

PARK ACT

CHAPTER 309

Interpretation

1. In this Act

- “Crown land” means land owned by the Crown in right of the Province;
- “director” means the director of the Parks Branch of the Ministry of Lands, Parks and Housing;
- “minister” includes a person designated in writing by the minister;
- “natural resources” means land, water and atmosphere, their mineral, vegetable and other components, and includes the flora on and fauna on and in them;
- “nature conservancy area” means a roadless area, in a park, retained in a natural condition for the preservation of its ecological environment and scenic features, and designated as a nature conservancy area under this Act;
- “park” means Crown land established as a park under this Act;
- “park officer” means an employee of the Parks Branch;
- “park use permit” means a licence, issued under this Act, authorizing an activity or a course of behaviour or conduct, or the occupancy, use, development, exploitation or extraction of a natural resource on or in a park;
- “recreation area” means Crown land reserved or set aside for public recreational use and established as a recreation area under this Act;
- “resource use permit” means a licence, issued under this Act, authorizing an activity or course of behaviour or conduct or the occupancy, use, development, exploitation or extraction of a natural resource on or in a recreation area.

1973-67-1, 1977-75-1, B C Reg 92/79

Parks Branch

- ##### 2. There shall be, in the Ministry of Lands, Parks and Housing, a Parks Branch.

1965-31-3, 1977-75-1, B C Reg 92/79

Duties and responsibilities

- ##### 3. (1) Except as otherwise provided in this Act, the Parks Branch has jurisdiction over, and shall manage and administer, all matters concerning parks and recreation areas and public and private use and conduct in and on them, including
- (a) the rights, property and interests of the Crown in right of the Province in and on parks and recreation areas;
 - (b) natural resources in and on parks and recreation areas;
 - (c) wildlife and its habitats on and in parks and recreation areas;
 - (d) the preservation, development, use and maintenance of parks and recreation areas and natural resources on and in them;
 - (e) the regulation and control of public and private individuals in the use or exploitation of parks and recreation areas and the natural resources in and on them, and of human activities, behaviour and conduct in or on parks and recreation areas;
 - (f) all matters under this Act.

(2) The Parks Branch has, subject to an order under section 6, jurisdiction over and shall manage and administer land or a trail, path or waterway comprised in an order under section 6.

1973-67-2; 1978-28-15.

Director and officers

4. A director of the Parks Branch, and other officers and employees required for the proper functioning of the Parks Branch, may be appointed pursuant to the *Public Service Act*.

1965-31-5.

Classification of parks and recreation areas

5. (1) The Lieutenant Governor in Council may establish any area of Crown land as a park of Class A, Class B or Class C, as a recreation area, or as a nature conservancy area, and declare the name by which it shall be known.

(2) Notwithstanding that the power conferred on the Lieutenant Governor in Council by subsection (1) is expressed as being permissive, the Lieutenant Governor in Council shall exercise that power to the extent and as often as may be necessary to ensure that the total area of parks and recreation areas is not less than 2 550 000 ha.

(3) The Provincial parks and Provincial land named and described respectively in Schedule A and Schedule B of the *Park Act*, S.B.C. 1965, are hereby established as Provincial parks of Class A, and are dedicated to the preservation of their natural environments for the inspiration, use and enjoyment of the public.

(4) The Lieutenant Governor in Council may, by order, extend the boundaries of any park, or consolidate 2 or more of the parks, established under subsection (3).

(5) Subject to subsection (4), the boundaries of a park established under subsection (3) shall not be affected except by an Act of the Legislature.

1965-31-6; 1973-67-3; 1977-53-1.

Additional powers

- 6.** (1) Where
- (a) an order has been made in respect of Crown land under the *Environment and Land Use Act*;
 - (b) Crown land has been designated as green belt land under the *Greenbelt Act*;
 - (c) Crown land has been designated as a Provincial heritage site under the *Heritage Conservation Act*;
 - (d) land is leased to the Crown or to an agent of the Crown for public outdoor recreation;
 - (e) land is owned by a person who has entered into an agreement with the Crown or with an agent of the Crown respecting the use of the land for outdoor recreation; or
 - (f) a trail, path or waterway owned by the Crown is available for use by the public as a trail or path, or as a waterway for canoes or small boats,
- the Lieutenant Governor in Council may, by order made under this and any other applicable Act, authorize the Parks Branch to manage and administer the land, or the trail, path or waterway, or the interest of the Crown in it.

(2) An order under subsection (1) that is also made under another Act shall be consistent with that Act but, subject to that requirement, this Act applies to the land or to the trail, path or waterway to the extent specified in the order.

1978-28-15

Lieutenant Governor in Council may define or modify park boundaries

7. The Lieutenant Governor in Council may cancel or again establish any park, except any park established under section 5 (3), established under this Act, and may revise the boundaries of any such park to increase or decrease the area of the park or to consolidate 2 or more parks or to divide an existing park into 2 or more parks.

1965-31-7, 1973-67-4

Alienation of interests restricted

8. (1) No interest in land in a

(a) park of Class A or Class C shall be granted, sold, leased, pre-empted or otherwise alienated or obtained or made the subject of a licence except as authorized by a valid and subsisting park use permit, which shall not be issued unless, in the opinion of the minister, issuance is necessary to the preservation or maintenance of the recreational values of the park involved;

(b) park of Class B shall be granted, sold, leased, pre-empted or otherwise alienated or obtained except by a valid and subsisting park use permit, the issuance of which is not, in the opinion of the minister, detrimental to the recreational values of the park concerned.

(2) Crown land in a recreation area is reserved

(a) absolutely from sale, and title to that land shall be retained, in perpetuity, in the Crown;

(b) from lease or other disposal under the *Land Act*, except as may be approved by the minister.

1965-31-8, 1973-67-5

Natural resources protected

9. (1) No natural resource except fish and wildlife taken, hunted or killed in accordance with the *Wildlife Act* and fish, game or wildlife stalked or pursued for observation or for photographic or study purposes, in a

(a) park of Class A or Class C shall be granted, sold, removed, destroyed, damaged, disturbed or exploited except as authorized by a valid and subsisting park use permit, which shall not be issued unless, in the opinion of the minister, issuance is necessary to the preservation or maintenance of the recreational values of the park involved;

(b) park of Class B shall be granted, sold, removed, destroyed, damaged, disturbed or exploited except as authorized by a valid and subsisting park use permit, the issuance of which is not, in the opinion of the minister, detrimental to the recreational values of the park involved;

(c) park of any class having an area of 2 023 ha or less or in a nature conservancy area shall be granted, sold, removed, destroyed, damaged, disturbed or exploited; or

(d) recreation area shall be granted, sold, removed, destroyed, disturbed or damaged, exploited, developed, improved or utilized under any Act except as may be approved by the minister.

(2) No natural resource in a park of any class shall be granted, sold, removed, destroyed, disturbed, damaged or exploited unless, in the opinion of the minister, the development, improvement and use of the park in accordance with section 12 (3) will not be hindered by it.

1965-31-9; 1977-53-1.

Class C parks boards

10. (1) Every park of Class C shall be under the jurisdiction of a separate park board appointed by the minister.

(2) A park board shall consist of not less than 3 and not more than 7 members and, on appointment, is a body corporate.

(3) Every park board shall conduct its proceedings and manage, administer, regulate and control the park under its jurisdiction in accordance with this Act and the regulations.

1965-31-10.

Lieutenant Governor in Council may acquire land for parks

11. For the purpose of the establishment or enlargement of any park or recreation area, the minister, on behalf of Her Majesty the Queen in right of the Province, with the approval of the Lieutenant Governor in Council, may

- (a) purchase or otherwise acquire, accept and take possession of land, improvements on land, timber, timber rights and other rights;
- (b) grant, convey or transfer to any person, in exchange for land, improvements, or timber acquired under paragraph (a) above, other land, timber or rights of Her Majesty the Queen in right of the Province;
- (c) expropriate land, and the provisions of the *Ministry of Transportation, Communications and Highways Act* shall apply, with the necessary changes and so far as applicable, in event of expropriation.

1965-31-11; 1977-75-67; B.C. Reg. 91/79.

Park categories

12. (1) On the establishment of a park, the minister shall specify the park to be in

- (a) category one if the main purpose of its designation is the preservation of its particular atmosphere, environment or ecology;
- (b) category 2 if the main purpose of its establishment is the preservation and presentation to the public of specific features of scientific, historic or scenic nature;
- (c) category 3 if the main purpose of its establishment is to offer enjoyment, convenience and comfort to the travelling public;
- (d) category 4 if the main purpose of its establishment is to offer recreational opportunity to the public of a particular community or area;
- (e) category 5 if the main purpose of its establishment is to offer opportunities to participate in a specific recreational activity; or
- (f) category 6 if the area is established a park for 2 or more purposes.

- (2) The development and improvement of a park specified as of
- (a) category one shall be directed toward and limited to that necessary to the preservation, for public enjoyment, of the atmosphere, environment and ecology of the park;
 - (b) category 2 shall be directed toward and limited to that necessary to the preservation, for public enjoyment, of the scientific, historic or scenic features of the park that are specified or described by the minister;
 - (c) category 3 shall be directed toward and limited to those necessary to the beautification of the park and the provision of facilities necessary to the enjoyment, convenience and comfort of the travelling public;
 - (d) category 4 shall be directed toward the provision of recreational opportunities for the community or communities specified or described by the minister;
 - (e) category 5 shall be directed toward and limited to those necessary to the adaptation of the park to a single special use designated by the minister; and
 - (f) category 6 shall be directed and limited in accordance with a zoning plan, which shall be prepared by the director, allocating various lands of a single park to 2 or more of the purposes enumerated in subsection (1).
- (3) No person shall carry on, in any park, any activity that will restrict, prevent or inhibit the use of the park for its designated purpose.
- (4) No person shall, except as may be authorized by a resource use permit, carry on any work or improvement or any industrial or commercial enterprise on any recreation area.

1965-31-12; 1973-67-7.

Heritage Conservation Act

13. The *Heritage Conservation Act* applies in parks.

1965-31-13.

Wildlife Act

14. Subject to the regulations made under this Act, the *Wildlife Act* applies in parks.

1965-31-14; 1973-67-8.

Private construction restricted

15. No person shall, except under the authority of a valid and subsisting park use permit or resource use permit, construct, install, erect or place any structure, improvement or work of any nature in a park or recreation area.

1973-68-9.

Dumping prohibited

16. No person shall transport any garbage, refuse or domestic or industrial waste through, over, in or on any park or deposit any such material in or on any park except as may be authorized by a valid and subsisting park use permit.

1965-31-16.

Disposal of timber

17. All timber cut on or removed from any park or recreation area shall be disposed of in accordance with the *Forest Act*.

1965-31-17; 1973-67-10; 1977-75-13; 1978-23-166.

Occupancy and use of park land restricted

18. Except as may be authorized by a valid and subsisting park use permit, no person shall

- (a) use or occupy any land in a park for a log storage area, mill site, road, right of way, disposal area for tailings or waste or any other industrial purpose;
- (b) obtain any surface right or right to the use or occupancy of the surface of any land in a park;
- (c) exercise in a park any right under the *Mineral Act*, the *Mining (Placer) Act*, the *Coal Act* or the *Petroleum and Natural Gas Act*;
- (d) flood any part of a park, or impound, divert or distribute water in a park; or
- (e) establish or carry on any commercial or industrial activity or enterprise in a park.

1965-31-18; 1978-34-52.

Authorities of director and officers

19. The director or any officer of the Parks Branch acting on his behalf may

- (a) enter on and inspect any land, road, structure or work in a park;
- (b) order the repair, alteration, improvement, evacuation or removal of or addition to a structure or work in a park;
- (c) order any person in any park to cease or refrain from any action, omission or conduct that the director or park officer, in his discretion, considers dangerous to life or property or detrimental to the public interest;
- (d) require any person in any park to inform him of
 - (i) the person's name, address and occupation;
 - (ii) any fact or intention relating to the person's use of the park; and
 - (iii) the person's conduct and activities in the park.

1965-31-19

Authority to carry out orders

20. Where a lawful order of the director or an officer of the Parks Branch under section 19 is not carried out or is only partially or imperfectly carried out,

- (a) the director may authorize any person to carry out or complete the carrying out of the order;
- (b) the expense to Her Majesty the Queen in right of the Province of carrying out or completing the carrying out of the order is a debt owing to Her Majesty the Queen in right of the Province by the person to whom the order was first given or directed, recoverable at the suit of Her Majesty the Queen in right of the Province in any court of competent jurisdiction;
- (c) the certificate of the director is proof in the absence of evidence to the contrary of the indebtedness and the amount of the debt.

1965-31-20.

No rights acquired in contravention of this Act

21. No person may acquire any right or title to or interest in

- (a) any natural resource removed, disturbed, destroyed, damaged or exploited in contravention of this Act; or
- (b) any structure, improvement or work constructed, installed, erected or placed in a park in contravention of this Act,

or acquire any lien on it or in respect of it, or any claim against any person or Her Majesty the Queen in right of the Province in respect of any work or expenditure done or incurred in connection with it, and the minister or his authorized representative may seize the natural resource, structure, improvement or work and sell or otherwise dispose of it for the sole benefit of Her Majesty the Queen in right of the Province.

1965-31-21.

Appeals

22. (1) An appeal lies to the Lieutenant Governor in Council from any order of the director or of any officer of the Parks Branch.

(2) An appeal under this section shall be taken within 30 days of the day on which the order was given.

(3) An appeal under this section is taken when the minister or his authorized representative receives notice in writing of intention to appeal.

(4) When an appeal is taken under this section, the minister or his authorized representative may require the appellant to deposit with him a sum of money to be determined by him sufficient to defray the cost to Her Majesty the Queen in right of the Province of hearing the appeal and arriving at a decision.

(5) On receiving the deposit required to be made under subsection (4), or, where no deposit is required, on receiving notice of intention to appeal, the minister or his authorized representative shall notify the appellant in writing of the time and place for the hearing of the appeal.

(6) On the hearing of an appeal under this section, the parties may be represented by counsel and may call witnesses and adduce evidence, whether the witnesses were called or evidence was adduced before or to the person who made the order or requirement appealed from or not, either as to the credibility of any witness or any fact material to the appeal.

(7) The Lieutenant Governor in Council or the person appointed by him to hear the appeal shall, after the conclusion of the hearing of the appeal,

- (a) make an order varying, confirming or quashing the order or requirement appealed from; and
- (b) make any order that he believes just for the disposition of any deposit made under this section.

(8) The Lieutenant Governor in Council may make regulations governing the conduct of appeals under this section.

1965-31-22.

Appeal to Court of Appeal

23. (1) An appeal from any order or requirement made under section 22 lies to the Court of Appeal.

(2) The *Court of Appeal Act* and the Rules of Court applicable to appeals from final judgments of the Supreme Court apply, with the necessary changes and so far as applicable, to appeals under this section.

1965-31-23.

Minister or agent may issue park use permits

24. (1) The minister or his authorized agent may, subject to this Act and on payment of the fees fixed by the Lieutenant Governor in Council, issue a park use permit authorizing, on the terms and conditions he may prescribe, a person or persons to do any one or more things for which, under this Act, a park use permit is required.

(2) The minister or his authorized agent may issue a park use permit

- (a) on receiving an application and appropriate fees for it without public competition; or
- (b) after advertisement of his intention to issue the permit and competition for it in accordance with regulations made by the Lieutenant Governor in Council.

(3) No park use permit shall be issued to authorize the offering of goods, services, accommodation or equipment for sale, hire or rent to the public until advertisement of the intention to issue the permit has been published in the Gazette and in one issue of a newspaper circulated in the Province.

(4) Where an advertisement of intention to issue a park use permit to authorize the offering of goods, services, accommodation or equipment for sale, hire or rent to the public has been published, and whether or not public competition takes place, the permit shall not be issued without written approval of a majority of a committee composed of the deputy minister as chairman and 2 permanent employees of the Ministry of Lands, Parks and Housing appointed by the director.

(5) The minister may, subject to this Act and the regulations, and on payment of the fees fixed by the Lieutenant Governor in Council, issue a resource use permit authorizing, on the terms and conditions he may prescribe, a person to do any one or more things for which, under this Act, a resource use permit is required.

1965-31-24, 1973-67-11, 1977-75-1, B C Reg 92/79

Applications and assurances required for park use permits

25. No park use permit shall be issued to authorize the removal, destruction, disturbance, damaging or exploitation of any natural resource or any work, occupancy, undertaking or activity incidental to it unless

- (a) a written application has been made for it by the person to whom the permit is issued; and
- (b) the application is accompanied by an undertaking in writing, executed by the person to whom the permit is issued, to pay to Her Majesty the Queen in right of the Province, in addition to any other sums which may be or become payable under any other Act,
 - (i) the cost incurred by Her Majesty the Queen in right of the Province in surveying, cruising, examining and inspecting the area to be affected; and
 - (ii) the annual park use permit fee or fees fixed by the Lieutenant Governor in Council.

1965-31-25

Rehabilitation deposit may be required

26. Before issuing a park use permit, the minister or his authorized agent may require the person to whom it is intended to issue the permit to pay to Her Majesty the Queen in right of the Province a sum of money which the minister or that agent

considers sufficient to defray the cost of the restoration or repair of the park concerned necessitated by the use authorized by the permit.

1965-31-26.

Not transferable

27. A park use permit is not transferable.

1965-31-27.

Rights and interest vested in Crown

28. Every right, title and interest in any structure, improvement or installation in a park belongs to Her Majesty the Queen in right of the Province except as otherwise provided by a park use permit.

1965-31-28.

Application of other Acts

29. (1) This Act is subject to the *Environment and Land Use Act* and the *Pollution Control Act*, but otherwise, except as provided in this Act, this Act and the regulations are not subject to any other Act or regulation, whenever made, and no minister, ministry of government or agent of the Crown shall exercise any power granted under any other Act or regulation except in accordance with this Act and the regulations.

(2) A bylaw or regulation of a municipality or regional district, or any provision of it, that is, in any manner, in conflict with, inconsistent with or repugnant to this Act or the regulations, is suspended and of no effect to the extent of the conflict, inconsistency or repugnancy.

1973-67-12; 1977-75-1.

Application to earlier parks

30. Parks constituted under the *Department of Recreation and Conservation Act*, or, prior to the enactment of that Act, under the *Forest Act*, shall be deemed to have been established under this Act and to have the classification that they had on March 26, 1965, the date this Act came into force, and a park board appointed for a Class C Provincial park shall be deemed to have been appointed under this Act.

1965-31-33; 1973-67-14.

No private rights except by permit

31. (1) No person or party shall be permitted to acquire any property right in any park except under a park use permit as provided for in regulations.

(2) Lawful occupiers of improvements that are the property of Her Majesty the Queen in right of the Province in a park are exempt from taxes under any Act of the Province in respect of the improvements.

1965-31-31.

Minister may accept gifts

32. The minister, on behalf of Her Majesty the Queen in right of the Province, may accept gifts or bequests of money for park purposes, and the funds, if accepted, shall be used at the direction of the minister in accordance with the terms of the gift, and the minister may, at his discretion, accept other gifts of property for park purposes.

1965-31-32.

Regulations

- 33.** (1) The Lieutenant Governor in Council may make regulations.
- (2) Without limiting subsection (1), the regulations may provide for
- (a) the administration, protection and development of parks;
 - (b) the prohibition of hunting, fishing, trapping or carrying or discharging any firearm in any park;
 - (c) the prohibition of killing, hunting, angling for or otherwise taking or disturbing any animal, fish or bird, or the animals, fish and birds specified in regulations, in any park;
 - (d) fixing the number, age and sex of specified animals, fish and birds that may be taken by a person within any specified period in a park;
 - (e) designating the period during which any animal, fish or bird may be hunted or taken in any park;
 - (f) requiring a special licence or park use permit to hunt or to fish in any park,

and may provide in the regulations for the delegation of administrative authority to the minister.

(3) Without limiting subsection (1), the Lieutenant Governor in Council may, by regulation,

- (a) designate zones in recreation areas, and allocate them to specific uses and activities; and
- (b) prohibit or regulate and control the exploitation, development, extraction or utilization of natural resources and the actions, conduct and behaviour of any person, on any recreation area or in any portion of any recreation area.

(4) The Lieutenant Governor in Council may attach penalties for the infraction of regulations.

(5) Without limiting subsection (1), the regulations may impose fees.

1965-31-30, 1973-67-13, 1979-22-37