

MISCELLANEOUS STATUTES AMENDMENT ACT, 2003

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

Agricultural Credit Act

1 The Agricultural Credit Act, R.S.B.C. 1996, c. 9, is repealed.

Agricultural Produce Grading Act

2 Section 4 (2) of the Agricultural Produce Grading Act, R.S.B.C. 1996, c. 11, is amended by striking out "the British Columbia Marketing Board established" and substituting "the Provincial board".

Agriculture, Fisheries and Food Statutes Amendment Act, 1997

3 Sections 23 to 25 of the Agriculture, Fisheries and Food Statutes Amendment Act, 1997, S.B.C. 1997, c. 14, are repealed.

Bee Act

4 The Bee Act, R.S.B.C. 1996, c. 29, is repealed.

British Columbia Feed-grain Assistance Act

5 The British Columbia Feed-grain Assistance Act, R.S.B.C. 1960, c. 36, is repealed.

Budget Transparency and Accountability Act

6 Section 52 of the Budget Transparency and Accountability Act, S.B.C. 2000, c. 23, is amended by adding the following subsection:

(3) For the purposes of transition to the application of section 23.1 [*generally accepted accounting principles*], as enacted by the *Budget Transparency and Accountability Amendment Act, 2001*, the following documents must conform to generally accepted accounting principles:

(a) the main estimates for the 2004-2005 fiscal year;

(b) the government strategic plan under section 12 that must be made public no later than the date when the main estimates for the 2004-2005 fiscal year are presented to the Legislative Assembly;

(c) the documents to be presented under sections 7 [*economic and fiscal forecasts*] and 8 [*major capital project information*] when the main estimates for the 2004-2005 fiscal year are presented to the Legislative Assembly;

(d) the annual service plans under section 13 for ministries and government organizations that must be made public when the main estimates for the 2004-2005 fiscal year are presented to the Legislative Assembly.

7 Section 52 is amended by adding the following subsection:

(4) For the purposes of transition in the application of section 23.1, that section does not apply to the following documents that are required to be made public in the 2004-2005 fiscal year:

- (a) the public accounts;
- (b) the annual report under section 15 on the government strategic plan;
- (c) the annual reports under section 16 on service plans for ministries and government organizations.

Cattle (Horned) Act

8 The Cattle (Horned) Act, R.S.B.C. 1996, c. 44, is repealed.

Dairy Industry (British Columbia) Act

9 The Dairy Industry (British Columbia) Act, R.S.B.C. 1960, c. 93, is repealed.

Emergency Program Act

10 Section 1 of the Emergency Program Act, R.S.B.C. 1996, c. 111, is amended

(a) by repealing the definition of "emergency" and substituting the following:

"**emergency**" means a present or imminent event or circumstance that

- (a) is caused by accident, fire, explosion, technical failure or by the forces of nature, and
- (b) requires prompt coordination of action or special regulation of persons or property to protect the health, safety or welfare of a person or to limit damage to property; , **and**

(b) by amending the definition of "volunteer" by adding "for the purpose of responding to a disaster or an emergency" after "Provincial Emergency Program".

11 Section 17 (1) is repealed and the following substituted:

(1) If an emergency or a disaster is threatened or caused in whole or in part by the acts or omissions of a person and expenditures are made by the government or a local authority to prevent, respond to or alleviate the effects of the emergency or disaster, the person must, on the request of the minister or head of a local authority, pay to the Minister of Finance or the local authority the lesser of

- (a) the portion of the expenditures that is equal to the portion of the liability for the occurrence of the emergency or disaster that is attributable to the person, and

(b) the amount demanded by the minister or head of a local authority.

12 Section 21 is amended by adding the following subsection:

(6) A decision under subsection (4) is final and conclusive and is not open to question or review in a court on any grounds.

13 Section 22 is amended by adding the following subsection:

(5) A decision under subsection (4) is final and conclusive and is not open to question or review in a court on any grounds.

14 Section 23 is repealed.

15 Section 24 is amended

(a) in subsection (1) by striking out "under section 22 or 23" and substituting "under section 22" and by striking out "or ordered by the appeal board, as the case may be", and

(b) by repealing subsection (2) and substituting the following:

(2) If the director determines, under section 22, that a person is entitled to an amount of disaster financial assistance that is less than the amount of disaster financial assistance provided to the person under section 20, the person must repay to the government the amount of the disaster financial assistance that was an overpayment within 60 days after being informed of the director's decision under section 22.

16 Section 28 (2) (j) is amended by striking out "or to the minister under section 23 (1)".

Evidence Act

17 Section 72 of the Evidence Act, R.S.B.C. 1996, c. 124, is amended by adding the following subsection:

(3) Nothing in this section prevents a court from receiving evidence of a person referred to in subsection (1) of this section under and in accordance with section 73.

18 The following section is added:

Witness testifying by closed circuit television or other technology

73 (1) In this section:

"court" means the court, judge, justice or other presiding officer before whom a proceeding is held or taken;

"proceeding" means a proceeding in the Court of Appeal, the Supreme Court or the Provincial Court.

(2) A court may allow a witness to testify in a proceeding by means of closed circuit television or any other technology that allows the court, the parties and the witness to engage in simultaneous visual and oral communication, unless

- (a) one of the parties satisfies the court that receiving the testimony in that manner would be contrary to the principles of fundamental justice, or
 - (b) the technology is not available for the proceeding.
- (3) If a party objects to the court receiving evidence in the manner described in subsection (2), the court may consider any of the following circumstances:
- (a) the location and personal circumstances of the witness;
 - (b) the costs that would be incurred if the witness had to be physically present;
 - (c) the nature of the evidence the witness is expected to give;
 - (d) any other circumstance the court considers appropriate.
- (4) A party intending to call a witness to give evidence in a proceeding by means described in subsection (2) must
- (a) give notice of that intention to the court before which the evidence is to be given and to all of the other parties, and
 - (b) pay all costs associated with the use of the technology unless otherwise ordered by the court.
- (5) Notice must be given under subsection (4) (a)
- (a) at least 5 days before the witness is scheduled to testify in the proceeding, or
 - (b) if the court considers it appropriate in the circumstances, within some shorter period specified by the court.
- (6) The court must require evidence under subsection (2) to be given
- (a) under oath in accordance with the law of British Columbia,
 - (b) under oath in accordance with the law in the place in which the witness is physically present, or
 - (c) in another manner that demonstrates that the witness understands that he or she must tell the truth.
- (7) When a witness outside of British Columbia gives evidence under subsection (2), the evidence is deemed to be given in British Columbia, and given under oath in accordance with the law of British Columbia, for the purposes of the laws relating to evidence, procedure, perjury and contempt of court.
- (8) Nothing in this section prevents a court from receiving evidence of a witness by means described in subsection (2) if the parties consent.

19 Section 1 of the Farm Practices Protection (Right to Farm) Act, R.S.B.C. 1996, c. 131, is amended by repealing the definition of "board" and substituting the following:

"board" means the Provincial board under the *Natural Products Marketing (BC) Act*; .

20 The heading to Part 3 is repealed and the following substituted:

Part 3 -- Board .

21 Section 9 is repealed.

22 Section 10 (1) and (2) is repealed.

Financial Information Act

23 Schedule 1 of the Financial Information Act, R.S.B.C. 1996, c. 140, is amended by striking out "Science Council Act" and substituting "Innovation and Science Council Act".

Freedom of Information and Protection of Privacy Act

24 Schedule 2 of the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, is amended

(a) by striking out the following:

Public Body: British Columbia Marketing Board

Head: Chair

Public Body: Farm Practices Board

Head: Chair

Public Body: Provincial Tourist Advisory Council

Head: Minister of Small Business, Tourism and Culture , **and**

(b) by adding the following:

Public Body: British Columbia Farm Industry Review Board

Head: Chair .

25 Schedule 2 is amended

(a) by striking out the following:

Public Body: Science Council of British Columbia

Head: Minister of Employment and Investment , **and**

(b) by adding the following:

Public Body: Innovation and Science Council of British Columbia

Head: Minister of Competition, Science and Enterprise .

Holiday Shopping Regulation Act

26 *The Holiday Shopping Regulation Act, R.S.B.C. 1996, c. 191, is repealed.*

Hotel Guest Registration Act

27 *Sections 2 (1) and 3 (1) of the Hotel Guest Registration Act, R.S.B.C. 1996, c. 205, are amended by striking out "located in a rural area".*

28 *The following section is added:*

Power to make regulations

6 The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

Hotel Keepers Act

29 *Section 1 of the Hotel Keepers Act, R.S.B.C. 1996, c. 206, is amended by repealing the definition of "innkeeper" and substituting the following:*

"innkeeper" means the keeper of an inn; .

30 *Section 6 is repealed and the following substituted:*

Offence -- causing a disturbance

6 (1) In this section, "**disturbance**" means a disturbance of the peace of an occupant of an inn by fighting, screaming, shouting, singing, or otherwise causing loud noise in the inn.

(2) An innkeeper or an innkeeper's representative, must request that a person who is causing a disturbance

(a) desist, and

(b) if the person fails to desist or again causes a disturbance, leave the inn immediately

unless the innkeeper or the innkeeper's representative believes on reasonable grounds that there is a risk of harm to the innkeeper or the innkeeper's representative by making the request.

(3) If an innkeeper or an innkeeper's representative believes on reasonable grounds that there is a risk of harm to the innkeeper or innkeeper's representative by making the request under subsection (2), the innkeeper or innkeeper's representative must request that a peace officer make the request under that subsection.

(4) A person who fails to comply with a request under subsection (2) commits an offence and is liable on conviction to a fine of not more than \$2 000.

(5) An innkeeper or an innkeeper's representative who fails to make a request required under subsection (2) or (3), as applicable, commits an offence and is liable on conviction to a fine of not more than \$2 000.

Peace officer powers

7 A peace officer may

- (a) make a request under section 6 (2)
 - (i) if the innkeeper or innkeeper's representative fails to comply with that section, or
 - (ii) in the circumstances described in section 6 (3), and
- (b) arrest without a warrant a person who fails to comply with, or who is suspected on reasonable grounds of failing to comply with, a request under section 6 (2).

Section 5 of the *Offence Act*

8 Section 5 of the *Offence Act* does not apply to this Act.

Livestock Act

31 *The Livestock Act, R.S.B.C. 1996, c. 270, is amended by adding the following section:*

Dogs causing injury or damage

11.1 (1) For the purposes of this section, "**running at large**" does not apply to a dog that is under control by being

- (a) on the property of its owner or of another person who has the care and control of the dog,
 - (b) in direct and continuous charge of a person who is competent to control it,
 - (c) securely confined within an enclosure, or
 - (d) securely fastened so that it is unable to roam.
- (2) A person may kill a dog if the person finds the dog
- (a) running at large, and
 - (b) attacking or viciously pursuing livestock.

Livestock Protection Act

32 *The Livestock Protection Act, R.S.B.C. 1996, c. 273, is repealed.*

Local Government Act

33 *Section 654 of the Local Government Act, R.S.B.C. 1996, c. 323, is amended by striking out "Subject to the *Holiday Shopping Regulation Act* or a bylaw or order under that Act, a" and substituting "A".*

34 Section 706 is amended

(a) in subsection (1) (a) by striking out "defined in the Livestock Protection Act",

(b) by adding the following subsection:

(1.1) In this section, "**domestic animal**" means a domestic animal as defined in section 707.1. ,
and

(c) by repealing subsection (2).

35 Section 707 is amended

*(a) in subsection (3) by striking out "or with the Minister of Agriculture, Fisheries and Food, or both",
and*

(b) by repealing subsection (4).

36 Section 707.1 (1) is amended

*(a) by repealing the definitions of "companion animal" and "domestic animal" and substituting
the following:*

"**domestic animal**" means an animal that is tame or kept, or that has been or is being sufficiently
tamed or kept, to serve some purpose for people; , *and*

(b) in paragraph (c) of the definition of "dangerous dog" by striking out "a companion animal or".

37 Section 707.1 is amended

*(a) in subsection (9) by striking out "addition to the authority under section 8 of the Livestock
Protection Act, in", and*

(b) in subsection (10) by striking out "or section 8 of the Livestock Protection Act".

38 Section 797.1 (1) (c) is amended by striking out "section 707 (1) [animal pounds];".

Miscellaneous Statutes Amendment Act (No. 2), 1999

*39 Section 62 of the Miscellaneous Statutes Amendment Act (No. 2), 1999, S.B.C. 1999, c. 38, is
repealed.*

Motor Carrier Act

*40 Section 55 of the Motor Carrier Act, R.S.B.C. 1996, c. 315, is amended by adding the following
subsections:*

(3) For the purposes of this section, "**subsequent offence**" means any offence referred to in
subsection (1) committed by a person within 5 years after the previous commission by that
person of any offence referred to in subsection (1).

(4) Despite subsection (1), a person who contravenes section 3 (a) is liable on conviction to a penalty of not less than \$1 000 and not more than \$5 000.

Motor Vehicle Act

41 Section 21 (2) (b) of the Motor Vehicle Act, R.S.B.C. 1996, c. 318, is amended

(a) by adding "full time" before "student", and

(b) by repealing subparagraph (viii) and substituting the following:

(viii) any other educational institution in the Province that is authorized under an enactment to grant degrees or is designated under section 3 (1) (a) of the *Canada Student Financial Assistance Act*, .

42 Section 34 (1.1) (c) is amended

(a) by adding "full time" before "student",

(b) by striking out "and attends any of the following educational institutions:" and substituting "and attends any of the educational institutions listed in section 21 (2) (b).", and

(c) by repealing subparagraphs (i) to (viii).

43 Section 147 (1) is repealed and the following substituted:

(1) A person driving a vehicle on a regular school day and on a highway where signs are displayed stating a speed limit of 30 km/h, or on which the numerals "30" are prominently shown, must drive at a rate of speed not exceeding 30 km/h while approaching or passing the school building and school grounds to which the signs relate, between 8 a.m. and 5 p.m., or subject to subsection (1.1), between any extended times that are stated on the signs.

(1.1) Extended times under subsection (1) may not begin later than 8 a.m. or end earlier than 5 p.m.

44 Section 230 is repealed and the following substituted:

Report of psychologist, optometrist and medical practitioner

230 (1) This section applies to every legally qualified and registered psychologist, optometrist and medical practitioner who has a patient 16 years of age or older who

(a) in the opinion of the psychologist, optometrist or medical practitioner has a medical condition that makes it dangerous to the patient or to the public for the patient to drive a motor vehicle, and

(b) continues to drive a motor vehicle after being warned of the danger by the psychologist, optometrist or medical practitioner.

(2) Every psychologist, optometrist and medical practitioner referred to in subsection (1) must report to the superintendent the name, address and medical condition of a patient referred to in subsection (1).

(3) No action for damages lies or may be brought against a psychologist, an optometrist or a medical practitioner for making a report under this section, unless the psychologist, optometrist or medical practitioner made the report falsely and maliciously.

Natural Products Marketing (BC) Act

45 Section 1 of the Natural Products Marketing (BC) Act, R.S.B.C. 1996, c. 330, is amended by repealing the definition of "Provincial board" and substituting the following:

"Provincial board" means the British Columbia Farm Industry Review Board constituted under section 3 (1); .

46 Section 3 (1) is amended by striking out "the British Columbia Marketing Board" and substituting "the British Columbia Farm Industry Review Board".

47 Section 10 (4) is repealed.

48 Section 11 (1) (l) is amended by striking out "to authorize a marketing agency appointed under the scheme to conduct pools for the distribution of all proceeds received from the sale of a regulated product and to require that marketing agency to distribute the proceeds of sale," and substituting "to authorize a designated agency to conduct pools for the distribution of all proceeds received from the sale of a regulated product and to require that designated agency to distribute the proceeds of sale,".

49 Section 12 (4) is repealed.

Public Sector Employers Act

50 The Schedule to the Public Sector Employers Act, R.S.B.C. 1996, c. 384, is amended by striking out "British Columbia Marketing Board" and substituting "British Columbia Farm Industry Review Board".

Science Council Act

51 The title of the Science Council Act, R.S.B.C. 1996, c. 415, is repealed and the following substituted:

INNOVATION AND SCIENCE COUNCIL ACT .

52 Section 1 is amended

(a) in the definition of "council" by adding "Innovation and" before "Science Council", and

(b) by repealing the definition of "former Act" and substituting

"former Act" means the *Science Council Act*, R.S.B.C. 1979, c. 379; .

53 Section 2 (1) is repealed and the following substituted:

(1) The Innovation and Science Council of British Columbia is continued consisting of

(a) no more than 15 directors appointed by the Lieutenant Governor in Council for a term not exceeding 3 years, and

(b) the president.

54 Section 3 (a) is amended by striking out "application of advanced technology" and substituting "application of advanced or innovative technology".

55 Section 8 (a) is amended by striking out "former enactment," and substituting "former Act,".

Seed Grower Act

56 The Seed Grower Act, R.S.B.C. 1996, c. 420, is repealed.

Special Accounts Appropriation and Control Act

57 Section 7 of the Special Accounts Appropriation and Control Act, R.S.B.C. 1996, c. 436, is amended

(a) by repealing subsection (1) and substituting the following:

(1) In this section:

"minister" means the minister charged with the administration of this section;

"proceeds of crime" means property, benefit or advantage that

(a) falls within the definition of "proceeds of crime" in the *Criminal Code*, or

(b) is obtained or derived directly or indirectly as a result of an act or omission that, in the jurisdiction in which it occurs, constitutes an offence;

"relevant provision" means a provision of the *Criminal Code* or other federal Act prescribed as a relevant provision.

(1.1) A relevant provision prescribed under section 10 (2) (a) or (b) is deemed to include any similar provision of an enactment of a jurisdiction outside of Canada. ,

(b) in subsections (3) to (7) by striking out "Attorney General" wherever it appears and substituting "minister",

(c) in subsection (4) (a) (ii) by striking out "subsection (1) (b)" and substituting "paragraph (b) of the definition of "proceeds of crime",

(d) in subsection (4) by adding the following paragraph:

(e) any money, forfeited under a relevant provision, that was provided to the minister or the government directly, or by or on behalf of

(i) the government of Canada, or

(ii) the government of a jurisdiction referred to in subsection (1.1). ,

(e) in subsection (5) by adding the following paragraph:

(c) dispose of any property other than money that is, under a relevant provision,

(i) forfeited to the government, or

(ii) forfeited to any other government and provided to the minister. , ***and***

(f) in subsection (6) by striking out "subsection 5 (a) or (b)" and substituting "subsection 5 (a), (b) or (c)".

58 The following section is added:

Power to make regulations

10 (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) prescribing a relevant provision for the purpose of section 7 (4) (e) [*forfeited money*];

(b) prescribing a relevant provision for the purpose of section 7 (5) (c) [*forfeited property*].

Synthetic Food Products Act

59 The Synthetic Food Products Act, S.B.C. 1971, c. 61, is repealed.

Telephone (Rural) Act

60 The Telephone (Rural) Act, R.S.B.C. 1996, c. 450, is repealed.

Travel Regulation Act

61 The Travel Regulation Act, R.S.B.C. 1996, c. 460, is repealed.

University Endowment Land Act

62 Section 12 (1) (e) of the University Endowment Land Act, R.S.B.C. 1996, c. 469, is amended by striking out "706 (1) or (2)," and substituting "706 (1)."

Vancouver Charter

63 Section 279A (1.1) of the Vancouver Charter, S.B.C. 1953, c. 55, is repealed.

64 Section 324.1 (1) is amended

(a) by repealing the definitions of "companion animal" and "domestic animal" and substituting the following:

"domestic animal" means an animal that is tame or kept, or that has been or is being sufficiently tamed or kept, to serve some purpose for people; , **and**

(b) in paragraph (c) of the definition of "dangerous dog" by striking out "a companion animal or".

65 Section 324.1 is amended

(a) in subsection (9) by striking out "addition to the authority under section 8 of the *Livestock Protection Act*, in", and

(b) in subsection (10) by striking out "or section 8 of the *Livestock Protection Act*".

Veterinary Laboratory Act

66 The *Veterinary Laboratory Act*, R.S.B.C. 1996, c. 477, is repealed.

Water Protection Act

67 Section 1 (1) of the *Water Protection Act*, R.S.B.C. 1996, c. 484, is amended in the definition of "major watershed" by repealing paragraph (a) and substituting the following:

(a) the Fraser Watershed, comprising the area that drains into the Fraser River and its tributaries, and includes the area inside and outside the boundaries of the Greater Vancouver Regional District that is drained by streams and their tributaries contained in whole or in part within the boundaries of the Greater Vancouver Regional District; .

Transitional Provisions

Transitional -- repeal of the *Agricultural Credit Act*

68 Despite the repeal of the *Agricultural Credit Act*,

(a) section 6 of that Act, as it read the day before the coming into force of this section, continues to apply in respect of

(i) a loan made under section 4 of that Act, and

(ii) a contract entered into under the *Agricultural Land Development Act*, R.S.B.C. 1979, c. 10, and

(b) section 7 of that Act, as it read the day before the coming into force of this section, continues to apply in respect of

(i) a guarantee made under section 3 of that Act, and

(ii) a loan or contract referred to in paragraph (a) of this section.

Transitional -- *Emergency Program Act*

69 Despite sections 14 and 15 of this Act, sections 23 and 24 of the *Emergency Program Act*, as those sections read before the coming into force of sections 14 and 15 of this Act, continue to apply to any matter in respect of which a written notice of appeal was delivered in accordance with section 23 of the *Emergency Program Act* before the coming into force of sections 14 and 15 of this Act.

**Transitional -- Provincial board name change and continuation of proceedings
(*Farm Practices Protection (Right to Farm) Act* and *Natural Products Marketing (BC) Act*)**

70 (1) On the date that this section comes into force, the name of the British Columbia Marketing Board is changed to the "British Columbia Farm Industry Review Board".

(2) An appointment of a person to the British Columbia Marketing Board by order of the Lieutenant Governor in Council that was in effect immediately before subsection (1) came into force, is continued and is deemed to be an appointment of the person, by order of the Lieutenant Governor in Council, to the British Columbia Farm Industry Review Board and the terms and conditions of that appointment remain the same, unless the appointment is otherwise rescinded or amended by order of the Lieutenant Governor in Council.

(3) If, in a regulation, order, contract, certificate, licence or other document made before subsection (1) came into force, a reference is made to the British Columbia Marketing Board, or to a member, chair or vice chair of the board, by any designation including the name of the British Columbia Marketing Board, the reference is deemed to be to the British Columbia Farm Industry Review Board or to a member, chair or vice chair of that board, as applicable.

(4) Nothing in sections 2, 19 to 22, 24, 45, 46, 48 and 50 of this Act affects the rights and liabilities or any debt, duty, obligation, undertaking, privilege, credit, asset, property, right of action or interest of the British Columbia Farm Industry Review Board acquired or given under its former name.

(5) A proceeding, an inquiry or a hearing that was

(a) commenced before the Farm Practices Board under the *Farm Practices Protection (Right to Farm) Act*, and

(b) not settled, completed, decided or otherwise resolved before subsection (1) of this section came into force,

is deemed to have been commenced before the British Columbia Farm Industry Review Board and continues before that board.

Commencement

71 (1) Sections 1 to 4, 8, 10 to 16, 19 to 22, 24, 26 to 37, 39, 43, 45 to 50, 57, 58, 60 to 66 and 68 to 70 come into force by regulation of Lieutenant Governor in Council.

(2) Section 7 comes into force on April 1, 2004.

(3) Sections 17 and 18 come into force on July 1, 2003.