

This Act is current to 30 November 2016.

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

## **HYDRO AND POWER AUTHORITY ACT**

[RSBC 1996] CHAPTER 212

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#### Definitions

##### 1 In this Act:

"authority" means the British Columbia Hydro and Power Authority continued under this Act;

"commission" means the British Columbia Utilities Commission continued under the Utilities Commission Act;

"generation" means production by hydraulic, electrical, steam, internal combustion engine, gas, oil or by any other process;

"judge" means a justice of the Court of Appeal or a judge of the Supreme Court;

"owner"

(a) in relation to land, means a person registered in the books of a land title office as owner of land or of a charge on land, whether entitled to it in the person's own right or in a representative capacity or otherwise and includes a lessee in possession for a term of 3 years or less and a person who is the owner, although unregistered, of an estate less than the fee simple granted by the Crown, and

(b) in relation to other property, includes a mortgagee, person entitled to a limited estate or interest and a guardian, executor, administrator or trustee in whom any property or interest in any property is vested;

"power", except in sections 12 (1) and 38 (2), includes energy, light and heat however developed or produced, and includes electricity and natural, manufactured or mixed gas, or liquefied petroleum gas;

"power plant" or "plant" includes all land, water, rights to the use of water, buildings, works, machinery, installations, materials, devices, fittings, apparatus, appliances, offices, furniture and equipment, vehicles, tools, stores and supplies, including office stores and supplies, constructed, acquired or used or adapted, or that, in the opinion of the authority, might be used or adapted for or in connection with the generation or supply of power;

"power project" includes any charter, franchise, privilege or other right, or land, buildings, plant, machinery or equipment acquired, or proposed to be acquired, by a person with a view to the generation or supply of power, or any plans, surveys or data made or assembled with a view to the generation or supply of power;

"power site" includes any land, or any lake, river, stream, watercourse or body of water, water licence or privilege, or reservoir, dam, water storage, sluice, canal, raceway, tunnel or aqueduct that is used or that, in the opinion of the authority, might be used for or in connection with the generation or supply of power;

"supply" as a noun means reservation, transmission, distribution, capacity to provide, dealing in and sale; and as a verb has a corresponding meaning.

#### Authority continued

2 The corporation known as the British Columbia Hydro and Power Authority is continued, consisting of persons who are appointed as directors and who hold office as provided in this Act.

#### Agent of government

3 (1) The authority is for all its purposes an agent of the government and its powers may be exercised only as an agent of the government.

(2) The Minister of Finance is the fiscal agent of the authority.

(3) The authority, on behalf of the government, may contract in its corporate name without specific reference to the government.

#### Directors

4 (1) The Lieutenant Governor in Council appoints the directors of the authority who hold office during pleasure.

(2) The Lieutenant Governor in Council must appoint one or more of the directors to chair the authority.

(3) A chair or other director must be paid by the authority the salary, directors' fee and other remuneration the Lieutenant Governor in Council determines.

#### Powers of directors

5 The directors must manage the affairs of the authority or supervise the management of those affairs, and may

(a) exercise the powers conferred on them under this Act,

(b) exercise the powers of the authority on behalf of the authority, and

(c) delegate the exercise or performance of a power or duty conferred or imposed on them to anyone employed by the authority.

#### Directors' proceedings

6 (1) The directors may, on behalf of the authority, pass resolutions thought by them necessary or advisable for the

(a) conduct of the affairs of the authority, and

(b) times, places, calling and regulation of meetings of directors and of committees of directors.

(2) The authority may exercise any of its powers or duties by resolution unless otherwise provided in this Act.

#### Interests of directors

7 A director of the authority must not, directly or indirectly,

(a) [Repealed 2001-31-1.]

(b) have an interest in any device, appliance, machine, article, patent or patented process that is used in the generation or supply of power, or

(c) have an interest in a contract for the construction of, or doing any work on, a power plant.

#### Resolutions

8 A resolution in writing signed by all the directors is as valid and effectual as if it had been passed at a properly called and constituted meeting of directors.

#### Executive committee

9 (1) The Lieutenant Governor in Council may appoint an executive management committee of the authority that is composed of not more than 5 directors, and that must, subject to the direction of the directors of the authority, manage the operations of the authority.

(2) The members of the executive management committee may be paid remuneration determined by the Lieutenant Governor in Council.

#### Appointment of employees

10 The authority may, without regard to the Public Service Act, appoint a secretary and executive officers, engineers, solicitors, accountants, employees, consultants and agents it thinks necessary for its business, and may define their duties, determine their compensation and provide a system of organization to establish responsibility and promote efficiency.

## Bonds

11 The authority may require bonds of the officers and employees it designates.

## Powers

12 (1) Subject to this Act and the regulations, the authority has the capacity and the rights, powers and privileges of an individual of full capacity and, in addition, has

(a) the power to amalgamate in any manner with a firm or person, and

(b) any other power prescribed.

(1.1) The authority's purposes are

(a) to generate, manufacture, conserve, supply, acquire and dispose of power and related products,

(b) to supply and acquire services related to anything in paragraph (a), and

(c) to do other things as may be prescribed.

(1.2) The authority may not engage in activities or classes of activities prescribed for the purposes of this subsection without obtaining an applicable approval as prescribed.

(2) If the authority

(a) acquires all of the property, assets or undertaking of a firm or person,

(b) assumes the obligations and liabilities of a firm or person,

(c) amalgamates in any manner with a firm or person, or

(d) takes over the management, supervision or control of the business of a firm or person,

the authority or the amalgamated corporation, if there is an amalgamation, may exercise and perform any power or duty conferred or imposed on it or on that other firm or person under this or any other Act for and on behalf of that other firm or person, or the amalgamated corporation, or with respect to the property or undertaking of that other firm or person, or the amalgamated corporation, with or without exercising or performing any other resulting power or duty.

(3) If the authority amalgamates with a firm or person, this Act applies as if the amalgamated corporation were the authority.

(4) The Lieutenant Governor in Council may, by order, prescribe the procedure to be followed in amalgamation of the authority with a firm or person.

(5) Despite the Land Title Act, if the authority acquires all of the property, assets or undertaking of, or amalgamates in any manner with, a firm or person,

(a) all of the interests of that firm or person that are registered in a land title office are deemed to be registered interests of the authority or the amalgamated corporation, as the case may be,

(b) the registrar of that land title office must accordingly make all necessary amendments to the register, and

(c) the amendments constitute registration of the interests under the Land Title Act in favour of the authority or the amalgamated corporation, as the case may be.

(6) The Lieutenant Governor in Council may make regulations necessary for carrying out subsection (5).

(7) Fees must not be paid for anything done under subsection (5) or (6).

(8) Nothing in this section relieves the authority from any requirement of the Utilities Commission Act that applies to the authority under section 32 (7).

(9) The Lieutenant Governor in Council, by order, may designate any agreement entered into or to be entered into by the authority that the Lieutenant Governor in Council considers relates to the provision of support services to or on behalf of the authority.

(10) For the purposes of subsection (9), "support services" means services that support or are ancillary to the activities of the authority from time to time, and includes services related to metering for, billing and collecting fees, charges, tariffs, rates and other compensation for electricity sold, delivered or provided by the authority, but does not include the production, generation, storage, transmission, sale, delivery or provision of electricity.

(11) Despite the common law and the provisions of this or any other enactment, if an agreement is designated under subsection (9),

(a) the authority is deemed to have, and to have always had, the power and capacity to enter into the agreement,

(b) the agreement and all actions of the authority taken in accordance with the provisions of the agreement are authorized, valid and deemed to be required for the public convenience and necessity,

(c) the authority is deemed to have, and to have always had, the power and capacity to carry out all of the obligations imposed under, and to exercise all of the rights, powers and privileges granted by, the agreement according to its terms,

(d) the agreement is binding on and enforceable by the authority, according to the agreement's terms, and

(e) subject to subsection (12), the authority is not required to obtain any approval, authorization, permit or order under the Utilities Commission Act in connection with the agreement or any actions taken in accordance with the terms of the agreement, and the commission must not prohibit the authority from taking any action that the authority is entitled or required to take under the terms of the agreement.

(12) Nothing in subsection (11) (e) precludes the commission from considering the costs incurred, or to be incurred, in relation to an agreement designated under subsection (9) when establishing the revenue requirements and setting the rates of the authority.

(13) [Repealed 2004-23-14.]

Repealed

13 [Repealed 2004-23-15.]

Repealed

14-15 [Repealed 2009-34-6.]

Expropriation

16 (1) The authority may, for any purpose related to the exercise of its powers,

(a) expropriate any property, power site, power project or power plant,

(b) enter, remain on, take possession of and use any property,

(c) on land that it expropriates,

(i) erect, make or place on the land any structure, installation, excavation or power plant, and

(ii) flood and overflow the land and accumulate and store water on it, and

(d) require and compel a person who generates or supplies power to enter into an agreement to supply to the authority as much of that power as the authority requires.

(2) If land is expropriated under subsection (1), the Expropriation Act applies.

(3) If the authority exercises a power under subsection (1) that does not constitute the expropriation of land requiring approval under the Expropriation Act, it must obtain the approval of the minister before the power is exercised.

(4) If the authority expropriates property under subsection (1) other than land, the authority must notify the Attorney General and, if required by the Attorney General, file a notice describing the property at a place designated by the Attorney General.

(5) Despite any other Act, the property referred to in subsection (3) that is expropriated vests in the authority free and clear of all encumbrances

(a) when the notice is filed under subsection (4), or



(b) if no filing is requested, when the Attorney General receives the notification under subsection (4).

(6) After property vests under subsection (5), the authority must serve on the owner of the property a notice containing a description of the property sufficient to identify it, together with a declaration of readiness to pay compensation in an amount to be agreed on or to be determined under subsection (9).

(7) If an owner is absent from British Columbia or is unknown or cannot be served, the Supreme Court may, on the application of the authority, order that the notice under subsection (6) be published in a manner and for a time that the court thinks proper, and, on publication, the owner is deemed to have been served with the notice.

(8) If the authority exercises its powers under subsection (1), other than in relation to the expropriation of land, it must pay compensation for

(a) the interest, property, matter or thing expropriated, entered on or used, and

(b) damages to any property that directly result from the expropriation, entry or use.

(9) If the authority and a person entitled to compensation fail to agree on the amount of compensation payable under subsection (8), the amount must be determined by the Supreme Court.

#### Compulsory supply of power

17 (1) If the authority is unable to agree with a person required or compelled to supply power under section 16 (1) (d) on the amount of power available for the authority's use or the price to be paid for it or on any matter relating to supplying the power desired, the commission must, on application of either party, after a hearing, determine the amount of power, if any, to be supplied and the price to be paid for it, and also any other matter on which agreement has not been reached.

(2) A determination of the commission under subsection (1) is final.

#### Release on expropriation

18 (1) If any power of expropriation is exercised by the authority, the authority must, by order in writing, release the person whose property has been expropriated from any obligation relating to the purchase or supply of power or to the purchase or sale of anything required for a power plant.

(2) An order made under subsection (1) is binding on all parties concerned.

(3) An order made under subsection (1) has effect only in regard to matters connected with the property expropriated.

#### Application of expropriation power

19 The power of expropriation conferred on the authority extends to property, plants, rights, powers and privileges, even though

(a) they are or may be deemed to be devoted to public use, or

(b) the owner possesses the power of taking land compulsorily,

but the authority does not have the power to take by expropriation land or a plant of a municipality that may be used for the generation or supply of power.

Power of entry, etc.

20 (1) The authority may, by itself, or by its engineers, surveyors, agents, contractors, subcontractors or employees, for any purpose relating to the use, construction, maintenance, safeguarding or repair of its plants or projected plants, or for better access to them and without the consent of the owner, enter any land and

(a) survey and take levels of it and make the borings, tests or sink the trial pits it thinks necessary,

(b) cut down any trees that, in its opinion, might, in falling or otherwise, endanger the conductors, wires or equipment or other plant of the authority, or that may obstruct the running of survey lines, and

(c) make or use all roads, trails, bridges, wharves and other works and facilities, whether permanent or temporary, that may be required for the convenient passing to and from its survey lines, plants and projected plants.

(2) Despite anything in this Act, if a claim is made against the authority for damage to crops, gardens, shrubs, trees or other growing things, or other damage caused by or incidental to the exercise of powers conferred by this section, if the amount of compensation for damage is not agreed on, compensation must be determined by the Supreme Court.

Borrowing by authority

21 (1) Subject to the approval of the Lieutenant Governor in Council, the authority, for any of the purposes of the authority, may

(a) borrow sums of money the authority thinks are required, and

(b) issue notes, bonds, debentures and other securities bearing interest at rates and payable as to principal and interest in currencies and at places and at times and in a manner the authority determines.

(2) The directors of the authority may, by resolution, delegate any of their powers or the powers of the authority under this section to any director or officer of the authority.

(3) A resolution under this section approved by the required number of directors by telex, telegraph, telephone or any other similar means of communication confirmed in writing or other graphic communication, is as valid and effectual as if it had been passed at a meeting of the directors properly called and constituted.

(4) The notes, bonds, debentures and other securities of the authority may be made redeemable in advance of maturity at times and at prices the directors of the authority determine at the time of the issue.

(5) For this section, the purposes of the authority, without limiting any other provision of this Act, include the following:

(a) payment, refunding, exchange or renewal of all or any part of a loan raised or securities issued by the authority, except to the extent that a sinking fund is available for the payment of the loan or securities, and a recital or declaration in the resolution or minutes of the authority authorizing the issue of securities as to the amount of any sinking fund so available is conclusive evidence of the fact;

(b) payment of all or any part of a loan, liability or bonds, debentures or other securities, payment of which is guaranteed or assumed by the authority;

(c) payment of any other liability or indebtedness of the authority;

(d) carrying out any of the powers referred to in this Act, providing in whole or in part for expenditures of the authority made or to be made in connection with them, reimbursing the authority for any of those expenditures and repaying all or part of any temporary borrowings of the authority for any of those purposes;

(e) the exercise of a power, right, function or duty conferred or imposed on the authority under this or any other Act or law.

(6) The authority may borrow and may issue under subsection (1) in amounts that will realize the net sum required by the authority for its purposes, and a recital or declaration in the resolution or minutes of the authority authorizing the issue of securities to the effect that the issue of the authorized securities is being made for the purposes of the authority and that the amount is necessary to realize the net sum required for the purposes of the authority is conclusive evidence of the fact.

(7) Subject to the approval of the Lieutenant Governor in Council, on terms and conditions thought advisable, the authority may dispose of the notes, bonds, debentures and other securities of the authority, either at the par value of them or at less or more than the par value, and may charge, pledge, hypothecate, deposit or otherwise deal with the securities as collateral security.

(8) Subject to the approval of the Lieutenant Governor in Council on terms and conditions thought advisable, the authority may exchange notes, bonds, debentures or other securities of the authority for securities of another corporation

(a) in an amount or amounts equal to or greater or smaller than the amount or amounts of the notes, bonds, debentures or other securities of the authority,

(b) bearing interest payable at the same or different time or times as the interest payable under the notes, bonds, debentures or other securities of the authority,

(c) bearing interest at the same or a greater or smaller rate as or than the interest payable under the notes, bonds, debentures or other securities of the authority,

(d) due on the same or on an earlier or later date as or than the notes, bonds, debentures or other securities of the authority, and

(e) callable whether or not the notes, bonds, debentures or other securities of the authority are callable and on the same or different terms and conditions as or than the notes, bonds, debentures or other securities of the authority if they are callable.

(9) Securities of the authority, dealt with as collateral security,

(a) when redelivered to the authority or its nominees on or after payment, satisfaction, release or discharge, in whole or in part, of any indebtedness or obligation for which the securities may have been given as collateral, or

(b) when the authority again becomes entitled to the securities,

may be treated by the authority as unissued and, subject to the approval of the Lieutenant Governor in Council,

(c) may be issued, reissued, charged, pledged, hypothecated, deposited, dealt with as collateral security, sold or otherwise disposed of on terms and conditions the directors of the authority think advisable, or

(d) at the option of the authority, may be cancelled, at which time, subject to the approval of the Lieutenant Governor in Council, fresh securities to the same amount and in the same form may be issued in place of them with the same consequences, and on the issue or reissue a person entitled to them has the same rights and remedies as if the securities had not been previously issued,

but the borrowing power of the authority is deemed not to have been affected by the issuance, reissuance, pledging, depositing or selling of securities under this section.

(10) The notes, bonds, debentures and other securities of the authority must be in a form determined by the directors of the authority or on behalf of the authority by the Minister of Finance as fiscal agent for the authority.

(11) The notes, bonds, debentures and other securities must bear the seal of the authority and, together with any coupons attached, must bear the signatures in writing of

(a) the chair and another director or officer, or

(b) other directors or officers as the authority may determine.

(12) The directors of the authority may provide that the seal of the authority may be engraved, lithographed, printed or otherwise mechanically reproduced on any security to which it is to be affixed.

(13) The seal of the authority, when mechanically reproduced, has the same effect as if manually affixed, and any mechanically reproduced signature or signatures are for all purposes valid and binding on the authority even though the person whose signature is reproduced has ceased to hold office before the date of the security or before its issue.

(14) Subject to the approval of the Lieutenant Governor in Council, the authority may also borrow by way of temporary loans from any person the sums on the terms, for the purposes and on the conditions the directors of the authority determine, by way of bank overdraft or line of credit, or by the pledging as security for the temporary loans of notes, bonds, debentures or other securities of the authority pending the sale of them or in place of selling them, or in whatever other manner the directors of the authority determine.

(15) Any cheques, promissory notes or other instruments necessary or desirable in connection with the borrowing of money and the obtaining of advances by way of temporary loans as set out in subsection (14) may be executed in whatever manner the directors of the authority determine.

(16) The Minister of Finance, as fiscal agent of the authority, may arrange all details and do, transact and execute all deeds, matters and things that are required during the negotiation of a loan or for placing a loan.

(17) Money raised by the authority under this section must be paid by the authority into the fund established under section 27.

(18) to (23) [Repealed 2004-23-15.]

#### Authorization to borrow from Canada Pension Plan

22 Despite anything in this Act, the authority may, in the resolution under section 21, authorize the Minister of Finance or, with the concurrence of the Minister of Finance, authorize the Minister of Finance of Canada to determine any matter required to be determined under section 21 for

(a) borrowing money from the Canada Pension Plan Investment Fund established under the Canada Pension Plan, and

(b) issuing and selling to the Receiver General and Minister of Finance of Canada for the credit of the Canada Pension Plan Investment Fund debentures as security for the loans.

#### Guarantee of principal and interest

23 (1) The Lieutenant Governor in Council, for and on behalf of the government, may guarantee the payment of the principal and interest of and on any of the following:

(a) notes, bonds, securities, debentures, debenture stock, loans or obligations issued by the authority or the payment of which is assumed by the authority;

(b) notes, bonds, securities, debentures, debenture stock or loans issued by a firm or person if

- (i) all of the property, assets or undertaking of the firm or person has been acquired by the authority,
- (ii) the obligations and liabilities of the firm or person has been assumed by the authority,
- (iii) the firm or person is amalgamated with the authority, or

(iv) the management, supervision or control of the business of the firm or person has been taken over by the authority.

(2) The guarantee under subsection (1) must bear the manual, engraved, lithographed or printed signature of the Minister of Finance, or the manual, engraved, lithographed or printed signature or signatures of the other officer or officers of the Ministry of Finance of British Columbia designated by the Lieutenant Governor in Council.

(3) The engraved, lithographed or printed signature of the Minister of Finance or of any other officer is for all purposes the signature of that person, and is binding on the government even though the person whose signature is reproduced may not have held office at the date of the notes, bonds, debentures or other securities or at the date of the delivery of them, and despite any change in any of the persons holding the office between the time when the signature is affixed and the date of delivery of the notes, bonds, debentures or other securities.

(4) The Lieutenant Governor in Council may make arrangements for the supply of money necessary to fulfill the requirements of a guarantee, and may advance the amount necessary out of the consolidated revenue fund.

(5) In the hands of a holder of a note, bond, security or debenture, a guarantee signed in accordance with subsection (2) is conclusive evidence that this section has been complied with, and the government becomes liable for the payment of the principal and interest of the note, bond, security or debenture guaranteed, according to its tenor.

#### Guarantees respecting leases

24 (1) The government may, on terms approved by the Lieutenant Governor in Council, guarantee payments of the authority under a lease made by or to the authority.

(2) The Lieutenant Governor in Council may authorize

(a) the Minister of Finance, or

(b) an officer of the Ministry of Finance,

to sign the guarantee on behalf of the government, and the signature of that person on the guarantee is conclusive proof that this section has been complied with.

(3) Money required to be paid by the government in respect of a guarantee given under this section must be paid out of the consolidated revenue fund without an appropriation other than this Act.

Repealed

25 [Repealed 2008-10-34.]

Repealed

26 [Repealed 2004-23-15.]

All funds paid into one fund

27 (1) All funds, including borrowings, income and revenue, that come into the hands of the authority, whether as agent, trustee, owner or otherwise, form one fund, out of which the authority must make any and all expenditures necessary for its purpose.

(2) The authority must account for the fund and payments from the fund in its annual report as provided in this Act.

Financial reporting and auditing

28 (1) The Minister of Finance may direct the Comptroller General of British Columbia to examine and report to the Treasury Board on any or all of the financial and accounting operations of the authority.

(2) Unless the Auditor General is appointed in accordance with the Auditor General Act as the auditor of the authority, the authority must appoint an auditor to audit the accounts of the authority at least once each year.

(2.1) The costs of the audit referred to in subsection (2) must be paid by the authority.

(3) [Repealed 2004-23-15.]

Repealed

29 [Repealed 2004-23-15.]

Liability of authority

30 (1) The authority may sue and be sued in its own corporate name for any right or obligation acquired or incurred by it on behalf of the government as if the right or obligation had been acquired or incurred on its own behalf and also in respect of any liabilities in tort to which it is made subject by this Act.

(2) The authority is liable in tort for the damages for which if it were a private person of full age and capacity it would be subject

(a) for torts committed by its servants or agents, and

(b) for a breach of duty that attaches to the ownership, occupation, possession or control of property.

(3) An action or other proceeding does not lie against the authority or against a servant or agent of the authority or against the government for

(a) any claim against the authority or a servant or agent of the authority if a pension or compensation has been paid or is payable out of the consolidated revenue fund or out of any funds administered by an agent of the government for the death, injury, damage or loss in respect of which the claim is made, or

(b) an act or omission of a servant or agent of the authority unless the act or omission would, apart from this section, have given rise to a cause of action in tort against that servant or agent or his or her personal representative.

(4) In all proceedings to which the authority is a party, the court may pronounce a judgment or make an order or direction as to costs in favour of or against the authority.

#### Nuisance actions

31 Despite section 30, the authority is not liable in an action based on nuisance or on the rule in *Rylands v. Fletcher*, unless the authority was negligent.

#### Application of other statutes

32 (1) Despite any specific provision in any Act to the contrary, except as otherwise provided under this Act, the authority is not bound by any statute or statutory provision of British Columbia.

(2) The authority is an employer under the Workers Compensation Act.

(3) Money owing, payable or accruing due from the authority as salary or wages to any of its members or employees may be attached under the Court Order Enforcement Act the same as money owing, payable or accruing due from any person to the Crown, and for that purpose that Act applies to the authority.

(4) Money, as defined in section 25 of the Family Maintenance Enforcement Act, that is owing, payable or accruing due from the authority to any of its members or employees may be attached or garnished under section 15, 18 or 24 of that Act, and that Act applies to the authority.



(5) Service of all orders, notices and processes required to be served on the authority as garnishee or attachee must be effected by personal service on the secretary of the authority or by leaving the document or documents at the secretary's office.

(6) The Lieutenant Governor in Council may, by regulation, make applicable to the authority any statutory provision.

(7) The following Acts and provisions apply to the authority:

(a) the Auditor General Act;

(b) [Repealed 1998-30-93.]

(b.1) the Budget Transparency and Accountability Act;

(c) section 32 and Division 5 of Part 5 of the Business Corporations Act;

(c.01) the Clean Energy Act;

(c.1) the Greenhouse Gas Reduction Targets Act;

(c.2) the Greenhouse Gas Industrial Reporting and Control Act;

(c.3) the Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act;

(d) [Repealed 2001-30-16.]

(e) the Debtor Assistance Act;

(f) [Repealed 2003-46-22.]

(g) the Employment Standards Act;

(h) the Environmental Assessment Act;

(i) the Environmental Management Act;

(j) the Expropriation Act;

(k) sections 4.1, 9.1, 53, 53.1, 54, 56, 56.3, 56.4, 63, 77 and 79 of the Financial Administration Act;

(k.1) the Financial Information Act;

(l) the Forest Act;

(m) the Geothermal Resources Act;

(m.1) the South Coast British Columbia Transportation Authority Act;

(n) the Heritage Conservation Act;

(o) the Human Rights Code;

- (p) the Insurance (Vehicle) Act;
- (q) the Labour Relations Code;
- (q.1) sections 93.1 and 93.3 of the Land Act;
- (r) the Limitation Act;
- (s) the Ombudsperson Act;
- (s.1) the Pension Benefits Standards Act;
- (t) the Integrated Pest Management Act;
- (u) the Petroleum and Natural Gas Act;
- (v) the Property Transfer Tax Act;
- (v.1) the Public Sector Employers Act;
- (w) sections 3 and 5 of the Railway Act;
- (w.1) the Safety Standards Act in respect of electrical equipment and regulated work respecting electrical equipment as those terms are defined under that Act;
- (w.2) section 19.2 of the Safety Standards Act;
- (x) the Utilities Commission Act, except sections 44.1, 50, 51 (c), 52, 57 (2), 95 and 98;
- (y) [Repealed 2003-53-154.]
- (z) the Water Sustainability Act except sections 17, 19 (3), 32, 33, 35, 42, 45, 88, 127 (1) (t) and 128;
- (z.1) the Wildfire Act.
- (8) [Repealed 2010-22-55.]

Certificate deemed to be granted

33 For the purposes of the Utilities Commission Act and the Gas Utility Act, the authority with respect to works existing on September 11, 1980, is deemed to have been granted an energy operation certificate under the Utilities Commission Act and is deemed to be authorized and empowered under the Gas Utility Act to carry on business as a gas utility throughout British Columbia.

## Taxation

34 (1) With the approval of the Lieutenant Governor in Council, the authority may make annual grants to the Surveyor of Taxes with respect to a rural area and to municipalities and other local governments within the territorial jurisdiction of which the authority generates, transmits or sells electric power or otherwise carries on business.

(2) Except as provided by order of the Lieutenant Governor in Council, land and improvements of the authority as defined by the School Act must be included for the calculation of Provincial grants to school districts and the net taxable value of land and improvements of the authority as defined in the School Act must be assessed and taxed in each year.

(3) An order of the Lieutenant Governor in Council under subsection (2) may be made for any period, whether before, on or after, or partly before and partly after April 6, 1968.

#### Grants to taxing treaty first nations

34.1 (1) In this section, "taxing treaty first nation" has the same meaning as in the Treaty First Nation Taxation Act.

(2) With the approval of the Lieutenant Governor in Council, the authority may make annual grants to a taxing treaty first nation with respect to the taxing treaty first nation's treaty lands within which the authority generates, transmits or sells electric power or otherwise carries on business.

(3) The Assessment Act and the Assessment Authority Act apply to the authority for the purposes of making annual grants under subsection (2) with respect to the treaty lands of a taxing treaty first nation.

(4) Grants under subsection (2) may be made for any taxation year for which a treaty first nation is or was a taxing treaty first nation, whether the taxation year occurs before or after, or partly before or after, the date this section comes into force.

(5) Subsection (4) is retroactive to the extent necessary to give it full force and effect with respect to any taxation year in which a treaty first nation is or was a taxing treaty first nation.

#### Grants to Nisga'a Lisims Government

34.2 (1) In this section, "Real Property Tax Co-ordination Agreement" has the same meaning as "property tax agreement" in section 10.01 of the Nisga'a Final Agreement Act.

(2) With the approval of the Lieutenant Governor in Council, the authority may make annual grants to the Nisga'a Nation with respect to Nisga'a Lands within which the authority generates, transmits or sells electric power or otherwise carries on business.

(3) An annual grant under subsection (2) must be made in accordance with the terms of the Real Property Tax Co-ordination Agreement.

(4) The Assessment Act and Assessment Authority Act apply to the authority for the purposes of making annual grants under subsection (2).

(5) Grants under subsection (2) may be made for any taxation year in which the Nisga'a Nation imposes taxes in accordance with the Real Property Tax Co-ordination Agreement, whether the taxation year occurs before or after, or partly before or after, the date this section comes into force.

(6) Subsection (5) is retroactive to the extent necessary to give it full force and effect with respect to any taxation year described in that subsection.

#### Directives

35 Despite the Utilities Commission Act, the Lieutenant Governor in Council may issue directives directing the authority in a fiscal year to pay to the government an amount specified in the directive and may issue directives directing the authority in a fiscal year to pay to the persons constituting one or more classes of the authority's past or present customers an amount specified in the directive.

#### Pension arrangements

36 (1) With the approval of the Lieutenant Governor in Council, the authority may

(a) establish and maintain a fund for the payment of superannuation allowances or allowances on the death or disability of directors and employees,

(b) make regulations providing for

(i) contributions to the fund by the authority and directors and employees,

(ii) the terms and conditions on which superannuation allowances or other allowances may be payable, and

(iii) the persons to whom allowances may be paid,

(c) make regulations providing for

(i) the continuation or amendment of existing superannuation or retirement plans or arrangements or for the integration of former plans with any plan established under this section,

(ii) meeting or removing any difficulty arising out of the concurrent administration of the plan established under this section and the plan or plans in effect at the time that subparagraph (i) becomes effective, and

(iii) preserving and giving effect to the rights of all persons accrued or accruing under former plans, and the regulations may be applicable generally or to particular cases, and

(d) [Repealed 1999-44-61.]

(e) amend any regulation made under this section.

(2) Despite this or any other Act, the matters respecting the establishment and maintenance of a fund for the payment of superannuation allowances or allowances on the death or disability of directors or employees under subsection (1), including

(a) contributions to the fund by the authority and directors and employees,

(b) the terms and conditions on which superannuation allowances or other allowances may be payable, and

(c) the persons to whom allowances may be paid,

must not be the subject of a collective agreement between the authority and its employees.

(3) Despite subsection (1), the regulations for a superannuation plan may provide for payment to the authority from the amount standing to the credit of a contributor or former contributor sums necessary to make good any default in accounting for any money belonging to the authority that was entrusted to the contributor or any debt that may be due by the contributor to the authority.

(4) If a contributor dies while in the service of the authority, a payment from the fund to a person nominated by the contributor or to the contributor's spouse is not subject to the control of the creditors of the contributor and does not form part of the contributor's estate.

(5) Despite any requirement or agreements existing and applicable to any superannuation or retirement plan or scheme for the benefit of any officers or employees of the authority or corporation formed by amalgamation under this Act or a partnership formed under this Act, the Lieutenant Governor in Council may rescind the appointment of any trustee under any plan or scheme and appoint a trustee or trustees in place of that trustee.

(6) The trustee appointed by the Lieutenant Governor in Council under subsection (5) need not be a trust company.

Pension: further provision

37 Any superannuation plan established under section 36 may include the directors and employees of any entity

(a) that is or has been a subsidiary of or associated with the authority, and

(b) that is declared by resolution of the executive management committee to be or to have been, for any period, part of the authority for the purposes of superannuation.

Joint management agreement

37.1 (1) In this section:

"agreement" means the joint management agreement referred to in subsection (2);

"pension fund" means the British Columbia Hydro and Power Authority Pension Fund established under the pension plan;

"pension plan" means the British Columbia Hydro and Power Authority Pension Plan established under B.C. Reg. 109/99.

(2) Despite section 36 (2), the authority may enter into a joint management agreement with the trade unions that represent its employees for the joint trusteeship of all or part of the pension plan and pension fund, or for any other matter relating to the pension plan or pension fund on which agreement is reached.

(3) The authority and the trade unions must establish appropriate mechanisms whereby the views and interests of the authority's non-unionized employees and retirees are fairly represented in the negotiation of the agreement.

(4) The agreement must not require any change to the pension plan or pension fund that would render the pension plan ineligible for registration under the Pension Benefits Standards Act or the Income Tax Act (Canada).

(5) When the agreement is entered into, the authority must adopt those plan rules and other instruments that are necessary to amend and continue the pension plan and pension fund in accordance with the agreement and, thereafter, the pension plan and pension fund

(a) must be administered as provided by the agreement,

(b) may be amended as provided by the agreement, and

(c) are not subject to sections 36 and 37 of this Act.

(6) Despite subsection (2), the non-unionized employees and the retirees of the authority not represented by the trade unions may benefit from and be made subject to the agreement, and the authority and the trade union representatives have the power to enter into the agreement on behalf of those persons and, if entered into, the agreement is binding on those persons.

#### Power to make regulations

38 (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

(a) prescribing powers for the purposes of section 12 (1),

(b) prescribing purposes of the authority for the purposes of section 12 (1.1), and

(c) for the purposes of section 12 (1.2), prescribing activities, classes of activities and approval requirements.

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