

This Act is current to 30 November 2016.

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

## **FOREST AND RANGE PRACTICES ACT**

[SBC 2002] CHAPTER 69

Assented to November 21, 2002

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#### Definitions

1 (1) In this Act:

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

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

"board" means the Forest Practices Board continued under section 136;

"commission" means the Forest Appeals Commission continued under section 140.1;

"council" means the Forest Practices Advisory Council referred to in section 170;

"deactivate", in relation to a road, means to deactivate the road in accordance with the prescribed requirements;

"determination" means any act, decision, procedure, levy, finding, order or other determination made under this Act by the minister or an official;

"forest practice" means a prescribed activity that is carried out by

(a) the government,

(b) a holder of an agreement under the Forest Act, or  
(c) a person in a prescribed category of persons  
on private land, subject to a tree farm licence, a community forest agreement or a woodlot licence, or on  
Crown forest land;

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

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

"minister" includes the minister's delegate;

"objectives set by government" means

(a) objectives prescribed under section 149 (1),  
(b) objectives established under section 93.4 of the Land Act by the minister responsible for the  
administration of the Land Act, or  
(c) objectives established by the Haida Gwaii Management Council under section 4 (1) of the Haida Gwaii  
Reconciliation Act;

"official" means an employee in the

(a) ministry of the minister responsible for the administration of this Act, which employee is designated by  
name or title to be an official by that minister for the purpose of that provision,  
(b) ministry of the minister responsible for the Wildlife Act, which employee is designated by name or title  
to be an official by that minister for the purpose of that provision, or  
(c) Oil and Gas Commission who is designated by name or title to be an official by the commissioner under  
the Oil and Gas Activities Act for the purpose of that provision;

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

"range development", in relation to the management for range purposes of range land or livestock, means

(a) a structure,  
(b) an excavation,  
(c) a livestock trail indicated in a range use plan or a range stewardship plan as a range development, or  
(d) an improvement to forage quality or quantity on an area that results from  
(i) the application of seed, fertilizer or prescribed fire to the area, or  
(ii) the cultivation of the area;

"range practice" means

(a) a prescribed activity that is carried out on Crown range by  
(i) the holder of an agreement under the Range Act, or  
(ii) a person in a prescribed category of persons, and  
(b) the activities related to constructing, modifying or maintaining a range development that are carried out  
on Crown range by a person other than the holder of an agreement under the Range Act;

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

"recreation resource" means

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

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

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

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

"special use permit" means a special use permit under the Forest Practices Code of British Columbia Act;

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

"wildlife" means

(a) vertebrates that are mammals, birds, reptiles or amphibians and are prescribed as wildlife under the Wildlife Act,

(b) fish from or in the non-tidal waters of British Columbia, including

(i) vertebrates of the order Petromyzoniformes (lampreys) or class Osteichthyes (bony fishes), or

(ii) invertebrates of the subphylum Crustacea (crustaceans) or phylum Mollusca (mollusks), and

(c) invertebrates or plants listed by the minister responsible for the administration of the Wildlife Act as endangered, threatened or vulnerable species,

and includes the eggs and juvenile stages of these vertebrates, invertebrates and plants.

(2) Words and expressions not defined in this Act have the meaning given to them in the Forest Act and the Range Act unless the context indicates otherwise.

Interpretation

2 (1) A reference in this Act to the minister or his or her designate, or to the minister or a person authorized by the minister, or any similar reference, does not mean that a reference to the minister alone requires the minister to deal with the matter personally, and a reference to the minister alone means a reference to the minister or an appropriate official of the ministry of the minister responsible for the administration of this Act.

(2) [Repealed 2007-18-75.]

(3) [Repealed 2007-18-75.]

(4) Section 14 (2) of the Interpretation Act does not apply to this Act.

(5) Sections 71 (2) to (7) and 87 of this Act do not apply to the government.

Application of Act to first nations woodland licences

2.1 (1) Subject to a regulation made under section 153 (3), this Act and the regulations and standards made under this Act apply to or in respect of a first nations woodland licence described in subsection (2) as if

(a) the first nations woodland licence were a community forest agreement,

(b) the first nations woodland licence area were a community forest agreement area, and

(c) the holder of the first nations woodland licence were a holder of a community forest agreement.

(2) Subsection (1) applies to or in respect of a first nations woodland licence if

(a) the size of the Crown land in the first nations woodland licence area is more than

(i) 800 ha, if the area is located in the Coast Forest Region, or

(ii) 1200 ha, if the area is not located in the Coast Forest Region, or

(b) the licence specifies that it is to be treated as if it were a community forest agreement for the purposes of this Act.

(3) Subject to a regulation made under section 153 (3), this Act and the regulations and standards made under this Act apply to or in respect of a first nations woodland licence described in subsection (4) as if

(a) the first nations woodland licence were a woodlot licence,

(b) the first nations woodland licence area were a woodlot licence area, and

(c) a holder of the first nations woodland licence were a holder of a woodlot licence.

(4) Subsection (3) applies to or in respect of a first nations woodland licence if the size of the Crown land in the first nations woodland licence area is equal to or less than

(a) 800 ha, if the area is located in the Coast Forest Region, or

(b) 1200 ha, if the area is not located in the Coast Forest Region.



(5) A woodlot plan for a first nations woodland licence to which subsection (3) applies expires on the date the size of the Crown land in the first nations woodland licence area increases from a size described in subsection (4) to a size described in subsection (2) (a).

## Part 2 — Forest Stewardship Plan, Site Plan and Woodlot Licence Plan

### Division 1 — Forest Stewardship Plan

#### Forest stewardship plan required

3 (0.1) In subsections (1) and (1.1):

"licence" means

- (a) a major licence,
- (b) a timber sale licence that requires its holder to prepare a forest stewardship plan, or
- (c) a community salvage licence;

"agreement" means

- (a) a pulpwood agreement, or
- (b) a community forest agreement.

(1) Before the holder of a licence or an agreement harvests timber or constructs a road on land to which the licence or agreement applies, the holder, subject to section 4, must

(a) prepare and obtain the minister's approval of a forest stewardship plan that includes a forest development unit entirely containing the area on which

- (i) the timber is to be harvested, and
- (ii) the roads are to be constructed, or

(b) propose and obtain the minister's approval of amendments that provide for the holder to become a party to a forest stewardship plan that includes a forest development unit described in paragraph (a).

(1.1) Despite subsection (1), the holder of a licence or an agreement referred to in that subsection may

(a) the expiry of a forest stewardship plan that includes a forest development unit containing the area subject to the cutting permit or road permit, or

(b) the holder was removed as a party to a forest stewardship plan that includes a forest development unit containing the area subject to the cutting permit or road permit.

(2) Subject to section 4, before the timber sales manager

(a) invites applications for, or enters into, a timber sale licence to which subsection (1) does not apply,

(b) grants a road permit to the holder of a timber sale licence referred to in paragraph (a), or

(c) constructs an access road to an area to be harvested under a timber sale licence referred to in paragraph (a),

the timber sales manager must

(d) prepare and obtain the minister's approval of a forest stewardship plan that includes a forest development unit entirely containing the area

(i) that will be the subject of the activities described in paragraphs (a), (b) and (c) of this subsection, and

(ii) on which timber is to be harvested and roads are to be constructed, or

(e) propose and obtain the minister's approval of amendments that provide for the timber sales manager to become a party to a forest stewardship plan that includes a forest development unit described in paragraph (d).

(3) [Repealed 2008-4-15.]

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

(a) holders of agreements under the Forest Act;

(b) agreements under the Forest Act;

(c) areas of land that are, or will be, subject to an agreement under the Forest Act.

#### Exemption from forest stewardship plans

4 (1) If a forest stewardship plan held by the holder of a licence or an agreement referred to in section 3 (1) or by the timber sales manager referred to in section 3 (2) does not apply to an area outside the forest development unit to which the plan pertains, in which area the holder or timber sales manager will harvest

timber or construct a road, the holder or timber sales manager, as the case may be, is exempt in respect of the outside area from the requirement for a forest stewardship plan, but only for the following purposes:

- (a) harvesting timber to eliminate a safety hazard;
- (b) harvesting timber to facilitate the collection of seed, leaving an opening not greater than 1 ha;
- (c) removing felled trees from landings and road rights of way;
- (d) harvesting timber not exceeding a volume of 500 m<sup>3</sup> that, in the opinion of the minister,
  - (i) is in danger of being significantly reduced in value, lost or destroyed, by insect infestation, fire or disease, or
  - (ii) has been treated or will be treated by the holder or timber sales manager to facilitate the entrapment or elimination of pests;
- (e) other prescribed purposes.

(2) A person is not required to prepare a forest stewardship plan under section 3 (1) or (2) for timber to be harvested or roads to be constructed if the timber harvesting or the road construction

- (a) is only for one or more of the purposes referred to in subsection (1) (a) to (e) of this section, or
- (b) is to be carried out in prescribed circumstances or under prescribed conditions.

Content of forest stewardship plan

5 (1) A forest stewardship plan must

- (a) include a map that
  - (i) uses a scale and format satisfactory to the minister, and
  - (ii) shows the boundaries of all forest development units,
- (b) specify intended results or strategies, each in relation to
  - (i) objectives set by government, and
  - (ii) other objectives that are established under this Act and that pertain to all or part of the area subject to the plan, and
- (c) conform to prescribed requirements.

(1.1) The results and strategies referred to in subsection (1) (b) must be consistent to the prescribed extent with objectives set by government and with the other objectives referred to in subsection (1) (b) (ii).

(2) A forest stewardship plan must be consistent with timber harvesting rights granted by the government for any of the following to which the plan applies:

- (a) the timber supply area;
- (b) the community forest agreement area;
- (c) the tree farm licence area;
- (d) the pulpwood area.

(3) A forest stewardship plan or an amendment to a forest stewardship plan must be signed by the person required to prepare the plan, if an individual or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.

Term of forest stewardship plan

6 (1) The term of a forest stewardship plan

(a) is the period, not exceeding 5 years, that the person submitting the plan for approval specifies at the time of submission, and

(b) begins on the date specified in writing by the minister in approving the plan.

(2) The minister by written notice given to the holder may extend the term of a forest stewardship plan, before or after it expires for an additional period not exceeding 5 years in the circumstances specified by regulation.

(3) The extended forest stewardship plan may include changes to the extent authorized by regulation.

Limited protection for forest development units

7 (1) A proposed forest stewardship plan must be considered to have received the minister's approval under section 16 (1) for the parts, if any, of the forest stewardship plan that pertain to

- (a) a cutting permit, road permit or timber sale licence if the permit or licence is in effect on the date of the submission of the forest stewardship plan to the minister, or
- (b) an area that conforms to the prescribed requirements.

(1.1) A proposed forest stewardship plan must be considered to have received the minister's approval under section 16 (1) for the parts, if any, of the plan, including but not limited to results and strategies described in it, that pertain to a forest development unit that is in effect on the date of the submission of the forest stewardship plan to the minister unless

(a) one or more of the following events occur during the period specified in subsection (2):

(i) an enactment applicable to the forest development unit is made or amended;

(ii) an objective set by government applicable to the forest development unit is established, varied or cancelled;

(iii) if specified by regulation, another objective applicable to the forest development unit is established, varied or cancelled by order under this Act;

(iv) an area of land in or adjacent to the forest development unit is designated by order under the regulations as a community watershed;

(v) a community watershed in or adjacent to the forest development unit is varied or cancelled by order under the regulations;

(vi) timber in the vicinity of the forest development unit has suffered catastrophic damage, and

(b) the minister considers that the forest development unit is inconsistent with the events described in paragraph (a) that occur.

(2) The specified period under subsection (1.1) begins 4 months before the date the existing plan was submitted for approval and ends 4 months before the date the proposed plan was submitted for approval.

**Mandatory amendments**

8 (1) Subject to subsection (2), the holder of a forest stewardship plan, within the applicable period under subsection (1.1), must propose and submit for approval by the minister, amendments to the plan that take into account an event described in section 7 (1.1) (a) (i), (ii) or (iii) that affects an area under the plan.

(1.1) The applicable period under subsection (1) is

(a) 2 years, or

(b) a longer period specified

(i) in an enactment referred to in section 7 (1.1) (a) (i),

(ii) in an objective set by government referred to in section 7 (1.1) (a) (ii), or

(iii) in an order referred to in section 7 (1.1) (a) (iii).

(2) If a different period than that described in subsection (1) is specified in relation to a forest stewardship plan for the purposes of this section in any

(a) objective for a wildlife habitat area established under the regulations, or

(b) objectives set by government referred to in paragraph (b) or (c) of the definition of that term in section 1 (1),

that different period applies to the forest stewardship plan instead of the period mentioned in subsection (1).

**Proportional objectives**

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

## Division 2 — Site Plans

**Site plans for cutblocks and roads**

10 (1) Except in prescribed circumstances, the holder of a forest stewardship plan must prepare a site plan in accordance with prescribed requirements for any

(a) cutblock before the start of timber harvesting on the cutblock, and

(b) road before the start of timber harvesting related to the road's construction.

(2) A site plan must

(a) identify the approximate locations of cutblocks and roads,

(b) be consistent with the forest stewardship plan, this Act and the regulations, and

(c) identify how the intended results or strategies described in the forest stewardship plan apply to the site.

(3) A site plan may apply to one or more cutblocks and roads whether within the area of one or more forest stewardship plans.

**Site plan available to public**

11 A holder of a site plan must make it publicly available on request at any reasonable time at the holder's place of business nearest to the area under the site plan.

### Division 3 — Woodlot Licence Plan

#### Woodlot licence plan required

12 (1) Before the holder of a woodlot licence harvests timber or constructs a road on land to which the licence applies, the holder must prepare, and obtain the minister's approval of, a woodlot licence plan that includes the area on which the timber is to be harvested and the roads are to be constructed.

(1.1) Despite subsection (1), the holder of a woodlot licence may harvest timber or construct roads on an area that is subject to a cutting permit or road permit issued before the expiry of a woodlot licence plan that includes the area subject to the cutting permit or road permit.

(2) The holder of a woodlot licence may obtain a cutting permit or road permit only if it is consistent with a woodlot licence plan.

(3) Despite subsections (1) and (2), the minister, in the circumstances and on the conditions, if any, that are prescribed may authorize the holder of a woodlot licence to obtain a cutting permit or road permit

(a) to deal with a forest health emergency, or

(b) to harvest timber that has been damaged and is in danger of being significantly reduced in value, lost or destroyed.

#### Content of woodlot licence plan

13 (1) A woodlot licence plan must

(a) include a map that

(i) uses a scale and format satisfactory to the minister,

(ii) provides prescribed information about forest resources, and

(iii) shows the boundaries of areas for which the woodlot licence plan specifies intended results or strategies,

(b) except in prescribed circumstances, specify intended results or strategies, each in relation to

(i) objectives set by government, and

(ii) other objectives that are established under this Act and that pertain to all or part of the area subject to the plan, and

(c) conform to prescribed requirements.

(2) A woodlot licence plan must be consistent with the objectives referred to in subsection (1) (b).

(3) A woodlot licence plan need not be consistent with objectives set by government to the extent that those objectives pertain to

(a) retention of old forest,

(b) seral stage distribution,

(c) landscape connectivity, or

(d) temporal and spatial distribution of cutblocks.

(4) A woodlot licence plan or an amendment to a woodlot licence plan must be signed by the person required to prepare the plan, if an individual or, if a corporation or band as defined in the Indian Act (Canada), by an individual or the individuals authorized to sign on behalf of the corporation or band.

#### Term of woodlot licence plan

14 (1) The term of a woodlot licence plan

(a) is 10 years, and

(b) begins on the date specified in writing by the minister in approving the plan.

(2) The minister must extend the term of a woodlot licence plan that conforms to prescribed requirements for an additional period of 10 years unless the holder, by written notice given to the minister at least 6 months before the expiry of the initial term, requests an extension for a specified shorter period, in which case the minister must extend the term for that shorter period.

(3) Before or after the expiration of a woodlot licence plan that does not conform to the prescribed requirements referred to in subsection (2), the minister may extend the term of the plan for a period or periods not exceeding 2 years in total.

(4) The extended woodlot licence plan may include changes to the extent authorized by regulation.

#### Amendments to a woodlot licence plan

15 (1) In this section:

"amendment" means an amendment to a woodlot licence plan to make it consistent with an objective;

"objective" means

- (a) an objective set by government, and
  - (b) an objective that is established under this Act
- but does not include an objective referred to in section 13 (3).

(2) No later than 5 years after the date an objective is established, the holder of a woodlot licence plan that becomes inconsistent with an objective must submit an amendment to the minister for approval.

(3) Despite subsection (2), the holder of a woodlot licence plan need not submit an amendment that pertains to a portion of the plan that is subject to

- (a) a cutting permit, or
- (b) a road permit

in effect immediately before the establishment of the objective.

Division 4 — General

Approval of forest stewardship plan, woodlot licence plan or amendment

16 (1) The minister must approve a forest stewardship plan or an amendment to a forest stewardship plan if it conforms to section 5.

(1.01) A forest stewardship plan or an amendment to a forest stewardship plan conforms to section 5 if

(a) a person with prescribed qualifications certifies that it conforms to section 5 in relation to prescribed subject matter, and

(b) the minister is satisfied that it conforms to section 5 in relation to subject matter not prescribed for the purpose of paragraph (a).

(1.1) The minister must approve a woodlot licence plan or an amendment to a woodlot licence plan if it conforms to section 13.

(1.2) A woodlot licence plan or an amendment to a woodlot licence plan conforms to section 13 if

(a) a person with prescribed qualifications, certifies that it conforms to section 13 in relation to prescribed subject matter, and

(b) the minister is satisfied that it conforms to section 13 in relation to subject matter not prescribed for the purpose of paragraph (a).

(2) A forest stewardship plan, a woodlot licence plan or an amendment to either that is submitted to the minister for approval must be considered to have conformed to this Act, the regulations, the standards and the objectives set by government if the plan or amendment conforms to the relevant provisions of this Act, the regulations, the standards and the objectives as they were 4 months before the date of the submission of the plan or amendment to the minister.

(2.01) The Lieutenant Governor in Council, by order, may declare that a forest stewardship plan, a woodlot licence plan or an amendment to either that is submitted to the minister for approval, despite subsection (2), must immediately conform to some or all of this Act, the regulations, the standards and the objectives set by government as set out in the order.

(2.1) Except in prescribed circumstances, before approving a plan or amendment, the minister may require the holder of a proposed plan or amendment to submit information that the minister reasonably requires in order to determine if the proposed plan or amendment conforms to subsection (1) or (1.1), whichever is applicable.

(3) The minister must give written reasons for refusing to approve a forest stewardship plan, a woodlot licence plan or an amendment to either.

(4) If the minister receives information that gives the minister reason to believe that a forest stewardship plan, woodlot licence plan, or an amendment to either, did not, at the time of its approval under this section, conform, in relation to

- (a) the prescribed subject matter referred to in subsection (1.01) (a) to section 5, or
- (b) the prescribed subject matter referred to in subsection (1.2) (a) to section 13

the minister, after giving the holder of the plan an opportunity to be heard,

- (c) may determine whether the plan conformed, at the time of its approval, with,
  - (i) section 5 in relation to the subject matter mentioned in paragraph (a), or
  - (ii) section 13 in relation to the subject matter mentioned in paragraph (b), and
  - (d) in the case of a plan determined under paragraph (c) to be non-conforming, may order the holder to amend the plan to so conform, by a date specified in the order.
- (5) The holder of a forest stewardship plan or woodlot licence plan who receives notice of an order made under subsection (4) must comply with the order.

#### Approval in emergency cases

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

#### Review and comment

18 A person responsible for preparing a forest stewardship plan, a woodlot licence plan, or an amendment to either, if required by the regulations and then in accordance with the regulations, must make the plan or amendment publicly available for

- (a) review, and
- (b) comment

before submitting the plan or amendment to the minister for approval.

#### Protection for cutting and road permits

19 (1) An approval or a refusal to approve a forest stewardship plan, a woodlot licence plan or an amendment to either does not affect a cutting permit or road permit if the cutting permit or road permit is in effect immediately before the approval or refusal.

(2) Section 8 does not apply to the portion of the area to which a forest stewardship plan applies

- (a) which portion is subject to a cutting permit, road permit or timber sale licence,
- (b) over which portion a road referred to in subsection (4) is or has been constructed, or
- (c) which portion conforms to prescribed criteria.

(3) An approval or a refusal to approve a forest stewardship plan or an amendment does not affect a timber sale licence that does not provide for cutting permits if the licence

- (a) has been advertised before the approval or refusal, or
- (b) is in effect immediately before the approval or refusal.

(4) An approval or a refusal to approve a forest stewardship plan or an amendment does not affect the minister's discretion under section 121 of the Forest Act to construct a road to provide access to an area to be harvested under a timber sale licence.

(5) [Repealed 2003-55-11.]

#### Minor amendments to forest stewardship and woodlot licence plans

20 (1) Despite section 16, except in prescribed circumstances, an approval is not required to amend a forest stewardship plan or a woodlot licence plan if its holder determines that

- (a) the proposed amendment
  - (i) conforms to section 5, for an amendment to a forest stewardship plan, or to section 13, for an amendment to a woodlot licence plan, and
  - (ii) does not materially change the intended results or strategies specified in the plan, or
- (b) the proposed amendment conforms to prescribed requirements.

(2) The holder of a forest stewardship plan or a woodlot licence plan must provide the district manager with a copy of the amendment as soon as practicable after it has been incorporated in the plan.

(3) The minister may take action in accordance with the regulations if he or she considers that the decision under subsection (1) was wrongly made.

#### Amendments to expired plans for stocking standards

20.1 Despite the expiry of a forest stewardship plan or a woodlot licence plan, the plan may be amended as if unexpired if the amendment is in respect of stocking standards set out in the plan.

## Division 1 — General

### Compliance with plans

21 (1) The holder of a forest stewardship plan or a woodlot licence plan must ensure that the intended results specified in the plan are achieved and the strategies described in the plan are carried out.

(2) Despite the expiry of a forest stewardship plan or a woodlot licence plan, subsection (1) continues to apply to the holder of the expired plan if, in relation to any result, strategy or other provision of the plan that was in effect immediately before the expiry of the plan, there is no provision in another plan applicable to that holder for the same area to which the expired plan applied, that is identified as being a replacement for the result, strategy or other provision.

(2.1) If a forest stewardship plan is amended to remove the holder of a licence or an agreement as a party to the plan, subsection (1) continues to apply to that holder if, in relation to any result, strategy or other provision of the plan that applied to the holder immediately before the amendment, there is no provision in another plan, applicable to that holder for the same area to which the amended plan applies, that is identified as being a replacement for the result, strategy or other provision.

(2.2) If a forest stewardship plan is amended to remove the timber sales manager as a party to the plan, subsection (1) continues to apply to the timber sales manager if, in relation to any result, strategy or other provision of the plan that applied to the holder immediately before the amendment, there is no provision in another plan, applicable to the timber sales manager for the same area to which the amended plan applies, that is identified as being a replacement for the result, strategy or other provision.

(3) For the purpose of the continued application of subsection (1) required by subsection (2), a forest stewardship plan or a woodlot licence plan may be amended as if unexpired.

## Division 2 — Roads

### Application

22 (1) This Division does not apply to roads constructed or maintained under the Community Charter, the Highway Act, the Transportation Act, the Land Act, the Local Government Act or the Pipeline Act.

(2) A person must not use, construct, maintain or deactivate a road except in accordance with this Act, the regulations, the standards and any forest stewardship plan or a woodlot licence plan, if the road is

(a) a forest service road,

(b) in a Provincial forest,

(c) outside a Provincial forest for the purpose of providing access to timber on Crown land or on private land that is subject to an agreement, or

(d) subject to a requirement for a special use permit.

### Industrial use of a road

22.1 (1) A person must not use a road for

(a) timber harvesting, including the transportation of the timber or associated machinery, materials or personnel, or

(b) access for tree planting requiring more than 12 months to complete, or silvicultural treatments requiring transportation of machinery,

except in one or more of the following circumstances:

(c) the person

(i) is authorized to do so under a timber sale licence that does not provide for a cutting permit or under a woodlot licence, cutting permit, road permit or forestry licence to cut, or

(ii) is exempted under subsection (4);

(d) the road is a forest service road, and the person is authorized to use the road under a road use permit or is exempted under subsection (4);

(e) the road is one for which another person has a timber sale licence that does not provide for a cutting permit or has a woodlot licence, cutting permit, road permit or special use permit.

(2) A person who is developing natural resources other than timber must not use a road for that purpose, including the transportation of the natural resources or associated machinery, materials or personnel, unless

- (a) the road is located inside the boundary of a claim, lease, permit or other authorization granted or issued under the Coal Act, the Mineral Tenure Act, the Mines Act or the Mining Right of Way Act, and the road was built under the authority of one of those Acts,
  - (b) the road is located outside the boundary of a claim, lease, permit or other authorization granted or issued under an Act referred to in paragraph (a), and the person is authorized to use it by a special use permit or is exempted under subsection (4),
  - (c) the road is authorized under the Geothermal Resources Act, Petroleum and Natural Gas Act or Pipeline Act,
  - (d) the road is a forest service road, and the person is authorized to use the road under a road use permit or is exempted under subsection (4), or
  - (e) the road is one for which another person has a road permit, special use permit or woodlot licence.
- (3) Subsections (1) (a) and (2) (d) do not apply to operations that are associated with, or are necessary to be carried out under, an agreement under the Range Act.
- (4) The minister may grant an exemption
- (a) referred to in subsection (1) (c) (ii) or (2) (b) if satisfied that the person's use of the road will not unnecessarily impact forest resources, or
  - (b) referred to in subsection (1) (d) or (2) (d) if satisfied that the person's use of the road will not
    - (i) unnecessarily impact forest resources,
    - (ii) materially affect the use of the road by others, or
    - (iii) materially increase the need for road maintenance.
- (5) A person granted an exemption under subsection (4) must comply with any conditions of the exemption.
- (6) A person who, under subsection (4), is granted an exemption referred to in subsection (1) (c) (ii) or (2) (b) must maintain the road for the duration of the person's use of the road in accordance with the regulations and any applicable forest stewardship plan or woodlot licence plan.
- (7) A person who uses a road under subsection (1) (d) or (e) or (2) (d) or (e) must give at least 5 clear days notice of the date on which the person will begin to use the road
- (a) to the holder of the applicable road permit, special use permit or woodlot licence, and
  - (b) for a forest service road,
    - (i) to the minister, and
    - (ii) in prescribed circumstances, to the person required to maintain the forest service road.

#### Non-industrial use of a road

22.2 (1) Subject to subsections (2) to (4) and to regulations respecting roads made under the Industrial Roads Act, a road that is

- (a) a forest service road, or
  - (b) constructed or maintained by the holder of a road permit or a woodlot licence
- may be used by any person, other than a person referred to in section 22.1, without charge.
- (2) The
- (a) district manager, for a forest service road, or
  - (b) holder of a road permit or a woodlot licence, for a road under the permit or licence,
- may take action under subsection (3) if
- (c) use of the road under subsection (1) would likely
    - (i) cause significant damage to the road,
    - (ii) cause significant sediment delivery, or
    - (iii) endanger property, public health or public safety, or
  - (d) the presence on the road of a vehicle or animal would likely cause damage to the road or environment or endanger life or property.
- (3) In the circumstances described in subsection (2),
- (a) the district manager, for a forest service road, may
    - (i) close the road or restrict its use, or
    - (ii) remove a vehicle or an animal from the road at the expense of the owner of the vehicle or animal, and
  - (b) the holder of a road permit or a woodlot licence, for a road under the permit or licence,
    - (i) with the prior consent of the minister, may close the road or restrict its use, or
    - (ii) may remove a vehicle or an animal from the road at the expense of the owner of the vehicle or animal.
- (4) The minister, in accordance with the regulations, may specify types of expenses that must be paid to
- (a) government for a road referred to in subsection (1) (a),



(b) holders referred to in subsection (1) (b), or

(c) other persons who meet prescribed requirements

by a person, other than a person referred to in section 22.1, who uses a road or class of roads.

No payment for use of road except as provided

22.3 (1) By written notice under subsection (2), a holder of a road permit or of a woodlot licence, or, in prescribed circumstances, of a road use permit, may require payment, within the limits imposed under subsection (2), from a person who uses a road that is under the permit or licence for

(a) a purpose referred to in section 22.1 (1) or (2), or

(b) other prescribed purposes.

(2) A written notice under subsection (1) must specify

(a) that payment is required, and

(b) the amount of the payment, which amount must be limited to one or more of the following:

(i) a reasonable contribution to the expense of maintaining the road;

(ii) the reasonable expense of modifying the road to accommodate the special needs of the person;

(iii) the reasonable expense of repairing any damage to the road caused by the person's use of the road.

(3) If the holder of the road permit, road use permit or woodlot licence who gives a written notice under subsection (1) and the person who receives the notice do not agree on what amount of payment should be required, the holder and the person must submit that question for resolution

(a) by an agreed process of dispute resolution, or

(b) by binding arbitration under the Arbitration Act.

(4) A person who receives a written notice under subsection (1) is liable to the holder of the permit or licence who gave the notice for payment of the amount that is

(a) specified in the notice, or

(b) determined under subsection (3) in a case to which that subsection applies.

Consent to connect

23 (1) A person must obtain the consent of the minister before connecting a road to a forest service road.

(2) Subsection (1) does not apply to the government.

Not a public highway

24 Despite section 42 of the Transportation Act, a road constructed or maintained under this Act, the Forest Act, the former Act as defined in section 1 of the Forest Act or the Forest Practices Code of British Columbia Act is not a public highway unless the Lieutenant Governor in Council declares it to be by an order in council that he or she may make under this Act.

### Division 3 — Forest Health

#### Sanitation exemption

25 The minister may exempt a person in writing from specified provisions of this Act, the regulations or the standards if the minister considers it necessary or desirable so that the person may follow a course of action specified by the minister for the purposes of limiting or mitigating or both limiting and mitigating the spread of forest pests.

#### Control of insects, diseases, animals or abiotic factors

26 (1) If the minister determines that a forested area on private land is being damaged by insects, diseases, animals or abiotic factors, the minister, by written notice given to the owner, may require the owner to submit, for that forested area, a proposal that conforms to subsection (3) to control or dispose of the insects, diseases, animals or abiotic factors.

(2) If the minister determines that on a forested area on Crown land that is subject to

(a) a forest stewardship plan,

(b) a woodlot licence plan, or

(c) another prescribed operational plan

there are insects, diseases, animals or abiotic factors that are causing damage to the forest, the minister, by written notice given to the holder of the plan, may require the holder to submit, for that forested area, a

proposal that conforms to subsection (3) to control or dispose of the insects, diseases, animals or abiotic factors.

(3) An owner required under subsection (1), or a holder required under subsection (2), to submit a proposal must

- (a) submit the proposal to the minister within the period specified by the minister,
- (b) in the proposal, specify reasonable measures to be carried out for that forested area by the owner or holder, as the case may be, to control or dispose of the insects, diseases, animals or abiotic factors, and
- (c) state the time frame within which the measures are to be completed.

(4) The minister may approve or reject a proposal received in response to the minister's written notice given under subsection (1) or (2).

(5) If the minister approves a proposal under subsection (3), the owner or holder who made the proposal must carry out the measures specified in the proposal.

(6) By order, given to

- (a) an owner of private land referred to in subsection (1), or
- (b) a holder of a plan referred to in subsection (2)

who does not submit a proposal as required under subsection (1) or (2) or who does not comply with subsection (5), the minister may require the owner or holder to carry out measures specified in the order by a date specified in the order.

(7) If the minister

- (a) approves a proposal submitted under subsection (3), or
- (b) makes an order under subsection (6),

and considers it necessary or desirable to facilitate the carrying out of the proposal or order, the minister may exempt the affected owner or holder from complying with one or more provisions of this Act, the regulations, the standards, an agreement under the Forest Act, a forest stewardship plan or a woodlot licence plan.

(8) If the minister makes an order under subsection (6) that is inconsistent with a provision of this Act, the regulations, the standards, an agreement under the Forest Act, a forest stewardship plan or a woodlot licence plan, the minister, in making the order, must exempt the owner or holder from that provision.

(9) If a proposal approved, or an order made, by the minister under this section requires the holder of an agreement under the Forest Act to carry out a measure other than timber harvesting, then to the extent provided in the regulations, the expenses of the measure are to be paid by the government.

Forest health emergency

27 (1) If the Lieutenant Governor in Council considers that a forest health emergency exists in an area of Crown land or private land, he or she may designate the area by regulation as a forest health emergency management area.

(2) The minister may order

- (a) the holder of an agreement under the Forest Act that authorizes timber harvesting in the emergency management area, or
- (b) the timber sales manager

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

(3) An order under subsection (2) must specify

- (a) the measures to be carried out,
- (b) the date by which the measures must be completed, and
- (c) the person's right to a review under section 80 or to an appeal under section 82.

(4) A person is exempt from any provisions of this Act, the regulations, the standards, an agreement under the Forest Act, a forest stewardship plan or a woodlot licence plan that, if complied with, would prevent the person from carrying out the measures referred to in subsection (2).

(5) If an order made by the minister under this section requires the holder of an agreement under the Forest Act or the timber sales manager to carry out a measure other than timber harvesting, then to the extent provided in the regulations, the expenses of the measure are to be paid by the government.

Division 4 — Silviculture and Gene Resources

Property in trees

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

#### Free growing stands

29 (1) A holder of a major licence or community forest agreement who harvests timber to which a forest stewardship plan applies must establish in accordance with the plan, the prescribed requirements and the standards, a free growing stand on those portions of the area of the harvest that are in the net area to be reforested.

(2) If the timber sales manager

(a) has authorized the harvesting of timber under a timber sale licence that requires its holder to prepare a forest stewardship plan, or

(b) is the holder of a forest stewardship plan,

he or she must establish in accordance with the plan, the prescribed requirements and the standards, a free growing stand on those portions of the area of the harvest under the plan that are in the net area to be reforested.

(3) A holder of a woodlot licence who harvests timber under the licence must establish a free growing stand on those portions of the area of the harvest that are in the net area to be reforested in accordance with

(a) the woodlot licence plan, if any, that is pertinent to the licence,

(b) the prescribed requirements, and

(c) the standards.

(4) [Repealed 2003-55-18.]

(5) to (10) [Repealed 2004-36-89.]

#### Transfer of obligation to establish a free growing stand

29.1 (1) A person who, under section 29 or Part 11, has an obligation to establish a free growing stand may transfer the obligation to another person by agreement if

(a) the agreement to transfer is in writing,

(b) the transfer meets the prescribed requirements, and

(c) the parties to the agreement submit it to the minister and the minister approves it.

(2) An agreement referred to in subsection (1) has no effect if it does not receive the minister's approval under subsection (1) (c).

(3) A person to whom an obligation to establish a free growing stand was transferred by agreement under this section may transfer the obligation by agreement to another person if

(a) the latter agreement to transfer is in writing,

(b) the transfer meets the prescribed requirements, and

(c) the parties to the latter agreement submit it to the minister and the minister approves it.

(4) An agreement referred to in subsection (3) has no effect if it does not receive the minister's approval under subsection (3) (c).

(5) Without limiting subsections (1) (b) and (3) (b), the transfer must include the stocking requirements that pertain to the area.

(6) A person to whom an obligation to establish a free growing stand is transferred under this section may amend the stocking requirements that pertain to the area.

(7) If the minister approves an agreement under subsection (1) (c) or (3) (c), the person who transferred the obligation is no longer required, as of the date of the approval, to meet the obligation.

(8) If the minister approves an agreement under subsection (1) (c) or (3) (c) and the person to whom the obligation is transferred is the holder of an agreement listed in section 12 of the Forest Act,

(a) the transferred obligation is conclusively deemed to be an obligation under the holder's agreement, and

(b) any security provided in respect of the holder's agreement is conclusively deemed to be security for the purposes of the transferred obligation, except in prescribed circumstances.

#### Free growing stands for non-replaceable licences

30 (1) In this section, "licence holder" means a person who

(a) is the holder of a timber licence, forestry licence to cut, non-replaceable forest licence, non-replaceable woodlot licence or non-replaceable timber sale licence,

(b) is not the holder of a replaceable tree farm licence or a replaceable forest licence,

(c) has an obligation under section 29 to establish a free growing stand on an area harvested under the timber licence, forestry licence to cut, non-replaceable forest licence, non-replaceable woodlot licence or non-replaceable timber sale licence, and

(d) meets prescribed requirements, if any.

(2) A licence holder may request that the government assume responsibility for carrying out the obligation under section 29 to establish a free growing stand

(a) by notice given to the district manager, or

(b) by notice given to the timber sales manager if the licence is a

(i) non-replaceable forest licence, or

(ii) forestry licence to cut

that is a BC timber sales agreement.

(3) By notice given to a licence holder within a prescribed period after the holder has made a request under subsection (2), the district manager or timber sales manager in the case of a BC timber sales agreement, may assume on behalf of the government the responsibility for establishing the free growing stand if all of the following requirements have been met:

(a) the licence holder has completed timber harvesting on the area and the district manager or a timber sales manager in the case of a BC timber sales agreement, is satisfied with the way the timber harvesting has been carried out;

(b) the district manager or a timber sales manager in the case of a BC timber sales agreement is satisfied that the licence holder

(i) is in compliance with this Act, regulations and standards with respect to the area, or

(ii) has remedied any contraventions of this Act, regulations or standards on the area that the minister required to be remedied;

(c) the licence holder has paid the government an amount that the district manager or a timber sales manager in the case of a BC timber sales agreement determines will pay the costs of establishing the free growing stand and any other directly or indirectly associated costs;

(d) other prescribed requirements.

(4) Money collected by the government under subsection (3) must be paid into the Silviculture Payments Sub-account of the Forest Stand Management Fund special account established by the Special Accounts Appropriation and Control Act.

(5) A licence holder to whom notice has been given within the prescribed period referred to in subsection (3) ceases to be responsible for the obligation under section 29 to establish a free growing stand on the first date, after completion of timber harvesting, as described in subsection (3) (a), on which the requirements set out or referred to in subsection (3) (b) to (d) have all been fulfilled.

(6) Compensation is not payable to the government or licence holder for any difference between the amount paid under subsection (3), and the actual costs incurred by the government both directly and indirectly to establish the free growing stand.

(7) A receipt of a request under subsection (2) does not require

(a) the district manager, or

(b) the timber sales manager

to assume, on behalf of government, the obligation under section 29 to establish a free growing stand.

Seed

31 A person required to establish a free growing stand must ensure that seed used for that purpose conforms to prescribed requirements.

## Part 4 — Range

### Division 1 — Range Use Plan and Range Stewardship Plan

#### Range use plan and range stewardship plan required

32 (1) Before the holder of an agreement under the Range Act grazes livestock or cuts hay on Crown range to which the agreement applies, the holder must prepare, and obtain the minister's approval of,

(a) a range use plan, or

(b) if subsection (2) applies, a range stewardship plan

that includes the area on which the grazing or hay cutting will occur.

(2) The minister may authorize the holder of an agreement under the Range Act to prepare a range stewardship plan

- (a) that does not include the matters described in section 35 (2) if satisfied that the holder has demonstrated competence in the management of Crown range for at least 2 years, or
- (b) that includes the matters described in section 35 (2), if satisfied that the holder has demonstrated competence in the management of Crown range for at least 5 years.

(3) Without restricting subsection (2), in determining whether a person has demonstrated competence the minister must consider

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

(4) Unless a holder of an agreement under the Range Act is notified by the minister that he or she is considering matters preliminary to granting an authorization under subsection (2), the minister is deemed to have authorized the holder under subsection (2) in respect of a range stewardship plan for an area if the holder

- (a) has a range stewardship plan for the area that is in effect, and
- (b) is preparing a range stewardship plan that is consistent with the range stewardship plan in effect in respect of including or not including the matters described in section 32 (2).

Content of range use plan for grazing

33 (1) A range use plan for grazing of livestock must

- (a) include a map of a scale and format satisfactory to the minister that
  - (i) shows the area for the agreement under the Range Act that pertains to the plan,
  - (ii) specifies the location and type of range developments in that area, and
  - (iii) specifies the pastures that are in that area,
- (b) include a schedule that describes for each pasture to be used for grazing of livestock,
  - (i) the livestock class,
  - (ii) the number of livestock, and
  - (iii) the period of use,
- (c) specify actions to be carried out in the area under the plan to deal with issues identified by the minister,
- (d) conform to prescribed requirements, and
- (e) be consistent with objectives set by government and other objectives that are established under this Act and that pertain to all or part of the area subject to the plan.

(2) A range use plan for grazing of livestock or an amendment to a range use plan for grazing of livestock must be signed by the person required to prepare the plan, if an individual or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.

Content of a range use plan for hay cutting

34 (1) A range use plan for hay cutting, must

- (a) include a map of a scale and format satisfactory to the minister that
  - (i) shows the area for the agreement under the Range Act that pertains to the plan,
  - (ii) specifies the location and type of range developments in that area, and
  - (iii) the areas for hay cutting,
- (b) include a schedule that describes for each area to be used for hay cutting
  - (i) the average stubble height for the area to be cut, and
  - (ii) the period of hay cutting,
- (c) specify actions to be carried out in that area to deal with issues identified by the minister,
- (d) conform to prescribed requirements, and
- (e) be consistent with objectives set by government and other objectives that are established under this Act and that pertain to all or part of the area subject to the plan.

(2) A range use plan for hay cutting or an amendment to a range use plan for hay cutting must be signed by the person required to prepare the plan, if an individual or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.

Content of range stewardship plan

35 (1) A range stewardship plan must

- (a) include a map of a scale and format satisfactory to the minister that
    - (i) shows the area for the agreement under the Range Act that pertains to the plan,
    - (ii) specifies the location and type of range developments in that area, and
    - (iii) specifies the pastures that are in that area,
  - (b) specify actions to be carried out in the area under the plan to deal with issues identified by the minister,
  - (c) conform to prescribed requirements, subject to subsection (2), and
  - (d) be consistent with objectives set by government and other objectives that are established under this Act and that pertain to all or part of the area subject to the plan.
- (2) If the minister is satisfied as set out in section 32 (2) (b) as to the competence of the holder of a range stewardship plan or an amendment to a range stewardship plan the holder of the plan may specify intended results or strategies to achieve them.

(3) The intended results or strategies specified under subsection (2) may differ from the prescribed requirements referred to in subsection (1) as the minister, at the time of approval of the plan, considers to be appropriate in the circumstances.

(4) A range stewardship plan or an amendment to a range stewardship plan must be signed by the person required to prepare the plan, if an individual or, if a corporation, by an individual or the individuals authorized to sign on behalf of the corporation.

#### Term of range use plan and range stewardship plan

36 (1) The term of a range use plan or range stewardship plan is the period, not exceeding 5 years, that the minister specifies at the time of approval.

(2) Despite subsection (1), the minister, in the circumstances and on the conditions, if any, that are prescribed may extend the term of a range use plan or range stewardship plan for an additional period not exceeding 5 years.

(3) The extended range use plan or extended range stewardship plan may include changes to the extent authorized by regulation.

#### Approval of a range use plan or range stewardship plan

37 (1) The minister must approve a range use plan, a range stewardship plan or an amendment to either if the minister determines that the plan or amendment

- (a) is consistent with the agreement under the Range Act that pertains to the plan, and
- (b) conforms to this Act, the regulations and the standards.

(2) A range use plan, a range stewardship plan or an amendment to either that is submitted to the minister for approval must be considered to have conformed to this Act, the regulations, the standards and the objectives set by government if the plan or amendment conforms to the relevant provisions of this Act, the regulations, the standards and the objectives as they were 4 months before the date of the submission of the plan or amendment to the minister.

(2.1) The Lieutenant Governor in Council, by order, may declare that a range use plan, a range stewardship plan or an amendment to either that is submitted to the minister for approval, despite subsection (2), must immediately conform to some or all of this Act, the regulations, the standards and the objectives set by government as set out in the order.

(3) The minister or the person seeking approval of a range use plan, a range stewardship plan or an amendment to either may refer the plan to an advisory committee for its recommendations, and the minister may consider those recommendations when making a determination under subsection (1).

(4) The minister must give reasons for refusing to approve a range use plan, a range stewardship plan or an amendment to either.

#### Mandatory amendments

38 (1) The holder of a range stewardship plan that includes the matters described in section 35 (2), must ensure that the strategies or actions specified in the plan continue during the term of the plan to be sufficient to achieve the intended results specified in the plan.

(2) The holder of

- (a) a range stewardship plan that does not include the matters described in section 35 (2), or
- (b) a range use plan

must ensure that the actions specified in the plan to deal with issues identified by the minister continue during the term of the plan to be sufficient to deal with those issues.

(3) The holder of a range stewardship plan described in subsection (1) who knows or reasonably ought to know that the strategies or actions specified in the plan, are not sufficient to achieve the intended results specified in the plan, must prepare and submit to the minister an amendment to the plan so that the plan, as approved, is sufficient to achieve those intended results.

(4) The holder of a range stewardship plan described in subsection (2) (a) or a range use plan mentioned in subsection (2) (b) who knows or reasonably ought to know that the actions specified in the plan are not sufficient to deal with issues identified by the minister must amend the plan so that it is sufficient to deal with those issues.

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

Cumulative impacts require plan amendment

39 (1) At the request of a holder of an agreement under the Range Act, the minister may determine whether range use plans or range stewardship plans held by other holders of agreements under the Range Act prevent or are likely to prevent the holder making the request from

(a) exercising the holder's rights under the holder's own agreement, or

(b) achieving a requirement of the holder's own range use plan or range stewardship plan.

(2) If the determination under subsection (1) is that the requesting holder is prevented or is likely to be prevented from doing the things described in subsection (1) (a) or (b), the minister by order may require one or more of the other holders of agreements referred to in subsection (1) to prepare and submit for the minister's approval the appropriate amendments to one or more range use or range stewardship plans so that the holder making the request does not continue to be prevented from doing those things.

(3) Before making a determination under this section, the minister must give the holders of range use plans or range stewardship plans affected an opportunity to be heard.

Minor changes to range use plan or range stewardship plan

40 Despite section 37 (1) and unless otherwise prescribed, an approval is not required to amend a range use plan or range stewardship plan if its holder determines that the proposed amendment

(a) otherwise conforms to this Act, the regulations and the standards, and

(b) does not materially affect the likelihood of achieving the intended results specified in the plan.

Review and comment

41 (1) In prescribed circumstances, before a person submits for approval a range use plan, range stewardship plan or an amendment to either, the person must make the plan or amendment available for

(a) review, and

(b) comment.

(2) Despite subsection (1), the minister may approve a range use plan or an amendment to one that has not been made available for review and comment if

(a) the plan or amendment is for an area that is subject to a temporary grazing permit or temporary hay cutting permit, and

(b) the minister determines that the range use plan, range stewardship plan or amendment otherwise meets the requirements of this Act, the regulations and the standards.

Proportional objectives

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

## Division 2 — Grazing Schedule

Grazing schedule required

43 (1) The holder of a range stewardship plan must prepare a grazing schedule that includes for each area that will be used for grazing, all of the following:

- (a) the livestock class;
  - (b) the number of livestock;
  - (c) the period of use.
- (2) The grazing schedule must be submitted each year to the district manager before the holder grazes livestock on Crown range.

Grazing schedule available to public

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

### Division 3 — General

#### General

45 (1) A person who grazes livestock, cuts hay or carries out or maintains a range development on Crown range must do so in accordance with

- (a) this Act, the regulations and the standards, and
  - (b) the applicable range use or range stewardship plan.
- (2) The holder of an agreement under the Range Act that authorizes grazing of livestock must ensure that all livestock authorized to graze on Crown range under the agreement are
- (a) marked with the holder's registered brand or marked in another manner approved by the minister, and
  - (b) identified by a mark or tag designating them as animals pastured under the agreement, if the minister requires it.

### Part 5 — Protection of Resources

#### Division 1 — General

#### Protection of the environment

46 (1) A person must not carry out a forest practice, a range practice or another activity that results in damage to the environment, unless in doing so

- (a) the person
    - (i) is acting in accordance with a plan, authorization or permit under this Act,
    - (ii) is not required to hold a plan or permit because of an exemption under this Act and is acting in accordance with this Act, the regulations and the standards, or
    - (iii) [Repealed 2007-18-80.]
    - (iv) is acting in accordance with another enactment, and
  - (b) the person does not know and cannot reasonably be expected to know that, because of weather conditions or site factors, the carrying out of the forest practice, range practice or other activity may result, directly or indirectly, in damage specified by regulation.
- (1.1) A person, other than a person described in subsection (1), must not engage in any activity on Crown land that results in damage to the environment, unless in doing so
- (a) the person
    - (i) is acting in accordance with a plan, authorization or permit under this Act,
    - (ii) is not required to hold a plan or permit because of an exemption under this Act and is acting in accordance with this Act, the regulations and the standards, or
    - (iii) is acting in accordance with another enactment, and
  - (b) the person does not know and cannot reasonably be expected to know that, because of weather conditions or site factors, engaging in the activity may result, directly or indirectly, in damage specified by regulation.
- (2) A person who contravenes subsection (1) or (1.1) must
- (a) take appropriate action to prevent any further damage,
  - (b) promptly notify the district manager of the damage, and
  - (c) take any remedial measures that the minister requires under section 74.
- (3) A person who discontinues a forest practice, a range practice or another activity referred to in subsection (1) or an activity referred to in subsection (1.1) may resume that practice or activity only if and when
- (a) it can be resumed without contravening subsection (1) or (1.1), as the case may be, and



- (b) the minister is satisfied that any remedial measures required under subsection (2) (c)
- (i) have been carried out, or
- (ii) will be carried out at the appropriate time.

#### Invasive plants

47 (1) A person carrying out a forest practice or a range practice must carry out measures that are

- (a) specified in the applicable operational plan, or
- (b) authorized by the minister

to prevent the introduction or spread of prescribed species of invasive plants.

(2) Despite expiry of the operational plan referred to in subsection (1) (a), subsection (1) continues to apply to the holder of that plan in respect of any area that is

- (a) in a forest development unit included in the plan, and
- (b) subject to a cutting permit or road permit issued in respect of the plan before the plan expired.

(3) If a forest stewardship plan is amended to remove the holder of a licence or an agreement as a party to the plan, subsection (1) continues to apply to that holder in respect of any area that is

- (a) in a forest development unit included in the plan, and
- (b) subject to a cutting permit or road permit issued in respect of the plan before the plan was amended.

#### Natural range barriers

48 (1) A person carrying out

- (a) a forest practice, or
- (b) a range practice

that directly or indirectly removes or renders ineffective a natural range barrier must carry out measures that are

- (c) specified in an operational plan for the area, or
- (d) authorized by the minister

to mitigate the removal or the ineffectiveness of the natural range barrier.

(2) Despite expiry of the operational plan referred to in subsection (1) (c), subsection (1) continues to apply to the holder of that plan in respect of any area that is

- (a) in a forest development unit included in the plan, and
- (b) subject to a cutting permit or road permit issued in respect of the plan before the plan expired.

(3) If a forest stewardship plan is amended to remove the holder of a licence or an agreement as a party to the plan, subsection (1) continues to apply to that holder in respect of any area that is

- (a) in a forest development unit included in the plan, and
- (b) subject to a cutting permit or road permit issued in respect of the plan before the plan was amended.

#### Exemption for fighting out of control fire

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

#### Unauthorized range activities

50 (1) A person must not cause or permit livestock to be driven on or to graze on Crown range unless

- (a) authorized to do so under an agreement under the Range Act or under the regulations under this Act, and
- (b) the person acts in accordance with this Act, the regulations, the standards and any applicable range use plan or range stewardship plan.

(2) A person must not cut, remove, damage or destroy hay on Crown range unless

- (a) authorized to do so under an agreement under the Range Act or the regulations under this Act, and
- (b) the person acts in accordance with this Act, the regulations, the standards and any applicable range use plan.

#### Range developments

51 (1) Unless authorized in writing by the minister, a person must not

- (a) store hay on Crown range, or
- (b) carry out, construct, modify, remove, damage or destroy a range development on Crown range.

- (2) A person, other than the holder of an agreement under the Range Act, must obtain the authorization of the minister before maintaining a range development on Crown land.
- (3) The minister may
- (a) require a person seeking authorization under this section to submit the matter for which the authorization is sought for review in accordance with prescribed requirements, and for comments by interested parties during the course of the review,
  - (b) grant or refuse the authorization, depending on the outcome of a review required under paragraph (a), and
  - (c) impose pre-conditions or conditions of an authorization that the minister considers necessary or desirable, to be met by the person, including, but not limited to, requiring that the person provide security.
- (4) The minister may grant an authorization under this section only if
- (a) it is consistent with any range use plans, range stewardship plans and objectives set by government for the area covered by the authorization, and
  - (b) the minister is satisfied that the authorization will adequately provide for the range resources of the area to which it applies.
- (5) If the minister requires security under subsection (3) (c), the minister may specify
- (a) when the security must be paid,
  - (b) the amount of security that is required,
  - (c) the form of the security, and
  - (d) the circumstances under which the security may be realized.
- (6) A person who obtains an authorization under this section must comply with any conditions of the authorization.
- (7) If the minister determines under section 71 that a person has contravened subsection (1) or (6), the minister may order the person to
- (a) remove or destroy or remove and destroy the stored hay or the range development,
  - (b) restore the land under the stored hay or the range development, or both, or
  - (c) repair or rehabilitate the range development.
- (8) If satisfied that a range development is not effective, or is no longer needed for its original purpose, the minister may order the person responsible for the range development to remove it and rehabilitate areas that were affected by it.
- (9) The minister may revoke or vary an authorization under this section.
- Division 2 — Unauthorized Timber Harvesting, Trespass and Tree Spiking

#### Unauthorized timber harvesting

52 (1) A person must not cut, damage or destroy Crown timber unless authorized to do so

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

52.1 (1) The minister, in respect of an authorization under section 52 (1) (b), may

(a) require the person seeking the authorization to submit the matter for which the authorization is sought for review in accordance with prescribed requirements, and for comments by interested parties during the course of the review,

(b) grant or refuse the authorization, depending on the outcome of a review required under paragraph (a) of this subsection, and

(c) impose pre-conditions or conditions of an authorization that the minister considers necessary or desirable, to be met by the person, including, but not limited to, requiring that the person provide security.

(2) If the minister requires security under subsection (1) (c), the minister may specify

(a) when the security must be paid,

(b) the amount of security that is required,

(c) the form of the security, and

(d) the circumstances under which the security may be realized.

(3) A person who obtains an authorization under section 52 (1) (b) must comply with any conditions of the authorization.

(4) The minister may revoke or vary an authorization under section 52 (1) (b).

Private land adjacent to Crown land

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

(2) Before a person cuts or removes timber from private land adjacent to Crown land, the person must ascertain the boundaries of the private land.

Unauthorized construction and occupation

54 (1) A person must obtain the consent of the minister before constructing or occupying a building or other structure on Crown land in a Provincial forest unless the construction or occupation is authorized under another enactment.

(2) If the minister determines under section 71 that a person has contravened subsection (1), the minister may order the person to do one or more of the following:

(a) remove the building or other structure;

(b) destroy the building or other structure;

(c) restore the land under the building or other structure.

Tree spiking prohibited

55 On private land that is subject to an agreement under the Forest Act or on Crown land, a person must not

(a) drive or place any nail, spike or other potentially hazardous object into any timber that the person does not own or is not authorized to alter,

(b) possess any nail, spike or other potentially hazardous object with the intention of driving or placing it into any timber that the person does not own or is not authorized to alter, or

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

Division 3 — Recreation

Interpretive forest sites, recreation sites and recreation trails

56 (1) The minister may order

(a) the establishment of Crown land as an interpretive forest site, a recreation site or a recreation trail, except Crown land that is subject to another enactment and is being administered by another minister, branch or agency of government,

(b) the variance of the boundaries of an interpretive forest site, a recreation site or a recreation trail, and

(c) the disestablishment of an interpretive forest site, a recreation site or a recreation trail.

(2) [Repealed 2003-55-31.]

(3) The minister may establish an objective for an interpretive forest site, recreation site or recreation trail established under subsection (1).

(4) An objective established under subsection (1) must be consistent with objectives set by government that pertain to the area.

Unauthorized trail or recreation facility construction

57 (1) Unless authorized in writing by the minister or under another enactment, a person must not

- (a) construct,
- (b) rehabilitate, or
- (c) maintain

a trail or other recreation facility on Crown land.

(2) The minister may impose pre-conditions or conditions of an authorization that the minister considers necessary or desirable, to be met by the person, including, but not limited to, requiring that the person provide security.

(2.1) If the minister requires security under subsection (2), the minister may specify

- (a) when the security must be paid,
- (b) the amount of security that is required,
- (c) the form of the security, and
- (d) the circumstances under which the security may be realized.

(3) A person who obtains an authorization under subsection (1) must comply with any conditions of the authorization.

(4) If the minister determines under section 71 that a person has contravened subsection (1), the minister may order the person to

- (a) remove or destroy or remove and destroy the trail or facility, and
- (b) restore the land underlying the trail or facility.

(5) The minister may revoke or vary an authorization granted under this section.

Protection of recreation and range resources on Crown land

58 (1) If the minister determines that it is necessary to protect a recreation or range resource or to manage public recreation use on Crown land, he or she by order may restrict or prohibit

(a) a non-recreational use of

(i) any of the following established under the Forest Practices Code of British Columbia Act for recreation:

- (A) a resource management zone;
- (B) a landscape unit;
- (C) a sensitive area, or

(ii) any of the following that is on Crown land:

- (A) an interpretive forest site;
- (B) a recreation site or recreation trail,

except any non-recreational use permitted under the Coal Act, the Mineral Tenure Act or the Oil and Gas Activities Act, or

(b) a recreational use anywhere on Crown land, except a use that is specifically permitted under another enactment.

(2) The minister may make different orders under subsection (1) for different uses and locations.

(3) The minister must post a notice of an order under subsection (1) in the area to which the order applies.

(4) Without lawful authority, a person must not remove, alter, destroy or deface a notice posted under subsection (3).

Part 6 — Compliance and Enforcement

Definition for Part 6

58.1 In this Part, "the Acts" means one or more of this Act, the regulations or the standards or the Forest Act, the Range Act or a regulation made under the Forest Act or the Range Act.

Applicability of certain provisions of Part 6 of this Act for the Forest Practices Code of British Columbia Act

58.2 (1) Sections 59 to 70, 71 (1), (2), (5) and (6), 72 to 86, 88 to 96, 98 to 101 and 103 of this Act apply to and in respect of

- (a) the Forest Practices Code of British Columbia Act, and
  - (b) the regulations or standards under that Act
- in relation to the period that ended at midnight on January 30, 2004.
- (2) Subject to section 36 (1) (d) of the Interpretation Act, for contraventions of
- (a) the Forest Practices Code of British Columbia Act, or
  - (b) the regulations or standards under that Act
- that occurred before midnight on January 30, 2004,
- (c) the maximum administrative penalties, and
  - (d) the maximum fines and periods of imprisonment
- are as provided for under the Forest Practices Code of British Columbia Act at the time of the contravention.
- (3) For the purposes of this section,
- (a) the references in section 67 of this Act to sections 52, 50 (2) and 51 must be read as references to sections 96, 100 and 101, respectively, of the Forest Practices Code of British Columbia Act,
  - (b) the reference in section 68 (1) of this Act to section 50 (1) must be read as a reference to section 98 of the Forest Practices Code of British Columbia Act,
  - (c) the reference in section 71 (2) (a) (i) of this Act to an administrative penalty in an amount that does not exceed a prescribed amount must be read as a reference
    - (i) to
      - (A) the penalty provided for under section 117 (1) of the Forest Practices Code of British Columbia Act, up to and including the amount provided for under that provision, or
      - (B) that penalty plus the additional penalty provided for in section 119 (3) of that Act, up to and including the amount referred to in that provision, or
    - (ii) to
      - (A) the penalty provided for in section 119 (1) of the Forest Practices Code of British Columbia Act, up to and including the amount referred to in that provision, or
      - (B) that penalty plus the additional penalty provided for in section 119 (3) of that Act, up to and including the amount referred to in that provision,
  - (d) the references in section 90 of this Act to sections 26 (2), 51 (7), 54 (2), 57 (4), 66 (1) and 74 (1) must be read as references to sections 106 (1), 101 (2), 99 (2), 102 (3), 123 and 118, respectively, of the Forest Practices Code of British Columbia Act,
  - (e) the reference in section 93 of this Act to section 46 (1) must be read as a reference to section 45 (1), (3) or (4), as applicable, of the Forest Practices Code of British Columbia Act,
  - (f) the references in section 93 of this Act to sections 50 (1), 54 (1), 55 and 57 (1) must be read as references to sections 98, 99 (1), 103 and 102 (1), respectively, of the Forest Practices Code of British Columbia Act,
  - (g) the references in section 94 of this Act to sections 52 and 53 must be read as references to sections 96 and 97, respectively, of the Forest Practices Code of British Columbia Act,
  - (h) the reference in section 95 of this Act to section 50 must be read as a reference to section 100 of the Forest Practices Code of British Columbia Act, and
  - (i) the reference in section 96 of this Act to section 57 must be read as a reference to section 102 of the Forest Practices Code of British Columbia Act.

#### Division 1 — Inspecting, Stopping and Seizing

##### Entry and inspection

59 (1) [Repealed 2005-31-3.]

(1.1) In subsection (2), "dwelling" means

- (a) a structure that is occupied as a private residence, and
  - (b) if only part of a structure is occupied as a private residence, that part of the structure.
- (2) For any purpose related to the administration or enforcement of the Acts or an agreement under the Forest Act or the Range Act, or related to the verification of a statement made in an application for an agreement under the Forest Act or the Range Act, an official may enter, at any reasonable time, on land or premises, other than a dwelling, if the official has reasonable grounds to believe that the land or premises
- (a) has located on it timber that is required to be scaled or marked with a timber mark under the Forest Act,

- (b) is the site of a forest or range practice that is regulated under the Acts or is carried on by a person who is required under the Acts to hold a licence or permit to carry out that practice,
  - (c) is the site of trading in botanical forest products, or
  - (d) [Repealed 2004-31-88.]
  - (e) is the site of an activity that under the Acts requires a licence, a permit, a plan or an approval.
- (3) At any reasonable time an official may enter on land that is in or within 1 km of a forest to inspect for fire hazards if the official has reasonable grounds to believe that an activity is being carried out or a condition exists on the land that might cause or produce a fire hazard.
- (4) An official who enters on land or premises under this section may
- (a) inspect anything or any activity that is reasonably related to the purpose of the inspection, and
  - (b) require production for the purposes of inspection or copying of
    - (i) a licence, a permit or an operational plan that is required for the activity, and
    - (ii) a record required to be kept under the Acts.
- (5) A peace officer has the powers and duties of an official under subsections (2) and (4) with respect to the enforcement of the provisions of the Forest Act and regulations respecting marine log salvage.

#### Inspection of vehicle or vessel

60 For any purpose related to the administration and enforcement of the Acts, an official or a peace officer may

- (a) require a person operating a vehicle or vessel to stop the vehicle or vessel, and
  - (b) carry out an inspection of a vehicle or vessel,
- if the official or peace officer has reasonable grounds to believe that
- (c) the vehicle or vessel contains or is transporting timber, special forest products, seed, botanical forest products or hay, or
  - (d) a person is contravening or has contravened one or more provisions of the Acts.

#### Delivery of records

61 (1) The minister may order the holder of an agreement under the Forest Act or the Range Act to produce to the district manager specified records that are related to an activity that requires a licence, a permit, a plan or an approval under the Acts or under the agreement.

(2) At any reasonable time, an official may enter the business premises of a holder of an agreement under the Forest Act or the Range Act in which records are kept, for the purpose of inspecting or copying records that are required to be kept under the Acts.

#### Obligation of an official

62 An official who

- (a) under this Division enters onto land or premises, conducts an inspection, stops a vehicle or vessel or requests records, or
  - (b) under Division 2 of this Part seizes goods
- must provide proof of identity, on the request of the person who
- (c) is in possession or apparent possession of the land or premises,
  - (d) has apparent custody or control of the records or property being inspected,
  - (e) is in charge of the activity being inspected, or
  - (f) is operating a vehicle or vessel stopped under section 60.

#### Obligation of person inspected

63 (1) The operator of a vehicle or vessel must stop the vehicle or vessel when required to do so by

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

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

#### Warrant to search and seize evidence

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

(2) The Offence Act applies to the search and seizure.

#### Peace officers may accompany

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

#### Stop work order

66 (1) If an official has reasonable grounds to believe that a person is contravening a provision of the Acts, the official may order that the contravention stop, or stop to the extent specified by the order, until the person has a required licence, permit, plan, approval, variance, exemption or other authorization.

(2) An order to stop work under subsection (1) must be in writing and include all of the following:

- (a) the nature of the contravention;
- (b) the extent to which the contravention or activity must cease;
- (c) the date by which the requirements of paragraph (b) must be met;
- (d) notice of the person's right under section 80 to a review or under section 82 to an appeal;
- (e) an address to which a request for a review may be delivered.

(3) In addition to the methods of giving notice under section 110, the official who issues a stop work order may give it to a corporation or partnership, by giving the order to an individual who is working at the site on behalf of the corporation or partnership.

(4) An official who exercises the discretion under subsection (3) must also notify the corporation or partnership as specified in section 110, within 72 hours after giving the order to the individual mentioned in subsection (3).

(5) An order under this section may be made to apply generally or to one or more persons named in the order.

(6) The official who issued an order under subsection (1) or the minister

- (a) must rescind the order if the official or the minister determines that there were insufficient grounds for issuing the order, and
- (b) may rescind the order in prescribed circumstances.

#### Division 2 — Seizure

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

67 (1) An official may seize the following:

- (a) Crown timber that the official has reasonable grounds to believe was cut or removed in contravention of section 52;
- (b) timber, lumber, veneer, plywood, pulp, newsprint, special forest products, wood residue and chattels on which the government has a lien under section 130 (1) (d) of the Forest Act;
- (c) timber, including special forest products, that the official has reasonable grounds to believe
  - (i) was removed from land in contravention of section 84 (1) or (3) of the Forest Act,
  - (ii) is being or has been manufactured, sold or transported contrary to section 94 or 94.1 of the Forest Act,
  - (iii) is being transported outside British Columbia in contravention of section 127 of the Forest Act,
  - (iii.1) a person is attempting to remove from British Columbia in contravention of section 127.1 of the Forest Act,
  - (iv) is being or has been transported in contravention of any regulation made under the Forest Act, or
  - (v) is mixed with timber to which this subsection applies;
- (d) [Repealed 2010-11-17.]

- (e) seed that the official has reasonable grounds to believe has been collected contrary to the prescribed requirements;
- (f) hay that the official has reasonable grounds to believe has been cut, removed or damaged contrary to section 50 (2);
- (g) hay that the official has reasonable grounds to believe has been stored contrary to section 51;
- (h) a botanical forest product that the official has reasonable grounds to believe has been obtained contrary to the regulations;
- (i) a vehicle or vessel transporting any of the following to which paragraphs (a) to (h) apply:
  - (i) timber;
  - (ii) timber products;
  - (iii) seed;
  - (iv) hay;
  - (v) botanical forest products.
- (2) If satisfied, after reconsidering the circumstances of a seizure under this section, that there is no longer any basis for retaining the things seized, the official who seized the things may release them and
  - (a) return them to the person from whom they were seized, or
  - (b) deliver them at the direction of that person to another person.
- (3) The minister may
  - (a) deal with, at his or her discretion, Crown timber seized under subsection (1) (a), seed seized under subsection (1) (e), hay seized under subsection (1) (f), botanical forest products seized under subsection (1) (h), or
  - (b) after giving the person from whom the timber, chattels, timber products or hay seized under subsection (1) (b), (c) or (g) an opportunity to be heard, sell at a public auction the timber, chattels, timber products or hay.
- (4) If timber, chattels or timber products are sold under subsection (3) (b), notice of the public auction must be published at least 10 days in advance, in or near the area where the sale is to take place, and must
  - (a) specify the time and place of the auction, and
  - (b) identify by name the person from whom the timber, chattel or timber product was seized.
- (5) If the money realized from the public auction exceeds the money that is payable to the government, including interest and the costs of seizure, storage and sale, the surplus must be paid to the person who possessed the property when it was seized if the property is
  - (a) timber, a chattel or a timber product seized under subsection (1) (b), or
  - (b) timber seized under subsection (1) (c) (v).
- (6) Despite subsection (5), if within 30 days after the sale a person other than the person referred to in subsection (5) serves a notice of a claim to the surplus on a person designated by the minister, the surplus must be retained until the determination of the respective rights of persons claiming the surplus.
- (7) The proceeds from the sale of timber, a chattel or a timber product seized and sold under this section, other than
  - (a) timber, chattels or timber products referred to in subsection (5) (a) or (b), and
  - (b) an amount equal to the costs of seizure, storage and sale
 must be paid into the consolidated revenue fund, and an amount equal to the costs of seizure, storage and sale may be used to pay those costs or reimburse the payment of those costs.
- (8) A vehicle or vessel seized under subsection (1) (i) must be released from seizure once the timber, chattel, timber product, seed, hay or botanical forest product is delivered to a location specified by the official.

#### Seizure and forfeiture of livestock

- 68 (1) If an official has reasonable grounds to believe that a person has contravened section 50 (1), the official, or person authorized by the official, may do one or more of the following:
- (a) drive the livestock that are the subject of the contravention from Crown range;
  - (b) round up, seize, tranquilize and hold the livestock;
  - (c) destroy the livestock if
    - (i) the safety of a person acting under this section is threatened by an animal that is being driven, rounded up, seized, tranquilized or held,
    - (ii) it is impracticable to round up the livestock, or
    - (iii) it would be humane treatment to do so.
- (2) If livestock are held under subsection (1),



- (a) an official may return the livestock to the owner
  - (i) on payment of the reasonable costs of driving, rounding up, seizing, tranquilizing, holding, maintaining and returning the livestock or of disposing of a destroyed animal, or
  - (ii) if satisfied, after reconsidering the circumstances that led to the livestock being held, that there is no longer any basis for holding the livestock, or
- (b) the minister may sell the livestock.
- (3) The minister, an official or a person authorized by an official must take reasonable care of livestock while driving, rounding up, seizing, tranquilizing, holding, returning or selling them under this section.
- (4) If livestock is sold under subsection (2)
  - (a) the government must pay the balance of proceeds realized from the sale, after deducting the costs incurred for the driving, rounding up, seizing, holding and selling the livestock to a person who
    - (i) provides evidence satisfactory to the district manager that the person owned the livestock immediately before the sale, and
    - (ii) applies in writing to the district manager for the balance within 6 months after the sale,
  - (b) the balance of proceeds from the sale, after deducting the costs incurred for driving, rounding up, seizing, holding and selling the livestock, if not paid under paragraph (a), must be paid into the consolidated revenue fund, and
  - (c) an amount equal to the costs of seizure, storage and sale may be used to pay those costs or reimburse the payment of those costs.

Common provisions for seizure and forfeiture

69 (1) The minister may release things seized under section 67 or 68 and

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

No interference with notice

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

### Division 3 — Administrative Remedies

Administrative penalties

71 (1) The minister, after giving a person who is alleged to have contravened a provision of the Acts an opportunity to be heard, may determine whether the person has contravened the provision.

- (2) After giving a person an opportunity to be heard under subsection (1), or after one month has elapsed after the date on which the person was given the opportunity, the minister,
  - (a) if he or she determines that the person has contravened the provision,
    - (i) may levy an administrative penalty against the person in an amount that does not exceed a prescribed amount, or
    - (ii) may refrain from levying an administrative penalty against the person if the minister considers that the contravention is trifling and that it is not in the public interest to levy the administrative penalty, or
  - (b) may determine that the person has not contravened the provision.
- (3) Subject to section 72, if a person's contractor, employee or agent contravenes a provision of the Acts in the course of carrying out the contract, employment or agency, the person also contravenes the provision.
- (4) If a corporation contravenes a provision of the Acts, a director or an officer of the corporation who authorized, permitted or acquiesced in the contravention also contravenes the provision.
- (5) Before the minister levies an administrative penalty under subsection (2), he or she must consider the following:
  - (a) previous contraventions of a similar nature by the person;
  - (b) the gravity and magnitude of the contravention;
  - (c) whether the contravention was repeated or continuous;
  - (d) whether the contravention was deliberate;
  - (e) any economic benefit derived by the person from the contravention;
  - (f) the person's cooperativeness and efforts to correct the contravention;
  - (g) any other considerations that the Lieutenant Governor in Council may prescribe.

(6) If the minister levies an administrative penalty against a person under this section or under section 74 (3) (d) the minister must give a notice of determination to the person specifying:

- (a) the provision contravened;
- (b) the amount of the penalty;
- (c) the date by which the penalty must be paid;
- (d) the person's right to a review under section 80 or to an appeal under section 82;
- (e) an address to which a request for a review may be delivered.

(7) For the purposes of this section, the Lieutenant Governor in Council may prescribe administrative penalties that vary according to

- (a) the area of land affected by the contravention,
- (b) the volume of timber affected by the contravention,
- (c) the number of trees affected by the contravention,
- (d) the number of livestock affected by the contravention,
- (d.1) the amount of forage destroyed by the contravention, or
- (e) the amount of hay affected by the contravention.

Defences in relation to administrative proceedings

72 For the purposes of a determination of the minister under section 71 or 74, no person may be found to have contravened a provision of the Acts if the person establishes that the

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

Penalty revenue to be paid into special account

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

Remediation orders

74 (1) If the minister determines under section 71 that a person who

- (a) is the holder of an agreement under the Forest Act or the Range Act, or
- (b) is in a prescribed category of persons

has contravened a provision of this Act or a regulation or standard, the minister may order the person to do work reasonably necessary to remedy the contravention.

(2) If the minister makes an order under subsection (1) of this section or under section 51 (7), 54 (2) or 57 (4), the minister or official, as the case may be, must give written notice, accompanied by the order, to the holder or person, specifying

- (a) the provision contravened,
- (b) the work to be done to remedy the contravention,
- (c) the date by which the work must be completed,
- (d) the person's right to a review under section 80 or to an appeal under section 82,
- (e) the right under subsection (3) (b) of the minister to carry out the work, and
- (f) the right under subsection (3) (d) of the minister to levy an administrative penalty for the contravention.

(3) If a person, by the date specified in a notice given under subsection (2), does not comply with an order of the minister under subsection (1) of this section or under section 51 (7), 54 (2) or 57 (4), the minister may do one or more of the following:

- (a) by order restrict or prohibit the person from carrying out the work referred to in the order;
- (b) carry out the work;
- (c) by order require the person to pay to the government the amount of all direct and indirect costs the minister determines were reasonably incurred in carrying out the work referred to in paragraph (b);
- (d) by order levy an administrative penalty not exceeding an amount that is the sum of the costs referred to in paragraph (c);
- (e) for the purpose of recovering the costs referred to in paragraph (c) or the administrative penalty referred to in paragraph (d), realize any security provided by the person under the regulations.

(4) The minister must give written notice of the completion of work carried out under subsection (3) (b) and of any order under subsection (3) (a) or (c) to the person to whom the notice under subsection (2) was given,

- (a) informing the person of
  - (i) the restrictions or the prohibition under an order under subsection (3) (a), and
  - (ii) the amount payable by the person to the government under an order under subsection (3) (c) and the person's liability under section 130 of the Forest Act to pay that amount,
- (b) providing the person with a copy of the order under subsection (3) (a), and
- (c) providing the person with a copy of the order under subsection (3) (c) and with an accounting of the expenditures relating to the work.

(5) The minister must give written notice to the person, who is the subject of an order under subsection (3) (d), providing the person with a copy of the order and informing the person of

- (a) the amount of the administrative penalty and the person's liability under section 130 of the Forest Act to pay that amount,
- (b) the reasons for the administrative penalty, and
- (c) the person's right to a review under section 80 or to an appeal under section 82, including an address to which a request for a review or appeal may be delivered.

(6) The person immediately must replace security realized under subsection (3) (e).

(7) The minister must refund to the person any surplus of funds remaining from the realization of a security under subsection (3) (e), after payment of

- (a) the amount of the costs referred to in subsection (3) (c), and
- (b) any administrative penalty levied under subsection (3) (d).

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

- (a) carries out work specified in the order, and
- (b) incurs expenses in excess of the expenses that the person would have incurred if the order had not been made,

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

#### Limitation period

75 (1) The period during which an administrative penalty may be levied under section 71 (2) or 74 (3) (d) or an order may be made under section 74 (1) is 3 years beginning on the date on which the facts that lead to the determination that the contravention occurred first came to the knowledge of an official.

(2) A document purporting to have been issued by an official referred to in subsection (1), certifying the date the facts that lead to the determination that the contravention occurred first came to the knowledge of the official,

- (a) is admissible in an appeal referred to in section 82 of the determination, without proof of the signature or official character of the individual appearing to have signed the document, and
- (b) in the absence of evidence to the contrary, is proof of the matter certified.

#### Repealed

76 [Repealed 2004-36-95.]

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

76.1 Despite section 130 (1) (a) of the Forest Act, if

- (a) an order or other determination under this Act imposes an administrative penalty or other charge against a person, and
- (b) the person, under section 80 or 82 of this Act may request a review of the order or other determination or may appeal the order or other determination,

the penalty or charge is due and payable on the date the stay under section 78 of this Act ceases to apply.

#### Power of intervention: general

77 (1) The minister, by order that meets the prescribed requirements, may require a person who is the holder of an agreement under the Forest Act or the Range Act or is in a prescribed category of persons to

- (a) remedy,
- (b) mitigate, or
- (c) stop,

in a manner and to the extent that is reasonable in the circumstances, an act or omission of the person that the minister reasonably believes will result in a contravention of the Acts and will or probably will cause

(d) a catastrophic impact on public health or safety,

(e) any prescribed event or circumstance that will result in a free growing stand required under this Act not being established, or

(f) any prescribed event or circumstance having an adverse impact on the environment.

(2) If the minister believes on reasonable grounds that a person is transporting or is about to transport beetle-infested timber and that the transportation of the timber will or probably will cause or has caused an adverse impact on the environment, the minister, by order that meets the prescribed requirements, may require the person

(a) to stop or refrain from transporting the beetle-infested timber, and

(b) to carry out specified measures to reduce the potential for the adverse impact on the environment.

(3) The Lieutenant Governor in Council may prescribe the circumstances in which and the conditions on which a person who has taken measures under subsection (1) or (2) may recover all or part of an amount reasonably incurred for the direct costs of carrying out the measures.

Power of intervention: first nations

77.1 (1) If an operational plan for an area is approved and the minister subsequently concludes, on the basis of information that was not known to the person who granted the approval, that carrying out a forest practice or range practice under the plan will continue or result in a potential unjustifiable infringement of an aboriginal right or title in respect of the area, the minister

(a) must notify the holder of the plan of the previously unavailable information,

(b) by order given to the holder of the plan, may vary or suspend to the extent the minister considers necessary one or more of the following:

(i) the operational plan;

(ii) a forest practice or range practice;

(iii) a cutting permit;

(iv) a road permit, and

(c) by order given to the holder of a BC timber sales agreement who is operating under the plan, may vary or suspend to the extent the minister considers necessary one or both of the following:

(i) a forest practice;

(ii) a BC timber sales agreement.

(2) If the holder of an agreement under the Forest Act or the Range Act is exempt under this Act from the requirement to have an operational plan for an area and the minister subsequently concludes, on the basis of information that was not known to the person who granted the exemption, that carrying out a forest practice or range practice under the exemption will continue or result in a potential unjustifiable infringement of an aboriginal right or title in respect of the area, the minister

(a) must notify the following of the previously unavailable information:

(i) the holder of the agreement;

(ii) the timber sales manager, if the agreement is a BC timber sales agreement, and

(b) by order given to the holder of the agreement, may vary or suspend to the extent the minister considers necessary one or more of the following:

(i) the exemption, including any conditions associated with the exemption;

(ii) a forest practice or range practice;

(iii) a cutting permit;

(iv) a road permit;

(v) a BC timber sales agreement.

(3) If the minister considers that an order under subsection (1) (b) or (2) (b) is no longer necessary, in whole or in part, the minister must promptly rescind the order except for those aspects, if any, that the minister considers are still necessary.

(4) If an order under this section requires the holder of an agreement under the Forest Act or the Range Act to carry out a measure that results in the holder incurring expenses that are greater than if the order had not been made, then, to the extent provided in the regulations, the additional expenses of the measure are to be paid by the government.

(5) Despite section 120.1 of this Act, the minister may not delegate his or her discretion under this section.

Division 4 — Corrections, Reviews and Appeals

#### Determinations stayed until proceedings concluded

78 (1) A determination that may be reviewed under section 80 or appealed under section 82 is stayed until the person who is the subject of the determination has no further right to have the determination reviewed or appealed.

(2) Despite subsection (1), the minister may order that a determination, other than a determination to levy an administrative penalty under section 71 or 74 (3) (d) is not stayed or is stayed subject to conditions, on being satisfied that a stay or a stay without those conditions, as the case may be, would be contrary to the public interest.

(3) Despite subsection (1), a determination is not stayed if the determination is made under prescribed sections or for prescribed purposes.

#### Correction of a determination

79 (1) Within 15 days after a determination is made under section 16, 26 (2), 27 (2), 32 (2), 37, 51 (7), 54 (2), 57 (4), 66, 71, 74 or 77 of this Act, the person who made the determination may

(a) correct a typographical, an arithmetical or another similar error in the determination, and

(b) [Repealed 2003-55-37.]

(c) correct an obvious error or omission in the determination.

(2) The correction does not take effect until the date on which the person who is the subject of the determination is notified of it under subsection (4).

(3) The discretion conferred under subsection (1)

(a) is to be exercised in the same manner as the determination affected by it, and

(b) is exercisable with or without a hearing and

(i) on the initiative of the person who made the determination, or

(ii) at the request of the person who is the subject of the determination.

(4) The person who corrected a determination under this section must notify the person who is the subject of the determination.

#### Review of a determination

80 (1) Subject to subsection (2), at the request of a person who is the subject of a determination under section 16, 20 (3), 26 (2), 27 (2), 32 (2), 37, 38 (5), 39, 51 (7), 54 (2), 57 (4), 66, 71, 74, 77, 77.1, 97 (3), 107, 108, 112 (1) (a) or 155 (2) of this Act, the person who made the determination, or another person employed in the ministry and designated in writing by the minister must review the determination, but only if satisfied that there is evidence that was not available at the time of the original determination.

(2) On a review required under subsection (1) the person conducting the review may consider only

(a) evidence that was not available at the time of the original determination, and

(b) the record pertaining to the original determination.

(3) To obtain a review of a determination under subsection (1) the person must request the review not later than 3 weeks after the date the notice of determination was given to the person.

(4) The minister may extend the time limit for requiring a review under this section before or after its expiry.

(5) The person conducting the review has the same discretion to make a decision that the original decision maker had at the time of the determination under the review.

#### Board may require review of a determination

81 (1) If the board first receives the consent of the person who is the subject of a determination under section 16, 37, 71 or 74 of this Act, the board may require a review of the determination by the person who made the determination, or another person employed in the ministry and designated in writing by the minister.

(2) To obtain a review of a determination under subsection (1), the board must require the review not later than 3 weeks after the date the notice of determination was given to the person.

(3) The minister may extend the time limit for requiring a review under this section before or after its expiry.

(4) The person conducting the review has the same discretion to make a decision that the original decision maker had at the time of the determination under the review.

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

82 (1) The person who is the subject of a determination referred to in section 80, other than a determination made under section 77.1, may appeal to the commission either of the following, but not both:

- (a) the determination;
  - (b) a decision made after completion of a review of the determination.
- (2) The board, if it so requests, has standing to be a party to an appeal under this section.

Appeal to the commission by the board

83 (1) The board may appeal to the commission either of the following, but not both:

- (a) a determination referred to in section 81;
  - (b) a decision made after completion of a review of the determination.
- (2) The board may apply to the commission for an order under section 84 (2) if
- (a) the minister authorized under section 71 or 74 of this Act to make a determination has not done so, and
  - (b) a prescribed period has elapsed after the facts relevant to the determination first came to the knowledge of the official or the minister.
- (3) [Repealed 2015-10-85.]

Application of Administrative Tribunals Act to appeals under this Act

83.1 In addition to the provisions of the Administrative Tribunals Act incorporated under Part 8.1 of this Act, section 33 of that Act applies to appeals under sections 82 and 83 of this Act.

Powers of the commission

84 (1) On an appeal

- (a) by a person under section 82 (1), or
  - (b) by the board under section 83 (1),
- the commission may
- (c) consider the findings of the person who made the determination or decision, and
  - (d) either
    - (i) confirm, vary or rescind the determination or decision, or
    - (ii) with or without directions, refer the matter back to the person who made the determination or decision, for reconsideration.
- (2) On an application under section 83 by the board the commission may order the official or minister referred to in section 83 (2) to make a determination as authorized under the applicable provision that is referred to in section 83 (2) (a).
- (3) and (4) [Repealed 2015-10-85.]

Requirement to publish

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

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

Division 5 — Offences and Court Orders

Limitation period

86 (1) The time limit for laying an information respecting an offence under the Acts is 3 years after the date on which the facts that lead to the laying of the information first came to the knowledge of an official.

(2) A document purporting to have been issued by an official referred to in subsection (1), certifying the date on which the facts that lead to the laying of the information referred to in that subsection first came to the knowledge of the official,

- (a) is admissible without proof of the signature or official character of the individual appearing to have signed the document, and
- (b) in the absence of evidence to the contrary, is proof of the matter certified in the document.

Fines

87 (1) A person who contravenes section 46 (1), 52 (1) or (3) or 112 (3) commits an offence and is liable on conviction to a fine not exceeding \$1 000 000, or to imprisonment for not more than 3 years, or to both.

(2) A person who contravenes section 21 (1), 22 (2), 29 (1) or (3) or 55 (a) commits an offence and is liable on conviction to a fine not exceeding \$500 000, or to imprisonment for not more than 2 years, or to both.

(3) A person who

(a) contravenes section 3 (1), 8 (1), 12 (1), 15 (2), 22.1 (1), (2), (5) or (6), 26 (3) or (5), 32 (1), 38 (1), (2), (3), (4) or (5), 45 (1) or (2), 46 (1.1), 47, 48, 50 (1) or (2), 51 (1), (2) or (6), 52.1 (3), 54 (1), 63 (1) or (2), 97 (2) or 119, or

(b) does not comply with an order under section 16 (5), 26 (6), 27 (2), 51 (7) or (8), 54 (2), 57 (4), 58 (1), 66 (1), 74 (1), 77 (1) or (2) or 77.1 (1) or (2),

commits an offence and is liable on conviction to a fine not exceeding \$100 000, or to imprisonment for not more than one year, or to both.

(4) A person who contravenes section 23 (1), 53 (1) or (2), 55 (b) or (c), 57 (1) or (3), 58 (4) or 70 commits an offence and is liable on conviction to a fine not exceeding \$5 000 or to imprisonment for not more than 6 months, or to both.

(5) The maximum fine to which a person is liable on a second or subsequent conviction for the same offence under subsections (1) to (4) is double the amount set out in the applicable subsection.

(6) The Lieutenant Governor in Council may provide by regulation that

(a) a contravention of a regulation or standard is an offence, and

(b) a person convicted of an offence for a contravention of a regulation or standard is liable to a fine not exceeding a maximum amount, or to imprisonment not exceeding a maximum length, or to both.

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

Remedies preserved

88 (1) A proceeding, conviction or penalty for an offence under this Act does not relieve a person from any other liability.

(2) The provisions of this Part are in addition to the provisions of any other enactment or rule of law under which

(a) a remedy or right of appeal or objection is provided, or

(b) a procedure is provided for inquiry into or investigation of a matter,

and nothing in this Act limits or affects that remedy, right, objection or procedure.

Limitation on proceedings

89 (1) The government may not proceed under this Act with both an offence and an administrative penalty for the same contravention.

(2) Subsection (1) does not derogate from the government's ability to make an order respecting compensation or remediation.

Order for compliance

90 (1) If the minister considers that a person is not complying, or has not complied, with an order made under section 26 (2), 27 (2), 38 (5), 39 (2), 51 (7), 54 (2), 57 (4), 58 (1), 61 (1), 66 (1), 74 (1) or 77 of this Act, the minister may apply to the Supreme Court for either or both of the following:

(a) an order directing the person to comply with the order or restraining the person from violating the order;

(b) an order directing the directors and officers of the person to cause the person to comply with or to stop violating the order.

(2) On application by the minister under this section, the Supreme Court may make an order it considers appropriate.

Court order to comply

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

Restitution

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

Continuing offence

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

#### Prosecution for unauthorized timber cutting

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

#### Prosecution for unauthorized grazing or unauthorized cutting or storage of hay

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

#### Prosecution for unauthorized trail or recreational facility construction

96 It is not a defence to a prosecution under section 57 that the person charged with the offence had the right to construct, rehabilitate or maintain a recreation site or trail

- (a) on private land adjacent to Crown land and did not know the boundaries of the private land, or
- (b) on Crown land on which the person was authorized under another enactment to carry out the activities and did not know the boundaries of that parcel of Crown land.

#### Interference, non-compliance and misleading

97 (1) In this section, "person acting in an official capacity" means an individual who is

(a) employed under the Public Service Act or is a member of the board, the commission or the council, if any, or is a person retained under section 138 (2), and

(b) exercising a power or performing a duty or function under this Act.

(2) A person must not

(a) without lawful excuse, intentionally interfere with a person acting in an official capacity,

(b) without lawful excuse, intentionally not comply with a lawful requirement of a person acting in an official capacity, or

(c) intentionally make a false statement to, or mislead or attempt to mislead, a person acting in an official capacity.

(3) The minister may suspend or cancel

(a) a forest stewardship plan, a woodlot licence plan, a range use plan or a range stewardship plan, or

(b) a permit under this Act

if the minister, after giving a person who is alleged to have contravened subsection (2) an opportunity to be heard, considers that the person has contravened subsection (2) and that a plan or permit has been obtained as a result of that contravention.

#### Court orders

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

(a) prohibit the person from doing anything that may result in the continuation or repetition of the offence or contravention;

(b) direct the person to take any action the court considers appropriate to remedy or avoid any harm to the environment that results or may result from the act or omission that constituted the offence;

(c) direct the person to publish, at the person's own cost, the facts relating to the conviction;

(d) direct the person to compensate the minister for all or part of the cost of any remedial or preventative action taken by or caused to be taken on behalf of the ministry as a result of the act or omission that constituted the offence;

(e) direct the person to pay court costs;

(f) direct the person to pay the costs of the investigation.

#### Penalty for monetary benefit



99 (1) The court that convicts a person of an offence under this Act may increase a fine imposed on the person by an amount equal to the court's estimation of the amount of the monetary benefit acquired by or that accrued to the person as a result of the commission of the offence.

(2) A fine increased under subsection (1)

(a) applies despite any provision that provides for a maximum fine, and

(b) is in addition to any other fine under this Act.

Employer liability

100 (1) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by the defendant's contractor, employee or agent.

(2) This section applies even if the contractor, employee or agent has not been identified or prosecuted for the offence.

Defences to a prosecution

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

Offence by directors and officers

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

Section 5 Offence Act

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

Part 7 — General

Division 1 — Liability and Privilege

Repealed

104 [Repealed 2003-55-45.]

Protection against libel and slander

105 For the purposes of any Act or law respecting libel or slander,

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

Liability of persons to government

106 (1) A person is liable to the government

(a) for costs incurred by the government in controlling or disposing of insects, diseases, animals or abiotic factors, and

(b) the value of Crown timber damaged or destroyed or of forage damaged or destroyed, directly or indirectly, as a result of the person's non-compliance with an order under section 26 or 27.

(2) A person is liable to the government for the market value of any

(a) timber cut, damaged or destroyed without authorization under this Act, or

(b) forage or hay cut, damaged or destroyed without authorization under this Act.

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

Definition for sections 107 and 108

106.1 In sections 107 and 108, "operational plan" includes

(a) a forest development plan,

- (b) a logging plan,
- (c) a range use plan, and
- (d) a site level plan

to which Part 11 of this Act applies.

Limitation on liability of persons to government

107 (1) A person who is the holder of an agreement under the Forest Act or the Range Act or who meets the prescribed requirements may submit to the district manager a written declaration specifying

(a) obligations under this Act, or under an operational plan, permit or other authorization, that have been fulfilled, and

(b) any of the following things to which the fulfillment of the obligations is relevant:

- (i) cutblocks and roads;
- (ii) operational plans;
- (iii) permits.

(2) The declaration under subsection (1) must

(a) be signed by the person referred to in that subsection or on that person's behalf by an individual or the individuals authorized in that regard, and

(b) specify the date on which the declaration is made.

(3) Subject to subsections (4) to (6), on the date of the declaration submitted and signed in accordance with subsections (1) and (2), the person who submitted the declaration is deemed to have fulfilled the specified obligations that are referred to in subsection (1) (a).

(4) If

(a) within the prescribed period after receiving a declaration submitted by a person under subsection (1), and

(b) after giving the person an opportunity to be heard,

the minister determines by order that an obligation specified in the declaration has not been fulfilled, the minister must give written notice of the order to the person, including with the notice the reasons for the order.

(5) The minister must not give written notice under subsection (4) of an order to the effect that an obligation in respect of establishing a free growing stand on an area has not been fulfilled unless the minister has determined that

(a) a free growing stand has not been established, or

(b) a free growing stand has been established and the following circumstances apply:

(i) at the time the declaration was made, the stand was under threat from

(A) competing plants, shrubs or other trees established on the area, or

(B) factors adverse to forest health in the area;

(ii) as a result of the threats referred to in subparagraph (i), the stand is unlikely to remain a free growing stand without further treatment.

(6) A person who submits a declaration under subsection (1) remains responsible for fulfilling an obligation that under subsection (1) (a) was specified as having been met if

(a) the minister has determined by order under subsection (4), of which notice has been given in accordance with that section, that the obligation has not been fulfilled, or

(b) the person

(i) made a material misrepresentation or misstatement of fact in the declaration in relation to the obligation, or

(ii) omitted information from the declaration that the person knew or ought to have known was material to determining whether the obligation had been fulfilled.

Government may fund extra expense or waive obligation

108 (1) The minister must grant the relief described in subsection (3) to a person who has an obligation under this Act or an operational plan, other than

(a) an obligation to establish a free growing stand, or

(b) a prescribed obligation, and

who satisfies the minister that

(c) because of an event causing damage, the obligation on the area cannot be met without significant extra expense than would have been the case if the damage had not occurred, and

(d) the person

- (i) did not cause or contribute to the cause of the damage,
- (ii) exercised due diligence in relation to the cause of the damage, or
- (iii) contributed to the cause of the damage but only as a result of an officially induced error.
- (2) The minister must grant
  - (a) the relief described in subsection (3), or
  - (b) the funding described in subsection (4)
 to a person having an obligation to establish a free growing stand if the person satisfies the minister that
  - (c) because of an event causing damage, the obligation to establish the free growing stand cannot be met without significant extra expense than would have been the case if the damage had not occurred, and
  - (d) the person
    - (i) did not cause or contribute to the cause of the damage,
    - (ii) exercised due diligence in relation to the cause of the damage, or
    - (iii) contributed to the cause of the damage but only as a result of an officially induced error.
- (3) The relief, that must be granted under subsection (1) or that may be granted under subsection (2) (a), from an obligation by the minister to a person is relief from
  - (a) the person's obligation to the extent only that the obligation cannot be met without significant extra expense related to the damage referred to in subsection (1) or (2), or
  - (b) the person's obligation in full if the minister considers that the remaining obligation, after taking paragraph (a) of this subsection into account, is inconsequential.
- (4) The funding for an obligation, that may be granted under subsection (2) (b) by the minister to a person, is funding to the extent only that is required for the purpose of restoring the stand of trees on the area affected by the event referred to in subsection (2)
  - (a) to the stage the stand had reached at the time of the damage caused by the event, or
  - (b) to the stage that is consistent with an agreement between the person and the minister.
- (5) A decision in any proceedings, that a person having an obligation referred to in subsection (1) or (2) did or did not do any of the things referred to in subsection (1) (d) or (2) (d), is binding on the minister.
- (6) The minister may not under this section grant relief or funding in respect of an event causing damage if the event occurred before December 17, 2002.
- (7) The Lieutenant Governor in Council may make regulations for the purposes of this section resolving any doubt as to what constitutes an event or as to when an event occurred.

#### Division 2 — Miscellaneous

#### Confidentiality and disclosure to government

109 (1) In this section:

"information" includes a record;

"person" means

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

(5) [Repealed 2004-36-107.]

How notice may be given

110 (1) A notice or another document that the government or board is required or permitted to give to a person under this Act may be given by giving it, or a copy of it, to the person as follows:

- (a) if the person is an individual,
    - (i) by leaving it with the individual,
    - (ii) by leaving it at the individual's last or most usual place of residence with someone who is or appears to be at least 16 years of age, or
    - (iii) by mailing it by registered mail to the individual's last known postal address;
  - (b) if the person is a corporation,
    - (i) by leaving it with
      - (A) a director, an officer or a manager of the corporation,
      - (B) a receptionist at a place of business of the corporation, or
      - (C) if the corporation is an extraprovincial company within the meaning of the Business Corporations Act, the corporation's attorney, if any, within the meaning of that Act,
    - (ii) by leaving it at the registered office of the corporation if the corporation is a company within the meaning of the Business Corporations Act or, if that office has been eliminated under section 40 of the Business Corporations Act, the address ordered by the court under section 40 (4) (b) of that Act, or
    - (iii) by mailing it by registered mail to
      - (A) the registered office of the corporation or, if that office has been eliminated under section 40 of the Business Corporations Act, the address ordered by the court under section 40 (4) (b) of that Act,
      - (B) if the corporation is an extraprovincial company within the meaning of the Business Corporations Act, the corporation's attorney, if any, within the meaning of that Act, or
      - (C) an address provided by the corporation for service;
  - (c) if the person is a municipal corporation, regional district or other local government body, by leaving it with or sending it by registered mail to the local government corporate officer, the deputy of that officer or some similar local government officer.
- (2) A notice or another document that is mailed to a person by registered mail under subsection (1) is conclusively deemed to be received by the person on the eighth day after it is mailed.

Orders

111 An order of the minister under this Act must be in writing and given to each person to whom the order pertains.

Power to impose conditions

112 (1) Except in prescribed circumstances a person with a discretion under this Act to make an order, grant an exemption, give a consent, grant an approval, or grant an authorization under this Act may

- (a) impose conditions that the person considers necessary or desirable in respect of the order, exemption, consent or approval, and
  - (b) remove or vary the conditions by own motion or on the application of a person who is the subject of the order, exemption, consent or approval.
- (2) A condition imposed under subsection (1) is conclusively deemed to be part of the order, exemption, consent or approval in respect of which it is imposed, whether contained in or attached to it or contained in a separate document.
- (3) If a person is the subject of an order, exemption or condition under this Act, the person must comply with the order, exemption or condition.

Extension of time

113 The minister, or a person the minister authorizes in writing, may extend a time required to do anything under this Act other than

- (a) an appeal of a determination,
  - (b) the time within which a proceeding must or may be commenced,
  - (c) the time within which the minister must give the notice referred to in section 107 (4), or
  - (d) anything under the regulations or standards if the regulations or standards specifically provide otherwise.
- Evidence of designation

114 A document purporting to have been issued by a minister referred to in the definition of "official" in section 1, certifying that the minister has designated a person as an official under this Act, is admissible as evidence of the designation without proof of the signature or official character of the minister purporting to have signed the document.

#### Powers cumulative

115 A power under this Act of the minister or an official to

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

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

Amendment or remedial action does not affect offences or penalties

116 (1) An amendment to an operational plan does not affect any fine, imprisonment, fee, charge or penalty to which a person may be liable under this Act, if the offence or contravention occurred before the amendment.

(2) [Repealed 2004-36-111.]

Repealed

117 [Repealed 2004-31-93.]

#### Power to enter into agreements

118 (1) The government may enter into agreements to assist in ensuring that forest resources and range resources are properly managed and conserved.

(2) Without limiting subsection (1), on behalf of the government,

(a) the chief forester or a person authorized by the chief forester may enter into agreements in respect of

(i) the growing and disposing of seed and tree gene resources, and

(ii) intellectual property associated with seed and tree gene resources that is owned by the government,

(a.1) an official designated by the minister may enter into an agreement with a person to develop, maintain or remove a range development,

(b) an official designated by the minister may enter into agreements for the control and disposal of insects, diseases, animals and abiotic factors on forest land and for sharing costs of control and disposal,

(c) the minister or an official designated by the minister may enter into agreements under which the government provides

(i) forest or range protection services,

(ii) forest or range health services, or

(iii) services related to operations under agreements under the Forest Act that are carried out before or after timber is harvested, or

(d) an official designated by the minister may enter into an agreement with a person to develop, expand, maintain, repair or close an interpretive forest site, a recreation site or a recreation trail.

(3) Subject to subsection (4), an amount equal to any money paid to the government under an agreement referred to in subsection (2) (c) for a purpose specified in that subsection

(a) is appropriated for that purpose,

(b) is in addition to any other amount appropriated for that purpose, and

(c) is to be paid out of the consolidated revenue fund without any other appropriation other than this subsection.

(4) Subsection (3) does not apply if the official designated to enter into the agreement is a BC Timber Sales official.

#### Whistle-blower protection

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

### Costs of performing obligations

120 (1) If this Act, a regulation or a standard requires a person to perform an obligation or otherwise comply with this Act, the regulations or the standards, the person must do so at the person's own expense unless another provision of this Act or the regulations specifically provides otherwise.

(2) If a person is required under this Act to submit an operational plan for approval to a person acting on behalf of the government, any implementation of the plan is at the person's own expense unless another provision of this Act or the regulations specifically provides otherwise.

### Division 3 — Delegation

#### Delegation power

120.1 (1) Subject to a regulation made under section 141 (3) (b), each of the ministers responsible, respectively, for this Act, Part 7.1 of the Land Act and the Wildlife Act, in writing, may delegate a power or duty of that minister under this Act, including a quasi-judicial power or duty, to

- (a) a person employed in a ministry,
- (b) a class of persons employed in a ministry, or
- (c) an agent of the Crown.

(2) Despite subsection (1), a minister authorized by a regulation of the Lieutenant Governor in Council under section 149.1 (1) (a), 150 (1) (a), 150.1 (1), 150.2 (1) (a) or (b), 150.3 (1) (a) or (b), 150.5 (e), 154 (2) (a) or 157 (2) (d) to exercise a power or perform a duty may delegate that power or duty only to

- (a) a person employed in a ministry, or
- (b) a class of persons employed in a ministry.

(3) In respect of a power or duty delegated under this section, this Act and the regulations and standards apply to the delegate as if the delegate were the minister who made the delegation.

(4) A minister referred to in subsection (1) or (2) may

- (a) provide directions that are binding on the delegate respecting the exercise of the power or the performance of the duty, and
- (b) vary or revoke a delegation or direction.

#### Subdelegation

120.2 (1) Except in prescribed circumstances, a delegate under section 120.1 (1) may subdelegate the power or duty to

- (a) a person employed in a ministry,
- (b) a class of persons employed in a ministry, or
- (c) an agent of the Crown.

(2) Except in prescribed circumstances, a delegate under section 120.1 (2) may subdelegate the power or duty to

- (a) a person employed in a ministry, or
- (b) a class of persons employed in a ministry.

#### Evidence of delegation

120.3 A document purporting to have been issued by a minister referred to in section 120.1 (1) or (2), certifying that the minister has made a delegation under this Act, is admissible as evidence of the delegation without proof of the signature or official character of the minister purporting to have signed the document.

## Part 8 — Forest Practices Board

### Division 1 — Definition

#### Definition of "party"

121 In this Part and the regulations related to this Part, "party" means

- (a) the government,
- (b) the holder of an agreement under the Forest Act,
- (c) the holder of an agreement under the Range Act,

- (d) a person responsible for establishing a free growing stand as a result of an agreement referred to in section 29.1 (1) or (3),
- (e) a person responsible for maintaining or deactivating a road, under a regulation under section 155 (1) (d), or
- (f) a person referred to in section 122 (2) who may be audited or investigated under that section.

#### Division 2 — Complaints and Audits

##### Audits and special investigations

122 (1) In accordance with the regulations, the board

- (a) must carry out periodic independent audits, and
  - (b) may carry out special investigations to determine
  - (c) compliance with the requirements of Parts 2 to 5 and the regulations and standards made in relation to those Parts by a party, and
  - (d) the appropriateness of government enforcement under Part 6.
- (2) If
- (a) while carrying out under subsection (1) (a) or (b) an audit or investigation of a party in respect of a matter referred to in subsection (1) (c), the board finds that the party complied with the requirements audited or investigated, and
  - (b) the only reason for that finding is that
    - (i) the party exercised due diligence to prevent non-compliance,
    - (ii) the party reasonably believed in the existence of facts that if true would establish that the party complied with the requirement, or
    - (iii) the party's actions relevant to the requirement were the result of an officially induced error,
- the board may audit or investigate whether a person other than that party did not comply with the requirements, in the course of acting for or at the direction of the party.

##### Complaints from public

123 (1) In accordance with the regulations, the board must deal with complaints from the public respecting prescribed matters that relate to this Act.

- (2) Despite subsection (1), the board may refuse to investigate a complaint, or may stop investigating a complaint, if, in the opinion of the chair, any of the following applies:
- (a) the complainant knew or ought to have known of the determination to which his or her complaint relates, more than one year before the complaint was received by the board;
  - (b) the law or existing administrative procedure provides a remedy adequate in the circumstances for the person aggrieved and, if the person aggrieved has not taken advantage of the remedy, there is no reasonable justification for the failure to do so;
  - (c) the complaint is frivolous, vexatious, not made in good faith or concerns a trivial matter;
  - (d) having regard to all the circumstances, further investigation is not necessary in order to consider the complaint;
  - (e) in the circumstances, investigation would not benefit the complainant.
- (3) The board must promptly notify, in writing, the complainant and the party of its decision and the reasons for it and may indicate any other recourse that may be available to the complainant if it decides
- (a) to not investigate or further investigate a complaint, or
  - (b) that the complaint has not been substantiated.

##### Powers of investigation

124 (1) Without limiting sections 122 and 123, for the purposes of those sections the board may investigate a determination.

- (2) The board may conduct an audit, a special investigation or a complaint investigation despite a provision to the effect that a determination is final and regardless of any right of appeal.
- (3) The board may not investigate conduct occurring before the commencement of Forest Practices Code of British Columbia Act.
- (4) If a question arises as to the board's jurisdiction to investigate a case or class of cases, the chair may apply to the Supreme Court for a declaratory order determining the question.

#### Power to obtain information

125 (1) The board may require a party to provide information or records related to an audit, a special investigation or a complaint investigation.

(2) The board may require the party to provide the information in the form and manner the board considers appropriate.

(3) The party must comply with a requirement of the board under subsection (1) or (2).

(4) Without restricting subsection (1), the board may do all of the following:

(a) at any reasonable time enter and inspect business premises occupied by a party, speak in private with any person there and otherwise investigate matters within the board's jurisdiction;

(b) require a person to provide information or produce a record or thing in his or her possession or control that relates to an investigation at a time and place the board specifies;

(c) make copies of information provided or a record or thing produced under this section.

(5) If the board obtains a record or thing under subsection (4) and the person from whom it was obtained requests its return, the board must, within 48 hours after receiving the request, return it to the person, but the board may again require its production in accordance with this section.

(6) At any time while conducting an audit, a special investigation or a complaint investigation under this Act, the board may make an order requiring a person

(a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in the audit, special investigation or complaint investigation, or

(b) to produce for the board a document or other thing in the person's possession or control, as specified by the board, that is admissible and relevant to an issue in the audit, special investigation or complaint investigation.

(7) The board may apply to the court for an order

(a) directing a person to comply with an order made by the board under subsection (6), or

(b) directing any directors and officers of a person to cause the person to comply with an order made by the board under subsection (6).

#### Contempt proceeding for uncooperative witness or other person

125.1 The failure or refusal of a person summoned as a witness under section 125 (6) to do any of the following makes the person, on application to the court by the board, liable to be committed for contempt as if in breach of an order or judgment of the court:

(a) attend a hearing;

(b) take an oath or affirmation;

(c) answer questions;

(d) produce the records or things in their custody or possession.

#### Immunity protection for board and members

125.2 (1) In this section, "decision maker" includes a board member, registrar or other officer who conducts an audit, a special investigation or a complaint investigation under this Act or a person who conducts a dispute resolution process for the purposes of this Act.

(2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a decision maker, the board or the government because of anything done or omitted

(a) in the performance or intended performance of any duty under this Act, or

(b) in the exercise or intended exercise of any power under this Act.

(3) Subsection (2) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

#### Power to obtain information limited

126 The board must not require information or a record to be produced if the Attorney General certifies that the giving of the information or record may

(a) interfere with or impede investigation or detection of offences,

(b) involve the disclosure of the deliberations of the Executive Council, or

(c) involve the disclosure of proceedings of the Executive Council or of any committee of the Executive Council, relating to matters of a secret or confidential nature, and would be harmful to the public interest.

Board must notify and consult party



127 (1) If the board conducts an audit or investigation, the board must notify the party affected and any other person the board considers appropriate.

(2) The board must consult with a party if the board receives a request for consultation from the party before the board has made its report under section 131.

#### Opportunity to make representations

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

#### Evidence not admissible

129 Evidence given by a person in proceedings before the board and evidence of the existence of the proceedings are inadmissible against the person in a court or in any other proceeding of a judicial nature except for the following:

- (a) the trial of a person for perjury;
- (b) the trial of a person for an offence under section 97;
- (c) an application for judicial review or an appeal from a decision with respect to that application.

#### Person may be reimbursed for expenses

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

### Division 3 — Remedies

#### Report and recommendations

131 (1) Subject to subsection (1.1), after completing an audit or investigation, the board must report its conclusions, with reasons, to any complainant, to the party and, if the government is not the party affected by the audit or investigation, to the ministers.

(1.1) If an audit or investigation referred to in subsection (1) includes more than one party, the board may report its overall conclusions without reporting on compliance by each party.

(2) If the board makes a report under subsection (1), it may make recommendations it considers appropriate.

(3) Without limiting subsection (2), the board may make any of the following recommendations:

- (a) a matter be referred to the appropriate party for further consideration;
- (b) an act be remedied;
- (c) an omission or delay be rectified;
- (d) a decision or recommendation be cancelled or varied;
- (e) reasons be given;
- (f) a practice, procedure or course of conduct be altered;
- (g) an enactment or other rule of law be reconsidered;
- (h) any other steps be taken.

(4) Without limiting subsection (1), the chair may, if the regulations provide and in the manner they provide, make an application under section 83 for an appeal of a determination or failure to make a determination.

#### Party to notify board of steps taken

132 (1) If the board makes a recommendation under section 131 the board may request that the party notify it within a specified time

- (a) of the steps that have been taken or are proposed to be taken to give effect to its recommendation, or
- (b) if no steps have been taken or are proposed to be taken, of the reasons for not following the recommendation.

(2) If, after considering a response made by a party, the board believes it advisable to modify or further modify its recommendation, the board must notify the party and the complainant of its recommendation as modified and may request that the party notify it

- (a) of the steps that have been taken or are proposed to be taken to give effect to the modified recommendation, or

(b) if no steps have been taken or are proposed to be taken, of the reasons for not following the modified recommendation.

(3) The party must respond promptly to the board's request under subsection (1) or (2).

Report of board if no suitable action taken

133 (1) If, within a reasonable time after a request by the board under section 132, no action is taken that the board believes adequate or appropriate, the chair may, after considering any reasons given by the party,

(a) submit a report on the matter to the ministers, and

(b) after submitting a report under paragraph (a), submit a report to the Lieutenant Governor in Council respecting the matter.

(2) The chair

(a) must attach to the report a copy of the board's recommendation and any response made to the board under section 132,

(b) must delete from his or her recommendation and from the response any material that would unreasonably invade any person's privacy, and

(c) may in his or her discretion delete material revealing the identity of a member, an officer or an employee of a party.

Complainant to be informed

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

Special reports

135 If the chair considers a special report to be in the public interest, he or she may make a special report to the minister or comment publicly respecting a matter relating generally to the performance of the board's duties under this Act or to a particular case investigated by the board.

Division 4 — General

Forest Practices Board continued

136 (1) The Forest Practices Board is continued.

(2) The board consists of the following members appointed by the Lieutenant Governor in Council after a merit based process:

(a) a member designated as the chair;

(b) one or more members designated as vice chairs after consultation with the chair;

(c) other members appointed after consultation with the chair.

(3) and (4) [Repealed 2003-47-30.]

(5) Sections 1 to 10, 44, 46.2 and 55 of the Administrative Tribunals Act apply to the board.

(6) The Lieutenant Governor in Council may determine the remuneration, reimbursement of expenses and other conditions of employment of persons appointed under the regulations to carry out audits.

(7) Board members must faithfully, honestly and impartially perform their duties.

Panels of the board

137 (1) The board may organize itself into panels, each comprised of one or more members.

(2) The members of the board may sit as a board or as a panel of the board, and 2 or more panels may sit at the same time.

(3) A panel of the board has the jurisdiction of the board and may exercise the powers and perform the duties and functions of the board.

(4) A report, a recommendation or an action of a panel of the board is a report, recommendation or action of the board.

Board staff

138 (1) Employees necessary to carry out the powers and duties of the board may be appointed under the Public Service Act.

(2) In accordance with the regulations, the board may engage or retain specialists, consultants and auditors that the board considers necessary to carry out the powers and duties of the office and may determine their remuneration.

(3) The Public Service Act does not apply to the retention, engagement or remuneration of specialists, consultants and auditors retained under subsection (2).

No hearing as of right

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

Delegation of powers

140 (1) The chair may delegate in writing to a person or class of persons any of the board's powers or duties under this Act, except the power

(a) of delegation under this section, or

(b) to make a report under this Act.

(2) A delegation under this section is revocable and does not prevent the board exercising a delegated power.

(3) A delegation may be made subject to terms the chair considers appropriate.

(4) If the chair makes a delegation and then ceases to hold office, the delegation continues in effect as long as the delegate continues in office or until revoked by a succeeding chair.

(5) A person purporting to exercise a power of the board by virtue of a delegation under this section must, when requested to do so, produce evidence of his or her authority to exercise the power.

Part 8.1 — Forest Appeals Commission

Forest Appeals Commission continued

140.1 (1) The Forest Appeals Commission is continued.

(2) The commission is to hear appeals under

(a) section 82 or 83, or

(b) the Forest Act, the Private Managed Forest Land Act, the Range Act or the Wildfire Act and, in relation to appeals under those Acts, the commission has the powers given to it by those Acts.

(3) The commission consists of the following members appointed by the Lieutenant Governor in Council after a merit-based process:

(a) a member designated as the chair;

(b) one or more members designated as vice chairs after consultation with the chair;

(c) other members appointed after consultation with the chair.

Application of Administrative Tribunals Act

140.2 The following provisions of the Administrative Tribunals Act apply to the commission:

(a) Part 1 [Interpretation and Application];

(b) Part 2 [Appointments];

(c) Part 3 [Clustering];

(d) Part 4 [Practice and Procedure], except the following:

(i) section 22 [notice of appeal (inclusive of prescribed fee)];

(ii) section 25 [appeal does not operate as stay];

(iii) section 33 [interveners];

(iv) section 34 (1) and (2) [party power to compel witnesses and require disclosure];

(e) Part 6 [Costs and Sanctions], except sections 47.1 [security for costs] and 47.2 [government and agents of government];

(f) Part 7 [Decisions];

(g) Part 8 [Immunities];

(h) section 59.1 [surveys];

(i) section 59.2 [reporting];

(j) Part 10 [Miscellaneous], except section 62 [application of Act to BC Review Board].

Mandate of commission

140.3 (1) In accordance with the regulations, the commission must

(a) hear appeals under this Act, the Forest Act, the Private Managed Forest Land Act, the Range Act or the Wildfire Act,

(b) provide the minister with an annual evaluation of the manner in which reviews and appeals under this Act, the Forest Act, the Private Managed Forest Land Act, the Range Act and the Wildfire Act are functioning and identify problems that may have arisen under the provisions of those Acts,

(c) make recommendations to the minister annually, and at other times it considers appropriate, concerning the need for amendments to this Act, the Forest Act, the Private Managed Forest Land Act, the Range Act and the Wildfire Act and related regulations respecting reviews and appeals, and

(d) perform other functions required by the regulations.

(2) The chair must give to the minister an annual report concerning the commission's activities.

(3) The minister must promptly lay the report before the Legislative Assembly if it is in session or, if it is not in session when the report is submitted, file the report with the Clerk of the Legislative Assembly.

Time for appeal by board

140.4 (1) If the board may appeal a decision, order or determination, the board must do so no later than 60 days after the latest of the following to occur:

(a) the original decision, order or determination;

(b) any correction of the original decision, order or determination;

(c) any review of the original decision, order or determination.

(2) The board may apply for an order under section 84 (2) no later than 60 days after the period prescribed for section 83 (2) (b) has elapsed.

Persons and bodies entitled to notice and to be parties to appeal

140.5 (1) In this section, "minister" means the minister responsible for the administration of the section of the Act under which the decision, order or determination giving rise to an appeal was made.

(2) On receipt of a notice of appeal, the commission must give a copy of the notice of appeal to the minister.

(3) On receipt of a notice of appeal in which the board has standing, the commission must give a copy of the notice,

(a) if a person other than the board delivered the notice, to the board, or

(b) if the board delivered the notice,

(i) to the person who is the subject of the determination, or

(ii) for an appeal of a failure to make a determination, to the person who would be subject to the determination, if made.

(4) The following are parties to an appeal:

(a) the government;

(b) the board, if it has standing and so requests;

(c) the person who is the subject of the determination or would be the subject of the determination, if made.

(5) At any stage of an appeal, the commission or a member of it may direct that a person who may be affected by the appeal be added as a party to the appeal.

Appeal by new hearing

140.6 The commission may conduct an appeal by way of a new hearing.

Appeal to court

140.7 (1) A party to an appeal, or the minister, may appeal the decision of the commission to the Supreme Court on a question of law or jurisdiction.

(2) An appeal under subsection (1) must be filed no later than 3 weeks after the date the person filing the appeal receives the decision of the commission.

(3) On an appeal under subsection (1), a judge of the Supreme Court, on terms the judge considers appropriate, may order that all or part of the decision or order of the commission be stayed.

(4) An appeal from a decision of the Supreme Court lies to the Court of Appeal with leave of a justice of the Court of Appeal.

Part 9 — Regulations And Standards

Power to make regulations

141 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the Interpretation Act.

(2) The Lieutenant Governor in Council may make regulations respecting matters that are

- (a) referred to in a provision of this Act as having to be in accordance with the regulations, or
- (b) indicated by a provision of this Act as being a matter for a regulation.

(3) Without limiting subsections (1) and (2), the Lieutenant Governor in Council may make regulations as follows:

- (a) defining a word or expression used but not defined in this Act;
- (b) for the purposes of section 120.1 (1), specifying which powers and duties of a minister under this Act must not be delegated.

(4) In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:

- (a) delegate a matter to a person;
- (b) confer a discretion on a person;
- (c) make different regulations for different persons, places, things or transactions;
- (d) adopt the provisions of a publication or adopt them as they are amended from time to time.

Forms

142 (1) The Lieutenant Governor in Council may prescribe forms for this Act.

(2) The Lieutenant Governor in Council may make regulations respecting the furnishing of information, to the minister or to an employee in the ministry of the minister responsible for the administration of this Act, including but not limited to regulations concerning matters related to

- (a) agreements under the Forest Act, and
- (b) agreements under the Range Act.
- (c) [Repealed 2004-31-95.]

(3) Without limiting subsections (1) and (2) the Lieutenant Governor in Council may make regulations respecting

- (a) the furnishing of information on request or at specified times, and
- (b) in a specified format including electronically.

Fees or charges

143 (1) The Lieutenant Governor in Council may make regulations respecting fees or charges for the provision under this Act to any person by the government, or by the board, commission or council, if any, under this Act, of a service or any property or use of property.

(2) For the purpose of this section, the preparation of a range use plan or an amendment to a range use plan by the minister is a service provided by the government to the person required to follow the plan.

(3) Subsection (1) applies whether or not there is an obligation on the government to provide the service, property or use of property.

Security

144 (1) The Lieutenant Governor in Council may make regulations respecting deposits and security of any kind, including but not limited to money, to be provided by the holder of an agreement under the Forest Act or the Range Act to ensure the performance of an obligation under this Act, the Forest Act, the Range Act or an agreement entered into under any of those Acts.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:

- (a) the type of security that is acceptable or unacceptable;
- (b) the form and content of the security;
- (c) the circumstances under which the security may be realized.

Recovery of money

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

Exemptions

146 (1) The Lieutenant Governor in Council may make regulations respecting the exemption of a person, place, thing or transaction from a provision of this Act, the regulations or the standards.

(2) In making a regulation under subsection (1), the Lieutenant Governor in Council may make the exemption subject to conditions.

(3) The Lieutenant Governor in Council may make regulations restricting the minister's authority to exempt a person from a provision under this Act.

Criteria for exercise of discretionary powers

147 (1) The Lieutenant Governor in Council may make regulations respecting the criteria that a person must use in exercising a discretionary power conferred on the person under this Act.

(2) Criteria prescribed under subsection (1) are in addition to any criteria required by this Act.

Interpretive forest sites, recreation sites and recreation trails

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

Objectives set by government

149 (1) The Lieutenant Governor in Council may make regulations prescribing objectives in relation to one or more of the following subjects:

- (a) soils;
- (b) visual quality;
- (c) timber;
- (d) forage and associated plant communities;
- (e) water;
- (f) fish;
- (g) wildlife;
- (h) biodiversity;
- (i) recreation resources;
- (j) resource features;
- (k) cultural heritage resources.

(2) In case of an inconsistency between

(a) an objective set by government prescribed under this section, and

(b) an objective referred to in paragraph (b) or (c) of the definition of "objectives set by government" in section 1 (1),

the objective referred to in paragraph (b) or (c) of that definition prevails to the extent of the inconsistency.

Ungulate winter range, wildlife habitat areas and general wildlife measures

149.1 (1) The Lieutenant Governor in Council may make regulations

(a) authorizing the minister responsible for the Wildlife Act to establish one or more of the following:

(i) an area as an ungulate winter range and objectives for the ungulate winter range;

(ii) an area as a wildlife habitat area and objectives for the wildlife habitat area;

(iii) a general wildlife measure;

(iv) categories of wildlife for the purposes of subparagraphs (i) to (iii), and

(b) prescribing the circumstances in which the discretion conferred in the authorization may be exercised.

(2) The minister responsible for the Wildlife Act may not establish an objective referred to in subsection (1)

(a) (i) or (ii) for an area unless the objective is consistent with the objectives set by government that pertain to the area.

Community watersheds

150 (1) The Lieutenant Governor in Council may make regulations

(a) authorizing

(i) the minister responsible for the Land Act to designate an area of land in a watershed as a community watershed, or

(ii) the minister responsible for the Water Sustainability Act to establish water quality objectives in relation to a community watershed, and

(b) prescribing the circumstances in which the discretion conferred in the authorization may be exercised.

(2) The Lieutenant Governor in Council may make regulations respecting community watersheds, including but not limited to prescribing requirements in relation to community watersheds.

Watersheds with significant downstream fisheries values and significant watershed sensitivity

150.1 (1) The Lieutenant Governor in Council may make regulations authorizing the minister responsible for the Wildlife Act to

(a) identify an area of land in a watershed that has

(i) significant downstream fisheries values, and

(ii) significant watershed sensitivity, and

(b) specify objectives in relation to the areas of land identified under this section.

(2) The minister responsible for the Wildlife Act may not specify an objective referred to in subsection (1)

(b) for an area unless the objective is consistent with the objectives set by government that pertain to the area.

Lakeshore management zones and objectives

150.2 (1) The Lieutenant Governor in Council may make regulations

(a) authorizing the minister to designate an area of land as a lakeshore management zone,

(b) authorizing the minister to establish objectives in relation to lakeshore management zones,

(c) prescribing the circumstances in which the discretion conferred in the authorization may be exercised, and

(d) respecting lakeshore management zones.

(2) The minister may not specify an objective referred to in subsection (1) (b) for an area unless the objective is consistent with the objectives set by government that pertain to the area.

Scenic areas and visual quality objectives

150.3 (1) The Lieutenant Governor in Council may make regulations

(a) authorizing the minister responsible for the Land Act to designate an area of land as a scenic area,

(b) authorizing the minister to establish visual quality objectives in relation to a scenic area,

(c) prescribing the circumstances in which the discretion conferred in the authorization may be exercised, and

(d) respecting scenic areas.

(2) The minister may not specify an objective referred to in subsection (1) (b) for an area unless the objective is consistent with the objectives set by government that pertain to the area.

Consistency among objectives

150.4 The Lieutenant Governor in Council may make regulations respecting objectives set by government and other objectives that are established under this Act, including but not limited to regulations

(a) respecting procedures and criteria that are to be followed in establishing objectives

(i) referred to in paragraph (b) of the definition of "objectives set by government" in section 1 (1), or

(ii) other objectives that are established under this Act, and

(b) resolving inconsistencies among those objectives by varying or limiting the application of

(i) objectives set by government, or

(ii) other objectives that are established under this Act.

Streams, wetlands and lakes

150.5 The Lieutenant Governor in Council may make regulations

(a) establishing criteria for classifying streams, wetlands and lakes,

(b) respecting the classification of streams, wetlands and lakes,

(c) establishing riparian reserve zones, riparian management zones and riparian management areas for different classes of streams, wetlands and lakes,

(d) respecting

(i) streams, wetlands and lakes, and

- (ii) riparian reserve zones, riparian management zones and riparian management areas, and
- (e) authorizing the minister responsible for the administration of the Wildlife Act, in prescribed circumstances, to designate streams as temperature sensitive streams.

#### Plans and practices

151 (1) The Lieutenant Governor in Council may make regulations respecting operational plans, including but not limited to regulations prescribing

- (a) their form and content,
  - (b) the form and content of maps included in the plans,
  - (c) the manner of, and time for, submitting the plans for approval,
  - (d) and (e) [Repealed 2003-55-57.]
  - (f) respecting the extension of the term for an operational plan,
  - (g) amendments to plans including specifying what amendments are not minor amendments,
  - (h) respecting balancing objectives or other plan contents when approving a plan, and
  - (i) how a forest stewardship plan must take into account other currently existing or future forest stewardship plans.
- (2) The Lieutenant Governor in Council may make regulations respecting surveys, records and reports required or permitted under this Act.
- (3) The Lieutenant Governor in Council may make regulations respecting the transfer of obligations to establish a free growing stand, including but not limited to prescribing
- (a) stocking requirements that must be met, and
  - (b) security that must be provided as part of the transfer of the obligation.

#### Repealed

152 [Repealed 2003-55-58.]

#### Practices and planning — community forest agreements, woodlot licences

153 (1) The Lieutenant Governor in Council may make regulations respecting

- (a) woodlot licences, woodlot licence areas and holders of woodlot licences, and
  - (b) community forest agreements, community forest agreement areas and holders of community forest agreements.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:
- (a) establishing requirements and restrictions regarding the planning and forest practices, including the establishment of a free growing stand on a community forest agreement area or a woodlot licence area;
  - (b) establishing conditions that must be complied with by the holder of a community forest agreement or a woodlot licence before, during and after forest practices;
  - (c) requiring site plans to be prepared by the holder of a community forest agreement or a woodlot licence and approved by the minister before forest practices are carried out on the community forest agreement area or a woodlot licence area;
  - (d) requiring that authority to carry out a forest practice on a community forest agreement area or a woodlot licence area be obtained before the forest practice begins;
  - (e) requiring persons to carry out actions for maintaining or improving forest health;
  - (f) establishing requirements for wildlife tree retention for areas within woodlot licence areas that apply despite any objective set by government with respect to wildlife tree retention;
  - (g) establishing or varying objectives for ungulate winter range to reduce the impact to the allowable annual cut of a woodlot licence.
- (3) The Lieutenant Governor in Council may make regulations respecting first nations woodland licences, first nations woodland licence areas and holders of first nations woodland licences, including regulations
- (a) without limiting section 146, providing that specified provisions of regulations made under subsection (1) or (2) do not apply to or in respect of first nations woodland licences, first nations woodland licence areas or holders of first nations woodland licences,
  - (b) prescribing provisions, in addition to the provisions of regulations made under subsection (1) or (2), that apply to or in respect of first nations woodland licences, first nations woodland licence areas or holders of first nations woodland licences, and



(c) varying provisions of regulations made under subsection (1) or (2) as the provisions apply to or in respect of first nations woodland licences, first nations woodland licence areas or holders of first nations woodland licences.

#### Forest and range resources

154 (1) The Lieutenant Governor in Council may make regulations respecting forest resources and range resources.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting

(a) resource features, including but not limited to

(i) authorizing the minister to identify resource features other than a resource feature that is a wildlife habitat feature, and

(ii) authorizing the minister responsible for the administration of the Wildlife Act to identify a resource feature that is a wildlife habitat feature, and

(b) forest health, including but not limited to forest health emergency management areas designated under section 27 (1).

#### Roads and rights of way

155 (1) The Lieutenant Governor in Council may make regulations respecting the following:

(a) the use of forest service roads and rights of way;

(b) the regulation or prohibition of the use and operation of vehicles or classes of vehicles on forest service roads or rights of way;

(c) the regulation or prohibition of road construction, maintenance or deactivation;

(d) the transfer of an obligation to maintain or deactivate a road.

(2) The minister may exempt a person from all or part of a regulation made under subsection (1) (a) or (b), subject to conditions or alternative requirements the minister may specify.

#### Timber harvesting practices and methods

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

#### Silvicultural systems and silviculture treatments

157 (1) The Lieutenant Governor in Council may make regulations respecting silvicultural systems and silviculture treatments.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting

(a) clearcutting, including but not limited to restricting or prohibiting clearcutting,

(b) silviculture treatments, including but not limited to restricting or prohibiting various types of silviculture treatments,

(c) rehabilitation of areas,

(d) requirements for establishing a free growing stand on an area under an agreement under the Forest Act in which timber has been

(i) harvested under an agreement under the Forest Act,

(ii) harvested from an area where the holder of the agreement is exempt from the requirement to prepare a forest stewardship plan or a woodlot licence plan,

(iii) damaged or destroyed by natural causes, or

(iv) harvested other than in accordance with this Act, the regulations and the standards, and

(e) exempting persons from the requirements to establish a free growing stand under section 29 or on areas referred to in paragraph (d).

#### Gene resources

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

#### Terrain stability and soil disturbance

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

## Cutblocks

160 The Lieutenant Governor in Council may make regulations respecting cutblocks, including but not limited to regulations prescribing

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

## Use of Crown range and range developments

161 (1) The Lieutenant Governor in Council may make regulations respecting range practices, the use of Crown range and range developments.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:

- (a) the use of Crown range for grazing of livestock, hay cutting and other purposes;
- (b) promoting health of Crown range;
- (c) the identification of livestock pastured on Crown range;
- (d) range developments and the payment of costs for range developments.

## Notification requirements

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

## Administrative remedies

163 (1) The Lieutenant Governor in Council may make regulations respecting administrative remedies under this Act, the Forest Act or the Range Act.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting charges and penalties in cases in which a person does not comply with one or more of the following:

- (a) this Act, the regulations or the standards or the Forest Act, the Range Act or a regulation made under the Forest Act or the Range Act;
- (b) an operational plan;
- (c) a permit under this Act.

(3) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the levying of an administrative penalty or of administrative penalties in equal or unequal proportions against 2 or more persons involved in the contravention that gives rise to the penalty or penalties, including regulations prescribing

- (a) circumstances in which the penalties may be levied, and
- (b) formulas that may be applied in levying the penalties.

## Intervention and remediation

164 (1) The Lieutenant Governor in Council may make regulations respecting compliance with this Act and remediation related to a forest practice or range practice.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting

- (a) the power of the minister to require the holder of an agreement under the Forest Act or the Range Act to take action to achieve a requirement of this Act or the regulations or to prevent damage to the environment if the damage is associated with a forest practice, range practice or range authorization,
- (b) [Repealed 2003-55-62.]
- (c) stop work orders, and
- (d) remediation orders.

## Reconsideration

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

## Appeals and the commission

166 (1) The Lieutenant Governor in Council may make regulations respecting appeals and the commission.

- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) prescribing the period that must elapse after the facts relevant to a determination first come to the knowledge of an official or a minister before the board may apply to the commission for an order under section 83;
  - (b) prescribing the period in which the commission must deliver a decision after holding a hearing;
  - (c) prescribing the form and content of annual reports made by the commission.

Forest Practices Board

167 (1) The Lieutenant Governor in Council may make regulations respecting the Forest Practices Board.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:

- (a) audits referred to in section 122,
- (b) complaints to the board, including
  - (i) the manner of making a complaint,
  - (ii) specifying which complaints may be heard,
  - (iii) the manner of dealing with complaints, and
  - (iv) the nature and extent of investigations which may be taken in relation to a complaint;
- (c) procedures for notifying the board of determinations;
- (d) reports made by the board;
- (e) the qualifications of board members;
- (f) fees with respect to complaint investigations.

Botanical forest products

168 (1) The Lieutenant Governor in Council may make regulations respecting botanical forest products.

(2) Without restricting subsection (1), Lieutenant Governor in Council may make regulations respecting:

- (a) obtaining botanical forest products from Crown land;
  - (a.1) identifying a plant or fungus that occurs naturally on Crown land as being a botanical forest product;
- (b) establishing a licensing scheme for the purposes of regulating botanical forest products;
- (c) issuing, amending, renewing, suspending or cancelling licences;
- (d) applications for licences;
- (e) fees for licences and applications;
- (f) inspectors and inspections for the purposes of enforcing licensing;
- (g) appeals.

Chief forester standards for forest and range resources

169 (1) In prescribed circumstances, the chief forester may establish, vary or revoke standards respecting

- (a) tree gene resources for purposes related to this Act, including without restriction the following:
  - (i) registration of seed including, without limitation, determination of genetic quality and imposition of conditions on the use of registered seed;
  - (ii) transfer of seed;
  - (iii) storage of tree seed with the government;
  - (iv) parent trees;
  - (v) forest stands, trees or seed having rare or unique genetic values;
  - (vi) stocking standards required for a free growing stand,
- (b) fire use,
- (c) the preparation of an operational plan,
- (d) a forest practice, and
- (e) a range practice.

(2) [Repealed 2003-55-63.]

- (3) A standard takes effect on the date specified in the standard.
- (4) A standard is not effective

(a) until 4 months after the notice of the standard and the method for meeting the standard has been published in the Gazette,

(b) to the extent that it conflicts with this Act, the regulations, an agreement under the Forest Act or the Range Act, or a management plan under a tree farm licence, a forest stewardship plan, a range stewardship

plan or a range use plan that has been approved before the standard comes into effect, unless the holder of the agreement or plan waives the requirement under this paragraph, and

(c) in respect of a proposed management plan under a tree farm licence, a forest stewardship plan, a range stewardship plan or a range use plan, unless

(i) the standard comes into effect under paragraph (a) at least 4 months before the plan is submitted for approval, or

(ii) the holder of the licence or plan waives the requirement under subparagraph (i).

Forest Practices Advisory Council

170 (1) The Forest Practices Advisory Council is continued and renamed as the Forest and Range Practices Advisory Council

(a) to undertake periodic reviews of the requirements that apply to operational planning and forest practices or range practices under this Act, and

(b) to make recommendations to the minister on any specific matter relevant to this Act that is referred to the council by the minister,

and by regulation may be disestablished or re-established.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:

(a) the membership of the council, including

(i) the maximum number of persons that may be appointed to the council,

(ii) the qualifications of council members,

(iii) the terms of appointed members, and

(iv) the removal and replacement of members;

(b) the annual report that must be prepared by the council;

(c) the application of sections 138 and 140 to the council.

Part 10 — Pilot Projects for Forest Practices or Range Practices

Public review and comment required before a pilot project may proceed

171 (1) Before a pilot project is approved under this Part, the person who proposes the pilot project must

(a) make the proposed pilot project publicly available for

(i) review, and

(ii) comment,

in accordance with the regulations, and

(b) submit to the minister a summary of the comments received and any actions taken or proposed to address issues raised in the comments.

(2) Before a regulation is made under this Part, the minister may establish a public advisory committee with terms of reference the minister considers advisable to make recommendations respecting the proposed pilot project.

Tests for making a pilot project regulation

172 The Lieutenant Governor in Council may make regulations under section 173 only if the Lieutenant Governor in Council is satisfied that the proposed pilot project

(a) is in the public interest,

(b) will be consistent with the objectives set by government,

(c) maintains the role of the board as set out in sections 81 and 83 and Part 8,

(d) provides public access to the following, except in circumstances in which the Lieutenant Governor in Council considers that such public access would jeopardize cultural heritage resources:

(i) planning documents and assessments used in the proposed pilot project;

(ii) records that the regulations require to be prepared for the proposed pilot project, and

(e) if the area in which a pilot project is proposed does not have a higher level plan, adequately provides for balancing competing values and interests in the area.

Regulation making powers respecting pilot projects

173 (1) The Lieutenant Governor in Council may make regulations respecting pilot projects to experiment with ways to improve the regulatory framework for forest practices or range practices.

(2) Without limiting subsection (1), the Lieutenant Governor in Council, for the purposes of a pilot project, may order by regulation that provisions pertaining to specified subject matter, or specified provisions, of this Act, the Forest Act, the Range Act or the regulations made under any of those Acts do not apply

(a) to a timber sales manager, or

(b) to the holder of an agreement under the Forest Act or the Range Act.

(3) Without limiting subsection (1), the Lieutenant Governor in Council, for the purposes of a pilot project, may make regulations respecting the following:

(a) conditions, including providing that all or part of a regulation made under subsection (2) is subject to a condition and requiring that a person to whom the regulation applies comply with the condition;

(b) the suspension or cancellation of a pilot project;

(c) the regulation or prohibition of forest practices or range practices;

(d) the protection of forest resources and of resource features;

(e) compliance and enforcement;

(f) the balancing of competing values and interests;

(g) planning;

(h) monitoring and evaluation of pilot projects;

(i) public review and comment related to pilot projects;

(j) public access to

(i) planning documents and assessments used in the pilot project, and

(ii) records that the regulations require to be prepared for the pilot project.

(4) Without limiting subsection (1), the Lieutenant Governor in Council

(a) may exercise for the purposes of a pilot project, all the regulation making powers in this Act, the Forest Act and the Range Act, and

(b) may make regulations that are contrary to a provision of those Acts if that provision is inapplicable because of a regulation made under subsection (2) or (3).

#### Application

174 (1) A regulation under this Part with respect to a pilot project does not apply to a timber sales manager or holder of an agreement under the Forest Act or the Range Act until the timber sales manager or holder has consented to take part in the pilot project.

(2) If a regulation under section 173 (2) provides that a provision of an Act does not apply to the holder of an agreement under the Forest Act or the Range Act, or to a timber sales manager or the government, the provision is also inapplicable to their

(a) employees or agents, or

(b) contractors, as defined in section 152 of the Forest Act.

#### Annual reports

175 (1) The holder of an agreement under the Forest Act or the Range Act who is the subject of a pilot project must report annually to the minister on the pilot project.

(2) The timber sales manager who is the subject of a pilot project must report annually to the minister on the pilot project.

(3) The minister must make the reports publicly available.

#### Repealed

176 [Repealed 2003-55-65.]

### Part 11 — Transitional

#### Division 1 — General

##### Definitions and interpretation

177 (1) In this Part, except section 216:

"Code" means the Forest Practices Code of British Columbia Act as it was immediately before the effective date;

"Code regulations" means

- (a) the regulations under the Code, and
  - (b) the standards under the Code
- as they were immediately before the effective date;

"effective date" means the date this section comes into force;

"site level plan" means

- (a) a silviculture prescription under section 22.1 of the Code,
- (b) a pre-harvest silviculture prescription or silviculture prescription that was prepared or approved by the district manager under the Forest Act and that was in effect on June 15, 1995,
- (c) a site plan prepared under
- (i) section 21.1 of the Code, or
- (ii) a regulation made under section 217.1 of the Code, including site plan information specified in a forest development plan whether or not that plan has expired,
- (d) a road layout and design prepared under section 60 of the Code, and
- (e) a plan prepared under section 189 (3) or 201 (1) of this Act.

(2) In this Part, a reference in the Code or the Code regulations to

- (a) a district manager preparing a forest development plan or a site plan is deemed to be a reference to a timber sales manager preparing the forest development plan or the site plan, and
- (b) a district manager approving or giving effect to a plan, granting an exemption, providing an authorization or attaching a condition is deemed to be a reference to the minister approving or giving effect to the plan, granting the exemption, providing the authorization or attaching the condition, as the case may be.

(3) In this Part,

- (a) a reference to the Operational and Site Planning Regulation is a reference to the Operational and Site Planning Regulation as it was immediately before the effective date, and
- (b) a reference to the Forest Road Regulation is a reference to the Forest Road Regulation as it was immediately before the effective date.

Applicability of certain provisions of Part 6  
of this Act for the Code

177.1 (1) Sections 59 to 70, 71 (1), (2), (5) and (6), 72 to 86 and 88 to 103 of this Act apply to and in respect of the Code and the Code regulations.

(2) A person to whom the Code and the Code regulations apply who contravenes a requirement, the contravention of which is an offence under the Code or the Code regulations, commits that offence under the Code or the Code regulations and is liable on conviction

- (a) to a fine not exceeding the maximum amount specified in the Code or the Code regulations for that offence,
- (b) to imprisonment not exceeding the maximum amount specified in the Code or the Code regulations for that offence, or
- (c) to both.

(3) For contraventions of the Code or the Code regulations, the maximum administrative penalties are as provided for under the Code and the Code regulations.

(4) For the purposes of this section,

- (a) the references in section 67 of this Act to sections 52, 50 (2) and 51 must be read as references to sections 96, 100 and 101, respectively, of the Code,
- (b) the reference in section 68 (1) of this Act to section 50 (1) must be read as a reference to section 98 of the Code,
- (c) the reference in section 71 (2) (a) (i) of this Act to an administrative penalty in an amount that does not exceed a prescribed amount must be read as a reference
  - (i) to
  - (A) the penalty provided for under section 117 (1) of the Code, up to and including the amount provided for under that provision, or
  - (B) that penalty plus the additional penalty provided for in section 119 (3) of the Code, up to and including the amount referred to in that provision, or

(ii) to

(A) the penalty provided for in section 119 (1) of the Code, up to and including the amount referred to in that provision, or

(B) that penalty plus the additional penalty provided for in section 119 (3) of the Code, up to and including the amount referred to in that provision,

(d) the references in section 90 of this Act to sections 26 (2), 51 (7), 54 (2), 57 (4), 66 (1) and 74 (1) must be read as references to sections 106 (1), 101 (2), 99 (2), 102 (3), 123 and 118, respectively, of the Code,

(e) the reference in section 93 of this Act to section 46 (1) must be read as a reference to section 45 (1), (3) or (4), as applicable, of the Code,

(f) the references in section 93 of this Act to sections 50 (1), 54 (1), 55 and 57 (1) must be read as references to sections 98, 99 (1), 103 and 102 (1), respectively, of the Code,

(g) the references in section 94 of this Act to sections 52 and 53 must be read as references to sections 96 and 97, respectively, of the Code,

(h) the reference in section 95 of this Act to section 50 must be read as a reference to section 100 of the Code, and

(i) the reference in section 96 of this Act to section 57 must be read as a reference to section 102 of the Code.

Repealed

178 [Repealed 2002-69-178 (3).]

Immediate application

179 (1) Unless otherwise provided in this Part, this Act, the regulations and the standards apply to

(a) the government, and

(b) a holder of an agreement under the Forest Act or the Range Act or of a special use permit, whether or not the agreement or permit was entered into or issued before on or after the effective date.

(2) Subsection (1) applies despite any wording in the agreement or permit to the contrary.

(3) If an administrative review has commenced before the effective date, sections 129 and 130 of the Code continue to apply to that review, despite the repeal of those sections.

Division 2 — Grandparenting Designations, Objectives and Measures

Grandparenting specified designations

180 Every area established or continued under the Code as

(a) an ungulate winter range,

(b) a wildlife habitat area,

(c) a scenic area,

(d) an emergency bark beetle management area,

(e) a community watershed,

(f) an area with significant downstream fisheries values,

(g) an area with significant watershed sensitivity,

(h) a lakeshore management zone,

(i) an interpretive forest site,

(j) a recreation site,

(k) a recreation trail, or

(l) a forest ecosystem network

that was in effect immediately before the effective date is continued under this Act.

Grandparenting objectives

181 All objectives in respect of areas continued under section 180 that were in effect immediately before the effective date are continued as objectives under this Act.

General wildlife measures

182 All general wildlife measures that were

(a) established under the Code and the Code regulations, and

(b) in effect immediately before the effective date

are continued as general wildlife measures under this Act.

### Division 3 — Grandparenting Permits

#### Cutting permits

183 Every cutting permit, issued under an agreement under the Forest Act, that is in effect immediately before the effective date

- (a) is deemed to be a cutting permit under this Act, and
- (b) subject to the Forest Act, remains in effect for the term specified in the permit.

#### Road permits

184 Every road permit, issued under the Forest Act, that is in effect immediately before the effective date is deemed to be a road permit under this Act.

#### Road use permits

185 (1) Subject to subsection (2), every road use permit, issued under an agreement under the Forest Act, that is in effect immediately before the effective date is deemed to be a road use permit under this Act.

(2) On and after the effective date, every road use permit referred to in section 54 (2) (e) of the Code is no longer valid.

### Division 4 — Transition for Forest Operational Plans and Practices

#### Application

186 This Division does not apply to or in respect of the holder of a woodlot licence or of a licence to cut.

#### Grandparenting forest development plans

187 (1) A forest development plan that was approved or given effect under the Code and that was in effect immediately before the effective date remains in effect until whichever happens first,

- (a) the agreement for which the plan was prepared expires and is not replaced or is cancelled, surrendered or otherwise terminated,
  - (b) the plan is replaced with a forest stewardship plan prepared in accordance with this Act,
  - (c) subject to paragraph (d) and to subsection (3), December 31, 2006, or
  - (d) if the plan is for a community forest agreement, the end of the term specified in the approval of the plan.
- (1.1) Despite subsection (1) (a), a forest development plan that
- (a) was approved or given effect under the Code and that was in effect immediately before the effective date, and
  - (b) immediately before the effective date pertained to a pre-existing licence referred to in section 24.2 of the Forest Act
- remains in effect for the forest licence, if any, that replaces the pre-existing licence until whichever of the following happens first:
- (c) the forest licence expires and is not replaced or is cancelled, surrendered or otherwise terminated;
  - (d) the plan is replaced with a forest stewardship plan prepared in accordance with this Act;
  - (e) subject to subsection (3), December 31, 2006.

(2) The holder of a forest development plan must prepare any amendments to the plan or replacement of the plan required under the Code.

(3) The Lieutenant Governor in Council by regulation may substitute a date that is no later than December 31, 2007 for the date referred to in subsection (1) (c) or (1.1) (e). [Note: B.C. Reg. 361/2006 substituted March 31, 2007 for the dates referred to in subsections (1) (c) and (1.1) (e).]

#### Preparing a forest development plan during the transition period

188 (1) Despite section 3, but subject to subsection (6) (a), on or before December 31, 2005 a timber sales manager or a holder of an agreement under the Forest Act may prepare and submit for the district manager's approval a forest development plan under this section.

(2) The Code and the Code regulations apply to forest development plans prepared under subsection (1).

(3) For the purposes of sections 21 and 22 of the Operational and Site Planning Regulation,

- (a) a forest development plan referred to in subsection (1) is deemed to be a "subsequently proposed forest development plan", and



(b) the cutblocks and roads referred to in those sections continue to have the same protection afforded to them in respect of the circumstances in which the district manager may or may not refuse to approve a subsequently proposed forest development plan.

(4) A forest development plan referred to in subsection (1) remains in effect until whichever happens first,  
(a) the agreement for which the plan was prepared expires and is not replaced or is cancelled, surrendered or otherwise terminated,  
(b) the plan is replaced with a forest stewardship plan prepared in accordance with this Act,  
(c) subject to paragraph (d) and to subsection (6) (b), December 31, 2006, or  
(d) if the plan is for a community forest agreement, the end of the term specified in the approval of the plan.  
(5) The holder of a forest development plan referred to in subsection (1) must prepare any amendments to the plan or replacement of the plan required under the Code.

(6) The Lieutenant Governor in Council by regulation

(a) may substitute a date that is no later than December 31, 2006 for the date referred to in subsection (1), and

(b) may substitute a date that is no later than December 31, 2007 for the date referred to in subsection (4) (c).

[Note: B.C. Reg. 361/2006 substituted March 31, 2007 for the date referred to in subsection (4) (c).]

Site level planning for cutblocks before the approval of a forest stewardship plan

189 (1) A site level plan for a cutblock that was in effect immediately before the effective date remains in effect.

(2) The Code and the Code regulations apply to a site level plan referred to in subsection (1).

(3) The

(a) timber sales manager, or

(b) holder of an agreement under the Forest Act

who has a forest development plan referred to in section 187 or 188, and who has not prepared a site plan under the Code before the effective date, must prepare the site plan in accordance with the Code and the Code regulations.

(4) Subsection (3) does not require a site plan if one is not required under the Code.

Site plans for roads before the approval of a forest stewardship plan

190 (1) A road layout and design that was in effect immediately before the effective date remains in effect.

(2) The Code and the Code regulations apply to a road layout and design referred to in subsection (1).

(3) The

(a) timber sales manager, or

(b) the holder of an agreement under the Forest Act

who has a forest development plan referred to in section 187 or 188, and who has not prepared a road layout and design under the Code and the Code regulations before the effective date, must prepare a road layout and design in accordance with the Code and the Code regulations and, if required, obtain approval of the road layout and design.

(4) Subsection (3) does not require a road layout and design if one is not required under the Code or the Code regulations.

Operations in cutblocks begun under the Code

191 (1) If the holder of an agreement under the Forest Act, before the effective date, has begun harvesting on an area in a cutblock, the holder must comply with the requirements of the Code and the Code regulations that pertain to the holder for the area.

(2) If a timber sales manager, before the effective date,

(a) has authorized harvesting in a cutblock, and

(b) harvesting has begun on the area

the timber sales manager must comply with the requirements of the Code and the Code regulations that pertain to the government for the area.

(3) The government must comply with the requirements of the Code and the Code regulations that pertain to areas for which the government

(a) is required to establish a free growing stand under section 70 (2) of the Code, and

(b) has assumed the responsibility for carrying out a prescription or site plan under section 71 (3) of the Code.

Operations in cutblocks begun after the effective date and before the approval of a forest stewardship plan  
192 (1) If the holder of an agreement under the Forest Act, on or after the effective date, begins harvesting on an area that

(a) is in a cutblock, and

(b) is subject to a forest development plan referred to in section 187 or 188, the holder must comply with the requirements of the Code and the Code regulations that pertain to the holder for the area.

(2) If the timber sales manager, on or after the effective date, authorizes harvesting on an area that

(a) is in a cutblock, and

(b) is subject to a forest development plan referred to in section 187 or 188, the timber sales manager must comply with the requirements of the Code and the Code regulations that pertain to the government for the area.

Road operations begun under the Code

193 (1) If the holder of an agreement under the Forest Act, before the effective date, begins construction, maintenance or deactivation of a road, the holder must comply with the requirements of the Code and the Code regulations that pertain to the holder for the road.

(2) If the timber sales manager, before the effective date,

(a) has authorized construction, maintenance or deactivation of a road, and

(b) the construction, maintenance or deactivation, as the case may be, has begun, the timber sales manager must comply with the requirements of the Code and the Code regulations that pertain to the government for the road.

Road operations begun on or after the effective date and before the approval of a forest stewardship plan

194 (1) If, on or after the effective date, the holder of an agreement under the Forest Act begins road construction, maintenance or deactivation on an area that is subject to a forest development plan or site plan, the holder must comply with the requirements of the Code and the Code regulations that pertain to the holder for the road construction, maintenance or deactivation.

(2) If, on or after the effective date, the timber sales manager authorizes road construction, maintenance or deactivation on an area that is subject to a forest development plan or site plan, the timber sales manager must comply with the requirements of the Code and the Code regulations that pertain to the timber sales manager for the road construction, maintenance or deactivation.

Applying for cutting permits and road permits before a forest stewardship plan is approved

195 (1) Despite section 3, if a person is

(a) the holder of

(i) a major licence,

(ii) a timber sale licence that requires the holder of the licence to prepare a forest stewardship plan, or

(iii) a community forest agreement, and

(b) the holder of a forest development plan that is in effect,

the person may obtain a cutting permit, road permit or licence to cut in accordance with the Forest Act, the Code and the Code regulations.

(2) Despite section 3, a timber sales manager who is the holder of a forest development plan that is in effect, in accordance with the Forest Act, the Code and the Code regulations, may

(a) invite applications for, or enter into, a timber sale licence to which subsection (1) does not apply, and

(b) issue a road permit.

Protection of cutblocks and roads from a forest development plan into a forest stewardship plan

196 (1) Except in prescribed circumstances, a proposed forest stewardship plan must be considered to have received the minister's approval under section 16 (1) for the parts, if any, of the forest stewardship plan that pertain to an area in a forest development unit that is

(a) a cutblock, if the cutblock has been included in a forest development plan, with the assessments required in sections 16, 17, 36.1 and 37 of the Operational and Site Planning Regulation shown as completed, and

(b) a road, if the road has been included in a forest development plan, with the assessments required in section 5 of the Forest Road Regulation shown as completed.

(2) A proposed forest stewardship plan must be considered to have received the minister's approval under section 16 (1) for the parts, if any, of the plan that pertain to a cutblock or road that has been included as part of a forest development plan that is in effect on the date of the submission of the forest stewardship plan to the minister, unless

(a) one or more of the following events have occurred during the period specified in subsection (3):

(i) an enactment applicable to the forest development unit has been made or amended;

(ii) an objective set by government has been established or varied;

(iii) an area of land has been designated by regulation as a community watershed;

(iv) an area of land that was a community watershed has been varied by regulation and the watershed as varied is applicable to the forest development unit;

(v) timber in the vicinity of the forest development unit has suffered catastrophic damage, and

(b) the minister considers that the forest development unit is inconsistent with the events described in paragraph (a) that have occurred.

(3) The specified period under subsection (2) (a) begins 4 months before the date the existing forest development plan was submitted for approval and ends 4 months before the date the proposed forest stewardship plan was submitted for approval.

Effect of approval of a forest stewardship plan

197 (1) A forest stewardship plan approved under section 16 replaces any forest development plan that, on the date the forest stewardship plan was approved, was in effect for the part of the area under the forest development plan that is in the area under the forest stewardship plan.

(2) Any site level information in a forest development plan at the time of its replacement under subsection (1) by a forest stewardship plan continues to be applicable for cutblocks in the forest stewardship plan area that have been harvested or are subject to a cutting permit.

(3) The replacement under subsection (1) of a forest development plan by a forest stewardship plan does not affect a site plan prepared before the replacement.

(4) Unless otherwise specified in a forest stewardship plan, the approval of the plan does not affect the requirements that must be met for any area in which timber harvesting or road construction has begun before the approval of the plan.

(5) If, before the replacement under subsection (1) of a part of a forest development plan,

(a) the holder

(i) begins harvesting of a cutblock, and

(ii) is required to establish a free growing stand on an area harvested, and

(b) the stocking standards specified in the plan apply to the net area to be reforested,

unless otherwise specified in a forest stewardship plan, the stocking standards in the plan remain in effect until the free growing stand is established.

(6) Subject to subsection (7), a person who begins timber harvesting or road construction on an area after the approval of a forest stewardship plan must comply with the requirements of this Act, the regulations, the standards and the forest stewardship plan that pertain to the person for the area.

(7) Unless otherwise specified in a forest stewardship plan, the Code and the Code regulations continue to apply to an area that is

(a) in a cutblock and subject to a cutting permit or licence to cut in effect on the date the forest stewardship plan was approved,

(a.1) described in a timber sale licence in effect on the date the forest stewardship plan was approved, or

(b) in a road right of way and subject to a road permit in effect on the date the forest stewardship plan was approved.

(8) The holder of a forest stewardship plan may amend the site level information referred to in subsection (2) in accordance with the Code and the Code regulations.

Division 5 — Transition for Woodlot Licences

Performance standard for existing obligations

198 If a holder of a woodlot licence has carried out a forest practice in the woodlot licence area before the effective date and the requirements of the Code and the Code regulations that pertain to that area have not been completed before the effective date, the holder must comply with those requirements.

#### Grandparenting forest development plans

199 (1) A forest development plan that is held by the holder of a woodlot licence, was approved under the Code and was in effect immediately before the effective date is deemed to be a forest development plan under this Act and remains in effect until whichever happens first,

- (a) the agreement for which the plan was prepared expires and is not replaced or is cancelled, surrendered or otherwise terminated,
- (b) the plan is replaced with a woodlot licence plan prepared in accordance with this Act, or
- (c) subject to subsection (2), the later of
  - (i) December 31, 2006, and
  - (ii) the end of the term specified in the approval of the plan.

(2) The Lieutenant Governor in Council by regulation may substitute a date that is no later than December 31, 2007 for the date referred to in subsection (1) (c) (i). [Note: B.C. Reg. 361/2006 substituted December 31, 2007 for the date referred to in subsection (1) (c) (i).]

#### Preparing a forest development plan during the transition period

200 (1) Despite section 12, but subject to subsection (4), on or before December 31, 2005, a holder of a woodlot licence may prepare and submit for the district manager's approval a forest development plan under this section.

(2) Each of the following apply to forest development plans prepared under subsection (1):

- (a) Part 3 of the Code;
  - (b) the Code regulations respecting woodlot licences.
- (3) A forest development plan referred to in subsection (1) remains in effect until whichever happens first,
- (a) the agreement for which the plan was prepared expires and is not replaced or is cancelled, surrendered or otherwise terminated,
  - (b) the plan is replaced with a woodlot licence plan prepared in accordance with this Act, or
  - (c) subject to subsection (4), the later of
    - (i) December 31, 2006, and
    - (ii) the end of the term specified in the approval of the plan.

(4) The Lieutenant Governor in Council by regulation

- (a) may substitute a date that is no later than December 31, 2006 for the date referred to in subsection (1), and
- (b) may substitute a date that is no later than December 31, 2007 for the date referred to in subsection (3) (c) (i). [Note: B.C. Reg. 361/2006 substituted December 31, 2007 for the date referred to in subsection (3) (c) (i).]

#### Areas under a forest development plan

201 (1) A holder of a woodlot licence who has a forest development plan referred to in section 199 or 200 must prepare, in accordance with the Code and the Code regulations, any

- (a) amendments to the plan or replacement of the plan, and
  - (b) site plans
- that are required under the Code.

(2) A holder of a woodlot licence who carries out a forest practice on an area under a forest development plan or site plan referred to in subsection (1) must comply with the requirements of the Code and the Code regulations that pertain to the holder for the area.

(3) Despite section 12, before a holder of a woodlot licence obtains approval of a woodlot licence plan, the holder may apply for a cutting permit, road permit or road use permit in accordance with the Code and the Code regulations.

#### Effect of approval of a woodlot licence plan

202 (1) A woodlot licence plan approved under section 16 replaces any forest development plan that, on the date the woodlot licence plan was approved, was in effect for the woodlot licence area.

(2) Any site plan information in a forest development plan at the time of its replacement under subsection (1) by a woodlot licence plan continues to be applicable for cutblocks in the woodlot licence area that have been harvested or are subject to a cutting permit.

- (3) The replacement under subsection (1) of a forest development plan by a woodlot licence plan does not affect a site plan prepared before the replacement.
- (4) If a performance requirement under this Act conflicts or is inconsistent with a performance requirement in a site plan referred to in subsection (3), the performance requirement in the site plan prevails.
- (5) The holder of a woodlot licence plan may amend the site plan information referred to in subsection (2) in accordance with the Code and the Code regulations.

#### Division 6 — Transition for Licences to Cut

##### Licences to cut: general

203 (1) Subject to section 204 of this Act and to section 99 (2) of the Oil and Gas Activities Act, the holder of a licence to cut who harvests timber under a licence to cut entered into before the effective date must comply with the requirements of the Code and the Code regulations that pertain to the licence.

(2) Subject to section 204 of this Act and to section 99 (2) of the Oil and Gas Activities Act, a holder of a licence to cut entered into on or after the effective date who harvests timber under the licence must comply with the requirements of this Act, the regulations and the standards that pertain to the licence.

(3) This section does not apply to a holder of a licence to cut that is granted under a pulpwood agreement.

##### Licences to cut that provide for cutting permits

204 (1) Subject to section 99 (2) of the Oil and Gas Activities Act, a holder of a licence to cut who harvests timber on an area under a cutting permit issued under the licence that is in effect on the effective date must comply with the requirements of the Code and the Code regulations that pertain to the area.

(2) Subject to section 99 (2) of the Oil and Gas Activities Act, a holder of a licence to cut who harvests timber on an area under a cutting permit issued under the licence after the effective date must comply with the requirements of this Act, the regulations and the standards that pertain to the area.

(3) [Repealed by 2012-27-23.]

#### Division 7 — Range Transition

##### Grandparenting range use plans

205 (1) A range use plan prepared or approved under the Code that is in effect immediately before the effective date is deemed to be a range use plan under this Act and remains in effect until whichever happens first,

- (a) the agreement for which the plan was prepared expires and is not replaced or is cancelled, surrendered or otherwise terminated,
- (b) the plan is replaced with a range use plan or a range stewardship plan prepared in accordance with this Act, or
- (c) subject to subsection (3), December 31, 2006.
- (d) [Repealed 2005-2-8.]

(2) If the circumstances in subsection (1) (a) to (c) have not occurred, the person who prepared a range use plan referred to in subsection (1), whether the district manager or the holder, remains responsible for preparing

- (a) any amendments to the plan, or
  - (b) any replacement of the plan
- required under the Code and the Code regulations.

(3) The Lieutenant Governor in Council by regulation may substitute a date that is no later than December 31, 2007 for the date referred to in subsection (1) (c). [Note: B.C. Reg. 361/2006 substituted December 31, 2007 for the date referred to in subsection (1) (c).]

##### Requirements for areas under a grandparented range use plan

206 (1) Despite section 32, a holder of an agreement under the Range Act who has a range use plan referred to in section 205 may graze livestock, cut hay or carry out any other range practice on Crown range to which the agreement applies if, on the effective date, that grazing, hay cutting or other range practice was authorized.

(2) If a holder of an agreement under the Range Act referred to in subsection (1) carries out grazing, hay cutting or any other range practices on an area, the holder must do so only in accordance with the requirements of the Code and the Code regulations that pertain to the area.

Effect of approval of a range use plan or range stewardship plan under section 37

207 (1) Any

(a) range use plan, or

(b) range stewardship plan

approved under section 37 replaces any range use plan referred to in section 205 in effect on the date of the approval for the part of the area under that plan that is in the area under the plan referred to in paragraph (a) or (b).

(2) As soon as practicable after the approval under subsection (1) of a range use plan or range stewardship plan, the holder of the plan must graze any livestock on the area under the plan in accordance with section 45.

Division 8 — Pilot Project Transition

Definitions

208 In this Division:

"participant" means a person who has given his or her consent to take part in a pilot project;

"pilot project regulation" means a Code regulation made under section 221.1 of the Code;

"proposed pilot project" means a pilot project initiated under Part 10.1 of the Code if, immediately before the effective date,

(a) the pilot project had been made subject to review and comment under that Part, and

(b) there was not a pilot project regulation associated with the pilot project.

Pilot projects regulations continued

209 (1) A pilot project regulation remains in effect despite the repeal of Part 10.1 of the Code.

(2) Subject to this Division, the Code and the Code regulations apply to participants who are subject to a pilot project regulation.

Proposed pilot projects

210 (1) Subject to subsection (2), a regulation may be made for a proposed pilot project as if section 221.1 of the Code were still in force.

(2) A regulation may not be made under subsection (1) if any of the participants in the proposed pilot project notifies the minister in writing that the participant no longer consents to the proposed pilot project.

Pilot project regulation may be transferred from Code

211 (1) A pilot project regulation under the Code is deemed to be a pilot project regulation made under this Act.

(2) If a pilot project

(a) has been proposed under section 221.1 of the Code, and

(b) the proposal is still proceeding at the time of the coming into force of this subsection, anything done on or before the effective date in furtherance of the proposal is deemed to have been done under this Act and the proposal may be continued under and in conformity with this Act.

(3) The Lieutenant Governor in Council may make regulations respecting varying the requirements or the application of this Act or of the regulations, as he or she considers necessary or desirable in order to adapt them for the purposes of

(a) a pilot project regulation referred to in subsection (1), or

(b) a pilot project that has been proposed, and is proceeding, as described in subsection (2).

Division 9 — Transfer of Code Obligations

Application

212 This Division applies despite anything in Divisions 1 to 8.

Obligations transferred from the Code

213 (1) In this section:

"outstanding requirement" means a requirement under the Code that, on the specified date,

- (a) is in effect and has not been fulfilled,
  - (b) is an obligation, described in section 162.1 of the Code, of the holder of an agreement under the Forest Act, that is continuing, because it is not among the obligations that, in accordance with that section, the holder was conclusively deemed to have met, or
  - (c) is an obligation that is a "prescribed obligation" referred to in section 162.2 of the Code and is continuing, because the person who has the obligation has not been granted the relief described in that section;
- "specified date" means the date, not earlier than January 1, 2008, that is specified for the purposes of this definition by a regulation made under this section.

(2) The Lieutenant Governor in Council may make regulations respecting outstanding requirements, including but not limited to

- (a) specifying outstanding requirements that continue on and after the specified date to apply to the persons to whom those requirements applied immediately before that date, and
- (b) varying those requirements or the application of those requirements as he or she considers necessary or desirable to adapt those requirements for the purposes of this Act.

(3) The outstanding requirements to which a regulation under this section pertains are conclusively deemed to continue as requirements under this Act and to be administered and enforced as such.

(4) Subject to the regulations made under this section or under section 178, a reference in a provision of the Forest Practices Code of British Columbia Act to a repealed provision of that Act is deemed to be a reference to that repealed provision as it was before its repeal.

Division 10 — Forest Practices Board Transition

Mandate of board re: transition

214 (1) In accordance with the regulations, the board must carry out periodic independent audits and may carry out special investigations to determine

(a) compliance with the requirements of this Part and the regulations and standards in relation to this Part, and

(b) the appropriateness of government enforcement pertaining to this Part.

(1.1) In accordance with the regulations, the board must deal with complaints from the public respecting prescribed matters that relate to a person's compliance with Parts 3 to 5 of the Code and with the Code regulations in relation to those Parts.

(2) Part 8 applies to an audit or investigation under subsection (1) and a complaint investigation under subsection (1.1) of a person's compliance with the Code and the Code regulations.

(3) In accordance with the regulations, the board may request the minister to review the approval of, or the giving effect to, a forest development plan or range use plan or an amendment to either if

(a) the approval was made, or the plan or amendment was given effect, after the effective date as defined in section 177, and

(b) the request for review was made not later than 45 days after

(i) the notice of the approval was given to the holder of the approved plan, or

(ii) the date on which the plan or amendment was given effect.

Mandate of board re: protection

215 (1) In accordance with the regulations, the board must carry out periodic independent audits and may carry out special investigations to determine

(a) compliance with Part 5 of the Code and with the Code regulations in relation to that Part, and

(b) the appropriateness of government enforcement pertaining to that Part.

(1.1) In accordance with the regulations, the board must deal with complaints from the public respecting prescribed matters that relate to a person's compliance with Part 5 of the Code and with the Code regulations in relation to those Parts.

(2) Part 8 of this Act applies to an audit or investigation under subsection (1) and a complaint investigation under subsection (1.1), of a person's compliance with Part 5 of the Code and with the Code regulations in relation to that Part.

Division 11 — Nisga'a Final Agreement Transition

Nisga'a Final Agreement

216 (1) [Repealed 2014-32-30.]

(2) The Forest Practices Code of British Columbia Act and the regulations and standards under that Act as they were on December 16, 2002 apply to the Nisga'a Final Agreement.

Commencement

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

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