

This Act is current to March 10, 2021

See the [Tables of Legislative Changes](#) for this Act's legislative history, including any changes not in force.

AGRICULTURAL LAND COMMISSION ACT

[SBC 2002] CHAPTER 36

Assented to May 30, 2002

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Definitions

1 (1) In this Act:

"additional residence" means a residence on a parcel of agricultural land, other than the principal residence;

"administrative region" means an administrative region established under section 4.1;

"agreement in principle" means a non-binding agreement, negotiated among a first nation government, the Province and Canada in accordance with a process facilitated by the British Columbia Treaty Commission, established under section 3 of the *Treaty Commission Act*, that

- (a) has been approved by each party in accordance with the approval process provided in the agreement in principle, and
- (b) contemplates that legislative authority over all or part of the proposed settlement lands described in the agreement in principle will, under a final agreement or a governance agreement and an enactment of the Province or Canada, be provided to the first nation;

"agricultural land" means land that

- (a) is included in the agricultural land reserve under section 15 (1.1), 17 (3.1) or 45 (1) of this Act, or
- (b) was included under a former Act as agricultural land or land in an agricultural land reserve,

unless the land has been excluded from the agricultural land reserve under this Act or from an agricultural land reserve under a former Act;

"agricultural land reserve" means the total of all agricultural land in British Columbia;

"alter" means the following:

- (a) to alter the exterior of a structure so as to increase its size;
- (b) to move or alter the exterior walls or edges of a structure so as to change its siting;

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

"authority" means an agent of the government, a public body or a public officer with whom the commission has an agreement under section 26 (1) (b) or 38;

"chief executive officer" means the person appointed under section 8 (1);

"commission" means the Provincial Agricultural Land Commission established under section 4;

"construct" means the following:

- (a) to build a new structure;

(b) to place on land a new structure that is fully or partially pre-fabricated;

(c) to replace a structure, 75% or more of which has been substantially damaged or destroyed;

"enactment of the Province or Canada" includes an enactment as defined in the *Interpretation Act* (Canada);

"exclusion application" means an application for exclusion made under section 29 (1);

"executive committee" means the executive committee of the commission established under section 10;

"farm use"

(a) means an occupation or use of agricultural land for

(i) farming land, plants, mushrooms, truffles or animals,

(ii) a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*, or

(iii) a purpose designated as a farm use by regulation, and

(b) does not include a residential use or a soil or fill use;

"fill" means any material brought onto agricultural land other than materials exempted by regulation;

"first nation government" means,

(a) in relation to settlement lands, other than treaty lands, the governing body that has legislative authority in relation to those settlement lands,

(a.1) in relation to treaty lands, the treaty first nation, and

(b) in relation to proposed settlement lands, an aboriginal governing body that

(i) the first nation, in relation to which an agreement in principle applying to those lands has been entered into, has organized and established within its traditional territory in British Columbia, and

(ii) has been mandated by the members of that first nation to enter into treaty negotiations on their behalf in accordance with a process facilitated by the British Columbia Treaty Commission, established under section 3 of the *Treaty Commission Act*;

"former Act" means the *Agricultural Land Reserve Act*, R.S.B.C. 1996, c. 10, or the *Land Reserve Commission Act*, S.B.C. 1999, c. 14;

"law", in relation to a first nation government described in paragraph (a) or (a.1) of the definition of "first nation government", means a law enacted by the first nation government under

(a) a treaty and land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*,

(b) a governance agreement among the Province, Canada and the first nation, or

(c) an enactment of the Province or Canada;

"local government" means

(a) in relation to land within a municipality, the municipal council,
(b) in relation to land within an electoral area but not within a local trust area under the *Islands Trust Act*, 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 a local trust committee for that area;

"non-adhering residential use" means any of the following:

(a) an additional residence;

(b) a principal residence having a total floor area that is more than 500 m²;

(c) a use of a residential structure that contravenes the regulations;

"non-farm use" means a use of agricultural land other than a farm use, a residential use or a soil or fill use;

"notice to suspend negotiations" means a notice to suspend negotiations sent by one party to an agreement in principle to the other parties;

"official" means the chief executive officer and any employee of the commission or a person who is designated by name or title by the chief executive officer to be an official;

"owner", subject to subsection (2), means

- (a) in relation to land, other than treaty lands, registered in the records of the land title office, the person registered in those records as the fee simple owner of the land,
- (b) in relation to settlement lands,
 - (i) if an agreement under this Act between a first nation government and the commission defines "owner" for the purposes of the application of this Act to the settlement lands of the first nation, a person described by that definition, and
 - (ii) otherwise, the first nation government,
- (c) in relation to land that is vested, under an enactment, in a municipality, a regional district or a local trust committee, the municipality, regional district or local trust committee, as applicable, and
- (d) in relation to Crown land, the government;

"panel" means a panel established under section 11;

"parcel" means land that is the subject of a single indefeasible title under the *Land Title Act*;

"person" includes a first nation government;

"principal residence" means the residence permitted under section 20.1 (1) (a);

"proposed settlement lands" means land described in an agreement in principle as the land that will become, in whole or in part,

- (a) the treaty lands of the first nation under a final agreement, or
- (b) the settlement lands of the first nation under a governance agreement among the Province, Canada and the first nation;

"residential structure" means a structure used, during all or part of the year and whether fully or partially, as

- (a) a residence,
- (b) if prescribed, accommodation, or
- (c) if prescribed, in relation to a residence or accommodation;

"residential use"

- (a) means a use of agricultural land for a residential structure, and
- (b) does not include a farm use or a soil or fill use;

"settlement lands" means land, other than land located within a reserve as defined in the *Indian Act* (Canada), that is subject to the legislative authority of a first nation under

- (a) a treaty and land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*,
- (b) a governance agreement among the Province, Canada and the first nation, or
- (c) an enactment of the Province or Canada;

"soil" includes the entire mantle of unconsolidated material above bedrock other than minerals as defined in the *Mineral Tenure Act*;

"soil or fill use"

- (a) means the removal of soil from, or the placement of fill on, agricultural land, and
- (b) does not include a farm use or a residential use;

"use or subdivision application" means an application for permission made under any of the following:

- (a) section 20 (2) for a non-farm use;
- (b) section 20.1 (2) (a) for a non-adhering residential use;
- (c) section 20.3 (5) for a soil or fill use;
- (d) section 21 (2) for subdivision.

(2) For the purposes of an inclusion application under section 17 (3), a use or subdivision application or an exclusion application in relation to proposed settlement lands, the first nation government may apply as if it were the owner of those lands from the date that

- (a) an agreement in principle in relation to those lands is approved by each party to it in accordance with the agreement in principle, or
- (b) if a notice to suspend negotiations has earlier taken effect, an agreement among the parties to the agreement in principle to resume negotiations takes effect,

until the earlier of the following dates:

- (c) the date an enactment of the Province or Canada establishes all or part of the proposed settlement lands as settlement lands;
- (d) the date that a notice to suspend negotiations takes effect.

(3) For the period that a first nation government is authorized to make an application in relation to proposed settlement lands, the owner of that land may not make an application.

Application of other Acts

2 (1) This Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act* and the *Environmental Management Act* and as provided in this Act.

(1.1) Despite subsection (1) and section 3, if a regulation under the *Water Sustainability Act* requires that the commission consider a water sustainability plan in making decisions in relation to an area that is subject to the water sustainability plan, the commission must comply with the regulation.

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

Power under other Acts

3 A minister or an agent of the government must not exercise a power granted under another enactment except in accordance with this Act and the regulations.

Commission established

4 The Provincial Agricultural Land Commission is established as a corporation consisting of the members appointed under section 5.

Administrative regions

4.1 The following administrative regions are established, consisting of the geographic areas of British Columbia as set out in the Schedule:

- (a) the Interior Administrative Region;
- (b) the Island Administrative Region;
- (c) the Kootenay Administrative Region;
- (d) the North Administrative Region;
- (e) the Okanagan Administrative Region;
- (f) the South Coast Administrative Region.

Repealed

4.2-4.3 [Repealed 2018-56-3.]

Commission members

5 (1) The commission consists of at least 11 members appointed under this section as follows:

- (a) the Lieutenant Governor in Council must appoint the chair;
- (b) the minister must appoint the other members after consulting with the chair;
- (c) appointments must be made using a merit-based process to select individuals who are knowledgeable in matters relating to

agriculture, land use planning, local government or first nation government;

(d) members must be residents of administrative regions, with at least one but no more than 3 members, other than the chair, representing each region;

(e) if more than one member represents the same administrative region, each member must be a resident of a different regional district incorporated under the *Local Government Act*.

(2) The chair may appoint one or more vice chairs from the persons appointed under subsection (1) (b).

(3) If a member, other than the chair, ceases to be a resident of the administrative region in which the member was a resident at the time of appointment, the member's appointment expires on the date on which the member's residency ceases.

(4) If there is no member, other than the chair, who is a resident of a particular administrative region, the minister must within 90 days appoint a resident of that administrative region as a member in accordance with subsection (1).

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

Application of *Administrative Tribunals Act* to commission generally

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

(a) Part 1 [*Interpretation and Application*];

(b) Part 2 [*Appointments*];

(c) Part 3 [*Clustering*];

(d) section 26 (6) [*decision of majority decision of panel*];

(d.1) section 30 [*tribunal duties*];

(e) section 44 [*tribunal without jurisdiction over constitutional questions*];

(f) section 46.3 [*tribunal without jurisdiction to apply the Human Rights Code*];

(g) Part 8 [*Immunities*];

(h) section 59.1 [*surveys*];

(i) section 59.2 [*reporting*];

(j) section 60 (1) (g) to (i) and (2) [*power to make regulations*].

Purposes of the commission

6 (1) The following are the purposes of the commission:

(a) to preserve the agricultural land reserve;

(b) to encourage farming of land within the agricultural land reserve in collaboration with other communities of interest;

(c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

(2) The commission, to fulfill its purposes under subsection (1), must give priority to protecting and enhancing all of the following in exercising its powers and performing its duties under this Act:

(a) the size, integrity and continuity of the land base of the agricultural land reserve;

(b) the use of the agricultural land reserve for farm use.

Commission as agent of the government

7 The commission is an agent of the government.

Staff of the commission

8 (1) On consultation with the chair of the commission, the Lieutenant Governor in Council may appoint, during pleasure, a chief executive officer of the commission, establish the terms of the appointment and set the remuneration of the chief executive officer.

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

(3) The chief executive officer may appoint other officers and employees necessary for the operations of the commission, determine their duties and set their 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 executive officer, except that the references to the agency head and a deputy minister in section 22 of the *Public Service Act* are to be read as references to the chief executive officer.

(5) The chief executive officer may retain consultants considered advisable and may set their remuneration.

Operation of the commission

9 The commission may pass resolutions and bylaws it considers necessary or advisable for the management and conduct of its affairs, the exercise of its powers and the performance of its duties.

Executive committee

10 (1) An executive committee of the commission is established, comprising the chair of the commission and the vice chairs.

(2) The chair of the commission is the chair of the executive committee.

(3) The commission may delegate to the executive committee any of its powers or duties.

- (4) In relation to a matter delegated by the commission to the executive committee,
- (a) the executive committee has all the powers and duties of the commission, and
 - (b) a decision of the executive committee is for all purposes a decision of the commission.

Establishment of panels

- 11** (1) The chair of the commission may establish panels consisting of 2 or more members of the commission.
- (2) For the purpose of establishing panels, the chair may consider administrative regions, expertise of panel members, the type of application under consideration and any other criteria the chair may determine.
- (3) The chair may designate a member of the commission to chair a panel.
- (4) For the purpose of exercising a power or performing a duty under this Act, the commission, a panel and the executive committee may rely on advice, information or findings from any panel.

What panels may do

- 11.1** (1) The chair of the commission may refer to a panel any of the following:
- (a) subject to subsection (2), a power or duty of the commission under this Act;
 - (b) without limiting paragraph (a), the reconsideration of a decision for the purposes of section 33;
 - (c) the provision of advice, information or findings to the commission, the executive committee or another panel.
- (2) The chair must not refer to a panel any of the following:
- (a) the power to determine an application
 - (i) that may be of provincial importance,
 - (ii) that raises an issue that is novel or is otherwise of general importance for the administration of the Act, or
 - (iii) if the determination may substantively affect more than one administrative region;
 - (b) an application
 - (i) for which the power to decide has been delegated under section 26, or
 - (ii) that the chief executive officer may approve under section 27;
 - (c) a reconsideration under section 33.1 of a decision made by a panel.
- (3) In relation to an application or other matter referred to a panel,

- (a) the panel has all the powers and duties of the commission, and
- (b) a decision made by the panel is for all purposes a decision of the commission.

Repealed

11.2 [Repealed 2019-32-9.]

Financial and corporate matters

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

(2) and (2.1) [Repealed 2019-32-10.]

(3) Subject to subsection (4), the *Business Corporations Act* does not apply to the commission.

(4) The Lieutenant Governor in Council, by order, may declare that specified provisions of the *Business Corporations Act* apply to the commission.

Repealed

13 [Repealed 2019-32-10.]

Completion of proceedings

14 (1) Subject to subsection (2), a member of the commission may take up and carry on to completion any proceeding commenced but not completed before the member's appointment.

(2) A member of the commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote.

Inclusion of land in agricultural land reserve by the commission

15 (1) For the purposes of section 6, the commission may designate land, including Crown land, as agricultural land if the commission is satisfied that the land is suitable for farm use.

(1.1) Land designated as agricultural land under subsection (1) is included, on designation, in the agricultural land reserve.

(2) If the final agreement of a treaty first nation provides that the treaty lands of the treaty first nation may not be designated as agricultural land without the consent of the treaty first nation, the commission may not exercise the authority under subsection (1) in relation to those treaty lands without the consent of the treaty first nation.

Repealed

16 [Repealed 2018-56-7.]

Inclusion applications

17 (1) Subject to subsection (1.1), if the commission considers that an approval under this subsection carries out the intent of this Act, the commission may approve the inclusion in the agricultural land reserve

- (a) on the commission's own initiative, of any land,
- (b) on application of a local government, of land within the local government's jurisdiction, and
- (c) on application of a first nation government, of land within the first nation's settlement lands.

(1.1) If section 15 (2) applies in relation to treaty lands, an approval under subsection (1) (a) of this section in respect of those treaty lands may be made only with the consent of the treaty first nation.

(2) For a matter under subsection (1), a public hearing must be held in the manner, and after giving the notice, required by the regulations, by

- (a) the commission, if the commission is acting on its own initiative,
- (b) the local government before making an application, and
- (c) the first nation government before making an application.

(3) On application by an owner of land, the commission may designate all or part of the land described in the application as land within the agricultural land reserve if the commission considers that the designation carries out the intent of this Act.

(3.1) Land designated as land within the agricultural land reserve under subsection (3) is included, on designation, in the agricultural land reserve.

(4) A decision of the commission granting an application under subsection (3) in relation to proposed settlement lands may not be made effective unless and until those lands are established, in whole or in part, as settlement lands.

(5) Unless a decision granting an application under subsection (3) first becomes effective under subsection (4), the decision expires on the earlier of the following dates:

- (a) the date the decision expires according to its terms;
- (b) the date that a notice to suspend negotiations takes effect.

Agricultural land to remain in reserve unless excluded

17.1 Agricultural land may be removed from the agricultural land reserve only by exclusion under section 29.1 (2) (b), 30 (1) (a) or 45 (1).

Restrictions on approving land uses and subdivision

18 (1) In this section:

"approving body" means one or more of the following:

- (a) a local government, a first nation government or an authority;

- (b) a board or other agency established by a local government, a first nation government or an authority;
- (c) a person or agency that enters into an agreement under the *Local Services Act*;

"permitted non-farm use" means a non-farm use that is permitted under section 25 or 45 or the regulations.

(2) An approving body may approve or permit a non-farm use of agricultural land only if the non-farm use is a permitted non-farm use.

(3) An approving body may approve or permit a building or structure to be constructed or altered on agricultural land only if the building or structure

- (a) is not a residential structure and will be used for a farm use or permitted non-farm use,

- (b) is a principal residence and

- (i) is of a size and is sited in accordance with section 20.1

- (1), or

- (ii) is permitted under section 25 or 45 or the regulations,

- (c) is an additional residence and is permitted under section 25 or 45 or the regulations, or

- (d) is a residential structure other than a residence and

- (i) is of a size and is sited in accordance with the regulations or as permitted under an application made in accordance with the regulations, and

- (ii) will be used as permitted under section 25 or 45 or the regulations.

(4) An approving body may approve or permit a soil or fill use of agricultural land only if the soil or fill use is permitted under section 20.3, 25 or 45.

(5) The following persons may not approve a subdivision of land that would cause agricultural land to be subdivided unless the subdivision is permitted under section 25 or 45 or the regulations:

- (a) an approving officer under the *Land Title Act*, the *Local Government Act* or the *Strata Property Act*;

- (b) a person who exercises the powers of an approving officer under any other Act.

Notice of statutory right of way

18.1 (1) In this section, "statutory right of way" means a statutory right of way as described in section 218 of the *Land Title Act* that extends fully or partially over land within the agricultural land reserve.

(2) Before applying to register a charge granting or otherwise creating a statutory right of way, the applicant must give notice, in the prescribed form and manner, to the commission.

(3) A Registrar of Titles must not register a charge granting or otherwise creating a statutory right of way unless the application to register the charge is accompanied by proof, given in the prescribed form and manner, that notice has been given as required under subsection (2) of this section.

Registration restrictions

19 (1) In this section, "plan" means the following:

- (a) a subdivision plan, reference plan, explanatory plan or other plan showing subdivision of land;
- (b) a statutory right of way plan allowed under section 114 of the *Land Title Act*.

(2) Unless the subdivision of agricultural land is permitted under this Act, a Registrar of Titles must not, under the *Land Title Act* or the *Strata Property Act*, do either of the following things if it would cause the subdivision of agricultural land:

- (a) accept an application for the deposit of a plan;
- (b) permit a new parcel of land to be created by a metes and bounds description or an abbreviated description.

Non-farm use of land within agricultural land reserve

20 (1) A person must not use agricultural land for a non-farm use unless permitted under section 25 or 45 or the regulations.

(2) A person may apply to the commission for permission under section 25 for a non-farm use of agricultural land if the person

- (a) is an owner of the agricultural land, or
- (b) has a right of entry, granted under an enactment, to the agricultural land.

Residential use of agricultural land

20.1 (1) Unless permitted under section 20.2, 25 or 45 or the regulations, an owner of agricultural land who constructs, alters or uses a residential structure on the agricultural land must comply with all of the following:

- (a) the agricultural land may have no more than one residence per parcel;
- (b) the total floor area of a principal residence must be 500 m² or less;
- (c) the residential structure must be sized, sited and used, in accordance with all applicable regulations.

(2) An owner may apply

(a) to the commission for permission under section 25 for a non-adhering residential use, or

(b) in the manner set out in the regulations for a variation of or exemption from a regulation with respect to size or siting.

Pre-existing residential structures

20.2 (1) In this section:

"as designed" means as stated or shown in

(a) a design, proposal or other plan approved under or accepted in support of an authorization, or

(b) a design or plan finalized, before the date this section comes into force, by an architect or engineer or, if none, the designer of the residence, if no authorizations are needed to construct or alter the residence;

"authorization" means a permit or other authorization, issued under an enactment, to construct or alter a residence;

"pre-existing residential structure" means a residential structure that exists on agricultural land on the date this section comes into force, and

(a) is an additional residence for which all required authorizations to construct or alter the residence were granted,

(b) is a principal residence having a total floor area of more than 500 m², or

(c) is of a size or is sited in contravention of a regulation;

"unfinished pre-existing residence" means a residence to which all of the conditions in paragraphs (a) and (b), and either paragraph (c) or paragraph (d), apply:

(a) the residence, if completed as designed, will be an additional residence or have a total floor area of more than 500 m²;

(b) from the date construction or alteration of the residence began until completion, the construction or alteration

(i) is carried out in accordance with all applicable authorizations and enactments, and

(ii) continues without interruption, other than work stoppages considered reasonable in the building industry;

(c) in the case of a residence that, on completion, will be an additional residence,

(i) all required authorizations to construct or alter the residence were granted, and

(ii) construction of the foundation of the residence, or alteration of the residence, had substantially begun

before the date this section comes into force;

(d) in the case of a residence that, on completion, will be a primary residence, either

(i) all required authorizations to construct or alter the residence were granted before the date this section comes into force and construction of the foundation of the residence, or alteration of the residence, substantially begins on or before November 5, 2019, or

(ii) if no authorizations to construct or alter the residence are required, construction of the foundation of the residence, or alteration of the residence, had substantially begun before the date this section comes into force.

(2) Despite section 20.1 (1), an owner of agricultural land may, on or after the date this section comes into force, do one or more of the following:

(a) complete construction or alteration of an unfinished pre-existing residence that

(i) is a principal residence, but only if, on completion, the total floor area is as designed or less, or

(ii) is an additional residence, and

(b) alter a pre-existing residential structure, but only if, on completion, the alteration will lead to no further contravention of the Act or regulations.

Soil or fill use

20.3 (1) A person must not remove soil from or place fill on agricultural land unless one of the following applies:

(a) the removal or placement is permitted under section 25 or 45 and the removal or placement is done in accordance with the permission;

(b) the removal or placement is permitted under the regulations and the removal or placement is done in accordance with the regulations;

(c)the person

- (i)is an owner of the agricultural land, or has a right of entry, granted under an enactment, to the agricultural land,
- (ii)first submits to the chief executive officer the prescribed fee and notice of the person's intent, in the form and manner required by the chief executive officer, and
- (iii)receives approval under subsection (2) (b) and removes the soil or places the fill in accordance with the approval, or is a person to whom subsection (4) applies.

(2)If the chief executive officer receives the fee and notice submitted under subsection (1) (c) (ii), the chief executive officer must do one or more of the following:

- (a)request further information from the person who gave the notice;
- (b)approve, in writing, the removal of soil or the placement of fill
 - (i)as set out in the notice, or
 - (ii)subject to limits and conditions;
- (c)order, in writing, the person to stop or not engage in removing soil or placing fill unless permitted under section 25 or 45.

(3)If a person fails to comply with subsection (1) (c) (ii), the chief executive officer may do one or both of the following:

- (a)order, in writing, the person to comply with subsection (1) (c) (ii);
- (b)take the action described in subsection (2) (c).

(4)If the chief executive officer does not take an action described in subsection (2) within 60 days after receiving the fee and notice submitted under subsection (1) (c) (ii) or the information requested under subsection (2) (a), the person may remove soil from or place fill on the agricultural land as described in the notice.

(5)A person may apply to the commission for permission under section 25 for a soil or fill use of agricultural land

- (a)if the person is an owner of the agricultural land, or has a right of entry, granted under an enactment, to the agricultural land, and
- (b)whether or not a fee and notice have been submitted under subsection (1) (c) (ii) of this section or the chief executive officer has taken an action described in subsection (2) (b) (ii) or (c).

(6)The chief executive officer may delegate, in writing, the powers and duties of the chief executive officer under this section to an employee of the commission.

Subdivision of agricultural land

21 (1)A person must not subdivide agricultural land unless permitted under section 25 or 45 or the regulations.

(2)An owner of agricultural land may apply to the commission for permission under section 25 to subdivide agricultural land.

Covenants

22 (1)The commission may enter into a covenant under the *Land Title Act* with an owner of agricultural land.

(2)A covenant that restricts or prohibits the use of agricultural land for farm purposes has no effect until approved by the commission.

Exceptions

23 (1)Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the *Land Registry Act*, R.S.B.C. 1960, c. 208, less than 2 acres in area.

(2)The restrictions on the use of agricultural land do not apply to land lawfully used for a non-farm use, established and carried on continuously for at least 6 months immediately before December 21, 1972, unless and until

(a)the use is changed, other than to farm use, without the permission of the commission,

(a.1)the use is discontinued for a continuous period of 6 months,

(b)an enactment made after December 21, 1972, prohibits the use,
or

(c)permission for the use granted under an enactment is withdrawn or expires.

(3)For greater certainty, the exception in subsection (2) applies only to the land that was actually being used for a non-farm use and not to the entire parcel on which that use was being carried on.

Preservation of rights

24 Despite sections 2 and 3, if Crown land continued as agricultural land under this Act has been leased by the government, or sold by agreement for sale by the government and not transferred to the purchaser before December 21, 1972, and on that date was being used for a non-farm use, and not in contravention of the terms of the lease or agreement, that use may continue until termination of the lease or issue of title to the purchaser under the agreement for sale.

Applications by owner

25 (1)On receiving a use or subdivision application,

(a) the commission, if required by the regulations, must reject the application, or

(b) if paragraph (a) of this subsection does not apply, the commission may, subject to subsection (1.1),

(i) refuse permission for the use or subdivision applied for,

(ii) grant permission, with or without limits or conditions, for the use or subdivision applied for, or

(iii) grant permission for an alternative use or subdivision, with or without limits or conditions, as applicable.

(1.1) In making a determination under subsection (1) (b) with respect to an application for a non-adhering residential use, the commission

(a) must consider the prescribed criteria, if any, and

(b) must not grant permission for an additional residence unless the additional residence is necessary for a farm use.

(2) [Repealed 2018-56-16.]

(3) An application referred to in subsection (1), except such an application from a first nation government, may not proceed unless authorized by a resolution of the local government if, on the date the application is made, the application

(a) applies to land that is zoned by bylaw to permit farm use, or

(b) requires, in order to proceed, an amendment to an official settlement plan, an official community plan, an official development plan or a zoning bylaw.

(3.1) An application referred to in subsection (1) in relation to settlement lands may not proceed unless authorized by a law of the first nation government of the first nation that has legislative authority over the settlement lands.

(4) In deciding an application referred to in subsection (1), the commission may meet with the applicant or may make a decision on the basis of written representations only.

(4.1) A decision of the commission under subsection (1) (b) (ii) or (iii) in relation to proposed settlement lands may not be made effective unless and until

(a) those lands are established, in whole or in part, as settlement lands, and

(b) the first nation government in relation to those settlement lands enacts a law approving the commission's decision and provides a certified copy of the law to the commission.

(4.2) Unless a decision under subsection (1) (b) (ii) or (iii) first becomes effective under subsection (4.1), the decision expires on the earlier of the following dates:

(a) the date the decision expires according to its terms;

(b) the date that a notice to suspend negotiations takes effect.

(5)The commission must deliver its written decision to the owner.

Delegation of powers respecting applications

26 (1)The commission may enter into an agreement with any of the following to enable a first nation government or an authority to exercise some or all of the commission's power to decide use or subdivision applications:

(a)a first nation government, for applications made in respect of settlement lands within the jurisdiction of the first nation government;

(b)an agent of the government, a public officer or a public body other than a local government, for applications made in respect of land within the jurisdiction of the authority, if the agent, officer or body is prescribed by regulation.

(2)An agreement under subsection (1) between the commission and an authority may exempt a non-farm use in a specified area within the jurisdiction of the authority from the requirement of an application on the condition that the authority conducts audits and reports to the commission as required by the agreement.

(3)If an agreement is entered into under subsection (1), the first nation government or authority must, with respect to an application covered by the agreement,

(a)consider each application in the prescribed manner, and

(b)advise the commission in the prescribed manner of each application received and of the decision made on each application.

(4)A decision made under this section must be made as follows:

(a)in the case of a decision of a first nation government, by a law of the first nation government;

(b)in the case of a decision of an authority, by a resolution of the governing body of the authority.

(5)If, by an agreement entered into under subsection (1) of this section, the commission delegates its power to decide applications under section 25 to a first nation government or an authority,

(a)section 6 applies to the first nation government or the authority for the purposes of deciding use or subdivision applications, and

(b)the decision of the first nation government or the authority is a decision of the commission for the purposes of this Act.

(6)If an authority has the power to decide an application under an agreement entered into under subsection (1), an application that would otherwise be required to be submitted to a local government or first nation government under section 34.1 (1) must be made directly to the authority.

(7) If a first nation government or an authority has the power to decide an application under an agreement entered into under subsection (1),

(a) the first nation government or authority may retain the entire fee payable under section 34 with respect to the application, (a.1) section 35.1 applies to the applicant with respect to the application, except that a reference to the commission in that section must be read as a reference to the first nation government or authority, and

(b) sections 39 to 45 apply to the application as if the application were before the commission.

(8) If the commission enters into an agreement under subsection (1) (c) with a first nation government in relation to settlement lands, that agreement or another agreement under this Act must include a definition of "owner" for the purposes of paragraph (b) (i) of the definition of "owner" in section 1 (1).

(9) The *Financial Administration Act* does not apply in relation to a fee collected under this section.

Chief executive officer may approve some applications

27 (1) The commission, by resolution, may establish criteria under which the following may be approved by the chief executive officer:

(a) specified types of use or subdivision applications or exclusion applications;

(b) applications with respect to specified regions of British Columbia.

(2) The commission must put the criteria established under subsection (1) in writing and make them available for inspection during ordinary business hours.

(3) An application that meets the criteria established under subsection (1) may be approved by the chief executive officer on the terms that the chief executive officer may impose.

(4) If the chief executive officer considers that the application does not meet the criteria specified under subsection (1) or for any other reason does not wish to approve the application under subsection (3), the application must be referred to the commission for a decision.

(5) An approval of an application by the chief executive officer under subsection (3) is a decision of the commission for the purposes of this Act.

(6) The chief executive officer may not exercise a power that has been delegated to a first nation government or an authority by an agreement entered into under section 26.

Application of sections 18 and 20 to 21 limited to agricultural land

28 For greater certainty, if a parcel of land is not wholly within the agricultural land reserve, sections 18 (1) to (4) and 20 to 21 apply only to that portion of the parcel that is agricultural land.

Exclusion applications

29 (1) A person may apply to the commission to have land excluded from the agricultural land reserve if the person is

(a) the owner of the land and is

(i) the Province, a first nation government or a local government, or

(ii) a prescribed public body,

(b) a local government, and the land is within the local government's jurisdiction, or

(c) a first nation government, and the land is within the first nation's settlement lands.

(2) Subject to subsection (3),

(a) an applicant must give notice, in the prescribed form and manner and before making the application, of the application and of a public hearing respecting that application, and

(b) the public hearing must be held in the prescribed manner.

(3) On request of an applicant described in subsection (1) (a), the commission may waive one or more of the requirements of subsection (2).

(4) An application made by an applicant described in subsection (1) (a) may not proceed unless authorized as follows:

(a) by a resolution of a local government if the application is made by a person other than a first nation government and, on the date the application is made, the application

(i) applies to land within the local government's jurisdiction that is zoned by bylaw to permit farm use, or

(ii) requires, in order to proceed, an amendment to an official settlement plan, official community plan, official development plan or zoning bylaw of the local government;

(b) by a law of a first nation government if the application applies to settlement lands over which the first nation has legislative authority.

Decision on exclusion applications

29.1 (1) In this section, "decision respecting proposed settlement lands" means a decision of the commission made under subsection (2) (b) or (c) of this section on receiving an application under section 29

(a) by an applicant described in subsection (1) (a) of that section, and

(b) in relation to proposed settlement lands.

(2) On receiving an application under section 29, the commission may do one of the following:

(a) refuse permission to have land excluded from the agricultural land reserve;

(b) grant permission, with or without limits or conditions, to have land excluded from the agricultural land reserve;

(c) permit, with or without limits or conditions, a non-farm use, non-adhering residential use, soil or fill use or subdivision of land.

(3) A decision respecting proposed settlement lands is not effective unless and until

(a) those lands are established, in whole or in part, as settlement lands, and

(b) the first nation government that has jurisdiction over those settlement lands enacts a law approving the commission's decision and provides a certified copy of the law to the commission.

(4) Unless a decision respecting proposed settlement lands first becomes effective under subsection (3), the decision expires on the earlier of the following dates:

(a) the date the decision expires according to its terms;

(b) the date a notice to suspend negotiations takes effect.

(5) The commission must deliver its written decision to the applicant.

Exclusion by the commission

30 (1) On the commission's own initiative, the commission may do one of the following, with or without limits or conditions, as applicable:

(a) exclude land from the agricultural land reserve;

(b) permit a non-farm use, non-adhering residential use, soil or fill use or subdivision of land.

(2) Before taking action under subsection (1),

(a) the commission must give notice as required by the regulations of the commission's intentions and of a public hearing respecting those intentions, and

(b) the public hearing must be held in the prescribed manner.

(3) If the commission takes an action under subsection (1), it must deliver written notice of the action to the owner of the land.

Repealed

30.1 [Repealed 2018-56-22.]

Effect of permission

31 It is a condition of a permission granted under section 25 (1) (b) (ii) or (iii), 29.1 (2) (b) or 30 (1) (b) that the person to whom permission was granted must comply with the applicable Acts, regulations, bylaws of the local government, laws of the first nation government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

Boundaries to be amended

32 If land is excluded from the agricultural land reserve under this Act, the commission must do both of the following:

- (a) amend the boundaries of the agricultural land reserve;
- (b) notify the Registrar of Titles and the appropriate local government or first nation government.

Reconsideration of decisions

33 (1) In this section:

"decision" means a decision made under this Act with respect to an application;

"decision maker" means the following, as applicable:

- (a) the commission, in relation to a decision made by the commission;
- (b) a panel, in relation to a decision made by the panel;
- (c) a first nation government or an authority, in relation to a decision made by the first nation government or the authority under an agreement entered into under section 26 (1).

(2) On the written request of a person affected by a decision, or on a decision maker's own initiative, the decision maker may reconsider the decision maker's decision, and may confirm, reverse or vary the decision, if

- (a) [Not in force.]
- (b) no previous request has been made, if reconsideration is on request and not on the decision maker's own initiative, and
- (c) the decision maker determines that
 - (i) evidence has become available that was not available at the time of the original decision and could not have been available had the person affected by the decision exercised due diligence, or

(ii) all or part of the original decision was based on incorrect or false information.

(3) The decision maker must give notice of an intention to reconsider a decision to any person that the decision maker considers is affected by the reconsideration.

Reconsideration of decisions of panel

33.1 (1) The chair of the commission may, in writing, direct the executive committee to reconsider a decision made by a panel respecting an application or other matter referred to the panel by the chair of the commission or a panel's reconsideration of a decision under section 33 (2), if

(a) the chair considers that the decision or the reconsideration of the decision

(i) may not fulfill the purposes of the commission as set out in section 6 (1), or

(ii) fails to give priority to the matters referred to in section 6 (2), and

(b) the chair makes the direction to the executive committee within 60 days of the decision being made.

(2) If the chair of the commission directs the executive committee to reconsider a decision under subsection (1), the chair must give notice of the reconsideration to any person that the chair considers is affected by the reconsideration.

(3) If the chair of the commission directs the executive committee to reconsider a decision under subsection (1), the executive committee must confirm, reverse or vary the decision.

(4) For the purposes of subsection (3), the executive committee has all the powers and duties of the commission.

(5) A decision by the executive committee under subsection (3) is for all purposes a decision of the commission.

Application procedure if local government or first nation government review not required

34 (1) This section applies to the following types of applications:

(a) an application made by a first nation government as the owner of proposed settlement lands, other than an inclusion application under section 17;

(b) an exclusion application made by a person referred to in section 29 (1) (b) or (c);

(c) an application for which review would be required under section 34.1, but the application is made by the local government or first nation government that would be responsible for the review;

- (d)an application for a specific type of use prescribed by regulation as an application that must be filed directly with the commission;
- (e)an application made under section 58.3 (1) (e), unless a regulation made under that section provides otherwise.

(2)A person may make an application described in subsection (1) by submitting the application and paying the prescribed application fee to the commission.

(3)In respect of an application described in subsection (1) (d), the commission

- (a)may request comments and information from the local government or first nation government for the area in which the land described in the application is located, and
- (b)if a request is made under paragraph (a) of this subsection, pay a prescribed portion of the fee received under subsection (2) to the local government or first nation government.

(4)A local government or first nation government that is paid a fee under subsection (3) (b) may retain the fee, and the *Financial Administration Act* does not apply in relation to that fee.

Application procedure if local government or first nation government review required

34.1 (1)A person may make an application to which section 34 does not apply by submitting the application and paying the prescribed application fee, if any, to the following, as applicable:

- (a)the municipality, if the land described in the application is in a municipality;
- (b)the regional district, if the land described in the application is in a regional district but not in a municipality or a local trust area;
- (c)the Islands Trust, if the land described in the application is within a local trust area under the *Islands Trust Act*;
- (d)the first nation government, if the land described in the application is in the settlement lands of a first nation.

(2)A local government or first nation government that receives an application must review the application and do one of the following:

- (a)forward to the commission
 - (i)the application, and
 - (ii)the comments and recommendations of the local government or first nation government respecting the application;
- (b)notify the applicant that the application will not be forwarded to the commission if
 - (i)the application is refused, or

(ii) the application may not, under this Act, proceed unless authorized by a resolution of the local government or a law of the first nation government and the required resolution or law is refused.

(3) If a local government or first nation government forwards an application under subsection (2) (a) to the commission, the applicant must pay the prescribed application fee, if any, to the commission.

(4) The application fee that must be paid under subsection (3) is in addition to the application fee, if any, paid under subsection (1).

(5) A local government or first nation government that collects a fee under subsection (1) may retain the fee, and the *Financial Administration Act* does not apply in relation to that fee.

Waiver of application fees

35 (1) The commission may waive an application fee payable under section 34 (2) or 34.1 (3) if the commission considers that a case of hardship exists.

(2) A designated local government officer or an official designated for this purpose by a first nation government may waive an application fee payable under section 34.1 (1) if the designated officer or official considers that a case of hardship exists.

(3) The *Financial Administration Act* does not apply in relation to the waiver of a fee under this section.

Information and fees respecting terms

35.1 If, on making a decision under section 25 (1) (b) (ii) or (iii) or 29.1 (2) (b) or (c), the commission imposes one or more limits or conditions, the person who made the application resulting in the decision must submit to the commission the following:

(a) the prescribed information and fees, if any;

(b) any other information requested by the commission, in the form and manner specified by the commission.

Notice of applications

36 (1) A person who makes an application to which section 34 or 34.1 applies must, in the prescribed circumstances,

(a) give notice of the application in accordance with the regulations,
and

(b) provide evidence, satisfactory to the commission, that the applicant has complied with the notice requirements of the regulations.

(2) A decision of the commission with respect to an application is not invalidated merely because the applicant fails to comply with the notice requirements of the regulations, if the applicant made reasonable efforts to comply with those requirements.

No compensation for inclusion in agricultural land reserve

37 Land is deemed not to be taken or injuriously affected by its inclusion in the agricultural land reserve.

Agreements

38 For the purposes of this Act, the commission may enter into agreements with the government, a local government, a first nation government, Canada or an authority.

Definition of "board" in sections 40 to 45

39 (1) In sections 40 to 45, "board" means a commissioner appointed as a study commission under the *Public Inquiry Act* for the purpose of inquiring into a matter described in section 40 of this Act.

(2) The board has the powers set out in sections 22 and 23 of the *Public Inquiry Act*.

Reference of a matter to the board

40 (1) If the Lieutenant Governor in Council considers it to be in the Provincial interest, the Lieutenant Governor in Council may by order refer to the board, for the purpose of a public hearing described in section 43, any of the following matters before the commission at the time of the order:

- (a) an inclusion application under section 17 (1) or (3);
- (b) a use or subdivision application;
- (b.1) an exclusion application;
- (c) if land is being considered by the commission on its own initiative, the issues relating to
 - (i) approval and designation under section 17 (1),
 - (ii) an exclusion under section 30 (1) (a), or
 - (iii) a permission granted under section 30 (1) (b);
- (d) a reconsideration under section 33 of a decision of the commission made in respect of a matter referred to in paragraph (a), (b) or (c) of this subsection.

(2) The Lieutenant Governor in Council must specify written terms of reference for the purpose of a public hearing by the board pertaining to a matter referred to the board under this section.

(3) In determining whether it is in the Provincial interest to refer a matter to the board under subsection (1), the Lieutenant Governor in Council must take into account

- (a) the preservation of agricultural land as a scarce and important asset,
- (b) the potential long term consequences of failing to preserve agricultural land, and
- (c) the province-wide context of the matter.

(4) The Lieutenant Governor in Council may make an order under subsection (1) on the Lieutenant Governor in Council's own initiative or at the request of a local government, a first nation government or the commission.

Suspension of matters pending a decision under section 40

41 (1) For the purpose of giving the Lieutenant Governor in Council time to consider whether an order under section 40 is warranted, the minister may order that the matter be suspended for a period, to be specified in the order, that is not longer than 90 days.

(2) An order of the minister under subsection (1) has effect and is binding on the commission, and on any parties to a proceeding relating to a matter that is the subject of the order, until the expiry of the period specified in the order.

Effect of an order under section 40

42 (1) On the date of an order under section 40 referring a matter to the board, the commission's powers and duties under this Act in relation to the matter are transferred to the Lieutenant Governor in Council to the extent necessary to enable the Lieutenant Governor in Council to act in accordance with section 45.

(2) An order under section 40 is final and binding.

(3) If the Lieutenant Governor in Council makes an order under section 40 referring a matter to the board, the commission must, within 14 days of the date of the order,

- (a) prepare a written report with respect to the matter, and
- (b) submit the report to the board for the purpose of assisting the board in conducting a public hearing under section 43 in respect of the matter.

Public hearing

43 (1) On receiving the written terms of reference specified in conjunction with an order under section 40, the board must

- (a) prepare a discussion paper with respect to the matter that is the subject of the order, and
- (b) make the paper available to the public before holding a public hearing under this section.

(2)The discussion paper prepared under subsection (1) (a) must include the written report that the commission submitted to the board under section 42 (3) (b).

(3)For the purpose of providing the report and recommendations required under section 44, the board must conduct a public hearing to evaluate the probable agricultural, environmental, heritage, economic, cultural and social effects of any of the following if it is a matter that was before the commission at the time the order under section 40 made the referral:

- (a)an approval and a designation under section 17 (1);
- (b)a designation under section 17 (3);
- (c)a refusal under section 29.1 (2) (a);
- (c.1)an exclusion under section 29.1 (2) (b) or 30 (1) (a);
- (d)a permission granted under section 29.1 (2) (c);
- (e)a decision under section 33 to confirm, reverse or vary a decision referred to in paragraph (a), (b), (c) or (d) of this subsection.

(4)The public hearing held under subsection (3) must be conducted in accordance with the terms of reference specified in conjunction with the order made under section 40.

(5)The board must hold at least one public hearing with respect to the matter in each administrative region.

Report and recommendations

44 (1)On conclusion of the public hearing under section 43, the board must submit to the Lieutenant Governor in Council

- (a)a written report in accordance with the terms of reference specified in conjunction with the order made under section 40, and
- (b)a summary of the evidence received and submissions made in the course of any public hearing held in accordance with the terms of reference.

(2)The report referred to in subsection (1) must include the board's recommendations to the Lieutenant Governor in Council for action under section 45.

(3)In making the recommendations referred to in subsection (2), the board must give weight to the following values in descending order of priority:

- (a)agricultural values;
- (b)environmental and heritage values, but only if
 - (i)those values cannot be replaced or relocated to land other than agricultural land, or
 - (ii)giving weight to those values results in no net loss to the agricultural capabilities of the area;
- (c)economic, cultural and social values.

(3.1)[Repealed 2018-56-31.]

(4)The board must provide a copy of its report to the commission at the same time that the report is submitted to the Lieutenant Governor in Council under subsection (1).

(5)The commission may submit to the Lieutenant Governor in Council written comments on the report, but it must do so within 30 days of receiving a copy of the report under subsection (4).

(6)Within 10 days after submitting its report under subsection (1), the board must publish the report in the prescribed manner.

Lieutenant Governor in Council's decision

45 (1)On receiving the board's report under section 44 (1) and the commission's comments, if any, under section 44 (5), the Lieutenant Governor in Council, by order, may decide the outcome of the matter that is the subject of the order under section 40 by

(a)granting or refusing to grant the approval, designation, exclusion or permission applied for, in the case of a matter described in section 40 (1) (a), (b) or (b.1),

(b)making or deciding not to make the approval, designation, exclusion or permission that was under consideration by the commission on its own initiative, in the case of a matter described in section 40 (1) (c), or

(c)confirming, reversing or varying a decision referred to in section 40 (1) (d).

(2)Section 44 (3) applies to a decision made under subsection (1) of this section.

(3)The Lieutenant Governor in Council may attach conditions to an order made under this section.

(4)An order made under this section is final and binding.

Conflict with bylaws

46 (1)In this section, "bylaw" means

(a)a bylaw, made by a local government, that adopts a regional growth strategy, an official settlement plan, an official community plan, an official development plan or a zoning bylaw,

(b)any other bylaw respecting land use in a local government's jurisdiction made by a local government under any other enactment, and

(c)a law of a first nation government respecting land use within the first nation's settlement lands.

(2)A local government in respect of its bylaws and a first nation government in respect of its laws must ensure consistency with this Act, the regulations and the orders of the commission.

(3) Subject to subsection (4), nothing in this Act affects or impairs the validity of a local government bylaw or a first nation government law relating to the use of land in the agricultural land reserve.

(4) A local government bylaw or a first nation government law that is inconsistent with this Act, the regulations or an order of the commission has, to the extent of the inconsistency, no force or effect.

(5) Without limiting subsection (4), a local government bylaw or a first nation government law is deemed to be inconsistent with this Act if it

(a) allows a use of land in the agricultural land reserve that is not permitted under this Act, or

(b) contemplates a use of land that would impair or impede the intent of this Act, the regulations or an order of the commission, whether or not that use requires the adoption of any further bylaw or law, the giving of any consent or approval or the making of any order.

(6) A local government bylaw or a first nation government law that provides restrictions on farm use, residential use or soil or fill use of land in the agricultural land reserve additional to those provided under this Act is not, for that reason alone, inconsistent with this Act and the regulations.

(7) This section applies only to local government bylaws or first nation government laws made after August 26, 1994.

Consolidated revenue fund

47 The commission must pay as soon as practicable all money received by it, other than money received under an appropriation under a Supply Act, into the consolidated revenue fund.

Bonding or other security

48 The Lieutenant Governor in Council, the commission, a local government, a first nation government or an authority may require that an applicant under this Act whose application has been approved on terms, in order to ensure compliance with the terms, post security in the form of insurance, a bond or another prescribed form of security.

Inspections

49 (1) For the purposes of administering this Act or of ensuring compliance with this Act, the regulations or an order of the commission, a member of the commission or an official may do one or more of the following:

(a) enter any land, other than a dwelling house;

(b) make any surveys, analyses, inspections, examinations or soil tests that are necessary to determine any of the following:

- (i) the current use of the land;
- (ii) the suitability of the land for farm use;
- (iii) the potential effects that the proposed changes to the use of the land may have on agricultural land;

(c) remove soil samples for the purposes of conducting the analyses and tests referred to in paragraph (b);

(d) make any inspection of records, things or activities reasonably related to the purpose of the inspection;

(e) make copies of any records or documents reasonably related to the purpose of the inspection;

(f) make an order requiring a person to produce for the member or official a record or thing in the person's possession or control.

(2) A person who hinders, obstructs, impedes or otherwise interferes with a person exercising a power under subsection (1) commits an offence.

(3) If a member of the commission or an official exercises a power under subsection (1), the commission may order the person in respect of whom the power was exercised to pay to the commission fees related to the exercise of the power, as prescribed in the regulations.

Stop work order

50 If an official considers that a person is contravening or is about to contravene a provision of this Act or the regulations, the official, in accordance with the regulations, may order that

- (a) the contravention cease,
- (b) the contravention cease to the extent specified by the order, or
- (c) the person not take any action that would result in a contravention.

Power to rescind or vary orders

51 The chief executive officer may rescind or vary any determination, decision or order made by the chief executive officer or an official under section 50, 52 or 54

- (a) on new information being provided to the chief executive officer,
- (b) if the chief executive officer determines that there were insufficient grounds for making the determination, decision or order, or
- (c) if the chief executive officer considers that it would be in the best interests of the administration of this Act.

Determinations and remediation orders

52 (1) If the chief executive officer determines that a person has contravened this Act, the regulations or an order of the commission, the chief executive

officer, in accordance with the regulations, may order the person to remedy the contravention by

(a) carrying out a requirement of this Act or the regulations that the person has failed to carry out, or

(b) repairing or mitigating damage caused to agricultural land by the contravention, including the removal of buildings or structures.

(2) If a person fails to comply with an order under subsection (1), the chief executive officer, in accordance with the regulations, may do one or more of the following:

(a) in a written notice given to the person, restrict or prohibit the person from carrying out the work referred to in the order;

(b) require the person to provide the security that the chief executive officer considers necessary and realize on that security;

(c) carry out all necessary work.

(3) A person referred to in subsection (2) is liable to the commission for costs incurred by the commission under this section.

Notice of remediation orders in land title office

52.1 (1) If the chief executive officer makes a remediation order under section 52 (1) in respect of agricultural land, the chief executive officer may file in the land title office a written notice containing

(a) a description of the agricultural land sufficient for the Registrar of Titles to identify the agricultural land in the records of the land title office, and

(b) a statement that

(i) an order has been issued under this Act that affects the agricultural land,

(ii) further information about the order may be inspected at the offices of the commission, and

(iii) any person who acquires an interest in the agricultural land before the order ceases to have effect is subject to the order.

(2) If a notice is filed under subsection (1) and on payment of all applicable fees imposed under the *Land Title Act*, the Registrar of Titles must make a note of the filing against the title to the land that is affected by the notice.

(3) In the event of any omission, mistake or misfeasance by the Registrar of Titles or the staff of the Registrar of Titles in relation to the making of a note of a filing, or the registration of a transfer or other disposition under this section,

(a)neither the Registrar of Titles, nor the government nor the Land Title and Survey Authority of British Columbia is liable vicariously, and

(b)neither the assurance fund nor the Land Title and Survey Authority of British Columbia, as a nominal defendant, is liable under Part 19.1 [*Land Title and Survey Authority Assurance Fund*] of the *Land Title Act*.

(4)If a note is made under subsection (2) of this section, the order made under section 52 (1) and, if applicable, any variation of it are binding on all persons who acquire an interest in the agricultural land that is the subject of the order.

(5)The authority under this section is in addition to any other action that the chief executive officer or the commission is authorized to take under this Act in respect of a contravention of this Act, the regulations or an order of the commission or chief executive officer.

Cancellation of remediation order note

52.2 (1)In this section:

"affected person" means an owner of land with respect to which a remediation order note has been made;

"cancellation notice" means a notice directing the cancellation of a remediation order note;

"remediation order" means an order made under section 52 (1);

"remediation order note" means a note made under section 52.1 (2).

(2)If a remediation order is reversed on appeal,

(a)the chief executive officer must deliver a cancellation notice to the Registrar of Titles, and

(b)[Not in force.]

(3)The chief executive officer may deliver a cancellation notice to the Registrar of Titles if the chief executive officer

(a)is satisfied that a remediation order has been or cannot be substantially complied with, and

(b)[Not in force.]

(4)An affected person may apply to the chief executive officer to have a remediation order note cancelled by giving to the chief executive officer all of the following:

(a)an application made in the form and manner required by the chief executive officer;

(b)evidence satisfactory to the chief executive officer that the remediation order has been or cannot be substantially complied with.

(5)[Not in force.]

(6)On receiving a cancellation notice and cancellation fee, if any, the Registrar of Titles must cancel the remediation order note referred to in the notice.

Order for compliance

53 (1)The commission may apply to the Supreme Court for an order under subsection (2) if the commission considers

(a)that a person is not complying, or has not complied, with a determination, a decision or an order under section 49 (1) (f), 50, 52 or 54 (1),

(b)that a person is not complying with an order of the commission, or

(c)that a present or future activity or use of agricultural land may contravene this Act, the regulations, an order of the commission or a determination, a decision or an order under section 50, 52 or 54 (1).

(2)On application by the commission under this section, the Supreme Court may make one or more of the following kinds of orders:

(a)directing the person to comply with the determination, decision or order;

(b)directing the person to cease violating the determination, decision or order;

(c)restraining the person from violating the determination, decision or order;

(d)if the person is a corporation, directing the directors and officers of the corporation to cause the corporation to comply with an order under this section.

Penalties levied by chief executive officer

54 (1)The chief executive officer, in accordance with the regulations, may levy a penalty up to the prescribed amount against a person who contravenes this Act, the regulations or the orders of the commission.

(2)The time limit for levying a penalty against a person under subsection (1) is 3 years after the facts on which the penalty is based first came to the knowledge of the chief executive officer.

Appeal

55 (1) A person who is the subject of a determination, a decision, an order or a penalty under section 50, 52 or 54 (1) may appeal the determination, decision, order or penalty to the commission by serving the commission with a notice of appeal.

(2) On an appeal under this section, the commission may

(a) confirm, vary or reverse the determination, decision, order or penalty, or

(b) refer the matter, with or without directions, back to the person who made the initial determination, decision or order.

(3) The commission must give notice of an appeal to any person the commission considers is affected by the appeal.

(4) [Repealed 2004-45-65.]

(5) [Repealed 2015-10-36.]

Application of *Administrative Tribunals Act* to appeals

55.01 For the purposes of an appeal under section 55, the following provisions of the *Administrative Tribunals Act* apply to the commission:

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

(i) section 16 [*consent orders*];

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

(iii) section 26 (1) to (5) and (7) to (9) [*organization of tribunal, except decision of majority is decision of panel*];

(iv) section 27 [*staff of tribunal*];

(v) section 28 [*facilitated settlement*];

(vi) section 29 [*disclosure protection*];

(vii) [Repealed 2019-32-32.]

(viii) section 31 (1) (f) [*summary dismissal if no reasonable prospect application will succeed*];

(ix) section 34 [*power to compel witnesses and order disclosure*];

(x) section 38 [*examination of witnesses*];

(xi) section 41 [*hearings open to public*];

(xii) section 42 [*discretion to receive evidence in confidence*];

(b) section 48 [*maintenance of order at hearings*];

(c) Part 7 [*Decisions*];

(d) section 57 [*time limit for judicial review*];

(e) section 58 [*standard of review with privative clause*];

(f) section 60 (1) (a) and (b) and (2) [*power to make regulations*];

(g)section 61 [*application of Freedom of Information and Protection of Privacy Act*].

Exclusive jurisdiction of commission

55.1 (1)The commission has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under section 55 and to make any order permitted to be made.

(2)Without limiting subsection (1), the commission has exclusive jurisdiction to hear and determine the following questions:

(a)whether an official acted in accordance with the regulations in issuing an order under section 50;

(b)whether the chief executive officer acted in accordance with the regulations in issuing a notice under section 52 (2) (a), issuing an order under section 52 (1), taking any action under section 52 (2) or levying a penalty under section 54 (1).

(3)A decision or order of the commission under this Act on a matter in respect of which the commission has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

Repealed

55.2 [Repealed 2015-10-38.]

Application of enforcement powers

56 (1)If, under an agreement under section 26, a first nation government or an authority acts in the place of the commission, sections 49 to 55 apply to

(a)the first nation government or authority, and

(b)a person designated by the first nation government or authority to exercise the powers under those sections.

(2)Despite section 43 of the *Provincial Court Act*, if a first nation government imposes a penalty under section 54 of this Act, the penalty is payable to and may be retained by the first nation government.

Offences

57 (1)A person commits an offence and is liable on conviction to a fine not exceeding \$1 million or imprisonment for not more than 6 months, or to both, who contravenes the following:

(a)an order of the commission;

(b)section 20 (1);

- (b.1) section 20.1 (1);
- (b.2) section 20.3 (1);
- (c) a covenant referred to in section 22;
- (c.1) an order under section 49 (1) (f) to produce a record or thing;
- (d) section 49 (2);
- (e) a stop work order under section 50;
- (f) a remediation order under section 52.

(2) The maximum fine under subsection (1) to which a person is liable on a second or subsequent conviction is double the amount set out in that section.

(3) A proceeding, conviction or penalty under this section does not relieve a person from a penalty under another section or from any other liability.

(4) A person commits an offence who

- (a) without lawful excuse intentionally interferes with,
- (b) without lawful excuse intentionally fails to comply with a lawful requirement of, or
- (c) intentionally makes a false statement or misleads or attempts to mislead,

the chief executive officer, a member of the commission, an official or an employee or a consultant of the commission appointed under section 8.

(5) If a corporation contravenes this Act or the regulations, a director or officer of it who authorized, permitted or acquiesced in the contravention also commits the contravention.

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

Land use regulations

58 (1) The Lieutenant Governor in Council may make regulations respecting farm uses and non-farm uses as follows:

- (a) designating uses of agricultural land as farm use;
- (b) specifying farm uses of agricultural land that may not be prohibited by a local government enactment or a first nation government law;
- (c) prescribing permitted non-farm uses for the purposes of section 20 (1);
- (d) specifying permitted non-farm uses that may or may not be prohibited by a local government enactment or a first nation government law.

(2) The Lieutenant Governor in Council may make regulations respecting residential uses as follows:

(a) prescribing, by type or purpose, structures that are residential structures, including permanent and temporary structures, vehicles used as residences, roads, utilities, recreational and storage facilities and landscaping;

(b) for the purposes of section 20.1 (1) (a) and (b), respecting circumstances in which

(i) an additional residence is permitted, or

(ii) a principal residence may have a total floor area of more than 500 m²;

(c) for the purposes of section 20.1 (1) (c),

(i) respecting the size and siting of residential structures and methods for determining size and siting,

(ii) requiring all residential structures to be sited within a prescribed area on a parcel of agricultural land, and

(iii) permitting or prohibiting types of residential uses and imposing limits or conditions on residential uses;

(d) for the purposes of section 20.1 (1) (c), providing a process to apply for a variation of or exemption from a regulation made under paragraph (c) (i) or (ii) of this subsection, including

(i) respecting applications and fees for applications,

(ii) respecting hearings,

(iii) respecting matters that must be or may not be considered in making a determination, and

(iv) deeming an application to be a use or subdivision application for the purposes of this Act.

(3) The Lieutenant Governor in Council may make regulations respecting soil or fill uses as follows:

(a) exempting materials from the definition of "fill";

(b) for the purposes of section 20.3 (1) (b), specifying circumstances in which the removal of soil and placement of fill are permitted.

(4) The Lieutenant Governor in Council may make regulations respecting records that must be kept, and the period for which records must be kept, by persons engaging in any of the following:

(a) a farm use to which subsection (1) (a) or (b) applies;

(b) a non-farm use, non-adhering residential use or soil or fill use permitted under this Act.

(5) In making a regulation under subsection (2) or (3), the Lieutenant Governor in Council may impose limits or conditions on the use of agricultural land, including, without limitation, limits or conditions

- (a) that take into account agricultural, environmental, heritage, economic, cultural and social values, and
- (b) that are based on parcel size and location.

Regulations respecting statutory rights of way and subdivision

58.1 The Lieutenant Governor in Council may make regulations as follows:

- (a) for the purposes of section 18.1,
 - (i) prescribing the form and manner in which notice and proof under that section must be given, and
 - (ii) conferring a discretion on the commission or the Registrar of Titles to determine the form and manner in which notice and proof under that section must be given;
- (b) prescribing exceptions to the prohibitions under section 19 respecting subdivision of agricultural land;
- (c) for the purposes of section 21 (1), specifying permitted types of subdivision.

Regulations respecting fees

58.2 (1) The Lieutenant Governor in Council may make regulations respecting application fees as follows:

- (a) setting application fees;
- (b) exempting classes of persons from payment of an application fee;
- (c) for the purposes of section 34 (3) (b), prescribing the portion of an application fee to be paid to the local government or first nation government.

(2) The Lieutenant Governor in Council may make regulations setting fees for the following:

- (a) the provision of a service under the Act by the commission or the officers or employees appointed by the commission;
- (b) the purposes of sections 20.3 (1) (c) (ii), 35.1 (a) and 49 (3);
- (c) the exercise of powers under section 49 (1).

(3) In making a regulation under subsection (2), the Lieutenant Governor in Council may do the following:

- (a) set fees for the review of information;
- (b) prescribe the amount of a fee or a method for calculating the amount of a fee;

- (c) make regulations respecting the time within which a fee must be paid;
- (d) set minimum fees.

Regulations respecting applications

58.3 (1) The Lieutenant Governor in Council may make regulations respecting applications as follows:

- (a) for the purposes of section 25 (1) (a),
 - (i) specifying circumstances in which the commission must reject an application, and
 - (ii) establishing classes of applications and requiring the commission to reject an application unless the application is within an established class;
- (b) for the purposes of section 25 (1.1), respecting criteria to be considered;
- (c) for the purposes of section 26,
 - (i) respecting the terms of an agreement entered into under that section, and
 - (ii) prescribing agents, public officers and public bodies and specifying the persons constituting the governing body of a prescribed agent, public officer or public body;
- (d) for the purposes of section 29 (1), prescribing public bodies;
- (e) for the purposes of section 34 (1) (e), prescribing types of applications for which local government or first nation government review is not required;
- (f) for the purposes of section 34.1 (2) (a), respecting the manner in which a local government or first nation government is required to
 - (i) review an application, and
 - (ii) provide comments and recommendations respecting the application;
- (g) for the purposes of section 35.1 (a), respecting the information an applicant must submit to the commission and the form and manner in which the information must be provided;
- (h) respecting the giving of notice for applications, hearings and other matters, including the form and manner in which a notice must be given;
- (i) respecting the manner of holding hearings and meetings and obtaining public comment.

(2) The Lieutenant Governor in Council may make regulations as follows:

- (a) respecting the publication of reports for the purposes of section 44 (6);
- (b) respecting other forms of security for the purposes of section 48;
- (c) prescribing procedures to facilitate dispute resolution under the Act.

Regulations respecting the commission

58.4 The Lieutenant Governor in Council may make regulations as follows:

- (a) for the purposes of section 5, either or both of the following:
 - (i) prescribing criteria that a person must meet to be considered a resident of an administrative region;
 - (ii) conferring a discretion on the chair of the commission or another body or person for the purpose of determining whether, or the date on which, a person meets or ceases to meet the criteria to be considered a resident of an administrative region;
- (b) specifying applications and types of applications that
 - (i) are or are not of provincial importance for the purposes of section 11.1 (2) (a) (i),
 - (ii) do or do not raise an issue that is novel or is otherwise of general importance for the administration of the Act for the purposes of section 11.1 (2) (a) (ii), and
 - (iii) do or do not substantially affect more than one administrative region for the purposes of section 11.1 (2) (a) (iii);
- (c) establishing policies, procedures, rules and requirements to be followed by the commission in conducting its affairs, exercising its powers and performing its duties;
- (d) specifying the number of members that constitute a quorum of the commission or a panel;
- (e) prescribing the making of certain information public and the manner of making it public;
- (f) respecting the setting of boundaries of agricultural land and the agricultural land reserve and the form, content, maintenance and correction of records of those boundaries.

Regulations respecting enforcement

58.5 The Lieutenant Governor in Council may make regulations as follows:

- (a) respecting orders under sections 50 and 52;
- (b) respecting penalties levied under section 54 (1);
- (c) prescribing penalties for a contravention of this Act, the regulations or an order of the commission.

General powers respecting regulations

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

(2) A person must not read any of sections 58 to 58.5 or subsections (3) or (4) of this section as limiting the general power to make regulations described in subsection (1) of this section.

(3) The Lieutenant Governor in Council may make regulations as follows:

- (a) defining a word or expression used but not defined in this Act;
- (b) respecting any other matter for which regulations are contemplated by this Act.

(4) In making a regulation under any of sections 58 to 58.5 or this section, the Lieutenant Governor in Council may do the following:

- (a) establish classes of persons and make different regulations for different classes;
- (b) make different regulations for different types of
 - (i) agricultural land uses or limits or conditions that may be imposed on agricultural land uses under section 58 (2) or (3),
 - (ii) circumstances,
 - (iii) services that may be provided by, information that must be provided to or powers that may be exercised by the commission or the officers or employees appointed by the commission, and
 - (iv) applications;
- (c) make different notice requirements for different areas of British Columbia.

Powers cumulative

59 The powers in this Act and the regulations enabling the commission, the chief executive officer and an official to make an order, to impose a fine or penalty, or to commence a proceeding may be exercised separately, concurrently or cumulatively and do not affect the powers of the government under this or any enactment.

Certificates of title subject to this Act

60 (1) In addition to the limitations set out in section 23 (2) of the *Land Title Act*, a certificate of title issued before June 29, 1973 for agricultural land is subject, by implication and without endorsement on the certificate of title, to this Act and the regulations governing the agricultural land reserve and farm use of the land.

(2) A Registrar of Titles must endorse on every indefeasible title to agricultural land issued after June 29, 1973 that the title may be affected by this Act.

Transitional

61 (1) In this section:

"Land Reserve Commission" means the Land Reserve Commission established under section 2 of the *Land Reserve Commission Act* as it read immediately before the coming into force of this section.

(2) All of the rights, property and assets and all of the debts, liabilities and obligations of the Land Reserve Commission are transferred to and vested in the Provincial Agricultural Land Commission.

(3) An application or a matter commenced under the former Act is continued as an application or matter under this Act.

(4) An application under section 3 of the *Soil Conservation Act*, R.S.B.C. 1996, c. 434, as it read immediately before the coming into force of this section is continued as an application for permission for non-farm use under this Act.

(5) The Provincial Agricultural Land Commission may take up and carry on to completion all proceedings or other matters commenced under any enactment that were, immediately before the coming into force of this section, before the Land Reserve Commission.

Spent

62-90 [Consequential amendments and repeals. Spent. 2002-36-62 to 90.]

Commencement

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

Schedule

Interior Administrative Region

1 For the purpose of section 4.1 (a), the Interior Administrative Region consists of the geographic area of British Columbia within the boundaries of the following regional districts, as those boundaries existed on January 1, 2014:

(a) Cariboo Regional District;

- (b) Central Coast Regional District;
- (c) Thompson-Nicola Regional District;
- (d) the part of Squamish-Lillooet Regional District that is north and east of a line commencing at the intersection of latitude 50° 24' 54.5" north and longitude 122° west and then proceeding due north to the intersection of latitude 50° 45' north and longitude 122° west and then proceeding due west to the intersection of latitude 50° 45' north and longitude 123° west and then proceeding due north and terminating at the intersection of latitude 51° 11' 47.63" north and longitude 123° west.

Island Administrative Region

2 For the purpose of section 4.1 (b), the Island Administrative Region consists of the geographic area of British Columbia within the boundaries of the following regional districts, as those boundaries existed on January 1, 2014:

- (a) Regional District of Alberni-Clayoquot;
- (b) Capital Regional District;
- (c) Comox Valley Regional District;
- (d) Cowichan Valley Regional District;
- (e) Regional District of Mount Waddington;
- (f) Regional District of Nanaimo;
- (g) Powell River Regional District;
- (h) Strathcona Regional District.

Kootenay Administrative Region

3 For the purpose of section 4.1 (c), the Kootenay Administrative Region consists of the geographic area of British Columbia within the boundaries of the following regional districts, as those boundaries existed on January 1, 2014:

- (a) Regional District of Central Kootenay;
- (b) Regional District of East Kootenay;
- (c) Regional District of Kootenay Boundary;
- (d) the part of Columbia-Shuswap Regional District that is south and east of a line commencing at the intersection of

latitude 50° 52' 58.23" north and longitude 117° 30' west and proceeding due north to the intersection of latitude 51° 45' north and longitude 117° 30' west and then proceeding due east and terminating at latitude 51° 45' north and longitude 116° 57' 40" west.

North Administrative Region

4 For the purpose of section 4.1 (d), the North Administrative Region consists of the following:

(a) the geographic area of British Columbia within the boundaries of the following regional districts and regional municipalities, as those boundaries existed on January 1, 2014:

- (i) Regional District of Bulkley-Nechako;
- (ii) Regional District of Fraser-Fort George;
- (iii) Regional District of Kitimat-Stikine;
- (iv) Northern Rockies Regional Municipality;
- (v) Peace River Regional District;
- (vi) Skeena-Queen Charlotte Regional District;

(b) all the land in British Columbia that is not within the boundaries of a regional district or a regional municipality, as those boundaries existed on January 1, 2014.

Okanagan Administrative Region

5 For the purpose of section 4.1 (e), the Okanagan Administrative Region consists of the geographic area of British Columbia within the boundaries of the following regional districts, as those boundaries existed on January 1, 2014:

- (a) Regional District of Central Okanagan;
- (b) Regional District of North Okanagan;
- (c) Regional District of Okanagan-Similkameen;
- (d) Columbia-Shuswap Regional District, except the part of Columbia-Shuswap Regional District that is south and east of a line commencing at the intersection of latitude 50° 52' 58.23" north and longitude 117° 30' west and proceeding due north to the intersection of latitude 51° 45' north

and longitude 117° 30' west and then proceeding due east and terminating at latitude 51° 45' north and longitude 116° 57' 40" west.

South Coast Administrative Region

6 For the purpose of section 4.1 (f), the South Coast Administrative Region consists of the geographic area of British Columbia within the boundaries of the following regional districts, as those boundaries existed on January 1, 2014:

(a) Fraser Valley Regional District;

(b) Metro Vancouver Regional District;

(c) Sunshine Coast Regional District;

(d) Squamish-Lillooet Regional District, except the part of Squamish-Lillooet Regional District that is north and east of a line commencing at the intersection of latitude 50° 24' 54.5" north and longitude 122° west and then proceeding due north to the intersection of latitude 50° 45' north and longitude 122° west and then proceeding due west to the intersection of latitude 50° 45' north and longitude 123° west and then proceeding due north and terminating at the intersection of latitude 51° 11' 47.63" north and longitude 123° west.