

**FOREST LAND RESERVE ACT**  
[RSBC 1996] CHAPTER 158

Part 1 -- Interpretation

Definitions

1 (1) In this Act:

"agricultural reserve land" means land that is or is part of an agricultural land reserve under the Agricultural Land Commission Act;

"approving officer" means an approving officer as defined in the Land Title Act;

"assessment commissioner" means the assessment commissioner under the Assessment Authority Act;

"commission" means the Forest Land Commission continued under section 3;

"Crown land" means Crown land as defined in the Land Act;

"Crown licence land" means private land to which a tree farm licence under the Forest Act applies;

"first nation" means an aboriginal governing body, however organized and established by aboriginal people within their traditional territory in British Columbia;

"forest management plan" means a forest management plan under section 24 of the Assessment Act;

"forest reserve land" means land that is designated as forest reserve land by or under section 10, 11 or 12;

"local government" means,

(a) in relation to land within a municipality, the municipal council,

(b) in relation to land within an electoral area, the board of the regional district, and

(c) in relation to land within a local trust area under the Islands Trust Act, the local trust committee or the executive committee acting as local trust committee for that area;

"managed forest land" means managed forest land as defined in section 24 of the Assessment Act;

"private" means, in relation to land, land other than Crown land;

"recapture charge" means the recapture charge payable in relation to the removal of private land from the reserve, calculated in accordance with section 24 and including, if applicable, interest payable under section 21;

"removal" means, in relation to land that is forest reserve land, removal of that land from the reserve in accordance with Part 4;

"reserve" means the Forest Land Reserve referred to in section 9.

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

Act applies to government

2 Despite section 14 (2) of the Interpretation Act, this Act binds the government.

Part 2 -- Forest Land Commission

Commission continued

3 (1) The Forest Land Commission is continued as a corporation consisting of the members appointed under section 5.

(2) The commission is an agent of the government.

Object of the commission

4 The object of the commission is to minimize the impact of urban development and rural area settlement on forest reserve land and to work to this end with local governments, first nations and other communities of interests.

#### Appointment of commission members

5 (1) The Lieutenant Governor in Council may appoint no fewer than 3 individuals as members of the commission and may establish the terms of their appointment.

(2) The members are the board of directors of the commission.

(3) The term of office of a member is during pleasure, but must not exceed 4 years.

(4) A member or former member may be reappointed to the commission.

(5) The Lieutenant Governor in Council must designate one of the directors as chair of the commission and may designate another as vice chair of the commission.

(6) A member must be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in discharging the member's duties and, in addition, may be paid the remuneration set by the Lieutenant Governor in Council.

(7) The Lieutenant Governor in Council may provide that the Pension (Public Service) Act applies to members.

#### Staff of the commission

6 (1) The person appointed under the Agricultural Land Commission Act as general manager of the Agricultural Land Commission is the chief officer of the commission under this Act.

(2) The commission may determine the functions and duties of the chief officer.

(3) The commission may appoint other officers and employees necessary for the purposes of this Act and may determine their duties and remuneration.

(4) The Public Service Act and the Public Service Labour Relations Act apply to the commission and its officers and employees, other than the chief officer, except that the references to the commissioner and a deputy minister in section 22 of the Public Service Act are to be read as references to the chief officer.

(5) The commission may retain consultants as it considers advisable and may set their remuneration.

#### Operation of the commission

7 (1) Subject to this Act and the regulations, the commission may pass resolutions and bylaws it considers necessary or advisable for the management and conduct of its affairs and for the performance of its duties and the exercise of its powers.

(2) For the purposes of making a decision under this Act, any 3 members of the commission have and may exercise all the powers of the commission.

#### Financial and corporate matters

8 (1) The financial year end of the commission is March 31 and the Minister of Finance and Corporate Relations is the fiscal agent of the commission.

(2) Within 90 days after the end of each financial year, the commission must submit to the minister

(a) a report of its operations during the preceding financial year, and

(b) a financial statement showing its business for that financial year, prepared in accordance with generally accepted accounting principles and in the form required by the Minister of Finance and Corporate Relations.

(3) The report and statement under subsection (2) must be laid before the Legislative Assembly, within 30 days following their receipt if the Legislative Assembly is then sitting and otherwise as soon as practicable.

(4) Subject to subsection (5), the Company Act and the Company Clauses Act do not apply to the commission.

(5) The Lieutenant Governor in Council may, by order, declare that specified provisions of the Company Act apply to the commission.

### Part 3 -- Forest Land Reserve

#### Forest Land Reserve

9 (1) The Forest Land Reserve consists of

- (a) private land that is designated as forest reserve land by section 10,
- (b) additional private land that is designated as forest reserve land by or under section 11, and
- (c) Crown land that is designated as forest reserve land under section 12.

(2) Land that is designated as forest reserve land remains forest reserve land unless the land is removed from the reserve in accordance with Part 4.

(3) The commission must maintain records of

- (a) the amount and quality of land within the reserve,
- (b) the amount and quality of land added to the reserve in each year, and
- (c) the amount and quality of land removed from the reserve in each year.

#### Initial forest reserve land

10 (1) Land that, on July 8, 1994, is

- (a) Crown licence land, or
- (b) land described in subsection (2),

is designated as forest reserve land effective that date.

(2) Private land, other than agricultural reserve land and land referred to in subsection (1) (a) or

(3), is designated as forest reserve land under subsection (1) (b) if

(a) it was classified under the Assessment Act as managed forest land for the purposes of taxation in the 1993 taxation year

(i) on the applicable assessment roll authenticated under section 37 (11) of that Act, or

(ii) by way of supplementary assessment roll or in accordance with an order of the Assessment Appeal Board, or

(b) the owner of the land applied before October 31, 1993 to have the land classified under the Assessment Act as managed forest land and that classification was approved under that Act for the 1994 taxation year.

(3) Private land is not designated under subsection (1) (b) as forest reserve land if

(a) before the 1994 taxation year, the owner of the land notified the assessment commissioner that the land would cease to be managed under a forest management plan for that taxation year, and

(b) on the basis of this notice the land was not classified as managed forest land for the purposes of taxation in the 1994 taxation year on the applicable assessment roll authenticated under section 37 (11) of the Assessment Act.

#### Additional private forest reserve land

11 (1) Private land becomes designated as forest reserve land if it

- (a) becomes Crown licence land, or
- (b) is designated by the commission under this section.

(2) On application of the owner of private land made in accordance with section 26, the commission may designate the land as forest reserve land.

(3) With the agreement of the owner, the commission may designate as forest reserve land only part of the land for which an application under subsection (2) was made.

(4) The commission must refer an application under subsection (2) to the applicable local government for its consideration.

(5) A local government to which an application is referred under subsection (4) must review the application and provide the commission with its comments and recommendations concerning the application.

(6) In order for a designation under subsection (2) or (3) to be effective,

(a) a forest management plan must apply to the land, and

(b) in the case of agricultural reserve land, the Provincial Agricultural Land Commission must approve the designation.

#### Crown forest reserve land

12 (1) The Lieutenant Governor in Council may designate as forest reserve land that part of Crown land within the Provincial forest under the Forest Act that the Lieutenant Governor in Council considers should be protected under this Act.

(2) Before making an order under this section, the Lieutenant Governor in Council may refer the proposal to the commission for its comments.

#### Permitted uses of forest reserve land

13 (1) Forest reserve land that is Crown land or Crown licence land must not be used except as permitted by or under the Forest Act or the Forest Practices Code of British Columbia Act.

(2) Forest reserve land, other than Crown land or Crown licence land, must be used in a way that is consistent with one or more of the following:

(a) timber production, utilization and related purposes;

(b) forage production and grazing by livestock and wildlife;

(c) forest or wilderness oriented recreation, scenery and wilderness purposes;

(d) water, fisheries and wildlife, biological diversity and cultural heritage resources purposes;

(e) a use or occupation authorized under the Coal Act, Geothermal Resources Act, Mineral Tenure Act or Petroleum and Natural Gas Act;

(f) a use or purpose permitted by the regulations, subject to any applicable conditions established by the commission;

(g) a use specifically permitted by the commission under section 14 in relation to the land on which the use is to take place.

#### Specifically permitted uses of forest reserve land

14 (1) Subject to the regulations, on application of the owner made in accordance with section 26, the commission may permit a use of forest reserve land referred to in section 13 (2) other than one authorized by paragraphs (a) to (f) of that section.

(2) If applicable, before or at the same time as making the application under subsection (1), the owner must apply to the applicable local government for the authorization required by subsection (3).

(3) If an application under this section requires, in order to proceed, an amendment to an official settlement plan, official community plan, official development plan, rural land use bylaw or zoning bylaw of a local government, the application may not proceed under this section unless authorized by a resolution of the local government.

(4) Subject to the regulations, the commission may make a use permitted under this section subject to any conditions the commission considers advisable.

(5) Without limiting subsection (4), the commission may require as a condition of permitting a use that a covenant against the land in favour of the commission be registered under section 219 of the Land Title Act.

#### Non-conforming uses of forest reserve land

15 (1) As an exception to section 13 (2), if on June 23, 1994 private forest reserve land subject to the restrictions of that provision was lawfully used for other than a purpose or use permitted by that provision, the use may be continued as a non-conforming use.

(2) Subsection (1) does not authorize the non-conforming use to be continued on a scale or to an extent or degree greater than that at the time referred to in that subsection.

(3) For certainty,

(a) the exception in subsection (1) applies only to the land that was actually being used for a use other than one permitted by section 13 (2) and not to the entire parcel on which that use was being conducted, and

(b) a change of owners, tenants or occupants of the land does not, merely because of the change, affect the use of the land.

(4) The exception for a non-conforming use under subsection (1) ceases to apply if

(a) the use ceases to be lawful under another enactment, or

(b) the non-conforming use is discontinued for a continuous period of 6 months.

(5) For the purposes of subsection (4) (b), the use of forest reserve land for seasonal uses or for agricultural purposes is not discontinued as a result of normal seasonal or agricultural practices, including

(a) seasonal, market or production cycles,

(b) the control of disease or pests, or

(c) the repair, replacement or installation of equipment to meet environmental standards or standards for the health or safety of people or animals.

#### Restriction on subdivision of forest reserve land

16 (1) A parcel, all or part of which is private forest reserve land other than Crown licence land, must not be subdivided unless

(a) the subdivision is permitted under the regulations without approval of the commission, or

(b) the subdivision is approved by the commission under subsection (3) or in conjunction with the removal of all or part of the parcel from the reserve.

(2) An owner who wishes to have a parcel referred to in subsection (1) subdivided must

(a) indicate to the applicable approving officer in the application for subdivision that the subdivision affects forest reserve land, and

(b) if subsection (1) (b) applies, at the time the application for subdivision is submitted, apply to the commission in accordance with section 26 for approval of the subdivision.

(3) If an application for approval of a subdivision to which subsection (1) applies is not made in conjunction with an application for removal of the land from the reserve, the commission may approve the subdivision if satisfied that the subdivision will not affect the use of the forest reserve land in accordance with the objects of this Act.

(4) The commission may require, as a condition of authorizing a subdivision under this section, that a covenant against the land in favour of the commission be registered under section 219 of the Land Title Act.

#### Restriction on local government authority regarding uses of forest land

17 (1) A local government must not

(a) adopt a bylaw under any enactment, or

(b) issue a permit under Part 21 or 26 of the Municipal Act

that would have the effect of restricting, directly or indirectly, a forest management activity relating to timber production or harvesting

(c) on land that is forest reserve land, or

(d) on managed forest land other than forest reserve land, so long as the managed forest land continues to be used only for that purpose.

(2) For certainty, this section applies if the bylaw or permit would have the effect described in subsection (1) even though the bylaw or permit does not directly apply to land referred to in that subsection.

#### Part 4 -- Removal of Land from the Reserve

##### Removal of private land from the reserve

18 (1) On application of the owner in accordance with section 26, the commission may approve the removal of private land from the reserve in accordance with this Part.

(2) Subject to the regulations, the commission may make a removal subject to conditions specified by the commission.

(3) If a removal is approved by the commission, the designation of land as forest reserve land is removed when

(a) any applicable conditions under subsection (2) have been met, and

(b) the applicant pays to the government any applicable recapture charge under section 21.

(4) The commission must refer an application under this section to the applicable local government for its consideration.

##### Criteria for removal

19 (1) The commission may approve a removal if satisfied that the removal is in the public interest and, in relation to this, must consider the following:

(a) the recommendations of the local government under section 20;

(b) the suitability of the land for the growing and harvesting of trees, given its topography, accessibility, soil quality, location and any area of continuous forest land of which the land is a part;

(c) the effect of the proposed removal on adjacent forest reserve land.

(2) Without limiting subsection (1), the commission may consider the social and economic impact of the proposed removal if it considers this advisable.

(3) The commission must give to the applicant and to the local government written notice of its decision regarding an application under this section and the reasons for it.

##### Local government consideration of applications for removal

20 (1) For the purposes of this section, "urban area" means an area on which there is such intensive use of land for buildings, structures and impermeable surfaces as to be incompatible with the use of that land for agricultural, forest or mining purposes.

(2) A local government to which an application for removal from the reserve has been referred

(a) must review the application and provide the commission with its comments and recommendations concerning the application,

(b) must have notice of the proposal published in accordance with section 4 of the Municipal Act at least twice before it makes its recommendations to the commission, and

(c) if it considers it appropriate, may conduct a public meeting regarding the proposed removal.

(3) The local government may apply whatever criteria it considers appropriate in determining whether to support an application for removal but must identify these criteria to the commission and must specifically indicate to the commission its views concerning the applicable criteria referred to in subsections (4) and (5).

(4) Without limiting the authority of the local government under subsection (3), if the land proposed to be removed is adjacent to an urban area, the local government must consider whether, in its opinion, the land

(a) is a logical extension of existing urban areas,

(b) can be provided with public services and facilities efficiently and cost effectively, and

(c) is the most appropriate for accommodating the growth anticipated by the local government in its official community plan or otherwise.

(5) If the land proposed to be removed is not adjacent to an urban area, the local government must consider whether, in its opinion,

(a) the land has rural or recreational characteristics of significance to the community, and

(b) these characteristics are protected by policies of the local government through its official community plan or otherwise.

#### Recapture of tax benefit

21 (1) A recapture charge becomes payable if and when the commission approves the removal of the land.

(2) If the recapture charge is not paid within 30 days after the commission gives the applicant notice that it has approved removal of the land, the recapture charge payable is increased by interest at a rate prescribed by regulation.

(3) The approval of the commission ceases to be effective for the purposes of section 18 (3) if the recapture charge is not paid within 90 days after the commission approves removal of the land.

(4) A recapture charge is not required to be paid in the following circumstances:

(a) the removal is for a right of way or easement;

(b) the removal is for circumstances prescribed by regulation as circumstances in which a recapture charge is not required to be paid;

(c) the removal is specifically exempted by regulation.

#### Determination of land values for purposes of the recapture charge

22 (1) On receiving an application under section 18 for removal of private land from the reserve, the commission must refer the application to the assessment commissioner for a determination under this section.

(2) Within 90 days after a referral under subsection (1), the assessment commissioner must provide to the commission a statement of the values determined under this section in relation to the land proposed to be removed.

(3) The assessment commissioner must determine the following values for that part of the land to which a forest management plan applies:

(a) the fair market value of that land, being the actual value of the land for the taxation year in which the application was made, if that value had been determined in accordance with sections 18 and 19 of the Assessment Act;

(b) the forest land value of that land, being actual value of the land for the taxation year in which the application was made, as determined under section 24 (5) (a) of the Assessment Act.

(4) If the forest land value referred to in subsection (3) (b) is changed under the Assessment Act for the applicable taxation year after the assessment commissioner makes a determination under this section, other than in relation to an appeal that is required to be dealt with under section 23 (6), the assessment commissioner must provide the commission with a statement of the change.

#### Appeal of valuation used to determine recapture charge

23 (1) An applicant may appeal the fair market value determined under section 22 (3) (a) to the Assessment Appeal Board in accordance with this section.

(2) In order to appeal, within 30 days after the applicant receives the statement of the calculation under section 24 (3), the applicant must serve a notice of appeal on the Assessment Appeal Board, the assessment commissioner and the commission.

(3) The notice of appeal served on the board must be accompanied by the prescribed fee.

(4) The board must set a time, date and place for the hearing of the appeal and must give notice of this to the applicant, the assessment commissioner and the commission.

(5) Parts 5, 6 and 8 of the Assessment Act apply to an appeal under this section.

- (6) If an applicant who is appealing under subsection (1) is also appealing under the Assessment Act the forest land value referred to in section 22 (3) (b), then despite that Act the appeal of the forest land value must be determined under this section, both for the purposes of this Act and that Act, by the Assessment Appeal Board in conjunction with the appeal of the fair market value.
- (7) If a fair market value or forest land value is changed under this section, the assessment commissioner must provide the commission with a statement of the change.

#### Calculation of charge for recapture of tax benefit

24 (1) After receiving the determination of the assessment commissioner under section 22, the commission must calculate the recapture charge for a removal in accordance with the following formula:

$$\text{recapture charge} = (\text{FMV} - \text{FLV}) \times \text{RR}$$

where

FMV = the fair market value determined under section 22 (3) (a);

FLV = the forest land value determined under section 22 (3) (b);

RR = the recapture rate prescribed by regulation.

- (2) If the amount calculated under subsection (1) is less than zero, the recapture is deemed to be nil.
- (3) Before approving a removal, the commission must deliver to the applicant a statement of the original calculation under subsection (1).
- (4) If the commission is notified of a change under section 22 (4) or 23 (7), the commission must recalculate the amount of recapture charge and notify the applicant of this change.
- (5) If an applicant has paid the recapture charge as originally determined and this is reduced under subsection (4), the applicant is entitled to a refund of the difference between the recapture charge determined to be payable and the amount paid, together with interest on this difference at the prescribed rate.
- (6) The Minister of Finance and Corporate Relations may pay a refund under subsection (5) out of the consolidated revenue fund.

#### Removal of Crown land from the reserve

- 25 (1) The Lieutenant Governor in Council may, by order, remove Crown land from the reserve.
- (2) Before an order is made under subsection (1), unless the removal is for a purpose prescribed by regulation or the Lieutenant Governor in Council considers this to be in the public interest, the minister must refer the proposed removal to the commission for its comments.
- (3) As soon as possible after receiving a proposal referred to it under subsection (2), the commission must review the proposal and provide the minister with its comments and recommendations, which the minister must then provide to the Lieutenant Governor in Council.

#### Part 5 -- Procedures for Applications to the Commission

##### How to apply

26 (1) An application to which this section applies must be made in writing and include the following:

- (a) the name and address of the owner of the land who is making the application;
- (b) if the address referred to in paragraph (a) is inappropriate, an address at which legal and other documents relating to the application may be served on the owner;
- (c) a statement of the nature of the application;
- (d) an identification of the land in relation to which the application is made, in a form satisfactory to the commission;
- (e) a statement of the reasons for the application;
- (f) any other information required to be included by regulation.



- (2) If applicable, an application must be in the prescribed form.
- (3) The application must be delivered to the commission together with any applicable fee established by regulation.

Consultation with local government, first nations and other interested organizations

27 The commission may refer any application under this Act to one or more of the following for information or comment:

- (a) a local government;
- (b) a first nation;
- (c) an organization recognized by the commission as representing a community of interests that may be affected by the application.

General authority of commission in relation to applications

28 (1) Subject to any requirements of the regulations, the commission may decide an application on the basis of written submissions only or on the basis of a hearing.

(2) The commission may in its discretion

- (a) give public notice of an application as it considers appropriate, and
- (b) hold a public meeting or conduct a public hearing regarding an application.

(3) In circumstances prescribed by regulation, the commission may require an applicant to

- (a) give notice of the application in accordance with the regulations before submitting the application, and
- (b) provide evidence, satisfactory to the commission, that the applicant has complied with the notice requirements of the regulations.

(4) In addition to the information in the application, the commission may require an applicant to provide further information the commission considers necessary to make a decision respecting the application.

Completion of proceedings

29 (1) Subject to subsection (2), a member of the commission may take up and carry on to completion all proceedings commenced under this Act but not completed before the member's appointment.

(2) A member of the commission who was not present at the hearing of an application or other matter under this Act may vote on the application or matter only if a record of the hearing is given to the member before the vote.

## Part 6 -- General

Service and receipt of documents

30 If this Act or the regulations require or authorize the commission to serve a notice or other document on a person, the service may be effected by one of the following:

- (a) by personal service, in which case service is effected when the person is served;
- (b) by registered mail to the person's last known address, in which case service is deemed to be effected on the 14th day after the document was sent by registered mail;
- (c) if the person or address are not known, by publication once in a newspaper having general circulation in the locality in which the land is situated, in which case service is deemed to be effected on the seventh day after the date of publication.

Access to forest management plans

31 (1) On request of the commission, the assessment commissioner must provide without charge to the commission copies of forest management plans and reports under section 24 of the Assessment Act in relation to private forest reserve land other than Crown licence land.

(2) A member of the commission, another person appointed under this Act or any other person who has custody or control of information or records obtained under subsection (1) must not disclose the information or records to any other person except in the course of performing duties or exercising powers under this Act.

#### Inspections

32 (1) The only persons who may exercise a power under subsection (2) are members of the commission and persons who are authorized in writing by the commission for the purposes of this section.

(2) A person authorized under subsection (1) may, for the purpose of deciding an application under this Act in relation to private forest reserve land, other than Crown licence land, or ensuring compliance in relation to such land with this Act, a regulation under this Act, a forest management plan or an order of the commission, do one or more of the following:

- (a) enter any land, other than a dwelling house;
  - (b) make any surveys, analyses, inspections, examinations or tests that are necessary to determine
    - (i) the current use of the land,
    - (ii) the suitability of the land for forest use, or
    - (iii) the potential impact on forest reserve land of proposed changes to the use of the land;
  - (c) remove soil and vegetation samples for the purposes of conducting the analyses and tests referred to in paragraph (b).
- (3) A person must not hinder, obstruct, impede or otherwise interfere with a person exercising a power under subsection (2).

#### Enforcement by temporary orders of the commission

33 (1) If the commission considers that a present or future activity on or use of private forest reserve land, other than Crown licence land, may contravene this Act, the regulations, an applicable forest management plan or a condition imposed by the commission under this Act, the commission may order that, for a specified period not longer than 60 days,

- (a) the activity or use must not be continued or commenced on the land by any person, or
- (b) the activity or use may be continued or commenced only in accordance with conditions established by the commission.

(2) An order under subsection (1) becomes effective when it is served on the owner or occupant.

(3) In the circumstances referred to in subsection (1), the commission may order the owner or occupant of the land to make written or oral submissions, as required by the commission, addressing the likelihood of impairment of the land for a use permitted under section 13.

#### Enforcement by court injunction

34 (1) The commission may apply to the Supreme Court for an injunction under this section if the commission considers that a present, past or future activity on or use of private forest reserve land, other than Crown licence land, may contravene this Act, the regulations, an applicable forest management plan or an order or condition imposed by the commission under this Act.

(2) On application of the commission, the Supreme Court may grant an injunction ordering one or more of the following:

- (a) that a person must not continue or commence an activity or use of the land;
- (b) that an activity or use of the land may only be continued or commenced in accordance with conditions established by the court or the commission;
- (c) in the case of an activity or use that is present or past, that a person must undertake remediation of the land to return it to its condition before the activity or use was commenced or a condition that will allow the land to be used as permitted under section 13.

#### Requirement for security

35 The commission may require an applicant whose application under this Act has been granted on condition or a person who has been ordered under section 34 to undertake remediation, to post a bond in accordance with the Bonding Act to ensure compliance with the condition or order.

No compensation for reserve land

36 It is conclusively deemed for all purposes, including for the purposes of the Expropriation Act, that land is not taken or injuriously affected because of its designation by or under this Act as forest reserve land.

Power to make regulations

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

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

- (a) establishing policies and procedures to be followed by the commission in conducting its affairs, performing its duties and exercising its powers under this Act;
- (b) establishing time periods in which something required or authorized by this Act must be done;
- (c) for the purposes of section 13 (2) (f), establishing permitted uses of forest reserve land and, in relation to this, prescribing circumstances in which the commission may impose conditions on such a use and restricting the conditions that may be imposed by the commission in relation to the use;
- (d) in relation to section 14, restricting the authority of the commission to permit uses under that section and restricting the conditions that may be imposed by the commission in relation to a permitted use;
- (e) for the purposes of section 16, establishing circumstances in which private forest reserve land may be subdivided without the approval of the commission;
- (f) for the purposes of sections 21 (2) and 24 (5), establishing rates of interest to be applied under those sections;
- (g) for the purposes of section 21,
- (i) prescribing circumstances in which land may be removed from the reserve without payment of a recapture charge, or
- (ii) exempting a specific removal from the recapture charge;
- (h) for the purposes of section 23, establishing fees to be paid to the Assessment Appeal Board in respect of an appeal, which may be different for different classes of appeals as established by the regulations;
- (i) for the purposes of section 24, prescribing a percentage recapture rate that, in the opinion of the Lieutenant Governor in Council, is reasonable to recapture the tax benefit received during the previous 6 years by forest reserve land being classed under the Assessment Act as managed forest land;
- (j) for the purposes of section 25, prescribing purposes for which Crown land may be removed from the reserve under that section;
- (k) for the purposes of section 26,
  - (i) prescribing information that must be included in a class of applications,
  - (ii) prescribing the form that must be used for a class of applications, and
  - (iii) establishing fees that must be paid to the commission in respect of an application of a particular class, which may be different for different sizes of land to which an application relates;
- (l) for the purposes of section 28,
  - (i) establishing procedures that must be followed by the commission in deciding applications,
  - (ii) prescribing circumstances in which an applicant must give notice of an application as required under that section, which may be different for different areas of British Columbia, and
  - (iii) establishing the form of notice referred to in subparagraph (ii) for a class of applications;

(m) for any other purpose for which regulations are contemplated by this Act.

(3) In addition to the variations permitted by subsection (2), a regulation under this section may be different for the following:

- (a) different classes of applications as established by the regulations;
- (b) Crown land, Crown licence land and other forest reserve land;
- (c) different classes of forest land as established by the regulations.

#### Part 7 -- Transitional

##### Transitional -- recapture charge

38 (1) This section applies to land that is removed from the reserve within 6 years after the applicant for the removal became the owner, if that applicant is the owner of the land on June 23, 1994.

(2) Despite section 24, the recapture charge for a removal referred to in subsection (1) is to be calculated in accordance with that section using as the value "RR" the rate prescribed under subsection (3) of this section.

(3) For the purposes of subsection (2), the Lieutenant Governor in Council may, by regulation, establish rates or a formula for determining rates that are different depending on the length of time that the owner of the land has been the owner and the length of time that the land has been managed forest land.

##### Transitional -- removal of land from the reserve

39 (1) The Lieutenant Governor in Council may, by regulation, remove specified land from the reserve if it is land that

- (a) is forest reserve land under section 10 (2), and
- (b) was reclassified under the Assessment Act for the 1994 taxation year as other than managed forest land.

(2) Subsection (1) applies as an exception to Part 4 and no approval by the commission is required for a removal under this section and no recapture charge is payable in respect of such a removal.

##### Transitional -- subdivision applications

40 (1) Section 16 does not apply in relation to subdivision applications which were submitted to the applicable approving officer on or before June 23, 1994.

(2) Despite any other enactment, if the application for a subdivision that affects forest reserve land, other than Crown licence land, is submitted to the applicable approving officer after the date referred to in subsection (1), any subdivision of that land is without effect unless made in accordance with section 16.