

BILL 41 – 2023

FORESTS 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 – FORESTS STATUTES AMENDMENTS

Forest Act

1 Section 1 (1) of the Forest Act, R.S.B.C. 1996, c. 157, is amended

(a) by adding the following definitions:

“**affiliate**” means a corporation that is affiliated with another corporation within the meaning of section 1.3 (3);

“**control**”, in relation to a corporation, means control of the corporation within the meaning of section 1.3 (2); ,

(b) by repealing the definition of “cutting permit”,

(c) by adding the following definition:

“**cutting permit area**”, in relation to a cutting permit or a proposed cutting permit, means the area of land to which the cutting permit applies or would apply, if issued; ,

(d) by repealing paragraph (c) of the definition of “eligible bioenergy application” and substituting the following:

(c) is not refused under section 81 (2); ,

(e) by adding the following definitions:

“**holding corporation**” means a holding corporation within the meaning of section 1.3 (5);

“**related person**”, in relation to a corporation, means

(a) a person who controls, or who is a member of a group of persons referred to in section 1.3 (2) that controls, the corporation,

(b) a person who controls, or who is a member of a group of persons referred to in section 1.3 (2) that controls, a holding corporation whose subsidiary is the corporation, or

(c) an affiliate of the corporation; ,

(f) in the definition of “road use permit” by striking out “granted under section 117” and substituting “issued under section 119.5, 119.6 or 120.1”, and

(g) by adding the following definitions:

“**subsidiary**” means a subsidiary within the meaning of section 1.3 (4);

“**supplemental forest licence**” means a forest licence referred to in section 14.2 that includes the condition described in subsection (2) of that section;

“**woodlot licence plan**” means a woodlot licence plan under the *Forest and Range Practices Act*.

2 Section 1 (1) is amended by adding the following definitions:

“**forest operations map**” means a forest operations map under section 15.1 of the *Forest and Range Practices Act*;

“**forest stewardship plan**” means a forest stewardship plan under the *Forest and Range Practices Act*; .

3 The following section is added to Part 1:

Corporate relations

- 1.3** (1) In this section, “**effective director**” means an effective director as defined in the regulations.
- (2) For the purposes of this Act, a corporation is controlled by a person, or a group of persons not dealing with each other at arm’s length, if
- (a) shares of the corporation are held, other than by way of security only, by or for the benefit of the person or group, as applicable, and
 - (b) the votes carried by the shares referred to in paragraph (a) are sufficient, if exercised and considered in the aggregate,
 - (i) to elect or appoint 50% or more of the effective directors of the corporation, or
 - (ii) to otherwise effectively control the operations and direction of the corporation.
- (3) For the purposes of this Act, one corporation is affiliated with another corporation if any of the following apply:
- (a) one of the corporations is a subsidiary of the other;
 - (b) both are subsidiaries of the same holding corporation;
 - (c) both are controlled by the same person or group of persons;
 - (d) one of the corporations is controlled by a person or group of persons and the other is a subsidiary of a holding corporation controlled by the same person or group of persons, as applicable;

- (e) one of the corporations is a subsidiary of a holding corporation controlled by a person or group of persons and the other is a subsidiary of a different holding corporation controlled by the same person or group of persons, as applicable.
- (4) For the purposes of this Act, a corporation is a subsidiary of another corporation if any of the following apply:
 - (a) the corporation is controlled by the other corporation;
 - (b) the corporation is controlled by a group made up of
 - (i) the other corporation, and
 - (ii) one or more persons who are not at arm's length from the other corporation, including a corporation that is controlled by the other corporation or by a person who controls the other corporation;
 - (c) the corporation is a subsidiary of a subsidiary of the other corporation.
- (5) For the purposes of this Act, a corporation is the holding corporation of a corporation that is its subsidiary.

4 *Section 12 (1) is amended by striking out “or” at the end of paragraph (j) and by adding the following paragraph:*

- (j.1) cutting permit, or .

5 *Section 13 (1) (c) is repealed and the following substituted:*

- (c) is not refused under section 81 (2).

6 *Section 13.1 is amended*

(a) by repealing subsections (4) and (5) and substituting the following:

- (4) Subject to subsection (4.1), if an eligible bioenergy application is approved under subsection (3), the minister and the applicant must, on or after the commercial operation date, enter into a non-replaceable forest licence.
- (4.1) The minister may refuse to enter into a non-replaceable forest licence with the applicant of an eligible bioenergy application approved under subsection (3) if, on the commercial operation date, one or more of the following circumstances exist:
 - (a) the applicant, or a related person of the applicant, has not yet paid money required to be paid to the government in a circumstance set out in section 130 (1.1) and the due date for paying the money has passed, regardless of whether payment arrangements satisfactory to the revenue minister have been made;
 - (b) the applicant is not in compliance with a requirement under this Act or the *Forest and Range Practices Act* to provide security or a deposit;

- (c) the applicant holds another specified authorization or a replacement agreement, as those terms are defined in section 81 (1), and
 - (i) rights under the other specified authorization or replacement agreement, or a cutting permit issued for it, are under suspension, or
 - (ii) the applicant is not in compliance with a requirement referred to in section 81 (2) (c) (ii) (A) or (B) in relation to the other specified authorization or replacement agreement.
 - (4.2) If the circumstances referred to in subsection (4.1) cease to exist within 90 days after the commercial operation date, the minister and the applicant must enter into a non-replaceable forest licence.
 - (5) An approval under subsection (3) of an eligible bioenergy application is revoked if either of the following applies:
 - (a) the British Columbia Hydro and Power Authority or the applicant terminates the bioenergy supply contract before the commercial operation date;
 - (b) the minister
 - (i) has refused, in accordance with subsection (4.1), to enter into a non-replaceable forest licence with the applicant, and
 - (ii) is not required, under subsection (4.2), to enter into a non-replaceable forest licence with the applicant. , *and*
- (b) in subsections (6) and (7) by striking out “under subsection (5)” wherever it appears and substituting “under subsection (4) or (4.2)”.*

7 Section 14 (1) (e) is repealed.

8 Section 14.2 is repealed and the following substituted:

Supplemental forest licence

- 14.2** (1) In this section, “**restricted forest licence**” means a non-replaceable forest licence entered into under section 13 (6) for which applications are invited, on or after July 1, 2011, from one or more categories of applicants established under section 13 (2.1).
- (2) A restricted forest licence may specify that timber must not be harvested under the licence unless the minister is satisfied that the holder of the licence has taken steps specified in the licence to obtain from other sources the timber and wood residue needed for processing facilities owned or leased by the holder.

9 Section 15 is amended

(a) by adding the following subsection:

- (0.1) In this section, “Acts” means this Act, the *Forest and Range Practices Act* and the *Wildfire Act* . ,

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

- (1) This section does not apply to a forest licence that provides that a replacement for the licence must not be offered. ,

(c) in subsections (1.1) and (1.2) by striking out “or a person authorized by the minister”,

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

- (2) Despite subsection (1.2), if one or more of the following circumstances exists in relation to an existing forest licence, the minister may decline to offer a replacement for the forest licence until the circumstances cease to exist:

(a) rights under the forest licence, or under a cutting permit issued for the forest licence, are under suspension;

(b) the holder, or a related person of the holder, has not yet paid one or more of the following amounts and the due date for paying the amount has passed, regardless of whether payment arrangements satisfactory to the revenue minister have been made:

(i) stumpage or other amounts payable to the government in respect of timber harvested under the forest licence or a road permit associated with the forest licence;

(ii) an amount owing under an order made under Division 3 of Part 6 of the *Forest and Range Practices Act* against the holder or related person;

(c) the holder is not in compliance with a requirement under this Act or the *Forest and Range Practices Act* to provide security or a deposit in respect of

(i) the forest licence,

(ii) a cutting permit issued for the forest licence, or

(iii) a road permit associated with the forest licence;

(d) the holder is not in compliance with

(i) a requirement under the forest licence, a cutting permit issued for the forest licence or a road permit associated with the forest licence, or

(ii) a requirement under the Acts in respect of activities carried out under the cutting permit or road permit referred to in subparagraph (i).

(2.1) The minister may, in a circumstance referred to in subsection (2), offer a replacement with special conditions. ,

(e) in subsection (3) (a) (i) (B) by striking out “or a person authorized by the minister”,

(f) by repealing subsection (3) (a) (ii) and substituting the following:

(ii) if the minister exercises the power conferred under subsection (2), on a date to be determined by the minister, , **and**

(g) by repealing subsection (3) (b) (ii) and substituting the following:

(ii) if the minister exercises the power conferred under subsection (2), a period, not exceeding 15 years, to be determined by the minister, .

10 Section 15.1 is repealed.

11 Section 19 (4) is repealed and the following substituted:

(4) The minister may refuse to replace or amend, under subsection (3), one or more forest licences

(a) if the minister considers that the replacement or amendment would compromise forest management, or

(b) in the prescribed circumstances.

12 Section 20 (1) (c) is repealed and the following substituted:

(c) is not refused under section 81 (2).

13 Section 22.1 (2) is repealed.

14 Section 22.2 is amended

(a) in subsection (3) by striking out “if any of the rights under the non-BCTS licence are under suspension, in whole or in part, under section 76” and substituting “if rights under the non-BCTS licence are under suspension under section 76”, and

(b) in subsection (6) (b) by striking out “73, 75.8, 115, 116, 117 or 118” and substituting “73 or 75.8”.

15 Section 30 (e) is repealed.

16 Section 33 (1) (c) is repealed and the following substituted:

(c) is not refused under section 81 (2).

17 Section 35 (1) is amended

- (a) by striking out “A tree farm licence must” and substituting “A tree farm licence”,**
- (b) in paragraph (a) by adding “must” before “be for a term”,**
- (c) in paragraph (b) by adding “must” before “describe a tree farm licence area”,**
- (d) in paragraph (c) by adding “must” before “require its holder”,**
- (e) in paragraph (e) by adding “must” before “grant to its holder”,**
- (f) by repealing paragraph (f),**
- (g) in paragraph (h) by adding “must” before “require that timber on the tree farm licence area”,**
- (h) in paragraph (i) by adding “must” before “make provision for its holder”,**
- (i) in paragraph (j) by adding “must” before “require that each year”,**
- (j) in paragraph (k) by adding “must” before “allow its holder to contract for”,**
- (k) in paragraph (l) by adding “must” before “provide that the minister”,**
- (l) in paragraph (n) by adding “must” before “reserve to the government the right”, and**
- (m) in paragraph (o) by adding “may” before “contain other terms and conditions”.**

18 Section 35 (1.1) (a) is amended by striking out “the date this subsection comes into force” and substituting “March 7, 2017”.

19 Section 35.2 (5) is repealed.

20 Section 36 is amended

(a) by adding the following subsection:

- (0.1) In this section, “Acts” means this Act, the *Forest and Range Practices Act* and the *Wildfire Act* . ,**

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

- (1) This section does not apply to a tree farm licence that provides that a replacement for the licence must not be offered. ,**

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

- (2) Despite subsection (1.2), if one or more of the following circumstances exists in relation to an existing tree farm licence, the minister may decline to offer a replacement for the tree farm licence until the circumstances cease to exist:
- (a) rights under the tree farm licence, or under a cutting permit issued for the tree farm licence, are under suspension;
 - (b) the holder, or a related person of the holder, has not yet paid one or more of the following amounts and the due date for paying the amount has passed, regardless of whether payment arrangements satisfactory to the revenue minister have been made:
 - (i) stumpage or other amounts payable to the government in respect of timber harvested under the tree farm licence or a road permit associated with the tree farm licence;
 - (ii) an amount owing under an order made under Division 3 of Part 6 of the *Forest and Range Practices Act* against the holder or related person;
 - (c) the holder is not in compliance with a requirement under this Act or the *Forest and Range Practices Act* to provide security or a deposit in respect of
 - (i) the tree farm licence,
 - (ii) a cutting permit issued for the tree farm licence, or
 - (iii) a road permit associated with the tree farm licence;
 - (d) the holder is not in compliance with
 - (i) a requirement under the tree farm licence, a cutting permit issued for the tree farm licence or a road permit associated with the tree farm licence, or
 - (ii) a requirement under the Acts in respect of activities carried out under the cutting permit or road permit referred to in subparagraph (i).
- (2.1) The minister may, in a circumstance referred to in subsection (2), offer a replacement with special conditions. , **and**

(d) in subsection (3) (a) (ii) and (b) (ii) by striking out “subsection (2) (c)” and substituting “subsection (2)”.

21 Section 36.1 is repealed.

22 Section 39 (4) is repealed and the following substituted:

- (4) The minister may refuse to replace or amend, under subsection (3), one or more tree farm licences
 - (a) if the minister considers that the replacement or amendment would compromise forest management, or
 - (b) in the prescribed circumstances.

23 Section 43 (4) is repealed and the following substituted:

- (4) The minister may refuse to replace or amend, under subsection (3), one or more pulpwood agreements
 - (a) if the minister considers that the replacement or amendment would compromise forest management, or
 - (b) in the prescribed circumstances.

24 Section 43.3 (1) (e) is repealed.

25 Section 43.4 is amended

(a) by adding the following subsections:

- (4.1) Despite subsection (4), if the holder of a community forest agreement, or a related person of the holder, has not paid an amount owing under an order made under Division 3 of Part 6 of the *Forest and Range Practices Act* against the holder or related person, and the due date for paying the amount has passed, the minister may decline to offer a replacement for the community forest agreement until the holder or related person pays the amount.
- (4.2) Subsection (4.1) applies regardless of whether the holder or related person has made arrangements satisfactory to the revenue minister to pay the amount referred to in that subsection. , **and**

(b) in subsection (5) by repealing paragraph (a) and substituting the following:

- (a) be for a term of not less than 25 years and not more than 99 years, commencing on
 - (i) the tenth anniversary of the existing community forest agreement, or
 - (ii) if the minister exercises the power conferred under subsection (4.1), a date to be determined by the minister, .

26 Section 43.41 is repealed.

27 Section 43.55 (1) (e) is repealed.

28 Section 43.56 is amended

(a) by adding the following subsections:

- (1.1) Despite subsection (1), if the holder of a first nations woodland licence, or a related person of the holder, has not paid an amount owing under an order made under Division 3 of Part 6 of the *Forest and Range Practices Act* against the holder or related person, and the due date for paying the amount has passed, the minister may decline to offer a replacement for the first nations woodland licence until the holder or related person pays the amount.
- (1.2) Subsection (1.1) applies regardless of whether the holder or related person has made arrangements satisfactory to the revenue minister to pay the amount referred to in that subsection. , **and**

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

- (a) be for a term of not less than 25 years and not more than 99 years, commencing on
 - (i) the tenth anniversary of the existing licence, or
 - (ii) if the minister exercises the power conferred under subsection (1.1), a date to be determined by the minister, .

29 Section 44 (1) is repealed and the following substituted:

- (1) In this section, “**ineligible licence**” means a licence that
 - (a) is one of the following:
 - (i) a timber sale licence, if the timber sale licence is also a major licence;
 - (ii) a forest licence, other than a forest licence entered into under section 47.3 (1);
 - (iii) a tree farm licence;
 - (iv) a forestry licence to cut, other than a forestry licence to cut entered into under section 47.3 (1), and
 - (b) is either
 - (i) replaceable, or
 - (ii) non-replaceable, with an original term greater than 5 years.

30 Section 45 (1) is amended

- (a) by striking out “A woodlot licence must” and substituting “A woodlot licence”,**
- (b) in paragraph (a) by adding “must” before “be for a term”,**
- (c) in paragraph (b) by adding “must” before “describe a woodlot licence area”,**

- (d) in paragraph (c) by adding “must” before “give to its holder the exclusive right”,*
- (e) in paragraph (d) by adding “must” before “require its holder to pay”,*
- (f) by repealing paragraph (e),*
- (g) in paragraph (f) by adding “must” before “require its holder to submit”,*
- (h) in paragraph (f.1) by adding “must” before “state that it is a condition of the licence”, and*
- (i) in paragraph (g) by adding “may” before “include other terms and conditions”.*

31 Section 46 is amended

(a) by adding the following subsection:

- (0.1) In this section, “**Acts**” means this Act, the *Forest and Range Practices Act* and the *Wildfire Act*.

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

- (2) Despite subsection (1), if one or more of the following circumstances exists in relation to an existing woodlot licence, the minister may decline to offer a replacement for the woodlot licence until the circumstances cease to exist:
 - (a) rights under the woodlot licence, or under a cutting permit issued for the woodlot licence, are under suspension;
 - (b) the holder, or a related person of the holder, has not yet paid one or more of the following amounts and the due date for paying the amount has passed, regardless of whether payment arrangements satisfactory to the revenue minister have been made:
 - (i) stumpage or other amounts payable to the government in respect of timber harvested under the woodlot licence or a road permit associated with the woodlot licence;
 - (ii) an amount owing under an order made under Division 3 of Part 6 of the *Forest and Range Practices Act* against the holder or related person;
 - (c) the holder is not in compliance with a requirement under this Act or the *Forest and Range Practices Act* to provide security or a deposit in respect of
 - (i) the woodlot licence,
 - (ii) a cutting permit issued for the woodlot licence, or
 - (iii) a road permit associated with the woodlot licence;

- (d) the holder is not in compliance with
 - (i) a requirement under the woodlot licence, a cutting permit issued for the woodlot licence or a road permit associated with the woodlot licence, or
 - (ii) a requirement under the Acts in respect of activities carried out under the cutting permit or road permit referred to in subparagraph (i).

(2.1) The minister may, in a circumstance referred to in subsection (2), offer a replacement with special conditions. , **and**

(c) in subsection (3) (a) (ii) and (b) (ii) by striking out “subsection (2) (c)” and substituting “subsection (2)”.

32 Section 47.3 (1) (c) (ii) is amended by striking out “under section 13.1 (5)” and substituting “under section 13.1 (4) or (4.2)”.

33 Section 47.4 (2) (b) is repealed and the following substituted:

- (b) a master licence to cut with any person, authorizing the person to harvest timber in all or part of a forest district
 - (i) for the purposes of
 - (A) an energy resource activity under the *Energy Resource Activities Act*, or
 - (B) a road associated with an activity referred to in clause (A),
 - (ii) for a prescribed purpose, or
 - (iii) in the prescribed circumstances.

34 Section 47.5 is amended

(a) by adding “and” at the end of subsection (2) (b) (ii),

(b) by repealing subsection (2) (c),

(c) in subsection (2) (d) (ii) by adding “provisions” after “the applicable”, and

(d) by repealing subsections (3) and (4).

35 Section 47.6 (4.1) (b) is amended by striking out “under section 13.1 (5)” and substituting “under section 13.1 (4) or (4.2)”.

36 Section 47.7 (e) is repealed and the following substituted:

- (e) may require the holder to obtain a cutting permit under Part 3.1 before harvesting Crown timber under the licence, .

37 Section 47.72 is amended by adding the following subsection:

- (3) The district manager or the forest officer authorized by the district manager may refuse to issue to the holder of a fibre supply licence to cut a fibre recovery permit for an area described in subsection (1) (c) of this section on one or more of the grounds set out in section 81 (2).

38 The following Part is added:

PART 3.1 – CUTTING PERMITS

Definition

52.01 In this Part, “**agreement**” means

- (a) a forest licence,
- (b) an area-based licence, or
- (c) a licence referred to in section 52.02 (2).

Requirement to obtain cutting permit

- 52.02** (1) The holder of a forest licence or an area-based licence must not harvest the allowable annual cut available except as authorized under a cutting permit issued under this Part.
- (2) The holder of any of the following agreements must not harvest Crown timber under the agreement except as authorized under a cutting permit issued under this Part:
- (a) a timber licence;
 - (b) a master licence to cut;
 - (c) a forestry licence to cut that requires the holder to obtain a cutting permit before harvesting Crown timber under the licence.
- (3) Subsections (1) and (2) do not apply to the extent that harvesting without a cutting permit is specifically authorized under this Act or another enactment.

Issuance of cutting permit

- 52.03** (1) Subject to this Part and section 209, the minister may, on application by the holder of an agreement, issue a cutting permit authorizing the holder to exercise harvesting rights under the agreement.
- (2) Without limiting the minister’s discretion under subsection (1) to consider other matters, in deciding whether to issue a cutting permit, the minister must consider the impact that timber harvesting under the cutting permit, and road construction in relation to the cutting permit, would have on
- (a) the management and conservation of forest resources,
 - (b) cultural heritage resources,

- (c) public health and safety, and
 - (d) prescribed matters.
- (3) The duty of the minister under section 52.05, 52.06 or 52.07 to refuse to issue a cutting permit does not limit the minister's discretion under this section to refuse to issue a cutting permit.

Application for cutting permit

- 52.04** (1) An application made under section 52.03 must be submitted in the form and manner specified by the minister.
- (2) The minister may require an applicant to include in an application for a cutting permit, at the applicant's expense,
- (a) information respecting existing or proposed roads that provide or will provide access to the cutting permit area,
 - (b) information, plans, studies or analyses that the minister considers will assist in considering the matters referred to in section 52.03 (2), and
 - (c) any other information the minister considers relevant to the application.
- (3) The minister may require that the information, plans, studies or analyses required under subsection (2) (b) be prepared by a person with the qualifications specified by the minister.

Mandatory refusal to issue cutting permit

- 52.05** The minister must refuse to issue a cutting permit
- (a) if the minister determines that, taking into account the prescribed matters, if any, issuance of the cutting permit would compromise a prescribed government objective, or
 - (b) in the prescribed circumstances.

Refusal of cutting permit for supplemental forest licence

- 52.06** The minister must refuse to issue a cutting permit for a supplemental forest licence if the minister is not satisfied that the condition described in section 14.2 (2) is met.

Cutting permit for master licence to cut

- 52.07** The minister must refuse to issue a cutting permit for a master licence to cut unless one or both of the following apply:
- (a) the holder of the master licence to cut is authorized, under one or both of the following, to occupy the cutting permit area:
 - (i) a written authorization from the government;
 - (ii) an enactment;

- (b) the cutting permit would facilitate harvesting
 - (i) for a purpose prescribed for the purposes of section 47.4 (2) (b) (ii), or
 - (ii) in a circumstance prescribed for the purposes of section 47.4 (2) (b) (iii).

Content of cutting permit

- 52.08** (1) A cutting permit issued for an agreement must specify the term of the cutting permit, which term must not exceed the shorter of the following:
- (a) the period set out in subsection (2);
 - (b) the period remaining on the term of the agreement.
- (2) The period for the purposes of subsection (1) (a) is as follows:
- (a) in the case of a cutting permit issued for an agreement other than a master licence to cut, 4 years;
 - (b) in the case of a cutting permit issued for a master licence to cut, 4 years or a longer period established by regulation, if any.
- (3) A cutting permit issued for an agreement must do the following, within the limits provided in the agreement and subject to this Act and the *Forest and Range Practices Act*:
- (a) in the case of a cutting permit issued for a forest licence, authorize the holder to harvest a portion of the allowable annual cut available from a specified area within the timber supply area or tree farm licence area specified in the forest licence;
 - (b) in the case of a cutting permit issued for an area-based licence, authorize the holder to harvest a portion of the allowable annual cut available from a specified area within the licence area;
 - (c) in the case of a cutting permit issued for a timber licence, master licence to cut or forestry licence to cut, authorize the holder to harvest Crown timber under the licence from a specified area within the area of land described in the licence.
- (4) A cutting permit must include the prescribed terms and conditions, if any.
- (5) A cutting permit may include other terms and conditions that, subject to subsection (7), are within the limits provided in the agreement and consistent with this Act, the *Forest and Range Practices Act*, the *Wildfire Act* and any regulations or standards made under those Acts.
- (6) The terms and conditions referred to in subsection (5) may include, without limitation, terms and conditions respecting one or more of the following:
- (a) timber that is to be reserved from harvesting under the cutting permit;

- (b) periods during which timber may not be harvested under the cutting permit;
 - (c) vehicles, machinery or harvesting methods that may not be used in harvesting timber under the cutting permit, either during specified periods or generally;
 - (d) roads used or constructed by the holder under the cutting permit.
- (7) Terms and conditions included in a cutting permit issued for an agreement may set requirements or restrictions that are more stringent than the requirements and restrictions that apply to the holder
- (a) under the agreement, or
 - (b) under this Act, the *Forest and Range Practices Act*, the *Wildfire Act* or any standards made under those Acts.

Duty to comply with terms and conditions

52.09 The holder of a cutting permit must comply with the terms and conditions of the cutting permit.

Extension of cutting permit

- 52.10** (1) Subject to this section, on application by the holder of a cutting permit, other than a cutting permit issued for a licence to cut, the minister must extend the term of a cutting permit for a period that
- (a) does not exceed one year, and
 - (b) does not result in a term for the cutting permit that is longer than the maximum term for a cutting permit referred to in section 52.08 (1).
- (2) The minister may not extend the term of a cutting permit issued for an agreement if
- (a) the agreement provides that the term of a cutting permit issued for the agreement must not be extended,
 - (b) rights under the cutting permit or agreement are under suspension, or
 - (c) the minister considers that the extension would prevent the fulfillment of an obligation under the *Forest and Range Practices Act*.
- (3) An application under subsection (1) must be in writing and accompanied by payment of a fee equal to the amount determined in accordance with the regulations.
- (4) The minister may, on request of the holder of the cutting permit, waive the fee required under subsection (3) if the minister is satisfied that the reasons for the extension are circumstances that are
- (a) beyond the holder's control, and
 - (b) unrelated to the holder's financial situation.

- (5) A fee paid under subsection (3) must not be credited towards stumpage.

Postponement of cutting permit

- 52.11** (1) On application by the holder of a cutting permit, the minister may, in accordance with the regulations, postpone the operation of the cutting permit for a period not exceeding 2 years.
- (2) The minister must specify as the effective date of a postponement under subsection (1) a date that is on or after the date on which the application for postponement was made.
- (3) If the operation of a cutting permit is postponed under subsection (1), the minister may, on application by the holder of the cutting permit and in accordance with the regulations, grant one or more extensions to the period of postponement, each for a period not exceeding 2 years.
- (4) During the period for which the operation of a cutting permit is postponed under this section, the holder of the cutting permit
- (a) must not exercise rights under the cutting permit, and
 - (b) is liable to perform all obligations that are
 - (i) imposed, in respect of the cutting permit, under this Act, the *Forest and Range Practices Act* or the *Wildfire Act*, and
 - (ii) incurred before the effective date of the postponement.
- (5) On application by the holder of a cutting permit, the minister must rescind the postponement of the operation of the cutting permit.
- (6) If the postponement of the operation of a cutting permit is rescinded under subsection (5),
- (a) all rights under the cutting permit are exercisable by the holder of the cutting permit,
 - (b) the period remaining on the term of the cutting permit, as at the date on which the postponement is rescinded and despite the terms and conditions of the cutting permit, is equal to the shorter of the following:
 - (i) the period remaining on the term of the agreement for which the cutting permit was issued;
 - (ii) the period that remained on the term of the cutting permit on the effective date of the postponement, and
 - (c) the minister may not, under this section, grant another postponement of the operation of the cutting permit.

Effect on cutting permit of expiration, cancellation, surrender or termination of agreement

52.12 On the date on which an agreement expires or is cancelled, surrendered or terminated under this Act, all cutting permits issued for the agreement are cancelled without notice.

Transition – immediate application

52.13 Despite any agreement, this Part, and the regulations made for the purposes of this Part, applies in relation to agreements entered into before, on or after the date this section comes into force.

39 *Section 52.05 is repealed and the following substituted:*

Mandatory refusal to issue cutting permit

52.05 The minister must refuse to issue a cutting permit if one or more of the following circumstances applies:

- (a) the minister determines that, taking into account the prescribed matters, if any, issuance of the cutting permit would compromise a prescribed government objective;
- (b) the applicant does not hold a forest stewardship plan or woodlot licence plan, as required under the *Forest and Range Practices Act*, in relation to the cutting permit area;
- (c) the applicant was required, under section 15.1 of the *Forest and Range Practices Act*, to prepare and make publicly available a forest operations map before applying for the cutting permit, and the minister considers that, taking into account the prescribed matters, if any,
 - (i) the applicant has not complied with section 15.1 of that Act, or
 - (ii) the cutting permit area is inconsistent with the approximate locations of cutblocks shown in the forest operations map;
- (d) a prescribed circumstance.

40 *Section 52.05 is amended*

(a) by renumbering the section as section 52.05 (1),

(b) by repealing subsection (1) (b) and (c) and substituting the following:

- (b) the cutting permit area is located outside a forest landscape area and one or more of the following applies:
 - (i) the applicant does not hold a forest stewardship plan or woodlot licence plan, as required under the *Forest and Range Practices Act*, in relation to the cutting permit area;

- (ii) the applicant was required, under section 15.1 of the *Forest and Range Practices Act*, to prepare and make publicly available a forest operations map before applying for the permit, and the minister considers that, taking into account the prescribed matters, if any,
 - (A) the applicant has not complied with section 15.1 of that Act, or
 - (B) the cutting permit area is inconsistent with the approximate locations of cutblocks shown in the forest operations map;
- (c) the cutting permit area is located in a forest landscape area and either of the following applies:
 - (i) the applicant does not hold a forest operations plan, as required under the *Forest and Range Practices Act*, that applies to the cutting permit area;
 - (ii) the minister considers that, taking into account the prescribed matters, if any, the cutting permit area is inconsistent with the approximate locations of the proposed cutblocks shown in a forest operations plan held by the applicant; , **and**

(c) by adding the following subsection:

- (2) If a person applies for a cutting permit and only a portion of the cutting permit area is located outside a forest landscape area,
 - (a) subsection (1) (b) applies to the application as it relates to the portion of the cutting permit area located outside the forest landscape area, and
 - (b) subsection (1) (c) applies to the application as it relates to the portion of the cutting permit area located in the forest landscape area.

41 Section 53 (1) is amended by repealing the definitions of “affiliate”, “control of a corporation”, “effective director”, “holding corporation”, “related person” and “subsidiary”.

42 Section 53.2 is repealed.

43 The following section is added to Division 2 of Part 4:

Cutting permits to be treated as part of agreement

53.3 For the purposes of this Division, a cutting permit issued for an agreement is to be treated as if the cutting permit formed part of the agreement.

44 Section 54 (2) (d.4) is amended by striking out “a person who, under section 115 (1), may be granted a road permit” and substituting “an eligible holder within the meaning of section 114”.

45 Section 54.4 is amended

- (a) in subsection (0.1) by striking out “and “supplemental forest licence” have the same meaning” and substituting “has the same meaning”,**
- (b) in subsection (1) (b) (i) by striking out “under section 13.1 (5)” and substituting “under section 13.1 (4) or (4.2)”, and**
- (c) in subsection (1.2) by striking out “, in whole or in part.”**

46 Section 54.66 (1) is amended

- (a) by repealing paragraph (a) and substituting the following:**
 - (a) without notice, immediately suspend rights under one or both of the following:
 - (i) the applicable agreement referred to in section 54.65 (b);
 - (ii) if applicable, a cutting permit issued for the agreement, and , **and**
- (b) by repealing paragraph (b) (i) and substituting the following:**
 - (i) confirm or vary a suspension under paragraph (a) of this subsection;
 - (i.1) suspend rights under the agreement, a cutting permit issued for the agreement or both; .

47 Section 58.1 is amended

- (a) by repealing subsection (1) and substituting the following:**
 - (1) The holder of a timber sale licence may apply in writing to the timber sales manager for an extension of the term of the licence for a period that
 - (a) does not exceed one year, and
 - (b) does not result in a term of more than 4 years for the licence. ,
- (b) by repealing subsection (2),**
- (c) by repealing subsection (3) and substituting the following:**
 - (3) Subject to subsection (8), the timber sales manager must accept an application under subsection (1) if
 - (a) the timber sale licence does not prohibit the extension,
 - (b) rights under the timber sale licence are not under suspension, and
 - (c) the holder of the timber sale licence pays to the government a fee equal to the amount determined under subsection (5) and, if applicable, subsection (5.1). ,
- (d) in subsection (4) by striking out “or cutting permit, as the case may be,”**

(e) in subsection (5) by striking out “and” at the end of paragraph (b) and by repealing paragraph (c),

(f) in subsection (6) by striking out “However, at the request of the holder of a timber sale licence or cutting permit who has submitted an application for an extension under subsection (1) or (2), the minister or a person authorized by the minister may waive the fee referred to in subsection (3) (c), if the minister or authorized person is satisfied” and substituting “At the request of the holder of a timber sale licence who has submitted an application for an extension under subsection (1), the timber sales manager may waive the fee referred to in subsection (3) (c) if the timber sales manager is satisfied”,

(g) by repealing subsection (6.1),

(h) by repealing subsection (8) and substituting the following:

*(8) The timber sales manager may reject an application to extend the term of a timber sale licence if, in the opinion of the timber sales manager, the extension would prevent the fulfillment of an obligation under the *Forest and Range Practices Act.*, and*

(i) by repealing subsection (9).

48 *Sections 58.201 and 58.21 are repealed.*

49 *Sections 59, 59.1 and 63.1 are repealed.*

50 *Section 70 (2) and (4) is amended by striking out “cutting permit issued under the agreement” and substituting “cutting permit issued for the agreement”.*

51 *Section 75.92 is repealed and the following substituted:*

Relief

75.92 The minister may grant to the holder of a licence full or partial relief from the penalty under section 75.2 or 75.91 in any of the following circumstances:

- (a) timber is deemed, under section 119.2 (2), to be harvested under the licence during the cut control period to which the penalty relates;
- (b) in the case of a timber sale licence that specifies an allowable annual cut, or in the case of a forest licence or woodlot licence, the allowable annual cut authorized for the licence is reduced under section 8, 9, 61, 63, 173, 185, 202 or 273 or Part 18;
- (c) in the case of a tree farm licence, the allowable annual cut available to the holder of the licence is reduced under section 8, 9, 61, 63, 173, 185, 202 or 273 or Part 18.

52 *Sections 75.93, 75.94, 75.95 and 75.96 are repealed.*

53 **Section 76 (1) and (1.1) is amended by striking out “, in whole or in part,”.**

54 **Section 76 (2) is repealed and the following substituted:**

- (2) Without limiting subsection (1), the minister may suspend rights under a replaceable major licence or a replaceable woodlot licence if
 - (a) the holder is subject to a requirement under the *Forest and Range Practices Act*, in respect of a non-replaceable major licence or non-replaceable woodlot licence, to establish a free growing stand, and
 - (b) the holder has failed to comply with the requirement referred to in paragraph (a).

55 **Section 76 is amended by adding the following subsections:**

- (2.1) If the minister is authorized under subsection (1), (1.1) or (2) to suspend rights under an agreement for which a cutting permit has been issued, the minister may suspend rights under the agreement, the cutting permit or both.
- (2.2) If the minister is authorized under subsection (1) to suspend rights under an agreement that is a cutting permit, the minister may suspend rights under the cutting permit, the agreement for which the cutting permit was issued or both.

56 **Section 76 (3), (3.1), (4), (5) and (6) is repealed.**

57 **The following section is added:**

Notice and duration of suspension

- 76.1 (1) Before rights under an agreement are suspended under section 76, the minister must serve on the holder of the agreement a notice of suspension that specifies
- (a) the reason for the suspension, and
 - (b) the date on which the suspension takes effect, which must be at least 5 days after the date of service of the notice.
- (2) If rights under an agreement held by a first nation or its representative are suspended under section 76 (1.1), the notice of suspension must include the particulars of the first nation’s non-compliance with the agreement between the government and the first nation respecting treaty-related measures, interim measures or economic measures.
- (3) A suspension of rights takes effect on the date specified in the notice of suspension and continues until
- (a) the rights are reinstated by the minister, or
 - (b) the agreement is cancelled under this Act.
- (4) The minister, on request of the holder of an agreement who has been served with a notice of suspension under this section, must allow the holder an opportunity to be heard and may, after hearing the holder, rescind the notice.

- (5) If rights under an agreement have been suspended under section 76 on the grounds that the holder
- (a) did not perform an obligation referred to in section 76 (1) (c),
 - (b) failed to comply with a requirement referred to in section 76 (1) (d), or
 - (c) contravened a condition referred to in section 76 (1.1),
- the minister must, on application by the holder, reinstate the suspended rights if the minister is satisfied that the holder is performing the obligation or complying with the requirement or condition, as applicable.
- (6) If rights under a cutting permit are reinstated under subsection (5), the period remaining on the term of the cutting permit, as at the date of the reinstatement and despite the terms and conditions of the cutting permit, is equal to the shorter of the following:
- (a) the period remaining on the term of the agreement for which the cutting permit was issued;
 - (b) the period that remained on the term of the cutting permit on the date on which the suspension took effect.

58 Section 77 (1.1) is repealed and the following substituted:

- (1.1) If rights under an agreement are under suspension under section 76 (1.1), the minister may cancel
- (a) the agreement, and
 - (b) a road use permit issued to the holder of the agreement, if the road use permit is associated with the agreement.

59 Section 78 (1) (c) is amended by striking out “suspend, in whole or in part, rights in” and substituting “suspend rights under”.

60 Section 78.1 is amended

- (a) in subsection (1) by striking out “suspend, in whole or in part, rights in” and substituting “suspend rights under”, and**
- (b) in subsection (3) by striking out “a road use permit granted for the agreement to the holder of the agreement” and substituting “a road use permit that has been issued to the holder of the agreement and that is associated with the agreement”.**

61 Section 79 is amended

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

(1) Despite the expiry, surrender or cancellation of a holder's agreement, or the suspension of rights under the agreement, the holder is liable to perform all of the following obligations, to the extent that the obligations were incurred before the expiry, surrender, cancellation or suspension:

(a) obligations to pay the following:

(i) rent, fees, costs and penalties owing to the government in respect of the agreement;

(ii) any other money required under this Act to be paid to the government in respect of the agreement;

(b) other obligations of the holder

(i) under the agreement, or

(ii) with respect to the agreement, under this Act, the *Forest and Range Practices Act*, the *Forest Practices Code of British Columbia Act* or the *Wildfire Act*.

(b) in subsection (1.1) by striking out “subsection (1) (b) and (c)” and substituting “subsection (1) (b)”, and

(c) in subsection (2) (a) by striking out “cutting permit.”

62 Section 80 (2) (a) is amended by striking out “68 to 70, 72 to 74 and 81.1” and substituting “68 to 70 and 72 to 74”.

63 Section 80 is amended

(a) in subsection (2) (a) by striking out “63.1,”

(b) in subsection (2) (b) by striking out “sections 64;” and substituting “sections 63.1; 64;”, and

(c) in subsection (3) by striking out “75.1, 75.11 or 75.95” and substituting “75.1 or 75.11”.

64 Section 80 is amended by adding the following subsection:

(5) No compensation is payable by the government and proceedings must not be commenced or continued to claim compensation from the government or to obtain a declaration that compensation is payable by the government in respect of the following:

(a) a decision of the minister under Part 3.1 to

(i) refuse to issue a cutting permit, or

- (ii) include a term or condition in a cutting permit;
- (b) a decision of the minister under Part 8 to
 - (i) refuse to issue a road permit, or
 - (ii) include a term or condition in a road permit.

65 *Section 80.1 is repealed.*

66 *The heading to Division 5 of Part 4 is repealed and the following substituted:*

Division 5 – Refusal to Issue Authorizations .

67 *Section 81 is repealed and the following substituted:*

Grounds for refusing to issue authorization

81 (1) In this section:

“**Acts**” means this Act, the *Forest and Range Practices Act*, the *Forest Practices Code of British Columbia Act* and the *Wildfire Act*;

“**applicant**” means a person, first nation or other entity who seeks a specified authorization;

“**refuse to issue**”, in relation to a specified authorization, includes the following:

- (a) to refuse or decline to approve an application for the specified authorization;
- (b) to refuse to enter into, grant or give the specified authorization;

“**replacement agreement**” means an agreement, entered into under section 15 (6), 36 (6), 43.4 (9), 43.56 (5) or 46 (7), that is a replacement for another agreement;

“**specified authorization**” means

- (a) an agreement listed in section 12, other than the following agreements:
 - (i) a replacement agreement;
 - (ii) a cutting permit,
- (b) a fibre recovery permit referred to in section 47.72 (1) (c),
- (c) a road use permit, other than a road use permit that the minister is required to issue under section 120.1 (2),
- (d) a log salvage permit referred to in section 124,
- (e) an exemption, under section 128, from section 127, and
- (f) a special use permit.

- (2) An application under this Act for a specified authorization may be refused, and a person who has discretion under this Act or the *Forest Practices Code of British Columbia Act* to refuse to issue a specified authorization may do so, on one or more of the following grounds:
- (a) the applicant, or a related person of the applicant, has failed to pay by the due date money that is required to be paid to the government in a circumstance set out in section 130 (1.1) of this Act, regardless of whether, at the time the specified authorization is sought,
 - (i) the money has been paid, or
 - (ii) payment arrangements satisfactory to the revenue minister have been made;
 - (b) the applicant is not in compliance with, or has failed in the past to comply with, a requirement under this Act or the *Forest and Range Practices Act* to provide security or a deposit;
 - (c) the applicant holds another specified authorization or a replacement agreement and
 - (i) rights under the other specified authorization or replacement agreement, or a cutting permit issued for it, are under suspension, or
 - (ii) the applicant is not in compliance with, or has failed in the past to comply with,
 - (A) a requirement under the other specified authorization or replacement agreement, or a cutting permit issued for it, or
 - (B) a requirement under the Acts in respect of activities carried out under the other specified authorization or replacement agreement.
- (3) The minister may refuse to issue a cutting permit for an agreement on one or more of the following grounds:
- (a) the applicant, or a related person of the applicant, has not yet paid money required to be paid to the government in a circumstance set out in section 130 (1.1) of this Act and the due date for paying the money has passed, regardless of whether payment arrangements satisfactory to the revenue minister have been made;
 - (b) the applicant is not in compliance with a requirement under this Act or the *Forest and Range Practices Act* to provide security or a deposit;
 - (c) rights under a cutting permit previously issued for the agreement are under suspension;
 - (d) the applicant is not in compliance with
 - (i) a requirement under the agreement or a cutting permit previously issued for the agreement,

- (ii) a requirement under a road permit or road use permit associated with the agreement, or
 - (iii) a requirement under the Acts in respect of activities carried out under a permit referred to in subparagraph (i) or (ii).
- (4) Nothing in this section limits a person’s discretion under this Act, on grounds other than those set out in this section, to refuse to issue a specified authorization or a cutting permit.

68 *Section 81.1 is repealed.*

69 *Section 95 (3) is amended by striking out “or” at the end of paragraph (a) and by adding the following paragraph:*

- (a.1) the applicant, or a related person of the applicant, has failed to pay by the due date money that is required to be paid to the government in a circumstance set out in section 130 (1.1), regardless of whether, at the time the application is made,
 - (i) the money has been paid, or
 - (ii) payment arrangements satisfactory to the revenue minister have been made, or .

70 *Section 103.1 is amended*

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

- (2) Subject to subsection (3), a requirement in an agreement entered into under this Act is without effect to the extent that it requires the holder of the agreement, on or after November 4, 2003, to cut and remove timber in accordance with the agreement. , **and**

(b) in subsection (3) by striking out “or a cutting permit” and by striking out “or the cutting permit” wherever it appears.

71 *The following section is added:*

Assessments for merchantable Crown timber that is not cut under road permit and stored

103.2 If a road permit specifies that waste assessments are payable to the government in respect of merchantable Crown timber described in section 119.1 (3) (a) (i) or (ii) of this Act, the amount payable must be calculated in accordance with the road permit.

72 *Section 109 (2) (f.1) is repealed and the following substituted:*

- (f.1) a road permit issued to the holder of a licence referred to in this subsection, if the road permit is associated with the licence; .

73 **Section 111 (1) (a.1) is repealed and the following substituted:**

(a.1) cutting permit issued for a supplemental forest licence, or .

74 **Sections 114, 115, 116, 117, 118, 118.1 and 119 are repealed and the following substituted:**

Definitions

114 In this Part:

“eligible holder” means a person who has the right to harvest timber under a

- (a) forest licence,
- (b) timber licence,
- (c) area-based licence,
- (d) Christmas tree permit,
- (e) timber sale licence, or
- (f) forestry licence to cut;

“forest development plan” means a forest development plan under the *Forest and Range Practices Act*;

“forest stewardship plan” means a forest stewardship plan under the *Forest and Range Practices Act*.

Issuance of road permit

115 (1) Subject to this Part and section 215, the minister or timber sales manager may, on application by an eligible holder, issue a road permit authorizing the holder to do one or both of the following for the purpose of accessing timber:

- (a) construct a road on Crown land;
- (b) maintain an existing road on Crown land, other than a forest service road.

(2) Without limiting the discretion of the minister or timber sales manager under subsection (1) to consider other matters, in deciding whether to issue a road permit, the minister or timber sales manager must consider all of the following:

- (a) the impact that construction, maintenance or use of the road, as applicable, would have on
 - (i) the management and conservation of forest resources,
 - (ii) cultural heritage resources,
 - (iii) public health and safety,
 - (iv) if applicable, rights in relation to timber proposed to be cut under the road permit that are held by a person other than the applicant under an agreement entered into under this Act, and
 - (v) prescribed matters;

- (b) in the case of an application for a road permit to construct a road,
 - (i) whether alternative means of accessing the relevant timber exist, and
 - (ii) the impact of those alternative means on the matters listed in paragraph (a).
- (3) The duty of the minister or timber sales manager under section 117 to refuse to issue a road permit does not limit the discretion of the minister or timber sales manager under this section to refuse to issue a road permit.

Application for road permit

- 116**
- (1) An application made under section 115 must be submitted in the form and manner specified by the minister or timber sales manager.
 - (2) The minister or timber sales manager may require an applicant to include in an application for a road permit, at the applicant's expense,
 - (a) information, plans, studies or analyses that the minister or timber sales manager considers will assist in considering the matters referred to in section 115 (2), and
 - (b) any other information the minister or timber sales manager considers relevant to the application.
 - (3) The minister or timber sales manager may require that the information, plans, studies or analyses required under subsection (2) (a) of this section be prepared by a person with the qualifications specified by the minister or timber sales manager.

Mandatory refusal to issue road permit

- 117**
- The minister or timber sales manager must refuse to issue a road permit
- (a) if the minister or timber sales manager determines that, taking into account the prescribed matters, if any, issuance of the road permit would compromise a prescribed government objective, or
 - (b) in the prescribed circumstances.

Road permit content – general

- 118**
- (1) A road permit must
 - (a) describe the location of the road that is or will be subject to the road permit, and
 - (b) include the prescribed terms and conditions, if any.
 - (2) A road permit authorizing the holder to construct a road must also authorize the holder to use, maintain and deactivate the road.
 - (3) A road permit authorizing the holder to maintain an existing road must also authorize the holder to use and deactivate the road.

- (4) A road permit may do one or both of the following:
 - (a) specify a date by which the road must be deactivated;
 - (b) authorize the holder to, on Crown land that is in a Provincial forest and in the right of way of the road,
 - (i) manage and use the land for sand pits, gravel pits, rock quarries or other quarries that are in the right of way, and
 - (ii) use the materials in the pits and quarries referred to in subparagraph (i) for constructing or maintaining the road, as applicable.
- (5) A road permit associated with a timber sale licence may
 - (a) specify standards and programs established by one or more standard making bodies,
 - (b) require the holder of the road permit to meet the standards and programs specified under paragraph (a), and
 - (c) specify the manner in which the holder of the road permit must conduct operations under the road permit in order to meet the standards and programs specified under paragraph (a).
- (6) A road permit may include other terms and conditions that, subject to subsection (8), are consistent with this Act, the *Forest and Range Practices Act*, the *Wildfire Act* and any regulations or standards made under those Acts.
- (7) The terms and conditions referred to in subsection (6) may include, without limitation, terms and conditions respecting one or more of the following:
 - (a) the storage of timber cut under the road permit;
 - (b) periods during which the holder may not carry out activities related to the construction, maintenance or deactivation of the road, including, without limitation, blasting activities;
 - (c) the manner in which the holder may carry out activities referred to in paragraph (b), either during specified periods or generally;
 - (d) vehicles, machinery or equipment that may not be used by the holder when constructing, maintaining, using or deactivating the road, either during specified periods or generally;
 - (e) periods during which the holder may not use the road;
 - (f) specified signage that is to be posted by the holder on the road.
- (8) Terms and conditions included in a road permit may set requirements or restrictions that are more stringent than the requirements and restrictions that apply to the holder under this Act, the *Forest and Range Practices Act*, the *Wildfire Act* or any standards made under those Acts.

**Road permit content –
right to harvest timber in right-of-way**

- 119** (1) In this section and in section 119.1, “**roadway timber**”, in relation to a road authorized to be constructed under a road permit, means Crown timber that the minister is satisfied must be cut to construct the road.
- (2) A road permit to construct a road must authorize the holder to harvest roadway timber if the roadway timber meets both of the following conditions:
- (a) the roadway timber is located in an area described in subsection (3);
 - (b) no other person has the right to harvest the roadway timber under one or more of the following:
 - (i) a cutting permit;
 - (ii) a forestry licence to cut;
 - (iii) an area-based licence;
 - (iv) a timber licence.
- (3) The areas for the purposes of subsection (2) (a) are as follows:
- (a) a timber supply area specified in a forest licence held by the road permit holder;
 - (b) the licence area of an area-based licence or timber licence held by the road permit holder;
 - (c) in relation to a forestry licence to cut held by the road permit holder,
 - (i) an area of land described in the licence, and
 - (ii) a timber supply area in which the area referred to in subparagraph (i) is located;
 - (d) the area specified in a master licence to cut or occupant licence to cut held by a person other than the road permit holder.
- (4) If a road permit authorizes the holder to harvest timber, the road permit must require the holder to pay to the government, in addition to other amounts payable under this Act,
- (a) stumpage under Part 7, and
 - (b) waste assessments for merchantable Crown timber, whether standing or felled, that could have been cut and removed under the road permit but, at the holder’s discretion, is not cut and removed.

**Road permit content –
right to cut timber in right-of-way**

- 119.1** (1) In this section:
- “**encumbered roadway timber**”, in relation to a road permit to construct a road, means roadway timber that meets one or both of the following conditions:
- (a) the roadway timber is not located in an area described in section 119 (3);

(b) a person other than the road permit holder has the right to harvest the roadway timber under a permit or licence referred to in section 119 (2) (b);

“underlying rights-holder”, in relation to encumbered roadway timber, means a person who holds an agreement under this Act that grants rights with respect to the encumbered roadway timber.

- (2) A road permit to construct a road
- (a) must not grant to the holder the right to harvest encumbered roadway timber, and
 - (b) may grant to the holder the right to cut encumbered roadway timber.
- (3) If a road permit grants to the holder the right to cut encumbered roadway timber,
- (a) the road permit may require the road permit holder to pay to the government, in addition to other amounts payable under this Act, waste assessments for one or both of the following:
 - (i) merchantable Crown timber that could have been cut under the road permit but, at the road permit holder’s discretion, is not cut;
 - (ii) merchantable Crown timber cut under the road permit that could have been stored in decks or piles but, at the road permit holder’s discretion, is not stored in decks or piles, and
 - (b) an underlying rights-holder is relieved from any requirement under an agreement entered into under this Act to pay waste assessments in relation to timber described in paragraph (a) (i) and (ii).
- (4) The conferral of the right to cut encumbered roadway timber under a road permit does not affect an obligation of an underlying rights-holder to pay stumpage to the government in relation to the encumbered roadway timber.
- (5) For certainty, the rights of an underlying rights-holder with respect to encumbered roadway timber are subject to the right of a road permit holder to cut the encumbered roadway timber.

Volume cut under road permit deemed to be harvested under licence for cut control purposes

- 119.2** (1) This section applies to timber cut under a road permit if a person, other than the road permit holder, has the right to remove the timber under
- (a) a cutting permit issued for a licence, as defined in a provision of Division 3.1 of Part 4, or
 - (b) a forestry licence to cut that does not require the holder to obtain a cutting permit before harvesting Crown timber under the licence.

- (2) For the purposes of paragraph (a) of the definition of “volume of timber harvested” in section 75.1 (1) and the definition of “volume of timber harvested” in a licence referred to in section 75.11 (1), and despite the definition of “timber volumes” in section 75.1 (2), the amount of timber cut under a road permit is deemed to be harvested under the licence referred to in subsection (1) (a) or (b) of this section.

Deactivation of road

- 119.3** (1) In this section, “**deactivate**”, in relation to a road, means to deactivate the road in accordance with the requirements under the *Forest and Range Practices Act* that apply to the deactivation of the road.
- (2) Except in prescribed circumstances, the holder of a road permit must deactivate a road authorized under the road permit by the earliest of the following:
- (a) the date on which the road permit expires or is surrendered;
 - (b) the date on which rights under the road permit that relate to the road expire or are surrendered;
 - (c) the date of deactivation specified in the road permit;
 - (d) if the road permit is cancelled under section 77, the date of deactivation specified under section 77 (6).

Duty to comply with terms and conditions of road permit

- 119.4** The holder of a road permit must comply with the terms and conditions of the road permit.

Issuance of road use permit to eligible holder

- 119.5** The minister may, on application by an eligible holder, issue a road use permit authorizing the eligible holder to use a forest service road if the minister is satisfied that use of the road by the applicant will not
- (a) adversely affect authorized users of the road, or
 - (b) compromise a forest stewardship plan, forest development plan or woodlot licence plan.

Issuance of road use permit for natural resource development purpose

- 119.6** (1) In this section, “**natural resource development purpose**” has the same meaning as in section 21.1 of the *Forest and Range Practices Act*.

- (2) The minister may, on application by a person other than an eligible holder, issue a road use permit authorizing the person to use a forest service road for a natural resource development purpose if the minister is satisfied that use of the road under the permit will not
 - (a) cause inordinate disturbance to the natural environment,
 - (b) adversely affect authorized users of the road, or
 - (c) compromise a forest stewardship plan, forest development plan or woodlot licence plan.

Road use permit content

- 119.7** (1) A road use permit must describe the forest service road that the holder is authorized to use.
- (2) A road use permit may include terms and conditions that are consistent with this Act, the *Forest and Range Practices Act*, the *Wildfire Act* and any regulations or standards made under those Acts.

75 *Section 114 is amended by repealing the definition of “forest stewardship plan”.*

76 *Section 117 is repealed and the following substituted:*

Mandatory refusal to issue road permit

- 117** (1) In this section, “**road permit area**”, in relation to a proposed road permit, means the area of land to which the road permit would apply, if issued.
- (2) The minister must refuse to issue a road permit if one or more of the following circumstances apply:
 - (a) the minister determines that, taking into account the prescribed matters, if any, issuance of the road permit would compromise a prescribed government objective;
 - (b) in the case of a road permit to construct a road, a circumstance set out in subsection (3);
 - (c) a prescribed circumstance.
- (3) The circumstances for the purposes of subsection (2) (b) are as follows:
 - (a) the applicant does not hold a forest stewardship plan or woodlot licence plan, as required under the *Forest and Range Practices Act*, in relation to the road permit area;
 - (b) the applicant was required, under section 15.1 of the *Forest and Range Practices Act*, to prepare and make publicly available a forest operations map before applying for the road permit, and the minister considers that, taking into account the prescribed matters, if any,
 - (i) the applicant has not complied with section 15.1 of that Act, or

- (ii) the location of the proposed road is inconsistent with the approximate locations of roads shown in the forest operations map.

77 Section 117 (3) is repealed and the following substituted:

- (3) The circumstances for the purposes of subsection (2) (b) are as follows:
 - (a) the road permit area is located outside a forest landscape area and one or more of the following apply:
 - (i) the applicant does not hold a forest stewardship plan or woodlot licence plan, as required under the *Forest and Range Practices Act*, in relation to the road permit area;
 - (ii) the applicant was required, under section 15.1 of the *Forest and Range Practices Act*, to prepare and make publicly available a forest operations map before applying for the road permit, and the minister considers that, taking into account the prescribed matters, if any,
 - (A) the applicant has not complied with section 15.1 of that Act, or
 - (B) the location of the proposed road is inconsistent with the approximate locations of roads shown in the forest operations map;
 - (b) the road permit area is located in a forest landscape area and either of the following applies:
 - (i) the applicant does not hold a forest operations plan, as required under the *Forest and Range Practices Act*, that applies to the road permit area;
 - (ii) the minister considers that, taking into account the prescribed matters, if any, the location of the proposed road is inconsistent with the approximate locations of proposed roads shown in a forest operations plan held by the applicant.
- (4) If a person applies for a road permit and only a portion of the road permit area is located outside a forest landscape area,
 - (a) subsection (3) (a) applies to the application as it relates to the portion of the road permit area located outside the forest landscape area, and
 - (b) subsection (3) (b) applies to the application as it relates to the portion of the road permit area located in the forest landscape area.

78 Sections 119.5 (b) and 119.6 (2) (c) are amended by striking out “a forest stewardship plan,” and substituting “a forest operations plan, forest stewardship plan,”.

- 79 *Section 120.1 (2) is amended by striking out “the minister must grant” and substituting “the minister must issue”.*
- 80 *Section 136.3 (1) is amended by striking out “within the meaning of section 53”.*
- 81 *Section 143 (1) (b) is amended by striking out “59, 59.1 (9) or (10),”.*
- 82 *Section 143 (1) (b) is amended by striking out “76 (1), (2) or (6),” and substituting “76 (1), (2), (2.1) or (2.2), 76.1 (5),”.*
- 83 *Section 146 (2) is amended by adding “and” at the end of paragraph (a), by striking out “, and” at the end of paragraph (b) and by repealing paragraph (c).*
- 84 *Section 151 (2) is amended*
- (a) by adding the following paragraphs:*
 - (b.4) prescribing circumstances for the purposes of section 19 (4) (b), including, without limitation, circumstances relating to a failure to pay money that is due and payable to the government;
 - (i.2) prescribing circumstances for the purposes of section 39 (4) (b), including, without limitation, circumstances relating to a failure to pay money that is due and payable to the government; ,
 - (b) by renumbering paragraph (k.1) as paragraph (k.01) and by adding the following paragraph:*
 - (k.1) prescribing circumstances for the purposes of section 43 (4) (b), including, without limitation, circumstances relating to a failure to pay money that is due and payable to the government; , **and**
 - (c) by repealing paragraphs (k.3), (m.4), (p) and (p.02).*
- 85 *Section 151 (7) is repealed and the following substituted:*
- (7) The Lieutenant Governor in Council may make regulations respecting administrative penalties or other amounts that a person may, by an order made under section 74 or 74.6 of the *Forest and Range Practices Act*, be required to pay for the contravention of a provision of this Act.
- 86 *Section 151 (7) is amended by striking out “section 74 or 74.6” and substituting “section 74, 74.6 or 74.61”.*
- 87 *Section 151.01 is amended*
- (a) in subsection (1) by adding “and the matters that a person must consider” after “the criteria that a person must use”, and*

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

- (2) Criteria or matters prescribed under subsection (1) are additional to any criteria or matters that a person is required to use or consider in exercising a discretionary power under this Act.

88 *Section 151.4 is repealed.*

89 *The following section is added:*

Regulation making power in relation to extension and postponement of cutting permits

- 151.71** (1) The Lieutenant Governor in Council may make regulations establishing formulas or other methods for determining the amount of a fee under section 52.10 (3).
- (2) The Lieutenant Governor in Council may make regulations for the purposes of section 52.11 respecting any of the following:
- (a) the circumstances in which or reasons for which the minister may postpone the operation of a cutting permit;
 - (b) criteria or conditions that must be met in relation to postponing the operation of a cutting permit;
 - (c) the maximum period, including any extensions under section 52.11 (3), for which the operation of a cutting permit may be postponed, which may be different for different circumstances, reasons, criteria or conditions.

90 *Section 151.8 (a) is amended by striking out “sections 53.2” and substituting “sections 1.3”.*

91 *Section 163 (1) is amended by striking out “105.1 (2) or (3),” and substituting “105.1 (2) or (3), 119.3 (2),”.*

92 *Section 164.1 (2) (b) is amended by striking out “under Part 3” and substituting “under Part 3 or 3.1”.*

93 *Section 167.3 (3) is repealed.*

94 *Section 170 (10) is repealed and the following substituted:*

- (10) A suspension referred to in this section is not a suspension for the purposes of sections 13.1 (4.1) (c) (i), 15 (2) (a), 36 (2) (a), 46 (2) (a), 52.10 (2) (b), 58.1 (3) (b) and 81 (2) (c) (i) and (3) (c).

95 Section 172 is amended

(a) in subsections (1) and (2) by striking out “grounds for a suspension under section 76, in whole or in part, of the agreement” **and substituting** “grounds for a suspension under section 76 of rights under the agreement”, **and**

(b) by repealing subsection (3) and substituting the following:

- (3) If a special use permit is varied under section 170 or has a condition attached to it under section 171,
- (a) the failure of the holder of the permit to comply with the variance or condition is grounds for
 - (i) suspending rights under the permit, or
 - (ii) cancelling the permit, and
 - (b) sections 76, 76.1 and 77, other than section 77 (5), apply to the suspension or cancellation.

96 Section 175.2 (1) is amended by adding the following definition:

“agreement” does not include a cutting permit; .

97 Section 180 is amended by repealing the definition of “cutting permit area”.

98 Section 186 (2) is amended by striking out “a cutting permit issued under the non-TFL timber licence” **and substituting** “a cutting permit issued for the non-TFL timber licence”.

99 Section 191 (1) is amended by striking out “a cutting permit issued under” **and substituting** “a cutting permit issued for”.

100 Section 194 (1) is amended by striking out “any cutting permit issued under the licence” **and substituting** “any cutting permit issued for the licence”.

101 Section 196 (2) is repealed and the following substituted:

- (2) If the minister is authorized under subsection (1) to suspend rights under a licence for which a cutting permit has been issued, the minister may suspend rights under the licence, the cutting permit or both.

102 Section 206 (1) is amended by striking out “cutting permit issued under a forest licence” **and substituting** “cutting permit issued for a forest licence”.

103 Section 208 (1) is amended in paragraph (c) of the definition of “permit” by striking out “issued under” **and substituting** “issued for”.

104 Section 209 is amended

- (a) in subsection (1) (f) by striking out** “a cutting permit issued under” **and substituting** “a cutting permit for”,
- (b) in subsection (2) (c) by striking out** “a cutting permit issued under” **and substituting** “a cutting permit issued for”, **and**
- (c) in subsection (3) (e) by striking out** “a cutting permit issued under” **and substituting** “a cutting permit issued for”.

105 Section 210 (2) (b) is amended by striking out “a cutting permit issued under” **and substituting** “a cutting permit issued for”.

106 Section 211 (1) (a) is amended by striking out “or under a cutting permit or special use permit” **and substituting** “or under a special use permit”.

107 Section 215 (2) (d) is amended by striking out “a cutting permit issued under” **and substituting** “a cutting permit issued for”.

108 Section 216 (a) is amended by striking out “or under a cutting permit or special use permit” **and substituting** “or under a special use permit”.

109 Section 217 (1) (a) (i) and (b) is amended by striking out “a cutting permit issued under” **and substituting** “a cutting permit issued for”.

110 Section 224 is repealed and the following substituted:

Effect of suspension of rights under Part 15

224 A suspension of rights under this Part is not a suspension for the purposes of the following provisions:

- (a) section 13.1 (4.1) (c) (i) [*direct award of forest licence to produce bioenergy – refusal to enter into licence*];
- (b) section 15 (2) (a) [*replacement for forest licence*];
- (c) section 36 (2) (a) [*replacement for tree farm licence*];
- (d) section 46 (2) (a) [*replacement for woodlot licence*];
- (e) section 52.10 (2) (b) [*extension of cutting permit*];
- (f) section 58.1 (3) (b) [*extension of timber sale licences*];
- (g) section 81 (2) (c) (i) and (3) (c) [*grounds for refusing to issue authorization*].

111 Section 241 (1) is amended by striking out “a cutting permit issued under” **wherever it appears and substituting** “a cutting permit issued for”.

- 112 Section 242 (1) is amended by striking out “a cutting permit issued under” and substituting “a cutting permit issued for”.**
- 113 Section 243 (1) is amended by striking out “a cutting permit issued under” and substituting “a cutting permit issued for”.**
- 114 Section 248 (2) is amended by striking out “a cutting permit that is issued under” and substituting “a cutting permit that is issued for”.**
- 115 Section 251 (2) (b) is amended by striking out “a cutting permit issued under” and substituting “a cutting permit issued for”.**
- 116 Section 254 (1) (b) is amended by striking out “under a forest licence” and substituting “for a forest licence”.**
- 117 Section 262 (1) is amended by striking out “an agreement listed in section 12 (1) [form of agreements]” and substituting “an agreement, other than a cutting permit, listed in section 12 (1) [form of agreements]”.**
- 118 Section 268 (3) is amended by striking out “a specified cutting permit issued under” and substituting “a specified cutting permit issued for”.**

Forest and Range Practices Act

- 119 Section 2 (5) of the Forest and Range Practices Act, S.B.C. 2002, c. 69, is amended by striking out “Sections 71 (2) to (7) and 87” and substituting “Division 3 of Part 6 and section 87”.**
- 120 Section 2.35 (3) (b), as enacted by section 33 of the Forests Statutes Amendment Act, 2021, S.B.C. 2021, c. 37, is amended by striking out “grant to the holder” and substituting “issue to the holder”.**
- 121 Section 3 (2) (b) is amended by striking out “grants a road permit” and substituting “issues a road permit”.**
- 122 Section 3 (2) (b), as amended by section 35 (b) of the Forests Statutes Amendment Act, 2021, S.B.C. 2021, c. 37, is amended by striking out “grant to the holder” and substituting “issue to the holder”.**
- 123 Section 23.2 (1) is repealed and the following substituted:**
- (1) The minister may, by order, require the holder of an agreement under the *Forest Act* to deactivate a road authorized or constructed under the agreement.

124 Section 23.3 (1) is repealed and the following substituted:

- (1) The minister may exempt the holder of an agreement under the *Forest Act* from a requirement under this Act or the *Forest Act* that relates to the deactivation of a road authorized or constructed under the agreement.

125 Section 24 (1) (b) is amended by striking out “or under a cutting permit”.

126 Section 26 (2) is amended by renumbering paragraph (a) as paragraph (a.1) and by adding the following paragraph:

- (a) a forest operations plan, .

127 Section 26 (7) is repealed and the following substituted:

- (7) If the minister approves a proposal submitted under subsection (3) or makes an order under subsection (6), the minister may, to the extent the minister considers necessary or desirable to facilitate the carrying out of the proposal or order, exempt the affected owner or holder from complying with one or more of the following provisions:
 - (a) a provision of this Act, the regulations or the standards;
 - (b) a provision of an agreement under the *Forest Act*;
 - (c) a provision of the *Forest Act* that requires the owner or holder to
 - (i) obtain a cutting permit, or
 - (ii) comply with a provision referred to in paragraph (b);
 - (d) a provision of a forest stewardship plan;
 - (e) a provision of a woodlot licence plan.

128 Section 26 (7) is amended by adding the following paragraph:

- (c.1) a provision of a forest operations plan; .

129 Section 26 (8) is repealed and the following substituted:

- (8) If the minister makes an order under subsection (6) that is inconsistent with a provision referred to in subsection (7), the minister must, in making the order, exempt the affected owner or holder from the provision.

130 Section 27 is amended

(a) in subsection (2) by striking out “to the area of the holders agreement” and substituting “to the area of the holder’s agreement”, and

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

- (4) A person is exempt from a provision referred to in section 26 (7) if compliance with the provision would prevent the person from carrying out the measures referred to in subsection (2) of this section.

131 Section 58.1 is repealed and the following substituted:

Definition for Part 6

58.1 In this Part, “**Acts**” means one or more of the following:

- (a) this Act, the regulations or the standards;
- (b) the *Forest Act* or a regulation made under that Act;
- (c) the *Range Act* or a regulation made under that Act;
- (d) a provision, other than a prescribed provision, of the *Forest Practices Code of British Columbia Act* or of a regulation made under that Act.

132 Section 58.2 is amended by adding the following subsection:

- (0.1) A reference in this section to a provision of this Act is to be read as a reference to the provision as it read immediately before the date this subsection comes into force.

133 Section 61 (1) is amended by striking out “produce to the district manager specified records” and substituting “produce to the minister specified records”.

134 The following section is added to Division 3 of Part 6:

Definitions for Division 3 of Part 6

70.1 In this Division:

“**remedial action**”, in relation to a contravention of a provision of the Acts, means any of the following:

- (a) repairing or replacing a building, structure, bridge, culvert, work, installation or other improvement owned by the government that was damaged or destroyed as a direct or indirect result of the contravention;
- (b) replicating work, including, without limitation, silviculture treatment or wildlife habitat restoration or enhancement, that has been
 - (i) carried out on Crown land, and
 - (ii) rendered ineffective as a direct or indirect result of the contravention;
- (c) re-establishing a free growing stand on an area affected by the contravention;
- (d) doing any other work that the minister considers is reasonably necessary to remedy or avoid harm that results or may result, directly or indirectly, from the contravention;

“**remedial work order**” means

- (a) an order under section 51 (7), 54 (2) or 57 (4), or
- (b) an order under section 74.2.

135 Sections 71, 72, 73 and 74 are repealed and the following substituted:

Determination of contravention

- 71 After giving notice and an opportunity to be heard to a person who is alleged to have contravened a provision of the Acts, the minister may determine whether the person has contravened the provision.

Defences in relation to administrative proceedings

- 72 The minister may not determine under section 71 that a person has contravened a provision of the Acts if the person establishes that
- (a) the person exercised due diligence to prevent the contravention,
 - (b) the person reasonably believed in the existence of facts that, if true, would establish that the person did not contravene the provision, or
 - (c) the person's actions relevant to the provision were the result of an officially induced error.

Liability of employers, directors and officers

- 73 (1) Subject to section 72, if a person's contractor, employee or agent contravenes a provision of the Acts in the course of carrying out the contract, employment or agency, the person also contravenes the provision.
- (2) If a corporation contravenes a provision of the Acts, a director or an officer of the corporation who authorized, permitted or acquiesced in the contravention also contravenes the provision.

Administrative penalties

- 74 (1) If the minister determines under section 71 that a person has contravened a provision of the Acts, the minister may, by order, impose an administrative penalty on the person in an amount that does not exceed the amount determined in accordance with the regulations.
- (2) Before the minister imposes an administrative penalty under this section, the minister must consider the following:
- (a) previous contraventions of a similar nature by the person;
 - (b) the gravity and magnitude of the contravention;
 - (c) whether the contravention was repeated or continuous;
 - (d) whether the contravention was deliberate;
 - (e) any economic benefit derived by the person from the contravention;
 - (f) the person's cooperativeness and efforts to correct the contravention;
 - (g) prescribed matters.

- (3) For the purposes of this section, the Lieutenant Governor in Council may make regulations providing for the determination of penalties that vary according to any of the following:
- (a) the size of the area affected by the contravention;
 - (b) the volume of timber affected by the contravention;
 - (c) the number of trees affected by the contravention;
 - (d) the number of livestock affected by the contravention;
 - (e) the amount of forage destroyed by the contravention;
 - (f) the amount of hay affected by the contravention.

Notice of administrative penalty

- 74.1** If an administrative penalty under section 74 is imposed on a person, the minister must give to the person a notice that specifies the following:
- (a) the provision contravened;
 - (b) the amount of the penalty;
 - (c) the date by which the penalty must be paid;
 - (d) the applicability of section 130 of the *Forest Act* in relation to the penalty and the consequences of failing to pay the penalty by the due date;
 - (e) the person's right to a review under section 80 of this Act or to an appeal under section 82 of this Act;
 - (f) an address to which a request for a review or appeal may be delivered.

Remedial work order for contravention of Acts

- 74.2** (1) This section applies in relation to a person who
- (a) is a holder of an agreement under the *Forest Act* or the *Range Act*, or
 - (b) is in a prescribed class of persons.
- (2) If the minister determines under section 71 that a person has contravened a provision of the Acts, the minister may make an order requiring the person to carry out a remedial action.
- (3) If an order made under subsection (2) against a person is rescinded on review or appeal and the person has carried out the remedial action specified in the order, the government must, to the extent provided in the regulations, pay to the person an amount to cover any expenses incurred by the person in excess of the expenses that the person would have incurred if the order had not been made.

Notice of remedial work order

- 74.3** If the minister makes a remedial work order against a person, the minister must give to the person a notice that specifies the following:
- (a) the provision contravened;

- (b) the action to be carried out by the person;
- (c) the date by which the action must be completed;
- (d) the person's right to a review under section 80 or to an appeal under section 82;
- (e) an address to which a request for a review or appeal may be delivered;
- (f) the minister's authority to make orders under section 74.4 if the person does not comply with the order.

Non-compliance with remedial work order

- 74.4** (1) If a person does not comply with a remedial work order by the date specified in the notice given under section 74.3, the minister may do one or more of the following:
- (a) on giving notice to the person, restrict or prohibit the person from carrying out the action referred to in the order;
 - (b) carry out the action;
 - (c) if the minister carries out the action, make an order requiring the person to pay to the government the amount of all direct and indirect costs that the minister considers were reasonably incurred in carrying out the action;
 - (d) whether or not an order is made under paragraph (c), make an order imposing an administrative penalty not exceeding the amount determined in accordance with the regulations;
 - (e) for the purpose of recovering the costs referred to in paragraph (c), realize any security or deposit provided under the Acts by the person.
- (2) If the minister realizes security under subsection (1) (e), the person must immediately replace the security.
- (3) The minister must refund to the person any surplus funds remaining from the realization of security under subsection (1) (e) after payment of the amount of the costs referred to in subsection (1) (c).

Notice following non-compliance with remedial work order

- 74.5** (1) If the minister makes an order under section 74.4 (1) (c) against a person, the minister must give to the person a notice that specifies the following:
- (a) the amount payable to the government;
 - (b) the applicability of section 130 of the *Forest Act* in relation to the amount and the consequences of failing to pay the amount by the due date.
- (2) If an administrative penalty under section 74.4 (1) (d) is imposed on a person, the minister must give to the person a notice that specifies the following:
- (a) the amount of the penalty;

- (b) the reasons for the penalty;
- (c) the date by which the penalty must be paid;
- (d) the applicability of section 130 of the *Forest Act* in relation to the penalty and the consequences of failing to pay the penalty by the due date;
- (e) the person's right to a review under section 80 of this Act or to an appeal under section 82 of this Act;
- (f) an address to which a request for a review or appeal may be delivered.

Remedial cost recovery order

74.6 If the minister determines under section 71 that a person has contravened a provision of the Acts and the person is not required, by an order made under section 74.2 of this Act, to carry out a given remedial action, the minister may make an order requiring the person to pay either of the following amounts in relation to the remedial action:

- (a) if the government has carried out the remedial action, the amount of all direct and indirect costs that the minister considers were reasonably incurred by the government in carrying out the remedial action;
- (b) if the government has not carried out or will not carry out the remedial action, an amount that the minister considers is equivalent to the direct and indirect costs that would be incurred by the government in carrying out the remedial action if the government were to carry it out.

Notice of remedial cost recovery order

74.7 If an order under section 74.6 is made against a person, the minister must give to the person a notice that specifies the following:

- (a) the provision contravened;
- (b) the amounts determined under section 74.6;
- (c) the date by which the amounts must be paid;
- (d) the applicability of section 130 of the *Forest Act* in relation to the amounts and the consequences of failing to pay the amounts by the due date;
- (e) the person's right to a review under section 80 of this Act or to an appeal under section 82 of this Act;
- (f) an address to which a request for a review or appeal may be delivered.

Revenue to be paid into special account

74.8 All revenue derived from the following must be paid into the Environmental Remediation Sub-account of the Forest Stand Management Fund special account established by the *Special Accounts Appropriation and Control Act*:

- (a) administrative penalties imposed under this Division;
- (b) orders made under sections 74.4 and 74.6 of this Act.

136 The following section is added:

Reparation order for harm to environmental, cultural, recreational or resource values

- 74.61** Subject to the regulations, if the minister determines under section 71 that a person has contravened a provision of the Acts, the minister may make an order requiring the person to pay to the government an amount, determined in accordance with the regulations, reflecting harm that the minister considers the contravention caused, directly or indirectly, to
- (a) one or more of the following resources or features:
 - (i) a wildlife habitat feature, as defined in the regulations;
 - (ii) a tree in a prescribed class of trees;
 - (iii) a prescribed resource or feature, or
 - (b) other environmental, cultural, recreational or resource values.

137 Section 74.7 is amended

- (a) by striking out** “If an order under section 74.6 is made against a person” **and substituting** “If an order under one or both of sections 74.6 and 74.61 is made against a person”, **and**
- (b) in paragraph (b) by adding** “or 74.61” **after** “section 74.6”.

138 Section 74.8 (b) is amended by striking out “sections 74.4 and 74.6” **and substituting** “sections 74.4, 74.6 and 74.61”.

139 Section 75 is amended

- (a) by repealing subsection (1) and substituting the following:**
 - (1) The time limit for giving a notice under section 71 is 3 years after the date on which the facts of the alleged contravention first came to the knowledge of an official. ,
- (b) by adding the following subsection:**
 - (1.1) The time limit for making an order under section 74.4 (1) (c) or (d) is 5 years after the date specified in the notice given under section 74.3. , **and**
- (c) in subsection (2) by striking out** “certifying the date the facts that lead to the determination that the contravention occurred first came to the knowledge of the official” **and substituting** “certifying the date the facts of the alleged contravention first came to the knowledge of the official”.

140 Section 76.1 is amended

(a) by repealing paragraph (a) and substituting the following:

(a) an order or other determination made under this Act requires a person to pay an administrative penalty or other amount, and , **and**

(b) by striking out “the penalty or charge is due and payable” **and substituting** “the penalty or other amount is due and payable”.

141 Section 78 (2) is amended by striking out “, other than a determination to levy an administrative penalty under section 71 or 74 (3) (d)” **and substituting** “, other than a determination to impose an administrative penalty under section 74 or 74.4 (1) (d) or to make an order under section 74.6.”.

142 Section 78 (2) is amended by adding “or 74.61” **after** “74.6”.

143 Section 79 (1) is amended by striking out “71, 74 or 77” **and substituting** “71, 74, 74.2, 74.4, 74.6 or 77”.

144 Section 79 (1) is amended by striking out “74.6 or 77” **and substituting** “74.6, 74.61 or 77”.

145 Section 80 (1) is amended by striking out “71, 74,” **and substituting** “71, 74, 74.2, 74.4, 74.6,”.

146 Section 80 (1) is amended by adding “74.61,” **after** “74.6,”.

147 Section 81 (1) is amended by striking out “71 or 74” **and substituting** “71, 74, 74.2, 74.4 or 74.6”.

148 Section 81 (1) is amended by striking out “74.4 or 74.6” **and substituting** “74.4, 74.6 or 74.61”.

149 Section 83 (2) is amended

(a) by repealing paragraph (a) and substituting the following:

(a) the minister is authorized under section 71, 74, 74.2, 74.4 or 74.6 to make a determination and has not done so, and , **and**

(b) in paragraph (b) by striking out “the official or”.

150 Section 83 (2) (a) is amended by striking out “74.4 or 74.6” and substituting “74.4, 74.6 or 74.61”.

151 Section 84 (2) is repealed and the following substituted:

- (2) On application under section 83 (2) by the board, the commission may order the minister to make a determination under the applicable provision referred to in section 83 (2) (a).

152 Section 90 (1) is amended by striking out “74 (1)” and substituting “74.2 (2)”.

153 Section 103.1 (2) (f), as enacted by section 76 of the Forests Statutes Amendment Act, 2021, S.B.C. 2021, c. 37, is repealed and the following substituted:

- (f) if a fine, administrative penalty or other amount owing as a result of a sanction is overdue, the date it was due and the outstanding amount.

154 Section 147 is amended

(a) in subsection (1) by adding “and the matters that a person must consider” after “the criteria that a person must use”, and

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

- (2) Criteria or matters prescribed under subsection (1) are additional to any criteria or matters that a person is required to use or consider in exercising a discretionary power under this Act.

155 Section 155 is amended

(a) in subsection (1) (e) by striking out “an agreement under the *Forest Act* or a cutting permit to deactivate a road authorized or constructed under the agreement or permit” and substituting “an agreement under the *Forest Act* to deactivate a road authorized or constructed under the agreement”, and

(b) in subsection (3) by striking out “or cutting permit”.

156 Section 163 is amended

(a) in subsection (3) by striking out “the levying of an administrative penalty” and substituting “the imposition of an administrative penalty”,

(b) in subsection (3) (a) by striking out “penalties may be levied” and substituting “penalties may be imposed”,

(c) in subsection (3) (b) by striking out “levying” and substituting “imposing”, and

(d) by adding the following subsection:

- (4) Without limiting subsection (1), for the purposes of sections 74 (1) and 74.4 (1) (d), the Lieutenant Governor in Council may make regulations establishing formulas or other methods to be used in determining the maximum amount of an administrative penalty under those provisions.

157 Section 163 is amended by adding the following subsection:

- (5) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting orders under section 74.61, including, without limitation, regulations doing one or more of the following:
- (a) specifying circumstances in which an order under section 74.61 may not be made;
 - (b) prescribing maximum amounts that a person may be ordered to pay in relation to a resource or feature referred to in section 74.61 (a);
 - (c) establishing criteria, circumstances, rules, methods or formulas to be used in determining amounts under section 74.61 (a) or (b);
 - (d) for the purposes of section 74.61 (b), providing for the determination of amounts that vary according to the size, nature, features, qualities or ecology of the area affected by the contravention, including, without limitation, the age or other characteristics of timber in the area;
 - (e) if the regulations made for the purposes of section 74.61 (b) provide for the determination of amounts that vary according to the size of the area affected by the contravention, authorizing the minister to round up in accordance with the regulations if the area is smaller than the prescribed number of hectares.

158 Section 177.1 is amended

- (a) in subsection (1) by striking out “71 (1), (2), (5) and (6), 72 to 86” and substituting “70.1, 71, 72, 74 (1) and (2), 74.1, 74.2, 74.3, 74.4, 74.5, 74.6, 74.7, 74.8, 75, 76.1, 77, 77.1, 78 to 86”,***
- (b) in subsection (4) (c) by striking out “in section 71 (2) (a) (i) of this Act to an administrative penalty in an amount that does not exceed a prescribed amount” and substituting “in section 74 (1) of this Act to an administrative penalty in an amount that does not exceed the amount determined in accordance with the regulations”, and***
- (c) in subsection (4) (d) by striking out “and 74 (1)” and substituting “and 74.2 (2)”.***

159 Section 177.1 (1) is amended by adding “74.61,” after “74.6,”.

Forest Practices Code of British Columbia Act

160 *Section 130.1 of the Forest Practices Code of British Columbia Act, R.S.B.C. 1996, c. 159, is repealed.*

161 *Section 205 is amended*

(a) in subsection (2) by adding the following paragraph:

(a.1) the conditions of special use permits, ,

(b) by adding the following subsection:

(2.1) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations requiring holders of special use permits to comply with the conditions of special use permits. , **and**

(c) in subsection (3) by adding “or (2.1)” after “subsection (2)”.

Great Bear Rainforest (Forest Management) Act

162 *Section 52 of the Great Bear Rainforest (Forest Management) Act, S.B.C. 2016, c. 16, is repealed.*

Range Act

163 *Section 79 (3) (a) of the Range Act, S.B.C. 2004, c. 71, is repealed and the following substituted:*

(a) respecting administrative penalties or other amounts that a person may, by an order made under section 74 or 74.6 of the *Forest and Range Practices Act*, be required to pay for the contravention of a provision of this Act, and .

164 *Section 79 (3) (a) is amended by striking out “section 74 or 74.6” and substituting “section 74, 74.6 or 74.61”.*

165 *Section 80 is amended*

(a) in subsection (1) by adding “and the matters that a person must consider” after “the criteria that a person must use”, and

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

(2) Criteria or matters prescribed under subsection (1) are additional to any criteria or matters that a person is required to use or consider in exercising a discretionary power under this Act.

Special Accounts Appropriation and Control Act

166 *Section 5 of the Special Accounts Appropriation and Control Act, R.S.B.C. 1996, c. 436, is amended*

(a) in subsection (1) (b) (i) by striking out “section 73” and substituting “section 74.8”,

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

- (i) to carry out a remedial action, as defined in section 70.1 of the *Forest and Range Practices Act*, in relation to a contravention of the Acts, as defined in section 58.1 of the *Forest and Range Practices Act*;*
- (i.1) to carry out, under section 74.4 (1) (b) of the *Forest and Range Practices Act*, actions referred to in section 51 (7), 54 (2) or 57 (4) of that Act; , and*

(c) in subsection (2) (b) (iii) by striking out “the purposes in subparagraph (i) or (ii)” and substituting “a purpose referred to in subparagraph (i), (i.1) or (ii)”.

Wildfire Act

167 *Section 11 (2) (b) (ii) of the Wildfire Act, S.B.C. 2004, c. 31, is amended by striking out “the Highway Act” and substituting “the Transportation Act”.*

168 *The following section is added to Part 2:*

Government may assist with fire

- 18.01** (1) In this section, “**Indigenous peoples**” has the same meaning as in the *Declaration on the Rights of Indigenous Peoples Act*.
- (2) Without limiting section 18, and subject to subsection (3) of this section and the regulations, the government may assist a person or entity with
- (a) lighting, fuelling or using a fire for any purpose, including, without limitation, a purpose identified by an Indigenous people, and
 - (b) carrying out any other activities in respect of the fire.
- (3) The government may not assist a person or entity with carrying out activities under subsection (2) if the person or entity is prohibited by law from
- (a) carrying out the activities, or
 - (b) being on the land where the activities are carried out.

169 *Section 18.1 is repealed.*

170 Section 71 is amended

(a) *in subsection (1) by adding “and the matters that a person must consider” after “the criteria that a person must use”, and*

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

(2) Criteria or matters prescribed under subsection (1) are additional to any criteria or matters that a person is required to use or consider in exercising a discretionary power under this Act.

171 The following section is added:

Requests for assistance with fire

72.1 The Lieutenant Governor in Council may make regulations respecting assistance under section 18.01, including, without limitation, respecting circumstances in which the government may or may not assist with carrying out activities in respect of a fire.

PART 2 – TRANSITIONAL PROVISIONS

Division 1 – Forest Act Transitional Provisions

Forest Act transition – definitions

172 In this Division:

“**amended Act**” means the *Forest Act*, as amended by this Act;

“**former Act**” means the *Forest Act*, as it read immediately before the transition date;

“**transition date**” means the date this section comes into force.

Forest Act transition – authority to specify date

173 The Lieutenant Governor in Council may make a regulation amending section 52.13 of the amended Act by striking out “the date this section comes into force” and substituting the actual date that section comes into force.

Forest Act transition – pending application for cutting permit

174 (1) In this section:

“**pending application**” means an application for which a final decision has not been made before the transition date;

“**pre-existing rules**”, in relation to a pending application for a cutting permit under an agreement, means

(a) the former Act and the regulations made for the purposes of the former Act, as those regulations read immediately before the transition date, and

- (b) the terms and conditions of the agreement, as they read immediately before the transition date.
- (2) Despite section 52.13 of the amended Act, the pre-existing rules continue to apply in relation to
 - (a) a pending application for a cutting permit, and
 - (b) the content of a cutting permit issued as a result of the pending application.

Forest Act transition – cutting permit issued under agreement

- 175** (1) In this section, “**transitional cutting permit**” means either of the following:
- (a) a cutting permit issued as a result of an application described in section 174;
 - (b) a cutting permit that is in effect immediately before the transition date.
- (2) A transitional cutting permit issued under an agreement is deemed to be a cutting permit issued for the agreement under section 52.03 (1) of the amended Act.
- (3) For the purposes of subsection (1) (b) of this section, a cutting permit is to be considered in effect even if
- (a) the operation of the cutting permit is under postponement, or
 - (b) rights under the cutting permit are under suspension.

Forest Act transition – application of Part 3.1 to pre-existing forestry licence to cut

- 176** (1) In this section, “**pre-existing forestry licence to cut**” means a forestry licence to cut entered into under the former Act that
- (a) is in effect immediately before the transition date, and
 - (b) provides for cutting permits to be issued under the licence.
- (2) Part 3.1 of the amended Act, and the regulations made for the purposes of that Part, apply to a pre-existing forestry licence to cut as if the pre-existing forestry licence to cut required the holder to obtain cutting permits under that Part.
- (3) For the purposes of subsection (1), a forestry licence to cut is to be considered in effect even if rights under the licence are under suspension.

Forest Act transition – postponement of cutting permit

- 177** (1) In this section, “**pre-existing postponement**” means a postponement under section 58.21 (1) of the former Act of the operation of a cutting permit for a period ending on or after the transition date.
- (2) A pre-existing postponement is deemed to be a postponement under section 52.11 (1) of the amended Act.

- (3) If the postponement of the operation of a cutting permit has been rescinded under section 58.21 (7) of the former Act, the postponement is deemed to have been rescinded under section 52.11 (5) of the amended Act.

Forest Act transition – application of section 81 of amended Act

- 178** (1) In this section:
- “**refuse to issue**” has the same meaning as in section 81 of the amended Act;
 - “**specified authorization**” means a specified authorization, as defined in section 81 of the amended Act, other than a road permit or road use permit.
- (2) Section 81 of the amended Act applies for the purposes of determining whether to refuse to issue, or whether to refuse an application for, a specified authorization, regardless of whether the specified authorization is sought or applied for before, on or after the transition date.

Forest Act transition – pending application for road permit or road use permit

- 179** (1) In this section:
- “**pending application**” means an application for which a final decision has not been made before the transition date;
 - “**pre-existing rules**” means
 - (a) Division 5 of Part 4 of the former Act and the regulations made for the purposes of that Division, as those regulations read immediately before the transition date, and
 - (b) Part 8 of the former Act and the regulations made for the purposes of that Part, as those regulations read immediately before the transition date.
- (2) The pre-existing rules continue to apply in relation to
- (a) a pending application for a road permit or road use permit, and
 - (b) the content of a road permit or road use permit granted as a result of the pending application.

Forest Act transition – road permits and road use permits

- 180** (1) In this section:
- “**transitional road permit**” means either of the following:
 - (a) a road permit granted as a result of an application described in section 179;
 - (b) a road permit that is in effect immediately before the transition date;

“transitional road use permit” means either of the following:

- (a) a road use permit granted as a result of an application described in section 179;
 - (b) a road use permit that is in effect immediately before the transition date.
- (2) A transitional road permit is deemed to be a road permit issued under section 115 of the amended Act.
 - (3) For certainty, Part 8 of the amended Act does not affect harvesting rights referred to in section 116 of the former Act that have been granted to the holder under a transitional road permit.
 - (4) A transitional road use permit granted under section 115 of the former Act is deemed to be a road use permit issued under section 119.5 of the amended Act.
 - (5) A transitional road use permit granted under section 117 of the former Act is deemed to be a road use permit issued under section 119.6 of the amended Act.
 - (6) For the purposes of subsection (1), a road permit or road use permit is to be considered in effect even if rights under the permit are under suspension.

Division 2 – *Forest and Range Practices Act* Transitional Provisions

***Forest and Range Practices Act* transition – definitions**

181 In this Division:

“amended Act” means the *Forest and Range Practices Act*, as amended by this Act;

“former Act” means the *Forest and Range Practices Act*, as it read immediately before the transition date;

“transition date” means the date this section comes into force.

***Forest and Range Practices Act* transition – authority to specify date**

182 The Lieutenant Governor in Council may make a regulation amending section 58.2 (0.1) of the amended Act by striking out “the date this subsection comes into force” and substituting the actual date that subsection comes into force.

***Forest and Range Practices Act* transition – pre-existing administrative proceeding**

183 (1) In this section:

“official” has the same meaning as in the *Forest and Range Practices Act*;

- “pre-existing administrative proceeding”** means an ongoing matter
- (a) in relation to which no final determination under section 71 of the former Act has been made by the transition date, and
 - (b) in relation to which a person, before the transition date,
 - (i) has been given an opportunity to be heard under section 71 (1) of the former Act, or
 - (ii) has been notified that an opportunity to be heard under section 71 (1) of the former Act would be given.
- (2) Subject to subsection (3) of this section, Divisions 3 and 4 of Part 6 of the former Act, and the regulations made for the purposes of those Divisions, as those regulations read immediately before the transition date, continue to apply in relation to a pre-existing administrative proceeding.
- (3) If, as of the transition date, less than 3 years have passed since the date on which the facts giving rise to a pre-existing administrative proceeding came to the knowledge of an official,
- (a) section 75 of the amended Act applies to the pre-existing administrative proceeding, and
 - (b) a notice referred to in section 75 (1) of the amended Act is deemed to have been given on the date on which the person who is the subject of the pre-existing administrative proceeding was notified that an opportunity to be heard under section 71 (1) of the former Act would be given.
- (4) For the purposes of applying section 75 (1.1) of the amended Act to a pre-existing administrative proceeding, that subsection is to be read as if
- (a) the reference to section 74.4 (1) (c) or (d) of the amended Act were a reference to section 74 (3) (c) or (d) of the former Act, and
 - (b) the reference to section 74.3 of the amended Act were a reference to section 74 (2) of the former Act.

Forest and Range Practices Act transition – administrative remedies

184 (1) In this section:

- “pre-existing administrative penalty”** means an administrative penalty that
- (a) has been levied before the transition date under section 71 (2) of the former Act, and
 - (b) has not been fully paid by the transition date;
- “pre-existing notice of administrative penalty”** means a notice, given under section 71 (6) of the former Act, of a pre-existing administrative penalty;
- “pre-existing remediation order”** means an order made before the transition date under section 51 (7), 54 (2), 57 (4) or 74 of the former Act.

- (2) A pre-existing administrative penalty is deemed to have been imposed by an order made under section 74 (1) of the amended Act.
- (3) A pre-existing notice of administrative penalty is deemed to have been given in accordance with section 74.1 of the amended Act.
- (4) Divisions 3 and 4 of Part 6 of the former Act, and the regulations made for the purposes of those Divisions, as those regulations read immediately before the transition date, continue to apply in relation to a pre-existing remediation order.

PART 3 – CONSEQUENTIAL AMENDMENTS

Energy Resource Activities Act

185 *Section 1 (2) of the Energy Resource Activities Act, S.B.C. 2008, c. 36, is amended by repealing paragraph (b) of the definition of “specified provision” and substituting the following:*

- (b) any of the following provisions of the *Forest Act*:
 - (i) section 47.4 [*licence to cut for persons occupying land or for energy resource purposes*], but only in relation to a master licence to cut;
 - (ii) sections 52.03 [*issuance of cutting permit*], 52.10 [*extension of cutting permit*] and 52.11 [*postponement of cutting permit*], but only in relation to a cutting permit for a master licence to cut;
 - (iii) section 119.6 [*issuance of road use permit for natural resource development purpose*]; .

Forest and Range Practices Amendment Act, 2019

186 *Sections 48, 49, 50, 51, 52, 53, 54 and 55 of the Forest and Range Practices Amendment Act, 2019, S.B.C. 2019, c. 25, are repealed.*

Forests Statutes Amendment Act, 2021

187 *Sections 12, 13, 14, 15, 18, 25, 28, 60, 61, 66, 67 and 101 (c) of the Forests Statutes Amendment Act, 2021, S.B.C. 2021, c. 37, are repealed.*

Commencement

188 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	Sections 1 to 9	By regulation of the Lieutenant Governor in Council
3	Sections 11 and 12	By regulation of the Lieutenant Governor in Council
4	Sections 14 to 17	By regulation of the Lieutenant Governor in Council
5	Section 20	By regulation of the Lieutenant Governor in Council
6	Sections 22 to 25	By regulation of the Lieutenant Governor in Council
7	Sections 27 to 48	By regulation of the Lieutenant Governor in Council
8	Sections 50 and 51	By regulation of the Lieutenant Governor in Council
9	Sections 53 to 62	By regulation of the Lieutenant Governor in Council
10	Section 64	By regulation of the Lieutenant Governor in Council
11	Sections 66 to 80	By regulation of the Lieutenant Governor in Council
12	Section 82	By regulation of the Lieutenant Governor in Council
13	Sections 84 to 86	By regulation of the Lieutenant Governor in Council
14	Sections 89 to 132	By regulation of the Lieutenant Governor in Council
15	Sections 134 to 153	By regulation of the Lieutenant Governor in Council
16	Sections 155 to 160	By regulation of the Lieutenant Governor in Council

Item	Column 1 Provisions of Act	Column 2 Commencement
17	Sections 162 to 164	By regulation of the Lieutenant Governor in Council
18	Section 166	By regulation of the Lieutenant Governor in Council
19	Sections 172 to 185	By regulation of the Lieutenant Governor in Council