
LAND ACT

CHAPTER 245

Contents

Section

- 1 Definitions

PART 1 – LAND DISTRICTS AND LAND RECORDING DISTRICTS

- 2 Land districts
- 3 Land recording districts
- 4 Administration of Crown land
- 5 Geographical names
- 6 Base mapping and land related information systems
- 7 Crown land registry

PART 2 – DISPOSITION OF CROWN LAND – GENERAL

- 8 If no disposition
- 9 Citizenship of grantee
- 10 Application for Crown land
- 11 Minister may dispose of Crown land
- 12 Crown grant of cancelled dedicated land
- 13 Roads
- 14 Temporary occupation of Crown land
- 15 Reserves
- 16 Withdrawal from disposition
- 17 Conditional withdrawal
- 18 Land below natural water boundary
- 19 Quarrying land
- 20 Limit on area of Crown grant
- 21 Limit on area of lease
- 22 Term of lease
- 23 Timbered land
- 24 Payment for timber
- 25 Method of payment
- 26 Interest on deferred payments
- 27 Reservations to which purchasers are subject
- 28 Royalty on removal of certain materials
- 29 Survey fees
- 30 Amendment of area under application
- 31 Transfers to Canada

PART 3 – APPLICATION PROCEDURE FOR DISPOSITION OF CROWN LAND

- 32 Application procedure for dispositions
- 33 Public notice
- 34 Disposition by minor
- 35 Feasibility studies, costs
- 36 Security may be required

- 37 Affidavit may be required
- 38 Lease
- 39 Licence of occupation
- 40 Right of way and easement
- 41 Failure to complete survey
- 42 Date of disposition

PART 4 – DISPOSITION OF CROWN LAND – CANCELLATION, AMENDMENT AND ABANDONMENT

- 43 Cancellation of disposition
- 44 Amendment and cancellation if approval or grant improper
- 45 Abandonment of disposition
- 46 Debts payable on cancelled disposition
- 47 Delay on new disposition

PART 5 – CROWN GRANTS

- 48 Issue of Crown grant
- 49 Form of Crown grant
- 50 Exceptions and reservations
- 51 Grant of Crown land to government corporations and bodies
- 52 Power to delete terms in Crown grants
- 53 Procedure to cancel defective grants
- 54 Delivery and registration of Crown grants
- 55 Bodies of water
- 56 Application
- 57 Roads
- 58 Application to include body of water or road in subdivision

PART 6 – TRESPASS ON CROWN LAND

- 59 Trespass on Crown land
- 60 Offences
- 61 Enforcement of payment
- 62 Liability for contravention of section 60
- 63 Disputed applications
- 64 Appeals of disputed applications
- 65 Right of possession to acquired Crown land
- 66 Prohibition of use of Crown land in designated areas
- 67 Garbage on Crown land prohibited
- 68 Penalty

PART 7 – SURVEYS

- 69 Surveys: district lots
- 70 Size of district lots
- 71 Townships
- 72 Survey to be confirmed
- 73 Survey regulations
- 74 Authorized surveyor
- 75 Power to cancel survey and order resurvey
- 76 Power to order survey
- 77 Survey instructions by Surveyor General

- 78 Survey may be refused
- 79 Road and walkway allowances
- 80 Access to private land
- 81 Agreed boundary
- 82 Power to carry out reposting survey
- 83 Power to order resurvey for replacement of boundary
- 84 Power to order resurvey for lost posts or boundaries
- 85 Limit on resurvey power
- 86 Persons likely to be affected by resurvey
- 87 Hearing of protest
- 88 Confirmation of resurvey plan
- 89 Deposit of plan on resurvey under section 86
- 90 Resurvey binding
- 91 Resurvey: gain or loss of property
- 92 Cost of resurvey
- 93 Recovery of costs

PART 8 – ADDITIONAL POWERS

- 94 Crown grant payments
- 95 Powers to exchange
- 96 Occupational rental
- 97 Minister may delegate; may amend terms
- 98 Disposition to applicant only
- 99 Assignment of disposition
- 100 Minister may require purchaser to obtain Crown grant
- 101 Examination of claim
- 102 Minister may consent to plan proceedings
- 103 Minister may order government title cancelled
- 104 Affidavits
- 105 Right of entry
- 106 Land revested in government
- 107 Restriction as to right of action
- 108 Registers
- 109 Execution of documents
- 110 Power to make regulations

Definitions

1 In this Act:

“applicant” means a person applying for a disposition of Crown land under this Act or a former or other Act respecting Crown land;

“boundary by agreement” means a conventional boundary located by agreement between the government and the adjoining owner;

“commissioner” means the person appointed under the *Public Service Act* as commissioner in charge of any land recording district, and includes the minister, deputy minister, an assistant deputy minister and a person authorized by the Lieutenant Governor in Council to act for the minister in the portion of British

Section 1

Columbia for which he or she may be appointed to discharge the duties of a commissioner under this Act;

“construction purpose” includes, without limitation,

- (a) the building or maintenance of a road, railway bed, runway, berm, dam, impoundment, breakwater, dike, levee, foundation, rock wall and other similar thing, and
- (b) the providing of fill and riprap;

“conventional boundary” means a boundary consisting of a straight line or a series of straight lines of fixed direction and length conforming as nearly as possible to the natural boundary, but eliminating minor sinuosities;

“corporation” means a corporation incorporated or registered in British Columbia;

“Crown grant” means an instrument in writing conveying Crown land in fee simple;

“Crown land” means land, whether or not it is covered by water, or an interest in land, vested in the government;

“director” means a person employed under the *Public Service Act* and designated by the minister as a director for the purposes of this Act;

“disposition” means the act of disposal or an instrument by which the act of disposal is effected or evidenced, or by which an interest in Crown land is disposed of or effected, or by which the government divests itself of or creates an interest in Crown land;

“interest” in reference to land includes a right or estate in that land;

“land district” means a portion of British Columbia that is a land district under section 2;

“land recording district” means a portion of British Columbia that is a land recording district under section 3;

“natural boundary” means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the body of water a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself;

“public road” means a portion of Crown land designated or indicated as a road on a plan of survey made under this Act, whether or not a road is constructed, and includes a road allowance or walkway allowance established under section 79;

“registrar” means the registrar under the *Land Title Act*;

“registry” means the Crown land registry continued under section 7;

“reserved land” means Crown land that has been withdrawn from disposition under this or any other Act;

“right of way” means a statutory right of way as defined in the *Land Title Act*;

“surveyed land” means land the survey of which is accepted and confirmed by the signature of the Surveyor General on a plan made under this Act;

“Surveyor General” means the Surveyor General of British Columbia.

PART 1 – LAND DISTRICTS AND LAND RECORDING DISTRICTS

Land districts

- 2 The Lieutenant Governor in Council may, by regulation,
- (a) constitute a part of British Columbia as a land district, and
 - (b) amend or cancel a land district whether constituted under this or a former Act.

Land recording districts

- 3 The Lieutenant Governor in Council may, by regulation,
- (a) constitute a part of British Columbia as a land recording district, and
 - (b) amend or cancel a land recording district whether constituted under this or a former Act.

Administration of Crown land

- 4 The minister has the administration of all Crown land except land specifically under the administration of another minister, branch or agency of government.

Geographical names

- 5 The minister is responsible for geographical names in British Columbia.

Base mapping and land related information systems

- 6
- (1) The minister is responsible for and may undertake, commission, coordinate and set standards for base mapping and land related information systems in British Columbia and for related remote sensing and survey control functions.
 - (2) The minister may distribute to any person a copy of any map, air photo or land related information made or obtained under subsection (1).
 - (3) The minister may make regulations prescribing fees for the purposes of subsection (2).

Crown land registry

- 7
- (1) The Crown land registry is continued to record all lands administered by the government, and to record the acquisition and disposition of those lands, for the purpose of maintaining an inventory of Crown land.
 - (2) The Surveyor General is responsible for the security and maintenance of the registry.

- (3) The registry is to be open to any person during regular business hours for the examination and inspection of the records of the registry.
- (4) Every ministry of the government must record in the registry all Crown lands under its administration, and the acquisition in fee simple and disposition of those lands, in a manner acceptable to the Surveyor General.
- (5) Subsection (4) does not apply to the following:
 - (a) a public road or highway established under this Act, the *Highway Act* or the *Municipal Act*;
 - (b) a forest service road established under the *Forest Act*;
 - (c) an agreement to harvest Crown timber under the *Forest Act*;
 - (d) a grazing or hay cutting licence or permit under the *Range Act*;
 - (e) lands dedicated, transferred or vested in the government under section 107 (1) or 108 (2) of the *Land Title Act*.
- (6) No action may be brought by any person against the government for loss or damage caused by reliance on the records of the registry by that person for any reason or purpose including, without limitation, reliance for the purpose of establishing priorities of interest or reliance on the completeness of the records.

PART 2 – DISPOSITION OF CROWN LAND – GENERAL

If no disposition

- 8 (1) A person may not acquire by prescription, occupation not lawfully authorized or a colour of right, an interest in Crown land, or in any land as against the government's interest in it.
- (2) A person does not acquire a right, vested or contingent, in Crown land, or a priority to Crown land by filing an application for Crown land under this Act.
- (3) A disposition of Crown land is not binding on the government until the certificate of purchase, grant, lease, licence of occupation, right of way or easement is executed by the government under this Act.
- (4) Negotiations or arrangements, whether in writing or otherwise, before the execution of the documents referred to in subsection (3) are not binding on and do not commit the government to perform or complete a disposition.

Citizenship of grantee

- 9 A person who is not a Canadian citizen or permanent resident of Canada is not entitled to a Crown grant unless the person's application for a disposition of Crown land was allowed before May 1, 1970.

Application for Crown land

- 10 (1) Subject to compliance with this Act and the regulations, a person of age 19 or over or a corporation or other association may apply for Crown land.
- (2) Nothing in this Act obliges the government to consider an application for Crown land, or to dispose of Crown land on an application.

Minister may dispose of Crown land

- 11 (1) Subject to compliance with this Act and the regulations, the minister may, on an application, by public auction, public notice of tender or public drawing of lots, dispose of Crown land, either surveyed or unsurveyed, to a person entitled under this Act as the minister considers advisable in the public interest.
- (2) The minister may, under subsection (1),
- (a) sell Crown land,
 - (b) lease Crown land,
 - (c) grant a right of way or easement over Crown land, or
 - (d) grant a licence to occupy Crown land.
- (3) In a disposition of Crown land under this section, the minister may impose the terms, covenants, stipulations and reservations the minister considers advisable, and without limiting those powers, the minister may impose some or all of the following terms:
- (a) the applicant must personally occupy and reside on the Crown land for a period set by the minister;
 - (b) the applicant must do that work and spend that money for permanent improvement of the Crown land within that period the minister requires.

Crown grant of cancelled dedicated land

- 12 (1) If, under Part 8 of the *Land Title Act*, a petitioner establishes to the satisfaction of the minister that
- (a) the registrar has made an order under Part 8 of the *Land Title Act* cancelling all or part of the areas that were dedicated by the deposit of a plan in the land title office, and
 - (b) none of the dedicated areas cancelled by the order are required by the government or are otherwise reserved from disposition,
- the minister, on application by the petitioner, on terms the minister considers appropriate and on payment of the prescribed fees, may make a fee simple grant to the petitioner of all or part of a cancelled dedicated area on payment of consideration determined by the minister.
- (2) An application under this section must be accompanied by a certified copy of the order of the registrar made under Part 8 of the *Land Title Act*.

Section 13

- (3) This section does not apply to land in respect of which the registrar has made a vesting order under section 135 of the *Land Title Act*.

Roads

- 13** (1) In a disposition of Crown land under this or a former Act in which a portion of the land is designated as a road in the instrument evidencing the disposition or in a map or plan attached to it, unless there is express provision in the instrument to the contrary, the road is deemed to be,
- (a) in the case of a disposition made before January 3, 1977, 20.1168 m in width, being 10.0584 m on each side of the centre line of the travelled portion of the road, and
 - (b) in the case of a disposition made after January 2, 1977, 20 m in width, being 10 m on each side of the centre line of the travelled portion of the road.
- (2) No part of the road referred to in subsection (1) passes to any person under the instrument.

Temporary occupation of Crown land

- 14** (1) The minister may permit an applicant to occupy Crown land for any of the following:
- (a) for a period not longer than one year to conduct appraisals, inspections, analyses, inventories, surveys or other investigations of the land or of its natural resources;
 - (b) for a period not longer than 6 months for any purpose authorized under this Act;
 - (c) to construct a road, non-commercial airstrip, bridge or trail over the land.
- (2) A permit issued under subsection (1) (c) does not entitle the applicant to deny to any person the right to use the road, non-commercial airstrip, bridge or trail.

Reserves

- 15** (1) The Lieutenant Governor in Council may by order
- (a) for any purpose that the Lieutenant Governor in Council considers advisable in the public interest, reserve Crown land from disposition under this Act, and
 - (b) amend or cancel all or part of a reserve established under this or a former Act.
- (2) An order under subsection (1) does not affect the minister's powers under section 14.

Withdrawal from disposition

- 16** The minister may, for any purpose the minister considers advisable in the public interest,

- (a) temporarily withdraw Crown land from disposition under this Act, and
- (b) amend or cancel the withdrawal under paragraph (a).

Conditional withdrawal

- 17 (1) The minister may, if the minister considers it advisable in the public interest, designate a portion of Crown land for a particular use or for the conservation of natural or heritage resources.
- (2) A portion of Crown land designated under subsection (1) is withdrawn from disposition under this Act for any purpose that is not, in the opinion of the minister, compatible with the purpose for which the land has been designated.
- (3) The minister may amend or cancel a designation made under subsection (1).

Land below natural water boundary

- 18 Except by order of the Lieutenant Governor in Council, on the terms the Lieutenant Governor in Council may specify, Crown land, filled or otherwise, below the natural boundary of a body of water must not be disposed of by Crown grant under this Act.

Quarrying land

- 19 Except by order of the Lieutenant Governor in Council, on the terms the Lieutenant Governor in Council may specify, Crown land must not be disposed of by Crown grant under this Act if the minister believes it is suitable for mining, quarrying, digging or removal of building or construction materials, including, without limitation,
- (a) earth, soil, peat, marl, sand and gravel,
 - (b) rock and natural substances that are used for a construction purpose on land that is not within a mineral title or group of mineral titles from which the rock or natural substance is mined, and
 - (c) rock or a natural substance prescribed under section 2 (2) of the *Mineral Tenure Act*.

Limit on area of Crown grant

- 20 (1) Except as provided in sections 70 and 71, or unless the applicant has first obtained a Crown grant to land covered by a prior certificate of purchase in the applicant's name, Crown land of an area greater than 520 ha must not be disposed of by Crown grant under this Act at any one time to any one applicant.
- (2) Despite subsection (1), with the prior approval of the Lieutenant Governor in Council, the minister may dispose of an area greater than 520 ha, by Crown grant, for commercial, industrial, railway or airport purposes.

Limit on area of lease

- 21 (1) Except as provided in sections 70 and 71, Crown land of an area greater than 520 ha must not be disposed of by lease under this Act to any one applicant.

Section 22

- (2) Despite subsection (1), with the prior approval of the Lieutenant Governor in Council, the minister may dispose of, by lease, an area greater than 520 ha for grazing, commercial, industrial, railway, airport or watershed purposes.

Term of lease

- 22 Except with the prior approval of the Lieutenant Governor in Council, Crown land must not be leased under this Act for a term longer than 60 years.

Timbered land

- 23 Unless, in the opinion of the minister, Crown land is required for agricultural settlement and development or other higher economic use, Crown land that is suitable for the production of timber and pulpwood must not be disposed of by Crown grant under this Act.

Payment for timber

- 24 A disposition of Crown land under this Act may provide for payment to the government of the value of the timber or a royalty on the timber on that land.

Method of payment

- 25 If an applicant purchases Crown land under section 11, the minister may, despite section 48, if the unpaid balance of the purchase price has been secured to the minister's satisfaction, issue a Crown grant before the full purchase price has been paid.

Interest on deferred payments

- 26 (1) Unless the minister orders otherwise in a particular case, if payment for Crown land is deferred, interest is to be charged at a prescribed rate on the outstanding balance from the date of the disposition.
- (2) If money payable for a lease, right of way, easement, licence of occupation or royalty is not paid on the due date, interest may be charged at a prescribed rate on the unpaid sum from the date due.
- (3) If payment of money for a survey carried out by or for the Surveyor General for a disposition of Crown land is deferred, interest on the deferred sum may be charged at a prescribed rate.

Reservations to which purchasers are subject

- 27 Unless otherwise expressly provided in the certificate of purchase, the right of a purchaser under a certificate of purchase is, from the date of the certificate, subject to all of the following:
- (a) the terms, covenants, stipulations, reservations and exemptions contained in this Act, the regulations or in the Crown grant;
 - (b) highways, streets, roads, trails and other ways existing at that date over or through the land;

- (c) the reservations, exceptions and rights of way endorsed at the minister's direction on the certificate.

Royalty on removal of certain materials

- 28 Leases or other dispositions granted for mining, quarrying, digging or removal of building or construction materials, including without limitation
- (a) earth, soil, peat, marl, sand and gravel,
 - (b) rock and natural substances that are used for a construction purpose on land that is not within a mineral title or group of mineral titles from which the rock or natural substance is mined, and
 - (c) rock or a natural substance prescribed under section 2 (2) of the *Mineral Tenure Act*,

may provide for payment of a royalty for material removed from the land at rates to be determined by the minister.

Survey fees

- 29 A disposition may provide for payment by the applicant of the cost of a survey of the land by or for the Surveyor General.

Amendment of area under application

- 30 Subject to sections 20 and 21, on an application for a disposition, the minister may
- (a) reduce or extend the area applied for or the length of the boundary lines of the area, or
 - (b) vary the location of the area.

Transfers to Canada

- 31 (1) Subject to the terms, reservations and restrictions the Lieutenant Governor in Council considers advisable, the Lieutenant Governor in Council may transfer the administration, control and benefit of Crown land to the government of Canada either in perpetuity or for a specified period, and with or without consideration.
- (2) Except to the extent that it so provides, a transfer under subsection (1) is not subject to section 50.

PART 3 – APPLICATION PROCEDURE FOR DISPOSITION OF CROWN LAND

Application procedure for dispositions

- 32 (1) An application for a disposition by purchase, lease or licence of occupation in the form specified by the minister, together with the application fee, must be made to the commissioner of the land recording district where the land is located.

Section 33

- (2) If the application complies with this Act and the regulations and has been accepted, the commissioner must retain one copy for his or her records, post one copy in his or her office and send one copy to the minister.
- (3) If the land is unsurveyed or if no evidence of survey is available, the applicant must
 - (a) before making the application, fix securely in the ground, at one corner of the land to be applied for, a squared post or squared tree, at least 1 m above the ground level, and securely attach to the post or tree a written notice in the form specified by the minister of the applicant's intention to make an application for a disposition of the land described in the notice, and
 - (b) with the application, provide the proof of the posting of the notice as required by the minister.
- (4) Subsection (3) does not apply to
 - (a) a licence of occupation for a year or less, or
 - (b) a grant of right of way or easement.

Public notice

- 33 (1) If the minister considers it advisable in the public interest, the minister may require the applicant to publish a notice of his or her application.
- (2) The notice must
 - (a) be headed "*Land Act: Notice of Intention to Apply for a Disposition of Crown Land*",
 - (b) state the land recording district and location of the land,
 - (c) state the applicant's address and occupation,
 - (d) state the purpose for which the land is required,
 - (e) be signed by the applicant or his or her agent and
 - (f) give notice that the named applicant intends to apply for specific land or land described in relation to the post, of a named area, more or less.
- (3) The applicant must publish the notice in the Gazette or a newspaper circulating in the land recording district where the land is located, or in both, for the number of issues and within the period required by the minister.
- (4) The applicant must provide proof of publication of the notice.

Disposition by minor

- 34 (1) A person who is eligible to hold a disposition under this Act, but is a minor, may hold and assign the land as if he or she were of full age.
- (2) A person who is a minor and who holds a certificate of purchase, lease, licence of occupation, right of way or easement of Crown land may hold and assign it as if he or she were of full age.

Feasibility studies, costs

- 35 (1) The minister may require an applicant to obtain and file with the minister, at the applicant's expense, feasibility studies, environmental assessments, timber cruises, land valuation appraisals, or other information about the application required by the minister.
- (2) If an application is made under section 32 or 40, or notice is given of an intention to make the application, the minister may estimate the cost
- (a) to assess the impact of making the disposition, or
 - (b) to monitor compliance with terms to which the disposition would be subject if made.
- (3) The minister may require the applicant or proposed applicant to pay to the Minister of Finance and Corporate Relations all or part of the anticipated cost before the notice is acted on, the application considered or the disposition made.

Security may be required

- 36 (1) The minister may require an applicant to deposit with the Minister of Finance and Corporate Relations a bond or other security for the performance and completion by the applicant of all the obligations and requirements specified by the minister.
- (2) The security must be payable to the Minister of Finance and Corporate Relations for the amount and containing the terms required by the minister.

Affidavit may be required

- 37 The minister may require an applicant to provide proof, by affidavit or otherwise, on a matter arising out of the application or on the applicant's financial affairs.

Lease

- 38 The minister may issue a lease of Crown land subject to the terms and reservations the minister considers advisable, including an option to purchase the land.

Licence of occupation

- 39 The minister may issue a licence to occupy and use Crown land, called a "licence of occupation", subject to the terms and reservations the minister considers advisable.

Right of way and easement

- 40 (1) The minister may, subject to terms and conditions the minister considers advisable,
- (a) grant or otherwise create a right of way or easement over Crown land, and
 - (b) grant or otherwise create over Crown land, the title to which is not registered under the *Land Title Act*, an easement without a dominant tenement for any purpose necessary for the operation and maintenance of the grantee's undertaking, including a right to flood.

Section 41

- (2) An easement of the kind described in subsection (1) (b)
 - (a) is not registrable, and
 - (b) ceases to exist over land forming all or part of its servient tenement the title to which becomes registered under the *Land Title Act*, but continues over any part of its servient tenement the title to which remains unregistered.
- (3) An applicant for a right of way or easement over Crown land must apply to the minister in the form and manner specified by the minister, accompanied by a map indicating the location of the proposed right of way or easement.
- (4) An easement or right of way granted before or after May 1, 1970 may be continued or renewed by the minister for the period he or she believes proper, despite this Act or the *Land Title Act*, and even if the servient tenement has ceased to be Crown land.
- (5) To the extent necessary to give effect to this section, the rule requiring an easement to have a dominant and a servient tenement is abrogated.
- (6) In respect of easements other than rights of way
 - (a) this section is retroactive in its application and applies to all easements over Crown land whenever created, and
 - (b) the government is deemed always to have been able to create easements by grant or otherwise.

Failure to complete survey

- 41 If an application for a disposition of unsurveyed Crown land has been approved subject to completion of a satisfactory survey, the minister may disallow the application if the survey is not completed in the time required by the minister or as extended by the Surveyor General.

Date of disposition

- 42 (1) The date of a disposition under this Act is the date on which the instrument creating the disposition is executed on behalf of the government.
- (2) If a survey is required, the minister may extend the date of the disposition to a date not more than 8 months after the date referred to in subsection (1) or to the date the Surveyor General accepts the survey, whichever is earlier.

PART 4 – DISPOSITION OF CROWN LAND – CANCELLATION, AMENDMENT AND ABANDONMENT

Cancellation of disposition

- 43 (1) If a person who holds a disposition of Crown land
- (a) defaults in payment of money due to the government, or
 - (b) fails or neglects to observe or perform a covenant, stipulation or term required by the minister, or set out in the disposition,

the minister may send a notice by registered mail, addressed to the person at his or her last known address, requiring the person to pay the money due or to comply with the covenant, stipulation or term within 60 days after the notice is mailed.

- (2) If the default, failure or neglect continues after the 60 day period, the minister may cancel the disposition.
- (3) If the minister cancels a disposition under this section
 - (a) the interest in the Crown land of the holder of the disposition and of all persons claiming through the holder is forfeited and at an end,
 - (b) improvements to the land become government property, and
 - (c) money paid for the disposition is forfeited to the government.
- (4) If the disposition is in respect of a right of way or easement, the minister may extend the time to pay or comply up to 2 years after the notice is mailed.
- (5) If a disposition, registered in a land title office, is cancelled, the minister may, by a certificate signed and sealed by the minister and setting out the reason for the cancellation, require the registrar to cancel registration.
- (6) The certificate referred to in subsection (5) is the authority for the registrar of the land title office to cancel the registration.

Amendment and cancellation if approval or grant improper

- 44**
- (1) If the minister considers it advisable, the minister may, for an approved application or a disposition, amend or correct the approval or disposition, disallow the application or cancel the disposition, or make those changes and adjustments in the approval or disposition he or she considers advisable, if the minister finds any of the following:
 - (a) a clerical error in the names or description of the applicant, the description of the Crown land, or any other material part of the approval or disposition;
 - (b) that the Crown land is not available for disposition;
 - (c) that the survey is incorrect;
 - (d) that information provided by the applicant is incorrect.
 - (2) If the minister disallows an application or cancels a disposition under this section, the minister may
 - (a) repay to the applicant all or part of the money paid on the application or disposition,
 - (b) repay to the applicant the applicant's survey costs, and
 - (c) pay to the applicant that compensation the minister considers advisable.
 - (3) If a cancelled or amended disposition is registered in a land title office, the minister may, by a certificate signed and sealed by the minister and setting out the reason for the cancellation or amendment, require the registrar to cancel or amend the registration.

- (4) The minister's certificate referred to in subsection (3) is authority for the registrar to cancel or amend the registration.

Abandonment of disposition

- 45** (1) A person holding a disposition of Crown land may abandon and terminate a disposition by notifying the minister in writing.
- (2) All improvements on the land and all money paid on account are absolutely forfeited to and become the property of the government on abandonment and termination of a disposition under subsection (1).

Debts payable on cancelled disposition

- 46** (1) Despite the cancellation or abandonment, unless the minister otherwise directs, the holder of a disposition that is cancelled or abandoned must pay all money and observe and perform all covenants, stipulations and terms of the disposition.
- (2) Money remaining due to the government on a disposition is recoverable by the Minister of Finance and Corporate Relations as a debt due to the government.

Delay on new disposition

- 47** The minister may, in his or her discretion, withhold from disposition, for a period of not longer than one year, Crown land in a cancelled or abandoned disposition.

PART 5 – CROWN GRANTS

Issue of Crown grant

- 48** (1) A Crown grant must issue in the name of an applicant for a disposition by purchase, subject to this Act, the regulations and the applicable terms, covenants and stipulations of any certificate of purchase, if the applicant pays the prescribed Crown grant fee and
- (a) pays to the Minister of Finance and Corporate Relations the full purchase price, interest and all other money required to be paid for the disposition, and
 - (b) complies with the covenants, conditions and stipulations of the disposition.
- (2) If an applicant dies and the conditions in subsection (1) are complied with, a Crown grant must issue to the personal representative of the deceased applicant.

Form of Crown grant

- 49** (1) A disposition of Crown land in fee simple may be in a form specified by the minister.
- (2) The minister may, in a form specified by the minister, issue a supplementary grant of the timber to the registered owner of the land if
- (a) in a grant of Crown land, timber is reserved to the government, and
 - (b) the reserved timber is not held by any other person under licence, lease, permit, sale or other instrument from the government.

- (3) A supplementary Crown grant is not to be issued under subsection (2) unless
- (a) the minister considers it advisable, and
 - (b) the minister ascertains that the stumpage value of the timber is fully paid to the government.

Exceptions and reservations

50 (1) A disposition of Crown land under this or another Act

- (a) excepts and reserves the following interests, rights, privileges and titles:
 - (i) a right in the government, or any person acting for it, to resume any part of the land that is deemed to be necessary by the government for making roads, canals, bridges or other public works, but not more than 1/20 part of the whole of the land, and no resumption may be made of any land on which a building has been erected, or that may be in use as a garden or otherwise;
 - (ii) a right in the government, or any person acting for it or under its authority, to enter any part of the land, and to raise and get out of it any geothermal resources, minerals, whether precious or base, as defined in section 1 of the *Mineral Tenure Act*, coal, petroleum and any gas or gases, that may be found in, on or under the land, and to use and enjoy any and every part of the land, and its easements and privileges, for the purpose of the raising and getting, and every other purpose connected with them, paying reasonable compensation for the raising, getting and use;
 - (iii) a right in any person authorized by the government to take and occupy water privileges and to have and enjoy the rights of carrying water over, through or under any part of the land granted, as may be reasonably required for mining or agricultural purposes in the vicinity of the land, paying a reasonable compensation to the grantee, the grantee's successors and assigns;
 - (iv) a right in any person authorized by the government to take from any part of the land granted, without compensation, gravel, sand, stone, lime, timber or other material that may be required in the construction, maintenance or repair of a road, ferry, bridge or other public work,
- (b) conveys no right, title or interest to
 - (i) geothermal resources as defined in the *Geothermal Resources Act*,
 - (ii) minerals and placer minerals as defined in the *Mineral Tenure Act*,
 - (iii) coal,
 - (iv) petroleum as defined in the *Petroleum and Natural Gas Act*, or
 - (v) gas,that may be found in or under the land, and

Section 51

- (c) conveys no right, interest or estate to highways, within the meaning of the *Highway Act*, existing over or through the land at the date of the disposition.
- (2) Subsection (1) applies whether or not express words are used in the disposition, but is subject to subsection (3).
- (3) A disposition of Crown land under another Act that expressly authorizes the disposition on terms different from those referred to in subsection (1) may be made on those terms, and in that case the disposition must refer to the Act that authorizes the different terms and state the terms on which the disposition is made.
- (4) A disposition of Crown land may, by express words, except or reserve to the government rights and privileges more extensive than those referred to in subsection (1).
- (5) For all purposes, including section 23 of the *Land Title Act*, every disposition of Crown land is conclusively deemed to contain express words making the exceptions and reservations referred to in subsection (1) of this section, except to the extent that the disposition is made on different terms under subsection (3).
- (6) The power under subsection (4) to except and reserve rights and privileges includes a power to create a right of way, and if this is done
 - (a) the government is, with respect to the right of way, a grantee,
 - (b) the right of way is conclusively deemed to be necessary for the operation and maintenance of the government's undertaking, and
 - (c) section 218 of the *Land Title Act* applies.

Grant of Crown land to government corporations and bodies

- 51** (1) Despite any other provision of this Act, Crown land may, with the approval of the Lieutenant Governor in Council and subject to the terms, reservations and restrictions that the Lieutenant Governor in Council considers advisable, be disposed of by Crown grant under this Act, free or otherwise, to a government corporation, municipality, regional district, hospital board, university, college, school board or other government related body.
- (2) A disposition under subsection (1) may be limited to a specific public purpose.

Power to delete terms in Crown grants

- 52** (1) If the minister finds that a term, covenant, stipulation, reservation or exemption in a Crown grant issued under this or a former Act, other than one contained in the forms prescribed by the Act under which the Crown grant was issued, has been included in error or is no longer required in the public interest, the minister may declare the Crown grant to be void and of no effect or may amend or replace it.
- (2) A certified copy of the declaration made under subsection (1) may be filed with the registrar of the land title district.

- (3) The registrar must attach the copy of the declaration referred to in subsection (2) to the Crown grant and make appropriate entries in the register as the registrar considers necessary.
- (4) The power conferred by this section may be exercised whether or not title to the land is registered in a land title office.

Procedure to cancel defective grants

- 53**
- (1) If, in a Crown grant under this Act, the minister finds an omission of the conditions of the Crown grant or the issue of a Crown grant under this or a former Act in the name of the wrong person or with a clerical error or defective description of the land intended to be granted, the minister may, if the minister considers it advisable, direct the defective Crown grant to be cancelled and a correct one issued, or make the changes and adjustments the minister considers advisable to rectify the error.
 - (2) A corrected Crown grant relates back to the date of the cancelled grant and has the same effect as if issued at the date of the cancelled grant.
 - (3) If the minister cancels a Crown grant under this section or if the minister finds that the Crown land was not available for disposition, or that the survey or information provided by the applicant was incorrect,
 - (a) section 44 (2) applies, or
 - (b) the minister may substitute other Crown land of a value that the minister considers reasonable in the circumstances.
 - (4) If other land is substituted, the minister must issue a Crown grant for the substituted land and, if the minister considers it advisable, the new grant may be dated as of the date of the original Crown grant.
 - (5) The substituted Crown grant has the same effect as if it had been issued on the original date.
 - (6) The power conferred by this section may be exercised whether or not title to the land has been registered in a land title office.
 - (7) If a grant is cancelled, the registrar of the appropriate land title office must cancel registration of the indefeasible title or absolute title of the land.
 - (8) A person who has possession of a cancelled Crown grant must deliver it to the minister when required to do so.

Delivery and registration of Crown grants

- 54**
- (1) A Crown grant issued after April 5, 1968 for land sold or for the issue of which provision is made under this Act or any other Act, general or special, must, on its issue, be transmitted to the proper land title office for registration.

- (2) If the registrar is satisfied that the boundaries of the land are sufficiently defined by the description, the registrar must
 - (a) register the title granted in the register, subject to the provisions of the grant, in the name of the grantee, without application for registration, and
 - (b) give notice of the registration to the grantee.
- (3) Despite the *Land Title Act*, no fee is payable to a registrar for registration of a Crown grant issued under this Act or the *Ministry of Lands, Parks and Housing Act*.
- (4) A Crown grant issued before April 6, 1968 is registrable under the law in force immediately before that date, but the fees for registration are those currently applicable and, on registration, the grantee is entitled to become the registered owner of the indefeasible title to the land.

Bodies of water

- 55
- (1) If Crown land is or has, before March 27, 1961, been disposed of by the government by Crown grant, and the map or plan attached to the grant shows a lake, river, stream or other body of water coloured, outlined or designated in a colour other than red, no part of the bed or shore of the body of water below its natural boundary passes or is deemed to have passed to the person acquiring the grant unless
 - (a) there is express provision in the grant to the contrary, or
 - (b) the minister otherwise directs by certificate under section 58.
 - (2) Nothing in any Act or rule of law to the contrary is to be construed to vest or to have vested in any person the land that comprises the bed or shore of the body of water below the natural boundary, and despite an indefeasible or absolute title to land, the title must be construed accordingly.
 - (3) When land, the title to which has been forfeited, reverted or otherwise returned to the government, is or has been granted by the government and the grant does not have a map or plan attached but describes the land granted by reference to its official plan, the description used is deemed not to include or to have included any land below the natural boundary of the body of water coloured, outlined or designated in a colour other than red on the map or plan attached to the last preceding Crown grant of that land, and the grant must be construed accordingly.
 - (4) Despite a rule of law to the contrary, if Crown land bordering on a lake, river, stream or a body of water is or has been granted by the government, in the absence of an express provision in the Crown grant to the contrary, no part of the bed or shore of the body of water below its natural boundary passes or is deemed to have passed to the person acquiring the land, and the Crown grant must be construed accordingly.

Application

- 56** (1) Section 55 (1), (2) and (3) applies regardless of the area shown on the Crown grant or on the official plan, and the area of land shown on the map or plan attached to the Crown grant must not be reduced by any lettering or numbering on the map or plan.
- (2) Section 55 does not affect the right of any of the following:
- (a) a grantee from the government or a person claiming under the government, if the right has been determined by a court before March 27, 1961;
 - (b) the registered owner of land to whom an indefeasible or absolute title has issued before March 27, 1961 that specifically includes the bed of a body of water coloured, outlined or designated in a colour other than red on the map or plan attached to a Crown grant;
 - (c) the owner of land in a subdivision, the plan of which was deposited in the appropriate land title office before March 27, 1961, if the plan includes the bed of a body of water coloured, outlined or otherwise designated in a colour other than red on the map or plan attached to a Crown grant.

Roads

- 57** If Crown land is disposed of by Crown grant and the map or plan attached to the grant shows a road coloured, outlined or designated in a colour other than red, no part of the road passes to the grantee, and, unless there is express provision in the grant to the contrary, the road is deemed to be, for a grant issued
- (a) before January 3, 1977, 20.1168 m in width, and
 - (b) after January 2, 1977, 20 m in width.

Application to include body of water or road in subdivision

- 58** (1) If doubt exists whether a body of water or road shown on the map or plan attached to a grant from the government is included in the grant, or whether it is in the public interest that the part coloured other than in red need be retained by the government, a person proposing to subdivide may apply to the minister for a declaration of intention about that part.
- (2) The application must be accompanied by a print of the proposed plan of subdivision.
- (3) On receiving a plan certified by the registrar as being otherwise acceptable for deposit, the minister may, if the minister considers it advisable, endorse a declaration on the plan that the land is included in the grant or need not be retained by the government.
- (4) The deposit in the land title office of an endorsed plan vests title to the land referred to in the declaration in the owner of the land covered by the plan without an instrument of transfer.

- (5) If the title to the land contained in the plan is subject to a registered charge, the charge is deemed to be modified by including the land described in the declaration.

PART 6 – TRESPASS ON CROWN LAND

Trespass on Crown land

- 59** (1) If a person does anything that is an offence under section 60 (a) to (g), the minister may, on notice to that person, do one or more of the following:
- (a) require the person to cease the unauthorized occupation of the Crown land, give up possession of the land and restore the land to a condition satisfactory to the minister;
 - (b) require the person to cease the unauthorized use of the Crown land and restore the land to a condition satisfactory to the minister;
 - (c) require the person to pay to the Minister of Finance and Corporate Relations a sum of money considered by the minister reasonable in the circumstances
 - (i) for the occupation or possession or the restoration, or both the occupation or possession and the restoration, of the Crown land, or
 - (ii) for the use or the restoration, or both the use and the restoration, of the Crown land;
 - (d) cancel any lease, right of way, easement, licence of occupation, permit or other disposition held by the person under this Act;
 - (e) direct a sheriff or a public officer to seize on behalf of the government all improvements, goods, chattels or other materials on the Crown land or in or on water on the Crown land;
 - (f) require the person to remove any improvements made by the person on the Crown land, to the satisfaction of the minister, within the time specified in the notice and, on failure of the person to comply, the minister may remove the improvements and require the person to pay the cost of removal.
- (2) The notice under subsection (1) or (4) must state the following:
- (a) the time and place of the unauthorized occupation or possession, unauthorized use or other contravention;
 - (b) details of the unauthorized occupation or possession, unauthorized use or other contravention;
 - (c) the requirement, action or direction of the minister under subsection (1);
 - (d) if applicable, the time period within which the person must act on a requirement of the minister;
 - (e) if applicable, the amount of the penalty imposed under subsection (4) and the date by which the penalty must be paid.

- (3) The notice under subsection (1) may be given
 - (a) by personal service on the person or by registered mail addressed to the person, or
 - (b) by posting it on the Crown land if the person is unknown.
- (4) If a person to whom this section applies fails to act in accordance with the notice given under subsection (1), a public officer appointed under section 97 (1) may, on notice to the person, require the person to pay to the government, in addition to any other amount or penalty under this Act or the regulations, a penalty of up to \$1 000 for non-compliance with the notice.
- (5) A notice may be issued more than once in respect of the same matter if a person does not comply with the first notice issued in respect of that matter.
- (6) A person who has not been given notice by personal service or by registered mail is not liable for the penalty under subsection (4).
- (7) Money required to be paid under this section is recoverable by the Minister of Finance and Corporate Relations as a debt due to the government.
- (8) Anything seized under this section becomes the property of the government and the minister may, at the discretion of the minister, authorize it to be sold, rented, removed or destroyed.
- (9) Nothing in this section limits, restricts or derogates from a court's power and jurisdiction in respect of an offence under section 60.

Offences

60 A person commits an offence if the person does any of the following:

- (a) occupies or possesses Crown land without lawful authority;
- (b) uses Crown land without lawful authority;
- (c) being the holder of a lease, right of way, easement, licence of occupation, permit or other disposition issued under this Act, uses Crown land for a purpose not provided for in the disposition;
- (d) is guilty of an act or default by which a lease, right of way, easement, licence of occupation, permit or other disposition issued under this Act may be terminated;
- (e) constructs on Crown land a building, structure, enclosure or other works, or does or performs any dredging, excavation or filling, without the authorization of the minister;
- (f) abandons on Crown land any vehicle or vessel without the authorization of the minister;
- (g) unlawfully interferes with or removes a sign erected by or on behalf of the minister.

Enforcement of payment

- 61** (1) If a person is required to pay a penalty under section 59 (4), the penalty
- (a) is due and payable by the date specified for payment in the notice served on or delivered to the person who is required to pay it, and
 - (b) bears interest at a prescribed rate.
- (2) If the person fails to pay the penalty after service or delivery of the notice referred to in subsection (1), the minister may issue and file with a court having jurisdiction a certificate stating
- (a) the amount that remains unpaid including interest, and
 - (b) the name of the person who is required to pay.
- (3) A certificate filed under subsection (2) has the same effect as an order of the court for the recovery of a debt in the amount stated in the certificate against the person named in it, and proceedings may be taken as if it were an order of the court.

Liability for contravention of section 60

- 62** A person who does anything that is an offence under section 60, or who directs or causes an offence to be committed under section 60, is liable to compensate the government or the person against whom the offence is committed for loss or damage suffered by the government or by that person because of the contravention.

Disputed applications

- 63** (1) At any time before a disposition is made on an application, any person may object to the application by filing a notice of objection, setting out the particulars of the objection, in the office of the commissioner for the land recording district in which the land applied for is located.
- (2) If a notice of objection is filed under subsection (1), the minister has the absolute discretion to decide whether or not the objection warrants a hearing, and if in the minister's opinion it does, the minister
- (a) must appoint a person, who the minister considers to be qualified, to hold a hearing inquiring into that objection, and
 - (b) may provide for the person's remuneration.
- (3) Section 15 of the *Commercial Appeals Commission Act* applies for the purpose of a hearing under this section.
- (4) After the hearing into an objection filed under subsection (1), the person appointed to hold the hearing must submit to the minister a report containing recommendations that the person considers just respecting the disposition of the Crown land involved.

- (5) The minister must review the report submitted under subsection (4) and, after taking into account the recommendations contained in the report, may make any order that the minister considers just respecting the disposition of the Crown land involved.

Appeals of disputed applications

- 64 (1) A person affected by an order of the minister under section 63 (5) respecting the disposition of Crown land may appeal the order to the Supreme Court on a question of law.
- (2) An appeal under subsection (1) must be commenced within 60 days after the order of the minister.
- (3) The minister may appear and be heard or represented on the appeal and on any further appeal.
- (4) The minister must be served with notice of an appeal.
- (5) An appeal from a decision of the Supreme Court lies to the Court of Appeal with leave of a justice of the Court of Appeal.

Right of possession to acquired Crown land

- 65 Except as otherwise provided in this Act, a person lawfully entitled to occupy Crown land under a certificate of purchase, lease, right of way, easement or licence of occupation may, for that land, take proceedings against any person for recovery of possession of, or for trespass to, the interest in the land in the same manner and to the same extent as if the person were the registered owner of the land.

Prohibition of use of Crown land in designated areas

- 66 (1) The Lieutenant Governor in Council may, by regulation, prohibit a specific use of Crown land in a designated area.
- (2) A person who uses Crown land in a designated area in a manner prohibited under subsection (1) commits an offence.

Garbage on Crown land prohibited

- 67 (1) A person must not throw, deposit, dump or in any way cause to be placed on Crown land any glass, metal, garbage, soil or other substance without the authority of the minister.
- (2) A person who contravenes this section commits an offence.
- (3) A member of the Provincial or a municipal police force may arrest, without warrant, a person whom the member finds committing an offence under this section, and may detain the person until the person can be brought before a justice to be dealt with according to law.

Penalty

- 68** Every person who is convicted of an offence against this Act for which no penalty is provided is liable on conviction to a fine of not more than \$20 000 or to imprisonment for a term not longer than 60 days, or to both the fine and imprisonment.

PART 7 – SURVEYS**Surveys: district lots**

- 69**
- (1) Crown land may be surveyed into district lots, rectangular in shape and bounded by lines run as nearly as may be true north and south and east and west.
 - (2) Lots may, at the discretion of the Surveyor General, be polygonal in shape and oriented to conform to topography.
 - (3) The natural boundary of a body of water may be adopted as a boundary of adjoining land.
 - (4) A conventional boundary may be established in a survey of Crown land, and land defined by a conventional boundary carries with it the rights and incidents as if it were bounded by the natural boundary.
 - (5) Lots surveyed in a land district must be numbered in a consecutive numbering system for each land district.
 - (6) A location reference from the national topographic map system may be added.

Size of district lots

- 70** The area of a lot must not be larger than 520 ha except
- (a) that there is no limit for dispositions under sections 20 and 21,
 - (b) where a survey is made under section 71; or
 - (c) where one of the lot boundaries is a natural boundary, in which case a lot area may not be larger than 550 ha.

Townships

- 71**
- (1) The Canada lands township system may be applied to a survey of Crown land in those areas formerly known as the Railway Belt and the Peace River Block.
 - (2) The area of a section under this section must not be larger than 260 ha unless the official plan of survey indicates a greater area.

Survey to be confirmed

- 72**
- (1) A survey may not be used or adopted for the purpose of this Act unless it is accepted and confirmed in writing by the Surveyor General on the official plan.
 - (2) A survey confirmed under subsection (1) is deemed for all purposes to have been made in compliance with this Act.

Survey regulations

- 73 The Surveyor General may make regulations necessary or advisable for surveys under this Part.

Authorized surveyor

- 74 A person who is not a British Columbia land surveyor acting under instruction of the Surveyor General may not carry out a survey under this Act.

Power to cancel survey and order resurvey

- 75 If examination discloses that a survey on the ground differs materially from the field notes or plan of survey of land filed in the ministry and confirmed by notice in the Gazette, or by the signature of the Surveyor General, or if for any other reason the Surveyor General considers it advisable, the Surveyor General may, by notice in the Gazette, cancel the field notes or plan of survey, and may order a resurvey of the land affected.

Power to order survey

- 76 (1) The minister may cause a survey to be made of Crown land.
(2) Unless the minister otherwise orders or section 78 (2) applies, an applicant for unsurveyed Crown land must pay the cost of a survey of that land.

Survey instructions by Surveyor General

- 77 (1) On the request of a British Columbia land surveyor engaged by the applicant, the Surveyor General must issue instructions about the survey to the surveyor.
(2) The survey must be completed in the time specified in the instructions, and the survey records must be forwarded immediately to the Surveyor General, unless, in special circumstances, the Surveyor General extends the date for completion.
(3) If the survey is not completed and forwarded by the date or extended date specified, the surveyor must discontinue the survey and advise the applicant.
(4) A surveyor who discontinues a survey must immediately forward to the Surveyor General the field notes and the results of the work to date.
(5) If for any reason the survey is not satisfactory to the Surveyor General, the Surveyor General may require a further survey or report.

Survey may be refused

- 78 (1) The minister may reject a survey if the minister considers it is not in the public interest to dispose of the Crown land because of
(a) a report or a survey of a British Columbia land surveyor, or
(b) information received after the acceptance of an application for a disposition.

Section 79

- (2) Unless there was misrepresentation on the part of an applicant, the government must pay the costs of the rejected survey.

Road and walkway allowances

- 79 The Surveyor General may establish or cancel an allowance for a road or walkway on the border of or through a section, lot or block of Crown land.

Access to private land

- 80 (1) If the minister considers it advisable, the minister may authorize the Surveyor General to establish a public road allowance through Crown land to give access to privately owned land being subdivided.
- (2) The Surveyor General may sign the subdivision plan.

Agreed boundary

- 81 (1) If land, subdivided under the *Land Title Act* by plan or description, has a natural boundary that adjoins Crown land, the owner may apply to the minister to replace the natural boundary by a boundary by agreement by deposit of a new subdivision plan in a land title office.
- (2) The minister may by endorsement on the plan agree to the boundary by agreement and the subdivision plan.

Power to carry out reposting survey

- 82 The Surveyor General may, if he or she considers it advisable, carry out a reposting survey to replace lost original posts or monuments of a district lot or section, whether owned by the government or otherwise.

Power to order resurvey for replacement of boundary

- 83 (1) The Surveyor General may, if he or she considers it advisable to replace a boundary established under an original survey and confirmed under any Act with a boundary by agreement, order a resurvey of that boundary.
- (2) A resurvey under this section must not be ordered unless
- (a) the Surveyor General receives an application from the owner of the land affected by the boundary,
 - (b) the owners, if any, of all registered charges against the land consent to the resurvey, and
 - (c) the land adjoins Crown land.

Power to order resurvey for lost posts or boundaries

- 84 (1) If the Surveyor General considers it advisable, the Surveyor General may order a resurvey of land where posts or boundaries of an original survey of a district lot or section have disappeared and cannot be located.

- (2) If Crown land has been disposed of, the Surveyor General must not order a resurvey under this section unless the Surveyor General receives an application for a resurvey from an owner of land within the area of the proposed resurvey.

Limit on resurvey power

- 85 (1) Section 75 does not apply to land granted by the government unless the grant or indefeasible or absolute title has been cancelled.
- (2) Sections 83 (1) and 84 (1) do not apply if land is subdivided or if a survey is directed under the *Land Survey Act*.

Persons likely to be affected by resurvey

- 86 (1) If a person makes an application to the Surveyor General for a resurvey under section 83 or 84, and the Surveyor General believes that other persons or owners of land are likely to be adversely affected by a resurvey, the Surveyor General must direct the applicant for the resurvey to publish a notice in a satisfactory form in one issue of the Gazette and one issue of a newspaper circulating in the land district.
- (2) The notice must set out a time and place for a hearing of the resurvey application by the Surveyor General.
- (3) At the time and place, the Surveyor General or a person appointed by the Surveyor General must
- (a) hear the evidence of the applicant for a resurvey and of any person adversely affected, and
 - (b) decide whether to order the resurvey.
- (4) The order of the Surveyor General under subsection (3) is final and binding on all persons, subject to appeal to the minister.

Hearing of protest

- 87 (1) The Surveyor General or the person appointed, on a hearing under section 86, may do the following:
- (a) receive any evidence he or she thinks proper to admit;
 - (b) examine on oath a person affected and the person's witnesses;
 - (c) adjourn the hearing as he or she considers advisable.
- (2) If the hearing is conducted by a person appointed by the Surveyor General, the person must report his or her decision immediately to the Surveyor General.

Confirmation of resurvey plan

- 88 (1) The Surveyor General may by signing the plan confirm a plan of resurvey ordered by him or her, or, if the Surveyor General considers it advisable, may order supplementary work.

- (2) On receiving the British Columbia land surveyor's report of the supplementary work, the Surveyor General may confirm the resurvey as originally submitted or with the amendments that the Surveyor General considers advisable.

Deposit of plan on resurvey under section 86

- 89 If section 86 applies and the resurvey is complete, the person applying for it must deposit a copy of the new plan in the office of
- (a) the commissioner of the land recording district, or
 - (b) the clerk of the municipality where the land is located.

Resurvey binding

- 90 On confirmation by the Surveyor General of a resurvey,
- (a) the resurvey becomes and is for all purposes deemed to be the original survey of the land in or affected by the resurvey,
 - (b) the boundaries established by the previous survey have no further effect,
 - (c) the notes or plans of the previous confirmed survey have no further effect, and
 - (d) the Surveyor General must deposit a copy of the confirmed resurvey plan in the proper land title office.

Resurvey: gain or loss of property

- 91
- (1) If on a resurvey a person acquires land and its improvements, the person must pay the person from whom the land and improvements are taken by the resurvey compensation in an amount set by the minister.
 - (2) If either person is dissatisfied with the amount of compensation set by the minister, the person may submit the dispute for arbitration
 - (a) by a single arbitrator, if both persons concur in his or her appointment, or
 - (b) by 3 arbitrators appointed under the *Commercial Arbitration Act*.
 - (3) The *Commercial Arbitration Act* applies to an arbitration under this section and the award is binding on the parties to the arbitration.

Cost of resurvey

- 92
- (1) If land is resurveyed under this Part, the owners or holders of dispositions contained in the plan of resurvey must jointly pay
 - (a) the cost of the resurvey,
 - (b) the fee and expense of a person appointed to hear objections under section 86, and
 - (c) any other cost and expense to complete and register the plan of resurvey.

- (2) The minister must set the amount payable by each owner or holder of the total amount payable in the same proportion as each person's area bears to the total area of land contained in the plan of survey.
- (3) If it is considered advisable by the minister or a municipality, the government or the municipality may assume all or part of the cost or expense referred to in subsection (1).

Recovery of costs

- 93
- (1) If the land of an owner or holder of a disposition is in a rural area, the government may recover the amount payable by the owner or holder and not paid by the owner or holder, as if it were a tax levied under the *Taxation (Rural Area) Act*.
 - (2) The assessor must, on receipt of the minister's certificate of the amount owing, place the amount on the assessment roll against the land for recovery as tax.
 - (3) If the land of the owner or holder of a disposition is in a municipality, the municipality must pay the cost and expense not paid by the owner or holder.
 - (4) The municipality may recover an amount paid by it under this section as if it were a tax levied under the *Municipal Act*.
 - (5) The municipal clerk must place the amount on the assessment roll against the land for recovery as tax.

PART 8 – ADDITIONAL POWERS

Crown grant payments

- 94
- (1) Despite section 48, the minister may authorize the execution of a Crown grant if all money payable to the government for it has not been paid, as long as payment of the money has been secured to the satisfaction of the minister.
 - (2) If a Crown grant is executed under subsection (1), the minister may send to the registrar for the land title district in which the land is located a certificate signed by the minister containing the following:
 - (a) a description of the land satisfactory to the registrar;
 - (b) a statement of the principal sum remaining payable for the grant;
 - (c) the rate of interest payable;
 - (d) the terms of repayment;
 - (e) the name, address and occupation of the person who is to pay the money;
 - (f) an application, in a form that complies with the *Land Title Act*, to register the certificate as a charge in the land title office.
 - (3) A certificate under subsection (2) is deemed to be a mortgage to which sections 9 and 10 of the *Land Transfer Form Act* apply.

Section 95

- (4) The registrar must, without fee, register a certificate under subsection (2) as a charge against the title to the land described in it.
- (5) Registration of the certificate creates a legal mortgage
 - (a) of the land described in it;
 - (b) by the person named in it as mortgagor;
 - (c) to the government as mortgagee;
 - (d) on terms prescribed under this Act for these mortgages, and on any other terms stated in it.
- (6) The general law between mortgagor and mortgagee applies to a mortgage created under this section, and the government may enforce the mortgage by a proceeding in a court for foreclosure, payment of the mortgage debt, possession, judicial sale, the appointment of a receiver and by any other remedy ordinarily available to a mortgagee to enforce the security.
- (7) On payment of the mortgage debt, the minister must send a certificate of discharge to the registrar, who must cancel the registration of the charge.

Powers to exchange

- 95
- (1) If the Lieutenant Governor in Council considers it advisable in the public interest, the Lieutenant Governor in Council may
 - (a) authorize the exchange of Crown land for other land of substantially the same value, or
 - (b) accept in exchange for Crown land other land of less value, together with payment of money for the difference in value.
 - (2) Crown land exchanged under this section must be conveyed by Crown grant under this Act, subject to the terms, covenants, stipulations, reservations or exemptions the minister considers advisable.
 - (3) Despite any other Act, if timber on the Crown land and on the other land exchanged under this section are not, under the *Forest Act*, subject to the same royalty rates, the Lieutenant Governor in Council may, by increasing or decreasing the royalty rate on the timber on the Crown land, equalize the royalty rates.

Occupational rental

- 96
- (1) If Crown land is occupied, with or without lawful authority, before the issue of a disposition under this Act, the minister may require payment of rent by the occupier for the period of occupation at a rate the minister determines.
 - (2) Payment of the rent is a condition precedent to the issue of a disposition.

Minister may delegate; may amend terms

- 97** (1) The minister may in writing, on terms and conditions he or she considers appropriate, delegate
- (a) to a public officer in the ministry, power to act on the minister's behalf for any act or thing required to be done by the minister under this Act, or
 - (b) to a public officer, power to act on the minister's behalf in the enforcement, administration or management of dispositions made under this Act.
- (2) If an applicant, because of illness or other unforeseen circumstances, does not comply with a provision of this Act, the regulations, or a term, covenant or stipulation in a disposition, the minister may, if he or she considers it advisable, if no other person is or is likely to be prejudiced and if all other provisions of this Act and the regulations have been complied with, extend the time for compliance by the applicant or vary the terms, covenants or stipulations of the disposition.

Disposition to applicant only

- 98** A disposition of Crown land must be in the applicant's name only.

Assignment of disposition

- 99** (1) An assignment, quit claim or other transfer of land for which an application for a disposition has been filed under this Act is not valid until after a certificate of purchase, a lease or licence has been issued.
- (2) A person may not dispose of or deal with an interest in Crown land held under a disposition, other than a Crown grant, unless
- (a) the disposition under which the interest is held expressly allows it, or
 - (b) the minister approves in writing the disposition or dealing.
- (3) A purported disposition made in contravention of this section is void and the minister may, if he or she considers it advisable, cancel the disposition.
- (4) As a condition precedent to an approval under subsection (2) (b), the minister may require the applicant to carry out and perform, in respect of the land, additional terms, covenants or stipulations that are to be binding on every successor in title to the land.

Minister may require purchaser to obtain Crown grant

- 100** (1) The minister may give notice to the holder of a certificate of purchase requiring the holder within 6 months from the date of the notice to apply for the Crown grant if
- (a) the purchase price is paid in full and all other terms, covenants and stipulations of the certificate of purchase are complied with, and
 - (b) the purchaser has not applied for a Crown grant.

- (2) The minister must mail the notice by registered mail addressed to the purchaser at the purchaser's last known address, and may give additional notice in a manner the minister considers advisable.
- (3) If the purchaser does not apply for the Crown grant within the time set by this section, the minister may cancel the certificate of purchase by an entry on the records in the ministry.
- (4) On cancellation all improvements on the land, all rights of the purchaser to the land and improvements and all money paid on account of the purchase price are forfeited to and vested in the government.

Examination of claim

- 101** (1) If a person claims an interest in Crown land, the minister may require the person to file with the minister a statement of the person's claim within a specified time.
- (2) The minister must examine and consider the claim and may confirm or reject all or part of it and make the disposition of the Crown land the minister considers advisable.
- (3) The claim is extinguished if
- (a) the claimant fails to file a statement within the time specified, or
 - (b) the minister rejects the claim.

Minister may consent to plan proceedings

- 102** If the government is the owner of land in a subdivision plan and proceedings are proposed under part of the land title legislation, the minister, if he or she considers it advisable, may sign a petition or give a consent on behalf of the government if either may be required for the proceedings.

Minister may order government title cancelled

- 103** (1) If the government is a registered owner of an indefeasible or absolute title to land free of encumbrances, the minister may order that the registration be removed from the operation of the *Land Title Act*.
- (2) On receiving an order of the minister under subsection (1), the registrar of the land title office must cancel the registration of the indefeasible or absolute title to the land described in the order and call in and cancel any duplicate indefeasible title or certificate of title that has been issued.
- (3) On cancellation under subsection (2), the land must be dealt with under this Act.

Affidavits

- 104** In addition to persons authorized by the *Evidence Act*, the deputy minister, an assistant deputy minister, the Surveyor General, a commissioner and a director are commissioners for taking affidavits for British Columbia for an affidavit required under this Act.

Right of entry

- 105** For the purpose of discharging their duties under this Act, each of the following persons has at reasonable times a right to enter Crown land and premises:
- (a) the minister;
 - (b) the deputy minister;
 - (c) an employee of the ministry who has identification from the ministry for the purpose;
 - (d) a commissioner.

Land revested in government

- 106** (1) Land acquired by a ministry on behalf of the government is to be administered by the minister of that ministry.
- (2) Despite anything in this Act, the minister may transfer, on terms and conditions the minister considers appropriate, the administration of Crown land to any ministry of the government or may accept a transfer of Crown land from any ministry of the government to his or her ministry.
- (3) A power under any Act, other than the *Ministry of Lands, Parks and Housing Act*, to dispose of the fee simple in Crown land as defined in this Act, must be exercised in compliance with this Act.
- (4) Despite any other Act, a transfer of the administration of Crown land to the minister authorizes the minister to exercise his or her powers in relation to that land under this Act or any other Act under the minister's administration.
- (5) Subsection (3) does not apply to a disposition made by the Lieutenant Governor in Council under the *Highway Act* or by the Minister of Municipal Affairs under the *Municipal Act*.
- (6) The requirement in section 218 (1) of the *Land Title Act* that a statutory right of way be for a purpose necessary for the operation and maintenance of a grantee's undertaking does not apply if the grantee is the government.

Restriction as to right of action

- 107** An action may not be brought against the minister, a public official in the ministry, a person appointed under section 63 (2) or a land commissioner for an act or omission done or omitted in good faith in the performance of a duty imposed or authority conferred under this Act.

Registers

- 108** (1) The commissioner of each land recording district must keep a register of applications for a disposition filed with the commissioner under this Act, which must include for each application its number, the applicant's name and address and a short description of the Crown land applied for.
- (2) A person may search the register during business hours.

Execution of documents

- 109** (1) A disposition, other than a Crown grant, must be executed by the director or another person designated in writing by the minister.
- (2) A Crown grant must be executed under the minister's seal of office by the minister or another person designated in writing by the minister.
- (3) A disposition purporting to be executed as provided in this section is evidence in a proceeding of the disposition, without proof of the signature of the person executing it.
- (4) The minister is to have a seal of office imprinted with the minister's title of office.

Power to make regulations

- 110** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations prescribing the rate of interest for the purpose of section 61 (1).

LAND — HISTORICAL TABLE

Legislative History

LAND ACT

RSBC 1996, chapter 245

Section	History
1	RS1979-214-1; 1980-22-1; 1990-4-1; 1993-13-4; 1995-50-43.
2	RS1979-214-2; 1982-35-1.
3	RS1979-214-3; 1982-35-2.
4	RS1979-214-4.
5	RS1979-214-4.1; 1990-4-2.
6	RS1979-214-4.2; 1990-4-2; 1993-13-5.
7	RS1979-214-4.3; 1993-13-6.
8	RS1979-214-5.
9	RS1979-214-6; 1985-68-55.
10	RS1979-214-7; 1982-35-3.
11	RS1979-214-8.
12	RS1979-214-8.1; 1993-52-2.
13	RS1979-214-9.
14	RS1979-214-10; 1982-76-22.
15	RS1979-214-11; 1982-35-4.
16	RS1979-214-12.
17	RS1979-214-13; 1994-43-28.
18	RS1979-214-14.
19	RS1979-214-15; 1988-5-65; 1995-50-44.
20	RS1979-214-16.
21	RS1979-214-17.
22	RS1979-214-18; 1980-22-2.
23	RS1979-214-19.
24	RS1979-214-20.
25	RS1979-214-21; 1982-35-5.
26	RS1979-214-22; 1980-22-3; 1990-4-3.
27	RS1979-214-23; 1982-35-6.
28	RS1979-214-24; 1988-5-66; 1995-50-45.
29	RS1979-214-25.
30	RS1979-214-26.
31	RS1979-214-27; 1982-35-7.
32	RS1979-214-28; 1982-35-8; 1983-10-21.
33	RS1979-214-29.
34	RS1979-214-30.
35	RS1979-214-31.
36	RS1979-214-32; 1983-10-21.
37	RS1979-214-33.
38	RS1979-214-35.
39	RS1979-214-36; 1982-35-9.
40	RS1979-214-37; 1980-22-4; 1983-10-21; 1983-20-31.
41	RS1979-214-38.
42	RS1979-214-39; 1982-35-10.
43	RS1979-214-40.
44	RS1979-214-41; 1990-4-4.
45	RS1979-214-42.
46	RS1979-214-43.
47	RS1979-214-44.
48	RS1979-214-45; 1982-35-11.
49	RS1979-214-46; 1983-10-21.
50	RS1979-214-47; 1980-22-5; 1982-14-26; 1988-5-68; 1995-50-46.
51	RS1979-214-48; 1993-13-7.
52	RS1979-214-49; 1982-76-23; 1993-13-8.
53	RS1979-214-50; 1982-60-102; 1990-4-5.

LAND — HISTORICAL TABLE

Legislative History — Continued

LAND ACT

RSBC 1996, chapter 245

Section	History
54	RS1979-214-51; 1982-60-103; 1986-15-5.
55	RS1979-214-52; 1982-60-104.
56	RS1979-214-53; 1982-60-105.
57	RS1979-214-54.
58	RS1979-214-55.
59	RS1979-214-56; 1993-13-10.
60	RS1979-214-57; 1993-13-10.
61	RS1979-214-58; 1993-13-10.
62	RS1979-214-58.1; 1993-13-10.
63	RS1979-214-59; 1990-4-6.
64	RS1979-214-59.1; 1990-4-6.
65	RS1979-214-60.
66	RS1979-214-61; 1982-35-12.
67	RS1979-214-62.
68	RS1979-214-63; 1986-15-6; 1993-13-11.
69	RS1979-214-64.
70	RS1979-214-65.
71	RS1979-214-66.
72	RS1979-214-67.
73	RS1979-214-68.
74	RS1979-214-69.
75	RS1979-214-70.
76	RS1979-214-71.
77	RS1979-214-72.
78	RS1979-214-73.
79	RS1979-214-74; 1990-4-7.
80	RS1979-214-75.
81	RS1979-214-76.
82	RS1979-214-77.
83	RS1979-214-78.
84	RS1979-214-79.
85	RS1979-214-80; 1982-60-106.
86	RS1979-214-81.
87	RS1979-214-82.
88	RS1979-214-83.
89	RS1979-214-84.
90	RS1979-214-85.
91	RS1979-214-86; 1986-3-53.
92	RS1979-214-87.
93	RS1979-214-88.
94	RS1979-214-89; 1983-10-21.
95	RS1979-214-90.
96	RS1979-214-91.
97	RS1979-214-92; 1981-21-31.
98	RS1979-214-93.
99	RS1979-214-94; 1980-22-8.
100	RS1979-214-95.
101	RS1979-214-96.
102	RS1979-214-97.
103	RS1979-214-98; 1982-60-107.
104	RS1979-214-99; 1980-22-9.
105	RS1979-214-100.
106	RS1979-214-101; 1980-22-10; 1985-13-6.

LAND — HISTORICAL TABLE

Legislative History — Continued

LAND ACT

RSBC 1996, chapter 245

Section	History
107	RS1979-214-102; 1990-4-8.
108	RS1979-214-104.
109	RS1979-214-105; 1980-22-11.
110	RS1979-214-106; 1993-13-12.

EXPLANATORY NOTE

Amendments Not in Force: If there are any legislative changes to the Act that are not in force as of December 31, 1996, these are identified in *italics* at the beginning of the historical table. The "Section" column identifies the affected provisions of the Act. The "Citation" column identifies the amending legislation by its citation in the 1996 Statute Revision Supplement.

Legislative History: The second part of the table provides a legislative history of each section of the Act between the 1979 Statute Revision and the 1996 Statute Revision. The "Section" column identifies all sections of the Act in force on December 31, 1996. The "History" column for each section begins with the citation of the section immediately before the 1996 Statute Revision. This is followed by a list of citations for the legislation that enacted or amended the section between the 1979 Statute Revision and the 1996 Statute Revision (if a section was repealed and replaced during that period, these last citations begin at the most recent replacement).

Legislative citations have the format of "year-chapter-section".

Queen's Printer for British Columbia ©
Victoria, 1997