

This Act is current to 30 November 2016.

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

**MUSKWA-KECHIKA MANAGEMENT AREA ACT**  
[SBC 1998] CHAPTER 38

Assented to July 30, 1998

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Preamble

WHEREAS the Muskwa-Kechika Management Area is an area of unique wilderness in northeastern British Columbia that is endowed with a globally significant abundance and diversity of wildlife;

AND WHEREAS the management intent for the Muskwa-Kechika Management Area is to maintain in perpetuity the wilderness quality, and the diversity and abundance of wildlife and the ecosystems on which it depends while allowing resource development and use in parts of the Muskwa-Kechika Management Area designated for those purposes including recreation, hunting, trapping, timber harvesting, mineral exploration and mining, oil and gas exploration and development;

AND WHEREAS the long-term maintenance of wilderness characteristics, wildlife and its habitat is critical to the social and cultural well-being of first nations and other people in the area;

AND WHEREAS the integration of management activities especially related to the planning, development and management of road accesses within the Muskwa-Kechika Management Area is central to achieving this intent and the long-term objective is to return lands to their natural state as development activities are completed;

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

## Part 1 — Definitions and Interpretation

### Definitions and interpretation

#### 1 In this Act:

"advisory board" means the Muskwa-Kechika Advisory Board appointed under section 9;

"landscape unit objective" means a landscape unit objective under the Forest Practices Code of British Columbia Act for an area within the management area;

"local strategic plan" means a plan referred to in Schedule 6 to Order in Council 1367/97 or a local strategic plan enacted under section 5 that is one of the following:

- (a) an oil and gas pre-tenure plan;
- (b) a recreation management plan;
- (c) a park management plan;
- (d) a wildlife management plan;

"management area" means the Muskwa-Kechika Management Area continued by section 3 and described in the Schedule;

"management plan" means the Muskwa-Kechika Management Plan in Schedule 3 to Order in Council 1367/97 or as enacted or amended under section 4;

"oil and gas pre-tenure plan" means an oil and gas pre-tenure plan as defined by the regulations;

"operational instrument" means a plan, allocation, tenure, disposition, licence or any other instrument or document affecting or respecting Crown land or a natural resource that is enacted or authorized under an enactment other than this Act and the regulations;

"park management plan" means a park management plan as defined by the regulations;

"recreation management plan" means a recreation management plan as defined by the regulations;

"resource management zone" means a zone described in Schedule 2 to Order in Council 1367/97 or defined in the regulations;

"trust fund" means the Muskwa-Kechika Trust Fund established under section 10;

"wildlife management plan" means a wildlife management plan as defined by the regulations.

## Part 2 — Application

### Application of other enactments to the management area

2 (1) With respect to the management area, a minister or other agent of the government must not exercise a power under any enactment except in accordance with this Act, the regulations and local strategic plans.

(2) Subsection (1) does not apply to an order made under the Environment and Land Use Act or a person acting under an order made under that Act.

## Part 3 — Management Area and Plan

### Muskwa-Kechika Management Area continued

3 The area established under Order in Council 1367/97 and known as the Muskwa-Kechika Management Area is continued as the management area to be administered under this Act.

## Muskwa-Kechika Management Plan

4 (1) The planning and management of Crown land and natural resources in the management area must be conducted in accordance with the management plan.

(2) After giving notice under subsection (3) and consulting with the advisory board, and despite any other Act or regulation, the Lieutenant Governor in Council may make regulations that the Lieutenant Governor in Council considers necessary or advisable to enact or amend the management plan respecting the environment, resource management or land use in the management area.

(3) Before the Lieutenant Governor in Council enacts or amends the management plan, the minister must give notice, in accordance with the regulations, of the intention to do so.

(4) [Repealed 2002-18-3.]

Local strategic plans and landscape unit objectives

5 (1) The minister or a person or a class of persons designated by the minister may, by order, enact the following:

(a) an oil and gas pre-tenure plan;

(b) a recreation management plan.

(1.1) The minister responsible for the Park Act or a person or a class of persons designated by that minister may, by order, enact a park management plan.

(1.2) The minister responsible for the Wildlife Act or a person or a class of persons designated by that minister may, by order, enact a wildlife management plan.

(2) A local strategic plan must do the following:

(a) specify the boundaries of the area within the management area to which the local strategic plan applies;

(b) be consistent with the management plan;

(c) apply measures to achieve the provisions of the management plan.

(3) A landscape unit objective must be consistent with the management plan.

Repealed

6 [Repealed 2002-18-5.]

Consistency of operational activities

7 (1) If there is no local strategic plan or landscape unit objective and no local strategic plan or landscape unit objective is required under section 8 (1), the issuance, approval, permitting or authorization of an operational instrument affecting or respecting Crown land or a natural resource by a minister or other agent of the government must be consistent with the management plan.

(2) If there is a local strategic plan or landscape unit objective for an area, an operational instrument referred to in subsection (1) affecting or respecting the area must be consistent with the local strategic plan or landscape unit objective as follows:

(a) an operational instrument for timber or range resource management must be consistent with any landscape unit objective;

(b) an operational instrument affecting or respecting oil or gas resource management must be consistent with any local strategic plan that is an oil and gas pre-tenure plan;

(c) an operational instrument affecting or respecting commercial recreation management must be consistent with any local strategic plan that is a recreation management plan;

(d) an operational instrument affecting or respecting a Provincial park or ecological reserve must be consistent with any local strategic plan that is a park management plan;

(e) an operational instrument affecting or respecting wildlife management must be consistent with any local strategic plan that is a wildlife management plan;

(f) a range use plan or range stewardship plan under the Forest and Range Practices Act that applies to a Provincial park must be consistent with any local strategic plan that is a park management plan.

(3) An operational instrument referred to in subsection (1) must incorporate any conditions necessary to make its operation consistent with the management plan.

(4) An operational instrument referred to in subsection (2) must incorporate any conditions necessary to make its operation consistent with the local strategic plan or landscape unit objective.

(5) If the minister or other agent of the government issuing, approving, permitting or authorizing the operational instrument does not otherwise have the power to incorporate the conditions referred to in subsections (3) and (4) in an operational instrument referred to in those subsections, that minister or other

agent has that power for the purposes of this Act, the regulations and local strategic plans or landscape unit objectives.

Prerequisites to and approval of operational activities

8 (1) A local strategic plan or landscape unit objective is a prerequisite to the issuance, approval, permitting or authorization, by a minister or other agent of the government, of an operational instrument affecting or respecting an activity in an area only as follows:

(a) a landscape unit objective is a prerequisite to a forest development plan or a forest stewardship plan under the Forest and Range Practices Act;

(b) a local strategic plan that is an oil and gas pre-tenure plan is a prerequisite to an operational instrument affecting or respecting oil or gas resource management;

(c) a local strategic plan that is a recreation management plan is a prerequisite to an operational instrument affecting or respecting commercial recreation management.

(2) Despite subsection (1) (b), an oil and gas pre-tenure plan is not a prerequisite to the approval and conduct of geophysical exploration in accordance with the Oil and Gas Activities Act.

(3) and (4) [Repealed 2002-18-6.]

(5) Despite subsections (1) and (2), a minister or other agent of the government may issue, approve, permit or authorize an operational instrument in respect of a wildfire or a pest or disease infestation to forests or wildlife without a local strategic plan or landscape unit objective being in place.

(6) Despite subsections (1) and (2), the minister or other agent of the government may issue, approve, permit or authorize the operational instrument

(a) in the absence of an oil and gas pre-tenure plan or a recreation management plan if the minister, or the person or a person in the class of persons designated by the minister, who would be required to enact an oil and gas pre-tenure plan or a recreation management plan as a prerequisite to an operational instrument determines that any oil and gas pre-tenure plan or recreation management plan would not affect the operational instrument, or

(b) in the absence of a landscape unit objective if the minister, or the person or a person in the class of persons designated by the minister, who would be required to establish a landscape unit objective as a prerequisite to an operational instrument determines that any landscape unit objective would not affect the operational instrument.

Muskwa-Kechika Advisory Board

9 The Premier must appoint an advisory board, to be known as the Muskwa-Kechika Advisory Board, to advise on natural resource management in the management area and may appoint a chair of the advisory board.

#### Part 4 — Muskwa-Kechika Trust Fund

Trust fund established

10 (1) The Muskwa-Kechika Trust Fund is established as a trust fund as defined in the Financial Administration Act.

(2) The trust fund is divided into 2 accounts known as the general account and the project account.

(3) The trust fund is deemed to be an agent of the government for all purposes.

Minister is the trustee of the trust fund

11 (1) The minister is the trustee of the trust fund.

(2) In carrying out the purposes of the trust fund, the trustee is an agent of the government.

Purposes of and expenditure from fund

12 (1) The purposes of the trust fund are the following:

(a) to support wildlife and wilderness resources of the management area through research and integrated management of natural resource development;

(b) to maintain in perpetuity the diversity and abundance of wildlife species and the ecosystems on which they depend throughout the management area.

(2) To achieve the purposes of the trust, the trustee may make payments out of the trust fund only for one or more of the following in respect of the management area:

- (a) conserving and enhancing biological diversity, fish, fish habitat, wildlife, wildlife habitat and wilderness values;
- (b) conducting research into wilderness management, fish and wildlife biology and ecology, with emphasis on large predator/prey ecosystems;
- (c) conducting research into integrated management of wilderness, wildlife, fish, recreation and resource development;
- (d) supporting inventories and mapping of wildlife, recreation, range and culture;
- (e) supporting planning initiatives regarding wildlife, recreation, parks, access and resource development;
- (f) involving and training persons from local communities in resource related career opportunities;
- (g) promoting knowledge and awareness of the trust fund, the management area and its wilderness values, by way of promotional, educational or other programs or activities;
- (h) supporting enforcement training and activities that serve to ensure compliance with this Act and other relevant enactments;
- (i) the reasonable travelling and out of pocket expenses incurred by the advisory board on matters relating to this Act;
- (j) administration, staffing, services and supplies provided in relation to matters referred to in this section or provided to otherwise manage the trust fund;
- (k) the remuneration of the chair of the advisory board.

(3) The trustee may make payments out of the project account of the trust fund for the purposes of a project but not for administration, travel, services and supplies provided in relation to the operation of the trust fund or of the advisory board.

(4) The powers of the trustee to spend money from the trust fund are not intended to relieve the government from responsibility to maintain essential programs for the management of resources in the management area.

#### Payments into trust fund

13 (1) The following must be paid into the trust fund:

- (a) money acquired by gift, donation or bequest;
- (b) money received as contributions;
- (c) revenue derived from fundraising and the sale of promotional, educational or other materials, goods or services and other programs or activities under section 12 (2) (g);
- (d) any interest or other income of the trust fund.

(2) The trustee must deposit all money intended for the trust fund to the general account, unless the gift or appropriation specifies otherwise.

(3) The trustee must allocate interest and other income earned on funds from the project account to that account.

(4) The trustee may dispose of property that is obtained by gift and must pay the proceeds of disposition into the trust fund.

#### Funding conditions

14 The trustee may accept on behalf of the trust fund donations that are subject to conditions, as long as the conditions are consistent with the intent of section 12.

#### Advisory board to advise on trust projects

15 (1) The advisory board may identify suitable projects and proposals consistent with the purposes of the trust.

(2) The trustee must consult the chair of the advisory board before committing or spending money from the trust fund.

#### Part 5 — General

#### Application of Offence Act

16 Section 5 of the Offence Act does not apply to this Act, the regulations or orders under this Act.

#### Power to make regulations

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

- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) defining a word or phrase used but not defined in this Act;
  - (b) amending the Schedule to add land to the management area.
- (3) Without limiting subsection (1), after consulting the advisory board, the Lieutenant Governor in Council may make regulations as follows:
- (a) enacting or amending the management plan;
  - (b) defining the composition and responsibilities of the advisory board;
  - (c) respecting consultation with the public, including first nations, on proposed amendments to the management plan and the establishment of or changes to a resource management zone.

#### Appropriation

18 (1) Before May 1 in each year, until May 1, 2005, the minister responsible for the Financial Administration Act must pay out of the consolidated revenue fund, without an appropriation other than this subsection, an amount into the general account of the trust fund that restores the balance in the account to at least \$1 000 000.

(1.1) Until March 31, 2006, in each fiscal year the minister responsible for the Financial Administration Act must pay out of the consolidated revenue fund, without an appropriation other than this subsection, an amount into the project account of the trust fund that is the lesser of

- (a) \$1 000 000, and
- (b) an amount equal to the contributions to the project account during the fiscal year.

(2) On the recommendation of Treasury Board, the Lieutenant Governor in Council may, by order, extend the operation of subsections (1) and (1.1) to additional fiscal years.

#### Transitional

19 (1) Order in Council 1367/97 is confirmed and validated.

(2) The Muskwa-Kechika Management Plan in Schedule 3 to Order in Council 1367/97

- (a) is confirmed and validated,
- (b) is deemed to be a regulation made under this Act, and
- (c) at any time after this section comes into force, may be filed as a regulation under the Regulations Act.

(3) The plans listed in Schedule 6 to Order in Council 1367/97

- (a) are confirmed and validated,
- (b) are deemed to be local strategic plans enacted under this Act, and
- (c) are deemed to be orders made under section 5 of this Act.

(4) Before the appointment of the advisory board, regulations under section 17 (3) (a) may be made without giving notice and consulting the advisory board.

#### Spent

20–22 [Consequential amendments. Spent. 1998-38-20 to 22.]

#### Commencement

23 This Act, except section 19, comes into force by regulation of the Lieutenant Governor in Council.

#### Schedule

##### Muskwa-Kechika Management Area

All those parcels or tracts of Crown land, together with all that foreshore or land covered by water, situated in the Cassiar and Peace River Land Districts and contained within the described boundaries as shown on the Official Plan deposited in the Crown Land Registry as Plan 12 Tube 1879.

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