

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

ASSESSMENT ACT

[RSBC 1996] CHAPTER 20

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Definitions

1 (1) In this Act:

"agricultural land reserve" has the same meaning as in the Agricultural Land Commission Act;

"appraiser" means a property valuator appointed under the Assessment Authority Act;

"assessment" means a valuation and classification of property;

"assessment authority" means the British Columbia Assessment Authority;

"assessment roll" includes a revised assessment roll, a supplementary assessment roll and any amendments made under sections 63 and 65 (10);

"assessment roll number" means the alphanumeric identifier described as an assessment roll number on an assessment roll and used to identify a particular property;

"assessor" means an assessor appointed under the Assessment Authority Act;

"board" means the property assessment appeal board established under this Act;

"closed circuit television corporation" includes a person operating for a fee or charge a television signal receiving antenna or similar device, or equipment for the transmission of television signals to television receivers of subscribers, or any or all of those devices and equipment;

"farm" means an area of land classified as a farm under this Act;

"file", in relation to a notice or record required to be filed with an assessor, the board or the assessment authority, includes mail to or leave with the assessor, board or assessment authority or deposit in the mail receptacle at their office;

"highway" includes a street, road, lane, bridge, viaduct and any other way open to the use of the public, but does not include a private right of way on private property;

"improvements" means any building, fixture, structure or similar thing constructed or placed on or in land, or water over land, or on or in another improvement, but does not include any of the following things unless that thing is a building or is deemed to be included in this definition by subsection (2):

- (a) production machinery;
- (b) anything intended to be moved as a complete unit in its day to day use;
- (c) furniture and equipment that is not affixed for any purpose other than its own stability and that is easily moved by hand;

"land" includes

- (a) land covered by water,
 - (b) quarries, and
 - (c) sand and gravel,
- but does not include coal or other minerals;

"land title office", in relation to real property, means, as applicable, the land title office for the land title district, the land registry office of the treaty first nation for the treaty lands, or the Nisga'a land registry for the Nisga'a Lands, in which the real property is located;

"manufactured home" means a manufactured home to which the Manufactured Home Tax Act applies;

"natural gas" means a gaseous mixture of hydrocarbon and other gases received from wells, and includes that gas after refinements;

"Nisga'a land registry" has the same meaning as in section 10.01 of the Nisga'a Final Agreement Act;

"occupier" means

- (a) a person who, if a trespass has occurred, is entitled to maintain an action for trespass,
- (b) the person who is in possession of Crown land that is held under a homestead entry, pre-emption record, lease, licence, agreement for sale, accepted application to purchase, easement or other record from the Crown, or who simply occupies the land,
- (c) a person who is in possession of land the fee of which is in a municipality and that is held under a lease, licence, agreement for sale, accepted application to purchase, easement or other record from the municipality, or who simply occupies the land,

(d) a person who is in possession of land the fee of which is in, or is held on behalf of, a person who is exempted from taxation under an Act and that is held under a lease, licence, agreement for sale, accepted application to purchase, easement, or other record from the person exempted from taxation or who simply occupies the land, or

(e) in relation to land that

(i) is Crown land, land the fee of which is in a municipality or land the fee of which is in, or held on behalf of, a person who is exempted from taxation under an Act, and

(ii) in ordinary conditions

(A) is covered by non-tidal water, or

(B) sometime during a calendar year is covered by tidal water,

a person who is entitled under a licence or lease to possess or occupy, or who simply occupies, the land, the water covering the land or the surface of the water covering the land;

"owner", in respect of real property, means the registered owner of an estate in fee simple, and includes,

(a) if a person is a registered owner of a life estate, the tenant for life,

(b) if there is an agreement for sale and purchase of the real property, the registered holder of the last registered agreement for sale and purchase, and

(c) if the real property is held or occupied in the manner referred to in sections 26, 27 and 28, the holder or occupier;

"parcel" means a lot, block, or other area in which real property is held or into which real property is subdivided and includes the right or interest of an occupier of Crown land, treaty lands of a treaty first nation or Nisga'a Lands, but does not include a highway or portion of a highway;

"person" includes a partnership, syndicate, association, corporation and the agent and trustee of a person;

"petroleum" or "petroleum products" means crude oil or liquid hydrocarbons, or any product or byproduct of them;

"pipe line corporation" means a person owning or operating a pipe line, all or any part of which is located in British Columbia, for the purpose of gathering or transporting natural gas, petroleum or petroleum products;

"production machinery" means any

(a) engine,

(b) motor, or

(c) machine

used to manufacture, process, repair or convey a product;

"property" includes land and improvements;

"property class" means a class of property prescribed under section 19 (14);

"registered" and "registration", in respect of real property, refer to registration in the books of the land title office;

"registered owner" or "registered owner in fee simple" means a person registered in the books of the land title office as entitled to an estate in fee simple in real property, and, in respect of a lesser estate, includes a person who registers a charge;

"review panel" means a property assessment review panel appointed under section 31;

"revised assessment roll" means an assessment roll as amended under sections 10 and 42;

"rural area" means an area of land in British Columbia that is not located within the boundaries of a municipality;

"school district" means a school district created under the School Act;

"spouse" means

- (a) a person who is married to another person, or
- (b) a person who
 - (i) is living with another person in a marriage-like relationship, and
 - (ii) has been living in that relationship for a continuous period of at least 2 years;

"taxation year" means the calendar year to which an assessment roll applies for the purposes of taxation as referred to in section 3 (2);

"taxing treaty first nation" has the same meaning as in the Treaty First Nation Taxation Act;

"trustee" includes

- (a) a committee under the Patients Property Act,
 - (b) an attorney under Part 2 of the Power of Attorney Act,
 - (c) a receiver, and
 - (d) any person having or taking on the possession, administration or control of property affected by any express trust, or having, by law, the possession, management or control of the property of a person under a legal disability.
- (2) Without limiting the definition of "improvements" in subsection (1), the following things are deemed to be included in that definition unless excluded from it by a regulation under section 22 (1) (a) or 74 (2) (d):
- (a) anything that is an integral part of a building or structure and is intended to serve or enhance the building or structure, including elevators, escalators and systems for power distribution, heating, lighting, ventilation, air conditioning, communications, security and fire protection;
 - (b) any building or structure that is capable of maintaining a controlled temperature or containing a special atmosphere, including dry kilns, steam chests, greenhouses and cooling towers;
 - (c) any lighting fixtures, paving and fencing;
 - (d) any
 - (i) piling, retaining walls and bulkheads, and
 - (ii) water system, storm drainage system and industrial or sanitary sewer system, the value of which is not included by the assessor in the value of the land;
 - (e) any foundations, such as footings, perimeter walls, slabs, pedestals, piers, columns and similar things, including foundations for machinery and equipment;
 - (f) any pipe racks, tending platforms, conveyor structures and supports for machinery and equipment, including structural members comprising trestles, bents, truss and joist sections, stringers, beams, channels, angles and similar things;
 - (g) any aqueducts, dams, reservoirs and artificial lagoons and any tunnels other than mine workings;
 - (h) any roads, airstrips, bridges, trestles and towers, including ski towers;
 - (i) any mains, pipes or pipelines for the movement of fluids or gas;
 - (j) any track in place, including railway track in place;
 - (k) any pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, substations, conduits and mains that are used to provide electric light, power, telecommunications, broadcasting, rebroadcasting, transportation and similar services, including power wiring for production machinery up to the main electrical panels or motor control centre, those panels and that centre;
 - (l) any vessels, such as tanks, bins, hoppers and silos, with a prescribed capacity and any structure that is connected to those vessels;
 - (m) docks, wharves, rafts and floats;
 - (n) floating homes and any other floating structures and devices that are used principally for purposes other than transportation;
 - (o) that part of anything referred to in paragraphs (a) to (n) or of any building, fixture, structure or similar thing that, whether or not completed or capable of being used for the purpose for which it is designed,
 - (i) is being constructed or placed, and
 - (ii) is intended, when completed, to constitute, or will with the addition of further construction constitute, any of those things.

Part 1 — Preparation of Annual Assessment Roll

Estimates of assessed values

2 Before October 31 of each year, the assessment authority must supply to each municipality and taxing treaty first nation and to the Nisga'a Lisims Government

- (a) an estimate of the total assessed value of each property class in the municipality, the treaty lands of the taxing treaty first nation or Nisga'a Lands, as applicable, and
- (b) for each property class specified for the purpose of this section by regulation of the Lieutenant Governor in Council, estimates of the distribution of value changes that have occurred in the property class in the municipality, the treaty lands or Nisga'a Lands, as applicable, since the previous revised assessment roll and the completion of any supplementary roll.

Completion of assessment roll

3 (1) On or before December 31 of each year, the assessor must

- (a) complete a new assessment roll containing a list of each property that is in a municipality, the treaty lands of a taxing treaty first nation, Nisga'a Lands or another rural area and that is liable to assessment, and
- (b) mail a notice of assessment to each person named in the assessment roll.

(2) Subject to this Act, an assessment roll completed under subsection (1) is the assessment roll for the purpose of taxation during the calendar year following completion of that roll.

(3) The assessment roll and notice of assessment must be in the form and contain the information specified by regulations made under the Assessment Authority Act.

(4) When completing an assessment roll, the assessor must use the information contained in the records of the land title office as those records stood on November 30 of the year in which the assessment roll is completed.

(5) In the case of a parcel of land for which a land title office description is not available, the assessor must use the best description available to the assessor.

(6) The assessor must exercise reasonable care in obtaining and setting down the address of an owner, and must more particularly adopt the following alternatives in the order named:

(a) the address known to the assessor;

(b) the address as it appears in the application for registration or otherwise in the land title office.

(7) If the address of the owner is not known to the assessor or is not recorded in the land title office, the assessor must,

(a) in the case of a city, town or village municipality, set down the address of the owner as the main post office, and

(b) in the case of a district municipality, the treaty lands of a taxing treaty first nation, Nisga'a Lands or another rural area, set down the address of an owner as the post office located nearest the land in question.

Request for copy of assessment notice

4 (1) A holder of a registered charge may, at any time, give notice, with full particulars of the nature, extent, and duration of the charge, to the assessor and request copies of all assessment and tax notices issued during the duration of the charge.

(2) The assessor to whom a notice and request is given under subsection (1) must enter the holder's name and address on the assessment roll.

(3) The fee required under section 6 (5) does not apply in respect of a request under subsection (1) of this section.

Splitting and grouping of parcels

5 (1) Without limiting subsection (2), if a building or other improvement extends over more than one parcel of land, those parcels, if contiguous, may be treated by the assessor as one parcel and assessed accordingly.

(2) For the purposes of section 20.2, parcels of land and parts of parcels of land may be treated by the assessor as one parcel and assessed accordingly.

Notice of assessment

6 (1) Any number of parcels of land assessed in the name of the same owner may be included in one assessment notice.

- (2) If several parcels of land are assessed in the name of the same owner at the same value, the assessment notice is sufficient if it clearly identifies the property assessed, setting it out as a block, parts of a block or as a series of lots, without giving in full the description of each parcel as it appears in the assessment roll.
- (3) Despite section 3, if property is wholly exempt from taxation, the assessor need not mail an assessment notice in respect of that property.
- (4) [Repealed 2004-12-2.]
- (5) An assessor must provide, to any person who requests it and pays the prescribed fee, the information contained in the current assessment notice sent by the assessor under section 3.
- (6) In subsection (7), "lessee" means a lessee holding property under a lease or sublease, other than a registered lease or registered sublease, for a term of one year or more.
- (7) After receiving an assessment notice for a property included in a class specified for the purpose of this subsection by regulation of the Lieutenant Governor in Council, the owner of the property must, on request by a lessee of all or part of the property, promptly deliver a copy of the notice to the lessee.

Providing assessment rolls

7 (1) [Repealed 2004-12-3.]

- (2) The assessor must provide the following, as soon as they become available, to the appropriate municipality, regional district or taxing treaty first nation and to the Nisga'a Lisims Government:
- (a) the assessment roll completed under section 3;
- (b) the revised assessment roll;
- (c) an amendment to the assessment roll ordered or directed under section 63 or 65 (10).
- (3) Despite section 69 (1), the assessment rolls and amendments referred to in subsection (2) of this section must be provided to the appropriate municipality, regional district or taxing treaty first nation, and to the Nisga'a Lisims Government, free of charge.

Assessment roll available for inspection

8 (1) An assessor must maintain the assessment roll for the geographic area assigned to that assessor by the board of directors of the assessment authority.

- (2) The assessment roll referred to in subsection (1) must be
- (a) available for public inspection during regular business hours at the office of that assessor, and
- (b) in the format and presented in the manner prescribed by regulation.

Certification

9 Upon completion of an assessment roll, the assessor must certify in writing that the assessment roll was completed in accordance with the requirements of this Act.

Errors and omissions in completed assessment roll

10 (1) In accordance with section 34, the assessor must notify a review panel of all errors or omissions in the assessment roll completed under section 3, except those errors or omissions corrected under subsection (2).

- (2) Before March 16 of the year following the completion of the assessment roll under section 3, the assessor may amend an individual entry in the completed assessment roll to correct an error or omission, with the consent of
- (a) the owner of the affected property, and
- (b) the complainant, if the complainant is not the owner of the affected property.
- (3) Without limiting subsection (1), the assessor must give notice to the review panel in respect of any of the following circumstances:
- (a) because of a change of ownership that occurs after November 30 and before the following January 1 and that is recorded in the records of the land title office before that January 1,
- (i) land or improvements or both that were not previously liable to taxation become liable to taxation, or
- (ii) land or improvements or both that were previously liable to taxation cease to be liable to taxation;
- (b) after October 31 and before the following January 1, a manufactured home is moved to a new location, substantially damaged or destroyed;
- (c) after October 31 and before the following January 1, a manufactured home is placed on land that has been assessed or the home is purchased by the owner of land that has been assessed;
- (c.1) improvements, other than a manufactured home, that are assessable under this Act
- (i) are substantially damaged or destroyed after October 31 and before the following January 1, and

- (ii) cannot reasonably be repaired or replaced before the following January 1;
- (d) after November 30 and before the following January 1, land or improvements or both are transferred to or from the British Columbia Hydro and Power Authority and the transfer is recorded in the records of the land title office before that January 1;
- (e) land or improvements or both that are owned by the British Columbia Hydro and Power Authority are held or occupied by another person, whose interest begins or ends after November 30 and before the following January 1;
- (f) land or improvements or both that are owned by the British Columbia Railway Company or by its subsidiary are held or occupied by another person, whose interest begins or ends after November 30 and before the following January 1;
- (g) land or improvements or both that are referred to in section 26, 27 or 28 are held or occupied by a person other than the owner of the fee simple, and the interest of the holder or occupier begins or ends after November 30 and before the following January 1.

Validity as confirmed by review panel

11 The revised assessment roll is, unless changed or amended under section 12, 63 or 65 (10),

- (a) valid and binding on all parties concerned, despite
 - (i) any omission, defect or error committed in, or with respect to, that assessment roll,
 - (ii) any defect, error or misstatement in any notice required, or
 - (iii) the omission to mail the notice, and
- (b) for all purposes, the assessment roll of the municipality, treaty lands of the taxing treaty first nation, Nisga'a Lands or other rural area, as applicable, until the next revised assessment roll.

Supplementary roll

12 (1) [Repealed 1998-22-6.]

(2) If, after the completion of an assessment roll, the assessor finds that any property or any thing liable to assessment

- (a) was liable to assessment for the current year, but has not been assessed on the current roll, or
 - (b) has been assessed for less than the amount for which it was liable to assessment,
- the assessor must assess the property or thing on a supplementary roll, or further supplementary roll, subject to the conditions of assessment governing the current assessment roll on which the property or thing should have been assessed.

(3) If, after the completion of an assessment roll, the assessor finds that any property or any thing liable to assessment

- (a) was liable to assessment for a previous year, but has not been assessed on the roll for that year, or
 - (b) has been assessed in a previous year for less than the amount for which it was liable to assessment,
- the assessor must assess the property or thing on a supplementary roll or further supplementary roll for that year, subject to the conditions of assessment governing the assessment roll on which the property or thing should have been assessed, but only if the failure to assess the property or thing, or the assessment for less than it was liable to be assessed, is attributable to

- (c) an owner's failure to disclose,
 - (d) an owner's concealment of particulars relating to assessable property,
 - (e) a person's failure to make a return, or
 - (f) a person's making of an incorrect return,
- required under this or any other Act.

(4) Despite sections 10, 11 and 42, and in addition to supplementary assessments under subsections (2) and (3), the assessor may, at any time before December 31 of the year following completion of the assessment roll under section 3, correct errors and omissions in a completed assessment roll by means of entries in a supplementary assessment roll.

(5) The assessor must not make a change or amendment that would be contrary to an amendment in the assessment roll ordered or directed by the board under section 63 or 65 (10).

(6) Nothing in subsection (2), (4) or (5) authorizes the preparation of a supplementary roll, or the correction of a roll, for the purpose of changing or updating an assessment roll later than 12 months after that assessment roll is completed.

Provisions applicable to supplementary assessment roll

13 (1) The duties imposed on the assessor with respect to the annual assessment roll and the provisions of this Act relating to assessment rolls, so far as they are applicable, apply to supplementary assessment rolls.

(2) On receipt of a notice of complaint under section 33 in respect of a supplementary assessment roll, the assessor must

(a) record receipt of the notice, and

(b) if the complaint is not resolved under section 10 (2), ensure the complaint is brought before a review panel at the next sitting of review panels.

Part 2 — Inspections and Returns

Definition

13.1 In this Part, "authorized person" means any of the following:

(a) the assessor;

(b) an appraiser;

(c) any other employee of the assessment authority who is authorized by the assessment authority.

Inspections and assessment powers

14 An authorized person may, for any purposes relating to assessment, enter into or on and inspect land and improvements.

Return of information

15 (1) [Repealed 2007-13-9.]

(2) Before or after the completion of the assessment roll, an authorized person may, by notice served personally or sent by mail, require a person who owns, occupies or disposes of property to provide to the authorized person, within 21 days or a longer period specified in the notice, information for any purpose related to the administration of this Act.

(3) A person who does not provide information as required by notice under subsection (2) commits an offence.

(4) An authorized person is not bound by the information provided, but may, if the authorized person has reason to doubt its accuracy, assess the property in the manner and for the amount the authorized person believes to be correct.

Power to examine property and accounts

16 (1) An authorized person may enter on any premises and may examine any property

(a) to determine an assessment of land and improvements, in respect of which the authorized person thinks a person may be liable to assessment, or

(b) to confirm an assessment.

(2) An authorized person must be given access to, and may examine and take copies of and extracts from, the books, accounts, vouchers, documents and appraisals of the person referred to in subsection (1), who must, on request, furnish every facility and assistance required for the entry and examination.

(3) An authorized person, a member of a review panel, a member of the board or any other person who has custody or control of information or records obtained or created under this Act must not disclose the information or records to any other person except

(a) in the course of administering this Act or performing functions under it,

(b) in proceedings before a review panel, the board or a court of law,

(c) in accordance with subsection (4), or

(d) in accordance with a regulation under subsection (6).

(4) An authorized person may disclose to the agent of a property owner confidential information relating to the property if the disclosure has been authorized in the prescribed form by the owner or, if a form has not been prescribed for the property class, authorized in writing by the owner.

(5) An agent must not use information disclosed under subsection (4) except for the purposes authorized by the owner in the form or writing referred to in that subsection.

(6) The Lieutenant Governor in Council may make regulations respecting the disclosure of information obtained or created under this Act, including, without limitation, information respecting the declared value, financing and physical characteristics of property.

Assessor to be advised of sales, etc.

17 (1) If land of the Crown or treaty lands have been leased, granted or sold, the minister of the relevant ministry, or the representative designated by the treaty first nation by notice in writing to the assessment authority, as the case may be, must immediately advise the assessor of the assessment area in which the land is located, the name and address of the lessee, grantee or purchaser, the legal description, consideration and other details of the transfer.

(2) All public officers and officers and employees of Crown corporations and agencies, and individuals occupying similar positions with a treaty first nation or a public institution of a treaty first nation, must, on the written request of an authorized person, provide without fee all information as may be requested to complete assessments under this Act.

Part 3 — Valuation

Valuation and status dates

18 (1) For the purpose of determining the actual value of property for an assessment roll, the valuation date is July 1 of the year during which the assessment roll is completed.

(2) The actual value of property for an assessment roll is to be determined as if on the valuation date (a) the property and all other properties were in the physical condition that they are in on October 31 following the valuation date, and

(b) the permitted use of the property and of all other properties were the same as on October 31 following the valuation date.

(3) Subsection (2) (a) does not apply to property referred to in section 10 (3) (b), (c) or (c.1).

(4) The actual value of property referred to in section 10 (3) (b), (c) or (c.1) for an assessment roll is to be determined as if on the valuation date the property was in the physical condition that it is in on December 31 following the valuation date.

Property assessment

18.1 All land and improvements in British Columbia are liable to assessment under this Act unless exempted from assessment under this or another enactment.

Valuation for purposes of assessment

19 (1) In this section:

"accommodation unit" means a unit that is rented or offered for rent as overnight accommodation for periods of less than 28 days for at least the prescribed percentage of the 12-month period ending June 30 of the year previous to the taxation year for which the assessment roll is completed;

"actual value" means the market value of the fee simple interest in land and improvements;

"eligible residential property" means a parcel of land on which there are improvements if

(a) the parcel does not exceed 2.03 ha in area, and

(b) the improvements are designed to accommodate and are used only to accommodate no more than 3 families;

"eligible supportive housing property", in relation to a taxation year, means property that is used by or on behalf of a person who received funding from the government or a regional health board in the preceding calendar year for the provision of supportive housing on that property;

"leasehold accommodation property" means a parcel of land or contiguous parcels of land on which there are buildings that

(a) collectively include at least a prescribed number of leasehold units, and

(b) do not consist of any strata lots;

"leasehold unit" means an accommodation unit

- (a) that is leased for a term of at least a prescribed number of years, and
- (b) for which the lease is registered in the land title office;

"regional health board" means a board as defined in section 1 of the Health Authorities Act;

"strata accommodation property" means a strata lot in respect of which the following requirements are met:

(a) the strata lot is in a strata plan that, with or without contiguous strata plans, includes 20 or more strata lots;

(b) the strata lot is rented or offered for rent as overnight accommodation for periods of less than 28 days for at least the prescribed percentage of the 12-month period ending June 30 of the year previous to the taxation year for which the assessment roll is completed.

(1.1) For the purposes of the definitions of "accommodation unit" and "strata accommodation property", an accommodation unit or a strata lot is not rented or offered for rent as overnight accommodation if the accommodation unit or strata lot is used or available for parking, storage or similar purposes or for commercial purposes other than overnight accommodation.

(2) The assessor must determine the actual value of land and improvements and must enter the actual value of the land and improvements in the assessment roll.

(3) In determining actual value, the assessor may, except where this Act has a different requirement, give consideration to the following:

- (a) present use;
- (b) location;
- (c) original cost;
- (d) replacement cost;
- (e) revenue or rental value;
- (f) selling price of the land and improvements and comparable land and improvements;
- (g) economic and functional obsolescence;
- (h) any other circumstances affecting the value of the land and improvements.

(4) Without limiting the application of subsections (1) to (3), if an industrial or commercial undertaking, a business or a public utility enterprise is carried on, the land and improvements used by it must be valued as the property of a going concern.

(5) If the land and improvements are to be assessed under section 26, 27 or 28, the assessor must include in the factors that he or she considers under subsection (3), any restriction placed on the use of the land and improvements by the owner of the fee.

(6) The duration of the interest of a holder or occupier of land and improvements referred to in subsection (5), or the right of the owner of the fee to terminate that interest, is not a restriction within the meaning of that subsection.

(7) In determining actual value, the assessor must give consideration to any terms or conditions contained, as applicable,

- (a) in a covenant registered under section 219 of the Land Title Act,
- (b) in a covenant or similar instrument registered under a law of a treaty first nation in the land registry office of the treaty first nation, or
- (c) in a covenant or similar instrument registered under a Nisga'a law in a Nisga'a land registry.

(7.1) Despite any provision of this Act, if a natural area exemption certificate under Part 7.1 of the Islands Trust Act applies to a parcel, the actual value of the parcel is deemed to be what it would be if

- (a) the protection covenant to which the natural area exemption certificate relates did not apply, and
- (b) no natural area exemption certificate was in effect.

(8) Despite any requirement of this section respecting actual value, if the assessor receives, on or before January 31 in any year, from the owner and occupier of eligible residential property, a notice in the form prescribed by the assessment authority that the owner and occupier owned and occupied the eligible residential property as his or her principal place of residence during the entire 10 year period ending on the preceding October 31, the actual value of the eligible residential property, for the purpose of the assessment roll for the calendar year following that October 31, must be determined taking into consideration only the

actual use of the land and improvements that comprise the eligible residential property and not taking into consideration any other use to which the land or improvements could be put.

(9) If eligible residential property is the subject of a notice referred to in subsection (8) and the eligible residential property is, during the lifetime of the owner and occupier, or by will or on an intestacy, transferred to the spouse of the owner and occupier, the notice continues to be a valid notice for the purposes of subsection (8), and the spouse to whom the property is transferred is deemed to have owned and occupied the eligible residential property as that spouse's principal place of residence for the period referred to in subsection (8) and may in subsequent years give the notice referred to in subsection (8) on that basis.

(10) Despite any requirement of this section respecting actual value, the actual value of land and improvements must be determined by taking into consideration the terms and conditions of any heritage protection of the property if, on October 31 following the valuation date under section 18, land and improvements, or a portion of the land and improvements, is

(a) designated under section 9 of the Heritage Conservation Act,

(b) designated under section 611 of the Local Government Act or section 593 of the Vancouver Charter,

(c) included under section 614 (3) (b) of the Local Government Act in a schedule to an official community plan,

(d) treaty lands designated under a law of the treaty first nation enacted for the purpose of conserving and protecting heritage sites and heritage objects, or

(e) Nisga'a Lands designated under a Nisga'a law enacted for the purpose of conserving and protecting heritage sites and heritage objects.

(11) Despite this or any other Act, the assessor, unless ordered by the board of directors of the assessment authority, need not, in respect of land and improvements that are exempt from taxation,

(a) assess the land and improvements, or

(b) prepare an annual assessment roll.

(12) Despite this or any other Act, improvements designed, constructed or installed to provide emergency protection for persons or domestic animals in the event of a disaster or emergency within the meaning of the Emergency Program Act are exempt from assessment.

(13) Land and improvements must be assessed at their actual value.

(14) The Lieutenant Governor in Council must prescribe classes of property for the purpose of administering property taxes and must define the types or uses of land or improvements, or both, to be included in each property class.

(14.01) If the Lieutenant Governor in Council prescribes supportive housing property as a class of property under subsection (14), the Lieutenant Governor in Council may, by regulation, designate eligible supportive housing property as included in the supportive housing property class for a taxation year rather than defining the types or uses of land or improvements to be included in that property class.

(14.02) A designation under subsection (14.01)

(a) is to be by assessment roll number, and

(b) applies to the property that is identified by the assessment roll number and that is used for the provision of supportive housing or for purposes ancillary to the provision of supportive housing.

(14.03) Subject to subsection (14.04), in order to be effective for a taxation year, a regulation under subsection (14.01) must be in force on or before October 31 in the preceding year.

(14.04) If eligible supportive housing property

(a) is included on a supplementary roll under section 26 (5) (a), and

(b) is designated under subsection (14.01) of this section,

the designation, regardless of when the regulation under subsection (14.01) comes into force, is effective for that portion of the taxation year on and after the date that the assessor made the entry on the supplementary roll.

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

(a) prescribing a percentage for the purposes of the definition of "strata accommodation property";

(a.1) for the purposes of the definition of "accommodation unit", prescribing a percentage;

(a.2) for the purposes of the definition of "leasehold accommodation property", prescribing a number of leasehold units;

(a.3) for the purposes of the definition of "leasehold unit", prescribing a number of years;

(b) respecting the inclusion of leasehold accommodation property or strata accommodation property in the class 1 property class for all or a portion of a year if specified conditions are met, which conditions may

relate to any matters respecting the property, including matters other than the defined type or use of land and improvements included in that property class;

(c) providing that strata accommodation property is not included in the class 1 property class if the owner of the strata accommodation property, and if the owner is a corporation, any affiliate, as defined in the Business Corporations Act, of the owner, own more than a prescribed number or percentage of strata accommodation properties in a strata plan or in contiguous strata plans;

(c.1) providing that leasehold accommodation property is not included in the class 1 property class if a lessee of a leasehold unit in the leasehold accommodation property, and if the lessee is a corporation, any affiliate, as defined in the Business Corporations Act, of the lessee, lease more than a prescribed number or percentage of the leasehold units in the leasehold accommodation property;

(c.2) providing that leasehold accommodation property is not included in the class 1 property class if the property has more than a prescribed number or percentage of accommodation units that are not leasehold units;

(d) requiring the owner of a prescribed type of strata lot to supply to the assessment authority, by a prescribed date, prescribed information respecting the property required by the assessment authority to assess the property, and different dates and information may be prescribed for different types of strata lots;

(d.1) requiring the owner of a prescribed type of leasehold accommodation property to supply to the assessment authority, by a prescribed date, prescribed information respecting the property required by the assessment authority to assess the property, and different dates and information may be prescribed for different types of properties;

(d.2) prescribing information for the purposes of subsection (14.2) or (14.4);

(e) in relation to property that is classified in 2 or more property classes, respecting the attribution of the actual value of the property to each class by the assessor.

(14.2) If a regulation made under subsection (14.1) (d) requires an owner to supply information respecting a strata lot, the owner may supply prescribed information in the form of an average number for all of the strata lots of that type in the strata plan.

(14.3) For the purposes of a regulation made under subsection (14.1) (d), an average number supplied under subsection (14.2) is deemed to be information supplied by the owner in respect of the strata lot, subject to the owner supplying information that is specifically in respect of the strata lot.

(14.4) If a regulation made under subsection (14.1) (d.1) requires an owner to supply information respecting accommodation units in a leasehold accommodation property, the owner may supply prescribed information in the form of an average number for all of the accommodation units in the leasehold accommodation property.

(14.5) For the purposes of a regulation made under subsection (14.1) (d.1), an average number supplied under subsection (14.4) is deemed to be information supplied by the owner in respect of each accommodation unit in the leasehold accommodation property, subject to the owner supplying information that is specifically in respect of an accommodation unit.

(15) The actual values of land and improvements determined under this section must be set down separately on the assessment notice and in the assessment roll together with information specified under section 3 (3).

Continued classification of strata lot in class 1

19.1 (1) Despite the regulations under section 19, the assessor must classify a strata lot as being in the class 1 property class if

(a) except in respect of classifying the strata lot for the 2008 taxation year, the strata lot

(i) was classified as being only in the class 1 property class for the previous taxation year, and

(ii) met the requirements in paragraph (b) when the strata lot was classified for the previous taxation year, and

(b) the strata lot meets the following requirements:

(i) the strata lot is in a strata plan that, with or without contiguous strata plans, includes 20 or more strata lots;

(ii) the strata lot is used or available for overnight accommodation;

(iii) the strata lot is not

(A) controlled or managed by one or more persons who control or manage 85% or more of the strata lots in the strata plan or contiguous strata plans referred to in subparagraph (i), or

(B) offered for rent, or rented, for periods of less than 7 days as overnight accommodation for at least 50% of the 12-month period ending on June 30 of the year previous to the taxation year for which the assessment roll is completed.

(2) For the purposes of subsection (1) (b) (ii), a strata lot is not used or available for overnight accommodation if the strata lot is used or available for parking, storage or similar purposes or for commercial purposes other than overnight accommodation.

Major industry valuation

20 (1) In this section:

"cost of industrial improvement" means the cost of replacing an existing industrial improvement with an improvement that

(a) has the same area and volume as the existing industrial improvement,

(b) serves the same function that the existing industrial improvement was designed for or, if the existing industrial improvement is no longer used for that function, serves the same function that the existing industrial improvement now serves, and

(c) is constructed using current, generally accepted construction techniques and materials for the type of improvement being constructed;

"industrial improvement", subject to subsection (2), means an improvement that is part of a plant, whether or not the plant can be operated as a going concern or is temporarily or permanently unprofitable, if the plant is designed and built for the purpose of one or more of the following:

(a) mining, extracting, beneficiating or milling of metallic or non-metallic ore;

(b) mining, breaking, washing, grading or beneficiating of coal;

(c) producing of aluminum;

(d) smelting or refining of metal from ore or ore concentrate;

(e) producing, manufacturing, processing or refining of petroleum or natural gas;

(f) manufacturing of lumber or other sawmill and planing mill products;

(g) manufacturing of wood veneer, plywood, particle board, wafer board, hardboard and similar products;

(h) manufacturing of gypsum board;

(i) manufacturing of pulp, paper or linerboard;

(j) manufacturing of chemicals;

(k) manufacturing of chemical fertilizer;

(l) manufacturing of synthetic resins or the compounding of synthetic resins into moulding compounds;

(m) manufacturing of cement;

(n) manufacturing of insulation;

(o) manufacturing sheet glass or glass bottles;

(p) building, refitting or repairing ships;

(q) loading cargo onto sea going ships or barges, and associated cargo storage and loading facilities, including grain elevators.

(2) The Lieutenant Governor in Council may exempt from the definition of "industrial improvement" improvements in a plant or class of plant that has less than a prescribed capacity and may prescribe different capacities for different types of plants.

(3) Despite section 19, there is continued a class of properties consisting of

(a) land used in conjunction with the operation of industrial improvements, and

(b) industrial improvements.

(4) The actual value of properties to which this section applies is

(a) the actual value of the land as determined under section 19 or 20.3, and

(b) the cost of industrial improvements less depreciation that is at a rate and applied in a manner prescribed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council may prescribe different rates and different manners of application of depreciation for individual properties or classes or types of properties.

(5) For the purposes of the definition of "cost of industrial improvement" in subsection (1), subject to the prior approval of the Lieutenant Governor in Council, the assessment authority by order may establish or adopt by reference manuals establishing rates, formulas, rules or principles for the calculation of the cost of replacing an existing industrial improvement described in that definition.

(5.1) Copies, in print or electronic format, of the manuals established or adopted under subsection (5) must be

(a) kept at the offices of the assessment authority, and

(b) made available for public inspection at those offices during normal office hours.

(6) If, for the year 2000 and subsequent taxation years, in the opinion of the Lieutenant Governor in Council the assessed values for a class of plant are substantially different in a taxation year than they were in the previous taxation year, the Lieutenant Governor in Council may, by regulation, order that the changes in assessed values be phased in by the assessment authority as directed in the regulation.

(7) For the purposes of subsection (6), the Lieutenant Governor in Council may make regulations specifying classes of plants for which changes in assessed values are to be phased in over a period of up to 3 years and for that purpose may make regulations

(a) prescribing the manner in which the changes in assessed values are to be phased in, and

(b) prescribing different rates and different periods of time for the phasing in of changes in assessed values for different classes of plants.

Special valuation rules for dams, power plants and substations

20.1 (1) In this section:

"dam" means any structure designed and built to control or store water flowing in a water course for the purposes of, or for purposes ancillary to, generating electricity;

"power plant" means any structure designed and built to contain boilers, turbines or compressors for the purposes of, or for purposes ancillary to, generating electricity;

"substation" means a facility at which electric current is switched, transformed or converted

(a) at a dam or a power plant,

(b) between a power plant and a transmission system, or

(c) between a transmission system and a distribution network.

(2) This section applies to properties where there is a dam, power plant or substation, other than properties to which section 20 applies.

(3) Despite any other section of this Act, the actual value of a property to which this section applies is

(a) the actual value of the land as determined under section 19 or 20.3, and

(b) the cost of

(i) the dams, power plants and substations on the property, and

(ii) any other improvements on the property,

determined in accordance with the manuals described in subsection (4) of this section, less depreciation determined in accordance with the rates and applied in the manner prescribed under subsection (4.1) of this section.

(4) For the purposes of this section, subject to the prior approval of the Lieutenant Governor in Council, the assessment authority by order may establish or adopt by reference manuals establishing rates, formulas, rules or principles for the calculation of cost.

(4.1) For the purposes of this section, the Lieutenant Governor in Council may make regulations prescribing depreciation rates and principles for the application of depreciation.

(5) Orders under subsection (4) and regulations under subsection (4.1) may be different for individual properties or properties with different categories of dams, power plants and substations.

(6) Copies, in print or electronic format, of the manuals established or adopted by order under subsection (4) must be

(a) kept at the offices of the assessment authority, and

(b) made available for public inspection at those offices during normal office hours.

Special valuation rules for designated ski hill property

20.2 (1) In this section:

"designated ski hill property" means eligible property that is designated under subsection (4) (a);

"eligible property" means land identified by a specific assessment roll number, and any improvements on that land, if the following apply to the property:

(a) in the case of land on which there are improvements, all the improvements are recreational improvements;

(b) in the case of land on which there are no improvements, the land is necessarily incidental to the provision of recreational activities on a ski hill;

"recreational improvements" means improvements used to provide recreational activities on a ski hill, including

- (a) lifts, tows, day-use facilities, parking facilities, trails, snowmaking piping, surfaced pathways, service roads or other facilities or works, and
- (b) utilities that support the facilities or works referred to in paragraph (a) and that are not assessed as property in class 2 under the Prescribed Classes of Property Regulation.
- (2) The actual value of designated ski hill property is the actual value as determined in accordance with the regulations.
- (3) For the purposes of entry on the assessment roll, the actual value by classification of land and improvements that are designated ski hill property is the actual value of the designated ski hill property apportioned to the land and improvements in each property class in accordance with the regulations.
- (4) For the purposes of this section, the Lieutenant Governor in Council may make regulations as follows:
- (a) designating eligible property as ski hill property;
- (b) establishing rates, formulas, rules or principles for determining the actual value of designated ski hill property;
- (c) respecting the apportionment of the actual value of designated ski hill property between property classes and between land and improvements for the purposes of entry on the assessment roll.
- (5) A designation under subsection (4) (a)
- (a) is to be by assessment roll number, and
- (b) applies to the land identified by the assessment roll number and to all improvements on that land, whether the improvements were on the land at the date of designation or added later.
- (6) In order to be effective for a taxation year, a regulation under subsection (4) (a) must be in force on or before October 31 in the preceding year.
- (7) Without limiting subsection (4) (b), regulations made under that subsection may do one or more of the following:
- (a) determine actual value based in whole or in part on revenue relating to the designated ski hill property;
- (b) treat designated ski hill properties as one designated ski hill property for the purposes of determining actual value and provide for the apportionment of the actual value between the designated ski hill properties;
- (c) in determining actual value, provide for adjustments in respect of fluctuating revenues or actual value over a specified period.
- (8) In making regulations under this section, the Lieutenant Governor in Council may do one or both of the following:
- (a) define classes of designated ski hill properties;
- (b) make different regulations for different designated ski hill properties or for different classes defined under paragraph (a).

Special valuation rules for designated port land

20.3 (1) In this section:

"designated port land" means land that

- (a) is designated under subsection (3) (a), and
- (b) is assessed as property in the class referred to in section 20 (3);
- "eligible port land" means land identified by a specific assessment roll number if the following apply to that land and the improvements on that land:

- (a) the land is located next to a navigable waterway;
- (b) the land and the improvements on that land are assessed, in whole or in part, as property in the class referred to in section 20 (3);
- (c) the land and improvements on that land

- (i) include one or more improvements that are assessed as property in the class referred to in section 20 (3) by reason of being industrial improvements within the meaning of paragraph (q) [sea going cargo loading and storage] of the definition of "industrial improvement" in section 20 (1), or
- (ii) are used or held primarily in association with property that is otherwise eligible port land;
- (d) the land and the improvements on that land, when considered as a whole, are not primarily used or held for the purpose of the transport of crude oil or petroleum fuel products or both, or for purposes that are ancillary to that transport;
- (e) the improvements referred to in paragraph (c) (i) are not primarily used or held for the purpose of the transport of products from an industrial production or processing facility that is on the land or is near that land, or for purposes that are ancillary to that transport.

(2) The actual value of designated port land is the actual value as determined in accordance with the regulations.

(3) For the purposes of this section, the Lieutenant Governor in Council may make regulations as follows:

- (a) designating land that is eligible port land on the date of designation;
- (b) prescribing the actual value of designated port land;
- (c) establishing rates, formulas, rules or principles for determining the actual value of designated port land.

(4) A designation under subsection (3) (a)

(a) is to be by assessment roll number as at a date specified in the regulation, and

(b) applies to the land that

(i) is identified by the assessment roll number, and

(ii) is assessed as property in the class referred to in section 20 (3).

(5) [Repealed 2010-2-59.]

(6) Despite section 74 (5), if land

(a) is included on a supplementary roll under section 26 (5) (a), and

(b) is designated under subsection (3) (a) of this section,

the designation, regardless of when the regulation under subsection (3) (a) comes into force, is effective for that portion of the taxation year on and after the date that the assessor made the entry on the supplementary roll.

(6.1) Despite section 74 (5), if

(a) an entry is made on a supplementary roll under section 26 (5) (b) with respect to land that is designated under subsection (3) (a) of this section, and

(b) the Lieutenant Governor in Council rescinds the designation,

the rescission, regardless of when the regulation rescinding the designation comes into force, is effective for that portion of the taxation year on and after the date that the assessor made the entry on the supplementary roll.

(7) Without limiting subsection (3) (c), in making regulations under that subsection, the Lieutenant Governor in Council may provide for

(a) the use of a consumer price index published by Statistics Canada under the Statistics Act (Canada), and

(b) any matters respecting the use of a consumer price index.

Special valuation rules for supportive housing property

20.4 (1) Despite any other section of this Act, the actual value of a property in the supportive housing property class is the actual value otherwise determined under this Act reduced by an amount established by the Lieutenant Governor in Council by regulation.

(2) For the purposes of this section, the Lieutenant Governor in Council may make regulations as follows:

(a) establishing the amount for the purposes of subsection (1);

(b) establishing rates, formulas, rules or principles for determining the amount for the purposes of subsection (1);

(c) respecting the apportionment of the actual value of property in the supportive housing property class between land and improvements for the purposes of entry on the assessment roll.

Special valuation rules for restricted-use property

20.5 (1) In this section:

"designated restricted-use property" means eligible property that is designated under subsection (4) (a);

"eligible person" means a prescribed person or a person in a prescribed category of persons who uses property under a restricted-use agreement on a not-for-profit basis or whose use of property under a restricted-use agreement is publicly funded;

"eligible property", in relation to a taxation year, means property

(a) that is used by an eligible person, and

(b) that is either

(i) to be assessed under section 26, 27 or 28, or

(ii) owned by a not-for-profit corporation and held or occupied under a lease, licence or other agreement, whether or not the property is to be assessed under section 26, 27 or 28;

"restricted-use agreement", with respect to a property, means a lease, licence or other agreement under which the use of the property is restricted to the provision of a service of benefit to the public.

(2) The actual value of designated restricted-use property is the actual value as determined in accordance with the regulations.

(3) For the purposes of entry on the assessment roll, the actual value by classification of land and improvements that are designated restricted-use property is the actual value of the designated restricted-use property apportioned to the land and improvements in each property class in accordance with the regulations.

(4) For the purposes of this section, the Lieutenant Governor in Council may make regulations as follows:

(a) designating eligible property as restricted-use property;

(b) prescribing persons or categories of persons for the purposes of the definition of "eligible person" in subsection (1);

(c) prescribing the actual value of designated restricted-use property;

(d) establishing rates, formulas, rules or principles for determining the actual value of designated restricted-use property;

(e) respecting the apportionment of the actual value of designated restricted-use property between property classes and between land and improvements for the purposes of entry on the assessment roll.

(5) A designation under subsection (4) (a)

(a) is to be by assessment roll number, and

(b) applies to the property identified by the assessment roll number.

(6) Despite section 74 (5), if property

(a) is included on a supplementary roll under section 26 (5) (a), and

(b) is designated under subsection (4) (a) of this section,

the designation, regardless of when the regulation under subsection (4) (a) comes into force, is effective for that portion of the taxation year on and after the date that the assessor made the entry on the supplementary roll.

(7) Despite section 74 (5), if

(a) an entry is made on a supplementary roll under section 26 (5) (b) with respect to property that is designated under subsection (4) (a) of this section, and

(b) the Lieutenant Governor in Council rescinds the designation,

the rescission, regardless of when the regulation rescinding the designation comes into force, is effective for that portion of the taxation year on and after the date that the assessor made the entry on the supplementary roll.

(8) Without limiting subsection (4) (c) or (d), regulations made under that subsection may do one or both of the following:

(a) in determining actual value, provide for adjustments over a specified period;

(b) provide for the use of a consumer price index published by Statistics Canada under the Statistics Act (Canada) and for any matters respecting that use.

(9) In making regulations under this section, the Lieutenant Governor in Council may do one or both of the following:

(a) define categories of designated restricted-use property;

(b) make different regulations for different designated restricted-use properties or categories defined under paragraph (a).

Valuation for certain purposes not actual value

21 (1) The actual value of the following must be determined using rates prescribed by the assessment authority:

- (a) the pole lines, metallic or fibre optic cables, towers, poles, wires, transformers, conduits and mains of a telecommunications, trolley coach, bus or electrical power corporation, but not including substations;
- (b) the track in place of a railway corporation, whether the track is on a public highway or on a privately owned right of way;
- (c) the pipe lines of a pipe line corporation for the transportation of petroleum, petroleum products or natural gas, including valves, cleanouts, fastenings, and appurtenances located on the right of way, but not including distribution pipelines, pumping equipment, compressor equipment, storage tanks and buildings;
- (d) the right of way for pole lines, cables, towers, poles, wires, transformers, conduits, mains and pipe lines referred to in paragraphs (a) and (c);
- (e) the right of way for track referred to in paragraph (b).

(2) In prescribing rates respecting improvements referred to in subsection (1) (a) to (c), the assessment authority

- (a) must base the rates on the average current cost of the existing improvements,
- (b) may, within the rates, make an allowance for physical depreciation,
 - (b.1) may, within the rates, make an allowance for a decline in the cost of constructing or installing a similar improvement of the same or similar functional utility,
- (c) may express the rates in terms of an amount
 - (i) per customer served by the improvements, or
 - (ii) per kilometre of the improvements that may vary according to
 - (A) the size of the improvements,
 - (B) the capacity of the improvements,
 - (C) the type of use or extent of use of the improvements, or
 - (D) the location of the improvements, and
- (d) may prescribe different rates or a reduction in rates for improvements that should, in the opinion of the assessment authority, be valued differently from other improvements of the same type by reason of
 - (i) lack of use for a period specified in the regulation,
 - (ii) in the case of railway track in place, use at less than its annual rated capacity, or
 - (iii) other special circumstances that are specified in the regulation and relate to the construction or installation of the improvements.

(3) For the purposes of subsection (2):

"average current cost" means the cost to construct or install the existing improvements

- (a) including all materials, labour, overhead and indirect costs, and
- (b) assuming the improvements were to be constructed or installed
 - (i) on July 1 in the year previous to the year in which the assessment roll is prepared, and
 - (ii) at a location that has average construction and installation difficulty;

"functional utility" means the ability of an improvement to meet market standards.

(4) In prescribing rates respecting the right of way referred to in subsection (1) (d) and (e), the assessment authority must base the rates on the criteria prescribed under section 74 (2) (f).

(4.1) If, in the opinion of the assessment authority, the rate prescribed for the purposes of subsection (1) is substantially different in a taxation year than it was in the previous taxation year, the assessment authority, by regulation, may order that the rate change be phased in as directed in the regulation.

(4.2) For the purposes of subsection (4.1), the assessment authority may make regulations specifying types of improvements or rights of way for which rate changes are to be phased in over a period of up to 3 years and for that purpose may make regulations

- (a) prescribing the manner in which the rate changes are to be phased in, and
- (b) prescribing different rates and periods of time for the phasing in of rate changes for different types of improvements or rights of way.

(5) The rates prescribed by the assessment authority are subject to appeal to the board by notice filed with the board and the assessment authority before February 1 following receipt of the assessment notice.

- (6) An appeal under subsection (5) of rates prescribed in respect of improvements referred to in subsection (1) (a) to (c) must be made, heard and decided only on the ground that the assessment authority did not prescribe the rates in accordance with one or more of subsection (2) (a), (b) or (b.1).
- (7) The notice of appeal filed with the board must be accompanied by the prescribed fee.
- (8) For the purposes of an appeal under this section, sections 50 (4) (b) to (g) and (5), 52 (2), 55 and 59 to 62 and Part 7 apply with all necessary changes.
- (9) If, on an appeal referred to in subsection (6), the board decides that the assessment authority did not prescribe the rates in accordance with one or both of paragraphs (a) and (b) of subsection (2), the board must
- (a) refer the rates back to the assessment authority for the purpose of prescribing new rates under subsection (10), and
- (b) advise the assessment authority of its reasons.
- (10) If rates prescribed under subsection (1) (a), (b) or (c) are referred back to the assessment authority by the board, the assessment authority may prescribe new rates to replace those rates within
- (a) 3 months after the date on which the board referred the rates back to the assessment authority, or
- (b) a period of time longer than 3 months that the board, on application by the assessment authority, may direct.
- (11) Rates prescribed under subsection (1) (a), (b) or (c) that are referred back to the assessment authority by the board remain in full force until
- (a) new rates are prescribed under subsection (10), or
- (b) the time for prescribing new rates under subsection (10) has expired, whichever is earlier.
- (12) Rates prescribed under subsection (10)
- (a) apply for the purposes of assessment and taxation for the taxation years to which the rates they are replacing applied, and
- (b) may, within one month after the date on which they were prescribed, be appealed as if they were rates prescribed under subsection (1).
- (13) For the purposes of subsection (1) (d), "right of way" does not include
- (a) land of which the corporation referred to in subsection (1) (a) or (c) is not the owner within the meaning of this Act, and
- (b) land that the corporation referred to in subsection (1) (a) or (c) leases to a lessee.
- (14) For the purposes of subsection (1) (e), "right of way" means land that meets the criteria prescribed under section 74 (2) (e).
- (15) For the purpose of applying subsection (1) (b), the "track in place of a railway corporation" includes all structures, erections and things, other than any buildings, bridges, trestles, viaducts, overpasses and similar things, coal bunkers, corrals, stand pipes, fuel oil storage tanks, oil fuelling equipment, water tanks, station houses, engine houses, roundhouses, turntables, docks, wharves, freight sheds, weigh scales, repair and cleaning shops and equipment, boiler houses, offices, sand towers and equipment, pavement, platforms, yard fencing and lighting, powerhouses, transmission stations or substations, and the separate equipment for each of them, that are necessary for the operation of the railway.

Special rules for railway property

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

- (a) excluding from the definition of "improvements" bridges, trestles, viaducts, overpasses and similar things that carry track in place of a railway corporation;
- (b) prescribing adjustment factors for property of a railway corporation;
- (c) prescribing, for the purposes of section 21 (1) (e), in relation to a specified jurisdiction or authority to or for which taxes are to be paid, or a specified class of those jurisdictions and authorities, criteria for land that is to be dealt with as right of way that differ from the criteria prescribed under section 74 (2) (e).
- (2) Regulations under this section may be different for one or more of the following:
- (a) different property to which different rates under section 21 apply;
- (b) different bridges and other property as specified in the regulations;
- (c) different jurisdictions or authorities to or for which taxes are to be paid, or classes of those jurisdictions or authorities;
- (d) different areas or classes of area as specified in the regulations.

(3) The Lieutenant Governor in Council may make a regulation under this section only after the minister has consulted with representatives of the Union of British Columbia Municipalities respecting the proposed regulation.

(4) Despite any other section of this Act, the actual value of property for which an adjustment factor is prescribed under subsection (1) (b), other than property to which section 25 applies, is the actual value as otherwise determined under this Act multiplied by the adjustment factor.

(5) For the 1996 taxation year, the Lieutenant Governor in Council may make a regulation under this section only in relation to taxes under the School Act.

Classification of land as a farm

23 (0.1) In this section:

"owner's dwelling" means the dwelling referred to in subsection (3.1) (a) (iii);

"retire" means retire from being actively involved in the day-to-day activities on a farm;

"retired farmer" means an individual

(a) who, at all times during a prescribed period or periods of time,

(i) occupied, as the individual's principal residence, a dwelling that was owned by the individual or the individual's spouse and was located on land that was

(A) owned by the individual or the individual's spouse,

(B) used for the dwelling, and

(C) classified as a farm, and

(ii) was actively involved in the day-to-day activities on land that was

(A) owned by the individual or the individual's spouse,

(B) classified as a farm, and

(C) part of the parcel or adjacent to the parcel on which the dwelling was located, and

(b) who has retired.

(1) An owner of land who wants all or part of the land classified as a farm must apply to the assessor using the application form, and following the procedure, prescribed by the assessment authority.

(2) Subject to this Act, the assessor must classify as a farm any land, or any part of a parcel of land, that meets the standards prescribed under subsection (3).

(3) The Lieutenant Governor in Council must prescribe standards for classification of land as a farm.

(3.1) Despite this Act and any regulations made under this Act except a regulation made under subsection (3.2), the assessor must, on receipt of an application from an owner of land in respect of a taxation year, classify the land as a farm for the taxation year if the following requirements are met:

(a) when the application is made, the owner

(i) is

(A) a retired farmer,

(B) the spouse of a retired farmer, or

(C) a person who was the spouse of a retired farmer at the time of the retired farmer's death,

(ii) has reached the prescribed age, and

(iii) owns a dwelling on the land and occupies the dwelling as the owner's principal residence;

(b) if the owner is a person referred to in paragraph (a) (i) (B) or (C), the owner meets the prescribed requirements, if any;

(c) when the application is made, the land is used for the owner's dwelling;

(d) when the retired farmer retired,

(i) the retired farmer or the retired farmer's spouse owned the owner's dwelling,

(ii) the owner occupied the owner's dwelling as the owner's principal residence,

(iii) the land was classified as a farm, and

(iv) the retired farmer met the prescribed requirements, if any;

(e) the land is in an agricultural land reserve on October 31 of the year preceding the taxation year in respect of which the application is made;

(f) the owner's dwelling is located

(i) on a parcel of land that, under subsection (2), is classified in whole or in part as a farm for the taxation year in respect of which the application is made, or

- (ii) on a parcel of land adjacent to a parcel of land
 - (A) that is owned by the owner or the owner's spouse, and
 - (B) that, under subsection (2), is classified in whole or in part as a farm for the taxation year in respect of which the application is made;
 - (g) the application is
 - (i) in the form prescribed by the assessment authority, and
 - (ii) received by the assessor on or before October 31 of the year preceding the taxation year in respect of which the application is made;
 - (h) the requirements, if any, prescribed by regulation.
- (3.2) The Lieutenant Governor in Council may make regulations respecting classification of land as a farm under subsection (3.1), including, without limitation, for the purposes of subsections (0.1) and (3.1).
- (3.3) In making regulations under subsection (3.2), the Lieutenant Governor in Council may make different regulations for different classes of persons, classes of land, classes of places or classes of things.
- (4) Land classified as a farm must, while so classified, be valued at its actual value as a farm, without regard to its value for other purposes.
- (5) The actual value of improvements on a farm must be determined under section 19.
- (6) If land classified as a farm ceases to meet the standards for that classification merely because the farm is reduced in area as a result of a portion being expropriated for a public purpose, the land continues to be classified as a farm until it no longer meets the standards in some other respect.
- (7) For the purposes of valuing a farm under subsection (4), the assessment authority must prescribe land value schedules for use by assessors in determining the actual value of the land as a farm without regard to its value for other purposes.
- (8) In subsections (9) and (10), "assessed value" means assessed value before exemptions.
- (9) If the assessed value determined under section 19 (13) for any year of land classified as a farm exceeds the assessed value for the preceding year by more than 10%, its assessed value for that year is the total of
- (a) 110% of the assessed value for the preceding year, and
 - (b) 25% of the difference between the assessed value determined under section 19 (13) for that year and 110% of the assessed value for the preceding year.
- (10) If an obvious error or omission occurred in the preparation of the assessed value in the preceding year, the assessed value under subsection (9) must be determined as though the error or omission had not occurred.

Classification and valuation of forest land

24 (1) In this section:

"council" means the Private Managed Forest Land Council established under section 4 of the Private Managed Forest Land Act;

"managed forest land" means land, other than farm land,

- (a) that is being used for the production and harvesting of timber,
 - (b) that is managed in accordance with
 - (i) the Private Managed Forest Land Act and the regulations under that Act, or
 - (ii) the Forest and Range Practices Act,
 - (c) in respect of which
 - (i) there is a management commitment under section 17 of the Private Managed Forest Land Act, or
 - (ii) a management plan has been approved under the Forest Act,
 - (d) with respect to paragraphs (b) (i) and (c) (i), for which the assessor
 - (i) receives notification from the council under section 17 (4) of the Private Managed Forest Land Act, and
 - (ii) has not received notification from the council under section 31 (1) or (2) (b) of the Private Managed Forest Land Act, and
 - (e) that meets other requirements prescribed by regulation of the assessment authority for classification of land as managed forest land under this Act;
- "timber" means timber as defined in the Forest Act.

(2) The assessor must classify as managed forest land any land that meets the requirements set out in the definition of "managed forest land".

(3) The assessor must declassify all or part of a parcel of land as managed forest land if the assessor is

- (a) notified by September 30 of the year in which the assessment roll is completed,
 - (i) under section 31 (1) of the Private Managed Forest Land Act that the owner or a contractor, an employee or an agent of the owner has contravened or is contravening a provision of that Act or the regulations made under it, or
 - (ii) under section 31 (2) (b) of the Private Managed Forest Land Act that the owner has withdrawn his or her management commitment, or
- (b) not satisfied, on September 30 of the year in which the assessment roll is completed, that the land meets all requirements to be classified as managed forest land.
- (4) The actual value of managed forest land is the total of
 - (a) the value that the land has for the purpose of growing and harvesting trees, but without taking into account the existence on the land of any trees, and
 - (b) a value for cut timber determined in accordance with subsection (8).
- (5) Despite subsection (4), if land is classified as managed forest land but its classification changes before the value of timber cut on the land is added to the value of the land for assessment purposes,
 - (a) the value of the cut timber must be added to the value of the land, and
 - (b) the cut timber must be assessed as if the land were still managed forest land.
- (6) The actual value of managed forest land must be determined on the basis of its topography, accessibility, soil quality, parcel size and location.
- (7) For the purpose of valuing managed forest land, the assessment authority must prescribe land value schedules for use by assessors in determining the actual value of the land.
- (8) The value of cut timber referred to in subsection (5) (b) must be determined by the assessor as follows:
 - (a) for the purpose of taxation during an odd numbered year, the value must be determined on the basis of
 - (i) the scale of that timber under the Forest Act during the last odd numbered year before that taxation year, and
 - (ii) schedules of timber values prescribed by the assessment authority under subsection (9);
 - (b) for the purpose of taxation during an even numbered year, the value must be determined on the basis of
 - (i) the scale of that timber under the Forest Act during the last even numbered year before that taxation year, and
 - (ii) schedules of timber values prescribed by the assessment authority under subsection (9).
- (9) The assessment authority must prescribe schedules of timber values based on the following factors:
 - (a) the species and grade of logs;
 - (b) the locality in which the timber is cut;
 - (c) in relation to timber cut from a coastal area as defined in the regulations, the average price for logs in the year of cutting determined on the basis of the value reported for the Vancouver log market and the distance from Howe Sound of the parcel on which the cutting occurred;
 - (d) in relation to timber cut from an interior area as defined in the regulations, the average price for logs, delivered to the nearest sawmill, in the year of cutting determined on the basis of the selling prices of timber products, the costs of milling and the distance from the nearest sawmill of the parcel on which the cutting occurred.
- (10) An owner of managed forest land must submit to the assessment authority the following information respecting the forest land:
 - (a) the volume of timber scaled under the Forest Act;
 - (b) other matters prescribed by regulation of the assessment authority;
 - (c) other information that the assessment authority may require that is not inconsistent with this Act and the regulations.

Occupiers of railway land

- 25 (1) If any parcel liable to assessment is railway land and part of it is leased, that part must be treated under this Act as a separate parcel and a separate entry made on the assessment roll in respect of the land or improvements or both.
- (2) If part of a parcel of railway land is treated as a separate parcel under subsection (1), the remainder of the parcel must be treated under this Act as a separate parcel and a separate entry made on the assessment roll in respect of the land or improvements or both.
- (3) The actual value of land or improvements, or both, referred to in subsection (1) or (2) must be determined under section 19.

(4) If the whole of any parcel of railway land liable to assessment is leased or a part of a parcel is assessed under subsection (1), the owner or lessee may give notice, with full particulars of the duration of the lease, to the assessor and request that copies of all assessment and tax notices issued during the duration of the lease be sent to the lessee.

(5) After receiving a notice under subsection (4), the assessor must enter the name and address of the lessee on the assessment roll.

Assessment of land the fee of which is in the Crown

26 (1) Land, the fee of which is in the Crown, or in some person on behalf of the Crown, that is held or occupied otherwise than by, or on behalf of, the Crown, is, with the improvements on it, to be assessed in accordance with this section.

(2) The land referred to in subsection (1) with the improvements on it must be entered in the assessment roll in the name of the holder or occupier, whose interest must be valued at the actual value of the land and improvements determined under this Part.

(3) This section applies, with the necessary changes and so far as it is applicable, to improvements owned by, leased to, held, or occupied by some person other than the Crown, located on land the fee of which is in the Crown, or in some person on behalf of the Crown.

(4) This section applies, with the necessary changes and so far as it is applicable, if land is held in trust for a tribe or band of Indians and occupied, in other than an official capacity, by a person who is not an Indian.

(5) As soon as the assessor determines that

(a) land is held or occupied, or

(b) land ceases to be held or occupied

in the manner referred to in subsection (1), the assessor must make an entry on a supplementary roll.

(6) Subsection (5) does not apply in respect of land in a rural area.

Assessment of exempt land held by occupier

27 (1) Land, the fee simple of which is held by or on behalf of a person who is exempted from taxation under an Act, and which is held or occupied otherwise than by or on behalf of that person, is, with its improvements, to be assessed in accordance with this section.

(2) The land and improvements referred to in subsection (1) must be entered in the assessment roll in the name of the holder or occupier, whose interest must be valued at the actual value of the land and improvements determined under this Part.

(3) This section applies to improvements owned by, leased to, held or occupied otherwise than by, or on behalf of, a person exempted from taxation by an Act, located on land the fee simple of which is held by or on behalf of a person exempted from taxation by any Act.

Assessment of land the fee of which is in the municipality

28 (1) Land, the fee of which is in the municipality, held or occupied otherwise than by, or on behalf of, the municipality, is, with the improvements on it, to be assessed in accordance with this section.

(2) The land referred to in subsection (1) with the improvements on it must be entered in the assessment roll in the name of the holder or occupier, whose interest must be valued at the actual value of the land and improvements determined under this Part.

(3) This section applies, with the necessary changes and so far as it is applicable, to improvements owned by, leased to, held, or occupied by some person other than the municipality, located on land the fee of which is in the municipality, or in some person on behalf of the municipality.

(4) This section does not apply to any land or improvements that were exempted from taxation by the municipality under the terms of a lease agreement entered into before July 1, 1957.

Joint interests

29 If land or improvements or both are held or occupied in the manner referred to in section 26, 27 or 28 by 2 or more persons and there is no paramount occupier, the land or improvements or both must be assessed in the names of those persons jointly.

Assessment of an improvement on land under other ownership

30 (1) Any structure, aqueduct, pipe line, tunnel, bridge, dam, reservoir, road, storage tank, transformer, substation, pole lines, cables, towers, poles, wires, transmission equipment or other improvement that extends over, under or through land may be separately assessed to the person owning, leasing, maintaining, operating or using it, even though the land may be owned by some other person.

(2) Each individual residential building located on a land cooperative or multi dwelling leased parcel, as those terms are defined in the Home Owner Grant Act, must be separately assessed.

Part 4 — Property Assessment Review Panels

Appointment of property assessment review panels

31 (1) The minister must appoint property assessment review panels, each comprised of 3 members, to review and consider

(a) the annual assessments of land and improvements in British Columbia, and

(b) in accordance with the South Coast British Columbia Transportation Authority Act, parking site rolls as that term is defined in section 131 of that Act.

(2) The minister must appoint and designate one member of each panel as the chair of the panel, after a merit-based process, to hold office for an initial term of 3 to 5 years.

(3) The minister may appoint members of a panel, other than the chair, after a merit-based process, to hold office for an initial term of 2 to 4 years.

(4) A member may be reappointed by the minister as a member or chair of a panel for additional terms of up to 5 years.

(5) A member of a review panel must faithfully, honestly and impartially perform his or her duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as a member.

(6) If a member is absent or incapacitated for an extended period of time or expects to be absent for an extended period of time, the minister may appoint another person, who would otherwise be qualified for appointment as a member, to replace the member until the member returns to full duty or the member's term expires, whichever comes first.

(6.1) The appointment of a person to replace a member under subsection (6) is not affected by the member returning to less than full duty.

(7) Sections 1, 4, 6 to 8, 10, 18, 40 (1) to (4), 44, 46.3, 48, 49, 55, 56 and 61 of the Administrative Tribunals Act apply to a review panel.

Complaints respecting completed assessment roll

32 (1) Subject to the requirements in section 33, a person may make a complaint against an individual entry in an assessment roll on any of the following grounds:

(a) there is an error or omission respecting the name of a person in the assessment roll;

(b) there is an error or omission respecting land or improvements, or both land and improvements, in the assessment roll;

(c) land or improvements, or both land and improvements, are not assessed at actual value;

(d) land or improvements, or both land and improvements, have been improperly classified;

(e) an exemption has been improperly allowed or disallowed.

(2) Subject to the requirements in section 33, the Minister of Finance or the assessment authority may make a complaint against all or any part of the completed assessment roll, based on any of the grounds specified in subsection (1) of this section.

(3) Subject to the requirements in section 33, a local government may make a complaint against all or any part of the completed assessment roll relating to property in the municipality or regional district, as the case may be, based on any of the grounds specified in subsection (1) of this section.

(3.1) Subject to the requirements in section 33, a taxing treaty first nation may make a complaint against all or any part of the completed assessment roll relating to its treaty lands, based on any of the grounds specified in subsection (1) of this section.

(3.2) Subject to the requirements in section 33, the Nisga'a Nation may make a complaint against all or any part of the completed assessment roll relating to Nisga'a Lands, based on any of the grounds specified in subsection (1) of this section.

(4) Subject to the requirements in section 33, an assessor may make a complaint against all or any part of the assessment roll completed by the assessor, based on any of the grounds specified in subsection (1) of this section.

(5) Without limiting subsections (2) to (4), complaints under those subsections may be in respect of a class, category or type of property or interest in land or improvements, or both land and improvements.

Notice of complaint

33 (1) A person who wishes to make a complaint under section 32 must file notice of the complaint with the assessor responsible for the assessment that is the subject of the complaint.

(2) The notice of complaint must be filed with the assessor no later than January 31 of the year following the year in which the assessment roll is completed under section 3 or changed or amended under section 12, as the case may be.

(3) The notice of complaint must

(a) clearly identify the property in respect of which the complaint is made,

(b) include the full name of the complainant and a telephone number at which the complainant may be contacted during regular business hours,

(c) indicate whether or not the complainant is the owner of the property to which the complaint relates,

(d) if the complainant has an agent to act on the complainant's behalf in respect of the complaint, include the full name of the agent and a telephone number at which the agent may be contacted during regular business hours,

(e) include an address for delivery of any notices in respect of the complaint,

(f) state the grounds on which the complaint is based under section 32 (1), and

(g) include any other prescribed information.

Assessor recommendations

34 Before March 16 of each year, an assessor must, for the purpose of correcting an error or omission under section 10 that is not corrected with the consent of the owner of the affected property, recommend to a review panel changes to the assessment roll completed by the assessor.

Notice of hearing

35 (1) If a complaint is received under section 33 (1) and is not resolved under section 10 (2), the assessor must

(a) set a time for a hearing of the complaint by a review panel before March 16,

(b) deliver notice of the hearing to the complainant's address for delivery, and

(c) if the complainant is not the owner of the property in respect of which the complaint is made, deliver notice of the hearing to each owner of that property.

(2) Despite subsection (1) (c), if the complaint is made under section 32 (2), (3), (3.1), (3.2) or (4), the requirement set out in subsection (1) (c) of this section is satisfied by publication of notice of the hearing in 2 current issues of a newspaper circulating in the municipality, the treaty lands of the taxing treaty first nation, Nisga'a Lands or the other rural area, in which the property that is the subject of the complaint is located.

(3) An assessor is not required to deliver notice of the hearing to the owner of a property affected by a recommendation for change under section 34 if

(a) [Repealed 2003-66-13.]

(b) the recommendation

(i) results in a decrease in the assessed value of the property,

(ii) does not change the classification of the property, and

(iii) does not result in the removal of an exemption.

(4) and (5) [Repealed 2003-66-13.]

(6) A notice under this section must include a statement that the recipient may file written submissions instead of appearing at the hearing.

Daily schedule

36 (1) The daily schedule of matters for review and consideration by a review panel, as set by the assessor, must be posted at the place where the review panel is to meet.

(2) The review panel must proceed to deal with complaints and assessor recommendations in accordance with that schedule, unless the review panel considers a change in the schedule necessary and desirable in the circumstances.

Notice of withdrawal

37 (1) A complainant may apply to withdraw a complaint made under section 33 by filing with the assessor a notice of withdrawal.

(2) The review panel may summarily dismiss the complaint referred to in subsection (1) on consent of the assessor.

(3) No appeal lies under section 50 (1) in respect of summary dismissal of a complaint under subsection (2) of this section.

Duties and powers of review panels

38 (1) A review panel may review and consider the assessment roll and the individual entries made in it to ensure accuracy and that assessments are at actual value applied in a consistent manner in the municipality, treaty lands of the taxing treaty first nation, Nisga'a Lands or other rural area.

(2) For the purpose of subsection (1), a review panel

(a) may investigate the assessment roll and the individual entries made in it, whether or not the investigation is based on a complaint or an assessor recommendation,

(b) must adjudicate the matters set for its consideration under section 36,

(c) when considering whether land or improvements are assessed at actual value, must consider the total assessed value of the land and improvements together, and

(d) may direct amendments to be made to the assessment roll, subject to the requirements of subsections (4) to (6).

(3) Despite subsection (2) (b), the review panel may

(a) refuse to adjudicate a matter set for its consideration if the notice of complaint was not filed in accordance with section 33 (2), and

(b) summarily dismiss a matter set for its consideration if a notice of withdrawal is filed in accordance with section 37.

(4) A review panel must before March 16 complete

(a) any investigation referred to in subsection (2) (a), and

(b) adjudication of the matters set for its consideration under section 36.

(5) If the review panel intends to direct that an amendment be made that is not based on a complaint or on an assessor recommendation and the amendment would

(a) increase the assessed value of the property,

(b) change the classification of the property, or

(c) result in the removal of an exemption,

the review panel must order the assessor to set a hearing in respect of the proposed amendment, giving the owner of the affected property an opportunity to make submissions.

(6) For the purposes of subsection (5), the assessor must, at least 5 days before the hearing, deliver to the owner of the affected property a notice of the hearing and the notice must include

(a) particulars of the proposed amendment, and

(b) a statement that the owner may file written submissions instead of appearing at the hearing.

(7) The chair of the review panel may

(a) determine the procedures to be followed at proceedings of the review panel,

(b) administer an oath or solemn affirmation to a person or witness before his or her evidence is taken, and

(c) for the purposes of section 36 (2), but subject to the requirement of subsection (4), adjourn the hearings from day to day or from time to time and from place to place within the geographic area of the review panel's jurisdiction.

(8) The chair of the review panel must make a record of a summary dismissal under section 37, a refusal to adjudicate a matter under section 38 (3) (a) and any decision made in relation to an investigation, adjudication or direction by the review panel.

(9) The chair of the review panel must provide the assessor with information necessary to

(a) amend the assessment roll in accordance with a decision referred to in subsection (8), and

(b) provide sufficient notice under section 41 (1).

Power to compel witnesses and order disclosure

39 (1) At any time before or during a hearing, but before its decision, a review panel may make an order requiring a person

(a) to attend an oral or electronic hearing to give evidence on oath or affirmation or in any other manner that is admissible and relevant to an issue in an application, or

(b) to produce for the review panel or a party a document or other thing in the person's possession or control, as specified by the review panel, that is admissible and relevant to an issue in an application.

(2) A review panel may apply to the court for an order

(a) directing a person to comply with an order made by the review panel under subsection (1), or

(b) directing any directors and officers of a person to cause the person to comply with an order made by the review panel under subsection (1).

Burden of proof

40 In a hearing before the review panel, the burden of proof is

(a) on the complainant, or

(b) if the matter concerns an assessor recommendation under section 34, on the assessor.

Notice of decisions and corrections

41 (1) Before April 7 following the sitting of the review panel, the assessor must deliver notice of the decision made by the review panel, or of its refusal to adjudicate the complaint made, to

(a) the owner of the property to which the decision relates, and

(b) the complainant, if the complainant is not the owner.

(1.1) Before April 7, the assessor must deliver notice of the amendment made by the assessor under section 10 (2) to

(a) the owner of the property to which the amendment relates, and

(b) the complainant, if the amendment resolved a complaint and the complainant is not the owner.

(2) Notice under subsection (1) or (1.1) must include

(a) a statement that the decision or amendment may be appealed to the board in accordance with section 50, and

(b) information on the procedures to be followed for initiating the appeal.

Amendment of assessment roll

42 (1) The assessor must ensure that all amendments are made to the assessment roll in accordance with the directions of the review panel under section 38 (2) (d).

(2) [Repealed 2003-66-16.]

Part 5 — Property Assessment Appeal Board

Property assessment appeal board

43 (1) The property assessment appeal board is continued consisting of at least 6 members appointed after a merit-based process as follows:

(a) one member appointed and designated by the Lieutenant Governor in Council as the chair;

(b) one or more members appointed and designated by the Lieutenant Governor in Council as vice chairs after consultation with the chair;

(c) other members appointed by the Lieutenant Governor in Council after consultation with the chair.

(2) The board has jurisdiction to determine

(a) appeals brought under section 50,

(b) appeals from the rates prescribed by the assessment authority under section 21,

(c) complaints referred to the board for its determination under the regulations, and

(d) appeals brought under section 23 of the Forest Land Reserve Act.

(3) [Repealed 2015-10-41.]

(4) The chair is the chief executive officer of the board.

(5) to (7) [Repealed 2003-47-15.]

(8) A member of the board must faithfully, honestly and impartially perform his or her duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as a member.

Application of Administrative Tribunals Act

43.1 The following provisions of the Administrative Tribunals Act apply to the property assessment appeal board:

- (a) Part 1 [Interpretation and Application];
- (a.1) Part 2 [Appointments];
- (b) Part 3 [Clustering];
- (b.1) section 11 [general power to make rules respecting practice and procedure];
- (c) section 13 [practice directives tribunal may make];
- (c.1) section 14 [general power to make orders];
- (d) section 15 [interim orders];
- (d.1) section 16 [consent orders];
- (e) section 17 (2) [order of tribunal may include terms of settlement];
- (e.1) section 18 [failure of party to comply with tribunal orders and rules];
- (f) section 19 [service of notice or documents];
- (f.1) section 20 [when failure to serve does not invalidate proceeding];
- (g) section 28 [facilitated settlement];
- (g.1) section 29 [disclosure protection];
- (h) section 31 (1) (a), (b) and (e) [summary dismissal];
- (i) section 32 [representation of parties to an application];
- (j) section 33 [interveners];
- (k) section 34 (3) and (4) [tribunal may compel witnesses and order disclosure];
- (l) section 35 [recording tribunal proceedings];
- (m) section 37 [applications involving similar questions];
- (n) section 38 [examination of witnesses];
- (o) section 39 [adjournments];
- (p) section 40 [information admissible in tribunal proceedings];
- (q) section 44 [tribunal without jurisdiction over constitutional questions];
- (r) section 46.3 [tribunal without jurisdiction to apply the Human Rights Code];
- (s) section 48 [maintenance of order at hearings];
- (t) section 49 [contempt proceeding for uncooperative witness or other person];
- (u) Part 7 [Decisions], except sections 50 (1) and 52 [notice of decision];
- (v) Part 8 [Immunities];
- (w) section 59.1 [surveys];
- (x) section 59.2 [reporting];
- (y) section 60 (1) (a), (b) and (g) to (i) and (2) [power to make regulations];
- (z) section 61 [application of Freedom of Information and Protection of Privacy Act].

Organization of the board

- 44 (1) The chair of the board may organize the board into panels, each comprised of one or more members.
- (2) If the chair organizes a panel comprised of more than one member, the chair must designate one of those members as chair of the panel.
- (3) The members of the board may sit
- (a) as a board, or
 - (b) as a panel of the board,
- and 2 or more panels may sit at the same time.
- (4) If members of the board sit as a panel,
- (a) the panel has the jurisdiction of, and may exercise and perform the powers and duties of, the board, and
 - (b) an order, decision or action of the panel is an order, decision or action of the board.
- (5) The decision of a majority of the members of a panel of the board is a decision of the board and, in the case of a tie, the decision of the chair of the panel governs.
- (6) If a member of a panel is unable for any reason to complete the member's duties, the remaining members of that panel may, with consent of the chair of the board, continue to hear and determine the matter, and the vacancy does not invalidate the proceeding.
- (7) [Repealed 2003-47-16.]

(8) If the panel is a single member and that member is unable for any reason to complete the member's duties, with the consent of all parties to the application the chair of the board may organize a new panel to continue to hear and determine the matter on terms agreed to by the parties, and the vacancy does not invalidate the proceeding.

Staff of the board

45 (1) The chair of the board may appoint, in accordance with the Public Service Act, employees necessary to enable the board to perform its duties.

(2) For the purpose of the application of the Public Service Act to subsection (1) of this section, the chair is deemed to be a deputy minister.

(3) The chair of the board may retain consultants, investigators, expert witnesses or other persons as may be necessary for the board to discharge its functions under this Act and may establish their remuneration and other terms and conditions of their retainers.

(4) The Public Service Act does not apply to a person retained under subsection (3) of this section.

General board powers

46 (1) [Repealed 2004-45-72.]

(2) Members of the board may, in the performance of their duties,

(a) enter on and inspect any land or improvement,

(b) require the production of any record, and

(c) administer oaths, solemn affirmations or declarations.

(3) The chair may in writing delegate the powers of the board under subsection (2) (a) and (b) to a person designated by the chair.

(4) The board may at any time require the assessment authority to provide any information or record, obtained or created under this Act, that is in the custody or control of the assessment authority, including, without limitation, a revised assessment roll and any information respecting an assessment dealt with by a review panel.

(5) Despite section 69 (1), the information or record referred to in subsection (4) of this section must be provided to the board free of charge and in the form and manner required by the board.

Repealed

47 [Repealed 2004-45-72.]

Board records

48 A record purporting to be a record of an order or decision of the board is admissible in all courts of British Columbia, without proof of appointment, authority or signature and is evidence of the record.

Report

49 (1) In accordance with a regulation made under section 74 (2) (g) (iv), the board must annually and at other times it considers appropriate, report to the minister on its activities under this Act.

(2) The minister must promptly lay the board's annual report before the Legislative Assembly if it is in session and, if the Legislative Assembly is not in session when the report is submitted, within 15 days after the beginning of the next session.

Part 6 — Appeals to the Board from Review Panel Decisions

Definition

49.1 In this Part, except in section 57, "appeal under this Part" includes an application for leave to appeal under section 50 (1.1).

Appeals to board

50 (1) Subject to the requirements of subsections (2) to (4), a person may appeal to the board if the person is dissatisfied

(a) with a decision of a review panel,

(b) with an omission or refusal of the review panel to adjudicate a complaint made under section 33 (1), or

(c) with an amendment to the assessment roll under section 10 (2).

(1.1) Subject to the requirements of subsections (2) to (4.2), an owner may, with leave of the board, appeal to the board if the owner failed to file a notice of complaint in respect of the owner's property within the time required under section 33 (2).

(2) The appeal must be based on one or more of the grounds referred to in section 32 (1).

(3) A notice of appeal under this section and the prescribed appeal fee must be filed with the board on or before April 30 following the sitting of the review panel.

(4) The notice of appeal must

(a) clearly identify the property in respect of which the appeal is made,

(b) include the full name of the appellant and a telephone number at which the appellant may be contacted during regular business hours,

(c) indicate whether or not the appellant is the owner of the property to which the appeal relates,

(d) if the appellant has an agent to act on the appellant's behalf in respect of the appeal, include the full name of the agent and a telephone number at which the agent may be contacted during regular business hours,

(e) include an address for delivery of any notices in respect of the appeal,

(f) state the grounds on which the appeal is based, and

(g) include any other prescribed information.

(4.1) In addition to the requirements under subsection (4), a notice of appeal for an appeal under subsection (1.1) must state the reasons why leave should be granted under subsection (4.3).

(4.2) All evidence on which the owner relies in support of the reasons why leave should be granted must be filed with the notice of appeal.

(4.3) The board may grant leave to appeal under subsection (1.1) if the board is satisfied that the owner's failure to file a notice of complaint within the time required under section 33 (2) was due to circumstances beyond the owner's control.

(5) If a notice of appeal is deficient or if the prescribed appeal fee is outstanding, the chair of the board may in his or her discretion allow a reasonable period of time within which the notice may be perfected or the fee is to be paid.

Copies of appeal to persons

51 If the board receives a notice of appeal in accordance with section 50, the board must promptly provide a copy of the notice to each of the following who is not the appellant:

(a) the owner of the property;

(b) the assessor;

(c) if the property is located in a municipality, a regional district or the treaty lands of a taxing treaty first nation, the municipality, regional district or taxing treaty first nation, as applicable;

(c.1) if the property is located in Nisga'a Lands, the Nisga'a Nation;

(d) the chief executive officer of the assessment authority;

(e) the complainant before the review panel, if that person is not a person specified in paragraphs (a) to (d).

Parties to an appeal

52 (1) The following persons are parties to an appeal under this Part:

(a) the appellant;

(b) the owner of the property, if not the appellant;

(c) the complainant at the review panel, if not the owner or appellant;

(d) the assessor.

(2) The board may direct that any other person who may be affected by the appeal may be added as a party to the appeal, including, without limitation,

(a) a local government or taxing treaty first nation in respect of which the property is located,

(a.1) if the property is located in Nisga'a Lands, the Nisga'a Nation, or

(b) the government.

(3) and (4) [Repealed 2004-45-72.]

Repealed

53—54 [Repealed 2004-45-72.]

Means of hearing appeals and notice of hearings

55 (1) In a proceeding, the board may hold any combination of written, electronic and oral hearings.

(2) The chair of the board must give notice of a hearing under subsection (1) to all parties and intervenors.

Repealed

56 [Repealed 2004-45-74.]

Powers and duties of board in an appeal

57 (1) In an appeal under this Part, the board

(a) may reopen the whole question of the property's assessment to ensure accuracy and that assessments are at actual value applied in a consistent manner in the municipality, treaty lands of the taxing treaty first nation, Nisga'a Lands or other rural area, and

(b) when considering whether land or improvements are assessed at actual value, must consider the total assessed value of the land and improvements together.

(2) Nothing in subsection (1) (a) empowers the board to determine an assessment of a property other than the property that is the subject of the appeal, except to the extent permitted under subsection (3).

(3) If the property referred to in subsection (1) includes a building or other improvement that extends over one or more contiguous parcels of land that actually abut that property but the other parcels were not originally the subject of the appeal, the board may, if the board considers it necessary to accurately determine the assessment of the property referred to in subsection (1), include those parcels in its determinations.

(4) The board may order the assessment authority to reassess at actual value land and improvements in all or part of a municipality, the treaty lands of a taxing treaty first nation, Nisga'a Lands or other rural area, whether or not they are the subject of the appeal, if the board finds

(a) that the assessments in the municipality, treaty lands, Nisga'a Lands or other rural area, or in part of any of them, are above their actual value, or

(b) that the assessment appealed against is at actual value but that the assessments of similar land and improvements in the municipality, treaty lands, Nisga'a Lands or other rural area, or in part of any of them, are below their actual value.

(5) Despite section 12 (6), the assessor must enter any reassessments ordered under subsection (4) of this section on a supplementary assessment roll.

Repealed

58 [Repealed 2004-45-74.]

Order for compliance

59 (1) The board or a party to an appeal under this Part may apply to the Supreme Court for an order

(a) directing a person to comply with an order or decision of the board under this Part, and

(b) directing any directors and officers of the person to cause the person to comply with an order or decision of the board under this Part.

(2) Subsection (1) is in addition to and not instead of any other remedy or course of action that may be available to the board or a party under this Act or otherwise available by law.

Costs

60 (1) Subject to the regulations, the board may order that a party to an appeal under this Part or an intervenor pay another party or intervenor or the board any or all of the actual costs in respect of the appeal.

(2) An order under subsection (1) has, after filing in the court registry, the same effect as an order of the Supreme Court for the recovery of a debt in the amount stated in the order against the person named in it, and all proceedings may be taken as if it were an order of the court.

Decision of board

61 (1) The board must issue a decision at the earliest opportunity after hearing an appeal under this Part.

(2) [Repealed 2004-45-74.]

Notice of board decision

62 (1) The board must deliver a notice of its decision on an appeal under this Part to

(a) the parties to the appeal and any intervenors, and

(b) the chief executive officer of the assessment authority.

(2) Notice under subsection (1) must include

- (a) the board's decision,
- (b) a statement that the decision may be appealed to the Supreme Court on a question of law, and
- (c) information on the procedures to be followed for such an appeal.

Amending the roll to reflect board decisions

63 (1) On receipt of notice of the board's decision under section 62, the assessor must

- (a) ensure that all amendments ordered to be made in the assessment roll by the board are made promptly, and
 - (b) ensure that a copy of the notice is available for public inspection during regular business hours.
- (2) If there is a conflict between the revised assessment roll and an amendment made under this section, the amendment prevails.

Part 7 — References and Stated Cases on Appeal

Reference on question of law to Supreme Court

64 (1) At any stage of a proceeding before it, the board, on its own initiative or at the request of one or more of the persons affected by the appeal, may refer a question of law in the proceeding to the Supreme Court in the form of a stated case.

- (1.1) If the question of law that is referred under subsection (1) is a constitutional question, the party who raises the question must give notice in compliance with section 8 of the Constitutional Question Act.
- (2) The stated case must be in writing and filed with the court registry, and must include a statement of the facts and all evidence material to the stated case.
- (3) The board must
 - (a) suspend the proceeding as it relates to the stated case and reserve its decision until the opinion of the Supreme Court has been given, and
 - (b) decide the appeal in accordance with the opinion.
- (4) The stated case must be brought on for hearing within one month from the date on which it is filed under subsection (2).
- (5) Subject to subsection (6), the court must hear and determine the stated case and within 2 months give its decision.
- (6) The court may send the stated case back to the board for amendment and the board must promptly amend and return the stated case for the opinion of the court.

Appeal of board decision on question of law

65 (1) Subject to subsection (2), a person affected by a decision of the board on appeal, including a local government, a taxing treaty first nation, the government, the Nisga'a Nation or the assessment authority, may require the board to refer the decision to the Supreme Court for appeal on a question of law alone in the form of a stated case.

- (2) Within 21 days after receiving the decision referred to in subsection (1), the person must deliver to the board a written request to refer the decision to the Supreme Court, and include in the request the question of law to be referred.
- (3) On receipt of the request under subsection (2), the board must promptly provide written notice of the request to
 - (a) the parties to the appeal from which the reference is requested and any intervenors, and
 - (b) the chief executive officer of the assessment authority.
- (4) Within 21 days after receiving the request under subsection (2), the board must file the stated case with the court registry, including the decision on appeal, a statement of the facts and all evidence material to the stated case.
- (5) The stated case must be brought on for hearing within one month from the date on which it is filed under subsection (4).
- (6) Subject to subsection (7), the court must hear and determine the stated case and within 2 months give its decision.
- (7) The court may send the stated case back to the board for amendment and the board must promptly amend and return the stated case for the opinion of the court.
- (8) The costs of, and incidental to, a stated case under this section are at the discretion of the court.

(9) An appeal on a question of law lies from a decision of the Supreme Court to the Court of Appeal with leave of a justice of the Court of Appeal.

(10) The board must direct the assessor to make any amendment to the assessment roll necessary to give effect to a decision made by the Supreme Court or the Court of Appeal under this section.

Part 8 — General

Assessment authority to provide information to the government

66 (1) The assessment authority must provide assessment information to the government for purposes of determining tax liability or collecting a tax under the Police Act, the School Act and the Taxation (Rural Area) Act, as follows:

(a) before February 1 in each year, information from or respecting the completed assessment roll on December 31 of the previous year;

(b) before March 26 in each year, information from or respecting the assessment roll as amended by the review panels in that year;

(c) when it becomes available, information from or respecting an assessment roll as it is amended or changed under section 10, 12, 42, 63 or 65 (10).

(1.1) On request of the government, the assessment authority must provide assessment inventory and valuation information to the government for purposes of determining a school tax refund under section 131.1 of the School Act.

(2) Despite section 69 (1), information under subsection (1) or (1.1) of this section must be provided to the government free of charge and in the form and manner required by the Minister of Finance.

(3) Before April 15 in each year, the assessment authority must provide free of charge to regional hospital district boards information setting out the current year net taxable value of all land and improvements in each member municipality, the treaty lands of each taxing treaty first nation and the other rural area, in the district, on both the completed and the revised assessment rolls, for the purpose of requisitioning and raising funds under the Hospital District Act.

(4) In the case of the North West Regional Hospital District, in addition to the information provided under subsection (3), the assessment authority must provide free of charge the net taxable value of all land and improvements in Nisga'a Lands.

Open hearings

67 Except for an order that may be made in relation to a prehearing conference, a hearing under this Act must be open to the public.

Protection of privacy in assessment roll and records

68 (1) On application by an owner, the assessment authority may omit or obscure the owner's name, address or other information about the owner that would ordinarily be included in an assessment roll if, in the opinion of the assessment authority, the inclusion of the name, address or other information could reasonably be expected to threaten the safety or mental or physical health of the owner or a member of the owner's household.

(2) Names of individuals must be deleted from

(a) an assessment roll other than an assessment roll that is

(i) supplied under subsection (4),

(ii) available for public inspection under section 8, or

(iii) accessible through the B.C. OnLine information service, and

(b) other prescribed records that are obtained or created under this Act.

(3) For the purpose of tracing unauthorized use of information, the assessment authority may have fictitious or false entries or information included in an assessment roll or other record related to an assessor's valuations under Part 2 or 3, that is available for public inspection under this Act or may otherwise be disclosed in accordance with a regulation under section 16 (6).

(4) Subsections (1) and (3) do not apply to an assessment roll or record that is supplied

(a) to a person or for a purpose specified in section 33.1 or 33.2 of the Freedom of Information and Protection of Privacy Act,

(b) to any of the following:

(i) the government;

- (ii) a municipality, regional district or taxing treaty first nation;
 - (ii.1) the Nisga'a Lisims Government;
 - (iii) a prescribed entity with taxing authority under an enactment of British Columbia or Canada, or
- (c) to the board.

Use of and access to information in records

69 (1) Subject to the requirements of this section and section 68 and any prescribed limits on the fees that may be charged, if this Act, or a regulation under this Act, requires or authorizes the disclosure or public inspection or other use of or access to a record, including an assessment roll, a person may obtain a copy of the record or assessment roll on payment of any fee that may be set for the copy by the assessment authority or by the chair of the board, as the case may be.

(2) A person must not, directly or indirectly, use the assessment roll or information contained in the assessment roll or a record referred to in subsection (1) as follows:

- (a) to obtain names, addresses or telephone numbers for solicitation purposes, whether the solicitations are made by telephone, mail or any other means;
- (b) to harass an individual;
- (c) for other uses or purposes specified by regulation.

(3) A person who wishes to inspect or obtain a copy of a record referred to in subsection (1) may be required to complete a declaration in the prescribed form

- (a) specifying the purpose for which the information is to be used, and
- (b) certifying that the information contained in the record will not be used in a manner prohibited under subsection (2).

(4) A person who contravenes subsection (2) commits an offence.

Offences in relation to false or misleading information

70 (1) A person who does any of the following commits an offence:

- (a) provides false or misleading information when required under this Act to provide information;
- (b) makes a false or misleading statement or declaration when required under this Act to make a statement or declaration.

(2) A person is not guilty of an offence under this section if the person establishes that, at the time the information was given or the statement or declaration was made, the person did not know that it was false or misleading and exercised reasonable care and diligence in providing the information or making the statement or declaration.

Fines and penalties for offences

71 (1) A person who commits an offence under section 15 (3), 69 (4) or 70 (1) is liable on conviction to a fine of not more than \$10 000 or imprisonment for a term not longer than 2 years, or both.

(2) If a person is convicted of an offence under section 69 (4) or 70 (1) and the court is satisfied that, as a result of the commission of the offence, the person acquired any monetary benefits or that monetary benefits accrued to the person, the court may order the person to pay a fine equal to the court's estimation of the amount of those monetary benefits.

(3) A fine under subsection (2) is in addition to and not in place of the fine or punishment that may be imposed under subsection (1) and is not limited to the maximum fine prescribed under subsection (1).

Offences and penalties

72 Section 5 of the Offence Act does not apply to this Act or the regulations.

Act prevails

73 If there is a conflict between this Act and any other Act, this Act prevails.

Power to make regulations and bylaws

74 (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 any expression used and not defined in this Act;

- (b) prescribing capacity for the purposes of section 1 (2) (l) and different capacities may be prescribed for different categories or types of vessels referred to in that section;
 - (c) exempting classes of interest in land or improvements, or both, from assessment under section 26, 27, 28 or 29;
 - (d) excluding from the definition of "improvements" any category or type of thing included in that definition by section 1 (2);
 - (e) prescribing criteria for determining the land that is considered for the purposes of section 21 to be right of way for the track in place of a railway corporation;
 - (f) prescribing criteria to be applied by the assessment authority in prescribing rates under section 21 (1) (d) and (e), including different criteria for different categories of right of way;
 - (g) respecting
 - (i) forms and returns required by the assessment authority or by the board,
 - (ii) the format and manner in which assessment rolls under section 8 must be presented,
 - (iii) any other form or notice referred to in this Act, and
 - (iv) the form, content and filing of reports by the board to the minister under section 49;
 - (h) requiring railway corporations, tramway corporations, pipe line corporations, closed circuit television corporations and corporations engaged in the supply, transmission or distribution of gas, water, electricity, telephone services or telegraph services to supply to the assessment authority, by prescribed dates, information respecting the property of the corporation and its operational and other costs required by the assessment authority to determine the actual value of the property;
 - (h.1) requiring persons to supply to the assessment authority, by prescribed dates, information respecting the designated ski hill property owned, held or occupied by the person and revenue relating to the property required by the assessment authority to determine the actual value of the property;
 - (i) extending the time within which any of the provisions of this Act must be performed, carried out or completed;
 - (j) [Repealed 1999-11-15.]
 - (k) prescribing the circumstances and the manner in which the board may award costs under section 60;
 - (l) prescribing information that must be included in a notice of complaint under section 33 (3) or a notice of appeal under section 50 (4);
 - (m) prescribing records for the purposes of section 68 (2) (b);
 - (n) prescribing an entity for the purposes of section 68 (4) (b) (iii);
 - (o) specifying uses or purposes for which information contained in an assessment roll or record referred to in section 69 (1) must not be used;
 - (p) respecting witness fees and authorizing fees to be payable to the board for any services provided by the board or its staff in relation to an appeal or to a stated case under Part 7;
 - (q) prescribing fees payable by persons for appeals and complaints to the board, and different fees may be prescribed for different types of appeals and the fees prescribed may be different for
 - (i) different property classes,
 - (ii) different assessed values of property, and
 - (iii) different appeals by the same appellant respecting assessments recorded on the same assessment roll;
 - (r) providing for classes of complaints under section 32 to be referred to, heard and determined directly by the board instead of a review panel, and the classes may be based on value of property, property class, geographic location or any other matter that the minister considers necessary or advisable;
 - (s) governing the rules, practice and procedures for making, hearing and determining complaints referred to in paragraph (r), including, without limitation, making all or any part of Part 4 or Part 6 applicable with any modifications the minister considers necessary or advisable;
 - (t) respecting orders that may be made by the board in its proceedings;
 - (u) prescribing rules of practice and procedure for appeals to the board, complaints to the board under the regulations or any part of proceedings conducted by the board;
 - (v) for the purposes of section 69 (1), limiting fees payable by the government or by different classes of persons, for different classes of records or for different uses of the records, including, without limitation, prescribing the circumstances in which no fees are payable.
- (3) For purposes of any regulation made under subsection (2) (h), the information referred to in subsection (2) (h) must be segregated, in a manner specified by the assessment authority, according to the location of the property of the corporations.

(3.1) For purposes of any regulation made under subsection (2) (h.1), the information referred to in subsection (2) (h.1) must be segregated, in the manner specified by the assessment authority, according to the location of the property of the person.

(4) For the purposes of this Act, the assessment authority may make bylaws, not inconsistent with this Act or the regulations, that it considers necessary or advisable.

(5) If an order or regulation affecting classification, valuation or exemption on the assessment roll is made in any year, under this Act or another Act, on or before the date set by section 3 of this Act for completing the assessment roll in that year, or any later date established by a regulation under subsection (2) (i) of this section, the order or regulation applies for the purposes of assessment and taxation

(a) in the taxation year following the year in which the order or regulation is made, and

(b) subject to the order or regulation being amended or repealed, in any subsequent taxation year.

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