

This Act has "Not in Force" sections. See the Table of Legislative Changes.

FOREST ACT

[RSBC 1996] CHAPTER 157

Part 1 — Definitions and Interpretation

Definitions and interpretation

1 (1) In this Act:

"allowable annual cut" means

(a) in respect of a tree farm licence area, community forest agreement area, first nations woodland licence area, woodlot licence area or timber supply area, the rate of timber harvesting determined for the area under section 8, as increased or reduced under this Act, and

(b) in respect of an agreement entered into under this Act specifying an allowable annual cut, the rate of timber harvesting specified in the agreement, as increased or reduced under this Act;

"allowable annual cut available" means the following:

(a) in relation to a tree farm licence, the portion of the allowable annual cut in respect of the tree farm licence area that is accessible by the holder of the tree farm licence after taking the following into account in accordance with the regulations or in accordance with an agreement authorized under section 151 (2)

(a.2):

(i) a reservation referred to in section 35 (1) (h) or (n);

(ii) a deletion of Crown land from the tree farm licence area under section 39.1 respecting

(A) a reservation under subparagraph (i) of this paragraph, or

(B) a reduction under subparagraph (iv) of this paragraph;

(iii) except for the purposes of sections 69 and 70, a reduction under one or both of those sections;

(iv) a reduction under section 3 (3) of the Forestry Revitalization Act;

(b) in relation to a community forest agreement, the portion of the allowable annual cut in respect of the community forest agreement area that is accessible by the holder of the community forest agreement after taking the following into account in accordance with the regulations:

(i) a reservation referred to in section 43.3 (1) (g.2);

(ii) except for the purposes of section 70, a reduction under that section;

(c) in relation to a first nations woodland licence, the portion of the allowable annual cut in respect of the first nations woodland licence area that is accessible by the holder of the first nations woodland licence after taking the following into account in accordance with the regulations:

- (i) a reservation referred to in section 43.55 (1) (h.1);
- (ii) except for the purposes of section 70, a reduction under that section;

"BC timber sales agreement" means

(a) a licence, or

(b) a permit

referred to in any of paragraphs (b) to (f.1) of section 109 (2);

"bioenergy" means energy derived from Crown timber;

"bioenergy supply contract" means an energy supply contract as defined in section 68 of the Utilities Commission Act

(a) under which bioenergy is sold to the British Columbia Hydro and Power Authority, and

(b) that is designated by the minister under section 13.2 (a) as a bioenergy supply contract;

"bonus bid" means a bid

(a) tendered in order to acquire the right to harvest timber under an agreement under this Act,

(b) calculated on a dollar value per cubic metre of competitive species and forest products harvested and measured in compliance with the agreement, and

(c) payable from time to time in accordance with the agreement;

"bonus offer" means an amount of money that is tendered in order to acquire the right to harvest timber under an agreement under this Act, irrespective of the volume and type of competitive species and forest products harvested under the agreement;

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

"commercial operation date" means the date determined under a bioenergy supply contract as the commercial operation date;

"commission" has the same meaning as "Forest Appeals Commission";

"commissioner" means the person designated to be the commissioner under section 142.11 (1);

"community forest agreement area" means the area of land subject to a community forest agreement;

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

"Crown timber" means timber on Crown land, or timber reserved to the government;

"cultural heritage resource" means an object, a site or the location of a traditional societal practice that is of historical, cultural or archaeological significance to British Columbia, a community or an aboriginal people;

"cutting permit" means a cutting permit issued under an agreement entered into under this Act;

"district manager" means a district manager appointed for a forest district under the Ministry of Forests and Range Act;

"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;

"eligible bioenergy application" means an application for a non-replaceable forest licence under section 13.1 that

- (a) is made by an applicant
 - (i) who is the seller of bioenergy under a bioenergy supply contract, and
 - (ii) whom the minister or a person authorized by the minister considers to be qualified to perform the obligations specified under section 13.1 (2) (c),

(b) conforms to section 13.1 (2), and

(c) is not rejected under section 81 (3) or refused under section 81 (5);

"first nations woodland licence area" means the area of land subject to a first nations woodland licence;

"Forest Appeals Commission" means the Forest Appeals Commission continued under section 140.1 of the Forest and Range Practices Act;

"forest officer" means a person employed in the ministry of the minister responsible for the administration of this Act who is designated by name or title to be a forest officer by the minister;

"forest region" means a forest region established by regulation;

"forest service road" means a road on Crown land that

(a) is declared a forest service road under section 115 (5),

(b) is constructed or maintained by the minister under section 121,

(c) was a forest service road under this definition as it was immediately before the coming into force of this paragraph, or

(d) meets prescribed requirements;

"former Act" means the Ministry of Forests Act repealed by the Forest Act, S.B.C. 1978, c. 23;

"government" means the government of British Columbia;

"licence to cut" means

(a) a master licence to cut,

(b) an occupant licence to cut,

(c) a forestry licence to cut, and

(d) a fibre supply licence to cut;

"major licence" means

- (a) a timber sale licence that was issued under section 23 (1) (a) before its repeal,
 - (b) a forest licence,
 - (c) a timber licence,
 - (d) a tree farm licence, and
 - (e) a forestry licence to cut that
- (i) specifies that it is a major licence,
 - (ii) is issued to satisfy the obligations of the government under a pulpwood agreement, or
 - (iii) is entered into under section 47.3 (1) (a);

"merchantable timber", for the purposes of sections 28, 30 (c) and 74, means timber that

- (a) on January 1, 1975 were older than 75 years, and
- (b) are on an area of Crown land in quantities determined by the minister to be sufficient to be commercially valuable at the time when a timber cruise submitted under section 74 is made;

"objectives set by government" means objectives set by government as defined in section 1 (1) of the Forest and Range Practices Act;

"operational plan" means an operational plan under the Forest Practices Code of British Columbia Act, before its repeal, or the Forest and Range Practices Act;

"Peace River Block" means that rectangular block of land in the Peace River Land District of British Columbia with corners having these geographical values:

northeast corner, latitude 56°40'57.95", longitude 119°59'59.25";

southeast corner, latitude 55°38'09.04", longitude 119°59'59.76";

southwest corner, latitude 55°37'15.75", longitude 121°56'02.45";

northwest corner, latitude 56°40'01.66", longitude 121°59'13.18";

"private land" means land that is not Crown land;

"private tenure" means a timber licence, or private land, in a tree farm licence area;

"professional forester" means a professional forester as defined in the Foresters Act;

"Provincial forest" means forest land designated under section 5;

"pulpwood agreement" means a pulpwood agreement entered into before April 1, 2003 under Part 3, Division 7;

"pulpwood area" means an area designated under section 40 before its repeal;

"regional manager" means a regional manager appointed for a forest region under the Ministry of Forests and Range Act;

"revenue minister" means the Minister of Finance;

"road use permit" means a road use permit granted under section 117;

"salvaged logs" means salvaged logs as defined by regulation;

"special forest products" means forest products designated by regulation as special forest products;

"special use permit" means a special use permit referred to in section 2 of the Forest Practices Code of British Columbia Act;

"timber" means trees, whether standing, fallen, living, dead, limbed, bucked or peeled;

"timber processing facility" means a facility that processes timber or wood residue or both;

"timber sales manager" means

(a) [Repealed 2006-13-1.]

(b) a timber sales manager appointed under the Ministry of Forests and Range Act for a BC timber sales business area;

"timber supply area" means land designated as a timber supply area under section 7;

"tree farm licence area" means the area of land subject to a tree farm licence;

"wood residue" means wood chips, slabs, edgings, sawdust, shavings and hog fuel;

"woodlot licence area" means the area of land subject to a woodlot licence.

(2) A reference in this Act to the minister or the minister's designate, or the minister or a person authorized by the minister, or any similar reference is not to be construed as meaning that a reference to the minister alone requires the minister to deal with the matter personally, and a reference to the minister alone is to be construed as a reference to the minister or any appropriate official of his or her ministry.

(3) Despite the Expropriation Act, that Act does not apply, except as expressly provided in this Act, in respect of a taking, deletion or reduction, under this Act, of any right or interest held by a person under this Act or the former Act.

(4) For the avoidance of doubt it is declared that the reference in subsection (3) to a taking, deletion or reduction includes a taking, deletion and reduction in respect of which notice was given before that subsection came into force.

(5) For the purposes of this Act, unless the context otherwise indicates, a reference to a licence, agreement or permit listed in section 12 is a reference to that licence, agreement or permit as entered into or granted under this Act.

Delegation

1.1 (1) Subject to a regulation made under section 151 (2) (b.1), the minister, in writing, may

(a) delegate a power or duty of the minister under this Act, including a quasi-judicial power or duty, to

(i) a person employed in a ministry,

(ii) a class of persons employed in a ministry, or

(iii) an agent of the Crown,

(b) provide directions that are binding on the delegate respecting the exercise of the power or the performance of the duty, and

(c) vary or revoke a delegation or direction.

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

(3) A delegate, if not prohibited by a direction of the minister under subsection (1) (b), 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.

Part 2 — Classification and Management of Forests and Forest Land and Regulation of Cutting Rates

Repealed

2-4 [Repealed 2002-45-2.]

Provincial forests

5 (1) The Lieutenant Governor in Council may designate any forest land as a Provincial forest and may order that Provincial forests be consolidated or divided.

(2) Notice of an order made under subsection (1) must be published in the Gazette.

(3) All Crown land in a tree farm licence area is a Provincial forest and, if an amendment is made to the boundaries of a tree farm licence area, the boundaries of the Provincial forest are deemed to be amended accordingly.

(4) Crown land in a Provincial forest must not be disposed of under the Taxation (Rural Area) Act or, subject to subsection (5), under the Land Act.

(5) Crown land in a Provincial forest may be disposed of under the Land Act for

- (a) an easement or right of way, or
- (b) any other purpose that the chief forester considers is compatible with the uses described in section 2 (1) of the Forest Practices Code of British Columbia Act or that is permitted by regulations made under that Act,

but, except for the purposes of a highway, transmission line, or pipeline right of way, a disposition must not be made of the fee simple interest in the land.

(6) If the Lieutenant Governor in Council considers it will be to the social and economic benefit of British Columbia, he or she may cancel a Provincial forest, except for land in a tree farm licence area.

(7) If the minister considers it will be to the social and economic benefit of British Columbia, he or she may delete land from a Provincial forest, except for land in a tree farm licence area.

(8) If a Provincial forest that contains one or more wilderness areas is cancelled or land that composes one or more wilderness areas is deleted from the Provincial forest, those wilderness areas are reduced by the land that has been so deleted or cancelled.

(9) Land that is deleted from a Provincial forest and is granted by the government, but later reverts to the government, is deemed to be included in the Provincial forest without further order of the Lieutenant Governor in Council.

Wilderness areas

6 The Lieutenant Governor in Council may designate any Crown land in a Provincial forest as a wilderness area, cancel such designation or amend the boundaries of a wilderness area.

Timber supply areas

7 The minister may

- (a) designate land as a timber supply area, and
- (b) order the consolidation, division or abolition of timber supply areas or order their boundaries changed.

Allowable annual cut

8 (1) The chief forester must determine an allowable annual cut at least once every 10 years after the date of the last determination, for

(a) the Crown land in each timber supply area, excluding the Crown land in the following areas:

- (i) tree farm licence areas;
- (ii) community forest agreement areas;
- (iii) first nations woodland licence areas;
- (iv) woodlot licence areas, and

(b) each tree farm licence area.

(2) If the minister

(a) makes an order under section 7 (b) respecting a timber supply area, or

(b) amends or enters into a tree farm licence to accomplish a result set out under section 39 (2) or (3),

the chief forester must make an allowable annual cut determination under subsection (1) for the timber supply area or tree farm licence area

(c) within 10 years after the order under paragraph (a) or the amendment or entering into under paragraph (b), and

(d) after the determination under paragraph (c), at least once every 10 years after the date of the last determination.

(3) If

(a) the allowable annual cut for the tree farm licence area is reduced under section 9 (3), and

(b) the chief forester subsequently determines, under subsection (1) of this section, the allowable annual cut for the tree farm licence area,

the chief forester must determine an allowable annual cut at least once every 10 years from the date the allowable annual cut under subsection (1) of this section is effective under section 9 (6).

(3.1) If, in respect of the allowable annual cut for a timber supply area or tree farm licence area, the chief forester considers that the allowable annual cut that was determined under subsection (1) is not likely to be changed significantly with a new determination, then, despite subsections (1) to (3), the chief forester

(a) by written order may postpone the next determination under subsection (1) to a date that is up to 15 years after the date of the relevant last determination, and

(b) must give written reasons for the postponement.

(3.2) If the chief forester, having made an order under subsection (3.1), considers that because of changed circumstances the allowable annual cut that was determined under subsection (1) for a timber supply area or tree farm licence area is likely to be changed significantly with a new determination, he or she

(a) by written order may rescind the order made under subsection (3.1) and set an earlier date for the next determination under subsection (1), and

(b) must give written reasons for setting the earlier date.

(4) If the allowable annual cut for the tree farm licence area is reduced under section 9 (3), the chief forester is not required to make the determination under subsection (1) of this section at the times set out in subsection (1) or (2) (c) or (d), but must make that determination within one year after the chief forester determines that the holder is in compliance with section 9 (2).

(5) In determining an allowable annual cut under subsection (1) the chief forester may specify that portions of the allowable annual cut are attributable to one or more of the following:

(a) different types of timber or terrain in different parts of Crown land within a timber supply area or tree farm licence area;

(a.1) different areas of Crown land within a timber supply area or tree farm licence area;

(b) different types of timber or terrain in different parts of private land within a tree farm licence area.

(c) [Repealed 1999-10-1.]

(6) The minister must determine an allowable annual cut for each woodlot licence area in accordance with the woodlot licence for that area.

(7) The minister must determine an allowable annual cut for

(a) each community forest agreement area in accordance with the community forest agreement for that area, and

(b) each first nations woodland licence area in accordance with the first nations woodland licence for that area.

(8) In determining an allowable annual cut under subsection (1) the chief forester, despite anything to the contrary in an agreement listed in section 12, must consider

(a) the rate of timber production that may be sustained on the area, taking into account

(i) the composition of the forest and its expected rate of growth on the area,

(ii) the expected time that it will take the forest to become re-established on the area following denudation,

(iii) silviculture treatments to be applied to the area,

(iv) the standard of timber utilization and the allowance for decay, waste and breakage expected to be applied with respect to timber harvesting on the area,

(v) the constraints on the amount of timber produced from the area that reasonably can be expected by use of the area for purposes other than timber production, and

(vi) any other information that, in the chief forester's opinion, relates to the capability of the area to produce timber,

(b) the short and long term implications to British Columbia of alternative rates of timber harvesting from the area,

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

(d) the economic and social objectives of the government, as expressed by the minister, for the area, for the general region and for British Columbia, and

(e) abnormal infestations in and devastations of, and major salvage programs planned for, timber on the area.

(9) Subsections (1) to (4) of this section do not apply in respect of the management area, as defined in section 1 (1) of the Haida Gwaii Reconciliation Act.

(10) Within one year after the chief forester receives notice under section 5 (4) (a) of the Haida Gwaii Reconciliation Act, the chief forester must determine, in accordance with this section, the allowable annual cut for

(a) the Crown land in each timber supply area, except the areas excluded under subsection (1) (a) of this section, and

(b) each tree farm licence area

in the management area, as defined in section 1 (1) of the Haida Gwaii Reconciliation Act.

(11) The aggregate of the allowable annual cuts determined under subsections (6), (7) and (10) that apply in the management area, as defined in section 1 (1) of the Haida Gwaii Reconciliation Act, must not exceed the amount set out in a notice to the chief forester under section 5 (4) (a) of that Act.

Adjusting the allowable annual cut

8.1 (1) The allowable annual cut is adjusted as prescribed in the regulations as follows:

(a) for the Crown land in a timber supply area, excluding tree farm licence areas, community forest agreement areas, first nations woodland licence areas and woodlot licence areas,

(i) if the minister makes an order under section 7 (b) respecting the timber supply area, or

(ii) in other prescribed circumstances;

(b) for a tree farm licence area

(i) if the minister replaces or amends the tree farm licence under section 39 (2) or (3), subject to section 39 (6),

(ii) if the minister changes the boundary or area of the tree farm licence under section 39.1, or

(iii) in other prescribed circumstances.

(2) An adjustment to the allowable annual cut referred to in subsection (1) is effective until the next allowable annual cut determination is made under section 8 for the timber supply area or tree farm licence area.

Plans, studies, analyses and information

9 (1) The chief forester may require the holder of a tree farm licence, at the holder's expense, to

(a) prepare and supply any plans, studies and analyses, and

(b) obtain and supply any information,

that the chief forester considers adequate to assist in the determination of an allowable annual cut for the tree farm licence area.

(2) The holder of the tree farm licence must

(a) prepare and supply the plans, studies and analyses, and

(b) obtain and supply the information,

required under subsection (1) and must do so at the time and in the form and manner required by the chief forester.

(3) If the chief forester determines that the holder of a tree farm licence has failed to comply with subsection (2), the allowable annual cut for the tree farm licence area in effect at the time of the determination is reduced by 25% effective January 1 of the year following the year in which the determination is made.

(4) If, on the first anniversary of a determination under subsection (3), the chief forester determines that the holder of the tree farm licence has not yet complied with subsection (2), the allowable annual cut in effect immediately before that determination is reduced by 25% effective January 1 of the year following the year in which that determination is made.

(5) If a determination is made by the chief forester under subsection (4) and

(a) subsequent to that determination but before the reduction becomes effective under that subsection, the chief forester determines that the holder has complied with subsection (2), the reduction that was due to come into effect is cancelled, and

(b) after the reduction becomes effective under that subsection, the chief forester determines that the holder has complied with subsection (2), the allowable annual cut in effect immediately before the reduction is restored.

(6) If the allowable annual cut for the tree farm licence area is reduced under subsection (3) or (4), the next allowable annual cut for the tree farm licence area determined by the chief forester under section 8 (1), despite the reduction, is effective on the date the reduction took place under subsection (3).

Apportioning cut

10 (1) The minister may specify that a portion of the allowable annual cut determined for the Crown land in a timber supply area under section 8 (1) (a) is available for granting under a form of agreement referred to in section 12.

(2) The minister if permitted to do so under a tree farm licence may make available for granting under Divisions 2, 3 and 7 of Part 3, to persons other than the holder of the tree farm licence, portions of the allowable annual cut determined for the tree farm licence area that have been specified by the chief forester under section 8 (5) (a).

Part 3 — Disposition of Timber by the Government

Division 1 — Forms of Rights to Crown Timber

Rights to Crown timber

11 Subject to the Land Act and the Park Act, rights to harvest Crown timber must not be granted by or on behalf of the government except in accordance with this Act and the regulations.

Form of agreements

12 (1) The minister may enter on behalf of the government into an agreement granting rights to harvest Crown timber in the form of a

- (a) forest licence,
- (b) [Repealed 2004-36-4.]
- (c) timber licence,
- (d) tree farm licence,
- (e) community forest agreement,

(e.1) first nations woodland licence,

(f) community salvage licence,

(g) woodlot licence,

(h) licence to cut,

(i) free use permit,

(j) Christmas tree permit, or

(k) road permit.

(2) A timber sales manager may enter on behalf of the government into an agreement granting rights to harvest Crown timber in the form of a

(a) timber sale licence,

(b) forestry licence to cut, or

(c) road permit.

Division 2 — Forest Licences

Applications

13 (1) In this section, "eligible application" means an application made in response to an invitation for applications under subsection (2) that

(a) is made by an applicant

(i) who has tendered as required under subsection (2) (b),

(ii) whom the minister or a person authorized by the minister considers to be qualified to perform the obligations specified under subsection (3) (c), and

(iii) who is in a category of applicants established by regulation, if the application is for a non-replaceable forest licence and the minister has specified that applications for those licences must only be accepted from one or more categories of applicants established by regulation as set out in subsection (2.1),

(b) conforms to subsection (3), and

(c) is not rejected under section 81 (3) or refused under section 81 (5).

(2) On request or on the minister's own initiative and by advertising in the prescribed manner, the minister or a person authorized by the minister

(a) may invite applications for a forest licence, and

(b) in doing so, must require that the applicant by written tender in a sealed container propose only a bonus bid or only a bonus offer.

(2.1) The minister may specify that applications for a non-replaceable forest licence must only be invited, under subsection (2), from one or more categories of applicants as established by regulation.

(3) An application for a forest licence must

(a) be in the form required by the minister or a person authorized by the minister,

(b) include an offer by the applicant to pay to the government, in addition to other amounts payable under this Act,

(i) stumpage under Part 7,

(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the forest licence, but, at the licensee's discretion, was not cut and removed, and

(iii) either a bonus bid or bonus offer, whichever is required under subsection (2), in the amount tendered, and

(c) include any information that the minister or a person authorized by the minister may require about the applicants' qualifications to

(i) carry out timber harvesting operations under the licence, or

(ii) perform specified obligations

(A) under the licence, or

(B) in respect of the licence or its holder, under this Act or another enactment.

(4) On receipt of applications and tenders in response to an invitation advertised under subsection (2), the minister or a person authorized by the minister

(a) may approve the eligible application of the applicant whose proposed bonus bid or bonus offer is the highest of those tendered by all applicants with eligible applications, or

(b) may decline to approve any of the eligible applications.

(5) If the applicant referred to in subsection (4) does not enter into a forest licence as required under subsection (6), the minister or a person authorized by the minister

(a) may approve the eligible application of the applicant whose proposed bonus bid or bonus offer is the next highest of those tendered by all applicants with eligible applications, or

(b) may decline to approve any of the eligible applications.

(6) If an eligible application is approved under this section, the minister and the applicant whose application is approved must enter into a forest licence.

Direct award of forest licence to produce bioenergy

13.1 (1) [Repealed 2011-18-2.]

(2) An application for a non-replaceable forest licence under this section must

(a) be in the form required by the minister or a person authorized by the minister,

(b) specify an allowable annual cut for the forest licence that is considered by the minister to be consistent with the maximum allowable annual cut for a timber supply area specified by the minister under section 13.2 (b), and

(c) include any information that the minister or a person authorized by the minister may require about the applicant's qualifications to

(i) carry out timber harvesting operations under the licence, or

(ii) perform specified obligations

(A) under the licence, or

(B) in respect of the licence or its holder, under this Act or another enactment.

(3) On receipt of an eligible bioenergy application, the minister or a person authorized by the minister must approve the application.

(4) The approval of an eligible bioenergy application under subsection (3) is revoked

(a) if the British Columbia Hydro and Power Authority or the applicant terminates the bioenergy supply contract before the commercial operation date, or

(b) if

(i) an approved eligible bioenergy application is rejected under section 81 (3) or refused under section 81 (5), and

(ii) the applicant has not brought the application into compliance with section 81 (3) or (5), as applicable, within 90 days following the commercial operation date.

(5) The minister and the applicant of an approved eligible bioenergy application must enter into a non-replaceable forest licence on or after the commercial operation date if, on the commercial operation date, the application

(a) is not rejected under section 81 (3) or refused under section 81 (5), or

(b) is rejected under section 81 (3) or refused under section 81 (5) but is brought into compliance with section 81 (3) or (5), as applicable, within 90 days following the commercial operation date.

(6) If the applicant refuses to enter into a forest licence under subsection (5)

(a) the approval of the eligible bioenergy application under subsection (3) is revoked, and

(b) the minister or a person authorized by the minister may increase the allowable annual cut specified in an existing forest licence entered into under this section by the volume of the allowable annual cut that was to be specified in the forest licence the applicant refused to enter into under subsection (5).

(7) In addition to setting out the matters described in section 14 (1), a forest licence entered into under subsection (5)

(a) must provide that timber harvested under the licence is restricted to a type of timber or terrain, or portion of a timber supply area, and

(b) may include other terms and conditions that the minister considers are necessary or desirable in relation to the bioenergy supply contract.

Designation of bioenergy supply contracts and specification of allowable annual cut

13.2 For the purposes of section 13.1, the minister may

(a) designate an energy supply contract as a bioenergy supply contract, and

(b) specify the maximum allowable annual cut in a timber supply area that may be subject to one or more bioenergy supply contracts.

Content of forest licence

14 (1) A forest licence

(a) must be for a term not exceeding 20 years, subject to sections 15, 16 and 58,

(b) must specify a timber supply area or tree farm licence area in which the holder of the licence may harvest Crown timber,

(b.1) may require, subject to subsection (2), that timber harvesting under the licence be restricted to one or more of the following:

(i) a portion of a timber supply area;

(ii) a type of timber;

(iii) a type of terrain,

(c) must specify an allowable annual cut that may be harvested under the licence, subject to sections 15 and 16,

(c.1) if it provides that a replacement for it must not be offered, must specify the maximum volume of timber that may be harvested under the licence,

(d) must require its holder to pay to the government, in addition to other amounts payable under this Act,

(i) stumpage under Part 7,

(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the forest licence, but, at its holder's discretion, is not cut and removed, and

(iii) a bonus bid or bonus offer, whichever is required under section 13, in the amount tendered under that section,

(e) must provide for cutting permits with terms that do not exceed 4 years to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the forest licence and subject to this Act and the Forest and Range Practices Act, to authorize its holder to harvest the allowable annual cut, from specified areas of land within the timber supply area or tree farm licence area specified in the forest licence,

(f) [Repealed 2003-30-2.]

(g) may make provision for timber to be harvested by persons under contract with its holder,

(g.1) that is entered into with a first nation or its representative to implement or further an agreement between the first nation and the government respecting treaty-related measures, interim measures or economic measures, must state that it is a condition of the licence that the first nation comply with the agreement, and

(h) may include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the minister.

(2) A requirement described in subsection (1) (b.1) must not be included in the following:

(a) a forest licence entered into before the date this subsection comes into force, unless

(i) the forest licence already includes the requirement, or

(ii) the holder of the forest licence agrees to include the requirement;

(b) a replacement for a replaceable forest licence, unless paragraph (a) (i) or (ii) of this subsection applies in relation to the replaceable forest licence.

Mountain pine beetle salvage area

14.1 (1) The Lieutenant Governor in Council, by regulation, may

(a) designate Crown land infested by mountain pine beetles as a mountain pine beetle salvage area for a prescribed period, and

(b) repeal or amend a regulation under paragraph (a).

(2) A forest licence that includes all or part of a mountain pine beetle salvage area, in addition to setting out the matters described in section 14 (1), may

(a) require any type of security, including but not limited to money, to be provided and maintained by the holder of the forest licence to ensure

(i) within a specified period or according to a required schedule of construction, or both, the construction or expansion of a timber processing facility that conforms to specified requirements, and

(ii) the reforestation of areas described in the licence by reference to one or more of geographic location, type of timber and type of terrain,

(A) at a rate of reforestation, and

(B) over a period

specified in the licence,

(b) specify one or more of the following:

(i) the type of security that is acceptable or unacceptable;

(ii) the form and content of the security;

(iii) the circumstances under which the security may be realized;

(iv) respecting the distribution of the realized security,

(c) provide that its holder may not harvest under the licence until the timber processing facility has been substantially completed to the satisfaction of the minister, and

(d) [Repealed 2014-7-2.]

(e) include other terms and conditions that the minister considers are necessary or desirable in relation to mountain pine beetle infestation in the mountain pine beetle salvage area.

(3) If a forest licence referred to in subsection (2)

(a) requires security to be provided and maintained, as described in paragraph (a) of that subsection, and

(b) the holder of the licence has provided the security,

the minister by notice served on the holder may cancel the licence in the circumstances specified under paragraph (b) (iii) of that subsection.

Supplemental forest licence

14.2 (1) In this section:

"restricted forest licence" means a non-replaceable forest licence entered into under section 13 (6) for which applications are invited on or after July 1, 2011 from one or more categories of applicants as established under section 13 (2.1);

"supplemental forest licence" means a restricted forest licence that includes the condition described in subsection (2) of this section.

(2) A supplemental forest licence, in addition to setting out the matters described in section 14 (1), must specify that timber may be harvested under the licence only if the minister is satisfied that the holder of the licence has taken the steps specified in the licence to obtain from other sources the timber and wood residue needed for processing facilities owned or leased by the holder.

(3) In respect of a supplemental forest licence, the requirement in section 14 (1) (e) is subject to the condition referred to in subsection (2) of this section.

Replacement

15 (1) In this section, "forest licence" means a forest licence other than one that provides that a replacement for it must not be offered.

(1.1) During the period beginning 6 months after the fourth anniversary of a forest licence and ending on the ninth anniversary, the minister or a person authorized by the minister may offer the holder of the

forest licence a replacement for it, after first giving the holder at least 2 months' notice of intent to offer the replacement.

(1.2) During the 6 months beginning on the ninth anniversary of a forest licence for which a replacement has not by then been offered under subsection (1.1), the minister or a person authorized by the minister must offer the holder of the forest licence a replacement for it.

(2) Despite subsection (1.2), if the minister or a person authorized by the minister determines that

(a) rights under the existing forest licence are under suspension, or

(b) the holder of the existing forest licence has failed to

(i) pay stumpage or other money payable in respect of timber harvested under the forest licence or a road permit associated with the forest licence,

(ii) provide security or a deposit required under this Act or the Forest and Range Practices Act in respect of the forest licence or a road permit associated with the forest licence,

(iii) perform an obligation under the forest licence to be performed by the holder in respect of an area of land specified in

(A) a cutting permit previously issued under the forest licence, or

(B) a road permit associated with the forest licence, or

(iv) comply with a requirement under this Act, the Forest and Range Practices Act or the Wildfire Act in respect of an area of land referred to in subparagraph (iii),

the minister or a person authorized by the minister, to the extent provided in the regulations,

(c) may decline to offer a replacement for the existing forest licence until

(i) the suspension is rescinded,

(ii) the suspended rights are reinstated, or

(iii) the holder of the existing forest licence

(A) pays the stumpage or other money payable,

(B) provides the required security or deposit,

(C) performs the obligation to be performed under the existing forest licence in respect of land referred to in paragraph (b) (iii), or

(D) complies with the requirement under this Act, the Forest and Range Practices Act or the Wildfire Act in respect of land referred to in paragraph (b) (iii), and

(d) may offer a replacement with special conditions.

(3) A forest licence offered under this section must

(a) have a term beginning

(i) if the forest licence is replaced under subsection (1.1), on the earlier of

- (A) the next anniversary of the existing forest licence being replaced under the offer, and
- (B) the immediate past anniversary of the existing forest licence being replaced under the offer, if the minister or a person authorized by the minister and the holder of the forest licence agree in writing,
 - (i.1) if the forest licence is replaced under subsection (1.2), on the tenth anniversary of the existing forest licence being replaced under the offer, or
 - (ii) if the minister or a person authorized by the minister exercises the power conferred under subsection (2) (c), on a date to be determined by the minister or a person authorized by the minister,
- (b) be for a term equal to
 - (i) 15 years, or
 - (ii) if the minister or a person authorized by the minister exercises the power conferred under subsection (2) (c), a period, not exceeding the period referred to in subparagraph (i), to be determined by the minister or a person authorized by the minister,
- (c) specify the timber supply area specified in the existing forest licence,
- (d) subject to takings, reductions and deletions authorized or required under this Act, specify an allowable annual cut that may be harvested under it equal to the allowable annual cut under the existing forest licence, and
- (e) include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, set out in the offer.
- (4) A notice of intent to offer a replacement referred to in subsection (1.1) and an offer of replacement made under subsection (1.2) must be published in the prescribed manner.
- (5) An offer made under this section may be
 - (a) amended, and
 - (b) accepted by written notice of acceptance served on a person designated by the minister not later than 3 months after the offer is served.
- (6) If an offer made under this section is accepted
 - (a) a forest licence containing the terms and conditions set out in the offer, including amendments, must be entered into by the minister and the holder of the forest licence, and
 - (b) the forest licence then in force expires on the commencement of the replacement licence.
- (7) If an offer made under this section is not accepted, the existing forest licence continues in force until its term expires, after which it has no further effect.
- (8) No forest licence is renewable.

Transition for forest licence replacement

15.1 (1) If an offer of a replacement for a forest licence

(a) was required to be made under section 15 within the 18 month period immediately preceding the date on which this section comes into force, and

(b) was not made within the 18 month period,

the offer of replacement, when made, must conform to section 15 of this Act as amended by the Forest (Revitalization) Amendment Act (No. 2), 2003.

(2) If an offer of a replacement for a forest licence

(a) was required to be made under section 15 within the 18 month period immediately preceding the date on which this section comes into force, and

(b) was made within this 18 month period,

the offer may be withdrawn if the person to whom the offer was made consents to the withdrawal of the offer.

(3) If an offer is withdrawn under subsection (2), the minister or person authorized by the minister must offer a replacement for the forest licence, and the offer must conform to section 15 of this Act as amended by the Forest (Revitalization) Amendment Act (No. 2), 2003.

Surrender of tree farm licence

16 (1) The holder of one or more tree farm licences or of any number of both tree farm licences and forest licences may apply to the minister to surrender all or part of them for replacement under

(a) subsection (2), by one or more forest licences, or

(b) subsections (2) and (3), by a combination of one or more tree farm licences and one or more forest licences.

(2) If the minister has approved an application under subsection (1), the minister, in respect of the surrendered licences or surrendered portions of them, must enter with their holder into one or more forest licences

(a) for a term of 15 years,

(b) that specify one or more timber supply areas within which the holder may harvest Crown timber, and

(c) that, in total, specify an allowable annual cut equal to the total, or a lesser portion of the total that the minister and the holder agree on, of

(i) the allowable annual cuts specified in the surrendered forest licences, plus increases and minus decreases, if any, in the allowable annual cuts made by the government since they were entered into, and

(ii) the portion of the allowable annual cuts available to the tree farm licence holder at the time of the surrender that the chief forester determines is attributable to the Crown land in the portions of the tree farm licences that are surrendered and on which the timber is not otherwise encumbered.

(3) If part of a tree farm licence is surrendered under subsection (1), the minister, in respect of the portion that is not surrendered, must enter with the holder into a new tree farm licence.

(4) The minister must not enter into a new tree farm licence under subsection (3) until a management plan for the proposed tree farm licence is approved under section 35.2.

(5) A notice of the surrender and proposed replacement under subsection (1) must be published in the prescribed manner.

(6) [Repealed 2004-36-6.]

Repealed

17 [Repealed 2003-31-9.]

Transfer to other timber supply area

18 With the approval of the minister and the consent of the holder of a forest licence, all or part of the cutting rights authorized under the forest licence may be transferred from one timber supply area to another for a term specified by the minister.

Consolidation and subdivision of forest licences

19 (1) [Repealed 2009-8-2.]

(2) Subject to this section, the minister, by one or more of the methods set out in subsection (5), may

(a) replace 2 or more forest licences held by the same person for the same timber supply area with one of those forest licences or a new forest licence held by that person for that timber supply area, or

(b) amend a single forest licence held by a person for a timber supply area and enter into one or more forest licences held by that person for that timber supply area,

if the minister first receives the consent of the holder of the licences or licence.

(3) Subject to this section, the minister, by a method or combination of methods under subsection (5), must

(a) replace 2 or more forest licences held by the same person for the same timber supply area with one of those forest licences or a new forest licence held by that person for that timber supply area, or

(b) amend a single forest licence held by a person for a timber supply area and enter into one or more forest licences held by that person for that timber supply area,

if the holder requests the replacement or amendment by written request delivered to the minister.

(4) The minister may refuse to replace or amend, under subsection (3), one or more forest licences if the minister considers that the replacement or amendment would compromise forest management.

(5) For the purposes of subsections (2) and (3), the methods are as follows:

(a) reducing the allowable annual cut specified in a forest licence and increasing the allowable annual cut for one or more other forest licences by a volume equal to the reduction;

(b) amending or cancelling a forest licence;

(c) entering into one or more forest licences.

(6) In making a replacement or amendment referred to in subsection (2) or (3), the minister must ensure that the total of the allowable annual cuts, after the replacements, amendments or both, of all of the forest licences involved remains the same as it was immediately before any replacements or amendments under this section.

(7) A forest licence as described

(a) in paragraph (a) of the definition of "licence" in section 75.4 (1), or

(b) in section 75.5

may not be replaced under subsection (2) or (3) except with a forest licence that is also a forest licence as described

(c) in paragraph (a) of the definition of "licence" in section 75.4 (1), or

(d) in section 75.5.

(8) A replaceable forest licence may not be replaced under subsection (2) or (3) except with a forest licence that is also replaceable.

(9) A forest licence that provides that a replacement for the forest licence must not be offered may not be replaced under subsection (2) or (3) except with a forest licence that also provides that a replacement for it must not be offered.

(10) Despite section 14 (1) (a), a forest licence that is amended or entered into under this section must not expire later than the earliest expiry date of the forest licence it replaces or amends.

Division 3 — Timber Sale Licences

Applications

20 (1) In this section, "eligible application" means an application made in response to an invitation for applications under subsection (2) that

(a) is made by an applicant who has tendered as required under subsection (2) (b),

(b) conforms to subsection (3), and

(c) is not rejected under section 81 (3) or refused under section 81 (5).

(2) On request or on his or her own initiative and by advertising in the prescribed manner, the timber sales manager

(a) may invite applications for a timber sale licence, and

(b) in doing so,

- (i) may specify that applications for the timber sale licence are to be accepted only from one or more categories of BC timber sales enterprises as established by regulation, and
 - (ii) must require that the applicant by written tender in a sealed container propose only a bonus bid or only a bonus offer.
- (3) An application for a timber sale licence must
- (a) be in the form required by the timber sales manager, and
 - (b) include an offer by the applicant to pay to the government, in addition to other amounts payable under this Act,
 - (i) stumpage under Part 7,
 - (ii) if the timber sale licence will describe one or more areas of land within which its holder may harvest Crown timber, waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the timber sale licence, but, at the licensee's discretion, is not cut and removed, and
 - (iii) either a bonus bid or bonus offer, whichever is required under subsection (2), in the amount tendered.
- (4) On receipt of applications and tenders in response to an invitation advertised under subsection (2), the timber sales manager
- (a) must approve the eligible application of the applicant whose proposed bonus bid or bonus offer is the highest of those tendered by all applicants with eligible applications, or
 - (b) at the direction of the minister, must decline to approve any of the eligible applications.
- (5) If the applicant referred to in subsection (4) does not enter into a timber sale licence as required under subsection (6), the timber sales manager
- (a) may approve the eligible application of the applicant whose proposed bonus bid or bonus offer is the next highest of those tendered by all applicants with eligible applications, or
 - (b) may decline to approve any of the eligible applications.
- (6) If an eligible application is approved under this section, the timber sales manager and the applicant whose application is approved must enter into a timber sale licence.

Repealed

21 [Repealed 2003-31-12.]

Content of timber sale licence

22 A timber sale licence

- (a) must be for a term not exceeding 4 years,
- (b) must describe

- (i) one or more areas of land within which its holder may harvest Crown timber, or
- (ii) the location of logs that are being sold,
- (c) may specify a volume or an estimate of the volume of timber that may be harvested from an area of land described in the timber sale licence,
- (d) [Repealed 2004-36-9.]
- (e) may include provisions
 - (i) specifying standards and programs established by one or more standard making bodies,
 - (ii) requiring the holder of the licence to meet the standards and programs specified under subparagraph (i), and
 - (iii) specifying the manner in which the holder of the licence must conduct operations under the licence in order to meet the standards and programs specified under subparagraph (i),
- (e.1) may specify when and how a bonus offer required under section 20 must be paid and, if the bonus offer may be paid in instalments, the amount of each instalment,
- (f) must require its holder to pay to the government, in addition to other amounts payable under this Act,
 - (i) stumpage under Part 7,
 - (ii) if the timber sale licence describes one or more areas of land within which its holder may harvest Crown timber, waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the timber sale licence, but, at its holder's discretion, is not cut and removed,
 - (iii) if a bonus bid is required under section 20, a bonus bid in the amount tendered under that section, and
 - (iv) if a bonus offer is required under section 20, a bonus offer in the amount tendered under that section, at the times and in the manner, if any, specified in the timber sale licence, unless the holder of the licence is exempt under section 22.1 from the requirement to pay the bonus offer, and.
- (g) may include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the timber sales manager.

Exemption from requirement to pay bonus offer

22.1 (1) The holder of a timber sale licence for which a bonus offer was tendered is not required to pay the bonus offer if the licence is surrendered or expires before any Crown timber is harvested under the timber sale licence.

(2) Subsection (1) does not apply to a timber sale licence for which applications under section 20 are invited before the date this section comes into force.

BCTS disposition agreements

22.2 (1) In this section and section 22.3:

"BCTS" means the BC Timber Sales program within the ministry;

"BCTS disposition agreement" means a BCTS disposition agreement referred to in subsection (2);

"BCTS licence" means

- (a) a timber sale licence under section 20, or
- (b) a forestry licence to cut under section 47.6 (3);

"non-BCTS licence" means a forest licence, tree farm licence, community forest agreement, first nations woodland licence or woodlot licence.

(2) The minister may enter into a BCTS disposition agreement on behalf of the government for the purposes of

- (a) allowing the holder of a non-BCTS licence to temporarily release to the government some of the holder's rights to harvest Crown timber under the non-BCTS licence, and
 - (b) making the released rights available for disposition, to persons other than the holder of the non-BCTS licence, in the form of one or more BCTS licences.
- (3) The minister may not enter into a BCTS disposition agreement that would allow for the release of rights to harvest Crown timber under a non-BCTS licence if any of the rights under the non-BCTS licence are under suspension, in whole or in part, under section 76.

(4) A BCTS disposition agreement

- (a) must describe the rights that the holder of the non-BCTS licence is releasing to the government, including identifying the non-BCTS licence under which those rights are held,
- (b) must specify the consideration to be provided by the government to the holder of the non-BCTS licence for the value of the rights released to the government,
- (c) may provide that the BCTS disposition agreement ends on a specified date, and
- (d) may provide for any other matter the minister considers necessary for the purposes of subsection (2).

(5) The exclusive right to harvest Crown timber under a tree farm licence, community forest agreement, first nations woodland licence or woodlot licence is subject to the right to harvest Crown timber under a BCTS licence if

- (a) rights to harvest Crown timber under the tree farm licence, community forest agreement, first nations woodland licence or woodlot licence are released to the government under a BCTS disposition agreement, and

(b) the BCTS licence is entered into or granted as a result of the release of rights referred to in paragraph (a).

(6) Nothing under this section, or under a BCTS disposition agreement entered into under this section, limits the application of any of the following:

(a) a reservation referred to in section 35 (1) (h) or (n), 43.3 (1) (g.2) or 43.55 (1) (h.1);

(b) section 47.9, 49.1, 61, 72, 73, 75.8, 115, 116, 117 or 118.

Volume harvested under BCTS licence deemed to be harvested

under non-BCTS licence for cut control purposes

22.3 For the purposes of paragraph (a) of the definition of "volume of timber harvested" in section 75.1 (1) and the definition of "volume of timber harvested" in a licence referred to in section 75.11 (1), if

(a) rights to harvest Crown timber under a non-BCTS licence are released to the government under a BCTS disposition agreement, and

(b) a BCTS licence is entered into or granted as a result of the release of rights referred to in paragraph (a),

the amount of timber that is merchantable Crown timber that is removed under the BCTS licence is deemed to be harvested under the non-BCTS licence.

Repealed

23–24 [Repealed 2003-31-14.]

Division 3.1 — Conversion of Timber Sale Licences

Interpretation

24.1 In this Division, "pre-existing licence" means a timber sale licence that

(a) was entered into under section 24 of this Act before that section's repeal by the Forest (Revitalization) Amendment Act (No. 2), 2003, and

(b) is still in effect immediately before that repeal.

Conversion of timber sale licence to forest licence

24.2 On the coming into force of this section, a pre-existing licence that has an allowable annual cut greater than 10 000 m³ is converted into a replaceable forest licence that

(a) is held by the same person who was the holder of the pre-existing licence,

- (b) has a term of 15 years beginning on the date this section comes into force,
- (c) specifies the same timber supply area as did the pre-existing licence, and
- (d) includes other terms and conditions that are substantially the same as in the pre-existing licence.

Addition of timber sale licence allowable annual cut to forest licence

24.3 (1) In this section, "replaceable forest licence" includes one resulting from the conversion under section 24.2 of a pre-existing licence.

(2) If, on the coming into force of this section, a person

- (a) holds any replaceable forest licence and one or more pre-existing licences, and
- (b) the pre-existing licence or each of them, if more than one, has an allowable annual cut of 10 000 m³ or less and authorizes harvesting within the same timber supply area specified in the replaceable forest licence,

the replaceable forest licence is amended, effective on the date this section comes into force, by increasing its allowable annual cut by an amount equal to

- (c) the allowable annual cut of the pre-existing licence described in paragraph (b), if the person holds only one such pre-existing licence, or
- (d) the total of the allowable annual cuts of the pre-existing licences described in paragraph (b), if the person holds more than one such pre-existing licence.

(3) A pre-existing licence to which subsection (2) applies is deemed to have been surrendered on the coming into force of this section.

Addition of timber sale licence allowable annual cut to forest licence on application

24.4 (1) In this section, "forest licence" includes one resulting from the conversion under section 24.2 of a pre-existing licence.

(2) If, after the coming into force of this section, a person

- (a) holds any non-replaceable forest licence and one or more pre-existing licences,
- (b) does not hold any replaceable forest licence in the timber supply area specified in the non-replaceable forest licence, and
- (c) the pre-existing licence or each of them, if more than one, authorize harvesting within the same timber supply area specified in the non-replaceable forest licence,

the non-replaceable forest licence, on application by its holder within one year after the coming into force of this section, must be amended by the minister by increasing its allowable annual cut by an amount equal to

- (d) the allowable annual cut of the pre-existing licence referred to in paragraph (c), if the person holds only one such pre-existing licence, or

(e) the total of the allowable annual cuts of the pre-existing licences referred to in paragraph (c), if the person holds more than one such pre-existing licence.

(3) If, after the coming into force of this section, a person

(a) holds a forest licence and one or more pre-existing licences,

(b) the pre-existing licence or each of them, if more than one, authorizes harvesting within a different timber supply area than the one specified in forest licence, and

(c) the minister determines that there is sufficient timber available in the timber supply area specified in the forest licence,

the forest licence, on application by its holder within one year after the coming into force of this section, must be amended by the minister by increasing its allowable annual cut by an amount equal to

(d) the allowable annual cut of the pre-existing licence described in paragraph (b), if the person holds only one such pre-existing licence, or

(e) the total of the allowable annual cuts of the pre-existing licences described in paragraph (b), if the person holds more than one such pre-existing licence.

(4) A pre-existing licence to which subsection (2) or (3) applies is deemed to have been surrendered on the date of the allowable annual cut increase under subsection (2) or (3).

Addition of timber sale licence to woodlot licence

24.5 (1) If, after the coming into force of this section,

(a) a person holds

(i) one or more pre-existing licences, and

(ii) a woodlot licence, and

(b) the minister determines that there is available Crown land that can reasonably be included in the woodlot licence area,

the woodlot licence, on application by its holder within one year after the coming into force of this section, must be amended by the minister by adding to its area a part of the available Crown land referred to in paragraph (b) that is sufficient to increase the allowable annual cut of the woodlot licence by an amount that is equal to at least 80% but not more than 120% of

(c) the allowable annual cut of the pre-existing licence referred to in paragraph (a), if the person holds only one such pre-existing licence, or

(d) the total of the allowable annual cuts of the pre-existing licences referred to in paragraph (a), if the person holds more than one such pre-existing licence.

(2) A pre-existing licence to which subsection (1) applies is deemed to have been surrendered on the date of the allowable annual cut increase under subsection (1).

(3) Section 45 (1) (b) (ii) does not apply to a woodlot licence amended under subsection (1) of this section.

Surrender of timber sale licence for forest licence

24.6 (1) In this section, "pre-existing licence", in relation to the holder of it, includes that holder's other pre-existing licences, if any, that pertain to the same timber supply area.

(2) If, after the coming into force of this section, a person

(a) holds a pre-existing licence that has an allowable annual cut of 2 000 m³ or more, and

(b) the minister receives an application from the holder within one year after this section comes into force to surrender the pre-existing licence for a replaceable forest licence,

the minister, subject to subsection (3), must enter into a replaceable forest licence with the holder of the pre-existing licence, which replaceable forest licence

(c) is held by the same person who was the holder of the pre-existing licence,

(d) has a term of 15 years beginning on the date the application is received by the minister,

(e) specifies the same timber supply area as did the pre-existing licence,

(f) specifies an allowable annual cut that is the same as the allowable annual cut of the pre-existing licence, and

(g) includes other terms and conditions that are substantially the same as in the pre-existing licence.

(3) The minister must not enter into a forest licence under this section until the holder of the pre-existing licence surrenders the pre-existing licence.

Surrender of timber sale licence for woodlot licence

24.7 (1) In this section, "pre-existing licence", in relation to the holder of it, includes that holder's other pre-existing licences, if any.

(2) Subject to subsection (3), if after the coming into force of this section,

(a) a person holds a pre-existing licence that has an allowable annual cut of at least 800 m³ but not more than 2 500 m³, and

(b) the minister determines that there is available Crown land that can reasonably be included in any woodlot licence area,

on application by its holder received by the regional manager or district manager within one year after the coming into force of this section, the minister must enter into a woodlot licence with the holder of the pre-existing licence, which woodlot licence

(c) has a term not exceeding 20 years,

(d) describes a woodlot licence area comprised of all or part of the available Crown land referred to in paragraph (b) that is sufficient to support an allowable annual cut for the woodlot licence that is equal to at least 80% but not more than 120% of the allowable annual cut of the pre-existing licence,

(e) specifies an allowable annual cut within the range described in paragraph (d), and

(f) includes other terms and conditions, consistent with this Act and the regulations, determined by the minister.

(3) The minister must not enter into a woodlot licence under this section unless

(a) the holder of the pre-existing licence meets the criteria specified in section 44 (4), (5) and (5.1), as applicable,

(b) the minister is satisfied that the holder of the pre-existing licence is qualified to manage the proposed woodlot licence area,

(c) a management plan has been prepared by the holder of the pre-existing licence for the proposed woodlot licence area and approved by the minister, and

(d) the holder surrenders the pre-existing licence.

(4) Section 45 (1) (b) (ii) does not apply to a woodlot licence entered into under this section.

Surrender of timber sale licence for forestry licence to cut

24.8 (1) In this section, "pre-existing licence", in relation to the holder of it, includes that holder's other pre-existing licences, if any.

(2) If, after the coming into force of this section, a person

(a) holds a pre-existing licence, and

(b) the regional manager receives an application from the holder within one year after this section comes into force to surrender the pre-existing licence for a forestry licence to cut,

the minister must enter into a forestry licence to cut with the holder of the pre-existing licence, which forestry licence to cut

(c) is held by the same person who was the holder of the pre-existing licence,

(d) has a term of 5 years beginning on the date the forestry licence to cut is entered into,

(e) specifies a volume of timber that

(i) may be harvested from the area of land described in the forestry licence to cut that is in the same timber supply area to which the pre-existing licence pertains, and

(ii) is equal to a volume of timber that is the sum of the allowable annual cuts of the pre-existing licence for the period ending December 31, 2021, and

(f) includes other terms and conditions that are substantially the same as in the pre-existing licence.

(3) The minister must not enter into forestry licence to cut under this section until the holder of the pre-existing licence surrenders the pre-existing licence.

Conversion of timber sale licence to forestry licence to cut

24.9 (1) In this section, "pre-existing licence" means a pre-existing licence to which sections 24.2 to 24.8 do not apply and, in relation to the holder of it, includes that holder's other pre-existing licences, if any, in the same timber supply area.

(2) One year after the coming into force of this section, a pre-existing licence is converted into a forestry licence to cut that

(a) has a term of equal to the unexpired portion of the term of the pre-existing licence,

(b) describes an area of land within which its holder may harvest timber that is the same timber supply area to which the pre-existing licence pertains,

(c) specifies a volume of timber that may be harvested under the forestry licence to cut that is equal to a volume of timber that is the sum of the allowable annual cuts of the pre-existing licence for the unexpired portion of its term, and

(d) includes other terms and conditions that are substantially the same as in the pre-existing licence.

(3) A pre-existing licence to which subsection (2) applies is deemed to have been surrendered on the date it is converted into a forestry licence to cut.

No compensation

24.91 Compensation is not payable by the government and proceedings must not be commenced or maintained to claim compensation from the government or to obtain a declaration that compensation is payable by the government in respect of

(a) the enactment of this Division, or

(b) obligations, including silviculture and other forest management obligations imposed under the Forest Practices Code of British Columbia Act or the Forest and Range Practices Act, that apply to an agreement resulting from or entered into under this section.

Division 4 — Forest Licence Area Restriction

Permanent transfer to adjacent timber supply area

25 (1) Subject to subsection (2), the minister may

(a) direct that the right to harvest timber under a forest licence be transferred from one timber supply area to an adjacent timber supply area specified by the minister, and

(b) amend the forest licence to give effect to the direction.

(2) The minister must not give a direction under subsection (1) transferring the right to harvest timber under a forest licence from one timber supply area to an adjacent timber supply area, unless

(a) the boundaries between the timber supply area specified in the forest licence and the adjacent timber supply area have been changed under this Act,

(b) the minister is satisfied that the change in boundaries increased the area of the adjacent timber supply area to a size sufficient to support the transferred right to harvest timber, and

(c) the holder of the forest licence consents.

Minister may impose area restrictions

26 (1) In this section, "original licence" means a forest licence that is the subject of an order under subsection (2).

(2) If a timber supply area has been divided under section 7 (b), the minister may order that the allowable annual cut under a forest licence

(a) be fully allocated to one of the timber supply areas resulting from the division, or

(b) be allocated, in the proportions specified in the order, between or among 2 or more of the timber supply areas resulting from the division.

(3) If an order is made under subsection (2), the minister, in accordance with subsection (4), must issue to the holder of the original licence one or more forest licences in substitution for the original licence.

(4) A forest licence issued under subsection (3)

(a) must specify one of the timber supply areas resulting from the division and authorize an allowable annual cut as necessary to give effect to the order of the minister under subsection (2),

(b) [Repealed 2003-31-18.]

(c) must specify a term that expires on the expiry date of the original licence,

(d) is replaceable on the same terms and conditions as the original licence, if the original licence is replaceable under section 15, and in that case, for the purpose of determining the obligations pertaining to replaceability under the new licence, the new licence is deemed to have been issued at the same time as the original licence, and

(e) subject to subsection (5), must otherwise be on the same terms and conditions as the original licence.

(5) After giving the holder of the original licence an opportunity to be heard, the minister, at the time of issuing a licence under subsection (3), may include in it terms and conditions that vary from those in the original licence to the extent only that the minister considers necessary in order to take into account the allocation referred to in subsection (2).

(6) to (8) [Repealed 2003-31-18.]

Division 5 — Timber Licences

Rights in tree farm licences

27 If a tree farm licence expires or otherwise terminates and is not replaced under section 36, a timber licence that is then in the tree farm licence area

- (a) expires one year after the expiry or termination of the tree farm licence, and
- (b) may be replaced by a timber licence under section 28.

Rights not in tree farm licence

28 (1) A person who holds a timber licence that is due to expire under section 27 (a) may submit to a person designated by the minister, within 6 months after expiry or termination of the tree farm licence, a schedule proposing a time and a sequence for the orderly harvesting of the merchantable timber that is subject to the licence.

(2) After considering a schedule proposed under subsection (1), the minister, in a notice served on its holder within 3 months after receiving the schedule, must offer to the holder one or more timber licences that, subject to section 74,

- (a) describe the Crown land subject to the timber licence, and
 - (b) expire on a date specified in the timber licence by the minister.
- (3) The offer may be accepted by written notice served on a person designated by the minister not later than 3 months after it is made.
- (4) If the offer is accepted, the minister and the holder must enter into a timber licence.
- (5) A notice of an offer made under subsection (3) must be published in the prescribed manner.

One timber licence

29 If the minister considers that efficient forest planning and management would be served, he or she must enter into one timber licence under section 28 (4) for 2 or more timber licences.

Consolidation of timber licences

29.1 (1) With the consent of the holder of a timber licence, the minister may consolidate 2 or more timber licences into a timber licence and, to achieve the consolidation, may do any of the following:

- (a) partition or subdivide a timber licence into 2 or more timber licences;
- (b) delete all or part of the licence area from a timber licence and add the deleted area to the licence area of another timber licence;
- (c) cancel a timber licence if the area covered by the licence has been added to the licence area in another timber licence;

(d) amend a timber licence;

(e) enter into one or more timber licences covering the same land as was covered in the licences being consolidated, subdivided or partitioned.

(2) A timber licence that is amended or entered into under this section must not expire later than the latest expiry date of the timber licences it replaces or amends.

Content of timber licence

30 A timber licence must

(a) describe an area of Crown land over which it is to apply,

(b) be for a term determined under this Division,

(c) grant to its holder the exclusive right during its term to harvest all merchantable timber in the area of Crown land described in it,

(d) if the timber licence is in a tree farm licence area, require its holder to harvest timber in accordance with the tree farm licence and the management plan for the tree farm licence approved under section 35.2,

(e) provide for cutting permits with terms that do not exceed 4 years to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the timber licence and subject to this Act and the Forest and Range Practices Act, to authorize the holder of the timber licence to harvest Crown timber from specified areas of land within the area of Crown land described in the timber licence,

(f) require its holder to pay the government, in addition to other amounts payable under this Act,

(i) stumpage under Part 7, and

(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the timber licence, but at its holder's discretion, is not cut and removed, and

(g) include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the minister.

Extension of term of timber licence

31 On application of the holder of a timber licence, the minister may extend the term of the licence for a period not exceeding 3 years if the licence is in effect on April 26, 2004 and the application is made

(a) before the expiration of the term, or

(b) despite the expiration of the term, if the term expires on April 26, 2004 and before the elapse of 60 days after May 13, 2004.

Non-timber use

32 (1) Unless a timber licence is in a tree farm licence area, if the minister determines that all or any part of the area of land that is subject to the licence is needed for a purpose other than timber production, the

minister, in a notice served on the holder of the licence, may require that the merchantable timber on that area or that part be harvested within the time specified in the notice.

(2) On the expiry of the specified time, or of an extension of that time granted by the minister, the minister may delete from the licence the area of land described in the notice.

Division 6 — Tree Farm Licences

Applications

33 (1) In this section, "eligible application" means an application made in response to an invitation for applications under subsection (4) that

(a) is made by an applicant

(i) who has tendered as required under subsection (5) (b), and

(ii) whom the minister or a person authorized by the minister considers to be qualified to perform the obligations specified under subsection (5) (c),

(b) conforms to subsection (5), and

(c) is not rejected under section 81 (3) or refused under section 81 (5).

(2) On request or on the minister's own initiative, the minister or a person authorized by the minister may

(a) convene a public hearing in which any person may make a submission as to whether or not a specified area should become a tree farm licence area, and

(b) determine the procedures for the public hearing.

(3) After a public hearing under subsection (2),

(a) the minister must

(i) review the submissions made during the hearing and any other information he or she considers relevant, and

(ii) recommend to the Lieutenant Governor in Council whether or not the specified area referred to in subsection (2) (a) should become a tree farm licence area, and

(b) on receiving the recommendation of the minister, the Lieutenant Governor in Council, by order, may

(i) authorize the minister to invite applications for a tree farm licence for all or part of the specified area, or

(ii) decline to do so.

(4) If the minister receives authorization under subsection (3) (b) (i), he or she, by advertising in the prescribed manner,

- (a) may invite applications for a tree farm licence, and
 - (b) in doing so, must require that the applicant by written tender in a sealed container propose only a bonus bid or only a bonus offer.
- (5) An application for a tree farm licence must
- (a) be in the form specified by the minister,
 - (b) include an offer by the applicant to pay to the government, in addition to other amounts payable under this Act,
 - (i) stumpage under Part 7,
 - (ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the tree farm licence, but, at the licensee's discretion, is not cut and removed, and
 - (iii) either a bonus bid or bonus offer, whichever is required under subsection (4), in the amount tendered, and
 - (c) include any information that the minister or a person authorized by the minister may require about the applicants' qualifications to
 - (i) carry out timber harvesting operations under the licence, or
 - (ii) perform specified obligations
 - (A) under the licence, or
 - (B) in respect of the licence or its holder, under this Act or another enactment.
- (6) On receipt of applications and tenders in response to an invitation advertised under subsection (4), the minister
- (a) may approve the eligible application of the applicant whose proposed bonus bid or bonus offer is the highest of those tendered by all applicants with eligible applications, or
 - (b) may decline to approve any of the eligible applications.
- (7) If the applicant referred to in subsection (6) does not enter into a tree farm licence as required under subsection (8), the minister
- (a) may approve the eligible application of the applicant whose proposed bonus bid or bonus offer is the next highest of those tendered by all applicants with eligible applications, or
 - (b) may decline to approve any of the eligible applications.
- (8) Subject to subsection (10), if an eligible application is approved under this section, the minister and the applicant whose application is approved must enter into a tree farm licence.
- (9) The minister may reserve from disposition under this Act the timber in an area that is the subject of a public hearing convened under subsection (2) or described in the advertising referred to in subsection (4), pending the entering into of a tree farm licence or the rejection of all applications submitted under this section.

(10) The minister must not enter into a tree farm licence under this section until a management plan for the proposed tree farm licence area is approved under section 35.2.

Repealed

34 [Repealed 2003-31-21.]

Content of tree farm licence

35 (1) A tree farm licence must

(a) subject to section 36 (3) (a), be for a term of 25 years,

(b) subject to sections 33 and 39, describe a tree farm licence area, determined by the minister or a person authorized by the minister, comprising Crown land, the timber on which is unencumbered except by the licence, and if the area includes

(i) private land, or

(ii) Crown land subject to a timber licence

also comprising that land,

(c) require its holder to pay to the government, in addition to other amounts payable under this Act,

(i) stumpage under Part 7 for timber harvested under the tree farm licence on Crown land or under a timber licence on Crown land in the tree farm licence area,

(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the tree farm licence or timber licence, but, at the licensee's discretion, is not cut and removed, and

(iii) a bonus bid or bonus offer, whichever is required under section 33, in the amount tendered under that section,

(d) [Repealed 2007-18-13.]

(e) subject to this Act and the licence, grant to its holder the exclusive right to harvest from the tree farm licence area during the term of the tree farm licence one or both of the following:

(i) Crown timber of one or more types specified in the tree farm licence,

(ii) Crown timber from one or more types of terrain specified in the tree farm licence,

(f) provide for cutting permits with terms that do not exceed 4 years to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the tree farm licence and subject to this Act and the Forest and Range Practices Act, to authorize its holder to harvest the allowable annual cut available to its holder from specified areas of land within the tree farm licence area,

(g) [Repealed 2010-12-7.]

(h) require that timber on the tree farm licence area, in an amount directed by the minister, having regard to reservations made by the minister for

(i) BC timber sales enterprises,

(ii) pulpwood agreements, or

(iii) woodlot licences,

is to be available for disposition under

(iv) timber sale licences or forestry licences to cut, or

(v) Division 7 or 8 of this Part

to persons other than the holder of the tree farm licence,

(i) make provision for its holder to use the services of one or more professional foresters to manage the tree farm licence area,

(j) require that each year during its term a volume of timber not less than

(i) 50% of the volume of timber harvested by or for its holder from the tree farm licence area during the year, multiplied by

(ii) the result obtained by the division of

(A) the portion of the allowable annual cut available to its holder during that year that the chief forester determines is attributable to Crown land referred to in paragraph (b) (i) and sections 37 (1) and 38, by

(B) the allowable annual cut available to its holder during that year

are to be harvested by persons under contract with its holder,

(k) allow its holder to contract for the harvesting of more than the volume calculated under paragraph (j),

(l) provide that the minister, under the regulations, may relieve the holder, in whole or in part, from the requirement under paragraph (j),

(m) [Repealed 2003-30-2.]

(n) reserve to the government the right to enter into a free use permit on the tree farm licence area with a person other than the holder of the tree farm licence, and

(o) contain other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the minister.

(2) A disposition of timber under Division 3 or 7 of this Part pursuant to this section, or pursuant to a requirement referred to in subsection (1) (h), does not give rise to any right to or eligibility for compensation under this Act or otherwise.

Inventories

35.1 (1) In this section, "recreation resources" has the same meaning as it has in the Forest and Range Practices Act.

(2) If, having regard to the factors listed in subsection (5), the chief forester determines that a management plan for a tree farm licence does not satisfactorily provide for an inventory of the forest, recreation and cultural heritage resources of the tree farm licence area, the chief forester may give a notice to the holder of the licence requiring the holder of the licence to compile and submit the inventories set out in the notice.

(3) The notice given under subsection (2) may specify the following requirements:

- (a) the manner in which the inventories are prepared;
- (b) the format in which the inventories are presented;
- (c) the specifications the inventories must meet;
- (d) the date the inventories must be submitted to the chief forester.

(4) In addition to compiling any inventories required under the management plan, the holder of the tree farm licence must compile and submit the inventories required in the notice given under subsection (2) and comply with any requirements referred to in subsection (3) that are set out in the notice.

(5) The chief forester may determine that a management plan for a tree farm licence does not satisfactorily provide for an inventory of the forest, recreation and cultural heritage resources of the tree farm licence area if, in the opinion of the chief forester, inventories prepared in accordance with the management plan would not provide sufficient information to adequately

- (a) establish and carry out objectives set by government,
- (b) prepare and carry out operational plans,
- (c) manage and conserve the forest, recreation and cultural heritage resources of the tree farm licence area, and
- (d) assess the impact that managing the resources referred to in paragraph (c) would have on the timber supply for the tree farm licence area.

Management plan for tree farm licence

35.2 (1) A management plan for a tree farm licence may be approved in accordance with the regulations if the management plan

- (a) is submitted in accordance with the regulations, and
- (b) conforms to prescribed requirements.

(2) A management plan approved under subsection (1)

- (a) is effective for the period of time specified in the regulations, and
- (b) may be replaced or extended in accordance with the regulations.

(3) The tree farm licence holder must comply with a management plan approved under subsection (1) or replaced or extended under subsection (2).

(4) The requirements in a tree farm licence respecting the content of a management plan do not apply to a management plan approved under subsection (1) or replaced or extended under subsection (2).

(5) A management plan for a tree farm licence that is in effect when this section comes into force

(a) is deemed to be approved under subsection (1), and

(b) despite subsection (4), must comply with the requirements in the tree farm licence respecting management plans until the management plan is replaced under subsection (2).

Replacement

36 (1) In this section, "tree farm licence" means a tree farm licence other than one that provides that a replacement for it must not be offered.

(1.1) During the period beginning 6 months after the fourth anniversary of a tree farm licence and ending on the ninth anniversary, the minister may offer the holder of the tree farm licence a replacement for it, after first giving the holder at least 2 months' notice of intent to offer the replacement.

(1.2) During the 6 months beginning on the ninth anniversary of a tree farm licence for which a replacement has not by then been offered under subsection (1.1), the minister must offer the holder of the tree farm licence a replacement for it.

(2) Despite subsection (1.2), if the minister determines that

(a) rights under the existing tree farm licence are under suspension, or

(b) the holder of the existing tree farm licence has failed to

(i) pay stumpage or other money payable in respect of timber harvested under the tree farm licence or a road permit associated with the tree farm licence,

(ii) provide security or a deposit required under this Act or the Forest and Range Practices Act in respect of the tree farm licence or a road permit associated with the tree farm licence,

(iii) perform an obligation under the tree farm licence to be performed by the holder in respect of an area of land specified in

(A) a cutting permit previously issued under the tree farm licence, or

(B) a road permit associated with the tree farm licence, or

(iv) comply with a requirement under this Act, the Forest and Range Practices Act or the Wildfire Act in respect of an area of land referred to in subparagraph (iii),

the minister, to the extent provided in the regulations,

(c) may decline to offer a replacement for the existing tree farm licence until

(i) the suspension is rescinded,

(ii) the suspended rights are reinstated, or

(iii) the holder of the existing tree farm licence

- (A) pays the stumpage or other money payable,
 - (B) provides the required security or deposit,
 - (C) performs the obligation to be performed under the existing tree farm licence in respect of land referred to in paragraph (b) (iii), or
 - (D) complies with the requirement under this Act, the Forest and Range Practices Act or the Wildfire Act in respect of land referred to in paragraph (b) (iii), and
 - (d) may offer a replacement with special conditions.
- (3) A tree farm licence offered under this section must
- (a) be for a term equal to
 - (i) 25 years, or
 - (ii) if the minister exercises the power conferred under subsection (2) (c), a period, not exceeding 25 years, to be determined by the minister,
 - (b) have a term beginning
 - (i) if the tree farm licence is replaced under subsection (1.1), on the earlier of
 - (A) the next anniversary of the existing tree farm licence being replaced under the offer, and
 - (B) the immediate past anniversary of the existing tree farm licence being replaced under the offer, if the minister or a person authorized by the minister and the holder of the tree farm licence agree in writing,
 - (i.1) if the tree farm licence is replaced under subsection (1.2), the tenth anniversary of the existing tree farm licence being replaced under the offer, or
 - (ii) if the minister exercises the power conferred under subsection (2) (c), on a date to be determined by the minister,
 - (c) subject to sections 37, 38, 39 and 60, describe as a tree farm licence area the area subject to the existing tree farm licence, and
 - (d) include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, set out in the offer.
- (4) A notice of intent to offer a replacement referred to in subsection (1.1) and an offer of replacement made under subsection (1.2) must be published in the prescribed manner.
- (5) An offer made under this section may
- (a) be amended, and
 - (b) be accepted by written notice of acceptance served on the minister not later than 3 months after the offer is served.
- (6) If an offer made under this section is accepted
- (a) a tree farm licence containing the terms and conditions set out in the offer, including amendments, must be entered into by the minister and the holder of the tree farm licence, and

(b) the existing tree farm licence expires on the commencement of the replacement licence.

(7) If an offer made under this section is not accepted, the existing tree farm licence continues in force until its term expires, after which it has no further effect.

(8) No tree farm licence is renewable.

Transition for tree farm licence replacement

36.1 (1) If an offer of a replacement for a tree farm licence

(a) was required to be made under section 36 within the 18 month period immediately preceding the date on which this section comes into force, and

(b) was not made within the 18 month period,

the offer of replacement, when made, must conform to section 36 of this Act as amended by the Forest (Revitalization) Amendment Act (No. 2), 2003.

(2) If an offer of a replacement for a tree farm licence

(a) was required to be made under section 36 within the 18 month period immediately preceding the date on which this section comes into force, and

(b) was made within the 18 month period,

the offer may be withdrawn if the person to whom the offer was made consents to the withdrawal of the offer.

(3) If an offer is withdrawn under subsection (2), the minister or person authorized by the minister must offer a replacement for the tree farm licence, and the offer must conform to section 36 of this Act as amended by the Forest (Revitalization) Amendment Act (No. 2), 2003.

Private tenure

37 (1) On the expiry of a timber licence that is held by the holder of a tree farm licence and that is in the tree farm licence area, the land that was subject to the timber licence remains in the tree farm licence area and continues to be subject to its provisions.

(2) and (3) [Repealed 2003-31-25.]

Private land

38 Private land that is transferred to the government remains subject to a tree farm licence if the private land is in the tree farm licence area.

Consolidation and subdivision of tree farm licences

39 (1) [Repealed 2009-8-4.]

(2) Subject to this section, the minister, by a method or combination of methods under subsection (5), may

(a) replace 2 or more tree farm licences held by the same person with one of those tree farm licences held by that person or a new tree farm licence held by that person, or

(b) amend a single tree farm licence held by a person and enter into one or more tree farm licences held by that person,

if the minister first receives the consent of the holder of the licences or licence.

(3) Subject to this section, the minister, by a method or combination of methods under subsection (5), must

(a) replace 2 or more tree farm licences held by the same person with one of those tree farm licences held by that person or a new tree farm licence held by that person, or

(b) amend a single tree farm licence held by a person and enter into one or more tree farm licences held by that person,

if the holder requests the replacement or amendment by written request delivered to the minister.

(4) The minister may refuse to replace or amend, under subsection (3), one or more tree farm licences if the minister considers that the replacement or amendment would compromise forest management.

(5) For the purposes of subsections (2) and (3), the methods are as follows:

(a) deleting all or part of the licence area from a tree farm licence and adding the deleted area to the licence area of another tree farm licence;

(b) cancelling a tree farm licence if the area covered by the licence has been added to the licence area in another tree farm licence;

(c) amending a tree farm licence;

(d) entering into one or more tree farm licences covering the same land as was covered in the licences being replaced.

(e) [Repealed 2007-18-17.]

(6) If the minister makes a replacement or amendment referred to in subsection (2) or (3), the total of the allowable annual cuts, after the replacements, amendments or both, of all of the tree farm licences involved must remain the same as it was immediately before any replacements or amendments under this section.

(7) A tree farm licence as described in paragraph (c) of the definition of "licence" in section 75.4 (1) may not be replaced under subsection (2) or (3) except with a tree farm licence that is also a tree farm licence as described in paragraph (c) of the definition of "licence" in section 75.4 (1).

(7.1) A replaceable tree farm licence may not be replaced under subsection (2) or (3) except with a tree farm licence that is also replaceable.

(7.2) A tree farm licence that provides that a replacement for the tree farm licence must not be offered may not be replaced under subsection (2) or (3) except with a tree farm licence that also provides that a replacement for it must not be offered.

(8) Despite section 35 (1) (a), a tree farm licence that is amended or entered into under this section must not expire later than the earliest expiry date of the tree farm licences it replaces or amends.

Change in boundary or area

39.1 (1) The minister may change the boundary or area of a tree farm licence with the consent of its holder.

(2) The discretion of the minister under subsection (1) includes the discretion to change the boundary or area of the tree farm licence with the consent of its holder by

(a) adding private land of the holder of the tree farm licence to the area of the licence, or

(b) removing private land from the area of the licence.

Division 7 — Pulpwood Agreements

Repealed

40 [Repealed 2003-31-27.]

Content of pulpwood agreement

41 (1) A pulpwood agreement must

(a) be for a term not exceeding 25 years,

(b) describe as a pulpwood area the area described in the agreement as it was on April 1, 2003,

(c) require its holder to construct, expand or continue a timber processing facility in accordance with the application for the pulpwood agreement,

(d) require its holder to purchase, as provided in the pulpwood agreement,

(i) wood residue produced by timber processing facilities from timber harvested in the pulpwood area, and

(ii) pulp logs, as defined in the agreement, from the pulpwood area,

(e) grant to its holder the option to obtain from the regional manager or district manager, without advertising or competition from other applicants, forestry licences to cut authorizing the harvest from Crown land in the pulpwood area of a maximum annual volume of timber not exceeding the volume, and according to the terms, specified in the pulpwood agreement,

(f) require that its holder must not exercise an option under paragraph (e) without first complying with the requirement under paragraph (d), and

(g) include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the minister.

(2) This section applies to a pulpwood agreement that

(a) is in effect after the coming into force of this section, and

(b) was entered into before that time.

Repealed

42 [Repealed 2003-31-29.]

Consolidation and subdivision of pulpwood agreements

43 (1) In this section, "minister" includes a person authorized by the minister.

(2) Subject to this section, the minister, by a method or combination of methods under subsection (5), may

(a) replace 2 or more pulpwood agreements held by the same person with one of those pulpwood agreements held by that person or a new pulpwood agreement held by that person, or

(b) amend a single pulpwood agreement held by a person and enter into one or more pulpwood agreements held by that person,

if the minister first receives the consent of the holder of the agreements or agreement.

(3) Subject to this section, the minister, by a method or combination of methods under subsection (5), must

(a) replace 2 or more pulpwood agreements held by the same person with one of those pulpwood agreements held by that person or a new pulpwood agreement held by that person, or

(b) amend a single pulpwood agreement held by a person and enter into one or more pulpwood agreements held by that person,

if the holder requests the replacement or amendment by written request delivered to the minister.

(4) The minister may refuse to replace or amend, under subsection (3), one or more pulpwood agreements if the minister considers that the replacement or amendment would compromise forest management.

(5) For the purposes of subsections (2) and (3), the methods are as follows:

(a) deleting all or part of the area from a pulpwood agreement and adding the deleted area to the area of another pulpwood agreement;

(b) cancelling a pulpwood agreement if the area covered by the agreement has been added to the area in another pulpwood agreement;

(c) amending a pulpwood agreement;

(d) entering into one or more pulpwood agreements covering the same land as was covered in the agreement being replaced.

(6) Despite section 41 (a) a pulpwood agreement that is amended or entered into under this section must not expire later than the earliest expiry date of the pulpwood agreements it replaces or amends.

Division 7.1 — Community Forest Agreements

Repealed

43.1 [Repealed 2009-8-5.]

Applications for community forest agreements

43.2 (1) On request or on his or her own initiative the minister, by advertising in the prescribed manner, may invite applications for a community forest agreement.

(2) An application for a community forest agreement must meet prescribed requirements.

(3) A community forest agreement may be entered into only with an applicant that is

(a) a first nation,

(b) a municipality or regional district, or

(c) any of the following if prescribed requirements are met:

(i) a society as defined in the Societies Act;

(ii) an association as defined in the Cooperative Association Act;

(iii) a corporation;

(iv) a partnership.

(4) The minister must evaluate applications for a community forest agreement in accordance with prescribed requirements.

(5) After evaluating applications under subsection (4), the minister may

(a) approve an application,

(b) approve an application subject to conditions with which the applicant must comply before the community forest agreement is entered into, or

(c) decline to approve all applications.

(6) If an applicant whose application is approved under subsection (5) does not enter into the community forest agreement, the minister may

- (a) approve the next best application,
 - (b) approve the next best application subject to conditions with which the applicant must comply before the community forest agreement is entered into, or
 - (c) refuse to approve any of the applications.
- (7) Subject to subsection (8), the minister must enter into a community forest agreement with every applicant whose application is approved under subsection (5) or (6).
- (8) The minister must not enter into a community forest agreement until a management plan is approved by the minister for the proposed community forest agreement area.
- (9) The minister may reserve from disposition under this Act the timber in the area described in the advertising, pending
- (a) a community forest agreement being entered into under this section, or
 - (b) a refusal under subsection (6) to approve any of the applications.

Content of community forest agreement

43.3 (1) A community forest agreement

- (a) must be for a term of not less than 25 years and not more than 99 years,
- (b) must describe a community forest agreement area, determined by the minister or a person authorized by the minister, comprising Crown land and, if the area so determined includes land that is
 - (i) in a reserve as defined in the Indian Act (Canada), or
 - (ii) private landalso comprising that land,
- (c) subject to this Act and the agreement,
 - (i) must give to its holder the exclusive right to harvest timber on the Crown land referred to in paragraph (b), for the term of the agreement, and
 - (ii) may give to its holder the right to harvest, manage and charge fees for botanical forest products and other prescribed products,
- (d) must require its holder to pay to the government, in addition to other amounts payable under this Act,
 - (i) stumpage under Part 7 in respect of Crown timber, and
 - (ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the community forest agreement, but, at the holder's discretion, is not cut and removed,
- (e) must provide for cutting permits with terms that do not exceed 4 years to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the community forest agreement and subject to this Act and the Forest and Range Practices Act, to authorize

its holder to harvest the allowable annual cut available to its holder from specified areas of land within the community forest agreement area,

(f) must require its holder to

(i) submit for the approval of the minister, at the times specified in the agreement, a management plan that meets the requirements of the community forest agreement, and

(ii) implement management plans approved by the minister,

(f.1) may include one or more provisions of Division 3.1 of Part 4 with any variations necessary or desirable to adapt the provision or provisions for the purposes of the agreement,

(g) must require its holder, in accordance with the community forest agreement, to

(i) carry out audits and make and submit reports concerning the holder's performance under the agreement, and

(ii) make information available to the public and carry out consultation activities with the public concerning matters relating to the community forest agreement,

(g.1) that is entered into with a first nation or its representative to implement or further an agreement, the "other agreement", between the first nation and the government respecting treaty-related measures, interim measures or economic measures, must state that it is a condition of the community forest agreement that the first nation comply with the other agreement,

(g.2) may require that a specified amount of timber on Crown land within the community forest agreement area is to be reserved and available for disposition, to persons other than the holder of the community forest agreement, under

(i) timber sale licences, or

(ii) forestry licences to cut under section 47.6 (3), and

(h) may include other terms and conditions that the minister determines are consistent with any proposal made in the application for the community forest agreement, this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts.

(2) A reservation referred to in subsection (1) (g.2) must not be included in the following:

(a) a community forest agreement entered into before the date this subsection comes into force, unless

(i) the community forest agreement already includes the reservation, or

(ii) the holder of the community forest agreement agrees to include the reservation;

(b) a replacement for a replaceable community forest agreement, unless paragraph (a) (i) or (ii) of this subsection applies in relation to the replaceable community forest agreement.

Replacement of community forest agreements

43.4 (1) to (3) [Repealed 2009-8-9.]

(4) Unless a community forest agreement provides that a replacement for the community forest agreement must not be offered, the minister, during the 6 month period following the ninth anniversary of an existing community forest agreement, must offer the holder a replacement community forest agreement.

(5) A community forest agreement offered under subsection (4) must

(a) be for a term of not less than 25 years and not more than 99 years, commencing on the tenth anniversary of the existing community forest agreement,

(b) describe as a community forest agreement area the area subject to the existing community forest agreement and any change to the boundary or area made by the minister under subsection (6), and

(c) include other terms and conditions that are set out in the offer and are consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts.

(6) In accordance with the regulations, and with the consent of the person to whom a community forest agreement is offered under this section, the minister may change the boundary or area in the offered community forest agreement from the boundary or area of the existing community forest agreement.

(7) Notice of an offer made under this section to replace a community forest agreement must be published in the prescribed manner.

(8) An offer made under this section may be

(a) amended, and

(b) accepted by written notice to the minister, not later than 3 months after the offer is served.

(9) If an offer made under this section is accepted

(a) a community forest agreement containing the terms and conditions set out in the offer, including amendments, must be entered into by the minister and the holder of the community forest agreement, and

(b) the existing community forest agreement expires on the commencement of the replacement agreement.

(10) A community forest agreement is not renewable.

Transition for community forest pilot agreements and probationary community forest agreements

43.41 (1) On the coming into force of this section, the holder of an existing

(a) community forest pilot agreement entered into under section 43.5 as it read immediately before September 17, 2004, or

(b) probationary community forest agreement entered into under section 43.51 as it read immediately before March 31, 2009,

may, in accordance with section 43.3 (1), enter into a community forest agreement with the minister, except that the community forest agreement

(c) must have a term of 25 years,

(d) must specify an allowable annual cut that is the same as the allowable annual cut of the community forest pilot agreement or probationary community forest agreement, as the case may be,

(d.1) must not include a reservation referred to in section 43.3 (1) (g.2), and

(e) must include other terms and conditions that are substantially the same as in the community forest pilot agreement or probationary community forest agreement, as the case may be, except for terms and conditions referred to in section 43.3 (1) (f.1), which may, in the community forest agreement, be substantially different from those terms and conditions in the community forest pilot agreement or probationary community forest agreement.

(2) A community forest pilot agreement or probationary community forest agreement to which subsection (1) (a) or (b) applies is deemed to be surrendered on the date the community forest agreement is entered into under subsection (1).

Repealed

43.5 [Repealed 2009-8-11.]

Direct award of community forest agreements

43.51 (0.1) In this section, "representative" means a person or other legal entity that

(a) is appointed by a first nation as its representative, and

(b) meets prescribed requirements.

(1) The minister may enter into a community forest agreement

(a) with a first nation or its representative to implement or further an agreement between the first nation and the government respecting treaty-related measures, interim measures or economic measures, or

(b) under prescribed circumstances or with a holder that meets prescribed requirements.

(2) [Repealed 2010-12-11.]

(2.1) After a community forest agreement has been entered into under subsection (1) with a first nation or its representative, the minister may, if it furthers the objectives set out in subsection (1) (a), and with the consent of the holder of the community forest agreement, increase the area covered by the community forest agreement.

(3) Section 43.2 does not apply to a community forest agreement entered into under this section.

Change in area or boundary

43.52 In accordance with the regulations, and with the consent of the holder of the agreement, the minister may change the boundary or area of a community forest agreement.

Transition for community forest agreement allowable annual cut

43.53 For a community forest agreement for which an allowable annual cut has not been determined under section 8, a reference in this Act or the regulations to an allowable annual cut authorized for a community forest agreement must be read as a reference to the rate of timber harvesting for each community forest agreement area as determined under section 8.

Division 7.11 — First Nations Woodland Licences

Award of first nations woodland licence

43.54 (1) In this section, "representative" means a person or other legal entity that

- (a) is appointed by a first nation as its representative, and
- (b) meets prescribed requirements.

(2) The minister may enter into a first nations woodland licence with a first nation or its representative to implement or further an agreement between the first nation and the government respecting treaty-related measures, interim measures or economic measures.

(3) After a first nations woodland licence has been entered into under subsection (2), the minister may, if it furthers the objectives set out in subsection (2), and with the consent of the holder of the licence, increase the area covered by the licence.

(4) The minister must not enter into a first nations woodland licence under subsection (2) until

- (a) a management plan is approved by the minister for the proposed first nations woodland licence area, and
- (b) if required under the agreement between the first nation and the government referred to in subsection (2) of this section, one or more agreements referred to in section 12 are surrendered.

Content of first nations woodland licence

43.55 (1) A first nations woodland licence

- (a) must be for a term of not less than 25 years and not more than 99 years,
- (b) must describe a first nations woodland licence area, determined by the minister, comprising Crown land and, if the area so determined includes land that is
 - (i) in a reserve as defined in the Indian Act (Canada), or
 - (ii) private land,also comprising that land,
- (c) subject to this Act and the licence,

(i) must give to its holder the exclusive right to harvest timber on the Crown land referred to in paragraph (b), for the term of the agreement, and

(ii) may give to its holder the right to harvest, manage and charge fees for botanical forest products and other prescribed products,

(d) must require its holder to pay to the government, in addition to other amounts payable under this Act,

(i) stumpage under Part 7 in respect of Crown timber, and

(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the licence, but, at the holder's discretion, is not cut and removed,

(e) must provide for cutting permits with terms that do not exceed 4 years to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the licence and subject to this Act and the Forest and Range Practices Act, to authorize its holder to harvest the allowable annual cut available to its holder from specified areas of Crown land within the first nations woodland licence area,

(f) must require its holder to

(i) submit for the approval of the minister, at the times specified in the licence, a management plan that meets the requirements of the licence, and

(ii) implement management plans approved by the minister,

(g) may include one or more provisions of Division 3.1 of Part 4 with any variations necessary or desirable to adapt the provision or provisions

(i) for the purposes of the licence, or

(ii) to take into account the effect of a surrender of an agreement referred to in section 43.54 (4) (b),

(h) must state that it is a condition of the licence that the first nation comply with the agreement between the first nation and the government referred to in section 43.54 (2),

(h.1) may require that a specified amount of timber on Crown land within the first nations woodland licence area is to be reserved and available for disposition, to persons other than the holder of the first nations woodland licence, under

(i) timber sale licences, or

(ii) forestry licences to cut under section 47.6 (3), and

(i) may include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the minister.

(2) A reservation referred to in subsection (1) (h.1) must not be included in the following:

(a) a first nations woodland licence entered into before the date this subsection comes into force, unless the holder of the first nations woodland licence agrees to include the reservation;

(b) a replacement for a replaceable first nations woodland licence entered into before the date this subsection comes into force, unless the holder of the replaceable first nations woodland licence agrees to include the reservation.

Replacement of first nations woodland licences

43.56 (1) Unless a first nations woodland licence provides that a replacement for the first nations woodland licence must not be offered, the minister, during the 6 month period following the ninth anniversary of an existing first nations woodland licence, must offer the holder a replacement first nations woodland licence.

(2) A first nations woodland licence offered under subsection (1) must

(a) be for a term of not less than 25 years and not more than 99 years, commencing on the tenth anniversary of the existing licence,

(b) describe, as a first nations woodland licence area, the area subject to the existing licence and any change to the boundary or area made by the minister under subsection (3), and

(c) include other terms and conditions that are set out in the offer and are consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts.

(3) In accordance with the regulations, and with the consent of the person to whom a first nations woodland licence is offered under this section, the minister may change the boundary or area in the offered first nations woodland licence from the boundary or area of the existing first nations woodland licence.

(4) An offer made under this section may be

(a) amended, and

(b) accepted by written notice to the minister not later than 3 months after the offer is served.

(5) If an offer made under this section is accepted,

(a) a first nations woodland licence containing the terms and conditions set out in the offer, including amendments, must be entered into by the minister and the holder of the first nations woodland licence, and

(b) the existing first nations woodland licence expires on the commencement of the replacement licence.

(6) A first nations woodland licence is not renewable.

Change in area or boundary

43.57 In accordance with the regulations and with the consent of the holder of the licence, the minister may change the boundary or area of a first nations woodland licence.

Division 7.2 — Community Salvage Licences

Interpretation

43.6 In this Division and in section 47.3, "qualifying timber" means Crown timber, whether standing, felled or fallen, that is

(a) left on the site of a logging operation after that operation has concluded, other than timber left to fulfill a forest management function, such as

(i) a seed tree,

(ii) a wildlife tree, or

(iii) a log or stump that provides habitat for plants or animals or is a source of nutrients for soil development,

(b) dead, damaged, diseased, infested or windthrown, or

(c) removed in accordance with a community salvage licence to provide access to timber described in paragraph (a) or (b) or to ensure the safety of a person harvesting that timber.

Applications

43.7 (1) On request or on the minister's own initiative, the minister or a person authorized by the minister,

(a) may invite an application for a community salvage licence, or

(b) by advertising in the prescribed manner, may invite one or more applications for a community salvage licence

only from

(c) a band as defined in the Indian Act (Canada),

(d) a municipality or regional district, or

(e) any of the following if prescribed requirements are met:

(i) a society as defined in the Societies Act;

(ii) an association as defined in the Cooperative Association Act;

(iii) a corporation;

(iv) a partnership.

(2) An application for a community salvage licence must

(a) be in the form specified by the minister or a person authorized by the minister,

(b) if it is an application referred to in subsection (1) (b) be submitted in a sealed container to the minister or a person authorized by the minister,

(c) include a proposal to achieve the objectives set out in subsection (3) by harvesting and using qualifying timber,

(d) include any information respecting the proposal referred to in paragraph (c) that the minister or a person authorized by the minister requests when inviting the application under subsection (1) (a) or advertising under subsection (1) (b), and

(e) include an offer by the applicant to pay to the government, in addition to other amounts payable under this Act,

(i) stumpage under Part 7, and

(ii) waste assessments for qualifying timber, whether standing, felled or fallen, that could have been cut or removed under the community salvage licence, but, at the licensee's discretion, is not cut or removed.

(3) The minister or a person authorized by the minister must evaluate each application, taking into account its potential for

(a) providing social and economic benefits to British Columbia, including contributing to government revenues,

(b) providing opportunities for achieving a range of community objectives, including employment and other social, environmental and economic benefits,

(c) encouraging cooperation within the community and among stakeholders,

(d) providing for the use of qualifying timber, and

(e) other factors that the minister or a person authorized by the minister specifies in the invitation or advertising.

(4) After the evaluation under subsection (3), the minister or a person authorized by the minister may

(a) in the case of an application submitted in response to an invitation under subsection (1) (a)

(i) approve the application,

(ii) approve the application subject to conditions with which the applicant must comply before the community salvage licence is entered into, or

(iii) decline to approve the application, and

(b) in the case of an application submitted in response to an advertisement under subsection (1) (b)

(i) approve one or more applications,

(ii) approve an application subject to conditions that the applicant must comply with before the community salvage licence is entered into, or

(iii) decline to approve any applications.

(5) If the person whose application is approved under subsection (4) (b) does not enter into the community salvage licence, the minister or a person authorized by the minister may approve the next best application from a qualified applicant.

(6) If an application is approved under this section, the minister must enter into a community salvage licence with the applicant.

Content of community salvage licence

43.8 A community salvage licence

- (a) must be for a term not exceeding 5 years,
- (b) must describe one or more areas of land within which, subject to availability, its holder may harvest qualifying timber,
- (c) may specify a maximum volume of qualifying timber that may be harvested from an area of land described in the community salvage licence,
- (d) may provide for cutting permits to be issued by the district manager to authorize its holder to harvest qualifying timber from specified areas of land within the area or areas of land described in the community salvage licence,
- (e) must require its holder to pay to the government, in addition to other amounts payable under this Act,
 - (i) stumpage under Part 7, and
 - (ii) waste assessments for merchantable qualifying timber, whether standing, felled or fallen, that could have been cut or removed under the community salvage licence, but, at its holder's discretion, is not cut or removed,
- (f) may include restrictions on
 - (i) the type of qualifying timber that may be harvested under it, and
 - (ii) the location, timing, nature and extent of harvesting activities that may be carried out under it,
- (g) if it authorizes clearcutting, must restrict clearcuts to less than one hectare,
 - (g.1) that is entered into with a first nation or its representative to implement or further an agreement between the first nation and the government respecting treaty-related measures, interim measures or economic measures, must state that it is a condition of the community salvage licence that the first nation comply with the agreement, and
- (h) may include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the minister.

Division 8 — Woodlot Licences

Applications

44 (1) In this section:

"affiliate" has the same meaning as in section 53;

"control", in relation to a corporation, has the same meaning as "control of a corporation" in section 53;

"ineligible licence" means a licence that

(a) is one of the following:

(i) a timber sale licence, if the timber sale licence is also a major licence;

(ii) a forest licence, other than a forest licence entered into under section 47.3 (1);

(iii) a tree farm licence;

(iv) a forestry licence to cut, other than a forestry licence to cut entered into under section 47.3 (1), and

(b) is either

(i) replaceable, or

(ii) non-replaceable, with an original term greater than 5 years.

(2) On request or on his or her own initiative the minister, by advertising in the prescribed manner, may invite applications for a woodlot licence.

(3) An application for a woodlot licence must

(a) be made to a person designated by the minister, and

(b) meet prescribed requirements.

(4) Subject to subsections (5) and (5.1), a woodlot licence may be entered into only with an applicant that is

(a) a Canadian citizen or permanent resident of Canada who is 19 years of age or older,

(b) a first nation, or

(c) a corporation, other than a society, that is controlled by persons who meet the qualifications referred to in paragraph (a).

(5) A woodlot licence may not be entered into with an applicant that is not a corporation if any of the following apply:

(a) the applicant holds 2 or more woodlot licences;

(b) the applicant controls a corporation that holds 2 or more woodlot licences;

(c) the applicant holds a woodlot licence and controls a corporation that holds a woodlot licence;

(d) the applicant controls a corporation that holds a woodlot licence and the corporation is affiliated with another corporation that holds a woodlot licence;

(e) the applicant holds

(i) an ineligible licence that has an allowable annual cut that is greater than 10 000 m³, or

(ii) 2 or more ineligible licences that together have an aggregate allowable annual cut that is greater than 10 000 m³;

(f) the applicant controls a corporation that holds

(i) an ineligible licence described in paragraph (e) (i), or

(ii) 2 or more ineligible licences described in paragraph (e) (ii);

(g) the applicant holds an ineligible licence and controls a corporation that holds an ineligible licence and those ineligible licences together have an aggregate allowable annual cut that is greater than 10 000 m³;

(h) the applicant controls a corporation that holds an ineligible licence and the corporation is affiliated with another corporation that holds an ineligible licence and those ineligible licences together have an aggregate allowable annual cut that is greater than 10 000 m³.

(5.1) A woodlot licence may not be entered into with an applicant that is a corporation if any of the following apply:

(a) the applicant holds 2 or more woodlot licences;

(b) the applicant is affiliated with another corporation that holds 2 or more woodlot licences;

(c) the applicant holds a woodlot licence and is affiliated with another corporation that holds a woodlot licence;

(d) the applicant holds

(i) an ineligible licence that has an allowable annual cut that is greater than 10 000 m³, or

(ii) 2 or more ineligible licences that together have an aggregate allowable annual cut that is greater than 10 000 m³;

(e) the applicant is affiliated with another corporation that holds

(i) an ineligible licence described in paragraph (d) (i), or

(ii) 2 or more ineligible licences described in paragraph (d) (ii);

(f) the applicant holds an ineligible licence and is affiliated with another corporation that holds an ineligible licence and those ineligible licences together have an aggregate allowable annual cut that is greater than 10 000 m³.

(6) The minister must evaluate applications for a woodlot licence in accordance with prescribed requirements.

(7) After evaluating applications under subsection (6), the person who evaluated the applications may

(a) approve an application, or

(b) decline to approve all applications.

(8) If an applicant whose application is approved under subsection (7) neglects or declines to enter into the woodlot licence or becomes ineligible to enter into the licence, the minister may

(a) approve the next best application, or

(b) refuse to approve any of the applications.

(9) Subject to subsection (10), the minister must enter into a woodlot licence with every person whose application is approved under subsection (7) or (8).

(10) The minister must not enter into a woodlot licence until a management plan is approved by the government for the proposed woodlot licence area.

(11) The minister may reserve from disposition under this Act the timber in the area described in the advertising, pending

(a) a woodlot licence being entered into under this section, or

(b) a refusal under subsection (8) to approve any of the applications.

Content of woodlot licence

45 (1) A woodlot licence must

(a) be for a term not exceeding 20 years,

(b) describe a woodlot licence area determined by the minister to be composed of

(i) private land owned or held under lease by its holder or a reserve as defined in the Indian Act (Canada), if so determined by the minister, and

(ii) Crown land, the timber on which is not otherwise encumbered, of not more than

(A) 800 ha if the Crown land is located in the Coast Forest Region, or

(B) 1 200 ha if the Crown land is not located in the Coast Forest Region,

(c) subject to the provisions of this Act, give to its holder the exclusive right to harvest timber on the Crown land referred to in paragraph (b), for its term,

(d) require its holder to pay to the government, in addition to other amounts payable under this Act,

(i) stumpage under Part 7 in respect of Crown timber,

(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the woodlot licence, but, at the holder's discretion, is not cut and removed, and

(iii) a bonus, if any, in the amount tendered,

(e) provide for cutting permits with terms that do not exceed 4 years to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the woodlot licence and subject to this Act and the Forest and Range Practices Act, to authorize its holder to harvest timber from specified areas of land within the woodlot licence area,

(f) require its holder to submit for the approval of the minister, at the times specified by the minister, a management plan that meets all the following requirements:

(i) it is prepared in accordance with the requirements of the woodlot licence;

(ii) it includes inventories, prepared in the manner, presented in the format and meeting the specifications required under the woodlot licence, of the timber resources within the woodlot licence area;

- (iii) it is consistent with
 - (A) the woodlot licence,
 - (B) this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, and
 - (C) any applicable objectives set by government;
 - (iv) it proposes management objectives, in accordance with the woodlot licence, regarding
 - (A) utilization of the timber resources in the woodlot licence area,
 - (B) protection and conservation of the non-timber values and resources in the woodlot licence area,
 - (C) forest fire prevention and suppression,
 - (D) forest health, including pest management,
 - (E) silviculture, and
 - (F) road construction, maintenance and deactivation;
 - (v) it includes proposals, in accordance with the woodlot licence, for meeting the proposed management objectives under subparagraph (iv), including measures to be taken and specifications to be followed by the holder of the woodlot licence;
 - (vi) it proposes an allowable annual cut for the woodlot licence area;
 - (vii) it includes any other inventories and information regarding the development, management and use of the woodlot licence area that the minister, in accordance with the woodlot licence, requires,
 - (f.1) if the licence is entered into with a first nation or its representative to implement or further an agreement between the first nation and the government respecting treaty-related measures, interim measures or economic measures, state that it is a condition of the licence that the first nation comply with the agreement, and
 - (g) include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Forest Practices Code of British Columbia Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the minister.
- (2) Despite subsection (1), the Crown land portion of a woodlot licence may exceed the limits specified in subsection (1) (b) (ii) (A) or (B) if
- (a) the woodlot licence was entered into before January 1, 2003, and
 - (b) the excess Crown land was included in the woodlot licence as a result of mapping inaccuracies.

Transition for woodlot licence allowable annual cut

45.1 For a woodlot licence for which an allowable annual cut has not been determined under section 8, a reference in this Act or the regulations to an allowable annual cut authorized for a woodlot licence must be read as a reference to the volume of timber to be harvested from each woodlot licence area during each year or other period of the term of the woodlot licence as determined under section 8.

Replacement

46 (1) Unless a woodlot licence provides that a replacement for the woodlot licence must not be offered, the minister, during the 6 month period following the ninth anniversary of an existing woodlot licence, must offer its holder a replacement for the woodlot licence.

(2) Despite subsection (1), if the minister determines that

(a) rights under the existing woodlot licence are under suspension, or

(b) the holder of the existing woodlot licence has failed to

(i) pay stumpage or other money payable in respect of timber harvested under the woodlot licence or a road permit associated with the woodlot licence,

(ii) provide security or a deposit required under this Act or the Forest and Range Practices Act in respect of the woodlot licence or a road permit associated with the woodlot licence,

(iii) perform an obligation under the woodlot licence to be performed by the holder in respect of an area of land specified in

(A) a cutting permit previously issued under the woodlot licence, or

(B) a road permit associated with the woodlot licence, or

(iv) comply with a requirement under this Act, the Forest and Range Practices Act or the Wildfire Act in respect of an area of land referred to in subparagraph (iii),

the minister, to the extent provided in the regulations,

(c) may decline to offer a replacement for the existing woodlot licence until

(i) the suspension is rescinded,

(ii) the suspended rights are reinstated, or

(iii) the holder of the existing woodlot licence

(A) pays the stumpage or other money payable,

(B) provides the required security or deposit,

(C) performs the obligation to be performed under the existing woodlot licence in respect of land referred to in paragraph (b) (iii), or

(D) complies with the requirement under this Act, the Forest and Range Practices Act or the Wildfire Act in respect of land referred to in paragraph (b) (iii), and

(d) may offer a replacement with special conditions.

(3) A woodlot licence offered under this section must

(a) have a term commencing

(i) on the 10th anniversary of the existing woodlot licence, or

(ii) if the minister exercises the power conferred under subsection (2) (c), on a date to be determined by the minister,

(b) be for a term equal to

(i) the whole original term of the existing woodlot licence, or

(ii) if the minister exercises the power conferred under subsection (2) (c), a period, not exceeding the original term of the existing woodlot licence, to be determined by the minister,

(c) describe as a woodlot licence area the area subject to the existing woodlot licence, and

(d) include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, set out in the offer.

(4) [Repealed 1999-10-5.]

(5) Notice of an offer made under this section must be published in the prescribed manner.

(6) An offer made under this section

(a) may be amended, and

(b) may be accepted by written notice to a person designated by the minister not later than 3 months after the offer is served.

(7) If an offer made under this section is accepted

(a) a woodlot licence containing the terms and conditions set out in the offer, including amendments, must be entered into by the minister and the holder of the woodlot licence, and

(b) the existing woodlot licence expires on the commencement of the replacement licence.

(8) If an offer made under this section is not accepted, the existing woodlot licence continues in force until its term expires, after which it has no further effect.

(9) No woodlot licence is renewable.

Repealed

46.1 [Repealed 2007-18-22.]

Consolidation of woodlot licences

46.2 (1) Subject to this section, the minister, by a method or combination of methods under subsection (2), may replace 2 woodlot licences held by the same person with one of those woodlot licences held by that person or a new woodlot licence held by that person, if the minister first receives the consent of the holder of the licences.

(2) For the purposes of subsection (1), the methods are as follows:

(a) deleting all or part of the licence area from a woodlot licence and adding the deleted area to the licence area of another woodlot licence;

(b) cancelling a woodlot licence if all or part of the area covered by the licence has been added to the licence area in another woodlot licence;

(c) amending a woodlot licence;

(d) entering into a woodlot licence covering all or part of the same area as was covered in the licences being replaced;

(e) subject to subsection (3), specifying the allowable annual cuts that will apply to areas covered by the woodlot licences amended or entered into under this subsection.

(3) In making a replacement referred to in subsection (1), the minister must ensure that

(a) the allowable annual cut of the amended or new woodlot licence does not exceed the total of the allowable annual cuts of the replaced woodlot licences as they were immediately before the replacement, and

(b) after the replacement, the Crown land in the amended or new woodlot licence area does not exceed the limits set in section 45 (1) (b) (ii).

(4) A woodlot licence as described in paragraph (a.1) of the definition of "licence" in section 75.4 (1) may not be replaced under subsection (1) of this section except with a woodlot licence that is also a woodlot licence as described in paragraph (a.1) of the definition of "licence" in section 75.4 (1).

(5) A replaceable woodlot licence may not be replaced under subsection (1) except with a woodlot licence that is also replaceable.

(6) A woodlot licence that provides that a replacement for the woodlot licence must not be offered may not be replaced under subsection (1) except with a woodlot licence that also provides that a replacement for it must not be offered.

(7) Despite section 45 (1) (a), a woodlot licence that is amended or entered into under this section must not expire later than the earliest expiry date of the woodlot licence it replaces.

Repealed

47 [Repealed RS1996-157-47 (2).]

Change in area or boundary

47.1 (1) In accordance with the regulations, if any, and with the consent of the holder of the woodlot licence, the minister may change the boundary or area of a woodlot licence.

(2) The discretion of the minister under subsection (1)

(a) is subject to section 45 (1) (b) (ii), and

(b) includes the discretion to change the boundary or area of the woodlot licence with the consent of its holder by

(i) adding private land owned or leased by the holder to the woodlot licence area, or

(ii) removing private land from the woodlot licence area.

Repealed

47.2 [Repealed RS1996-157-47.2 (4).]

Division 8.1 — Direct Awards

Direct award of specified licences

47.3 (0.1) In this section, "representative" means a person or other legal entity that

(a) is appointed by a first nation as its representative, and

(b) meets prescribed requirements.

(1) The minister may enter into a forest licence, community salvage licence, woodlot licence, forestry licence to cut or fibre supply licence to cut with

(a) a first nation or its representative to implement or further an agreement between the first nation and the government respecting treaty-related measures, interim measures or economic measures,

(b) a person to mitigate the effects on that person of

(i) a treaty,

(ii) a specification of a designated area under Part 13, or

(iii) an agreement between a first nation and the government respecting treaty-related measures, interim measures or economic measures, or

(c) the applicant of an eligible bioenergy application approved under section 13.1 (3), if the licence is a fibre supply licence to cut and, in the opinion of the minister, Crown timber is required for the purpose of

(i) achieving the commercial operation date as set out in the bioenergy supply contract associated with the application, or

(ii) supplying Crown timber to the power plant described in the bioenergy supply contract associated with the application until timber is obtained under the forest licence entered into under section 13.1 (5).

(2) [Repealed 2010-12-15.]

(3) After a licence has been entered into under subsection (1) with a first nation or its representative, the minister may, if it furthers the objectives set out in subsection (1) (a), and with the consent of the holder of the licence, do one or both of the following:

(a) increase

(i) the allowable annual cut or the maximum harvestable volume, or both, specified in the licence, if the licence is a forest licence,

(ii) the maximum volume of qualifying timber and the maximum harvestable volume, if the licence is a community salvage licence,

(iii) the maximum harvestable volume, if the licence is a forestry licence to cut,

(iv) the area covered by the licence if the licence is a community salvage licence or a forestry licence to cut, or

(v) subject to section 45 (1) (b) (ii), the area covered by the licence if the licence is a woodlot licence;

(b) extend the term of the licence, if the licence is a forest licence, community salvage licence, forestry licence to cut or fibre supply licence to cut.

(4) The extension of the term of a licence under subsection (3) (b) must not result in the total term of the licence exceeding

(a) 10 years, if the licence is a community salvage licence, forestry licence to cut or fibre supply licence to cut, or

(b) 20 years, if the licence is a forest licence.

(5) Despite section 47.72 (1) (a), after a fibre supply licence to cut has been entered into under subsection (1) (c) of this section, the minister may, if it furthers the objectives set out in subsection (1) (c) (i) or (ii), and with the consent of the holder of the licence to cut, extend the term of that licence to cut.

(6) The extension under subsection (5) of the term of a fibre supply licence to cut must not result in the total term of the licence to cut exceeding 10 years.

Division 8.2 — Licences to Cut

Licence to cut for persons occupying land or for oil and gas purposes

47.4 (1) [Repealed 2008-20-17.]

(2) The minister may enter into

(a) an occupant licence to cut with an owner or occupier of land, authorizing the person to cut Crown timber on the land, remove Crown timber from the land or do both, or

(b) a master licence to cut with any person, authorizing the harvesting of timber, under a cutting permit referred to in section 47.5 (2) (c) in all or part of a forest district

(i) for one or more of the following purposes:

(A) an oil and gas activity under the Oil and Gas Activities Act;

(B) [Repealed 2008-36-125.]

(C) roads associated with an activity referred to in clause (A), or

(ii) to authorize the person to harvest timber for prescribed purposes or in prescribed circumstances.

Content of occupant and master licences to cut

47.5 (1) An occupant licence to cut

(a) must require its holder, if it authorizes its holder to both cut and remove Crown timber, to pay to the government, in addition to other amounts payable under this Act,

(i) stumpage under Part 7, and

(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the occupant licence to cut, but, at the holder's discretion, is not cut and removed, and

(b) may include other terms and conditions that

(i) are determined by the minister, and

(ii) are consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts.

(2) A master licence to cut

(a) must be for a term not exceeding 10 years,

(b) must require its holder to pay to the government, in addition to other amounts payable under this Act,

(i) stumpage under Part 7, and

(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the master licence to cut, but, at its holder's discretion, is not cut and removed,

(c) must provide for cutting permits to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the master licence to cut and subject to this Act and the Forest and Range Practices Act or the Oil and Gas Activities Act, as applicable, to authorize its holder to harvest Crown timber from specified areas within the area or areas of Crown land specified in the licence to cut, and

(d) may include other terms and conditions that

(i) are determined by the minister, and

(ii) are consistent with this Act and the Wildfire Act and with the applicable of the Forest and Range Practices Act and the Oil and Gas Activities Act.

(3) The district manager or the forest officer authorized by the district manager must not issue to the holder of a master licence to cut a cutting permit for an area described in subsection (2) (c) unless

(a) the holder

(i) has written authority from the government, or

(ii) is authorized under an enactment

to occupy that area, or

(b) the cutting permit will facilitate harvesting for the purposes or circumstances referred to in section 47.4 (2) (b) (ii).

(4) If a master licence to cut expires and the minister enters into a new master licence to cut with the same holder, a cutting permit issued under the expired master licence to cut must be assigned to the new master licence to cut if

(a) the holder consents to the assignment,

(b) the areas of land specified in the cutting permit are within the area or areas of Crown land specified in the new master licence to cut, and

(c) no changes are made to the cutting permit, other than the assignment of that permit to the new master licence to cut.

Forestry licence to cut

47.6 (1) [Repealed 2008-20-18.]

(2) The minister may enter into a forestry licence to cut

(a) [Repealed 2008-20-18.]

(b) in which the volume of timber specified does not exceed 500 m³ and the timber, in the opinion of the regional manager or district manager, is to be harvested under controlled scientific or investigative conditions,

(b.1) specifying a volume of timber that does not exceed 50 m³,

(b.2) to authorize only the removal of Crown timber from Crown land or private land,

(c) if authorized to do so under another provision of this Act, or

(d) to authorize the harvesting of timber for prescribed purposes or in prescribed circumstances.

(2.1) [Repealed 2011-13-57.]

(2.11) The minister may enter into a forestry licence to cut if

(a) the forestry licence to cut authorizes its holder, in specified areas within the area or areas of Crown land identified in the forestry licence to cut, to do any of the following:

(i) remove Crown timber;

(ii) process felled Crown timber into chips or other products and remove those products, and

(b) the minister has received notification under section 79.1.

(2.2) [Repealed 2011-13-57.]

(3) The timber sales manager may enter into a forestry licence to cut with a person, authorizing the person to cut Crown timber on Crown land, remove Crown timber from Crown land or do both, if

(a) the person is contracted by the government to carry out an activity funded out of the BC Timber Sales Account, and

(b) the timber sales manager considers it desirable to

(i) cut, or

(ii) cut and remove

timber from the contract area in conjunction with the contract.

(4) The minister may enter into a forestry licence to cut if

(a) harvesting under the forestry licence to cut is restricted to timber that, in the opinion of the regional manager or district manager, is required to be cut and removed in order to reduce the spread of an insect infestation, and

(b) the harvesting of the timber is in conjunction with a competitively awarded forest health project that is consistent with a government approved bark beetle management strategy for the management unit in which the harvesting is to take place.

(4.1) The minister may enter into a forestry licence to cut with the applicant of an eligible bioenergy application approved under section 13.1 (3) on or after the date the application is approved if, in the opinion of the minister, Crown timber is required for the purpose of

(a) achieving the commercial operation date as set out in the bioenergy supply contract associated with the application, or

(b) supplying Crown timber to the power plant described in the bioenergy supply contract associated with the application until timber is obtained under the forest licence entered into under section 13.1 (5).

(5) [Repealed 2011-13-57.]

Content of forestry licence to cut

47.7 A forestry licence to cut

(a) must be for a term not exceeding 5 years,

(b) must describe one or more areas of land and identify for each area whether the holder may do one or more of the following:

(i) harvest Crown timber;

(ii) cut Crown timber;

(iii) remove Crown timber;

(iv) process Crown timber and remove the processed timber,

(c) may specify a volume of timber that may be harvested from an area of land described in the forestry licence to cut,

(d) may specify that the forestry licence to cut is a major licence,

(e) may provide for cutting permits, which, if the forestry licence to cut is a major licence, must have terms that do not exceed 4 years, to be issued by the district manager, or a forest officer authorized by the

district manager, within the limits provided in the licence to cut and, subject to this Act, to authorize its holder to harvest Crown timber from specified areas of land within the area or areas of land described in the forestry licence to cut,

(f) must require its holder, if it authorizes its holder to remove Crown timber, to pay to the government, in addition to other amounts payable under this Act,

(i) stumpage under Part 7, and

(ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the forestry licence to cut other than a forestry licence to cut issued under section 47.6 (2.11), but, at the holder's discretion, is not removed,

(g) that is entered into with a first nation or its representative to implement or further an agreement between the first nation and the government respecting treaty-related measures, interim measures or economic measures, must state that it is a condition of the forestry licence to cut that the first nation comply with the agreement,

(g.1) may include provisions

(i) specifying standards and programs established by one or more standard making bodies,

(ii) requiring the holder of the licence to meet the standards and programs specified under subparagraph (i), and

(iii) specifying the manner in which the holder of the licence must conduct operations under the licence in order to meet the standards and programs specified under subparagraph (i), and

(h) may include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the minister or timber sales manager.

Applications for fibre supply licence to cut

47.71 (1) On request or on his or her own initiative the minister, by advertising in the prescribed manner, may invite applications for a fibre supply licence to cut.

(2) An application for a fibre supply licence to cut must

(a) be made to a person designated by the minister, and

(b) meet prescribed requirements.

(3) The minister must evaluate applications for a fibre supply licence to cut in accordance with prescribed requirements.

(4) After evaluating applications under subsection (3), the minister may

(a) approve an application, or

(b) decline to approve all applications.

(5) If an applicant whose application is approved under subsection (4) neglects or declines to enter into the fibre supply licence to cut, the minister may

(a) approve the next best application, or

(b) refuse to approve any of the applications.

(6) The minister must enter into a fibre supply licence to cut with every person whose application is approved under subsection (4) or (5).

Content of a fibre supply licence to cut

47.72 (1) A fibre supply licence to cut

(a) must be for a term not exceeding 5 years,

(b) must require its holder to pay to the government, in addition to other amounts payable under this Act, stumpage under Part 7,

(c) must provide for fibre recovery permits to be issued by the district manager, or a forest officer authorized by the district manager, within the limits provided in the fibre supply licence to cut and subject to this Act and the Forest and Range Practices Act, to authorize its holder in specified areas within the area or areas of land identified in the fibre supply licence to cut to do any of the following:

(i) remove Crown timber;

(ii) process felled Crown timber into chips or other products and remove those products,

(d) may include provisions specifying one or more standard making bodies and requiring the holder of the fibre supply licence to cut to conduct its operations under the fibre supply licence to cut in accordance with principles, standards and criteria established by the standard making body or bodies,

(e) may include other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the minister, and

(f) may include other terms and conditions that the minister considers necessary or desirable respecting operations under the fibre supply licence to cut as they relate to the holder of an agreement listed in section 12 who is required to provide notification in accordance with section 79.1.

(2) The district manager or the forest officer authorized by the district manager must not issue to the holder of a fibre supply licence to cut a fibre recovery permit for an area described in subsection (1) (c) unless the district manager has received notification in accordance with section 79.1 for the specified areas referred to in subsection (1) (c) that are to be subject to the fibre recovery permit from the holder of an agreement listed in section 12 who is required to provide notification in accordance with section 79.1.

Volume deemed to be harvested under licence for cut control purposes

47.73 (1) Subject to subsection (2) and for the purposes of paragraph (a) of the definition of "volume of timber harvested" in section 75.1 (1), the amount of timber that

(a) is merchantable Crown timber, and

(b) is removed under

(i) a forestry licence to cut entered into under section 47.6 (2.11), or

(ii) a fibre recovery permit issued under a fibre supply licence to cut

is deemed to be harvested under the agreement of the agreement holder who gave the notification in accordance with section 79.1.

(2) Subsection (1) does not apply if the amount of timber removed or harvested under the forestry licence to cut or removed under the fibre recovery permit has already been attributed to the agreement referred to in subsection (1) for the purposes of paragraph (a) of the definition of "volume of timber harvested" in section 75.1 (1).

Division 8.3 — Disposition of Timber Acquired under Forestry Revitalization Act or Subject to Waste Assessment

Disposition of timber in a tree farm licence

47.8 The minister may make available for disposition under

(a) Divisions 2 and 3 of Part 3,

(b) section 47.3 under a forest licence or forestry licence to cut, or

(c) section 47.6 (2) or (3),

to persons other than the holder of a tree farm licence for all or part of a tree farm licence area, portions of the allowable annual cut available that is the subject of

(d) a reduction in allowable annual cut under section 2 (3) of the Forestry Revitalization Act, and

(e) an attribution made under section 3 (2) of that Act by an order of the minister.

Disposition of timber not harvested or removed under an agreement

47.9 Timber that is not harvested or removed under an agreement listed in section 12 and in respect of which a notification must be given in accordance with section 79.1 may be the subject of

(a) a forestry licence to cut entered into under section 47.6 (2.11), or

(b) a fibre supply licence to cut.

Division 9 — Free Use Permits for First Nations and Others

Free use permit

48 (1) A free use permit must be entered into only with

- (a) an occupier of land who requires Crown timber for developing the land for agricultural purposes,
- (a.1) a person who requires a Christmas tree for their personal use and not for sale to others,
- (b) a person who requires firewood for their personal domestic purposes and not for sale to others,
- (c) a board of education that requires firewood for school purposes,
- (d) a person who requires Crown timber for the purpose of scientific investigation,
- (e) an owner of a Crown grant of a mineral claim, authorizing the use of Crown timber on land described in the grant in a mining operation conducted on that land,
- (f) a holder of a coal licence issued under the Coal Act, or a holder of a mineral title under the Mineral Tenure Act not in production authorizing the holder to cut timber,
- (g) a person who
 - (i) requires Crown timber for a traditional and cultural activity, within the meaning prescribed for the phrase "traditional and cultural activity", and
 - (ii) is not selling the timber to others, and
- (h) a treaty first nation that has entered into an agreement with British Columbia, in accordance with its final agreement, for the harvesting of types of timber specified in the final agreement.

(2) Despite subsection (1), a free use permit must not be entered into with an applicant described in subsection (1) (a) to (f) and (h) if, on land the applicant owns or occupies, there is sufficient timber that is reasonably accessible for the purpose specified in the application.

(3) If a person who requires Crown timber under subsection (1) (g) wishes to harvest more than 50 m³ under the free use permit, the person must

- (a) apply to a person designated by the minister, and
- (b) include in the application the information required by the minister.

(4) Subsection (2) does not apply in relation to a treaty first nation referred to in subsection (1) (h) to the extent its application would be inconsistent with the final agreement or the agreement referred to in subsection (1) (h).

Issuance and content of free use permit

49 (1) The minister may enter into a free use permit with a person or treaty first nation qualified under section 48.

(2) A free use permit

(a) must be for a term not exceeding

(i) 1 year, if the permit is entered into with an applicant described in section 48 (1), other than an applicant described in paragraph (e) or (f) of that section, and

- (ii) 5 years, if the permit is entered into with an applicant described in section 48 (1) (e) or (f),
- (b) must give to its holder the right to harvest Crown timber from an area of land for the purposes specified in it,
- (c) subject to subsection (2.1), must be limited to a volume not exceeding 50 m³,
- (d) despite Part 4, Division 4, may be suspended or cancelled, or both, without notice by the minister if its holder fails to comply with its terms and conditions, this Act or the regulations,
- (e) must not require its holder to pay stumpage for the timber cut, or to pay rent, and
- (f) may contain terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, determined by the minister.

(2.1) The minister, in prescribed circumstances, may enter into a free use permit authorized under section 48 (1) (g) for a volume exceeding 50 m³.

(2.2) Despite subsection (2), a free use permit entered into with a treaty first nation

- (a) must be for a term not exceeding 5 years,
- (b) must give the treaty first nation the right to harvest
 - (i) the type of timber specified in the final agreement from an area of Crown land for the purposes specified in that final agreement, and
 - (ii) the amount of timber specified in the agreement referred to in section 48 (1) (h) for each year of the term,
- (c) may contain terms and conditions, consistent with
 - (i) this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts,
 - (ii) the final agreement of the treaty first nation, and
 - (iii) the agreement referred to in section 48 (1) (h),
 determined by the minister, and
- (d) is subject to subsection (2) (d) and (e).

(3) The person or treaty first nation

- (a) in respect of which a decision is made under subsection (2) or (2.2) (d), or
 - (b) in respect of which a decision is made under subsection (2) or (2.2) (d) relating to the free use permit to which the person or treaty first nation is a party,
- may require a review of the decision by a person authorized by the minister and the decision of the authorized person is final and binding.

(4) Only sections 143 (3) and (4), 144 and 145 apply to a review under subsection (3).

Free use permit in area subject to area-based licence

49.1 (1) In this section, "area-based licence" means a community forest agreement, a first nations woodland licence or a woodlot licence.

(2) With the consent of the holder of an area-based licence, the minister may enter into a free use permit authorizing the holder of the permit to harvest timber from Crown land within the area subject to the area-based licence.

(3) Despite sections 48 (1) and 49 (1), the minister may enter into a free use permit under this section only with an applicant described in section 48 (1) (a.1), (b), (c), (d), (g) or (h).

(4) Despite subsection (3), the minister must not enter into a free use permit with an applicant described in section 48 (1) (a.1), (b), (c), (d) or (h) if, on land the applicant owns or occupies, there is sufficient timber that is reasonably accessible for the purpose specified in the application.

(5) Section 49 (2) and (2.2) applies to a free use permit entered into under this section except that the minister may not, under section 49 (2.1), enter into a free use permit with an applicant described in section 48 (1) (g) for a volume exceeding 50 m³.

(6) Sections 48 (3) and 49 (3) and (4) do not apply in respect of a free use permit entered into under this section.

Division 9.1 — Christmas Tree Permits and Government Use

Christmas tree permit

50 (1) The minister may enter into a Christmas tree permit that

- (a) authorizes the permittee to harvest or grow and harvest Christmas trees on Crown land,
- (b) requires the payment of the deposits and fees prescribed by the minister, and
- (c) includes other terms and conditions, consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts, as determined by the minister.

(2) For the purposes of this section, the minister may prescribe different deposits and different rates or amounts of fees.

Repealed

51 [Repealed 2003-31-37.]

Use by government employees and agents

52 (1) The minister or timber sales manager may, in writing, authorize

- (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 harvest Crown timber or to use and occupy Crown land in a Provincial forest.

(2) An authorization under subsection (1)

(a) is an agreement under the Forest Act for the purposes of the definition of "forest practice" in the Forest and Range Practices Act, and

(b) may include terms and conditions that the minister or timber sales manager considers appropriate and that are consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts.

(3) If the minister or timber sales manager so specifies in the authorization, the Forest and Range Practices Act applies to the authorization as if the authorization were a forestry licence to cut.

Part 4 — General Tenure Provisions

Division 1 — Interpretation

Interpretation and application

53 (1) In this Part:

"affiliate" means a corporation that is affiliated with another corporation within the meaning of subsection (2);

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

"control of a corporation" means the holding, other than by way of security only, by or for the benefit of a person or a group of persons not dealing with each other at arm's length, of shares in a corporation that, in an election of the directors of the corporation, carry, in the aggregate, sufficient voting rights, if those rights are exercised, to elect 50% or more of the effective directors or to otherwise effectively control the operations and direction of the corporation;

"deletion period" means, with respect to

(a) a tree farm licence and replacements for it, each successive 25 year period commencing with the beginning of the term of the original tree farm licence entered into under section 33 of this Act or under section 33 of the Forest Act, R.S.B.C. 1979, c. 140,

(b) a tree farm licence entered into under section 39 and replacements for it, each successive 25 year period commencing with the beginning of the term of the original tree farm licence entered into under that section,

(c) a timber licence, the term of the licence,

(d) a forest licence and replacements for it, each successive 15 year period commencing with the beginning of the term of the original forest licence entered into under section 13 or 16 of this Act or under section 15 of the Forest Act, R.S.B.C. 1979, c. 140,

(d.1) a forest licence entered into under section 19 and replacements for it, each successive 15 year period commencing with the beginning of the term of the original forest licence entered into under that section,

(d.2) a forest licence entered into under section 47.3 and replacements for it, each successive 15 year period commencing with the beginning of the term of the original forest licence entered into under that section,

(e) a woodlot licence entered into under section 44 and replacements for it, each successive 15 year period commencing with the beginning of the term of the original woodlot licence entered into under that section,

(e.1) a woodlot licence entered into under section 47.3 and replacements for it, each successive 15 year period commencing with the beginning of the term of the original woodlot licence entered into under that section,

(f) a community forest agreement entered into under section 43.2 and replacements for it, each successive 25 year period commencing with the beginning of the term of the original community forest agreement entered into under that section,

(g) a community forest agreement entered into under section 43.41 and replacements for it, each successive 25 year period commencing with the beginning of the term of the original community forest pilot agreement entered into under section 43.5 or the original probationary community forest agreement entered into under section 43.51, as the case may be,

(h) a community forest agreement entered into under section 43.51 and replacements for it, each successive 25 year period commencing with the beginning of the term of the original community forest agreement entered into under that section, and

(i) a first nations woodland licence entered into under section 43.54 and replacements for it, each successive 25 year period commencing with the beginning of the term of the original first nations woodland licence entered into under that section;

"disposition", in relation to an agreement, includes a disposition of an interest in the agreement;

"effective director" means an effective director as defined in the regulations;

"holder of an agreement" means a person, other than the government, that enters into an agreement, either singly or jointly with another person, and includes the transferee or assignee of an agreement and each partner of a partnership that enters into an agreement or is the transferee or assignee of an agreement;

"spouse" means a person who

(a) is married to another person, or

(b) is living with another person in a marriage-like relationship, and has been living in that relationship for the immediately preceding 2 years.

(1.1) [Repealed 2003-30-8.]

(1.2) For the purposes of this section and Divisions 2 and 4 of this Part, "agreement" includes a pulpwood agreement.

(2) For the purposes of this Part, one corporation is affiliated with another corporation if one of them is the subsidiary of the other, or both are subsidiaries of the same corporation, or each of them is controlled by the same person.

(3) For the purposes of this Part, a corporation is a subsidiary of another corporation if

(a) it is controlled by

(i) that other corporation,

(ii) that other corporation and one or more corporations, each of which is controlled by that other corporation, or

(iii) 2 or more corporations, each of which is controlled by that other corporation, or

(b) it is a subsidiary of a subsidiary of that other corporation.

(4) For the purposes of subsections (2) and (3), a corporation is controlled by a person if

(a) shares of the corporation carrying 50% or more of the votes for the election of the directors are held, other than by way of security only, by or for the benefit of that person, and

(b) the votes carried by the shares referred to in paragraph (a) are sufficient, if exercised, to elect 50% or more of the directors.

Division 2 — Transfer and Exchange

Transfer of agreements permitted

54 (1) Subject to subsection (2) and to section 54.4, the holder of an agreement may dispose of the agreement to another person.

(2) A disposition of an agreement is without effect unless

(a) both the holder of the agreement and the intended recipient of the agreement give written notice of the intended disposition

(i) to the minister, and

(ii) in the form required by the minister,

(b) as of the end of the day of the completion of the disposition, all money

(i) required to be paid to the government under the circumstances set out in section 130 (1.1), and

(ii) due and payable to the government under that section

in respect of the agreement

(iii) has been paid, or

(iv) is the subject of an arrangement for payment approved by the revenue minister,

(c) in the case of a disposition of an agreement that is a tree farm licence, any private tenure in the tree farm licence area remains subject to the tree farm licence,

(d) in the case of a disposition of an agreement that is a woodlot licence, any private land in the woodlot licence area remains subject to the woodlot licence,

(d.1) in the case of a disposition of an agreement in relation to which the holder of the agreement has a replaceable contract with a contractor, all obligations of the holder of the agreement under the replaceable contract are assumed by the recipient of the agreement,

(d.2) in the case of a disposition of an agreement

(i) that is a non-BCTS licence, as defined in section 22.2 (1), and

(ii) in relation to which rights to harvest Crown timber have been released to the government under a BCTS disposition agreement under section 22.2,

all rights and obligations of the holder of the non-BCTS licence under the BCTS disposition agreement are assumed by the recipient of that non-BCTS licence,

(e) the minister, on being satisfied that the requirements set out in section 54.1 have been met, gives notice to the holder and the intended recipient that the disposition may proceed to completion, specifying in the notice the latest date by which it must be completed, and

(f) the disposition is completed by the date referred to in paragraph (e).

(3) In subsection (2) (d.1), "replaceable contract" and "contractor" have the same meaning as in section 152.

Transfer requirements

54.1 On receipt of written notice of an intended disposition of an agreement in accordance with section 54, the minister must give the notice under section 54 (2) (e), if satisfied that

(a) in the case of the disposition of an agreement that is a tree farm licence, forest licence or pulpwood agreement, the disposition will not unduly restrict competition in the standing timber markets, log markets or chip markets,

(b) in the case of a disposition of an agreement that is a BC timber sales agreement, the intended recipient is a BC timber sales enterprise, and

(c) in the case of a disposition of an agreement that is a woodlot licence, the intended recipient is a person, band or corporation that, under section 44, may enter into a woodlot licence.

Confirmation of completion of disposition and effect of completion

54.2 (1) On completion of the intended disposition of an agreement referred to in section 54, both the holder of the agreement and the person who acquired the agreement under the disposition must confirm the completion in writing to the minister within 7 days after the completion.

(2) On completion of the intended disposition referred to in section 54, the person who acquired the agreement under the disposition becomes the holder of the agreement for the purposes of this Act.

Transfers exempt from certain requirements

54.3 (1) Sections 54 to 54.2 do not apply to, or in respect of,

(a) a disposition in good faith of an agreement, by way of a grant of a mortgage or a security interest,

(b) a disposition to the trustee in bankruptcy of the holder of the agreement,

(c) a disposition made by way of transmission from the estate of a deceased person to that person's personal representative, or

(d) a disposition in other prescribed circumstances.

(2) Within 3 months after completion of a disposition under subsection (1) (b) to (d) of an agreement, the person who acquired the agreement under the disposition must notify the minister in writing of the disposition.

Transfer of certain agreements not permitted

54.4 (0.1) In this section, "restricted forest licence" and "supplemental forest licence" have the same meaning as in section 14.2 (1).

(1) The holder of an agreement may not dispose of the agreement to another person if the agreement

(a) [Repealed 2013-12-23.]

(b) is one of the following agreements, unless the disposition is made with the approval of the Lieutenant Governor in Council or as permitted by the regulations:

(i) an agreement entered into under section 47.3 (1) (a);

(ii) a community forest agreement;

(iii) a first nations woodland licence;

(iv) a community salvage licence,

(c) is a road permit, unless the disposition is made in conjunction with the disposition of the agreement to which the road permit pertains,

(d) is an occupant licence to cut unless the disposition is made in conjunction with a disposition of

(i) land, or

(ii) a right to occupy land

to which the licence to cut pertains, or

(e) is a free use permit.

(1.01) The holder of an agreement that is a restricted forest licence or supplemental forest licence may not dispose of the agreement to another person if the holder, at the time the agreement was entered into,

(a) owned or leased a prescribed type of processing facility, or

(b) intended to own or lease a prescribed type of processing facility,

unless the disposition is made with the approval of the Lieutenant Governor in Council or as permitted by the regulations.

(1.1) The Lieutenant Governor in Council may attach conditions to an approval under subsection (1) (b) or (1.01).

(1.2) Despite any of the exceptions to the prohibitions on disposition in subsections (1) and (1.01), a person may not dispose of an agreement in respect of which rights are under suspension, in whole or in part, under section 76 or 78.

(2) A disposition of an agreement contrary to this section is without effect.

Change in control of a corporation that is the holder of an agreement

54.5 (1) Without notice and despite section 77, the minister may cancel an agreement if the holder of the agreement is a corporation and

(a) the holder amalgamates with another corporation or, by means of one or a series of transactions, the control of the holder, or of another corporation that directly or indirectly controls the holder, changes, is acquired or is disposed of, and

(b) immediately after completion of the amalgamation, the change of control, the disposition of control or the acquisition of control, all as set out in paragraph (a),

(i) all money

(A) required to be paid to the government under the circumstances set out in section 130 (1.1), and

(B) due and payable to the government under that section

in respect of the agreement

(C) has not been paid, and

(D) is not the subject of an arrangement for payment approved by the revenue minister,

(ii) in the case of an agreement that is a tree farm licence, forest licence or pulpwood agreement, the minister is satisfied that the change of control, the disposition of control or the acquisition of control unduly restricts competition in the standing timber market, log market or chip market,

(iii) in the case of an agreement that is a BC timber sales agreement, the change of control, the disposition of control or the acquisition of control results in the BC timber sales agreement being held by a person who is not registered in the applicable category of BC timber sales enterprises,

(iii.1) in the case of an agreement that is a first nations woodland licence, the change of control, the disposition of control or the acquisition of control results in the first nations woodland licence being held by a person or entity who, under section 43.54, is not permitted to enter into a first nations woodland licence,

(iv) in the case of an agreement that is a woodlot licence, the change of control, the disposition of control or the acquisition of control results in the woodlot licence being held by a person who, under section 44, is not permitted to enter into a woodlot licence, or

(v) on the date of the disposition, rights under the agreement are suspended, in whole or in part, under section 76 or 78.

(2) This section does not apply to a change in, or acquisition of, control of a corporation that is caused by a transmission of shares in its capital from the estate of a deceased person to the person's personal representative.

Effect of disposition on obligations

54.6 (1) If a disposition of an agreement is completed in accordance with section 54, the person who acquired the agreement under the disposition becomes liable in the person's capacity as the holder of the agreement

(a) for payment of all money in respect of the agreement that

(i) is required to be paid to the government under the circumstances set out in section 130 of the Forest Act, whether before or after the date of completion, and

(ii) is due and payable to the government under that section after the date of the completion or under an arrangement for payment under section 54 (2) (b) (iv),

(b) to perform all obligations under the agreement, including but not limited to obligations accrued or accruing as of the date of completion and still outstanding as of that date, and

(c) to perform all other obligations in respect of the agreement, including but not limited to obligations

(i) accrued or accruing as of the date of completion of the disposition and still outstanding as of that date, and

(ii) imposed with respect to the agreement under this Act, the Forest and Range Practices Act or the Wildfire Act.

(2) The person who disposes of an agreement is jointly and severally liable with the person who acquires the agreement under the disposition for the liabilities described in subsection (1) accrued or accruing as of the date of completion of the disposition and still outstanding as of that date.

Disposition of private land subject to tree farm licence or woodlot licence

54.7 (1) The minister's prior written consent must be obtained for the disposition of private land or an interest in private land if the private land or interest is subject to a tree farm licence or to a woodlot licence.

(2) The minister may attach conditions to a consent given under subsection (1).

(3) The minister, without notice and despite section 77, may cancel a tree farm licence or woodlot licence if the minister determines that

(a) the minister's prior written consent was not obtained to a disposition for which the consent was required under in subsection (1), or

(b) the person to whom a consent was given under subsection (1) does not comply with a condition attached to the consent under subsection (2).

(4) If the minister determines that there are grounds under subsection (3) to cancel a tree farm licence or woodlot licence, but decides against cancelling the licence,

(a) the minister is deemed to have consented to the disposition of the private land or the disposition of the interest in the private land, and

(b) the minister, in making the decision not to cancel, may attach conditions to the licence that the minister considers appropriate in the circumstances.

(5) The holder of a licence to which conditions are attached under subsection (4) (b) must comply with the conditions.

Transition

54.8 (1) Sections 54 to 56, as they were immediately before the coming into force of this section, apply to a consent that was given under section 54 (1) before the coming into force of this section.

(2) [Enacted 2003-30-9, not in force; 2003-30-9 repealed 2004-36-129.]

Repealed

55–56 [Repealed 2003-30-9.]

Repealed

56.1 (1) to (4) [Repealed 2003-30-9.]

(5) and (6) [Repealed 2003-30-10.]

(7) and (8) [Repealed RS1996-157-56.1 (8).]

Exchanges of rights

57 (1) The minister, with the consent of the Lieutenant Governor in Council, may enter into, in exchange for the surrender of a timber licence, a new timber licence describing Crown land the timber on which is not otherwise encumbered.

(2) Despite section 95 of the Land Act, the Lieutenant Governor in Council may accept under that section, in exchange for Crown land, private forest land of greater or lesser value.

(3) Before a transaction is completed under subsection (1) or (2), the minister must obtain a current appraisal of the value of the lands or timber, as the case may be, involved in the transaction, prepared by an independent appraiser appointed by the minister.

Division 3 — Extensions, Increases, Deletions and Reductions

Extension of term of non-replaceable forest licences

58 (1) Each time the allowable annual cut authorized in a non-replaceable forest licence is reduced under section 63 the minister must

- (a) extend the term of the licence in accordance with subsection (2), and
- (b) if required, reduce the allowable annual cut for the last year of the extended term of the licence in accordance with subsection (4).

(2) The term of a licence must be extended by the number of additional years that is equal to

- (a) the extension factor calculated under subsection (3), if the extension factor is a whole number, or
- (b) a number determined by rounding up the extension factor, calculated under subsection (3), to the nearest whole number, if the extension factor is not a whole number.

(3) The extension factor is determined by the following formula:

where

E = the total volume of timber that the licensee would have been entitled to harvest under the licence using the allowable annual cut specified in the licence when the licence was issued less any reductions made under this Act, other than section 63, or the cut control provisions of the licence

NE = the total volume of timber that the licensee is entitled to harvest under the licence after the reduction under section 63 of the allowable annual cut authorized in the licence

NAAC = the allowable annual cut authorized in the licence after the reduction under section 63 of the allowable annual cut authorized in the licence.

(4) If the extension factor contains a fraction before it is rounded up under subsection (2) (b), the allowable annual cut for the last year of the licence must be determined by multiplying the NAAC determined under subsection (3) by the fraction.

(5) This section does not apply to the holder of a licence if the notice under section 63 is sent to the holder after the total volume authorized under the licence has been harvested.

Extension of timber sale licences and cutting permits

58.1 (1) The holder of a timber sale licence that

(a) has a term of less than 4 years, and

(b) was entered into on or after November 4, 2003

may apply in writing to the timber sales manager for an extension of the term of the licence for a period that

(c) does not exceed one year, and

(d) does not result in a term of more than 4 years for that licence.

(2) The holder of a cutting permit that

(a) has a term of less than 4 years,

(b) is not issued under a licence to cut, and

(c) was entered into on or after November 4, 2003

may apply in writing to the district manager for an extension of the term of the permit for a period that

(d) does not exceed one year, and

(e) does not result in a term of more than 4 years for that permit.

(3) Subject to subsection (8), the timber sales manager or district manager must accept an application under subsection (1) or (2) if

(a) the timber sale licence or the agreement under which the cutting permit was issued, does not prohibit the extensions,

(b) rights under the timber sale licence or the cutting permit are not under suspension, and

(c) the holder of the timber sale licence or cutting permit has paid to the government a fee equal to the amount determined under subsection (5) and, if applicable, subsection (5.1).

(4) On the date of acceptance of an application under subsection (3), the term of the timber sale licence or cutting permit, as the case may be, is extended in accordance with the application.

(5) The fee referred to in subsection (3) (c)

(a) for a timber sale licence for which there was a bonus bid is a fee equal to a prescribed percentage of an amount calculated according to the following formula:

or

(b) for a timber sale licence for which there was a bonus offer is a fee equal to a prescribed percentage of an amount calculated according to the following formula:

and

(c) for a cutting permit is a fee equal to a prescribed amount or equal to an amount determined in accordance with one or more prescribed formulas.

(5.1) If the holder of a timber sale licence harvested timber under the licence before applying to extend the term of the licence under subsection (1), the fee payable under subsection (5) (a) or (b) is reduced, to a maximum of 90%, by the percentage derived from the following formula:

(6) However, at the request of the holder of a timber sale licence or cutting permit who has submitted an application for an extension under subsection (1) or (2), the minister or a person authorized by the minister may waive the fee referred to in subsection (3) (c), if the minister or authorized person is satisfied that the reasons for the extension are circumstances

(a) beyond the holder's control, and

(b) unrelated to the holder's financial situation.

(6.1) A request referred to in subsection (6) must

(a) be submitted within 30 days after the date an application for an extension under subsection (1) or (2) is made,

(b) be signed by, or on behalf of, the requesting person, and

(c) specify the reasons for the request.

(7) A fee paid under subsection (3) (c) must not be credited towards stumpage.

(8) The timber sales manager or district manager may refuse to accept an application to extend the term of a timber sale licence or cutting permit under subsection (3) if, in his or her opinion, the extension would prevent the fulfillment of an obligation under the Forest and Range Practices Act or the Forest Practices Code of British Columbia Act.

(9) The term of a timber sale licence or cutting permit to which this section applies must not be extended except in accordance with this section.

Transition for extension

58.2 (1) Despite anything to the contrary in an agreement or a cutting permit, a cutting permit, issued before November 4, 2003, with a term that expires after March 31, 2007 expires on that date instead of on the later date specified in it.

(2) A cutting permit that was in effect on November 4, 2003, with a term expiring before March 31, 2007, may be extended to March 31, 2007, on application of its holder made

(a) before the expiration of the term, or

(b) despite the expiration of the term, if the term expired on or after November 4, 2003 and before the elapse of 60 days after the coming into force of this section.

(2.1) A cutting permit that was in effect on November 4, 2003 and expiring on March 31, 2007 may be extended by the minister for a period not exceeding 2 years beginning on April 1, 2007, on application made before March 31, 2007 by the holder.

(2.2) For cutting permits that are extended under subsection (2.1), the minister may grant further extensions, each for a period not exceeding 2 years.

(3) This section does not apply to a cutting permit issued under a licence to cut.

(4) [Repealed 2007-18-33.]

Postponement of operation of cutting permits

58.21 (1) On application by the holder of a cutting permit that was issued on or after November 4, 2003, the minister, in accordance with the regulations, may postpone the operation of the cutting permit for a period of up to 2 years.

(2) The effective date of a postponement under subsection (1) is the date determined by the minister that is on or after the date of application for the postponement.

(3) Despite subsection (2), the effective date of a postponement under subsection (1) for a cutting permit

(a) that was issued on or after November 4, 2003 and before June 1, 2007, and

(b) that has less than 2 years' time remaining on its term from the date of the application for the postponement to the expiration date of the cutting permit,

is the date that is the later of

(c) the date that timber harvesting under the cutting permit ceased, if harvesting under the cutting permit took place, and

(d) the date that is 2 years before the expiration date of the cutting permit, if no harvesting under the cutting permit took place during that 2 year period.

(4) On application by the holder of a cutting permit that had its operation postponed under subsection (1), the minister, in accordance with subsection (1), may grant further extensions to the period of postponement, each for a period not exceeding 2 years.

(5) The holder of a cutting permit that had its operation postponed under subsection (1) must not exercise any of the rights granted by the cutting permit during the period of postponement, including any extensions to the period of postponement granted under subsection (4).

(6) Despite subsection (5), the holder of a cutting permit that had its operation postponed under subsection (1) is liable to perform all obligations imposed under this Act, the Forest and Range Practices Act, the Forest Practices Code of British Columbia Act or the Wildfire Act in respect of the cutting permit that were incurred before the operation of the cutting permit was postponed.

(7) On application by the holder of a cutting permit that had its operation postponed under subsection (1), the minister must rescind the postponement of the cutting permit.

(8) If the postponement of a cutting permit is rescinded under subsection (7),

(a) all rights under the cutting permit are exercisable by the holder of the cutting permit,

(b) despite any contrary information in the cutting permit, the period of time remaining on the term of the cutting permit on the date the postponement is rescinded is equal to the period of time that remained on the term of the cutting permit on the effective date of the postponement under subsection (1), and

(c) the operation of the cutting permit must not be postponed again under subsection (1), nor the period of postponement extended under subsection (4).

Surrender of BC timber sales agreement

58.3 (1) The holder of a timber sale licence may apply in writing to the timber sales manager to surrender the licence.

(2) The timber sales manager must accept the application to surrender the licence if

(a) no harvesting has taken place under the licence, and

(b) any requirements prescribed for the purposes of this section are fulfilled.

(3) On the date of acceptance of an application under subsection (2)

(a) the timber sale licence that is the subject of the application is surrendered, and

(b) if the timber sale licence was advertised on or after November 4, 2003, any deposit required under this Act in relation to the licence and held by the government is forfeited to the government.

(4) However, at the request of the holder of a timber sale licence, the minister or a person authorized by the minister may relieve the holder of a timber sale licence surrendered under this section from the forfeiture imposed under subsection (3) (b) if the minister or authorized person is satisfied that the reasons for the surrender are circumstances

(a) beyond the holder's control, and

(b) unrelated to the holder's financial situation.

(5) A request referred to in subsection (4) must

(a) be made within 30 days after the date an application to surrender a timber sale licence under subsection (1) is made,

(b) be signed by, or on behalf of, the requesting person, and

(c) specify the reasons for the request.

Increase of allowable annual cut

59 If the holder of a forest licence carries out silviculture treatments to free growing stands, as defined in the Forest and Range Practices Act, located on Crown land in the timber supply area specified in the licence, the minister, subject to and if authorized by the regulations, may increase the allowable annual cut authorized under the licence by a volume equal to the determination by the minister of the potential gain in timber production from the Crown land attributable to the silviculture treatments.

Innovative forestry practices

59.1 (1) For the purpose of improving the productivity of the forestry resource, the minister, at his or her discretion, may enter into an agreement with a person referred to in subsection (2) to allow that person to carry out, subject to subsection (5) and the Forest and Range Practices Act, one or more of the innovative forestry practices and other activities that are set out in a regulation made under subsection (4).

(2) For the purposes of subsection (1), the minister may enter into an agreement with a person who

(a) is the holder of a forest licence or other agreement that is entered into under section 12 and specified in a regulation made under subsection (4) of this section, and

(b) presents a written proposal for an agreement to the minister.

(3) An agreement under subsection (1)

(a) must be for a term not exceeding the term prescribed in a regulation made under subsection (4) (c), and

(b) may include terms and conditions that

(i) the minister considers are necessary to effectively carry out the purpose of the agreement and further the social and economic objectives of the government, and

(ii) are consistent with this Act and the regulations and the Forest and Range Practices Act, and the regulations and standards made under that Act.

(4) The Lieutenant Governor in Council may make regulations as follows:

(a) specifying the innovative forestry practices and other activities that may be the subject of an agreement referred to in subsection (1);

(b) specifying the agreements entered into under section 12, the holders of which may enter into an agreement with the minister under subsection (1) of this section;

(c) prescribing the maximum term of an agreement under subsection (1).

(5) A person may only carry out an innovative forestry practice or other activity referred to in subsection (1) if the person

(a) has prepared and obtained the minister's approval of a forestry plan that meets the requirements of subsection (6), and

(b) is carrying out the practice or activity in accordance with the plan.

(6) A forestry plan

(a) must contain a description of the management area where the innovative forestry practices or other activities will be carried out,

(b) must specify the particulars of the innovative forestry practices or other activities,

(c) must contain a description of how the innovative forestry practices or other activities will be carried out,

(d) must contain a schedule of when the innovative forestry practices or other activities will be carried out,

(e) must specify how the innovative forestry practices or other activities will contribute to improved productivity of the forestry resource,

(f) must specify how the innovative forestry practices or other activities will justify an increase in the allowable annual cut of the participant's licence or agreement referred to in subsection (2) (a), and

(g) may include other terms and conditions that

(i) the minister believes are necessary to effectively carry out the agreement referred to in subsection (1), and

(ii) are consistent with this Act and the regulations and the Forest and Range Practices Act, and the regulations and standards made under that Act.

(7) After approving a person's forestry plan, the minister may increase the allowable annual cut authorized in the person's licence or agreement referred to in subsection (2) (a) by an amount that is justified according to timber supply analysis methodology approved by the chief forester or the chief forester's designate.

(8) When the minister increases an allowable annual cut under subsection (7), the minister may limit the increase to a period of time, area of land and type of timber, and may make the increase subject to conditions.

(9) If an assessment of

(a) the innovative forestry practices or other activities being carried out under the forestry plan, or

(b) information that was not available at the time the minister increased the allowable annual cut under subsection (7)

indicates that all or part of the allowable annual cut increase was not justified, the minister may reduce the allowable annual cut of the licence or agreement referred to in subsection (2) (a) by an amount not exceeding the increase granted under subsection (7).

(10) If, with respect to an innovative forestry practice or other activity, a person is not complying with

(a) the agreement referred to in subsection (1),

(b) the forestry plan approved under subsection (5),

(c) any limitation or conditions imposed under subsection (8), or

(d) this Act and the regulations made under this Act, or the Forest and Range Practices Act and the regulations or standards made under that Act,

the minister may do one or both of the following:

(e) suspend or cancel the agreement referred to in subsection (1) and sections 76 and 77 apply with respect to that suspension or cancellation;

(f) reduce the allowable annual cut of the person's licence or agreement referred to in subsection (2) (a) by an amount the minister determines is attributable to the default.

(11) A reduction under subsection (9) or (10) may be apportioned over a period of up to 5 years.

(12) If the forest licence, or other agreement referred to in subsection (2) (a), is suspended, the agreement under subsection (1) is suspended.

(13) If the forest licence, or other agreement referred to in subsection (2) (a), is cancelled or surrendered, the agreement under subsection (1) is cancelled.

(14) If the agreement referred to in subsection (1) is suspended or cancelled, the forestry plan is suspended or cancelled, as the case may be.

Deletions, not affecting allowable annual cut, of Crown land from tree farm licences

60 (1) In this section, "Crown land" does not include Crown land described in a timber licence.

(2) The minister by written order may delete Crown land from a tree farm licence area, if the deletion does not affect the allowable annual cut determined for the tree farm licence.

(3) Subject to section 60.92, no compensation or damages is payable by the government to a person for a deletion of Crown land under this section.

Other deletions, not affecting allowable annual cut, of Crown land

60.01 (1) The minister by written order may delete Crown land from

(a) a community forest agreement area,

(a.1) a first nations woodland licence area, or

(b) a woodlot licence area

if the deletion does not affect the allowable annual cut determined for the community forest agreement, first nations woodland licence or woodlot licence.

(2) Subject to section 60.92, no compensation or damages is payable by the government to a person for a deletion of Crown land under this section.

Definitions for sections 60.2 to 60.91

60.1 In this section and in sections 60.2 to 60.91:

"for an access purpose" means for the purpose of

- (a) access to Crown timber,
- (b) a right of way for
 - (i) a highway,
 - (ii) a pipeline, or
 - (iii) power transmission, or
- (c) water storage;

"for another purpose" means for any purpose other than

- (a) an access purpose, or
- (b) timber production.

Other deletions of Crown land - tree farm licences

60.2 (1) In this section, "Crown land" does not include Crown land described in a timber licence.

(2) The minister by written order may delete from a tree farm licence area Crown land to be used for an access purpose or for another purpose.

Other deletions of Crown land - community forest agreements, first nations woodland licences, woodlot licences and timber licences

60.3 The minister by written order may delete, from any of the following areas, Crown land to be used for an access purpose or for another purpose:

- (a) a community forest agreement area;
- (b) a first nations woodland licence area;
- (c) a woodlot licence area;
- (d) the area described in a timber licence.

Reductions in allowable annual cut under forest licences and timber sale licences

60.4 The minister by written order may reduce the allowable annual cut authorized in

- (a) a forest licence, or
- (b) a timber sale licence

if Crown land in the timber supply area specified in the licence is used for an access purpose or for another purpose.

Notice of an order under sections 60, 60.01 or 60.2 to 60.4

60.5 (1) Subject to section 60.501 and subsection (2), the minister may not make an order under section 60, 60.01 or any of sections 60.2 to 60.4 unless the minister serves at least one year's advance notice of the proposed order on the holder of the agreement or licence that is the subject

- (a) of the intended deletion of Crown land, in the case of a tree farm licence, community forest agreement, first nations woodland licence, woodlot licence or timber licence, or
- (b) of the intended reduction in allowable annual cut, in the case of a forest licence or timber sale licence.

(2) If the Crown land to be deleted

- (a) by order under section 60.2 from a tree farm licence area, or
- (b) by order under section 60.3 from a community forest agreement area, first nations woodland licence area, woodlot licence area or the area described in a timber licence

is to be used for exploration or development activities associated with oil and gas purposes, the minister may make the order if the minister serves at least 60 days' advance notice of the order on the holder of the licence that is the subject of the intended deletion of Crown land.

(3) A notice under this section must include or be accompanied by particulars of the intended deletion of Crown land or reduction in allowable annual cut, as the case may be.

Deletions under the Park Act

60.501 (1) If, under section 11 (2.3) of the Park Act, Crown land is deleted from a tree farm licence area, community forest agreement area, first nations woodland licence area or woodlot licence area, the minister must

- (a) make the order under section 60, 60.01, 60.2 or 60.3 of this Act the minister considers appropriate, and
- (b) serve a notice of the order on the holder of the tree farm licence, community forest agreement, first nations woodland licence or woodlot licence that includes or is accompanied by particulars of the deletion.

(2) If, under section 11 (2.3) of the Park Act, Crown land is deleted from the area described in a timber licence, the minister must make an order under section 60.3 of this Act in relation to the deletion and serve a notice on the holder of the timber licence that includes or is accompanied by particulars of the deletion.

(3) If, under section 11 (2.3) of the Park Act, Crown land is deleted from a timber supply area, the minister

(a) must serve a notice on the holder of a forest licence or timber sale licence affected by the deletion, advising whether there will be an order made under section 60.4 in relation to the forest licence or timber sale licence, and

(b) may make an order under section 60.4 in relation to a forest licence or timber sale licence affected by the deletion.

(4) A reduction in allowable annual cut under subsection (3) (b) is deemed to have been ordered on the date the deletion is effective under section 11 (2.3) of the Park Act.

Deemed amendment to affected agreements

60.51 (1) Each tree farm licence that is affected by an order under section 60 or 60.2 is deemed amended to reflect the order under that section.

(2) Each community forest agreement, first nations woodland licence or woodlot licence that is affected by an order under section 60.01 is deemed amended to reflect the order under that section.

(3) Each community forest agreement, first nations woodland licence, woodlot licence or timber licence that is affected by an order under section 60.3 is deemed amended to reflect the order under that section.

(4) Each forest licence or timber sale licence that is affected by an order under section 60.4 is deemed amended to reflect the order under that section.

Compensation in respect of tree farm licence areas

60.6 (1) In this section:

"Crown land" does not include Crown land in the area described in a timber licence;

"current allowable annual cut" means the allowable annual cut that the chief forester determines to be attributable to the Crown land in a tree farm licence area immediately before a deletion under section 60.2;

"original allowable annual cut" means the allowable annual cut that the chief forester determines was attributable at the beginning of the applicable deletion period to the Crown land in a tree farm licence area.

(2) If, during the deletion period for a tree farm licence,

(a) a deletion, or

(b) a series of deletions, if more than one,

from the tree farm licence area, of Crown land to be used for an access purpose has the effect of reducing the current allowable annual cut by more than 5% of the original allowable annual cut, the holder of the tree farm licence is entitled to compensation from the government in an amount determined in accordance with subsection (4).

(3) If, during the deletion period for a tree farm licence,

(a) a deletion, or

(b) a series of deletions, if more than one,

from the tree farm licence area, of Crown land to be used for another purpose has the effect of reducing the current allowable annual cut by more than 5% of the original allowable annual cut, the holder of the tree farm licence is entitled to compensation from the government in an amount determined in accordance with subsection (4).

(4) The compensation to which the holder of a tree farm licence is entitled under subsection (2) or (3), as the case may be, is an amount equal to the value, for the unexpired portion of the term of the licence, of the harvesting rights under the licence that are taken by means of the part of the reduction that, in the opinion of the chief forester, exceeds 5% of the original allowable annual cut.

Compensation in respect of community forest agreement, first nations woodland licence and woodlot licence areas

60.7 (1) In this section:

"current allowable annual cut" means the allowable annual cut for a community forest agreement, first nations woodland licence or woodlot licence immediately before a deletion under section 60.3;

"original allowable annual cut" means the allowable annual cut for a community forest agreement, first nations woodland licence or woodlot licence at the beginning of the applicable deletion period.

(2) If, during the deletion period for a community forest agreement, first nations woodland licence or woodlot licence,

(a) a deletion, or

(b) a series of deletions, if more than one,

from the community forest agreement area, first nations woodland licence area or woodlot licence area, of Crown land to be used for an access purpose has the effect of reducing the current allowable annual cut by more than 5% of the original allowable annual cut, the holder of the community forest agreement, first

nations woodland licence or woodlot licence is entitled to compensation from the government in an amount determined in accordance with subsection (4).

(3) If, during the deletion period for a community forest agreement, first nations woodland licence or woodlot licence,

(a) a deletion, or

(b) a series of deletions, if there are more than one,

from the community forest agreement area, first nations woodland licence area or woodlot licence area, of Crown land to be used for another purpose has the effect of reducing the current allowable annual cut by more than 5% of the original allowable annual cut, the holder of the community forest agreement, first nations woodland licence or woodlot licence is entitled to compensation from the government in an amount determined in accordance with subsection (4).

(4) The compensation to which the holder of a community forest agreement, first nations woodland licence or woodlot licence is entitled under subsection (2) or (3), as the case may be, is an amount equal to the value, for the unexpired portion of the term of the agreement or licence, of the harvesting rights under the agreement or licence that are taken by means of the part of the reduction that exceeds 5% of the original allowable annual cut.

Compensation in respect of timber licences

60.8 (1) In this section:

"current timber licence area" means the area that, immediately before a deletion under section 60.3, was the area described in a timber licence;

"original timber licence area" means the area that, at the beginning of the deletion period for a timber licence was the area described in the timber licence.

(2) If, during the deletion period for a timber licence,

(a) a deletion, or

(b) a series of deletions, if more than one,

from the current timber licence area, of Crown land to be used for an access purpose has the effect of reducing the current timber licence area by more than 5% of the original timber licence area, the holder of the timber licence is entitled to compensation from the government in an amount determined in accordance with subsection (4).

(3) If, during the deletion period for a timber licence,

(a) a deletion, or

(b) a series of deletions, if more than one,

from the current timber licence area, of Crown land to be used for another purpose has the effect of reducing the current timber licence area by more than 5% of the original timber licence area, the holder of the timber licence is entitled to compensation from the government in an amount determined in accordance with subsection (4).

(4) The compensation to which the holder of a timber licence is entitled under subsection (2) or (3), as the case may be, is an amount equal to the value of the harvesting rights under the licence that are taken by means of the part of the reduction that exceeds 5% of the original timber licence area.

Compensation in respect of forest licences or timber sale licences

60.9 (1) In this section:

"current allowable annual cut" means the allowable annual cut for a forest licence or timber sale licence immediately before a reduction under section 60.4;

"original allowable annual cut" means the allowable annual cut for a forest licence or timber sale licence at the beginning of the applicable deletion period.

(2) If, during the deletion period for a forest licence or timber sale licence,

(a) a reduction, or

(b) a series of reductions, if more than one,

in the current allowable annual cut for the forest licence or timber sale licence, as a result of the use of Crown land in the timber supply area specified in the licence for an access purpose, reduces the current allowable annual cut by more than 5% of the original allowable annual cut, the holder of the forest licence or timber sale licence is entitled to compensation from the government in an amount determined in accordance with subsection (4).

(3) If, during the deletion period for a forest licence or timber sale licence,

(a) a reduction, or

(b) a series of reductions, if more than one,

in the current allowable annual cut for the forest licence or timber sale licence, as a result of the use of Crown land in the timber supply area specified in the licence for another purpose, reduces the current allowable annual cut by more than 5% of the original allowable annual cut, the holder of the forest licence or timber sale licence is entitled to compensation from the government in an amount determined in accordance with subsection (4).

(4) The compensation to which the holder of a forest licence or timber sale licence is entitled under subsection (2) or (3), as the case may be, is an amount equal to the value, for the unexpired portion of the term of the licence, of the harvesting rights under the licence that are taken by means of the part of the reduction that exceeds 5% of the original allowable annual cut.

Access purpose deletions or reductions unrelated to those for another purpose

60.91 (1) In this section:

"Crown land" does not include Crown land in the area described in a timber licence;

"current allowable annual cut" means the allowable annual cut

(a) that the chief forester determines to be attributable to the Crown land in a tree farm licence area immediately before a deletion under section 60.2,

(b) for a community forest agreement, first nations woodland licence or woodlot licence immediately before a deletion under section 60.3, and

(c) for a forest licence or timber sale licence immediately before a deletion under section 60.4;

"original allowable annual cut" means the allowable annual cut

(a) that the chief forester determines was attributable at the beginning of the applicable deletion period to the Crown land in a tree farm licence area,

(b) for a community forest agreement, first nations woodland licence or woodlot licence at the beginning of the applicable deletion period, or

(c) for a forest licence or timber sale licence at the beginning of the applicable deletion period.

(2) The calculation, for a tree farm licence, community forest agreement, first nations woodland licence, woodlot licence, forest licence or timber sale licence, of the percentage by which a reduction, referred to in section 60.6 (2), 60.7 (2) or 60.9 (2), for an access purpose exceeds 5% of the original allowable annual cut is separate from the calculation, for that licence or agreement, of the percentage by which a reduction referred to in section 60.6 (3), 60.7 (3) or 60.9 (3) for another purpose exceeds 5% of the original allowable annual cut.

(3) The calculation, for a timber licence, of the percentage by which a reduction referred to in section 60.8 (2) for an access purpose exceeds 5% of the original timber licence area is separate from the calculation, for that timber licence, of the percentage by which a reduction referred to in section 60.8 (3) for another purpose exceeds 5% of the original timber licence area.

Compensation for improvements

60.92 The holder of a tree farm licence, community forest agreement, first nations woodland licence, woodlot licence, timber licence, forest licence or timber sale licence who is the subject of an order made under section 60, 60.01, 60.2, 60.3 or 60.4 is entitled to compensation from the government in an amount equal to the value of improvements made to Crown land that

- (a) are authorized under an enactment,
- (b) are not improvements to which section 174 of the Forest Practices Code of British Columbia Act applied, before the repeal of that section, or to which section 120 of the Forest and Range Practices Act applies, and
- (c) are not, or have not been, paid for by the government under the Forest Act or the former Act as defined in the Forest Act.

Arbitration Act applies

60.93 If the amount of compensation is not agreed, it must be submitted for determination under the Arbitration Act.

Compensation may take form of agreement

60.94 (1) On application by the holder of a tree farm licence, community forest agreement, first nations woodland licence, woodlot licence, timber licence, forest licence or timber sale licence, the compensation to which the holder is entitled under sections 60.6 to 60.9, in whole or in part, may take the form of an agreement listed in section 12 (1).

(2) Without advertising or inviting applications from other persons, the minister, for the purpose of subsection (1), may enter into the agreement with the holder who is entitled to the compensation.

Set-off for benefits previously received

60.95 The amount of compensation to which the holder of a tree farm licence, community forest agreement, first nations woodland licence, woodlot licence, timber licence, forest licence or timber sale licence is entitled under sections 60.6 to 60.9 must be reduced by any financial benefit or other benefit received by that holder from the government arising out of the deletion or reduction that gives rise to the entitlement.

Temporary reductions

61 (1) The minister, with the consent of the holder of the licence or agreement, may reduce for a specified period the allowable annual cut authorized

- (a) in a forest licence, or
 - (b) for a tree farm licence area, community forest agreement area, first nations woodland licence area or woodlot licence area.
- (2) Before expiry of a period of reduction specified under this section, the minister, with the consent of the holder of the licence or agreement, may
- (a) extend the period of the reduction, or

(b) increase or decrease the size of the reduction.

(3) During the period of a reduction under this section, the total volume of timber comprised in the reduction is available for disposition under this Act to persons other than the holder of the licence or agreement.

Return of surrendered harvesting rights

62 At the end of the period of any reduction specified under section 61, the allowable annual cut authorized in or for the licence or agreement that was subject to the reduction is restored by this section to the amount that is equal to the allowable annual cut that was in effect for the licence or agreement immediately before the reduction, minus any reductions, other than under section 61, that have been made under this Act or the licence or agreement during the period of the reduction.

Proportionate reduction

63 (1) In this section:

"base-level allowable annual cut" means the allowable annual cut that is prescribed for the purposes of this section;

"exempted licence" means a licence described in subsection (3);

"licence" means a forest licence.

(2) Subject to section 63.1, if the allowable annual cut determined for a timber supply area is reduced under section 8 for any reason other than a reduction in the area of land in the timber supply area, the minister, by notice served on all persons who hold licences in the timber supply area that are not exempted licences, may reduce, by the method set out in subsection (4), the allowable annual cuts authorized in the licences.

(3) This section does not apply to or in respect of a licence that specifies an allowable annual cut less than the base-level allowable annual cut.

(4) A reduction in allowable annual cut imposed under this section in a timber supply area must be apportioned among all the licences in that area, except exempted licences, in accordance with the following method:

(a) first, calculate a reduction in allowable annual cut for each licence by distributing the part of the reduction under section 8 that the minister may assign to the licences proportionately among them according to the relative sizes of the allowable annual cut specified in each licence;

(b) second, calculate for each licence the annual volume of timber, if any, by which the calculations under this subsection reduce the allowable annual cut for that licence to less than the base-level allowable annual cut;

(c) third, calculate the aggregate of the annual volumes of timber calculated under paragraph (b);

(d) fourth, for each licence for which the calculation under paragraph (b) does not reduce the allowable annual cut to less than the base-level allowable annual cut, calculate a further reduction in allowable annual cut by distributing the amount determined under paragraph (c) proportionately among those licences according to the relative sizes of the allowable annual cut specified in each of them;

(e) fifth, repeat the calculations under paragraphs (b) to (d) until the end result of all the calculations is that the allowable annual cut for any of the licences is not reduced to a level that is less than the base-level allowable annual cut.

(5) This section and section 80 apply to licences, whether issued before, on or after the date this section comes into force.

(6) A licence is deemed to be amended to the extent provided in a notice served under this section on the holder of the licence.

Proportionate reduction if section 59.1 applies

63.1 (1) In this section:

"allowable annual cut increase", for the period from the date on which the determination of the previous allowable annual cut is made effective and the date on which the determination of the current allowable annual cut is made effective, means the sum of all increases under section 59.1 to the allowable annual cuts specified in forest licences or other agreements in the timber supply area;

"previous allowable annual cut" means the allowable annual cut that was in effect for a timber supply area immediately before the determination of the current allowable annual cut for the timber supply area.

(2) For the purposes of section 63 (2),

(a) the allowable annual cut for a timber supply area is reduced if it is less than the sum of the previous allowable annual cut and the allowable annual cut increase, and

(b) the amount of the reduction is determined by adding the previous allowable annual cut and the allowable annual cut increase and then subtracting the current allowable annual cut.

Date of increase or reduction in allowable annual cut and prorating

63.2 (1) In this section, "increase or reduction" means an increase or reduction in the allowable annual cut authorized under an agreement.

(2) An increase or reduction, made by the minister, chief forester or district manager under a provision of this Act that authorizes him or her to make the increase or decrease but does not specify or provide for a date on which the increase or reduction takes effect, must be made to take effect on either

(a) the date on which the minister, chief forester or district manager, as the case may be, exercises the discretion to increase or reduce the allowable annual cut, or

(b) January 1 of the year following,

whichever of those dates the minister, chief forester or district manager, as the case may be, considers reasonable in the circumstances.

(3) If the Act specifies or provides for a date on which an increase or reduction is to be effective other than January 1 of any year, or an increase or reduction is made to take effect on the date referred to in subsection (2) (a), the allowable annual cut authorized under the agreement for the calendar year of the increase or reduction is the sum, rounded to the nearest whole number, of

(a) the product obtained by multiplying the allowable annual cut before the date of the increase or reduction by the fraction obtained by dividing the number of days elapsed in the current calendar year up to and including that date by 365, and

(b) the product obtained by multiplying the increased or decreased allowable annual cut by the fraction obtained by dividing the number of days remaining in the current calendar year after that date by 365.

Repealed

64–66 [Repealed 2003-30-8.]

Repealed

67 (1) to (3) [Repealed 2003-30-12(a).]

(4) and (5) [Repealed 2003-30-12 (b).]

Increase: disposition or deletion

68 If the holder of a tree farm licence identifies, in a management plan approved under section 35.2, land within the tree farm licence area that is not required to meet the allowable annual cut and the chief forester determines that

(a) sale of Crown timber on that land would neither affect the licensee's ability to manage the tree farm licence area in accordance with the management plan nor adversely affect other natural resources, Crown timber within the tree farm licence may be disposed of to a person other than the holder of the tree farm licence under

(i) a forestry licence to cut, or

(ii) a timber sale licence entered into under section 20, or

(b) forest management would be improved by doing so, the minister may delete the land from the tree farm licence.

Reduction by chief forester of allowable annual cut

69 (1) If

(a) a tree farm licence specifies, or

(b) the chief forester, in relation to a tree farm licence, specifies under section 8 (5)

that portions of the allowable annual cut for the tree farm licence are to be harvested from different types of timber or terrain in different parts of Crown land or private land within the tree farm licence area or from different areas of Crown land within the tree farm licence area and the holder of the tree farm licence fails to harvest a portion of the allowable annual cut so specified, the chief forester, in a notice served on the holder, may reduce the allowable annual cut available to the holder by a volume equal to the specified portion that was not so harvested.

(2) Crown timber within the tree farm licence area may be disposed of under this Act to persons other than the holder of the tree farm licence under

(a) a forestry licence to cut, or

(b) a timber sale licence

in a volume that does not exceed the reduction under subsection (1).

(3) If a replaceable forest licence provides that part of the allowable annual cut of the licence is to be harvested from a specified part of a licence area, from a specified type of timber or from a specified type of terrain and the holder of the licence fails to comply with that provision, the minister or a person authorized by the minister, in a notice served on its holder, may reduce the allowable annual cut authorized in the licence by a volume equal to the volume that was not so harvested.

Reductions in allowable annual cut

70 (1) In this section, "soil disturbance" has the same meaning as it has under the Forest and Range Practices Act.

(2) In a notice served on the holder of an agreement that is a major licence, a community forest agreement, a first nations woodland licence or a woodlot licence, the chief forester, subject to subsection

(3), may reduce the allowable annual cut

(a) available to the holder of the agreement, if the agreement is

(i) a major licence that is a tree farm licence,

(ii) a community forest agreement, or

(iii) a first nations woodland licence, or

(b) for the agreement, if the agreement is

- (i) a major licence other than a tree farm licence, or
- (ii) a woodlot licence

by an amount not exceeding the volume of timber that the chief forester determines was on an area authorized for harvest under a cutting permit issued under the agreement.

(3) The chief forester may not make a reduction under subsection (2) unless he or she determines that the holder of the agreement, on the area authorized for harvest, caused or allowed soil disturbance in excess of the limits specified in an operational plan that pertains to the cutting permit referred to in subsection (2).

(4) In a notice served on the holder of an agreement that is a major licence, a community forest agreement, a first nations woodland licence or a woodlot licence, the minister, subject to subsection (5), must reduce the allowable annual cut

(a) available to the holder of the agreement, if the agreement is

- (i) a major licence that is a tree farm licence,
- (ii) a community forest agreement, or
- (iii) a first nations woodland licence, or

(b) for the agreement, if the agreement is

- (i) a major licence other than a tree farm licence, or
- (ii) a woodlot licence

by an amount not exceeding 5% of the volume of timber that the minister determines was on an area authorized for harvest under a cutting permit issued under the agreement.

(5) The minister may not make a reduction under subsection (4) unless he or she determines that the holder of the agreement did not establish a free growing stand as required under the Forest and Range Practices Act.

Repealed

71 [Repealed 2003-30-2.]

Removal of dead or damaged timber

72 (1) In this section, "holder of the licence" means the holder of a tree farm licence, timber licence, community forest agreement, first nations woodland licence or woodlot licence for the area to which a forestry licence to cut, proposed to be entered into under this section, would apply.

(2) The minister may enter into a forestry licence to cut under this section with a person other than the holder of the licence.

(3) A forestry licence to cut referred to in subsection (2) must

(a) be restricted primarily to the harvest of windthrown, dead, damaged, insect infested or diseased timber or special forest products, and

(b) authorize the harvest of a volume of timber or special forest products of less than 2 000 m³.

(4) Before entering into a forestry licence to cut under this section, the minister must serve a notice on the holder of the licence inviting the holder to harvest the timber or special forest products that would otherwise be harvested under the proposed forestry licence to cut.

(5) The minister must include in the notice under subsection (4) a date by which the harvest must be completed, and in determining that date the minister must take into account

(a) the time by which the timber or special forest products must be harvested to prevent them from being significantly reduced in value, lost or destroyed or to minimize the spread of an insect infestation,

(b) any seasonal site conditions or constraints that would limit the harvesting of the timber or special forest products, and

(c) the nature and location of the holder of the licence's operations in the holder's licence area.

(6) To be eligible to harvest the timber or special forest products, the holder of the licence must reply to the minister within 14 days of receiving the notice agreeing to complete the harvest by the date specified in the notice.

(7) If a person to whom a notice under subsection (4) is sent

(a) does not reply and agree, within 14 days of receiving the notice, to harvesting the timber or special forest products, or

(b) replies and agrees, within 14 days of receiving the notice, to harvesting the timber or special forest products but does not do so by the date specified in the notice,

the minister may enter into a forestry licence to cut authorizing the harvesting of some or all of the timber or special forest products, if the minister considers the harvesting will not prevent the person from fulfilling their obligations under this Act, the Forest and Range Practices Act or the Wildfire Act.

(8) If a person to whom a notice under subsection (4) is sent replies and agrees within 14 days of receiving the notice to harvest the timber or special forest products but does not do so by the date specified in the notice and as a result timber or special forest products are lost, destroyed or significantly reduced in value, the minister must determine the amount that, in the minister's opinion, would have been harvested if a forestry licence to cut had been entered into under this section.

(9) The amount of timber or special forest products harvested under a forestry licence to cut entered into under this section, or the amount that the minister determines under subsection (8) would have been harvested, is deemed to be harvested under

(a) the tree farm licence or the woodlot licence of the person to whom the notice is sent under subsection (4), for the purposes of paragraph (a) of the definition of "volume of timber harvested" in section 75.1,

(b) the community forest agreement of the person to whom the notice is sent under subsection (4), for the purposes of the provisions of the agreement referred to in section 43.3 (1) (f.1), and

(c) the first nations woodland licence of the person to whom the notice is sent under subsection (4), for the purposes of the provisions of the licence referred to in section 43.55 (1) (g) (i).

(10) Subsection (9) does not apply if the amount of timber harvested under the forestry licence to cut has already been attributed to

(a) the tree farm licence or woodlot licence of the person to whom the notice is sent under subsection (4), for the purposes of paragraph (a) of the definition of "volume of timber harvested" in section 75.1,

(b) the community forest agreement of the person to whom the notice is sent under subsection (4), for the purposes of the provisions of the agreement referred to in section 43.3 (1) (f.1), and

(c) the first nations woodland licence of the person to whom the notice is sent under subsection (4), for the purposes of the provisions of the licence referred to in section 43.55 (1) (g) (i).

Removal of dead or damaged timber from a timber supply area

73 (1) In this section, "holder of the licence" means the holder of a forest licence for the area to which a forestry licence to cut, proposed to be entered into under this section, would apply.

(2) Section 72 (2) and (3) applies to this section.

(3) Before entering into a forestry licence to cut under this section, the minister must serve a notice on the holder of the licence whose operational plan applies to the area to which the proposed forestry licence to cut would apply, inviting the holder of the licence to harvest the timber or special forest products that would otherwise be harvested under the proposed forestry licence to cut.

(4) The minister must include in the notice under subsection (3) a date by which the harvest must be completed, and in determining that date the minister must take into account

(a) the time by which the timber or special forest products must be harvested to prevent them from being significantly reduced in value, lost or destroyed or to minimize the spread of an insect infestation,

(b) any seasonal site conditions or constraints that would limit the harvesting of the timber or special forest products, and

(c) the nature and location of the holder of the licence's operations in the timber supply area to which the proposed forestry licence to cut would apply.

(5) To be eligible to harvest the timber or special forest products, the holder of the licence must reply to the minister within 14 days of receiving the notice agreeing to complete the harvest by the date specified in the notice.

(6) If a person to whom a notice under subsection (3) is sent

(a) does not reply and agree, within 14 days of receiving the notice, to harvesting the timber or special forest products, or

(b) replies and agrees, within 14 days of receiving the notice, to harvesting the timber or special forest products but does not do so by the date specified in the notice,

the minister may enter into a forestry licence to cut authorizing the harvesting of some or all of the timber or special forest products, if the minister considers the harvesting will not prevent the person from fulfilling their obligations under this Act, the Forest and Range Practices Act or the Wildfire Act.

(7) If a person to whom a notice under subsection (3) is sent replies and agrees within 14 days of receiving the notice to harvest the timber or special forest products but does not do so by the date specified in the notice, and as a result timber or special forest products are lost, destroyed or significantly reduced in value, the minister must determine the amount that, in the minister's opinion, would have been harvested if a forestry licence to cut had been entered into under this section.

(8) The amount of timber or special forest products harvested under a forestry licence to cut entered into under this section, or the amount that the minister determines under subsection (7) would have been harvested, is deemed to be harvested under the forest licence of the person to whom the notice is sent under subsection (3) for the purposes of the definition of "volume of timber harvested" in section 75.1.

(9) Subsection (8) does not apply if the amount of timber harvested under the forestry licence to cut has already been attributed to the forest licence of the person to whom a notice is sent under subsection (3) for the purposes of paragraph (a) of the definition of "volume of timber harvested" in section 75.1 (1).

Timber cruise

74 (1) The minister, in a notice served on the holder of a timber licence, may require the holder to submit a timber cruise, to a standard required by the minister, of the area of land subject to the licence.

(2) If a timber cruise required under subsection (1) in respect of an area of land

(a) is not submitted when required or, if submitted, discloses no merchantable timber on the area,

(i) a timber licence must not be entered into with respect to the area, and

(ii) an existing timber licence over the area, despite its terms and conditions or this Act, expires on the next anniversary of the day of its issue, or

(b) discloses that a portion of the area is not covered by merchantable timber,

(i) the portion, if the minister so orders, must be surveyed by and at the expense of the holder of the licence, and

(ii) the minister, in a notice served on its holder, may

(A) delete the portion from an existing timber licence over the area, and

(B) exclude the portion from a future timber licence to be entered into for the area.

Compatible use

75 No agreement made under this Act prevents or impedes the government from using, or granting the use of, Crown land for any purpose that the minister considers is compatible with timber harvesting.

Definitions

75.01 (1) In this Division:

"allowable annual cut partition" means a portion of the allowable annual cut for a timber supply area or tree farm licence area that is specified by the chief forester under section 8 (5);

"base-level allowable annual cut" means the allowable annual cut that is prescribed for the purposes of this Division;

"exempted licence" means a forest licence that

(a) specifies an allowable annual cut that is less than the base-level allowable annual cut, or

(b) is a non-replaceable forest licence that meets prescribed conditions;

"harvested volume", in relation to a licence to which an order made under section 75.02 applies, means the total of the timber volumes attributed to the licence in statements issued on behalf of the government to the holder of the licence during the term of the order, less prescribed downward adjustments, if any, to those volumes.

(2) In the definition of "harvested volume" in subsection (1), "timber volumes" means the following volumes:

(a) if the timber volume is reported by scale under Part 6 of the Act,

(i) the volume of timber cut under the licence and under road permits associated with the licence, and

(ii) the volume of timber estimated to be wasted or damaged under the licence and under road permits associated with the licence;

(b) if the timber volume is calculated using information from a cruise of the timber before the timber is cut, the volume of timber calculated to have been cut under the licence and under road permits associated with the licence;

(c) the volume of timber attributed to the licence by the minister under a regulation made under section 75.1 (3) (b) or 75.11 (2) (a).

Partition order

75.02 (1) In subsections (2) and (3), "forest licence" means a forest licence that is not an exempted licence.

(2) If the chief forester specifies an allowable annual cut partition for a timber supply area, the minister, by order, may, if he or she considers it necessary to ensure the attribution specified in the partition is carried out, specify a limit on the harvested volume for each forest licence in the timber supply area in respect of one or more of the following:

- (a) a type of timber or terrain in parts of Crown land within the timber supply area;
- (b) different areas of Crown land within the timber supply area.

(3) If the chief forester specifies an allowable annual cut partition for a tree farm licence area, the minister, by order, may, if he or she considers it necessary to ensure the attribution specified in the partition is carried out, specify a limit on the harvested volume for

(a) the tree farm licence, in respect of one or more of the following:

- (i) a type of timber or terrain in parts of Crown land within the tree farm licence area;
 - (ii) different areas of Crown land within the tree farm licence area;
 - (iii) a type of timber or terrain in different parts of private land within the tree farm licence area, and
- (b) each forest licence in the tree farm licence area, in respect of one or more of the following:
- (i) a type of timber or terrain in parts of Crown land within the tree farm licence area;
 - (ii) different areas of Crown land within the tree farm licence area.

(4) A limit on the harvested volume for a forest licence or tree farm licence must be determined in accordance with the regulations.

(5) An order made under this section must specify

- (a) a term not exceeding 5 years,
- (b) the allowable annual cut partition relating to the order, and
- (c) the harvested volume limit that each licence holder may not exceed during the term of the order.

(6) The minister must serve a copy of an order made under this section on the holder of a licence to which the order relates, but the order is not invalid only because it is not served.

(7) Subject to an increase or waiver under section 75.03, the holder of a licence to which an order made under this section applies must ensure that the harvested volume under the licence does not exceed the harvested volume limit specified for that licence in the order.

Increase or waiver of harvested volume limit in order

75.03 (1) On request of the holder of a licence to which an order made under section 75.02 applies, the minister may increase or waive the harvested volume limit specified for that licence if the minister is satisfied that the reasons for the increase or waiver meet prescribed criteria.

(2) A request under subsection (1) must

- (a) be signed by, or on behalf of, the requesting person, and

(b) specify the reasons for the request.

Consolidation, subdivision or replacement of licences subject to an order

75.04 (1) In this section, "original licence" means a forest licence or tree farm licence to which an order made under section 75.02 applies.

(2) If an original licence is replaced under section 19 or 39 by 2 or more other licences, the harvested volume that, before the replacement, was charged to the original licence must be charged to the other licences by allocating that volume among the other licences by the method set out in subsection (3).

(3) The part of the harvested volume to be allocated among each of the other licences must be determined by multiplying that volume by the fraction obtained by dividing the allowable annual cut of that other licence by the allowable annual cut of the original licence.

(4) If 2 or more licences are replaced under section 19 or 39 by one other licence, the harvested volume that, before the replacement, was charged to the original licences must be charged to the other licence.

(5) The minister must amend an order made under section 75.02 to account for an allocation of volume under subsection (2) of this section or a charging of volume under subsection (4) of this section.

(6) If an original licence is a forest licence that is replaced by another forest licence under section 15 or if an original licence is a tree farm licence that is replaced by another tree farm licence under section 36,

(a) the harvested volume that, before the replacement, was charged to the original licence must be charged to the replacement licence, and

(b) the order made under section 75.02 in respect of the original licence applies to the replacement licence as if the replacement licence were the original licence.

Penalty for non-compliance with minister's order

75.05 (1) If the harvested volume limit specified for a licence in an order made under section 75.02 is exceeded, the licence holder must pay to the government the penalty determined under subsection (2) of this section.

(2) The penalty under subsection (1) is the product of

(a) the volume of harvested timber that exceeds the harvested volume limit, and

(b) the prescribed rate.

(3) A penalty under this section is in addition to stumpage payable or another penalty under this Act or another enactment.

Relief from penalty

75.06 (1) On request of the holder of a licence to which an order made under section 75.02 applies, the minister may grant relief from a penalty imposed under section 75.05 if the minister is satisfied that the reasons for the relief meet prescribed criteria.

(2) A request under subsection (1) must

(a) be submitted within 90 days after the date the penalty is imposed under section 75.05 (1),

(b) be signed by, or on behalf of, the requesting person, and

(c) specify the reasons for the request.

Regulation making powers

75.07 (1) Without limiting Division 3 of Part 12, the Lieutenant Governor in Council may make regulations as follows:

(a) prescribing the allowable annual cut referred to in the definition of "base-level allowable annual cut" in section 75.01;

(b) prescribing conditions for the purposes of paragraph (b) of the definition of "exempted licence" in section 75.01;

(c) prescribing percentages or amounts by which the timber volumes attributed to a licence in statements referred to in the definition of "harvested volume" in section 75.01 (1) must be adjusted downward to take into account grades of timber included in the timber volumes described in section 75.01 (2) (a);

(d) specifying the criteria, circumstances, rules, methods or formulas to be used to determine limits on harvested volume under section 75.02;

(e) prescribing criteria for increasing or waiving a harvested volume limit for the purposes of section 75.03;

(f) prescribing penalty rates for the purposes of section 75.05;

(g) prescribing criteria for relief from penalty for the purposes of section 75.06.

(2) A percentage prescribed under subsection (1) (c) may be any percentage within the range of 0% to 100%.

(3) A rate prescribed under subsection (1) (f) may be different for different portions of the volume referred to in section 75.05 (2) (a).

Division 3.1 — Cut Control

Interpretation

75.1 (1) In this Division:

"cut control period" in relation to a licence, means the cut control period determined for that licence under section 75.4 or 75.5;

"volume of timber harvested", in relation to each licence as defined in a provision of this Division, means the total of the timber volumes that are attributed to the licence

(a) in cut control statements issued on behalf of the government to the holder of the licence, or

(b) under the authority of a regulation made under subsection (3) (b) or (c),

for

(c) the term of the licence, if it is a licence as defined in section 75.2 or 75.21, or

(d) the cut control period for the licence, if it is not a licence as defined in section 75.2 or 75.21,

less all downward adjustments to those volumes to which the holder of the licence is entitled under subsection (3) of this section.

(2) In the definition of "volume of timber harvested" in subsection (1), "timber volumes" means the following volumes:

(a) if the timber volume is reported by scale under Part 6 of the Act,

(i) the volume of timber cut under the licence and under road permits associated with the licence, and

(ii) the volume of timber estimated to be wasted or damaged under the licence and under road permits associated with the licence;

(b) if the timber volume is calculated using information from a cruise of the timber before the timber is cut, the volume of timber calculated to have been cut under the licence and under road permits associated with the licence;

(c) the volume of timber cut, damaged or destroyed by the holder of the licence without authorization;

(d) the volume of timber attributed to the licence by the minister under the authority of a regulation made under subsection (3) (b) or (c);

(e) except for a licence as defined in section 75.2 or 75.21, the excess volume of timber, if any, carried forward under section 75.7 from the immediately preceding cut control period.

(3) For the purposes of the definition of "volume of timber harvested" in subsection (1), the Lieutenant Governor in Council may make regulations

(a) prescribing percentages or amounts by which the timber volumes attributed to a licence in statements referred to in that definition must be, subject to an applicable limit set out in an order issued under a regulation made under paragraph (a.1), adjusted downward to take into account

(i) grades and species of timber, or

(ii) uses of timber

included in the volumes described in subsection (2) (a) and (b),

(a.1) with respect to percentages prescribed under paragraph (a), authorizing the minister, subject to any terms specified in the regulation, to set, by order respecting an area, a limit on one or both of the following amounts:

(i) the aggregate volume of downward adjustments that may be made to one or more types of licences in the area;

(ii) the volume of downward adjustment that may be made to a licence or type of licence specified in the order,

(b) authorizing the minister, in specified circumstances and with the consent of the licensees, to attribute a portion of the volume of timber harvested under any type of licence, as defined in a provision of this Division, to another licence as so defined, whether of the same or a different type, and

(c) authorizing the minister, in specified circumstances and with the consent of the licensee, to attribute a portion of the volume of timber harvested under the licence in a cut control period to the immediately preceding cut control period.

(3.1) If the minister is authorized to make an order under authority of a regulation made under subsection (3) (a.1), the order made under that authority must set out the following:

(a) the area for which the order is made;

(b) the licence or type of licence to which the order applies;

(c) the time period during which the limit applies;

(d) the grade and species of timber, or the uses of timber, to which the order applies.

(3.2) An order made under authority of a regulation made under subsection (3) (a.1) must be published by posting the order on a publicly accessible website maintained by or on behalf of the government.

(4) A percentage prescribed under subsection (3) (a) for a grade or species of timber may be any percentage within the range of 0% to 100%.

Exception for licences that define "volume of timber harvested"

75.11 (1) If a licence, as defined in a provision of this Division,

(a) provides that the definition of "volume of timber harvested" in section 75.1 (1) does not apply to the licence, and

(b) contains a different definition that is specific to the licence,

that different definition applies to that licence for the purposes of this Division instead of the definition of "volume of timber harvested" in section 75.1 (1).

(2) For the purposes of a definition of "volume of timber harvested" included in a licence referred to in subsection (1), the Lieutenant Governor in Council may make regulations

(a) authorizing the minister, in specified circumstances and with the consent of the licensees, to attribute a portion of the volume of timber harvested under any type of licence, as defined in a provision of this Division, to another licence as so defined, whether of the same or a different type, and

(b) authorizing the minister, in specified circumstances and with the consent of the licensee, to attribute a portion of the volume of timber harvested under the licence in a cut control period to the immediately preceding cut control period.

Bonus bid equalization payment for attributed timber volumes

75.12 (1) The holder of a licence for which a bonus bid was tendered must pay an amount to the government, in accordance with the regulations, if

(a) a volume of timber harvested under another licence is attributed to the holder's licence under the authority of a regulation made under section 75.1 (3) (b) or 75.11 (2) (a), and

(b) the bonus bid that was tendered for the holder's licence is higher than the bonus bid, if any, that was tendered for the licence under which the attributed volume was harvested.

(2) Without limiting Division 3 of Part 12, the Lieutenant Governor in Council may make regulations respecting payments required under subsection (1), including, without limitation,

(a) the criteria, circumstances, rules, methods or formulas to be used in calculating the amount payable,

(b) the time period within which the amount must be paid, and

(c) the form and manner of payment.

Limit on total cut for licences with a term of 5 years or less

75.2 (1) In this section, "licence" means a

(a) timber sale licence that specifies an allowable annual cut,

(b) forest licence,

(c) tree farm licence, or

(d) woodlot licence

originally having a term ending 5 years or less after its commencement date.

(2) The holder of a licence must ensure that the volume of timber harvested during the term of the licence does not exceed a limit equal to the sum of the allowable annual cuts

(a) authorized for the licence if it is a forest licence, timber sale licence or woodlot licence, or

(b) available to the holder under the licence if it is a tree farm licence

for the period of the original term of the licence.

(2.1) The holder of a licence must ensure that the volume of timber harvested under the licence does not exceed the maximum harvestable volume specified in the licence.

(2.2) If compliance with subsection (2) is inconsistent with compliance with subsection (2.1), subsection (2.1) prevails to the extent of the inconsistency.

(3) If the volume of timber harvested during the term of a licence exceeds the applicable limit under subsection (2) or the limit under subsection (2.1), the holder of the licence must pay to the government the penalty determined under subsection (4).

(4) The penalty under subsection (3) is the product of

(a) the volume of timber harvested during the term of the licence that exceeds the applicable limit under subsection (2) or the limit under subsection (2.1), and

(b) the prescribed rate.

(5) A penalty under this section is in addition to stumpage payable or another penalty under this Act or another enactment.

Limit on total cut for forestry licence to cut and community salvage licence

75.21 (1) In this section, "licence" means a forestry licence to cut or community salvage licence.

(2) The holder of a licence must ensure that the volume of timber harvested under the licence does not exceed the maximum harvestable volume specified in the licence.

(3) If the volume of timber harvested under a licence exceeds the limit specified in subsection (2), the holder of the licence must pay to the government the penalty determined under subsection (4).

(4) The penalty under subsection (3) is the product of

(a) the volume of timber harvested under the licence that exceeds the limit referred to in subsection (2), and

(b) the prescribed rate.

(5) A penalty under this section is in addition to stumpage payable or another penalty under this Act or another enactment.

Cut control period for short term licences that are extended

75.22 (1) In this section, "licence" means a forest licence originally having a term ending 5 years or less after its commencement date.

(2) On the date the term of a licence is extended under section 47.3 (3) (b) beyond 5 years from the commencement date,

(a) if the licence specifies an allowable annual cut greater than 10 000 m³, section 75.4 (2) to (7) applies to the licence,

(b) if the licence specifies an allowable annual cut of 10 000 m³ or less, section 75.5 (2) to (5) applies to the licence, and

(c) the first cut control period for a licence described in paragraph (a) or (b) as determined under section 75.4 (2) or 75.5 (2), as the case may be, is based on the commencement date of the term of the licence.

Reconciliation of cut control for short term licences

75.3 (1) In this section, "licence" means a licence that is a forest licence, woodlot licence or tree farm licence and has a term of 5 years or less.

(2) If a licence is replaced under section 19 or 39 by 2 or more other licences,

(a) each of the other licences, for the purposes of section 75.2, is deemed to have begun on the first day of the term of the replaced licence, and

(b) the volume of timber harvested that, before the replacement, was charged to the replaced licence must be charged to the other licences by allocating that volume among the other licences by the method set out in subsection (3).

(3) The part of the volume of timber harvested referred to in subsection (2) (b) to be allocated among each of the other licences must be determined by multiplying that volume by the fraction obtained by dividing the allowable annual cut of that other licence by the allowable annual cut of the replaced licence.

(4) If 2 or more licences are replaced under section 19, 39 or 46.2 by one other licence,

(a) the term of that other licence, for the purposes of section 75.2, is deemed to have begun

(i) on the first day of the terms of the replaced licences, if their terms began on the same day, or

(ii) on the earliest of the dates on which the any of the terms of the replaced licences began, if their terms began on different dates, and

(b) the volumes that before the replacement were charged to the replaced licences must be charged to that other licence.

Cut control period for major licences

75.4 (1) In this section and in section 75.41 "licence" means

(a) a forest licence that specifies an allowable annual cut greater than 10 000 m³ and has a term of more than 5 years,

(a.1) a woodlot licence that has a term of more than 5 years, or

(b) [Repealed 2007-18-41.]

(c) a tree farm licence that has a term of more than 5 years.

(2) The first cut control period for a licence, other than a woodlot licence, that is not a replacement for another licence is 5 years beginning on January 1 of the calendar year in which the term of the licence begins.

(2.1) The first cut control period for a licence that is a woodlot licence, and is not a replacement for another woodlot licence, is 5 years beginning on

(a) the first day of a month designated by the minister, or

(b) if the minister does not designate a month under paragraph (a), January 1

of the calendar year in which the term of the woodlot licence begins.

(3) For a licence that is a replacement under section 15, 36 or 46 for another licence,

(a) the first cut control period is the same as the cut control period for the replaced licence, immediately before its replacement, and

(b) the volume of timber harvested that, before the replacement, was charged to the replaced licence must be charged to the replacement licence.

(4) The holder of a licence, other than a woodlot licence, may terminate

(a) the first cut control period for the licence, and

(b) any subsequent cut control period determined under this section,

by written notice, delivered after January 1 and before June 30 of the calendar year of delivery, to a person designated by the minister.

(4.1) The holder of a licence that is a woodlot licence may terminate

(a) the first cut control period for the licence, and

(b) any subsequent cut control period for the licence determined under this section

by written notice to a person designated by the minister, delivered between the last anniversary date of the beginning of the cut control period for the licence and 6 months after that date.

(5) If the holder of a licence, other than a woodlot licence, terminates a cut control period under subsection (4),

(a) the termination takes effect on December 31 of the year immediately preceding the calendar year of delivery of the notice of termination, and

(b) a new cut control period of 5 years for the agreement begins on January 1 of the calendar year of delivery of the notice of termination.

(5.1) If the holder of a licence that is a woodlot licence terminates a cut control period under subsection (4.1),

(a) the termination takes effect on the day immediately preceding the last anniversary date of the beginning of the cut control period for the licence, and

(b) a new cut control period of 5 years for the licence begins on the last anniversary date.

(6) If the holder of a licence who under subsection (4) or (4.1) may terminate the cut control period for the licence does not do so, then, immediately after the expiry of that cut control period, a new cut control period of 5 years for the licence begins.

(7) If a licence

(a) expires or is surrendered, or

(b) is terminated under this Act,

the cut control period for the licence ends on the date the licence expires, is surrendered or is terminated despite any thing to the contrary in this Division.

Cut control limit for major licences

75.41 (1) The holder of a licence, other than a woodlot licence, must ensure that the volume of timber harvested during its cut control period does not exceed 110% of the sum of the allowable annual cuts

(a) authorized for the licence for that period if it is a forest licence, or

(b) available to the holder under the licence for that period if it is a tree farm licence.

(1.1) The holder of a licence that is a woodlot licence must ensure that the volume of timber harvested during its cut control period does not exceed 120% of the sum of the allowable annual cuts that for that period are authorized for the licence.

(2) Despite subsection (1) or (1.1), the holder of a licence must ensure that the volume of timber harvested during its final cut control period does not exceed 100% of the sum of the allowable annual cuts for that period that are

(a) authorized for the licence if it is a forest licence or woodlot licence, or

(b) available to the holder under the licence if it is a tree farm licence.

(3) The holder of a licence that provides that a replacement for it must not be offered must ensure that the volume of timber harvested under the licence does not exceed the maximum harvestable volume specified in the licence.

(4) If compliance with subsection (1), (1.1) or (2) is inconsistent with compliance with subsection (3), subsection (3) prevails to the extent of the inconsistency.

Cut control period for other licences

75.5 (1) In this section and in section 75.51:

"forest licence" means a forest licence that specifies an allowable annual cut of 10 000 m³ or less and has a term of more than 5 years;

"timber sale licence" means a timber sale licence that specifies an allowable annual cut of 10 000 m³ or less and has a term of more than 5 years.

(2) The first cut control period

(a) for a forest licence that is not a replacement under section 15 for another forest licence, or

(b) for a timber sale licence

is 5 years beginning on January 1 of the calendar year in which the term of the licence begins.

(3) [Repealed 2007-18-44.]

(3.1) For a forest licence that is a replacement under section 15 for another forest licence,

(a) the first cut control period is the same as the cut control period for the replaced licence, immediately before its replacement, and

(b) the volume of timber harvested that, before the replacement, was charged to the replaced licence must be charged to the replacement licence.

(4) Immediately after the expiry of the first cut control period, or any subsequent cut control period, for a forest licence or timber sale licence, a new 5 year cut control period for the licence begins.

(5) If a forest licence or timber sale licence

(a) expires or is surrendered, or

(b) is terminated under any provision of this Act,

the cut control period for the licence ends on the date the licence expires, is surrendered or is terminated despite any thing to the contrary in this Division.

Cut control limit for other licences

75.51 (1) The holder of a timber sale licence or forest licence must ensure that the volume of timber harvested during a cut control period for the licence is not more than 120% of the sum of the allowable annual cuts for that period that are authorized for the licence.

(2) Despite subsection (1), the holder of a timber sale licence or forest licence must ensure that the volume of timber harvested during the final cut control period for the licence is not more than 100% of the sum of the allowable annual cuts for that period that are authorized for the licence.

(3) The holder of

(a) a timber sale licence, or

(b) a forest licence

(c) [Repealed 2007-18-45.]

that provides that a replacement for it must not be offered must ensure that the volume of timber harvested under the licence does not exceed the maximum harvestable volume specified in the licence.

(4) If compliance with subsection (1) or (2) is inconsistent with compliance with subsection (3), subsection (3) prevails to the extent of the inconsistency.

Reconciliation of cut control for major and other licences

75.6 (1) In this section, "licence" means

(a) a licence as defined in section 75.4, excluding a woodlot licence, or

(b) a forest licence as defined in section 75.5.

- (2) If a licence is replaced under section 19 or 39 by 2 or more other licences,
- (a) the first cut control period for each of the other licences is deemed to have begun on the same day on which the latest cut control period for the replaced licence began, and
 - (b) the volume of timber harvested that, before the replacement, was charged to the replaced licence during its latest cut control period must be charged to the other licences by allocating that volume among the other licences during their first cut control period by the method set out in subsection (3).
- (3) The part of the volume of timber harvested referred to in subsection (2) (b) to be allocated among each of the other licences must be determined by multiplying that volume by the fraction obtained by dividing the allowable annual cut of that other licence by the allowable annual cut of the replaced licence.
- (4) If 2 or more licences are replaced under section 19 or 39 by one other licence,
- (a) the cut control periods for the replaced licences are deemed to have ended on December 31 of the calendar year immediately preceding the calendar year of the replacement,
 - (b) the first cut control period for the other licence begins on January 1 of the calendar year of the replacement, and
 - (c) the following must be charged to the first cut control period of that other licence:
 - (i) the volume of timber harvested that was charged to the replaced licences during the calendar year of the replacement;
 - (ii) the volume of timber harvested that exceeded the volume that was authorized for, or available to the holders of, the replaced licences for the immediately preceding cut control periods.

Reconciliation of cut control for woodlot licences

75.61 (1) In this section, "licence" means a woodlot licence as described in paragraph (a.1) of the definition of "licence" in section 75.4 (1).

- (2) If 2 licences are replaced under section 46.2 by one other licence,
- (a) the cut control periods for the replaced licences are deemed to have ended on
 - (i) the day immediately preceding the last anniversary date of the beginning of the cut control periods for the replaced licences, if the anniversary date of their cut control periods is the same, or
 - (ii) the earlier of the days immediately preceding the last anniversary dates of the beginning of the cut control periods for the replaced licences, if the anniversary dates of their cut control periods are different,
 - (b) the first cut control period for the other licence begins on
 - (i) the last anniversary date of the beginning of the cut control periods for the replaced licences, if the anniversary date of their cut control periods is the same, or
 - (ii) the earlier of the last anniversary dates of the beginning of the cut control periods for the replaced licences, if the anniversary dates of their cut control periods are different, and
 - (c) the following must be charged to the first cut control period of that other licence:

- (i) the volume of timber harvested that was charged to the replaced licences from the last anniversary date of the beginning of the cut control periods for the replaced licences to the date of the replacement;
- (ii) the volume of timber harvested that exceeded the volume that was authorized for the replaced licences for the immediately preceding cut control periods.

Carry forward of excess harvest volume

75.7 If the volume of timber harvested during a cut control period for a licence, as defined in section 75.4, a forest licence, as defined in section 75.5, or a timber sale licence, as defined in section 75.5, exceeds the sum of the allowable annual cuts

(a) authorized for the licence for that period if it is a forest licence, timber sale licence or woodlot licence, or

(b) available to the holder under the licence for that period if it is a tree farm licence,

the excess volume of timber must be treated as being timber harvested during a cut period that is the next cut control period.

No carry forward of unharvested volume

75.8 (1) If the volume of timber harvested during a cut control period for a licence, as defined in section 75.4, a forest licence, as defined in section 75.5, or a timber sale licence, as defined in section 75.5, is less than the sum of the allowable annual cuts

(a) authorized for the licence for that period if it is a forest licence, timber sale licence or woodlot licence, or

(b) available to the holder for that period under the licence if it is a tree farm licence,

the holder of the licence must not harvest that unharvested volume of timber in a subsequent cut control period.

(2) The unharvested volume of timber, referred to in subsection (1), in a tree farm licence area or woodlot licence area may be disposed of to a person other than the holder of the tree farm licence or woodlot licence by means of

(a) a forestry licence to cut,

(b) a timber sale licence under section 20, or

(c) a non-replaceable forest licence.

Exemption from cut control limits

75.9 (1) If the minister considers that timber on Crown land or other forest resources on Crown land is at risk because of wind, fire, insect or disease, he or she

(a) may exempt the holder of a licence, as defined in section 75.4, a forest licence, as defined in section 75.5, or a timber sale licence, as defined in section 75.5, from the limit under section 75.41 or 75.51, as the case may be, and

(b) in granting the exemption must specify a different limit and may attach conditions to the exemption.

(2) The holder of a licence who is exempted under this section must comply with a condition of the exemption.

Penalty for exceeding cut control limits

75.91 (1) If the volume of timber harvested during a cut control period for a licence, as defined in section 75.4, a forest licence, as defined in section 75.5, or a timber sale licence, as defined in section 75.5, exceeds

(a) the limit under section 75.41 or 75.51, as the case may be, or

(b) the limit specified under section 75.9,

the holder of the licence must pay to the government the penalty determined under subsection (2).

(2) The penalty under subsection (1) is the product of

(a) the volume of timber harvested during the cut control period that exceeds the applicable limit referred to in subsection (1), and

(b) the prescribed rate.

(3) A penalty under this section is in addition to stumpage payable or another penalty under this Act or another enactment.

Relief

75.92 If the allowable annual cut

(a) authorized for a forest licence, a timber sale licence that specifies an allowable annual cut or woodlot licence, or

(b) available to the holder of a tree farm licence,

is reduced under section 8, 9, 61, 63 or 173, the minister or a person authorized by the minister may grant to the holder of the licence full or partial relief from the penalty under section 75.2 or 75.91.

Transitional - cut control

75.93 (1) A 5 year cut control period that was in effect in the period beginning on January 1, 2003 and ending on November 3, 2003, in this section called the "original cut control period",

(a) under a forest licence or timber sale licence that provides that a replacement for it must not be offered,

(b) for a licence as defined in section 75.4 that does not so provide,

- (c) for a forest licence as defined in section 75.5 that does not so provide,
- (d) for a timber sale licence as defined in section 75.5 that does not so provide, or
- (e) for a woodlot licence as defined in section 75.5 that does not so provide,

is deemed for the purposes of this Division to be the first cut control period for the licence, in this section called the "first cut control period", having the same beginning date as the original cut control period.

(2) A volume of timber that under section 65 of this Act immediately before the repeal of that section by the Forest (Revitalization) Amendment Act, 2003 was deemed to be timber harvested in the original cut control period is deemed to be timber harvested in the first cut control period, without regard to any direction, as to amount of volume each year, under section 65 (5) before its repeal.

(3) A volume of timber that is referred to in a forest licence or timber sale licence, and is treated in the licence as timber harvested in the original cut control period, is deemed, for the purposes of this Division, to be timber harvested in the first cut control period, if the licence

(a) provides that a replacement for the licence must not be offered, and

(b) was in effect in the period beginning on January 1, 2003 and ending on November 3, 2003.

(4) If, after December 31, 2002, any provisions of

(a) a timber sale licence described in subsection (1), or

(b) a forest licence described in subsection (1)

that pertain to cut control conflict or are inconsistent with this Division, this Division prevails.

(5) Section 75.2 applies to a licence as defined in section 75.2 (1) if the licence was in effect in the period beginning on January 1, 2003 and ending on November 3, 2003.

Transitional - carry forward

75.94 (1) In this section:

"first cut control period", in relation to a licence, means the first cut control period under this Division for that licence;

"licence" means a licence, as defined in section 75.4, a forest licence, as defined in section 75.5 or a woodlot licence, as defined in section 75.5.

(2) A volume of timber that, before the repeal of section 67 of this Act by the Forest (Revitalization) Amendment Act, 2003, was the subject of an approval under section 67 (4) granted to the holder of a licence, is approved for harvesting in the first cut control period.

(3) A restriction under section 67 (4), as it was before its repeal, on volume of timber permitted to be harvested each year is without effect.

(4) Subject to subsections (5) and (6) of this section, an approval referred to in section 67 (4) may be granted under that provision, as if section 67 had not been repealed, in respect of a 5 year cut control period that ended before January 1, 2003, to the holder of a licence if

(a) no previous approval under section 67 (4) has been granted in respect of that 5 year cut control period, and

(b) the holder applies in writing before July 1, 2003 to the minister or a person authorized by the minister for the approval.

(5) An approval authorized under subsection (4) may not restrict the volume that may be harvested in any year of the first cut control period.

(6) The volume of timber that is the subject of an approval authorized under subsection (2) or (4) and granted to the holder of a licence

(a) must be harvested in the first cut control period for the licence, and

(b) for the purposes of the definition of "volume of timber harvested" in section 75.1 is deemed not to be charged to the licence.

Transitional - volume of timber harvested

75.95 (1) This section applies only to a licence, as defined in a provision of this Division, that

(a) is in effect immediately before the date this subsection comes into force, or

(b) is entered into on or after the date this subsection comes into force without a provision that the definition of "volume of timber harvested" in section 75.1 (1) does not apply to the licence.

(2) If the minister considers that

(a) a licence to which this section applies includes provisions respecting the quality and quantity of the timber

(i) cut, or

(ii) subject to waste assessment

under the licence and under road permits associated with the licence, and

(b) those provisions require a greater volume of timber to be attributed to the licence than would be attributed to it under the definition of "volume of timber harvested" in section 75.1 (1),

the minister by order may impose for that licence a definition of "volume of timber harvested" that is specific to that licence and that reflects the greater volume referred to in paragraph (b).

(3) A licence to which this section applies and that is the subject of an order under subsection (2) is deemed to have been amended on the date of the order to include the definition of "volume of timber harvested" imposed for the licence by that order.

(4) If a licence to which this section applies is amended under subsection (3), the definition of "volume of timber harvested" imposed for the licence under this section applies for the purposes of this Division instead of the definition of "volume of timber harvested" in section 75.1 (1).

(5) For the purposes of a definition of "volume of timber harvested" imposed for a licence by order under subsection (2), the Lieutenant Governor in Council may make regulations authorizing the regional manager or district manager, in specified circumstances and with the consent of the licensee, to attribute a portion of the volume of timber harvested under the licence in a cut control period to the immediately preceding cut control period.

Transitional - woodlot licence cut control and carry forward

75.96 (1) In this section, "original cut control period" means the cut control period that, under section 75.5 (3), (3.1) or (4), was in effect for a woodlot licence immediately before the repeal of section 75.5 (3) by the Forests and Range Statutes Amendment Act, 2007.

(2) The original cut control period for the woodlot licence is deemed to be the first cut control period under section 75.4 (2.1) having the same beginning date as the original cut control period.

(3) A volume of timber harvested under the woodlot licence in the original cut control period is deemed to be timber harvested in the first cut control period under section 75.4 (2.1).

(4) A volume of timber that was deemed to be timber harvested in the original cut control period under section 75.7 or 75.93 (2) is deemed to be harvested in the first cut control period for the woodlot licence under section 75.4 (2.1).

(5) A volume of timber approved in accordance with section 75.94 for harvesting under the woodlot licence in the original cut control period

(a) is approved for harvesting in the first cut control period under section 75.4 (2.1),

(b) may be harvested only in the first cut control period under section 75.4 (2.1), and

(c) is, for the purposes of the definition of "volume of timber harvested" in section 75.1, not charged to the woodlot licence.

Division 4 — Suspension and Cancellation

Suspension of rights

76 (0.1) In this section, "agreement" does not include a BC timber sales agreement.

(1) In addition to any penalty, charge or order under this Act or the Forest and Range Practices Act, the minister may suspend, in whole or in part, rights under an agreement if its holder

(a) made a material misrepresentation, omission or misstatement of fact in the application for the agreement or in information provided in the application,

(b) made a material misrepresentation, omission or misstatement of fact in an operational plan,

(c) did not perform an obligation to be performed under the agreement, other than an obligation described in section 14 (1) (g.1), 43.3 (1) (g.1), 43.55 (1) (h), 43.8 (g.1), 45 (1) (f.1) or 47.7 (g), or

(d) failed to comply with the requirements under this Act, the Forest and Range Practices Act, the Forest Practices Code of British Columbia Act or the Wildfire Act.

(1.1) In addition to any penalty, charge or order under this Act or the Forest and Range Practices Act, the minister may suspend, in whole or in part, rights under

(a) a forest licence if there is a contravention of the condition described in section 14 (1) (g.1),

(b) [Repealed 2015-26-18.]

(c) a community forest agreement if there is a contravention of the condition described in section 43.3 (1) (g.1),

(c.01) a first nations woodland licence if there is a contravention of the condition described in section 43.55 (1) (h),

(c.1) a community salvage licence if there is a contravention of the condition described in section 43.8 (g.1),

(d) a woodlot licence if there is a contravention of the condition described in section 45 (1) (f.1), or

(e) a forestry licence to cut if there is a contravention of the condition described in section 47.7 (g).

(2) Without limiting subsection (1), the minister may suspend, in whole or in part, rights under a major licence or woodlot licence that is replaceable, if its holder fails to comply with a requirement to establish a free growing stand, as defined in the Forest and Range Practices Act, imposed on the holder under that Act in respect of a major licence or woodlot licence that is non-replaceable.

(3) Before rights are suspended under subsection (1) or (2), the minister must serve a notice on the holder of the agreement specifying the reason for the suspension of rights and a date, at least 5 days after the date of service, on which the suspension takes effect.

(3.1) Before rights are suspended under subsection (1.1), the minister must serve notice on the holder of the agreement

(a) stating the particulars of the holder's non-compliance with the agreement between the first nation and the government referred to in section 14 (1) (g.1), 43.3 (1) (g.1), 43.55 (1) (h), 43.8 (g.1), 45 (1) (f.1) or 47.7 (g), as the case may be, and

(b) specifying a date, at least 5 days after the date of service, on which the suspension takes effect.

(4) A suspension of rights takes effect on the date specified in the notice and continues until the rights are reinstated by the minister or cancelled under this Act.

(5) The minister, on request of the holder, 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).

(6) The minister, on application of the holder, must reinstate rights suspended under this section if the holder is performing the holder's obligations and is complying with this Act and the regulations.

Cancellation

77 (1) If rights under an agreement are under suspension under section 76 (1) or (2), the minister may cancel the agreement.

(1.1) If rights under an agreement are under suspension under section 76 (1.1), the minister may cancel the agreement or a road use permit granted for the agreement to the holder of the agreement.

(2) At least 3 months before cancelling an agreement or road use permit the minister must serve on its holder a written notice of cancellation specifying the grounds of cancellation and the day on which cancellation takes effect.

(3) If within 30 days after a notice of cancellation has been served the holder so requests, the minister must give the holder an opportunity to be heard.

(4) A notice of cancellation may be rescinded or the day on which a cancellation takes effect may be postponed.

(5) Notice of a cancellation must be published in the Gazette.

BC timber sales - disqualification, suspension and cancellation

78 (1) By notice served on a person, the timber sales manager, in addition to any other action that may be taken under this Act, may do any or all of the following, if any of the criteria referred to in subsection (2) are met:

(a) disqualify the person, indefinitely or for a specified period, from being registered as a BC timber sales enterprise;

(b) disqualify the person from making an application under Part 3 for a BC timber sales agreement, either in person or through an agent, for a period not exceeding 2 years beginning on the date of the notice;

(c) suspend, in whole or in part, rights in any BC timber sales agreements held by the person;

(d) cancel any BC timber sales agreements held by the person.

(2) The timber sales manager may take an action under subsection (1) against a person if satisfied that the person

(a) has made a material misrepresentation, omission or misstatement of fact in

(i) an application for registration as a BC timber sales enterprise under the regulations or in information furnished with the application, or

(ii) an application for a BC timber sales agreement or in information furnished with the application,

(b) has not performed an obligation of the person under a BC timber sales agreement, or

(c) has not complied with

(i) this Act or a regulation made under this Act,

(ii) the Forest and Range Practices Act or a regulation or standard made under that Act,

(ii.1) the Forest Practices Code of British Columbia Act or a regulation made under that Act, or

(iii) the Wildfire Act or a regulation under that Act.

(3) The timber sales manager may impose conditions with which a person referred to in subsection (1) (a) to (c) must comply before a disqualification or suspension under subsection (1) is rescinded.

(4) Despite subsection (1), the timber sales manager must disqualify a person, indefinitely or for a specified period, from being registered as a BC timber sales enterprise if the person

(a) is the successful applicant for a BC timber sales agreement and does not enter into the agreement, or

(b) is the holder of a BC timber sales agreement that has been cancelled because the person did not comply with the agreement.

(5) For the purposes of subsection (4), the Lieutenant Governor in Council may make regulations

(a) specifying periods of disqualification that may differ for different circumstances set out in the regulations, and

(b) authorizing the timber sales manager to determine, on a case-by-case basis, within prescribed limits and according to prescribed criteria, the period of disqualification.

BC timber sales - minister's powers of suspension and cancellation

78.1 (1) By notice served on a BC timber sales enterprise, the minister, in addition to any other action that may be taken under this Act or the Forest and Range Practices Act, may suspend, in whole or in part, rights in any BC timber sales agreement held by the person, if the person

(a) has made a material misrepresentation, omission or misstatement of fact in an operational plan prepared by the person, or

(b) has not complied with

(i) this Act or a regulation made under this Act, or

(ii) the Forest and Range Practices Act, the Forest Practices Code of British Columbia Act, the Wildfire Act or any regulations or standards made under those Acts.

(2) The minister may impose conditions with which a person referred to in subsection (1) must comply before a suspension under that subsection is rescinded.

(3) If rights under a BC timber sales agreement are under suspension under section 78 or under this section, the minister may cancel a road use permit granted for the agreement to the holder of the agreement.

Continuing liability

79 (1) Despite the expiry, surrender, suspension or cancellation of a holder's agreement, the holder is liable

- (a) to pay the rent, fees, costs and penalties owing to the government in respect of the agreement,
 - (b) to perform all other obligations under the agreement,
 - (c) to perform all other obligations imposed under this Act, the Forest and Range Practices Act, the Forest Practices Code of British Columbia Act or the Wildfire Act with respect to the agreement, and
 - (d) to pay to the government all other money required under this Act to be paid to the government in respect of the agreement
- incurred before its expiry, surrender, suspension or cancellation.

(1.1) Subject to subsection (1.2), for the purposes of performing obligations referred to in subsection (1) (b) and (c), the holder may enter onto Crown land.

(1.2) Subject to the regulations under subsection (1.4), if any, the minister or timber sales manager may impose requirements he or she considers necessary or desirable to be met by the holder as conditions of entering onto the Crown land, including that the holder provide security.

(1.3) The holder must comply with any requirements imposed under subsection (1.2).

(1.4) For the purposes of subsection (1.2), the Lieutenant Governor in Council may make regulations

(a) limiting the circumstances under which the minister or timber sales manager may exercise the discretion under subsection (1.2),

(b) specifying the form and amount of the security, and

(c) specifying the circumstances under which the security may be realized.

(2) In this section,

(a) references to an agreement are to be read as including references to a cutting permit, road permit or road use permit issued to the holder of the agreement, and

(b) "holder" includes a former holder.

Division 4.1 — Miscellaneous

Order respecting notice

79.1 (1) During the term of an agreement under section 12, the minister may order that the agreement holder must notify the minister, in accordance with the requirements specified in the order, whether the agreement holder has abandoned or intends to abandon any rights the agreement holder has in respect of Crown timber that has been cut under the agreement but has not been removed from an area specified in the order.

(2) If an agreement holder referred to in subsection (1) notifies the minister that the agreement holder has abandoned or intends to abandon the rights referred to in subsection (1), the minister may order the agreement holder not to destroy or otherwise deal with the Crown timber referred to in that subsection.

(3) If an agreement holder referred to in subsection (1) notifies the minister that the agreement holder has not abandoned and does not intend to abandon the rights referred to in subsection (1), the minister may order the agreement holder not to destroy the Crown timber referred to in that subsection, if the minister is satisfied that a market exists for that Crown timber.

(4) A person to whom an order under this section has been given must comply with the order.

When compensation is not payable

80 (1) In this section, "compensation" includes damages.

(2) No compensation is payable by the government and proceedings must not be commenced or continued to claim compensation from the government or to obtain a declaration that compensation is payable by the government in respect of an expiry, failure to extend, reduction, refusal, deletion or deeming, or a reduction in an allowable annual cut as a result of a determination or a deeming, under any of:

(a) the following provisions of this Act: sections 8 (1) and (2); 9 (3) and (4); 27 (a); 63, 63.1, 63.2, 68 to 70, 72 to 74 and 81.1;

(b) the following provisions of the Forest Act, R.S.B.C. 1996, c. 157, before their repeal: sections 64; 65; 66; 67; 71;

(c) the following provisions of the Forest Act, R.S.B.C. 1979, c. 140: sections 15 (1); 19 (b) and (c); 33 (1) and (5); 37 (1); 39 (1);

(d) the following provisions of the Forest Act, R.S.B.C. 1979, c. 140, before their repeal: section 44 (3); 95.

(3) No compensation is payable by the government and proceedings must not be commenced or continued to claim compensation from the government or to obtain a declaration that compensation is payable by the government in respect of the effect, under section 75.02, 75.1, 75.11 or 75.95, on a licence as defined in a provision of Division 3.1 of Part 4.

Limit on compensation

80.01 (1) In this section:

"agreement" means a tree farm licence, community forest agreement, first nations woodland licence, woodlot licence, timber licence, forest licence or timber sale licence;

"compensation" includes damages.

(2) The compensation payable to the holder of an agreement because of or arising out of

(a) a deletion of Crown land

(i) under section 60, 60.01, 60.2 or 60.3, or

(ii) referred to in section 60.4

affecting the agreement,

(b) a reduction in allowable annual cut affecting the agreement, or

(c) a deletion referred to in paragraph (a) in combination with a reduction referred to in paragraph (b) is limited to the amount of compensation determined in relation to that agreement under sections 60 to 60.95.

(3) An action or other proceeding must not be brought or continued against the government for compensation in an amount that exceeds the amount limited under this section.

Relief from liability for appurtenancy and processing requirements

80.1 (1) In this section:

"appurtenancy requirement" means a provision of a licence that requires the holder to construct, modify or maintain a timber processing facility;

"licence" means a forest licence or a tree farm licence;

"non-replaceable licence" means a licence that provides that a replacement for it must not be offered;

"processing requirement" means a provision of a licence that requires the holder to process the timber harvested under the licence, or an equivalent volume of timber, through a timber processing facility;

"replaceable licence" means a licence for which a replacement licence must be offered under section 15 or 36.

(2) The holder of a replaceable licence, whether entered into before or after the coming into force of this subsection, is relieved in relation to the licence from

(a) any appurtenancy requirements, processing requirements or requirements of the licence directly related to either, and

(b) any commitments made in a proposal on which the award of the licence, or a predecessor of the licence, if applicable, was based, in relation to

(i) constructing, modifying or maintaining a timber processing facility, or

(ii) processing timber through a timber processing facility.

(3) On and after the later of

(a) the tenth anniversary of a non-replaceable licence, and

(b) the date this section comes into force,

the holder of a non-replaceable licence, whether entered into before or after the coming into force of this subsection, is relieved in relation to the licence from

(c) any appurtenancy requirements, processing requirements or requirements of the licence directly related to either, and

(d) any commitments made in a proposal on which the award of the licence, or a predecessor of the licence, if applicable, was based, in relation to

(i) constructing, modifying or maintaining a timber processing facility, or

(ii) processing timber through a timber processing facility.

Forestry Revitalization Act

80.2 (1) In this section:

"Acts" means this Act, the Forest and Range Practices Act and the Forest Practices Code of British Columbia Act, and includes the regulations under each of them;

"group licence interim period", in relation to a licence in a group of licences which licence is specified in a minister's order, means,

(a) if there is only one reduction in allowable annual cut for that licence under the minister's order, the period beginning on March 31, 2003 and ending on

(i) the date when the minister's order is made for the licence, if no subsequent date is specified in the minister's order in relation to that reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act, or

(ii) the subsequent date, if one is specified in the minister's order, in relation to that reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act, or

(b) if there are a series of reductions in allowable annual cut for that licence under the minister's order,

(i) for the first in the series of reductions, the period beginning on March 31, 2003 and ending on

(A) the date when the minister's order is made for that first reduction, if no subsequent date is specified in the minister's order, in relation to that first reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act, or

(B) the subsequent date, if one is specified in the minister's order, in relation to that first reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act, and

(ii) for the further reduction in the series of reductions, the period beginning at the end of the period for the immediately preceding reduction and ending on

(A) the date when the minister's order is made for that further reduction, if no subsequent date is specified in the minister's order, in relation to that further reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act, or

(B) the subsequent date, if one is specified in the minister's order, in relation to that further reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act;

"minister's order" means an order made under section 3 of the Forestry Revitalization Act;

"timber licence interim period", in relation to a timber licence specified in a minister's order, means

(a) if there is only one reduction in area for that licence under the minister's order, the period beginning on March 31, 2003 and ending on

(i) the date when the minister's order is made for the licence, if no subsequent date is specified in the minister's order in relation to that reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act, or

(ii) the subsequent date, if one is specified in the minister's order, in relation to that reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act, or

(b) if there are a series of reductions in area for that licence under the minister's order,

(i) for the first in the series of reductions, the period beginning on March 31, 2003 and ending on

(A) the date when the minister's order is made for that first reduction, if no subsequent date is specified in the minister's order, in relation to that first reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act, or

(B) the subsequent date, if one is specified in the minister's order, in relation to that first reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act, and

(ii) for a further reduction in the series of reductions, the period beginning at the end of the period for the immediately preceding reduction and ending on

(A) the date when the minister's order is made for that further reduction, if no subsequent date is specified in the minister's order, in relation to that further reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act, or

(B) the subsequent date, if one is specified in the minister's order, in relation to that further reduction and for the purposes of section 3 (5.1) of the Forestry Revitalization Act.

(2) In this section words and expressions have the same meanings as they have in section 1 of the Forestry Revitalization Act.

(3) A determination of whether or not the holder of a licence in a group of licences has complied with the Acts, in relation to timber harvesting under the licence, during a group licence interim period must be made

(a) if there is only one reduction in allowable annual cut for that licence under a minister's order, without regard to the order, or

(b) if there are a series of reductions in allowable annual cut for that licence under a minister's order, without regard to the order, except as it pertains to the allowable annual cut remaining under the licence after each of the group licence interim periods, in turn, under the order.

(4) A determination of whether or not the holder of a timber licence specified in a minister's order has complied with the Acts, in relation to timber harvesting under the licence, during a timber licence interim period must be made

(a) if there is only one reduction in area for that licence under a minister's order, without regard to the order, or

(b) if there are a series of reductions in area for that licence under a minister's order, without regard to the order, except as it pertains to the area of Crown land remaining under the licence after each of the interim periods, in turn, under the order.

Division 5 — Eligibility of Applicants

Eligibility

81 (1) To the extent provided in the regulations, the issuance of a cutting permit may be refused or have special conditions attached if an agreement provides for cutting permits and the district manager determines that

(a) rights under the agreement are under suspension, or

(b) the holder of the agreement has failed to

(i) [Repealed 1997-48-12.]

(ii) provide security or a deposit required under this Act or the Forest and Range Practices Act,

(iii) perform an obligation under the agreement to be performed by the holder in respect of an area of land specified in

(A) a cutting permit previously issued under the agreement, or

(B) a road permit or road use permit associated with the agreement, or

(iv) comply with a requirement under this Act, the Forest and Range Practices Act, the Forest Practices Code of British Columbia Act or the Wildfire Act in respect of an area of land referred to in subparagraph (iii).

(2) The refusal to issue a cutting permit under subsection (1) may continue until

- (a) the suspension is rescinded,
 - (b) the suspended rights are reinstated, or
 - (c) the holder of the agreement
 - (i) [Repealed 1997-48-12.]
 - (ii) provides the required security or deposit,
 - (iii) performs the obligation to be performed under the agreement in respect of land referred to in subsection (1) (b) (iii), or
 - (iv) complies with the requirement under this Act, the Forest and Range Practices Act, the Forest Practices Code of British Columbia Act or the Wildfire Act in respect of land referred to in subsection (1) (b) (iii).
- (3) To the extent provided in the regulations, the minister, timber sales manager or district manager, as the case may be, may reject an application for any of the following on either of the grounds set out in subsection (4):
- (a) an agreement listed in section 12;
 - (b) a permit not listed in section 12 that is issued under this Act or under an agreement;
 - (c) a permit under the Forest Practices Code of British Columbia Act.
- (4) The grounds for rejection referred to in subsection (3) are that the applicant is the holder of an agreement or permit listed in that subsection and
- (a) rights under the agreement or permit so held are under suspension, or
 - (b) the applicant, in respect of the agreement or permit so held has failed to provide, perform or comply as referred to in subsection (1) (b) (ii), (iii) or (iv).
- (5) An application for any of the following may be refused on the grounds set out in subsection (6):
- (a) an agreement listed in section 12;
 - (b) a permit not listed in section 12 that is issued under this Act or under an agreement;
 - (c) a scale site authorization under section 95 of this Act;
 - (d) a permit under the Forest Practices Code of British Columbia Act.
- (6) The grounds for refusal referred to in subsection (5) are that one or both of the following have not paid stumpage or other money payable to the government by the due date under section 130:
- (a) the applicant;
 - (b) a person not at arm's length, as defined in the Income Tax Act (Canada), from the applicant.
- (7) The grounds for refusal described in subsection (6) apply whether or not the applicant or person has made arrangements satisfactory to the revenue minister to pay the stumpage or other money.

Refusal of cutting permit or road permit

81.1 If the minister determines that the issuance of a cutting permit or road permit would compromise government objectives as specified by regulation, the person who under this Act has discretion to issue the permit must refuse the application for the permit.

Part 5 — Timber Marking

Timber marking: interpretation

82 In this Part:

"registrar" means the registrar designated by the minister to administer timber marks and marine log brands;

"unscaled timber" includes timber for which the amount of stumpage has been calculated under section 106.

Timber mark duration

83 (1) A timber mark held under an agreement listed in section 12

(a) is suspended if, under this Act, the agreement is suspended, or

(b) is cancelled, if under this Act, the agreement expires or is surrendered or cancelled.

(2) A timber mark held under a certificate issued under section 85, other than a certificate issued in respect of private land that is subject to a tree farm licence, community forest agreement, first nations woodland licence or woodlot licence, expires on the fifth anniversary of the issue date of the certificate or, by consent of the applicant, on an earlier date specified in the certificate.

(3) A timber mark held under a renewal certificate issued under section 85, other than a certificate issued in respect of private land that is subject to a tree farm licence, community forest agreement, first nations woodland licence or woodlot licence, expires on the fifth anniversary of the renewal date of the certificate or, by consent of the applicant, on an earlier date specified in the certificate.

(4) A timber mark held under a certificate or renewal certificate issued under section 85 that is in respect of private land subject to a tree farm licence, community forest agreement, first nations woodland licence or woodlot licence does not expire but

(a) is suspended if, under this Act, the licence or agreement is suspended,

(b) is cancelled if, under this Act, the licence or agreement expires or is surrendered or cancelled, or

(c) subject to subsection (5) of this section, is cancelled if the private land is otherwise no longer subject to the licence or agreement.

(5) If

(a) a certificate or renewal certificate issued under section 85 is in respect of private land subject to a tree farm licence, community forest agreement, first nations woodland licence or woodlot licence, and

(b) subsequently that private land is no longer subject to the licence or agreement but the owner of the land remains the same,

the timber mark held under the certificate expires on the fifth anniversary of the date the private land is no longer subject to the licence or agreement.

Timber marks

84 (1) Each of

(a) the holder of a timber mark, and

(b) a person acting with the consent of the holder of a timber mark

must ensure that unscaled timber that is

(c) stored in decks or piles on Crown land or private land, or

(d) removed or transported from Crown land or private land

has been marked in the prescribed manner with the timber mark that pertains to that land.

(2) [Repealed 2008-4-8.]

(3) A person must not

(a) store unscaled timber in decks or piles on Crown land or, in prescribed circumstances, on private land, or

(b) remove or transport unscaled timber from Crown land or private land

unless the timber has been marked in the prescribed manner with a timber mark that pertains to that land.

(4) Before timber marked under this section is used in manufacturing, a person must not remove, obliterate or alter a timber mark that has been applied to timber.

(5) The minister may exempt unscaled timber from subsection (1) or (3) and may attach conditions to the exemption.

(6) Each of the following must ensure compliance with the conditions attached to an exemption under subsection (5):

(a) the holder of a timber mark;

(b) a person acting with the consent of the holder of a timber mark;

(c) a person storing unscaled timber on Crown land or private land or removing or transporting unscaled timber from Crown land or private land.

Applications

85 (1) On application that identifies private land on which there is timber, in a form required by the minister, and on payment of the fee, if any, required by the minister, the registrar must

(a) issue a certificate, or a renewal certificate, that describes a timber mark and identifies the private land

(i) to the person, if any, who is identified as the owner of the timber under a charge registered in the land title office against the private land, or

(ii) if no charge as described in subparagraph (i) is registered in the land title office against the private land, to the person who, according to the records of the land title office, is the beneficial owner of the private land as

(A) the registered owner in fee simple, or

(B) the holder of an agreement to purchase the private land,

(b) issue to an agent of the government or to a private utility company a certificate or renewal certificate that describes a timber mark and identifies the private land and the agent or company to which the certificate pertains, if the registrar is satisfied that the agent or utility has the authority to harvest the timber, and

(c) issue to the holder of a woodlot licence a certificate that describes a timber mark and identifies the private land that is subject to the woodlot licence to which the certificate pertains, if the registrar is satisfied that the woodlot licence holder has the authority to harvest the timber.

(2) The registrar may include terms and conditions in the certificate and the holder of the certificate must comply with those terms and conditions.

(3) On application by the holder of a certificate issued under subsection (1) (a), the registrar may approve the use of a timber mark described in the certificate, for timber owned by the applicant and cut on private land other than the private land originally described in the certificate.

(3.1) On application by the holder of a certificate issued under subsection (1) (b), the registrar may approve the use of a timber mark described in the certificate, for timber cut on private land other than the private land originally described in the certificate, if the registrar is satisfied that the agent or utility has the authority to harvest the timber from that other private land.

(3.2) As a condition precedent to issuing a timber mark under subsection (1) or granting an approval under subsection (3) or (3.1), the registrar may require evidence to his or her satisfaction that the applicant for the timber mark or approval is the owner of the timber according to the records of the land title office.

(4) If the registrar exercises his or her powers under subsection (3) or (3.1), the registrar must amend accordingly the certificate issued under subsection (1) and the timber mark register.

(5) After giving the holder of a timber mark an opportunity to be heard, the registrar may cancel a certificate or renewal certificate issued under this section and the timber mark described in it

(a) if the holder of the timber mark contravenes a provision of Part 5 or 6, or

(b) for other sufficient cause.

Scaled timber brands

86 (1) Each of

(a) the holder of a scaled timber brand, and

(b) a person acting with the consent of the holder of a scaled timber brand

must ensure that timber removed or transported from the scale site to which the scaled timber brand pertains has been marked in the prescribed manner with that scaled timber brand.

(2) A person must not

(a) remove or transport scaled timber from a scale site unless the timber has been marked in the prescribed manner with a scaled timber brand, or

(b) apply a scaled timber brand to timber except at

(i) the scale site to which the scaled timber brand applies, or

(ii) another location approved by the minister.

(3) The minister may exempt scaled timber from subsection (1) or (2) and may attach conditions to the exemption.

(3.1) Each of the following must ensure compliance with the conditions attached to an exemption under subsection (3):

(a) the holder of a scaled timber brand;

(b) a person acting with the consent of the holder of a scaled timber brand;

(c) a person removing or transporting scaled timber from a scale site.

(4) Before use of the timber in manufacturing, a person must not remove, obliterate or alter a scaled timber brand that has been applied to timber.

Applications

87 (1) On application by the scale site operator in a form required by the minister, the minister must issue to the applicant a certificate that describes a scaled timber brand and identifies the scale site to which it pertains, and may attach conditions to the certificate.

(2) After giving the holder of a scaled timber brand an opportunity to be heard, the minister may suspend a certificate issued under subsection (1) and the scaled timber brand described in it

(a) if the scale site operator contravenes a provision of Part 5 or 6, or

(b) for other sufficient cause.

(3) On application of the holder of the scaled timber brand, the minister must give the holder an opportunity to be heard and must rescind the suspension if

- (a) the holder is no longer in contravention of the provision that gave rise to the suspension, or
 - (b) the suspension was for sufficient cause under subsection (2) (b), and the holder has remedied the circumstances that gave rise to the suspension.
- (4) If a certificate and the scaled timber brand described in it are under suspension, the minister may cancel them.

Marine log brand

88 (1) On receiving an application the registrar may approve a marine log brand that, in his or her opinion, does not so closely resemble any other marine log brand as to be misleading.

- (2) An application must be in the form required by the minister, include a prescribed fee and contain a facsimile of the marine log brand applied for.
- (3) If the registrar approves a marine log brand the registrar must issue to the applicant a certificate containing a facsimile of the marine log brand.

Marking with marine log brand

89 (1) A person must not apply a marine log brand to timber unless

- (a) the person has obtained
 - (i) a certificate under section 88 (3) for the marine log brand, or
 - (ii) the consent of a person who has obtained a certificate under section 88 (3) for the marine log brand, and
- (b) the timber has been
 - (i) marked with a timber mark in accordance with this Part, and
 - (ii) scaled in accordance with Part 6.

(2) A person who applies a marine log brand under subsection (1) must mark the timber in the prescribed manner.

Transfer

90 (1) A person must not use a timber mark, scaled timber brand or marine log brand without the consent of the holder.

(2) The holder of a marine log brand must not transfer the right to use it to another person without the written consent of the minister and without giving prior notice to the registrar.

(3) Each of

- (a) a timber mark held under a certificate or renewal certificate issued under section 85 and the certificate, and

(b) a scaled timber brand held under a certificate issued under section 87 and the certificate, is not transferable.

(4) Subsection (3) does not apply to a timber mark or certificate that pertains to an agreement that is disposed of in accordance with section 54.

Evidence

91 A certificate, purporting to be signed by the registrar or the chief forester, to the effect that a timber mark certificate has been issued to, or a marine log brand has been approved for use by, a person, must be received in court as proof of the facts stated in it.

Registers

92 The registrar must keep

(a) a timber mark register in which must be noted the characters of each timber mark, the name of its holder and the land the mark pertains to, and

(b) a marine log brand register in which must be noted the characters of each marine log brand approved and the name of its holder.

Part 6 — Timber Scaling

Timber scaling: interpretation

93 In this Part:

"acting scaler" means a person appointed under section 100 (3) (a);

"forest service scaler" means a forest officer appointed under section 100 (3) (b);

"licensed scaler" means a person who holds a scaling licence issued under section 100 (2);

"official scaler" means a licensed scaler appointed under section 100 (3) (c);

"scale" means to do one or more of the following:

(a) determine the volume or quantity of timber;

(b) classify the quality of timber.

Misrepresentation prohibited

93.1 A person must not represent that the person is authorized to perform a scale under this Part if not so authorized.

Timber to be scaled

94 (1) Subject to section 94.1, a person must not manufacture products from, sell or transport to a place, other than the place where it is required to be sent for scaling,

(a) timber that is cut from private land unless it is scaled by a licensed scaler authorized by the minister to scale the timber, and

(b) timber that

(i) is cut from Crown land and that under the terms of the authority to cut is required to be scaled, or

(ii) is salvaged from water or foreshore,

unless it is scaled by an official scaler authorized by the minister to scale the timber or scaled by a forest service scaler.

(2) If the minister considers it necessary to avoid unreasonable delays or costs, he or she may order that

(a) timber that is required to be scaled by an official scaler or a forest service scaler may be scaled by a licensed scaler who is not an official scaler or a forest service scaler or by an acting scaler, and

(b) timber that is required to be scaled by a licensed scaler may be scaled by an acting scaler.

(3) [Repealed 2010-11-7.]

(4) Each of

(a) the owner of a scale site,

(b) the operator of a scale site, and

(c) the person whose timber is scaled under this Part

must ensure that the parcel or lot of timber that has been most recently scaled by each of the scalers employed at the site is retained at the site and made accessible for check scale by a licensed scaler who is a forest officer.

(5) The minister may exempt timber or a person from subsection (1) or (4).

(6) The minister may attach conditions to an exemption under subsection (5) and may attach, remove or alter a condition at any time.

(7) A person who

(a) is subject to an exemption under subsection (5), or

(b) whose timber is subject to an exemption under subsection (5) must comply with a condition attached to the exemption.

Scaling of special forest products

94.1 (1) In this section, "waste assessment" means an assessment, for determining the volumes of merchantable timber and waste left on a harvested area, conducted in accordance with the procedures set out in the publication of the Ministry of Forests and Range, Provincial Logging Residue and Waste Measurement Procedures Manual, as amended from time to time.

(2) If timber is to be manufactured into a special forest product at the place where the timber is felled, the special forest product may be scaled instead of the timber.

(3) A person may, for timber that is cut from Crown land and that under the terms of the authority to cut is required to be scaled,

(a) transport the timber to a place other than the place where it is required to be sent for scaling if the timber is to be manufactured into a special forest product at that place, or

(b) at a place other than the place where the timber is felled, manufacture timber into a special forest product before it is scaled,

if all of the following apply:

(c) the person is authorized to do so by the minister;

(d) a waste assessment for the timber has been approved by the minister;

(e) the person scales the special forest product at a scale site designated by the minister, which may include the site at which the timber is manufactured into the special forest product.

(4) The minister may attach conditions to an authorization granted under subsection (3), and may attach, remove or alter a condition at any time.

(5) A person who is subject to a condition imposed under subsection (4) must comply with the condition.

Scale site authorization

95 (1) Each of

(a) the owner of a scale site, and

(b) the operator of a scale site

must ensure that no timber is scaled at the site unless a scale site authorization has been issued under subsection (2) for the site.

(2) On application the minister must issue to the applicant a scale site authorization on being satisfied that a complete and accurate scale can be performed at the site.

(3) Despite subsection (2) an applicant may be refused if

- (a) the applicant previously held a scale site authorization which was cancelled, or
- (b) the minister has reasonable grounds to believe that the applicant will fail to comply with
 - (i) Part 5, 6, 7, 9, 10 or 11,
 - (ii) a regulation made under section 151 (2) (c), (d), (h), (i) or (n), or
 - (iii) the conditions attached to a scale site authorization.
- (4) The minister may attach conditions to the scale site authorization to ensure a complete and accurate scale and may attach, remove or alter a condition at any time.
- (5) A condition under subsection (4) may be applied to a specific scale site authorization, a class of scale site authorizations or all scale site authorizations.
- (6) The minister, after giving the holder of a scale site authorization an opportunity to be heard, may suspend or cancel a scale site authorization upon being satisfied that there has been failure to comply with
 - (a) Part 5, 6, 7, 9, 10 or 11,
 - (b) a regulation made under section 151 (2) (c), (d), (h), (i) or (n), or
 - (c) a condition attached to a scale site authorization.
- (7) Each of
 - (a) a person to whom a scale site authorization has been issued,
 - (b) the owner of the scale site, and
 - (c) the operator of the scale site

must ensure that the conditions attached to the scale site authorization are complied with.

Scale

96 (1) A person who scales or purports to scale timber under this Act

- (a) must carry out the scale according to the prescribed procedures, and
 - (b) must express the scale in cubic metres or another unit of metric measure required by the minister for special forest products.
- (2) A scale that is expressed in cubic metres is to be known as British Columbia metric scale.
- (3) A person whose timber is scaled under this Part must ensure that a complete and accurate scale of the timber is performed.

Scale return

97 (1) Each of

- (a) the owner of a scale site,

- (b) the operator of a scale site,
- (c) the person whose timber is scaled under this Part, and
- (d) the person who performs the scale

must ensure that

(e) the scale details are recorded in a form approved by the minister and retained in that form at the scale site, and

(f) a scale return in the form approved by the minister is completed and delivered within the prescribed time to the person whose timber is scaled and to a person designated by the minister.

(2) If the scale return referred to in subsection (1) (f) is not completed and delivered to a person designated under subsection (1), within the time prescribed for the purpose of that subsection, the person must pay to the government a penalty in the amount prescribed for the purpose of this section.

(3) For the purpose of section 131 the penalty imposed by subsection (2) is money payable to the government in respect of the timber.

(4) Subject to section 99 (5), if, according to a check scale referred to in section 94 (4), the volume or value of the parcel or lot of scaled timber computed from the check scale details varies by more than a prescribed percentage from the volume or value computed from the original scale details, then the check scale governs for all purposes of this Act and the regulations.

(5) The minister may order that subsection (4) does not apply in respect of a check scale if satisfied that the original scale was performed in accordance with good scaling practices and the differences between it and the check scale are attributable to the condition of the timber.

(6) When and as directed by the minister, each of

- (a) the owner of a scale site,
- (b) the operator of a scale site,
- (c) the person whose timber is scaled under this Part, and
- (d) the person who performs the scale

must ensure that the check scale details are incorporated in the scale return submitted under subsection (1) (e).

(7) If the minister estimates that the annual volume of timber scaled at a scale site will exceed the prescribed volume, he or she may order the owner or operator of the scale site to enter into an arrangement to deliver, by electronic means to the ministry, the scale returns required under this section.

Scaling charges, costs and expenses

98 (1) A person whose timber is scaled by an employee of the government must pay to the government the charges, costs and expenses incurred by the government in respect of

- (a) making and recording the scale measurements,

- (b) preparing and submitting the scale return, and
- (c) the scale computation, summarization and billing.

(2) A person whose timber is scaled by a person who is not an employee of the government must pay to the government the charges, costs and expenses incurred by the government in respect of preparing, compiling and submitting the scale return.

(3) A person is not required to pay charges, costs and expenses under subsection (2) that total less than a prescribed amount.

Second scale and second check scale

99 (1) If it is feasible to perform a subsequent scale of timber that has been scaled under section 94, the minister

- (a) may have the timber scaled again and a second scale return prepared, or
- (b) must have the timber scaled again and a second scale return prepared if a person whose interest is affected by the scale objects to the scale return completed for the scale, in a notice served on the minister.

(2) If the volume or value of the timber computed from the second scale return

(a) varies by more than a prescribed percentage from the volume or value computed from the original scale return,

(i) the second scale return governs for all purposes of this Act and the regulations,

(ii) no scaling fees, charges, costs and expenses are payable to the government in respect of the original scale, and

(iii) the person who was liable to pay for the original scale must pay to the government the scaling fees and the charges, costs and expenses incurred by the government in respect of the second scale, or

(b) does not vary by more than a prescribed percentage from the volume or value computed from the original scale return,

(i) the original scale return governs for all purposes of this Act and the regulations, and

(ii) the person who objected to the original scale return must pay to the government the charges, costs and expenses incurred by the government in respect of the second scale.

(3) A scaler whose scale has been replaced by a check scale under section 97 (4) may request a second check scale, by notice served on a person designated by the minister.

(4) The minister must have a second check scale performed, if feasible.

(5) If the volume or value of the timber computed from the second check scale details

(a) varies from the volume or value of the timber computed from the original scale details by more than a prescribed percentage,

(i) the second check scale governs for all purposes of this Act and the regulations, and

- (ii) the scaler who requested the second check scale must pay to the government the charges, costs and expenses incurred by the government in respect of the second check scale, or
- (b) does not vary from the volume or value of the timber computed from the original scale details by more than a prescribed percentage,
- (i) the original scale governs for all purposes of this Act and the regulations, and
- (ii) no charges, costs and expenses are payable to the government.

Scaling

100 (1) A person who applies for a scaling licence must be examined by one or more scaling examiners appointed by the minister.

(2) If an applicant passes the examinations approved by the minister, the minister may issue a scaling licence to the applicant.

(3) The minister may appoint

- (a) any person as an acting scaler,
- (b) a licensed scaler who is a forest officer as a forest service scaler, and
- (c) a licensed scaler other than a forest officer as an official scaler for a term specified in the appointment.

Re-examination

101 (1) The minister, in a notice served on a licensed scaler, may require the licensed scaler to be examined under section 100.

(2) Unless the licensed scaler passes the examination within the time specified by the minister in the notice, the licensed scaler's scaling licence terminates at the end of the specified time.

Suspension and cancellation

102 (1) If a licensed scaler fails to properly perform the licensed scaler's duties or comply with this Part or the regulations respecting scaling,

(a) the minister, in a notice served on the licensed scaler, may suspend the latter's scaling licence for a period of time, and

(b) the minister, whether or not the licence is under suspension, in a notice served on the licensed scaler, may cancel the latter's scaling licence.

(2) Before the minister cancels a scaling licence, the minister must give the licensed scaler an opportunity to be heard.

Part 7 — Payments to the Government

Amount of stumpage

103 (1) Subject to sections 107, 108 and 142.7, if stumpage under section 104 or under an agreement entered into under this Act is payable to the government in respect of Crown timber, the amount payable must be calculated by multiplying the volume or quantity of the timber

(a) reported in a scale made under Part 6, or

(b) calculated using the information required to be submitted to the government under section 106 (2)

by the sum of

(c) the rate of stumpage applicable to the timber under section 105, and

(d) if applicable, the bonus bid offered in respect of the timber.

(2) Nothing in subsection (1) limits a requirement under this Act, or under an agreement entered into under this Act, to pay a bonus offer.

(3) Despite sections 107 and 108 but subject to section 142.7, a person who cuts, damages, destroys or removes Crown timber without authorization must pay, in addition to all other amounts payable under this Act or another enactment, stumpage calculated by multiplying the volume or quantity of the timber that was cut, damaged, destroyed or removed without authorization, as determined by an official designated by the minister, by the sum of

(a) the rate of stumpage that an employee of the ministry referred to in section 105 (1) determines would likely have applied to the timber under that section if rights to the timber had been granted under an agreement entered into under this Act, and

(b) if applicable, the bonus bid that an employee of the ministry referred to in section 105 (1) determines would likely have been offered for the timber if rights to the timber had been granted under an agreement entered into under this Act.

Assessments for merchantable Crown timber that is not cut and removed

103.1 (1) If an agreement entered into under this Act specifies that waste assessments are payable to the government in respect of merchantable Crown timber that could have been cut and removed under the agreement, but, at the agreement holder's discretion, is not cut and removed, the amount payable must be calculated in accordance with the agreement.

(2) Subject to subsection (3), a requirement in an agreement entered into under this Act, or in a cutting permit issued under that agreement, is without effect to the extent that it requires the holder of the agreement or permit, on or after the date this section comes into force, to cut and remove timber in accordance with the agreement or permit.

(3) If an agreement or a cutting permit referred to in subsection (2) requires its holder to pay an amount determined in accordance with the agreement or the cutting permit for timber that is not cut and removed in accordance with the agreement or the cutting permit, the holder must pay the amount required to be paid under the agreement or the cutting permit.

(4) Despite subsections (1) to (3), the Lieutenant Governor in Council may make regulations specifying circumstances under which waste assessments are payable to the government in respect of merchantable Crown timber that could have been cut and removed under the agreement but, at the agreement holder's discretion, is not cut and removed.

(5) If a provision in an agreement entered into under this Act conflicts or is inconsistent with a regulation made under subsection (4), the regulation prevails.

Stumpage rate for timber licence

104 (1) Despite any other Act, any election made under section 23 of the Forest Act, R.S.B.C. 1979, c. 140, before the repeal of that section, or any agreement, the holder of a timber licence must pay stumpage to the government at rates determined under section 105 for timber that is cut under the licence and scaled.

(2) Despite another Act or a grant of Crown land, no royalty is reserved or payable to the government in respect of timber cut from private land and scaled after January 1, 1979.

(3) Despite subsection (1), no stumpage is payable in respect of timber cut on land granted by Canada by letters patent and situated within the Railway Belt or Peace River Block.

Stumpage rate determined

105 (1) Subject to the regulations made under subsection (6) and orders under subsection (7), if stumpage is payable to the government under an agreement entered into under this Act or under section 103 (3), the rates of stumpage must be determined, redetermined and varied

(a) by an employee of the ministry, identified in the policies and procedures referred to in paragraph (c),

(b) at the times specified by the minister, and

(c) in accordance with the policies and procedures approved by the minister.

(1.1) For the purpose of taking into account differences in the obligations of the holders of agreements in respect of their agreements, Treasury Board may make regulations prescribing adjustments to be incorporated in the policies and procedures approved under subsection (1) (c).

(1.2) A regulation under subsection (1.1) may be different for different timber, places, transactions or holders of agreements entered into under this Act.

(2) Rates, policies and procedures under subsection (1) may be different for different timber, places, transactions or holders of agreements entered into under this Act, and the policies and procedures referred to in subsection (1) may, for stumpage paid or payable in respect of timber cut under a cutting authority issued after July 31, 2005, provide that the determination, redetermination or variation of a rate of stumpage is effective at any date, including, without limitation, at any date before or after

(a) the harvesting or scaling of the timber in respect of which the stumpage has been or is to be paid, or

(b) the payment of stumpage based on any earlier determined, redetermined or varied rate of stumpage.

(2.1) For the purposes of subsection (2), "cutting authority" has the same meaning as in the policies and procedures approved under subsection (1) (c).

(3) Despite subsection (1), but subject to the regulations made under subsection (6) and orders under subsection (7), the holder of a timber licence must pay stumpage to the government at a percentage of the rates determined under subsection (1).

(4) The percentage referred to in subsection (3) is

(a) 100% of the rates referred to as "miscellaneous stumpage rates", in policies and procedures approved from time to time by the minister under subsection (1), and

(b) for rates not referred to in paragraph (a), the percentage set out in column 2 opposite the time period in column 1 in which the stumpage rate is determined.

Column 1

Time Period Column 2

Percentage of

Stumpage Rate

on and after April 1, 1995 to and including March 31, 1996 60

on and after April 1, 1996 to and including March 31, 1997 67

on and after April 1, 1997 to and including March 31, 1998 73

on and after April 1, 1998 to and including March 31, 1999 80

on and after April 1, 1999 to and including March 31, 2000 87

on and after April 1, 2000 to and including March 31, 2001 93

on and after April 1, 2001 100

(5) Within 30 days after the minister approves the policies and procedures referred to in subsection (1) (c), they must be posted on a publicly accessible government website or published in any other manner that the minister considers will allow the public to have access to those policies and procedures.

(5.1) The policies and procedures referred to in subsection (1) (c) may require the holder of an agreement to submit information to the government as necessary or desirable for the determination, redetermination or variation of a stumpage rate.

(5.2) The holder of an agreement who is required, under the policies and procedures referred to in subsection (1) (c), to submit the information referred to in subsection (5.1) must comply with the requirement.

(6) A stumpage rate must not be lower than the prescribed minimum.

(7) If the Lieutenant Governor in Council considers it to be in the public interest, he or she may

(a) subject to subsection (6), order that stumpage rates applicable to all timber or a class of timber in an area of British Columbia or cut under an agreement are to be lower than the rates determined under subsection (1) for a period not exceeding one year, and

(b) attach conditions to an order made under paragraph (a).

(8) On the date that a condition attached to an order made under subsection (7) (a) is not complied with,

(a) the order is terminated, and

(b) the stumpage rate must be determined, redetermined or varied in the same manner as it was determined, redetermined or varied immediately before the order was made.

Complete and accurate information

105.1 (1) In this section:

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

"applicant" means a person who applies for an agreement.

(2) An applicant who is required under this Act to submit information to the government must ensure that, at the time the information is submitted, the information is complete and accurate.

(3) The holder of an agreement who is required under the agreement or this Act to submit information to the government

(a) for use in determining, redetermining or varying a stumpage rate, or

(b) for any other purpose under this Act,

must ensure that, at the time the information is submitted, the information is complete and accurate.

Redetermination of stumpage rate at direction of minister

105.2 (1) In this section, "policies and procedures" means the policies and procedures referred to in section 105 (1) (c).

(2) The minister may direct under this subsection that a stumpage rate be redetermined or varied under section 105 (1) if the minister is of the opinion that the stumpage rate was determined, redetermined or varied under that section based on information, submitted by or on behalf of the holder of an agreement, to which one or both of the following apply:

(a) at the time the information was submitted, the information was incomplete or inaccurate;

(b) at the time the information was submitted, the information did not meet the requirements of the policies and procedures.

(3) The minister may direct under this subsection that a stumpage rate be redetermined or varied under section 105 (1) if the minister is of the opinion that both of the following apply:

(a) after the stumpage rate was determined, redetermined or varied under section 105 (1), the minister became aware of information that

(i) existed but was not taken into account when the stumpage rate was determined, redetermined or varied, or

(ii) did not exist when the stumpage rate was determined, redetermined or varied;

(b) a redetermination or variation that takes into account the information described in paragraph (a) of this subsection is likely to result in a stumpage rate that is different from the earlier determined, redetermined or varied stumpage rate.

(4) A direction of the minister under this section may be made at any time,

(a) whether the earlier determined, redetermined or varied stumpage rate is still in effect or has expired, and

(b) whether before or after stumpage is paid in respect of the timber to which the stumpage rate relates.

(5) If the minister directs under this section that an earlier determined, redetermined or varied stumpage rate be redetermined or varied under section 105 (1),

(a) in the case of a direction issued under subsection (2) of this section, the redetermination or variation must take into account the information that is necessary to completely and accurately meet the requirements of the policies and procedures,

(b) in the case of a direction issued under subsection (3) of this section, the redetermination or variation must take into account the information described in paragraph (a) of that subsection, and

(c) the redetermination or variation must be made in accordance with the policies and procedures that were in effect at the time the earlier stumpage rate was determined, redetermined or varied.

(6) A stumpage rate that, at the direction of the minister under this section, is redetermined or varied under section 105 (1)

(a) is deemed to have taken effect on the day after the date on which the earlier determined, redetermined or varied stumpage rate took effect, or

(b) takes effect on the day after the intended effective date for the earlier determined, redetermined or varied stumpage rate, if that earlier rate is not in effect when the redetermination or variation is made.

Small scale salvage costs portion to be paid into special account

105.3 All revenue derived from the small scale salvage costs portion, if any, of a stumpage rate imposed in accordance with the policies and procedures referred to in section 105 (1) (c) must be paid into the Small Scale Salvage Sub-account of the Forest Stand Management Fund special account established by the Special Accounts Appropriation and Control Act.

Cruise instead of scale

106 (1) The amount of stumpage payable on Crown timber

(a) may, with the approval of the minister, or

(b) must, in the circumstances provided for in the policies and procedures referred to in section 105 (1)
(c),

be calculated using the information provided by a cruise of the timber conducted before the timber is cut, instead of the volume reported in a scale of the timber made under Part 6.

(2) For the purposes of calculating the amount of stumpage payable using information provided by a cruise of the timber conducted before the timber is cut, the minister may require the holder of an agreement to submit the following information to the government:

(a) some or all of the information provided by the cruise of the timber;

(b) an estimate, in hectares, of the size of the area from which the timber is cut;

(c) any other information the minister considers necessary.

(3) The holder of an agreement who is required under subsection (2) to submit information to the government must submit the information in the manner and at the times required by the minister.

More than one rate

107 If the minister considers it appropriate and more than one stumpage rate applies to timber cut in a timber harvesting operation, a single rate of stumpage, calculated as the average of the rates that otherwise would be applicable and weighted according to the respective volumes of timber estimated by the minister to be subject to each rate, is payable on the timber.

Rate on unscaled or incorrectly scaled timber

108 Subject to section 142.7, if Crown timber on which royalty or stumpage is payable is

(a) processed,

(b) sold, or

(c) removed from British Columbia

without first being scaled correctly under Part 6, the amount of royalty or stumpage payable must be calculated by multiplying the minister's estimate of the volume or quantity of the timber by the rate of royalty or stumpage, as the case may be, that the minister considers would have applied if the timber had been scaled correctly under Part 6.

BC Timber Sales Account

109 (0.1) In this section, "BC Timber Sales official" means a person who

(a) is employed in the ministry of the minister, and

(b) is designated by the minister, by name or title, as a BC Timber Sales official.

(1) The Small Business Forest Enterprise Account is renamed as the BC Timber Sales Account and continued as a special account in the general fund of the consolidated revenue fund.

(2) The revenue due to the government under this Act, derived from the following sources, must be credited to the BC Timber Sales Account:

(a) fees and charges that BC timber sales enterprises are required to pay under this Act or a BC timber sales agreement;

(b) forest licences for which applications were restricted under section 13 (1.1), as it was immediately before its repeal;

(c) timber sale licences entered into under section 20;

(d) timber sale licences entered into under any of sections 21, 23 (1) (c), (d), (e) and (f), (2) and (3) and 24 (7) as they were immediately before their repeal;

(e) timber sale licences entered into under section 24 (2) as that provision was immediately before its repeal, that have an allowable annual cut of 10 000 m³ or less;

(f) forestry licences to cut entered into under sections 24.8, 24.9 and 47.6 (3);

(f.1) a road permit granted for a licence referred to in this subsection to the licence holder;

(g) security for BC timber sales agreements realized under the regulations made under section 79 (1.4);

(h) deposits for BC timber sales agreements realized under a regulation made under section 151 (11) or (12);

(i) if the crediting is approved by Treasury Board, money derived from an expenditure made under subsection (3) (e);

(j) dispositions of property under subsection (5).

(2.1) Amounts, other than taxes, payable to the government under an agreement entered into under section 118 of the Forests and Range Practices Act must be credited to the BC Timber Sales Account if the agreement is entered into by a BC Timber Sales official who is authorized or designated, under that section, to enter into the agreement.

(2.2) Costs recovered from a ministry, including costs recovered from the ministry of the minister responsible for the administration of this Act, in relation to any of the following services must be credited to the BC Timber Sales Account if the services are provided to the ministry, on direction of the minister responsible for the administration of this Act, by or through a BC Timber Sales official:

(a) silviculture services;

(b) forest protection services;

(c) services respecting the classification or rehabilitation of forest resources;

(d) prescribed services.

(3) Subject to subsection (4), money in the BC Timber Sales Account may be expended

(a) to defray the costs of

- (i) preparing or purchasing operational plans for agreements that yield revenue referred to in subsection (2), and
- (ii) carrying out or purchasing assessments to formulate the plans,
 - (a.1) to defray the costs of consideration provided under BCTS disposition agreements referred to in section 22.2 and to defray any other costs associated with those agreements,
 - (b) to defray the costs that are necessary to meet the requirements of section 29 (2) of the Forest and Range Practices Act, and that are incidental to operations that yield BC timber sales revenue,
 - (c) to defray the costs of construction and maintenance of logging roads and bridges, protection of forests and administration and other forest management requirements that are incidental to operations that yield revenue referred to in subsection (2),
 - (d) to purchase, rent or lease a logging road or bridge for a purpose that is incidental to operations that yield revenue referred to in subsection (2),
 - (d.1) to defray the costs associated with agreements in relation to which subsection (2.1) applies,
 - (d.2) to defray the costs associated with the provision of services in relation to which subsection (2.2) applies,
 - (d.3) to defray the costs associated with dispositions of property under subsection (5), and
 - (e) if the expenditure is for a prescribed purpose and is approved by Treasury Board.
- (4) After consultation with the minister, the Treasury Board may direct that the balance of the BC Timber Sales Account be reduced by an amount equal to any part of the balance not required for the purposes set out in subsection (3).
- (5) The minister may dispose of any of the following property:
 - (a) any property of the government, other than logging roads, acquired with money derived from expenditures made under section 109 (3) (a), (b) or (c);
 - (b) bridges purchased by the government with money derived from expenditures made under section 109 (3) (d).

Repealed

110 [Repealed 2003-31-60.]

Annual rent

111 (1) The holder of a

- (a) forest licence other than a supplemental forest licence, timber licence, tree farm licence, community forest agreement, first nations woodland licence, community salvage licence or woodlot licence,
 - (a.1) cutting permit issued under a supplemental forest licence, as defined in section 14.2 (1), or

(b) forestry licence to cut issued under a pulpwood agreement

must pay to the government, on or before a date specified by the minister, annual rent at the rates prescribed by the Lieutenant Governor in Council even if the licence, agreement or permit does not contain a provision to that effect.

(2) If a timber licence expires under Part 3, Division 5, and is replaced by a timber licence, annual rent that is paid and attributable to the unexpired portion of its term must be credited to the annual rent payable for the first year of the term of the timber licence.

(3) [Repealed 1999-10-16.]

(4) In prescribing the rates of annual rent, the Lieutenant Governor in Council may classify licences, agreements or permits granting rights to harvest Crown timber and set different rates for different

(a) classes of licences, agreements or permits, or

(b) forms of licences, agreements or permits.

(c) [Repealed 2010-12-36.]

Calculation of annual rent

112 (1) The annual rent payable for a tree farm licence must be calculated by adding

(a) the total annual rent payable for timber licences in the tree farm licence area, and

(b) the portion of the allowable annual cut available to the licence holder during the year to which the total annual rent pertains, that the chief forester determines is attributable to

(i) Crown land referred to in section 35 (1) (b), other than Crown land subject to a timber licence, and

(ii) land referred to in sections 37 (1) and 38,

multiplied by the annual rent rate prescribed by the Lieutenant Governor in Council for tree farm licences.

(2) The annual rent payable for a woodlot licence is the portion of the allowable annual cut authorized for the woodlot licence that the minister determines is attributable to land referred to in section 45 (1) (b) (ii), multiplied by the annual rent rate prescribed by the Lieutenant Governor in Council for woodlot licences.

(3) The annual rent payable for a community forest agreement is the portion of the allowable annual cut available to the holder of the agreement, during the year to which the total annual rent pertains, that the minister determines is attributable to the Crown land referred to in section 43.3 (1) (b), multiplied by the annual rent rate prescribed by the Lieutenant Governor in Council for community forest agreements.

(4) The annual rent payable for a first nations woodland licence is the portion of the allowable annual cut authorized for the licence that the minister determines is attributable to the Crown land referred to in section 43.55 (b), multiplied by the annual rent rate prescribed by the Lieutenant Governor in Council for first nations woodland licences.

Annual rent for council

112.1 (1) If authorized by the regulations and in accordance with the regulations, the Lieutenant Governor in Council, in prescribing the rate of annual rent for a woodlot licence, under section 111 (1), may allocate a portion of that rate to represent money payable to the Woodlot Product Development Council by producers, under the Farming and Fishing Industries Development Act, in respect of a levy established by the council under that Act.

(2) The revenue from the portion of annual rent payable for woodlot licences that is attributable to the allocated portion of the rate of annual rent under subsection (1)

(a) must be paid out of the consolidated revenue fund to the Woodlot Product Development Council, and

(b) when so paid, is deemed to have been paid in satisfaction of the levy referred to in subsection (1).

Timber cruise

113 (1) If Crown timber is to be disposed of under this Act, the minister or timber sales manager may require that the person who requests the disposal of the timber provide, at the person's own expense, a cruise of the timber by a cruiser approved by the minister or timber sales manager.

(2) If a person, at the person's own expense, has provided a cruise of timber as required under subsection (1), but is not granted a licence or cutting permit in respect of the timber, the person who is granted a licence or cutting permit, as a condition of receiving it, must reimburse the costs of the cruise to the person who provided the cruise.

Part 8 — Roads and Rights of Way

Definition

114 In this Part:

"forest development plan" has the same meaning as it has in the Forest and Range Practices Act;

"forest stewardship plan" has the same meaning as it has in the Forest and Range Practices Act.

Road permits and road use permits for timber harvesting

115 (1) A person who has the right to harvest timber under a forest licence, timber sale licence, timber licence, tree farm licence, community salvage licence, community forest agreement, first nations woodland licence, woodlot licence, Christmas tree permit or forestry licence to cut may apply under this section to

- (a) a person designated by the minister or timber sales manager for a road permit to
 - (i) construct a road on Crown land, or
 - (ii) maintain an existing road on Crown land, other than a forest service road, or
 - (b) a person designated by the minister for a road use permit to use a forest service road.
- (2) Subject to section 81, the minister or timber sales manager must grant to an applicant under subsection (1) a road permit to construct a road on Crown land, if satisfied that the location of the proposed road is identified in a prescribed manner.
- (3) Subject to section 81, the minister or timber sales manager must grant to an applicant under subsection (1) a road permit to maintain an existing road on Crown land, other than a forest service road, if
- (a) at the time of the application there is no active road permit for the road, and
 - (b) the minister or timber sales manager is satisfied that use and maintenance of the road by that person will not compromise a forest stewardship plan or forest development plan.
- (4) Subject to section 81, the minister must grant to an applicant under subsection (1) a road use permit to use a forest service road if the minister is satisfied that use of the road by that person will not adversely affect authorized users of the road, or compromise a forest stewardship plan or forest development plan.
- (5) The minister may declare a road constructed under a road permit to be a forest service road.
- (6) If the road is subject to an active road permit at the time of the declaration, the minister must grant a road use permit to the holder of the road permit.

Right to harvest Crown timber

116 Subject to section 81, the minister or timber sales manager, in a road permit granted to an applicant under section 115 (1) (a) to construct a road on Crown land, must grant the applicant the right to harvest Crown timber under the road permit if the minister or timber sales manager is satisfied the Crown timber must be harvested to construct the road.

Road use permits for industrial use

117 (1) A person, other than a person referred to in section 115 (1), who wishes to use a forest service road for an industrial purpose, may apply under this section to a person designated by the minister for a road use permit.

(2) The minister may grant to an applicant under subsection (1) a road use permit to use a forest service road if the minister is satisfied that use of the road by that person for that industrial purpose will not

- (a) cause inordinate disturbance to the natural environment,
- (b) adversely affect authorized users of the road, or
- (c) compromise a forest stewardship plan or forest development plan.

Road permit content

118 (1) A road permit must

- (a) describe the location of the road to be constructed or maintained under the road permit,
 - (b) authorize its holder to
 - (i) use the road, and
 - (ii) if applicable,
 - (A) construct the road, or
 - (B) on Crown land that is in a Provincial forest and is in the area covered by the road permit, manage and use that land for sand pits, gravel pits, rock quarries or other quarries that are adjacent to the road covered by the road permit and provide materials for the construction or maintenance of the road,
- in accordance with the road permit, this Act and the regulations and the Forest and Range Practices Act and the regulations and the standards made under that Act,
- (c) if the road permit grants the right to harvest Crown timber, require its holder to pay to the government, in addition to other amounts payable under this Act,
 - (i) stumpage under Part 7, and
 - (ii) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the road permit, but, at its holder's discretion, is not cut and removed, and
 - (d) include other terms and conditions determined by the minister or timber sales manager that are consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts.

(2) A road permit associated with a timber sale licence may include provisions

- (a) specifying standards and programs established by one or more standard making bodies,
- (b) requiring the holder of the permit to meet the standards and programs specified under paragraph (a), and
- (c) specifying the manner in which the holder of the permit must conduct operations under the permit in order to meet the standards and programs specified under paragraph (a).

Road use permit content

119 A road use permit must

- (a) describe the forest service road that its holder may use,
- (b) include other terms and conditions determined by the minister that are consistent with this Act, the Forest and Range Practices Act, the Wildfire Act and any regulations or standards made under those Acts.

Repealed

120 [Repealed 2003-32-23.]

Road and trail construction

121 (1) The minister, for the purpose of providing access to timber or for any other purpose consistent with this Act, the Forest and Range Practices Act or the Wildfire Act may

- (a) construct and maintain roads and trails,
- (b) enter on and take possession of private land, and of roads and trails on private land,
- (c) enter on private land and take from it timber, stones, gravel, sand, clay or other materials for the purpose of constructing roads and trails,
- (d) construct, take possession of and use temporarily roads for the purposes of paragraph (c), and
- (e) enter on private land and construct and maintain on it drains to carry water from a road.

(2) If private land is taken under subsection (1) (b) and, as a result of the taking, the total area in the original grant of the private land from the government or Her Majesty in right of Canada, that is taken by the government

(a) [Repealed 2004-44-105.]

(b) under this Act

since the date of the original grant from the government or Her Majesty in right of Canada, exceeds 5% of the total area in the original grant, the government must pay compensation in respect of the area exceeding 5%.

(3) If, since the date of the government grant, private land taken under subsection (1) has been subdivided into 2 or more parcels by a registered conveyance or subdivision plan,

(a) the area of a parcel that may be taken without compensation must not exceed 5% of the area of the parcel, and

(b) the total area to be taken without compensation must be apportioned among all parcels, portions of which are taken at the same time, in proportion to the area taken from each.

(4) The government must pay compensation in respect of improvements on all private land taken under subsection (1).

(5) If land is expropriated under subsection (1), the Expropriation Act applies.

(6) [Repealed 2004-44-105.]

(7) The minister may designate employees of the ministry of the minister responsible for the administration of this Act who may prepare explanatory plans for the purposes of

(a) permitting persons to dedicate a forest service road to the government if

(i) consideration for the dedication has been agreed on, or

(ii) an agreement under section 3 (1) of the Expropriation Act has been made, or

(b) sections 5 (5) and 6 (4) (b) of the Expropriation Act.

(8) If a person agrees to dedicate a forest service road to the government and has

(a) agreed to the consideration for the dedication, or

(b) entered into an agreement under section 3 (1) of the Expropriation Act,

an explanatory plan prepared by a person designated under subsection (7) may be filed in the land title office, and section 107 (1) (c) and (d) and (3) of the Land Title Act applies.

(9) The minister

(a) may, by notice in the form established under paragraph (a.1) and published or broadcast, or both, in the manner the minister considers appropriate, discontinue and close a right of way or forest service road or a part of either, in which event the right of way or forest service road or the part is discontinued and closed,

(i) if the notice specifies the date on which and the time at which the discontinuance and closure become effective, on that specified date and at that specified time,

(ii) if the notice specifies the date on which but not the time at which the discontinuance and closure become effective, at the beginning of that specified date, or

(iii) if the notice specifies neither the date on which nor the time at which the discontinuance and closure become effective, at the beginning of the day following the day on which the first of such publications or broadcasts occurred,

(a.1) may establish a form of notice for the purposes of paragraph (a),

(b) may limit a discontinuance and closure under paragraph (a) to a specified period,

(c) may assign a right of way or forest service road or a part of either to the minister responsible for the administration of the Transportation Act, and

(d) in the case of a discontinuance or closure not limited to a specified period, may dispose of any land that was comprised in the right of way or forest service road to

(i) an owner of the land of which the right of way or forest service road originally formed part, or

(ii) an owner of land adjoining that land.

Part 9 — Marine Log Salvage

Repealed

121.1 [Repealed 2011-13-88.]

Log salvage district

122 The minister, by publishing a notice in the Gazette, may

- (a) establish an area of British Columbia as a log salvage district, and
- (b) abolish, or change the boundaries of, a log salvage district.

Receiving station licence

123 (1) The minister may grant to a person who meets the prescribed qualifications a receiving station licence authorizing its holder to accept delivery of salvaged logs within a log salvage district.

(2) A receiving station licence must contain the terms and conditions, consistent with this Act and the regulations, determined by the minister.

(3) The holder of a receiving station licence must,

(a) after the date specified in the licence, maintain facilities in the log salvage district for receiving, storing and sorting salvaged logs,

(b) dispose of salvaged logs in the prescribed manner,

(c) pay to the government the prescribed licence fees,

(d) account for, hold, disburse and use the revenue the holder of the receiving station receives from the sale of salvaged logs in the prescribed manner, and

(e) subject to the regulations, pay to holders of log salvage permits for salvaged logs delivered to the holder of the receiving station or a place specified by that holder, compensation in the prescribed amount.

(4) If a holder of a receiving station licence fails to comply with the licence, this Part or the regulations respecting log salvage, the minister may suspend the licence for a period of time and, whether or not the licence is under suspension, may cancel the licence.

(5) Before the minister cancels a receiving station licence the minister must give the holder of the licence an opportunity to be heard.

(6) A log receiving station licence granted under the former Act continues in force under this Act as a receiving station licence.

Log salvage permit

124 (1) Subject to the regulations, a person must not salvage logs in a log salvage district without a log salvage permit.

(2) The minister may grant a log salvage permit to a person who meets the prescribed qualifications.

(3) A log salvage permit must contain the terms and conditions, consistent with this Act and the regulations, determined by the minister.

(4) If the holder of a log salvage permit no longer meets the prescribed qualifications or fails to comply with the permit, this Part or the regulations respecting log salvage,

(a) the minister may suspend the permit for a period of time, and

(b) the minister, whether or not the permit is under suspension, may cancel the permit.

(5) Before the minister cancels a log salvage permit the minister must give the permit holder an opportunity to be heard.

Disposal and acquisition of salvaged logs

125 A person must not dispose of a log salvaged from a log salvage district and a person must not accept delivery of a log salvaged from a log salvage district, except as provided in the regulations.

Area closure

126 (1) If notified that logs have been lost in an area of coastal waters, the minister, in a notice published or broadcast, or both, in or near the area may

(a) order that the area described in the notice be closed to log salvaging for a period not exceeding 10 days for each order, and

(b) amend the description of the area and, subject to the 10 day maximum, extend or shorten the period of the order.

(2) While an area is closed a person, other than the owner of a log or the owner's agent, must not salvage a log in the area described in the order.

Part 10 — Manufacture in British Columbia

Crown timber to be used in British Columbia

127 Unless exempted under this Part, timber that is harvested from Crown land, from land granted by the government after March 12, 1906 or from land granted by the government before March 12, 1906 in a tree farm licence area, and wood residue produced from the timber, must be

(a) used in British Columbia, or

(b) manufactured in British Columbia into wood products to the extent of manufacture specified by regulation.

Attempt to export timber or wood residue

127.1 A person must not attempt to remove from British Columbia

(a) timber that is harvested from

(i) Crown land,

(ii) land granted by the government after March 12, 1906, or

- (iii) land granted by the government before March 12, 1906 in a tree farm licence area, or
 - (b) wood residue produced from timber referred to in paragraph (a),
- unless the timber or wood residue is exempted under this Part.

Exemptions

128 (1) The Lieutenant Governor in Council may exempt from section 127

(a) a species of timber or kind of wood residue and may limit the volume of a species of timber or kind of wood residue to which the exemption applies for a period or for successive periods of time, and

(b) a volume of timber, whether or not harvested, or a volume of a wood residue, on receiving an application in a form required by the minister.

(2) On receiving an application in the form required by the minister, the minister may exempt from section 127

(a) a volume of timber that has been harvested, not exceeding 15 000 m³ for each application, and

(b) a volume of wood residue, not exceeding 200 000 bone dry units for each application.

(3) An exemption must not be given under this section unless the Lieutenant Governor in Council or the minister, as the case may be, is satisfied that

(a) the timber or wood residue will be surplus to requirements of timber processing facilities in British Columbia,

(b) the timber or wood residue cannot be processed economically in the vicinity of the land from which it is cut or produced, and cannot be transported economically to a processing facility located elsewhere in British Columbia, or

(c) the exemption would prevent the waste of or improve the utilization of timber cut from Crown land.

Exemption conditions and permit

129 An exemption made under section 128 may

(a) stipulate conditions to be met and fees to be paid to the government, and

(b) provide for the granting of a permit in respect of the timber or wood residue described in the exemption.

Part 11 — Recovery of Money, Miscellaneous

Division 1 — Recovery of Money

Lien

130 (1) Money that is required to be paid to the government under the circumstances set out in subsection (1.1)

(a) is due and payable by the date specified for payment in a statement to, or notice served on, the person who is required to pay it,

(b) bears interest as prescribed, and in the case of an amount due under

(i) section 108, the interest runs from the date determined by the minister to be the date stumpage or royalty would have been due if the timber referred to in section 108 had been scaled correctly under Part 6, and

(ii) an assessment made under section 142.51 (5) or 142.61 (4), the interest runs from the date determined by the commissioner to be the date stumpage would have been due if none of the events referred to in section 142.51 (1) (a) to (d) had occurred,

(c) may be recovered in a court as a debt due to the government, and

(d) constitutes, in favour of the government,

(i) a lien on timber, lumber, veneer, plywood, pulp, newsprint, special forest products and wood residue owned by the person who owes the money, and

(ii) a lien on chattels or an interest in them, other than chattels referred to in subparagraph (i), owned by the person who owes the money.

(1.1) The circumstances referred to in subsection (1) are that money is required to be paid

(a) under this Act, the former Act, the Range Act, the Forest and Range Practices Act or the Wildfire Act,

(b) under an agreement entered into under this Act, the former Act or the Range Act,

(c) under a permit issued under the Forest and Range Practices Act, the Forest Practices Code of British Columbia Act or the Wildfire Act, or

(d) for goods, services or both provided by the ministry.

(2) A lien under subsection (1) (d) (i) has priority over all other claims, and a lien under subsection (1) (d)

(ii) has priority over all other claims other than claims secured by liens, charges and encumbrances registered against the chattels before the money is due and payable.

(3) A lien constituted under subsection (1) is not lost or impaired only because

(a) proceedings to recover the money are taken or not,

(b) partial payment of the money is tendered or accepted, or

(c) the lien is not registered.

(4) If default is made in the payment of all or part of the money due and payable, the revenue minister may issue, and file with a court having jurisdiction, a certificate stating

(a) the amount that remains unpaid, including interest, and

(b) the name of the person who is required to pay it.

(5) A certificate filed under subsection (4) has the same effect as an order of the court for the recovery of a debt in the amount stated in the certificate against the person named in it, and all proceedings may be taken as if it were an order of the court.

Limitation period

130.1 (1) In this section, "proceeding" means

(a) an action for the recovery of money under section 130 (1),

(b) the enforcement of a lien under section 130 (1), and

(c) the filing of a certificate under section 130 (4).

(2) A proceeding may be commenced at any time within 7 years of the date that money claimed in the proceeding or to which the proceeding relates became due and payable under section 130 (1) (a).

(3) Despite subsection (2), a proceeding that relates to a contravention of this Act or the regulations and that involves wilful default or fraud may be commenced at any time.

(4) Section 24 of the Limitation Act applies to the limitation period set by this section.

Person acquiring or dealing in timber responsible for payment

131 A person who acquires or deals in timber on which stumpage or royalty has not been paid must

(a) report the acquisition or dealing to a person designated by the minister, in a form required by the minister, not later than 10 days following the date on which the event occurred, and

(b) pay to the government all money payable to the government in respect of the timber under this Act or under an agreement entered into under this Act.

Removal permit

132 (1) The minister may order a person who has failed to pay money owing to the government by the date specified in a statement under section 130 (1) (a) to pay up to 10% of the fair market value, as estimated by the minister, of

(a) timber, or

(b) products manufactured from timber

that are from time to time located at the person's place of business.

(2) A person who is subject to an order under subsection (1) must not remove or dispose of timber, or any products manufactured from timber, that are from time to time located at the person's place of business unless

(a) the person complies with the order and receives a permit under subsection (3) for the timber, or the products manufactured from timber, that are removed or disposed of,

(b) the person is no longer in default, or

(c) the minister rescinds the order.

(3) On application the minister must issue a permit in respect of specific timber or specific products manufactured from timber to a person if satisfied that the person has paid the amount required under the order in respect of the specific timber or products.

(4) Amounts paid to the government under this section must be applied to the default.

Powers cumulative

133 (1) The powers in this Division for the government to recover money by proceeding in court, or by filing a certificate, and the powers of seizure and sale under the Forest and Range Practices Act, may be exercised separately, concurrently or cumulatively.

(2) The imposition of a fine or penalty on a person under this Act or the Forest and Range Practices Act does not affect the powers of the government in this Division.

Division 2 — Miscellaneous

Repealed

134 [Repealed 1999-10-17.]

Repealed

135 [Repealed 2003-31-64.]

Records and returns

136 (1) A person who harvests timber, who buys or sells timber or products manufactured from timber or who operates a timber processing facility must keep accurate records.

(1.1) A person referred to in subsection (1) must report in writing the information referred to in subsection (1.2) to a person designated by the minister for agreements referred to in section 12 (1) or to a timber sales manager for BC timber sales agreements, in the manner and at the times required by the minister.

(1.2) The following information must be reported under subsection (1.1):

(a) the volume of timber harvested;

(b) the volumes and prices of timber, or products manufactured from timber, that are bought or sold;

- (c) the quantities of products manufactured in the facility and the prices obtained for them;
- (d) the cost of each of the following:
 - (i) harvesting timber;
 - (ii) transporting harvested timber;
 - (iii) constructing and maintaining logging roads and bridges;
 - (iv) manufacturing timber products in the facility;
 - (v) selling products that are manufactured from timber;
 - (vi) forest management administration;
- (e) the nature and extent of basic silviculture carried out and the expenditures incurred in doing that;
- (f) sales information of a kind that is usually contained in an invoice related to timber or products derived from timber.

(2) Records kept under subsection (1) may be inspected at reasonable times

- (a) by a timber sales manager, if the records are relevant to a BC timber sales agreement, or
- (b) by a person designated by the minister, if the records are relevant to any other agreement.

(3) Subject to a lawful requirement, a person employed in the ministry of the minister responsible for the administration of this Act must not release or divulge information reported under subsection (1.1) unless

- (a) the person who submitted the report consents, or
- (b) the information is released or divulged as part of a summary that presents it in such a way that it cannot be identified with the person who submitted it.

(4) The contravention of subsection (3) constitutes just cause for dismissal.

Entry on land

137 (1) The chief forester, a timber sales manager, a district manager, a forest officer authorized by any of them or any other person authorized by the chief forester

- (a) for the purposes of the administration and enforcement of this Act, the regulations, or an agreement entered into under this Act, or
- (b) to verify a statement made in an application for an agreement under this Act,

at all reasonable times may enter any land, but must not enter a dwelling without the consent of the owner or occupier.

(2) A peace officer has the powers of the minister under subsection (1) with respect to the enforcement of the provisions of this Act and the regulations respecting marine log salvage.

Repealed

How notice or document may be served

140 (1) A notice or other document that the government is required or permitted to serve on a person under this Act 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.

(3) This section does not apply to a notice of assessment issued under Part 11.1.

Extension of time

141 Except with respect to the government, the minister may extend a time required for doing anything under this Act.

Personal liability

142 No person who is a

- (a) peace officer,
- (b) forest officer,
- (c) district manager,
- (c.1) timber sales manager,
- (d) regional manager,
- (e) chief forester, or
- (f) member of the Forest Appeals Commission or an arbiter or a person exercising a power or performing a duty in connection with a mediation, arbitration or appeal provided for by regulation

is personally liable for loss or damage suffered by a person because of anything done or omitted in the exercise or purported exercise of a power under this Act or the Range Act unless it was done in bad faith.

Part 11.1 — Inspections, Audits and Assessments

Division 1 — Interpretation and Application

Definitions and application

142.1 (1) In this Part:

"assessment" includes reassessment;

"forest revenue official" means a person who is designated as a forest revenue official under section 142.11 (2) and includes, other than in section 142.11, the commissioner;

"scale" has the same meaning as in section 93.

(2) This Part applies with respect to Crown timber harvested on or after March 30, 2006.

Division 2 — Inspection and Collection of Information

Officials

142.11 (1) The revenue minister may designate a person by name or title as the commissioner.

(2) The commissioner may designate a person by name or title as a forest revenue official.

(3) The commissioner may delegate, with or without conditions, any of the commissioner's powers, functions or duties under this Part to a person or a class of persons.

Entry on land or premises

142.2 (1) Subject to subsection (2), for the purpose of ensuring compliance with the provisions of this Act, the regulations or an agreement that relate to the harvesting of Crown timber, stumpage or the payment of stumpage, a forest revenue official may enter, at any reasonable time, on any land or premises and conduct an inspection or audit referred to in section 142.21.

(2) A forest revenue official may not enter a dwelling under subsection (1) unless a person who occupies the dwelling consents or a warrant authorizes the entry.

(3) If satisfied by evidence given under oath that entry into a dwelling is necessary in order to exercise the powers under section 142.21 (a), a justice may issue a warrant, subject to any conditions the justice considers appropriate, authorizing a forest revenue official to enter the dwelling.

(4) The commissioner may apply for a warrant under subsection (3) without notice to any other person.

Inspection

142.21 A forest revenue official who enters on land or premises under section 142.2 may

(a) inspect or conduct an audit of any record, or inspect any thing or any activity, that is related to information or records required to be kept by the person or to be provided to the government under this Act or an agreement entered into under this Act, and

(b) require production of and copy any record referred to in paragraph (a).

Retention of records

142.3 (1) Subject to this section, a person who is required to keep records under this Act must keep each record in a prescribed category of records for a period of 6 years after the date the record was created.

(2) If a person referred to in subsection (1) files a document under section 142.6 (3) consenting to waive section 142.6 (1) and allowing the commissioner to consider a different period in making an assessment, the person must keep all records related to the making of the assessment for the longer of the following periods:

(a) 6 years after the date the record was created;

(b) 90 days after the waiver ceases to have effect.

(3) If a person referred to in subsection (1) is assessed under section 142.42 (1), 142.51 (4) or (5) or 142.61 (1), (2) or (4), the person must keep all records related to the assessment for the longer of the following periods:

(a) 6 years after the date the record was created;

(b) the time for all appeals of the assessment has elapsed.

(4) On receipt of a written request, the commissioner may authorize the destruction of a record before the end of the period required under this section.

Delivery of records

142.31 (1) For the purpose of ensuring compliance with the provisions of this Act, the regulations or an agreement that relate to the harvesting of Crown timber, stumpage or the payment of stumpage, a forest revenue official may require a person, by serving a demand notice on that person, to provide information and produce specified records that the person is required to keep or provide to the government.

(2) On receipt of a demand notice under subsection (1), a person must prepare and deliver to the forest revenue official the information and records required within the time specified in the demand notice.

(3) A forest revenue official must not require a person under subsection (1) to provide information or records relating to a person referred to in section 142.51 (4) (a) or (b) who is unnamed, unless

(a) the commissioner first obtains the authorization of a judge under subsection (5) of this section, or

(b) the requirement under subsection (1) is imposed in the circumstances, if any, prescribed for a person who is within a prescribed class of persons.

(4) The commissioner may apply for an authorization under subsection (5) with or without notice to any other person.

(5) A judge of the Supreme Court, subject to any conditions the judge considers appropriate, may make an order authorizing the commissioner to require a person under subsection (1) to provide information or records related to an unnamed person, if satisfied by evidence given under oath that

(a) the identity of the unnamed person referred to is ascertainable, and

(b) the requirement under subsection (1) is for the purpose of verifying that the unnamed person is in compliance with any obligation under this Act.

(6) If authorization is granted under subsection (5), a copy of the court order must be served together with the demand notice referred to in subsection (1).

(7) If a person

(a) did not have notice of an application made under subsection (4), and

(b) is served with a court order granting an authorization under subsection (5),

the person, within 15 days of the service of the order, may apply to the Supreme Court for a review of the order.

(8) On hearing an application under subsection (7), a judge may

(a) cancel the authorization previously granted, if the judge is not satisfied that the conditions in subsection (5) (a) and (b) have been met, or

(b) confirm or vary the authorization, if the judge is satisfied that those conditions have been met.

(9) Nothing in subsection (1) affects solicitor-client privilege.

Obligation of a forest revenue official

142.4 A forest revenue official who, under this Division, enters on land or premises, conducts an inspection or audit or requests information or records must provide proof of identity, on the request of the person who

(a) is in possession or apparent possession of the land or premises,

(b) has apparent custody or control of the records or property being inspected or audited, or

(c) is in charge of the activity being inspected or audited.

Obligation of person on request of forest revenue official

142.41 A person who

(a) is in possession or apparent possession of land or premises entered on by a forest revenue official under this Division,

(b) has apparent custody or control of records or property being inspected or audited, or

(c) is in charge of an activity being inspected or audited,

must produce, if and as requested by the forest revenue official,

(d) proof of identity, and

(e) any information and any record required under section 142.21.

Penalty for failure to provide information

142.42 (1) If the commissioner is satisfied that a person has failed to comply with

(a) a demand notice served under section 142.31, or

(b) a request made under section 142.41 (e),

the commissioner may assess against the person, in addition to any other penalty, a penalty equal to the product obtained by multiplying \$100 and the number of days during which the failure continues, to a maximum penalty of \$10 000.

(2) Sections 142.7 to 142.81 apply in relation to an assessment made under subsection (1) of this section, as if an assessment made under subsection (1) of this section were an assessment made under a provision referred to in section 142.7.

(3) This section and section 142.43 apply with respect to

(a) a demand notice under section 142.31, if the demand notice is served on or after the date this section comes into force, and

(b) a request under section 142.41 (e), if the request is made on or after the date this section comes into force.

Order for compliance

142.43 (1) If the commissioner considers that a person has failed to comply with

(a) a demand notice served under section 142.31, or

(b) a request made under section 142.41 (e),

the commissioner may apply to the Supreme Court for either or both of the following:

(c) an order directing the person to comply with the demand notice or request;

(d) an order directing the directors and officers of the person to cause the person to comply with the demand notice or request.

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

Evidence

142.5 An affidavit by a forest revenue official that states the facts necessary to establish

(a) compliance with section 142.4 by the forest revenue official and default under section 142.41 by a person to whom a request was made, or

(b) default by a person served with a demand notice under section 142.31

must be admitted as evidence in any court and is proof, in the absence of evidence to the contrary, of the facts stated.

Division 3 — Assessment of Stumpage and Imposition of Penalty and Interest

Assessment of estimated stumpage and interest

142.51 (1) If it appears to the commissioner, from an inspection or audit of any records or from other information available, that one or more of the following has occurred, the commissioner may estimate, in accordance with subsections (2) and (3), the total amount of stumpage required to be paid in respect of the Crown timber harvested:

(a) some or all of the Crown timber harvested was

(i) not scaled,

(ii) inaccurately scaled,

(iii) not reported in a scale, or

(iv) reported incorrectly in a scale;

(b) the volume or quantity or quality of some or all of the Crown timber was calculated on the basis of incorrect information provided by a cruise of the timber or on the basis of other incorrect information;

(c) the incorrect rate was applied to some or all of the Crown timber harvested;

(d) the information relating to the Crown timber harvested that is required to be provided to the government under this Act or under an agreement entered into under this Act was incomplete or inaccurate, or was not provided.

(2) In making an estimate under subsection (1), the commissioner must multiply

(a) the commissioner's estimate of the volume or quantity of the Crown timber harvested, and

(b) the sum of the commissioner's estimate of

(i) the rate of stumpage applicable to the Crown timber, and

(ii) the bonus bid, if any, offered or the bonus bid that in the opinion of the commissioner would likely have been offered in respect of the Crown timber harvested without authorization.

(3) The commissioner may make an estimate under subsection (2) (a) or (b) in a manner and form and by a procedure the commissioner considers adequate and expedient.

(4) If an estimate is made under subsection (1), the commissioner may assess

(a) the person who harvested the Crown timber, and

(b) a person who acquires, has acquired, deals in or has dealt in the Crown timber harvested

for the amount estimated under subsection (1), less the amount of stumpage that the government has previously billed for that Crown timber.

(5) After assessing a person under subsection (4), the commissioner may assess the amount of interest payable under section 130 (1) (b) on the amount assessed.

Period to be considered in making an assessment

142.6 (1) Subject to subsections (2) to (4), in making an assessment under section 142.51 (4), the commissioner must not consider or include a period greater than 6 years before the date of issue of the first notice of assessment issued with respect to that Crown timber.

(2) If an assessment under section 142.51 (4) is based on one or more events that involve wilful default or fraud by a person, the commissioner may consider and include any period in making an assessment against the person under section 142.51.

(3) If a person referred to in section 142.51 (4) (a) or (b) files a document with the commissioner in a form and containing the information required by the commissioner within a period of 6 years from the date stumpage would have been due if none of the events referred to in section 142.51 (1) (a) to (d) had occurred, consenting to waive subsection (1) of this section and to allow the commissioner in making an assessment under section 142.51 to consider a different period, the commissioner may consider any period to which the person consents.

(4) A waiver filed under subsection (3) continues in effect for 6 months after the person files with the commissioner a notice revoking the waiver in the form and containing the information required by the commissioner.

Penalty

142.61 (1) If the commissioner is satisfied that an assessment against a person under section 142.51 (4) is based on the person's wilful

(a) contravention of this Act, the regulations or an agreement entered into under this Act, or

(b) provision of a false or deceptive statement,

the commissioner may assess against the person, in addition to any other penalty, a penalty that does not exceed 100% of the assessment under section 142.51 (4).

(2) If the commissioner is satisfied that an assessment against a person under section 142.51 (4) is based on the person's contravention of this Act, the regulations or an agreement entered into under this Act, the commissioner may assess against the person, in addition to any other penalty, a penalty that does not exceed 25% of the assessment under section 142.51 (4).

(3) If the commissioner assesses a penalty under subsection (1) against a person, the commissioner may not impose a penalty under subsection (2) with respect to the same assessment against that person.

(4) After assessing a penalty against a person under subsection (1) or (2), the commissioner may assess the amount of interest payable under section 130 (1) (b) on the amount assessed.

Payment of assessed amount of stumpage

142.7 In addition to any other money required to be paid to the government in the circumstances set out in section 130 (1.1), a person assessed under section 142.51 (4) or (5) or 142.61 (1), (2) or (4) must pay to the government the amount assessed.

Notice of assessment

142.71 On making an assessment under section 142.51 (4) or (5) or 142.61 (1), (2) or (4), the commissioner must serve the person assessed with a notice of assessment that sets out the amounts assessed under section 142.51 (4) or (5) or 142.61 (1), (2) or (4), as the case may be.

Serving a notice of assessment

142.8 (1) A notice of assessment required to be served on a person under section 142.71 must be served in one of the following ways:

- (a) by leaving the notice of assessment with the person;
- (b) by sending the notice of assessment
 - (i) by ordinary mail or registered mail to the person's address,
 - (ii) by electronic mail to the person's electronic mail address, or
 - (iii) by facsimile to the person's facsimile number

as last known to the commissioner.

(2) A notice of assessment served in accordance with subsection (1) (b) is deemed to have been received on the date the notice of assessment was sent.

(3) If a person carries on business under a name or style other than the person's own name, the notice of assessment may be addressed to the name or style under which the person carries on business and, in the case of leaving the notice of assessment with a person, the notice of assessment is deemed to have been validly served if left with an adult person employed at the place of business of the addressee.

(4) If persons carry on business in partnership, the notice of assessment may be addressed to the partnership name and, in the case of leaving the notice of assessment with a person, the notice of assessment is deemed to have been validly served if left with one of the partners or left with an adult person employed at the place of business of the partnership.

(5) Proof of the receipt by a person of the notice of assessment may be established in any court by showing that the notice of assessment was sent in accordance with this section, and the burden of proof is on the person seeking to establish the fact that the notice of assessment was not received by that person.

Proof and onus

142.81 (1) Evidence that an assessment has been made under section 142.51 (4) or (5) or 142.61 (1), (2) or (4) is proof, in the absence of evidence to the contrary, that the amount assessed is due and owing in accordance with the notice of assessment referred to in section 142.71, and the onus of proving otherwise is on the person liable to pay the amount assessed.

(2) Subject to being amended, changed or varied on appeal under this Part, an amount assessed under section 142.51 (4) or (5) or 142.61 (1), (2) or (4) is valid and binding despite any error, defect or omission in the estimate or assessment or in procedure.

Division 4 — Appeals of Assessments

Appeal to revenue minister

142.9 (1) If a person disputes an assessment made under section 142.42 (1), 142.51 (4) or (5) or 142.61 (1), (2) or (4), the person or the person's agent may appeal to the revenue minister in accordance with this section.

(2) An appeal under this section may be commenced by serving a notice of appeal on the revenue minister within 90 days of the date that the notice of assessment referred to in section 142.71 is served on the appellant.

(3) The notice of appeal must

(a) be in writing,

(b) be addressed to the revenue minister in the City of Victoria, and

(c) set out clearly the reasons for the appeal and all the facts relevant to it.

(4) On receiving the notice of appeal, the revenue minister must

(a) consider the matter,

(b) affirm, amend, change or vary the assessment or penalty, and

(c) promptly notify the appellant in writing of the result of the appeal.

Appeal to court

142.91 (1) A decision of the revenue minister under section 142.9 may be appealed to the Supreme Court by way of a petition proceeding.

(2) The Supreme Court Civil Rules relating to petition proceedings apply to appeals under this section, but Rule 18-3 of those rules does not apply.

(3) A petition commencing an appeal under this section must be filed in the court registry within 90 days of the date of the revenue minister's notification of the result of the appeal.

(4) Within 14 days of the filing of a petition under subsection (3), the petition must be served on the government in accordance with section 8 of the Crown Proceeding Act and in the petition the government must be designated "Her Majesty the Queen in right of the Province of British Columbia".

(5) An appeal under this section is a new hearing that is not limited to the evidence and issues that were before the revenue minister.

(6) The Supreme Court may

- (a) dismiss the appeal,
- (b) allow the appeal,
- (c) vary the decision from which the appeal is made, or
- (d) refer the decision back to the commissioner for reconsideration.

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

Affect of pending appeals

142.92 Neither the serving of a notice of appeal by a person nor a delay in the hearing of the appeal

- (a) affects the date of payment, the interest or penalties or the liability for payment in respect of the assessment that is the subject matter of the appeal, or
- (b) delays collection of the assessment.

Part 12 does not apply

142.921 Part 12 does not apply to an appeal under this Division.

Division 5 — General

Confidentiality

142.93 (1) A forest revenue official who has custody of or control over information or records provided to the government under this Act must not disclose the information or records to any other person except

- (a) for the purposes of administering or enforcing this Act, a taxation enactment or an Act administered by the minister responsible for the administration of Part 2 of this Act,
- (b) in court proceedings,
- (c) as provided in, or ordered under, section 239 or 242 of the Family Law Act or section 8.2 or 9 of the Family Maintenance Enforcement Act, or
- (d) under an agreement that
 - (i) is between the government of British Columbia and another government,
 - (ii) relates to the administration or enforcement of this Act, a taxation enactment or an Act administered by the minister responsible for the administration of Part 2 of this Act, and

(iii) provides for the disclosure of information and records to, and the exchange of similar information and records with, that other government.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine of not more than \$2 000.

Regulations

142.94 Without limiting Division 3 of Part 12, the Lieutenant Governor in Council may make regulations as follows:

- (a) respecting inspections and audits conducted by forest revenue officials;
- (b) respecting the conduct of appeals to the revenue minister under this Part;
- (c) prescribing one or more categories of records for the purpose of section 142.3;
- (d) prescribing a class of persons and circumstances for the purpose of section 142.31 (3);
- (e) respecting assessments under this Part;
- (f) requiring a person to keep records or types of records for the purposes of this Act or a provision of this Act.

Part 12 — Reviews, Appeals, Regulations, Penalties

Division 1 — Reviews

Determination that may be reviewed

143 (1) A review of the following may be required under this Division:

- (a) a determination, an order or a decision of a timber sales manager under section 78;
- (b) a determination, an order or a decision of the minister under section 59, 59.1 (9) or (10), 70 (4), 75, 76 (1), (2) or (6), 77 (1), 78.1 or 112 (2) or (3).

(2) A review of the determinations, orders and decisions referred to in subsection (1) is to be conducted by a person authorized by the minister.

Request for review

144 (1) If under the provisions referred to in section 143 (1) a determination, order or decision is made, the person

- (a) in respect of whom it is made, or

(b) in respect of whose agreement it is made

may request a review of the determination, order or decision by serving a request for review on the person responsible for conducting the review under section 143 (2).

(2) The person must ensure that the request for review meets the content requirements of the regulations.

(3) The person must serve the request for review on the person responsible for conducting the review under section 143 (2) not later than 3 weeks after the date the notice of determination, order or decision is served on the person.

(3.1) After the request for review is served under subsection (1), the person requesting the review and the government must disclose the facts and law on which the person or government will rely at the review if required by the regulations and in accordance with the regulations.

(4) Before or after the time limit in subsection (3) expires, the person responsible for conducting the review under section 143 (2) may extend it.

(5) A person who does not serve the request for review within the time required under subsection (3) or (4) loses the right to require a review.

Powers on review

145 (1) The person responsible for conducting a review under section 143 (2) or (3) may decide the matter based on one or more of the following:

(a) the request for review and a review of the ministry's files;

(b) the request for review, the ministry's files and any other communication with persons that the person conducting the review considers necessary to decide the matter, including communication with the person requesting the review and with the person who made the determination, order or decision;

(c) an oral hearing.

(2) The person responsible for conducting the review may confirm, vary or rescind the determination, order or decision or refer it back to the person who made it, with or without directions.

(3) A written decision must be served on the person who requested the review within

(a) the prescribed period after the request for review was received by the person responsible for conducting the review under section 143 (2), or

(b) another period agreed to by the person who requested the review and the government.

(4) Despite subsection (3), if the person conducting the review determines that the request for review does not comply with the content requirements of the regulations, or that there was a failure to disclose facts and law required under section 144 (3.1), the prescribed period referred to in subsection (3) of this section does not begin until a request for review that does comply with the content requirements of the regulations is served on the person conducting the review, or the facts and law are disclosed as required under section 144 (3.1).

(5) [Repealed 2003-31-66.]

(6) Unless the minister orders otherwise, a review of a determination, order or decision does not operate as a stay or suspend the operation of the determination, order or decision.

Division 2 — Appeals

Determinations that may be appealed

146 (1) Subject to subsection (3), an appeal may be made to the Forest Appeals Commission from a determination, order or decision that was the subject of a review required under Division 1 of this Part.

(2) An appeal may be made to the Forest Appeals Commission from

- (a) a determination, order or decision of the chief forester, under section 60.6, 68, 70 (2) or 112 (1),
- (b) a determination of an employee of the ministry under section 105 (1), and
- (c) an order of the minister under section 75.95 (2).

(3) No appeal may be made under subsection (1) unless the determination, order or decision has first been reviewed under Division 1 of this Part.

(4) If a determination, order or decision referred to in subsection (1) is varied by the person conducting the review, the appeal to the commission is from the determination, order or decision as varied under section 145.

(5) This Division does not 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.

(6) For the purpose of subsection (2), a redetermination or variation of stumpage rates under section 105 (1) is considered to be a determination.

Part 8.1 of Forest and Range Practices Act applies

146.1 Part 8.1 of the Forest and Range Practices Act applies to an appeal referred to in section 146 (1) or (2) of this Act.

Parties to appeal

147 (1) If a determination, order or decision referred to in section 146 (1) or (2) is made, the determination, order or decision may be appealed by the person

- (a) in respect of whom it is made, or
- (b) in respect of whose agreement it is made.

(2) Only the appellant and the government are parties to the appeal.

Repealed

148 [Repealed 2015-10-79.]

Repealed

148.1 to 148.6 [Repealed 2015-10-79.]

Powers of commission

149 (1) On an appeal, whether or not the person who conducted the review confirmed, varied or rescinded the determination, order or decision being appealed, the commission may consider the findings of

(a) the person who made the initial determination, order or decision, and

(b) the person who conducted the review.

(2) On an appeal, the commission may

(a) confirm, vary or rescind the determination, order or decision, or

(b) refer the matter back to the person who made the initial determination, order or decision with or without directions.

(3) If the commission decides an appeal of a determination made under section 105, the commission must, in deciding the appeal, apply the policies and procedures approved by the minister under section 105 that were in effect at the time of the initial determination.

(4) and (5) [Repealed 2015-10-79.]

(6) Unless the minister orders otherwise, an appeal under this Division does not operate as a stay or suspend the operation of the determination, order or decision under appeal.

Repealed

149.1 [Repealed 2015-10-79.]

Order for compliance

149.2 If it appears that a person has failed to comply with an order or decision of the commission or a member of it, the commission, minister or appellant may apply to the Supreme Court for an order

(a) directing the person to comply with the order or decision, and

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

Repealed

150 [Repealed 2015-10-79.]

Division 2.1 — Appeals of Contraventions

Forest and Range Practices Act applies to contravention appeals

150.1 Division 4 of Part 6 of the Forest and Range Practices Act applies to a correction, review or appeal under the Forest and Range Practices Act in respect of a contravention of this Act or the regulations under this Act.

Division 3 — Regulations

Regulations

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

(1.1) 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.

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

(a) [Repealed 2004-36-65.]

(a.1) for the purpose of the definition of "allowable annual cut available" in section 1 (1), specifying the criteria, circumstances, rules, methods or formulas to be used in relation to

- (i) the reservations, deletions or reductions respecting a tree farm licence,
- (ii) the reservations or reductions respecting a community forest agreement, and
- (iii) the reservations or reductions respecting a first nations woodland licence;

(a.2) authorizing the minister to enter into agreements with one or more tree farm licence holders to offset, in whole or in part, a reduction under section 3 (3) of the Forestry Revitalization Act, or a reservation referred to in section 35 (1) (h) of this Act, with a deletion of Crown land from the tree farm licence area under section 39.1 of this Act;

(b) [Repealed 1999-10-18.]

(b.1) for the purposes of section 1.1 (1) (a), specifying which powers and duties of the minister under this Act must not be delegated;

(b.2) for the purposes of section 8.1,

(i) prescribing the formulas or methods to be used to adjust the allowable annual cut, and

(ii) prescribing additional circumstances in respect of which the allowable annual cut is adjusted;

(b.3) for the purposes of section 13 (1) (a) (iii) and (2.1), establishing categories of applicants from whom applications for a non-replaceable forest licence must only be invited;

(c) the salvaging of logs including the rights of property in salvaged logs, and the collection, marking and disposing of salvaged logs;

(d) the transportation of timber after harvesting or of timber products, including but not limited to

(i) prescribing records that must accompany the timber or timber products during transportation,

(ii) requiring the production of the records for inspection by a forest officer, and

(iii) empowering a forest officer to designate the site where timber or timber products must be scaled;

(e) [Repealed 2008-20-33.]

(e.1) the imposition of fees payable to the government;

(f) harvesting cascara bark from Crown land;

(g) the growing and harvesting of Christmas trees on Crown land;

(h) the operations of holders of log salvage permits and station licences;

(i) the seizure, sale and other disposition of salvaged logs by the minister if the logs are salvaged or dealt with in contravention of this Act or the regulations;

(i.1) for the purposes of section 35.2, the requirements relating to management plans for tree farm licences, including

(i) the approval of management plans,

(ii) the content of management plans,

(iii) the time limits for submission of management plans or portions of management plans,

(iv) the persons to whom the management plans must be submitted,

(v) public review of and comment on management plans,

(vi) the effective time period of management plans or portions of management plans, and

(vii) matters relating to the replacement or extension of management plans;

(j) and (k) [Repealed 2004-36-65.]

(k.1) for the purposes of section 39.1,

- (i) the boundary or area of a tree farm licence, and
 - (ii) limiting the circumstances in which the minister may exercise his or her discretion under that section;
- (k.11) for the purposes of permitting the disposition of an agreement referred to in section 54.4 (1) (b) or (1.01),
- (i) the circumstances in which a disposition may be made,
 - (ii) the criteria that must be met by the person disposing of the agreement, including, for the purposes of section 54.4 (1.01), the type of processing facility that must be owned or leased by that person,
 - (iii) the criteria that must be met by the person to whom the agreement is being disposed of, including, for the purposes of section 54.4 (1.01), the type of processing facility that must be owned or leased by that person, and
 - (iv) the provisions that must be included in the agreement being disposed of;
- (k.2) for the purposes of section 58.2 (2.1) and (2.2),
- (i) the 2 year extensions of cutting permits, and
 - (ii) limiting the circumstances in which the minister may exercise his or her discretion under section 58.2 (2.1) or (2.2);
- (k.3) for the purposes of section 58.21,
- (i) the circumstances in which or the reasons for which the minister may postpone the operation of a cutting permit,
 - (ii) the criteria or conditions that must be met in order for the minister to postpone the operation of a cutting permit, and
 - (iii) the maximum period of time, including any extensions under subsection (4) of that section, for which a cutting permit may be postponed by the minister, which may be different for different circumstances, reasons, criteria or conditions;
- (l) and (m) [Repealed 2004-36-65.]
- (m.1) what constitutes unduly restricting competition for the purpose of section 54.1 or 54.5, including methods to be used, and factors to be taken into account, in making a determination under section 54.1 (a) or 54.5 (1) (b) (ii);
- (m.2) for the purposes of sections 60 to 60.95 and 175.2, prescribing respecting value, including but not limited to
- (i) determining value and defining the components that comprise value,
 - (ii) prescribing methods of evaluation for use in determining value,
 - (iii) prescribing factors to be taken into account in an evaluation,
 - (iv) defining the role of evaluators in a determination of value and prescribing qualifications for evaluators that are prerequisite to their participation in the determination of value, and
 - (v) prescribing requirements for the selection of an arbitrator;

(m.3) the surrender of an agreement listed in section 12, including requirements for fulfilling obligations under or in respect of

(i) the agreement, and

(ii) a cutting permit, road permit or road use permit issued to the holder of the agreement;

(m.4) for the purposes of section 81.1, specifying government objectives;

(n) scaling including, without limitation,

(i) regulations authorized under Part 6,

(ii) the timing of a scale,

(iii) the estimate of stumpage,

(iv) the payment of estimated stumpage, and

(v) scale site authorizations;

(n.1) a penalty for the purpose of section 97 (2), including prescribing

(i) the amount of the penalty, or the formulas or methods to be used to determine the amount of the penalty, and

(ii) the circumstances under which the payment of the penalty may be waived.

(o) [Repealed 1999-10-18.]

(p) the definition of "effective director" for the purposes of section 53 (1);

(p.01) prescribing services for the purposes of section 109 (2.2) (d), which services must be consistent with a purpose or function of the ministry referred to in section 4 (a), (b) or (c) of the Ministry of Forests and Range Act;

(p.1) prescribing the extent of manufacture for the purposes of section 127 (b);

(q) the practice, procedure and forms for reviews;

(r) the content of requests for review under section 144;

(s) the circumstances under which a review may be dismissed on the basis that the request for review does not meet the content requirements of the regulations, or that there was a failure to disclose facts and law as required by the regulations;

(t) the costs of reviews and the apportionment of those costs between the government and the person requesting the review;

(u) [Repealed 2015-10-81.]

(v) fees and deposits respecting applications for reviews;

(w) and (x) [Repealed 2015-10-81.]

(y) respecting BC timber sales enterprises, including but not limited to establishing categories of BC timber sales enterprises;

(z) the maximum volume of timber that may be specified in a forestry licence to cut entered into under section 47.6 (2) (d).

(2.1) The Lieutenant Governor in Council may make regulations defining words and expressions used but not defined in this Act.

(3) The Lieutenant Governor in Council, by regulation, in respect of any provision of this Act or the regulations, may expand the meaning of "timber" to include any or all special forest products.

(4) and (5) [Repealed 1998-29-16.]

(6) [Repealed 2003-30-15.]

(7) 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.

(8) Without limiting subsection (7), 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) an agreement listed in section 12 or a pulpwood agreement.

(9) Regulations under subsection (2) (m.2) may be made retroactive to the date this subsection comes into force, or to a later date that the Lieutenant Governor in Council may specify by regulation, and a regulation made retroactive in accordance with this subsection is deemed to have come into force on the date specified in the regulation.

(10) Without limiting subsection (1.1), the Lieutenant Governor in Council, in respect of regulations under subsection (2) (i.1), may make different regulations for different management plans, including management plans

(a) that relate to different licences or agreements, or

(b) that were in effect when section 35.2 came into force.

(11) 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 applicant for or the holder of an agreement listed in section 12 or a pulpwood agreement, to ensure the performance of an obligation under this Act or the agreement, the Forest and Range Practices Act, the Wildfire Act or the Forest Practices Code of British Columbia Act.

(12) Without limiting subsection (11), 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.

Criteria for exercise of discretionary powers

151.01 (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.

Regulation making power to establish forest districts

151.1 (1) In this section, "custodian" means the custodian designated under subsection (7).

(2) The Lieutenant Governor in Council, by regulation, may

(a) establish an area of British Columbia as a BC timber sales business area, forest district or forest region,

(b) abolish, change the boundaries of or change the name of a BC timber sales business area, forest district or forest region, and

(c) consolidate 2 or more BC timber sales business areas, 2 or more forest districts or 2 or more forest regions.

(3) A forest district established under subsection (2) is a forest district for the purposes of section 2 (1) (d) of the Ministry of Forests and Range Act.

(3.1) A forest region established under subsection (2) is a forest region for the purposes of section 2 (1) (c) of the Ministry of Forests and Range Act.

(3.2) A BC timber sales business area established under subsection (2) is a BC timber sales business area for the purposes of section 2 (1) (d.1) of the Ministry of Forests and Range Act.

(4) A regulation made under subsection (2) may establish the boundaries of BC timber sales business areas, forest districts or forest regions by reference to maps that are available to the public and that are kept by the ministry of the minister responsible for the administration of this Act

(a) in paper form, or

(b) as information that

(i) is stored electronically in a database controlled by the custodian, and

(ii) can be reproduced as a map in paper form.

(5) A regulation made under subsection (2) may provide that the boundaries of a BC timber sales business area, forest district or forest region are as set out from time to time in a map referred to in subsection (4), but if such a regulation is made, a change to a boundary has no effect until a notice of the change is published in the Gazette.

(6) A regulation made under subsection (2) may be made retroactive to the date on which this section comes into force.

(7) The minister may designate a person employed in the ministry of the minister responsible for the administration of this Act to be the custodian of the database under subsection (4) (b) with the title of Custodian of the Forest Administrative Boundaries Database.

(8) A map in paper form that is certified by the custodian as having been reproduced from information stored electronically in the database controlled by the custodian is, without proof of the signature or official position of the custodian, evidence of the boundary of the BC timber sales business area, forest district or forest region.

(9) For the purposes of subsection (8) the custodian's signature may be reproduced mechanically or electronically.

Repealed

151.2 [Repealed RS1996-157-151.2 (4).]

Area-based allowable annual cut

151.3 (1) The Lieutenant Governor in Council may make regulations implementing a trial program under which allowable annual cut is determined under section 8 in whole or in part on the basis of the area from which timber is to be harvested.

(2) A regulation under this section

(a) must specify all or part of a timber supply area, tree farm licence area, community forest agreement or woodlot licence area as an area to which the trial program applies, and

(b) may vary this Act, the regulations or a forest licence, tree farm licence or woodlot licence as they apply, in relation to allowable annual cut, within

(i) a timber supply area or part of one,

(ii) a tree farm licence area or part of one, or

(iii) a woodlot licence area or part of one

that is specified under paragraph (a).

(3) The Lieutenant Governor in Council must not make a regulation under subsection (2) (b) varying a forest licence, tree farm licence or woodlot licence unless the licensee has consented to the amendment.

(4) This section may be repealed by regulation of the Lieutenant Governor in Council.

Adapting cut control under this Act for the Forestry Revitalization Act

151.4 The Lieutenant Governor in Council may make regulations he or she considers necessary or desirable for the purpose of adapting

(a) Division 3.1 of Part 4 of this Act, and

(b) the regulations made for that Division,

to take into account the effect of the Forestry Revitalization Act, and orders under that Act, on an agreement listed in the Schedule to that Act, including but not limited to regulations

(c) prescribing additional provisions to supplement the provisions of

(i) Division 3.1 of Part 4 of this Act, or

(ii) the regulations made for that Division

as the provisions apply in respect of that agreement or its holder,

(d) varying provisions of that Division or of regulations made for that Division as the provisions apply in respect of that agreement or its holder,

(e) providing that specified provisions of that Division or of regulations made for that Division do not apply to or in respect of that agreement or its holder, and

(f) imposing conditions for the purpose of regulations made under this section.

Adapting cut control for provisions respecting conversion of timber sale licences

151.5 The Lieutenant Governor in Council may make regulations he or she considers necessary or desirable for the purpose of adapting

(a) Division 3.1 of Part 4 of this Act, and

(b) the regulations made for that Division

to take into account the effect of sections 24.1 to 24.91 of this Act on an agreement that is converted, amended, entered into or surrendered under one or more of those sections, including but not limited to regulations

(c) prescribing additional provisions to supplement the provisions of

(i) Division 3.1 of Part 4 of this Act, or

(ii) the regulations made for that Division

as the provisions apply in respect of that agreement or its holder,

(d) varying provisions of that Division or of regulations made for that Division as the provisions apply in respect of that agreement or its holder,

(e) providing that specified provisions of that Division or of regulations made for that Division do not apply to or in respect of that agreement or its holder, and

(f) imposing conditions for the purpose of regulations made under this section.

Adapting cut control for provisions respecting first nations woodland licences

151.51 (1) The Lieutenant Governor in Council may make regulations he or she considers necessary or desirable for the purpose of adapting

(a) Division 3.1 of Part 4 of this Act, and

(b) the regulations made for that Division

to take into account the effect of the surrender of a licence or an agreement referred to in section 43.54 (4)

(b), including but not limited to regulations

(c) prescribing additional provisions to supplement the provisions of

(i) Division 3.1 of Part 4 of this Act, or

(ii) the regulations made for that Division

as the provisions apply in respect of that licence or agreement or its holder,

(d) varying provisions of that Division or of regulations made for that Division as the provisions apply in respect of that licence or agreement or its holder,

(e) providing that specified provisions of that Division or of regulations made for that Division do not apply to or in respect of that licence or agreement or its holder, and

(f) imposing conditions for the purpose of regulations made under this section.

(2) This section may be repealed by regulation of the Lieutenant Governor in Council and, on that repeal, regulations made under this section are also repealed.

Regulation making power for fibre supply and forestry licence to cut

151.6 (1) The Lieutenant Governor in Council may make regulations he or she considers necessary or desirable for the purposes of prescribing requirements respecting forestry licences to cut described in section 47.6 (2.11) or fibre supply licences to cut, including but not limited to regulations

(a) prescribing provisions, in addition to the provisions of

(i) Division 8.2 of Part 3 of this Act, or

(ii) the regulations made under that Division,

that apply to or in respect of forestry licences to cut or fibre supply licences to cut or to the holders of forestry licences to cut or fibre supply licences to cut,

(b) varying provisions of Division 8.2 of Part 3 of this Act or of the regulations made under that Division as the provisions apply to or in respect of forestry licences to cut or fibre supply licences to cut or to the holders of forestry licences to cut or fibre supply licences to cut,

(c) providing that specified provisions of Division 8.2 of Part 3 of this Act or of the regulations made under that Division do not apply to or in respect of forestry licences to cut or fibre supply licences to cut or to the holders of forestry licences to cut or fibre supply licences to cut, and

(d) imposing conditions for the purposes of regulations made under this section.

(2) Without limiting subsection (1) and for the purposes of sections 47.6 (2.11) (b) and 47.72 (2), the Lieutenant Governor in Council may make regulations as follows:

- (a) requiring the holder of an agreement listed in section 12 to give written notification to the district manager respecting harvest completion;
- (b) respecting time requirements for the notification;
- (c) respecting content requirements for the notification including, without limitation,
 - (i) a declaration in respect of timber that is not harvested or removed under the agreement indicating the amount of that timber the agreement holder
 - (A) plans to sell, trade or use for commercial purposes, and
 - (B) does not plan to sell, trade or use for commercial purposes,
 - (ii) an estimate of the amount of timber referred to in subparagraph (i) (B) that is at all landings or roadsides,
 - (iii) a list of the activities the agreement holder has planned for the site area that are to be subject to the fibre recovery permit for a specified period, and
 - (iv) a description of any of the agreement holder's forest management concerns;
- (d) if an agreement holder indicates in accordance with paragraph (c) (i) that the holder plans to sell, trade or use for commercial purposes timber that was not harvested or removed, requiring the holder to sell, trade or use that timber as declared;
- (e) prohibiting an agreement holder from destroying timber referred to in paragraph (c) (i) in specified circumstances.

Regulation making power for first nations woodland licences

151.7 (1) The Lieutenant Governor in Council may make regulations he or she considers necessary or desirable for the purposes of prescribing requirements respecting first nations woodland licences, including but not limited to regulations

(a) prescribing provisions, in addition to the provisions of

- (i) Division 7.11 of Part 3 of this Act, or
- (ii) the regulations made under that Division,

that apply to or in respect of first nations woodland licences or the holders of first nations woodland licences,

(b) varying provisions of Division 7.11 of Part 3 of this Act or of the regulations made under that Division as the provisions apply to or in respect of first nations woodland licences or the holders of first nations woodland licences,

(c) providing that specified provisions of Division 7.11 of Part 3 of this Act or of the regulations made under that Division do not apply to or in respect of first nations woodland licences or the holders of first nations woodland licences, and

(d) imposing conditions for the purposes of regulations made under this section.

(2) This section may be repealed by regulation of the Lieutenant Governor in Council and, on that repeal, regulations made under this section are also repealed.

Interpretation for sections 152 to 162

152 In this section and sections 153 to 162:

"contract" has a meaning corresponding to the definition of "contractor" below;

"contractor" means a person who has an agreement with the holder of a forest licence, timber licence or tree farm licence to carry out one or more aspects of the holder's timber harvesting operations under the licence, and includes "person under contract" as defined by the regulations;

"replaceable contract" means a contract

(a) that includes a requirement that the holder of the forest licence, timber licence or tree farm licence, as the case may be, by a prescribed time before expiry of the existing contract, must, if the contractor has satisfactorily performed the existing contract up to the time of the offer, make an offer to the contractor, conditional on the contractor continuing to satisfactorily perform the existing contract, of a replacement contract that

(i) provides for payment to the contractor of the amounts agreed by the parties, or failing agreement, of the amounts settled by the method of dispute resolution provided under the existing contract at the time of the offer, and

(ii) subject to a requirement as to length of term prescribed under section 157 (d) (ii), is otherwise on substantially the same terms and conditions as the existing contract, and

(b) that conforms to the requirements for replaceable contracts prescribed under section 157;

"replaceable forest licence" means a forest licence for which the minister must make an offer of replacement, as set out in section 15;

"replaceable subcontract" means a subcontract

(a) that includes a requirement that the contractor, by a prescribed time before expiry of the existing subcontract, must, if the subcontractor has satisfactorily performed the existing subcontract up to the time

of the offer, make an offer to the subcontractor, conditional on the subcontractor continuing to satisfactorily perform the existing subcontract, of a replacement subcontract that

(i) provides for payment to the subcontractor of the amounts agreed by the parties, or failing agreement, of the amounts settled by the method of dispute resolution provided under the existing subcontract at the time of the offer, and

(ii) subject to a requirement as to length of term prescribed under section 157 (d) (ii), is otherwise on substantially the same terms and conditions as the existing subcontract, and

(b) that conforms to the requirements for replaceable subcontracts prescribed under section 157;

"replaceable tree farm licence" means a tree farm licence for which the minister must make an offer of replacement, as set out in section 36;

"subcontract" has a meaning corresponding to the definition of "subcontractor" below;

"subcontractor" means a person who has an agreement with a contractor to carry out one or more aspects of the contractor's responsibilities to the holder of the forest licence, timber licence or tree farm licence, as the case may be.

Requirement for written contracts and subcontracts

153 The Lieutenant Governor in Council may make regulations

(a) requiring

(i) a holder of a forest licence, timber licence, timber sale licence or tree farm licence who enters into a contract, or

(ii) a contractor who enters into a subcontract

to do so only by a written contract or written subcontract, as the case may be, and

(b) requiring the parties to a contract or subcontract that is not in writing to exert their best efforts to convert the contract or subcontract into a written one.

Assignability of contracts and subcontracts

154 The Lieutenant Governor in Council may make regulations

(a) prescribing, for a contract, a requirement under which

(i) the contractor's interest is assignable to another person with the consent of the holder of the forest licence, timber licence, timber sale licence or tree farm licence who is the other party to the contract, and

(ii) consent of the holder to the assignment must not be unreasonably withheld,

(b) prescribing, for a subcontract, a requirement under which

(i) the subcontractor's interest is assignable to another person with the consent of the contractor who is the other party to the subcontract, and

(ii) consent of the contractor to the assignment must not be unreasonably withheld, or

(c) prescribing, for use in contracts or subcontracts, standard provisions representing the requirements prescribed under paragraph (a) or (b).

Mediation and arbitration under contracts and subcontracts

155 The Lieutenant Governor in Council may make regulations respecting mediation and arbitration of all or certain disputes that have arisen or may arise between the parties to a contract or subcontract, including, but not limited to, regulations

(a) establishing a system of mediation and arbitration and making the system applicable to

(i) contracts, or

(ii) subcontracts

that do not make any provision or do not make adequate provision for mediation and arbitration,

(b) respecting contracts to which or subcontracts to which the system of mediation and arbitration established under this section is made applicable, including, but not limited to, regulations prescribing the following types of requirements for those contracts or subcontracts:

(i) requirements under which the parties to the contract or subcontract, as the case may be, are obliged, under the system of mediation and arbitration established under this section, to settle by mediation, and in the event of unsuccessful mediation, by arbitration,

(A) all disputes, or

(B) certain disputes as specified by regulation

that have arisen or may arise between the parties under the contract or subcontract;

(ii) requirements under which the parties to the contract or subcontract, as the case may be, must select the mediators and arbitrators to be used in the settlement of disputes under the contract or subcontract only from the Register of Timber Harvesting Contract Mediators and Arbitrators established under section 156,

(c) prescribing, for use in contracts or subcontracts, standard provisions representing the requirements prescribed under paragraph (b) (i) and (ii),

(d) prescribing what constitutes making "adequate provision" for the purposes of paragraph (a), and

(e) adopting by reference for the purpose of the system of mediation and arbitration established under this section any provisions of the Arbitration Act, either without variation or with variations that the Lieutenant Governor in Council considers necessary or desirable.

Register of Timber Harvesting Contract Mediators and Arbitrators

156 For the purpose of implementing a system of mediation and arbitration established under section 155, the minister may

- (a) establish and maintain a Register of Timber Harvesting Contract Mediators and Arbitrators,
- (b) enter in the register the names of at least 9 individuals whom the minister considers qualified to mediate or arbitrate disputes under contracts and subcontracts, and
- (c) amend the register from time to time by removing names or by adding the names of individuals the minister considers qualified to mediate or arbitrate disputes under contracts and subcontracts.

Requirements for replaceable contracts and subcontracts

157 The Lieutenant Governor in Council may make regulations

- (a) requiring the holder of a timber licence, replaceable forest licence or replaceable tree farm licence who enters into a contract, including a replacement contract, to do so only by means of a replaceable contract,
 - (a.1) despite paragraph (a), permitting the holder of a timber licence, replaceable forest licence or replaceable tree farm licence who enters into a contract to agree in writing with the intended contractor that the contract is not a replaceable contract,
 - (b) requiring the holder of a replaceable contract who enters into a subcontract, including a replacement subcontract, to do so only by means of a replaceable subcontract,
 - (b.1) despite paragraph (b), permitting the holder of a replaceable contract who enters into a subcontract to agree in writing with the intended subcontractor that the subcontract is not a replaceable subcontract,
 - (c) prescribing methods to be used to calculate compliance with a provision of a timber licence, replaceable forest licence or replaceable tree farm licence that requires timber to be harvested by persons under contract, and defining "persons under contract" for the purpose of sections 14 (1) (g) and 35 (1) (j),
 - (d) respecting replaceable contracts and replaceable subcontracts, including, but not limited to, regulations prescribing the following types of requirements for replaceable contracts or for replaceable subcontracts:
 - (i) requirements governing the length of the term of
 - (A) replaceable contracts, or
 - (B) replaceable subcontracts
- that are made after the effective date of the regulation prescribing the requirements referred to in this subparagraph;
- (ii) requirements governing the commencement and length of the term of the replacement contract or replacement subcontract, as the case may be, that must be offered under an offer referred to in
 - (A) paragraph (a) of the definitions in section 152 of "replaceable contract" and "replaceable subcontract", or

(B) section 158;

(iii) requirements respecting the respective rights of the parties to the replaceable contracts or replaceable subcontracts in the event of contingencies not under the control of either party, including, but not limited to,

(A) a reduction in allowable annual cut under the forest licence, timber licence or tree farm licence to which the replaceable contract or replaceable subcontract pertains, or

(B) a change in harvesting methods that is approved or required by the government or a licence holder under the forest licence, timber licence or tree farm licence to which the replaceable contract or replaceable subcontract pertains;

(iv) requirements relating to the amount of work to be allocated to and performed by a contractor or subcontractor;

(v) requirements relating to the replacement of contracts or subcontracts on the transfer, subdivision or consolidation of licences and the replacement of subcontracts on the transfer of contracts;

(vi) requirements relating to the determination of rates under contracts and subcontracts;

(vii) requirements relating to the operational and commercial terms of contracts and subcontracts,

(e) prescribing,

(i) for use in contracts made by holders of timber licences, replaceable forest licences or replaceable tree farm licences with contractors, a standard provision representing the requirement referred to in paragraph (a) of the definition of "replaceable contract" in section 152,

(ii) for use in subcontracts made by contractors described in subparagraph (i) with subcontractors, a standard provision representing the requirement referred to in paragraph (a) of the definition of "replaceable subcontract" in section 152,

(iii) for use in replaceable contracts or replaceable subcontracts, standard provisions representing any of the requirements prescribed under paragraph (d) (i) to (vii) of this section,

(f) prescribing what constitutes "substantially the same terms and conditions" for the purposes of paragraph (a) (ii) of the definitions of "replaceable contract" and "replaceable subcontract" in section 152, and

(g) prescribing what constitutes "substantially the same terms and conditions" for the purposes of section 158.

Agreement to make a replaceable contract or subcontract non-replaceable

157.1 (1) Despite section 160 or a regulation under section 157, the Lieutenant Governor in Council by regulation

(a) may permit the holder of a licence and the contractor who are the parties to a replaceable contract pertaining to the licence to amend the replaceable contract by written agreement to provide that it is not replaceable, and

(b) may permit the holder of a replaceable contract and the subcontractor who are the parties to a replaceable subcontract pertaining to the replaceable contract to amend the replaceable subcontract by written agreement to provide that it is not replaceable.

(2) A contract amended in accordance with a regulation under subsection (1) (a) ceases to be a replaceable contract.

(3) A subcontract amended in accordance with a regulation under subsection (1) (b) ceases to be a replaceable subcontract.

(4) A regulation under subsection (1) (a) granting permission to amend a replaceable contract by written agreement to provide that it is not replaceable does not affect any rights, against the contractor or another person, of a subcontractor who has a replaceable subcontract with the contractor pertaining to the contract.

Waiver by licensees, contractors and subcontractors of certain rights under regulations

157.2 (1) Despite sections 154 to 160 or a regulation under section 154, 155 or 157, the Lieutenant Governor in Council by regulation

(a) may permit the holder of a licence and the contractor who are the parties to a contract pertaining to the licence to amend the contract by written agreement, to provide that one or more specified provisions of regulations under sections 154 to 157 are inapplicable in relation to the contract, and

(b) may permit the holder of a contract and the subcontractor who are the parties to a subcontract pertaining to the contract to amend the subcontract by written agreement to provide that one or more specified provisions of regulations under sections 154 to 157 are inapplicable in relation to the subcontract.

(2) On and after the effective date of an amendment permitted by regulation under subsection (1) (a), the specified provisions of the regulations that are the subject of the amendment do not apply in respect of the contract.

(3) On and after the effective date of an amendment permitted by regulation under subsection (1) (b), the specified provisions of the regulations that are the subject of the amendment do not apply in respect of the subcontract.

(4) A regulation under subsection (1) (a) granting permission to amend a contract by written agreement to provide that one or more specified provisions of regulations under sections 154 to 157 are inapplicable in relation to the contract does not affect any rights, against the contractor or another person, of a subcontractor who has a replaceable subcontract with the contractor pertaining to the contract.

Special provision for certain expired contracts

158 (1) If a contract between the holder of a timber licence, replaceable forest licence or replaceable tree farm licence and a contractor expired or expires, or was or is wrongfully terminated by the holder, on or after January 25, 1991 but before the end of September 30, 1991, and

(a) the parties to the contract have not, by the end of September 30, 1991, entered into a new contract on substantially the same terms and conditions as those of the expired contract or on other terms and conditions agreed by the parties, and

(b) the contractor satisfactorily performed the contractor's obligations under the expired contract, then, on or before October 15, 1991 or a later date that, on application by the holder, the minister may specify by order, the holder of the licence must make an offer to the contractor of a replacement contract that

(c) provides for payment to the contractor of the amounts agreed by the parties or, failing agreement, of the amounts settled by mediation and arbitration under the system established under section 155,

(d) subject to a requirement as to length of term prescribed under section 157 (d) (ii), is otherwise on substantially the same terms and conditions as the expired or terminated contract, and

(e) is a replaceable contract.

(2) In the absence of agreement between the parties to an expired or terminated contract referred to in subsection (1) as to whether the contractor satisfactorily performed the contractor's obligations under the expired or terminated contract

(a) the parties must settle that issue by mediation and arbitration under the system established under section 155, and

(b) the time within which the holder of the licence must offer a replacement contract under subsection (1) is extended to a date 15 days after the settlement of that issue.

Applicability of certain prescribed provisions to existing contracts and subcontracts

159 A regulation made under or for the purpose of any of sections 152 to 161 respecting contracts of any class or subcontracts of any class

(a) may be made applicable to

(i) contracts, or

(ii) subcontracts

that were made before the time of coming into force of the regulation and are still in effect at that time as well as to

(iii) contracts, or

(iv) subcontracts

that are made after that time, and

(b) may include transitional provisions to deal with compliance with the regulation by the parties to those contracts or subcontracts.

Non-compliance with prescribed requirements for contracts and subcontracts

160 (1) A regulation prescribing a standard provision under section 154 (c), 155 (c) or 157 (e) for contracts of any class or subcontracts of any class may specify a deadline before which the parties to

- (a) any of the contracts that do not conform to the requirement represented by the standard provision, or
 - (b) any of the subcontracts that do not conform to the requirement represented by the standard provision
- must amend the contracts or subcontracts, as the case may be, to conform to the requirement.

(2) A deadline specified by regulation under subsection (1) may be expressed

(a) as a specific date applicable to all contracts of or to all subcontracts of the relevant class that were made before the time of coming into force of the regulation and are still in effect at that time, or

(b) as the end of a period of days immediately following the making of any

(i) contract, or

(ii) subcontract

that is of the relevant class and is made after the time of coming into force of the regulation.

(3) If a deadline for contracts of any class or subcontracts of any class is specified by regulation under subsection (1) and

(a) any of the contracts that does not conform to the requirement represented by the standard provision, or

(b) any of the subcontracts that does not conform to the requirement represented by the standard provision,

as the case may be, is not amended by the parties to conform to that requirement, then, effective at the deadline, the contract or subcontract, as the case may be, is conclusively deemed

(c) to be amended to include the standard provision prescribed for that requirement, and

(d) to be binding on the parties to the contract or subcontract, as the case may be, in the same way as if amended by agreement between them.

(4) An amendment made by subsection (3) to a contract or subcontract does not prevent the parties from

(a) amending the standard provision added by subsection (3), or

(b) substituting for that standard provision another provision,

as agreed by the parties, provided that the amendment or substitution complies with the requirement that is represented by the standard provision.

(5) If a standard provision added to a contract or subcontract by subsection (3) conflicts or is inconsistent with one or more other provisions of the contract or subcontract, the standard provision added by subsection (3) prevails over that other or those other provisions.

Included regulatory powers for sections 152 to 161

161 (1) A regulation made under or for the purpose of any of sections 152 to 161 may

- (a) provide that a provision of the regulations does not apply to or in respect of a person, a forest licence, timber licence or tree farm licence, or a contract or subcontract,
- (b) prescribe circumstances in which or conditions on which a provision is disapplied under paragraph (a),
- (c) for the purpose of the regulation, define classes
 - (i) of forest licences, timber licences and tree farm licences, and of holders of any of those licences,
 - (ii) of contracts and of contractors, and
 - (iii) of subcontracts and of subcontractors, and
- (d) provide differently for different classes defined under paragraph (c), or
- (e) permit the minister, by order, in prescribed situations and according to prescribed criteria, to relieve, in whole or in part,
 - (i) a holder of a forest licence, timber licence or tree farm licence,
 - (ii) a contractor, or
 - (iii) a subcontractor,who is named in the order from a requirement of the regulations, subject to the conditions, if any, imposed by the minister.

(2) Without limiting the generality of subsection (1) (c), a definition of classes under that provision may be based on the region to which a licence, contract or subcontract pertains, the volume of timber harvested or to be harvested under a licence, contract or subcontract, or on any characteristics of a licence, contract or subcontract, including when issued or made, length of term or of remaining term, or in the case of a licence or contract, whether it is replaceable.

No compensation

162 No compensation is payable by the government and proceedings must not be commenced or maintained to claim compensation from the government or to obtain a declaration that compensation is payable by the government in respect of the effect, on a forest licence, timber licence or tree farm licence or on a contract or subcontract, under any provision of the following:

- (a) sections 152 to 161 of this Act;
- (b) the regulations made under or for the purpose of a provision referred to in paragraph (a).

Division 4 — Offences and Penalties

Fines

163 (1) A person who contravenes section 84 (1), (3) or (4), 89 (1) or (2), 94 (1), 105 (5.2), 105.1 (2) or (3), 127, 127.1, 164 (1) (a), (b) or (c) or 165.1 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.

(2) A person who contravenes section 9 (2), 84 (6), 86 (3.1) or (4), 94 (4), 95 (1) or (7), 97 (1), 126 (2), 136 (1) or (1.1) or 163.1 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.

(3) A person who contravenes section 93.1 or 97 (6) commits an offence and is liable on conviction to a fine not exceeding \$50 000 or to imprisonment for not more than 6 months or to both.

(4) A person who contravenes section 90 (1) or (2), 96 (1), 124 (1), 125 or 132 (2) commits an offence and is liable on conviction to a fine not exceeding \$10 000 or to imprisonment for not more than 6 months or to both.

(5) A person who contravenes section 86 (1) or (2) 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.

(6) A person who contravenes section 136 (3) commits an offence and is liable on conviction to a fine not exceeding \$2 000 or to imprisonment for not more than 6 months or to both.

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

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

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

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

Interference, non-compliance and misleading

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

(a) employed under the Public Service Act, and

(b) is 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.

Part 3 offence

164 (1) A person must not

(a) by intimidation or threat hinder or prevent a person from making an application for an agreement, or from submitting a tender or bid, under Part 3,

(b) for an improper purpose threaten to make an application for an agreement, or to submit a tender or bid, under Part 3, or

(c) participate in or be a party to an agreement or arrangement among 2 or more persons, under which

(i) one or more of the persons agrees or undertakes not to make an application for an agreement, or to submit a tender or bid, under Part 3, or

(ii) particulars in an application made for an agreement, or the amount of a tender or bid submitted, under Part 3, by one or more of the persons are decided.

(2) Subsection (1) (c) does not apply to

(a) an agreement or arrangement made only among 2 or more corporations that are affiliated within the meaning of the Business Corporations Act, or

(b) an application for an agreement under this Act made jointly by 2 or more persons.

(3) A person who is convicted of an offence under subsection (1), and a corporation controlled by that person, is disqualified from making an application under Part 3, either on the person's own application or through an agent, for 2 years after the date of the person's conviction.

Cancellation and disqualification

164.1 (1) In this section, "official" means an official designated by the minister.

(2) If, after giving a person an opportunity to be heard, an official determines that the person has contravened any of paragraphs (a) to (c) of section 164 (1), the official may do either or both of the following:

(a) cancel an agreement referred to in section 12 that is held by or on behalf of the person, if the official believes on reasonable grounds that the person, in relation to the agreement, derived or could have derived any benefit as a result of the contravention;

(b) disqualify the person from making an application under Part 3, either on the person's own application or through an agent, for not more than 10 years.

(3) If, under subsection (2), an official determines that a corporation has contravened any of paragraphs (a) to (c) of section 164 (1), a person who is an officer, director or agent of the corporation is subject to the consequences described in subsection (2) if, after giving the person an opportunity to be heard, an official determines that the person authorized, permitted or acquiesced in the contravention.

Repealed

165 [Repealed 2003-31-75.]

Prohibition against restricting competition in sale or purchase of logs

165.1 (1) In this section, "timber" means timber harvested under an agreement referred to in section 12 and offered by or on behalf of the holder for sale as logs.

(2) A person must not conspire, combine, agree or arrange with another person to prevent, limit or lessen competition in the purchase or sale of timber

(a) by arriving at a maximum amount to be paid by the person or persons for the timber,

(b) by implementing a strategy in relation to the purchase or sale of the timber, or

(c) by another method.

Remedies preserved

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

Officers of corporation

166 If a corporation commits an offence under this Act, an officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence commits the offence and, despite that the corporation is convicted, is liable on conviction to fine and imprisonment.

Repealed

167 [Repealed 2003-55-88.]

Defences to a prosecution

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

Section 5 of the Offence Act

167.2 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

167.3 (1) Divisions 1 to 3 of Part 6 of the Forest and Range Practices Act apply to this Act and the regulations under this Act, unless the context indicates otherwise.

(2) [Repealed 2015-10-82.]

Part 13 — Designated Areas

Definition

168 In this Part:

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

"designated area" means an area of Crown land specified under section 169 (1).

Specifying Crown land as a designated area

169 (1) The Lieutenant Governor in Council, by regulation, may

(a) specify Crown land as a designated area, for a period set out in the regulation, if the Lieutenant Governor in Council believes it is in the public interest to specify the Crown land as a designated area, and

(b) repeal or amend a regulation under paragraph (a).

(2) The maximum period during which Crown land may continue as a designated area under regulations made under this section is 10 years, beginning on the day the Crown land first becomes a designated area.

What is the effect of specifying a designated area?

170 (1) In this section, "issue" means issue, grant, enter into or approve.

(2) If a permit, licence or plan referred to in subsection (3) relates to all or part of a designated area, the minister, by written order, may

(a) suspend in whole or in part or vary the permit, licence or plan, or

(b) direct a person who, under this Act, the Forest and Range Practices Act or the Forest Practices Code of British Columbia Act, has a discretion to issue the permit, licence or plan

(i) to not issue the permit, licence or plan, or

(ii) in whole or in part, to issue the permit, licence or plan with terms and conditions, if any, that the person considers appropriate to take into account the relationship of the permit, licence or plan to the designated area.

(3) The following are the permits, licences or plans to which subsection (2) applies:

- (a) a cutting permit;
- (b) a road permit or road use permit;
- (c) a timber sale licence;
- (d) a free use permit;
- (e) a licence to cut;
- (f) a special use permit;
- (g) an operational plan;
- (h) a management plan for a tree farm licence, pulpwood agreement, community forest agreement, first nations woodland licence or woodlot licence;
- (i) a plan required under an agreement;
- (j) a plan relating to an agreement for the management, development or use of Crown land.

(4) A suspension or variation under subsection (2) (a) expires, and the permit, licence or plan that was suspended or varied is restored to its original form, when the Crown land to which the suspension or variation relates ceases to be a designated area or on an earlier expiry date, if any, ordered in writing by the minister.

(5) If a person who, under this Act, the Forest and Range Practices Act or the Forest Practices Code of British Columbia Act, has a discretion to issue a permit, licence or plan, in this subsection called the "issuing authority",

(a) receives an application for the permit or licence or receives a plan submitted for approval, whether before, on or after the date of an order of the minister making a direction referred to in subsection (2) (b), and

(b) by reason only of the direction,

(i) does not issue the permit, licence or plan, or

(ii) in whole or in part, issues the permit, licence or plan as permitted under subsection (2) (b) (ii),

then, subject to subsection (6), after the Crown land to which the direction pertains ceases to be a designated area, or after an earlier date, if any, ordered in writing by the minister, the issuing authority must issue the permit, licence or plan, or, in the case of one previously issued as authorized under subsection (2) (b) (ii), must amend the permit, licence or plan to give effect as nearly as practicable to the original application or submission.

(6) The requirement in subsection (5) that a permit, licence or plan be issued, or amended to give effect as nearly as practicable to the original application or submission, is subject to the issuing authority

(a) continuing to have the discretion to carry out that requirement, and

(b) receiving confirmation from the applicant or from the person that submitted the plan that the applicant or person wishes to proceed.

(7) In issuing or amending a permit, licence or plan under subsection (5) the person who has the discretion may include terms and conditions that the person with the discretion considers necessary or desirable in the circumstances.

(8) The minister, by written order, may vary a variance, suspension or direction made under subsection (2).

(9) The minister must serve a copy of an order made under subsection (2), (4), (5) or (8) on the holder of

(a) an agreement, and

(b) a special use permit

to which the order relates, but the order is not invalid only because it is not served.

(10) A suspension referred to in this section is not a suspension for the purposes of section 76 or 77.

Conditions

171 (1) The minister, by written order, may attach conditions to an agreement or to a special use permit if the agreement or special use permit relates to all or part of a designated area.

(2) A condition under subsection (1) expires when the Crown land it relates to ceases to be a designated area or on an earlier expiry date, if any, ordered in writing by the minister.

(3) The minister, by written order, may vary a condition made under this section.

(4) The minister must serve a copy of an order made under this section on the holder of the agreement or special use permit affected by the order, but the order is not invalid only because it is not served.

Suspension and cancellation

172 (1) If a permit, licence or plan is varied under section 170, the failure of the holder of, or party to, the permit, licence or plan to comply with the variance is grounds for a suspension under section 76, in whole or in part, of the agreement to which the permit, licence or plan relates.

(2) If under section 171 a condition is attached to an agreement, the failure of the holder of the agreement to comply with the condition is grounds for a suspension under section 76, in whole or in part, of the agreement.

(3) If a special use permit is varied under section 170 or has a condition attached to it under section 171, the failure of the holder of the permit to comply with the variance or condition is grounds for the suspension or cancellation of the permit and sections 76 to 77, other than section 77 (5), apply to the suspension or cancellation.

Allowable annual cut and allowable harvest in a designated area

173 (1) In subsections (3) to (5):

"base level allowable annual cut" means the allowable annual cut that is prescribed for the purposes of this section;

"exempt licence" means a licence described in subsection (4);

"licence" means a forest licence.

(2) The chief forester, by written order, may reduce the allowable annual cut of

(a) a timber supply area, or

(b) a tree farm licence area,

if all or part of the area is a designated area.

(2.1) An allowable annual cut reduction under subsection (2)

(a) for the designated area to which it relates, may be made effective on or after the date the designated area is specified under section 169 (1), and

(b) may specify that portions of the reduction are attributable to different types of timber and terrain in different parts of Crown land within the designated area.

(3) If the chief forester reduces the allowable annual cut of a timber supply area under subsection (2), the minister, by written order, may do either or both of the following:

(a) proportionately reduce, by the method set out in subsection (5), the allowable annual cut authorized in all of the licences that are not exempt licences in the timber supply area;

(b) reduce the allowable annual cut authorized in a licence if all or part of the area from which timber may be harvested under the licence is a designated area.

(3.1) An allowable annual cut reduction under subsection (3) may be made effective on or after the date on which the chief forester's order to which it relates is made or is made effective.

(4) An exempt licence is a licence that

(a) specifies an allowable annual cut that is less than the base level allowable annual cut, or

(b) is for a term that is less than the prescribed term.

(5) A reduction in allowable annual cut imposed under subsection (3) (a) in a timber supply area must be apportioned among all the licences in that area, except exempt licences, in accordance with the following method:

(a) first, calculate a reduction in allowable annual cut for each licence by distributing the part of the reduction under subsection (2) that the minister may assign to the licences proportionately among them according to the relative sizes of the allowable annual cut specified in each licence;

(b) second, calculate for each licence the annual volume of timber, if any, by which the calculations under this subsection reduce the allowable annual cut for that licence to less than the base level allowable annual cut;

(c) third, calculate the aggregate of the annual volumes of timber calculated under paragraph (b);

(d) fourth, for each licence for which the calculation under paragraph (b) does not reduce the allowable annual cut to less than the base level allowable annual cut, calculate a further reduction in allowable annual cut by distributing the amount determined under paragraph (c) proportionately among those licences according to the relative sizes of the allowable annual cut specified in each of them;

(e) fifth, repeat the calculations under paragraphs (b) to (d) until the end result of all the calculations is that the allowable annual cut for any of the licences is not reduced to a level that is less than the base level allowable annual cut.

(6) The minister, by written order, may reduce the allowable annual cut authorized for a community forest agreement area, first nations woodland licence area or woodlot licence area if all or part of the area is a designated area.

(6.1) An allowable annual cut reduction under subsection (6), for the designated area to which it relates, may be made effective on or after the date the designated area is specified under section 169 (1).

(7) If the chief forester or minister makes an order under subsection (2), (3) or (6) that affects a timber supply area, tree farm licence area, forest licence, community forest agreement area, first nations woodland licence area or woodlot licence area and, after the order is made, a determination or reduction is made under section 8 or 63 that establishes a new allowable annual cut for the timber supply area, tree farm licence area, forest licence, community forest agreement area, first nations woodland licence area or woodlot licence area, the chief forester or minister, as the case may be, may issue a new order under subsection (2), (3) or (6) that affects the area or licence.

(8) The chief forester or minister, as the case may be, must serve a copy of an order made under this section on the holder of an agreement to which the order relates, but the order is not invalid only because it is not served.

(9) An order under subsection (2), (3), (6) or (7) expires when the Crown land it relates to ceases to be a designated area.

(10) After an order expires under subsection (9), the allowable annual cut for the timber supply area, tree farm licence area, community forest agreement area, first nations woodland licence area, woodlot licence area, or forest licence that was affected by the order is the allowable annual cut that was in effect immediately before the last order made under this section less any reductions made under this Act or the licence, other than reductions made under this section, during the period that the order was in effect.

(11) [Repealed 2000-6-19.]

Effect of reduction on annual allowable cut determination

173.1 (1) Neither a reduction in allowable annual cut under section 173 (2), nor a restoration of an allowable annual cut under section 173 (10), constitutes a determination of an allowable annual cut for the purposes of the time limits set out in section 8 (1) and (2).

(2) Section 8 does not apply to a reduction of an allowable annual cut under section 173.

(3) If an allowable annual cut of a timber supply area or tree farm licence area is reduced under section 173, the chief forester is not required to make an allowable annual cut determination under section 8 (1) in respect of those areas at the times set out in section 8 (1) or (2) (c) or (d), but must make that determination within 2 years after the designated area to which the reduction applies ceases to be a designated area.

Order prevails

174 If an order made in accordance with this Part conflicts or is inconsistent with

(a) this Act, the Forest and Range Practices Act, the Forest Practices Code of British Columbia Act, the Wildfire Act or any regulations or standards made under those Acts,

(b) an agreement, or

(c) a permit, licence or plan listed in section 170 (3),

the order prevails.

Hearing not required

175 An order may be made under this Part without a hearing.

No compensation during first 4 years of designation

175.1 During and in respect of the first 4 year period in which Crown land continues as a designated area, no compensation or damages is payable by the government to the holder of any agreement because of or arising out of the designated land status of all or any part of the Crown land to which the agreement relates.

Compensation for 5th and subsequent years of designation

175.2 (1) If Crown land specified under section 169 as a designated area continues as a designated area for more than 4 years, each holder of an agreement on whom the designated land status, of all or any part of the Crown land to which the agreement relates, has an adverse economic effect is entitled to compensation from the government in an amount determined in accordance with subsection (2).

(2) The compensation to which the holder of an agreement is entitled under subsection (1) is an amount equal to the value of the harvesting rights under the agreement that

(a) pertain to that part of the period, during which the Crown land specified under section 169 continues as a designated area, that exceeds 4 years, and

(b) are not exercisable because of the effect on the agreement of

(i) the designated land status, of all or any part of the Crown land to which the agreement relates, and

(ii) this Part or actions that, in accordance with this Part, are taken or not taken.

Set-off for benefits previously received

175.3 The amount of compensation payable under section 175.2 to the holder of an agreement affected by the specification of a designated area must be reduced by any financial benefit or other benefit received by that holder from the government arising out of the specification.

Limit on compensation

175.4 (1) In this section, "compensation" includes damages.

(2) The compensation payable to the holder of an agreement because of or arising out of

(a) the specification of a designated area,

(b) an order made under this Part, or

(c) either of the things specified in paragraphs (a) or (b) in combination with the other

is limited to the amount of compensation determined in relation to that agreement under sections 175.2 and 175.3.

(3) No action lies and an action or other proceeding must not be brought or continued against the government for compensation in an amount that exceeds the amount limited under this section.

Part 14 — Nisga'a Final Agreement Implementation

Repealed

176 [Repealed 2014-32-29.]

Repealed

177 [Repealed RS1996-157-179.]

Award of licences

178 (1) In this section, "contractor" and "subcontractor" have the same meaning as in section 152.

(2) If, as a result of the Nisga'a Final Agreement, the holder of an agreement or a contractor or subcontractor loses the right to harvest Crown timber, the regional manager may enter into a forest licence or forestry licence to cut, or the district manager may enter into a forestry licence to cut, with the agreement holder, contractor or subcontractor without advertising or accepting applications from other persons.

(3) The volume of timber authorized by the forest licence or forestry licence to cut referred to in subsection (2) must not exceed the volume of timber that would compensate the agreement holder, contractor or subcontractor for the loss of the right to harvest timber as result of the Nisga'a Final Agreement.

Spent

179 [Spent. RS1996-157-179.]