Forest Practices Code of British Columbia Act

[RSBC 1996] CHAPTER 159

Contents

Part 1 — Definitions

1 Definitions

1.1 Repealed

Part 2 — Strategic Planning, Objectives and Standards

2 Provincial forest and a wilderness area

3–5 Repealed

6–8 Repealed

9–9.1 Repealed

Part 3

Division 1–4

10–12 Repealed

13 Repealed

14 Repealed

15 Repealed

16–19 Repealed
20  Repealed

21–21.1  Repealed

22  Repealed

22.1–23  Repealed

24  Repealed

24.1  Repealed

25  Repealed

26  Repealed

27–28  Repealed

29  Repealed

29.1  Repealed

30  Repealed

30.1  Repealed

31  Repealed

32  Repealed

33–38  Repealed

Division 5

39–40  Repealed

41  Repealed

42–44  Repealed

Part 4
45–60 Repealed

60.1–61 Repealed

62–71 Repealed

72 Repealed

73–74 Repealed

Part 5

Division 1

75 Repealed

Division 2

76 Repealed

77 Repealed

78–80 Repealed

81 Repealed

82 Repealed

Division 3

83–95 Repealed

Division 4–7

96–106 Repealed

Part 6

Division 1–2

107–116 Repealed
Division 3

117  Repealed

117.1  Repealed

117.2  Repealed

117.3  Repealed

118–125  Repealed

Division 4 — Administrative Review and Appeals

125.1–130  Repealed

130.1  Part 6 of the Forest and Range Practices Act applies

131  Appeal

131.1  Repealed

132  Order for written submissions

133  Interim orders

134  Open hearings

135  Witnesses

136  Contempt

137  Evidence

138  Repealed

139  Decision of commission

140  Order for compliance

141  Appeal to court
Division 5

142  Repealed
143  Repealed
143.1  Repealed
144–145  Repealed
146  Repealed
147  Repealed
148–149  Repealed
150–153  Repealed
154–157  Repealed
157.1  Repealed
158  Repealed
159  Repealed

Part 7

Division 1

160–161  Repealed
161.1  Repealed
162  Repealed
162.1–162.2  Repealed

Division 2

163–170  Repealed
Part 8

175–193 Repealed

Part 9 — Forest Appeals Commission

194 Forest Appeals Commission continued

195 Organization of the commission

196 Commission staff

196.1 No oral hearing as of right

196.2 Delegation of powers

197 Mandate of the commission

Part 10 — Regulations

198 Power to make regulations

199 Repealed

200 Fees

201–204 Repealed

205 Provincial forest

206 Repealed

207 Repealed

208–214 Repealed

215 Repealed
216 Repealed

217 Repealed

217.1 Repealed

218 Repealed

219 Repealed

220 Reviews, appeals and the commission

221 Repealed

Part 10.1

221.1–221.3 Repealed

Part 11

222–228 Repealed

229 Repealed

230–232 Repealed

233–234 Repealed

235–236 Repealed

237–238 Repealed

239 Repealed

240–242 Repealed

243 Repealed

244–246 Repealed

247 Repealed
Part 1 — Definitions

Definitions

1 (1) In this Act:

"board" means the Forest Practices Board continued under section 136 of the Forest and Range Practices Act;

"commission" means the Forest Appeals Commission continued under section 194.

(2) and (3) [Repealed 2004-36-146.]

Repealed

1.1 [Repealed 2003-55-91.]

Part 2 — Strategic Planning, Objectives and Standards

Provincial forest and a wilderness area

2 (1) Private land described in a tree farm licence or woodlot licence and Crown land must be managed and used in a way that is consistent with one or more of the following:

(a) timber production, utilization and related purposes;

(b) forage production and grazing by livestock and wildlife and related purposes;

(c) recreation, scenery and wilderness purposes;

(d) water, fisheries, wildlife, biological diversity and cultural heritage resource purposes;

(e) another prescribed purpose.

(2) and (3) [Repealed 2004-36-128.]

(4) Despite subsections (1) to (3), under the Coal Act, the Geothermal Resources Act, the Mineral Tenure Act or the Petroleum and Natural Gas Act, a person may use or occupy Crown land if the person does so in accordance with the regulations and, if required by the regulations, with a special use permit.

(5) If required by the regulations, a person must obtain a special use permit before using or occupying Crown land.
(6) Subsection (5) does not apply to a person who uses or occupies Crown land described in an agreement under the *Range Act* or in a woodlot licence if the use or occupation is under the *Coal Act*, the *Geothermal Resources Act*, the *Mineral Tenure Act* or the *Petroleum and Natural Gas Act*.

(7) [Repealed 2002-26-4.]

Repealed

3–5 [Repealed 2003-74-5.]

Repealed

6–8 [Repealed 2003-55-92.]

Repealed

9-9.1 [Repealed 2003-74-5.]

Part 3

Division 1–4

Repealed


Repealed

13 [Repealed 2002-25-23.]

Repealed

14 [Repealed 1997-48-58.]

Repealed

15 [Repealed 1997-48-59.]

Repealed


Repealed

20 [Repealed 1997-48-64.]
Repealed


Repealed

22 [Repealed 2002-76-14.]

Repealed


Repealed

24 [Repealed 2002-25-23.]

Repealed

24.1 [Repealed 2002-76-17.]

Repealed

25 [Repealed 1997-48-69.]

Repealed

26 [Repealed 1997-48-70.]

Repealed


Repealed

29 [Repealed 1997-48-73.]

Repealed

29.1 [Repealed 2003-55-92.]

Repealed

30 [Repealed 2002-76-20.]

Repealed
30.1  [Repealed 2003-55-92.]
Repealed

31  [Repealed 2002-76-22.]
Repealed

32  [Repealed 2002-25-23.]
Repealed


Division 5
Repealed

Repealed

41  (1) to (6)  [Repealed 2003-55-92.]
(6.1) and (7)  [Repealed 2002-25-27.]
(8) to (13)  [Repealed 2004-36-146.]
Repealed

42–44  [42, 42.1, 43 and 44 — Repealed 2003-55-92.]

Part 4
Repealed

45–60  [45 to 48.1, 49 to 60 — Repealed 2003-55-92.]
Repealed

60.1–61  [60.1, 60.2 and 61 — Repealed 2002-76-43.]
Repealed

Repealed

72  [Repealed 2002-25-27.]

Repealed

73–74  [Repealed 2003-55-92.]

Part 5

Division 1

Repealed

75  [Repealed 2004-31-97.]

Division 2

Repealed

76  [Repealed 2004-31-97.]

Repealed

77  [Repealed 1998-29-31.]

Repealed

78–80  [Repealed 2004-31-97.]

Repealed

81  [Repealed 1998-29-33.]

Repealed

82  [Repealed 2004-31-97.]

Division 3

Repealed

83–95  [Repealed 2004-31-97.]

Division 4–7
Repealed


Part 6

Division 1–2

Repealed


Division 3

Repealed

117  [Repealed 2003-55-92.]

Repealed

117.1  [Not in force.]

Repealed

117.2  [Repealed 2003-55-92.]

Repealed

117.3  [Not in force.]

Repealed

118–125  [118 to 119.1, 120 to 125 — Repealed 2003-55-92.]

Division 4 — Administrative Review and Appeals

Repealed

125.1–130  [125.1, 126 to 130 — Repealed 2003-55-92.]

Part 6 of the *Forest and Range Practices Act* applies

130.1  Part 6 of the *Forest and Range Practices Act* applies to this Act and the regulations under this Act, unless the context indicates otherwise.

Appeal
(1) To initiate an appeal under section 82 or 83 of the *Forest and Range Practices Act*, the person referred to in section 82 (1) of that Act, or the board under section 83 (1) of that Act, no later than 3 weeks after the latest to occur of

(a) the original decision,

(b) any correction under section 79 of that Act, and

(c) any review under section 80 or 81 of that Act,

must deliver to the commission

(d) a notice of appeal,

(e) a copy of the original decision, and

(f) a copy of any decision respecting a correction or review.

(2) [Repealed 2003-55-94.]

(3) The person or board bringing the appeal must ensure the notice of appeal given under subsection (1) complies with the content requirements of the regulations.

(4) Before or after the time limit in subsection (1) expires, the chair or a member of the commission may extend it.

(5) If the person or the board does not deliver the notice of appeal within the time specified, the person or board loses the right to an appeal.

(6) On receipt of the notice of appeal, the commission must, in accordance with the regulations, give a copy of the notice of appeal to the ministers and

(a) to the board, if the notice was delivered

(i) by the person who is the subject of the determination, or

(ii) for an appeal of a failure to make a determination, by the person who would be the subject of a determination, if made,

(b) to the person who is the subject of the determination, if the notice was delivered by the board, or

(c) for an appeal of a failure to make a determination, to the person who would be the subject of a determination, if made, if the board delivered the notice.
(7) The government, the board, if it so requests, and the person who is the subject of the determination or would be the subject of a determination, if made, are parties to the appeal.

(8) At any stage of an appeal the commission or a member of it may direct that a person who may be affected by the appeal be added as a party to the appeal.

(9) After a notice of appeal is delivered under subsection (1), the parties must disclose the facts and law on which they will rely at the appeal, if required by the regulations and in accordance with the regulations.

(10) The commission, after receiving a notice of appeal, must

(a) promptly give the parties to an appeal a hearing, or

(b) hold a hearing within the prescribed period, if any.

(11) Despite subsection (10), if the commission determines that the notice of appeal does not comply with the content requirements of the regulations, or that there was a failure to disclose facts or law under subsection (9) or (14), the commission need not hold a hearing within the prescribed period referred to in subsection (10), but must hold a hearing within the prescribed period after a notice of appeal that does comply with the content requirements of the regulations is delivered to the commission, or the facts and law are disclosed as required under subsection (9) or (14).

(12) A party may

(a) be represented by counsel,

(b) present evidence, including but not limited to evidence that was not presented in the review under section 129,

(c) if there is an oral hearing, ask questions, and

(d) make submissions as to facts, law and jurisdiction.

(13) The commission may invite or permit a person to take part in a hearing as an intervenor.

(14) An intervenor may take part in a hearing to the extent permitted by the commission and must disclose the facts and law on which the intervenor will rely at the appeal, if required by the regulations and in accordance with the regulations.

(15) A person who gives oral evidence may be questioned by the commission or the parties to the appeal.

Repealed
Order for written submissions

(1) The commission or a member of it may order the parties to deliver written submissions.

(2) If the party that initiated the appeal fails to deliver a written submission ordered under subsection (1) within the time specified in the order, the commission may dismiss the appeal.

(3) The commission must ensure that every party to the appeal has the opportunity to review written submissions from the other parties and an opportunity to rebut the written submissions.

Interim orders

(1) The commission or a member of it may make an interim order in an appeal.

Open hearings

(1) Hearings of the commission must be open to the public.

Witnesses

(1) The commission or a member of it has the same power as the Supreme Court has for the trial of civil actions

(a) to summon and enforce the attendance of witnesses,

(b) to compel witnesses to give evidence on oath or in any other manner, and

(c) to compel witnesses to produce records and things.

Contempt

(1) The failure or refusal of a person

(a) to attend,

(b) to take an oath,

(c) to answer questions, or

(d) to produce the records or things in his or her custody or possession,

makes the person, on application to the Supreme Court, liable to be committed for contempt as if in breach of an order or judgment of the Supreme Court.
Evidence

137 (1) The commission may admit as evidence in an appeal, whether or not given or proven under oath or admissible as evidence in a court,

(a) any oral testimony, or

(b) any record or other thing relevant to the subject matter of the appeal and may act on the evidence.

(2) Nothing is admissible in evidence before the commission or a member of it that is inadmissible in a court by reason of a privilege under the law of evidence.

(3) Subsection (1) does not override an Act expressly limiting the extent to or purposes for which evidence may be admitted or used in any proceeding.

(4) The commission may retain, call and hear an expert witness.

Repealed

138 [Repealed 2003-55-95.]

Decision of commission

139 (1) The commission must make a decision promptly after the hearing, and must give copies of the decision to the ministers, the parties and any intervenors.

(2) On the request of any of the ministers or a party, the commission must provide written reasons for the decision.

(3) The commission must make a decision within the prescribed period, if any.

Order for compliance

140 If it appears that a person has failed to comply with an order or decision of the commission or a member of it, the commission or a party may apply to the Supreme Court for an order

(a) directing the person to comply with the order or decision, and

(b) directing the directors and officers of the person to cause the person to comply with the order or decision.

Appeal to court
(1) The minister or a party to the appeal, within 3 weeks after being served with the decision of the commission, may appeal the decision of the commission to the Supreme Court on a question of law or jurisdiction.

(2) On an appeal under subsection (1), a judge of the Supreme Court, on terms he or she considers appropriate, may order that the decision or order of the commission be stayed in whole or in part.

(3) An appeal from a decision of the Supreme Court lies to the Court of Appeal with leave of a justice of the Court of Appeal.

Division 5

Repealed

142  [Repealed 2004-36-146.]

Repealed

143  [Repealed 2003-55-96.]

Repealed

143.1  [Repealed 2004-36-146.]

Repealed

144–145  [Repealed 2003-55-98.]

Repealed

146  [Repealed 2004-36-146.]

Repealed

147  [Repealed 2003-55-98.]

Repealed

148–149  [Repealed 2004-36-146.]

Repealed

150–153  [Repealed 2003-55-98.]

Repealed
154–157 [Repealed 2004-36-146.]

Repealed

157.1 [Repealed 2004-36-146.]

Repealed

158 [Repealed 2004-36-146.]

Repealed

159 [Repealed 2004-36-146.]

Part 7

Division 1

Repealed

160–161 [Repealed 2004-36-146.]

Repealed

161.1 [Repealed 2004-36-146.]

Repealed

162 [Repealed 2004-31-98.]

Repealed

162.1–162.2 [Repealed 2003-55-101.]

Division 2

Repealed

163–170 [Repealed 2003-55-101.]

Repealed

171 [Repealed 2004-36-146.]

Repealed

Part 8

Repealed

175–193  [175 to 190.1, 191 to 193 — Repealed 2003-55-101.]

Part 9 — Forest Appeals Commission

Forest Appeals Commission continued

194  (1) The Forest Appeals Commission is continued.

(1.1) The commission is to hear appeals under

(a) Division 4 of Part 6, and

(b) the Forest Act, the Private Managed Forest Land Act and the Range Act and, in relation to appeals under those Acts, the commission has the powers given to it by those Acts.

(2) The commission consists of the following members appointed by the Lieutenant Governor in Council after a merit based process:

(a) a member designated as the chair;

(b) one or more members designated as vice chairs after consultation with the chair;

(c) other members appointed after consultation with the chair.

(3) The Administrative Tribunals Appointment and Administration Act applies to the commission.

(4) to (6) [Repealed 2003-47-32.]

Organization of the commission

195  (1) The chair may organize the commission into panels, each comprised of one or more members.

(2) The members of the commission may sit

(a) as a commission, or

(b) as a panel of the commission
and 2 or more panels may sit at the same time.

(3) If members of the commission sit as a panel,

(a) the panel has the jurisdiction of, and may exercise and perform the powers and duties of, the commission, and

(b) an order, decision or action of the panel is an order, decision or action of the commission.

**Commission staff**

196  (1) Employees necessary to carry out the powers and duties of the commission may be appointed under the *Public Service Act*.

(2) In accordance with the regulations, the commission may engage or retain specialists or consultants that the commission considers necessary to carry out the powers and duties of the office and may determine their remuneration.

(3) The *Public Service Act* does not apply to the retention, engagement or remuneration of specialists or consultants retained under subsection (2).

**No oral hearing as of right**

196.1 A person is not entitled to an oral hearing before the commission.

**Delegation of powers**

196.2  (1) The chair may in writing delegate to a person or class of persons any of the commission's powers or duties under this Act, except the power

(a) of delegation under this section, or

(b) to make a report under this Act.

(2) A delegation under this section is revocable and does not prevent the commission exercising a delegated power.

(3) A delegation may be made subject to terms the chair considers appropriate.

(4) If the chair makes a delegation and then ceases to hold office, the delegation continues in effect as long as the delegate continues in office or until revoked by a succeeding chair.

(5) A person purporting to exercise a power of the commission by virtue of a delegation under this section must, when requested to do so, produce evidence of his or her authority to exercise the power.
Mandate of the commission

197 (1) In accordance with the regulations, the commission must

(a) hear appeals under Division 4 of Part 6 and under the *Forest Act* and the *Range Act*,

(b) provide

(i) the ministers with an annual evaluation of the manner in which reviews and appeals under this Act are functioning and identify problems that may have arisen under their provisions, and

(ii) the minister responsible for the administration of the *Ministry of Forests and Range Act* with an annual evaluation of the manner in which reviews and appeals under the *Forest Act* and the *Range Act* are functioning and identify problems that may have arisen under their provisions, and

(c) annually, and at other times it considers appropriate, make recommendations

(i) to the ministers concerning the need for amendments to this Act and the regulations respecting reviews and appeals,

(ii) to the minister responsible for the administration of the *Ministry of Forests and Range Act* concerning the need for amendments to the *Forest Act* and the *Range Act* and related regulations respecting reviews and appeals under those Acts, and

(d) perform other functions required by the regulations.

(2) The chair must give to the ministers an annual report concerning the commission's activities.

(3) The ministers must promptly lay the report before the Legislative Assembly.

Part 10 — Regulations

Power to make regulations

198 (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) The Lieutenant Governor in Council may make regulations respecting matters that are

(a) referred to in a provision of this Act as having to be in accordance with the regulations, or

(b) indicated by a provision of this Act as being a matter for a regulation.

(3) The Lieutenant Governor in Council may make a regulation defining a word or expression used in the Act.
In making a regulation under this Act, the Lieutenant Governor in Council may do one or more of the following:

(a) delegate a matter to a person;

(b) confer a discretion on a person;

(c) make different regulations for different persons, places, things or transactions.

Repealed

199  [Repealed 2004-36-146.]

Fees

200  (1) The Lieutenant Governor in Council may make regulations respecting fees for the provision under this Act of a service by the government, the board, the commission or the council, if any, to any person.

(2) [Repealed 2004-36-146.]

Repealed

201–204  [Repealed 2004-36-146.]

Provincial forest

205  (1) The Lieutenant Governor in Council may make regulations respecting the use of a wilderness area or other Crown land in a Provincial forest or a portion of a Provincial forest.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the issuance of permits to control or prohibit the use of a wilderness area or other Crown land in a Provincial forest or a portion of a Provincial forest.

Repealed

206  [Repealed 2003-55-103.]

Repealed

207  [Repealed 2004-31-98.]

Repealed

208–214  [208 to 209.1, 210 to 211.1, 212, 212.1, 213 and 214 — Repealed 2003-55-103.]
Reviews, appeals and the commission

220 (1) The Lieutenant Governor in Council may make regulations respecting reviews, appeals and the commission.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations respecting the following:

(a) the circumstances in which a review or appeal may be made;

(b) the practice, procedure and forms for reviews and appeals and for referrals to the commission of questions of law;

(c) the content of a request for review or a notice of appeal;

(c.1) the circumstances under which a review or appeal may be dismissed on the basis that the request for review or notice of appeal does not meet the content requirements of the regulations, or that there was a failure to disclose facts and law as required by the regulations;

(d) the costs of reviews and appeals and the apportionment of those costs between parties;

(e) fees and deposits respecting applications for reviews and appeals;
(f) the number of members that constitutes a quorum of the commission or a panel;

(f.1) the period in which the commission must hold a hearing after receiving a notice of appeal;

(f.2) the period in which the commission must deliver a decision after holding a hearing;

(g) annual reports made by the commission.

Repealed

221 [Repealed 2003-55-103.]

Part 10.1

Repealed

221.1–221.3 [Repealed 2003-55-103.]

Part 11

Repealed

222–228 [Repealed 2003-55-103.]

Repealed

229 [Repealed 1997-48-130.]

Repealed

230–232 [Repealed 2003-55-103.]

Repealed

233–234 [Repealed 2002-76-68.]

Repealed

235–236 [Repealed 1997-48-132.]

Repealed

237–238 [Repealed 2003-55-103.]

Repealed
239 [Repealed 1997-48-133.]

Repealed

240–242 [Repealed 2003-55-103.]

Repealed

243 [Repealed RS1996-159-243 (4).]

Repealed

244–246 [Repealed 2003-55-103.]

Repealed

247 [Repealed 2001-6-48.]

Repealed

248–252 [Repealed 2003-55-103.]