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# WILDFIRE ACT

## CHAPTER 31

*Assented to April 29, 2004*

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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:

**Definitions**

**1** In this Act:

“**board**” means the Forest Practices Board continued under section 136 of the *Forest and Range Practices Act*;

“**commission**” has the same meaning as in the *Forest and Range Practices Act*;

“**forest land**” includes land that previously supported trees and is not in other use, but does not include land excluded from this definition by regulation;

“**grass land**” includes land that previously supported grass and is not in other use, but does not include land excluded from this definition by regulation;

“**industrial activity**” includes

- (a) land clearing, and
  - (b) other activities included in this definition by regulation,
- but does not include activities excluded from this definition by regulation;

“**local government**” means

- (a) the City of Vancouver,

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- (b) a municipality,
- (c) a regional district,
- (d) an improvement district,
- (e) a water improvement district, or
- (f) a prescribed organization;

**“official”** means a person

- (a) employed in the ministry of the minister responsible for the administration of this Act, who is designated by name or title to be an official by the minister for the purpose of a provision of this Act or of the regulations that is specified in the designation,
- (b) employed in the Oil and Gas Commission and designated, by the minister responsible for the *Oil and Gas Commission Act*, by name or title to be an official for the purpose of a provision of this Act or of the regulations that is specified in the designation, or
- (c) who is a conservation officer designated by the minister responsible for the *Environment Management Act*, by name or title to be an official for the purpose of a provision of this Act or of the regulations that is specified in the designation;

**“private land”** means land other than Crown land.

## **PART 1 – FOREST AND RANGE PROTECTION REQUIREMENTS**

### **General duty to report fire**

- 2** A person, other than a person acting in accordance with section 5 (2) or 6 (3), who sees an open fire that is burning in forest land or grass land or within 1 km of forest land or grass land and that appears to be burning unattended or uncontrolled must immediately report the fire
- (a) to an official employed in the ministry,
  - (b) to a peace officer, or
  - (c) by calling a fire emergency response telephone number.

### **Mishandling burning substances**

- 3** (1) Except for the purpose of starting a fire in accordance with this Act or another enactment, a person must not risk starting an open fire in forest land or grass land, or within 1 km of forest land or grass land, by dropping, releasing or mishandling
- (a) a burning substance, or
  - (b) any other thing that the person reasonably ought to know is likely to cause a fire.
- (2) A person who does not comply with subsection (1) must immediately extinguish, if practicable,

- (a) the burning substance, and
- (b) any fire that results from dropping, releasing or mishandling the burning substance or the other thing, as the case may be.

**Use of open fires – application**

- 4** (1) Sections 5 and 6 do not apply inside the boundaries of the City of Vancouver or of a municipality.
- (2) Sections 5 and 6 do not apply inside the boundaries of a local government that
- (a) is a local government under paragraphs (c) to (f) of the definition of local government, and
  - (b) has a bylaw that relates to the lighting, fueling or use of open fires.

**Non-industrial use of open fires**

- 5** (1) Except in prescribed circumstances, a person, other than a person carrying out an industrial activity, must not light, fuel or use an open fire in forest land or grass land or within 1 km of forest land or grass land.
- (2) A person who does not comply with subsection (1) must
- (a) immediately carry out fire control and extinguish the fire, if practicable, and
  - (b) as soon as practicable, report the open fire as described in section 2.

**Industrial activities**

- 6** (1) Except in prescribed circumstances, a person carrying out an industrial activity must not light, fuel or use an open fire in forest land or grass land or within 1 km of forest land or grass land.
- (2) A person who carries out an industrial activity must do so
- (a) at a time, and
  - (b) in a manner
- that can reasonably be expected to prevent fires from starting because of the industrial activity.
- (3) If, except in the prescribed circumstances referred to in section 5 (1) or subsection (1) of this section, a fire starts at, or within 1 km of, the site of the industrial activity, the person carrying out the industrial activity must
- (a) immediately carry out fire control and extinguish the fire, if practicable,
  - (b) continue with fire control for the fire until
    - (i) the fire is extinguished,
    - (ii) it becomes impracticable to continue with fire control, or
    - (iii) an official relieves the person in writing from continuing,
  - (c) as soon as practicable, report the fire as described in section 2, and

- (d) in accordance with prescribed requirements, rehabilitate the land damaged by fire control carried out by the person.

**Hazard assessment and abatement**

- 7 (1) In prescribed circumstances and at prescribed intervals, a person carrying out an industrial activity or a prescribed activity on forest land or grass land or within 1 km of forest land or grass land must conduct fire hazard assessments.
- (2) A person carrying out an industrial activity or a prescribed activity must abate within a prescribed period a fire hazard of which the person is aware or ought reasonably to be aware.
- (3) Despite subsection (2), if an official identifies circumstances that the official considers constitute a fire hazard in relation to
  - (a) an industrial activity, or
  - (b) a prescribed activity referred to in subsection (2),the official by written order may require the person to abate the fire hazard by a specified date.
- (4) A person who is the subject of an order under subsection (3) and to whom written notice of the order has been given must comply with the order.

**PART 2 – AUTHORITY OF GOVERNMENT FOR  
FIRE PREVENTION AND FIRE CONTROL****Policies and priorities for fire control**

- 8 The minister may establish policies and priorities for the efficient use of fire control resources of the government.

**Government may carry out fire control**

- 9 (1) The government may enter on any land and carry out fire control if an official considers that a fire on or near the land endangers life or threatens forest land or grass land.
- (2) At the request of a local government, the government may enter on land and carry out fire control within the local government's boundaries or jurisdiction.
- (3) After carrying out fire control under subsection (1), the government may remain on that land or re-enter the land for the purposes of investigating the cause of a fire, rehabilitating the land or for other prescribed purposes.
- (4) If the government enters on private land to carry out fire control on other land, the government must compensate the owner of the private land and any tenant of the private land for damage caused to the private land by the government in carrying out the fire control.

- (5) If the government enters on private land to carry out fire control on that land, the government, in prescribed circumstances, must compensate the owner of the private land and any tenant of the private land for damage caused to the private land by the government in carrying out the fire control.
- (6) In accordance with prescribed requirements, the government may rehabilitate land damaged by fire control carried out under this section.

**Restrictions on open fires**

- 10**
- (1) Despite a regulation enacting the prescribed circumstances referred to in section 5 (1) or 6 (1) in which an open fire may be lit, fueled or used, if an official considers it necessary or desirable to limit the risk of a fire or to address a public safety concern, the official, by order for a specified area, may
    - (a) restrict or prohibit the lighting, fueling or use of an open fire, or
    - (b) require all persons lighting, fueling or using one or more open fires in the area to cease doing so and to extinguish the open fire or fires.
  - (2) A restriction or requirement under this section may be different for different
    - (a) types, categories or subcategories of open fires,
    - (b) categories of persons, places or things, or
    - (c) circumstances.
  - (3) A person must not carry out an activity that is the subject of a restriction or prohibition under subsection (1) (a).
  - (4) Each of the persons that is the subject of an order under subsection (1) (b) must comply with the order.

**Restricted areas**

- 11**
- (1) If the minister considers it necessary or desirable to limit the risk of a fire, to address a public safety concern or to avoid interference with fire control, the minister by order may designate a specified area as a restricted area for a specified period.
  - (2) During the specified period under an order under this section, a person must not remain in or enter the area designated by the order as a restricted area, unless the person
    - (a) first receives the written authorization of an official, or
    - (b) enters the area only in the course of
      - (i) travelling to or from his or her residence,
      - (ii) using a highway as defined in the *Highway Act*, or
      - (iii) travelling to or from
        - (A) an operation, or
        - (B) an activity

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of a type that the minister may specify in the order.

- (3) An order under subsection (1) or an authorization under subsection (2) may be different for different
  - (a) types, categories or subcategories of operations or activities,
  - (b) categories of persons, places or things, or
  - (c) circumstances.
- (4) For the period during which an area continues as a restricted area under this section, a person is relieved from any fire control obligation for that area.

**Prohibited and restricted activities**

- 12** (1) The minister by order may prohibit or restrict
  - (a) the activities that may be carried out, or
  - (b) the equipment, materials or substances that may be usedin a specified area and for a specified period, if the minister considers that the activities or the use are likely to cause or contribute to the spread of a fire.
- (2) A person must not
  - (a) carry out any activities, or
  - (b) use any equipment, materials or substancesin contravention of an order made under subsection (1).
- (3) An order under subsection (1) may be different for different
  - (a) types, categories or subcategories of activities, equipment, materials or substances,
  - (b) categories of persons, places or things, or
  - (c) circumstances.
- (4) For the period during which an activity continues as a restricted activity under this section, the minister may exempt a person in writing from an order made under subsection (1) or from any fire control obligation for that area.

**Requirement to leave specified area**

- 13** (1) If the government is engaged in fire control, an official by order may require all persons in an area specified by the official to leave the area.
- (2) Each of the persons that is the subject of an order under subsection (1) must comply with the order.
- (3) An order under subsection (1) may be different for different categories of persons.



**Notice of orders under sections 10 to 13**

- 14** (1) Despite section 63, notice must be given in accordance with this section of an order made under any of sections 10 to 13.
- (2) The notice required under subsection (1) is sufficiently given to all persons in or near the applicable specified area under sections 10 to 13 if the notice includes a copy of the order or contains particulars or a summary of the order and is
- (a) posted in or near the specified area,
  - (b) published in or near the area in a manner that the official giving the notice considers will come to the attention of persons in or near the specified area, or
  - (c) broadcast in a manner that the official giving the notice considers will come to the attention of persons in or near the specified area.
- (3) Without limiting subsection (2), a notice under any of sections 10 to 13 is sufficiently given to any person if the notice includes a copy of the order or contains particulars or a summary of the order and is delivered to the person.

**Temporary employees**

- 15** (1) An official may hire temporary employees for the purposes of carrying out fire control or other activities under this Act.
- (2) The *Public Service Act* does not apply to a person hired as a temporary employee.
- (3) The government must pay remuneration as prescribed to a temporary employee.
- (4) An official may authorize a temporary employee in writing to exercise within specified limits the powers conferred on that official under this Act.

**Requisition of facilities, equipment and personnel**

- 16** (1) For the purposes of carrying out fire control, an official may
- (a) order a person to
    - (i) provide facilities and equipment, that the person owns or has use of, to be used under an official's direction,
    - (ii) assign an employee of the person to carry out fire control, under an official's direction, and
    - (iii) pay the employee his or her usual wages while the employee is acting under an official's direction, or
  - (b) order a person who is 19 years of age or older to assist in fire control if the person
    - (i) is physically capable of doing so, and
    - (ii) is trained to carry out fire control or has skills that can be used in doing so.

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- (2) A person who is the subject of an order under subsection (1), and to whom written notice of the order has been given, must comply with the order.

**Compensation for persons carrying out fire control**

- 17** (1) Subject to subsections (3) and (4), the government must pay compensation as prescribed to a person who, in respect of a fire,
- (a) carries out fire control under an obligation imposed under section 6, or
  - (b) complies with an order under section 16.
- (2) Subject to subsections (3) and (4), the government may pay compensation as prescribed to a person for his, her or its expenses incurred and work done in voluntarily fighting a fire on forest land or grass land or within 1 km of forest land or grass land.
- (3) Compensation is not payable under this section to a person in respect of a fire on private land that the person owns, rents or leases or on Crown land leased by the person from the government.
- (4) Compensation is not payable under this section to a person in respect of
- (a) an obligation imposed under this Act to
    - (i) use equipment, or
    - (ii) assign personnelfor fire control,
  - (b) facilities or vehicles that serve the person's area of operation,
  - (c) wages payable to employees referred to in section 16 (1) (a) (ii),
  - (d) voluntarily fighting a fire, or
  - (e) prescribed expenses,
- if the minister, after giving the person an opportunity to be heard, determines by order that the person, or a person acting on the person's behalf, caused or contributed to the fire referred to in subsection (1) or (2) or to the spread of that fire.
- (5) The minister must give written notice of an order made under subsection (4) to the person who is the subject of the order, accompanied by a copy of the order and informing the person of
- (a) the reasons for the order, and
  - (b) the person's right to a review under section 37 or to an appeal under section 39, including an address to which a request for a review or appeal may be delivered.

**Right of government to use fire**

- 18** The minister may cause fire on, or allow fire to be introduced onto, Crown land, other than Crown land leased from the government, for the purpose of

- (a) reducing the likelihood of unwanted fire on the area,
- (b) increasing public safety,
- (c) enhancing forest land resources and values,
- (d) enhancing grass land resources and values, or
- (e) meeting other government objectives.

## **PART 3 – ADMINISTRATIVE REMEDIES AND COST RECOVERY**

### **Division 1 – Rights of Entry, Inspection, Examination and Analysis**

#### **Entry onto land and premises**

- 19** (1) For any purpose related to the administration or enforcement of this Act or the regulations, an official may enter, at any reasonable time,
- (a) on land that is forest land or grass land or is within 1 km of forest land or grass land, or
  - (b) any premises on the land, other than a dwelling or a room being used as a dwelling,
- if the official has reasonable grounds to believe that the land or premises is or has been the site of a fire or an industrial activity that may have caused or contributed to a fire.
- (2) At any reasonable time, an official may enter on land that is forest land or grass land, or is within 1 km of forest land or grass land, 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.
- (3) An official who enters on land or premises under this section
- (a) may inspect anything or any activity that is reasonably related to the purpose of the inspection, and
  - (b) may require production, for the purposes of inspection, examination, analysis or copying, of
    - (i) an operational plan as defined in section 1 of the *Forest and Range Practices Act*, a licence or a permit that is required for the activity, or
    - (ii) a record required to be kept under this Act.

#### **Warrant to search and seize evidence**

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

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**Inspection of vehicle or vessel**

- 21** An official or peace officer, who has reasonable grounds to believe that there is anything that is in or on a vehicle or vessel and is relevant to a contravention by any person of this Act or the regulations, may
- (a) require the person operating the vehicle or vessel to stop the vehicle or vessel, and
  - (b) carry out an inspection of the vehicle or vessel.

**Obligations of person inspected**

- 22** (1) A person must not obstruct an official in the lawful exercise of a power or duty under this Act or the regulations.
- (2) The operator of a vehicle or vessel must stop the vehicle or vessel when required to do so by an official or by a peace officer if the official or peace officer
- (a) is in uniform,
  - (b) displays his or her official identification, or
  - (c) is in or near a vehicle or vessel that is readily identifiable as a government vehicle or vessel.
- (3) A person who
- (a) has apparent possession of land or premises that are the subject of an entry by an official in accordance with section 19,
  - (b) has apparent custody or control of any record or thing inspected under section 19,
  - (c) is in charge of an activity that is being inspected under section 19, or
  - (d) is operating a vehicle or vessel that is stopped under section 21,
- must produce, if and as required by the official,
- (e) proof of identity, and
  - (f) a record required under section 19 or anything inspected under section 21.

**Proof of official's identity**

- 23** An official who under this Division enters onto land or premises, conducts an inspection, stops a vehicle or vessel, requests records or seizes goods must provide proof of identity at the request of the 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 21.

**Peace officers may accompany**

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

**Division 2 – Cost Recovery and Administrative Remedies****Recovery of fire control costs and related amounts**

- 25** (1) After the government has carried out, for a fire on Crown land or private land, fire control authorized under section 9, the minister may
- (a) determine the amount of the government's costs of doing so, calculated in the prescribed manner, and
  - (b) determine the amount that is equal to the dollar value of any
    - (i) Crown timber,
    - (ii) other forest land resources,
    - (iii) grass land resources, and
    - (iv) other propertyof the government damaged or destroyed as a direct or indirect result, of the fire, calculated in the prescribed manner.
- (2) Subject to subsection (3), the minister, except in prescribed circumstances, by order may require a person to pay to the government the amounts determined under subsection (1) (a) and (b), subject to any prescribed limits, if the person
- (a) is a holder of a leasehold interest, under a lease in a prescribed category of leases from the government, of the Crown land on which a fire referred to in subsection (1) originated,
  - (b) is an occupier of Crown land that is subject to a lease referred to in paragraph (a) who occupies the Crown land with the permission of the holder of the lease, or
  - (c) is an owner of the private land on which a fire referred to in subsection (1) originated or is a holder of a leasehold interest in that private land, or is an occupier of that private land with the permission of the owner or holder.
- (3) The minister must not make an order under subsection (2) unless the minister, after giving the holder, occupier or owner an opportunity to be heard or after one month has elapsed after the date on which the person was given the opportunity to be heard, determines that the holder, occupier or owner caused or contributed to the fire or the spread of the fire.
- (4) The minister must give written notice of an order made under subsection (2) to the person who is the subject of the order, accompanied by a copy of the order and informing the person of
- (a) the amounts payable by the person to the government under the order and the person's liability under section 130 of the *Forest Act* to pay that amount,
  - (b) the reasons for the order, and
  - (c) the person's right to a review under section 37 or to an appeal under section 39, including an address to which a request for a review or appeal may be delivered.

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**Contravention orders**

- 26** After giving a person who is alleged to have contravened a provision of this Act or the regulations an opportunity to be heard, or after one month has elapsed after the date on which the person was given the opportunity to be heard, the minister by order may determine whether the person has contravened the provision.

**Administrative penalties and cost recovery**

- 27** (1) If the minister determines by order under section 26 that the person has contravened a provision, the minister by order
- (a) may levy an administrative penalty against the person in an amount that does not exceed a prescribed amount,
  - (b) may determine the amount of the government's costs of fire control under section 9 for a fire that resulted, directly or indirectly, from the contravention, calculated in the prescribed manner,
  - (c) may determine the amount that is equal to the dollar value of any
    - (i) Crown timber,
    - (ii) other forest land resources,
    - (iii) grass land resources, and
    - (iv) other propertyof the government damaged or destroyed as a result, directly or indirectly, of the contravention, calculated in the prescribed manner, and
  - (d) except in prescribed circumstances, may require the person to pay the amounts determined under paragraphs (b) and (c), subject to the prescribed limits, if any.
- (2) The minister must give written notice to the person who is the subject of an order under section 26, accompanied by a copy of the order and informing the person of
- (a) the amount of any administrative penalty levied against the person by an order under subsection (1) (a) and of the person's liability under section 130 of the *Forest Act* to pay that amount,
  - (b) the provision contravened and the reasons for the order or orders,
  - (c) the amount of any costs of the government determined under subsection (1) (b), itemized particulars of those costs and the person's liability under section 130 of the *Forest Act* to pay that amount,
  - (d) any amount determined under subsection (1) (c), itemized particulars of that amount and the person's liability under section 130 of the *Forest Act* to pay that amount, and
  - (e) the person's right to a review under section 37 or to an appeal under section 39, including an address to which a request for a review or appeal may be delivered.

- (3) Before the minister levies an administrative penalty under subsection (1), he or she must consider
- (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, and
  - (f) the person's cooperativeness and efforts to correct the contravention.

**Remediation orders**

- 28** (1) If the minister determines by order under section 26 that a person has contravened a provision of this Act or the regulations, the minister may order the person to do work, at the person's own expense, that is reasonably necessary to remedy the contravention and to repair any damage caused by the contravention.
- (2) If the minister, under subsection (1), orders a person to do work, the minister must give written notice, accompanied by the order, to the person, specifying
- (a) the provision contravened,
  - (b) the work to be done to remedy the contravention,
  - (c) the date by which the work must be completed,
  - (d) the person's right to a review under section 37 or to an appeal under section 39, including an address to which a request for a review or appeal may be delivered,
  - (e) the right under subsection (3) (b) of the minister to carry out the work, and
  - (f) 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 written notice given under subsection (2), does not comply with the order of the minister under subsection (1), the minister may do one or more of the following:
- (a) by order restrict or prohibit the person from carrying out the work referred to in the order;
  - (b) after giving the person an opportunity to be heard, carry out the work;
  - (c) by order require the person to pay to the government the amount of all direct and indirect costs the minister determines were reasonably incurred in carrying out the work referred to in paragraph (b);
  - (d) by order levy an administrative penalty not exceeding an amount that is the sum of the costs referred to in paragraph (c);
  - (e) for the purpose of recovering the amount referred to in paragraph (c) or the administrative penalty referred to in paragraph (d), realize any security provided under the regulations by the person.

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- (4) The minister must give written notice of the completion of work carried out under subsection (3) (b) and of any order under subsection (3) (a) or (c) to the person to whom the notice under subsection (2) was given,
  - (a) informing the person of
    - (i) the restrictions or the prohibition under an order under subsection (3) (a), and
    - (ii) the amount payable by the person to the government under an order under subsection (3) (c) and the person's liability under section 130 of the *Forest Act* to pay that amount,
  - (b) providing the person with a copy of the order under subsection (3) (a), and
  - (c) providing the person with a copy of the order under subsection (3) (c) and with an accounting of the expenditures relating to the work.
- (5) The minister must give written notice to the person, who is the subject of an order under subsection (3) (d), providing the person with a copy of the order and informing the person of
  - (a) the amount of the administrative penalty and the person's liability under section 130 of the *Forest Act* to pay that amount,
  - (b) the reasons for the administrative penalty, and
  - (c) the person's right to a review under section 37 or to an appeal under section 39, including an address to which a request for a review or appeal may be delivered.
- (6) The person immediately must replace security realized under subsection (3) (e).
- (7) 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 amount of the costs referred to in subsection (3) (c), and
  - (b) any administrative penalty levied under subsection (3) (d).
- (8) If a person who receives an order under subsection (1)
  - (a) carries out work specified in the order, and
  - (b) incurs expenses in excess of the expenses that the person would have incurred if the order had not been made,and the order is rescinded on review or appeal, then, to the extent provided in the regulations, the excess expenses of the work are to be paid by the government.

**Defences in relation to administrative proceedings**

- 29** For the purposes of an order of the minister under section 26, a person may not be determined to have contravened a provision of this Act or the regulations if the person establishes that
- (a) the person exercised due diligence to prevent the contravention,



- (b) the person reasonably believed in the existence of facts that if true would establish that the person did not contravene the provision, or
- (c) the person's actions relevant to the provision were the result of an officially induced error.

**Vicarious liability**

- 30** (1) If a person's contractor, employee or agent contravenes a provision of this Act or the regulations in the course of carrying out the contract, employment or agency, the person also contravenes the provision.
- (2) If a corporation contravenes a provision of this Act or the regulations, a director or an officer of the corporation who authorized, permitted or acquiesced in the contravention also contravenes the provision.

**Extension of due date for administrative penalties and other charges, on review or appeal**

- 31** Despite section 130 (1) (a) of the *Forest Act*, if
- (a) an order under this Act imposes an administrative penalty or other charge against a person, and
  - (b) the person, under section 37 or 39 of this Act, may request a review of the order or may appeal the order,
- the penalty or charge is due and payable on the date a stay under section 36 ceases to apply.

**Penalty revenue to be paid into special account**

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

**Limitation period**

- 33** (1) The period during which an order may be made under section 26 determining that a contravention occurred is 2 years beginning on the date on which the facts that led to the order first came to the knowledge of an official.
- (2) A document purporting to have been issued by an official, certifying the date on which the facts referred to in subsection (1) first came to the knowledge of an official,
- (a) is admissible in an appeal under section 39 from the order, 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.

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**Stop work order**

- 34** (1) If an official has reasonable grounds to believe that a person is contravening a provision of this Act or the regulations, the official may order that the contravention stop, or stop to the extent specified by the order.
- (2) Section 66 (2) to (6) of the *Forest and Range Practices Act* apply for the purposes of this section, except that, for those purposes,
- (a) the references in section 66 (2) (d) of that Act to sections 80 and 82 must be read as references to sections 37 and 39 of this Act, and
  - (b) the references in section 66 (3) and (4) of that Act to section 110 must be read as references to section 110 of that Act as it applies under section 63 of this Act for the purposes of this Act.

**Division 3 – Corrections, Reviews and Appeals****Correction of an order**

- 35** (1) Within 15 days after an order
- (a) under section 17 (4), 25, 26, 27 or 28, the minister, or
  - (b) under section 7 (3) or 34, the official who made the order
- may correct
- (c) a typographical, an arithmetical or another similar error in the order, or
  - (d) an obvious error or omission in the order.
- (2) The correction does not take effect until the date on which the person who is the subject of the order is notified of it under subsection (4).
- (3) The discretion conferred under subsection (1)
- (a) is to be exercised in the same manner as the order affected by it, and
  - (b) is exercisable with or without a hearing and
    - (i) on the initiative of the minister or official who made the order, or
    - (ii) at the request of the person who is the subject of the order.
- (4) The person who is the subject of an order corrected under this section must be notified in writing of the correction.

**Order stayed until proceedings concluded**

- 36** (1) An order that may be reviewed under section 37 or appealed under section 39 is stayed until the person who is the subject of the order has no further right to have the order reviewed or appealed.
- (2) Despite subsection (1), the minister may order that an order, other than an order levying an administrative penalty under section 27 or 28 (3) (d) is not stayed on being satisfied that a stay or a stay without those conditions, as the case may be, would be contrary to the public interest.

- (3) Despite subsection (1), an order is not stayed if the order is made under section 34.

**Review of an order**

- 37** (1) Subject to subsection (2), at the request of a person who is the subject of an order under section 7 (3), 17 (4), 25, 26, 27, 28 (1) or (3) (d) or 34, the person who made the order, or another person employed in the ministry and designated in writing by the minister, must review the order, but only if satisfied that there is evidence that was not available at the time of the original order.
- (2) On a review referred to in subsection (1), only
- (a) evidence that was not available at the time of the original order, and
  - (b) the record pertaining to the original order
- may be considered.
- (3) To obtain a review referred to in subsection (1), the person who is the subject of the order must request the review not later than 3 weeks after the date the notice of order was given to the person.
- (4) The minister may extend the time limit in subsection (3) section before or after the time limit's expiry.
- (5) The person conducting a review referred to in subsection (1) has the same discretion to make a decision that the original decision maker had at the time of the original order.

**Board may require review of an order**

- 38** (1) If the board first receives the consent of the person who is the subject of an order referred to in section 37 (1), the board may require a review of the order by the person who made the order, or another person employed in the ministry and designated in writing by the minister.
- (2) To obtain a review of an order under subsection (1), the board must require the review not later than 3 weeks after the date the notice of the order was given to the person who is the subject of the order.
- (3) The minister may extend the time limit for requiring a review under this section before or after the time limit's 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 order under review.

**Appeal to the commission from an order**

- 39** (1) The person who is the subject of an order referred to in section 37 (1) may appeal to the commission from either of the following, but not both:
- (a) the order;
  - (b) a decision made after completion of a review of the order.

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- (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**

- 40** (1) The board may appeal to the commission from either of the following, but not both:
- (a) an order referred to in section 37;
  - (b) a decision made after completion of a review of the order.
- (2) Sections 131 to 141 of the *Forest Practices Code of British Columbia Act* apply to an appeal under this section.

**Powers of commission**

- 41** (1) On an appeal under section 39 by a person or under section 40 by the board, the commission may
- (a) consider the findings of the decision maker who made the order, and
  - (b) either
    - (i) confirm, vary or rescind the order, or
    - (ii) with or without directions, refer the matter back to the decision maker who made the order, for reconsideration.
- (2) 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.
- (3) After the period to request an appeal to the Supreme Court under the *Forest Practices Code of British Columbia Act* has passed, the minister may file a certified copy of the decision of the commission with the Supreme Court.
- (4) A certified copy of a decision filed under subsection (3) has the same force and effect as an order of the court for the recovery of a debt in the amount stated in the decision, against the person named in the decision, and all proceedings may be taken as if the decision were an order of the court.

**PART 4 – OFFENCES, COURT ORDERS AND PROCEEDINGS****Division 1 – Limitation Period and Offences****Limitation period**

- 42** (1) The time limit for laying an information respecting an offence under this Act or the regulations is 2 years after the facts on which the information is based 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 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.

**Offences**

- 43** (1) A person who intentionally or recklessly causes damage to Crown forest land or Crown grass land by starting a fire in contravention of section 3 (1), 5 (1) or 6 (1) 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 3 (1) or (2), 5 (1) or (2) or 6 (1), (2) or (3) (a), (b) or (c) 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 7 (2) or (4), 10 (3) or (4), 12 (2), 16 (2), 22 (1) or (2), 56 or 57 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 2, 6 (3) (d), 7 (1), 11 (2), 13 (2) or 22 (3) 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 Lieutenant Governor in Council may provide by regulation that
- (a) a contravention of a regulation is an offence, and
  - (b) a person convicted of an offence for a contravention of a regulation is liable to a fine not exceeding a maximum amount, or to imprisonment not exceeding a maximum length, or to both.
- (6) If the maximum fine or imprisonment that is provided by a regulation under subsection (5) (b) is less than that provided by a provision of this Act, the regulation prevails.

**Offence by directors and officers**

- 44** 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**

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

## **Division 2 – Court Orders**

### **Court orders**

- 46** 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 by order may 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;
  - (b) direct the person to comply with the provision contravened;
  - (c) direct the person to pay compensation or make restitution;
  - (d) 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;
  - (e) direct the person to publish, at the person's own cost, the facts relating to the conviction;
  - (f) direct the person to compensate the minister, in whole or in part, for 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;
  - (g) direct the person to pay court costs;
  - (h) direct the person to pay the costs of the investigation.

### **Court orders on application by minister**

- 47** (1) If the minister considers that a person is not complying, or has not complied, with an order made under 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 cease violating the order.
- (2) On application by the minister under this section, the Supreme Court may make an order it considers appropriate.

## **Division 3 – Provisions in Relation to Offences, Liabilities and Proceedings**

### **Penalty for monetary benefit**

- 48** (1) The court that convicts a person of an offence under this Act or the regulations may increase a fine imposed on the person by an amount equal to the court's estimation of the amount of the monetary benefit that was 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**

- 49** (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.

**Defences to a prosecution**

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

**Remedies preserved**

- 51** A proceeding, conviction or penalty for an offence under this Act or the regulations does not relieve a person from any other liability.

**Proceedings for damages caused by fire**

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

**Limitation on proceedings**

- 53** (1) The government may not proceed under this Act with 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.

## **PART 5 – GENERAL**

### **Division 1 – Exercise of Discretion and Prohibitions**

**Power to impose conditions**

- 54** (1) A person with a discretion under this Act to make an order or to grant an exemption or authorization under this Act or the regulations may
- (a) impose conditions that the person considers necessary or desirable in respect of the order, exemption or authorization, 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 or authorization.
- (2) A condition imposed under subsection (1) is conclusively deemed to be part of the order, exemption or authorization in respect of which it is imposed, whether contained in or attached to it or contained in a separate document.

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**Powers cumulative**

**55** Powers under this Act of the minister or an official to

- (a) make an order, or
- (b) commence a proceeding

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

**Interference, non-compliance and misleading**

**56** (1) In this section, “**person acting in an official capacity**” means an individual who

- (a) is employed under the *Public Service Act*, is a member of the commission or the board, is a person retained under section 138 of the *Forest and Range Practices Act*, as it applies for the purposes of this Act, or is a temporary employee hired under section 15 of this Act, and
- (b) is exercising a power or performing a duty or function under this Act or the regulations.

(2) A person must not

- (a) without lawful excuse, intentionally interfere with a person acting in an official capacity,
- (b) without lawful excuse, intentionally not comply with a lawful requirement of a person acting in an official capacity, or
- (c) intentionally make a false statement to, or mislead or attempt to mislead, a person acting in an official capacity.

**Whistle-blower protection**

**57** 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 or the regulations.

**Division 2 – Powers of the Minister****Delegation**

**58** (1) 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,
- (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.

(2) In respect of a power or duty delegated under this section, this Act and the regulations apply to the delegate as they apply to the minister.

#### **Extension of time**

**59** The minister may extend a time required to do anything under this Act other than a period within which to make an order or to commence a proceeding.

#### **Power to enter into agreements**

**60** On behalf of the government, the minister or an official designated by the minister may enter into agreements for purposes under this Act including but not limited to agreements respecting fire control.

### **Division 3 – Libel Protection, Confidentiality and Disclosure**

#### **Protection against libel and slander**

**61** 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 or commission under this Act are privileged to the same extent as if the investigation, inquiry or proceedings were proceedings in a court, and
- (b) each of a report made by the board or commission 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 or commission were the order of the court.

#### **Confidentiality and disclosure**

**62** (1) In this section:

- “**information**” includes a record;
- “**person**” means
  - (a) the government, board or commission,
  - (b) an employee, agent or independent contractor of the government, board or commission, or
  - (c) a member of the board or commission.

(2) Each of the following persons must take an oath that he or she will not disclose information obtained under this Act or the regulations 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 or commission;
- (b) an employee of the board or commission;
- (c) a person appointed to carry out an audit referred to in section 68;

- (d) a specialist or consultant retained by the board or commission.
- (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 or the regulations except
  - (a) as required for the performance of his or her duties under this Act or the regulations, or
  - (b) as permitted by this section or 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 or the regulations.

### **Division 4 – Miscellaneous**

#### **How notice may be given**

- 63** Section 110 of the *Forest and Range Practices Act* in respect of how notice may be given applies for the purposes of this Act.

#### **Evidence of designation or delegation**

- 64** (1) A document, purporting to have been issued by any of the ministers referred to in the definition of “official” in section 1, certifying that the 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.
- (2) A document purporting, to have been issued by the minister responsible for administration of this Act, certifying that the minister has made a delegation under section 58, is admissible as evidence of the delegation without proof of the signature or official character of the minister purporting to have signed the document.

#### **Appropriation for fire control**

- 65** If money appropriated for direct fire control costs in any year is insufficient, the extra money is to be paid out of the consolidated revenue fund without any appropriation other than this section.

#### **Cost of performing obligations**

- 66** If this Act or a regulation requires a person to perform an obligation or otherwise comply with this Act or the regulations, the person must do so at the person’s own expense unless another provision of this Act or the regulations specifically provides otherwise.

## PART 6 – FOREST PRACTICES BOARD

### Definition of “party” for section 68

- 67** In section 68 and the regulations related to this Part, “party” means
- (a) the government,
  - (b) the holder of an agreement under the *Forest Act*,
  - (c) the holder of an agreement under the *Range Act*, or
  - (d) a person referred to in section 68 (2) who may be audited or investigated under that section.

### Audits and special investigations

- 68** (1) In accordance with the regulations, the board must carry out periodic independent audits and may carry out special investigations to determine
- (a) compliance by a party with Parts 1 and 2 and the regulations made in relation to those Parts, and
  - (b) the appropriateness of government enforcement under Part 3.
- (2) If
- (a) while carrying out under subsection (1) (a) an audit or investigation of a party, the board finds that the party complied with the requirements audited or investigated, and
  - (b) the only reason for that finding is that
    - (i) the party exercised due diligence to prevent non-compliance,
    - (ii) the party reasonably believed in the existence of facts that if true would establish that the party complied with the requirement, or
    - (iii) the party’s actions relevant to the requirement were the result of an officially induced error,
- the board may audit or investigate whether a person other than that party did not comply with the requirements, in the course of acting for or at the direction of the party.
- (3) Sections 123 to 140 of the *Forest and Range Practices Act* apply for the purposes of this section, except that, for those purposes,
- (a) the references in sections 123, 124 and 131 of that Act to a determination must be read as references to an order under this Act,
  - (b) the reference in section 129 of that Act to section 97 must be read as a reference to section 56 of this Act, and
  - (c) the reference in section 131 (4) of that Act to section 83 must be read as a reference to section 40 of this Act.

## PART 7 – REGULATIONS

### Power to make regulations

- 69** (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 a regulation defining a word or expression used but not defined in this Act.
- (3) 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 circumstances, persons, places, things or transactions;
  - (d) adopt the provisions of a publication or adopt them as they are amended from time to time.

### Exemptions

- 70** (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 or the regulations.
- (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 an official's authority to exempt a person from a provision under this Act or the regulations.

### Criteria for exercise of discretionary powers

- 71** (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.

### Protection of forest resources

- 72** (1) The Lieutenant Governor in Council may make regulations respecting fire control and the protection of forest land resources or grass land resources.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations, applicable on forest land or grass land and other land within 1 km of any forest land or grass land,
- (a) respecting fire use, fire prevention and fire rehabilitation,

- (b) respecting high risk activities in relation to fire control, fire prevention and the protection of forest land resources or grass land resources,
  - (c) requiring the submission of fire emergency information to an official,
  - (d) respecting fire precautions in relation to timber harvesting, timber processing facilities, railways, utilities and other facilities, machinery and equipment,
  - (e) respecting tools and equipment,
  - (f) respecting the assessment of fire hazards,
  - (g) respecting the abatement of fire hazards,
  - (h) prohibiting the use of open fires, and
  - (i) governing the compensation that is required or authorized to be paid under a provision of this Act.
- (3) An official may exempt a person from all or part of a regulation made under subsection (2), subject to conditions or alternative requirements the official may specify.

**Notification requirements**

- 73** 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 this Act or the regulations.

**Administrative remedies**

- 74** (1) The Lieutenant Governor in Council may make regulations respecting administrative remedies.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting fees and administrative penalties in cases in which a person does not comply with this Act or the regulations.

**Reconsideration**

- 75** The Lieutenant Governor in Council may make regulations respecting the review or correction of an order under this Act.

**Forms and furnishing of information**

- 76** (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.
- (3) Without limiting subsections (1) and (2), the Lieutenant Governor in Council may make regulations respecting the furnishing of information
- (a) on request or at specified times, and

- (b) in a specified format, including electronic format.

**Fees for service**

- 77** (1) The Lieutenant Governor in Council may make regulations respecting fees for the provision, under this Act or the regulations, of a service by the government to any person.
- (2) Subsection (1) applies whether or not there is an obligation on the government to provide the service.

**Security**

- 78** (1) The Lieutenant Governor in Council may make regulations requiring security of any kind, including but not limited to money, to be provided to ensure the performance of an obligation arising under this Act or the regulations by
- (a) the holder of an agreement of one or more of any of the types of agreement referred to in section 12 of the *Forest Act* or in section 3 of the *Range Act*, or
  - (b) persons in one or more categories of persons that may be prescribed.
- (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 not acceptable;
  - (b) the form and content of the security;
  - (c) the circumstances under which the security may be realized.

**Recovery of money**

- 79** The Lieutenant Governor in Council may make regulations respecting
- (a) the recovery of money that is required to be paid to the government under this Act or the regulations, and
  - (b) damage caused by persons to Crown assets and the recovery of those damages.

**Forest Practices Board**

- 80** The Lieutenant Governor in Council, for purposes under this Act, may exercise the regulation making powers in relation to the board that are set out in section 167 of the *Forest and Range Practices Act*.

## **PART 8 – TRANSITIONAL**

**Implementation regulations**

- 81** (1) The Lieutenant Governor in Council may make regulations considered necessary or advisable for the purpose of more effectively bringing into operation this Act, and to remedy any transitional difficulties encountered in doing so.

- (2) A regulation made under this section may be made retroactive to a date not earlier than the date this section comes into force.
- (3) This section is repealed 2 years after the date this section comes into force, and on its repeal any regulations made under it are also repealed.

### **Consequential Amendments**

#### ***Environmental Management Act***

**82** *Section 6 (5) (g) of the Environmental Management Act, S.B.C. 2003, c. 53, is repealed and the following substituted:*

- (g) fires set or controlled by a person
  - (i) acting under an order of a local assistant, as defined in the *Fire Services Act*, if the local assistant orders the fires for training purposes,
  - (ii) carrying out fire control under section 9 of the *Wildfire Act*, or
  - (iii) if the fires are resource management open fires under the *Wildfire Act* and are lit, fuelled or used in accordance with that Act and the regulations under that Act; .

#### ***Forest Act***

**83** *Section 47.5 (1) (b) (ii) of the Forest Act, R.S.B.C. 1996, c. 157, is repealed and the following substituted:*

- (ii) are consistent with this Act, the regulations under it, the *Forest and Range Practices Act*, the regulations and standards under it, the *Wildfire Act* and the regulations under it.

**84** *Section 54.6 (1) (c) (ii) is repealed and the following substituted:*

- (ii) imposed with respect to the agreement by or under
  - (A) this Act or the regulations under this Act,
  - (B) the *Forest Practices Code of British Columbia Act* or the regulations or standards under that Act,
  - (C) the *Forest and Range Practices Act* or the regulations or standards under that Act, or
  - (D) the *Wildfire Act*.

**85** *Section 78 (2) (c) is repealed and the following substituted:*

- (c) has not complied with
  - (i) this Act or a regulation made under this Act,

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- (ii) the *Forest Practices Code of British Columbia Act* or a regulation or standard made under that Act, or
- (iii) the *Wildfire Act* or a regulation under that Act.

**86** *Section 130 (1.1) (a) is amended by adding “the Wildfire Act,” before “or a regulation”.*

***Forest and Range Practices Act***

**87** *Section 52 (1) of the Forest and Range Practices Act, S.B.C. 2002, c. 69, is amended by adding the following paragraph:*

- (b.1) under the *Wildfire Act*, .

**88** *Section 59 is amended*

- (a) *in subsection (1) by striking out “or the Forest Practices Code of British Columbia Act,” and by striking out “the Forest Practices Code of British Columbia Act”, and*
- (b) *in subsection (2) by adding “or” at the end of paragraph (c) and by repealing paragraph (d).*

**89** *Section 74 is repealed and the following substituted:*

**Remediation orders**

- 74** (1) If the minister determines that a person who
- (a) is the holder of an agreement under the *Forest Act* or the *Range Act*, or
  - (b) is in a prescribed category of persons, and is not a contractor who, at the material time, was acting in accordance with a contract with a holder described in paragraph (a),
- has contravened a provision of this Act or a regulation or standard, the minister may order the person to do work reasonably necessary to remedy the contravention.
- (2) If the minister makes an order under subsection (1) of this section or under section 51 (7), 54 (2) or 57 (4), the minister or official, as the case may be, must give written notice, accompanied by the order, to the holder or person, specifying
- (a) the provision contravened,
  - (b) the work to be done to remedy the contravention,
  - (c) the date by which the work must be completed,
  - (d) the person’s right to a review under section 80 or to an appeal under section 82,
  - (e) the right under subsection (3) (b) of the minister to carry out the work, and
  - (f) 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), the minister may do one or more of the following:
  - (a) by order restrict or prohibit the person from carrying out the work referred to in the order;
  - (b) after giving the person an opportunity to be heard, carry out the work;
  - (c) by order require the person to pay to the government the amount of all direct and indirect costs the minister determines were reasonably incurred in carrying out the work referred to in paragraph (b);
  - (d) by order levy an administrative penalty not exceeding an amount that is the sum of the costs referred to in paragraph (c);
  - (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) The minister must give written notice of the completion of work carried out under subsection (3) (b) and of any order under subsection (3) (a) or (c) to the person to whom the notice under subsection (2) was given,
  - (a) informing the person of
    - (i) the restrictions or the prohibition under an order under subsection (3) (a), and
    - (ii) the amount payable by the person to the government under an order under subsection (3) (c) and the person's liability under section 130 of the *Forest Act* to pay that amount,
  - (b) providing the person with a copy of the order under subsection (3) (a), and
  - (c) providing the person with a copy of the order under subsection (3) (c) and with an accounting of the expenditures relating to the work.
- (5) The minister must give written notice to the person, who is the subject of an order under subsection (3) (d), providing the person with a copy of the order and informing the person of
  - (a) the amount of the administrative penalty and the person's liability under section 130 of the *Forest Act* to pay that amount,
  - (b) the reasons for the administrative penalty, and
  - (c) the person's right to a review under section 80 or to an appeal under section 82, including an address to which a request for a review or appeal may be delivered.
- (6) The person immediately must replace security realized under subsection (3) (e).
- (7) 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 amount of the costs referred to in subsection (3) (c), and

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(b) any administrative penalty levied under subsection (3) (d).

(8) If the holder of an agreement or another person who receives an order under subsection (1)

(a) carries out work specified in the order, and

(b) incurs expenses in excess of the expenses that the person would have incurred if the order had not been made,

and the order is rescinded on review or appeal, then, to the extent provided in the regulations, the excess expenses of the work are to be paid by the government.

**90** *Sections 79 (1), 80 (1) and 81 (1) are amended by striking out “under section 82 or 95 (2) of the Forest Practices Code of British Columbia Act or”.*

**91** *Section 83 (2) (a) is amended by striking out “an official authorized under section 82 or 95 (2) of the Forest Practices Code of British Columbia Act or”.*

**92** *Section 90 (1) is amended by striking out “under section 82 of the Forest Practices Code of British Columbia Act or”.*

**93** *Section 117 is repealed.*

**94** *Section 118 (2) (c) is amended by striking out “, or fire control or suppression services”.*

**95** *Section 142 (2) is amended*

*(a) by adding “and” at the end of paragraph (a), and*

*(b) by repealing paragraphs (b) and (c) and substituting the following:*

*(b) agreements under the Range Act.*

**96** *Section 163 is amended*

*(a) by repealing subsection (1) and substituting the following:*

*(1) The Lieutenant Governor in Council may make regulations respecting administrative remedies under this Act, the regulations or the standards or the Forest Act, the Range Act or a regulation made under the Forest Act or the Range Act, , and*

*(b) by repealing subsection (2) (a) and substituting the following:*

*(a) this Act, the regulations or the standards or the Forest Act, the Range Act or a regulation made under the Forest Act or the Range Act; .*

***Forest Practices Code of British Columbia Act***

**97** *Divisions 1 to 3 of Part 5 of the Forest Practices Code of British Columbia Act, R.S.B.C. 1996, c. 159, are repealed.*

**98 Sections 162, 207 and 215 are repealed.**

***Hydro and Power Authority Act***

**99 Section 32 (7) of the Hydro and Power Authority Act, R.S.B.C. 1996, c. 212, is amended by adding the following paragraph:**

(z.1) the Wildfire Act; .

***Park Act***

**100 Section 2 (1) of the Park Act, R.S.B.C. 1996, c. 344, is amended by adding “, the Wildfire Act, except section 18 of that Act,” after “the Muskwa-Kechika Management Area Act”.**

***Special Accounts Appropriation and Control Act***

**101 Section 5 of the Special Accounts Appropriation and Control Act, R.S.B.C. 1996, c. 436, is amended**

**(a) by repealing subsection (1) (a) and (b) and substituting the following:**

(a) under

(i) section 30 of the *Forest and Range Practices Act*, or

(ii) section 71 of the *Forest Practices Code of British Columbia Act*

and earnings calculated and attributable to those amounts form a sub-account, called the Silviculture Payments Sub-account, and

(b) under

(i) section 73 of the *Forest and Range Practices Act*,

(ii) section 117.2 of the *Forest Practices Code of British Columbia Act*,  
or

(iii) section 32 of the *Wildfire Act*

and earnings calculated and attributable to those amounts form a sub-account, called the Environmental Remediation Sub-account. ,

**(b) in subsection (2) (b) (iv) by adding “Wildfire Act,” after “Forest and Range Practices Act,”**

**(c) in subsection (2) (b) by adding the following subparagraph:**

(vi) to defray fire control costs relating to contraventions of the *Wildfire Act* or the regulations under that Act, if a penalty has been levied under that Act in respect of the contravention. , **and**

**(d) by repealing subsection (2.1) and substituting the following:**

- (2.1) The amount expended under subsection (2) (b) (v) and (vi) must not exceed the amount in the Environmental Remediation Sub-account that is attributable to penalties levied under
- (a) the *Forest Practices Code of British Columbia Act* and earnings calculated and attributable to those penalties, in respect of the contraventions referred to in subsection (2) (b) (v), and
  - (b) the *Wildfire Act* and earnings calculated and attributable to those penalties, in respect of the contraventions referred to in subsection (2) (b) (vi).

### ***Waste Management Act***

***102 Section 3 (5) (h) of the Waste Management Act, R.S.B.C. 1996, c. 482, is repealed and the following substituted:***

- (h) fires set or controlled by a person
  - (i) acting under an order of a local assistant, as defined in the *Fire Services Act*, if the local assistant orders the fires for training purposes,
  - (ii) carrying out fire control under section 9 of the *Wildfire Act*, or
  - (iii) if the fires are resource management open fires under the *Wildfire Act* and are lit, fuelled or used in accordance with that Act and the regulations under that Act.

### ***Wildfire Act***

***103 Section 1 of the Wildfire Act is amended in paragraph (c) of the definition of “official” by striking out “Environment Management Act” and substituting “Environmental Management Act”.***

### **Commencement**

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