

Agricultural Land Commission Act 2002 to Date

**Compiled by
Lesley Campbell, Records
November, 2008**

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**Reviewed by:
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Overview

History of Legislation Concerning the Agricultural Land Reserve

Agricultural Land Commission Act 2002

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| 24 June 2002 | Agricultural Land Commission Act effective date November 1, 2002 - Replaces the Land Reserve Commission Act SBC 1999, c.14 s.10 dated April 1, 2000 | Bill "21" Agricultural Land Commission Act S.B.C. 2002, c.36 Order-in-Council #?? |
| 24 June 2002 | Agricultural Land Reserve Subdivision and Land Use Regulation BC Regulation 448/98 Effective date November 2, 2002 | Repealed – replaced by Agricultural Land Reserve Use, Subdivision and Procedure Regulation – Order in Council #571/2002 |
| 24 June 2002 | Local Government Plans Regulations BC Regulation 449/98 Effective date November 2, 2002 | Repealed – replaced by Agricultural Land Reserve Use, Subdivision and Procedure Regulation – Order in Council #571/2002 |
| 24 June 2002 | Administration of Crown Land in an Agricultural Land Reserve Regulation BC Regulation 450/98 Effective date November 2, 2002 | Repealed – replaced by Agricultural Land Reserve Use, Subdivision and Procedure Regulation – Order in Council #571/2002 |
| 24 June 2002 | Agricultural Land Reserve Permit Regulation BC Regulation 451/98 (Soil Conservation Act) - Effective date November 2, 2002 | Repealed – replaced by Agricultural Land Reserve Use, Subdivision and Procedure Regulation – Order in Council #571/2002 |
| 24 June 2002 | Agricultural Land Reserve Procedure Regulation BC 452/98 Effective date November 2, 2002 | Repealed – replaced by Agricultural Land Reserve Use, Subdivision and Procedure Regulation – Order in Council #571/2002 |
| 5 July 2002 | BC Regulation 171/2002 Agricultural Land Reserve Use, Subdivision and Procedure Regulation, Order-in-Council #571/2002 | Effective date November 1, 2002 |

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Overview

History of Legislation Concerning the Agricultural Land Reserve

Agricultural Land Commission Act 2002

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| 4 July 2002 | BC Regulation 308/91 – Golf Course Development Moratorium Regulation – Order-in-Council #573 | Repealed |
| 22 October 2003 | Agricultural Land Commission Act - Bill “73” | Amendments |
| 31 December 2004 | Agricultural Land Reserve Use, Subdivision and Procedure Regulation | Amended (includes amendments up to BC Regulation 546/2004 |
| 18 October 2007 | Agricultural Land Commission Act S.B.C. 2002, Chapter 36 – Order- in-Council #666/2007 | Amended |
| | | |

CCERD SUMMARY

Amendments to the *Agricultural Land Commission Act*.

- The *Agricultural Land Commission Act* requires applications for exclusion, inclusion, subdivision or non-farm use to be authorized by the local government before they come forward to the Commission. Proposed amendments to the *Act* would enable First Nations to apply directly to the Commission for approvals on proposed and final treaty settlement lands, without local government authorization. First Nations that have signed Agreements-in-Principle would be able to apply for proposed treaty settlement lands, on the basis that Commission decisions on proposed treaty settlement lands would not take effect until final agreement.
- The proposed amendments also would remove the limit on the number of Commission panels that can be created. This would enable the Chair to create additional panels to address issues that transcend the mandate of the existing regional panels.
- The amendments would help facilitate treaty settlements. Treaty settlements will encourage investment within the province by providing greater land use certainty, and will contribute to the economic well-being of First Nations.
- The amendments would not increase the risk to the Agricultural Land Reserve, as the Commission would consider First Nation applications in a similar manner to applications from local governments and land owners. The creation of new panels would also improve Commission decision-making on matters that cross regional boundaries, such as pipelines, trails or issues that affect more than one region.
- The Minister responsible for Treaty Negotiations and the Treaty Negotiation Office are supportive of the proposed amendments, as they will assist the government to meet Agreement-in-Principle obligations and facilitate final agreements.
- The Ministry of Community, Aboriginal and Women's Services and the Ministry of Agricultural, Food and Fisheries have reviewed the Request for Legislation and a draft of the amendments and have no objections.
- First Nations that have signed Agreements-in-Principle acknowledging the application of the Agricultural Land Reserve to treaty settlement lands will support the proposed amendments, as First Nations would be put on an equal footing with local governments under the *Act* and local governments' ability to block First Nation applications would be eliminated.
- The Union of BC Municipalities does not object to the proposed amendments, although some local governments will likely have concerns with any proposals to remove treaty settlement lands from the ALR and with the removal of requirement that the local governments authorize First Nation applications to come forward to the Commission. A commitment has been made to UBCM to modify the procedure regulations under the *Act* if necessary to provide for public input and the referral of ALR applications for treaty settlement lands to adjacent local governments where appropriate.
- There are no foreseeable impediments to proceeding with these proposed legislative amendments.



November 19, 2007

Erik Karlsen, Chair
Agriculture Land Commission
133-4940 Canada Way
Burnaby BC V5G 4K6

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LAND COMMISSION NOV 20 2007

I am pleased to enclose copies of the "unofficial" consolidations of the *Agriculture Land Commission Act* and the *Administrative Tribunals Act* that show the amendments made to those Acts by the *Attorney General Statutes Amendment Act, 2007* (Bill 33) which was brought into force October 18, 2007 by OIC No. 666/2007.

The public website for BC legislation (www.qp.gov.bc.ca/statreg/) will be updated to show these amendments, in due course. In the meantime, the amended Acts can be accessed online, free of charge, at all BC public libraries, government agents' offices and courthouse libraries through QP LegalEze's subscription service (www.qplegaleze.ca).

Thank you for your assistance and cooperation during this initiative.

Sincerely,

Dianne Flood
Executive Director
Administrative Justice Office

pc: Mike Parsons, Ministry of Agriculture & Lands

Enclosure

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No.

, Approved and Ordered

Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective November 1, 2002,

- (a) the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36, is brought into force by this regulation,
- (b) the attached *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* is made, and
- (c) the following regulations are repealed:
 - (i) *Administration of Crown Land in an Agricultural Land Reserve Regulation*, B.C. Reg. 450/98;
 - (ii) *Agricultural Land Reserve Procedure Regulation*, B.C. Reg. 452/98;
 - (iii) *Agricultural Land Reserve Subdivision and Land Use Regulation*, B.C. Reg. 448/98;
 - (iv) *Local Government Plans Regulation*, B.C. Reg. 449/98;
 - (v) *Agricultural Land Reserve Permit Regulation*, B.C. Reg. 451/98.

Minister of Sustainable Resource Management

Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- *Agricultural Land Commission Act*, S.B.C. 2002, c. 36, ss. 58 and 91Other (specify):- M409/98, M411/98, M407/98, M408/98, M410/98

June 24, 2002

642/2002/22

Certified correct as passed Third Reading on the 14th day of May, 2002

Ian D. Izard, Law Clerk

MINISTER OF SUSTAINABLE RESOURCE MANAGEMENT

BILL 21 – 2002

AGRICULTURAL LAND COMMISSION ACT

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

Definitions

1 In this Act:

“**agricultural land**” means land designated as agricultural land under this Act and includes agricultural land under a former Act;

“**agricultural land reserve**” means agricultural land designated as an agricultural land reserve under this Act and includes an agricultural land reserve under a former Act;

“**approving officer**” means an approving officer as defined in the *Land Title Act*;

“**authority**” means an agent of the government, a public body or a public officer with whom the commission has an agreement under section 26 (1) (b) or 38;

“**chief executive officer**” means the person appointed under section 8 (1);

“**commission**” means the Provincial Agricultural Land Commission established under section 4;

“**farm use**” means an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use

by regulation, and includes a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*;

“**fill**” means any material brought on land in an agricultural land reserve other than materials exempted by regulation;

“**land reserve plan**” means a plan, prepared under this Act, that sets out existing agricultural land reserves and the areas that may be designated by the commission or the Lieutenant Governor in Council as an agricultural land reserve and includes a land reserve plan under a former Act;

“**local government**” means

- (a) in relation to land within a municipality, the municipal council,
- (b) in relation to land within an electoral area but not within a local trust area, the board of the regional district, and
- (c) in relation to land within a local trust area under the *Islands Trust Act*, the local trust committee or the executive committee acting as a local trust committee for that area;

“**non-farm use**” means a use of land other than a farm use;

“**official**” means the chief executive officer and any employee of the commission or a person employed under the *Public Service Act* who is designated by name or title by the chief executive officer to be an official;

“**owner**” or “**owner of land**” means the person registered in the records of the land title office as the fee simple owner of the land and includes the government as an owner of land even if the land does not have a record of title in the land title office;

“**soil**” includes the entire mantle of unconsolidated material above bedrock other than minerals as defined in the *Mineral Tenure Act*.

Application of other Acts

- 2 (1) This Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act* and the *Waste Management Act* and as provided in this Act.
- (2) Despite section 14 (2) of the *Interpretation Act*, this Act binds the government.

Power under other Acts

- 3 A minister or an agent of the government must not exercise a power granted under another enactment except in accordance with this Act and the regulations.

Commission established

- 4 The Provincial Agricultural Land Commission is established as a corporation consisting of the members appointed under section 5.

Commission members

- 5 (1) The commission consists of at least 7 individuals appointed under this section who are knowledgeable in matters relating to agriculture, land use planning or local government.
- (2) The Lieutenant Governor in Council must
- (a) appoint the chair and one or more vice chairs of the commission and establish the terms of their appointments, and
 - (b) set the remuneration of the chair and vice chairs of the commission.
- (3) The minister may appoint the members of the commission other than the chair and vice chairs, establish the terms of their appointments and set their remuneration.
- (4) The chair, vice chairs and members are the board of directors of the commission.
- (5) A member of the board of directors must be reimbursed in accordance with the directives of Treasury Board for reasonable travelling and out of pocket expenses necessarily incurred in discharging the member's duties.

Purposes of the commission

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest;
 - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Commission as agent of the government

- 7 The commission is an agent of the government.

Staff of the commission

- 8 (1) The Lieutenant Governor in Council may appoint, during pleasure, a chief executive officer of the commission, establish the terms of the appointment and set the remuneration of the chief executive officer.
- (2) The commission may determine the functions and duties of the chief executive officer.
- (3) The commission may appoint other officers and employees necessary for the purposes of the commission, determine their duties and set their remuneration.
- (4) The *Public Service Act* and the *Public Service Labour Relations Act* apply to the commission and its officers and employees other than the chief executive officer, except that the references to the commissioner and a deputy minister in section 22

of the *Public Service Act* are to be read as references to the chief executive officer.

- (5) The chief executive officer may retain consultants considered advisable and may set their remuneration.

Operation of the commission

- 9 The commission may pass resolutions and bylaws it considers necessary or advisable for the management and conduct of its affairs, the exercise of its powers and the performance of its duties and functions.

Executive committee

- 10 (1) An executive committee of the commission is established, comprised of the chair of the commission and the vice chairs.
- (2) The chair of the commission is the chair of the executive committee.
- (3) The commission may delegate any of its functions to the executive committee and, when it performs those functions, the actions and decisions of the executive committee are the actions and decisions of the commission.

Panels

- 11 (1) In this section, “**panel**” means a panel established under subsection (2).
- (2) The chair of the commission may establish up to 6 panels comprised of 2 or more members of the commission.
- (3) The panels may be established according to geographic regions of British Columbia or according to any other criteria the commission may determine.
- (4) The chair of the commission may designate a vice chair of the commission to chair a panel.
- (5) A panel has all the powers, duties and functions of the commission in respect of an application or other matter before the commission, and a decision of a panel is for all purposes a decision of the commission.

Financial and corporate matters

- 12 (1) The financial year end of the commission is March 31 and the Minister of Finance is the fiscal agent of the commission.
- (2) Not later than June 30 of each financial year, the commission must submit to the minister
- (a) a service plan in accordance with the *Budget Transparency and Accountability Act*,
 - (b) a report of its operations during the preceding financial year, and
 - (c) a financial statement showing its business for that financial year and the preceding financial year, prepared in accordance with generally accepted

accounting principles and the accounting policies and practices established by the Treasury Board.

- (3) Subject to subsection (4), the *Company Act* and the *Company Clauses Act* do not apply to the commission.
- (4) The Lieutenant Governor in Council, by order, may declare that specified provisions of the *Company Act* apply to the commission.

Dispute resolution on community issues

- 13 (1) In this section, “community issue” means a matter concerning one or more of the following:
- (a) an application for a use of agricultural land for a school, hospital, publicly funded institution or public utility, or another purpose prescribed by regulation;
 - (b) a regional growth strategy under the *Local Government Act*;
 - (c) the form and content of the official community plan of a local government;
 - (d) an agreement under section 26 (1).
- (2) If a dispute arises on a community issue, the commission and the local government may agree to attempt to resolve the dispute by a method of facilitated dispute resolution.
- (3) If an agreement is made under subsection (2), the commission and the local government may appoint a facilitator.
- (4) In making a recommendation to resolve a dispute, a facilitator must give weight to the following values in descending order of priority:
- (a) agricultural values, including the preservation of agricultural land and the promotion of agriculture;
 - (b) environmental, economic, social and heritage values, but only if
 - (i) those values cannot be replaced or relocated to land other than agricultural land, and
 - (ii) giving weight to those values results in no net loss to the agricultural capabilities of the area.
- (5) Each party must pay its own costs under this section.
- (6) The provisions of this section do not restrict or limit the provisions of section 2, 3 or 46.

Completion of proceedings

- 14 (1) Subject to subsection (2), a member of the commission may take up and carry on to completion any proceeding commenced but not completed before the member’s appointment.

- (2) A member of the commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote.

Inclusion of land in agricultural land reserve by the commission

- 15 For the purposes of section 6, the commission may designate as agricultural land, land, including Crown land, that is suitable for farm use, and on being designated the land is established as an agricultural land reserve.

Agricultural land to remain in reserve unless excluded

- 16 Land included in an agricultural land reserve remains agricultural land in the agricultural land reserve unless excluded under this Act.

Inclusion applications

- 17 (1) On the commission's own initiative in respect of land identified by the commission or on application by a local government for land within the local government's jurisdiction, the commission may approve all or part of the identified land or the land described in the application for addition to a designated land reserve plan if the commission considers that the designation carries out the intent of this Act.
- (2) For a matter under subsection (1), the local government that makes the application or the commission, if acting on the commission's own initiative, must hold a public hearing in the manner and after the notice required by regulation.
- (3) On application by an owner of land, the commission may designate all or part of the land described in the application as part of an agricultural land reserve if the commission considers that the designation carries out the intent of this Act.

Rules for use and subdivision of agricultural land reserve

- 18 Unless permitted by this Act, the regulations or the terms imposed in an order of the commission,
- (a) a local government, or an authority, a board or another agency established by it or a person or an agency that enters into an agreement under the *Local Services Act* may not
 - (i) permit non-farm use of agricultural land or permit a building to be erected on the land except for farm use, or
 - (ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use, and
 - (b) an approving officer under the *Land Title Act*, the *Local Government Act* or the *Strata Property Act* or a person who exercises the powers of an approving officer under any other Act may not approve a subdivision of agricultural land.

Registration restrictions

- 19 Unless permitted by this Act, the regulations or the terms imposed in an order of the commission, a registrar of titles must not, under the *Land Title Act* or *Strata Property Act*, in respect of land, all or part of which consists of land in an agricultural land reserve,
- (a) accept an application for deposit of a subdivision plan, reference plan, explanatory plan or other plan showing subdivision of land, or a statutory right of way plan under section 114 of the *Land Title Act*, or
 - (b) permit a new parcel of land by a metes and bounds description or an abbreviated description.

Use of agricultural land reserve

- 20
- (1) A person must not use agricultural land for a non-farm use unless permitted by this Act, the regulations or an order of the commission.
 - (2) For the purposes of subsection (1), except as provided in the regulations, the removal of soil and the placement of fill are non-farm uses.
 - (3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land:
 - (a) the Mediation and Arbitration Board under the *Petroleum and Natural Gas Act*;
 - (b) the Mediation and Arbitration Board under section 19 of the *Mineral Tenure Act* or under the *Mining Right of Way Act*;
 - (c) any other authority under an enactment.
 - (4) A person who intends to use agricultural land for a prescribed use that involves soil removal or placement of fill must give notice of that intention to the commission in the prescribed form at least 60 days before engaging in the intended use.
 - (5) In response to a notice under subsection (4) or if a person engages in a use specified in subsection (4) without giving the required notice, the chief executive officer, by written order, may
 - (a) if the owner of the land agrees to restrictions on the use, specify terms and conditions for the conduct of that use of the agricultural land, or
 - (b) if the owner of the land does not agree to the terms and conditions specified by the chief executive officer, order one or both of the following:
 - (i) that an application to the commission under section 25 (1) is required for permission to engage in the use;
 - (ii) that the owner cease or not engage in the use until the application is determined.

- (6) If the chief executive officer does not respond to a notice under subsection (4) within 30 days by making an order under subsection (5), the owner of the land may engage in the intended use.

Subdivision of agricultural land reserve

- 21 (1) A person must not subdivide agricultural land unless permitted by this Act, the regulations or an order of the commission.
- (2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

Covenants

- 22 (1) The commission may enter into a covenant under the *Land Title Act* with an owner of agricultural land.
- (2) A covenant that prohibits the use of agricultural land for farm purposes has no effect until approved by the commission.

Exceptions

- 23 (1) Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the *Land Registry Act*, R.S.B.C. 1960, c. 208, less than 2 acres in area.
- (2) The restrictions on the use of agricultural land do not apply to land lawfully used for a non-farm use, established and carried on continuously for at least 6 months immediately before December 21, 1972, unless and until
- (a) the use is changed, other than to farm use, without the permission of the commission,
 - (b) an enactment made after December 21, 1972, prohibits the use, or
 - (c) permission for the use granted under an enactment is withdrawn or expires.
- (3) For greater certainty, the exception in subsection (2) applies only to the land that was actually being used for a non-farm use and not to the entire parcel on which that use was being carried on.

Preservation of rights

- 24 Despite sections 2 and 3, if Crown land continued as an agricultural land reserve under this Act has been leased by the government, or sold by agreement for sale by the government and not transferred to the purchaser before December 21, 1972, and on that date was being used for a non-farm use, and not in contravention of the terms of the lease or agreement, that use may continue until termination of the lease or issue of title to the purchaser under the agreement for sale.

Non-farm use and subdivision application by owner

- 25 (1) On an application for permission for non-farm use under section 20 (3) or for subdivision under section 21 (2), the commission may do one of the following:

- (a) refuse permission;
 - (b) grant permission;
 - (c) grant permission for an alternative non-farm use or subdivision.
- (2) If the commission makes a decision under subsection (1) (b) or (c), it may impose terms it considers advisable.
- (3) An application under this section may not proceed unless authorized by a resolution of the local government if, on the date the application is made, the application
 - (a) applies to land that is zoned by bylaw to permit agricultural or farm use, or
 - (b) requires, in order to proceed, an amendment to an official settlement plan, an official community plan, an official development plan or a zoning bylaw.
- (4) In deciding an application under this section, the commission may meet with the applicant or may make a decision on the basis of written representations only.
- (5) The commission must deliver its written decision to the owner.

Delegation of section 25 powers to local governments and other authorities

- 26
- (1) The commission may enter into an agreement with any of the following to enable a local government or an authority to exercise some or all of the commission's power to decide applications for non-farm use or subdivision with respect to lands within the jurisdiction of the local government or authority:
 - (a) a local government;
 - (b) an agent of the government, a public body or a public officer prescribed by regulation.
 - (2) An agreement under subsection (1) between the commission and an authority may exempt a non-farm use in a specified area within the jurisdiction of the authority from the requirement of an application on the condition that the authority conducts audits and reports to the commission as required by the agreement.
 - (3) If an agreement is entered into under subsection (1), the local government or authority must, with respect to an application covered by the agreement,
 - (a) consider each application in the prescribed manner, and
 - (b) advise the commission in the prescribed manner of each application received and of the decision made on each application.
 - (4) A decision made by a local government or authority under this section must be made by resolution of the local government or the governing body of the authority.
 - (5) If the commission delegates its power to decide applications under section 25 to a local government or an authority by an agreement entered into under this

section, the decision of the local government or authority is a decision of the commission for the purposes of this Act.

- (6) If an authority has the power to decide an application under an agreement entered into under subsection (1), an application that would otherwise be required to be submitted to the local government under section 34 (3) must be made directly to the authority.
- (7) If a local government or an authority has the power to decide an application under an agreement entered into under subsection (1),
 - (a) the local government or authority may retain the entire fee payable under section 34 with respect to the application, and
 - (b) sections 39 to 45 apply to the application as if the application were before the commission.

Chief executive officer may approve some applications

- 27 (1) The commission, by resolution, may establish criteria under which the following may be approved by the chief executive officer:
 - (a) specified types of applications for exclusion, subdivision or non-farm use;
 - (b) applications with respect to specified regions of British Columbia.
- (2) The commission must put the criteria established under subsection (1) in writing and make them available for inspection during ordinary business hours.
- (3) An application that meets the criteria established under subsection (1) may be approved by the chief executive officer on the terms that the chief executive officer may impose.
- (4) If the chief executive officer considers that the application does not meet the criteria specified under subsection (1) or for any other reason does not wish to approve the application under subsection (3), the application must be referred to the commission for a decision.
- (5) An approval of an application by the chief executive officer under subsection (3) is a decision of the commission for the purposes of this Act.
- (6) The chief executive officer may not exercise a power that has been delegated to a local government or an authority by an agreement entered into under section 26.

Application of sections 18 to 21 limited to land in agricultural land reserve

- 28 If the boundary of an agricultural land reserve divides a parcel of land, sections 18 to 21 apply only to that portion of the parcel that is designated as an agricultural land reserve.

Exclusion application by a local government or the commission

- 29 (1) On the commission's own initiative or on application by a local government for land within the local government's jurisdiction, the commission may

- (a) exclude land from an agricultural land reserve on terms the commission considers advisable, or
 - (b) without excluding the land from an agricultural land reserve, grant permission for a non-farm use or subdivision in respect of the land that is the subject of the application, on any terms the commission considers advisable.
- (2) The local government, before the application is made, or the commission, if acting on its own initiative, must hold a public hearing in the manner and with the notice required by regulation.

Exclusion application by owner

- 30
- (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.
 - (2) On an application under subsection (1), the commission may do one of the following:
 - (a) refuse permission to have land excluded from an agricultural land reserve;
 - (b) grant permission to have land excluded from an agricultural land reserve;
 - (c) permit a non-farm use or subdivision on the land.
 - (3) If the commission makes a decision under subsection (2) (b) or (c), it may impose terms it considers advisable.
 - (4) An application under this section may not proceed unless authorized by a resolution of the local government if, on the date the application is made, the application
 - (a) applies to land that is zoned by bylaw to permit agricultural or farm use, or
 - (b) requires, in order to proceed, an amendment to an official settlement plan, an official community plan, an official development plan or a zoning bylaw.
 - (5) At the request of the applicant, the commission may waive the required notice and the requirement to have a meeting with the commission with respect to the application.
 - (6) The commission must deliver its written decision to the owner.

Effect of permission for non-farm use, subdivision or exclusion

- 31
- It is a condition of permission granted under section 25 (1) (b) or (c), 29 (1) or 30 (2) (b) or (c) that the owner or occupier must comply with the applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

Plan to be amended

- 32 If land is excluded under this Act from a land reserve plan, the commission must amend the land reserve plan and notify the appropriate local government and registrar of titles.

Reconsideration of decisions

- 33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that
- (a) evidence not available at the time of the original decision has become available,
 - (b) all or part of the original decision was based on evidence that was in error or was false; or
 - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.
- (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.
- (3) If a local government or an authority makes a decision in a matter delegated to it under an agreement entered into under section 26 (1), subsections (1) and (2) of this section apply as if the local government or authority were the commission.

Application procedure

- 34 (1) In this section and in sections 35 and 36, “**application**” means an application for inclusion under section 17, for exclusion under section 29 or 30, or for a non-farm use or subdivision under section 25 (1).
- (2) A local government that makes an application to the commission under section 29 must pay the prescribed application fee.
- (3) A person who makes an application referred to in subsection (1) must do so by submitting the application and, except in the case of an application for inclusion under section 17, by paying the prescribed fee,
- (a) to the municipality, if the land described in the application is in a municipality,
 - (b) to the regional district, if the land described in the application is in a regional district but not in a municipality or a local trust area, and
 - (c) to the Islands Trust, if the land described in the application is within a local trust area under the *Islands Trust Act*.
- (4) A local government that receives an application under subsection (3) must
- (a) review the application, and

- (b) subject to subsection (5), forward to the commission the application together with the local government's comments and recommendations concerning the application.
- (5) In respect of an application or proposed application to which section 25 (3) or 30 (4) applies, the requirement in subsection (4) (b) of this section to forward the application to the commission does not apply if the local government's authorization, required by section 25 (3) or 30 (4), is refused.
- (6) A person who applies for a specific type of use prescribed by regulation as an application that must be filed directly with the commission must submit the application and pay the prescribed fee directly to the commission.
- (7) In respect of an application to the commission referred to in subsection (6), the commission may request comments and information from the local government for the area in which the land described in the application is located.

Application fees

- 35
- (1) A local government that receives application fees under section 34
 - (a) may retain a prescribed portion of the application fees, and
 - (b) must remit the balance of the application fees to the commission at the prescribed times.
 - (2) Despite subsection (1), if section 25 (3) or 30 (4) applies to an application or a proposed application and the local government's authorization required by section 25 (3) or 30 (4) is refused, the portion of the application fee that would otherwise be remitted to the commission under subsection (1) (b) must be returned to the applicant by the local government.
 - (3) Subject to the approval of the commission, if the designated local government officer considers that a case of hardship exists, the officer may waive the application fee payable under section 34 (3).
 - (4) If the commission considers that a case of hardship exists, it may waive the application fee payable under section 34 (3).
 - (5) If, under section 34 (7), the commission requests comments or information from a local government, the commission may pay a prescribed portion of the application fee to the local government.
 - (6) This section applies despite the *Financial Administration Act*.

Notice of applications

- 36
- (1) A person who makes an application under section 34 must, in the prescribed circumstances,
 - (a) give notice of the application in accordance with the regulations before submitting the application, and

- (b) provide evidence, satisfactory to the commission, that the applicant has complied with the notice requirements of the regulations.
- (2) A decision of the commission with respect to an application is not invalidated merely because the applicant fails to comply with the notice requirements of the regulations, if the applicant made reasonable efforts to comply with those requirements.

No compensation for reserve land

- 37 Land is deemed not to be taken or injuriously affected by its designation as an agricultural land reserve.

Agreements

- 38 For the purposes of this Act, the commission may enter into agreements with the government, a local government, Canada or an authority.

Definition of “board” in sections 40 to 45

- 39 In sections 40 to 45, “board” means a commissioner appointed under the *Inquiry Act* for the purpose of inquiring into a matter described in section 40.

Reference of a matter to the board

- 40 (1) If the Lieutenant Governor in Council considers it to be in the Provincial interest, the Lieutenant Governor in Council by order, may refer to the board, for the purpose of a public hearing described in section 43, any of the following matters before the commission at the time of the order:
- (a) an application for inclusion under section 17, or for exclusion under section 29 (1) (a) or 30 (1);
 - (b) an application for non-farm use or for subdivision under section 29 (1) (b);
 - (c) if land is being considered by the commission on its own initiative, the issues relating to
 - (i) approval and designation under section 17 (1),
 - (ii) the exclusion from a reserve under section 29 (1) (a), or
 - (iii) the granting of the permission for non-farm use or for subdivision under section 29 (1) (b);
 - (d) a reconsideration under section 33 of a decision of the commission made in respect of a matter referred to in paragraph (a), (b) or (c) of this subsection.
- (2) The Lieutenant Governor in Council must specify written terms of reference for the purpose of a public hearing by the board pertaining to a matter referred to the board under this section.
- (3) In determining whether it is in the Provincial interest to refer a matter to the board under subsection (1), the Lieutenant Governor in Council must take into account
- (a) the preservation of agricultural land as a scarce and important asset,

- (b) the potential long term consequences of failing to preserve agricultural land, and
- (c) the province-wide context of the matter.
- (4) The Lieutenant Governor in Council may make an order under subsection (1) on the Lieutenant Governor in Council's own initiative or at the request of a local government or the commission.

Suspension of matters pending a decision under section 40

- 41 (1) For the purpose of giving the Lieutenant Governor in Council time to consider whether an order under section 40 is warranted, the minister may order that the matter be suspended for a period, to be specified in the order, that is not longer than 90 days.
- (2) An order of the minister under subsection (1) has effect and is binding on the commission, and on any parties to a proceeding relating to a matter that is the subject of the order, until the expiry of the period specified in the order.

Effect of an order under section 40

- 42 (1) On the date of an order under section 40 referring a matter to the board, the commission's powers, duties and functions under this Act in relation to the matter are transferred to the Lieutenant Governor in Council to the extent necessary to enable the Lieutenant Governor in Council to act in accordance with section 45.
- (2) An order under section 40 is final and binding.
- (3) If the Lieutenant Governor in Council makes an order under section 40 referring a matter to the board, the commission must, within 14 days of the date of the order,
 - (a) prepare a written report with respect to the matter, and
 - (b) submit the report to the board for the purpose of assisting the board in conducting a public hearing under section 43 in respect of the matter.

Public hearing

- 43 (1) On receiving the written terms of reference specified in conjunction with an order under section 40, the board must
 - (a) prepare a discussion paper with respect to the matter that is the subject of the order, and
 - (b) make the paper available to the public before holding a public hearing under this section.
- (2) The discussion paper prepared under subsection (1) (a) must include the written report that the commission submitted to the board under section 42 (3) (b).
- (3) For the purpose of providing the report and recommendations required under section 44, the board must conduct a public hearing to evaluate the probable agricultural, environmental, heritage, economic, cultural and social effects of any

of the following if it is a matter that was before the commission at the time the order under section 40 made the referral:

- (a) an approval and a designation under section 17 (1);
 - (b) a designation under section 17 (3);
 - (c) an exclusion from a reserve under section 29 (1) (a) or 30 (1);
 - (d) the granting or refusal of the permission referred to in section 29 (1) (b);
 - (e) a decision under section 33 to confirm, reverse or vary a decision referred to in paragraph (a), (b), (c) or (d) of this subsection.
- (4) The public hearing held under subsection (3) must be conducted in accordance with the terms of reference specified in conjunction with the order made under section 40.
- (5) The board must hold at least one public hearing with respect to the matter in each of the following regions:
- (a) Interior;
 - (b) Island;
 - (c) Kootenay;
 - (d) North;
 - (e) Okanagan;
 - (f) South Coastal.

Report and recommendations

- 44 (1) On conclusion of the public hearing under section 43, the board must submit to the Lieutenant Governor in Council
- (a) a written report in accordance with the terms of reference specified in conjunction with the order made under section 40, and
 - (b) a summary of the evidence received and submissions made in the course of any public hearing held in accordance with the terms of reference.
- (2) The report referred to in subsection (1) must include the board's recommendations to the Lieutenant Governor in Council for action under section 45.
- (3) In making the recommendations referred to in subsection (2), the board must give weight to the following values in descending order of priority:
- (a) agricultural values, including the preservation of agricultural land and the promotion of agricultural purposes;
 - (b) environmental and heritage values, but only if
 - (i) those values cannot be replaced or relocated to land other than agricultural land, or
 - (ii) giving weight to those values results in no net loss to the agricultural capabilities of the area;
 - (c) economic, cultural and social values.

- (4) The board must provide a copy of its report to the commission at the same time that the report is submitted to the Lieutenant Governor in Council under subsection (1).
- (5) The commission may submit to the Lieutenant Governor in Council written comments on the report, but it must do so within 30 days of receiving a copy of the report under subsection (4).
- (6) Within 10 days after submitting its report under subsection (1), the board must publish the report in the prescribed manner.

Lieutenant Governor in Council's decision

- 45
- (1) On receiving the board's report under section 44 (1) and the commission's comments, if any, under section 44 (5), the Lieutenant Governor in Council, by order, may decide the outcome of the matter that is the subject of the order under section 40 by
 - (a) granting or refusing to grant the approval, designation, exclusion or permission applied for, in the case of a matter described in section 40 (1) (a) or (b),
 - (b) making or deciding not to make the approval, designation, exclusion or permission that was under consideration by the commission on its own initiative, in the case of a matter described in section 40 (1) (c), or
 - (c) confirming, reversing or varying a decision referred to in section 40 (1) (d).
 - (2) Section 44 (3) applies to a decision made under subsection (1) of this section.
 - (3) The Lieutenant Governor in Council may attach conditions to an order made under this section.
 - (4) An order made under this section is final and binding.

Conflict with bylaws

- 46
- (1) In this section, "bylaw" means
 - (a) a bylaw, made by a local government, that adopts a regional growth strategy, an official settlement plan, an official community plan, an official development plan or a zoning bylaw, and
 - (b) any other bylaw respecting land use in a local government's jurisdiction made by a local government under any other enactment.
 - (2) A local government must ensure that its bylaws are consistent with this Act, the regulations and the orders of the commission.
 - (3) Subject to subsection (4), nothing in this Act affects or impairs the validity of a bylaw relating to the use of agricultural land in an agricultural land reserve.
 - (4) A bylaw that is inconsistent with this Act, the regulations or an order of the commission has, to the extent of the inconsistency, no force or effect.

- (5) Without limiting subsection (4), a bylaw is deemed to be inconsistent with this Act if it
 - (a) allows a use of land in an agricultural land reserve that is not permitted by this Act, the regulations or an order of the commission, or
 - (b) contemplates a use of land that would impair or impede the intent of this Act, the regulations or an order of the commission, whether or not that use requires the adoption of any further bylaw, the giving of any consent or approval or the making of any order.
- (6) A bylaw that provides restrictions on farm use of agricultural land additional to those provided by this Act and the regulations is not, for that reason alone, inconsistent with this Act and the regulations.
- (7) This section applies only to bylaws made after August 26, 1994.

Consolidated revenue fund

- 47 The commission must pay as soon as practicable all money received by it, other than money received under an appropriation under a *Supply Act*, into the consolidated revenue fund.

Bonding or other security

- 48 The Lieutenant Governor in Council, the commission, a local government or an authority may require that an applicant under this Act whose application has been approved on terms, in order to ensure compliance with the terms, post security in the form of insurance, a bond or another prescribed form of security.

Inspections

- 49 (1) For the purposes of administering this Act or of ensuring compliance with this Act, the regulations or an order of the commission, a member of the commission or an official may do one or more of the following:
 - (a) enter any land, other than a dwelling house;
 - (b) make any surveys, analyses, inspections, examinations or soil tests that are necessary to determine any of the following:
 - (i) the current use of the land;
 - (ii) the suitability of the land for farm use;
 - (iii) the potential impact of proposed changes to the use of the land on land in an agricultural land reserve;
 - (c) remove soil samples for the purposes of conducting the analyses and tests referred to in paragraph (b);
 - (d) make any inspection of records, things or activities reasonably related to the purpose of the inspection;
 - (e) make copies of any records or documents reasonably related to the purpose of the inspection.

- (2) A person who hinders, obstructs, impedes or otherwise interferes with a person exercising a power under subsection (1) commits an offence.

Stop work order

- 50 If an official considers that a person is contravening or is about to contravene a provision of this Act or the regulations, the official, in accordance with the regulations, may order that
- (a) the contravention cease,
 - (b) the contravention cease to the extent specified by the order, or
 - (c) the person not take any action that would result in a contravention.

Power to rescind or vary orders

- 51 The chief executive officer may rescind or vary any determination, decision or order made by the chief executive officer or an official under section 50, 52 or 54
- (a) on new information being provided to the chief executive officer,
 - (b) if the chief executive officer determines that there were insufficient grounds for making the determination, decision or order, or
 - (c) if the chief executive officer considers that it would be in the best interests of the administration of this Act.

Determinations and remediation orders

- 52 (1) If the chief executive officer determines that a person has contravened this Act, the regulations or an order of the commission, the chief executive officer, in accordance with the regulations, may order the person to remedy the contravention by
- (a) carrying out a requirement of this Act or the regulations that the person has failed to carry out, or
 - (b) repairing or mitigating damage caused to agricultural land by the contravention, including the removal of buildings or structures.
- (2) If a person fails to comply with an order under subsection (1), the chief executive officer, in accordance with the regulations, may do one or more of the following:
- (a) in a written notice given to the person, restrict or prohibit the person from carrying out the work referred to in the order;
 - (b) require the person to provide the security that the chief executive officer considers necessary and realize on that security;
 - (c) carry out all necessary work.
- (3) A person referred to in subsection (2) is liable to the commission for costs incurred by the commission under this section.

Order for compliance

- 53 (1) The commission may apply to the Supreme Court for an order under subsection (2) if the commission considers
- (a) that a person is not complying, or has not complied, with a determination, a decision or an order under section 50, 52 or 54 (1),
 - (b) that a person is not complying with an order of the commission, or
 - (c) that a present or future activity or use of agricultural land in an agricultural land reserve may contravene this Act, the regulations, an order of the commission or a determination, a decision or an order under section 50, 52 or 54 (1).
- (2) On application by the commission under this section, the Supreme Court may make one or more of the following kinds of orders:
- (a) directing the person to comply with the determination, decision or order;
 - (b) directing the person to cease violating the determination, decision or order;
 - (c) restraining the person from violating the determination, decision or order;
 - (d) if the person is a corporation, directing the directors and officers of the corporation to cause the corporation to comply with an order under this section.

Penalties levied by chief executive officer

- 54 (1) The chief executive officer, in accordance with the regulations, may levy a penalty up to the prescribed amount against a person who contravenes this Act, the regulations or the orders of the commission.
- (2) The time limit for levying a penalty against a person under subsection (1) is 3 years after the facts on which the penalty is based first came to the knowledge of the chief executive officer.

Appeal

- 55 (1) A person who is the subject of a determination, a decision or an order under section 50, 52 or 54 (1) may appeal the determination, decision, order or penalty to the commission by serving the commission with a notice of appeal in a form, and containing the information, prescribed by the commission.
- (2) On an appeal under this section, the commission may
- (a) confirm or reverse the determination, decision, order or penalty, or
 - (b) refer the matter, with or without directions, back to the person who made the initial determination, decision or order.
- (3) The commission must give notice of an appeal to any person the commission considers is affected by the appeal.

- (4) Unless the commission orders otherwise, an appeal under this section does not operate to stay or suspend the operation of the determination, decision, order or penalty under appeal.

Application of enforcement powers by local governments and authorities

- 56** (1) If, under an agreement under section 26, a local government or an authority acts in the place of the commission, sections 49, 50 and 52 to 55 apply to
- (a) the local government or authority, and
 - (b) a person designated by the local government or authority to exercise the powers under those sections.
- (2) Despite section 43 of the *Provincial Court Act*, if a local government imposes a penalty under section 54 of this Act, the penalty is payable to and may be retained by the local government.

Offences

- 57** (1) A person commits an offence and is liable on conviction to a fine not exceeding \$1 million or imprisonment for not more than 6 months, or to both, who contravenes the following:
- (a) an order of the commission;
 - (b) section 20 (1);
 - (c) a covenant referred to in section 22;
 - (d) section 49 (2);
 - (e) a stop work order under section 50;
 - (f) a remediation order under section 52.
- (2) The maximum fine under subsection (1) to which a person is liable on a second or subsequent conviction is double the amount set out in that section.
- (3) A proceeding, conviction or penalty under this section does not relieve a person from a penalty under another section or from any other liability.
- (4) A person commits an offence who
- (a) without lawful excuse intentionally interferes with,
 - (b) without lawful excuse intentionally fails to comply with a lawful requirement of, or
 - (c) intentionally makes a false statement or misleads or attempts to mislead, the chief executive officer, a member of the commission, an official or an employee or a consultant of the commission appointed under section 8.
- (5) If a corporation contravenes this Act or the regulations, a director or officer of it who authorized, permitted or acquiesced in the contravention also commits the contravention.
- (6) Section 5 of the *Offence Act* does not apply to this Act.

Power to make regulations

- 58 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) designating uses of land as farm use;
 - (b) prescribing permitted uses and permitted types of subdivision for agricultural land, and specifying permitted uses that may or may not be prohibited by a local government enactment;
 - (c) exempting materials from the definition of “fill”;
 - (d) establishing different application fees for different types of applications and applications in different circumstances;
 - (e) exempting classes of persons from payment of a prescribed application fee;
 - (f) prescribing additional purposes for paragraph (a) of the definition of “community issue” in section 13 (1);
 - (g) respecting the manner of holding hearings and meetings and prescribing notice requirements for applications, hearings and other matters;
 - (h) specifying non-farm uses that a local government, an authority, a board or another agency may permit on agricultural land for the purposes of section 18 (a);
 - (i) prescribing exceptions to the prohibitions under section 19 respecting subdivision of land;
 - (j) specifying non-farm uses for the purposes of section 20 and specifying circumstances in which removal of soil and the placement of fill are not to be considered non-farm uses;
 - (k) respecting the terms of an agreement entered into under section 26;
 - (l) prescribing who is an authority for the purposes of section 26 (1) and specifying the persons constituting a governing body of an authority for the purposes of section 26 (4);
 - (m) respecting the manner in which a local government is required for the purposes of section 34 (4) to
 - (i) consider an application, and
 - (ii) advise the commission of an application received and a decision made on an application;
 - (n) prescribing a specific type of use for the purposes of section 34 (6);
 - (o) prescribing the portion of the application fee to be retained for the purposes of section 35 (1) (a), specifying the prescribed times for the purposes of section 35 (1) (b) or prescribing the portion to be paid to the local government for the purposes of section 35 (5);

- (p) prescribing circumstances in which notice of an application is required to be given under section 36;
 - (q) respecting the notice requirements for the purposes of section 36, including prescribing a form of notice and prescribing different notice requirements for different types of applications or different areas of British Columbia.
- (3) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) respecting the publication of reports for the purposes of section 44 (6);
 - (b) respecting other forms of security for the purposes of section 48;
 - (c) respecting orders under sections 50 and 52;
 - (d) respecting penalties levied under section 54 (1);
 - (e) prescribing penalties for a contravention of this Act, the regulations or an order of the commission;
 - (f) establishing policies and procedures to be followed by the commission in conducting its affairs, performing its duties and functions and exercising its powers;
 - (g) prescribing procedures to facilitate dispute resolution under the Act;
 - (h) specifying the number of members that constitute a quorum of the commission or a panel;
 - (i) respecting the setting of boundaries of agricultural land reserves and the form, content, maintenance and correction of records of those boundaries.

Powers cumulative

- 59 The powers in this Act and the regulations enabling the commission, the chief executive officer and an official to make an order, to impose a fine or penalty, or to commence a proceeding may be exercised separately, concurrently or cumulatively and do not affect the powers of the government under this or any enactment.

Certificates of title subject to this Act

- 60 (1) In addition to the limitations set out in section 23 (2) of the *Land Title Act*, a certificate of title issued before June 29, 1973 for agricultural land is subject, by implication and without endorsement on the certificate of title, to this Act and the regulations governing the agricultural land reserve and farm use of the land.
- (2) The registrar of titles must endorse on every indefeasible title to agricultural land issued after June 29, 1973 that the title may be affected by this Act.

Transitional

- 61 (1) In this section:
- “former Act” means the *Land Reserve Commission Act*, S.B.C. 1999, c. 14, or the *Agricultural Land Reserve Act*, R.S.B.C. 1996, c. 10;

“Land Reserve Commission” means the Land Reserve Commission established under section 2 of the *Land Reserve Commission Act* as it read immediately before the coming into force of this section.

- (2) All of the rights, property and assets and all of the debts, liabilities and obligations of the Land Reserve Commission are transferred to and vested in the Provincial Agricultural Land Commission.
- (3) An application or a matter commenced under the former Act is continued as an application or matter under this Act.
- (4) An application under section 3 of the *Soil Conservation Act*, R.S.B.C. 1996, c. 434, as it read immediately before the coming into force of this section is continued as an application for permission for non-farm use under this Act.
- (5) The Provincial Agricultural Land Commission may take up and carry on to completion all proceedings or other matters commenced under any enactment that were, immediately before the coming into force of this section, before the Land Reserve Commission.

Consequential Amendments and Repeals

Cemetery and Funeral Services Act

- 62 *Section 17 (1) of the Cemetery and Funeral Services Act, R.S.B.C. 1996, c. 45, is amended by striking out “Agricultural Land Reserve Act” and substituting “Agricultural Land Commission Act”.*

Farm Practices Protection (Right to Farm) Act

- 63 *Section 1 of the Farm Practices Protection (Right to Farm) Act, R.S.B.C. 1996, c. 131, is amended in the definition of “farm operation” by repealing paragraph (g) (ii) and substituting the following:*

- (ii) in an agricultural land reserve with the approval under the *Agricultural Land Commission Act* of the Provincial Agricultural Land Commission; .

Forest Land Reserve Act

- 64 *Section 1 (1) of the Forest Land Reserve Act, R.S.B.C. 1996, c. 158, is amended*
- (a) *in the definition of “agricultural reserve land” by striking out “Agricultural Land Reserve Act;” and substituting “Agricultural Land Commission Act;”,*
 - (b) *in the definition of “chief executive officer” by striking out “of the commission appointed under section 5 (1) of the Land Reserve Commission Act;” and substituting “appointed under the Agricultural Land Commission Act;”,*

(c) *by repealing the definition of “commission” and substituting the following:*

“commission” means the commission established under the *Agricultural Land Commission Act*; ,

(d) *by repealing the definition of “forest reserve land” and substituting the following:*

“forest reserve land” means land designated under section 10; , and

(e) *by repealing the definition of “recapture charge”.*

65 *Section 2.1 is repealed and the following substituted:*

Object of the commission

2.1 The object of the commission under this Act is to work with owners, local governments, first nations and other communities of interest to encourage responsible forest management practices on identified land.

66 *Section 9 (1) is repealed and the following substituted:*

(1) The Forest Land Reserve consists of

(a) private land that is designated as forest reserve land under section 10, and

(b) additional private land that was designated as forest reserve land by or under this Act before February 12, 2002.

67 *Sections 11 (4) and (5) and 12 are repealed.*

68 *Section 12.1 (2) is repealed and the following substituted:*

(2) This Act governs forest practices on identified reserve land whether or not notice under subsection (3) is filed in the land title office.

69 *Sections 13 to 16 are repealed.*

70 *Section 18 is amended*

(a) *by repealing subsections (3) and (4), and substituting the following:*

(3) If a removal is approved by the commission, the designation of land as forest reserve land is removed when any applicable conditions under subsection (2) have been met. , and

(b) *by adding the following subsections:*

(5) The commission, by resolution, may establish criteria under which applications for exclusion from the reserve may be approved by the chief executive officer.

(6) An approval of an application by the chief executive officer under subsection (5) is a decision of the commission for the purposes of this Act.

71 *Section 19 is repealed and the following substituted:*

Criteria for removal

- 19 (1) The commission may approve a removal if the commission is satisfied that the removal is in the public interest.
- (2) The commission must give the applicant and the local government written notice of its decision regarding an application under this section.
- 72 *Sections 20 to 24 are repealed.*
- 73 *Section 25 (2) and (3) is repealed.*
- 74 *Section 28 (2) to (4) is repealed.*
- 75 *Section 33 (3) is amended by striking out "a use permitted under section 13." and substituting "timber production and harvesting."*
- 76 *Section 34 (2) (c) is amended by striking out "as permitted under section 13." and substituting "for timber production and harvesting."*
- 77 *Section 37 (2) (c) to (e), (f), (g), (i), (j) and (l) (ii) and (iii) is repealed.*
- 78 *Section 38 is repealed.*
- 79 *Section 39 (2) is amended by striking out everything after "this section".*
- 80 *Section 40 is repealed.*

Freedom of Information and Protection of Privacy Act

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

(a) by striking out the following:

Public Body: Land Reserve Commission
Head: Chair, *and*

(b) by adding the following:

Public Body: Provincial Agricultural Land Commission
Head: Chair.

Greenbelt Act

- 82 *Section 2 (3) of the Greenbelt Act, R.S.B.C. 1996, c. 176, is amended by striking out "Agricultural Land Reserve Act," and substituting "Agricultural Land Commission Act,".*

Hydro and Power Authority Privatization Act

83 ***Section 10 of the Hydro and Power Authority Privatization Act, R.S.B.C. 1996, c. 213, is amended***

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

(1) In this section, “bylaw”, “local government” and “official community plan” have the same meanings as in the Local Government Act, and the definitions of “agricultural land”, “agricultural land reserve” and “farm use” in the Agricultural Land Commission Act apply, and

(b) in subsection (3) by striking out “Agricultural Land Reserve Act” in both places and substituting “Agricultural Land Commission Act”.

Islands Trust Act

84 ***Section 29 (1) of the Islands Trust Act, R.S.B.C. 1996, c. 239, is amended***

(a) in paragraph (d) by striking out “Agricultural Land Reserve Act;” and substituting “Agricultural Land Commission Act.”, and

(b) by repealing paragraph (e).

Local Government Act

85 ***Section 882 of the Local Government Act, R.S.B.C. 1996, c. 323, is amended***

(a) in subsection (3) by repealing paragraph (c) and substituting the following:

(c) if the plan applies to land in an agricultural land reserve established under the Agricultural Land Commission Act, refer the plan to the Provincial Agricultural Land Commission for comment; , and

(b) in subsection (6) (a) (i) by striking out “Land Reserve Commission” and substituting “Agricultural Land Commission”.

86 ***Section 915 (2) is repealed and the following substituted:***

(2) Despite a zoning bylaw, if land is located in an agricultural land reserve under the Agricultural Land Commission Act and that land is not subject to section 23 (1) of that Act, intensive agriculture is permitted as a use.

87 ***Section 946 (3) (b) (i) and (c), (5) and (8) is amended by striking out “Agricultural Land Reserve Act” and substituting “Agricultural Land Commission Act”.***

School Act

- 88 ***Section 130 (1) (b) of the School Act, R.S.B.C. 1996, c. 412, is amended by striking out “Agricultural Land Reserve Act, is subject to sections 17 to 20 of that Act” and substituting “Agricultural Land Commission Act, is subject to sections 18 to 20 and 28 of that Act”.***

Waste Management Act

- 89 ***Section 2 (2) of the Waste Management Act, R.S.B.C. 1996, c. 482, is repealed.***

- 90 ***The following Acts are repealed:***

- (a) Agricultural Land Reserve Act, R.S.B.C. 1996, c. 10;***
- (b) Golf Course Development Moratorium Act, S.B.C. 1992, c. 8;***
- (c) Land Reserve Commission Act, S.B.C. 1999, c. 14;***
- (d) Soil Conservation Act, R.S.B.C. 1996, c. 434.***

Commencement

- 91 **This Act comes into force by regulation of the Lieutenant Governor in Council.**

Agricultural Land Commission Act

**AGRICULTURAL LAND RESERVE USE, SUBDIVISION
AND PROCEDURE REGULATION**

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PART 1 – INTERPRETATION

Definitions and Interpretation

1 (1) In this regulation:

“Act” means the *Agricultural Land Commission Act*;

“aggregate” includes sand, gravel, crushed stone, quarry rock and similar materials used in the construction and maintenance of civil and structural projects;

“agroforestry” means a land use that involves deliberate retention, introduction or mixing of trees or other plants in crop and animal production systems to provide an economic return;

“agri-tourism” means a tourist activity, service or facility accessory to land that is classified as a farm under the *Assessment Act*;

“applicant” includes a reference to the agent of the applicant;

“aquaculture” has the same meaning as under the *Fisheries Act*;

“compost” means a product that is

- (a) a stabilized earthy matter having the properties and structure of humus,
- (b) beneficial to plant growth when used as a soil amendment,
- (c) produced by composting, and
- (d) derived only from organic matter;

“farm” means an occupation or use, for farm purposes, of one or several parcels of land or tenured areas of Crown land;

“farm product” means a commodity that is produced from a farm use as defined in the Act or designated by this regulation;

“immediate family” means, with respect to an owner, the owner’s

- (a) parents, grandparents and great grandparents,
- (b) spouse, parents of spouse and stepparents of spouse,

- (c) brothers and sisters, and
 - (d) children or stepchildren, grandchildren and great grandchildren;
- “managed organic matter”** means Class A or Class B biosolids or Class B compost as those things are defined in the Organic Matter Recycling Regulation, B.C. Reg. 18/2002;
- “newspaper”** has the same meaning as in section 5 of the *Local Government Act*;
- “parcel”** means land that is the subject of a single indefeasible title under the *Land Title Act*;
- “responsible local government officer”** means the local government officer assigned responsibility under section 198 of the *Local Government Act*;
- “sleeping unit”** means
- (a) a bedroom or other area used as a bedroom in a cabin, dwelling or accessory building, and
 - (b) a tent or recreational vehicle on a campsite;
- “soil amendment”** means compost, manure, mulches, fertilizer and soil conditioners.
- (2) Nothing in this regulation is to be interpreted as relieving an owner, an applicant or an approving officer from complying with any other enactment, bylaw or decision of a responsible authority that may apply, including zoning, subdivision and any other legislation.

PART 2 – PERMITTED USES

Activities designated as farm use

- 2 (1) For the purposes of subsection (2) (b), **“ancillary use”** means any of the following activities carried on at a British Columbia licensed winery or cidery:
- (a) processing, storage and retail sales;
 - (b) tours;
 - (c) a food and beverage service lounge, if the area does not exceed 125 m² indoors and 125 m² outdoors.
- (2) The following activities are designated as farm use for the purposes of the Act and may be regulated but must not be prohibited by any local government bylaw except a bylaw under section 917 of the *Local Government Act*:
- (a) farm retail sales if
 - (i) all of the farm product offered for sale is produced on the farm on which the retail sales are taking place, or
 - (ii) at least 50% of the retail sales area is limited to the sale of farm products produced on the farm on which the retail sales are taking place and the total area, both indoors and outdoors, used for the retail sales of all products does not exceed 300 m²;

- (b) a British Columbia licensed winery or cidery and an ancillary use if the wine or cider produced and offered for sale is made from farm product and
 - (i) at least 50% of that farm product is grown on the farm on which the winery or cidery is located, or
 - (ii) the farm that grows the farm products used to produce wine or cider is more than 2 ha in area, and, unless otherwise authorized by the commission, at least 50% of the total farm product for processing is provided under a minimum 3 year contract from a farm in British Columbia;
- (c) storage, packing, product preparation or processing of farm products, if at least 50% of the farm product being stored, packed, prepared or processed is produced on the farm or is feed required for farm production purposes on the farm;
- (d) land development works including clearing, levelling, draining, berming, irrigating and construction of reservoirs and ancillary works if the works are required for farm use of that farm;
- (e) agri-tourism activities, other than accommodation, on land that is classified as a farm under the *Assessment Act*, if the use is temporary and seasonal, and promotes or markets farm products grown, raised or processed on the farm;
- (f) timber production, harvesting, silviculture and forest protection;
- (g) agroforestry, including botanical forest products production;
- (h) horse riding, training and boarding, including a facility for horse riding, training and boarding, if
 - (i) the stables do not have more than 40 permanent stalls, and
 - (ii) the facility does not include a racetrack licensed by the British Columbia Racing Commission;
- (i) the storage and application of fertilizers, mulches and soil conditioners;
- (j) the application of soil amendments collected, stored and handled in compliance with the Agricultural Waste Control Regulation, B.C. Reg. 131/92;
- (k) the production, storage and application of compost from agricultural wastes produced on the farm for farm purposes in compliance with the Agricultural Waste Control Regulation, B.C. Reg. 131/92;
- (l) the application of compost and biosolids produced and applied in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002;
- (m) the production, storage and application of Class A compost in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002, if all the compost produced is used on the farm;
- (n) soil sampling and testing of soil from the farm;
- (o) the construction, maintenance and operation of farm buildings including, but not limited to, any of the following:
 - (i) a greenhouse;

- (ii) a farm building or structure for use in an intensive livestock operation or for mushroom production;
 - (iii) an aquaculture facility.
- (3) Any activity designated as farm use includes the construction, maintenance and operation of a building, structure, driveway, ancillary service or utility necessary for that farm use.
- (4) Unless permitted under the *Water Act* or the *Waste Management Act*, any use specified in subsection (2) includes soil removal or placement of fill necessary for that use as long as it does not
 - (a) cause danger on or to adjacent land, structures or rights of way, or
 - (b) foul, obstruct or impede the flow of any waterway.
- (5) The removal of soil or placement of fill as part of a use designated in subsection (2) must be considered to be a designated farm use and does not require notification except under section 4.

Permitted uses for land in an agricultural land reserve

- 3 (1) The following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw:
 - (a) accommodation for agri-tourism on a farm if
 - (i) all or part of the parcel on which the accommodation is located is classified as a farm under the *Assessment Act*,
 - (ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and
 - (iii) the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel;
 - (b) for each parcel,
 - (i) one secondary suite within a single family dwelling, and
 - (ii) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family;
 - (c) a home occupation use, that is accessory to a dwelling, of not more than 100 m² or such other area as specified in a local government bylaw for the area in which the parcel is located;
 - (d) bed and breakfast use of not more than 4 bedrooms for short term tourist accommodation or such other number of bedrooms as specified in a local government bylaw for the area in which the parcel is located;
 - (e) operation of a temporary sawmill if at least 50% of the volume of timber is harvested from the farm or parcel on which the sawmill is located;
 - (f) biodiversity conservation, passive recreation, heritage, wildlife and scenery viewing purposes, as long as the area occupied by any associated buildings and structures does not exceed 100 m² for each parcel;
 - (g) use of an open land park established by a local government for any of the purposes specified in paragraph (f);

- (h) breeding pets or operating a kennel or boarding facility;
 - (i) education and research except schools under the *School Act*, respecting any use permitted under the Act and this regulation as long as the area occupied by any buildings or structures necessary for the education or research does not exceed 100 m² for each parcel;
 - (j) production and development of biological products used in integrated pest management programs as long as the area occupied by any buildings or structures necessary for the production or development does not exceed 300 m² for each parcel;
 - (k) aggregate extraction if the total volume of materials removed from the parcel is less than 500 m³, as long as the cultivatable surface layer of soil is salvaged, stored on the parcel and available to reclaim the disturbed area;
 - (l) force mains, trunk sewers, gas pipelines and water lines within an existing dedicated right of way;
 - (m) telecommunications equipment, buildings and installations as long as the area occupied by the equipment, buildings and installations does not exceed 100 m² for each parcel;
 - (n) construction and maintenance, for the purpose of drainage or irrigation or to combat the threat of flooding, of
 - (i) dikes and related pumphouses, and
 - (ii) ancillary works including access roads and facilities;
 - (o) unpaved airstrip or helipad for use of aircraft flying non-scheduled flights;
 - (p) the production, storage and application of Class A compost in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002, if at least 50% of the compost measured by volume is used on the farm.
- (2) Nothing in subsection (1) (a) is to be interpreted as permitting the conversion of a building into strata lots by an owner.
- (3) If a use is permitted under subsection (1) (k) it is a condition of the use that once the extraction of aggregate is complete, the disturbed area must be rehabilitated in accordance with good agricultural practice.
- (4) The following land uses are permitted in an agricultural land reserve:
- (a) any
 - (i) ecological reserve established under the *Ecological Reserve Act* or by the *Protected Areas of British Columbia Act*,
 - (ii) park established under the *Park Act* or by the *Protected Areas of British Columbia Act*,
 - (iii) protected area established under the *Environment and Land Use Act*,
 - (iv) wildlife management area established under the *Wildlife Act*, or
 - (v) recreation reserve established under the *Land Act*;
 - (b) dedication or upgrading of an existing road with vehicular access and use declared to be a public highway under section 4 of the *Highway Act*;

- (c) road construction or upgrading within a dedicated right of way that has a constructed road bed for vehicular access and use;
 - (d) if the widening or works does not result in an overall right of way width of more than 24 m, widening of an existing constructed road right of way for
 - (i) safety or maintenance purposes, or
 - (ii) drainage or flood control works;
 - (e) establishing as a forest service road
 - (i) an existing road under the *Forest Act*, or
 - (ii) a new road in a managed forest;
 - (f) increasing the right of way width of a forest service road by up to 4 m if the widening does not result in an overall right of way width of more than 24 m;
 - (g) railway construction, upgrading and operations on an existing railbed within a dedicated right of way, including widening of an existing railway right of way if the widening does not result in an overall right of way width of more than 30 m;
 - (h) surveying, exploring or prospecting for gravel or minerals if all cuts, trenches and similar alterations are restored to the natural ground level on completion of the surveying, exploring or prospecting;
 - (i) surface water collection for farm use or domestic use, water well drillings, connection of water lines, access to water well sites and required rights of way or easements;
 - (j) soil research or testing as long as the soil removed or fill placed is only in an amount necessary for the research or testing.
- (5) Any permitted use specified in subsection (1) or (4) includes the construction, maintenance and operation of buildings, structures, driveways, ancillary services and utilities necessary for that use.
- (6) Unless permitted under the *Water Act* or the *Waste Management Act*, any use specified in subsection (1) or (4) includes soil removal or placement of fill necessary for that use as long as the soil removal or placement of fill does not
- (a) cause danger on or to adjacent land, structures or rights of way, or
 - (b) foul, obstruct or impede the flow of any waterway.

PART 3 – SOIL REMOVAL AND PLACEMENT OF FILL

Notification requirements for specified farm uses

- 4 (1) The removal of soil and placement of fill for the following farm uses are exempt from the requirement to file an application under section 20 of the Act if the requirements in subsections (2), (3) and (4) are met:
- (a) the construction, maintenance and operation of a greenhouse on an area of land if the area occupied by the greenhouse is greater than 2% of the area of the parcel;
 - (b) the construction, maintenance and operation of a farm building or structure, for use in an intensive livestock operation or for mushroom production, if

the area occupied by the farm building or structure is greater than 2% of the area of the parcel;

- (c) the construction, maintenance and operation of an aquaculture facility if the area occupied by the aquaculture facility is greater than 2% of the area of the parcel;
 - (d) the construction, maintenance and operation of a composting facility for the production of Class A compost as defined in the Organic Matter Recycling Regulation, B.C. Reg. 18/2002 or compost from agricultural waste, if the area occupied by the facility is greater than 2% of the area of the parcel;
 - (e) a turf farm.
- (2) An owner must notify the commission and the local government of the owner's intent to remove soil or place fill for the uses described in subsection (1) at least 60 days before engaging in the intended use by filing with the commission a notice in a form acceptable to the commission.
 - (3) If the chief executive officer requests additional information on the extent and method of soil removal or placement of fill within 30 days of receipt of the notice under subsection (2), it must be provided by the owner of the land in the form of an amended notice within 30 days of receipt of the request.
 - (4) The owner must comply with the restrictions on the use and the terms and conditions for the conduct of that use of agricultural land ordered by the chief executive officer under section 20 (5) of the Act provided that the order is made within 30 days of a notice under subsection (2) or within 45 days of an amended notice under subsection (3).
 - (5) If the owner does not agree to the restrictions on the use or the terms and conditions ordered by the chief executive officer, the owner may apply to the commission for permission for a non-farm use under section 20 (3) of the Act.

Notification requirements for specified non-farm uses

- 5 (1) The removal of soil and placement of fill is exempt from the requirement to file an application under section 20 of the Act as long as the requirements in subsections (2), (3) and (4) are met and the removal or placement is for one or more of the following uses:
 - (a) aggregate extraction if the total volume of material removed is more than 500 m³;
 - (b) peat extraction;
 - (c) placer works including the exploration, development and production of placer minerals as defined in the *Mineral Tenure Act*;
 - (d) the construction, maintenance and operation of a composting facility for the production of managed organic matter.
- (2) The owner must notify the commission and the local government of the owner's intent to remove soil for the uses described in subsection (1) at least 60 days before engaging in the intended use by filing with the commission a notice in a form acceptable to the commission.

- (3) If the chief executive officer requests additional information on the extent and method of soil removal and reclamation within 30 days of receipt of the notice under subsection (2), it must be provided in the form of an amended notice within 30 days of receipt of the request.
- (4) The owner must comply with the restrictions on the use and the terms and conditions for the conduct of that use of agricultural land ordered by the chief executive officer under section 20 (5) of the Act provided that order is made within 30 days of a notice under subsection (2) or within 45 days of an amended notice under subsection (3).
- (5) If the owner does not agree to the restrictions on the use or the terms and conditions ordered by the chief executive officer, the owner may apply to the commission for permission for a non-farm use under section 20 (3) of the Act.

PART 4 – APPLICATIONS FILED DIRECTLY WITH THE COMMISSION

Transportation and utility use applications

- 6 Unless permitted under sections 2 and 3, a person must file an application under section 34 (6) of the Act directly with the office of the commission and in a form acceptable to the commission for any of the following uses:
 - (a) widening of an existing road right of way;
 - (b) construction of a road within an existing right of way;
 - (c) dedication of a right of way or construction of any of the following:
 - (i) a new or existing road or railway;
 - (ii) a new or existing recreational trail;
 - (iii) a utility corridor use;
 - (iv) a sewer or water line other than for ancillary utility connections;
 - (v) a forest service road under the *Forest Act*;
 - (d) the new use of an existing right of way for a recreational trail.

Notice of application under section 34 (6) of the Act

- 7 A person who applies to the commission under section 34 (6) of the Act must notify the owners of the land involved in the proposal using a form acceptable to the commission.

Notice of decision to be given to local government

- 8 Before issuing an order under the Act with respect to an application made under section 6, the commission may request comments and information from the responsible local government and the commission must inform the local government of its decision.

PART 5 – PERMITTED SUBDIVISIONS

Application of this Part

- 9 This Part applies to a plan of subdivision, all or part of which consists of land in an agricultural land reserve.

Subdivision approval

- 10 (1) Despite section 18 (b) of the Act, an approving officer under the *Land Title Act*, the *Local Government Act* or the *Strata Property Act* or a person who exercises the powers of an approving officer under any other Act may authorize or approve a plan of subdivision without the approval of the commission if the proposed plan achieves one or more of the following:
- (a) consolidates 2 or more parcels into a single parcel by elimination of common lot lines;
 - (b) resolves a building encroachment on a property line and creates no additional parcels;
 - (c) involves not more than 4 parcels, each of which is a minimum of 1 ha, and results in all of the following:
 - (i) no increase in the number of parcels;
 - (ii) boundary adjustments that, in the opinion of the approving officer, will allow for the enhancement of the owner's overall farm or for the better utilization of farm buildings for farm purposes;
 - (iii) no parcel in the reserve of less than 1 hectare;
 - (d) establishes a legal boundary along the boundary of an agricultural land reserve.
- (2) An approving officer who declines to authorize or approve a plan must give notice of that decision to the person who made the application.
- (3) A person who receives a notice under subsection (2) may apply to the commission with respect to the proposed subdivision.

Certification and deposit of approved plan

- 11 (1) If an approval is granted under section 10, the approving officer must
- (a) endorse on the plan a certificate acceptable to the commission, and
 - (b) provide a copy of the approved plan to the commission.
- (2) If the requirements of subsection (1) are met, a registrar of titles under the *Land Title Act* may accept the endorsed plan for deposit.

PART 6 – GOVERNMENT APPLICATIONS AND COMMISSION PROPOSALS FOR INCLUSION TO OR EXCLUSION FROM RESERVE

Form of application or proposal

- 12** (1) An application of a local government to the commission under section 17 or 29 of the Act must be in a form acceptable to the commission and be accompanied by any other supporting material the commission may require.
- (2) If the commission acts on its own initiative under section 17 or 29 of the Act
- (a) the proposal of the commission must include information and any other supporting material the commission considers necessary, and
 - (b) the commission must send a copy of the proposal and supporting material to the applicable local government.

Notice of public hearing

- 13** (1) The commission or local government holding a public hearing required by section 17 (2) or 29 (2) of the Act must publish a notice of hearing in accordance with this section.
- (2) The notice of hearing must be published in at least 2 consecutive issues of a newspaper published or circulated in the municipality or regional district where the land is located, with the last of these publications appearing not less than 3 days and not more than 10 days before the date of the hearing.
- (3) The notice of hearing must
- (a) state the time and place of the public hearing,
 - (b) identify in a general manner the land affected, but need not use the legal description of the land affected,
 - (c) state in general terms the intent of the application, and
 - (d) state when and where a copy of the application may be inspected.

Procedure at public hearing

- 14** (1) At a public hearing under section 17 (2) or 29 (2) of the Act, all persons must be afforded an opportunity to be heard on matters related to the application.
- (2) The public hearing may be adjourned from time to time.
- (3) A member of the commission, municipal council, regional board or local trust committee who was not present at the public hearing may vote on the application if an oral or written report of the hearing has been given to the member.
- (4) The commission or a local government holding the public hearing may, without further notice, allow amendment to the proposed application to give such effect as it considers fit to accommodate representations made at the hearing.

PART 7 – OWNER APPLICATIONS FOR EXCLUSION FROM RESERVE

Form and filing of application

- 15** (1) An application under section 30 of the Act must be in a form acceptable to the commission and must be filed in the office of the responsible local government officer.
- (2) The application must be accompanied by the following:
- (a) an original copy of each advertisement required under section 16 (1) (a), as published with the date of publication clearly indicated;
 - (b) a photograph clearly indicating the manner in which the notice was posted under section 16 (1) (b);
 - (c) a signed statement by the owner of the land stating
 - (i) the name and address of each person served under section 16 (1) (c),
 - (ii) the date of service, and
 - (iii) the manner of service.

Notice of application

- 16** (1) At least 7 days before filing an application under section 30 of the Act, an owner must give notice of the application by doing all of the following:
- (a) publishing a notice of the application on 2 separate occasions in a newspaper in general circulation in the municipality or regional district in which the land that is the subject of the application is located, not less than 7 days and not more than 14 days apart, inclusive of the day of publication;
 - (b) posting on the land that is the subject of the application, on a sign measuring at least 60 cm by 120 cm and positioned at the midpoint of a boundary of that land that is adjacent to a constructed road right of way if one exists,
 - (i) a copy of the signed application, and
 - (ii) a copy of the notice of application;
 - (c) serving, personally or by registered mail, a copy of the notice of application and a copy of the application on each owner of land in an agricultural land reserve that
 - (i) shares a common boundary with the land for which the application is being made, or
 - (ii) is separated by a public road right of way from the land for which the application is being made.
- (2) Each advertisement under subsection (1) (a) and copy of the notice posted under subsection (1) (b) must be in a form acceptable to the commission.
- (3) Despite subsections (1) and (2), if the requirements of those subsections are not practical, the notice may be given in an alternative means acceptable to the commission.
- (4) If an owner of land who files an application under section 30 of the Act receives a response to a notice given under this section, the owner must forward a copy of the response to the local government.

When local government can consider application

- 17 A local government must not consider an application under section 30 (4) of the Act until 14 days after all relevant documents have been published, posted and served under section 16 of this regulation.

Official must submit application to local government

- 18 On compliance with section 16 by an owner, the responsible local government officer must, subject to section 17, submit the application to the local government council, board or trust committee.

Procedure to authorize resolution under section 30 (4) of the Act

- 19 (1) If an application is filed under section 30 of the Act and section 30 (4) of the Act applies, further proceedings must not be taken unless the local government passes the resolution referred to in section 30 (4) of the Act authorizing the application.
- (2) If a resolution is passed under section 30 (4) of the Act, the responsible local government officer must send a certified copy of the resolution to the commission along with the other information required by section 21 of this regulation.

Local government may hold public information meeting

- 20 If it considers it necessary or advisable, a local government may hold a public information meeting with respect to an application under section 30 of the Act.

Local government forwards application

- 21 (1) Subject to section 19, within the applicable time limit under subsection (2) of this section, the local government must send to the commission all of the following:
- (a) the application including the materials required under section 15 (2) and copies of responses as a result of a notice under section 16;
 - (b) its comments and recommendations required under section 34 (4) of the Act in a form acceptable to the commission;
 - (c) the resolution, if required under section 30 (4) of the Act;
 - (d) a report of the public information meeting if one is held;
 - (e) any other information it wants the commission to consider concerning the application.
- (2) The time limit for sending materials under subsection (1) is
- (a) 90 days after receipt of the application, if a public information meeting is held under section 20, and
 - (b) 60 days after receipt of the application in all other cases.

PART 8 – PROVISIONS FOR MEETINGS TO DETERMINE APPLICATIONS FOR EXCLUSION

Notice of commission meeting

- 22 (1) A meeting of the commission to determine an application under section 30 of the Act must be held at a time and at a place designated by the commission and may be adjourned from time to time.
- (2) Not less than 10 days and not more than 30 days before a meeting required by section 30 of the Act, the commission must give written notice of the time and place of the meeting to all of the following:
- (a) the applicant;
 - (b) the appropriate local government;
 - (c) if the commission considers it advisable, the owners of the land located adjacent to the land that is the subject of the application.
- (3) The notice of the meeting must do all of the following:
- (a) state the time and place of the meeting;
 - (b) identify the land that is subject of the application;
 - (c) state the purpose of the application;
 - (d) state the time and place at which the application and the documents relating to the application may be inspected.

Applicant to be given access to relevant information

- 23 (1) The commission must cause to be delivered to the applicant, by registered mail or personal service, including electronic mail,
- (a) a copy of the application, except for the information supplied by the applicant, and
 - (b) a copy of any other information related to the application for consideration at the meeting.
- (2) At the request of the applicant but subject to the *Freedom of Information and Protection of Privacy Act*, the commission must allow the applicant to inspect all relevant documents in the custody of the commission relating to the application.

Procedure at commission meeting

- 24 For the purpose of the meeting, the commission may do one or more of the following:
- (a) hear representations from the applicant;
 - (b) accept written submissions or any other form of evidence even though it may not be evidence in a court of law;
 - (c) hear representations, evidence and opinions of any person present or represented at the meeting and of the local government that, in the opinion of the commission, are relevant to the application.

Commission to notify applicant of evidence presented

- 25 (1) This section applies if evidence is presented at the meeting and a statement or summary of that evidence has not been sent to the applicant.
- (2) If the applicant is present at the meeting, the commission may
- (a) hear further representations in respect of the additional evidence, or
 - (b) adjourn the meeting to enable the applicant to answer that evidence.
- (3) If the applicant or applicant's agent is not present at the meeting, the commission must notify the applicant by registered mail, electronic mail or personal service of
- (a) the additional evidence presented at the meeting, and
 - (b) the time within which the additional evidence may be answered.

PART 9 – OWNER APPLICATIONS TO INCLUDE LAND IN RESERVE

Application by owner

- 26 (1) If an owner's land is not included in a land reserve plan, the owner may apply under section 17 (3) of the Act to have the land designated as part of an agricultural land reserve.
- (2) An application referred to in subsection (1) must be made by filing an application, in a form acceptable to the commission, in the office of the responsible local government officer.

Local government may hold public information meeting

- 27 A local government that receives an application under section 17 (3) of the Act may hold a public information meeting with respect to the application.

Local government submission to commission

- 28 (1) Within the applicable time limit under subsection (2), a local government that has received an application under section 17 (3) of the Act must send to the commission
- (a) the application and any supporting information it wants the commission to consider, and
 - (b) its comments and recommendations required under section 34 (4) of the Act in a form acceptable to the commission.
- (2) The time limit for sending materials under subsection (1) is
- (a) 90 days after receipt of the application, if a public information meeting is held under section 27, and
 - (b) 60 days after receipt of the application in all other cases.

PART 10 – APPLICATIONS FOR NON-FARM USE OR SUBDIVISION OF AGRICULTURAL LAND

Application must be filed with local government

- 29 (1) An owner who seeks permission under section 20 or 21 of the Act for use or subdivision of agricultural land must file an application in a form acceptable to the commission in the office of the responsible local government officer.
- (2) Subsection (1) does not apply to applications for transportation or utility uses filed with the commission under section 6.

Sections 19 and 21 apply

- 30 For the purposes of a local government resolution authorizing the application under section 34 of the Act, sections 19 and 21 of this regulation apply to the application, except that references in sections 19 and 21 of this regulation to section 30 (4) of the Act must be read as references to section 25 (3) of the Act.

Commission meeting

- 31 (1) If it considers it necessary or advisable, the commission may hold a meeting with respect to any application filed under section 29.
- (2) A meeting to determine an application under subsection (1) may be held at a time and place designated by the commission and may be adjourned from time to time.

PART 11 – GENERAL

Commission must give notice of decision

- 32 The commission must inform the applicant, the local government and, if applicable, the appropriate registrar of titles and the British Columbia Assessment Authority if the commission
- (a) includes and designates land under section 17 of the Act,
 - (b) grants permission for a non-farm use or a subdivision under section 25 of the Act, or
 - (c) excludes land or grants permission for a non-farm use or subdivision under section 29 or 30 of the Act.

Fees

- 33 (1) The prescribed application fees are as follows:
- (a) for permission under section 20 or 21 of the Act for a use or subdivision of agricultural land to which section 4 does not apply, \$600;
 - (b) for permission under section 29 or 30 of the Act for the exclusion of land from the reserve, \$600;
 - (c) for permission under section 34 (6) of the Act for applications filed directly with the commission, \$400.
- (2) The prescribed portion of the application fee that a local government may retain for the purposes of section 35 (1) of the Act is \$300 for an application

- (a) for exclusion under section 29 or 30 of the Act, or
 - (b) for use or subdivision under section 20 or 21 of the Act.
- (3) The prescribed times for the purposes of section 35 (1) (b) of the Act are at a time that occurs on or before March 31, June 30, September 30 and December 31 of each year.
- (4) The prescribed portion of an application fee that may be remitted by the commission to a local government for the purposes of section 35 (5) of the Act is \$200.

Mapping

- 34 (1) The agricultural land reserve boundary must be represented and maintained by the commission on land reserve plans using technology, standards and security procedures the commission considers appropriate.
- (2) The prescribed times for updating land reserve plans are at a time that occurs on or before January 31, April 30, July 31 and October 31 of each year.

Penalties

- 35 (1) Before the chief executive officer levies a penalty under section 54 of the Act, the chief executive officer must consider all of the following:
- (a) any contravention of a similar nature by the person;
 - (b) the gravity and magnitude of the contravention;
 - (c) whether the contravention was deliberate, repeated or continuous;
 - (d) whether there was an economic benefit derived by the person from the contravention;
 - (e) the person's cooperativeness and efforts to correct the contravention;
 - (f) the degree to which the contravention detrimentally affected or impaired the agricultural capability of the land or its suitability for farming.
- (2) The penalty which the chief executive officer may levy is in the complete discretion of the chief executive officer, but must not exceed \$100 000 for any single contravention.
- (3) The maximum penalty which the chief executive officer may levy for a second or subsequent contravention is double the amount of the penalty levied for the first contravention.
- (4) If the chief executive officer levies a penalty under section 54 of the Act against an owner of agricultural land, the chief executive officer must give the owner a notice setting out all of the following:
- (a) the nature of the contravention;
 - (b) the amount of the penalty;
 - (c) the date by which the penalty must be paid;
 - (d) a description of the owner's right to appeal the penalty.

Delivery of order under section 50, 52 or 54 of the Act

- 36 If the commission, chief executive officer or an official issues an order under section 50, 52 or 54 of the Act, the order must be delivered by registered mail or personal service.

Administrative appeals

- 37 (1) A person who is the subject of a determination, decision or order under section 50, 52, or 54 (1) of the Act may appeal the determination, decision or order by delivering to the commission a written notice of appeal in a form acceptable to the commission.
- (2) The notice of appeal under subsection (1) must include the grounds for the appeal and the relief requested and must be delivered to the commission not more than 60 days after the written determination, decision or order is personally served on the person.
- (3) The commission may establish procedures for the conduct of appeals including rules for the eligibility of intervenors, the admission of evidence and the form and content of written submissions.
- (4) The commission must hold a hearing to consider the appeal.
- (5) The commission must make a decision promptly after the hearing and serve copies of the written decision on the parties and any intervenors.

Powers of commission, chief executive officer and designated official

- 38 Under this regulation, if the commission, chief executive officer or a designated official is empowered to establish a condition or requirement, the commission, chief executive officer or designated official is also empowered to establish the manner and timing for carrying out the condition or requirement.

Delegation to authorities


- 39 The oil and gas commissioner appointed under the *Oil and Gas Commission Act* is prescribed as a public officer for the purposes of section 26 (1) (b) of the *Agricultural Land Commission Act*.

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL


Order in Council No. **573**, Approved and Ordered

RECEIVED
AND RESERVE
COMMISSION
JUL - 4 2002 JUL 9 2002

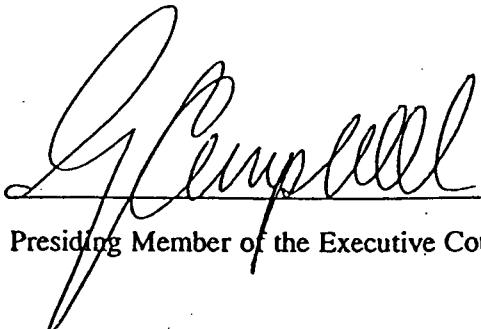

Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that B.C. Reg. 308/91, the Golf Course Development Moratorium Regulation, is repealed.



Minister of Sustainable Resource Management



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Environment and Land Use Act, Section 8

Other (specify): _____

538/2002/13

**MINISTRY OF SUSTAINABLE RESOURCE MANAGEMENT
CABINET INFORMATION NOTE**

MINISTER:

The Honourable Stan Hagen, Minister of Sustainable Resource Management and Cabinet.

DATE:

May 22, 2002

TITLE:

Repeal of Golf Course Development Moratorium Regulation 308/91.

ISSUE:

This Order in Council is made under section 8 of the *Environment and Land Use Act*. It will repeal Regulation 308/91 which is considered spent and of no force and effect on the regulation of golf courses and associated facilities in the Agricultural Land Reserve.

BACKGROUND:

- Between 1988 and 1991, golf courses and associated facilities were permitted by regulation in the Agricultural Land Reserve.
- In November 1991, a provision under the Agricultural Land Commission Act Regulation 7/81, which permitted golf courses within the Agricultural Land Reserve, was repealed.
- Regulation 308/91 was passed to explicitly prohibit golf course development within the Agricultural Land Reserve. 73 golf course proposals, received by the Commission prior to the regulation being passed, were exempted from this prohibition. The Regulation required the Agricultural Land Commission to review the remaining proposals and recommend to the Environment and Land Use Commission those that should also be exempt from this Regulation.
- The *Golf Course Development Moratorium Act* was passed in 1992 which provided for a "sunset clause", allowing specified golf course developments to proceed within a two year period to a level of completion determined by the Commission.
- The purpose for which Regulation 308/91 was established has been satisfied and the Regulation is spent.

FISCAL MANAGEMENT CONSIDERATIONS:

- There are no fiscal management considerations.

SIGNIFICANT POLICY OR LEGAL IMPLICATIONS:

- There are no policy or legal implications.
- No change is anticipated to the regulation of this issue in the proposal to pass a new *Agricultural Land Commission Act* and the anticipated new "Use, Subdivision and Procedure Regulation" for the Agricultural Land Reserve.
- Golf courses will continue to be a use for which applications can be made and approval from the Commission is required.

CONSULTATIONS: FOR ORDERS OF A SIGNIFICANT NATURE TO SUBMISSIONS

- No consultations were required or undertaken.

APPENDICES TO SUBMISSIONS

Regulation 308/91.

Contact:

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**2003 Legislative Session: 4th Session, 37th Parliament
FIRST READING**

The following electronic version is for informational purposes only.
The printed version remains the official version.

**HONOURABLE STAN HAGEN
MINISTER OF SUSTAINABLE
RESOURCE MANAGEMENT**

BILL 73 -- 2003

**SUSTAINABLE RESOURCE MANAGEMENT
STATUTES AMENDMENT ACT, 2003**

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

Agricultural Land Commission Act

1 Section 20 (5) (b) of the Agricultural Land Commission Act, S.B.C. 2002, c. 36, is repealed and the following substituted:

(b) order that an application to the commission under subsection (3) is required for permission to engage in the use and may include as a term in the order that the person cease or not engage in the use until the application is determined.

2 Section 34 (1) is repealed and the following substituted:

(1) In this section and in sections 35 and 36, "**application**" means an application for inclusion under section 17, for exclusion under section 29 or 30, for a non-farm use under section 20 or for a subdivision under section 21.

3 Section 56 (1) is amended by striking out "sections 49, 50 and 52 to 55 apply to" and substituting "sections 49 to 55 apply to".

Explanatory Notes

Agricultural Land Commission Act

SECTION 1: *[Agricultural Land Commission Act, repeals and replaces section 20 (5) (b)]*

- authorizes the chief executive officer to order that an application under section 20 (3) is required for soil removal or placement of fill without offering terms and conditions to the owner of the land;
- corrects a reference.

SECTION 2: *[Agricultural Land Commission Act, repeals and replaces section 34 (1)]* clarifies the intent of the provision.

SECTION 3: *[Agricultural Land Commission Act, amends section 56 (1)]* adds the powers under section 51 to the powers that may be exercised under section 56.

Important Information (disclaimer and copyright information)

B.C. Reg. 171/2002
O.C. 571/2002

Deposited July 5, 2002
effective November 1, 2002

Agricultural Land Commission Act

AGRICULTURAL LAND RESERVE USE, SUBDIVISION AND PROCEDURE REGULATION

[includes amendments up to B.C. Reg. 546/2004, December 31, 2004]

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Part 1 — Interpretation

Definitions and interpretation

1 (1) In this regulation:

"Act" means the *Agricultural Land Commission Act*;

"aggregate" includes sand, gravel, crushed stone, quarry rock and similar materials used in the construction and maintenance of civil and structural projects;

"agroforestry" means a land use that involves deliberate retention, introduction or mixing of trees or other plants in crop and animal production systems to provide an economic return;

"agri-tourism" means a tourist activity, service or facility accessory to land that is classified as a farm under the *Assessment Act*;

"applicant" includes a reference to the agent of the applicant;

"aquaculture" has the same meaning as under the *Fisheries Act*;

"compost" means a product that is

- (a) a stabilized earthy matter having the properties and structure of humus,
- (b) beneficial to plant growth when used as a soil amendment,
- (c) produced by composting, and
- (d) derived only from organic matter;

"farm" means an occupation or use, for farm purposes, of one or several parcels of land or tenured areas of Crown land;

"farm product" means a commodity that is produced from a farm use as defined in the Act or designated by this regulation;

"immediate family" means, with respect to an owner, the owner's

- (a) parents, grandparents and great grandparents,
- (b) spouse, parents of spouse and stepparents of spouse,
- (c) brothers and sisters, and
- (d) children or stepchildren, grandchildren and great grandchildren;

"jurisdictional area" means,

- (a) in relation to a local government, the land over which that government has legislative authority,
- (b) in relation to a treaty first nation government, the treaty settlement lands for that first nation, and
- (c) in relation to a pre-treaty first nation government, the proposed treaty settlement lands for that first nation;

"managed organic matter" means Class A or Class B biosolids or Class B compost as those things are defined in the Organic Matter Recycling Regulation, B.C. Reg. 18/2002;

"newspaper" has the same meaning as in section 5 of the *Local Government Act*;

"parcel" means land that is the subject of a single indefeasible title under the *Land Title Act*;

"pre-treaty first nation government" means a first nation government referred to in paragraph (b) of the definition of "first nation government" in section 1 of the Act;

"sleeping unit" means

- (a) a bedroom or other area used as a bedroom in a cabin, dwelling or accessory building, and

(b) a tent or recreational vehicle on a campsite;

"soil amendment" means compost, manure, mulches, fertilizer and soil conditioners;

"treaty first nation government" means a first nation government referred to in paragraph (a) of the definition of "first nation government" in section 1 of the Act.

(2) Nothing in this regulation is to be interpreted as relieving an owner, an applicant or an approving officer from complying with any other enactment, bylaw or decision of a responsible authority that may apply, including zoning, subdivision and any other legislation.

[am. B.C. Reg. 339/2004, s. 1.]

Part 2 — Permitted Uses

Activities designated as farm use

2 (1) For the purposes of subsection (2) (b), **"ancillary use"** means any of the following activities carried on at a British Columbia licensed winery or cidery:

(a) processing, storage and retail sales;

(b) tours;

(c) a food and beverage service lounge, if the area does not exceed 125 m² indoors and 125 m² outdoors.

(2) The following activities are designated as farm use for the purposes of the Act and may be regulated but must not be prohibited by any local government bylaw except a bylaw under section 917 of the *Local Government Act* or, if the activity is undertaken on treaty settlement lands, by a law of the applicable treaty first nation government:

(a) farm retail sales if

(i) all of the farm product offered for sale is produced on the farm on which the retail sales are taking place, or

(ii) at least 50% of the retail sales area is limited to the sale of farm products produced on the farm on which the retail sales are taking place and the total area, both indoors and outdoors, used for the retail sales of all products does not exceed 300 m²;

(b) a British Columbia licensed winery or cidery and an ancillary use if the wine or cider produced and offered for sale is made from farm product and

(i) at least 50% of that farm product is grown on the farm on which the winery or cidery is located, or

(ii) the farm that grows the farm products used to produce wine or cider is more than 2 ha in area, and, unless otherwise authorized by the commission, at least 50% of the total farm product for processing is provided under a minimum 3 year contract from a farm in British Columbia;

(c) storage, packing, product preparation or processing of farm products, if at least 50% of the farm product being stored, packed, prepared or processed is produced on the farm or is feed required for farm production

purposes on the farm;

(d) land development works including clearing, levelling, draining, berming, irrigating and construction of reservoirs and ancillary works if the works are required for farm use of that farm;

(e) agri-tourism activities, other than accommodation, on land that is classified as a farm under the *Assessment Act*, if the use is temporary and seasonal, and promotes or markets farm products grown, raised or processed on the farm;

(f) timber production, harvesting, silviculture and forest protection;

(g) agroforestry, including botanical forest products production;

(h) horse riding, training and boarding, including a facility for horse riding, training and boarding, if

(i) the stables do not have more than 40 permanent stalls, and

(ii) the facility does not include a racetrack licensed by the British Columbia Racing Commission;

(i) the storage and application of fertilizers, mulches and soil conditioners;

(j) the application of soil amendments collected, stored and handled in compliance with the Agricultural Waste Control Regulation, B.C. Reg. 131/92;

(k) the production, storage and application of compost from agricultural wastes produced on the farm for farm purposes in compliance with the Agricultural Waste Control Regulation, B.C. Reg. 131/92;

(l) the application of compost and biosolids produced and applied in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002;

(m) the production, storage and application of Class A compost in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002, if all the compost produced is used on the farm;

(n) soil sampling and testing of soil from the farm;

(o) the construction, maintenance and operation of farm buildings including, but not limited to, any of the following:

(i) a greenhouse;

(ii) a farm building or structure for use in an intensive livestock operation or for mushroom production;

(iii) an aquaculture facility.

(3) Any activity designated as farm use includes the construction, maintenance and operation of a building, structure, driveway, ancillary service or utility necessary for that farm use.

(4) Unless permitted under the *Water Act* or the *Waste Management Act*, any use specified in subsection (2) includes soil removal or placement of fill necessary for that use as long as it does not

(a) cause danger on or to adjacent land, structures or rights of way, or

(b) foul, obstruct or impede the flow of any waterway.

(5) The removal of soil or placement of fill as part of a use designated in subsection (2) must be considered to be a designated farm use and does not require notification except under section 4.

[am. B.C. Reg. 339/2004, s. 2.]

Permitted uses for land in an agricultural land reserve

3 (1) The following land uses are permitted in an agricultural land reserve unless otherwise prohibited by a local government bylaw or, for lands located in an agricultural land reserve that are treaty settlement lands, by a law of the applicable treaty first nation government:

(a) accommodation for agri-tourism on a farm if

(i) all or part of the parcel on which the accommodation is located is classified as a farm under the *Assessment Act*,

(ii) the accommodation is limited to 10 sleeping units in total of seasonal campsites, seasonal cabins or short term use of bedrooms including bed and breakfast bedrooms under paragraph (d), and

(iii) the total developed area for buildings, landscaping and access for the accommodation is less than 5% of the parcel;

(b) for each parcel,

(i) one secondary suite within a single family dwelling, and

(ii) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family;

(c) a home occupation use, that is accessory to a dwelling, of not more than 100 m² or such other area as specified in a local government bylaw, or treaty first nation government law, applicable to the area in which the parcel is located;

(d) bed and breakfast use of not more than 4 bedrooms for short term tourist accommodation or such other number of bedrooms as specified in a local government bylaw, or treaty first nation government law, applicable to the area in which the parcel is located;

(e) operation of a temporary sawmill if at least 50% of the volume of timber is harvested from the farm or parcel on which the sawmill is located;

(f) biodiversity conservation, passive recreation, heritage, wildlife and scenery viewing purposes, as long as the area occupied by any associated buildings and structures does not exceed 100 m² for each parcel;

(g) use of an open land park established by a local government or treaty first nation government for any of the purposes specified in paragraph (f);

(h) breeding pets or operating a kennel or boarding facility;

(i) education and research except schools under the *School Act*, respecting any use permitted under the Act and this regulation as long as the area occupied by any buildings or structures necessary for the education or

research does not exceed 100 m² for each parcel;

(j) production and development of biological products used in integrated pest management programs as long as the area occupied by any buildings or structures necessary for the production or development does not exceed 300 m² for each parcel;

(k) aggregate extraction if the total volume of materials removed from the parcel is less than 500 m³, as long as the cultivatable surface layer of soil is salvaged, stored on the parcel and available to reclaim the disturbed area;

(l) force mains, trunk sewers, gas pipelines and water lines within an existing dedicated right of way;

(m) telecommunications equipment, buildings and installations as long as the area occupied by the equipment, buildings and installations does not exceed 100 m² for each parcel;

(n) construction and maintenance, for the purpose of drainage or irrigation or to combat the threat of flooding, of

(i) dikes and related pumphouses, and

(ii) ancillary works including access roads and facilities;

(o) unpaved airstrip or helipad for use of aircraft flying non-scheduled flights;

(p) the production, storage and application of Class A compost in compliance with the Organic Matter Recycling Regulation, B.C. Reg. 18/2002, if at least 50% of the compost measured by volume is used on the farm.

(2) Nothing in subsection (1) (a) is to be interpreted as permitting the conversion of a building into strata lots by an owner.

(3) If a use is permitted under subsection (1) (k) it is a condition of the use that once the extraction of aggregate is complete, the disturbed area must be rehabilitated in accordance with good agricultural practice.

(4) The following land uses are permitted in an agricultural land reserve:

(a) any

(i) ecological reserve established under the *Ecological Reserve Act* or by the *Protected Areas of British Columbia Act*,

(ii) park established under the *Park Act* or by the *Protected Areas of British Columbia Act*,

(iii) protected area established under the *Environment and Land Use Act*,

(iv) wildlife management area established under the *Wildlife Act*, or

(v) recreation reserve established under the *Land Act*;

(b) dedication or upgrading of an existing road with vehicular access and use declared to be a highway under section 42 of the *Transportation Act*;

- (c) road construction or upgrading within a dedicated right of way that has a constructed road bed for vehicular access and use;
 - (d) if the widening or works does not result in an overall right of way width of more than 24 m, widening of an existing constructed road right of way for
 - (i) safety or maintenance purposes, or
 - (ii) drainage or flood control works;
 - (d.1) widening an existing constructed road right of way to ease one curve;
 - (e) establishing as a forest service road
 - (i) an existing road under the *Forest Act*, or
 - (ii) a new road in a managed forest;
 - (f) increasing the right of way width of a forest service road by up to 4 m if the widening does not result in an overall right of way width of more than 24 m;
 - (g) railway construction, upgrading and operations on an existing railbed within a dedicated right of way, including widening of an existing railway right of way if the widening does not result in an overall right of way width of more than 30 m;
 - (h) surveying, exploring or prospecting for gravel or minerals if all cuts, trenches and similar alterations are restored to the natural ground level on completion of the surveying, exploring or prospecting;
 - (i) surface water collection for farm use or domestic use, water well drillings, connection of water lines, access to water well sites and required rights of way or easements;
 - (j) soil research or testing as long as the soil removed or fill placed is only in an amount necessary for the research or testing.
- (5) Any permitted use specified in subsection (1) or (4) includes the construction, maintenance and operation of buildings, structures, driveways, ancillary services and utilities necessary for that use.
- (6) Unless permitted under the *Water Act* or the *Waste Management Act*, any use specified in subsection (1) or (4) includes soil removal or placement of fill necessary for that use as long as the soil removal or placement of fill does not
- (a) cause danger on or to adjacent land, structures or rights of way, or
 - (b) foul, obstruct or impede the flow of any waterway.

[am. B.C. Regs. 339/2004, s. 3; 546/2004, App. s. 1.]

Part 3 — Soil Removal and Placement of Fill

Notification requirements for specified farm uses

4 (1) The removal of soil and placement of fill for the following farm uses are exempt from the requirement to file an application under section 20 of the Act if the requirements in subsections (2), (3) and (4) are met:

(a) the construction, maintenance and operation of a greenhouse on an area of land if the area occupied by the greenhouse is greater than 2% of the area of the parcel;

(b) the construction, maintenance and operation of a farm building or structure, for use in an intensive livestock operation or for mushroom production, if the area occupied by the farm building or structure is greater than 2% of the area of the parcel;

(c) the construction, maintenance and operation of an aquaculture facility if the area occupied by the aquaculture facility is greater than 2% of the area of the parcel;

(d) the construction, maintenance and operation of a composting facility for the production of Class A compost as defined in the Organic Matter Recycling Regulation, B.C. Reg. 18/2002 or compost from agricultural waste, if the area occupied by the facility is greater than 2% of the area of the parcel;

(e) a turf farm.

(2) An owner must notify the commission and the applicable local government or treaty first nation government of the owner's intent to remove soil or place fill for the uses described in subsection (1) at least 60 days before engaging in the intended use by filing with the commission a notice in a form acceptable to the commission.

(3) If the chief executive officer requests additional information on the extent and method of soil removal or placement of fill within 30 days of receipt of the notice under subsection (2), it must be provided by the owner of the land in the form of an amended notice within 30 days of receipt of the request.

(4) The owner must comply with the restrictions on the use and the terms and conditions for the conduct of that use of agricultural land ordered by the chief executive officer under section 20 (5) of the Act provided that the order is made within 30 days of a notice under subsection (2) or within 45 days of an amended notice under subsection (3).

(5) If the owner does not agree to the restrictions on the use or the terms and conditions ordered by the chief executive officer, the owner may apply to the commission for permission for a non-farm use under section 20 (3) of the Act.

[am. B.C. Reg. 339/2004, s. 4.]

Notification requirements for specified non-farm uses

5 (1) The removal of soil and placement of fill are exempt from the requirement to file an application under section 20 of the Act as long as the requirements in subsections (2), (3) and (4) are met and the removal or placement is for one or more of the following uses:

(a) aggregate extraction if the total volume of material removed is more than 500 m³;

(b) peat extraction;

(c) placer works including the exploration, development and production of placer minerals as defined in the *Mineral Tenure Act*;

(d) the construction, maintenance and operation of a composting facility for the production of managed organic matter.

(2) The owner must notify the commission and the applicable local government or treaty first nation government of the owner's intent to remove soil or place fill for the uses described in subsection (1) at least 60 days before engaging in the intended use by filing with the commission a notice in a form acceptable to the commission.

(3) If the chief executive officer requests additional information on the extent and method of soil removal and reclamation within 30 days of receipt of the notice under subsection (2), it must be provided in the form of an amended notice within 30 days of receipt of the request.

(4) The owner must comply with the restrictions on the use and the terms and conditions for the conduct of that use of agricultural land ordered by the chief executive officer under section 20 (5) of the Act provided that order is made within 30 days of a notice under subsection (2) or within 45 days of an amended notice under subsection (3).

(5) If the owner does not agree to the restrictions on the use or the terms and conditions ordered by the chief executive officer, the owner may apply to the commission for permission for a non-farm use under section 20 (3) of the Act.

[am. B.C. Reg. 339/2004, ss. 4 and 5.]

Part 4 — Applications Filed Directly with the Commission

Transportation and utility use applications

6 Unless permitted under sections 2 and 3, a person must file an application under section 34 (6) of the Act directly with the office of the commission and in a form acceptable to the commission for any of the following uses:

- (a) widening of an existing road right of way;
- (b) construction of a road within an existing right of way;
- (c) dedication of a right of way or construction of any of the following:
 - (i) a new or existing road or railway;
 - (ii) a new or existing recreational trail;
 - (iii) a utility corridor use;
 - (iv) a sewer or water line other than for ancillary utility connections;
 - (v) a forest service road under the *Forest Act*;
- (d) the new use of an existing right of way for a recreational trail.

Notice of application under section 34 (6) of the Act

7 A person who applies to the commission under section 34 (6) of the Act must notify the owners of the land

involved in the proposal using a form acceptable to the commission.

Notice of decision to be given to local government

8 Before issuing an order under the Act with respect to an application made under section 6, the commission may request comments and information from the applicable local government or treaty first nation government and the commission must inform that local government or treaty first nation government of its decision.

[am. B.C. Reg. 339/2004, s. 6.]

Part 5 — Permitted Subdivisions

Application of this Part

9 This Part applies to a plan of subdivision, all or part of which consists of land in an agricultural land reserve.

Subdivision approval

10 (1) Despite section 18 (b) of the Act, an approving officer under the *Land Title Act*, the *Local Government Act* or the *Strata Property Act* or a person who exercises the powers of an approving officer under any other Act may authorize or approve a plan of subdivision without the approval of the commission if the proposed plan achieves one or more of the following:

- (a) consolidates 2 or more parcels into a single parcel by elimination of common lot lines;
- (b) resolves a building encroachment on a property line and creates no additional parcels;
- (c) involves not more than 4 parcels, each of which is a minimum of 1 ha, and results in all of the following:
 - (i) no increase in the number of parcels;
 - (ii) boundary adjustments that, in the opinion of the approving officer, will allow for the enhancement of the owner's overall farm or for the better utilization of farm buildings for farm purposes;
 - (iii) no parcel in the reserve of less than 1 hectare;
- (d) establishes a legal boundary along the boundary of an agricultural land reserve.

(2) An approving officer who declines to authorize or approve a plan must give notice of that decision to the person who made the application.

(3) A person who receives a notice under subsection (2) may apply to the commission with respect to the proposed subdivision.

Certification and deposit of approved plan

11 (1) If an approval is granted under section 10, the approving officer must

- (a) endorse on the plan a certificate acceptable to the commission, and

(b) provide a copy of the approved plan to the commission.

(2) If the requirements of subsection (1) (a) are met, a registrar of titles under the *Land Title Act* may accept the endorsed plan for deposit.

[am. B.C. Reg. 339/2004, s. 7.]

Part 6 — Government Applications and Commission Proposals for Inclusion in or Exclusion from Reserve

Form of application or proposal

12 (1) An application of a local government or a treaty first nation government to the commission under section 17 or 29 of the Act must be in a form acceptable to the commission and be accompanied by

(a) a report of any public hearing conducted under section 17 (2) or 29 (2) of the Act,

(b) any additional public comments, and

(c) any other supporting material the commission may require.

(2) If the commission acts on its own initiative under section 17 or 29 of the Act

(a) the proposal of the commission must include information and any other supporting material the commission considers necessary, and

(b) the commission must send a copy of the proposal and supporting material to the applicable local government or treaty first nation government.

[am. B.C. Reg. 339/2004, s. 8.]

Copy of application must be sent to affected government

12.1 If a local government or a treaty first nation government makes an application under section 17 or 29 of the Act in respect of land within that government's jurisdictional area, a copy of the application must also be sent by the applicant to the following:

(a) if the land to which the application relates is adjacent to the jurisdictional area of a different local government or treaty first nation government, that different local government or treaty first nation government;

(b) each local government or treaty first nation government whose interests, the applicant believes, will be affected by the application.

[en. B.C. Reg. 339/2004, s. 9.]

Notice of application

12.2 (1) Before making an application under section 17 (1) or 29 of the Act, the applicant must give notice of the application by posting on the land to which the application relates, on a sign measuring at least 60 cm by 120 cm and positioned at the midpoint of a boundary of that land that is adjacent to a constructed road right of way if one exists,

(a) a copy of the signed application, and

(b) a copy of a notice of application in a form acceptable to the commission.

(2) Despite subsection (1), if the requirements of that subsection are not practical, the notice may be given in an alternative means acceptable to the commission.

[en. B.C. Reg. 339/2004, s. 9.]

Notice of public hearing

13 (1) The commission, local government or treaty first nation government holding a public hearing required by section 17 (2) or 29 (2) of the Act must publish a notice of hearing in accordance with this section.

(2) The notice of hearing must be published in at least 2 issues of a newspaper published or circulated in the municipality, regional district or treaty settlement lands within which the land to which the application relates is located, with the last of these publications appearing not less than 3 days and not more than 10 days before the date of the hearing.

(3) The notice of hearing must

(a) state the time and place of the public hearing,

(b) identify in a general manner the land affected, but need not use the legal description of the land affected,

(c) state in general terms the intent of the application, and

(d) state when and where a copy of the application may be inspected.

[am. B.C. Reg. 339/2004, s. 10.]

Procedure at public hearing

14 (1) At a public hearing under section 17 (2) or 29 (2) of the Act, all persons must be afforded an opportunity to be heard on matters related to the application.

(2) The public hearing may be adjourned from time to time.

(3) A member of the commission, local government or treaty first nation government who was not present at the public hearing may vote on the application if an oral or written report of the hearing has been given to the member.

(4) The commission, local government or treaty first nation government holding the public hearing may, without further notice, allow amendment to the proposed application to give such effect as it considers fit to accommodate representations made at the hearing.

[am. B.C. Reg. 339/2004, s. 11.]

Part 7 — Owner Applications for Exclusion from Reserve

Form and filing of exclusion application

15 (1) An exclusion application under section 30 of the Act must be in a form acceptable to the commission and must be filed,

- (a) if the exclusion application is one referred to in section 34 (3.1) of the Act, with the commission, or
- (b) in any other case, with the applicable local government or treaty first nation government.

(2) An exclusion application must be accompanied by the following when submitted for filing under subsection (1):

- (a) an original copy of each advertisement required under section 16 (1) (a), as published with the date of publication clearly indicated;
- (b) a photograph clearly indicating the manner in which the notice was posted under section 16 (1) (b);
- (c) a signed statement by the owner of the land stating
 - (i) the name and address of each person served under section 16 (1) (c),
 - (ii) the date of service, and
 - (iii) the manner of service.

[am. B.C. Reg. 339/2004, s. 12.]

Notice of exclusion application

16 (1) Before filing an exclusion application under section 15 (1), an owner must give notice of the exclusion application by doing all of the following:

- (a) publishing a notice of the exclusion application in at least 2 issues of a newspaper published or circulated in the municipality, regional district or treaty settlement lands within which the land to which the exclusion application relates is located, not less than 7 days and not more than 14 days apart, inclusive of the day of publication;
- (b) posting on the land that is the subject of the exclusion application, on a sign measuring at least 60 cm by 120 cm and positioned at the midpoint of a boundary of that land that is adjacent to a constructed road right of way if one exists,
 - (i) a copy of the signed exclusion application, and
 - (ii) a copy of the notice of exclusion application;
- (c) serving, personally or by registered mail, a copy of the signed exclusion application and a copy of the notice of exclusion application on each owner of land, in an agricultural land reserve, that
 - (i) shares a common boundary with the land for which the exclusion application is being made, or

(ii) is separated by a public road right of way from the land for which the exclusion application is being made.

(2) Each advertisement under subsection (1) (a) and copy of the notice posted under subsection (1) (b) must be in a form acceptable to the commission.

(3) Despite subsections (1) and (2), if the requirements of those subsections are not practical, the notice may be given in an alternative means acceptable to the commission.

(4) If an owner of land who files an exclusion application under section 15 (1) receives a response to a notice given under this section, the owner must,

(a) if the application was filed with the commission under section 15 (1) (a), forward a copy of the response to the commission, or

(b) if the application was filed with a local government or treaty first nation government under section 15 (1) (b), forward a copy of the response to that local government or treaty first nation government.

[am. B.C. Reg. 339/2004, s. 13.]

Copy of exclusion application must be sent to government for adjacent land

16.1 If land to which an exclusion application filed under section 15 (1) relates is in one jurisdictional area but shares a common boundary with another jurisdictional area, the applicant must, promptly after filing the exclusion application under section 15 (1), send a copy of the exclusion application to the local government or first nation government for that second mentioned jurisdictional area.

[en. B.C. Reg. 339/2004, s. 14.]

When local government or treaty first nation government can consider exclusion application

17 A local government or treaty first nation government with which an exclusion application is filed under section 15 (1) (b) must not consider that exclusion application under section 30 (4) of the Act until 14 days after all relevant documents have been published, posted and served under section 16 of this regulation.

[en. B.C. Reg. 339/2004, s. 15.]

Local government or treaty first nation government must consider exclusion application

18 Promptly after an owner making an exclusion application to which section 15 (1) (b) applies has complied with sections 15 and 16, the local government or treaty first nation government with which the exclusion application is filed under section 15 (1) (b) must consider the exclusion application under section 30 (4) of the Act.

[en. B.C. Reg. 339/2004, s. 15.]

Procedure to authorize resolution under section 30 of the Act

19 If an exclusion application is filed under section 15 (1) of this regulation and section 30 (4) or (4.1) of the Act applies, further proceedings must not be taken unless,

(a) in the case of an exclusion application to which section 30 (4) of the Act applies, the local government with which the exclusion application is filed passes the resolution referred to in section 30 (4) of the Act authorizing the exclusion application, or

(b) in the case of an exclusion application to which section 30 (4.1) of the Act applies, the treaty first nation government with which the exclusion application is filed passes the law referred to in section 30 (4.1) of the Act authorizing the exclusion application.

[en. B.C. Reg. 339/2004, s. 15.]

Public information meetings

20 If an exclusion application is filed under section 15 (1) of this regulation, the commission or the local government or first nation government in whose jurisdictional area is located the land to which the exclusion application relates may hold a public information meeting with respect to that exclusion application.

[en. B.C. Reg. 339/2004, s. 15.]

Local government or first nation government forwards exclusion application

21 (1) Subject to section 19, within the applicable time limit under subsection (2) of this section, the local government or first nation government in whose jurisdictional area is located the land to which an exclusion application relates must send to the commission all of the following:

(a) the exclusion application, including the materials required under section 15 (2) and copies of responses received as a result of a notice under section 16;

(b) its comments and recommendations required under section 34 (4) of the Act in a form acceptable to the commission;

(c) a certified copy of any resolution required under section 30 (4) of the Act or of any law required under section 30 (4.1) of the Act;

(d) a report of the public information meeting if one is held;

(e) the comments, if any, of a local government or first nation government to which the exclusion application has been sent under section 16.1 of this regulation;

(f) any other information it wants the commission to consider concerning the exclusion application.

(2) The time limit for sending materials under subsection (1) is

(a) 90 days after receipt of the exclusion application, if a public information meeting is held under section 20, and

(b) 60 days after receipt of the exclusion application in all other cases.

[en. B.C. Reg. 339/2004, s. 15.]

Part 8 — Provisions for Meetings to Determine Applications for Exclusion

Notice of commission meeting

22 (1) A meeting of the commission to determine an exclusion application under section 30 of the Act must be held at a time and at a place designated by the commission and may be adjourned from time to time.

(2) Not more than 30 days before a meeting required under subsection (1) of this section, the commission must give written notice of the time and place of the meeting to all of the following:

- (a) the applicant;
- (b) the local government or first nation in whose jurisdictional area is located the land to which the exclusion application relates;
- (c) if the commission considers it advisable, the owners of the land located adjacent to the land that is the subject of the exclusion application.

(3) The notice of the meeting must do all of the following:

- (a) state the time and place of the meeting;
- (b) identify the land that is subject of the exclusion application;
- (c) state the purpose of the exclusion application;
- (d) state the time and place at which the exclusion application and the documents relating to the application may be inspected.

[am. B.C. Reg. 339/2004, s. 16.]

Applicant to be given access to relevant information

23 (1) The commission must cause to be delivered to the applicant, by registered mail or personal service, including electronic mail,

- (a) a copy of the exclusion application, except for the information supplied by the applicant, and
- (b) a copy of any other information related to the exclusion application for consideration at the meeting.

(2) At the request of the applicant but subject to the *Freedom of Information and Protection of Privacy Act*, the commission must allow the applicant to inspect all relevant documents in the custody of the commission relating to the exclusion application.

[am. B.C. Reg. 339/2004, s. 17.]

Procedure at commission meeting

24 For the purpose of the meeting, the commission may do one or more of the following:

- (a) hear representations from the applicant;
- (b) accept written submissions or any other form of evidence even though it may not be evidence in a court of law;
- (c) hear representations, evidence and opinions of any person present or represented at the meeting, and of the local government or first nation government in whose jurisdictional area is located the land to which the exclusion application relates, that, in the opinion of the commission, are relevant to the exclusion application.

[am. B.C. Reg. 339/2004, s. 18.]

Commission to notify applicant of evidence presented

25 (1) This section applies if evidence is presented at the meeting and a statement or summary of that evidence has not been sent to the applicant.

(2) If the applicant is present at the meeting, the commission may

- (a) hear further representations in respect of the additional evidence, or
- (b) adjourn the meeting to enable the applicant to answer that evidence.

(3) If the applicant or applicant's agent is not present at the meeting, the commission must notify the applicant by registered mail, electronic mail or personal service of

- (a) the additional evidence presented at the meeting, and
- (b) the time within which the additional evidence may be answered.

Part 9 — Owner Applications to Include Land in Reserve

Application by owner

26 (1) If an owner's land is not included in a land reserve plan, the owner may apply under section 17 (3) of the Act to have the land designated as part of an agricultural land reserve.

(2) An inclusion application under section 17 (3) of the Act must be in a form acceptable to the commission and must be filed,

- (a) if the inclusion application is one referred to in section 34 (3.1) of the Act, with the commission, or
- (b) in any other case, with the applicable local government or treaty first nation government.

[am. B.C. Reg. 339/2004, s. 19.]

**Copy of inclusion application must be sent
to government for adjacent land**

26.1 If land to which an inclusion application filed under section 26 (2) relates is in one jurisdictional area but shares a common boundary with another jurisdictional area, the applicant must promptly after filing the inclusion application under section 26 (2) send a copy of the inclusion application to the local government or first nation government for that second mentioned jurisdictional area.

[en. B.C. Reg. 339/2004, s. 20.]

Public information meetings

27 If an inclusion application is filed under section 26 (2), the commission or the local government or first nation government in whose jurisdictional area is located the land to which the inclusion application relates may hold a public information meeting with respect to that inclusion application.

[en. B.C. Reg. 339/2004, s. 21.]

Local government or first nation government submission to commission

28 (1) Within the applicable time limit under subsection (2), the local government or first nation government in whose jurisdictional area is located the land to which an inclusion application relates must send to the commission all of the following:

- (a) the inclusion application and any supporting information it wants the commission to consider;
- (b) its comments and recommendations required under section 34 (4) of the Act in a form acceptable to the commission;
- (c) the comments, if any, of a local government or first nation government to which the inclusion application has been sent under section 26.1 of this regulation.

(2) The time limit for sending materials under subsection (1) is

- (a) 90 days after receipt of the inclusion application, if a public information meeting is held under section 27, and
- (b) 60 days after receipt of the inclusion application in all other cases.

[en. B.C. Reg. 339/2004, s. 21.]

Part 10 — Applications for Non-farm Use or Subdivision of Agricultural Land

Application must be filed with local government or treaty first nation government

29 (1) An owner of agricultural land who wishes to use that land for a non-farm use or who wishes to subdivide that land may apply for permission under section 20 or 21 of the Act.

(2) An application under section 20 or 21 of the Act must be in a form acceptable to the commission and must be filed,

(a) if the application is one referred to in section 34 (3.1) of the Act, with the commission, or

(b) in any other case, with the applicable local government or treaty first nation government.

(3) Subsections (1) and (2) do not apply to applications for transportation or utility uses filed with the commission under section 6 of this regulation.

[en. B.C. Reg. 339/2004, s. 21.]

Sections 19 and 21 apply

30 Sections 19 and 21 of this regulation apply to an application for permission for a non-farm use under section 20 (3) of the Act or an application for subdivision under section 21 (2) of the Act, and, for that purpose, in sections 19 and 21 of this regulation as they apply to that application,

(a) a reference to an exclusion application must be read as a reference to the application for permission for a non-farm use or for subdivision, as the case may be, and

(b) a reference to section 30 (4) or (4.1) of the Act must be read as a reference to section 25 (3) or (3.1) of the Act.

[en. B.C. Reg. 339/2004, s. 21.]

Commission meeting

31 (1) If it considers it necessary or advisable, the commission may hold a meeting with respect to any application filed under section 29.

(2) A meeting to determine an application under subsection (1) may be held at a time and place designated by the commission and may be adjourned from time to time.

Part 11 — General

Commission must give notice of decision

32 The commission must inform the applicant, the applicable local government or first nation government and, if applicable, the appropriate registrar of titles and the British Columbia Assessment Authority if the commission

(a) includes and designates land under section 17 of the Act,

(b) grants permission for a non-farm use or a subdivision under section 25 of the Act, or

(c) excludes land or grants permission for a non-farm use or subdivision under section 29 or 30 of the Act.

[am. B.C. Reg. 339/2004, s. 22.]

es

33 (1) The prescribed application fees are as follows:

- (a) for permission under section 20 or 21 of the Act for a use or subdivision of agricultural land to which section 4 does not apply, \$600;
 - (b) for permission under section 29 or 30 of the Act for the exclusion of land from the reserve, \$600;
 - (c) for permission under section 34 (6) of the Act for applications filed directly with the commission, \$400.
- (2) The prescribed portion of the application fee that a local government or first nation government may retain for the purposes of section 35 (1) of the Act is \$300 for an application
- (a) for exclusion under section 29 or 30 of the Act, or
 - (b) for use or subdivision under section 20 or 21 of the Act.
- (3) The prescribed times for the purposes of section 35 (1) (b) of the Act are at a time that occurs on or before March 31, June 30, September 30 and December 31 of each year.
- (4) The prescribed portion of an application fee that may be remitted by the commission to a local government or first nation government for the purposes of section 35 (5) of the Act is \$200.

[am. B.C. Reg. 339/2004, s. 23.]

Mapping

- 34** (1) The agricultural land reserve boundary must be represented and maintained by the commission on land reserve plans using technology, standards and security procedures the commission considers appropriate.
- (2) The prescribed times for updating land reserve plans are at a time that occurs on or before January 31, April 30, July 31 and October 31 of each year.

Penalties

- 35** (1) Before the chief executive officer levies a penalty under section 54 of the Act, the chief executive officer must consider all of the following:
- (a) any contravention of a similar nature by the person;
 - (b) the gravity and magnitude of the contravention;
 - (c) whether the contravention was deliberate, repeated or continuous;
 - (d) whether there was an economic benefit derived by the person from the contravention;
 - (e) the person's cooperativeness and efforts to correct the contravention;
 - (f) the degree to which the contravention detrimentally affected or impaired the agricultural capability of the land or its suitability for farming.
- (2) The penalty which the chief executive officer may levy is in the complete discretion of the chief executive officer, but must not exceed \$100 000 for any single contravention.

(3) The maximum penalty which the chief executive officer may levy for a second or subsequent contravention is double the amount of the penalty levied for the first contravention.

(4) If the chief executive officer levies a penalty under section 54 of the Act against an owner of agricultural land, the chief executive officer must give the owner a notice setting out all of the following:

- (a) the nature of the contravention;
- (b) the amount of the penalty;
- (c) the date by which the penalty must be paid;
- (d) a description of the owner's right to appeal the penalty.

Delivery of order under section 50, 52 or 54 of the Act

36 If the commission, chief executive officer or an official issues an order under section 50, 52 or 54 of the Act, the order must be delivered by registered mail or personal service.

Administrative appeals

37 (1) A person who is the subject of a determination, decision or order under section 50, 52, or 54 (1) of the Act may appeal the determination, decision or order by delivering to the commission a written notice of appeal in a form acceptable to the commission.

(2) The notice of appeal under subsection (1) must include the grounds for the appeal and the relief requested and must be delivered to the commission not more than 60 days after the written determination, decision or order is personally served on the person.

(3) The commission may establish procedures for the conduct of appeals including rules for the eligibility of intervenors, the admission of evidence and the form and content of written submissions.

(4) The commission must hold a hearing to consider the appeal.

(5) The commission must make a decision promptly after the hearing and serve copies of the written decision on the parties and any intervenors.

Powers of commission, chief executive officer and designated official

38 Under this regulation, if the commission, chief executive officer or a designated official is empowered to establish a condition or requirement, the commission, chief executive officer or designated official is also empowered to establish the manner and timing for carrying out the condition or requirement.

Delegation to authorities

39 The oil and gas commissioner appointed under the *Oil and Gas Commission Act* is prescribed as a public officer for the purposes of section 26 (1) (b) of the *Agricultural Land Commission Act*.

Note: this regulation repeals B.C. Regs. 448/98, 449/98, 450/98, 451/98 and 452/98

Provisions of the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36, relevant to the enactment of this regulation:
tion 58]

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2004
Amendments

Agricultural Land Commission Act

S.B.C. 2002, CHAPTER 36

[Current to last amendment, October 18, 2007]

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Definitions

1 (1) In this Act:

"agreement in principle" means a non-binding agreement, negotiated among a first nation government, the Province and Canada in accordance with a process developed under the *Treaty Commission Act*, that

- (a) has been approved by each party in accordance with the approval process provided in the agreement in principle, and
- (b) contemplates that legislative authority over all or part of the proposed treaty settlement lands described in the agreement in principle will, under a final agreement or a governance agreement and an enactment of the Province or Canada, be provided to the first nation;

"agricultural land" means land designated as agricultural land under this Act and includes agricultural land under a former Act;

“agricultural land reserve” means agricultural land designated as an agricultural land reserve under this Act and includes an agricultural land reserve under a former Act;

“approving officer” means an approving officer as defined in the *Land Title Act*;

“authority” means an agent of the government, a public body or a public officer with whom the commission has an agreement under section 26 (1) (b) or 38;

“chief executive officer” means the person appointed under section 8 (1);

“commission” means the Provincial Agricultural Land Commission established under section 4;

“enactment of the Province or Canada” includes an enactment as defined in the *Interpretation Act* (Canada);

“farm use” means an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by regulation, and includes a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*;

“fill” means any material brought on land in an agricultural land reserve other than materials exempted by regulation;

“first nation government” means,

- (a) in relation to treaty settlement lands, the governing body of the first nation that has legislative authority over the treaty settlement lands, and
- (b) in relation to proposed treaty settlement lands, an aboriginal governing body that
 - (i) the first nation, in relation to which an agreement in principle applying to those lands has been entered into, has organized and established within its traditional territory in British Columbia, and
 - (ii) has been mandated by the members of that first nation to enter into treaty negotiations on their behalf in accordance with a process developed under the *Treaty Commission Act*;

“land reserve plan” means a plan, prepared under this Act, that sets out existing agricultural land reserves and the areas that may be designated by the commission or the Lieutenant Governor in Council as an agricultural land reserve and includes a land reserve plan under a former Act

“law”, in relation to a first nation government described in paragraph (a) of the definition of “first nation government”, means the result of the exercise by the first nation government of legislative authority provided to the first nation under

- (a) an enactment of the Province or Canada, or
- (b) a final agreement or a governance agreement, negotiated among the first nation government, the Province and Canada in accordance with a process developed under the *Treaty Commission Act*, and an enactment of the Province or Canada;

“local government” means

- (a) in relation to land within a municipality, the municipal council,
- (b) in relation to land within an electoral area but not within a local trust area, the board of the regional district, and
- (c) in relation to land within a local trust area under the *Islands Trust Act*, the local trust committee or the executive committee acting as a local trust committee for that area;

“non-farm use” means a use of land other than a farm use;

“notice to suspend negotiations” means a notice to suspend negotiations sent by one party to an agreement in principle to the other parties;

“official” means the chief executive officer and any employee of the commission or a person employed under the *Public Service Act* who is designated by name or title by the chief executive officer to be an official;

“owner”, subject to subsection (2), means

- (a) in relation to land registered in the records of the land title office, the person registered in those records as the fee simple owner of the land;
- (b) in relation to treaty settlement lands,
 - (i) if an agreement under this Act between a first nation government and the commission defines “owner” for the purposes of the application of this Act to the treaty settlement lands of the first nation, a person described by that definition, and
 - (ii) otherwise, the first nation government,
- (c) in relation to land vested in a municipality under section 35 of the *Community Charter*, the municipality, and
- (d) in relation to Crown land, the government;

“person” includes a first nation government;

“proposed treaty settlement lands” means land described in an agreement in principle as the land that will become, in whole or in part, the first nation’s treaty settlement lands under a final agreement or a governance agreement and an enactment of the Province or Canada;

“soil” includes the entire mantle of unconsolidated material above bedrock other than minerals as defined in the *Mineral Tenure Act*;

“treaty settlement lands” means land, other than land located within a reserve as defined in the *Indian Act* (Canada), that is subject to the legislative authority of a first nation under

- (a) an enactment of the Province or Canada, or
- (b) a final agreement or a governance agreement, negotiated among the first nation government, the Province and Canada in accordance with a process developed under the *Treaty Commission Act*, and an enactment of the Province or Canada.

- (2) For the purposes of an application under section 17 (3), 20 (3), 21 (2) or 30 (1) in relation to proposed treaty settlement lands, the first nation government may apply as if it were the owner of those lands from the date that
- (a) an agreement in principle in relation to those lands is approved by each party to it in accordance with the agreement in principle, or
 - (b) if a notice to suspend negotiations has earlier taken effect, an agreement among the parties to the agreement in principle to resume negotiations takes effect,
- until the earlier of the following dates:
- (c) the date an enactment of the Province or Canada establishes all or part of the proposed treaty settlement lands as treaty settlement lands;
 - (d) the date that a notice to suspend negotiations takes effect.
- (3) For the period that a first nation government is authorized to make an application in relation to proposed treaty settlement lands, the owner of that land may not make an application.

Application of other Acts

- 2 (1) This Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act* and the *Environmental Management Act* and as provided in this Act.
- (2) Despite section 14 (2) of the *Interpretation Act*, this Act binds the government.

Power under other Acts

- 3 A minister or an agent of the government must not exercise a power granted under another enactment except in accordance with this Act and the regulations.

Commission established

- 4 The Provincial Agricultural Land Commission is established as a corporation consisting of the members appointed under section 5.

Commission members

- 5 (1) The commission consists of at least 7 individuals appointed under this section who are knowledgeable in matters relating to agriculture, land use planning, local government or first nation government.
- (2) The Lieutenant Governor in Council must
- (a) appoint one individual as a member and the chair of the commission after a merit based process, and
 - (b) appoint one or more individuals as vice chairs of the commission after a merit based process and consultation with the chair.
- (3) The minister may appoint the members of the commission other than the chair and vice chairs after a merit based process and consultation with the chair.
- (4) The chair, vice chairs and members are the board of directors of the commission.

- (5) [Repealed 2003-47-12.]
- (6) Commission members must faithfully, honestly and impartially perform their duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as a member.

Application of *Administrative Tribunals Act*

5.1 Sections 1 to 10 of the *Administrative Tribunals Act* apply to the commission.

Purposes of the commission

- 6** The following are the purposes of the commission:
- (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest;
 - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Commission as agent of the government

7 The commission is an agent of the government.

Staff of the commission

- 8** (1) The Lieutenant Governor in Council may appoint, during pleasure, a chief executive officer of the commission, establish the terms of the appointment and set the remuneration of the chief executive officer.
- (2) The commission may determine the functions and duties of the chief executive officer.
- (3) The commission may appoint other officers and employees necessary for the purposes of the commission, determine their duties and set their remuneration.
- (4) The *Public Service Act* and the *Public Service Labour Relations Act* apply to the commission and its officers and employees other than the chief executive officer, except that the references to the agency head and a deputy minister in section 22 of the *Public Service Act* are to be read as references to the chief executive officer.
- (5) The chief executive officer may retain consultants considered advisable and may set their remuneration.

Operation of the commission

- 9** The commission may pass resolutions and bylaws it considers necessary or advisable for the management and conduct of its affairs, the exercise of its powers and the performance of its duties and functions.

Executive committee

- 10** (1) An executive committee of the commission is established, comprised of the chair of the commission and the vice chairs.

- (2) The chair of the commission is the chair of the executive committee.
- (3) The commission may delegate any of its functions to the executive committee and, when it performs those functions, the actions and decisions of the executive committee are the actions and decisions of the commission.

Panels

- 11**
- (1) In this section, “**panel**” means a panel established under subsection (2).
 - (2) The chair of the commission may establish up to 6 panels comprised of 2 or more members of the commission.
 - (3) The panels may be established according to geographic regions of British Columbia or according to any other criteria the commission may determine.
 - (4) The chair of the commission may designate a vice chair of the commission to chair a panel.
 - (5) A panel has all the powers, duties and functions of the commission in respect of an application or other matter before the commission, and a decision of a panel is for all purposes a decision of the commission.

Financial and corporate matters

- 12**
- (1) The financial year end of the commission is March 31 and the Minister of Finance is the fiscal agent of the commission.
 - (2) Not later than June 30 of each financial year, the commission must submit to the minister
 - (a) a service plan in accordance with the *Budget Transparency and Accountability Act*,
 - (b) a report of its operations during the preceding financial year, and
 - (c) a financial statement showing its business for that financial year and the preceding financial year, prepared in accordance with generally accepted accounting principles and the accounting policies and practices established by the Treasury Board.
 - (3) Subject to subsection (4), the *Business Corporations Act* does not apply to the commission.
 - (4) The Lieutenant Governor in Council, by order, may declare that specified provisions of the *Business Corporations Act* apply to the commission.

Dispute resolution on community issues

- 13**
- (1) In this section, “**community issue**” means a matter concerning one or more of the following:
 - (a) an application for a use of agricultural land for a school, hospital, publicly funded institution or public utility, or another purpose prescribed by regulation;
 - (b) a regional growth strategy under the *Local Government Act*;

- (c) the form and content of the official community plan of a local government;
 - (d) an agreement under section 26 (1);
 - (e) the form and content of a first nation government's plan that has the same or similar purposes as an official community plan of a local government.
- (2) If a dispute arises on a community issue, the commission and the local government or the first nation government, as applicable, may agree to attempt to resolve the dispute by a method of facilitated dispute resolution.
 - (3) If an agreement is made under subsection (2), the commission and the local government or the first nation government, as applicable, may appoint a facilitator.
 - (4) In making a recommendation to resolve a dispute, a facilitator must give weight to the following values in descending order of priority:
 - (a) agricultural values, including the preservation of agricultural land and the promotion of agriculture;
 - (b) environmental, economic, social and heritage values, but only if
 - (i) those values cannot be replaced or relocated to land other than agricultural land, and
 - (ii) giving weight to those values results in no net loss to the agricultural capabilities of the area.
 - (5) Each party must pay its own costs under this section.
 - (6) The provisions of this section do not restrict or limit the provisions of section 2, 3 or 46.

Completion of proceedings

- 14 (1) Subject to subsection (2), a member of the commission may take up and carry on to completion any proceeding commenced but not completed before the member's appointment.
- (2) A member of the commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote.

Inclusion of land in agricultural land reserve by the commission

- 15 For the purposes of section 6, the commission may designate as agricultural land, land, including Crown land, that is suitable for farm use, and on being designated the land is established as an agricultural land reserve.

Agricultural land to remain in reserve unless excluded

- 16 Land included in an agricultural land reserve remains agricultural land in the agricultural land reserve unless excluded under this Act.

Inclusion applications

- 17 (1) On the commission's own initiative in respect of land identified by the commission or on application by a local government in respect of land within the local

government's jurisdiction or by a first nation government in respect of the first nation's treaty settlement lands, the commission may approve all or part of the identified land or the land described in the application for addition to a designated land reserve plan if the commission considers that the designation carries out the intent of this Act.

- (2) For a matter under subsection (1), a public hearing must be held in the manner, and after giving the notice, required by the regulations, by
 - (a) the commission, if the commission is acting on its own initiative,
 - (b) the local government before making an application, and
 - (c) the first nation government before making an application.
- (3) On application by an owner of land, the commission may designate all or part of the land described in the application as part of an agricultural land reserve if the commission considers that the designation carries out the intent of this Act.
- (4) A decision of the commission granting an application under subsection (3) in relation to proposed treaty settlement lands may not be made effective unless and until those lands are established, in whole or in part, as treaty settlement lands.
- (5) Unless a decision granting an application under subsection (3) first becomes effective under subsection (4), the decision expires on the earlier of the following dates:
 - (a) the date the decision expires according to its terms;
 - (b) the date that a notice to suspend negotiations takes effect.

Rules for use and subdivision of agricultural land reserve

- 18 Unless permitted by this Act, the regulations or the terms imposed in an order of the commission,
- (a) a local government, a first nation government or an authority, or a board or other agency established by a local government, a first nation government or an authority, or a person or agency that enters into an agreement under the *Local Services Act* may not
 - (i) permit non-farm use of agricultural land or permit a building to be erected on the land except for farm use, or
 - (ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use, and
 - (b) an approving officer under the *Land Title Act*, the *Local Government Act* or the *Strata Property Act* or a person who exercises the powers of an approving officer under any other Act may not approve a subdivision of agricultural land.

Registration restrictions

- 19 Unless permitted by this Act, the regulations or the terms imposed in an order of the commission, a registrar of titles must not, under the *Land Title Act* or *Strata Property*

Act, in respect of land, all or part of which consists of land in an agricultural land reserve,

- (a) accept an application for deposit of a subdivision plan, reference plan, explanatory plan or other plan showing subdivision of land, or a statutory right of way plan under section 114 of the *Land Title Act*, or
- (b) permit a new parcel of land by a metes and bounds description or an abbreviated description.

Use of agricultural land reserve

- 20
- (1) A person must not use agricultural land for a non-farm use unless permitted by this Act, the regulations or an order of the commission.
 - (2) For the purposes of subsection (1), except as provided in the regulations, the removal of soil and the placement of fill are non-farm uses.
 - (3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land:
 - (a) the Mediation and Arbitration Board under the *Petroleum and Natural Gas Act*;
 - (b) the Mediation and Arbitration Board under section 19 of the *Mineral Tenure Act* or under the *Mining Right of Way Act*;
 - (c) any other authority under an enactment.
 - (4) A person who intends to use agricultural land for a prescribed use that involves soil removal or placement of fill must give notice of that intention to the commission in the prescribed form at least 60 days before engaging in the intended use.
 - (5) In response to a notice under subsection (4) or if a person engages in a use specified in subsection (4) without giving the required notice, the chief executive officer, by written order, may
 - (a) if the owner of the land agrees to restrictions on the use, specify terms and conditions for the conduct of that use of the agricultural land, or
 - (b) order that an application to the commission under subsection (3) is required for permission to engage in the use and may include as a term in the order that the person cease or not engage in the use until the application is determined.
 - (6) If the chief executive officer does not respond to a notice under subsection (4) within 30 days by making an order under subsection (5), the owner of the land may engage in the intended use.

Subdivision of agricultural land reserve

- 21
- (1) A person must not subdivide agricultural land unless permitted by this Act, the regulations or an order of the commission.
 - (2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

Covenants

- 22** (1) The commission may enter into a covenant under the *Land Title Act* with an owner of agricultural land.
- (2) A covenant that prohibits the use of agricultural land for farm purposes has no effect until approved by the commission.

Exceptions

- 23** (1) Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the *Land Registry Act*, R.S.B.C. 1960, c. 208, less than 2 acres in area.
- (2) The restrictions on the use of agricultural land do not apply to land lawfully used for a non-farm use, established and carried on continuously for at least 6 months immediately before December 21, 1972, unless and until
- (a) the use is changed, other than to farm use, without the permission of the commission,
 - (b) an enactment made after December 21, 1972, prohibits the use, or
 - (c) permission for the use granted under an enactment is withdrawn or expires.
- (3) For greater certainty, the exception in subsection (2) applies only to the land that was actually being used for a non-farm use and not to the entire parcel on which that use was being carried on.

Preservation of rights

- 24** Despite sections 2 and 3, if Crown land continued as an agricultural land reserve under this Act has been leased by the government, or sold by agreement for sale by the government and not transferred to the purchaser before December 21, 1972, and on that date was being used for a non-farm use, and not in contravention of the terms of the lease or agreement, that use may continue until termination of the lease or issue of title to the purchaser under the agreement for sale.

Non-farm use and subdivision application by owner

- 25** (1) On an application for permission for non-farm use under section 20 (3) or for subdivision under section 21 (2), the commission may do one of the following:
- (a) refuse permission;
 - (b) grant permission;
 - (c) grant permission for an alternative non-farm use or subdivision.
- (2) If the commission makes a decision under subsection (1) (b) or (c), it may impose terms it considers advisable.
- (3) An application referred to in subsection (1), except such an application from a first nation government, may not proceed unless authorized by a resolution of the local government if, on the date the application is made, the application
- (a) applies to land that is zoned by bylaw to permit agricultural or farm use, or

- (b) requires, in order to proceed, an amendment to an official settlement plan, an official community plan, an official development plan or a zoning bylaw.
- (3.1) An application referred to in subsection (1) in relation to treaty settlement lands may not proceed unless authorized by a law of the first nation government of the first nation that has legislative authority over the treaty settlement lands.
- (4) In deciding an application referred to in subsection (1), the commission may meet with the applicant or may make a decision on the basis of written representations only.
- (4.1) A decision of the commission under subsection (1) (b) or (c) in relation to proposed treaty settlement lands may not be made effective unless and until
 - (a) those lands are established, in whole or in part, as treaty settlement lands, and
 - (b) the first nation government in relation to those treaty settlement lands enacts a law approving the commission's decision and provides a certified copy of the law to the commission.
- (4.2) Unless a decision under subsection (1) (b) or (c) first becomes effective under subsection (4.1), the decision expires on the earlier of the following dates:
 - (a) the date the decision expires according to its terms;
 - (b) the date that a notice to suspend negotiations takes effect.
- (5) The commission must deliver its written decision to the owner.

Delegation of section 25 powers

- 26
- (1) The commission may enter into an agreement with any of the following to enable a local government, a first nation government or an authority to exercise some or all of the commission's power to decide applications for non-farm use or subdivision with respect to lands within the jurisdiction of the local government, first nation government or authority:
 - (a) a local government;
 - (b) an agent of the government, a public body or a public officer prescribed by regulation;
 - (c) a first nation government in respect of treaty settlement lands.
 - (2) An agreement under subsection (1) between the commission and an authority may exempt a non-farm use in a specified area within the jurisdiction of the authority from the requirement of an application on the condition that the authority conducts audits and reports to the commission as required by the agreement.
 - (3) If an agreement is entered into under subsection (1), the local government, first nation government or authority must, with respect to an application covered by the agreement,
 - (a) consider each application in the prescribed manner, and
 - (b) advise the commission in the prescribed manner of each application received and of the decision made on each application.

- (4) A decision made by a local government or authority under this section must be made by resolution of the local government or the governing body of the authority and a decision of a first nation government under this section must be made by a law of the first nation government.
- (5) If the commission delegates its power to decide applications under section 25 to a local government, a first nation government or an authority by an agreement entered into under this section, the decision of the local government, first nation government or authority is a decision of the commission for the purposes of this Act.
- (6) If an authority has the power to decide an application under an agreement entered into under subsection (1), an application that would otherwise be required to be submitted to the local government or first nation government under section 34 (3) must be made directly to the authority.
- (7) If a local government, a first nation government or an authority has the power to decide an application under an agreement entered into under subsection (1),
 - (a) the local government, first nation government or authority may retain the entire fee payable under section 34 with respect to the application, and
 - (b) sections 39 to 45 apply to the application as if the application were before the commission.
- (8) If the commission enters into an agreement under subsection (1) (c) with a first nation government in relation to treaty settlement lands, that agreement or another agreement under this Act must include a definition of "owner" for the purposes of paragraph (b) (i) of the definition of "owner" in section 1 (1).

Chief executive officer may approve some applications

- 27**
- (1) The commission, by resolution, may establish criteria under which the following may be approved by the chief executive officer:
 - (a) specified types of applications for exclusion, subdivision or non-farm use;
 - (b) applications with respect to specified regions of British Columbia.
 - (2) The commission must put the criteria established under subsection (1) in writing and make them available for inspection during ordinary business hours.
 - (3) An application that meets the criteria established under subsection (1) may be approved by the chief executive officer on the terms that the chief executive officer may impose.
 - (4) If the chief executive officer considers that the application does not meet the criteria specified under subsection (1) or for any other reason does not wish to approve the application under subsection (3), the application must be referred to the commission for a decision.
 - (5) An approval of an application by the chief executive officer under subsection (3) is a decision of the commission for the purposes of this Act.

- (6) The chief executive officer may not exercise a power that has been delegated to a local government, a first nation government or an authority by an agreement entered into under section 26.

Application of sections 18 to 21 limited to land in agricultural land reserve

- 28** If the boundary of an agricultural land reserve divides a parcel of land, sections 18 to 21 apply only to that portion of the parcel that is designated as an agricultural land reserve.

Exclusion application by a local or first nation government or the commission

- 29** (1) On the commission's own initiative or on application by a local government in respect of land within the local government's jurisdiction or by a first nation government in respect of the first nation's treaty settlement land, the commission may
- (a) exclude land from an agricultural land reserve on terms the commission considers advisable, or
 - (b) without excluding the land from an agricultural land reserve, grant permission for a non-farm use or subdivision in respect of the land that is the subject of the application, on any terms the commission considers advisable.
- (2) For a matter under subsection (1), a public hearing must be held in the manner, and after giving the notice, required by the regulations, by
- (a) the commission, if the commission is acting on its own initiative,
 - (b) the local government before making an application, and
 - (c) the first nation government before making an application.

Exclusion application by owner

- 30** (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.
- (2) On an application under subsection (1), the commission may do one of the following:
- (a) refuse permission to have land excluded from an agricultural land reserve;
 - (b) grant permission to have land excluded from an agricultural land reserve;
 - (c) permit a non-farm use or subdivision on the land.
- (3) If the commission makes a decision under subsection (2) (b) or (c), it may impose terms it considers advisable.
- (4) An application under this section, except an application from a first nation government, may not proceed unless authorized by a resolution of the local government if, on the date the application is made, the application
- (a) applies to land that is zoned by bylaw to permit agricultural or farm use, or
 - (b) requires, in order to proceed, an amendment to an official settlement plan, an official community plan, an official development plan or a zoning bylaw.

- (4.1) An application under this section in relation to treaty settlement lands may not proceed unless authorized by a law of the first nation government of the first nation that has legislative authority over the treaty settlement lands.
- (5) At the request of the applicant, the commission may waive the required notice and the requirement to have a meeting with the commission with respect to the application.
- (5.1) A decision of the commission under subsection (2) (b) or (c) in relation to proposed treaty settlement lands may not be made effective unless and until
 - (a) those lands are established, in whole or in part, as treaty settlement lands, and
 - (b) the first nation government in relation to those treaty settlement lands enacts a law approving the commission's decision and provides a certified copy of the law to the commission.
- (5.2) Unless a decision under subsection (2) (b) or (c) first becomes effective under subsection (5.1), the decision expires on the earlier of the following dates:
 - (a) the date the decision expires according to its terms;
 - (b) the date a notice to suspend negotiations takes effect.
- (6) The commission must deliver its written decision to the owner.

Effect of permission for non-farm use, subdivision or exclusion

- 31** It is a condition of permission granted under section 25 (1) (b) or (c), 29 (1) or 30 (2) (b) or (c) that the owner or occupier must comply with the applicable Acts, regulations, bylaws of the local government, laws of the first nation government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

Plan to be amended

- 32** If land is excluded under this Act from a land reserve plan, the commission must amend the land reserve plan and notify the appropriate local government or first nation government and registrar of titles.

Reconsideration of decisions

- 33** (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that
- (a) evidence not available at the time of the original decision has become available,
 - (b) all or part of the original decision was based on evidence that was in error or was false, or
 - (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.
- (2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.

- (3) If a local government, a first nation government or an authority makes a decision in a matter delegated to it under an agreement entered into under section 26 (1), subsections (1) and (2) of this section apply as if the local government, first nation government or authority were the commission.

Application procedure

- 34 (1) In this section and in sections 35 and 36, “**application**” means an application for inclusion under section 17, for exclusion under section 29 or 30, for a non-farm use under section 20 or for a subdivision under section 21.
- (2) A local government or a first nation government that makes an application to the commission under section 29 must pay the prescribed application fee.
- (3) A person who makes an application referred to in subsection (1) must do so by submitting the application and, except in the case of an application for inclusion under section 17, by paying the prescribed fee,
 - (a) to the municipality, if the land described in the application is in a municipality,
 - (b) to the regional district, if the land described in the application is in a regional district but not in a municipality or a local trust area,
 - (c) to the Islands Trust, if the land described in the application is within a local trust area under the *Islands Trust Act*, and
 - (d) to the first nation government, if the land described in the application is in the treaty settlement lands of the first nation.
- (3.1) Despite subsection (3), a first nation government that makes an application as the owner of proposed treaty settlement lands must do so by
 - (a) submitting the application, and
 - (b) except in the case of an application under section 17 (3), paying the prescribed feeto the commission.
- (4) A local government or a first nation government that receives an application under subsection (3) must
 - (a) review the application, and
 - (b) subject to subsection (5), forward to the commission the application together with the comments and recommendations of the local government or the first nation government in respect of the application.
- (5) If section 25 (3) or (3.1) or 30 (4) or (4.1) applies in relation to an application or proposed application and the required resolution or law is refused, the requirement in subsection (4) (b) of this section does not apply.
- (6) A person who applies for a specific type of use prescribed by regulation as an application that must be filed directly with the commission must submit the application and pay the prescribed fee directly to the commission.

- (7) In respect of an application to the commission referred to in subsection (6), the commission may request comments and information from the local government or first nation government for the area in which the land described in the application is located.

Application fees

- 35 (1) A local government or first nation government that receives application fees under section 34
- (a) may retain a prescribed portion of the application fees, and
 - (b) must remit the balance of the application fees to the commission at the prescribed times.
- (2) Despite subsection (1), if section 25 (3) or (3.1) or 30 (4) or (4.1) applies in relation to an application or proposed application and the required resolution or law is refused, the local government or first nation government, as applicable, must return to the applicant the portion of the application fee that would otherwise be remitted to the commission under subsection (1) (b) of this section.
- (3) Subject to the approval of the commission, if the designated local government officer or the official designated for this purpose by the first nation government considers that a case of hardship exists, the officer may waive the application fee payable under section 34 (3).
- (4) If the commission considers that a case of hardship exists, it may waive the application fee payable under section 34 (3).
- (5) If, under section 34 (7), the commission requests comments or information from a local government or first nation government, the commission may pay a prescribed portion of the application fee to the local government.
- (6) This section applies despite the *Financial Administration Act*.

Notice of applications

- 36 (1) A person who makes an application referred to in section 34 must, in the prescribed circumstances,
- (a) give notice of the application in accordance with the regulations before submitting the application, and
 - (b) provide evidence, satisfactory to the commission, that the applicant has complied with the notice requirements of the regulations.
- (2) A decision of the commission with respect to an application is not invalidated merely because the applicant fails to comply with the notice requirements of the regulations, if the applicant made reasonable efforts to comply with those requirements.

No compensation for reserve land

- 37 Land is deemed not to be taken or injuriously affected by its designation as an agricultural land reserve.

Agreements

- 38 For the purposes of this Act, the commission may enter into agreements with the government, a local government, a first nation government, Canada or an authority.

Definition of "board" in sections 40 to 45

- 39 (1) In sections 40 to 45, "board" means a commissioner appointed as a study commission under the *Public Inquiry Act* for the purpose of inquiring into a matter described in section 40 of this Act.
- (2) The board has the powers set out in sections 22 and 23 of the *Public Inquiry Act*.

Reference of a matter to the board

- 40 (1) If the Lieutenant Governor in Council considers it to be in the Provincial interest, the Lieutenant Governor in Council by order, may refer to the board, for the purpose of a public hearing described in section 43, any of the following matters before the commission at the time of the order:
- (a) an application for inclusion under section 17, or for exclusion under section 29 (1) (a) or 30 (1);
 - (b) an application for non-farm use or for subdivision under section 29 (1) (b);
 - (c) if land is being considered by the commission on its own initiative, the issues relating to
 - (i) approval and designation under section 17 (1),
 - (ii) the exclusion from a reserve under section 29 (1) (a), or
 - (iii) the granting of the permission for non-farm use or for subdivision under section 29 (1) (b);
 - (d) a reconsideration under section 33 of a decision of the commission made in respect of a matter referred to in paragraph (a), (b) or (c) of this subsection.
- (2) The Lieutenant Governor in Council must specify written terms of reference for the purpose of a public hearing by the board pertaining to a matter referred to the board under this section.
- (3) In determining whether it is in the Provincial interest to refer a matter to the board under subsection (1), the Lieutenant Governor in Council must take into account
- (a) the preservation of agricultural land as a scarce and important asset,
 - (b) the potential long term consequences of failing to preserve agricultural land, and
 - (c) the province-wide context of the matter.
- (4) The Lieutenant Governor in Council may make an order under subsection (1) on the Lieutenant Governor in Council's own initiative or at the request of a local government, a first nation government or the commission.

Suspension of matters pending a decision under section 40

- 41** (1) For the purpose of giving the Lieutenant Governor in Council time to consider whether an order under section 40 is warranted, the minister may order that the matter be suspended for a period, to be specified in the order, that is not longer than 90 days.
- (2) An order of the minister under subsection (1) has effect and is binding on the commission, and on any parties to a proceeding relating to a matter that is the subject of the order, until the expiry of the period specified in the order.

Effect of an order under section 40

- 42** (1) On the date of an order under section 40 referring a matter to the board, the commission's powers, duties and functions under this Act in relation to the matter are transferred to the Lieutenant Governor in Council to the extent necessary to enable the Lieutenant Governor in Council to act in accordance with section 45.
- (2) An order under section 40 is final and binding.
- (3) If the Lieutenant Governor in Council makes an order under section 40 referring a matter to the board, the commission must, within 14 days of the date of the order,
- (a) prepare a written report with respect to the matter, and
 - (b) submit the report to the board for the purpose of assisting the board in conducting a public hearing under section 43 in respect of the matter.

Public hearing

- 43** (1) On receiving the written terms of reference specified in conjunction with an order under section 40, the board must
- (a) prepare a discussion paper with respect to the matter that is the subject of the order, and
 - (b) make the paper available to the public before holding a public hearing under this section.
- (2) The discussion paper prepared under subsection (1) (a) must include the written report that the commission submitted to the board under section 42 (3) (b).
- (3) For the purpose of providing the report and recommendations required under section 44, the board must conduct a public hearing to evaluate the probable agricultural, environmental, heritage, economic, cultural and social effects of any of the following if it is a matter that was before the commission at the time the order under section 40 made the referral:
- (a) an approval and a designation under section 17 (1);
 - (b) a designation under section 17 (3);
 - (c) an exclusion from a reserve under section 29 (1) (a) or 30 (1);
 - (d) the granting or refusal of the permission referred to in section 29 (1) (b);
 - (e) a decision under section 33 to confirm, reverse or vary a decision referred to in paragraph (a), (b), (c) or (d) of this subsection.

- (4) The public hearing held under subsection (3) must be conducted in accordance with the terms of reference specified in conjunction with the order made under section 40.
- (5) The board must hold at least one public hearing with respect to the matter in each of the following regions:
 - (a) Interior;
 - (b) Island;
 - (c) Kootenay;
 - (d) North;
 - (e) Okanagan;
 - (f) South Coastal.

Report and recommendations

- 44** (1) On conclusion of the public hearing under section 43, the board must submit to the Lieutenant Governor in Council
- (a) a written report in accordance with the terms of reference specified in conjunction with the order made under section 40, and
 - (b) a summary of the evidence received and submissions made in the course of any public hearing held in accordance with the terms of reference.
- (2) The report referred to in subsection (1) must include the board's recommendations to the Lieutenant Governor in Council for action under section 45.
- (3) In making the recommendations referred to in subsection (2), the board must give weight to the following values in descending order of priority:
- (a) agricultural values, including the preservation of agricultural land and the promotion of agricultural purposes;
 - (b) environmental and heritage values, but only if
 - (i) those values cannot be replaced or relocated to land other than agricultural land, or
 - (ii) giving weight to those values results in no net loss to the agricultural capabilities of the area;
 - (c) economic, cultural and social values.
- (4) The board must provide a copy of its report to the commission at the same time that the report is submitted to the Lieutenant Governor in Council under subsection (1).
- (5) The commission may submit to the Lieutenant Governor in Council written comments on the report, but it must do so within 30 days of receiving a copy of the report under subsection (4).
- (6) Within 10 days after submitting its report under subsection (1), the board must publish the report in the prescribed manner.

Lieutenant Governor in Council's decision

- 45** (1) On receiving the board's report under section 44 (1) and the commission's comments, if any, under section 44 (5), the Lieutenant Governor in Council, by order, may decide the outcome of the matter that is the subject of the order under section 40 by
- (a) granting or refusing to grant the approval, designation, exclusion or permission applied for, in the case of a matter described in section 40 (1) (a) or (b),
 - (b) making or deciding not to make the approval, designation, exclusion or permission that was under consideration by the commission on its own initiative, in the case of a matter described in section 40 (1) (c), or
 - (c) confirming, reversing or varying a decision referred to in section 40 (1) (d).
- (2) Section 44 (3) applies to a decision made under subsection (1) of this section.
- (3) The Lieutenant Governor in Council may attach conditions to an order made under this section.
- (4) An order made under this section is final and binding.

Conflict with bylaws

- 46** (1) In this section, "bylaw" means
- (a) a bylaw, made by a local government, that adopts a regional growth strategy, an official settlement plan, an official community plan, an official development plan or a zoning bylaw,
 - (b) any other bylaw respecting land use in a local government's jurisdiction made by a local government under any other enactment, and
 - (c) a first nation government law respecting land use within the treaty settlement lands of the first nation government.
- (2) A local government in respect of its bylaws and a first nation government in respect of its laws must ensure consistency with this Act, the regulations and the orders of the commission.
- (3) Subject to subsection (4), nothing in this Act affects or impairs the validity of a local government bylaw or a first nation government law relating to the use of agricultural land in an agricultural land reserve.
- (4) A local government bylaw or a first nation government law that is inconsistent with this Act, the regulations or an order of the commission has, to the extent of the inconsistency, no force or effect.
- (5) Without limiting subsection (4), a local government bylaw or a first nation government law is deemed to be inconsistent with this Act if it
- (a) allows a use of land in an agricultural land reserve that is not permitted by this Act, the regulations or an order of the commission, or

- (b) contemplates a use of land that would impair or impede the intent of this Act, the regulations or an order of the commission, whether or not that use requires the adoption of any further bylaw or law, the giving of any consent or approval or the making of any order.
- (6) A local government bylaw or a first nation government law that provides restrictions on farm use of agricultural land additional to those provided by this Act and the regulations is not, for that reason alone, inconsistent with this Act and the regulations.
- (7) This section applies only to local government bylaws or a first nation government laws made after August 26, 1994.

Consolidated revenue fund

- 47** The commission must pay as soon as practicable all money received by it, other than money received under an appropriation under a *Supply Act*, into the consolidated revenue fund.

Bonding or other security

- 48** The Lieutenant Governor in Council, the commission, a local government, a first nation government or an authority may require that an applicant under this Act whose application has been approved on terms, in order to ensure compliance with the terms, post security in the form of insurance, a bond or another prescribed form of security.

Inspections

- 49** (1) For the purposes of administering this Act or of ensuring compliance with this Act, the regulations or an order of the commission, a member of the commission or an official may do one or more of the following:
- (a) enter any land, other than a dwelling house;
 - (b) make any surveys, analyses, inspections, examinations or soil tests that are necessary to determine any of the following:
 - (i) the current use of the land;
 - (ii) the suitability of the land for farm use;
 - (iii) the potential impact of proposed changes to the use of the land on land in an agricultural land reserve;
 - (c) remove soil samples for the purposes of conducting the analyses and tests referred to in paragraph (b);
 - (d) make any inspection of records, things or activities reasonably related to the purpose of the inspection;
 - (e) make copies of any records or documents reasonably related to the purpose of the inspection.
- (2) A person who hinders, obstructs, impedes or otherwise interferes with a person exercising a power under subsection (1) commits an offence.

Stop work order

- 50** If an official considers that a person is contravening or is about to contravene a provision of this Act or the regulations, the official, in accordance with the regulations, may order that
- (a) the contravention cease,
 - (b) the contravention cease to the extent specified by the order, or
 - (c) the person not take any action that would result in a contravention.

Power to rescind or vary orders

- 51** The chief executive officer may rescind or vary any determination, decision or order made by the chief executive officer or an official under section 50, 52 or 54
- (a) on new information being provided to the chief executive officer,
 - (b) if the chief executive officer determines that there were insufficient grounds for making the determination, decision or order, or
 - (c) if the chief executive officer considers that it would be in the best interests of the administration of this Act.

Determinations and remediation orders

- 52** (1) If the chief executive officer determines that a person has contravened this Act, the regulations or an order of the commission, the chief executive officer, in accordance with the regulations, may order the person to remedy the contravention by
- (a) carrying out a requirement of this Act or the regulations that the person has failed to carry out, or
 - (b) repairing or mitigating damage caused to agricultural land by the contravention, including the removal of buildings or structures.
- (2) If a person fails to comply with an order under subsection (1), the chief executive officer, in accordance with the regulations, may do one or more of the following:
- (a) in a written notice given to the person, restrict or prohibit the person from carrying out the work referred to in the order;
 - (b) require the person to provide the security that the chief executive officer considers necessary and realize on that security;
 - (c) carry out all necessary work.
- (3) A person referred to in subsection (2) is liable to the commission for costs incurred by the commission under this section.

Order for compliance

- 53** (1) The commission may apply to the Supreme Court for an order under subsection (2) if the commission considers
- (a) that a person is not complying, or has not complied, with a determination, a decision or an order under section 50, 52 or 54 (1),
 - (b) that a person is not complying with an order of the commission, or

- (c) that a present or future activity or use of agricultural land in an agricultural land reserve may contravene this Act, the regulations, an order of the commission or a determination, a decision or an order under section 50, 52 or 54 (1).
- (2) On application by the commission under this section, the Supreme Court may make one or more of the following kinds of orders:
 - (a) directing the person to comply with the determination, decision or order;
 - (b) directing the person to cease violating the determination, decision or order;
 - (c) restraining the person from violating the determination, decision or order;
 - (d) if the person is a corporation, directing the directors and officers of the corporation to cause the corporation to comply with an order under this section.

Penalties levied by chief executive officer

- 54** (1) The chief executive officer, in accordance with the regulations, may levy a penalty up to the prescribed amount against a person who contravenes this Act, the regulations or the orders of the commission.
- (2) The time limit for levying a penalty against a person under subsection (1) is 3 years after the facts on which the penalty is based first came to the knowledge of the chief executive officer.

Appeal

- 55** (1) A person who is the subject of a determination, a decision, an order or a penalty under section 50, 52 or 54 (1) may appeal the determination, decision, order or penalty to the commission by serving the commission with a notice of appeal.
- (2) On an appeal under this section, the commission may
- (a) confirm or reverse the determination, decision, order or penalty, or
 - (b) refer the matter, with or without directions, back to the person who made the initial determination, decision or order.
- (3) The commission must give notice of an appeal to any person the commission considers is affected by the appeal.
- (4) [Repealed 2004-45-65.]
- (5) For the purposes of an appeal under this section, sections 11 to 15, 17 to 21, 23 to 25, 31 (1) (a) to (e) and (g), (2) and (3), 32, 33, 35 to 37, 39, 40, 44, 46.3, 48, 50 to 55, 57, 58, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the commission.

Exclusive jurisdiction of commission

- 55.1** (1) The commission has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under section 55 and to make any order permitted to be made.

- (2) Without limiting subsection (1), the commission has exclusive jurisdiction to hear and determine the following questions:
 - (a) whether an official acted in accordance with the regulations in issuing an order under section 50;
 - (b) whether the chief executive officer acted in accordance with the regulations in issuing a notice under section 52 (2) (a), issuing an order under section 52 (1), taking any action under section 52 (2) or levying a penalty under section 54 (1).
- (3) A decision or order of the commission under this Act on a matter in respect of which the commission has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

Immunity protection for commission, its members and officers

- 55.2** (1) In this section, “**decision maker**” includes a commission member or other officer who makes a decision in relation to an appeal under section 55.
- (2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a decision maker or the commission because of anything done or omitted
- (a) in the performance or intended performance of any duty under section 55, or
 - (b) in the exercise or intended exercise of any power under section 55.
- (3) Subsection (2) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Application of enforcement powers

- 56** (1) If, under an agreement under section 26, a local government, a first nation government or an authority acts in the place of the commission, sections 49 to 55 apply to
- (a) the local government, first nation government or authority, and
 - (b) a person designated by the local government, first nation government or authority to exercise the powers under those sections.
- (2) Despite section 43 of the *Provincial Court Act*, if a local government or a first nation government imposes a penalty under section 54 of this Act, the penalty is payable to and may be retained by the local government, first nation government.

Offences

- 57** (1) A person commits an offence and is liable on conviction to a fine not exceeding \$1 million or imprisonment for not more than 6 months, or to both, who contravenes the following:
- (a) an order of the commission;
 - (b) section 20 (1);
 - (c) a covenant referred to in section 22;
 - (d) section 49 (2);

- (e) a stop work order under section 50;
 - (f) a remediation order under section 52.
- (2) The maximum fine under subsection (1) to which a person is liable on a second or subsequent conviction is double the amount set out in that section.
 - (3) A proceeding, conviction or penalty under this section does not relieve a person from a penalty under another section or from any other liability.
 - (4) A person commits an offence who
 - (a) without lawful excuse intentionally interferes with,
 - (b) without lawful excuse intentionally fails to comply with a lawful requirement of, or
 - (c) intentionally makes a false statement or misleads or attempts to mislead,the chief executive officer, a member of the commission, an official or an employee or a consultant of the commission appointed under section 8.
 - (5) If a corporation contravenes this Act or the regulations, a director or officer of it who authorized, permitted or acquiesced in the contravention also commits the contravention.
 - (6) Section 5 of the *Offence Act* does not apply to this Act.

Power to make regulations

- 58** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) designating uses of land as farm use;
 - (b) prescribing permitted uses and permitted types of subdivision for agricultural land, and specifying permitted uses that may or may not be prohibited by a local government enactment or a law of a first nation government;
 - (c) exempting materials from the definition of "fill";
 - (d) establishing different application fees for different types of applications and applications in different circumstances;
 - (e) exempting classes of persons from payment of a prescribed application fee;
 - (f) prescribing additional purposes for paragraph (a) of the definition of "community issue" in section 13 (1);
 - (g) respecting the manner of holding hearings and meetings, obtaining public comment and prescribing notice requirements for applications, hearings and other matters, which regulations may be different for different categories of persons;
 - (h) specifying non-farm uses that a local government, a first nation government, an authority, a board or another agency may permit on agricultural land for the purposes of section 18 (a);

- (i) prescribing exceptions to the prohibitions under section 19 respecting subdivision of land;
 - (j) specifying non-farm uses for the purposes of section 20 and specifying circumstances in which removal of soil and the placement of fill are not to be considered non-farm uses;
 - (k) respecting the terms of an agreement entered into under section 26;
 - (l) prescribing who is an authority for the purposes of section 26 (1) and specifying the persons constituting a governing body of an authority for the purposes of section 26 (4);
 - (m) respecting the manner in which a local government or first nation government is required for the purposes of section 34 (4) to
 - (i) consider an application, and
 - (ii) advise the commission of an application received and a decision made on an application;
 - (n) prescribing a specific type of use for the purposes of section 34 (6);
 - (o) prescribing the portion of the application fee to be retained for the purposes of section 35 (1) (a), specifying the prescribed times for the purposes of section 35 (1) (b) or prescribing the portion to be paid to the local government or first nation government for the purposes of section 35 (5);
 - (p) prescribing circumstances in which notice of an application is required to be given under section 36;
 - (q) respecting the notice requirements for the purposes of section 36, including prescribing a form of notice and prescribing different notice requirements for different types of applications or different areas of British Columbia.
- (3) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) respecting the publication of reports for the purposes of section 44 (6);
 - (b) respecting other forms of security for the purposes of section 48;
 - (c) respecting orders under sections 50 and 52;
 - (d) respecting penalties levied under section 54 (1);
 - (e) prescribing penalties for a contravention of this Act, the regulations or an order of the commission;
 - (f) establishing policies and procedures to be followed by the commission in conducting its affairs, performing its duties and functions and exercising its powers;
 - (g) prescribing procedures to facilitate dispute resolution under the Act;
 - (h) specifying the number of members that constitute a quorum of the commission or a panel;
 - (i) respecting the setting of boundaries of agricultural land reserves and the form, content, maintenance and correction of records of those boundaries.

Powers cumulative

- 59** The powers in this Act and the regulations enabling the commission, the chief executive officer and an official to make an order, to impose a fine or penalty, or to commence a proceeding may be exercised separately, concurrently or cumulatively and do not affect the powers of the government under this or any enactment.

Certificates of title subject to this Act

- 60** (1) In addition to the limitations set out in section 23 (2) of the *Land Title Act*, a certificate of title issued before June 29, 1973 for agricultural land is subject, by implication and without endorsement on the certificate of title, to this Act and the regulations governing the agricultural land reserve and farm use of the land.
- (2) The registrar of titles must endorse on every indefeasible title to agricultural land issued after June 29, 1973 that the title may be affected by this Act.

Transitional

- 61** (1) In this section:
- “**former Act**” means the *Land Reserve Commission Act*, S.B.C. 1999, c. 14, or the *Agricultural Land Reserve Act*, R.S.B.C. 1996, c. 10;
- “**Land Reserve Commission**” means the Land Reserve Commission established under section 2 of the *Land Reserve Commission Act* as it read immediately before the coming into force of this section.
- (2) All of the rights, property and assets and all of the debts, liabilities and obligations of the Land Reserve Commission are transferred to and vested in the Provincial Agricultural Land Commission.
- (3) An application or a matter commenced under the former Act is continued as an application or matter under this Act.
- (4) An application under section 3 of the *Soil Conservation Act*, R.S.B.C. 1996, c. 434, as it read immediately before the coming into force of this section is continued as an application for permission for non-farm use under this Act.
- (5) The Provincial Agricultural Land Commission may take up and carry on to completion all proceedings or other matters commenced under any enactment that were, immediately before the coming into force of this section, before the Land Reserve Commission.

62 to 90 [Consequential amendments and repeals. Spent. 2002-36-62 to 90.]

Commencement

- 91** This Act comes into force by regulation of the Lieutenant Governor in Council.



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IMPORTANT INFORMATION

This Act is Current to January 11, 2012

AGRICULTURAL LAND COMMISSION ACT

[SBC 2002] CHAPTER 36

Assented to May 30, 2002

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Definitions

1 (1) In this Act:

"agreement in principle" means a non-binding agreement, negotiated among a first nation government, the Province and Canada in accordance with a process facilitated by the British Columbia Treaty Commission, established under section 3 of the *Treaty Commission Act*, that

- (a) has been approved by each party in accordance with the approval process provided in the agreement in principle, and
- (b) contemplates that legislative authority over all or part of the proposed settlement lands described in the agreement in principle will, under a final agreement or a governance agreement and an enactment of the Province or Canada, be provided to the first nation;

"agricultural land" means land designated as agricultural land under this Act and includes agricultural land under a former Act;

"agricultural land reserve" means agricultural land designated as an agricultural land reserve under this Act and includes an agricultural land reserve under a former Act;

"approving officer" means an approving officer as defined in the *Land Title Act*;

"authority" means an agent of the government, a public body or a public officer with whom the commission has an agreement under section 26 (1) (b) or 38;

"chief executive officer" means the person appointed under section 8 (1);

"commission" means the Provincial Agricultural Land Commission established under section 4;

"enactment of the Province or Canada" includes an enactment as defined in the *Interpretation Act* (Canada);

"farm use" means an occupation or use of land for farm purposes, including farming of land, plants and animals and any other similar activity designated as farm use by regulation, and includes a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*;

"fill" means any material brought on land in an agricultural land reserve other than materials exempted by regulation;

"first nation government" means,

(a) in relation to settlement lands, other than treaty lands, the governing body that has legislative authority in relation to those settlement lands,

(a.1) in relation to treaty lands, the treaty first nation, and

(b) in relation to proposed settlement lands, an aboriginal governing body that

(i) the first nation, in relation to which an agreement in principle applying to those lands has been entered into, has organized and established within its traditional territory in British Columbia, and

(ii) has been mandated by the members of that first nation to enter into treaty negotiations on their behalf in accordance with a process facilitated by the British Columbia Treaty Commission, established under section 3 of the *Treaty Commission Act*;

"land reserve plan" means a plan, prepared under this Act, that sets out existing agricultural land reserves and the areas that may be designated by the commission or the Lieutenant Governor in Council as an agricultural land reserve and includes a land reserve plan under a former Act;

"law", in relation to a first nation government described in paragraph (a) or (a.1) of the definition of "first nation government", means a law enacted by the first nation government under

(a) a treaty and land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*,

(b) a governance agreement among the Province, Canada and the first nation, or

(c) an enactment of the Province or Canada;

"local government" means

(a) in relation to land within a municipality, the municipal council,

(b) in relation to land within an electoral area but not within a local trust area, the board of the regional district, and

(c) in relation to land within a local trust area under the *Islands Trust Act*, the local trust committee or the executive committee acting as a local trust committee for that area;

"non-farm use" means a use of land other than a farm use;

"notice to suspend negotiations" means a notice to suspend negotiations sent by one party to an agreement in principle to the other parties;

"official" means the chief executive officer and any employee of the commission or a person who is designated by name or title by the chief executive officer to be an official;

"owner", subject to subsection (2), means

(a) in relation to land, other than treaty lands, registered in the records of the land title office, the person registered in those records as the fee simple owner of the land,

(b) in relation to settlement lands,

(i) if an agreement under this Act between a first nation government and the commission defines "owner" for the purposes of the application of this Act to the settlement lands of the first nation, a person described by that definition, and

(ii) otherwise, the first nation government,

(c) in relation to land vested in a municipality under section 35 of the *Community Charter*, the municipality, and

(d) in relation to Crown land, the government;

"person" includes a first nation government;

"proposed settlement lands" means land described in an agreement in principle as the land that will become, in whole or in part,

(a) the treaty lands of the first nation under a final agreement, or

(b) the settlement lands of the first nation under a governance agreement among the Province, Canada and the first nation;

"settlement lands" means land, other than land located within a reserve as defined in the *Indian Act* (Canada), that is subject to the legislative authority of a first nation under

(a) a treaty and land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*,

(b) a governance agreement among the Province, Canada and the first nation, or

(c) an enactment of the Province or Canada;

"soil" includes the entire mantle of unconsolidated material above bedrock other than minerals as defined in the *Mineral Tenure Act*.

(2) For the purposes of an application under section 17 (3), 20 (3), 21 (2) or 30 (1) in relation to proposed settlement lands, the first nation government may apply as if it were the owner of those lands from the date that

(a) an agreement in principle in relation to those lands is approved by each party to it in accordance with the agreement in principle, or

(b) if a notice to suspend negotiations has earlier taken effect, an agreement among the parties to the agreement in principle to resume negotiations takes effect,

until the earlier of the following dates:

(c) the date an enactment of the Province or Canada establishes all or part of the proposed settlement lands as settlement lands;

(d) the date that a notice to suspend negotiations takes effect.

(3) For the period that a first nation government is authorized to make an application in relation to proposed settlement lands, the owner of that land may not make an application.

Application of other Acts

2 (1) This Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act* and the *Environmental Management Act* and as provided in this Act.

(2) Despite section 14 (2) of the *Interpretation Act*, this Act binds the government.

Power under other Acts

3 A minister or an agent of the government must not exercise a power granted under another enactment except in accordance with this Act and the regulations.

Commission established

4 The Provincial Agricultural Land Commission is established as a corporation consisting of the members appointed under section 5.

Commission members

- 5 (1) The commission consists of at least 7 individuals appointed under this section who are knowledgeable in matters relating to agriculture, land use planning, local government or first nation government.
- (2) The Lieutenant Governor in Council must
- (a) appoint one individual as a member and the chair of the commission after a merit based process, and
 - (b) appoint one or more individuals as vice chairs of the commission after a merit based process and consultation with the chair.
- (3) The minister may appoint the members of the commission other than the chair and vice chairs after a merit based process and consultation with the chair.
- (4) The chair, vice chairs and members are the board of directors of the commission.
- (5) [Repealed 2003-47-12.]
- (6) Commission members must faithfully, honestly and impartially perform their duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as a member.

Application of *Administrative Tribunals Act*

- 5.1 Sections 1 to 10 of the *Administrative Tribunals Act* apply to the commission.

Purposes of the commission

- 6 The following are the purposes of the commission:
- (a) to preserve agricultural land;
 - (b) to encourage farming on agricultural land in collaboration with other communities of interest;
 - (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Commission as agent of the government

- 7 The commission is an agent of the government.

Staff of the commission

- 8 (1) The Lieutenant Governor in Council may appoint, during pleasure, a chief executive officer of the commission, establish the terms of the appointment and set the remuneration of the chief executive officer.
- (2) The commission may determine the functions and duties of the chief executive officer.
- (3) The commission may appoint other officers and employees necessary for the purposes of the commission, determine their duties and set their remuneration.
- (4) The *Public Service Act* and the *Public Service Labour Relations Act* apply to the commission and its officers and employees other than the chief executive officer, except that the references to the agency head and a deputy minister in section 22 of the *Public Service Act* are to be read as references to the chief executive officer.
- (5) The chief executive officer may retain consultants considered advisable and may set their remuneration.

Operation of the commission

- 9 The commission may pass resolutions and bylaws it considers necessary or advisable for the management and conduct of its affairs, the exercise of its powers and the performance of its duties and functions.

Executive committee

- 10 (1) An executive committee of the commission is established, comprised of the chair of the commission and the vice chairs.
- (2) The chair of the commission is the chair of the executive committee.
- (3) The commission may delegate any of its functions to the executive committee and, when it performs those functions, the actions and decisions of the executive committee are the actions and decisions of the commission.

Panels

- 11 (1) In this section, "**panel**" means a panel established under subsection (2).
- (2) The chair of the commission may establish up to 6 panels comprised of 2 or more members of the commission.
- (3) The panels may be established according to geographic regions of British Columbia or according to any other criteria the commission may determine.

(4) The chair of the commission may designate a vice chair of the commission to chair a panel.

(5) A panel has all the powers, duties and functions of the commission in respect of an application or other matter allocated to the panel by the chair of the commission, and a decision of a panel is for all purposes a decision of the commission.

Financial and corporate matters

12 (1) The financial year end of the commission is March 31 and the Minister of Finance is the fiscal agent of the commission.

(2) Not later than June 30 of each financial year, the commission must submit to the minister

(a) [Repealed 2011-11-4.]

(b) a report of its operations during the preceding financial year, and

(c) a financial statement showing its business for the most recently completed financial year and the financial year immediately preceding the most recently completed financial year, prepared in accordance with generally accepted accounting principles and the accounting policies and practices established by the Treasury Board.

(3) Subject to subsection (4), the *Business Corporations Act* does not apply to the commission.

(4) The Lieutenant Governor in Council, by order, may declare that specified provisions of the *Business Corporations Act* apply to the commission.

Dispute resolution on community issues

13 (1) In this section, "**community issue**" means a matter concerning one or more of the following:

(a) an application for a use of agricultural land for a school, hospital, publicly funded institution or public utility, or another purpose prescribed by regulation;

(b) a regional growth strategy under the *Local Government Act*;

(c) the form and content of the official community plan of a local government;

(d) an agreement under section 26 (1);

(e) the form and content of a first nation government's plan that has the same or similar purposes as an official community plan of a local government.

(2) If a dispute arises on a community issue, the commission and the local government or the first nation government, as applicable, may agree to attempt to resolve the dispute by a method of facilitated dispute resolution.

(3) If an agreement is made under subsection (2), the commission and the local government or the first nation government, as applicable, may appoint a facilitator.

(4) In making a recommendation to resolve a dispute, a facilitator must give weight to the following values in descending order of priority:

(a) agricultural values, including the preservation of agricultural land and the promotion of agriculture;

(b) environmental, economic, social and heritage values, but only if

(i) those values cannot be replaced or relocated to land other than agricultural land, and

(ii) giving weight to those values results in no net loss to the agricultural capabilities of the area.

(5) Each party must pay its own costs under this section.

(6) The provisions of this section do not restrict or limit the provisions of section 2, 3 or 46.

Completion of proceedings

14 (1) Subject to subsection (2), a member of the commission may take up and carry on to completion any proceeding commenced but not completed before the member's appointment.

(2) A member of the commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote.

Inclusion of land in agricultural land reserve by the commission

15 (1) For the purposes of section 6, the commission may designate as agricultural land, land, including Crown land, that is suitable for farm use, and on being designated the land is established as an agricultural land reserve.

(2) If the final agreement of a treaty first nation provides that the treaty

lands of the treaty first nation may not be designated as agricultural land without the consent of the treaty first nation, the commission may not exercise the authority under subsection (1) in relation to those treaty lands without the consent of the treaty first nation.

Agricultural land to remain in reserve unless excluded

16 Land included in an agricultural land reserve remains agricultural land in the agricultural land reserve unless excluded under this Act.

Inclusion applications

17 (1) Subject to subsection (1.1), if the commission considers that an approval under this subsection carries out the intent of this Act, the commission may approve the addition to a designated land reserve plan

- (a) on the commission's own initiative, of any land,
- (b) on application of a local government, of land within the local government's jurisdiction, and
- (c) on application of a first nation government, of land within the first nation's settlement lands.

(1.1) If section 15 (2) applies in relation to treaty lands, an approval under subsection (1) (a) of this section in respect of those treaty lands may be made only with the consent of the treaty first nation.

(2) For a matter under subsection (1), a public hearing must be held in the manner, and after giving the notice, required by the regulations, by

- (a) the commission, if the commission is acting on its own initiative,
- (b) the local government before making an application, and
- (c) the first nation government before making an application.

(3) On application by an owner of land, the commission may designate all or part of the land described in the application as part of an agricultural land reserve if the commission considers that the designation carries out the intent of this Act.

(4) A decision of the commission granting an application under subsection (3) in relation to proposed settlement lands may not be made effective unless and until those lands are established, in whole or in part, as settlement lands.

(5) Unless a decision granting an application under subsection (3) first becomes effective under subsection (4), the decision expires on the earlier of

the following dates:

- (a) the date the decision expires according to its terms;
- (b) the date that a notice to suspend negotiations takes effect.

Rules for use and subdivision of agricultural land reserve

18 Unless permitted under this Act,

- (a) a local government, a first nation government or an authority, or a board or other agency established by a local government, a first nation government or an authority, or a person or agency that enters into an agreement under the *Local Services Act* may not
 - (i) permit non-farm use of agricultural land or permit a building to be erected on the land except for farm use, or
 - (ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use, and
- (b) an approving officer under the *Land Title Act*, the *Local Government Act* or the *Strata Property Act* or a person who exercises the powers of an approving officer under any other Act may not approve a subdivision of agricultural land.

Registration restrictions

19 Unless permitted under this Act, a registrar of titles must not, under the *Land Title Act* or *Strata Property Act*, in respect of land, all or part of which consists of land in an agricultural land reserve,

- (a) accept an application for deposit of a subdivision plan, reference plan, explanatory plan or other plan showing subdivision of land, or a statutory right of way plan under section 114 of the *Land Title Act*, or
- (b) permit a new parcel of land by a metes and bounds description or an abbreviated description.

Use of agricultural land reserve

20 (1) A person must not use agricultural land for a non-farm use unless permitted under this Act.

(2) For the purposes of subsection (1), except as provided in the regulations, the removal of soil and the placement of fill are non-farm uses.

(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land:

(a) the Surface Rights Board, or its predecessor, the Mediation and Arbitration Board, under the *Petroleum and Natural Gas Act*, the *Mining Right of Way Act* or section 19 of the *Mineral Tenure Act*;

(b) [Repealed 2010-9-1.]

(c) any other authority under an enactment.

(4) A person who intends to use agricultural land for a prescribed use that involves soil removal or placement of fill must give notice of that intention to the commission in the prescribed form at least 60 days before engaging in the intended use.

(5) In response to a notice under subsection (4) or if a person engages in a use specified in subsection (4) without giving the required notice, the chief executive officer, by written order, may

(a) if the owner of the land agrees to restrictions on the use, specify terms and conditions for the conduct of that use of the agricultural land, or

(b) order that an application to the commission under subsection (3) is required for permission to engage in the use and may include as a term in the order that the person cease or not engage in the use until the application is determined.

(6) If the chief executive officer does not respond to a notice under subsection (4) within 30 days by making an order under subsection (5), the owner of the land may engage in the intended use.

Subdivision of agricultural land reserve

21 (1) A person must not subdivide agricultural land unless permitted under this Act.

(2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

Covenants

22 (1) The commission may enter into a covenant under the *Land Title Act* with an owner of agricultural land.

(2) A covenant that restricts or prohibits the use of agricultural land for farm

purposes has no effect until approved by the commission.

Exceptions

23 (1) Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the *Land Registry Act*, R.S.B.C. 1960, c. 208, less than 2 acres in area.

(2) The restrictions on the use of agricultural land do not apply to land lawfully used for a non-farm use, established and carried on continuously for at least 6 months immediately before December 21, 1972, unless and until

(a) the use is changed, other than to farm use, without the permission of the commission,

(b) an enactment made after December 21, 1972, prohibits the use, or

(c) permission for the use granted under an enactment is withdrawn or expires.

(3) For greater certainty, the exception in subsection (2) applies only to the land that was actually being used for a non-farm use and not to the entire parcel on which that use was being carried on.

Preservation of rights

24 Despite sections 2 and 3, if Crown land continued as an agricultural land reserve under this Act has been leased by the government, or sold by agreement for sale by the government and not transferred to the purchaser before December 21, 1972, and on that date was being used for a non-farm use, and not in contravention of the terms of the lease or agreement, that use may continue until termination of the lease or issue of title to the purchaser under the agreement for sale.

Non-farm use and subdivision application by owner

25 (1) On an application for permission for non-farm use under section 20 (3) or for subdivision under section 21 (2), the commission may do one of the following:

(a) refuse permission;

(b) grant permission;

(c) grant permission for an alternative non-farm use or subdivision.

(2) If the commission makes a decision under subsection (1) (b) or (c), it

may impose terms it considers advisable.

(3) An application referred to in subsection (1), except such an application from a first nation government, may not proceed unless authorized by a resolution of the local government if, on the date the application is made, the application

(a) applies to land that is zoned by bylaw to permit agricultural or farm use, or

(b) requires, in order to proceed, an amendment to an official settlement plan, an official community plan, an official development plan or a zoning bylaw.

(3.1) An application referred to in subsection (1) in relation to settlement lands may not proceed unless authorized by a law of the first nation government of the first nation that has legislative authority over the settlement lands.

(4) In deciding an application referred to in subsection (1), the commission may meet with the applicant or may make a decision on the basis of written representations only.

(4.1) A decision of the commission under subsection (1) (b) or (c) in relation to proposed settlement lands may not be made effective unless and until

(a) those lands are established, in whole or in part, as settlement lands, and

(b) the first nation government in relation to those settlement lands enacts a law approving the commission's decision and provides a certified copy of the law to the commission.

(4.2) Unless a decision under subsection (1) (b) or (c) first becomes effective under subsection (4.1), the decision expires on the earlier of the following dates:

(a) the date the decision expires according to its terms;

(b) the date that a notice to suspend negotiations takes effect.

(5) The commission must deliver its written decision to the owner.

Delegation of section 25 powers

26 (1) The commission may enter into an agreement with any of the following to enable a local government, a first nation government or an authority to exercise some or all of the commission's power to decide applications for non-farm use or subdivision with respect to lands within the jurisdiction of the

local government, first nation government or authority:

- (a) a local government;
- (b) an agent of the government, a public body or a public officer prescribed by regulation;
- (c) a first nation government in respect of settlement lands.

(2) An agreement under subsection (1) between the commission and an authority may exempt a non-farm use in a specified area within the jurisdiction of the authority from the requirement of an application on the condition that the authority conducts audits and reports to the commission as required by the agreement.

(3) If an agreement is entered into under subsection (1), the local government, first nation government or authority must, with respect to an application covered by the agreement,

- (a) consider each application in the prescribed manner, and
- (b) advise the commission in the prescribed manner of each application received and of the decision made on each application.

(4) A decision made by a local government or authority under this section must be made by resolution of the local government or the governing body of the authority and a decision of a first nation government under this section must be made by a law of the first nation government.

(5) If the commission delegates its power to decide applications under section 25 to a local government, a first nation government or an authority by an agreement entered into under this section, the decision of the local government, first nation government or authority is a decision of the commission for the purposes of this Act.

(6) If an authority has the power to decide an application under an agreement entered into under subsection (1), an application that would otherwise be required to be submitted to the local government or first nation government under section 34 (3) must be made directly to the authority.

(7) If a local government, a first nation government or an authority has the power to decide an application under an agreement entered into under subsection (1),

- (a) the local government, first nation government or authority may retain the entire fee payable under section 34 with respect to the application,
- (a.1) section 34.1 applies to the applicant with respect to the

application, except that a reference to the commission in that section must be read as a reference to the local government, first nation government or authority, and

(b) sections 39 to 45 apply to the application as if the application were before the commission.

(8) If the commission enters into an agreement under subsection (1) (c) with a first nation government in relation to settlement lands, that agreement or another agreement under this Act must include a definition of "owner" for the purposes of paragraph (b) (i) of the definition of "owner" in section 1 (1).

Chief executive officer may approve some applications

27 (1) The commission, by resolution, may establish criteria under which the following may be approved by the chief executive officer:

(a) specified types of applications for exclusion, subdivision or non-farm use;

(b) applications with respect to specified regions of British Columbia.

(2) The commission must put the criteria established under subsection (1) in writing and make them available for inspection during ordinary business hours.

(3) An application that meets the criteria established under subsection (1) may be approved by the chief executive officer on the terms that the chief executive officer may impose.

(4) If the chief executive officer considers that the application does not meet the criteria specified under subsection (1) or for any other reason does not wish to approve the application under subsection (3), the application must be referred to the commission for a decision.

(5) An approval of an application by the chief executive officer under subsection (3) is a decision of the commission for the purposes of this Act.

(6) The chief executive officer may not exercise a power that has been delegated to a local government, a first nation government or an authority by an agreement entered into under section 26.

Application of sections 18 to 21 limited to land in agricultural land reserve

28 If the boundary of an agricultural land reserve divides a parcel of land, sections 18 to 21 apply only to that portion of the parcel that is designated as an agricultural land reserve.

Exclusion application by a local or first nation government or the commission

- 29** (1) On the commission's own initiative or on application by a local government in respect of land within the local government's jurisdiction or by a first nation government in respect of the first nation's settlement lands, the commission may
- (a) exclude land from an agricultural land reserve on terms the commission considers advisable, or
 - (b) without excluding the land from an agricultural land reserve, grant permission for a non-farm use or subdivision in respect of the land that is the subject of the application, on any terms the commission considers advisable.
- (2) For a matter under subsection (1), a public hearing must be held in the manner, and after giving the notice, required by the regulations, by
- (a) the commission, if the commission is acting on its own initiative,
 - (b) the local government before making an application, and
 - (c) the first nation government before making an application.

Exclusion application by owner

- 30** (1) An owner of land may apply to the commission to have their land excluded from an agricultural land reserve.
- (2) On an application under subsection (1), the commission may do one of the following:
- (a) refuse permission to have land excluded from an agricultural land reserve;
 - (b) grant permission to have land excluded from an agricultural land reserve;
 - (c) permit a non-farm use or subdivision on the land.
- (3) If the commission makes a decision under subsection (2) (b) or (c), it may impose terms it considers advisable.
- (4) An application under this section, except an application from a first nation government, may not proceed unless authorized by a resolution of the local government if, on the date the application is made, the application
- (a) applies to land that is zoned by bylaw to permit agricultural or farm use, or

(b) requires, in order to proceed, an amendment to an official settlement plan, an official community plan, an official development plan or a zoning bylaw.

(4.1) An application under this section in relation to settlement lands may not proceed unless authorized by a law of the first nation government of the first nation that has legislative authority over the settlement lands.

(5) At the request of the applicant, the commission may waive the required notice and the requirement to have a meeting with the commission with respect to the application.

(5.1) A decision of the commission under subsection (2) (b) or (c) in relation to proposed settlement lands may not be made effective unless and until

(a) those lands are established, in whole or in part, as settlement lands, and

(b) the first nation government in relation to those settlement lands enacts a law approving the commission's decision and provides a certified copy of the law to the commission.

(5.2) Unless a decision under subsection (2) (b) or (c) first becomes effective under subsection (5.1), the decision expires on the earlier of the following dates:

(a) the date the decision expires according to its terms;

(b) the date a notice to suspend negotiations takes effect.

(6) The commission must deliver its written decision to the owner.

Chief executive officer may refuse applications

30.1 (1) In this section, "**application**" means an application for a non-farm use under section 20, for a subdivision under section 21 or for exclusion under section 30.

(2) Despite any other provision of this Act, on an application, the chief executive officer may refuse permission if

(a) within 5 years immediately preceding the application, a previous application was refused permission by the commission,

(b) the previous application was made on or after the date this section comes into force,

(c) the land, or a part of the land, that is the subject of the application is the same as the land, or part of the land, that was the subject of the previous application, and

(d) the chief executive officer considers that the application is substantially the same as the previous application.

(3) A refusal of permission by the chief executive officer under subsection (2) is a decision of the commission for the purposes of this Act.

Effect of permission for non-farm use, subdivision or exclusion

31 It is a condition of permission granted under section 25 (1) (b) or (c), 29 (1) or 30 (2) (b) or (c) that the owner or occupier must comply with the applicable Acts, regulations, bylaws of the local government, laws of the first nation government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

Plan to be amended

32 If land is excluded under this Act from a land reserve plan, the commission must amend the land reserve plan and notify the appropriate local government or first nation government and registrar of titles.

Reconsideration of decisions

33 (1) On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that

(a) evidence not available at the time of the original decision has become available,

(b) all or part of the original decision was based on evidence that was in error or was false, or

(c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

(2) The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.

(3) If a local government, a first nation government or an authority makes a decision in a matter delegated to it under an agreement entered into under section 26 (1), subsections (1) and (2) of this section apply as if the local government, first nation government or authority were the commission.

Reconsideration of decisions of panel

33.1 (1) The chair of the commission may, in writing, direct the executive

committee to reconsider a decision made by a panel established under section 11

(2) respecting an application or other matter allocated to the panel by the chair of the commission, including a panel's reconsideration of a decision under section 33 (1), if

(a) the chair considers that the decision may not fulfill the purposes of the commission as set out in section 6, and

(b) the chair makes the direction to the executive committee within 60 days of the decision being made.

(2) If the chair of the commission directs the executive committee to reconsider a decision under subsection (1), the chair must give notice of the reconsideration to any person that the chair considers is affected by the reconsideration.

(3) If the chair of the commission directs the executive committee to reconsider a decision under subsection (1), the executive committee must confirm, reverse or vary the decision.

(4) For the purposes of subsection (3), the executive committee has all the powers, duties and functions of the commission.

(5) A decision by the executive committee under subsection (3) is for all purposes a decision of the commission.

Application procedure

34 (1) In this section and in sections 35 and 36, "**application**" means an application for inclusion under section 17, for exclusion under section 29 or 30, for a non-farm use under section 20 or for a subdivision under section 21.

(2) A local government or a first nation government that makes an application to the commission under section 29 must pay the prescribed application fee.

(3) A person who makes an application referred to in subsection (1) must do so by submitting the application and, except in the case of an application for inclusion under section 17, by paying the prescribed fee,

(a) to the municipality, if the land described in the application is in a municipality,

(b) to the regional district, if the land described in the application is in a regional district but not in a municipality or a local trust area,

(c) to the Islands Trust, if the land described in the application is within a local trust area under the *Islands Trust Act*, and

(d) to the first nation government, if the land described in the application is in the settlement lands of the first nation.

(3.1) Despite subsection (3), a first nation government that makes an application as the owner of proposed settlement lands must do so by

- (a) submitting the application, and
- (b) except in the case of an application under section 17 (3), paying the prescribed fee

to the commission.

(4) A local government or a first nation government that receives an application under subsection (3) must

- (a) review the application, and
- (b) subject to subsection (5), forward to the commission the application together with the comments and recommendations of the local government or the first nation government in respect of the application.

(5) If section 25 (3) or (3.1) or 30 (4) or (4.1) applies in relation to an application or proposed application and the required resolution or law is refused, the requirement in subsection (4) (b) of this section does not apply.

(6) A person who applies for a specific type of use prescribed by regulation as an application that must be filed directly with the commission must submit the application and pay the prescribed fee directly to the commission.

(7) In respect of an application to the commission referred to in subsection (6), the commission may request comments and information from the local government or first nation government for the area in which the land described in the application is located.

Information and fees respecting terms

34.1 (1) In this section, "**applicant**" means,

- (a) in respect of a decision made under section 25 (1) (b) or (c), the person who made the application under section 20 (3) or 21 (2) resulting in the decision, or
- (b) in respect of a decision made under section 30 (2) (b) or (c), the person who made the application under section 30 (1) resulting in the decision.

(2) If the commission makes a decision under section 25 (1) (b) or (c) or 30 (2) (b) or (c) and imposes one or more terms under section 25 (2) or 30 (3),

as applicable, the applicant must submit to the commission

- (a) the information, if any, prescribed in the regulations,
- (b) any other information requested by the commission, in the form and manner specified by the commission, and
- (c) any prescribed fees.

Application fees

35 (1) A local government or first nation government that receives application fees under section 34

- (a) may retain a prescribed portion of the application fees, and
- (b) must remit the balance of the application fees to the commission at the prescribed times.

(2) Despite subsection (1), if section 25 (3) or (3.1) or 30 (4) or (4.1) applies in relation to an application or proposed application and the required resolution or law is refused, the local government or first nation government, as applicable, must return to the applicant the portion of the application fee that would otherwise be remitted to the commission under subsection (1) (b) of this section.

(3) Subject to the approval of the commission, if the designated local government officer or the official designated for this purpose by the first nation government considers that a case of hardship exists, the officer may waive the application fee payable under section 34 (3).

(4) If the commission considers that a case of hardship exists, it may waive the application fee payable under section 34 (3).

(5) If, under section 34 (7), the commission requests comments or information from a local government or first nation government, the commission may pay a prescribed portion of the application fee to the local government or first nation government.

(6) This section applies despite the *Financial Administration Act*.

Notice of applications

36 (1) A person who makes an application referred to in section 34 must, in the prescribed circumstances,

- (a) give notice of the application in accordance with the regulations before submitting the application, and
- (b) provide evidence, satisfactory to the commission, that the

applicant has complied with the notice requirements of the regulations.

(2) A decision of the commission with respect to an application is not invalidated merely because the applicant fails to comply with the notice requirements of the regulations, if the applicant made reasonable efforts to comply with those requirements.

No compensation for reserve land

37 Land is deemed not to be taken or injuriously affected by its designation as an agricultural land reserve.

Agreements

38 For the purposes of this Act, the commission may enter into agreements with the government, a local government, a first nation government, Canada or an authority.

Definition of "board" in sections 40 to 45

39 (1) In sections 40 to 45, "**board**" means a commissioner appointed as a study commission under the *Public Inquiry Act* for the purpose of inquiring into a matter described in section 40 of this Act.

(2) The board has the powers set out in sections 22 and 23 of the *Public Inquiry Act*.

Reference of a matter to the board

40 (1) If the Lieutenant Governor in Council considers it to be in the Provincial interest, the Lieutenant Governor in Council by order, may refer to the board, for the purpose of a public hearing described in section 43, any of the following matters before the commission at the time of the order:

(a) an application for inclusion under section 17, or for exclusion under section 29 (1) (a) or 30 (1);

(b) an application for non-farm use or for subdivision under section 29 (1) (b);

(c) if land is being considered by the commission on its own initiative, the issues relating to

(i) approval and designation under section 17 (1),

(ii) the exclusion from a reserve under section 29 (1) (a), or

(iii) the granting of the permission for non-farm use or for

subdivision under section 29 (1) (b);

(d) a reconsideration under section 33 of a decision of the commission made in respect of a matter referred to in paragraph (a), (b) or (c) of this subsection.

(2) The Lieutenant Governor in Council must specify written terms of reference for the purpose of a public hearing by the board pertaining to a matter referred to the board under this section.

(3) In determining whether it is in the Provincial interest to refer a matter to the board under subsection (1), the Lieutenant Governor in Council must take into account

(a) the preservation of agricultural land as a scarce and important asset,

(b) the potential long term consequences of failing to preserve agricultural land, and

(c) the province-wide context of the matter.

(4) The Lieutenant Governor in Council may make an order under subsection (1) on the Lieutenant Governor in Council's own initiative or at the request of a local government, a first nation government or the commission.

Suspension of matters pending a decision under section 40

41 (1) For the purpose of giving the Lieutenant Governor in Council time to consider whether an order under section 40 is warranted, the minister may order that the matter be suspended for a period, to be specified in the order, that is not longer than 90 days.

(2) An order of the minister under subsection (1) has effect and is binding on the commission, and on any parties to a proceeding relating to a matter that is the subject of the order, until the expiry of the period specified in the order.

Effect of an order under section 40

42 (1) On the date of an order under section 40 referring a matter to the board, the commission's powers, duties and functions under this Act in relation to the matter are transferred to the Lieutenant Governor in Council to the extent necessary to enable the Lieutenant Governor in Council to act in accordance with section 45.

(2) An order under section 40 is final and binding.

(3) If the Lieutenant Governor in Council makes an order under section 40

referring a matter to the board, the commission must, within 14 days of the date of the order,

- (a) prepare a written report with respect to the matter, and
- (b) submit the report to the board for the purpose of assisting the board in conducting a public hearing under section 43 in respect of the matter.

Public hearing

43 (1) On receiving the written terms of reference specified in conjunction with an order under section 40, the board must

- (a) prepare a discussion paper with respect to the matter that is the subject of the order, and
- (b) make the paper available to the public before holding a public hearing under this section.

(2) The discussion paper prepared under subsection (1) (a) must include the written report that the commission submitted to the board under section 42 (3) (b).

(3) For the purpose of providing the report and recommendations required under section 44, the board must conduct a public hearing to evaluate the probable agricultural, environmental, heritage, economic, cultural and social effects of any of the following if it is a matter that was before the commission at the time the order under section 40 made the referral:

- (a) an approval and a designation under section 17 (1);
- (b) a designation under section 17 (3);
- (c) an exclusion from a reserve under section 29 (1) (a) or 30 (1);
- (d) the granting or refusal of the permission referred to in section 29 (1) (b);
- (e) a decision under section 33 to confirm, reverse or vary a decision referred to in paragraph (a), (b), (c) or (d) of this subsection.

(4) The public hearing held under subsection (3) must be conducted in accordance with the terms of reference specified in conjunction with the order made under section 40.

(5) The board must hold at least one public hearing with respect to the matter in each of the following regions:

- (a) Interior;
- (b) Island;
- (c) Kootenay;
- (d) North;
- (e) Okanagan;
- (f) South Coastal.

Report and recommendations

44 (1) On conclusion of the public hearing under section 43, the board must submit to the Lieutenant Governor in Council

- (a) a written report in accordance with the terms of reference specified in conjunction with the order made under section 40, and
- (b) a summary of the evidence received and submissions made in the course of any public hearing held in accordance with the terms of reference.

(2) The report referred to in subsection (1) must include the board's recommendations to the Lieutenant Governor in Council for action under section 45.

(3) In making the recommendations referred to in subsection (2), the board must give weight to the following values in descending order of priority:

- (a) agricultural values, including the preservation of agricultural land and the promotion of agricultural purposes;
- (b) environmental and heritage values, but only if
 - (i) those values cannot be replaced or relocated to land other than agricultural land, or
 - (ii) giving weight to those values results in no net loss to the agricultural capabilities of the area;
- (c) economic, cultural and social values.

(4) The board must provide a copy of its report to the commission at the same time that the report is submitted to the Lieutenant Governor in Council under subsection (1).

(5) The commission may submit to the Lieutenant Governor in Council written comments on the report, but it must do so within 30 days of receiving a copy of the report under subsection (4).

(6) Within 10 days after submitting its report under subsection (1), the board

must publish the report in the prescribed manner.

Lieutenant Governor in Council's decision

45 (1) On receiving the board's report under section 44 (1) and the commission's comments, if any, under section 44 (5), the Lieutenant Governor in Council, by order, may decide the outcome of the matter that is the subject of the order under section 40 by

- (a) granting or refusing to grant the approval, designation, exclusion or permission applied for, in the case of a matter described in section 40 (1) (a) or (b),
- (b) making or deciding not to make the approval, designation, exclusion or permission that was under consideration by the commission on its own initiative, in the case of a matter described in section 40 (1) (c), or
- (c) confirming, reversing or varying a decision referred to in section 40 (1) (d).

(2) Section 44 (3) applies to a decision made under subsection (1) of this section.

(3) The Lieutenant Governor in Council may attach conditions to an order made under this section.

(4) An order made under this section is final and binding.

Conflict with bylaws

46 (1) In this section, "**bylaw**" means

- (a) a bylaw, made by a local government, that adopts a regional growth strategy, an official settlement plan, an official community plan, an official development plan or a zoning bylaw,
- (b) any other bylaw respecting land use in a local government's jurisdiction made by a local government under any other enactment, and
- (c) a law of a first nation government respecting land use within the first nation's settlement lands.

(2) A local government in respect of its bylaws and a first nation government in respect of its laws must ensure consistency with this Act, the regulations and the orders of the commission.

(3) Subject to subsection (4), nothing in this Act affects or impairs the validity

of a local government bylaw or a first nation government law relating to the use of agricultural land in an agricultural land reserve.

(4) A local government bylaw or a first nation government law that is inconsistent with this Act, the regulations or an order of the commission has, to the extent of the inconsistency, no force or effect.

(5) Without limiting subsection (4), a local government bylaw or a first nation government law is deemed to be inconsistent with this Act if it

(a) allows a use of land in an agricultural land reserve that is not permitted under this Act, or

(b) contemplates a use of land that would impair or impede the intent of this Act, the regulations or an order of the commission, whether or not that use requires the adoption of any further bylaw or law, the giving of any consent or approval or the making of any order.

(6) A local government bylaw or a first nation government law that provides restrictions on farm use of agricultural land additional to those provided under this Act is not, for that reason alone, inconsistent with this Act and the regulations.

(7) This section applies only to local government bylaws or first nation government laws made after August 26, 1994.

Consolidated revenue fund

47 The commission must pay as soon as practicable all money received by it, other than money received under an appropriation under a *Supply Act*, into the consolidated revenue fund.

Bonding or other security

48 The Lieutenant Governor in Council, the commission, a local government, a first nation government or an authority may require that an applicant under this Act whose application has been approved on terms, in order to ensure compliance with the terms, post security in the form of insurance, a bond or another prescribed form of security.

Inspections

49 (1) For the purposes of administering this Act or of ensuring compliance with this Act, the regulations or an order of the commission, a member of the commission or an official may do one or more of the following:

- (a) enter any land, other than a dwelling house;
 - (b) make any surveys, analyses, inspections, examinations or soil tests that are necessary to determine any of the following:
 - (i) the current use of the land;
 - (ii) the suitability of the land for farm use;
 - (iii) the potential impact of proposed changes to the use of the land on land in an agricultural land reserve;
 - (c) remove soil samples for the purposes of conducting the analyses and tests referred to in paragraph (b);
 - (d) make any inspection of records, things or activities reasonably related to the purpose of the inspection;
 - (e) make copies of any records or documents reasonably related to the purpose of the inspection;
 - (f) make an order requiring a person to produce for the member or official a record or thing in the person's possession or control.
- (2) A person who hinders, obstructs, impedes or otherwise interferes with a person exercising a power under subsection (1) commits an offence.
- (3) If a member of the commission or an official exercises a power under subsection (1), the commission may order the person in respect of whom the power was exercised to pay to the commission fees related to the exercise of the power, as prescribed in the regulations.

Stop work order

- 50** If an official considers that a person is contravening or is about to contravene a provision of this Act or the regulations, the official, in accordance with the regulations, may order that
- (a) the contravention cease,
 - (b) the contravention cease to the extent specified by the order, or
 - (c) the person not take any action that would result in a contravention.

Power to rescind or vary orders

- 51** The chief executive officer may rescind or vary any determination, decision or order made by the chief executive officer or an official under section 50, 52 or 54

- (a) on new information being provided to the chief executive officer,
- (b) if the chief executive officer determines that there were insufficient grounds for making the determination, decision or order, or
- (c) if the chief executive officer considers that it would be in the best interests of the administration of this Act.

Determinations and remediation orders

52 (1) If the chief executive officer determines that a person has contravened this Act, the regulations or an order of the commission, the chief executive officer, in accordance with the regulations, may order the person to remedy the contravention by

- (a) carrying out a requirement of this Act or the regulations that the person has failed to carry out, or
- (b) repairing or mitigating damage caused to agricultural land by the contravention, including the removal of buildings or structures.

(2) If a person fails to comply with an order under subsection (1), the chief executive officer, in accordance with the regulations, may do one or more of the following:

- (a) in a written notice given to the person, restrict or prohibit the person from carrying out the work referred to in the order;
- (b) require the person to provide the security that the chief executive officer considers necessary and realize on that security;
- (c) carry out all necessary work.

(3) A person referred to in subsection (2) is liable to the commission for costs incurred by the commission under this section.

Order for compliance

53 (1) The commission may apply to the Supreme Court for an order under subsection (2) if the commission considers

- (a) that a person is not complying, or has not complied, with a determination, a decision or an order under section 49 (1) (f), 50, 52 or 54 (1),
- (b) that a person is not complying with an order of the commission, or

(c) that a present or future activity or use of agricultural land in an agricultural land reserve may contravene this Act, the regulations, an order of the commission or a determination, a decision or an order under section 50, 52 or 54 (1).

(2) On application by the commission under this section, the Supreme Court may make one or more of the following kinds of orders:

- (a) directing the person to comply with the determination, decision or order;
- (b) directing the person to cease violating the determination, decision or order;
- (c) restraining the person from violating the determination, decision or order;
- (d) if the person is a corporation, directing the directors and officers of the corporation to cause the corporation to comply with an order under this section.

Penalties levied by chief executive officer

54 (1) The chief executive officer, in accordance with the regulations, may levy a penalty up to the prescribed amount against a person who contravenes this Act, the regulations or the orders of the commission.

(2) The time limit for levying a penalty against a person under subsection (1) is 3 years after the facts on which the penalty is based first came to the knowledge of the chief executive officer.

Appeal

55 (1) A person who is the subject of a determination, a decision, an order or a penalty under section 50, 52 or 54 (1) may appeal the determination, decision, order or penalty to the commission by serving the commission with a notice of appeal.

(2) On an appeal under this section, the commission may

- (a) confirm or reverse the determination, decision, order or penalty, or
- (b) refer the matter, with or without directions, back to the person who made the initial determination, decision or order.

(3) The commission must give notice of an appeal to any person the commission considers is affected by the appeal.

(4) [Repealed 2004-45-65.]

(5) For the purposes of an appeal under this section, sections 11 to 15, 17 to 21, 23 to 25, 31 (1) (a) to (e) and (g), (2) and (3), 32, 33, 35 to 37, 39, 40, 44, 46.3, 48, 50 to 55, 57, 58, 60 (a) and (b) and 61 of the *Administrative Tribunals Act* apply to the commission.

Exclusive jurisdiction of commission

55.1 (1) The commission has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under section 55 and to make any order permitted to be made.

(2) Without limiting subsection (1), the commission has exclusive jurisdiction to hear and determine the following questions:

(a) whether an official acted in accordance with the regulations in issuing an order under section 50;

(b) whether the chief executive officer acted in accordance with the regulations in issuing a notice under section 52 (2) (a), issuing an order under section 52 (1), taking any action under section 52 (2) or levying a penalty under section 54 (1).

(3) A decision or order of the commission under this Act on a matter in respect of which the commission has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

Immunity protection for commission, its members and officers

55.2 (1) In this section, "**decision maker**" includes a commission member or other officer who makes a decision in relation to an appeal under section 55.

(2) Subject to subsection (3), no legal proceeding for damages lies or may be commenced or maintained against a decision maker or the commission because of anything done or omitted

(a) in the performance or intended performance of any duty under section 55, or

(b) in the exercise or intended exercise of any power under section 55.

(3) Subsection (2) does not apply to a person referred to in that subsection in relation to anything done or omitted by that person in bad faith.

Application of enforcement powers

56 (1) If, under an agreement under section 26, a local government, a first nation government or an authority acts in the place of the commission, sections 49 to 55 apply to

- (a) the local government, first nation government or authority, and
- (b) a person designated by the local government, first nation government or authority to exercise the powers under those sections.

(2) Despite section 43 of the *Provincial Court Act*, if a local government or a first nation government imposes a penalty under section 54 of this Act, the penalty is payable to and may be retained by the local government or first nation government.

Offences

57 (1) A person commits an offence and is liable on conviction to a fine not exceeding \$1 million or imprisonment for not more than 6 months, or to both, who contravenes the following:

- (a) an order of the commission;
- (b) section 20 (1);
- (c) a covenant referred to in section 22;
- (d) section 49 (2);
- (e) a stop work order under section 50;
- (f) a remediation order under section 52.

(2) The maximum fine under subsection (1) to which a person is liable on a second or subsequent conviction is double the amount set out in that section.

(3) A proceeding, conviction or penalty under this section does not relieve a person from a penalty under another section or from any other liability.

(4) A person commits an offence who

- (a) without lawful excuse intentionally interferes with,
- (b) without lawful excuse intentionally fails to comply with a lawful requirement of, or
- (c) intentionally makes a false statement or misleads or attempts to mislead,

the chief executive officer, a member of the commission, an official or an employee or a consultant of the commission appointed under section 8.

(5) If a corporation contravenes this Act or the regulations, a director or officer of it who authorized, permitted or acquiesced in the contravention also commits the contravention.

(6) Section 5 of the *Offence Act* does not apply to this Act.

Power to make regulations

58 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) designating uses of land as farm use;
- (b) prescribing permitted uses and permitted types of subdivision for agricultural land, and specifying permitted uses that may or may not be prohibited by a local government enactment or a law of a first nation government;
- (c) exempting materials from the definition of "fill";
- (d) establishing different application fees for different types of applications and applications in different circumstances;
 - (d.1) respecting fees for the provision of a service under the Act by the commission or the officers or employees appointed by the commission, including, without limitation,
 - (i) prescribing the amount of a fee or a method for calculating the amount of a fee,
 - (ii) respecting the time within which a fee must be paid, and
 - (iii) prescribing minimum fees;
 - (d.2) respecting fees for the purposes of sections 34.1 (2) (c) and 49 (3), including, without limitation,
 - (i) establishing fees relating to the review of information,
 - (ii) prescribing the amount of a fee or a method for calculating the amount of a fee,
 - (iii) respecting the time within which a fee must be paid, and
 - (iv) prescribing minimum fees;
 - (d.3) for the purposes of section 34.1, respecting the information an applicant must submit to the commission, including, without limitation, the form and manner in which the information must be provided;

- (e) exempting classes of persons from payment of a prescribed application fee;
- (f) prescribing additional purposes for paragraph (a) of the definition of "community issue" in section 13 (1);
- (g) respecting the manner of holding hearings and meetings, obtaining public comment and prescribing notice requirements for applications, hearings and other matters, which regulations may be different for different categories of persons;
- (h) specifying non-farm uses that a local government, a first nation government, an authority, a board or another agency may permit on agricultural land for the purposes of section 18 (a);
- (i) prescribing exceptions to the prohibitions under section 19 respecting subdivision of land;
- (j) specifying non-farm uses for the purposes of section 20 and specifying circumstances in which removal of soil and the placement of fill are not to be considered non-farm uses;
- (k) respecting the terms of an agreement entered into under section 26;
- (l) prescribing who is an authority for the purposes of section 26 (1) and specifying the persons constituting a governing body of an authority for the purposes of section 26 (4);
- (m) respecting the manner in which a local government or first nation government is required for the purposes of section 34 (4) to
 - (i) consider an application, and
 - (ii) advise the commission of an application received and a decision made on an application;
- (n) prescribing a specific type of use for the purposes of section 34 (6);
- (o) prescribing the portion of the application fee to be retained for the purposes of section 35 (1) (a), specifying the prescribed times for the purposes of section 35 (1) (b) or prescribing the portion to be paid to the local government or first nation government for the purposes of section 35 (5);
- (p) prescribing circumstances in which notice of an application is required to be given under section 36;
- (q) respecting the notice requirements for the purposes of section

36, including prescribing a form of notice and prescribing different notice requirements for different types of applications or different areas of British Columbia.

(3) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

- (a) respecting the publication of reports for the purposes of section 44 (6);
 - (b) respecting other forms of security for the purposes of section 48;
 - (c) respecting orders under sections 50 and 52;
 - (d) respecting penalties levied under section 54 (1);
 - (e) prescribing penalties for a contravention of this Act, the regulations or an order of the commission;
 - (f) establishing policies and procedures to be followed by the commission in conducting its affairs, performing its duties and functions and exercising its powers;
 - (g) prescribing procedures to facilitate dispute resolution under the Act;
 - (h) specifying the number of members that constitute a quorum of the commission or a panel;
 - (i) respecting the setting of boundaries of agricultural land reserves and the form, content, maintenance and correction of records of those boundaries.
- (4) Regulations under subsection (2) (d.1) may be different for different types of services, classes of persons or circumstances.
- (5) Regulations under subsection (2) (d.2) may be different for different types of information, powers exercised under section 49 (1), types of applications, types of applicants, types of land use or circumstances.
- (6) Regulations under subsection (2) (d.3) may be different for different types of land use, types of terms imposed in respect of land use or circumstances.

Powers cumulative

59 The powers in this Act and the regulations enabling the commission, the chief executive officer and an official to make an order, to impose a fine or penalty, or to commence a proceeding may be exercised separately, concurrently or cumulatively and do not affect the powers of the government

under this or any enactment.

Certificates of title subject to this Act

60 (1) In addition to the limitations set out in section 23 (2) of the *Land Title Act*, a certificate of title issued before June 29, 1973 for agricultural land is subject, by implication and without endorsement on the certificate of title, to this Act and the regulations governing the agricultural land reserve and farm use of the land.

(2) The registrar of titles must endorse on every indefeasible title to agricultural land issued after June 29, 1973 that the title may be affected by this Act.

Transitional

61 (1) In this section:

"former Act" means the *Land Reserve Commission Act*, S.B.C. 1999, c. 14, or the *Agricultural Land Reserve Act*, R.S.B.C. 1996, c. 10;

"Land Reserve Commission" means the Land Reserve Commission established under section 2 of the *Land Reserve Commission Act* as it read immediately before the coming into force of this section.

(2) All of the rights, property and assets and all of the debts, liabilities and obligations of the Land Reserve Commission are transferred to and vested in the Provincial Agricultural Land Commission.

(3) An application or a matter commenced under the former Act is continued as an application or matter under this Act.

(4) An application under section 3 of the *Soil Conservation Act*, R.S.B.C. 1996, c. 434, as it read immediately before the coming into force of this section is continued as an application for permission for non-farm use under this Act.

(5) The Provincial Agricultural Land Commission may take up and carry on to completion all proceedings or other matters commenced under any enactment that were, immediately before the coming into force of this section, before the Land Reserve Commission.

Spent

62–90 [*Consequential amendments and repeals. Spent. 2002-36-62 to 90.*]

Commencement

91 This Act comes into force by regulation of the Lieutenant Governor in Council.

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