
TRANSPORTATION ACT

CHAPTER 44

Assented to May 13, 2004

Contents

Section

PART 1 – INTERPRETATION

- 1 Definitions

PART 2 – POWERS OF THE MINISTER

Division 1 – General

- 2 Rights, powers and advantages of minister

Division 2 – Contracting for Transportation Related Projects

- 3 Power to contract
- 4 Competitive processes
- 5 Security for performance
- 6 Disputes arising from contracts

Division 3 – Dealings with Land

- 7 Acquisition
- 8 Entry
- 9 Compensation for entry
- 10 Expropriation
- 11 Compensation for expropriation
- 12 Injurious affection
- 13 Disposition of land
- 14 Owner's responsibility to maintain

Division 4 – Remedial Action

- 15 Definition
- 16 Minister may require remedial action
- 17 Notice to other affected persons
- 18 Action by minister on failure to comply
- 19 Disposition of seized items
- 20 Proceeds on disposition
- 21 Recovery of expenses
- 22 Minister may act without notice in emergency
- 23 Search of residence under warrant

PART 3 – BC TRANSPORTATION FINANCING AUTHORITY

- 24 Definitions
- 25 Authority continued
- 26 Purpose of the authority
- 27 Powers, capacity and immunities
- 28 Meetings and quorum
- 29 Powers of board

-
- 30 Board remuneration
 - 31 Officers and employees
 - 32 Benefits
 - 33 Financial administration
 - 34 Revenue from gasoline tax
 - 35 Authority revenue from car rental tax
 - 36 Tolls and charges
 - 37 Investment powers
 - 38 Borrowing powers
 - 39 Sinking funds
 - 40 Limit of outstanding debt
 - 41 Application of other Acts

PART 4 – HIGHWAYS

Division 1 – New Highways

- 42 Travelled roads becoming highways
- 43 Dedicated land becoming provincial public highways

Division 2 – Arterial Highways

- 44 Definition
- 45 Designation of highways as arterial
- 46 Consultation with municipality
- 47 Minister has municipality's rights, powers and advantages

Division 3 – Controlled Access Highways

- 48 Controlled access highways
- 49 Restrictions on access
- 50 Unauthorized access
- 51 Authorization for constructing or reopening access
- 52 Development near controlled access highway

Division 4 – Scenic Highways

- 53 Definitions
- 54 Designation
- 55 Garbage removal remedial action

Division 5 – Forest Service Roads

- 56 Forest service roads

Division 6 – Ownership of Highways

- 57 Soil and freehold of provincial public highways vested in government
- 58 Transfers of highways and other land
- 59 Transfers to Canada

Division 7 – Closure of Highways

- 60 Power to close a highway permanently
- 61 Power to close a highway temporarily

PART 5 – USE OF HIGHWAYS

Division 1 – Authorizations

- 62 Authorization of use or occupation of provincial public highways
- 63 Unauthorized use

Division 2 – Abnormal Use of Provincial Public Undertakings

- 64 Interference with provincial public undertakings
- 65 Minister may furnish notice
- 66 Extraordinary traffic

Division 3 – Abandoned Vehicles or Things

- 67 Definition
- 68 Abandoned vehicles and things
- 69 Disposition of seized items
- 70 Proceeds on disposition

Division 4 – Concession Highways

- 71 Application
- 72 Authorization
- 73 Interference with concession highways
- 74 Remedial action
- 75 Abandoned vehicles and things

PART 6 – GENERAL**Division 1 – Collection of Outstanding Money**

- 76 Recovery of money due
- 77 Interest on money due

Division 2 – Offences

- 78 *Offence Act*
- 79 Offences
- 80 Liability of officers and employees
- 81 Remedies preserved

Division 3 – General

- 82 How records are furnished
- 83 Remedial action
- 84 Minister has discretion
- 85 Minister may rely on public officials
- 86 Limitation of liability

PART 7 – REGULATIONS**Division 1 – Regulations of the Lieutenant Governor in Council**

- 87 Regulations
- 88 Regulations relating to ferries
- 89 Regulations relating to concession highways

Division 2 – Regulations of the Minister

- 90 Regulations
- 91 Regulations relating to the Coquihalla Highway
- 92 – 162 Consequential Amendments
- 163 Commencement

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

PART 1 – INTERPRETATION

Definitions

1 In this Act:

“**arterial highway**” means any land, improvement or highway that is designated as an arterial highway under section 45 or that becomes an arterial highway under section 56 (2) (a);

“**authority**” means the BC Transportation Financing Authority continued under section 25;

“**concession agreement**” has the same meaning as in the *Transportation Investment Act*;

“**concession highway**” has the same meaning as in the *Transportation Investment Act*;

“**concessionaire**” has the same meaning as in the *Transportation Investment Act*;

“**controlled access highway**” means a highway designated as a controlled access highway under section 48;

“**documented item**” means a thing that has been seized under this Act if

- (a) a record of the Insurance Corporation of British Columbia identifies the owner of the thing, or
- (b) there is, in the personal property registry or in or on the thing, evidence identifying the owner of the thing or a person who holds an interest in the thing;

“**ferry**” means any vessel

- (a) by which individuals or goods may be transported over water, and
- (b) that is part of the provincial public highway system, but does not include
 - (c) a ferry to which the *Coastal Ferry Act* applies, or
 - (d) a ferry that is part of the regional transportation system as defined in the *Greater Vancouver Transportation Authority Act*;

“**furnish**” means furnish in accordance with section 82;

“**highway**” means a public street, road, trail, lane, bridge, trestle, tunnel, ferry landing, ferry approach, any other public way or any other land or improvement that becomes or has become a highway by any of the following:

- (a) deposit of a subdivision, reference or explanatory plan in a land title office under section 107 of the *Land Title Act*;
- (b) a public expenditure to which section 42 applies;
- (c) a common law dedication made by the government or any other person;
- (d) declaration, by notice in the Gazette, made before December 24, 1987;

- (e) in the case of a road, colouring, outlining or designating the road on a record in such a way that section 13 or 57 of the *Land Act* applies to that road;
- (f) an order under section 56 (2) of this Act;
- (g) any other prescribed means;

“improvement” includes a structure or work;

“municipal highway” means a highway within a municipality that is not an arterial highway;

“municipality” means, as applicable,

- (a) the corporation into which the residents of an area are incorporated as a municipality under Part 2 of the *Local Government Act*, under the *Vancouver Charter* or under any other Act, or
- (b) the geographic area of the municipal corporation;

“personal property registry” means the registry referred to in section 42 of the *Personal Property Security Act*;

“provincial public highway” means any highway that is a rural highway, an arterial highway or a highway referred to in section 35 (2) (f) of the *Community Charter*;

“provincial public undertaking” means any improvement or other work of public utility that relates to transportation, including, without limitation,

- (a) ferries,
- (b) provincial public highways,
- (c) hydraulic powers created by the construction of highways or works of public utility, and
- (d) canals, ditches, drains, drainage, irrigation works and earthworks required for the planning, design, acquisition, holding, construction, use, operation, upgrading, alteration, expansion, extension, maintenance, repair, rehabilitation, protection, removal, discontinuance, closure and disposal of highways and public works;

“regional district” has the same meaning as in the *Local Government Act*;

“rural highway” means a highway that is not within a municipality;

“scenic highway” means a highway designated as a scenic highway under section 54;

“terminal” means the buildings, fixtures, docks, wharves, ramps, landings, approaches, ways, offices and other improvements and facilities, other than land or a ferry, necessary for or incidental to the operation of ferry, shipping and related services;

“transportation” includes transportation by land, water or air;

“undocumented item” means a thing that has been seized under this Act if

- (a) there is no record of ownership of the thing in the records of the Insurance Corporation of British Columbia,

Section 2

- (b) there is no evidence in the personal property registry of the ownership of the thing or of any interest held in the thing, and
- (c) there is not, in or on the thing, any evidence of the identity of the owner of the thing or of any person who may have an interest in the thing;

“**vehicle**” has the same meaning as in the *Motor Vehicle Act*, and, in Division 3 of Part 5 of this Act, includes a disabled vehicle.

PART 2 – POWERS OF THE MINISTER

Division 1 – General

Rights, powers and advantages of minister

- 2** (1) Without limiting any other rights, powers or advantages of the minister under this or any other enactment, the minister may do whatever is or may be necessary to do any or all of the following:
- (a) plan, design, acquire, hold, construct in any manner and in any place the minister considers appropriate, use, operate, upgrade, alter, expand, extend, maintain, repair, rehabilitate, protect, remove, discontinue, close and dispose of provincial public undertakings and related improvements;
 - (b) acquire, carry on or dispose of any business or commercial or industrial enterprise that relates to transportation;
 - (c) grant franchises and licences, and enter into agreements, to operate any ferry services on terms and conditions set by the minister, including, without limitation,
 - (i) terms and conditions respecting fares or rates that may be charged for those services, and
 - (ii) authorizing one or more providers of ferry services to charge and retain fares or rates;
 - (d) make grants and contributions;
 - (e) enter into arrangements or agreements, including, without limitation, arrangements or agreements for the exchange of information, or for the payment or sharing of the cost of anything related to provincial public undertakings or to transportation, with any person, including, without limitation, any of the following:
 - (i) the government of Canada, the government of a province or territory within Canada or the government of a jurisdiction outside of Canada, or an agent, agency, department or official of any of those governments;
 - (ii) a local government body, educational body or health care body, as those terms are defined in the *Freedom of Information and Protection of Privacy Act*;

- (iii) a first nation;
 - (iv) any other body prescribed by regulation as a public authority for the purposes of one or more provisions of this Act;
- (f) name and rename provincial public highways.
- (2) If the minister changes the name of a provincial public highway, the minister must publish notice of the change in the prescribed manner.

Division 2 – Contracting for Transportation Related Projects

Power to contract

- 3** Without limiting any other power the minister has under this or any other enactment, the minister may enter into contracts for, or otherwise provide for the carrying out of, any activity or service relating to transportation, including, without limitation, the planning, design, acquisition, holding, construction, use, operation, upgrading, alteration, expansion, extension, maintenance, repair, rehabilitation, protection, removal, closure and disposition of provincial public undertakings and related improvements.

Competitive processes

- 4** (1) Before awarding a contract to any person in relation to the construction or repair of a provincial public highway, the minister must invite tenders in any manner that will make the invitation for tenders reasonably available to the public.
- (2) The minister need not invite tenders for a project referred to in subsection (1) if
- (a) delay would be injurious to the public interest,
 - (b) the project is to be carried out by officers or employees of the government,
 - (c) the minister believes that an alternative contracting process will result in a competitively established cost for the project,
 - (d) the project must be completed to meet a condition of or other requirement for subdivision approval, whether completion of the project precedes or follows that approval,
 - (e) the project must be completed to meet a condition imposed
 - (i) by the minister in relation to an authorization under section 51,
 - (ii) in an agreement referred to in section 52 (2),
 - (iii) by the minister in relation to an approval of a bylaw under section 52, or
 - (iv) by the minister in relation to an approval of a site plan under section 924 of the *Local Government Act*, or
 - (f) the minister is, in relation to the project, relieved from that obligation by order of the Lieutenant Governor in Council.

Section 5

- (3) For each tender received in response to an invitation for tenders under subsection (1), the minister must cause the tender price and the name of the person tendering to be published in any manner set out in the invitation to tender.
- (4) For each contract awarded in the circumstances described in subsection (2) (c), the minister must make available to any person, on request, the name of the person to whom the contract is awarded and the price of the contract.
- (5) If, in the case of any project in relation to which the minister must, under subsection (1), invite tenders, the minister believes that it is not expedient to award the project to the lowest tenderer, the minister must report to and obtain the approval of the Lieutenant Governor in Council before passing by the lowest tender, unless delay would be injurious to the public interest.

Security for performance

- 5 (1) If any project referred to in section 4 (1) is to be performed under a contract awarded under this Division,
 - (a) the minister may require that security be provided
 - (i) to the government, and
 - (ii) in the form and amount the minister believes will provide reasonable assurance that the project will be completed in the manner and within the time specified in the contract,
 - (b) the contract must be signed by all parties to it before any money is paid, or any work is performed, under the contract, and
 - (c) unless the contract provides otherwise, the security, if any, referred to in paragraph (a) of this subsection must be provided before any money is paid, or any work is performed, under the contract.
- (2) The minister may, at any time, release or surrender all or part of any security provided under subsection (1) (a).

Disputes arising from contracts

- 6 (1) If the minister enters into a contract under section 3, a provision in that contract that stipulates a drawback, penalty or amount of liquidated damages for failing to perform, fulfill or comply with a term, condition, covenant or promise of the contract must not be construed as punitive, but as importing by mutual consent an assessment of the damages that would be caused by the failure.
- (2) If a claim is made under a contract entered into under section 3,
 - (a) no compensation is payable to the claimant if the claim is founded on the ground that the cost to the claimant of performing the contract was greater than the contract price, and
 - (b) no interest is payable on any money awarded or paid in response to the claim unless the contract in relation to which the claim is made expressly provides for payment of such interest.

Division 3 – Dealings with Land

Acquisition

- 7 The minister may acquire, hold and maintain land.

Entry

- 8 (1) Without limiting Division 4, the minister may, without consent, for any of the purposes in subsection (2) of this section,
- (a) enter, remain on and use land, and
 - (b) do one or more of the following:
 - (i) take possession of or use timber, stone, gravel, sand, clay and other materials on the land;
 - (ii) place or store anything on the land;
 - (iii) construct temporary roads or improvements;
 - (iv) provide, remove or repair access from the land to a provincial public undertaking and, for that purpose, take possession of, use or move anything on the land.
- (2) The minister may exercise the rights, powers and advantages granted under subsection (1) to
- (a) acquire, hold, construct, use, operate, upgrade, alter, expand, extend, maintain, repair, rehabilitate or protect a provincial public undertaking,
 - (b) remove, discontinue, close or dispose of a provincial public undertaking,
 - (c) protect any animal, bird, fish or plant species or habitat, or the environment, from the effects of a provincial public undertaking, or
 - (d) carry out work connected with planning or designing a provincial public undertaking.

Compensation for entry

- 9 (1) Except as provided in subsection (4), the *Expropriation Act* does not apply to an entry on land under section 8 of this Act or to any other activity undertaken by the minister under section 8.
- (2) Subject to subsection (5) of this section, if any entry or other activity of the minister under section 8 causes any damage, the minister must
- (a) remedy the damage, or
 - (b) if the minister chooses not to remedy the damage, pay compensation for the damage.
- (3) If the minister takes possession of or uses any thing under section 8 (1) (b), the minister
- (a) must, subject to subsection (5) of this section, pay compensation for the thing, or

Section 10

- (b) may pay compensation for the thing, in an amount determined by the minister, if the minister took possession of or used the thing under the authority of this or any other Act or under a reservation, in a Crown grant relating to the land, that provides the right to take possession of or use the thing without compensation.
- (4) If the minister and a person entitled to compensation under subsection (2) (b) or (3) (a) of this section fail to agree on the amount of compensation payable, the amount must be determined by the Expropriation Compensation Board established under the *Expropriation Act*.
- (5) The minister is not required to pay compensation for any entry onto land under section 8 of this Act, or for any other thing done under section 8, including, without limitation, any activity or taking of possession of or using any thing, if the entry, activity, taking possession or use was to deal with a situation that
 - (a) directly interferes with the minister's ability to exercise the rights, powers and advantages granted under this Act, and
 - (b) was created or condoned by the owner or occupier of the land.

Expropriation

- 10** The minister may expropriate land for any of the purposes in section 8 (2) (a) or (c).

Compensation for expropriation

- 11** If the minister exercises the power under section 10 to expropriate land, the minister must pay compensation as agreed with the owner of the land or, if there is no agreement, in accordance with the *Expropriation Act*.

Injurious affection

- 12** (1) Subject to subsection (2), but despite any other enactment or the common law, no action lies and no proceeding may be brought against the government, the minister or any other person for compensation or damages resulting from injurious affection to land resulting from the exercise of a power provided to, or the performance of a duty imposed on, the minister under this Act or any predecessor Act.
- (2) If the minister expropriates part of the land of an owner, subsection (1) does not apply in relation to the minister if and to the extent that injurious affection results to the unexpropriated remainder of that land.

Disposition of land

- 13** (1) The minister may dispose of land.
- (2) Without limiting subsection (1) and despite Part 3, the minister may
 - (a) dispose of the whole or any part of a provincial public highway by lease for any purpose, including, without limitation, a commercial purpose, and

- (b) if a provincial public highway is discontinued and closed, dispose of the whole or any part of the land over which the provincial public highway was discontinued and closed.
- (3) If the minister wishes to sell land that is not a provincial public highway, the minister must, in selecting the person to whom the sale is to be made, use a public competitive process unless,
 - (a) in the case of a disposition referred to in subsection (2) (b), the disposition is
 - (i) to the authority or the Greater Vancouver Transportation Authority,
 - (ii) to a municipality or regional district for consideration determined by the minister,
 - (iii) in exchange for other land, with or without additional consideration, or
 - (iv) to an owner of land adjacent to the land over which the provincial public highway was discontinued and closed, or
 - (b) in the case of any other disposition of land, the disposition is one referred to in paragraph (a) (i), (ii) or (iii) of this subsection.
- (4) If the minister wishes to dispose of land that is not a provincial public highway by lease, the minister must, in selecting the person to whom the lease is to be granted, use a public competitive process unless the lease is for at least market rent or is to
 - (a) an agency, board or commission of the government,
 - (b) the authority or the Greater Vancouver Transportation Authority,
 - (c) a municipality or regional district,
 - (d) a corporation
 - (i) established by an Act of the Legislature of British Columbia or by an Act of the Parliament of Canada, and
 - (ii) of which the majority of shares are owned by the government of British Columbia or the government of Canada, or
 - (e) any other person if
 - (i) special circumstances exist, and
 - (ii) the lease arrangements are approved by the Lieutenant Governor in Council.
- (5) The proceeds of every disposition of land referred to in this section must be paid to the government.

Owner's responsibility to maintain

- 14** (1) The minister may furnish a notice under this section in respect of an improvement in either of the following circumstances:
- (a) the minister has entered into an agreement with an owner of land under which the owner agrees to maintain the improvement in accordance with the

Section 14

- agreement, and the minister believes that the improvement is not being maintained in accordance with the agreement;
- (b) the minister has attempted to negotiate an agreement referred to in paragraph (a) in relation to the improvement but, in the minister's opinion, it will not be possible to reach such an agreement with the owner within a reasonable time, and the minister believes that the improvement
 - (i) has been constructed by the minister under this or any other enactment,
 - (ii) relates to a provincial public undertaking, and
 - (iii) is primarily for the benefit of the owner.
- (2) If, under subsection (1), the minister furnishes a notice to an owner of land in respect of an improvement on the land, the owner must, at the owner's expense, keep the improvement in good repair.
 - (3) A notice under subsection (1) must
 - (a) require the owner to keep the improvement in good repair, and
 - (b) indicate that, if the improvement is not kept in good repair, the minister may, at the owner's expense, enter the land and carry out any action considered by the minister to be necessary for that purpose.
 - (4) The minister may refrain from furnishing a notice under subsection (1) or may revoke a notice furnished under that subsection if the minister believes that the notice obligation would cause undue hardship to the owner.
 - (5) If the minister believes that the owner to whom a notice has been furnished under subsection (1) in respect of an improvement has not kept the improvement in good repair, the minister may
 - (a) enter the land on which the improvement is located, and
 - (b) carry out any repairs or other remedial actions considered by the minister to be appropriate.
 - (6) If the minister enters land or performs any remedial actions under subsection (5), the minister may demand, from the owner of the land, payment of
 - (a) the expenses incurred as a result of any entry and remedial actions by the minister under subsection (5),
 - (b) interest on the amount referred to in paragraph (a) of this subsection, and
 - (c) the expenses incurred in recovering the amounts referred to in paragraphs (a) and (b).
 - (7) An amount demanded by the minister from an owner of land under subsection (6) is due, owing and payable by the owner to the minister on the owner's receipt of the demand and, without limiting section 76, may, if the land is outside a municipality, be recovered as delinquent taxes in the same manner as delinquent taxes may be recovered under the *Taxation (Rural Area) Act*.

Division 4 – Remedial Action

Definition

- 15** In this Division, “**responsible person**” means a person to whom a notice is furnished under section 16 (1) that requires the person to take some remedial action.

Minister may require remedial action

- 16** (1) Subject to section 22, the minister may furnish a notice under this section to the owner or occupier of land if the minister believes that there is on the land, whether or not that land is near a provincial public undertaking, equipment or a tree, fence, sign, building, vehicle, device, object or situation that, in the minister’s opinion,
- (a) creates a need to act to protect
 - (i) a provincial public undertaking,
 - (ii) any land or improvement related to a provincial public undertaking, or
 - (iii) any thing that is or may be on or near a provincial public undertaking,
 - (b) might affect the safety of any person who is or might be on or near
 - (i) a provincial public undertaking, or
 - (ii) any land or improvement related to a provincial public undertaking,
 - (c) is causing or might cause the accumulation of snow, water, debris or any other potentially hazardous material on or near a provincial public undertaking or on or near any land or improvement related to a provincial public undertaking, or
 - (d) is a nuisance that might distract the operator of a vehicle on or near a provincial public undertaking or impair the operator’s ability to drive safely.
- (2) A notice under subsection (1) must
- (a) specify the remedial actions the minister requires,
 - (b) specify the time or date on or before which the remedial actions must be completed, and
 - (c) indicate that if the specified remedial actions are not completed by the specified time or date, the minister may carry out remedial actions at the expense of the responsible person.
- (3) The minister may extend the time for completion of a required remedial action whether or not a previously specified time limit has expired.

Notice to other affected persons

- 17** If a notice is furnished under section 16 (1), a copy of the notice must be sent, by ordinary mail, to the last known address, if any, of

Section 18

- (a) the occupier, if the responsible person is the owner, and
- (b) the owner, if the responsible person is the occupier.

Action by minister on failure to comply

18 If the remedial actions specified in a notice furnished under section 16 (1) have not been completed by the time or date set in the notice for completion, the minister may

- (a) subject to section 23, enter any place or premises on the land where the action was required to be taken, and
- (b) carry out any remedial actions considered by the minister to be appropriate, including, without limitation,
 - (i) seizing or impounding any thing the minister believes caused or contributed to the situation for which the remedial actions were required,
 - (ii) constructing, upgrading, altering, expanding, extending, repairing, rehabilitating and removing any improvement as the minister considers necessary, and
 - (iii) subject to section 19, disposing of any thing seized under subparagraph (i) of this paragraph.

Disposition of seized items

19 (1) A documented item must not be disposed of by the minister under section 18 (b) (iii) unless

- (a) notice in writing is furnished to
 - (i) the person, if any, shown as the current owner of the documented item in the records of the Insurance Corporation of British Columbia, and
 - (ii) any other person who is shown in the personal property registry, or in or on the documented item, as being an owner of the documented item or as having an interest in the documented item, and
- (b) 14 days have elapsed since the date of the notice and no person has, within the 14 days, established ownership, paid the expenses recoverable under subsection (3) of this section and taken custody of the documented item.

(2) An undocumented item must not be disposed of by the minister under section 18 (b) (iii) unless

- (a) 7 days have elapsed since the seizure, and
- (b) no person has, within the 7 days, established ownership, paid the expenses recoverable under subsection (3) of this section and taken custody of the undocumented item.

(3) The expenses incurred in entering any land under section 18 (a) and carrying out any remedial actions under section 18 (b), including, without limitation, seizing,

removing, impounding or disposing of any thing under section 18 (b), are recoverable by the minister from the responsible person.

Proceeds on disposition

- 20** (1) If the minister gives or sells any thing under section 18 (b) (iii),
- (a) the person to whom the thing is given or sold takes it free and clear of any encumbrances, including, without limitation, any right, title or interest of the person who was its owner before the disposition but excluding any right, title or interest retained by the minister by the disposition, and
 - (b) the minister must apply any proceeds realized from that disposition to the expenses recoverable under section 19 (3).
- (2) If, after the proceeds realized from a disposition are applied to the expenses recoverable under section 19 (3), a balance of proceeds remains that is in excess of \$10, the minister must,
- (a) if the thing that was disposed of is a documented item, furnish a notice of that balance and of the person to whom, under subparagraph (ii) of this paragraph, that balance is to be paid to every person to whom notice of disposition was furnished under section 19 (1) and
 - (i) pay the balance in accordance with any court order received by the minister within 14 days after the date of the notice under this subsection, or
 - (ii) if no court order is received by the minister within that 14 day period, pay the balance to the person who is shown as the owner of the documented item in the records of the Insurance Corporation of British Columbia or, if no person is shown as the owner in those records, to the person who is shown as the owner of the documented item in the personal property registry or in or on the documented item, or
 - (b) if the thing that was disposed of is an undocumented item and no person has, within 14 days after the disposition, satisfied the minister as to that person's ownership of the undocumented item, pay the balance to the administrator under the *Unclaimed Property Act*.
- (3) Money paid to the administrator under subsection (2) (b) of this section is deemed to be an unclaimed money deposit under the *Unclaimed Property Act*.

Recovery of expenses

- 21** (1) The minister may demand, from the responsible person, payment of
- (a) the expenses recoverable under section 19 (3) that have not been satisfied under section 20 (1) (b),
 - (b) interest on the amount referred to in paragraph (a) of this subsection, and
 - (c) the expenses incurred in recovering the amounts referred to in paragraphs (a) and (b).

Section 22

- (2) An amount demanded by the minister under subsection (1) is due, owing and payable by the responsible person to the minister on the responsible person's receipt of the demand and, without limiting section 76, may, if the responsible person is the owner of the land referred to in section 18 (a) and that land is outside a municipality, be recovered as delinquent taxes in the same manner as delinquent taxes may be recovered under the *Taxation (Rural Area) Act*.

Minister may act without notice in emergency

- 22** (1) If the minister believes that the circumstances referred to in section 16 (1) create an urgent need for remedial action, the minister may
- (a) subject to section 23, enter any place or premises on the land without notice to or the consent of the owner or occupier of the land, and
 - (b) carry out any remedial actions considered by the minister to be appropriate, including, without limitation,
 - (i) seizing, removing or impounding any thing the minister believes caused or contributed to the situation for which the remedial actions are required,
 - (ii) constructing, upgrading, altering, expanding, extending, repairing, rehabilitating and removing any improvement as the minister considers necessary, and
 - (iii) subject to section 19, disposing of any thing seized under subparagraph (i) of this paragraph.
- (2) Subject to subsection (3) of this section, section 9 (1) to (4) applies to any entry or activity of the minister under subsection (1) of this section.
- (3) The minister is not required to pay compensation for any entry onto the land under subsection (1) of this section, or for anything done under subsection (1) in connection with any entry onto the land, including, without limitation, any activity or taking of possession of or using any thing, if the situation that created the urgent need was created or condoned by the owner or occupier of the land.
- (4) Sections 19, 20 and 21 apply to any disposition of a thing under subsection (1) (b) (iii) of this section and, for that purpose, a reference to "the responsible person" in those provisions as they apply for the purposes of this section is deemed to be a reference to the owner or occupier of the land.

Search of residence under warrant

- 23** (1) Subject to this section, the power to enter premises under section 18 (a) or 22 (1) (a) must not be used to enter a dwelling occupied as a residence without the consent of the occupier.
- (2) Without limiting any other rights, powers or advantages of the minister under this or any other enactment, the minister may, for the purposes referred to in section 18 (b) or 22 (1) (b), as the case may be, enter a dwelling occupied as a

residence, without the consent of the occupier, under the authority of a warrant issued under subsection (3) of this section.

- (3) A justice may issue a warrant authorizing a person named in the warrant and, if appropriate, any peace officer that the named person may call on for assistance to enter a dwelling occupied as a residence in accordance with the warrant, for the purposes referred to in section 18 (b) or 22 (1) (b), if the justice is satisfied by evidence on oath that the entry is required for those purposes.

PART 3 – BC TRANSPORTATION FINANCING AUTHORITY

Definitions

24 In this Part:

“**board**” means the board of directors of the authority;

“**director**” means a member of the board.

Authority continued

- 25** (1) The BC Transportation Financing Authority is continued as a corporation consisting of a board of directors made up of the minister and not more than 4 other members appointed by the Lieutenant Governor in Council.
- (2) The minister is the chair of the board.

Purpose of the authority

- 26** The purpose of the authority is to acquire, construct, hold, improve or cause to be constructed or improved transportation infrastructure, other than infrastructure related to municipal highways, throughout British Columbia, and to do such other things as the Lieutenant Governor in Council may authorize.

Powers, capacity and immunities

- 27** (1) The authority is an agent of the government.
- (2) Subject to this Act and the regulations, the authority has the power and capacity of an individual of full capacity.
- (3) Without limiting subsection (2) but subject to this Part and the regulations, the authority may do one or more of the following for the purposes of this Part:
- (a) acquire, construct, hold or improve transportation infrastructure or cause it to be constructed or improved;
 - (b) acquire or expropriate land;
 - (c) hold and maintain land acquired or expropriated under paragraph (b);
 - (d) dispose of land acquired or expropriated under paragraph (b);
 - (e) with the approval of the Minister of Finance, provide financial assistance by way of grant, contribution, loan or guarantee;

Section 28

- (f) with the approval of the Lieutenant Governor in Council, enter into agreements with the government of Canada, the government of a province or territory within Canada or the government of a jurisdiction outside Canada, or with an agency, department or official of any of those governments;
 - (g) create subsidiary corporations to carry out the purposes of the authority;
 - (h) do such other things as the Lieutenant Governor in Council may authorize.
- (4) The authority has the same immunities in relation to property of the authority as the government has in relation to property of the government.
- (5) Subject to subsection (6), but despite any other enactment or law, no action lies and no proceeding may be brought against the authority, the government, the minister or any other person for compensation or damages resulting from injurious affection to land resulting from the exercise of a power provided to, or the performance of a duty imposed on, the authority under this Act or any predecessor Act.
- (6) If the authority expropriates part of the land of an owner, subsection (5) does not apply in relation to the authority if and to the extent that injurious affection results to the unexpropriated remainder of that land.

Meetings and quorum

- 28** (1) A majority of the directors holding office constitutes a quorum at meetings of the board.
- (2) Without limiting section 29 (5), the affirmative votes of the majority of the directors present at a meeting at which a quorum is present are sufficient to pass a resolution of the board.

Powers of board

- 29** (1) The directors must manage the affairs of the authority or supervise the management of those affairs.
- (2) The directors may
- (a) exercise the rights, powers and advantages conferred on them under this Part,
 - (b) exercise the rights, powers and advantages of the authority on behalf of the authority, and
 - (c) delegate the exercise or performance of any right, power, advantage or duty conferred or imposed on them to the chief executive officer of the authority or to a person employed by the authority.
- (3) The directors may pass the resolutions they consider necessary or advisable for the management and conduct of the affairs of the authority, the exercise of their rights, powers and advantages or the performance of their duties.

- (4) Without limiting subsection (3), the directors may pass resolutions respecting the procedure to be followed at meetings of the board.
- (5) A resolution of the board that is approved by directors, whether present in person or approving by telex, telegraph, facsimile transmission, telephone or any other similar means of communication confirmed in writing or other graphic communication, is as valid as if it had been passed at a meeting of the directors properly called and constituted.

Board remuneration

- 30** The authority may pay to a director
- (a) an allowance for reasonable travelling and incidental expenses necessarily incurred in carrying out the business of the authority, and
 - (b) if the director is not a member of the Legislative Assembly or a public servant, remuneration at rates set by the Lieutenant Governor in Council.

Officers and employees

- 31**
- (1) The board may appoint a chief executive officer of the authority.
 - (2) The chief executive officer must carry out those functions and perform those duties that are specified in the resolutions of the board.
 - (3) The chief executive officer, to the extent authorized by the board, may appoint officers and employees of the authority necessary to carry on the business and operations of the authority and may define their duties and determine their remuneration.
 - (4) The *Public Service Act* and the *Public Service Labour Relations Act* apply to the authority and the officers and employees of the authority.

Benefits

- 32**
- (1) The *Public Service Benefit Plan Act* applies to the officers and employees of the authority.
 - (2) The Public Service Pension Plan, continued under the *Public Sector Pension Plans Act*, applies to the authority and the officers and employees of the authority.

Financial administration

- 33**
- (1) The authority must
 - (a) establish and maintain an accounting system satisfactory to the Minister of Finance, and
 - (b) whenever required by that minister, render detailed accounts of its revenues and expenditures for the period or to the day that minister designates.
 - (2) All records of the authority must at all times be open for inspection by the Minister of Finance or a person designated by that minister.

Section 34

- (3) The Minister of Finance may direct the Comptroller General to examine and report to the Treasury Board on any or all of the financial and accounting operations of the authority.
- (4) At least once in every fiscal year, the accounts of the authority must be audited and reported on by an auditor appointed by the Lieutenant Governor in Council, with the costs of the audit paid by the authority.
- (5) The accounts referred to in subsection (4) must be prepared in accordance with generally accepted accounting principles.
- (6) The Minister of Finance is the fiscal agent of the authority.

Revenue from gasoline tax

- 34** (1) If a regulation is made under subsection (2), the Minister of Finance must pay to the authority out of the consolidated revenue fund, without an appropriation other than this section, amounts equivalent to the net revenue under section 13 of the *Motor Fuel Tax Act* in the prescribed area.
- (2) On request by resolution of the board, the Lieutenant Governor in Council may, by regulation for the purposes of this Part,
 - (a) bring into force section 13 of the *Motor Fuel Tax Act* in a prescribed area of British Columbia, and
 - (b) prescribe the tax to be collected under that section in the prescribed area.

Authority revenue from car rental tax

- 35** The Minister of Finance must pay to the authority out of the consolidated revenue fund, without an appropriation other than this section, amounts equivalent to the net revenue collected under section 26 of the *Social Service Tax Act*.

Tolls and charges

- 36** (1) Subject to the approval of the Lieutenant Governor in Council, the authority may establish a system of tolls or charges to be paid to the authority in respect of the use of a provincial public highway.
- (2) If a system of tolls or charges has been established by the authority under this section in respect of the use of a provincial public highway, a person must not take or operate a vehicle on the provincial public highway without paying the toll or charge applicable to the vehicle.

Investment powers

- 37** Subject to the approval of the Minister of Finance, the authority may invest or loan any money of the authority that is not otherwise required for the purposes of the authority in investments or loans authorized by the Lieutenant Governor in Council.

Borrowing powers

- 38** (1) Subject to the approval of the Lieutenant Governor in Council and the Minister of Finance, the authority may borrow the sums of money it considers necessary or advisable for the purpose of carrying out any right, power, advantage or duty conferred or imposed on it under this or any other Act, and may issue securities in relation to that borrowing in the form and on the terms and conditions determined by the Minister of Finance at or before the time the securities are issued.
- (2) By resolution, the board may delegate any of its rights, powers and advantages or the powers of the authority under this section to any director or officer of the authority.
- (3) A recital or declaration in a resolution of the board authorizing the issue of securities, to the effect that the issue of the securities authorized under subsection (1) is being made for the purposes of the authority and that the amount is necessary to realize the net sum required for those purposes, is conclusive evidence of the fact.
- (4) Subject to the approval of the Lieutenant Governor in Council and the Minister of Finance, the authority, on terms it considers necessary or advisable, may
- (a) dispose of securities of the authority, either at par value or at less or more than par value, and
 - (b) charge, pledge, hypothecate, deposit or otherwise deal with the securities as collateral security.
- (5) The securities of the authority, other than notes, together with any coupons attached, must bear the signatures of
- (a) the chair and another director or officer, or
 - (b) those directors or officers of the authority or officers of the Ministry of Finance as the authority may determine.
- (6) As the fiscal agent of the authority, the Minister of Finance may arrange all details and do, transact and execute all deeds, matters and things that are required during the negotiation of a loan or for the purpose of placing a loan.
- (7) The mechanically reproduced signature of a person authorized under subsection (5) is for all purposes valid and binding on the authority, even if the person whose signature is reproduced has ceased to hold office before the date of the security or before its issue.

Sinking funds

- 39** If required to do so by the Minister of Finance, the authority must, on terms and conditions specified by that minister,
- (a) establish one or more sinking fund accounts, or

- (b) make other arrangements for the repayment of securities issued by the authority.

Limit of outstanding debt

- 40**
- (1) The outstanding debt of the authority arising from borrowings, as calculated under subsection (2), must not be greater than the amount established for the purpose of this section by the Lieutenant Governor in Council.
 - (2) The outstanding debt of the authority arising from borrowings must be calculated by taking the aggregate of the principal value of its outstanding debt from borrowings,
 - (a) adding the amounts of any unamortized premiums in relation to the debt,
 - (b) subtracting the amounts of any unamortized discounts in relation to the debt,
 - (c) subtracting the amounts of the value, as determined by the Minister of Finance, of
 - (i) any sinking funds established under section 39 for the retirement of the debt, and
 - (ii) the balances attributable to the authority in any sinking funds established by the government under the *Financial Administration Act* in relation to the debt, and
 - (d) adding or subtracting other amounts as prescribed by the Lieutenant Governor in Council.
 - (3) For the purpose of this section, if any outstanding debt of the authority arises from borrowings in currencies other than Canadian dollars, the outstanding debt in respect of those borrowings must be determined by calculating the Canadian dollar equivalent of these borrowings on the basis of
 - (a) the Bank of Canada Canadian dollar noon spot exchange rate for the currency borrowed as quoted on the day of the borrowing, or
 - (b) if there is no Bank of Canada Canadian dollar noon spot exchange rate quoted for the currency borrowed on the day of the borrowing, the noon spot exchange rate for the currency borrowed on the day of the borrowing at a Canadian chartered bank that the Minister of Finance considers appropriate.

Application of other Acts

- 41**
- (1) Subject to subsection (2), the *Business Corporations Act* does not apply to the authority.
 - (2) The Lieutenant Governor in Council may, by order, declare that certain provisions of the *Business Corporations Act* apply to the authority.

PART 4 – HIGHWAYS

Division 1 – New Highways

Travelled roads becoming highways

- 42** (1) Subject to subsection (2), if public money is spent on a travelled road that is not a highway, the travelled road is deemed and declared to be a highway.
- (2) Subsection (1) does not apply to any road or class of roads, or to any expenditure or class of expenditures, that is prescribed by the regulations.

Dedicated land becoming provincial public highways

- 43** If a person agrees under section 3 (1) of the *Expropriation Act* or otherwise to dedicate land to the government to become a highway, the minister may, for the purposes of section 107 of the *Land Title Act*, prepare and deposit with the registrar of the applicable land title office an explanatory plan showing that land as highway, and, in that event,
- (a) section 107 (1) (c) and (d) and (3) of the *Land Title Act* applies, and
 - (b) the dedicated land becomes a provincial public highway.

Division 2 – Arterial Highways

Definition

- 44** In this Division, “**affected municipality**”, in relation to an arterial highway, means the municipality in which the arterial highway is located.

Designation of highways as arterial

- 45** (1) The Lieutenant Governor in Council may, by order, on the recommendation of the minister,
- (a) designate as an arterial highway all or any part of
 - (i) any land or improvement in a municipality that has been expropriated or otherwise acquired by the government,
 - (ii) a municipal highway that has been resumed under section 35 of the *Community Charter*, or
 - (iii) any land or improvement in a municipality referred to in section 35 (2) (a) to (f) and (j) of the *Community Charter*, and
 - (b) remove the designation of “arterial highway” from all or part of any land or improvement or highway.
- (2) After an order is made under subsection (1), the minister must publish notice of the order in the prescribed manner.

Section 46

Consultation with municipality

- 46** Before making a recommendation referred to in section 45 (1) in relation to any land, improvement or highway, the minister must consult with the municipal council of the municipality in which the land, improvement or highway or a part of it is located.

Minister has municipality's rights, powers and advantages

- 47** In addition to any other rights, powers and advantages held by the minister in relation to an arterial highway under this Act, the minister
- (a) has, and may exercise, in relation to the arterial highway, all of the rights, powers and advantages that the affected municipality had, before the arterial highway was designated as such under this or any other Act, to plan, design, acquire, hold, construct, use, operate, upgrade, alter, expand, extend, maintain, repair, rehabilitate, protect, remove, discontinue, close and dispose of the highway,
 - (b) has, and may exercise, in relation to any improvement on, under, over or related to the arterial highway, all of the rights, powers and advantages that the affected municipality had, before the arterial highway was designated as such under this or any other Act, to plan, design, acquire, hold, construct, use, operate, upgrade, alter, expand, extend, maintain, repair, rehabilitate, protect, remove, discontinue, close and dispose of the improvement,
 - (c) has, and may exercise, all of the rights, powers and advantages that the affected municipality had, before the arterial highway was designated as such under this or any other Act, under any contract relating to the highway or any related improvement, and
 - (d) may sue in the name of the minister to enforce any of the rights, powers or advantages referred to in this section.

Division 3 – Controlled Access Highways**Controlled access highways**

- 48** (1) The minister may, by order,
- (a) designate all or any part of a provincial public highway as a controlled access highway, and
 - (b) remove the designation of “controlled access highway” from all or any part of a highway.
- (2) If a provincial public highway designated as a controlled access highway under subsection (1) was, before that designation, a rural highway, an arterial highway or a scenic highway, the provisions of this or any other enactment that apply to rural, arterial or scenic highways, as the case may be, continue to apply to the controlled access highway for so long as it is a rural highway, an arterial highway or a scenic highway.

- (3) After an order is made under subsection (1), the minister must publish notice of the order in the prescribed manner.

Restrictions on access

- 49** (1) A person must not,
- (a) without the authorization of the minister, construct or reopen, or allow the construction or reopening of, any means of access to or from a controlled access highway, or
 - (b) obtain access to or from any controlled access highway other than by way of an access point
 - (i) constructed by the minister, or
 - (ii) authorized by the minister under paragraph (a).
- (2) An authorization under subsection (1) must be in writing unless the authorization is provided to a person who is to engage in the authorized activity within the course of his or her employment as a public officer.

Unauthorized access

- 50** (1) If the minister believes that there is a location at or through which unauthorized access to or from a controlled access highway may be obtained, the minister may furnish a notice to the owner or occupier of the land to or from which that access may be obtained requiring the person to seal off the access point in the manner and within the time specified by the minister.
- (2) Division 4 of Part 2 applies to a notice under subsection (1).

Authorization for constructing or reopening access

- 51** (1) The minister may, on terms and conditions the minister considers appropriate, provide to a person an authorization to construct or reopen, or allow the construction or reopening of, any means of access to or from a controlled access highway.
- (2) Without limiting other terms and conditions the minister may impose in relation to an authorization under this section, the minister may, as part of the terms and conditions on which an authorization may be provided, do one or more of the following:
- (a) establish the location and form of the authorized access;
 - (b) require the person to whom the authorization is provided to construct, upgrade, alter, expand, extend, repair, rehabilitate or protect any improvement that the minister considers necessary to facilitate the required access;
 - (c) establish terms and conditions relating to the planning, design, acquisition, holding, construction, use, operation, upgrading, alteration, expansion, extension, maintenance, repair, rehabilitation, protection, removal,

Section 52

- discontinuance, closure and disposition of the access, including, without limitation, the standards to which that work is to be completed;
- (d) impose limitations on the authorized access;
 - (e) charge and collect a fee for the authorization in the amount prescribed.
- (3) The minister may amend or terminate an authorization given in relation to a controlled access highway under subsection (1) in any of the following circumstances:
- (a) the minister believes that the amendment or termination is necessary to protect the health or safety of a person who is or may be using, or who is near to, a provincial public undertaking;
 - (b) the minister believes that there is an urgent public need to amend or terminate the authorization;
 - (c) the minister believes that the amendment or termination is necessary to
 - (i) protect or preserve the integrity of the controlled access highway, or
 - (ii) operate the controlled access highway in the most efficient and effective manner;
 - (d) the minister believes that the authorization has resulted in an unreasonable impediment to the minister's ability to exercise one or more of the minister's rights, powers or advantages under this Act;
 - (e) the holder of the authorization has breached any of the terms and conditions on which the authorization was granted.

Development near controlled access highway**52** (1) In this section:

“controlled area” means, in relation to an intersection of a controlled access highway with any other highway, land and improvements within a radius of 800 metres from the intersection;

“zoning bylaw” means

- (a) a zoning bylaw under the *Local Government Act*, or
 - (b) for a community planning area, a zoning bylaw under the *Local Services Act*.
- (2) The minister may enter into an agreement under this section with the municipality or regional district in which a controlled area is located.
- (3) A zoning bylaw of a municipality or regional district does not apply to a controlled area unless
- (a) the bylaw has been approved in writing by the minister or any person designated in writing by the minister before its adoption, or
 - (b) the bylaw is in compliance with the terms of an agreement referred to in subsection (2) between the minister and the municipality or regional district.

- (4) If the minister enters into an agreement referred to in subsection (2) with a municipality or regional district,
 - (a) a zoning bylaw is in compliance with that agreement, for the purposes of subsection (3) (b), if and for so long as
 - (i) development within the controlled area complies with a plan that forms part of or is identified in the agreement, and
 - (ii) the municipality or regional district complies with the terms of the agreement, and
 - (b) a zoning bylaw that is not in compliance with the agreement must be submitted to the minister for approval in writing under subsection (3) (a).
- (5) The minister must not approve a zoning bylaw under this section unless the bylaw meets the prescribed criteria.

Division 4 – Scenic Highways

Definitions

53 In this Part:

“garbage” includes rubbish, ashes, filth, discarded materials and the bodies or parts of vehicles or machinery;

“roadside land” means land within 150 metres of the centre line of a scenic highway.

Designation

54 (1) The minister may, by order,

- (a) designate a highway or part of a highway as a scenic highway, or
- (b) remove the designation of a highway as a scenic highway.

(2) If a scenic highway under subsection (1) is also a rural highway, a controlled access highway or an arterial highway, the provisions of this or any other enactment that apply to rural, controlled access or arterial highways, as the case may be, continue to apply to the scenic highway for so long as it is a rural highway, a controlled access highway or an arterial highway.

(3) After an order is made under subsection (1), the minister must publish notice of the order in the prescribed manner.

Garbage removal remedial action

55 (1) If satisfied that there is, on roadside land, garbage that is likely to be unsightly or offensive to the public travelling on the scenic highway, the following may furnish to the owner or occupier of the roadside land a notice under this section, requiring the owner or occupier, as the case may be, to remove the garbage or to take such other remedial actions as may be specified in the notice:

- (a) if the roadside land is within a municipality, the municipal council;

Section 56

- (b) if the roadside land is within a regional district but not within a municipality, the board of the regional district;
 - (c) if the roadside land is not within a municipality or a regional district, the minister.
- (2) Division 4 of Part 2 applies to a notice furnished under subsection (1) of this section, and, for that purpose, a reference to “minister” in that Division, as it applies for the purposes of a notice referred to in subsection (1) (a) or (b) of this section, is deemed to be a reference to the applicable municipality or regional district, as the case may be.
- (3) Without limiting subsection (2),
 - (a) Division 14 of Part 7 of the *Community Charter* applies to an amount recoverable by a municipality under section 21 of this Act as it applies under subsection (2) of this section, and
 - (b) section 363.2 of the *Local Government Act* applies to an amount recoverable by a regional district under section 21 of this Act as it applies under subsection (2) of this section.
- (4) Nothing in this section limits any other powers of the minister, a municipality or a regional district under this or any other enactment.

Division 5 – Forest Service Roads

Forest service roads

- 56** (1) In this section, “**forest service road**” has the same meaning as in section 1 of the *Forest Act*.
- (2) Without limiting any right or power the Minister of Forests may have in relation to forest service roads, the Lieutenant Governor in Council may, with the consent of the Minister of Transportation and the Minister of Forests, order that a forest service road cease to be a forest service road for the purposes of the *Forest Act* and become, for the purposes of this Act,
- (a) if and to the extent it is located in a municipality, an arterial highway, or
 - (b) in any other case, a rural highway.
- (3) Without limiting any right or power the Minister of Transportation may have to close a provincial public highway, the Lieutenant Governor in Council may, with the consent of the Minister of Transportation and the Minister of Forests, order that a provincial public highway cease to be a provincial public highway and become a forest service road for the purposes of the *Forest Act*, and, in that event, the provincial public highway is deemed to be closed and discontinued at the time it becomes a forest service road.
- (4) Before an order is made under subsection (2) (a) in relation to a forest service road, the minister must consult with the municipal council of the municipality in which the forest service road or a part of it is located.

Division 6 – Ownership of Highways

Soil and freehold of provincial public highways vested in government

- 57** Unless otherwise provided for in this Act, the soil and freehold of every provincial public highway is vested in the government.

Transfers of highways and other land

- 58** (1) In this section, “**provincial public highway**” does not include
- (a) a ferry landing,
 - (b) a highway on land leased to the government unless that highway is a bridge, or
 - (c) a highway that is part of the major road network within the meaning of the *Greater Vancouver Transportation Authority Act*.
- (2) Subject to subsection (5), the authority
- (a) holds all of the government’s right and title in and to the soil and freehold of every provincial public highway in British Columbia, and
 - (b) acquires all of the government’s right and title in and to the soil and freehold of every provincial public highway that comes into being.
- (3) This section does not affect any powers, duties, functions and liabilities, in relation to highways, of the government, the Lieutenant Governor in Council, the minister or ministry, another minister or ministry or another authority under
- (a) this Act or any other enactment,
 - (b) any contract, licence or permit, or
 - (c) the law.
- (4) The authority, in relation to a provincial public highway referred to in subsection (2), does not hold, because of subsection (2), any of the powers, duties, functions and liabilities referred to in subsection (3), except for the purpose of accounting for the provincial public highways, and does not have, and has not had, since acquiring the right and title referred to in subsection (2), any of those powers, duties, functions and liabilities except for that purpose.
- (5) The authority may transfer to the government the authority’s right and title in and to the soil and freehold of any provincial public highway and, in that event, subsection (2) does not apply to that provincial public highway.
- (6) Subsection (2) does not operate to constitute the authority as an occupier, within the meaning of the *Occupiers Liability Act*, of a provincial public highway.

Transfers to Canada

- 59** (1) Subject to the terms, reservations and restrictions the Lieutenant Governor in Council considers advisable, the Lieutenant Governor in Council may, despite section 58, transfer the administration, control and benefit of any provincial

Section 60

public highway to the government of Canada, in the same manner and with the same effect as if the transfer were a transfer of Crown land under the *Land Act*, either in perpetuity or for a specified period, and with or without consideration.

- (2) Except to the extent that it so provides, a transfer under subsection (1) is not subject to section 50 of the *Land Act*.

Division 7 – Closure of Highways

Power to close a highway permanently

- 60** (1) In this section, “**surplus highway**” means a provincial public highway or part of a provincial public highway that is not considered necessary in the public interest.
- (2) The minister may discontinue and close a surplus highway by publishing in the prescribed manner a notice in a form, and containing the particulars, the minister considers appropriate.
- (3) If, in the opinion of the minister, no highway that is an alternative to a surplus highway exists or will be provided, the minister must, before publication of the notice referred to in subsection (2), give notice of the intention to discontinue and close the surplus highway by notice published, in a manner and with a frequency prescribed by the regulations, over 4 consecutive weeks.
- (4) A surplus highway to which a notice referred to in subsection (2) is published ceases to be a highway on the date specified in the notice.

Power to close a highway temporarily

- 61** (1) Without limiting section 60, the minister may close a provincial public highway under this section for any reason, including, without limitation, if the minister believes that the closure is necessary
- (a) for the planning, design, acquisition, holding, construction, use, operation, upgrading, alteration, expansion, extension, maintenance, repair, rehabilitation, protection, removal, discontinuance, closure or disposition of a provincial public undertaking or any related land or improvement,
 - (b) for the protection of the health or safety of a person who is or may be using, or who is near to, the provincial public undertaking or any related land or improvement, or
 - (c) to enable traffic that is allowed to access the provincial public highway to be handled safely and expeditiously.
- (2) The minister may close a provincial public highway under subsection (1)
- (a) at a time,
 - (b) for a period of time, and
 - (c) for any or all classes of traffic or use,
- that the minister considers appropriate.

PART 5 – USE OF HIGHWAYS

Division 1 – Authorizations

Authorization of use or occupation of provincial public highways

- 62** (1) A person must not use, occupy or do anything to or on a provincial public highway, or to or on any land or improvement related to a provincial public highway, unless the person is authorized to do so under this Part, under another enactment, by a lease entered into under section 13 (2) (a) or at law.
- (2) The minister may, on terms and conditions the minister considers appropriate, authorize any person to use or occupy, in any manner and for any purpose, including a commercial purpose, the whole or any part of a provincial public highway, or land or improvements related to a provincial public highway, and, in that event, the person may engage in the authorized activity despite any other provision of this Act.
- (3) Without limiting any other terms and conditions the minister may impose in relation to an authorization under this section, the minister may, as part of the terms and conditions on which an authorization is provided, do one or more of the following:
- (a) establish the period during which the authorization remains effective;
 - (b) provide for termination of the authorization on the occurrence of an event or condition specified by the minister;
 - (c) limit, regulate or prohibit access to or entry on the provincial public highway, land or improvement in relation to which the authorization is given;
 - (d) charge and collect a fee for the authorization in an amount approved by the Lieutenant Governor in Council or, if the authorization is in the nature of a licence, charge not less than a market rent for that licence.
- (4) An authorization under subsection (2) must be in writing unless the authorization is provided to a person who is to engage in the authorized activity within the course of his or her employment as a public officer.
- (5) The minister may amend or terminate an authorization given under subsection (2) in relation to a provincial public highway, land or an improvement in any of the following circumstances:
- (a) the minister believes that the amendment or termination is necessary to protect the health or safety of a person using or near the provincial public highway, land or improvement;
 - (b) the minister believes that there is an urgent public need to amend or terminate the authorization;
 - (c) the minister believes that the amendment or termination is necessary to

Section 63

- (i) protect and preserve the integrity of the provincial public highway, land or improvement, or
 - (ii) operate the provincial public highway in the most efficient and effective manner;
 - (d) the minister believes that the authorization has resulted in an unreasonable impediment to the minister's ability to exercise one or more of the minister's rights, powers or advantages under this Act;
 - (e) the holder of the authorization has breached any of the terms and conditions on which the authorization was granted.
- (6) In addition to the minister's ability to give authorizations under subsection (2), the minister may
- (a) prescribe one or more general authorizations under which all persons or specified classes of persons are authorized to use or occupy one or more of the following:
 - (i) any or all provincial public highways;
 - (ii) one or more classes of provincial public highways;
 - (iii) any other land or improvement, or class of land or improvements, related to a provincial public highway, and
 - (b) in relation to any authorization prescribed under this subsection, prescribe terms and conditions applicable to that authorization, including, without limitation, terms and conditions respecting the manner in which and the purpose for which the provincial public highway, land or improvement referred to in the regulation may be used or occupied.
- (7) A person to whom a regulation referred to in subsection (6) applies may use or occupy the provincial public highways, land or improvements to which the regulation applies in the manner and for the purposes provided in the regulation without obtaining an individual authorization from the minister under subsection (2).

Unauthorized use

- 63**
- (1) The minister may furnish a notice to any person who the minister believes is contravening or has contravened section 62 (1).
 - (2) A notice under subsection (1)
 - (a) must require the person to stop any contravention the minister believes is ongoing, and
 - (b) may require the person to take specified remedial actions.
 - (3) If a notice under subsection (1) includes a requirement under subsection (2) (b), Division 4 of Part 2 applies.

Division 2 – Abnormal Use of Provincial Public Undertakings

Interference with provincial public undertakings

- 64** (1) A person must not
- (a) directly or indirectly interfere with or obstruct the planning, design, acquisition, holding, construction, use, operation, upgrading, alteration, expansion, extension, maintenance, repair, rehabilitation, protection, removal, discontinuance or closure of a provincial public undertaking, or of any related land or improvement, that is authorized under this Act, another enactment or at law, or
 - (b) moor or attach a vessel or other floating object to a bridge or other structure that forms part of a provincial public undertaking.
- (2) Subsection (1) does not apply to a person who does anything referred to in subsection (1) if the thing done is within the course of the person's employment as a public officer.

Minister may furnish notice

- 65** (1) The minister may furnish a notice to any person who the minister believes is contravening or has contravened section 64 (1).
- (2) A notice under subsection (1) of this section
- (a) must require the person to stop any contravention the minister believes is ongoing, and
 - (b) may require the person to take specified remedial actions.
- (3) If a notice under subsection (1) includes a requirement under subsection (2) (b), Division 4 of Part 2 applies.

Extraordinary traffic

- 66** (1) In this section, “**extraordinary traffic**” includes the carriage of goods or persons over a provincial public highway, whether in vehicles drawn by animal power or propelled by other means, that in conjunction with the nature or existing condition of the provincial public highway is so extraordinary or improper
- (a) in the quality or quantity of the goods or the number of persons carried,
 - (b) in the mode or time of use of the provincial public highway, or
 - (c) in the speed at which the vehicles are driven or operated,
- as, in the opinion of the minister, substantially alters or increases the burden imposed on the provincial public highway through its proper use by ordinary traffic, and causes damage and expense to the provincial public highway beyond what is reasonable or ordinary.
- (2) If the minister believes that a provincial public highway is liable to damage through extraordinary traffic, the minister may limit, prohibit or make directions respecting the use of the provincial public highway by a person operating or in

charge of the extraordinary traffic or owning the goods carried by it or the vehicles used in it.

- (3) Any person to whom this section might otherwise apply may, with the approval of the minister, enter into an agreement for the payment to the government of compensation for the damage or expense that may, in the opinion of the minister, be caused by the extraordinary traffic, and, in that event, the person may use the provincial public highway in the manner contemplated by the agreement despite any limitation, prohibition or direction of the minister under subsection (2) that would otherwise affect that use.

Division 3 – Abandoned Vehicles or Things

Definition

- 67** In this Division, “**seized item**” means a vehicle or other thing seized under section 68 (5) or (6).

Abandoned vehicles and things

- 68**
- (1) A person must not abandon a vehicle or other thing on a highway.
 - (2) If the minister believes that a vehicle or other thing has been abandoned on a provincial public highway, the minister may furnish a notice to the owner or, if known, to any other person who is responsible for abandoning the vehicle or thing on the provincial public highway.
 - (3) A notice under subsection (2) must
 - (a) require the person to whom it is furnished to remove the vehicle or thing from the provincial public highway,
 - (b) specify the time or date before which the vehicle or thing must be removed, and
 - (c) indicate that if the removal is not completed by the specified time or date, the minister may effect the removal at the expense of the person to whom the notice was furnished.
 - (4) The minister may extend the time for removal whether or not a previously specified time limit has expired.
 - (5) The minister may seize a vehicle or thing that the minister believes has been abandoned on a provincial public highway if
 - (a) the vehicle or thing is the subject of a notice under subsection (2) and the notice has not been complied with in the time specified, or
 - (b) the minister believes that the vehicle or thing has been abandoned for more than 72 hours.
 - (6) Without limiting subsection (5), the minister and any member of the Provincial police force or a municipal police department may seize any vehicle or thing on a provincial public highway if

- (a) the vehicle interferes with the normal flow of traffic on the provincial public highway,
- (b) the vehicle interferes with the maintenance of the provincial public highway by equipment for that purpose, or
- (c) the vehicle or thing is causing, or might cause, a danger or inconvenience to persons using the provincial public highway.

Disposition of seized items

- 69** (1) The minister may, in respect of a seized item,
- (a) remove it from the provincial public highway,
 - (b) relocate it,
 - (c) impound it, or
 - (d) subject to subsection (4), dispose of it by sale, destruction or otherwise.
- (2) The expenses incurred in seizing, removing, impounding and disposing of, as the case may be, a seized item, less the proceeds, if any, realized from a disposition of the seized item, are recoverable by the minister from the person who abandoned or left, or authorized the abandonment or leaving, of the seized item.
- (3) In the case of a vehicle seized under section 68 (5) (b) or (6), in the absence of proof to the contrary, the last person whose name appears as owner of the vehicle in the records of the Insurance Corporation of British Columbia is, for the purposes of subsection (2) of this section, deemed to have abandoned or left, or authorized the abandonment or leaving, of the vehicle.
- (4) Section 19 (1) and (2) applies to a disposition under subsection (1) (d) of this section.

Proceeds on disposition

- 70** (1) If the minister gives or sells any thing under section 69 (1) (d),
- (a) the person to whom the thing is given or sold takes it free and clear of any encumbrances, including, without limitation, any right, title or interest of the person who was its owner before the disposition but excluding any right, title or interest retained by the minister by the disposition, and
 - (b) the minister must apply any proceeds realized from that disposition to the expenses recoverable under section 69 (2).
- (2) If, after the proceeds realized from a disposition are applied to the expenses recoverable under section 69 (2), a balance of proceeds remains that is in excess of \$10, the minister must,
- (a) if the thing that was disposed of is a documented item, furnish a notice of that balance and of the person to whom, under subparagraph (ii) of this paragraph, that balance is to be paid to every person to whom notice of disposition was furnished under section 19 (1), as it applies for the purposes of section 69, and

Section 71

- (i) pay the balance in accordance with any court order received by the minister within 14 days after the date of the notice, or
 - (ii) if no court order is received by the minister within that 14 day period, pay the balance to the person who is shown as the owner of the documented item in the records of the Insurance Corporation of British Columbia or, if no person is shown as the owner in those records, to the person who is shown as the owner of the documented item in the personal property registry or in or on the documented item, or
 - (b) if the thing that was disposed of is an undocumented item and no person has, within 14 days after the disposition, satisfied the minister as to that person's ownership of the undocumented item, pay the balance to the administrator under the *Unclaimed Property Act*.
- (3) Money paid to the administrator under subsection (2) (b) of this section is deemed to be an unclaimed money deposit under the *Unclaimed Property Act*.

Division 4 – Concession Highways

Application

- 71** (1) Without limiting section 6 (3) of the *Transportation Investment Act*, this Division applies to a concessionaire unless the concession agreement provides otherwise.
- (2) If a concession highway is also a rural highway, an arterial highway, a controlled access highway or a scenic highway, the provisions of this or any other enactment that apply to rural, arterial, controlled access or scenic highways, as the case may be, continue to apply to the concession highway for so long as it is a rural highway, an arterial highway, a controlled access highway or a scenic highway.

Authorization

- 72** (1) A person must not use, occupy or do anything to or on a concession highway unless the person is authorized to do so under this section or at law.
- (2) Without limiting subsection (1), a person must not cause or allow equipment or a tree, fence, sign, building, vehicle, device, object or situation to exist on land that, in the concessionaire's opinion,
- (a) creates a need to act to protect
 - (i) the concession highway,
 - (ii) any land or improvement related to the concession highway, or
 - (iii) any property that is or may be on or near the concession highway,
 - (b) might affect the safety of any person who is or might be on or near
 - (i) the concession highway, or
 - (ii) any land or improvement related to the concession highway,

- (c) is causing or might cause the accumulation of snow, water, debris or any other potentially hazardous material on or near the concession highway or on or near any land or improvement related to the concession highway, or
 - (d) is a nuisance that might distract the operator of a vehicle on or near the concession highway or impair the operator's ability to drive safely.
- (3) The concessionaire may, if and only to the extent that the concessionaire is expressly allowed to do so by the concession agreement, authorize any person, on terms and conditions the concessionaire considers appropriate, to use or occupy, in any manner and for any purpose, including a commercial purpose, the whole or any part of the concession highway, and, in that event, the person may engage in the authorized activity despite any other provision of this Act.
- (4) Section 62 (3), (4) and (5) (a) to (c) and (e) applies to a concession highway and, for that purpose, a reference in those provisions, as they apply for the purposes of this section,
 - (a) to “minister” is deemed to be a reference to the concessionaire, and
 - (b) to “provincial public highway” is deemed to be a reference to the concession highway.

Interference with concession highways

- 73** Section 64 applies to a concession highway and, for that purpose, a reference to “provincial public undertaking” in that provision, as it applies for the purposes of this section, is deemed to be a reference to the concession highway.

Remedial action

- 74** (1) The concessionaire may furnish a notice to any person who the concessionaire believes is contravening or has contravened
- (a) section 72, or
 - (b) section 64 as it applies to a concession highway under section 73.
- (2) A notice under subsection (1) of this section
- (a) must require the person to stop any contravention the concessionaire believes is ongoing, and
 - (b) may require the person to take specified remedial actions.
- (3) If the remedial actions specified in a notice furnished under subsection (2) have not been completed by the time or date set in the notice for completion, the concessionaire may,
- (a) if and to the extent that remedial actions may be performed on the concession highway, undertake whichever of those remedial actions the concessionaire considers appropriate, and sections 18 to 21 apply, or
 - (b) if and to the extent that remedial actions are required as a result of a breach of section 72 (2), refer the matter to the minister.

Section 75

- (4) If a matter referred to in subsection (3) is referred to the minister under subsection (3) (b), the minister may
 - (a) subject to section 23, as it applies for the purposes of subsection (6) of this section, enter any place or premises on the land where the action was required to be taken, and
 - (b) carry out any remedial actions considered by the minister to be appropriate, including, without limitation,
 - (i) seizing or impounding any thing the minister believes caused or contributed to the situation for which the remedial actions were required,
 - (ii) constructing, upgrading, altering, expanding, extending, repairing, rehabilitating and removing any improvement as the minister considers necessary, and
 - (iii) subject to section 19, as it applies for the purposes of subsection (6) of this section, disposing of any thing seized under subparagraph (i) of this paragraph.
- (5) Sections 18 to 21 apply to any action taken by the concessionaire under subsection (3) (a) and, for that purpose, a reference to “minister” in those provisions, as they apply for the purposes of this section, is deemed to be a reference to the concessionaire.
- (6) Sections 18 to 23 apply to any action taken by the minister under subsection (4).

Abandoned vehicles and things

- 75** Sections 67 to 70 apply to a concession highway and, for that purpose, a reference in those provisions, as they apply for the purposes of this section,
- (a) to “minister” is deemed to be a reference to the concessionaire, and
 - (b) to “highway” or to “provincial public highway” is deemed to be a reference to the concession highway.

PART 6 – GENERAL**Division 1 – Collection of Outstanding Money****Recovery of money due**

- 76** (1) Any money due to or recoverable by the minister under this Act may be recovered as a debt due to the government.
- (2) The rights, powers and advantages provided to the government under subsection (1) are in addition to any other rights, powers and advantages the government or the minister may have under this or any other enactment or at law to collect the money referred to in subsection (1).

Interest on money due

- 77** Interest on any money due to or recoverable by the minister or the government under this Act is payable and must be calculated
- (a) at the rate prescribed under section 20 (1) of the *Financial Administration Act*, and
 - (b) in the manner prescribed in the regulations.

Division 2 – Offences**Offence Act**

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

Offences

- 79** (1) A person commits an offence who
- (a) contravenes section 36 (2), 49, 62 (1), 64 (1) or 68 (1),
 - (b) fails, without reasonable excuse, to comply with a notice furnished to the person under section 16 (1), 50 (1), 55 (1), 63 (1), 65 (1) or 68 (2),
 - (c) unless authorized under section 66 (3), drives on or uses a provincial public highway in contravention of a limitation, prohibition or direction made under section 66 (2),
 - (d) obstructs or prevents another person from entering land or engaging in any other activity if that entry or activity is authorized by this Act,
 - (e) contravenes a regulation made under section 87 (2) (b), (c), (d), (e), (f) or (g), or
 - (f) fails to pay a toll the person is required to pay under regulations prescribed under section 91.
- (2) A person commits an offence who
- (a) contravenes section 72 (1) or (2),
 - (b) contravenes section 64 as it applies to a concession highway under section 73, or
 - (c) contravenes section 68 (1) as it applies to a concession highway under section 75.

Liability of officers and employees

- 80** If a corporation commits an offence under this Act, any employee, officer, director or agent of the corporation who authorizes, allows or acquiesces in the offence commits the same offence whether or not the corporation is convicted of the offence.

Remedies preserved

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

Division 3 – General

How records are furnished

- 82** (1) For the purposes of this Act, a record may be furnished
- (a) to an individual,
 - (i) by giving it to the individual, or
 - (ii) by sending it by registered mail to the individual's last known address,
 - (b) to a corporation, by serving the corporation as provided by
 - (i) the Rules of Court of the Supreme Court, or
 - (ii) the *Business Corporations Act*,
 - (c) to any other organization, by delivery to, or by sending it by registered mail to, the last known address in British Columbia for the organization, or
 - (d) in any manner ordered by the Supreme Court on application for an order allowing the record to be furnished in a different manner.
- (2) A notice sent by registered mail is deemed to be furnished to the addressee on the 5th business day after mailing.

Remedial action

- 83** Nothing in this Act requires the minister to take any action to stop, prevent or remedy any act or omission that is or may constitute a contravention of this Act or the regulations or to remedy any situation that the minister has the right to remedy under this Act.

Minister has discretion

- 84** Nothing in this Act obliges the minister to plan, design, acquire, hold, construct, use, operate, upgrade, alter, expand, extend, maintain, repair, rehabilitate, protect, remove, discontinue, close or dispose of any highway or any part of a highway.

Minister may rely on public officials

- 85** A belief, opinion, determination or consideration referred to in this Act in relation to the minister may be the belief, opinion, determination or consideration of the minister or of any public officer who forms that belief, opinion, determination or consideration within the course of his or her employment as a public officer or on whose belief, opinion, determination or consideration, as the case may be, the minister otherwise chooses to rely for that purpose.

Limitation of liability

- 86** (1) No action lies and no proceeding may be brought against the government or the minister for loss or damages to person or property caused directly or indirectly by any acts or omissions of, or any works constructed or maintained by,
- (a) a person to whom a disposition is made under section 13, or

- (b) a person acting or purporting to act under an authorization of the minister.
- (2) If a vehicle or thing is seized or otherwise dealt with under section 16 (2), 18, 50 (2), 63 (3), 65 (3) or Division 3 of Part 5 by the minister or under section 55 (2) by the minister, a municipality or a regional district, none of the minister, municipality or regional district, as the case may be, a person to whom the vehicle or thing is disposed of or the government is liable, in damages or otherwise, for or in respect of any claim that may arise in respect of the vehicle or thing after its disposal in accordance with this Act.

PART 7 – REGULATIONS

Division 1 – Regulations of the Lieutenant Governor in Council

Regulations

- 87** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1) of this section, the Lieutenant Governor in Council may make regulations as follows:
- (a) respecting means by which a public street, road, trail, lane, bridge, trestle, tunnel, ferry landing, ferry approach, other public way or other land or improvement may become a highway;
 - (b) bringing into force section 13 of the *Motor Fuel Tax Act* in one or more areas of British Columbia;
 - (c) respecting the tax that may be collected under section 13 of the *Motor Fuel Tax Act*;
 - (d) respecting the system of tolls or charges referred to in section 36;
 - (e) respecting amounts that, under section 40 (2) (d), may be added or subtracted in calculating the outstanding debt of the authority;
 - (f) prescribing roads, classes of roads, expenditures or classes of expenditures for the purposes of section 42;
 - (g) respecting the manner in which and the frequency at which the minister may publish any records that may or must be published by the minister under this Act, with power to prescribe different manners and different frequencies for different records and situations;
 - (h) respecting criteria that must be met by a zoning bylaw before it can be approved by the minister under section 52 (5), with power to prescribe different criteria for different situations;
 - (i) respecting fees;
 - (j) respecting the manner in which interest payable under this Act may be calculated.

Section 88

- (3) The Lieutenant Governor in Council may make regulations the Lieutenant Governor in Council considers necessary or advisable for
 - (a) meeting or removing any difficulty arising out of the transition to this Act from the *Highway Act*, the *Build BC Act*, the *Ministry of Transportation and Highways Act* and the *Highway Scenic Improvement Act*, including, without limitation, disapplying or varying any provision of this Act, and
 - (b) resolving any errors, inconsistencies or ambiguities that arise in, or in relation to, another enactment affected by this Act.
- (4) A regulation made under subsection (3) may be made retroactive to a date not earlier than the date this section comes into force.
- (5) This subsection and subsections (3) and (4) and any regulations made under them are repealed on July 1, 2006.

Regulations relating to ferries

- 88** (1) Without limiting section 87 (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) prescribing vessels, including, without limitation, vessels of a class of vessels, as ferries;
 - (b) providing for the direction and control of passenger and vehicular traffic on ferries and in terminals;
 - (c) respecting the safety and security of individuals on ferries and in terminals;
 - (d) prohibiting conduct on ferries or in terminals that does or could
 - (i) pose a risk to the health, safety or security of individuals or property, or
 - (ii) interfere with the comfort and enjoyment of individuals using ferries or terminals;
 - (e) respecting the manner in which passengers and vehicles are to load onto and unload from ferries;
 - (f) respecting parking on ferries or at terminals;
 - (g) respecting fares or rates that may be charged for ferry services, including, without limitation, for carrying individuals, vehicles or property, or one or more classes of individuals, vehicles or property, on ferries;
 - (h) exempting a class of persons or vehicles from all or part of this Part or a regulation;
 - (i) prescribing schedules of ferry departures and arrivals.
- (2) A regulation under subsection (1) may make different provisions for different
- (a) ferries or terminals or classes of ferries or terminals,
 - (b) persons or classes of persons, and
 - (c) vehicles or classes of vehicles.

- (3) Subsections (1) and (2) do not apply to ferries or terminals that
- (a) are owned or operated by British Columbia Ferry Services Inc., or
 - (b) are or form part of a concession highway under the *Transportation Investment Act*.

Regulations relating to concession highways

89 Without limiting section 87 (1), the Lieutenant Governor in Council may make regulations in relation to ferries that are, or form part of, a concession highway as follows:

- (a) prescribing a ferry or class of ferries to which this section applies;
- (b) providing for the direction and control of passenger and vehicular traffic on ferries and in terminals;
- (c) respecting the safety and security of individuals on ferries and in terminals;
- (d) prohibiting conduct on ferries and in terminals that does or could
 - (i) pose a risk to the health, safety or security of individuals or property, or
 - (ii) interfere with the comfort and enjoyment of individuals using ferries or terminals;
- (e) respecting the manner in which passengers and vehicles are to load onto and unload from ferries;
- (f) respecting parking at terminals or on ferries;
- (g) exempting a class of persons or vehicles from all or part of a regulation.

Division 2 – Regulations of the Minister

Regulations

90 The minister may make regulations as follows:

- (a) for the purposes of protecting provincial public undertakings or persons on or near provincial public undertakings;
- (b) respecting use of provincial public highways by persons or vehicles;
- (c) respecting authorizations and applicable terms and conditions for the purpose of section 62 (6);
- (d) providing for the manner and location in which signs or structures and trees or other plants may be placed near any provincial public undertaking or any related land or improvement.

Regulations relating to the Coquihalla Highway

91 (1) The minister, with the approval of the Lieutenant Governor in Council, may make regulations as follows:

Section 92

- (a) establishing a system of tolls to be paid in respect of the use of vehicles on the Coquihalla Highway, with power to prescribe different tolls for different classes of vehicles;
 - (b) establishing, on the Coquihalla Highway, stations for the collection of tolls;
 - (c) prescribing the toll to be paid for any vehicle or class of vehicles passing through a toll station on the Coquihalla Highway;
 - (d) providing for the manner of collection of tolls prescribed under this section;
 - (e) prescribing classes of vehicles for the purposes of this section;
 - (f) exempting any class of vehicle from paying tolls prescribed under this section;
 - (g) respecting the management of the Coquihalla Highway.
- (2) If, under the regulations, a toll station has been established on the Coquihalla Highway, a person must not take or operate a vehicle, other than a vehicle exempted under subsection (1) (f), through the toll station without paying the toll prescribed for the vehicle.

Consequential Amendments***Build BC Act***

92 *The Build BC Act, R.S.B.C. 1996, c. 40, is repealed.*

Builders Lien Act

93 *Section 1.1 (a) of the Builders Lien Act, S.B.C. 1997, c. 45, is amended by striking out “Highway Act,” and substituting “Transportation Act.”*

Coastal Ferry Act

94 *Section 30 of the Coastal Ferry Act, S.B.C. 2003, c. 14, is amended by repealing the definition of “public highway” and substituting the following:*

“public highway” has the same meaning as “highway” in the *Transportation Act*; .

95 *Section 33 (2) (b) is amended by striking out “one or both of the Highway Act and the Ministry of Transportation and Highways Act.” and substituting “the Transportation Act.”*

Community Charter

96 *Sections 35 (6), (9) and (10), 36 (2) (c) and 41 (3) of the Community Charter, S.B.C. 2003, c. 26, are amended by striking out “Highway Act” and substituting “Transportation Act”.*

97 Section 40 (8) is amended by striking out “section 4 of the *Highway Act*.” and substituting “section 42 of the *Transportation Act*.”

98 Section 46 is amended by adding the following subsection:

- (3) If a thing is seized under subsection (2), by a municipality, neither the municipality nor a person to whom the thing is disposed of is liable, in damages or otherwise, for or in respect of any claim that may arise in respect of the thing after its disposal in accordance with this Act.

99 Section 1 of the Schedule is amended by repealing the definition of “Provincial arterial highway” and substituting the following:

“Provincial arterial highway” means a highway that has been designated as an arterial highway under the *Transportation Act*; .

Creston Valley Wildlife Act

100 Section 1 of the Creston Valley Wildlife Act, R.S.B.C. 1996, c. 84, is amended in the definition of “arterial highway” by striking out “section 27 of the *Highway Act*,” and substituting “section 1 of the *Transportation Act*,”.

Expropriation Act

101 Section 2 (2) (d) of the Expropriation Act, R.S.B.C. 1996, c. 125, is repealed and the following substituted:

- (d) an entry on land under section 20 of the *Hydro and Power Authority Act* or section 8 of the *Transportation Act*.

102 Section 3 (3) (c) is amended by striking out “section 5 (4) of the *Highway Act*” and substituting “section 43 of the *Transportation Act*”.

103 Section 30 (3) is amended by striking out “section 12 (1) of the *Highway Act* or”.

104 Section 55 (2) (a) is repealed.

Forest Act

105 Section 121 of the Forest Act, R.S.B.C. 1996, c. 157, is amended

(a) by repealing subsections (2) (a) and (6), and

(b) in subsection (9) (c) by striking out “*Highway Act*,” and substituting “*Transportation Act*,”.

Forest and Range Practices Act

106 *Section 22 (1) of the Forest and Range Practices Act, S.B.C. 2002, c. 69, is amended by adding “the Transportation Act,” after “the Highway Act,”.*

107 *Section 24 is amended by striking out “section 4 of the Highway Act,” and substituting “section 42 of the Transportation Act,”.*

Forest Practices Code of British Columbia Act

108 *Section 84 (3) (b) of the Forest Practices Code of British Columbia Act, R.S.B.C. 1996, c. 159, is amended by striking out “Highway Act,” and substituting “Transportation Act,”.*

Greater Vancouver Transportation Authority Act

109 *Section 1 (1) of the Greater Vancouver Transportation Authority Act, S.B.C. 1998, c. 30, is amended in the definitions of “highway” and “provincial highway system” by striking out “Highway Act,” and substituting “Transportation Act,”.*

110 *Section 1 (1) is amended by repealing the definitions of “construction” and “maintenance” and substituting the following:*

“**construction**” includes the original construction of a new highway and also the work of reconstructing or putting a highway or any section in repair by general and continuous regrading or remetalling of its surface, or by building, rebuilding or enlarging bridges, or by executing other highway work of improvement or protection classified by the minister as substantial;

“**maintenance**” means the work, after the construction of a highway, of preserving and keeping it in repair, including the making, cleaning and keeping open of ditches, gutters, drains, culverts and watercourses, and the repairing of retaining walls, cribs, river protection works and other works necessary to keep open and maintain the highway for use by the traffic for which it is required; .

111 *Section 21 (6) is amended by striking out “Highways Act,” and substituting “Transportation Act,”.*

112 *Section 23 (3) is amended by striking out “Despite section 30 of the Highway Act,” and substituting “Despite section 2 of the Transportation Act,”.*

113 *Section 44 (1) is amended by striking out “Highway Act,” and substituting “Transportation Act,”.*

Highway Act

114 The Highway Act, R.S.B.C. 1996, c. 188, is repealed.

Highway Scenic Improvement Act

115 The Highway Scenic Improvement Act, R.S.B.C. 1996, c. 190, is repealed.

Industrial Roads Act

116 The Industrial Roads Act, R.S.B.C. 1996, c. 189, is amended in the definition of “highway” by striking out “Highway Act;” and substituting “Transportation Act;”.

Insurance (Motor Vehicle) Act

117 Section 30.1 of the Insurance (Motor Vehicle) Act, R.S.B.C. 1996, c. 231, is amended by repealing paragraph (g) (v) of the definition of “motor vehicle indebtedness” and substituting the following:

(v) the *Highway Act* or the *Transportation Act*, .

Land Act

118 Section 7 (5) (a) of the Land Act, R.S.B.C. 1996, c. 245, is amended by adding “the Transportation Act,” after “the Highway Act;”.

119 Section 50 (1) (c) is amended by striking out “Highway Act,” and substituting “Transportation Act;”.

120 Section 106 (5) is repealed and the following substituted:

(5) Subsection (3) does not apply to a disposition made by the Lieutenant Governor in Council under section 59 of the *Transportation Act*.

Land Title Act

121 Section 1 of the Land Title Act, R.S.B.C. 1996, c. 250, is amended

(a) in the definition of “explanatory plan” by repealing paragraph (b) and substituting the following:

(b) is certified correct in accordance with the records of the land title office by a British Columbia land surveyor or by

(i) a person designated under section 121 (7) of the *Forest Act* for the purpose of that section, or

(ii) the minister charged with the administration of the *Transportation Act*; , **and**

(b) in the definition of “Ministry of Transportation” by striking out “Highway Act” and substituting “Transportation Act”.

122 Sections 76 (3) and (5), 77.1 (2), 77.2 (1) (a), 80 (a) and (b), 115 (1), (2) and (6), 125 (2) (c) and (d), 133, 142 (1) and (2) and 373.52 (6) (a) are amended by striking out “Highway Act” wherever it appears and substituting “Transportation Act”.

123 Section 80 is amended by striking out “as defined in Part 6 of the Highway Act,” and substituting “as designated under section 48 of the Transportation Act,”.

124 Section 121 (1) is amended by repealing the definition of “arterial highway” and substituting the following:

“arterial highway” means a public area designated as an arterial highway under the Transportation Act; .

Libby Dam Reservoir Act

125 Section 3 of the Libby Dam Reservoir Act, R.S.B.C. 1996, c. 262, is amended

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

(2) If the ministry or agency appointed under section 2 is not empowered by another Act to acquire land, it has and may exercise, for acquiring land for the purposes set out in section 2, the same powers that are conferred by the *Transportation Act* on the minister charged with the administration of that Act for the purposes set out in section 8 (2) of that Act, and has and may exercise, in relation to the acquisition of land, all other and incidental powers that the Minister of Transportation may exercise under that Act. , **and**

(b) in subsection (3) by striking out “The Ministry of Transportation and Highways Act” and substituting “The Transportation Act”.

Local Government Act

126 Sections 551 (1), 908 (1), 924 (2) and 938 (3.1) (a) of the Local Government Act, R.S.B.C. 1996, c. 323, are amended by striking out “Highway Act” wherever it appears and substituting “Transportation Act”.

127 Sections 924 (1) and 930 (4) are amended by striking out “section 54 (2) of the Highway Act,” and substituting “section 52 (4) of the Transportation Act,”.

128 Section 966 (6) (b) is amended by striking out “section 54 (2) of the Highway Act,” and substituting “section 52 (3) of the Transportation Act,”.

Mining Right of Way Act

129 *Section 11 of the Mining Right of Way Act, R.S.B.C. 1996, c. 294, is repealed and the following substituted:*

Not highway

- 11** Despite the *Transportation Act*, a road built or maintained under this Act is not a highway within the meaning of the *Transportation Act* unless the Lieutenant Governor in Council orders that it is a highway within the meaning of that Act.

Ministry of Transportation and Highways Act

130 *Sections 1 to 33 and 35 to 51 of the Ministry of Transportation and Highways Act, R.S.B.C. 1996, c. 311, are repealed.*

131 *The Supplement to the Ministry of Transportation and Highways Act is repealed.*

132 *The title of the Ministry of Transportation and Highways Act is repealed and the following substituted:*

GOVERNMENT BUILDINGS ACT .*Motor Carrier Act*

133 *Section 1 of the Motor Carrier Act, R.S.B.C. 1996, c. 315, is amended by repealing the definition of “arterial highway” and substituting the following:*

“arterial highway” means a highway that is designated as an arterial highway under the *Transportation Act*; .

134 *Section 8 (1) (d) (v) is repealed and the following substituted:*

(v) the *Highway Act* or the *Transportation Act*, .

135 *Section 66 is amended by striking out “Highway Act” in both places and substituting “Transportation Act”.*

Motor Fuel Tax Act

136 *Section 13 (1) and (2) of the Motor Fuel Tax Act, R.S.B.C. 1996, c. 317, is amended*

- (a) *by adding “or the Transportation Act” after “prescribed under the Build BC Act”, and*
(b) *by striking out “section 19 of the Build BC Act” and substituting “section 34 of the Transportation Act”.*

Motor Vehicle Act

137 Section 1 of the Motor Vehicle Act, R.S.B.C. 1996, c. 318, is amended in paragraph (a) of the definition of “highway” by striking out “Highway Act,” and substituting “Transportation Act,”.

138 Section 26 (1) (c) (v) is repealed and the following substituted:

(v) the *Highway Act* or the *Transportation Act*, .

139 Section 83 (2) is amended by striking out “Highway Act” and substituting “Transportation Act”.

140 Section 84 (1) is amended by striking out “Highway Act,” and substituting “Transportation Act,”.

141 Section 116.1 (3) (a) is amended by striking out “Highway Act,” and substituting “Transportation Act,”.

142 Section 119 (1) is amended in the definition of “controlled access highway” by striking out “Part 6 of the Highway Act;” and substituting “Division 3 of Part 4 of the Transportation Act;”.

143 Section 124 (13) is amended by striking out “Highway Act” and substituting “Transportation Act”.

144 Section 189 (4) is amended by striking out “section 13.2 of the Highway Act.” and substituting “section 62 (2) or (6) of the Transportation Act.”

145 Section 209 (1) is amended by striking out “section 27 of the Highway Act,” and substituting “the Transportation Act,”.

146 Section 209 (2) (d) is repealed and the following substituted:

(d) the granting of permits or authorizations by the Minister of Transportation and Highways, in the minister’s discretion, or subject to conditions that may be prescribed, for the doing of anything that is by or under the *Commercial Transport Act*, the *Transportation Act* or this Act prohibited or made unlawful without a permit or authorization; .

147 Section 210 (3) (n) is amended by striking out “Highway Act,” and substituting “Transportation Act,”.

148 Section 45 of the Supplement to the Motor Vehicle Act is repealed.

Motor Vehicle (All Terrain) Act

149 *Section 1 of the Motor Vehicle (All Terrain) Act, R.S.B.C. 1996, c. 319, is amended in the definition of “all terrain vehicle” by striking out “Highway Act,” and substituting “Transportation Act,”.*

150 *Section 4 (3) is amended by striking out “Highway Act” and substituting “Transportation Act”.*

Municipal Aid Act

151 *Section 1 of the Municipal Aid Act, R.S.B.C. 1996, c. 324, is amended in paragraph (d) of the definition of “Provincial land” by striking out “Highway Act,” and substituting “Transportation Act,”.*

Petroleum and Natural Gas Act

152 *Section 3 (2) of the Petroleum and Natural Gas Act, R.S.B.C. 1996, c. 361, is amended by striking out “Highway Act,” and substituting “Transportation Act,”.*

Protected Areas of British Columbia Act

153 *Schedule C of the Protected Areas of British Columbia Act, S.B.C. 2000, c. 17, is amended*

- (a) by striking out “Section 4 Highway Act road” wherever it appears and substituting “section 42 Transportation Act highway”, and*
- (b) by striking out “Section 4, Highway Act road” wherever it appears and substituting “section 42 Transportation Act highway”.*

154 *Schedule D is amended*

- (a) by striking out “Section 4 Highway Act road” wherever it appears and substituting “section 42 Transportation Act highway”, and*
- (b) by striking out “Section 4, Highway Act road” and substituting “section 42 Transportation Act highway”.*

Social Service Tax Act

155 *Section 26 (1) of the Social Service Tax Act, R.S.B.C. 1996, c. 431, is amended by striking out “established under the Build BC Act,” and substituting “continued under the Transportation Act,”.*

Transportation Investment Act

156 *Section 1 of the Transportation Investment Act, S.B.C. 2002, c. 65, is amended in paragraph (a) of the definition of “highway” by striking out “Highway Act,” and substituting “Transportation Act.”.*

157 *Sections 3 (g) (iii), 11 (3) and 12 (1) (a) (iii) are amended by striking out “under the Highway Act or the Ministry of Transportation and Highways Act” and substituting “under the Transportation Act”.*

158 *Section 7 (2) (b) is amended by striking out “one or both of the Highway Act and the Ministry of Transportation and Highways Act.” and substituting “the Transportation Act.”*

159 *Section 40 is repealed.*

Vancouver Charter

160 *Section 289 (1) of the Vancouver Charter, S.B.C. 1953, c. 55, is amended by striking out “section 3 of the Highway Act” and substituting “section 57 of the Transportation Act”.*

161 *Section 317 (1) (u) (i) and (ii) is amended by striking out “Highway Act,” and substituting “Transportation Act.”.*

Weed Control Act

162 *Section 12 (1) of the Weed Control Act, R.S.B.C. 1996, c. 487, is amended by striking out “Highway Act.” and substituting “Transportation Act.”*

Commencement

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