
FOREST AND RANGE PRACTICES ACT

CHAPTER 69

Assented to November 21, 2002

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

PART 1 – DEFINITIONS AND INTERPRETATION

Definitions

1 (1) In this Act:

“**agreement under the *Forest Act***” means an agreement in the form of a licence, a permit or an agreement referred to in section 12 of the *Forest Act*;

“**agreement under the *Range Act***” means an agreement in the form of a licence or permit referred to in section 3 of the *Range Act*;

“**board**” means the Forest Practices Board continued under section 136;

“**commission**” means the Forest Appeals Commission continued under section 194 of the *Forest Practices Code of British Columbia Act*;

“**council**” means the Forest Practices Advisory Council referred to in section 170;

“**deactivate**”, in relation to a road, means to deactivate the road in accordance with the prescribed requirements;

“**determination**” means any act, decision, procedure, levy, finding, order or other determination made under this Act, the regulations or the standards by the minister or an official;

“**forest development unit**” means an area identified in a forest stewardship plan within which the holder of the plan proposes to harvest timber or construct a road;

“**forest practice**” means each of the following activities carried out by the government or by a holder of an agreement under the *Forest Act* on Crown forest land or private land subject to a tree farm licence, community forest agreement or a woodlot licence:

(a) timber harvesting, road construction, road maintenance, road use, road deactivation, silviculture treatments, including grazing for the purposes of brushing, botanical forest product collecting and fire use, control and suppression;

(b) any other activity that is carried out by the government or by the holder of an agreement under the *Forest Act*;

“**free growing stand**” means a stand of healthy trees of a commercially valuable species, the growth of which is not impeded by competition from plants, shrubs or other trees;

“**interpretive forest site**” means an interpretive forest site established under section 56 of this Act or section 6 of the *Forest Practices Code of British Columbia Act* or designated under the *Forest Act*;

“**minister**” includes the minister’s delegate;

“**objectives set by government**” means objectives established

(a) by order of the minister that is authorized by the regulations under section 149 of this Act, or

- (b) under sections 3 to 5 of the *Forest Practices Code of British Columbia Act* by a person or by persons authorized under those sections;

“official” in a provision of this Act or the regulations means an employee in the

- (a) Ministry of Forests and designated by name or title to be an official by the minister of that ministry for the purpose of that provision, or
- (b) Ministry of Water, Land and Air Protection and designated by name or title to be an official by the minister of that ministry for the purpose of that provision;

“operational plan” means a forest stewardship plan, woodlot licence plan, range use plan or range stewardship plan;

“range development” means

- (a) if related to the management for range purposes of range land or livestock, a structure, an excavation or a constructed livestock trail, or
- (b) a practice, excluding grazing, that is designed to improve range conditions or facilitate more efficient use of range land for range purposes;

“range practice” means grazing of livestock or hay cutting that is carried out on Crown range by the holder of an agreement under the *Range Act*;

“recreation feature” means a biological, physical, cultural or historic feature that has recreational significance or value;

“recreation resource” means

- (a) a recreation feature,
- (b) a scenic or wilderness feature or setting that has recreational significance or value, or
- (c) a recreation facility;

“recreation site” means a recreation site established under section 56 of this Act or section 6 of the *Forest Practices Code of British Columbia Act* or designated under the *Forest Act*;

“recreation trail” means a recreation trail established under section 56 of this Act, section 6 of the *Forest Practices Code of British Columbia Act* or designated under the *Forest Act*;

“seed” means any part of a forest tree represented, sold or used to grow a plant;

“special use permit” means a special use permit under the *Forest Practices Code of British Columbia Act*;

“standard” means a standard established by the chief forester under section 169;

“wildlife” means

- (a) vertebrates that are mammals, birds, reptiles or amphibians and are prescribed as wildlife under the *Wildlife Act*,
- (b) fish from or in the non-tidal waters of British Columbia, including

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- (i) vertebrates of the order Petromyzoniformes (lampreys) or class Osteichthyes (bony fishes), or
 - (ii) invertebrates of the subphylum Crustacea (crustaceans) or phylum Mollusca (mollusks), and
 - (c) invertebrates or plants listed by the Minister of Water, Land and Air Protection as endangered, threatened or vulnerable species,
- and includes the eggs and juvenile stages of these vertebrates, invertebrates and plants.
- (2) Words and expressions not defined in this Act have the meaning given to them in the *Forest Act* and the *Range Act* unless the context indicates otherwise.

Interpretation

- 2** (1) A reference in this Act to the minister or his or her designate, or to the minister or a person authorized by the minister, or any similar reference, does not mean that a reference to the minister alone requires the minister to deal with the matter personally, and a reference to the minister alone means a reference to the minister or an appropriate official of the Ministry of Forests.
- (2) The minister, in writing, may
- (a) delegate a power or duty of the minister under this Act, including a quasi-judicial power or duty but not including a prescribed power or duty, to a person employed in a ministry or to a class of persons employed in a ministry, and this Act, a regulation or a standard applies to the delegate as if the delegate were the minister,
 - (b) provide directions that are binding on the delegate respecting the exercise of the power or the performance of the duty or function, and
 - (c) vary or revoke a delegation or direction.
- (3) A delegate under subsection (2) may subdelegate the power or duty to a person employed in a ministry or to a class of persons employed in a ministry, unless otherwise provided in the regulations.
- (4) Section 14 (2) of the *Interpretation Act* does not apply to this Act.
- (5) Sections 71 and 87 of this Act do not apply to the government.

PART 2 – FOREST STEWARDSHIP PLAN, SITE PLAN AND WOODLOT LICENCE PLAN

Division 1 – Forest Stewardship Plan

Forest stewardship plan required

- 3** (1) Before the holder of
- (a) a major licence,

- (b) a timber sale licence that requires its holder to prepare a forest stewardship plan,
- (c) a community forest agreement, or
- (d) a pulpwood agreement

harvests timber or constructs a road on land to which the agreement or licence applies, then, subject to section 4 (2), the holder must prepare, and obtain the minister's approval of, a forest stewardship plan that includes a forest development unit that entirely contains the area on which

- (e) the timber is to be harvested, and
- (f) the roads are to be constructed.

(2) Before the timber sales manager

- (a) invites applications for, or enters into, a timber sale licence to which subsection (1) does not apply,
- (b) grants a road permit to the holder of a timber sale licence referred to in paragraph (a), or
- (c) constructs an access road to an area to be harvested under a timber sale licence referred to in paragraph (a),

then, subject to section 4 (2), the timber sales manager must prepare and obtain the minister's approval of a forest stewardship plan that includes a forest development unit that entirely contains the area

- (d) that will be the subject of the activities described in paragraphs (a), (b) and (c) of this subsection, and
- (e) on which timber is to be harvested and roads are to be constructed.

(3) Subsection (2) does not apply to a timber sale licence for timber harvested under the *Park Act*.

(4) A forest stewardship plan may apply to one or more of each of the following:

- (a) holders of agreements under the *Forest Act*;
- (b) agreements under the *Forest Act*;
- (c) areas of land that are, or will be, subject to an agreement under the *Forest Act*.

Exemption from forest stewardship plans

- 4 (1) If a forest stewardship plan held by the holder of a licence or an agreement referred to in section 3 (1) or by the timber sales manager referred to in section 3 (2) does not apply to an area outside the forest development unit to which the plan pertains, in which area the holder or timber sales manager will harvest timber or construct a road, the holder or timber sales manager, as the case may be, is exempt in respect of the outside area from the requirement for a forest stewardship plan, but only for the following purposes:
- (a) harvesting timber to eliminate a safety hazard;

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- (b) harvesting timber to facilitate the collection of seed, leaving an opening not greater than 1 ha;
 - (c) removing felled trees from landings and road rights of way;
 - (d) harvesting timber not exceeding a volume of 500 m³ that, in the opinion of the minister,
 - (i) is in danger of being significantly reduced in value, lost or destroyed, by insect infestation, fire or disease, or
 - (ii) has been treated or will be treated by the holder or timber sales manager to facilitate the entrapment or elimination of pests;
 - (e) other prescribed purposes.
- (2) The holder of a forest stewardship plan required under section 3 (1) or (2) is exempt from the requirement to limit timber harvesting or road construction to an area entirely contained in a forest development unit to which the plan pertains if the timber harvesting or road construction is limited to one or more of the purposes referred to in subsection (1) (a) to (e) of this section.

Content of forest stewardship plan

- 5 (1) A forest stewardship plan must
- (a) include a map that
 - (i) uses a scale and format satisfactory to the minister, and
 - (ii) shows the boundaries of all forest development units,
 - (b) specify intended results or strategies, and
 - (c) conform to prescribed requirements.
- (2) A forest stewardship plan must be consistent with
- (a) objectives set by government in relation to the following subject matter:
 - (i) soils;
 - (ii) visual quality;
 - (iii) timber;
 - (iv) forage and associated plant communities;
 - (v) water;
 - (vi) fish;
 - (vii) wildlife;
 - (viii) biodiversity;
 - (ix) resource features;
 - (x) cultural heritage resources, and
 - (b) timber harvesting rights granted by the government for any of the following to which the plan applies:
 - (i) the timber supply area;

- (ii) the community forest agreement area;
 - (iii) the tree farm licence area;
 - (iv) the pulpwood area.
- (3) A forest stewardship plan or an amendment to a forest stewardship plan must be signed by the person required to prepare the plan, if an individual or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.

Term of forest stewardship plan

- 6 (1) The term of a forest stewardship plan
- (a) is the period, not exceeding 5 years, that the person submitting the plan for approval specifies at the time of submission, and
 - (b) begins on the date specified in writing by the minister in approving the plan.
- (2) The minister by written notice given to the holder may extend the term of a forest stewardship plan, before or after it expires for an additional period not exceeding 5 years in the circumstances specified by regulation.
- (3) The extended forest stewardship plan may include changes to the extent authorized by regulation.

Limited protection for forest development units

- 7 (1) The minister may not refuse to approve a proposed forest stewardship plan that carries forward an existing forest development unit solely on the basis that, as a result of carrying forward that unit, the proposed plan would not conform to section 16 (1) because
- (a) during the period specified in subsection (2),
 - (i) an enactment applicable to the forest development unit has been made or amended, or
 - (ii) an objective set by government is established or variedand the minister considers that the proposed forest stewardship plan is inconsistent with the enactment or objective, or
 - (b) during the period specified in subsection (2),
 - (i) catastrophic damage or destruction of timber has occurred in the vicinity of the forest development unit so that harvesting the forest development unit under the proposed forest stewardship plan would not achieve the results specified in the existing forest stewardship plan,
 - (ii) an area of land is designated by regulation as a community watershed or a fisheries sensitive watershed, or

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- (iii) an area of land that is a community watershed or a fisheries sensitive watershed is varied by regulation and the watershed as varied is applicable to the forest development unit.
- (2) The specified period under subsection (1) begins 4 months before the date the existing plan was submitted for approval and ends 4 months before the date the proposed plan was submitted for approval.

Mandatory amendments

- 8 (1) Subject to subsection (2), within 2 years after the occurrence of an event described in section 7 (1) (a) or (b) that affects an area under a forest stewardship plan, the holder of the plan must submit to the minister an amendment to the plan in accordance with the regulations to take into account that event.
- (2) If a different period than that described in subsection (1) is specified in relation to a forest stewardship plan for the purposes of this section in any
 - (a) enactment, or
 - (b) objective set by government,that different period applies to the forest stewardship plan instead of the period mentioned in subsection (1).

Proportional objectives

- 9 In prescribed circumstances, the minister may establish targets, in specified proportions between or among the holders of forest stewardship plans, for sharing the responsibility to achieve objectives set by government.

Division 2 – Site Plans**Site plans for cutblocks and roads**

- 10 (1) Except in prescribed circumstances, the holder of a forest stewardship plan must prepare a site plan in accordance with prescribed requirements for any
 - (a) cutblock before the start of timber harvesting on the cutblock, and
 - (b) road before the start of timber harvesting related to the road's construction.
- (2) A site plan must
 - (a) identify the approximate locations of cutblocks and roads,
 - (b) be consistent with the forest stewardship plan, this Act and the regulations, and
 - (c) identify how the intended results or strategies described in the forest stewardship plan apply to the site.
- (3) A site plan may apply to one or more cutblocks and roads whether within the area of one or more forest stewardship plans.

Site plan available to public

- 11 A person who has prepared a site plan must make it available to a person on request.

Division 3 – Woodlot Licence Plan**Woodlot licence plan required**

- 12 (1) Before the holder of a woodlot licence harvests timber or constructs a road on land to which the licence applies, the holder must prepare, and obtain the minister's approval of, a woodlot licence plan that includes the area on which the timber is to be harvested and the roads are to be constructed.
- (2) The holder of a woodlot licence may obtain a cutting permit or road permit only if it is consistent with a woodlot licence plan.
- (3) Despite subsections (1) and (2), the minister, in the circumstances and on the conditions, if any, that are prescribed may authorize the holder of a woodlot licence to obtain a cutting permit or road permit
- (a) to deal with a forest health emergency, or
 - (b) to harvest timber that has been damaged and is in danger of being significantly reduced in value, lost or destroyed.

Content of woodlot licence plan

- 13 (1) A woodlot licence plan must
- (a) include a map that
 - (i) uses a scale and format satisfactory to the minister,
 - (ii) provides prescribed information about forest resources, and
 - (iii) shows the boundaries of areas for which the woodlot licence plan specifies intended results or strategies,
 - (b) specify the intended results or strategies, and
 - (c) conform to prescribed requirements.
- (2) A woodlot licence plan must be consistent with objectives set by government in relation to the following subjects:
- (a) soils;
 - (b) visual quality;
 - (c) timber;
 - (d) forage and associated plant communities;
 - (e) water;
 - (f) fish;
 - (g) wildlife;
 - (h) biodiversity;
 - (i) resource features;

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- (j) cultural heritage resources.
- (3) A woodlot licence plan need not be consistent with objectives set by government referred to in subsection (2) to the extent that those objectives pertain to
 - (a) retention of old forest,
 - (b) seral stage distribution,
 - (c) landscape connectivity, or
 - (d) temporal and spatial distribution of cutblocks.
- (4) A woodlot licence plan or an amendment to a woodlot licence plan must be signed by the person required to prepare the plan, if an individual or, if a corporation or band as defined in the *Indian Act* (Canada), by an individual or the individuals authorized to sign on behalf of the corporation.

Term of woodlot licence plan

- 14
- (1) The term of a woodlot licence plan
 - (a) is 10 years, and
 - (b) begins on the date specified in writing by the minister in approving the plan.
 - (2) The minister must extend the term of a woodlot licence plan that conforms to prescribed requirements for an additional period of 10 years unless the holder, by written notice given to the district minister at least 6 months before the expiry of the initial term, requests an extension for a specified shorter period, in which case the minister must extend the term for that shorter period.
 - (3) Before or after the expiration of a woodlot licence plan that does not conform to the prescribed requirements referred to in subsection (2), the minister may extend the term of the plan for a period or periods not exceeding 2 years in total.
 - (4) The extended woodlot licence plan may include changes to the extent authorized by regulation.

Amendments to a woodlot licence plan

- 15
- (1) In this section:
 - “**amendment**” means an amendment to a woodlot licence plan to make it consistent with an objective set by government;
 - “**objective**” means an objective set by government other than an objective referred to in section 13 (2).
 - (2) No later than 5 years after the date an objective is established, the holder of a woodlot licence plan that becomes inconsistent with an objective must submit an amendment to the minister for approval.
 - (3) Despite subsection (2), the holder of a woodlot licence plan need not submit an amendment that pertains to a portion of the plan that is subject to
 - (a) a cutting permit, or

- (b) a road permit
- in effect immediately before the establishment of the objective.

Division 4 – General

Approval of forest stewardship plan, woodlot licence plan or amendment

- 16** (1) The minister must approve a forest stewardship plan, a woodlot licence plan or an amendment to either, if the minister determines that
- (a) the plan or an amendment conforms to this Act, the regulations and the standards, and
 - (b) the minister considers that
 - (i) the forest stewardship plan's results or strategies are likely to achieve the objectives set by government, or
 - (ii) the woodlot licence plan's results or strategies are likely to achieve the objectives set by government other than those referred to in section 13 (3).
- (2) Unless an enactment, whenever enacted, or an objective set by government, whenever established, includes a statement that it applies despite this subsection, a forest stewardship plan, a woodlot licence plan or an amendment to either submitted to the minister for approval must be considered to have conformed to this Act, the regulations, the standards and the objectives set by government if the plan or amendment conforms to the relevant provisions of this Act, the regulations, the standards and the objectives as they were 4 months before the date of the submission of the plan or amendment to the minister.
- (3) The minister must give written reasons for refusing to approve a forest stewardship plan, a woodlot licence plan or an amendment to either.

Approval in emergency cases

- 17** If the minister determines that timber subject to a forest stewardship plan, a woodlot licence plan, or an amendment to either should be harvested without delay because it is in danger of being damaged, significantly reduced in value, lost or destroyed, the minister, in prescribed circumstances, may approve the plan or amendment even though the plan or amendment does not comply with section 16.

Review and comment

- 18** Except in prescribed circumstances, a person responsible for preparing a forest stewardship plan, a woodlot licence plan, or an amendment to either must make the plan or amendment publicly available for
- (a) review, and
 - (b) comment
- before submitting the plan or amendment to the minister for approval.

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Protection for cutting and road permits

- 19 (1) An approval or a refusal to approve a forest stewardship plan, a woodlot licence plan or an amendment to either does not affect a cutting permit or road permit if the cutting permit or road permit is in effect immediately before the approval or refusal.
- (2) Section 8 does not apply to the portion of the stewardship plan to which the cutting permit or road permit referred to in subsection (1) applies.
- (3) An approval or a refusal to approve a forest stewardship plan or an amendment does not affect a timber sale licence that does not provide for cutting permits if the licence
- (a) has been advertised before the approval or refusal, or
 - (b) is in effect immediately before the approval or refusal.
- (4) An approval or a refusal to approve a forest stewardship plan or an amendment does not affect the minister's discretion under section 121 of the *Forest Act* to construct a road to provide access to an area to be harvested under a timber sale licence.
- (5) The minister must not refuse to approve a forest stewardship plan, a woodlot licence plan or an amendment to either solely on the basis that the area to which an existing cutting permit, road permit or timber sale licence pertains does not conform to section 16.

Minor amendments to forest stewardship and woodlot licence plans

- 20 (1) Despite section 16, and unless required by the regulations, an approval is not required to amend a forest stewardship plan or a woodlot licence plan if its holder determines that the proposed amendment
- (a) otherwise conforms to this Act, the regulations and the standards, and
 - (b) does not materially affect the likelihood of achieving the applicable objectives set by government or the intended results specified in the plan.
- (2) The holder of a forest stewardship plan or a woodlot licence plan must provide the district manager with a copy of the amendment as soon as practicable after it has been incorporated in the plan.
- (3) The minister may take action in accordance with the regulations if he or she considers that the decision under subsection (1) was wrongly made.

PART 3 – FOREST PRACTICES**Division 1 – General****Compliance with plans**

- 21** (1) The holder of a forest stewardship plan or a woodlot licence plan must ensure that the intended results specified in the plan are achieved and the strategies described in the plan are carried out.
- (2) The holder of a forest stewardship plan or a woodlot licence plan, or another person who carries out a forest practice relevant to the plan, must do so in accordance with the plan, subject to the contrary requirements, if any, of an enactment that
- (a) is applicable to the plan, and
 - (b) is made after the beginning of the 4 month period immediately preceding the date of the submission of the plan to the minister for approval.
- (3) Despite the expiry of a forest stewardship plan or a woodlot licence plan,
- (a) subsection (1) continues to apply to the holder of the expired plan, and
 - (b) subsection (2) continues to apply to the holder of the expired plan or to the other person referred to in subsection (2), as the case may be, in relation to a provision of the expired plan
- in the following circumstances:
- (c) the provision was in effect immediately before the expiry of that plan;
 - (d) another plan, applicable to that holder in relation to the same area to which the expired plan applied, does not include a provision that is the same or substantially similar to the provision referred to in paragraph (c).
- (4) For the purpose of the continued application of subsections (1) and (2) required by subsection (3), a forest stewardship plan or a woodlot licence plan may be amended as if unexpired.
- (5) Despite subsections (1) and (2), if an
- (a) objective set by government with which a forest stewardship plan under section 5 or a woodlot licence plan under section 13 is considered to be inconsistent, or
 - (b) enactment specifies that it applies to a forest stewardship plan or a woodlot licence plan,
- then, during the period specified in subsection (6), the holder of the plan
- (c) is not entitled to a cutting permit or road permit that is inconsistent with the enactment or objective, and
 - (d) must comply with the enactment or objective to the extent that the enactment or objective does not conflict with any cutting permit or road permit in effect when the enactment or the objective takes effect.

- (6) The specified period for the purpose of subsection (5) is the period that begins on the date the enactment or objective takes effect and ends on the date the forest stewardship plan or a woodlot licence plan is first amended.

Division 2 – Roads

Application

- 22 (1) This Division does not apply to roads constructed or maintained under the *Highway Act*, the *Land Act*, the *Local Government Act* or the *Pipeline Act*.
- (2) A person must not use, construct, maintain or deactivate a road except in accordance with this Act, the regulations, the standards and any forest stewardship plan or a woodlot licence plan, if the road is
- (a) a forest service road,
 - (b) in a Provincial forest,
 - (c) outside a Provincial forest for the purpose of providing access to timber on Crown land or on private land that is subject to an agreement, or
 - (d) subject to a requirement for a special use permit.

Consent to connect

- 23 (1) A person must obtain the consent of the minister before connecting a road to a forest service road.
- (2) Subsection (1) does not apply to the government.

Not a public highway

- 24 Despite section 4 of the *Highway Act*, a road constructed or maintained under this Act, the *Forest Act*, the former Act as defined in section 1 of the *Forest Act* or the *Forest Practices Code of British Columbia Act* is not a public highway unless the Lieutenant Governor in Council declares it to be by an order in council that he or she may make under this Act.

Division 3 – Forest Health

Sanitation exemption

- 25 The minister may exempt a person in writing from a specified provision of this Act, the regulations or the standards in an area if the minister establishes conditions the minister considers necessary in the circumstances and is satisfied that the exemption is necessary for the purposes of reducing damage caused by forest pests by harvesting or modifying timber to prevent the spread of the forest pests.

Control of insects, disease, etc.

- 26 (1) If the minister determines that on
- (a) private land, or

(b) Crown land that is subject to an agreement under the *Forest Act*, there are insects, diseases, animals or abiotic factors that are causing damage to a forest, then, by written notice given to the owner of the private land, to the holder of the agreement under the *Forest Act* or to the timber sales manager, the minister may request the owner, holder or timber sales manager to propose reasonable measures, within the time specified by the minister, to control or dispose of the insects, diseases, animals or abiotic factors.

- (2) If the owner, holder or timber sales manager
 - (a) does not make a proposal under subsection (1) within the time specified,
 - (b) makes a proposal under subsection (1) within the time specified, receives the minister's approval to the proposal but does not carry out the proposal, or
 - (c) makes a proposal under subsection (1) that the minister rejects,the minister, by order given to the owner, holder or timber sales manager, may require the owner, holder or timber sales manager to carry out measures specified in the order by a date specified in the order.
- (3) If the minister approves a proposal under subsection (1) or makes an order under subsection (2), the minister, if he or she considers it necessary or desirable to facilitate the carrying out of the proposal or order, may exempt the owner, holder or timber sales manager from complying with one or more provisions of this Act, the regulations, the standards, an agreement under the *Forest Act*, a forest stewardship plan or a woodlot licence plan.
- (4) If the minister makes an order under subsection (2) that is inconsistent with a provision of this Act, the regulations, the standards, an agreement under the *Forest Act*, a forest stewardship plan or a woodlot licence plan, the minister, in making an order, must exempt the owner, holder or timber sales manager from that provision.
- (5) If a proposal approved, or an order made, by the minister under this section requires the holder of an agreement under the *Forest Act* to carry out a measure other than timber harvesting, then to the extent provided in the regulations, the expenses of the measure are to be paid by the government.

Forest health emergency

- 27 (1) If the Lieutenant Governor in Council considers that a forest health emergency exists in an area of Crown land or private land, he or she may designate the area by regulation as a forest health emergency management area.
- (2) The minister may order
 - (a) the holder of an agreement under the *Forest Act* that authorizes timber harvesting in the emergency management area, or
 - (b) the timber sales manager

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to carry out measures in the emergency management area, limited in the case of the holder, to the area of the holders agreement, to prevent, contain or limit the spread of forest health factors.

- (3) An order under subsection (2) must specify
 - (a) the measures to be carried out,
 - (b) the date by which the measures must be completed, and
 - (c) the person's right to a review under section 80 or to an appeal under section 82.
- (4) A person is exempt from any provisions of this Act, the regulations, the standards, an agreement under the *Forest Act*, a forest stewardship plan or a woodlot licence plan that, if complied with, would prevent the person from carrying out the measures referred to in subsection (2).

Division 4 – Silviculture and Gene Resources

Property in trees

- 28 Trees established on Crown land under section 29 or 30 of this Act are the property of the government.

Free growing stands

- 29
- (1) A holder of a major licence or community forest agreement who harvests timber to which a forest stewardship plan applies must establish in accordance with the plan, the prescribed requirements and the standards, a free growing stand on those portions of the area of the harvest that are in the net area to be reforested.
 - (2) If the timber sales manager
 - (a) has authorized the harvesting of timber under a timber sale licence that requires its holder to prepare a forest stewardship plan, or
 - (b) is the holder of a forest stewardship plan,he or she must establish in accordance with the plan, the prescribed requirements and the standards, a free growing stand on those portions of the area of the harvest under the plan that are in the net area to be reforested.
 - (3) A holder of a woodlot licence who harvests timber under the licence must establish a free growing stand on those portions of the area of the harvest that are in the net area to be reforested in accordance with
 - (a) the woodlot licence plan, if any, that is pertinent to the licence,
 - (b) the prescribed requirements, and
 - (c) the standards.
 - (4) A provision in a woodlot licence plan that differs from a
 - (a) requirement of the regulations, or
 - (b) requirement of the standards,

prevails over the requirement from which it differs if the regulation or standard specifies that the woodlot licence plan prevails.

- (5) Despite subsections (1) to (3), a person may transfer an obligation to establish a free growing stand to another person if
 - (a) the agreement to transfer is in writing,
 - (b) the transfer meets the prescribed requirements, and
 - (c) the person submits the agreement to the minister and the minister approves it before the agreement becomes effective.
- (6) An agreement referred to in subsection (5) has no effect if it does not receive the minister's approval under subsection (5) (c).

Free growing stands for non-replaceable licences

- 30**
- (1) In this section, "**licence holder**" means the holder of a non-replaceable forest licence or non-replaceable woodlot licence who
 - (a) has an obligation under section 29 to establish a free growing stand, and
 - (b) meets prescribed requirements, if any.
 - (2) By notice given to the district manager, or timber sales manager in the case of a non-replaceable forest licence that is a BC timber sales agreement, the licence holder may request that the government assume responsibility for carrying out the obligation under section 29 to establish a free growing stand.
 - (3) By notice given to a licence holder who has made a request under subsection (2), the district manager or timber sales manager in the case of a BC timber sales agreement, may assume on behalf of the government the responsibility for establishing the free growing stand if all of the following requirements have been met:
 - (a) the licence holder has completed timber harvesting on the area and the district manager or a timber sales manager in the case of a BC timber sales agreement, is satisfied with the way the timber harvesting has been carried out;
 - (b) the district manager or a timber sales manager in the case of a BC timber sales agreement is satisfied that the licence holder
 - (i) is in compliance with this Act, regulations and standards with respect to the area, or
 - (ii) has remedied any contraventions of this Act, regulations or standards on the area that the minister required to be remedied;
 - (c) the licence holder has paid the government an amount that the district manager or a timber sales manager in the case of a BC timber sales agreement determines will pay the costs of establishing the free growing stand and any other directly or indirectly associated costs;
 - (d) other prescribed requirements.

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- (4) Money collected by the government under subsection (3) must be paid into the Silviculture Payments Sub-account of the Forest Stand Management Fund special account established by the *Special Accounts Appropriation and Control Act*.
- (5) After the district manager or timber sales manager has given notice under subsection (3) to a licence holder, the licence holder is no longer responsible for obligations assumed by the government.
- (6) Compensation is not payable to the government or licence holder for any difference between the amount paid under subsection (3), and the actual costs incurred by the government both directly and indirectly to establish the free growing stand.

Gene resources

- 31 A person required to establish a free growing stand on an area must
- (a) use seed, and
 - (b) conserve gene resources
- on the area, in accordance with prescribed requirements.

PART 4 – RANGE**Division 1 – Range Use Plan and Range Stewardship Plan****Range use plan and range stewardship plan required**

- 32
- (1) Before the holder of an agreement under the *Range Act* grazes livestock or cuts hay on Crown range to which the agreement applies, the holder must prepare, and obtain the minister's approval of,
 - (a) a range use plan, or
 - (b) if subsection (2) applies, a range stewardship planthat includes the area on which the grazing or hay cutting will occur.
 - (2) The minister may authorize the holder of an agreement under the *Range Act* to prepare a range stewardship plan
 - (a) that does not include the matters described in section 35 (2) if satisfied that the holder has demonstrated competence in the management of Crown range for at least 2 years, or
 - (b) that includes the matters described in section 35 (2), if satisfied that the holder has demonstrated competence in the management of Crown range for at least 5 years.
 - (3) Without restricting subsection (2), in determining whether a person has demonstrated competence the minister must consider
 - (a) the person's performance record,

- (b) the condition of the Crown range to which the range stewardship plan would apply, and whether the person has maintained or improved forage quality and quantity on the Crown range, and
- (c) prescribed matters.

Content of range use plan for grazing

- 33 (1) A range use plan for grazing of livestock must
- (a) include a map of a scale and format satisfactory to the minister that
 - (i) shows the area for the agreement under the *Range Act* that pertains to the plan,
 - (ii) specifies the location and type of range developments in that area, and
 - (iii) specifies the pastures that are in that area,
 - (b) include a schedule that describes for each pasture to be used for grazing of livestock,
 - (i) the livestock class,
 - (ii) the number of livestock, and
 - (iii) the period of use,
 - (c) specify actions to be carried out in the area under the plan to deal with issues identified by the minister,
 - (d) conform to prescribed requirements, and
 - (e) be consistent with objectives set by government in relation to the following subjects:
 - (i) soils;
 - (ii) visual quality;
 - (iii) timber;
 - (iv) forage and associated plant communities;
 - (v) water;
 - (vi) fish;
 - (vii) wildlife;
 - (viii) biodiversity;
 - (ix) resource features;
 - (x) cultural heritage resources.
- (2) A range use plan for grazing of livestock or an amendment to a range use plan for grazing of livestock must be signed by the person required to prepare the plan, if an individual or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.

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Content of a range use plan for hay cutting

- 34 (1) A range use plan for hay cutting, must
- (a) include a map of a scale and format satisfactory to the minister that
 - (i) shows the area for the agreement under the *Range Act* that pertains to the plan,
 - (ii) specifies the location and type of range developments in that area, and
 - (iii) the areas for hay cutting,
 - (b) include a schedule that describes for each area to be used for hay cutting
 - (i) the average stubble height for the area to be cut, and
 - (ii) the period of hay cutting,
 - (c) specify actions to be carried out in that area to deal with issues identified by the minister,
 - (d) conform to prescribed requirements, and
 - (e) be consistent with objectives set by government in relation to the following subjects:
 - (i) soils;
 - (ii) visual quality;
 - (iii) timber;
 - (iv) forage and associated plant communities;
 - (v) water;
 - (vi) fish;
 - (vii) wildlife;
 - (viii) biodiversity;
 - (ix) resource features;
 - (x) cultural heritage resources.
- (2) A range use plan for hay cutting or an amendment to a range use plan for hay cutting must be signed by the person required to prepare the plan, if an individual or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.

Content of range stewardship plan

- 35 (1) A range stewardship plan must
- (a) include a map of a scale and format satisfactory to the minister that
 - (i) shows the area for the agreement under the *Range Act* that pertains to the plan,
 - (ii) specifies the location and type of range developments in that area, and

- (iii) specifies the pastures that are in that area,
- (b) specify actions to be carried out in the area under the plan to deal with issues identified by the minister,
- (c) conform to prescribed requirements, subject to subsection (2), and
- (d) be consistent with objectives set by government in relation to the following subjects:
 - (i) soils;
 - (ii) visual quality;
 - (iii) timber;
 - (iv) forage and associated plant communities;
 - (v) water;
 - (vi) fish;
 - (vii) wildlife;
 - (viii) biodiversity;
 - (ix) resource features;
 - (x) cultural heritage resources.
- (2) If the minister is satisfied as set out in section 32 (2) (b) as to the competence of the holder of a range stewardship plan or an amendment to a range stewardship plan the holder of the plan may specify intended results, strategies or actions to achieve them.
- (3) The intended results specified under subsection (2) may differ from the prescribed requirements referred to in subsection (1) as the minister, at the time of approval of the plan, considers to be appropriate in the circumstances.
- (4) A range stewardship plan or an amendment to a range stewardship plan must be signed by the person required to prepare the plan, if an individual or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.

Term of range use plan and range stewardship plan

- 36**
- (1) The term of a range use plan or range stewardship plan is the period, not exceeding 5 years, that the minister specifies at the time of approval.
 - (2) Despite subsection (1), the minister, in the circumstances and on the conditions, if any, that are prescribed may extend the term of a range use plan or range stewardship plan for an additional period not exceeding 5 years.
 - (3) The extended range use plan or extended range stewardship plan may include changes to the extent authorized by regulation.

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Approval of a range use plan or range stewardship plan

- 37 (1) The minister must approve a range use plan, a range stewardship plan or an amendment to either if the minister determines that the plan or amendment
- (a) is consistent with the agreement under the *Range Act* that pertains to the plan, and
 - (b) conforms to this Act, the regulations and the standards.
- (2) Unless a regulation whenever enacted or an objective of government, whenever established, includes a statement that it applies despite this subsection, a range use plan or range stewardship plan submitted to the minister for approval must be considered to have been prepared in accordance with this Act and the regulations if the plan conforms to the relevant provisions of the Act and regulations as they were 4 months before the date of the submission of the plan to the minister.
- (3) The minister or the person seeking approval of a range use plan, a range stewardship plan or an amendment to either may refer the plan to an advisory committee for its recommendations, and the minister may consider those recommendations when making a determination under subsection (1).
- (4) The minister must give reasons for refusing to approve a range use plan, a range stewardship plan or an amendment to either.

Mandatory amendments

- 38 (1) The holder of a range stewardship plan that includes the matters described in section 35 (1), must ensure that the strategies or actions specified in the plan continue during the term of the plan to be sufficient to achieve the intended results specified in the plan.
- (2) The holder of
- (a) a range stewardship plan that does not include the matters described in section 35 (1), or
 - (b) a range use plan
- must ensure that the actions specified in the plan to deal with issues identified by the minister continue during the term of the plan to be sufficient to deal with those issues.
- (3) The holder of a range stewardship plan described in subsection (1) who knows or reasonably ought to know that the strategies or actions specified in the plan, are not sufficient to achieve the intended results specified in the plan, must prepare and submit to the minister an amendment to the plan so that the plan, as approved, is sufficient to achieve those intended results.
- (4) The holder of a range stewardship plan described in subsection (2) (a) or a range use plan mentioned in subsection (2) (b) who knows or reasonably ought to know that the actions specified in the plan to deal with issues identified by the minister

continue during the term of the plan to be sufficient to deal with those issues must amend the plan so that it is sufficient to deal with those issues.

- (5) The holder of a range use plan or range stewardship plan, if and as directed by order of the minister, must prepare and submit an amendment to the plan to take into account prescribed circumstances.

Cumulative impacts require plan amendment

- 39 (1) At the request of a holder of an agreement under the *Range Act*, the minister may determine whether range use plans or range stewardship plans held by other holders of agreements under the *Range Act* agreement holders prevent or are likely to prevent the holder making the request from
- (a) exercising the holder's rights under the holder's own agreement, or
 - (b) achieving a requirement of the holder's own range use plan or range stewardship plan.
- (2) If the determination under subsection (1) is that the requesting holder is prevented or is likely to be prevented from doing the things described in subsection (1) (a) or (b), the minister by order may require one or more of the other holders of agreements referred to in subsection (1) to prepare and submit for the minister's approval the appropriate amendments to one or more range use or range stewardship plans so that the holder making the request does not continue to be prevented from doing those things.
- (3) Before making a determination under this section, the minister must give the holders of range use plans or range stewardship plans affected an opportunity to be heard.

Minor changes to range use plan or range stewardship plan

- 40 Despite section 37 (1) and unless otherwise prescribed, an approval is not required to amend a range use plan or range stewardship plan if its holder determines that the proposed amendment
- (a) otherwise conforms to this Act, the regulations and the standards, and
 - (b) does not materially affect the likelihood of achieving the intended results specified in the plan.

Review and comment

- 41 (1) In prescribed circumstances, before a person submits for approval a range use plan, range stewardship plan or an amendment to either, the person must make the plan or amendment available for
- (a) review, and
 - (b) comment.
- (2) Despite subsection (1), the minister may approve a range use plan or an amendment to one that has not been made available for review and comment if

- (a) the plan or amendment is for an area that is subject to a temporary grazing permit or temporary hay cutting permit, and
- (b) the minister determines that the range use plan, range stewardship plan or amendment otherwise meets the requirements of this Act, the regulations and the standards.

Proportional objectives

- 42 In prescribed circumstances, the minister may establish targets for sharing, in specified proportions between or among the holders of range use plans and range stewardship plans, the responsibility to achieve objectives set by government.

Division 2 – Grazing Schedule**Grazing schedule required**

- 43 (1) The holder of a range stewardship plan must prepare a grazing schedule that includes for each area that will be used for grazing, all of the following:
- (a) the livestock class;
 - (b) the number of livestock;
 - (c) the period of use.
- (2) The grazing schedule must be submitted each year to the district manager before the holder grazes livestock on Crown range.

Grazing schedule available to public

- 44 A person who has prepared a grazing schedule must make it available to a person on request.

Division 3 – General**General**

- 45 (1) A person who grazes livestock, cuts hay or carries out or maintains a range development on Crown range must do so in accordance with
- (a) this Act, the regulations and the standards, and
 - (b) the applicable range use or range stewardship plan.
- (2) The holder of an agreement under the *Range Act* that authorizes grazing of livestock must ensure that all livestock authorized to graze on Crown range under the agreement are
- (a) marked with the holder's registered brand or marked in another manner approved by the minister, and
 - (b) identified by a mark or tag designating them as animals pastured under the agreement, if the minister requires it.

PART 5 - PROTECTION OF RESOURCES**Division 1 - General****Protection of the environment**

- 46** (1) A person must not carry out a forest practice, a range practice or another activity that results in damage to the environment, unless in doing so
- (a) the person
 - (i) is acting in accordance with a plan or permit under this Act,
 - (ii) is not required to hold a plan or permit because of an exemption under this Act and is acting in accordance with this Act, the regulations and the standards,
 - (iii) is carrying out a controlled burn for the purpose of range improvement, wildlife habitat improvement or another purpose authorized by the minister, or
 - (iv) is acting in accordance with another enactment, and
 - (b) the person does not know or cannot reasonably be expected to know that, because of weather conditions or site factors, the carrying out of the forest practice, range practice or other activity may result, directly or indirectly, in damage specified by regulation.
- (2) A person who contravenes subsection (1) must
- (a) take appropriate action to prevent any further damage,
 - (b) promptly notify the district manager of the damage, and
 - (c) take any remedial measures that the minister requires.
- (3) A person who discontinues a forest practice, a range practice or another activity referred to in subsection (1) may resume that practice or activity only if and when
- (a) it can be resumed without contravening subsection (1), and
 - (b) any remedial measures required under subsection (2) (c) have been carried out to the satisfaction of the minister.

Invasive plants

- 47** Subject to an operational plan, a person carrying out a forest practice or a range practice must carry out the practice
- (a) within a period, and
 - (b) in a manner
- that limits to prescribed levels the introduction and spread of invasive plants.

Natural range barriers

- 48** (1) A person carrying out
- (a) a forest practice, or

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(b) a range practice

that directly or indirectly removes or renders ineffective a natural range barrier must take measures that create the same effect for livestock movement that the natural range barrier had.

- (2) The minister, in writing, may exempt persons from the subsection (1).

Exemption for fighting out of control fire

- 49 A person does not contravene this Act or the regulations by doing or omitting to do something that is reasonably necessary to control a fire, unless the person knows or reasonably ought to know, that an official has declared that the fire is under control.

Unauthorized range activities

- 50 (1) A person must not cause or permit livestock to be driven on or to graze on Crown range unless
- (a) authorized to do so under an agreement under the *Range Act* or under the regulations under this Act, and
 - (b) the person acts in accordance with this Act, the regulations, the standards and any applicable range use plan or range stewardship plan.
- (2) A person must not cut, remove, damage or destroy hay on Crown range unless
- (a) authorized to do so under an agreement under the *Range Act* or the regulations under this Act, and
 - (b) the person acts in accordance with this Act, the regulations, the standards and any applicable range use plan.

Range developments

- 51 (1) Unless authorized in writing by the minister, a person must not
- (a) store hay on Crown range, or
 - (b) carry out, construct, modify, remove, damage or destroy a range development on Crown range.
- (2) A person, other than the holder of an agreement under the *Range Act*, must obtain the authorization of the minister before maintaining a range development on Crown land.
- (3) The minister may
- (a) require a person seeking authorization under this section to submit the matter for which the authorization is sought for review in accordance with prescribed requirements, and for comments by interested parties during the course of the review,
 - (b) grant or refuse the authorization, depending on the outcome of a review required under paragraph (a), and

- (c) impose pre-conditions or conditions of an authorization that the minister considers necessary or desirable, to be met by the person, including, but not limited to, requiring that the person provide security.
- (4) The minister may grant an authorization under this section only if
 - (a) it is consistent with any range use plans, range stewardship plans and objectives set by government for the area covered by the authorization, and
 - (b) the minister is satisfied that the authorization will adequately provide for the range resources of the area to which it applies.
- (5) If the minister requires security under subsection (3) (c), the minister must specify
 - (a) when the security must be paid,
 - (b) the amount of security that is required,
 - (c) the form of the security, and
 - (d) the circumstances under which the security may be realized.
- (6) A person who obtains an authorization under this section must comply with any conditions of the authorization.
- (7) The minister may order a person who contravenes subsection (1) or (6) to
 - (a) remove or destroy or remove and destroy the stored hay or the range development,
 - (b) restore the land under the stored hay or the range development, or both, or
 - (c) repair or rehabilitate the range development.
- (8) If satisfied that a range development is not effective, or is no longer needed for its original purpose, the minister may order the person responsible for the range development to remove it and rehabilitate areas that were affected by it.
- (9) The minister may revoke or vary an authorization under this section.

Division 2 – Unauthorized Timber Harvesting, Trespass and Tree Spiking

Unauthorized timber harvesting

- 52 (1) A person must not cut, damage or destroy Crown timber unless authorized to do so
- (a) under this Act, the *Forest Act*, an agreement under the *Forest Act* or the regulations under this Act or the *Forest Act*,
 - (b) by the minister, for silviculture, stand tending, forest health or another purpose,
 - (c) under a grant of Crown land made under the *Land Act*,
 - (d) under the *Park Act*, or
 - (e) under the regulations, in the course of carrying out activities

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- (i) under an authorization referred in section 51 or 57, or
 - (ii) that are incidental to or required to carry out activities authorized or approved under this Act, the *Forest Act*, the *Range Act* or another prescribed enactment.
- (2) A person is authorized to cut, damage or destroy Crown timber for the purpose of carrying out a forest practice that is funded under a vote as defined in section 1 of the *Financial Administration Act*.
- (3) A person must not remove Crown timber unless authorized to do so
 - (a) under the *Forest Act* or an agreement under the *Forest Act*,
 - (b) under a grant of Crown land made under the *Land Act*, or
 - (c) under the *Park Act*.
- (4) If a person, at the direction of or on behalf of another person,
 - (a) cuts, damages or destroys Crown timber contrary to subsection (1), or
 - (b) removes Crown timber contrary to subsection (3),that other person also contravenes subsection (1) or (3).

Private land adjacent to Crown land

- 53
- (1) Before an owner or occupier of private land that is adjacent to Crown land authorizes another person to cut or remove timber from the private land, the owner or occupier must inform that other person of the boundaries of the private land.
 - (2) Before a person cuts or removes timber from private land adjacent to Crown land, the person must ascertain the boundaries of the private land.

Unauthorized construction and occupation

- 54
- (1) A person must obtain the consent of the minister before constructing or occupying a building or other structure on Crown land in a Provincial forest unless the construction or occupation is authorized under another enactment.
 - (2) The minister may order a person who contravenes subsection (1) to
 - (a) remove or destroy or remove and destroy the building or other structure, or
 - (b) restore the land under the building or other structure.

Tree spiking prohibited

- 55
- On private land that is subject to an agreement under the *Forest Act* or on Crown land, a person must not
- (a) drive or place any nail, spike or other potentially hazardous object into any timber that the person does not own or is not authorized to alter,
 - (b) possess any nail, spike or other potentially hazardous object with the intention of driving or placing it into any timber that the person does not own or is not authorized to alter, or

- (c) solicit funds or materials from another person with the stated intention that the funds or material will be used to enable any person to drive or place any nail, spike or other potentially hazardous object into any timber that the person does not own or is not authorized to alter.

Division 3 – Recreation

Interpretive forest sites, recreation sites and recreation trails

- 56** (1) The minister may order
- (a) the establishment of Crown land as an interpretive forest site, a recreation site or a recreation trail, if the Crown land
 - (i) is in a timber supply area, or
 - (ii) is subject to a tree farm licence, a woodlot licence, a community forest agreement or a timber licence,
 - (b) the variance of the boundaries of an interpretive forest site, a recreation site or a recreation trail, and
 - (c) the disestablishment of an interpretive forest site, a recreation site or a recreation trail.
- (2) Before making an order under subsection (1), the minister must obtain the consent of the holder
- (a) of a timber sale licence that does not provide for cutting permits, of a cutting permit, of a free use permit, of a Christmas tree permit, of a road permit, of a timber licence, of a silviculture prescription, of a special use permit or of a licence to cut, other than a licence to cut in the form of a master agreement referred to in section 51 (3) of the *Forest Act*, or
 - (b) of an interest issued or granted under the *Land Act*,
- if the holder's rights under the licence, permit, prescription or interest would be adversely affected by the establishment, variation or disestablishment.

Unauthorized trail or recreation facility construction

- 57** (1) Unless authorized in writing by the minister or under another enactment, a person must not
- (a) construct,
 - (b) rehabilitate, or
 - (c) maintain
- a trail or other recreation facility on Crown land.
- (2) The minister may impose pre-conditions or conditions of an authorization that the minister considers necessary or desirable, to be met by the person, including, but not limited to, requiring that the person provide security.

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- (3) A person who obtains an authorization under subsection (1) must comply with any conditions of the authorization.
- (4) The minister may order a person who contravenes subsection (1) to
 - (a) remove or destroy or remove and destroy the trail or facility, and
 - (b) restore the land underlying the trail or facility.
- (5) The minister may revoke or vary an authorization granted under this section.

Protection of recreation and range resources on Crown land

- 58 (1) If the minister determines that it is necessary to protect a recreation or range resource or to manage public recreation use on Crown land, he or she by order may restrict or prohibit
- (a) a non-recreational use of
 - (i) any of the following established under the *Forest Practices Code of British Columbia Act* for recreation:
 - (A) a resource management zone;
 - (B) a landscape unit;
 - (C) a sensitive area, or
 - (ii) any of the following that is on Crown land:
 - (A) an interpretive forest site;
 - (B) a recreation site or recreation trail,

except any non-recreational use permitted under the *Coal Act*, the *Mineral Tenure Act*, the *Petroleum and Natural Gas Act* or the *Pipeline Act*, or

 - (b) a recreational use anywhere on Crown land, except a use that is specifically permitted by or under another enactment.
- (2) The minister may make different orders under subsection (1) for different uses and locations.
 - (3) The minister must post a notice of an order under subsection (1) in the area to which the order applies.
 - (4) Without lawful authority, a person must not remove, alter, destroy or deface a notice posted under subsection (3).

PART 6 – COMPLIANCE AND ENFORCEMENT**Division 1 – Inspecting, Stopping and Seizing****Entry and inspection**

- 59 (1) In this Part, “the Acts” means one or more of this Act, the regulations or the standards or the *Forest Practices Code of British Columbia Act*, the *Forest Act*,

the *Range Act* or a regulation made under the *Forest Practices Code of British Columbia Act*, the *Forest Act* or the *Range Act*.

- (2) For any purpose related to the administration or enforcement of the Acts or an agreement under the *Forest Act* or the *Range Act*, or related to the verification of a statement made in an application for an agreement under the *Forest Act* or the *Range Act*, an official may enter, at any reasonable time, on land or premises, other than a dwelling house or a room being used as a dwelling, if the official has reasonable grounds to believe that the land or premises
 - (a) has located on it timber that is required to be scaled or marked with a timber mark under the *Forest Act*,
 - (b) is the site of a forest or range practice that is regulated under the Acts or is carried on by a person who is required under the Acts to hold a licence or permit to carry out that practice,
 - (c) is the site of trading in botanical forest products,
 - (d) is the site of an industrial activity, as defined in section 75 of the *Forest Practices Code of British Columbia Act*, being carried out in or within 1 km of a forest, or
 - (e) is the site of an activity that under the Acts requires a licence, a permit, a plan or an approval.
- (3) At any reasonable time an official may enter on land that is in or within 1 km of a forest to inspect for fire hazards if the official has reasonable grounds to believe that an activity is being carried out or a condition exists on the land that might cause or produce a fire hazard.
- (4) An official who enters on land or premises under this section may
 - (a) inspect anything or any activity that is reasonably related to the purpose of the inspection, and
 - (b) require production for the purposes of inspection or copying of
 - (i) a licence, a permit or an operational plan that is required for the activity, and
 - (ii) a record required to be kept under the Acts.
- (5) A peace officer has the powers and duties of an official under subsections (2) and (4) with respect to the enforcement of the provisions of the *Forest Act* and regulations respecting marine log salvage.

Inspection of vehicle or vessel carrying forest or range products

- 60** For any purpose related to the administration and enforcement of the Acts, an official or a peace officer may
- (a) require a person operating a vehicle or vessel to stop the vehicle or vessel, and
 - (b) carry out an inspection of a vehicle or vessel,

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if the official or peace officer has reasonable grounds to believe that

- (c) the vehicle or vessel contains or is transporting timber, special forest products, seed, botanical forest products or hay, or
- (d) a person is contravening or has contravened one or more provisions of the Acts.

Delivery of records

- 61
- (1) The minister may order the holder of an agreement under the *Forest Act* or the *Range Act* to produce to the district manager specified records that are related to an activity that requires a licence, a permit, a plan or an approval under the Acts or under the agreement.
 - (2) At any reasonable time, an official may enter the business premises of a holder of an agreement under the *Forest Act* or the *Range Act* in which records are kept, for the purpose of inspecting or copying records that are required to be kept under the Acts.

Obligation of an official

- 62 An official who

- (a) under this Division enters onto land or premises, conducts an inspection, stops a vehicle or vessel or requests records, or
- (b) under Division 2 of this Part seizes goods

must provide proof of identity, on the request of the person who

- (c) is in possession or apparent possession of the land or premises,
- (d) has apparent custody or control of the records or property being inspected,
- (e) is in charge of the activity being inspected, or
- (f) is operating a vehicle or vessel stopped under section 60.

Obligation of person inspected

- 63
- (1) The operator of a vehicle or vessel must stop the vehicle or vessel when required to do so by
 - (a) a peace officer, or
 - (b) an official referred to in section 60who
 - (c) is in uniform,
 - (d) displays his or her official badge, or
 - (e) is in or near a vehicle or vessel that is readily identifiable as a government vehicle or vessel.
 - (2) A person who
 - (a) is in possession or apparent possession of the land or premises,
 - (b) has apparent custody or control of the records or property being inspected,

- (c) is in charge of the activity being inspected, or
 - (d) is operating a vehicle or vessel stopped under section 60,
- must produce if and as required by the official
- (e) proof of identity,
 - (f) a licence, a permit or an operational plan held by the person under the Acts, or
 - (g) a record required under section 59 (4).

Warrant to search and seize evidence

- 64** (1) A justice of the peace may issue a warrant under section 21 or 22 of the *Offence Act* to an official to enter premises and search for and seize evidence of a contravention of the Acts.
- (2) The *Offence Act* applies to the search and seizure.

Peace officers may accompany

- 65** An official exercising powers or performing duties or functions under this Part may be accompanied by a peace officer.

Stop work order

- 66** (1) If an official has reasonable grounds to believe that a person is contravening a provision of the Acts, the official may order that the contravention stop, or stop to the extent specified by the order, until the person has a required licence, permit, plan, approval, variance, exemption or other authorization.
- (2) An order to stop work under subsection (1) must be in writing and include all of the following:
- (a) the nature of the contravention;
 - (b) the extent to which the contravention or activity must cease;
 - (c) the date by which the requirements of paragraph (b) must be met;
 - (d) notice of the person's right under section 80 to a review or under section 82 to an appeal;
 - (e) an address to which a request for a review may be delivered.
- (3) In addition to the methods of giving notice under section 110, the official who issues a stop work order may give it to a corporation or partnership, by giving the order to an individual who is working at the site on behalf of the corporation or partnership.
- (4) An official who exercises the discretion under subsection (3) must also notify the corporation or partnership as specified in section 110, within 72 hours after giving the order to the individual mentioned in subsection (3).
- (5) An order under this section may be made to apply generally or to one or more persons named in the order.

- (6) The official who issued an order under subsection (1) or the minister may rescind the order if the official or the minister determines that there were insufficient grounds for issuing the order.

Division 2 – Seizure

Seizure of timber, chattels, hay, livestock, etc.

- 67 (1) An official may seize the following:
- (a) Crown timber that the official has reasonable grounds to believe was cut or removed in contravention of section 52;
 - (b) timber, lumber, veneer, plywood, pulp, newsprint, special forest products, wood residue and chattels on which the government has a lien under section 130 (1) (d) of the *Forest Act*;
 - (c) timber, including special forest products, that the official has reasonable grounds to believe
 - (i) was removed from land in contravention of section 84 (1) or (3) of the *Forest Act*,
 - (ii) has not been scaled under section 94 of the *Forest Act* and is being or has been
 - (A) transported to a place other than the place where it is required to be scaled, or
 - (B) used in manufacturing,
 - (iii) is being transported outside British Columbia in contravention of section 127 of the *Forest Act*,
 - (iv) is being or has been transported in contravention of any regulation made under the *Forest Act*, or
 - (v) is mixed with timber to which this subsection applies;
 - (d) any timber product that the official has reasonable grounds to believe has been manufactured from timber, including special forest products, that has not been scaled under section 94 of the *Forest Act*;
 - (e) seed that the official has reasonable grounds to believe has been collected contrary to the prescribed requirements;
 - (f) hay that the official has reasonable grounds to believe has been cut, removed or damaged contrary to section 50 (2);
 - (g) hay that the official has reasonable grounds to believe has been stored contrary to section 51;
 - (h) a botanical forest product that the official has reasonable grounds to believe has been obtained contrary to the regulations;
 - (i) a vehicle or vessel transporting any of the following to which paragraphs (a) to (h) apply:
 - (i) timber;

- (ii) timber products;
 - (iii) seed;
 - (iv) hay;
 - (v) botanical forest products.
- (2) If satisfied, after reconsidering the circumstances of a seizure under this section, that there is no longer any basis for retaining the things seized, the official who seized the things may release them and
 - (a) return them to the person from whom they were seized, or
 - (b) deliver them at the direction of that person to another person.
- (3) The minister may
 - (a) deal with, at his or her discretion, Crown timber seized under subsection (1) (a), seed seized under subsection (1) (e), hay seized under subsection (1) (f), botanical forest products seized under subsection (1) (h), or
 - (b) sell at a public auction, timber, chattels, timber products or hay seized under subsection (1) (b), (c), (d) or (g).
- (4) If timber, chattels or timber products are sold under subsection (3) (b), notice of the public auction must be published at least 10 days in advance, in or near the area where the sale is to take place, and must
 - (a) specify the time and place of the auction, and
 - (b) identify by name the person from whom the timber, chattel or timber product was seized.
- (5) If the money realized from the public auction exceeds the money that is payable to the government, including interest and the costs of seizure, storage and sale, the surplus must be paid to the person who possessed the property when it was seized if the property is
 - (a) timber, a chattel or a timber product seized under subsection (1) (b), or
 - (b) timber seized under subsection (1) (c) (v).
- (6) Despite subsection (5), if within 30 days after the sale a person other than the person referred to in subsection (5) serves a notice of a claim to the surplus on the regional manager, the surplus must be retained until the determination of the respective rights of persons claiming the surplus.
- (7) The proceeds from the sale of timber, a chattel or a timber product seized and sold under this section, other than
 - (a) timber, chattels or timber products referred to in subsection (5) (a) or (b), and
 - (b) an amount equal to the costs of seizure, storage and sale

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must be paid into the consolidated revenue fund, and an amount equal to the costs of seizure, storage and sale may be used to pay those costs or reimburse the payment of those costs.

- (8) A vehicle or vessel seized under subsection (1) (i) must be released from seizure once the timber, chattel, timber product, seed, hay or botanical forest product is delivered to a location specified by the official.

Forfeiture of livestock

- 68 (1) If an official has reasonable grounds to believe that a person has contravened section 50 (1), the official, or person authorized by the official, may do one or more of the following:
- (a) drive the livestock that are the subject of the contravention from Crown range;
 - (b) round up, seize, tranquilize and hold the livestock;
 - (c) destroy the livestock if
 - (i) the safety of a person acting under this section is threatened by an animal that is being driven, rounded up, seized, tranquilized or held,
 - (ii) it is impracticable to round up the livestock, or
 - (iii) it would be humane treatment to do so.
- (2) If livestock are held under subsection (1),
- (a) an official may return the livestock to the owner
 - (i) on payment of the reasonable costs of driving, rounding up, seizing, tranquilizing, holding, maintaining and returning the livestock or of disposing of a destroyed animal, or
 - (ii) if satisfied, after reconsidering the circumstances that led to the livestock being held, that there is no longer any basis for holding the livestock, or
 - (b) the minister may sell the livestock.
- (3) The minister, an official or a person authorized by an official must take reasonable care of livestock while driving, rounding up, seizing, tranquilizing, holding, returning or selling them under this section.
- (4) If livestock is sold under subsection (2)
- (a) the government must pay the balance of proceeds realized from the sale, after deducting the costs incurred for the driving, rounding up, seizing, holding and selling the livestock to a person who
 - (i) provides evidence satisfactory to the district manager that the person owned the livestock immediately before the sale, and
 - (ii) applies in writing to the district manager for the balance within 6 months after the sale,

- (b) the balance of proceeds from the sale, after deducting the costs incurred for driving, rounding up, seizing, holding and selling the livestock, if not paid under paragraph (a), must be paid into the consolidated revenue fund, and
- (c) an amount equal to the costs of seizure, storage and sale may be used to pay those costs or reimburse the payment of those costs.

Common provisions for seizure and forfeiture

- 69** (1) The minister may release things seized under section 67 or 68 and
- (a) return them to the person from whom they were seized, or
 - (b) deliver them at the direction of that person to another person.
- (2) On a sale under section 67 or 68 the purchaser acquires absolute ownership free of encumbrances.

No interference with notice

- 70** Without the permission of the minister a person must not, remove, alter, destroy or deface a notice posted by the government for the purposes of notifying the public of a seizure under section 67 or 68.

Division 3 – Administrative Remedies**Administrative penalties**

- 71** (1) The minister, after giving a person who is alleged to have contravened a provision of the Acts an opportunity to be heard, may determine whether the person has contravened the Acts.
- (2) After giving a person an opportunity to be heard under subsection (1), or after one month has elapsed after the date on which the person was given the opportunity, the minister,
- (a) if he or she determines that the person has contravened the provision,
 - (i) may levy an administrative penalty against the person in an amount that does not exceed a prescribed amount, or
 - (ii) may refrain from levying an administrative penalty against the person if the minister considers that the contravention is trifling and that it is not in the public interest to levy the administrative penalty, or
 - (b) may determine that the person has not contravened the provision.
- (3) If a person's contractor, employee or agent contravenes a provision of the Acts in the course of carrying out the contract, employment or agency, the person also contravenes the provision.
- (4) If a corporation contravenes a provision of the Acts, a director or an officer of the corporation who authorized, permitted or acquiesced in the contravention also contravenes the provision.

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- (5) Before the minister levies an administrative penalty under subsection (2), he or she must consider the following:
- (a) previous contraventions of a similar nature by the person;
 - (b) the gravity and magnitude of the contravention;
 - (c) whether the contravention was repeated or continuous;
 - (d) whether the contravention was deliberate;
 - (e) any economic benefit derived by the person from the contravention;
 - (f) the person's cooperativeness and efforts to correct the contravention;
 - (g) any other considerations that the Lieutenant Governor in Council may prescribe.
- (6) If the minister levies an administrative penalty against a person under this section or under section 74 (3) (d) the minister must give a notice of determination to the person specifying:
- (a) the provision contravened;
 - (b) the amount of the penalty;
 - (c) the date by which the penalty must be paid;
 - (d) the person's right to a review under section 80 or to an appeal under section 82;
 - (e) an address to which a request for a review may be delivered.
- (7) For the purposes of this section, the Lieutenant Governor in Council may prescribe administrative penalties that vary according to
- (a) the area of land affected by the contravention,
 - (b) the volume of timber affected by the contravention,
 - (c) the number of trees affected by the contravention,
 - (d) the number of livestock affected by the contravention, or
 - (e) the amount of hay affected by the contravention.

Defences in relation to administrative proceedings

- 72** For the purposes of a determination of the minister under section 51 (7), 54 (2), 57 (4), 71 or 74, no person may be found to have contravened a provision of the Acts if the person establishes that the
- (a) person exercised due diligence to prevent the contravention,
 - (b) person reasonably believed in the existence of facts that if true would establish that the person did not contravene the provision, or
 - (c) person's actions relevant to the provision were the result of an officially induced error.

Penalty revenue to be paid into special account

- 73 All revenue derived from administrative penalties levied under this Division must be paid into the Environmental Remediation Sub-account of the Forest Stand Management Fund special account established by the *Special Accounts Appropriation and Control Act*.

Remediation orders

- 74 (1) If the minister determines that a person who is the holder of an agreement under the *Forest Act* or the *Range Act* has contravened this Act, the *Forest Practices Code of British Columbia Act*, or a regulation, or standard made under the Acts, the minister may order the holder to do work reasonably necessary to remedy the contravention.
- (2) If
- (a) the minister makes an order under subsection (1) of this section or under sections 51 (7), 54 (2) and 57 (4), or
 - (b) a forest official requires a person to remove or abate a fire hazard arising out of a contravention referred to in section 82 of the *Forest Practices Code of British Columbia Act*,
- the minister or official, as the case may be, must give written notice to the holder or person, specifying all of the following matters:
- (c) the provision contravened;
 - (d) the work to be done to remedy the contravention;
 - (e) the date by which the work, removal or abatement must be completed;
 - (f) the person's right to a review under section 80 or to an appeal under section 82;
 - (g) the right under subsection (3) (b) of the minister to carry out the work;
 - (h) the right under subsection (3) (d) of the minister to levy an administrative penalty for the contravention.
- (3) If a person, by the date specified in a notice given under subsection (2), does not comply with an order of the minister under subsection (1) or with a requirement of a forest official under section 82 of the *Forest Practices Code of British Columbia Act* the minister may do one or more of the following:
- (a) in a notice given to the person, restrict or prohibit the person from carrying out the work referred to in the order;
 - (b) carry out the work;
 - (c) recover, as a debt due the government, payable on demand, the sum of all direct and indirect costs the minister determines were reasonably incurred in carrying out the work referred to in paragraph (b);
 - (d) levy an administrative penalty not exceeding an amount that is twice the sum of the costs referred to in paragraph (c);

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- (e) for the purpose of recovering the costs referred to in paragraph (c) or the administrative penalty referred to in paragraph (d), realize any security provided by the person under the regulations.
- (4) On completion of work carried out under subsection (3) (b), the minister must provide the person with an accounting of expenditures relating to the work.
- (5) The person must immediately replace security realized under subsection (3) (e)
- (6) The minister must refund to the person any surplus of funds remaining from the realization of a security under subsection (3) (e), after payment of
 - (a) the sum of the costs referred to in subsection (3) (c), and
 - (b) any administrative penalty levied under subsection (3) (d).

Limitation period

- 75
- (1) The period during which an administrative penalty may be levied under section 71 or an order may be made under section 74 (1) is 3 years beginning on the date on which the facts that lead to the determination that the contravention occurred first came to the knowledge of the minister.
 - (2) A document purporting to have been issued by the minister, certifying the date the facts that lead to the determination that the contravention occurred first came to the knowledge of the minister,
 - (a) is admissible in an appeal referred to in section 82 of the determination, without proof of the signature or official character of the individual appearing to have signed the document, and
 - (b) in the absence of evidence to the contrary, is proof of the matter certified.

Administrative penalty due date

- 76
- An administrative penalty or charge under this Act is due on the date specified in an invoice given to the person, unless the person requests a review under section 80 or an appeal under section 82, in which case the penalty or charge is due on the date the stay under section 78 ceases to apply.

Power of intervention

- 77
- The minister, by order that meets the prescribed requirements, may require the holder of an agreement under the *Forest Act* or the *Range Act* to
- (a) remedy, or
 - (b) mitigate,
- in a manner or by a method that the minister considers appropriate in the circumstances,
- (c) an act or omission of the holder that the minister considers will or probably will cause
 - (i) a catastrophic impact on public health or safety,

- (ii) a free growing stand required under this Act not being established, or
- (iii) any prescribed event with an adverse impact on the environment or any persons, or
- (d) a potential, unjustifiable infringement of an aboriginal right, including aboriginal title.

Division 4 – Appeals

Determinations stayed until proceedings concluded

- 78** (1) A determination that may be reviewed under section 80 or appealed under section 82 is stayed until the person who is the subject of the determination has no further right to have the determination reviewed or appealed.
- (2) Despite subsection (1), the minister may order that a determination, other than a determination to levy an administrative penalty under section 71 or 74 (3) (d) is not stayed or is stayed subject to conditions, on being satisfied that a stay would be contrary to the public interest.
- (3) Despite subsection (1), a determination is not stayed if the determination is made under prescribed sections or for prescribed purposes.

Correction or clarification of a determination

- 79** (1) Within 15 days after a determination is made under section 82 or 95 (2) of the *Forest Practices Code of British Columbia Act* or under section 16, 26 (2), 27 (2), 32 (2), 37, 51 (7), 54 (2), 57 (4), 66, 71, 74 or 77 of this Act, the person who made the determination may
- (a) correct a typographical, an arithmetical or another similar error in the determination,
 - (b) clarify the determination, and
 - (c) correct an obvious error or omission in the determination.
- (2) The correction or clarification does not take effect until the date on which the person who is the subject of the determination is notified of it under subsection (3).
- (3) The discretion conferred under subsection (1)
- (a) is to be exercised in the same manner as the determination affected by it, and
 - (b) is exercisable with or without a hearing and
 - (i) on the initiative of the person who made the determination, or
 - (ii) at the request of the person who is the subject of the determination.
- (4) The person who made a determination corrected or clarified under this section must notify the person who is the subject of the determination.

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Review of a determination

- 80 (1) Subject to subsection (2), at the request of a person who is the subject of a determination under section 82 or 95 (2) of the *Forest Practices Code of British Columbia Act* or under section 16, 26 (2), 27 (2), 32 (2) 37, 51 (7), 54 (2), 57 (4), 66, 71, 74 or 77 of this Act, the person who made the determination, or another person employed in the ministry and designated in writing by the minister must review the determination, but only if satisfied that there is evidence that was not available at the time of the original determination.
- (2) On a review required under subsection (1) the minister may consider only
- (a) evidence that was not available at the time of the original determination, and
 - (b) the record pertaining to the original determination.
- (3) To obtain a review of a determination under subsection (1) the person must request the review not later than 3 weeks after the date the notice of determination was given to the person.
- (4) The minister may extend the time limit for requiring a review under this section before or after its expiry.
- (5) The person conducting the review has the same discretion to make a decision that the original decision maker had at the time of the determination under the review.

Board may require review of a determination

- 81 (1) If the board first receives the consent of the person who is the subject of a determination under section 82 or 95 (2) of the *Forest Practices Code of British Columbia Act* or under section 16, 37, 71 or 74 of this Act, the board may require a review of the determination by the person who made the determination, or another person employed in the ministry and designated in writing by the minister.
- (2) To obtain a review of a determination under subsection (1), the board must require the review not later than 3 weeks after the date the notice of determination was given to the person.
- (3) The minister may extend the time limit for requiring a review under this section before or after its expiry.
- (4) The person conducting the review has the same discretion to make a decision that the original decision maker had at the time of the determination under the review.

Appeal to the commission by a person who is the subject of a determination

- 82 (1) The person who is the subject of a determination referred to in section 80 may appeal to the commission either of the following, but not both:
- (a) the determination;
 - (b) a decision made after completion of a review of the determination.

- (2) Sections 131 to 141 of the *Forest Practices Code of British Columbia Act* apply to an appeal under this section.

Appeal to the commission by the board

- 83** (1) The board may appeal to the commission either of the following, but not both:
- (a) a determination referred to in section 81;
 - (b) a decision made after completion of a review of the determination.
- (2) The board may apply to the commission for an order under section 84 (3) if
- (a) an official authorized under section 82 or 95 (2) of the *Forest Practices Code of British Columbia Act* or the minister authorized under section 71 or 74 of this Act to make a determination has not done so, and
 - (b) a prescribed period has elapsed after the facts relevant to the determination first came to the knowledge of the official or the minister.
- (3) Sections 131 to 141 of the *Forest Practices Code of British Columbia Act* apply to an appeal under subsection (1) or an application under subsection (3).

Powers of the commission

- 84** (1) On an appeal
- (a) by a person under section 82 (1), or
 - (b) by the board under section 83 (1),
- the commission may
- (c) consider the findings of the person who made the determination or decision, and
 - (d) either
 - (i) confirm, vary or rescind the determination or decision, or
 - (ii) with or without directions, refer the matter back to the person who made the determination or decision, for reconsideration.
- (2) On an application under section 83 by the board the commission may order the official or minister referred to in section 83 (2) to make a determination as authorized under the applicable provision that is referred to in section 83 (2) (a).
- (3) The commission may order that a party or intervener pay another party or intervener any or all of the actual costs in respect of the appeal.
- (4) After filing in the court registry, an order under subsection (3) has the same effect as an order of the court for the recovery of a debt in the amount stated in the order against the person named in it, and all proceedings may be taken as if it were an order of the court.

Requirement to publish

- 85** (1) The minister must publish an annual report on enforcement activities.

- (2) The minister must keep and make available to the public a performance record for holders of agreements under the *Forest Act* and the *Range Act*.

Division 5 – Offences and Court Orders

Limitation period

- 86** (1) The time limit for laying an information respecting an offence under the Acts is 3 years after the date on which the facts that lead to the laying of the information first came to the knowledge of an official.
- (2) A document purporting to have been issued by an official referred to in subsection (1), certifying the date on which the facts that lead to the laying of the information referred to in that subsection first came to the knowledge of the official,
- (a) is admissible without proof of the signature or official character of the individual appearing to have signed the document, and
 - (b) in the absence of evidence to the contrary, is proof of the matter certified in the document.

Fines

- 87** (1) A person who contravenes section 46 (1) or 52, commits an offence and is liable on conviction to a fine not exceeding \$1 000 000, or to imprisonment for not more than 3 years, or to both.
- (2) A person who contravenes section 21 (1) or (2), 22 (2), 29, 55 (a) or 111 (2) commits an offence and is liable on conviction to a fine not exceeding \$500 000, or to imprisonment for not more than 2 years, or to both.
- (3) A person who contravenes section 3, 8, 12, 15, 26, 27, 32, 38, 45, 47, 48, 50, 51 (1) or (2), 54, 58, 63, 97 or 117 commits an offence and is liable on conviction to a fine not exceeding \$100 000, or to imprisonment for not more than one year, or to both.
- (4) A person who contravenes section 23, 51 (6), 53, 55 (b) or (c) or 57 commits an offence and is liable on conviction to a fine not exceeding \$5 000 or to imprisonment for not more than 6 months, or to both.
- (5) The maximum fine to which a person is liable on a second or subsequent conviction for the same offence under subsections (1) to (4) is double the amount set out in the applicable subsection.
- (6) The Lieutenant Governor in Council may provide by regulation that
- (a) a contravention of a regulation or standard is an offence, and
 - (b) a person convicted of an offence for a contravention of a regulation or standard is liable to a fine not exceeding a maximum amount, or to imprisonment not exceeding a maximum length, or to both.

- (7) If the maximum fine or imprisonment provided by a regulation under subsection (6) (b) is less than that provided by a provision of this Act, the regulation prevails.

Remedies preserved

- 88 (1) A proceeding, conviction or penalty for an offence under this Act does not relieve a person from any other liability.
- (2) The provisions of this Part are in addition to the provisions of any other enactment or rule of law under which
- (a) a remedy or right of appeal or objection is provided, or
 - (b) a procedure is provided for inquiry into or investigation of a matter, and nothing in this Act limits or affects that remedy, right, objection or procedure.

Limitation on proceedings

- 89 (1) The government may not proceed under both an offence and an administrative penalty for the same contravention.
- (2) Subsection (1) does not derogate from the government's ability to make an order respecting compensation or remediation.

Order for compliance

- 90 (1) If the minister considers that a person is not complying, or has not complied, with an order made under section 82 of the *Forest Practices Code of British Columbia Act* or under section 26 (2), 27 (2), 38 (5), 39 (2), 51 (7), 54 (2), 57 (4), 58 (1), 61 (1), 66 (1), 74 (1), 77 or 111 (2) of this Act, the minister may apply to the Supreme Court for either or both of the following:
- (a) an order directing the person to comply with the order or restraining the person from violating the order;
 - (b) an order directing the directors and officers of the person to cause the person to comply with or to stop violating the order.
- (2) On application by the minister under this section, the Supreme Court may make an order it considers appropriate.

Court order to comply

- 91 If a person is convicted of an offence under a provision of this Act or of the regulations, then, in addition to any punishment the court may impose, the court may order the person to comply with the provision.

Restitution

- 92 If a person is convicted of an offence under this Act or the regulations, then, in addition to any other penalty, the court may order the person to pay compensation or make restitution.

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Continuing offence

- 93 If a contravention of section 46 (1), 50 (1) and (2), 54 (1), 55, 57 (1) or 111 (2) continues for more than one day, the offender is liable to a separate penalty, without notice and without a separate count being laid, for each day that the contravention occurs.

Prosecution for unauthorized timber cutting

- 94 It is not a defence to a prosecution under section 52 or 53 that the person charged with the offence had the right to cut or remove timber on private land adjacent to Crown land and did not know the boundaries of the private land.

Prosecution for unauthorized cutting or storage of hay

- 95 It is not a defence to a prosecution under section 50 that the person charged with the offence had the right to graze livestock or cut, remove or store hay on private land adjacent to Crown land and did not know the boundaries of the private land.

Prosecution for unauthorized trail or recreational facility construction

- 96 It is not a defence to a prosecution under section 57 that the person charged with the offence had the right to construct, rehabilitate or maintain a recreation site or trail
- (a) on private land adjacent to Crown land and did not know the boundaries of the private land, or
 - (b) on Crown land on which the person was authorized under another enactment to carry out the activities and did not know the boundaries of that parcel of Crown land.

Interference, non-compliance and misleading

- 97 (1) In this section, “**person acting in an official capacity**” means an individual who is
- (a) employed under the *Public Service Act* or is a member of the board, the commission or the council, if any, or is a person retained under section 138 (2), and
 - (b) is exercising a power or performing a duty or function under this Act, the regulations or the standards.
- (2) A person contravenes the Act if the person
- (a) without lawful excuse, intentionally interferes with a person acting in an official capacity,
 - (b) without lawful excuse, intentionally does not comply with a lawful requirement of a person acting in an official capacity, or
 - (c) intentionally makes a false statement to or misleads or attempts to mislead a person acting in an official capacity.
- (3) The minister may suspend or cancel

- (a) a forest stewardship plan, a woodlot licence plan, a range use plan or a range stewardship plan, or
- (b) a permit under this Act

if the minister considers that a person has contravened subsection (2) and that a plan or permit has been obtained as a result of that contravention.

Court orders

98 If a person is convicted of an offence under this Act or the regulations, then in addition to any other punishment that may be imposed, the court may, by order, do one or more of the following:

- (a) prohibit the person from doing anything that may result in the continuation or repetition of the offence or contravention;
- (b) direct the person to take any action the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;
- (c) direct the person to publish, at the person's own cost, the facts relating to the conviction;
- (d) direct the person to compensate the minister for all or part of the cost of any remedial or preventative action taken by or caused to be taken on behalf of the ministry as a result of the act or omission that constituted the offence;
- (e) direct the person to pay court costs;
- (f) direct the person to pay the costs of the investigation.

Penalty for monetary benefit

- 99** (1) The court that convicts a person of an offence under this Act may increase a fine imposed on the person by an amount equal to the court's estimation of the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence.
- (2) A fine increased under subsection (1)
- (a) applies despite any provision that provides for a maximum fine, and
 - (b) is in addition to any other fine under this Act.

Employer liability

- 100** (1) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by the defendant's contractor, employee or agent.
- (2) This section applies even if the contractor, employee or agent has not been identified or prosecuted for the offence.

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Defences to a prosecution

- 101 Due diligence, mistake of fact and officially induced error are defences to a prosecution under this Act.

Offence by directors and officers

- 102 If a corporation commits an offence under this Act or the regulations, a director or officer of the corporation who authorized, permitted or acquiesced in the offence also commits the offence.

Section 5 Offence Act

- 103 Section 5 of the *Offence Act* does not apply to this Act, the regulations or the standards.

PART 7 – GENERAL**Division 1 – Liability and Privilege****Liability of government**

- 104 (1) The minister, persons employed under the *Public Service Act* and any other person who acts on behalf of the government are not liable in a personal or official capacity for loss or damage suffered by another person by reason of anything done or omitted in the exercise or performance or purported exercise or performance of a power or duty under this Act, the regulations or the standards unless the person who brings the action proves that the person acting on behalf of the government was not acting in good faith.
- (2) Subsection (1) does not absolve the government from vicarious liability arising out of an act or omission for which it would be vicariously liable if this section were not in force.
- (3) Without limiting subsection (1), the board, commission, council, if any, and their members, employees, persons retained by them under section 138 (2), persons exercising a delegated power or performing a delegated duty or function under section 140 and any other persons acting on behalf of any of them are persons acting on behalf of the government for the purposes of subsection (1).
- (4) Despite subsection (2), the government is not liable in respect of any loss or damage caused or resulting, directly or indirectly, by or from,
- (a) the enactment of this Act or a regulation or standard made under this Act, or
 - (b) anything done or omitted in the exercise or performance or purported exercise or performance of a power or duty conferred under this Act, the regulations or the standards, unless the person who brings the action proves that the person exercising or performing or purporting to exercise or perform the power or duty was not acting in good faith.

- (5) It is conclusively deemed for all purposes, including for the purposes of the *Expropriation Act*, that an expropriation or injurious affection does not occur as a result of
 - (a) the enactment of this Act or a regulation or standard made under this Act, or
 - (b) anything done or omitted in the exercise or performance or purported exercise or performance of a power or duty conferred under this Act, the regulations or the standards, unless the person who brings the action proves that the person exercising or performing or purporting to exercise or perform the power or duty was not acting in good faith.
- (6) If damages or compensation are precluded by this section in respect of a matter, a person must not commence or maintain proceedings in respect of that matter
 - (a) to claim damages or compensation of any kind from the government, or
 - (b) to obtain a declaration that damages or compensation is payable by the government.
- (7) This section applies despite any other enactment including the *Expropriation Act*.

Protection against libel and slander

- 105** For the purposes of any Act or law respecting libel or slander,
- (a) anything said, all information supplied and all records and things produced in the course of an investigation, an inquiry or proceedings before the board, commission or council, if any, under this Act are privileged to the same extent as if the investigation, inquiry or proceedings were proceedings in a court, and
 - (b) a report made by the board and a fair and accurate account of the report in a newspaper, periodical publication or broadcast is privileged to the same extent as if the report of the board were the order of the court.

Liability of persons to government

- 106** (1) A person is liable to the government
- (a) for costs incurred by the government in controlling or disposing of insects, diseases, animals or abiotic factors, and
 - (b) the value of Crown timber damaged or destroyed or of forage damaged or destroyed,
- directly or indirectly, as a result of the person's non-compliance with an order under section 27.
- (2) A person is liable to the government for the market value of any
- (a) timber cut, damaged or destroyed without authorization under this Act, or
 - (b) forage or hay cut, damaged or destroyed without authorization under this Act.

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- (3) A person is liable to the government for an economic gain that results, directly or indirectly, from the person's act or omission that would have been a contravention or an offence under this Act or regulations if it were not for the defence of due diligence, mistake of fact or officially induced error.

Limitation on liability of persons to government

- 107** (1) Subject to subsections (3) to (5), a holder of an agreement under the *Forest Act* is conclusively deemed to have met the specified obligations that are referred to in paragraph (d) and that are obligations under this Act, the regulations or standards, or under an operational plan, permit or other authorization, if the holder submits to the district manager a written declaration specifying all of the following:
- (a) the cutblocks or roads that are affected, if any;
 - (b) the operational plans affected, if any;
 - (c) the permits affected, if any;
 - (d) the obligations that have been met;
 - (e) the date of the declaration.
- (2) The declaration must be signed by the holder who makes a declaration under subsection (1) or who prepares the declaration, if an individual or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.
- (3) If within the prescribed period after receiving a declaration under subsection (1), the district manager gives written notice to the holder that an obligation specified in the declaration has not been met, then the holder remains responsible for meeting that obligation.
- (4) The holder who makes a declaration under subsection (1) remains responsible for meeting an obligation if the holder
- (a) made a material misrepresentation or misstatement of fact in the declaration, or
 - (b) omitted information from the declaration that the holder knew or ought to have known was material to determining whether the obligations referred to in the declaration had been met.
- (5) The holder who makes a declaration under subsection (1) in relation to an obligation to establish a free growing stand on an area remains responsible for the obligation if at the time of the declaration it is reasonably foreseeable that the stand on the area will not remain a free growing stand.

Government may fund extra expense or waive obligation

- 108** (1) The district manager must grant the relief described in subsection (3) to a person who has a prescribed obligation, other than an obligation to establish a free

growing stand, under this Act, the regulations or an operational plan and who satisfies the district manager that

- (a) because of an event causing damage, the obligation under the operational plan cannot be met without significant extra expense than would have been the case if the damage had not occurred, and
- (b) the person
 - (i) did not cause or contribute to the cause of the damage,
 - (ii) exercised due diligence in relation to the cause of the damage, or
 - (iii) contributed to the cause of the damage but only as a result of an officially induced error.

(2) The district manager must grant

- (a) the relief described in subsection (3), or
- (b) the funding described in subsection (4)

to a person having an obligation to establish a free growing stand if the person satisfies the district manager that

- (c) because of an event causing damage, the obligation to establish the free growing stand cannot be met without significant extra expense than would have been the case if the damage had not occurred, and
- (d) the person
 - (i) did not cause or contribute to the cause of the damage,
 - (ii) exercised due diligence in relation to the cause of the damage, or
 - (iii) contributed to the cause of the damage but only as a result of an officially induced error.

(3) The relief, that must be granted under subsection (1) or that may be granted under subsection (2) (a), from an obligation by the district manager to a person is relief from

- (a) the person's obligation to the extent only that the obligation cannot be met without significant extra expense related to the damage referred to in subsection (1) or (2), or
- (b) the person's obligation in full if the district manager considers that the remaining obligation, after taking paragraph (a) of this subsection into account, is inconsequential.

(4) The funding for an obligation, that may be granted under subsection (2) (b) by the district manager to a person, is funding to the extent only that is required for the purpose of restoring the stand of trees on the area affected by the event referred to in subsection (2)

- (a) to the stage the stand had reached at the time of the damage caused by the event, or

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- (b) to the stage that is consistent with the person's obligation in that regard as modified by a regulation under subsection (7).
- (5) A decision in any proceedings, that a person having an obligation referred to in subsection (1) or (2) did or did not do any of the things referred to in subsection (1) (b) or (2) (d), is binding on the district manager.
- (6) The district manager may not under this section grant relief or funding in respect of an event causing damage if the event occurred before the coming into force of this subsection.
- (7) The Lieutenant Governor in Council may make regulations
 - (a) respecting the modification of an obligation referred to in subsection (2) to establish a free growing stand, and
 - (b) for the purpose of subsection (6), resolving any doubts as to
 - (i) what constitutes an event, or
 - (ii) when an event occurred.

Division 2 – Miscellaneous

Confidentiality and disclosure to government

- 109 (1) In this section:
- “information”** includes a record;
 - “person”** means
 - (a) the government, board, commission or council, if any,
 - (b) an employee, agent and independent contractor of the government, board, commission or council, if any, or
 - (c) a member of the board, commission or council, if any.
 - (2) Each of the following persons must take an oath that he or she will not disclose information obtained under this Act, the regulations or the standards except as permitted by this section and the *Freedom of Information and Protection of Privacy Act* and the regulations under that Act:
 - (a) a member of the board, commission or council, if any;
 - (b) an employee of the board, commission or council, if any;
 - (c) a person appointed to carry out an audit referred to in section 122;
 - (d) a specialist or consultant retained by the board, commission or council, if any.
 - (3) A person must not disclose any information obtained in the exercise of a power or the performance of a duty or function under this Act, the regulations or the standards except
 - (a) as required for the performance of his or her duties under this Act or the regulations, or

- (b) as permitted in this section or under the *Freedom of Information and Protection of Privacy Act* or the regulations under that Act.
- (4) A person may disclose to the government any information obtained in the exercise of a power or the performance of a duty or function under this Act, the regulations or the standards.
- (5) A person must not disclose, or be compelled to disclose in proceedings before a court any information obtained in the exercise of a power or the performance of a duty or function under this Act, the regulations or the standards except in the following matters:
 - (a) a trial of a person for perjury;
 - (b) a proceeding to enforce powers of investigation under this Act;
 - (c) a prosecution for an offence under section 97;
 - (d) a review or appeal under this Act.

How notice may be given

- 110** (1) A notice or another document that the government, board or commission is required or permitted to give to a person under this Act, the regulations or the standards may be given by giving it, or a copy of it, to the person as follows:
- (a) if the person is an individual,
 - (i) by leaving it with the individual,
 - (ii) by leaving it at the individual's last or most usual place of residence with someone who is or appears to be at least 16 years of age, or
 - (iii) by mailing it by registered mail to the individual's last known postal address;
 - (b) if the person is a corporation,
 - (i) by leaving it with
 - (A) a director, an officer or a manager of the corporation,
 - (B) a receptionist at a place of business of the corporation, or
 - (C) an attorney of the corporation appointed under section 304 of the *Company Act*,
 - (ii) by leaving it at the registered office of the corporation if the corporation is incorporated under the *Company Act*, or
 - (iii) by mailing it by registered mail to
 - (A) the registered office of the corporation,
 - (B) the attorney of the corporation appointed under section 304 of the *Company Act*, or
 - (C) an address provided by the corporation for service;
 - (c) if the person is a municipal corporation, a regional district or another local government body, by leaving it with or sending it by registered mail to the

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local government officer assigned responsibility under section 198 of the *Local Government Act*, the deputy of that officer or some similar local government officer.

- (2) A notice or another document that is mailed to a person by registered mail under subsection (1) is conclusively deemed to be received by the person on the eighth day after it is mailed.

Compliance with orders

- 111 (1) An order of the minister under this Act must be in writing and given to each person to whom the order pertains.
- (2) A person must comply with an order given to the person under this Act.

Power to impose conditions

- 112 (1) Except in prescribed circumstances a person with a discretion under this Act to make an order, grant an exemption, give a consent, grant an approval, or grant an authorization under this Act or the regulations may
 - (a) impose conditions that the person considers necessary or desirable in respect of the order, exemption, consent or approval, and
 - (b) remove or vary the conditions by own motion or on the application of a person who is the subject of the order, exemption, consent or approval.
- (2) A condition imposed under subsection (1) is conclusively deemed to be part of the order, exemption, consent or approval in respect of which it is imposed, whether contained in or attached to it or contained in a separate document.

Extension of time

- 113 The minister, or a person the minister authorizes in writing, may extend a time required to do anything under this Act, the regulations or the standards, other than
 - (a) an appeal of a determination,
 - (b) or the time within which a proceeding must or may be commenced, or
 - (c) the time within which the district manager must give the notice referred to in section 107 (3).

Evidence of designation or delegation

- 114 A document, purporting to have been issued by the Minister of Forests or by the Minister of Water, Land and Air Protection, certifying that either minister has designated a person as an official under this Act is admissible as evidence of the designation without proof of the signature or official character of the minister purporting to have signed the document.

Powers cumulative

- 115 A power under this Act of the minister or an official to
 - (a) make an order,

- (b) impose a fine or penalty, or
- (c) commence a proceeding

may be exercised separately, concurrently or cumulatively, and does not affect the exercise of any other powers of the minister, official or both under this or another enactment.

Amendment or remedial action does not affect offences or penalties

- 116** (1) An amendment to an operational plan does not affect any fine, imprisonment, fee, charge or penalty to which a person may be liable under this Act, the regulations or the standards, if the offence or contravention occurred before the amendment.
- (2) Taking remedial action after an offence or a contravention has occurred does not affect any fine, imprisonment, fee or penalty to which a person may be liable under this Act, the regulations or the standards, for the offence or contravention.

Right of proceeding

- 117** Nothing in this Act, the regulations or the standards limits, interferes with, or extends the right of a person to commence or maintain a proceeding for damages caused by fire.

Power to enter into agreements

- 118** (1) The government may enter into agreements to assist in ensuring that forest resources are properly managed and conserved.
- (2) Without limiting subsection (1), on behalf of the government,
- (a) the chief forester may enter into agreements for the growing and disposing of seeds, seedlings and vegetative propagules,
 - (b) an official designated by the minister may enter into agreements for the control and disposal of insects, diseases, animals and abiotic factors on forest land and for sharing costs of control and disposal,
 - (c) the minister or an official designated by the minister may enter into agreements under which the government provides forest protection, forest health services, or fire control or suppression services, or
 - (d) an official designated by the minister may enter into an agreement with a person to develop, expand, maintain, repair or close an interpretative forest site, a recreation site or a recreation trail.
- (3) An amount equal to any money paid to the government under an agreement referred to in subsection (2) (c) for a purpose specified in that subsection
- (a) is appropriated for that purpose,
 - (b) is in addition to any other amount appropriated for that purpose, and
 - (c) is to be paid out of the consolidated revenue fund without any other appropriation other than this subsection.

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Whistle-blower protection

- 119** A person must not evict, discharge, suspend, expel, intimidate, coerce, impose any pecuniary or other penalty on, or otherwise discriminate against, a person because that person complains or is named in a complaint, gives evidence or otherwise assists in respect of a prosecution, a complaint or another proceeding under this Act, the regulations or the standards.

Costs of performing obligations

- 120** (1) If this Act, a regulation or a standard requires a person to perform an obligation or otherwise comply with this Act, the regulations or the standards, the person must do so at the person's own expense unless another provision of this Act or the regulations specifically provides otherwise.
- (2) If a person is required under this Act, the regulations or the standards to submit an operational plan for approval to a person acting on behalf of the government, any implementation of the plan is at the person's own expense.

PART 8 – FOREST PRACTICES BOARD**Division 1 – Definition****Definition of “party”**

- 121** In this Part and the regulations related to this Part, “party” means the government or the holders of agreements under the *Forest Act* or the *Range Act*.

Division 2 – Complaints and Audits**Audits and special investigations**

- 122** In accordance with the regulations, the board must carry out periodic independent audits and may carry out special investigations to determine
- (a) compliance with the requirements of Parts 2 to 5 and the regulations and standards made in relation to those Parts by a party, and
 - (b) the appropriateness of government enforcement under Part 6.

Complaints from public

- 123** (1) In accordance with the regulations, the board must deal with complaints from the public respecting prescribed matters that relate to this Act.
- (2) Despite subsection (1), the board may refuse to investigate a complaint, or may stop investigating a complaint, if, in the opinion of the chair, any of the following applies:
- (a) the complainant knew or ought to have known of the determination to which his or her complaint relates, more than one year before the complaint was received by the board;

- (b) the law or existing administrative procedure provides a remedy adequate in the circumstances for the person aggrieved and, if the person aggrieved has not taken advantage of the remedy, there is no reasonable justification for the failure to do so;
 - (c) the complaint is frivolous, vexatious, not made in good faith or concerns a trivial matter;
 - (d) having regard to all the circumstances, further investigation is not necessary in order to consider the complaint;
 - (e) in the circumstances, investigation would not benefit the complainant.
- (3) The board must promptly notify, in writing, the complainant and the party of its decision and the reasons for it and may indicate any other recourse that may be available to the complainant if it decides
- (a) to not investigate or further investigate a complaint, or
 - (b) that the complaint has not been substantiated.

Powers of investigation

- 124**
- (1) Without limiting sections 122 and 123, for the purposes of those sections the board may investigate a determination.
 - (2) The board may conduct an audit, a special investigation or a complaint investigation despite a provision to the effect that a determination is final and regardless of any right of appeal.
 - (3) The board may not investigate conduct occurring before the commencement of *Forest Practices Code of British Columbia Act*.
 - (4) If a question arises as to the board's jurisdiction to investigate a case or class of cases, the chair may apply to the Supreme Court for a declaratory order determining the question.

Power to obtain information

- 125**
- (1) The board may require a party to provide information or records related to an audit, a special investigation or a complaint investigation.
 - (2) The board may require the party to provide the information in the form and manner the board considers appropriate.
 - (3) The party must comply with a requirement of the board under subsection (1) or (2).
 - (4) Without restricting subsection (1), the board may do all of the following:
 - (a) at any reasonable time enter and inspect business premises occupied by a party, speak in private with any person there and otherwise investigate matters within the board's jurisdiction;

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- (b) require a person to provide information or produce a record or thing in his or her possession or control that relates to an investigation at a time and place the board specifies;
 - (c) make copies of information provided or a record or thing produced under this section.
- (5) If the board obtains a record or thing under subsection (4) and the person from whom it was obtained requests its return, the board must, within 48 hours after receiving the request, return it to the person, but the board may again require its production in accordance with this section.
- (6) In conducting an audit, a special investigation or a complaint investigation, the board members have the protection, privileges and powers of a commissioner under sections 12, 15 and 16 of the *Inquiry Act*.

Power to obtain information limited

- 126** The board must not require information or a record to be produced if the Attorney General certifies that the giving of the information or record may
- (a) interfere with or impede investigation or detection of offences,
 - (b) involve the disclosure of the deliberations of the Executive Council, or
 - (c) involve the disclosure of proceedings of the Executive Council or of any committee of the Executive Council, relating to matters of a secret or confidential nature, and would be harmful to the public interest.

Board must notify and consult party

- 127** (1) If the board conducts an audit or investigation, the board must notify the party affected and any other person the board considers appropriate.
- (2) The board must consult with a party if the board receives a request for consultation from the party before the board has made its report under section 131.

Opportunity to make representations

- 128** If it appears to the board that there may be sufficient grounds for making a report or recommendation under this Act that may adversely affect a party or person, the board must inform the party or person of the grounds and must give the party or person the opportunity to make representations, either orally or in writing at the discretion of the board, before it decides the matter.

Evidence not admissible

- 129** Evidence given by a person in proceedings before the board and evidence of the existence of the proceedings are inadmissible against the person in a court or in any other proceeding of a judicial nature except for the following:
- (a) the trial of a person for perjury;
 - (b) the trial of a person for an offence under section 97;

- (c) an application for judicial review or an appeal from a decision with respect to that application.

Person may be reimbursed for expenses

- 130** If a person incurs expenses in complying with a request of the board for production of documents or other information, the board may reimburse that person for reasonable expenses.

Division 3 – Remedies**Report and recommendations**

- 131**
- (1) After completing an audit or investigation, the board must report its conclusions, with reasons, to any complainant, to the party and, if the government is not the party affected by the audit or investigation, to the ministers.
 - (2) If the board makes a report under subsection (1), it may make recommendations it considers appropriate.
 - (3) Without limiting subsection (2), the board may make any of the following recommendations:
 - (a) a matter be referred to the appropriate party for further consideration;
 - (b) an act be remedied;
 - (c) an omission or delay be rectified;
 - (d) a decision or recommendation be cancelled or varied;
 - (e) reasons be given;
 - (f) a practice, procedure or course of conduct be altered;
 - (g) an enactment or other rule of law be reconsidered;
 - (h) any other steps be taken.
 - (4) Without limiting subsection (1), the chair may, if the regulations provide and in the manner they provide, make an application under section 83 for an appeal of a determination or failure to make a determination.

Party to notify board of steps taken

- 132**
- (1) If the board makes a recommendation under section 131 the board may request that the party notify it within a specified time
 - (a) of the steps that have been taken or are proposed to be taken to give effect to its recommendation, or
 - (b) if no steps have been taken or are proposed to be taken, of the reasons for not following the recommendation.
 - (2) If, after considering a response made by a party, the board believes it advisable to modify or further modify its recommendation, the board must notify the party and

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the complainant of its recommendation as modified and may request that the party notify it

- (a) of the steps that have been taken or are proposed to be taken to give effect to the modified recommendation, or
 - (b) if no steps have been taken or are proposed to be taken, of the reasons for not following the modified recommendation.
- (3) The party must respond promptly to the board's request under subsection (1) or (2).

Report of board if no suitable action taken

- 133** (1) If, within a reasonable time after a request by the board under section 132, no action is taken that the board believes adequate or appropriate, the chair may, after considering any reasons given by the party,
- (a) submit a report on the matter to the ministers, and
 - (b) after submitting a report under paragraph (a), submit a report to the Lieutenant Governor in Council respecting the matter.
- (2) The chair
- (a) must attach to the report a copy of the board's recommendation and any response made to the board under section 132,
 - (b) must delete from his or her recommendation and from the response any material that would unreasonably invade any person's privacy, and
 - (c) may in his or her discretion delete material revealing the identity of a member, an officer or an employee of a party.

Complainant to be informed

- 134** After a complaint investigation, if the board makes a recommendation under section 131 or 132 (2) and no action that the board believes adequate or appropriate is taken within a reasonable time, the board must inform the complainant of its recommendation and make such additional comments as it considers appropriate.

Annual and special reports

- 135** (1) The chair must report annually on the affairs of the board to the minister.
- (2) The minister must promptly table the report with the Legislative Assembly.
- (3) If the chair considers it to be in the public interest, he or she may make a special report to the minister or comment publicly respecting a matter relating generally to the performance of the board's duties under this Act or to a particular case investigated by the board.

Division 4 – General**Forest Practices Board continued**

- 136** (1) The Forest Practices Board is continued.
- (2) The board consists of a chair, one or more vice chairs and other members the Lieutenant Governor in Council may appoint.
- (3) Appointments under subsection (2) may be for a term not exceeding 3 years.
- (4) The Lieutenant Governor in Council may
- (a) appoint a person as a temporary member to deal with a matter before the board, or for a specified period or during specified circumstances, and
 - (b) designate a temporary member as chair.
- (5) A temporary member has all the powers and may perform all the duties of a member of the board during the period or under the circumstances or for the purpose of the appointment.
- (6) The Lieutenant Governor in Council may determine the remuneration, reimbursement of expenses and other conditions of employment of
- (a) the chair, vice chair and other members of the board, and
 - (b) persons appointed under the regulations to carry out audits.

Panels of the Board

- 137** (1) The board may organize itself into panels, each comprised of one or more members.
- (2) The members of the board may sit as a board or as a panel of the board, and 2 or more panels may sit at the same time.
- (3) A panel of the board has the jurisdiction of the board and may exercise the powers and perform the duties and functions of the board.
- (4) A report, a recommendation or an action of a panel of the board is a report, recommendation or action of the board.

Board staff

- 138** (1) Employees necessary to carry out the powers and duties of the board may be appointed under the *Public Service Act*.
- (2) In accordance with the regulations, the board may engage or retain specialists, consultants and auditors that the board considers necessary to carry out the powers and duties of the office and may determine their remuneration.
- (3) The *Public Service Act* does not apply to the retention, engagement or remuneration of specialists, consultants and auditors retained under subsection (2).

No hearing as of right

- 139** A person is not entitled to an oral hearing before the board.

Delegation of powers

- 140** (1) The chair may delegate in writing to a person or class of persons any of the board's powers or duties under this Act, except the power
- (a) of delegation under this section, or
 - (b) to make a report under this Act.
- (2) A delegation under this section is revocable and does not prevent the board exercising a delegated power.
- (3) A delegation may be made subject to terms the chair considers appropriate.
- (4) If the chair makes a delegation and then ceases to hold office, the delegation continues in effect as long as the delegate continues in office or until revoked by a succeeding chair.
- (5) A person purporting to exercise a power of the board by virtue of a delegation under this section must, when requested to do so, produce evidence of his or her authority to exercise the power.

PART 9 – REGULATIONS AND STANDARDS

Power to make regulations

- 141** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) The Lieutenant Governor in Council may make regulations respecting matters that are
- (a) referred to in a provision of this Act as having to be in accordance with the regulations, or
 - (b) indicated by a provision of this Act as being a matter for a regulation.
- (3) The Lieutenant Governor in Council may make a regulation defining a word or expression used but not defined in this Act.
- (4) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:
- (a) delegate a matter to a person;
 - (b) confer a discretion on a person;
 - (c) make different regulations for different persons, places, things or transactions;
 - (d) adopt the provisions of a publication or adopt them as they are amended from time to time.

Forms

- 142** (1) The Lieutenant Governor in Council may prescribe forms for this Act.
- (2) The Lieutenant Governor in Council may make regulations respecting the furnishing of information, to the minister or to an employee in the Ministry of Forests, including but not limited to regulations concerning matters related to
- (a) agreements under the *Forest Act*,
 - (b) agreements under the *Range Act*, and
 - (c) obligations under this Act, the *Forest Practices Code of British Columbia Act* or the regulations and standards under either.
- (3) Without limiting subsections (1) and (2) the Lieutenant Governor in Council may make regulations respecting
- (a) the furnishing of information on request or at specified times, and
 - (b) in a specified format including electronically.

Fees or charges

- 143** (1) The Lieutenant Governor in Council may make regulations respecting fees or charges for the provision under this Act to any person by the government, or by the board, commission or council, if any, under this Act, the regulations or the standards, of a service or any property or use of property.
- (2) For the purpose of this section, the preparation of a range use plan or an amendment to a range use plan by the minister is a service provided by the government to the person required to follow the plan.
- (3) Subsection (1) applies whether or not there is an obligation on the government to provide the service, property or use of property.

Security

- 144** (1) The Lieutenant Governor in Council may make regulations respecting deposits and security of any kind, including but not limited to money, to be provided by the holder of an agreement under the *Forest Act* or the *Range Act* to ensure the performance of an obligation under this Act, the *Forest Act*, the *Range Act*, the regulations under any of them or an agreement entered into under any of those Acts or regulations.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) the type of security that is acceptable or unacceptable;
 - (b) the form and content of the security;
 - (c) the circumstances under which the security may be realized.

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Recovery of money

- 145** The Lieutenant Governor in Council may make regulations respecting the recovery of money that is required to be paid to the government under this Act or the regulations.

Exemptions

- 146** (1) The Lieutenant Governor in Council may make regulations respecting the exemption of a person, place, thing or transaction from a provision of this Act, the regulations or the standards.
- (2) In making a regulation under subsection (1), the Lieutenant Governor in Council may make the exemption subject to conditions.
- (3) The Lieutenant Governor in Council may make regulations restricting the minister's authority to exempt a person from a provision under this Act, the regulations or the standards.

Criteria for exercise of discretionary powers

- 147** (1) The Lieutenant Governor in Council may make regulations respecting the criteria that a person must use in exercising a discretionary power conferred on the person under this Act.
- (2) Criteria prescribed under subsection (1) are in addition to any criteria required by this Act.

Interpretive forest sites, recreation sites and recreation trails

- 148** The Lieutenant Governor in Council may make regulations respecting interpretive forest sites, recreation sites and recreation trails, including but not limited to regulations that restrict, prohibit or attach conditions to the use of the interpretive forest sites, recreation sites and recreation trails.

Objectives set by government

- 149** The Lieutenant Governor in Council may make regulations respecting objectives set by government, including but not limited to regulations
- (a) authorizing the minister to establish objectives set by government in relation to specified subject matter, or
- (b) respecting procedures and criteria that are to be followed by the minister when establishing objectives set by government.

Watersheds

- 150** The Lieutenant Governor in Council may make regulations
- (a) designating or continuing an area of land in a watershed as a community watershed,
- (b) or designating an area of land in a watershed as a domestic watershed or fisheries sensitive watershed, and

- (c) prescribing requirements in relation to the watersheds designated or continued under this section.

Plans and practices

- 151 (1) The Lieutenant Governor in Council may make regulations respecting operational plans, including but not limited to regulations prescribing
- (a) their form and content,
 - (b) the form and content of maps included in the plans,
 - (c) the manner of, and time for, submitting the plans for approval,
 - (d) requirements for the making and submitting of assessments, reports or records,
 - (e) respecting the retention of a record required to be prepared under this Act,
 - (f) respecting the extension of the term for an operational plan,
 - (g) amendments to plans including specifying what amendments are not minor amendments,
 - (h) respecting balancing objectives or other plan contents when approving a plan, and
 - (i) how a forest stewardship plan must take into account other currently existing or future forest stewardship plans.
- (2) The Lieutenant Governor in Council may make regulations respecting forest practices including but not limited to regulations
- (a) prescribing requirements in relation to biological diversity, soil conservation and silviculture stocking standards, and
 - (b) respecting surveys required or permitted under this Act or the regulations.

Review and comment and sharing with first nations

- 152 The Lieutenant Governor in Council may make regulations
- (a) respecting review and comment on matters under this Act, and
 - (b) requiring and regulating the sharing of operational plans or amendments to operational plans with first nations by
 - (i) officials under this Act,
 - (ii) timber sale managers, and
 - (iii) holders of agreements under the *Forest Act* or the *Range Act*.

Practices and planning – community forest agreements, woodlot licences

- 153 (1) The Lieutenant Governor in Council may make regulations respecting
- (a) woodlot licences, woodlot licence areas and holders of woodlot licences, and
 - (b) community forest agreements, community forest agreement areas and holders of community forest agreements.

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- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) establishing requirements and restrictions regarding the planning and forest practices, including the establishment of a free growing stand on a community forest agreement area or a woodlot licence area;
 - (b) establishing conditions that must be complied with by the holder of a community forest agreement or a woodlot licence before, during and after forest practices;
 - (c) requiring site plans to be prepared by the holder of a community forest agreement or a woodlot licence and approved by the minister before forest practices are carried out on the community forest agreement area or a woodlot licence area;
 - (d) requiring that authority to carry out a forest practice on a community forest agreement area or a woodlot licence area be obtained before the forest practice begins;
 - (e) requiring persons to carry out actions for maintaining or improving forest health;
 - (f) establishing requirements for wildlife tree retention for areas within woodlot licence areas that apply despite any objective set by government with respect to wildlife tree retention;
 - (g) establishing or varying objectives for ungulate winter range to reduce the impact to the allowable annual cut of a woodlot licence.

Forest resources

- 154** The Lieutenant Governor in Council may make regulations respecting the protection of forest resources.

Roads and rights of way

- 155** (1) The Lieutenant Governor in Council may make regulations respecting the following:
- (a) the use of forest service roads and rights of way;
 - (b) the regulation or prohibition of the use and operation of vehicles or classes of vehicles on forest service roads or rights of way;
 - (c) the regulation or prohibition of road construction, maintenance or deactivation;
 - (d) the transfer of an obligation to maintain or deactivate a road.
- (2) The minister may exempt a person from all or part of a regulation made under subsection (1) (a) or (b), subject to conditions or alternative requirements the minister may specify.

Timber harvesting practices and methods

- 156** The Lieutenant Governor in Council may make regulations respecting timber harvesting practices including but not limited to restricting or prohibiting a timber harvesting practice.

Silvicultural systems and silviculture treatments

- 157** (1) The Lieutenant Governor in Council may make regulations respecting silvicultural systems and silviculture treatments.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting
- (a) clearcutting, including but not limited to restricting or prohibiting clearcutting,
 - (b) silviculture treatments, including but not limited to restricting or prohibiting various types of silviculture treatments,
 - (c) rehabilitation of areas,
 - (d) requirements for establishing a free growing stand on an area under an agreement under the *Forest Act* in which timber has been
 - (i) harvested under an agreement under the *Forest Act*,
 - (ii) harvested from an area where the holder of the agreement is exempt from the requirement to prepare a forest stewardship plan or a woodlot licence plan,
 - (iii) damaged or destroyed by natural causes, or
 - (iv) harvested other than in accordance with this Act, the regulations and the standards, and
 - (e) exempting persons from the requirements to establish a free growing stand under section 29 or on areas referred to in paragraph (d).

Gene resources

- 158** The Lieutenant Governor in Council may make regulations respecting seed and tree gene resources including but not limited to regulations respecting the collection, processing, storage, registration, transportation, purchase, sale, selection, conservation and use of seed and tree gene resources.

Terrain stability and soil disturbance

- 159** The Lieutenant Governor in Council may make regulations respecting terrain stability and soil disturbance.

Cutblocks

- 160** The Lieutenant Governor in Council may make regulations respecting cutblocks, including but not limited to regulations prescribing
- (a) the size, including the maximum allowable size of a cutblock,

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- (b) the shape of a cutblock, and
- (c) the spatial distribution of cutblocks, including green-up.

Use of Crown range and range developments

- 161** (1) The Lieutenant Governor in Council may make regulations respecting range practices, the use of Crown range and range developments.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) the use of Crown range for grazing of livestock, hay cutting and other purposes;
 - (b) promoting health of Crown range;
 - (c) the identification of livestock pastured on Crown range;
 - (d) range developments and the payment of costs for range developments.

Notification requirements

- 162** The Lieutenant Governor in Council may make regulations requiring persons to give written notice to an official concerning when, whether or not and to what extent the person has completed or will complete an obligation of the person under a forest stewardship plan, a woodlot licence plan, this Act, the regulations or the standards.

Administrative remedies

- 163** (1) The Lieutenant Governor in Council may make regulations respecting administrative remedies under this Act.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting charges and penalties in cases in which a person does not comply with one or more of the following:
- (a) this Act, the regulations or the standards;
 - (b) an operational plan;
 - (c) a permit under this Act or the regulations.

Intervention, remediation and consultation

- 164** (1) The Lieutenant Governor in Council may make regulations respecting compliance with this Act and remediation related to a forest practice or range practice.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting
- (a) the power of the minister to require the holder of an agreement under the *Forest Act* or the *Range Act* to take action to achieve a requirement of this Act or regulations or to prevent damage to the environment if the damage is associated with a forest practice,
 - (b) consultation related to a forest practice,

- (c) stop work orders, and
- (d) remediation orders.

Reconsideration

- 165** The Lieutenant Governor in Council may make regulations respecting the review, correction or clarification of a determination under this Act.

Appeals and the commission

- 166** The Lieutenant Governor in Council may make regulations respecting appeals and the commission.

Forest Practices Board

- 167** (1) The Lieutenant Governor in Council may make regulations respecting the Forest Practices Board.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) audits referred to in section 122,
 - (b) complaints to the board, including
 - (i) the manner of making a complaint,
 - (ii) specifying which complaints may be heard,
 - (iii) the manner of dealing with complaints, and
 - (iv) the nature and extent of investigations which may be taken in relation to a complaint;
 - (c) procedures for notifying the board of determinations;
 - (d) reports made by the board;
 - (e) the qualifications of board members;
 - (f) fees with respect to complaint investigations.

Botanical forest products

- 168** (1) The Lieutenant Governor in Council may make regulations respecting botanical forest products.
- (2) Without restricting subsection (1), Lieutenant Governor in Council may make regulations respecting:
- (a) obtaining botanical forest products from Crown land;
 - (b) establishing a licensing scheme for the purposes of regulating botanical forest products;
 - (c) issuing, amending, renewing, suspending or cancelling licences;
 - (d) applications for licences;
 - (e) fees for licences and applications;
 - (f) inspectors and inspections for the purposes of enforcing licensing;

(g) appeals.

Chief forester standards for forest practices

- 169** (1) In prescribed circumstances, the chief forester may establish, vary or revoke standards respecting
- (a) tree gene resources for purposes related to this Act, including without restriction the following:
 - (i) registration of seed including, without limitation, determination of genetic quality and imposition of conditions on the use of registered seed;
 - (ii) transfer of seed;
 - (iii) storage of tree seed with the government;
 - (iv) parent trees;
 - (v) forest stands, trees or seed having rare or unique genetic values;
 - (vi) stocking standards required for a free growing stand,
 - (b) fire use,
 - (c) the preparation of an operational plan,
 - (d) a forest practice, and
 - (e) a range practice.
- (2) In a standard under subsection (1), the chief forester may do one or more of the following:
- (a) delegate a matter to a person;
 - (b) confer a discretion on a person;
 - (c) make different standards for different persons, places, things or transactions.
- (3) A standard takes effect on the date specified in the standard.
- (4) A standard is not effective
- (a) until notice of the standard and the method for meeting the standard has been published in the Gazette, and
 - (b) to the extent that it conflicts with this Act or the regulations.

Forest Practices Advisory Council

- 170** (1) The Lieutenant Governor in Council may establish by regulation a Forest Practices Advisory Council to undertake periodic reviews of the requirements that apply to operational planning and forest practices or range practices under this Act, the regulations and the standards and make recommendations to the minister on any specific matter relevant to this Act that is referred to the council by the minister.

- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) the membership of the council, including
 - (i) the maximum number of persons that may be appointed to the council,
 - (ii) the qualifications of council members,
 - (iii) the terms of appointed members, and
 - (iv) the removal and replacement of members;
 - (b) the annual report that must be prepared by the council;
 - (c) the application of sections 138 and 140 to the council.

PART 10 – PILOT PROJECTS FOR FOREST PRACTICES OR RANGE PRACTICES

Public review and comment required before a pilot project may proceed

- 171** (1) Before a timber sales manager or holder of an agreement under the *Forest Act* or the *Range Act* proposes a pilot project, the timber sales manager or holder, as the case may be, must
- (a) make the proposed pilot project publicly available for
 - (i) review, and
 - (ii) comment, and
 - (b) submit to the minister a summary of the comments received and any actions taken or proposed to address issues raised in the comments.
- (2) Before a regulation is made under this Part, the minister may establish a public advisory committee with terms of reference the minister considers advisable to make recommendations respecting the proposed pilot project.

Tests for making a pilot project regulation

- 172** The Lieutenant Governor in Council may make regulations under section 173 only if the Lieutenant Governor in Council is satisfied that the proposed pilot project
- (a) is in the public interest,
 - (b) will be consistent with the objectives set by government,
 - (c) maintains the role of the board as set out in sections 81 and 83 and Part 8,
 - (d) provides public access to the following, except in circumstances in which the Lieutenant Governor in Council considers that such public access would jeopardize cultural heritage resources:
 - (i) planning documents and assessments used in the proposed pilot project;

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- (ii) records that the regulations require to be prepared for the proposed pilot project, and
- (e) if the area in which a pilot project is proposed does not have a higher level plan, adequately provides for balancing competing values and interests in the area.

Regulation making powers respecting pilot projects

- 173
- (1) The Lieutenant Governor in Council may make regulations respecting pilot projects to experiment with ways to improve the regulatory framework for forest practices or range practices.
 - (2) Without limiting subsection (1), the Lieutenant Governor in Council, for the purposes of a pilot project, may order by regulation that provisions pertaining to specified subject matter, or specified provisions, of this Act, the *Forest Act*, the *Range Act* or the regulations made under any of those Acts do not apply
 - (a) to a timber sales manager, or
 - (b) to the holder of an agreement under the *Forest Act* or the *Range Act*.
 - (3) Without limiting subsection (1), the Lieutenant Governor in Council, for the purposes of a pilot project, may make regulations respecting the following:
 - (a) conditions, including providing that all or part of a regulation made under subsection (2) is subject to a condition and requiring that a person to whom the regulation applies comply with the condition;
 - (b) the suspension or cancellation of a pilot project;
 - (c) the regulation or prohibition of forest practices or range practices;
 - (d) the protection of forest resources and of resource features;
 - (e) compliance and enforcement;
 - (f) the balancing of competing values and interests;
 - (g) planning;
 - (h) monitoring and evaluation of pilot projects;
 - (i) public review and comment related to pilot projects;
 - (j) public access to
 - (i) planning documents and assessments used in the pilot project, and
 - (ii) records that the regulations require to be prepared for the pilot project.
 - (4) Without limiting subsection (1), the Lieutenant Governor in Council
 - (a) may exercise for the purposes of a pilot project, all the regulation making powers in this Act, the *Forest Act* and the *Range Act*, and
 - (b) may make regulations that are contrary to a provision of those Acts if that provision is inapplicable because of a regulation made under subsection (2) or (3).

Application

- 174** (1) A regulation under this Part with respect to a pilot project does not apply to a timber sales manager or holder of an agreement under the *Forest Act* or the *Range Act* until the timber sales manager or holder has consented to take part in the pilot project.
- (2) If a regulation under section 173 (2) provides that a provision of an Act does not apply to the holder of an agreement under the *Forest Act* or the *Range Act*, or to a timber sales manager or the government, the provision is also inapplicable to their
- (a) employees or agents, or
 - (b) contractors, as defined in section 152 of the *Forest Act*.

Annual reports

- 175** (1) The holder of an agreement under the *Forest Act* or the *Range Act* who is the subject of a pilot project must report annually to the minister on the pilot project.
- (2) The timber sales manager who is the subject of a pilot project must report annually to the minister on the pilot project.
- (3) The minister must make the reports publicly available.

Commencement

- 176** This Act comes into force by regulation of the Lieutenant Governor in Council.