

RANGE ACT

[RSBC 1996] CHAPTER 396

Definitions and interpretation

1 (1) In this Act:

"animal unit month" means the amount of forage required for one month by an average animal of the genus bos, aged 6 months or older;

"chief forester" means the chief forester appointed under the *Ministry of Forests Act*;

"Crown land" has the same meaning as in the *Land Act*, but does not include land owned by agents of the government;

"Crown range" means Crown land included within the boundaries of a range district, but does not include Crown land that is subject to a lease issued under the *Land Act*;

"damages" includes general, special, exemplary, punitive and aggravated damages;

"district manager" means a district manager appointed for part of a range district under the *Ministry of Forests Act*;

"Forest Appeals Commission" means the Forest Appeals Commission continued under the *Forest Practices Code of British Columbia Act*;

"forest officer" means a forest officer as defined in the *Forest Act*;

"grazing lease" means a lease of Crown land issued for grazing purposes under the *Land Act*;

"grazing season" means a period during which livestock may graze on Crown land under a grazing licence, grazing permit or temporary grazing permit;

"livestock" means animals of the genus bos, horses, mules, asses, sheep, goats and any prescribed animal, but does not include wildlife designated under the *Wildlife Act*, exotic game animals, buffalo, swine or poultry;

"proceeding" includes a proceeding before a tribunal or court and, without limitation, includes a proceeding for nuisance, trespass, injurious affection and breach of a licence or permit granted under this Act or purportedly granted under this Act and a proceeding before the Expropriation Compensation Board established under the *Expropriation Act*;

"range district" means a range district established under this Act;

"regional manager" means a regional manager appointed for a range district under the *Ministry of Forests Act*;

"tribunal" has the same meaning as in the *Judicial Review Procedure Act*.

(2) In sections 3, 7 (3) (a) and (b), 9.1 (4) (a) to (c) and (5), 10 to 14.3, 17, 18, 30, 30.1 (2) and 30.2, a reference to a permit does not include a reference to a temporary grazing permit or a temporary hay cutting permit.

(3) Despite the *Expropriation Act*, that Act does not apply in respect of a taking, deletion or reduction, by or under this Act, of any right or interest held by a person under or by virtue of this Act or the regulations made under this Act.

(4) The reference in subsection (3) to a taking, deletion or reduction includes a taking, deletion or reduction before that subsection came into force whether or not the taking, deletion or reduction is, or has been, the subject of proceedings under the *Expropriation Act*.

Recognition of rights to Crown forage under other Acts

2 Other than rights to Crown range under the *Forest and Range Practices Act* and *Land Act*, rights to use or improve

Crown range for grazing or cutting hay must not be granted by or on behalf of the government, except in accordance with this Act and the regulations made under this Act.

District manager to grant licences and permits

3 Subject to this Act, the regulations and a licence or permit, a district manager, on behalf of the government, may enter into agreements granting rights over Crown range in the form of grazing licences, grazing permits, temporary grazing permits, hay cutting licences, hay cutting permits and temporary hay cutting permits.

Administration of grazing lease

4 The district manager may enforce, administer or manage for and on behalf of the government the terms of a grazing lease.

Grazing licence: content

5 A grazing licence

- (a) must
 - (i) describe an area of Crown land over which it is to apply,
 - (ii) be for a term of 10 years,
 - (iii) specify a number of animal unit months that the holder is eligible for each year, and
 - (iv) provide that the district manager may increase the specified number of animal unit months in return for Crown range management services performed on the area by the holder, and
- (b) may, in the discretion of the district manager,
 - (i) be made appurtenant to such of the applicant's fee simple or leasehold interests in land as the district manager requires, and
 - (ii) include other terms and conditions consistent with this Act and the regulations and the *Forest and Range Practices Act* and the regulations and standards made under that Act.

Grazing permit or temporary grazing permit: content

6 A grazing permit or temporary grazing permit

- (a) must
 - (i) describe an area of Crown range over which it is to apply,
 - (ii) subject to section 7 (3), be for a term of not longer than 5 years, and
 - (iii) specify a number of animal unit months that the holder is eligible for each year, and
- (b) may, in the discretion of the district manager,
 - (i) be made appurtenant to such of the applicant's fee simple or leasehold interests in land as the district manager requires, and
 - (ii) include other terms and conditions consistent with this Act and the regulations and the *Forest and Range Practices Act* and the regulations and standards made under that Act.

Temporary grazing permits

7 (1) In this section, "**tenure holder**" means a party to an agreement with the government, referred to in section 3, or, if another person has the right to exercise the party's rights under the agreement, that other person.

(2) An application for a temporary grazing permit must be made to the district manager in accordance with the regulations.

(3) The district manager may, without advertising, issue a temporary grazing permit for a term of not longer than one year

(a) increasing, within the area of a tenure holder's existing permit or licence, the number of animal unit months to which the tenure holder is entitled under the existing licence or permit if the district manager believes a temporary increase in forage will result or has resulted from favourable growing conditions of a temporary nature,

(b) authorizing its holder to use forage covered by the grazing licence or grazing permit of another tenure holder, whether the other tenure holder's licence or permit was issued before or after the coming into force of this section, if the other tenure holder is temporarily unable to use the number of animal unit months authorized under the licence or permit, or

(c) authorizing a person to use forage on Crown range that is in excess of the amount authorized in, or not subject to, a licence or permit entered into under this Act.

(4) [Repealed 1999-18-4.]

Hay cutting licence: content

8 A hay cutting licence

(a) must

(i) describe an area of Crown range over which it is to apply,

(ii) be for a term of 10 years,

(iii) grant to the holder the right to harvest a maximum quantity of hay from the area of Crown range over which it is to apply,

(iv) provide that the district manager may increase the quantity of hay in return for Crown range management services performed on the area by the holder, and

(v) provide that, without the district manager's consent, hay harvested under the licence must not be sold, and

(b) may, in the discretion of the district manager,

(i) be made appurtenant to such of the applicant's fee simple or leasehold interests in land as the district manager requires, and

(ii) include other terms and conditions consistent with this Act and the regulations and the *Forest and Range Practices Act* and the regulations and standards made under that Act.

Hay cutting permit or temporary hay cutting permit: content

9 A hay cutting permit or temporary hay cutting permit

(a) must

(i) designate the area of Crown range over which it is to apply,

(ii) subject to section 9.1 (3), be for a term of one year,

(iii) grant to the holder the exclusive right to harvest a maximum quantity of hay from the area of Crown

range over which it is to apply, and

(iv) provide that, without the district manager's consent, hay harvested under the permit must not be sold, and

(b) may, in the discretion of the district manager,

(i) be made appurtenant to such of the applicant's fee simple or leasehold interests in land as the district manager requires, and

(ii) include other terms and conditions consistent with this Act and the regulations and the *Forest and Range Practices Act* and the regulations and standards made under that Act.

Temporary hay cutting permits

9.1 (1) In this section, "**tenure holder**" means a party to an agreement with the government, referred to in section 3, or, if another person has the right to exercise the party's rights under the agreement, that other person.

(2) An application for a temporary hay cutting permit must be made to the district manager in accordance with the regulations.

(3) The district manager may, without advertising, issue a temporary hay cutting permit for a term of not longer than one year.

(4) The permit referred to in subsection (3) may do one or more of the following:

(a) increase, within the area of a tenure holder's existing hay cutting permit or hay cutting licence, the quantity of hay to which the tenure holder is entitled under the existing licence or permit if the district manager believes a temporary increase in that quantity will result in, or has resulted from, favourable growing conditions of a temporary nature;

(b) authorize the holder of the temporary hay cutting permit to harvest hay covered by the hay cutting licence or hay cutting permit of another tenure holder, whether or not the other tenure holder's licence or permit was issued before or after the coming into force of this section, if the other tenure holder is temporarily unable to use the quantity of hay authorized under the licence or permit;

(c) subject to subsection (5), authorize the holder of a grazing licence or grazing permit to harvest hay on all or part of the Crown range described in the licence or permit if the district manager is satisfied that the issuance of the temporary hay cutting permit will not affect the adequate management and conservation of the Crown range to which the licence or permit applies;

(d) authorize a person to harvest hay on Crown range that is in excess of the amount authorized in, or not subject to, a licence or permit entered into under this Act.

(5) If a temporary hay cutting permit is issued to the holder of a grazing licence or permit for the purpose described in subsection (4) (c), the animal unit months that the holder is eligible for under the grazing licence or permit, in the year that the temporary hay cutting permit is issued, must be reduced by an amount that the district manager considers is attributable to the hay harvested under the temporary hay cutting permit.

Use by government employees and agents

9.2 (1) The district manager may authorize in writing,

(a) employees acting in the course of their duties, and

(b) agents of the government acting in accordance with the terms of the agency

to use or improve Crown range for purposes related to improving the condition of the Crown range for grazing, cutting hay or range conservation or management.

(2) An authorization under subsection (1)

- (a) is an agreement under the *Range Act* for the purposes of
 - (i) the definition of “range practice” in the *Forest and Range Practices Act*, and
 - (ii) section 50 of the *Forest and Range Practices Act*, and
- (b) must include terms and conditions that the district manager considers appropriate and that are consistent with this Act and the regulations, and the *Forest and Range Practices Act* and the regulations and standards under that Act.

Applications

10 (1) Applications for licences and permits referred to in subsections (2) and (3) must be made to the district manager in the prescribed manner and form.

(2) On request, or on his or her own initiative, the district manager may, by advertising in the prescribed manner, invite applications for a licence or permit under this Act respecting forage on Crown land that is not subject to, or is in excess of the amount authorized in,

- (a) a licence or permit entered into under this Act, or
- (b) a grazing lease.

(3) If the district manager receives an application for

- (a) a licence under section 16, or
- (b) a licence or permit to replace
 - (i) a grazing or hay cutting permit, or
 - (ii) a grazing lease

the district manager may, if he or she considers it appropriate to do so, publish a notice of the application in the prescribed manner, unless the district manager determines that the rights applied for will not be available for disposition by the government under this Act.

(4) A licence or permit referred to in subsection (2) must not be entered into under this Act unless the district manager advertises as provided in the regulations.

One or more applications

11 (1) If only one application for a licence or permit is made, the district manager may enter into an agreement in the form of a licence or permit with the applicant.

(2) If more than one application is made, the district manager must make to all applicants one or more proposals respecting the disposition of all applications.

Proposals

12 Before making a proposal respecting applications for grazing licences or grazing permits, the district manager must consider the following:

- (a) the relationship between
 - (i) the extent of the grazing rights requested in the application, and
 - (ii) the capability of the land owned or held under lease by each applicant in the vicinity of the Crown range applied for to sustain the applicant's livestock during that part of each year that would not be included in the grazing season requested in the application;

- (b) rights then held by each applicant over all or part of the Crown range applied for under a licence, permit or grazing lease;
- (c) the applicant's performance of the applicant's obligations under this Act and under licences and permits;
- (d) the number of livestock owned by the applicant;
- (e) objections made by any person to any of the applications.

No objections to proposal

13 Unless the district manager receives from an applicant a written notice objecting to the proposal within 30 days after the proposal is made to the applicant, the district manager may enter into the licences or permits, or both, specified in the proposal.

Objection to proposal

14 (1) If an applicant, within 30 days after a proposal is made to the applicant, serves written notice to the district manager objecting to a proposal, the district manager must notify the minister, who may

- (a) after giving all applicants and the district manager the opportunity to make representations, orally or in writing, direct the district manager to enter into licences or permits, or both, with such of the applicants and on the terms and conditions consistent with this Act as the minister, in his or her discretion, determines, or
- (b) offer the licences or permits he or she considers appropriate for public competition according to the prescribed procedures.

(2) Before making a decision under this section, the minister may refer the applications and the proposal to the Forest Appeals Commission for its recommendation.

Direct award — no advertising required

14.1 (1) Despite section 10, the district manager may, without advertising or accepting applications from other persons, enter into a grazing or hay cutting licence or permit if any of the following circumstances apply:

- (a) the number of animal unit months specified in the grazing licence or permit is 100 or less;
- (b) the quantity of hay specified in the hay cutting licence or permit is 10 tonnes or less;
- (c) the grazing or hay cutting licence or permit
 - (i) is entered into with the holder of a permit, lease or licence to occupy Crown land granted under the *Land Act*,
 - (ii) was advertised in conjunction the *Land Act* permit, lease or licence, and
 - (iii) is needed to carry out the operations authorized under, or related to, the *Land Act* permit, lease or licence.

(2) An application for a grazing or hay cutting licence or permit under this section must be in the form specified by the district manager.

Direct award — advertising required

14.2 (1) Despite section 10, the district manager may, without accepting applications from other persons, enter into a grazing or hay cutting licence or permit if any of the following circumstances apply:

- (a) the grazing or hay cutting licence or permit is entered into with the holder of an existing licence or permit in exchange for all or part of the Crown range described in the existing licence or permit, provided that the number

of animal unit months or quantity of hay specified in the licence or permit issued under this paragraph is equal to or less than the number of animal unit months or quantity of hay that the district manager considers is attributable to the Crown range being exchanged;

(b) the grazing or hay cutting licence or permit is entered into with the holder of a permit, lease or licence to occupy Crown land granted under the *Land Act*, and the grazing or hay cutting licence or permit is needed to carry out the operations authorized under, or related to, the *Land Act* permit, lease or licence;

(c) other prescribed circumstances.

(2) The district manager must not enter into a grazing or hay cutting licence or permit under subsection (1) unless he or she advertises in the prescribed manner.

(3) An application for a grazing or hay cutting licence or permit under this section must be in the form specified by the district manager.

Award subject to conditions

14.3 (1) The district manager may, in the following circumstances, impose conditions that a person entering into a licence or permit under this Act must comply with, either as a condition of entering into the licence or permit or as a condition of the licence or permit:

(a) the licence or permit is entered into under section 13 and the conditions are specified in the proposal referred to in section 11;

(b) the licence or permit is entered into under section 14 and the conditions are specified in the directions referred to in section 14 (1) (a);

(c) the licence or permit is entered into under section 14.1;

(d) the licence or permit is entered into under section 14.2 and the conditions are specified in the advertising required under that section.

(2) If the person referred to in subsection (1) does not comply with a condition imposed under that subsection, the district manager may, without a hearing,

(a) by written notice served on the person who is subject to the condition,

(i) refuse to enter into the licence or permit, or

(ii) cancel the licence or permit if the person who is subject to the condition has entered into the licence or permit, and

(b) make a proposal under section 11 (2) to the other persons who applied for that licence or permit if the licence or permit is entered into under section 13.

(3) Sections 31 to 38 do not apply to a cancellation under subsection (2).

Compliance with *Livestock Act*

15 Before entering into a grazing licence, grazing permit or temporary grazing permit, the district manager may require the applicant to satisfy him or her that the applicant is able to comply with those provisions of the *Livestock Act* that apply to the applicant's livestock.

Subsequent licences

16 (1) If at any time during the second to last or third to last year of the term of a grazing licence or hay cutting licence the holder applies for a new grazing licence or hay cutting licence

(a) over the Crown range specified in the licence, and

(b) for a term to begin on the date the licence is due to expire,

a new grazing licence or hay cutting licence over that Crown range and for a term beginning on that date must, within one year after the application, be entered into with an applicant in accordance with sections 10 to 15 unless, by the end of that year, the district manager has determined that the rights applied for will not be available for disposition by the government.

(2) If at any time during the last year of the term of a grazing licence or hay cutting licence the holder applies for a new grazing licence or hay cutting licence

(a) over the Crown range specified in the licence, and

(b) for a term to begin on the date the licence is due to expire,

a new grazing licence or hay cutting licence over that Crown range and for a term beginning on that date must, no later than 4 months after the licence expires, be entered into with an applicant in accordance with sections 10 to 15 unless the district manager has determined that the rights applied for will not be available for disposition by the government.

Right to apply

17 Nothing in this Act, or in a licence or permit, prevents the holder of the licence or permit from applying to replace the licence or permit after the end of its term.

Agreements

18 (1) As a condition of a grazing licence or grazing permit, the district manager may require the applicant to enter into an agreement with

(a) the district manager on behalf of the government,

(b) other applicants,

(c) the holders of other grazing licences or grazing permits,

(d) persons who own land or hold land under lease, or

(e) any combination of persons referred to in paragraphs (a) to (d)

making available for grazing purposes by persons other than the applicant land owned or held under lease by the applicant that is to be used in common with Crown range.

(2) Agreements made under this section

(a) must not exceed the term of the grazing licence or grazing permit, and

(b) may be registered in the land title office for the district in which the land owned or leased by the holder of the licence or permit is located.

Fees

19 A holder of a licence or permit must pay to the government the rent, fees, costs and penalties prescribed in the regulations.

Consent to transfer

20 (1) In this section:

"affiliate" has the same meaning as in the *Business Corporations Act*;

"control of a corporation" means the beneficial ownership of more than 50% of the corporation's issued capital,

having full voting rights under all circumstances,

(a) by one person, or

(b) by a group of persons not dealing with each other at arm's length;

"family member" means a spouse, parent, child or sibling.

"spouse" means a person who

(a) is married to another person, or

(b) is living and cohabiting with another person in a marriage-like relationship, including a marriage-like relationship between persons of the same gender, and has been living and cohabiting in that relationship for the immediately preceding 2 years.

(2) The district manager may without notice cancel a licence or permit if, without the district manager's prior written consent,

(a) it or an interest in it is disposed of, except by way of security given in good faith,

(b) its holder disposes of, except by way of security given in good faith, an interest in the land to which the licence or permit is appurtenant,

(c) the control of a corporation that holds the licence or permit, or of another corporation that controls that corporation, changes or is acquired, or

(d) a corporation that holds the licence or permit amalgamates with another corporation.

(3) Subsection (2) does not apply if

(a) a disposition of a licence or permit is made from an individual to

(i) a member or a group of members of the individual's family, or

(ii) a corporation that is controlled by the individual or by a member or group of members of the individual's family, or both,

(b) the disposition is, or change in or acquisition of control of a corporation is caused by, a transmission from the estate of a deceased person to his or her personal representative,

(c) a disposition of a licence or permit is made from a corporation to

(i) an individual who controls the corporation or to a member or group of members of the individual's family, or

(ii) an affiliate corporation,

(d) the control of a corporation is changed from an individual to

(i) a member or a group of members of the individual's family, or

(ii) a corporation that is controlled by the individual or by a member or group of members of the individual's family,

(e) the control of a corporation is changed from a corporation to an affiliate corporation, or

(f) affiliate corporations amalgamate

so long as the disposition, change in control or amalgamation

(g) is reported to the district manager within 3 months after its occurrence, and

(h) does not result in the licence or permit being held by someone other than the person who owns a fee simple interest in the land to which the licence or permit is appurtenant or who holds the land under a lease.

(4) In this section, the control of a corporation is deemed not to have changed merely because shares in the capital of the corporation are assigned by way of security given in good faith.

(5) When giving a consent referred to in subsection (2), the district manager may

(a) impose those conditions and requirements on the consent that the district manager considers necessary or advisable, and

(b) without notice and despite sections 35 to 38, cancel the licence or permit in respect of which the consent was given, if the district manager determines that the conditions and requirements imposed under paragraph (a) of this subsection are not complied with.

(6) If the district manager determines that there has been a failure to obtain the consent required by this section, other than a failure that occurred as a result of a failure to meet the requirements of subsection (3), but decides not to cancel the licence or permit in respect of which the failure occurred, the district manager is deemed to have given consent for the purposes of this section.

(7) If the district manager is deemed to have given consent under subsection (6), the district manager may

(a) impose those conditions and requirements on that consent that the district manager considers necessary or advisable, and

(b) without notice and despite sections 35 to 38, cancel the licence or permit in respect of which the deemed consent was given if the district manager determines that the conditions and requirements imposed under paragraph (a) of this subsection are not complied with.

Substitution of land to which a licence or permit is appurtenant

21 (1) A holder of a licence or permit may apply to the district manager to amend the licence or permit by adding or substituting other land for land to which the licence or permit is appurtenant.

(2) On receiving an application under subsection (1), a district manager may amend the licence or permit by adding to, or substituting other land for, land to which the licence or permit is appurtenant.

(3) The district manager may attach conditions to an amendment under subsection (2) if, in the opinion of the district manager, the conditions are needed for, or will improve, the conservation, management, development or use of the Crown range to which the licence or permit applies.

Transfer

22 A person who disposes of and a person who acquires a licence or permit or an interest in it must deliver to the district manager an assignment of the licence or permit in a form required by the district manager.

Transfer of licence or permit without consent

23 (1) If a holder of a licence or permit transfers the licence or permit to a buyer or a lessee of land that has been made appurtenant to the licence or permit under sections 5 to 9.1 or to a buyer or a lessee of a business to which the licence or permit relates and

(a) the sale is not completed, or

(b) the lease is terminated or expires and is not renewed,

the district manager may

(c) transfer the licence or permit back to the holder without the consent of the buyer or lessee,

(d) impose on the transfer under paragraph (c) those conditions and requirements that the district manager considers necessary or advisable, and

(e) without notice and despite sections 35 to 38, cancel the licence or permit if the holder of the licence or permit does not comply with the conditions and requirements imposed under paragraph (d) of this subsection.

(2) If land that has been made appurtenant to a licence or permit under sections 5 to 9.1 is foreclosed or a business to which a licence or permit relates is put into receivership, the district manager may transfer the licence or permit to the person who takes title under the foreclosure or to the receiver without the consent of the holder of the licence or permit.

(3) This section applies to a licence or permit whether or not the licence or permit was transferred before the coming into force of this section.

(4) No compensation is payable by the government in respect of a transfer of a licence or permit under this section.

Other uses of Crown range

24 (1) Despite any provision of this Act, the *Expropriation Act*, the *Land Act*, the *Trespass Act* or any other enactment or of a licence or permit granted under this Act,

(a) a licence or permit does not prevent the government from using or from granting to others the use of the land to which the licence or permit applies for a purpose other than grazing or hay production that the district manager considers is compatible with grazing or hay production, and

(b) a licence or permit does not convey rights to land to which the licence or permit applies other than the right to a quantity of hay or to forage for grazing as stated in the licence or permit.

(2) Subsection (1) applies to a licence or permit whether or not the licence or permit was issued before the coming into force of this section.

(3) No compensation is payable by the government in any proceeding in respect of

(a) a use or grant under subsection (1) (a), or

(b) the enactment of this section.

Compensation for past uses

25 (1) Despite any provision of

(a) this Act, the *Expropriation Act*, the *Land Act*, the *Trespass Act* or any other enactment, or

(b) a licence or permit granted under this Act,

no damages or compensation of any kind under the *Expropriation Act* or otherwise are payable by the government, and no proceedings may be commenced or maintained to claim damages or compensation of any kind from the government or to obtain an injunction or a declaration that damages or compensation of any kind are payable by the government, in respect of a loss to or in respect of any interest held under a licence or permit granted under this Act if the loss was incurred before the coming into force of this section and, directly or indirectly, was caused by or resulted from the government or a minister on behalf of the government taking or using Crown land or granting to others the use of Crown land or any interest, right, title or estate of any tenure in Crown land that was subject to a licence or permit granted under this Act, and the taking, using or granting to others was for

(c) a public work including, without limitation of the term "public work", a highway as defined in the *Motor Vehicle Act* together with roads used for access to a highway for any purpose including construction of the highway and any other areas used for construction of a highway, a pipeline, a park, a reservoir, a work used in connection with the provision of electricity, an aircraft runway or airport and a waste material disposal site,

(d) a mine and related uses,

(e) a gravel pit, a gravel stockpile site and related uses,

- (f) the harvesting of timber,
- (g) campsites,
- (h) access that is ancillary to any of the works or purposes referred to in paragraphs (c) to (g), or
- (i) the sale, lease or disposition of the Crown land by the government for any purpose.

(2) This section applies whether or not the loss is or has been the subject of a proceeding before any court or tribunal including, without limitation, a proceeding concerning which

- (a) a court or tribunal has not yet given a decision,
- (b) a court or tribunal has given a decision,
- (c) there is an appeal from a decision of a court or tribunal, or
- (d) there has been a decision following an appeal from a court or tribunal,

but this section does not apply to a loss suffered by a person if the government has compensated that person in full satisfaction of the person's claim respecting the loss.

Change or deletion of area

26 (1) Despite a licence, permit or other agreement entered into under this Act, a district manager may change the boundaries of Crown range to which a licence or permit applies and reduce the number of animal unit months or quantity of hay to which the holder is entitled if in the district manager's opinion

- (a) the change will lead to more efficient resource use, or
- (b) the land deleted from the area to which the licence or permit applies is required for a use that is incompatible with grazing or hay production.

(2) A change under subsection (1) does not become effective until the district manager has served the holder of the licence or permit with a notice giving at least

- (a) 60 days' written notice of the change if there is no reduction in the number of animal unit months or quantity of hay to which the holder is entitled under the licence or permit, or
- (b) one year's written notice of the change if there is a reduction in the number of animal unit months or quantity of hay to which the holder is entitled under the licence or permit.

(3) A licence or permit is deemed to be amended to the extent provided in the notice given under subsection (2).

(4) The district manager must serve the holder of the licence or permit with a notice evidencing the amendment referred to in subsection (3).

Compensation for deletions

27 (1) Despite any provision of

- (a) this Act, the *Expropriation Act*, the *Land Act*, the *Trespass Act* or any other enactment, or
- (b) a licence or permit granted under this Act,

no damages or compensation of any kind under the *Expropriation Act* or otherwise are payable by the government in any proceeding in respect of any loss caused or resulting, directly or indirectly, by or from a change or reduction under section 26 except as set out in this section.

(2) If land is deleted and the number of animal unit months or quantity of hay to which a holder of a licence or permit

is entitled is reduced under section 26 from a grazing licence, grazing permit or hay cutting licence, compensation by the government must be determined by the formula

$$\text{Compensation} = \frac{R}{Q} \times F$$

where

R = that portion of the reduction in the total number of animal unit months or quantity of hay obtainable from Crown range to which the holder of the licence or permit would be entitled over the term of the licence or permit if there were no reduction, that is caused by the deletion and that, when taken together with all reductions made under section 26 during the term of the licence or permit, is more than 5% of the total number of animal unit months or quantity of hay referred to above,

Q = the total number of animal unit months or quantity of hay obtainable from Crown range to which the holder of the licence or permit would have been entitled over the term of the licence or permit if there were no reduction, and

F = the total fee that would be payable for the licence or permit over its full term if the maximum number of animal unit months or quantity of hay authorized under the licence or permit were taken, based on the average annual fee paid per animal unit month or ton of hay during the term of the licence or permit before the reduction.

(3) In addition to compensation payable under subsection (2), the government must compensate the holder of a licence or permit for

(a) improvements on areas deleted under section 26 in the amount determined by the formula

$$\text{Compensation} = \frac{L}{(L + U)} \times C$$

where

L = the life expectancy, in years, of the improvement after the deletion, assuming the improvement is not maintained,

U = the number of years from the date the improvement was made to the deletion date, and

C = the reasonable costs to the holder of the licence or permit of the improvement at the time it was made, and

(b) costs that have been reasonably incurred by the holder of the licence or permit for improvements made necessary by the boundary change.

(4) Compensation under subsection (3) (b) may be paid before the costs have been incurred by the holder of the licence or permit if, in the opinion of the district manager, delaying compensation until the costs are actually incurred would cause the holder undue hardship.

(5) Despite subsection (3), the government is not liable to compensate for an improvement that was made in contravention of

(a) the *Land Act*,

(b) section 47 (1) (c) of the *Range Act*, R.S.B.C. 1979, c. 355, as that section was immediately before its repeal, or

(c) section 101 of the *Forest and Range Practices Act*.

Amount payable

28 If the amount of compensation payable under section 27 is not agreed on, it must be submitted for determination by one arbitrator or 3 arbitrators appointed under the *Commercial Arbitration Act* and

- (a) the person who is to be compensated must, in a notice served on the minister, elect whether one or 3 arbitrators are to be appointed, and
- (b) the *Commercial Arbitration Act* applies to the submission.

Form of compensation

29 With the consent of the holder of the licence or permit, compensation payable under section 27 may take the form of a licence or permit and the district manager may enter into the licence or permit without advertising under section 10.

Consolidation and subdivision

30 (1) With the consent of the holder of the licence or permit, the district manager may

- (a) consolidate 2 or more grazing licences into a single grazing licence,
- (b) consolidate 2 or more grazing permits into a single permit,
- (c) partition or subdivide a grazing licence into 2 or more grazing licences,
- (d) partition or subdivide a grazing permit into 2 or more grazing permits,
- (e) delete all or part of the Crown range from the Crown range of a grazing licence and add all or part of it to the Crown range of another grazing licence,
- (f) delete all or part of the Crown range from the Crown range of a grazing permit and add all or part of it to the Crown range of another grazing permit,
- (g) cancel a licence or permit if all or part of its Crown range has been added to another licence or permit,
- (h) amend a licence or permit,
- (i) enter into one or more grazing licences covering the same land as was covered in the licences being consolidated, subdivided or partitioned, and
- (j) enter into one or more grazing permits covering the same land as was covered in the permits being consolidated, subdivided or partitioned.

(2) A licence or permit that is amended or entered into under this section expires on the earliest expiry date of the licences or permits it replaces or amends.

Reporting requirements for grazing

30.1 (1) The holder of a grazing licence, grazing permit or temporary grazing permit must, by December 31 in each year, report to the district manager the number of animal unit months the holder has used under the licence or permit in that year if

- (a) the use is 90% or less of the animal unit months the holder is eligible for under the licence or permit, or
- (b) the use is more than 90% but less than 100% of the animal unit months the holder is eligible for under the licence or permit, and reporting of the number of animal months is required by the regulations.

(2) If section 9.1 (5) applies to a grazing licence or permit, the number of animal unit months that the grazing licence or permit holder is eligible to use, for the purposes of subsection (1) of this section, is the number that results from the

calculation described in section 9.1 (5).

Increase of animal unit months or quantity of hay

30.2 (1) The district manager may, by written notice served on the holder of a licence or permit, and with the consent of the holder of the licence or permit, increase by an amount not exceeding 10%

- (a) the animal unit months to which the holder of a grazing licence or permit is eligible under the licence or permit in a specified year, or
- (b) the maximum quantity of hay that the holder of the licence or permit is granted the right to harvest from the area of the hay cutting licence or permit in a specified year.

(2) Subsection (1) applies only if the district manager considers that, due to favourable growing conditions, the increased amount can be used without affecting the adequate management and conservation of the Crown range to which the licence or permit applies.

Suspension

31 (1) Subject to section 34 and in addition to any penalty, charge or order under this Act or the regulations or the *Forest and Range Practices Act* or the regulations made under that Act, the district manager may suspend all or part of the rights granted in a licence or permit if the holder of the licence or permit

- (a) made a material misrepresentation, omission or misstatement of fact in his or her application for the licence or permit or in information furnished with it,
- (b) made a material misrepresentation, omission or misstatement of fact in an operational plan, as defined in the *Forest and Range Practices Act*,
- (c) fails to perform an obligation to be performed by him or her under the licence or permit, or
- (d) fails to comply with this Act, the regulations, the *Forest and Range Practices Act* or the regulations or standards under that Act, or the *Livestock Act*.

(2) Before the rights are suspended, the district manager must serve a notice on the holder

- (a) specifying the alleged failure of performance or compliance, and
- (b) allowing the holder at least 5 days after the date of service to remedy the failure of performance or compliance.

(3) On request of the holder, the district manager must allow the holder an opportunity to be heard and must rescind the notice if he or she considers that the holder is not subject to subsection (1).

(4) A suspension of rights takes effect on the expiry of the time allowed in the notice and continues until the rights are reinstated by the district manager or cancelled under this Act.

Reinstatement

32 On the application of the holder of the licence or permit, the district manager must reinstate rights suspended under section 31 or 34 (a) if the holder is performing his or her obligations under the licence or permit and is complying with this Act and the regulations made under this Act, the *Livestock Act* and the regulations made under that Act and the *Forest and Range Practices Act* and the regulations and the standards made under that Act.

Partial suspension

33 Rights over Crown range granted in a licence or permit must not be exercised by the holder while those rights are under suspension, but in all other respects the licence or permit continues in effect.

Suspension by forest service officer

34 The district manager or a forest officer authorized by the district manager may, by written order without notice, suspend all or some of the rights granted under a licence or permit if he or she believes on reasonable and probable grounds that

(a) its holder has failed to perform an obligation to be performed by the holder under the licence or permit or has failed to comply with this Act or the regulations, the *Forest and Range Practices Act* or the regulations or standards made under that Act or the *Livestock Act*, and that the failure of performance or compliance is causing or may imminently cause serious damage to the environment, or

(b) due to weather conditions or other natural events, use of the Crown range described in the licence or permit would be detrimental to its forest and forage productivity.

Cancellation

35 If rights over Crown range granted in a licence or permit are under suspension other than under section 34 (b), the district manager may cancel those rights or may cancel the licence or permit.

Notice of cancellation

36 At least 3 months before a cancellation under section 35 is to become effective, the district manager must serve on the holder of the licence or permit a written notice of cancellation specifying the grounds of cancellation and the day on which cancellation takes effect.

Hearing

37 If, within 30 days after a notice of cancellation has been served, the holder of the licence or permit so requests, the district manager must give the holder an opportunity to be heard.

Notice may be rescinded

38 The district manager may rescind a notice of cancellation or postpone the day on which the cancellation takes effect, or both.

Rights terminated on cancellation

39 (1) On cancellation of rights over Crown range granted in a licence or permit

(a) the rights and obligations of the holder under the licence or permit, and

(b) the rights of the holder to a licence entered into under section 16 over the same Crown range

terminate in respect of the cancelled rights.

(2) A person in possession of a copy of a licence or permit in respect of which

(a) the licence or permit has been cancelled must, immediately after the effective date of cancellation, deliver it to the district manager, or

(b) rights have been cancelled must, immediately after the effective date of the cancellation, enter into an agreement with the government evidencing the cancellation of the rights.

(3) After the effective date of cancellation, a notice of the cancellation must be published in the Gazette.

Surrender of licence or permit

40 Despite the expiry, surrender, suspension or cancellation of the holder's licence or permit, he or she is liable

- (a) to pay the rent, fees, costs and penalties owing to the government in respect of the licence or permit,
- (b) to perform all other obligations under the licence or permit, and
- (c) to perform all other obligations imposed by or under this Act or the regulations or the *Forest and Range Practices Act* or the regulations or standards made under that Act,

incurred before its expiry, surrender, suspension or cancellation.

Review and appeal

41 (1) A review may be required of a determination, order or decision of

- (a) a forest officer under section 34, and under a licence or permit, and
- (b) a district manager under sections 31, 32, 34 and 35, and under a licence or permit.
- (c) [Repealed 1997-48-152.]

(2) A review of the determination, order and decision referred to in subsection (1) (a) and (b) is to be conducted by the regional manager.

(3) If a review is to be conducted by the regional manager under subsection (2), the regional manager may delegate the power to decide the review to an official in the Ministry of Forests.

(4) Subject to subsection (5), an appeal may be made to the Forest Appeals Commission from a determination, order or decision of a forest officer or district manager under the provisions referred to in subsection (1) but only if the determination, order or decision has first been reviewed.

(5) If a determination, order or decision referred to in subsection (1) is varied by the person conducting a review, the appeal to the Forest Appeals Commission is from the determination, order or decision as varied.

(6) The procedures and powers in respect of reviews and appeals under the *Forest Act* apply to reviews and appeals under this section.

Appeal from section 26 decision

42 (1) Section 41 does not apply to an appeal from a decision of a district manager made under section 26.

(2) The holder of a licence or permit affected by a decision to change boundaries under section 26 may appeal the change to the minister by serving, within 21 days after service of the notice referred to in section 26 (2), written notice of the appeal on the district manager who made the decision.

(3) The notice of appeal must include the name and address of the appellant, the reasons in support of the appeal and a copy of the notice of the change being appealed.

(4) The minister, or a person designated in writing by the minister, must promptly

- (a) hear the appeal,
- (b) confirm, reverse or vary the decision of the district manager, and
- (c) provide the appellant with a written decision by delivering a copy to the appellant, or by mailing a copy to the appellant by registered mail to the address of the appellant in the notice of appeal.

Appeal not a stay

43 Unless the minister orders otherwise, a review or an appeal taken under this Act does not operate as a stay or suspend the operation of the determination, order or decision being reviewed or appealed.

Range districts

44 The Lieutenant Governor in Council may

- (a) establish an area of British Columbia as a range district,
- (b) abolish, change the boundaries of, or change the name of a range district, and
- (c) consolidate 2 or more range districts.

Entry on land

45 The regional manager, a district manager or a forest officer authorized by either of them

- (a) to administer this Act, the regulations, a grazing lease, a licence or permit, or
- (b) to verify a statement made in an application for a grazing lease, a licence or a permit,

may at all reasonable times enter land owned or occupied by the holder of, or the applicant for, a grazing lease, a licence or permit, but he or she must not, without the consent of the holder or applicant, enter that person's dwellings.

Service

46 (1) A notice or other document that the government is required or permitted to serve on a person under this Act or the regulations may be served 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, officer or 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 for service provided by the corporation;
- (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 other document that is mailed to a person by registered mail under subsection (1) is conclusively deemed to be served on the person on the eighth day after it is mailed.

Offences

47 (1) A person must not hinder, obstruct or impede a regional manager, district manager or a forest officer in the discharge or performance of a duty or the exercise of a power or authority under this Act.

(1.1) A person who contravenes subsection (1) 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.

(2) Every day for which an offence under this section is continued constitutes a separate offence.

(3) [Repealed 2003-55-113.]

(4) A document purporting to have been issued by the minister, regional manager, district manager or chief forester, certifying the day on which he or she became aware of the facts on which an information is based, is admissible without proof of the signature or official character of the individual appearing to have signed the document and, in the absence of evidence to the contrary, is proof of the matter certified.

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

(6) Section 5 of the *Offence Act* does not apply to this Act or the regulations.

Part 6 of the Forest and Range Practices Act applies

47.1 (1) Part 6 of the *Forest and Range Practices Act* applies to this Act and the regulations under this Act, unless the context indicates otherwise.

(2) Without limiting subsection (1), sections 131 to 141 of the *Forest Practices Code of British Columbia Act* apply to an appeal under the *Forest and Range Practices Act* in respect of a contravention of this Act or the regulations under this Act.

No compensation

48 Despite any provision of this Act, the *Expropriation Act* or any other enactment, no damages or compensation of any kind is payable by the government in respect of, and no person may commence any proceedings in which damages or compensation of any kind is claimed in respect of,

(a) an issuance of a temporary grazing permit under section 7 (3) (b), or

(b) [Repealed 1999-18-20.]

(c) the coming into force of the *Range Amendment Act, 1992*.

Power to make regulations

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

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

(a) the calculation of amounts of forage required by classes of livestock other than animals of the genus *bos*;

(b) the form and contents of agreements made under section 18;

(c) rent, fees, costs and penalties payable in respect of applications, licences and permits;

- (d) transfers of licences and permits and land to which licences and permits are appurtenant and changes in the control of corporations holding licences and permits;
- (e) the use of Crown range otherwise than for grazing or hay cutting purposes;
- (f) and (g) [Repealed 1999-18-21.]
- (h) the prescribing of animals for the purposes of the definition of "livestock" in section 1 (1);
- (i) the form and content of applications for licences or permits;
- (j) advertising associated with the application for licences or permits or the entering into licences or permits;
- (k) the circumstances when a licence or permit may be entered into under section 14.2;
- (l) for the purposes of section 30.1 (1) (b), the circumstances under which the holder of a grazing licence or permit is required to report the number of animal unit months the holder has used in a year.

(2.1) The Lieutenant Governor in Council may make regulations respecting administrative penalties that, under section 71 of the *Forest and Range Practices Act*, may be imposed for the contravention of a provision of this Act.

(2.2) Without limiting subsection (2.1), 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 or the regulations;
- (b) a licence referred to in section 3;
- (c) a permit referred to in section 3.

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

- (a) delegate a matter to a person;
- (b) confer a discretion on a person;
- (c) make different regulations for different persons, places, things or transactions.

Range director

50 (1) There may be appointed, under the *Public Service Act*, a range director for British Columbia.

(2) Subject to the terms of a grazing lease or of a licence, permit or other agreement entered into under this Act, the range director may do one or more of the following:

- (a) specify the areas of Crown range in respect of which licences and permits may be entered into;
- (b) specify the methods to be used for determining the classes and numbers of livestock that may graze on Crown range and the periods during which they may graze on Crown range;
- (c) provide technical advice concerning the management and use of Crown range;
- (d) specify measures for improving Crown range and propose means for financing the improvements;
- (e) recommend range management standards and objectives;
- (f) exercise any other powers and responsibilities the chief forester determines.

