

BILL 3 – 2023

MISCELLANEOUS STATUTES AMENDMENT ACT, 2023

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

PART 1 – ATTORNEY GENERAL AMENDMENTS

Validation and Confirmation Provision

Confirmation of statutes correction regulation

- 1 B.C. Reg. 103/2022 is validated and the corrections made by that regulation are confirmed and given continuing effect.

PART 2 – CITIZENS’ SERVICES AMENDMENTS

Freedom of Information and Protection of Privacy Act

- 2 *Section 3 of the Freedom of Information and Protection of Privacy Act, R.S.B.C. 1996, c. 165, is amended*

(a) by repealing subsection (4) and substituting the following:

- (4) Despite subsection (3) (f), in respect of a record that is created by or for, or is in the custody or under the control of, an officer of the Legislature and that relates to the exercise of functions under an Act, the following sections apply to the officer of the Legislature, including all employees of the officer of the Legislature and, in the case of an employee that is a service provider, all employees and associates of the service provider:
 - (a) section 25.1 [*unauthorized collection, use and disclosure of personal information prohibited*] as it relates to unauthorized disclosure of personal information;
 - (b) section 30 [*protection of personal information*];
 - (c) section 30.3 [*whistle-blower protection*];
 - (d) section 30.5 (2) [*notification of unauthorized disclosure*];
 - (e) section 33 [*disclosure of personal information*];

- (f) section 33.1 [*disclosure outside of Canada*];
- (g) section 65.3 [*offence to wilfully evade access provisions*];
- (h) section 65.4 [*privacy offences*];
- (i) section 65.5 [*corporate liability*];
- (j) section 65.6 [*penalties*]. , **and**

(b) by adding the following subsection:

- (4.1) Despite subsection (3) (g), in respect of a record that was created by or for the auditor general under the *Auditor General for Local Government Act* and that relates to the exercise of functions under that Act, the sections listed in subsection (4) (a) to (j) of this section apply to a public body, including all employees, officers or directors of the public body and, in the case of an employee that is a service provider, all employees and associates of the service provider, that has the record in its custody or under its control.

**PART 3 – ENVIRONMENT AND CLIMATE
CHANGE STRATEGY AMENDMENTS**

Ecological Reserve Act

- 3** *Section 5.1 (6) of the Ecological Reserve Act, R.S.B.C. 1996, c. 103, is amended by striking out “the minister may cancel or modify a permit issued under this section” and substituting “the minister may suspend, modify or cancel a permit issued under this section”.*

- 4** *The following sections are added:*

Designation and delegation by minister

- 6.1** (1) The minister may designate as a director a person appointed under the *Public Service Act*.
- (2) The minister may delegate to a director designated under subsection (1) any of the minister’s powers or duties under sections 6.2 to 6.4.

Administrative penalties

- 6.2** (1) After providing a person with an opportunity to be heard, the minister may, in accordance with the regulations, impose an administrative penalty on the person if the minister is satisfied on a balance of probabilities that the person has
- (a) contravened a prescribed provision of the regulations, or
 - (b) failed to comply with a term or condition of a permit issued under this Act.

- (2) An administrative penalty imposed under this section must be paid to the government within the prescribed time and in accordance with any other prescribed requirements.
- (3) If, under this section, the minister imposes an administrative penalty on a person, a prosecution for an offence under this Act in respect of the same contravention may not be brought against the person.
- (4) If a corporation contravenes a prescribed provision of the regulations or fails to comply with a term or condition of a permit, as described in subsection (1), an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the contravention or failure is liable for an administrative penalty under this section even if the corporation is liable for or pays an administrative penalty.
- (5) All revenue the government derives from administrative penalties imposed under this section must be paid into the Park Enhancement Fund special account established by section 9.6 (2) of the *Special Accounts Appropriation and Control Act*.

Compliance agreements

- 6.3**
- (1) Before the date an administrative penalty under section 6.2 is due, the minister may, in accordance with the regulations, enter into an agreement with the person who is liable for the administrative penalty.
 - (2) An agreement under subsection (1) may provide, in accordance with the regulations, for the reduction or cancellation of the administrative penalty subject to the terms and conditions the minister considers necessary or desirable.
 - (3) An agreement under subsection (1) must specify the time for performing any terms and conditions and, if the person fails to perform the terms and conditions by the date specified, the administrative penalty imposed under section 6.2 is due and payable on that date.

Recovery of administrative penalties

- 6.4**
- (1) An administrative penalty under section 6.2 may be recovered as a debt due to the government.
 - (2) If a person fails to pay an administrative penalty as required under section 6.2, the minister may file a certificate in a court that has jurisdiction and, on filing, the certificate has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the court with which it is filed.

- (3) A certificate under subsection (2) must be signed by the minister and must contain the following information:
 - (a) the name of the person who is liable for the administrative penalty;
 - (b) particulars of the administrative penalty;
 - (c) the amount of the administrative penalty.

Appeals in relation to administrative penalties

- 6.5** (1) In this section, “**appeal board**” means the Environmental Appeal Board continued under section 93 of the *Environmental Management Act*.
- (2) A person who is liable for an administrative penalty under section 6.2 may appeal the following decisions under this Act to the appeal board:
 - (a) a decision of the minister, under section 6.2 (1), to impose the administrative penalty on the person;
 - (b) a decision of the minister, under section 6.3 (3), that the person failed to perform a term or condition of an agreement under section 6.3 (1).
 - (3) The following provisions of the *Environmental Management Act* apply in relation to an appeal under this section:
 - (a) section 93.1 [*application of Administrative Tribunals Act*];
 - (b) section 94 [*parties and witnesses*];
 - (c) section 96 [*decision of appeal board*];
 - (d) section 97 [*varying and rescinding orders of appeal board*];
 - (e) section 98 [*appeal board power to enter property*];
 - (f) section 101 [*time limit for commencing appeal*];
 - (g) section 102 (2) [*procedure on appeals – new hearing*];
 - (h) section 103 [*powers of appeal board in deciding appeal*].

Regulations in relation to administrative penalties

- 7.01** Without limiting section 7, the Lieutenant Governor in Council may make regulations as follows:
- (a) prescribing provisions of the regulations in relation to the contravention of which an administrative penalty may be imposed;
 - (b) prescribing, in relation to a contravention or failure referred to in section 6.2 (1) [*administrative penalties*], whether an administrative penalty must be cancelled if the person on whom it was imposed demonstrates to the satisfaction of the minister that the person exercised due diligence to prevent the specified contravention or failure;
 - (c) prescribing a limitation period for imposing an administrative penalty and evidentiary matters in relation to that period;

- (d) establishing procedures to be applied by the minister in relation to the imposition of an administrative penalty;
- (e) establishing procedures for providing an opportunity to be heard, including procedures for opportunities that do not involve an oral hearing;
- (f) prescribing a schedule of administrative penalties that may be imposed and the matters that must be considered by the minister in establishing an administrative penalty in a particular case;
- (g) establishing the required content of notices related to administrative penalties;
- (h) authorizing administrative penalties to be imposed on a daily basis for continuing contraventions or failures;
- (i) respecting time limits, and the manner and process, for paying administrative penalties;
- (j) prescribing the consequences for failing to pay an administrative penalty, which may include, but are not limited to, imposing additional administrative penalties under section 6.2;
- (k) providing for the publication of information respecting the imposition of an administrative penalty;
- (l) respecting agreements under section 6.3 [*compliance agreements*].

5 Section 7.1 is amended by adding the following subsection:

- (4) A person who has been charged with an offence under this Act may not be subject to an administrative penalty in respect of the circumstances that gave rise to the charge.

Park Act

6 The Park Act, R.S.B.C. 1996, c. 344, is amended by adding the following sections:

Administrative penalties

- 27.1** (1) After providing a person with an opportunity to be heard, the minister may, in accordance with the regulations, impose an administrative penalty on the person if the minister is satisfied, on a balance of probabilities, that the person has
- (a) contravened a prescribed provision of this Act or the regulations,
 - (b) failed to comply with a term or condition of a permit issued under this Act, other than a permit issued by a park board, or
 - (c) failed to wholly or perfectly comply with an order under section 17 or 33 (6).

- (2) An administrative penalty imposed under this section must be paid to the government within the prescribed time and in accordance with any other prescribed requirements.
- (3) If, under this section, the minister imposes an administrative penalty on a person, a prosecution for an offence under this Act in respect of the same contravention may not be brought against the person.
- (4) If a corporation contravenes a prescribed provision of the regulations or fails to comply with a term or condition of a permit or with an order, as described in subsection (1), an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the contravention or failure is liable for an administrative penalty under this section even if the corporation is liable for or pays an administrative penalty.
- (5) All revenue the government derives from administrative penalties imposed under this section must be paid into the Park Enhancement Fund special account established by section 9.6 (2) of the *Special Accounts Appropriation and Control Act*.

Compliance agreements

- 27.2**
- (1) Before the date an administrative penalty under section 27.1 is due, the minister may, in accordance with the regulations, enter into an agreement with the person who is liable for the administrative penalty.
 - (2) An agreement under subsection (1) may provide, in accordance with the regulations, for the reduction or cancellation of the administrative penalty subject to the terms and conditions the minister considers necessary or desirable.
 - (3) An agreement under subsection (1) must specify the time for performing any terms and conditions and, if the person fails to perform the terms and conditions by the date specified, the administrative penalty imposed under section 27.1 is due and payable on that date.

Recovery of administrative penalties

- 27.3**
- (1) An administrative penalty under section 27.1 may be recovered as a debt due to the government.
 - (2) If a person fails to pay an administrative penalty as required under section 27.1, the minister may file a certificate in a court that has jurisdiction and, on filing, the certificate has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the court with which it is filed.

- (3) A certificate under subsection (2) must be signed by the minister and must contain the following information:
 - (a) the name of the person who is liable for the administrative penalty;
 - (b) particulars of the administrative penalty;
 - (c) the amount of the administrative penalty.

Appeals in relation to administrative penalties

- 27.4** (1) In this section, “**appeal board**” means the Environmental Appeal Board continued under section 93 of the *Environmental Management Act*.
- (2) A person who is liable for an administrative penalty under section 27.1 may appeal the following decisions under this Act to the appeal board:
 - (a) a decision of the minister, under section 27.1 (1), to impose the administrative penalty on the person;
 - (b) a decision of the minister, under section 27.2 (3), that the person failed to perform a term or condition of an agreement under section 27.2 (1).
 - (3) The following provisions of the *Environmental Management Act* apply in relation to an appeal under this section:
 - (a) section 93.1 [*application of Administrative Tribunals Act*];
 - (b) section 94 [*parties and witnesses*];
 - (c) section 96 [*decision of appeal board*];
 - (d) section 97 [*varying and rescinding orders of appeal board*];
 - (e) section 98 [*appeal board power to enter property*];
 - (f) section 101 [*time limit for commencing appeal*];
 - (g) section 102 (2) [*procedure on appeals – new hearing*];
 - (h) section 103 [*powers of appeal board in deciding appeal*].

7 Section 28 is amended by adding the following subsection:

- (4.1) A person who has been charged with an offence under this Act may not be subject to an administrative penalty in respect of the circumstances that gave rise to the charge.

8 *The following section is added:*

Regulations in relation to administrative penalties

29.01 Without limiting section 29, the Lieutenant Governor in Council may make regulations as follows:

- (a) prescribing provisions of the regulations in relation to the contravention of which an administrative penalty may be imposed;
- (b) prescribing, in relation to a contravention or failure referred to in section 27.1 (1) [*administrative penalties*], whether an administrative penalty must be cancelled if the person on whom it was imposed demonstrates to the satisfaction of the minister that the person exercised due diligence to prevent the specified contravention or failure;
- (c) prescribing a limitation period for imposing an administrative penalty and evidentiary matters in relation to that period;
- (d) establishing procedures to be applied by the minister in relation to the imposition of an administrative penalty;
- (e) establishing procedures for providing an opportunity to be heard, including procedures for opportunities that do not involve an oral hearing;
- (f) prescribing a schedule of administrative penalties that may be imposed and the matters that must be considered by the minister in establishing an administrative penalty in a particular case;
- (g) establishing the required content of notices related to administrative penalties;
- (h) authorizing administrative penalties to be imposed on a daily basis for continuing contraventions or failures;
- (i) respecting time limits, and the manner and process, for paying administrative penalties;
- (j) prescribing the consequences for failing to pay an administrative penalty, which may include, but are not limited to, imposing additional administrative penalties under section 27.1;
- (k) providing for the publication of information respecting the imposition of an administrative penalty;
- (l) respecting agreements under section 27.2 [*compliance agreements*].

Protected Areas of British Columbia Act

- 9 *Schedule E of the Protected Areas of British Columbia Act, S.B.C. 2000, c. 17, is amended in the description of Thorsen Creek Conservancy*
- (a) *by striking out “Plan 11 Tube 1967” and substituting “Plan 3 Tube 2025”, and*
- (b) *by striking out “8 504 hectares” and substituting “8 490 hectares”.*

Special Accounts Appropriation and Control Act

- 10 *Section 9.6 of the Special Accounts Appropriation and Control Act, R.S.B.C. 1996, c. 436, is amended*
- (a) *in subsection (3) by adding the following paragraph:*
- (a.1) money received by the minister as payment of an administrative penalty imposed under section 6.2 of the *Ecological Reserve Act* or section 27.1 of the *Park Act*; ,
- (b) *in subsection (4) by adding the following paragraph:*
- (h) subject to subsection (7), defraying the costs of investigating and remedying contraventions and failures in relation to which an administrative penalty may be imposed under section 6.2 of the *Ecological Reserve Act* or section 27.1 of the *Park Act*. , *and*
- (c) *by adding the following subsection:*
- (7) An amount paid under subsection (4) (h) must not exceed the amount in the special account that is attributable to administrative penalties imposed under section 6.2 of the *Ecological Reserve Act* and section 27.1 of the *Park Act*.

PART 4 – HEALTH AMENDMENTS

Hospital Act

- 11 *Section 46 (4.1) (d) of the Hospital Act, R.S.B.C. 1996, c. 200, is amended by striking out “British Columbia Medical Association” and substituting “Association of Doctors of BC”.*

Medicare Protection Act

- 12 *Sections 3 (1) (a) and (b) and 6 (1) (a) of the Medicare Protection Act, R.S.B.C. 1996, c. 286, are amended by striking out “British Columbia Medical Association” and substituting “Association of Doctors of BC”.*

PART 5 – MUNICIPAL AFFAIRS AMENDMENTS

Local Government Act

13 *The Local Government Act, R.S.B.C. 2015, c. 1, is amended by adding the following section:*

Owners must be given notice before tax sale

- 647.1** (1) At least 60 days before the date of the annual tax sale, the collector must, in relation to any property subject to tax sale, give written notice, either by serving the notice or by sending it by registered mail, to persons registered in the land title office as
- (a) owner of the fee simple of the property, or
 - (b) owner of a charge on the property.
- (2) A notice under subsection (1) must include the following:
- (a) the time and place of the annual tax sale;
 - (b) the legal description and street address, if any, of the property subject to tax sale;
 - (c) the amount of all taxes owing to the municipality on the property and the amount of interest to the date of the annual tax sale;
 - (d) the upset price of the property for the purpose of the tax sale;
 - (e) a statement that, if the amounts referred to in section 649 (1) (a) and (b) [*upset price for tax sale*] are not paid before the annual tax sale, the collector will offer the property for sale by public auction at the time and place stated in the notice;
 - (f) a statement that, if the property is sold at the annual tax sale, a right of redemption will remain in the owner or holder of the charge until the end of the redemption period.
- (3) On application, the Supreme Court may order that a notice under subsection (1) may be served by substituted service in accordance with the order.
- (4) The collector must retain a copy of each notice under subsection (1).

14 *Section 657 (3) is amended by adding “and section 647.1 [owners must be given notice before tax sale]” after “set out in subsection (1)”.*

15 *Section 666 (2) (c) is amended by striking out “section 657 [notice of tax sale and redemption period]” and substituting “section 647.1 [owners must be given notice before tax sale] or 657 [owners must be given notice of tax sale and redemption period]”.*

**PART 6 – PUBLIC SAFETY AND
SOLICITOR GENERAL AMENDMENTS**

Insurance Corporation Act

16 *Section 57 (2) (a) of the Insurance Corporation Act, R.S.B.C. 1996, c. 228, is amended by striking out “Judicial Review and Procedure Act” and substituting “Judicial Review Procedure Act”.*

Commencement

17 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Section 2	November 25, 2021
3	Sections 3 to 8	By regulation of the Lieutenant Governor in Council
4	Section 10	By regulation of the Lieutenant Governor in Council
5	Sections 13 to 15	By regulation of the Lieutenant Governor in Council
6	Section 16	June 4, 2021