work is controlled and safely put out when the work is done. Actions taken to control or put out the fire need to be reported to an officer or the nearest GNWT office as soon as possible.

Equipment causing sparks or fire

During the wildfire season, anyone who is within or near a forest cannot use equipment that could release sparks or fire. This includes engines or equipment used to burn wood or other waste.

Interfering with firefighting

No one can damage or move any tools or equipment in a forest that were put there for the purpose of preventing or fighting a fire. Similarly, no one is allowed to get in the way of or block any firefighting activities through the use of some kind of equipment or vehicle (including drones).

Any person or company working in or near a forest where there is a fire burning out of control must allow an officer to use their equipment or employees to help control or put out the fire. All

work must stop until the fire is controlled and an officer says it is okay to start working again. The GNWT may pay the person or company for helping with a fire, unless they caused the fire.

Reporting a wildfire

If someone comes across a fire in or near a forest that no one else is looking after, they must report it as soon as possible. They can report a fire to an officer or to the nearest GNWT office. Anyone with information about a wildfire must give it to an officer when asked.

Helping to fight a wildfire

In the event of a wildfire, an officer can ask another person to help them carry out his or her duties to manage the fire. A person helping an officer with a wildfire will be paid for their time by the GNWT as long as they did not cause the fire. The rate of pay will be based on the type of work done as well as the amount of experience or training required.

Removing flammable materials

If the Forest Supervisor decides there are flammable materials or debris in an area (such as dead wood) that could cause harm to the forest environment, he or she can order the person responsible to safely get rid of the material.

When someone is clearing an area of land, they are not allowed to leave trees, branches or other materials that can easily catch fire on the land unless:

- they have a legal right to occupy that land
- an officer allows it
- the land holder allows it

Signage

The Forest Supervisor can put up signs or notices to clarify what activities are or are not allowed under this Act.

No one is allowed to remove, change or destroy any sign or notice put up by someone who had legal permission to do so. Similarly, no one is allowed to put up a sign to stop or regulate any activities related to wildfires or forest management unless they have a permit or other legal right to do so.

What wildfire management actions can the Forest Supervisor take?

The Forest Supervisor can take the actions needed to manage a wildfire with the goals of:

- public safety
- protecting life, property or the environment
- protecting or improving cultural benefits or forest health
- improving regrowth in the forest
- research
- taking care of things of value in the forest including cultural values
- anything else the Forest Supervisor believes is important for forest protection and management

These actions can include the use of controlled fires to fight wildfires.

The Forest Supervisor can close off an area of the NWT where there is a wildfire or where he or she believes a wildfire is likely to start, and decide what activities will be allowed in the closed area. He or she can also stop people from entering the closed area. Everyone must follow orders given by a Forest Supervisor with respect to a closed area.

The Forest Supervisor can ban people from lighting or using any kind of fire in any area of the NWT. Rules about what activities are or are not allowed in areas where fire is banned will be included in the regulations.

What is an officer able to do to protect forests from wildfires?

Forest officers will be responsible for enforcing the Forest Act.

In a closed area or an area where fires are banned, an officer can put out any fire that could cause or add to a wildfire. If an officer believes that a fire may burn into a forest, he or she can put the fire out or do what is necessary to make sure the fire will not spread. This can occur in any area of the NWT, whether or not it is a closed area or an area with a fire ban.

An officer can take and use anyone's equipment or vehicle (e.g. truck, plane or boat) for the purpose of preventing or putting out a wildfire. If an officer takes someone's equipment or vehicle, the GNWT will pay any reasonable costs to the owner(s).

An officer can ban the use any equipment he or she believes could cause a wildfire. Rules about what kinds of equipment can or cannot be used may be listed in regulations.

An officer can order anyone working in an area to clear away anything that can easily catch fire, such as dead wood or plants. Rules about how an officer can do this will be set out in the regulations.

How will the Act be used to protect forests from insects or disease?

The Forest Supervisor can do what he or she believes is necessary to control insects, diseases or invasive plant species that could harm the forest environment.

If the Forest Supervisor decides there are materials or debris in an area that could cause harm to the forest environment by causing insects or diseases to come into the forest, he or she can order the person responsible to safely get rid of the material.

Regulations

Under the Act, general regulations can be made to set rules about:

- forest monitoring plans
- setting harvest limits for forest products
- preventing or preparing for wildfires
- checking on risks or hazards
- hiring people to help officers with wildfires
- orders for banning fires
- what activities are allowed in areas where fire is banned
- how the Forest Supervisor tells the public about a fire ban

- how officers can stop the use of equipment that may cause a wildfire
- how officers can order a property owner to get rid of anything that can easily catch fire
- agreements the Minister can make with other governments, corporations and organizations
- the management of certain forested areas
- the types of permits or licences that can be issued under this Act
- what types of activities need or do not need a permit or licence
- who can apply for a permit or licence and how much it will cost
- what requirements the holder of a licence or permit needs to follow
- decisions to cancel a licence or permit and how someone can appeal that decision
- what people who cut trees or clear land will need to pay the GNWT
- the sale any forest products seized by an officer
- the use of money received by the GNWT to improve forests
- methods for cutting trees and moving the wood
- methods for growing and planting trees
- ways to prevent or control insects, diseases or the growth of other plants that could harm the natural forest
- buildings, equipment or other materials that are made or brought into a forest
- the qualification of laboratories for testing samples taken as part of an officer's investigation
- anything else the GNWT believes is necessary to ensure the intention and provisions of this Act are followed

Other organizations may have best practices or guidelines that are related to activities or requirements in this Act. The Minister can decide to adopt those best practices or guidelines by putting them into regulations under this Act. The Minister can also decide to change best practices or guidelines, as needed, in the regulations.

Agreements, permits and licences

What is a forest harvesting agreement?

The Minister can make agreements with other governments, corporations or organizations related to harvesting forest products.

Harvesting under an agreement cannot begin in an area until there is a forest ecosystem management plan in place for how to make sure the forest environment in that area will stay healthy through time.

Anyone who has a forest harvesting agreement with the GNWT will still need permits and licences to carry out some activities. They will also need to pay any fees or charges required for those activities.

A forest harvesting agreement cannot be given to anyone without the permission of the Forest Supervisor.

What kinds of permits and licences will be issued under the Act?

The Forest Supervisor can give permits or licences that allow someone to:

- cut down and move live or dead trees (timber)
- clear forested land
- bring timber into or out of the NWT
- burn anything
- harvest or use any live or dead plants or fungi (like mushrooms), other than trees, from a forest
- do research related to forests
- manage forests
- run a mill (such as a saw mill)
- measure the amount and quality of timber
- do any other activity listed in a regulation under this Act

Permits or licences will be required for all the above activities, unless the regulations under this Act say a permit or licence is not necessary for a specific activity.

Anyone who has forest products (such as timber, plants or mushrooms) in their possession must be able to prove that they are legally allowed to have them. Proof could include a permit, licence or a receipt from a legal sale.

Permits and licences contain rules that must be followed when someone is doing the activity allowed by the permit or licence. Someone with a permit or licence may have to do additional things, such as reporting and monitoring, to help the Forest Supervisor manage forests.

Will permits be required for burning?

A permit to burn is required by anyone who wants to set a fire to clear land or get rid of waste if it is wildfire season and the fire will be in or near a forest.

Permits to burn are not needed by communities or Indigenous governments and organizations that have laws or bylaws related to open air burning.

A permit to burn is not needed for burning things in a stove or furnace that is specially made to contain fires and that will not cause a wildfire.

An officer can take away a permit to burn if he or she believes any rules in the permit are not being followed.

What are the rules about paying fees for permits and licences?

No one can damage standing trees unless they have a permit or licence that legally allows them to do so, or the regulations allow them to.

Anyone who applies for a permit or licence needs to pay the fees required by the GNWT, other than a person exercising an Aboriginal or treaty right. Some of the fees and charges paid by the permit or licence holder will be put into a special account and used to improve the regrowth of forests. The Forest Supervisor can change the required fees and charges.

In addition to fees paid for an application, every permit or licence holder who is not a person exercising an Aboriginal or treaty right will also have to pay charges based on the type of activity and the amount of forest products that are harvested.

Do people with Aboriginal or treaty rights need to pay for permits?

Anyone who has an Aboriginal or treaty right to do something that requires a permit or licence does not need to pay any fees or charges, unless those charges are related to non-compliance.

If someone has not paid the fees and charges required by their permit or licence for the harvesting of forest products, an officer can seize whatever forest products the person has to cover the money owed to the GNWT. The money owed can include the cost of seizing the forest products.

If an officer seizes forest products from someone who has not paid their fees or charges, the officer will give the person a written list of what is owed within eight days of the seizure

Can the Forest Supervisor withhold, suspend or cancel a permit?

The Forest Supervisor can decide not to give a new permit or licence to anyone who owes the GNWT money under any old permit or licence.

He or she can also temporarily suspend a permit or licence if the required fees or charges have not been paid for 30 days. The permit or licence will not be reinstated until the fees or charges are paid to the GNWT.

If the Forest Supervisor believes someone has done something not allowed by this Act, he or she can cancel or suspend that person's licence or permit.

If someone's permit or licence is cancelled, the Forest Supervisor will let them know the reasons in writing within eight days.

What if someone doesn't agree with the Forest Supervisor's decision about their licence or permit?

If someone's application for a permit or licence has been refused, they can appeal the decision by writing to the Minister. The letter of appeal must be sent within 45 days of finding out that a permit or licence has been refused.

People cannot appeal to the Minister in situations where they needed, but could not get, consent for an activity from a Renewable Resources Board or Council, or from an Indigenous government or organization.

Similarly, if someone's permit or licence has been cancelled or suspended, they can appeal the decision by writing to the Minister within 45 days of finding out about the cancellation or suspension.

If someone believes that any of the requirements in their permit or licence are unfair, they can appeal the decision by writing to the Minister, also within 45 days of receiving the permit or licence.

If someone has had their forest resources seized by an officer and believes a mistake was made in the amount of fees or charges they owe, they can appeal the amount owed by writing to the Minister within 45 days of receiving notice of the amount owed after the seizure.

The letter of appeal should describe what has happened, why they believe a decision was unfair or incorrect and what they are asking the Minister to do. After receiving a letter, the Minister will have 45 days to appoint someone to decide on the appeal.

Enforcement

Who will enforce the Act?

The Minister can appoint officers to enforce this Act and specify or limit what powers those officers have. These forest officers are peace officers under the *Criminal Code* and common law.

The Minister can designate people in certain jobs or positions as forest officers. For example, the Minister could make Renewable Resource Officers under the *Wildlife Act* forest officers under this Act.

If a group of people work for a different government, the Minister must first get approval from their employing government before making them forest officers.

What is an officer able to do when enforcing the Act?

An officer can give an order to someone if the officer believes that they are doing something that could harm the forest environment or that is against any of the rules in this Act, a permit or a licence.

An officer can give orders if he or she believes that a forest may be harmed by wildfire, insects, disease or the growth of certain plants.

An officer can order anyone to:

- put in place something to avoid harming any part of a forest
- take actions to control insects, diseases or the growth of certain plants that could harm the forest environment
- carry, at all times, whatever is needed to reduce damage to the forest environment
- stop doing anything that could harm the forest environment
- do anything else the officer believes is needed to avoid harm to the forest environment

All orders from an officer must be followed. An officer can arrest someone who is committing an offence, or has committed an offence. The officer can use as much force as necessary and reasonable to arrest someone.

Inspections

An officer can stop any vehicle to inspect it as part of an investigation. When anyone sees red and blue flashing lights, hears a siren or sees an officer directing them to pull over, they must pull over, stop their vehicle and remain stopped until the officer says they can leave.

At any reasonable time, an officer can enter and inspect a place where there might be things related to the Act. An officer can only enter a place where someone lives if the person says it is okay or the officer has a warrant, or if evidence would be destroyed in the time it takes to get a warrant.

While an officer is carrying out an inspection, a person must show anything the officer asks for and give any information or help the officer needs. If someone has a permit or licence that relates to this Act, they must show it to an officer if asked. This includes permits or licences issued under other Acts.

If someone has combined forest products that were taken illegally with products taken legally, an officer can seize all the mixed forest products as part of an inspection. If someone is required by an officer to move any forest products they obtained legally, the GNWT will pay for the costs of transportation.

If someone is doing something that needs a permit or licence and they don't show their permit or licence to an officer, the officer can tell them to immediately stop doing what they are doing and they have to stop.

What if someone doesn't agree with an officer's actions?

If someone feels an officer has made a decision or given them an order that is unfair, they can appeal it by sending an appeal form to the Forest Supervisor within 10 days.

The Forest Supervisor, or someone appointed by him or her, will consider what the person has to say and then decide whether to leave the order in place, change the order or cancel the order.

Until the Forest Supervisor has made a decision on an appeal, the officer's order remains in place and must be followed.

If someone commits an offence under the Act, what is the punishment?

A corporation convicted of an offence under this Act can be fined up to a maximum of \$1,000,000 for each offence. Corporations that have been convicted of an offence under this Act must give their shareholders all the information about the offence.

An individual convicted of an offence under this Act can be fined up to a maximum of \$100,000, be sent to jail for up to one year, or both.

Total fines can be more if the person commits several or repeat offences, or commits the same offence on more than one day, for example. They may also be required to pay back any money they made by committing an offence.

If someone tries to do something that is an offence, they can be charged with committing the offence even if they were not successful. If someone helps someone else commit an offence, that person is also guilty of that offence.

If someone works for a corporation that commits an offence, they can be charged with the offence if they were involved or knew about it, even if the corporation isn't charged. Similarly, someone can be charged with an offence if it is committed by someone who works for them, even if their employee is not charged, unless they can show they did not know about it.

A court is allowed to give any penalty it thinks is required to appropriately punish someone who has committed an offence to stop them from committing another offence.

Instead of going through the normal court system, other measures can be taken to deal with someone who has committed an offence under this Act through an alternative measures program approved by the Minister of Justice.

