

This Act is Current to January 14, 2014

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

WILDLIFE ACT

[RSBC 1996] CHAPTER 488

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Part 1 — General Provisions

Definitions and interpretation

1 (1) In this Act:

"accompany" means to remain in the company of the other person, able to see the other person without the aid of any device other than ordinary corrective lenses and able to communicate by unamplified voice with that person;

"amphibian" means a vertebrate of the class Amphibia and includes the eggs and other developmental life stages;

"angler day" is a unit representing one person angling during any part of a day and is used to determine the extent to which a stream, lake or area specified under section 53 may be used for angling, for example, "a limit of 1 000 angler days" means that the total obtained by adding together the number of anglers using the stream, lake or area on each day of a specified period must not exceed 1 000;

"angler day quota" means the number of angler days allocated by the regional manager to an angling guide for the use of the angling guide's clients, or a class of those clients, during a period specified under section 53;

"angling" means catching or attempting to catch fish with a hook and line, with or without a rod, and includes

- (a) spear fishing or attempting to spear fish, and
- (b) catching or attempting to catch crayfish;

"angling guide" means a person licensed as an angling guide under this Act;

"angling guide operating plan" means a description of the operations of an angling guide that is in the form and contains the information required by the regulations;

"angling site" means a location on a stream or lake, or on the bank, bed or shore of a stream or lake, from or from near which a person angles;

"animal" means a mammal, reptile, amphibian or bird;

"appeal board" means the Environmental Appeal Board continued under the *Environmental Management Act*;

"assistant angling guide" means a person licensed as an assistant angling guide under this Act;

"assistant director" means the assistant director of the Wildlife Branch of the ministry;

"assistant guide" means a person licensed as an assistant guide under this Act;

"attractant" means any of the following:

- (a) food or food waste, compost or other waste or garbage that could attract dangerous wildlife;
- (b) a carcass or part of a carcass of an animal or fish, or other meat;
- (c) any other substance or thing prescribed by regulation of the minister;

"bag limit" means the maximum number of a species or type of wildlife that a person may take or kill;

"big game" means

- (a) any member of the family Cervidae,
- (b) mountain sheep, mountain goat, bison or pronghorn antelope,
- (c) bear, cougar or wolf, or
- (d) a mammal prescribed as big game;

"bird" means an animal of the class Aves, and its eggs;

"bow" means a longbow or crossbow;

"camp" includes a hunting or fishing camp, logging camp, construction camp or camp established in connection with developing the oil, gas or mineral resources of British Columbia;

"carry" includes the storing of or having in possession of, in a boat, aircraft, motor vehicle, trailer or all terrain vehicle, even though the boat, aircraft, motor vehicle, trailer or all terrain vehicle is used as temporary living quarters;

"closed season" means a specified period during which a species of wildlife must not be hunted or taken;

"cold storage plant" means a facility where, for compensation or reward received or promised, wildlife or fish or parts of them are processed and stored, either fresh or frozen, for later consumption;

"conservation officer" means a conservation officer defined in section 1 (1) of the *Environmental Management Act*;

"constable" means an officer of the Royal Canadian Mounted Police or either of the following as defined in the *Police Act*:

- (a) a designated constable;
- (b) a municipal constable;

"controlled alien species" means

- (a) a species designated by regulation under section 6.4 as a controlled alien species, and
- (b) hybrid animals and fish that have an ancestor within 4 generations that is a species designated as a controlled alien species;

"critical wildlife area" means land in a wildlife management area that is designated as a critical wildlife area;

"crossbow" means a bow fixed across a stock with a groove for the arrow or bolt and a mechanism for holding and releasing the string;

"Crown land" means land, whether or not it is covered by water, or an interest in land, vested in the government;

"dangerous wildlife" means

- (a) bear, cougar, coyote or wolf, or
- (b) a species of wildlife that is prescribed as dangerous wildlife;

"developmental stage" includes larva, embryo, seed, spore, egg, sperm, pollen and asexual propagule;

"director" means the director of the Wildlife Branch and, for matters relating to fish, includes a person designated by regulation of the Lieutenant Governor in Council;

"domestic animal" means an animal that is prescribed as a domestic animal;

"endangered species" means a species of animal that is designated as an endangered species, but does not include a controlled alien species;

"firearm" includes a rifle, shotgun, handgun or spring gun and any device that propels a projectile by means of an explosion, compressed gas or spring but does not include a bow;

"fish", except in the definition of "controlled alien species" and in paragraph (b) of the definition of "species" insofar as that provision applies in relation to controlled alien species, means any

- (a) vertebrate of the order Petromyzontiformes (lampreys) or class Osteichthyes (bony fishes), or
- (b) invertebrate of the class Crustacea (crustaceans) or class Mollusca (mollusks)

from or in non-tidal waters of British Columbia, and includes their eggs and juvenile stages;

"fur bearing animal" means a mammal prescribed as a fur bearing animal;

"fur management plan" means a plan for managing and trapping fur bearing animals that is in the form and contains the information required by the regulations;

"fur trader" means a person who is engaged in the business of buying, selling or trading in pelts or skins of fur bearing animals or other wildlife prescribed for the purpose of this definition, whether as principal, agent or employee, and whether the pelts or skins were obtained, taken or trapped by the fur trader or another person;

"game" means big game, small game, game birds and fur bearing animals, and other species prescribed as game;

"game bird" means a bird prescribed as a game bird and includes the eggs of that bird;

"guide" means a person who, for compensation or reward received or promised, accompanies and assists another person to hunt wildlife, but does not include a guide for fish;

"guide for fish" means a person who, for compensation or reward received or promised,

(a) accompanies another person and assists that person to angle,

(b) attends another person at or near an angling site in a manner that, directly or indirectly, assists that person to angle, or

(c) transports, for the purpose of angling, another person to, from or between angling sites,

but does not include a member of a class of persons prescribed by the Lieutenant Governor in Council;

"guide outfitter" means a person licensed as a guide outfitter under this Act;

"guiding area", in relation to a guide outfitter, means the area described in the guide outfitter's licence issued under section 51;

"guiding territory" means

(a) an area described in a guiding territory certificate, or

(b) an area designated under section 65 (1) as a guiding territory;

"guiding territory certificate" means a certificate issued under section 59;

"habitat" or **"wildlife habitat"** means the air, soil, water, food and cover components of the environment on which wildlife depend directly or indirectly in order to carry out their life processes;

"harass" includes worry, exhaust, fatigue, annoy, plague, pester, tease or torment, but does not include the lawful hunting, trapping or capturing of wildlife;

"hunt" includes shooting at, attracting, searching for, chasing, pursuing, following after or on the trail of, stalking or lying in wait for wildlife, or attempting to do any of those things, whether or not the wildlife is then or subsequently wounded, killed or captured,

(a) with intention to capture the wildlife, or

(b) while in possession of a firearm or other weapon;

"hunting licence" means a licence to hunt under section 11, but does not include a limited entry hunting authorization;

"initiation hunting licence" means a hunting licence issued in accordance with section 17.2;

"Indian" means a person defined as an Indian by the *Indian Act* (Canada);

"limited entry hunting authorization" means an authorization issued under section 16;

"longbow" includes a longbow, recurve bow and a compound bow;

"mammal" means a vertebrate of the class Mammalia other than humans;

"meatcutter" means a person who, for compensation or reward received or promised, processes wildlife or fish for consumption;

"native species" means a species that

(a) is indigenous to British Columbia, or

(b) has extended its range into British Columbia from another part of North America, unless

(i) the species was introduced to North America by human intervention or activities, or

(ii) any part of the extension of its range within North America was aided by human intervention or activities;

"nest" means a structure, or part of a structure, prepared by or used by an animal of the class Aves to hold its eggs or offspring;

"no shooting area" means a designated area in which the discharge of a firearm is prohibited;

"non resident" means

(a) a person who is not a resident but who is a Canadian citizen or a permanent resident of Canada, or

(b) a person who

(i) is not a resident, but whose only or primary residence is in Canada, and

(ii) has resided in Canada for the 12 month period immediately before making an application under this Act or doing another thing relevant to the operation of this Act;

"non resident alien" means a person who is neither a resident nor a non resident;

"officer" means

(a) a constable, a conservation officer, the director, an assistant director or a regional manager,

(a.1) subject to subsection (3), a park ranger appointed under the *Park Act*, or

(b) an employee of the government designated by name or position as an officer, by regulation of the minister;

"open season" means a specified period of time during which a species of wildlife may be hunted or taken;

"person", for the purpose of issuing a licence, limited entry hunting authorization or guiding territory certificate or a registration of a trapline, means a natural person;

"prohibited hours" means the hours during which the hunting of specified species of wildlife in a locality is prohibited;

"quota" means

(a) the total number of a game species, or

(b) the total number of a type of game species

specified by the regional manager that the clients or a class of client of a guide outfitter may kill in the guide outfitter's guiding area, or part of it, during a licence year, or part of it, but does not include an angler day quota;

"raptor" means a bird of the order Falconiformes known as vultures, eagles, falcons and hawks or the order Strigiformes known as owls, and includes its eggs;

"regional manager" means a regional manager of the recreational fisheries and wildlife programs;

"reptile" means a vertebrate of the class Reptilia and its eggs;

"resident" means

(a) a person who

(i) is a Canadian citizen or a permanent resident of Canada, whose only or primary residence is in British Columbia, and

(ii) has been physically present in British Columbia for the greater portion of each of 6 calendar months out of the 12 calendar months immediately preceding the date of making an application under this Act or doing another thing relevant to the operation of this Act, or

(b) a person who

(i) is not a Canadian citizen or a permanent resident of Canada, but whose only or primary residence is in British Columbia, and

(ii) has been physically present in British Columbia for the greater portion of each of the 12 calendar months immediately preceding the date of making an application under this Act or doing another thing relevant to the operation of this Act;

"small game" means animals prescribed as small game;

"spear fishing" means fishing by use of a spear propelled by a spring, an elastic band, compressed air, a bow or by hand;

"species" means a species, sub-species, variety or genetically or geographically distinct population of

(a) animals,

(b) fish,

(c) plants, or

(d) other organisms, except bacteria and viruses;

"species individual", in relation to a controlled alien species, means a single live member of the species, at any developmental stage;

"stream" includes a section of a stream;

"tanner" means a person who, for compensation or reward received or promised, unhairs, fleshes, tans, plucks, dresses or dyes the pelts of wildlife or parts of the pelts;

"taxidermist" means a person who, for compensation or reward received or promised, prepares, preserves or mounts heads, skeletons, pelts or skins of wildlife or fish;

"threatened species" means a species of animal that is designated as a threatened species, but does not include a controlled alien species;

"traffic" means to buy, sell, trade or distribute for gain or consideration or to offer to do so;

"trap" includes a snare, net or other device, as defined by regulation, capable of being used in the taking or capturing of wildlife;

"trapline" means an area for which registration is granted to one or more licensed trappers for the trapping of fur bearing animals;

"wildlife"

(a) means raptors, threatened species, endangered species, game and other species of vertebrates prescribed by regulation, and

(b) for the purposes of sections 3 to 5, 7, 8, 84 (6.1) to (6.4), 97.1 to 98.1 and 108 (2) (v), includes fish,

but does not include controlled alien species;

"wildlife management area" means land designated as a wildlife management area;

"wildlife sanctuary" means land in a wildlife management area designated as a wildlife sanctuary.

(2) For the purposes of this Act,

(a) a person has anything in possession when the person has it in his or her personal possession or knowingly

(i) has it in the actual possession or custody of another person, or

(ii) has it in any place, whether or not that place belongs to or is occupied by him or her, for the use or benefit of himself or herself or of another person, and

(b) if one of 2 or more persons, with the knowledge and consent of the rest, has anything in his or her custody or possession, it is deemed to be in the custody and possession of each and all of them.

(3) A park ranger may exercise the powers and perform the duties of an officer subject to

(a) any regulations under section 29 (3) (d) of the *Park Act*, and

(b) any limitations, terms and conditions imposed under section 4 (4) of the *Park Act*.

Property in wildlife

2 (1) Ownership in all wildlife in British Columbia is vested in the government.

(2) A person does not acquire a right of property in any wildlife except in accordance with a permit or licence issued under this Act or the *Game Farm Act* or as provided in subsection (3) of this section.

(3) A person who lawfully kills wildlife and complies with all applicable provisions of this Act and the regulations acquires the right of property in that wildlife.

(4) If a person by accident or for the protection of life or property kills wildlife, that wildlife, despite subsection (3), remains the property of the government.

(5) Despite anything in this Act, no right of action lies, and no right of compensation exists, against the government for death, personal injury or property damage caused by

(a) wildlife,

(a.1) controlled alien species described in paragraph (a) of the definition of "species", or

(b) an animal that escapes or is released from captivity or is abandoned

in British Columbia.

Minister's powers

- 3 The minister, for the purpose of access to or the management or protection of wildlife, may
- (a) acquire and administer land, improvements on land and timber, timber rights and other rights on private land, and
 - (b) enter into and carry out an agreement with a person, association or other body.

Power to designate wildlife management areas

- 4 (1) In this section, "**park**", "**conservancy**" and "**recreation area**" have the same meanings as in the *Park Act*.
- (2) With the consent of the Lieutenant Governor in Council, the minister may, by regulation, designate as a wildlife management area land that is under the minister's administration and is not in a park, a conservancy or a recreation area.
- (3) The designation of land under subsection (2) does not affect any rights granted before the designation.
- (4) Despite any other enactment, a person may not use land or resources in a wildlife management area without the written permission of the regional manager.

Critical wildlife areas and wildlife sanctuaries

- 5 (1) If the minister requires land for habitat for a species of wildlife designated as an endangered species or threatened species, the minister may, by regulation, designate land in a wildlife management area as a critical wildlife area.
- (2) The minister may, by regulation, designate land in a wildlife management area as a wildlife sanctuary.

Endangered and threatened species

- 6 (1) If the Lieutenant Governor in Council considers that a species of wildlife is threatened with imminent extinction throughout all or a significant portion of its range in British Columbia because of the action of humans, the Lieutenant Governor in Council may, by regulation, designate the species as an endangered species.
- (2) If the Lieutenant Governor in Council considers that a species of wildlife is likely to become endangered in British Columbia if the factors affecting its vulnerability are not reversed, the Lieutenant Governor in Council may, by regulation, designate the species as a threatened species.

Not in force

6.1–6.3 [Not in force.]

Controlled alien species

6.4 If the minister considers that a non-native species described in paragraph (a) or (b) of the definition of "species" poses a risk to the health or safety of any person or poses a risk to property, wildlife or wildlife habitat, the minister may make regulations designating the species as a controlled alien species.

Regulation of controlled alien species

6.5 (1) The minister may, by regulation, regulate, prohibit and impose requirements in relation to the following:

- (a) the possession of a species individual of a controlled alien species;
- (b) the breeding of controlled alien species;
- (c) the release of a species individual of a controlled alien species;
- (d) trafficking in species individuals of a controlled alien species;
- (e) the shipping or transporting in British Columbia of, or the engaging of another person to ship or transport in British Columbia, a species individual of a controlled alien species.

(2) In making regulations under subsection (1), the minister may do one or more of the following:

- (a) define classes of controlled alien species;
- (b) make different regulations for different controlled alien species or classes of controlled alien species;
- (c) delegate a matter to a person;
- (d) confer a discretion on a person.

Application of this Act to controlled alien species

6.6 (1) Sections 3, 82 (4), 89, 93, 94 (1), 95 and 107 (2) apply in relation to controlled alien species as if those species were wildlife.

(2) Section 92 applies in relation to controlled alien species described in paragraph (b) of the definition of "species" as if those species were fish as defined in section 1.

(3) Subject to subsection (4), sections 76, 98 and 98.1 do not apply in relation to controlled alien species.

(4) The minister may, by regulation, apply a provision of this Act in relation to controlled alien species as if those species were wildlife, animals or fish.

(5) The minister may, by regulation, exempt controlled alien species from the application of a provision of this Act that applies in relation to animals or fish.

Damage to land set aside for wildlife

7 (1) A person commits an offence if the person

- (a) alters, destroys or damages wildlife habitat, or
- (b) deposits on land or water a substance or manufactured product or by product

in a manner that is harmful to

- (c) wildlife, or
- (d) wildlife habitat

in a wildlife management area, except as permitted under section 4 (4) or by the regulations or a permit.

(2) The regulations may provide that compliance with standards set by the *Coal Act*, *Geothermal Resources Act*, *Mineral Tenure Act* or *Oil and Gas Activities Act* or regulations or other instruments under those Acts constitutes sufficient compliance with subsection (1) and, for that purpose, may adopt different standards for different areas designated under sections 4 and 5.

(3) For the purposes of subsection (1), the regional manager may issue a permit if the applicant has complied with section 78 of the *Environmental Management Act*.

(4) A regional manager may make orders prohibiting a person from

- (a) entering,
- (b) cutting, picking, removing, altering, destroying or damaging vegetation in,
- (c) disturbing or harassing wildlife in,
- (d) releasing or abandoning an animal in, and
- (e) allowing an animal to enter

a wildlife management area, a critical wildlife area or a wildlife sanctuary.

(5) A person who contravenes an order made under subsection (4) commits an offence.

Right of action

8 The government has a right of action against a person who, without authority, destroys or damages wildlife habitat in a wildlife management area or an area set apart for wildlife management and may recover damages from the person for

(a) any money that the government spends to restore the habitat and its wildlife to its original state, or

(b) the loss of the habitat and its wildlife if restoration of the wildlife habitat is impossible.

Damaging beaver dams

9 (1) A person commits an offence if the person disturbs, molests or destroys

(a) a muskrat house or den, except on diked land, or

(b) a beaver house or den or beaver dam.

(2) Subsection (1) does not apply

(a) to a licensed trapper,

(b) if the action is taken to provide irrigation or drainage under lawful authority for the protection of property, or

(c) if the action is authorized by regulation.

Financial responsibility

10 (1) The minister may require bonding under the *Bonding Act* from a person who engages in, or proposes to engage in, an operation on land designated under section 4 or 5.

(2) A payment or forfeiture under a bond under subsection (1) does not relieve the person of any other obligation or liability under this Act.

Hunting and licences

11 (1) A person who hunts wildlife commits an offence unless the person holds all of the following:

(a) a hunting licence issued to the person under this Act;

- (b) any limited entry hunting authorization that is required by regulation;
- (c) any other licence that is required by regulation;
- (d) any other permit that is required by regulation.

(1.1) Subsection (1) does not apply to a person under 18 years of age on whose behalf the parent or guardian holds a hunting licence.

(2) A person must not issue a hunting licence for a person under 10 years of age.

(3) and (4) [Repealed 2003-90-24.]

(5) A person under 18 years of age commits an offence if the person hunts unless the person is accompanied by and under the close personal supervision of a person who

- (a) is 18 years of age or older,
- (b) holds a hunting licence, other than an initiation hunting licence, or is exempted from holding a hunting licence, and
- (c) meets the prescribed qualifications.

(6) [Repealed 2003-90-24.]

(7) A person must not issue a trapping licence to a person unless the applicant is a citizen of Canada or a permanent resident of Canada.

(8) A person commits an offence if the person traps fur bearing animals unless he or she holds a trapping licence.

(9) Subsections (1) (a) and (c) and (8) do not apply to an Indian residing in British Columbia.

Angling licences

12 A person commits an offence if the person angles in the non-tidal waters of British Columbia unless the person is

- (a) the holder of
 - (i) an angling licence, and
 - (ii) any other licence or permit that is required by regulation,
- (b) an Indian residing in British Columbia, or
- (c) exempt by regulation.

Licences as prescribed

13 The Lieutenant Governor in Council may prescribe other licences required in addition to any licence required by this Act.

Number of licences limited

14 A person commits an offence if the person obtains or is in possession of more licences or limited entry hunting authorizations than the number prescribed by regulation.

Issue of licences

15 (1) The director, or a person authorized by the director, may issue and authorize the issue of licences in the form, with the content and valid for the term the director, or a person authorized by the director, specifies.

(2) Applications for licences must be made in the manner and form required by the director, or a person authorized by the director.

Limited entry hunting authorization

16 (1) The minister, by regulation, may

(a) limit hunting for a species of wildlife in an area of British Columbia,

(b) provide for limited entry hunting authorizations to be issued by means of a lottery or other method of random selection among applicants,

(b.1) provide for exceptions that the minister considers appropriate to the random selection among applicants in conducting a lottery or other method of random selection among applicants under paragraph (b), and

(c) do other things necessary for the purposes of this section.

(2) An application fee collected under a lottery or other method referred to in subsection (1) must be paid into the general fund of the consolidated revenue fund.

(3) In making regulations under subsection (1), the minister may define classes of applicants and make different regulations for different classes of applicants.

Examinations

17 (1) A person who

(a) is a resident and does not hold a resident hunter number card issued under the regulations, or

(b) is a non resident under 18 years of age, or a non resident alien under 18 years of age, unless the person is to be accompanied by a licensed guide or a person who holds a permit under section 70,

must not apply for or be issued a hunting licence unless he or she complies with the regulations and has successfully completed examinations on conservation, outdoor recreation and safety approved by the director.

(2) If a person referred to in subsection (1) applies for a hunting licence for the first time following successful completion of the examinations referred to in that subsection, the person must apply to

(a) a government agent, or

(b) a person employed in an office of the ministry.

Youth licences

17.1 (1) A hunting licence must not be issued to, or on behalf of, a person who is under 18 years of age unless a parent or guardian applies for the licence and signs a written undertaking that the parent or guardian will not allow the child or ward to hunt or carry a firearm unless he or she is accompanied by and under the close personal supervision of a person who

(a) is 18 years of age or older,

(b) holds a hunting licence, other than an initiation hunting licence, or is exempted from holding a hunting licence, and

(c) meets the prescribed qualifications.

(2) Despite section 17 (1) but subject to this section, a parent or guardian who complies with the regulations may apply for and be issued a hunting licence on behalf of a child or ward who is at least 10 years of age, but less than 18 years of age.

(3) A person who

(a) is 18 years of age or older,

(b) does not hold a hunting licence, other than an initiation hunting licence,

(c) is not exempted from holding a hunting licence, and

(d) does not meet the prescribed qualifications

commits an offence if the person is in the company of another person who is under 18 years of age and is carrying a firearm unless the younger person is accompanied by and under the close personal supervision of a person who

- (e) is 18 years of age or older,
- (f) holds a hunting licence, other than an initiation hunting licence, or is exempted from holding a hunting licence, and
- (g) meets the prescribed qualifications.

(4) A parent or guardian commits an offence if he or she gives permission to his or her child or ward, who is under 18 years of age and with respect to whom the parent or guardian has signed a written undertaking under subsection (1), to

- (a) hunt, or
- (b) be in possession of a firearm

unless the child or ward is accompanied by and under the close personal supervision of a person who

- (c) is 18 years of age or older,
- (d) holds a hunting licence, other than an initiation hunting licence, or is exempted from holding a hunting licence, and
- (e) meets the prescribed qualifications.

Initiation hunting licence

17.2 (1) Despite section 17 (1), a person who

- (a) is a resident,
- (b) is 18 years of age or older,
- (c) has never held a hunting licence issued under this Act, other than a hunting licence issued to a parent or guardian on his or her behalf, and
- (d) complies with the regulations

may apply for and be issued an initiation hunting licence.

(2) A person who holds an initiation hunting licence commits an offence if the person hunts unless the person is accompanied by and under the close personal supervision of a person who

- (a) is 18 years of age or older, and
- (b) meets the prescribed qualifications.

(3) A person who

(a) is 18 years of age or older, and

(b) does not meet the prescribed qualifications

commits an offence if the person is in the company of a person who holds an initiation hunting licence while that person hunts unless the person who holds an initiation hunting licence is accompanied by and under the close personal supervision of a person who

(c) is 18 years of age or older, and

(d) meets the prescribed qualifications.

Prescribed course of training

18 The Lieutenant Governor in Council may make regulations as follows:

(a) requiring that a person, before being entitled to hunt or to receive a hunting licence, successfully complete examinations on conservation, outdoor recreation and safety approved by the director;

(b) prescribing fees for any examinations required under this Act;

(c) designating the persons required to pay the fees;

(d) respecting the conduct of examinations.

Permits

19 (1) A regional manager or a person authorized by a regional manager may, to the extent authorized by and in accordance with regulations made by the Lieutenant Governor in Council, by the issue of a permit, authorize a person

(a) to do anything that the person may do only by authority of a permit or that the person is prohibited from doing by this Act or the regulations, or

(b) to omit to do anything that the person is required to do by this Act or the regulations,

subject to and in accordance with those conditions, limits and period or periods the regional manager may set out in the permit and, despite anything contained in this Act or the regulations, that person has that authority during the term of the permit.

(2) The form and conditions of the permit may be specified by the director.

(3) If a regional manager issues a permit respecting the use of firearms, the regional manager may exempt a person from the requirements of section 9 of the *Firearm Act* and may specify the conveyance or type of conveyance for which the permit is limited.

(4) The regional manager or the person authorized by the regional manager may amend the conditions of a permit as determined by him or her and issued under this section, but the amendment is not effective until the permittee has notice of it.

Permit applications and fees

20 (1) Applications for permits must be made in the manner and form specified by the director.

(2) If the director issues a permit to a non resident or non resident alien for a period of 14 days or less, the director may waive a prescribed fee.

Import and export of wildlife

21 (1) Except as authorized by a permit issued under this Act or under the Convention on International Trade in Endangered Species of Wild Fauna and Flora, a person commits an offence if the person

(a) imports into British Columbia live wildlife, or the egg of a wildlife species, or

(b) exports out of British Columbia wildlife or parts of them, or the egg of a wildlife species.

(2) [Repealed 1999-24-6.]

Trafficking in wildlife

22 A person who traffics in live wildlife or wildlife meat, except as authorized by regulation or a permit, commits an offence.

Repealed

23 [Repealed 2003-90-27.]

Suspension and cancellation of licences

24 (1) In this section:

"convicted" includes the granting of an absolute or conditional discharge;

"date of sentencing" includes

- (a) the date that the passing of sentence is suspended,
- (b) the date that an absolute or a conditional discharge is granted, or
- (c) the date that a court
 - (i) imposes a sentence under the *Youth Justice Act*, or
 - (ii) makes a disposition under the *Young Offenders (British Columbia) Act*, as it read before its repeal by the *Youth Justice Act*.

(2) After providing an opportunity for the person to be heard, the director may, for any cause considered sufficient by the director, do any of the following:

- (a) prohibit, for a period within prescribed limits, the person from hunting, angling or carrying a firearm;
- (b) cancel or suspend, for a period within prescribed limits, any limited entry hunting authorization or licence that is issued to the person under this Act.

(3) On notice of a suspension or cancellation under subsection (2), the person must immediately deliver the licence or limited entry hunting authorization to the director.

(4) If a licence or limited entry hunting authorization is suspended, the director must return it to the person at the expiration of the period of suspension.

(5) If a licence or limited entry hunting authorization is cancelled, the director may order that the person is ineligible to obtain or renew a licence or limited entry hunting authorization for a period, within the prescribed limits, and the director must inform the person of the period of ineligibility.

(6) If the licence or limited entry hunting authorization held by a person has been suspended, the person commits an offence if during the period of suspension

- (a) of the licence or limited entry hunting authorization, he or she applies for or in any way obtains a new licence or limited entry hunting authorization,
- (b) of a hunting licence, he or she hunts, or
- (c) [Repealed 2003-90-28.]
- (d) of an angling licence, he or she angles.

(7) A person who does any of the following commits an offence:

- (a) while ineligible to obtain a licence or limited entry hunting authorization, the person applies for or obtains a licence or limited entry hunting authorization;
- (b) the person hunts while ineligible to obtain a hunting licence;
- (c) the person angles while ineligible to obtain an angling licence.

(8) A hunting licence or limited entry hunting authorization issued to a person under this Act is cancelled automatically from the date of sentencing if the person is convicted of

- (a) an offence under section 22, 26 (1) (a), (e), (f) or (g),
- (b) an offence under subsection (6), (7) or (14) of this section or section 28 with respect to hunting,
- (c) an offence under section 81 or 82 with respect to a hunting licence or limited entry hunting authorization,
- (d) an offence under section 3 of the *Firearm Act*, or
- (e) a second or subsequent offence as prescribed within 2 years.

(9) [Repealed 2003-90-28.]

(10) An angling licence issued to a person under this Act is cancelled automatically from the date of sentencing if the person is convicted of

- (a) an offence under subsection (6), (7) or (14) of this section with respect to angling,
- (b) an offence under section 81 or 82 with respect to an angling licence, or
- (c) a second or subsequent offence as prescribed within 2 years.

(11) A person to whom subsection (8) or (10) applies must immediately surrender his or her licence or limited entry hunting authorization, or, if subsection (8) applies and the person holds both a hunting licence and a limited entry hunting authorization, both the hunting licence and the limited entry hunting authorization

- (a) to the court, which must forward them without delay to the director, or
- (b) to the director, if the director orders the person to do so.

(12) If a person to whom subsection (2) would otherwise apply does not hold a licence or limited entry hunting authorization or is exempted from

holding one, the director may prohibit the person for a period, within any prescribed limits, from doing the thing for which a licence or limited entry hunting authorization would ordinarily be required.

(13) If a person to whom subsection (8) or (10) otherwise applies does not hold a licence or limited entry hunting authorization or is exempted from holding one, the person is automatically prohibited, from the date of sentencing, from doing the thing for which a licence or limited entry hunting authorization would ordinarily be required, and subsection (5) applies.

(14) A person commits an offence if the person, during a period of prohibition under subsection (2), (12) or (13),

(a) applies for or in any way obtains a licence or limited entry hunting authorization that he or she is prohibited from obtaining, or

(b) while prohibited from

(i) hunting, hunts,

(ii) carrying a firearm, carries a firearm, or

(iii) angling, angles.

(15) The sanctions provided for in this section apply in addition to any fines, penalties, additional fines, prohibitions, directions or requirements that may be imposed under section 84, 84.1, 84.2 or 84.3 and whether or not they are requested or ordered at the time of sentencing for an offence.

(16) If a person who has obtained a licence or limited entry hunting authorization for which residence in British Columbia is a prerequisite ceases to be a resident, the person's licence or limited entry hunting authorization is suspended for as long as he or she is not a resident.

Suspension and cancellation of permits

25 (1) A regional manager, for any cause he or she considers sufficient, and after providing an opportunity for the person to be heard, may suspend or cancel a permit held by a person, may order that the person is ineligible to obtain or renew a permit for a period and, if he or she does make an order, must inform the person of the period of ineligibility.

(2) An officer may, without the necessity of holding a hearing, exercise the powers of a regional manager under this section to suspend a permit and, if a permit is suspended by an officer, the matter must be referred to the regional manager, who may confirm, reduce, extend or terminate the suspension.

Hunting, trapping and firearm prohibitions

- 26** (1) A person commits an offence if the person hunts, takes, traps, wounds or kills wildlife
- (a) that is an endangered species or threatened species,
 - (b) in a wildlife sanctuary,
 - (c) at a time not within the open season,
 - (d) with a firearm or a bow during the prohibited hours,
 - (e) by the use or with the aid of a light or illuminating device,
 - (f) with poison,
 - (g) with a set gun, or
 - (h) with a pump, repeating or auto loading shotgun unless the magazine contains a plug that is incapable of removal except by disassembling the gun, and that makes the magazine incapable of holding more than 2 cartridges.
- (2) Subsection (1) (c), (d), (e) and (h) does not apply to a person who hunts or traps wildlife that is on the person's property and is a menace to a domestic animal or bird.

Use of conveyance

- 27** (1) A person who discharges a firearm or wounds or kills wildlife from a motor vehicle or from a boat that is propelled by a motor commits an offence.
- (2) A person commits an offence if the person
- (a) hunts wildlife from an aircraft, or
 - (b) uses a helicopter for the purposes of transporting hunters or game, or while on a hunting expedition,
- except as authorized by regulation.
- (3) A person who herds or harasses wildlife with the use of a motor vehicle, aircraft, boat or other mechanical device commits an offence.
- (4) A person who hunts game within 6 hours after being airborne in an aircraft, other than a regularly scheduled commercial aircraft, commits an offence.

Dangerous hunting or trapping

- 28** A person who hunts or traps without reasonable consideration for the lives, safety or property of other persons commits an offence.

Attempt to capture wildlife

29 Except as authorized by this Act, the regulations or a permit, a person who attempts to capture wildlife commits an offence.

Swimming wildlife

30 Except as provided under section 35, a person who hunts, takes, wounds or kills big game while it is swimming commits an offence.

Shooting across highway

31 A person who discharges a firearm on or across the travelled portions of a highway prescribed under section 108 commits an offence.

No shooting area

32 A person who discharges a firearm in a no shooting area commits an offence.

Possession of wildlife

33 (1) A person commits an offence if the person has live wildlife in his or her personal possession except as authorized under a licence or permit or as provided by regulation.

(2) A person commits an offence if the person has dead wildlife or a part of any wildlife in his or her possession except as authorized under a licence or permit or as provided by regulation.

(3) Subsections (1) and (2) do not apply to a person acting under a licence under the *Fur Farm Act* or the *Game Farm Act*.

Attracting dangerous wildlife

33.1 (1) A person must not

- (a) intentionally feed or attempt to feed dangerous wildlife, or
- (b) provide, leave or place an attractant in, on or about any land or premises with the intent of attracting dangerous wildlife.

(2) A person must not leave or place an attractant in, on or about any land or premises where there are or where there are likely to be people, in a manner in which the attractant could

- (a) attract dangerous wildlife to the land or premises, and
- (b) be accessible to dangerous wildlife.

(3) Subject to subsections (5) and (6), a person who contravenes subsection (1) or (2) commits an offence.

(4) If an offence under this section continues for more than one day, separate fines, each not exceeding the maximum fine for that offence, may be imposed for each day the offence continues.

(5) A person does not contravene subsection (1) (b) or (2) by providing, leaving or placing an attractant in, on or about any land or premises for the purposes of hunting or trapping wildlife in accordance with all other applicable provisions of this Act and the regulations.

(6) A person does not contravene subsection (2)

(a) by conducting a farm operation, as defined in section 1 of the *Farm Practices Protection (Right to Farm) Act*, if the person

(i) conducts the farm operation on, in or over land anywhere in British Columbia, and

(ii) meets the requirements set out in section 2 (2) (a) and (c) of that Act, or

(b) by operating a facility for the disposal of waste, that is operated in accordance with the *Environmental Management Act* by a municipality, as defined in section 1 (1) of that Act.

(7) For the purposes of this section, "**leave**", in relation to a person who is an owner, tenant or occupant of land or premises, includes to fail to remove an attractant from or to allow an attractant to remain in, on or about that land or those premises.

Birds, nests and eggs

34 A person commits an offence if the person, except as provided by regulation, possesses, takes, injures, molests or destroys

(a) a bird or its egg,

(b) the nest of an eagle, peregrine falcon, gyrfalcon, osprey, heron or burrowing owl, or

(c) the nest of a bird not referred to in paragraph (b) when the nest is occupied by a bird or its egg.

Retrieval of wildlife killed

35 (1) In this section, "**dwelling place**" does not include a temporary or seasonal camp.

(2) A person commits an offence if the person hunts wildlife and kills or injures that wildlife and fails to make every reasonable effort to

(a) retrieve the wildlife, and if it is alive to kill it and include it in his or her bag limit, and

(b) remove the edible portions of the carcass of game to the person's normal dwelling place or to a meatcutter or the owner or operator of a cold storage plant,

unless exempted by regulation.

Possession of carcass

36 (1) A person who possesses the carcass of any wildlife, whether or not the carcass has been divided, without leaving attached the parts required by regulation to be left attached, commits an offence.

(2) Subsection (1) only applies until the earlier of the following:

(a) the carcass is given to a meatcutter or the owner or operator of a cold storage plant to be recorded in accordance with section 71,

(b) the carcass arrives at the person's normal dwelling place and is butchered and stored there for consumption on the premises, or

(c) the carcass is presented to an employee of the ministry for which the minister is responsible or other person specified by the Lieutenant Governor in Council for inspection.

Transportation of wildlife

37 A person who ships or transports in British Columbia, or engages another person to ship or transport in British Columbia, wildlife or fish or parts of them, except as provided by regulation, commits an offence.

Failure to provide information

38 A person who fails, on the request of an officer, to state correctly the locality where and the date on which wildlife or fish in the person's possession was killed, taken or caught by the person or came into his or her possession, commits an offence.

Agricultural and cleared land

39 (1) A person commits an offence if the person, without the consent of the owner, lessee or occupier of land,

- (a) hunts over or traps in or on cultivated land, or
- (b) hunts over Crown land that is subject to a grazing lease while the land is occupied by livestock.

(2) This section does not affect the *Trespass Act*.

Power to prohibit hunting or trapping

40 (1) Despite anything in this Act or the regulations or the privileges conferred by a licence or limited entry hunting authorization, the minister may, by regulation, prohibit a person or a class of persons from

- (a) hunting or trapping, or
- (b) using a method of hunting or trapping

in a defined area for a period the minister considers necessary for the proper management of wildlife in that area.

(2) Despite anything in this Act or the regulations, the minister may, by regulation, allow a person or a class of persons to hunt or trap in a defined area for a period the minister considers necessary for the proper management of wildlife in that area.

Prohibition within a trapline

41 A person commits an offence if the person sets a trap for, hunts, kills, takes or captures a fur bearing animal in an area of British Columbia unless the person

- (a) is a registered holder of the trapline for that area,
- (b) has written permission of a registered holder of the trapline for that area,
- (c) is the owner or occupier of the land,
- (d) has written permission from the owner or occupier of the land, or
- (e) holds a permit to trap that is required by regulation.

Registration of traplines

42 (1) A regional manager, or a person authorized by the regional manager, may grant registration of a trapline on Crown land to a person who is, or to a group of persons each of whom is,

- (a) 19 years of age or older, and
- (b) a citizen of Canada or a permanent resident of Canada.

- (2) A person or group of persons must not be granted registration of more than one trapline unless
- (a) the traplines are contiguous,
 - (b) the person or group of persons has submitted to the regional manager a fur management plan, and
 - (c) the regional manager has approved the fur management plan.
- (3) Registration of a trapline or traplines in the name of more than one person creates a tenancy in common.
- (4) If a holder of the traplines for which a fur management plan was submitted does not observe the undertakings given in the plan, the regional manager may take action under section 61.
- (5) Registration of a trapline does not
- (a) give the holder of the trapline any proprietary rights in wildlife, or
 - (b) restrict the rights of another person
 - (i) to hunt, or
 - (ii) to capture wildlife if authorized by the regulations or a permit.

Use of trapline

- 43** (1) A person must not hold a registered trapline unless the person complies with the regulations and the conditions of his or her licence.
- (2) Despite a regulation or a condition of a licence requiring the holder of a trapline to carry on active trapping, the regional manager may authorize the holder of a registered trapline to temporarily discontinue the use or part of the use of the trapline for a period not exceeding 2 years.

Leaving traps set

- 44** A person who leaves a trap set after the last day of the open season for the trapping of fur bearing animals commits an offence.

Disputes

- 45** If a dispute arises as to priority of rights respecting any trapline, the matter must, at the request of a party to the dispute, be determined by the regional manager, who may alter, eliminate or reassign part or all of a trapline.

Interference with traps

46 A person who knowingly damages or interferes with a lawfully set trap commits an offence.

Non residents and big game

47 A person commits an offence if the person hunts big game unless he or she

(a) is a resident, or

(b) is accompanied by

(i) a guide licensed under this Act, or

(ii) a person who holds a permit under section 70 (1) (a) allowing him or her to accompany the hunter.

Compulsory guide outfitter licence

48 (1) A person commits an offence if the person acts as a guide for game, or offers to act as a guide for game, unless the person

(a) holds a guide outfitter licence,

(b) holds an assistant guide licence,

(c) holds another licence to guide for game, or

(d) accompanies or assists a person to hunt game birds or small game on land other than Crown land.

(2) A person who holds a guide outfitter licence commits an offence if the person employs another person to guide for game and that other person does not hold an assistant guide licence.

(3) A guide outfitter must be present in his or her guiding area during a majority of the time when his or her assistant guides are guiding for game.

(4) If a guide outfitter fails to comply with subsection (3), a regional manager may take action under section 61.

Compulsory angling guide licence

49 (1) A person commits an offence if the person acts as a guide for fish, or offers to act as a guide for fish, unless the person

(a) holds an angling guide licence, or

(b) holds an assistant angling guide licence.

(2) A person who holds an angling guide licence commits an offence if the person employs another person to guide for fish and that other person does not hold an assistant angling guide licence.

(3) An angling guide must

(a) be present in one of the regions specified in the angling guide's licence, or

(b) if specific waters or a specific area is authorized in the angling guide's licence, be present on or near those waters or in that area, in the manner specified on the angling guide's licence

during substantially all of the times when assistant angling guides employed by the angling guide are guiding for fish.

(4) If an angling guide fails to comply with subsection (3), a regional manager may take action under section 61.

(5) An angling guide who guides for fish elsewhere than on the waters or in the area authorized by the angling guide's licence commits an offence.

(6) An assistant angling guide who guides for fish elsewhere than on the waters or in the area authorized by the licence of the angling guide employing the assistant angling guide commits an offence.

Applicants to know Act

50 An applicant for a guide outfitter licence must satisfy a regional manager that he or she possesses a working knowledge of this Act and the regulations.

Issue of guide outfitter licence

51 (1) A regional manager

(a) may issue a guide outfitter licence to a person if all of the following apply:

(i) the person is a citizen of Canada or a permanent resident of Canada;

(ii) the person has public liability insurance prescribed by regulation;

(iii) the person has other qualifications prescribed by regulation, and

(b) must issue a guide outfitter licence to a person if the person is a person to whom the regional manager is obliged under the *Labour Mobility Act* to issue a guide outfitter licence.

(2) A guide outfitter licence authorizes the holder to guide persons to hunt only for those species of game and in the area described in the licence.

(3) If an area is part of a guiding territory assigned in a guiding territory certificate, the regional manager may not issue a guide outfitter licence under subsection (1) authorizing a person to guide in the area unless the person provides proof, satisfactory to the regional manager, that the person has the consent of the holder of the guiding territory certificate.

Issue of angling guide licences

52 (1) A regional manager may issue an angling guide licence to a person who

(a) is a citizen of Canada or a permanent resident of Canada,

(b) has public liability insurance and other qualifications prescribed by regulation, and

(c) has submitted an angling guide operating plan that has been approved by the regional manager.

(2) If the holder of an angling guide licence does not observe the undertakings given by the holder in an angling guide operating plan, the regional manager may take action under section 61.

(3) Until the publication by the Recreational Fisheries Branch of a plan for managing guiding for fish and angling on a stream or lake or in an area of British Columbia, the minister may order the regional manager to restrict the issue of angling guide licences or endorsements for that stream, lake or area to persons who, on the date of the order, hold an angling guide licence or endorsement for that stream, lake or area.

(4) If a plan referred to in subsection (3) for a stream, lake or area specified in an order of the minister is not published within the period of 18 months after the date of the order, the order ceases to have any effect on the expiry of that period.

Restrictions on guiding for fish and angling

53 (1) The Lieutenant Governor in Council, by regulation, may do one or more of the following:

(a) limit the number of angling guides permitted to guide for fish on a stream or lake or in an area of British Columbia during a specified period;

(b) limit the number of angler days on which members of a class of persons may be guided for fish on a stream or lake or in an area of British Columbia during a specified period;

(c) limit the number of

- (i) clients an angling guide may guide for fish, and
- (ii) assistant angling guides an angling guide may employ

on a stream or lake or in an area of British Columbia on any day during a specified period;

(d) limit the number of angler days on which members of a class of persons may angle without a guide on a stream or lake or in an area of British Columbia during a specified period;

(e) provide for the selection of applicants for angler days by a lottery or a booking system or by any other means;

(f) provide for the issue of licences specifying the number of days on which a person may angle on a stream or lake or in an area of British Columbia;

(g) provide for the allocation of angler day quotas to and among angler guides and for the disposal of angler day quotas by auction or tender or any other means;

(h) provide for the suspension, cancellation or variation of an angler day quota;

(i) prohibit or regulate the transfer of an angling licence or angler day quota or both;

(j) prescribe the information and undertakings to be included in an angling guide operating plan;

(k) impose or provide for requirements respecting the use of angler day quotas to ensure that the use of an angler day quota is not restricted to a club or other group of persons.

(l) prohibit or regulate in relation to the periods of time during which members of a class of persons may angle on a stream or lake or in an area of British Columbia, including prescribing different periods for different classes, including, without limitation, classes based on age.

(2) For the purpose of subsection (1) (e), (g), (h), (i), (j), (k) and (l), the Lieutenant Governor in Council may make different regulations for

different classes of streams or lakes or for different areas of British Columbia.

(3) A regulation made under this section may

(a) provide for the attachment of an angler day quota to, or for the reduction or cancellation of an angler day quota attached to, an angling guide licence issued before or after this section or the regulation comes into force, and

(b) impose limitations, restrictions and requirements relating to guiding for fish on an angling guide, even though the angling guide's licence was issued before this section or the regulation comes into force.

Issue of assistant guide licence

54 (1) The regional manager or the regional manager's designate

(a) may issue an assistant guide licence to a person if the person meets the prescribed qualifications,

(b) must issue an assistant guide licence to a person if the person is a person to whom the regional manager is obliged under the *Labour Mobility Act* to issue an assistant guide licence, and

(c) may issue an assistant angling guide licence to a person if both of the following apply:

(i) the person is a citizen of Canada or a permanent resident of Canada;

(ii) the person is 19 years of age or older.

(2) A licence of an assistant guide or assistant angling guide is only valid when endorsed with the signature of the guide outfitter or angling guide who employs the assistant guide or assistant angling guide.

Guide reports

55 (1) A guide outfitter must

(a) immediately after a hunt is concluded, complete and sign a guide report in the form specified by the director, and

(b) immediately after signing the completed guide report, give a copy of the report to each hunter guided on the hunt

(c) [Repealed 2011-27-32.]

(2) A guide outfitter who contravenes subsection (1) commits an offence.

Guiding unlicensed hunters and anglers

- 56** (1) A guide who guides a hunter for game commits an offence unless the hunter holds a hunting licence and any other required licence.
- (2) A person who guides an angler for fish commits an offence unless the angler holds an angling licence and any other required licence.

Repealed

- 57** [Repealed 2008-33-17.]

Non-use of waters or area by angling guide

- 58** If an angling guide does not guide or states that he or she does not intend to guide anglers in a year,
- (a) the angling guide may apply to the regional manager for permission to temporarily discontinue or partially discontinue the use of the waters or area authorized by his or her angling guide licence, or
 - (b) the regional manager may review the angling guide's operation and, after affording him or her an opportunity to be heard, the regional manager may suspend, cancel or refuse to renew the angling guide's licence.

Guiding territory certificate

- 59** (1) A regional manager may issue a guiding territory certificate to a person who, or to a group of persons each of whom,
- (a) is a citizen of Canada or a permanent resident of Canada,
 - (b) is 19 years of age or older, and
 - (c) has other qualifications prescribed by regulation.
- (2) The director may specify the form of and conditions contained in a guiding territory certificate.
- (3) Subject to a permit issued under section 70 (1) (b), a guiding territory certificate grants to the holder the exclusive control over guiding privileges in the area described in the certificate for the period stated in the certificate, which may not exceed 25 years.
- (4) The issuance of a guiding territory certificate to more than one person creates a tenancy in common in the rights granted by the certificate.
- (5) If a guiding territory certificate is issued to more than one person, the guiding territory certificate must

- (a) identify a person as the agent of the holders of the certificate, and
- (b) specify the interest held in the certificate by each holder of the certificate.

(6) A regional manager may rely on information provided in an application or submission made by the agent identified in the guiding territory certificate as if that information were provided or that application or submission were made by all the holders of the certificate.

(7) A regional manager may, on application by the holder of the guiding territory certificate, issue a new guiding territory certificate for a period not exceeding 25 years if

- (a) more than 5 years have elapsed since the date of issue of a guiding territory certificate issued before this subsection comes into force, or
- (b) more than 3/5 of the period of a guiding territory certificate issued after this subsection comes into force has elapsed.

Non-use of guiding territory

59.1 (1) On application by the holder of a guiding territory certificate who does not intend to consent to guiding in a year in the guiding territory described in the guiding territory certificate, the regional manager may give permission for the temporary or partial discontinuance of the use of that guiding territory for guiding.

(2) If, in the opinion of the regional manager, there is no guiding in a year in a guiding territory described in a guiding territory certificate,

- (a) the regional manager may review the operation of the holder of the guiding territory certificate, and
- (b) after affording the holder an opportunity to be heard, the regional manager may suspend, cancel or refuse to renew the guiding territory certificate.

Quotas

60 (1) If a regional manager issues a guide outfitter licence, the regional manager may attach a quota as a condition of the licence and may vary the quota for a subsequent licence year.

(2) If a guide outfitter has a quota assigned as a condition of his or her guide outfitter licence and allows his or her clients to kill game to the extent that the number killed exceeds the quota assigned to the guide

outfitter, the regional manager may reduce or take away his or her quota for a period and may take action under section 61.

Action if conditions of licence, certificate or registration not fulfilled

61 (1) If a person holds, held within the last year or applies to renew, a guide outfitter's licence, guiding territory certificate, assistant guide licence or another licence to guide for game, angling guide licence, assistant angling guide licence, trapping licence, fur trader's licence or registration of a trapline and the person is convicted of an offence under this Act or does not comply with the conditions contained in or restrictions imposed on his or her licence, certificate or registration, or for another cause that the regional manager considers reasonable, the regional manager may conduct a hearing to determine whether the person should continue to enjoy the privileges afforded him or her by the licence or certificate or by having the registration and may do one or more of the following:

- (a) suspend, cancel or refuse to issue or renew the person's licence, certificate or registration;
- (b) amend the licence, certificate or registration to specify a different area in which the person may operate;
- (c) in the case of a guide outfitter, amend the licence to further limit the numbers, age and sex of game in respect of which the person may guide;
- (d) amend the licence, certificate or registration to require the person to meet other conditions or restrictions that the regional manager considers appropriate;
- (e) in the case of an angling guide, reduce or cancel an angler day quota attached to that person's licence.

(2) The person in respect of whom the hearing under subsection (1) is to be conducted must be given reasonable notice of the time and place for the hearing.

(2.1) Notice required by subsection (2) may be given in accordance with section 101 (3).

(3) A hearing conducted under subsection (1) must be held in public unless the minister orders that the hearing be held in private.

(4) If notice of a hearing under subsection (1) is given to the holder of a licence, certificate or registered trapline and the licence or certificate expires or the registration ceases before the regional manager conducts

the hearing or makes a determination under that subsection, the regional manager

- (a) may proceed to hear and determine the matter, and
- (b) is not obliged to renew or consider renewal of the licence or certificate or grant registration of the trapline until the earlier of the following:
 - (i) the end of the 30 day period immediately after the licence or certificate expires or the registration ceases;
 - (ii) the regional manager makes the determination after the hearing is held.

(5) Despite subsection (4), if the hearing is delayed at the request of the holder of the licence, certificate or registered trapline, the regional manager is not obliged to consider renewing the licence or certificate or granting the registration of the trapline until the regional manager makes the determination after the hearing is held.

Transfers subject to approval

62 The following may not be transferred without the authorization of the regional manager:

- (a) the privileges conferred in a guide outfitter licence;
- (b) the privileges conferred in a portion of the guiding area described in a guide outfitter licence;
- (c) the privileges conferred in a guiding territory certificate;
- (d) the privileges conferred in a portion of the guiding territory held under a guiding territory certificate;
- (e) a guiding territory certificate or an interest in a guiding territory certificate.

Repealed

63 [Repealed 2008-33-22.]

Certificate or licence is part of estate

64 (1) An interest in a guiding territory certificate is part of the estate of the holder of that interest and, subject to section 62, the heirs or administrators of a deceased holder may transfer, within 2 years of the holder's death, the holder's interest in the guiding territory certificate to a person who qualifies under section 59 (1).

(1.1) If an interest in a guiding territory certificate is not transferred in accordance with subsection (1) after the death of a holder, the deceased holder's interest in the guiding territory certificate is forfeited to the government.

(2) An angling guide licence, including any angler day quota attached to it, is part of the estate of the angling guide and, subject to the regulations, the heirs or administrators of a deceased angling guide may transfer, within 2 years after the angling guide's death, the privileges conferred by the angling guide licence and any angler day quota attached to it.

(3) If an annual fee for a guide outfitter licence or an angling guide licence becomes due in the interval between the death of the licence holder and the date of a transfer under this section, no annual fee is payable.

(4) If privileges conferred by an angling guide licence are not transferred in accordance with this section, the heirs or administrators must surrender the angling guide licence to the regional manager.

Disposal of guiding territories and interests in guiding territory certificates

65 (1) If exclusive control over guiding privileges in an area is not assigned in a guiding territory certificate, the regional manager may designate the area as a guiding territory.

(2) If

- (a) the regional manager designates a new guiding territory, or
- (b) a guiding territory certificate is cancelled or surrendered or forfeited to the government and the regional manager considers that the exclusive control over guiding privileges in the guiding territory described in the guiding territory certificate should be reassigned,

the exclusive control over guiding privileges in that guiding territory must be advertised for sale by the regional manager and sold by tender or by any other prescribed means to a person qualified to hold a guiding territory certificate.

(3) If the exclusive control over guiding privileges in an area is not assigned in a guiding territory certificate and the regional manager considers that the area is not by itself suitable for designation as a guiding territory, the regional manager may assign, by amendment to a guiding territory certificate and on payment of the prescribed charge, the exclusive control over guiding privileges in all or part of that area to the holder of the guiding territory certificate in respect of a guiding territory adjoining that area.

(4) If an interest in a guiding territory certificate is forfeited to the government under section 64 (1.1), the interest in that certificate must be advertised for sale by the regional manager and sold by tender or by any other prescribed means to a person qualified to hold a guiding territory certificate.

Repealed

66 [Repealed 2008-33-25.]

No proprietary rights in wildlife

67 A guiding territory certificate or angling guide's licence does not

- (a) give the holder any proprietary rights in wildlife or fish, or
- (b) restrict the rights of a resident to hunt or fish.

No cancellation for park

68 The regional manager must not cancel a guide outfitter's licence, a guiding territory certificate or an angling guide's licence because of the establishment of a park under the *Park Act*, the *Protected Areas of British Columbia Act*, the *Community Charter* or the *Local Government Act* in the area described in the licence or certificate.

Royalties

69 A guide outfitter commits an offence if the guide outfitter fails to pay to the Minister of Finance a royalty on an animal taken by a person guided by the guide outfitter, or guided on his or her behalf, in the amount and within the time prescribed by regulation.

Permit in guide area

70 (1) The regional manager may, by issuing a permit containing conditions the regional manager considers suitable, authorize

- (a) a resident, who holds a hunting licence and meets the prescribed qualifications, to accompany
 - (i) a non resident, or
 - (ii) a non resident alien

as provided in the regulations, while hunting big game, if no remuneration is requested by, offered to or accepted by the permittee, or

(b) a guide outfitter or angling guide to guide in an area other than that endorsed on his or her guide outfitter licence or angling guide licence.

(2) A person commits an offence if the person, without a permit issued under subsection (1), accompanies a non resident or a non resident alien referred to in subsection (1) (a) (i) or (ii) while the non resident or the non resident alien hunts for big game.

Requirement to keep records

71 (1) A taxidermist, a tanner, a fur trader, a meatcutter or an owner or operator of a cold storage plant commits an offence if

(a) he or she fails to keep, in the prescribed manner, a record of the receipt of wildlife or fish or a part of either, or

(b) having received wildlife or fish or a part of either, he or she fails to keep the record referred to in paragraph (a) for a period of 2 years from the time he or she gives up possession of the wildlife or fish or a part of either.

(2) A taxidermist, a tanner, a fur trader, a meatcutter or an owner or operator of a cold storage plant commits an offence if he or she fails

(a) to produce for inspection, on demand by an officer, all wildlife and records in his or her possession, or

(b) to make a full and complete return, as prescribed by regulation, of all wildlife that has been or is in his or her possession for processing, manufacturing, curing, selling or trading.

Fur trader's licence

72 (1) A person commits an offence if the person engages in the business of fur trading unless he or she holds a fur trader's licence.

(2) A regional manager may issue a fur trader's licence to a person who is a citizen of Canada or a permanent resident of Canada.

(3) If a fur trader has more than one established place of business in British Columbia for the purpose of buying, selling or trading in pelts or skins, the fur trader commits an offence if he or she fails to obtain a separate fur trader's licence for each place of business.

(4) A person is not, for the purposes of subsection (1), engaged in the business of fur trading, if the activity as a fur trader is confined to any of the following:

- (a) the buying of furs at wholesale from licensed fur traders at public auction;
- (b) the buying of pelts of animals raised in captivity from persons lawfully engaged in carrying on the business of breeding fur bearing animals;
- (c) selling pelts taken by the person as
 - (i) the holder of a trapping licence, or
 - (ii) a person exempted from holding a trapping licence;
- (d) buying pelts for personal use.

Royalties for fur

73 (1) A person commits an offence if the person, having in possession a pelt or skin of a fur bearing animal not raised in captivity and on which a royalty has not already been paid under this section, fails to pay to the Minister of Finance a royalty, as prescribed by regulation, on each pelt and skin in his or her possession.

(2) Subsection (1) does not apply to

- (a) the holder of a trapping licence, or
- (b) a person exempted from holding a trapping licence

when selling pelts, lawfully taken by him or her, to the holder of a fur trader's licence.

Seizure of pelt or skin

74 A conservation officer or constable may seize a pelt or skin on which he or she believes on reasonable grounds that the royalty payable under section 73 has not been paid.

Accidental killing of wildlife

75 (1) A person who kills or wounds wildlife, other than prescribed wildlife, either by accident or for the protection of life or property, must promptly report to an officer

- (a) the killing or wounding, and
- (b) the location of the wildlife.

(2) A person who fails to report as required under subsection (1) commits an offence.

Escape, etc., of captive animal

- 76** On the escape from captivity or the release or abandonment of an animal that is not a domestic animal, the government acquires the ownership of that animal.

Release or escape of animals

- 77** (1) A person who releases or abandons an animal or from whose captivity an animal escapes
- (a) is, despite section 11 (4) of the *Livestock Act*, liable to the government for loss or damage to wildlife or wildlife habitat caused by the animal, and for all costs incurred by the government in pursuing, recovering, holding or destroying it, and
 - (b) is not entitled to any compensation from the government if the animal is destroyed under section 79.
- (2) If a person releases or abandons an animal, other than a domestic animal, the person commits an offence.
- (3) If an animal, other than a domestic animal, escapes from the possession of a person, the person commits an offence if he or she fails to make every reasonable effort to recover the animal.
- (4) This section does not apply if the person is authorized by the regional manager to release the animal.

Dogs hunting game

- 78** A person commits an offence if the person causes or allows a dog to hunt or pursue
- (a) wildlife or an endangered species or threatened species, or
 - (b) game, except in accordance with the regulations.

Destruction of animals

- 79** (1) An officer may kill an animal, other than a domestic animal, that is at large and is likely to harm persons, property, wildlife or wildlife habitat.
- (2) An officer may kill a dog that is
- (a) at large in a wildlife management area, or
 - (b) at large and harassing wildlife.
- (3) An officer may kill a cat at large where wildlife is usually found.

Obstructing licensed persons

80 A person commits an offence if the person interferes with or obstructs a person licensed or permitted to capture wildlife or to hunt, fish, guide or trap while that person is lawfully so engaged.

Documents not transferable

81 Except as authorized by regulation or as otherwise provided under this Act, a licence, permit or limited entry hunting authorization is not transferable, and a person commits an offence if the person

(a) allows his or her licence, permit or limited entry hunting authorization to be used by another person, or

(b) uses another person's licence, permit or limited entry hunting authorization.

False statements

82 (1) A person commits an offence if the person knowingly makes a false statement

(a) in order to obtain a licence, permit or limited entry hunting authorization,

(b) on a licence or permit issued by him or her under this Act,

(c) in a book, record, certificate, report or return made, kept or furnished under this Act, or

(d) to an officer engaged in the discharge of his or her duties under this Act, if the person is required to provide information under this Act.

(2) A licence, permit or limited entry hunting authorization is void if it is issued contrary to this Act.

(3) A person commits an offence if the person, without lawful authority, changes or alters a licence, permit or limited entry hunting authorization issued under this Act.

(4) A person commits an offence if the person obliterates, alters, imitates or duplicates a stamp, tag, seal, brand, mark or signature that is placed on wildlife or a part of wildlife under this Act.

Posting signs and notices

83 (1) An officer may post signs or notices the officer considers necessary or advisable in order to carry out the provisions of this Act.

(2) A person who without lawful authority removes, alters, destroys or defaces a sign or notice posted under this Act commits an offence.

Fines and penalties

84 (1) For the purpose of determining the fines and penalties to which a person is subject on conviction for an offence under this Act,

(a) subsection (2) applies in relation to an offence

- (i) under section 6.1, 7 (1), 22, 26 (1) (a), (b), (e), (f) or (g), 27 (2), 28 or 82 (1) (a), (b) or (c), (3) or (4), or
- (ii) prescribed under section 108 (3) (l) (i),

(b) subsections (3) and (4) apply in relation to an offence

- (i) under section 7 (5), 9, 17.1 (4), 17.2 (2) or (3), 21 (1) or (1.1), 24 (6), (7) or (14), 26 (1) (c) or (d), 27 (1), (3) or (4), 29, 33 (1), 33.1 (1), 34, 38, 46, 47, 48 (1) or (2), 49 (1), (2), (5) or (6), 56 (1) or (2), 70 (2), 77 (2) or (3), 78, 80, 81, 82 (1) (d), 85 (2) (c) (i) or (ii), 88.1 (7), 95 (2), 96 (1) or 97 (b), or
- (ii) prescribed under section 108 (3) (l) (ii), and

(c) subsections (5) and (6) apply in relation to any offence under this Act that is not referred to in paragraph (a) or (b).

(2) A person who commits an offence referred to in subsection (1) (a) is liable,

(a) on a first conviction, to a fine of not more than \$250 000 and not less than \$2 500 or to a term of imprisonment not exceeding 2 years, or both, and

(b) on each subsequent conviction for the same offence or another offence referred to in subsection (1) (a), to a fine of not more than \$500 000 and not less than \$5 000 or to a term of imprisonment not exceeding 3 years, or both.

(3) Subject to subsection (4), a person who commits an offence referred to in subsection (1) (b) is liable,

(a) on a first conviction, to a fine of not more than \$100 000 or to a term of imprisonment not exceeding one year, or both, and

(b) on each subsequent conviction for the same offence or another offence referred to in subsection (1) (b), to a fine of not more than \$200 000 and not less than \$2 000 or to a term of imprisonment not exceeding 2 years, or both.

(4) Despite subsection (3) (a), if the person referred to in that subsection has previously been convicted of an offence referred to in subsection (1) (a), the person is liable to the punishment set out in subsection (3) (b).

(5) Subject to subsection (6), a person who commits an offence referred to in subsection (1) (c) is liable,

(a) on a first conviction, to a fine of not more than \$50 000 or to a term of imprisonment not exceeding 6 months, or both, and

(b) on each subsequent conviction for the same offence or another offence referred to in subsection (1) (c), to a fine of not more than \$100 000 and not less than \$1 000 or to a term of imprisonment not exceeding one year, or both.

(6) Despite subsection (5) (a), if the person referred to in that subsection has previously been convicted of an offence referred to in subsection (1) (a) or (b), the person is liable to the punishment set out in subsection (5) (b).

(6.1) In subsections (6.2) to (6.4), "**wildlife**" includes a part of wildlife.

(6.2) If a thing, other than wildlife, has been seized in relation to an offence under this Act or the *Firearm Act*, the court may

(a) order the thing forfeited to the government, if the court is satisfied that the thing was used in the commission of the offence or possessed in contravention of this Act, the *Firearm Act* or their regulations, or

(b) deal with the thing in accordance with section 24.2 (4) of the *Offence Act* and for this purpose section 24.2 (2) and (3) of the *Offence Act* do not apply.

(6.3) If a person is convicted of an offence under this Act or the *Firearm Act*, the court must order returned to the government any wildlife seized in relation to that offence that has not already been disposed of under section 97.2, 97.3 or 97.6 if the wildlife was

(a) obtained by or used in the commission of that offence, or

(b) possessed in contravention of this Act, the *Firearm Act* or their regulations.

(6.4) Wildlife returned to the government under subsection (6.3) is to be disposed of as the minister directs.

(7) Nothing in this section limits the application of sections 24 and 84.1 to 84.3 or any other sanctions provided for in this Act or the regulations under this Act.

Creative sentencing

84 . 1 (1) If a person is convicted of an offence under this Act, in addition to any punishment imposed, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing one or more of the following prohibitions, directions or requirements:

- (a) prohibiting the person from doing any act or engaging in any activity that may, in the opinion of the court, result in the continuation or repetition of the offence;
- (b) directing the person to take any action the court considers appropriate to remedy or avoid any harm to the environment or any wildlife, endangered species or threatened species, that resulted or may result from the commission of the offence;
- (c) directing the person to pay the government an amount of money as compensation, in whole or in part, for the cost of any remedial or preventive action taken by or caused to be taken on behalf of the government as a result of the commission of the offence;
- (d) directing the person to perform community service;
- (e) directing the person to pay an amount of money the court considers appropriate to
 - (i) [Repealed 2002-7-24.]
 - (ii) the trustee under Part 3 for inclusion in the trust property, as that term is defined in section 118, or
 - (iii) the Grizzly Bear Trust Fund established and administered by the government;
- (f) directing the person to post a bond or pay into court an amount of money the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this section;
- (g) directing the person to submit to the minister, on application by the minister within 3 years after the date of the conviction, any information respecting the activities of the

person that the court considers appropriate in the circumstances;

(h) directing the person to publish, in any manner the court considers appropriate, the facts relating to the commission of the offence;

(i) requiring the person to comply with any other conditions that the court considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences under this Act.

(2) If a person fails to comply with an order referred to in subsection (1) (h) directing the person to publish the facts relating to the commission of an offence, the minister may publish those facts and recover the costs of publication from the person.

(3) If

(a) an order under this section or section 84.2 directs a person to pay an amount of money as compensation or for any other purpose, or

(b) the minister incurs publication costs under subsection (2) of this section,

the amount and any interest payable on that amount constitute a debt due to the government and may be recovered as such in any court of competent jurisdiction.

(4) A person who contravenes an order under this section or section 84.2 commits an offence and is liable to the penalties provided for the offence in relation to which the order was made.

Variation of section 84.1 orders

84.2 (1) An application for variation of an order under section 84.1 may be made to the court that made the order by

(a) the Attorney General, or

(b) the person against whom the order under section 84.1 was made.

(2) Before hearing an application under subsection (1), the court may order the applicant to give notice of the application in accordance with the directions of the court.

(3) On an application under subsection (1), if the court considers variation appropriate because of a change in circumstances, the court may make an order doing one or more of the following:

- (a) changing the original order or any conditions specified in it;
- (b) relieving the person referred to in subsection (1) (b) absolutely or partially from compliance with all or part of the original order;
- (c) reducing the period for which the original order is to remain in effect;
- (d) extending the period for which the original order is to remain in effect, subject to the limit that this extension must not be longer than one year.

(4) If an application under subsection (1) has been heard by a court, no other application may be made in respect of the order under section 84.1 except with leave of the court.

Additional fine

84.3 (1) If a person is convicted of an offence under this Act and the court is satisfied that, as a result of the commission of the offence, the person acquired any monetary benefits or that monetary benefits accrued to the person, the court may order the person to pay a fine equal to the court's estimation of the amount of those monetary benefits.

(2) If a person is convicted of an offence under section 22 or an offence prescribed under section 108 (3) (l) (iii) and the court is satisfied that the person was engaged in a commercial enterprise in relation to the commission of the offence and that monetary benefits could have accrued as a result of the commission of that offence, the court may order the person to pay a fine equal to the court's estimation of the amount of those monetary benefits.

(3) A fine under subsection (1) or (2) is in addition to and not in place of a fine under section 84 or an order under section 84.1 or 84.2 directing a person to pay an amount of money as compensation or for any other purpose.

Failure to pay fine

85 (1) This section applies if a person

(a) fails to pay, within the time required by law, a fine imposed as a result of the person's conviction for an offence under this Act or the *Firearm Act*, and

(b) has been served with notice of this section.

(2) In the circumstances referred to in subsection (1),

(a) the person's right to apply for or obtain a licence, permit or limited entry hunting authorization under this Act is suspended immediately and automatically on the failure to pay the fine,

(b) all licences, permits and limited entry hunting authorizations issued to that person under this Act are cancelled immediately and automatically on the failure to pay the fine, and

(c) the person commits an offence if, before that fine is paid, the person

(i) applies for, or in any way obtains, a licence, permit or limited entry hunting authorization under this Act, or

(ii) does anything for which a licence, permit or limited entry hunting authorization under this Act is required.

Officers exempted

86 The offence provisions of this Act and the regulations and section 9 of the *Firearm Act* do not apply to an officer engaged in the performance of his or her duties.

Arrest

87 A conservation officer or constable may, without a warrant, arrest a person he or she finds committing an offence against this Act or the regulations.

Surrender of firearms

88 (1) A conservation officer or constable may, if he or she has reasonable and probable grounds to believe that by reason of consumption of alcohol a person who is hunting or carrying a firearm is affected in his or her ability to hunt or handle a firearm safely and responsibly, request that person to surrender any firearms in his or her possession and his or her hunting licence.

(2) A conservation officer or constable may, if he or she has reasonable and probable grounds to believe that a person who is hunting or carrying a firearm is affected by a drug in his or her ability to hunt or handle a

firearm safely and responsibly, request that person to surrender any firearms in his or her possession and his or her hunting licence.

(3) On a request being made under subsection (1),

(a) the hunting licence of the person is suspended and the person must not hunt or carry a firearm, and

(b) the person must immediately surrender to the conservation officer or constable all firearms in the person's possession and the person's hunting licence.

(4) A conservation officer or constable must return the firearms and the licence surrendered under subsection (3) to the person on

(a) the person promptly undergoing a test that indicates his or her blood contains less than 50 mg of alcohol to 100 ml of blood,

(b) the expiration of 24 hours after the surrender, or

(c) the production by the person to the conservation officer or constable of a certificate made by a medical practitioner or nurse practitioner after the suspension and certifying that the blood of the person contains less than 50 mg of alcohol to 100 ml of blood,

and the suspensions are terminated on the person satisfying the requirements of paragraph (a), (b) or (c).

(5) On a request being made under subsection (2), subsections (3) and (4) (b) apply.

(6) If a person to whom subsection (2) applies satisfies a conservation officer or constable having charge of the matter that his or her ability to hunt or handle a firearm safely and responsibly is not affected by a drug other than alcohol, the suspensions are terminated and the firearms and licence must be returned to the person.

(7) The hunting licence of a person who refuses to surrender his or her licence under this section is invalid for every purpose and is suspended until the expiration of the period of suspension that would otherwise have applied under subsections (4) and (5).

(8) If a person who has been requested to surrender his or her licence under this section does not hold a hunting licence issued under this Act, the person is deemed to be a person whose licence is suspended until the occurrence of an event or the expiry of the time at which, had he or she been the holder of a licence, the conservation officer or constable would

have been required to return the licence to him or her under subsection (4), (5) or (6).

Dangerous wildlife protection order

88 . 1 (1) In this section, "**private dwelling**" means a structure used solely as a private residence or a residential accommodation within any other structure.

(2) If a conservation officer believes on reasonable grounds that dangerous wildlife is or may be attracted to any land or premises other than a private dwelling, the conservation officer may, without a warrant, enter and search the land or premises.

(3) If a conservation officer believes on reasonable grounds that the existence or location of an attractant in, on or about any land or premises, other than in a private dwelling, poses a risk to the safety of any person because the attractant is attracting or could attract dangerous wildlife to the land or premises, the conservation officer may issue a dangerous wildlife protection order directing an owner, occupier or person in charge of that land or premises to contain, move or remove the attractant within a reasonable period of time specified in the order.

(4) Despite subsection (3), a dangerous wildlife protection order may not be made in respect of any of the following:

(a) a farm operation, as defined in section 1 of the *Farm Practices Protection (Right to Farm) Act*, that

(i) is conducted on, in or over land anywhere in British Columbia, and

(ii) meets the requirements set out in section 2 (2) (a) and (c) of that Act;

(b) a person who is engaging in trapping in accordance with all other applicable provisions of this Act and the regulations;

(c) a facility for the disposal of waste, that is operated in accordance with the *Environmental Management Act* by a municipality, as defined in section 1 (1) of that Act.

(5) A person to whom an order under subsection (3) is expressed to apply must comply with the order within the period of time specified in that order.

(6) For the purpose of ensuring that an order issued under subsection (3) is being, or has been, complied with, a conservation officer may, without a

warrant, enter and search the land or premises other than a private dwelling that is affected by the order.

(7) A person commits an offence if the person neglects or refuses to comply with an order in accordance with subsection (5).

Entering premises

89 (1) For the purpose of ensuring that this Act and the regulations are being complied with, an officer may enter and inspect any premises or enclosure in which live wildlife or live fish is kept but, at the request of the owner or occupier, the officer must produce proof of identity.

(2) Despite the *Trespass Act*, an officer exercising duties under this Act may enter any land, whether enclosed or not but, at the request of the owner or occupier of the land, the officer must produce proof of identity.

Inspection of firearms

90 (1) A person, when requested to do so, for the purposes of this Act or the *Firearm Act*, by a conservation officer or constable, must immediately produce and permit inspection of a firearm in his or her possession.

(2) A conservation officer or constable may, for the purposes of this Act or the *Firearm Act*, inspect a firearm found in or on a vehicle or boat.

Inspection of camps

91 An officer may inspect a camp occupied by a hunter or angler.

Search warrants

92 On information in the prescribed form and on oath that there is reasonable ground to believe that an animal or fish, or a portion of an animal or fish, killed, taken or possessed in violation of this Act or the regulations, or about to be illegally exported, is located in or on a building or premises, a justice may by a warrant authorize and direct a conservation officer or constable to enter and search the building or premises and to seize and remove an animal or fish, or a portion of it, found, and it may be disposed of as provided in this Act.

Search without warrant

93 A conservation officer or constable may, without a warrant,

(a) search a person whom he or she believes on reasonable grounds has in his or her possession any wildlife or fish killed,

taken or possessed in violation of this Act or the regulations, or about to be illegally exported,

(b) stop and search a motor vehicle, private or chartered aircraft, boat or other conveyance, in or on which he or she believes on reasonable grounds that wildlife or fish is being carried by a person, and

(c) enter and search a shop, public market, storehouse, garage, restaurant, hotel, eating house or camp, in or on which he or she believes on reasonable grounds that wildlife or fish is located.

Seizure

94 (1) A conservation officer or constable may seize wildlife or fish or parts of either wildlife or fish, anything referred to in paragraph (b) and anything found in, on or about a place, building or premises, or in the possession of a person, that might afford evidence of the commission of an offence under this Act, if the conservation officer or constable

(a) finds in the possession of a person, or in, on or about a place or thing referred to in section 93, wildlife or fish that the conservation officer or constable believes on reasonable grounds was killed, taken or possessed in violation of this Act, or is about to be illegally exported, or

(b) finds firearms, ammunition, decoys, traps, fishing rods or other devices or materials, implements or appliances for hunting or trapping wildlife or for catching fish, that the conservation officer or constable believes on reasonable grounds were held, kept or used for or in connection with a violation of this Act.

(2) A conservation officer may seize wildlife or fish, or parts of either wildlife or fish, in a person's possession if the conservation officer believes on reasonable grounds that the right of property in that wildlife is with the government or remains in the government.

(3) Sections 23 to 24.2 of the *Offence Act* do not apply in respect of wildlife or fish, or parts of either wildlife or fish, seized under this Act.

Officers empowered to stop vehicles

95 (1) An officer may, for the purposes of this Act, stop a motor vehicle, private or chartered aircraft or boat or other vehicle to determine whether

or not the occupants of the vehicle have been hunting, trapping or angling, and to obtain information about wildlife or game fish possessed by them.

(2) A person commits an offence under subsection (1) if the person

(a) fails to stop,

(b) fails to identify himself or herself when requested to do so by the officer,

(c) refuses to give information respecting hunting or fishing, or

(d) being the driver or operator of a motor vehicle, in or on which there is wildlife or game fish or an article or device that may be used for hunting, trapping or fishing, fails, refuses or neglects to stop his or her motor vehicle when signalled or requested to stop by an officer who is in his or her uniform of office or displays his or her official badge.

Obstructing officers

96 (1) A person who resists or obstructs an officer from exercising his or her duty under this Act commits an offence.

(2) An officer is, for the purposes of this Act, a peace officer.

Production of licence or permit

97 If a person who is required to hold a licence, permit or limited entry hunting authorization issued under this Act

(a) fails to produce it for inspection to an officer on request, or

(b) fails or refuses to state his or her name and address to an officer on request,

the person commits an offence.

Definitions

97.1 In sections 97.2 to 98.1:

"**responsible official**" has the same meaning as in section 24 (1) of the *Offence Act*;

"**wildlife**" includes a part of wildlife.

If live wildlife seized

97.2 Despite anything else in this Act, if live wildlife is seized under this Act, a conservation officer may dispose of the wildlife, or have the wildlife

disposed of, by returning it to the natural environment if the conservation officer believes on reasonable grounds that the live wildlife is capable of surviving after release.

If perishable wildlife seized

97.3 Despite anything else in this Act, if wildlife is seized under this Act and a conservation officer believes on reasonable grounds that the wildlife may rot, spoil or otherwise perish, the conservation officer may dispose of the wildlife, or have the wildlife disposed of, as the minister directs.

Detention of seized wildlife

97.4 (1) Subject to sections 97.2 and 97.3, wildlife seized under this Act may be detained by the responsible official for no longer than 12 months from the day of seizure unless

(a) a trial, inquiry or hearing under this Act is instituted before the end of that period and the wildlife may be required in that trial, inquiry or hearing,

(b) an order authorizing the continued detention is made on application under subsection (2), or

(c) section 97.6 applies.

(2) On application by the responsible official on at least 3 days' notice to the person from whom the wildlife was seized, a Provincial Court judge may order the continued detention of the wildlife for a specified period, subject to any conditions the judge considers appropriate, if satisfied that

(a) the continued detention might reasonably be required for the purpose of an investigation, trial, inquiry or hearing under this Act, and

(b) it is in the interests of justice to make the order.

(3) If an application under subsection (2) has been made but is not yet decided, the period authorized for detention of the wildlife extends until the application is decided.

(4) A person aggrieved by an order under this section may appeal the order to the Supreme Court and, for the purposes of the appeal, sections 103 to 114 of the *Offence Act* apply.

Access to wildlife seized and detained as evidence

97.5 (1) On at least 3 days' notice to the minister, a person may apply to a Provincial Court judge for an order under subsection (2) that the person be permitted to examine wildlife detained under section 97.4.

(2) The judge may make an order that the applicant or a representative of the applicant be permitted to examine the wildlife, but must make the order on terms that the judge considers necessary or desirable to ensure that the wildlife is safeguarded and preserved for any purpose for which it may subsequently be required.

Disposition of wildlife seized and detained as evidence

97.6 (1) This section applies in respect of wildlife detained under section 97.4 if a responsible official determines that the wildlife is not required for law enforcement purposes and gives notice of that determination to the person from whom the wildlife was seized.

(2) The person from whom the wildlife was seized may make an application to a justice on at least 3 days' notice to the minister.

(3) An application under subsection (2) must be made within 30 days from the date that the person receives notice referred to in subsection (1).

(4) On the hearing of an application under subsection (2), the justice must order that the wildlife be returned

(a) to the person from whom it was seized, if satisfied that the person is lawfully entitled to the wildlife,

(b) to another person, if

(i) satisfied that the person from whom the wildlife was seized is not lawfully entitled to the wildlife but that the other person is, and

(ii) this other person is known, or

(c) if neither paragraph (a) nor (b) apply, to the government to be disposed of as the minister directs.

(5) A person aggrieved by an order under this section may appeal the order to the Supreme Court and, for the purposes of the appeal, sections 103 to 114 of the *Offence Act* apply.

(6) Despite anything in this section, wildlife must not be returned or disposed of under this section until the later of the following:

(a) 30 days after an order under subsection (4);

(b) if the order under subsection (4) is appealed, 30 days after the decision on the appeal has been given.

(7) If

(a) a person does not make an application within the time limit under subsection (3), or

(b) wildlife is ordered returned to a person under subsection (4) (a) or (b) and the person does not, within 60 days of that order, take possession of that wildlife,

the wildlife is returned to the government or forfeited to the government, as the case may be, to be disposed of as the minister directs.

Seizure or destruction of controlled alien species

97.7 (1) A conservation officer or constable may seize a species individual of a controlled alien species if the person in possession of the species individual

(a) is prohibited from possessing that species individual,

(b) contravenes the person's permit in relation to the species individual, or

(c) contravenes a regulation respecting controlled alien species.

(2) A conservation officer or constable may seize or destroy a species individual of a controlled alien species if, in the opinion of the conservation officer or constable, the species individual presents an imminent danger to the health or safety of a person or to property, wildlife or wildlife habitat.

(3) If a constable seizes a species individual under subsection (1) or (2), the constable must, as soon as practicable, deliver the species individual to a conservation officer or to a person designated by the minister.

(4) Sections 23 to 24.2 of the *Offence Act* do not apply in respect of a species individual of a controlled alien species seized under this Act.

Disposition of seized controlled alien species

97.71 (1) If a species individual of a controlled alien species is seized under section 97.7 (1) or (2), the government may destroy, sell or otherwise dispose of the species individual 14 days after the regional manager or a person designated by the minister has given notice to the owner of the species individual in accordance with subsection (2) of this section.

(2) The notice referred to in subsection (1) must be in writing and

(a) mailed to or served personally on the owner of the species individual, or

(b) if it cannot be mailed to or served personally on the owner,

- (i) published at least 3 times at 2 day intervals in a newspaper circulating in the area in which the species individual was seized, or
- (ii) posted in a conspicuous place at either the owner's last known address or the location at which the species individual was seized.

Controlled alien species is property of new owner

97.72 If a species individual of a controlled alien species is sold or otherwise disposed of under section 97.71, all rights and interests in the species individual

- (a) vest in the person to whom it has been sold or otherwise disposed of, and
- (b) the former owner ceases to have any of those rights and interests.

Costs and proceeds of disposition of controlled alien species

97.73 (1) If a species individual of a controlled alien species is seized or destroyed under this Act, the director may

- (a) issue a certificate
 - (i) setting out the reasonable costs incurred under this Act by the government with respect to the species individual,
 - (ii) identifying one or more persons who own the species individual, and
 - (iii) specifying all or part of those costs as payable by one or more of the persons identified in the certificate, and
- (b) by serving notice of the certificate on a person identified in it, require the person to pay all or part of the costs as specified in the certificate.

(2) Notice under subsection (1) (b) may be served in accordance with section 101 (3).

(3) If 2 or more persons are identified in a certificate, those persons are jointly and separately liable to pay the costs as specified in the certificate.

(4) If notice of a certificate is served under subsection (1) (b),

(a) the amount certified as being payable by a person is a debt due to the government by the person, and

(b) on filing in the Supreme Court, the certificate has the same effect and is subject to the same proceedings as a judgment of the court for the recovery of a debt in the amount stated in the certificate against the person named in it.

(5) The government may require the owner to pay the costs that the owner is required to pay under subsection (1) before returning the species individual to the owner.

(6) Subject to subsection (7), the government may retain the proceeds of a sale or other disposition of a species individual of a controlled alien species under section 97.71.

(7) If the proceeds of a sale or other disposition of a species individual of a controlled alien species exceed the costs referred to in subsection (1), the owner of the species individual that was seized may, within 6 months of the date of seizure, claim the balance from the government.

Disposition of other property seized

98 If property, other than wildlife, that is seized in relation to an offence under this Act or the *Firearm Act* is ordered returned to a person under section 24.2 (4) (a) or (b) of the *Offence Act* and the person does not, within 6 months after receiving notice from the responsible official of that order, remove the property from the place specified in the notice, the property is forfeited to the government, to be disposed of as the minister directs.

Detention of other property seized until fine paid

98.1 (1) This section applies if

(a) a person is convicted of an offence under this Act or the *Firearm Act*,

(b) property, other than wildlife, is ordered returned to that person under section 24.2 (4) (a) or (b) of the *Offence Act*, and

(c) a fine is imposed on the person by the court.

(2) Despite the order under section 24.2 (4) (a) or (b) of the *Offence Act*, the responsible official must deliver the property referred to in subsection (1) (b) of this section to the minister and the minister may detain the property until the fine is paid.

(3) If the fine is not paid within the time for payment set by the court, the property is forfeited to the government, to be disposed of as the minister directs.

(4) Proceeds of a disposition under subsection (3) must be applied towards payment of the fine referred to in subsection (1) (c).

Repealed

99 [Repealed 2002-27-18.]

Powers of director

100 (1) In addition to other powers given under this Act, the director may do an act or thing that a regional manager is empowered to do.

(2) If the regional manager is satisfied that special circumstances exist, the regional manager may,

(a) if an applicant for an assistant guide licence or assistant angling guide licence or the registration of a trapline meets all the requirements except the age of eligibility, issue or authorize the issue of the licence or the registration of the trapline to the applicant, and

(b) if an applicant for a guide outfitter licence meets all the requirements of section 51 (1) except a requirement prescribed for the purposes of this section, issue or authorize the issue of a guide outfitter licence to the applicant.

Reasons for and notice of decisions

101 (1) The regional manager or the director, as applicable, must give written reasons for a decision that affects

(a) a licence, permit, registration of a trapline or guiding territory certificate held by a person, or

(b) an application by a person for anything referred to in paragraph (a).

(2) Notice of a decision referred to in subsection (1) must be given to the affected person.

(3) Notice required by subsection (2) may be by registered mail sent to the last known address of the person, in which case, the notice is conclusively deemed to be served on the person to whom it is addressed on

(a) the 14th day after the notice was deposited with Canada Post, or

(b) the date on which the notice was actually received by the person, whether by mail or otherwise,

whichever is earlier.

(4) For the purposes of applying this section to a decision that affects a guiding territory certificate, if notice of a decision referred to in subsection (1) is given in accordance with this section to the agent identified in the guiding territory certificate, the notice is deemed to have been given to the holders of the guiding territory certificate as if the agent were an affected person.

Appeals to Environmental Appeal Board

101.1 (1) The affected person referred to in section 101 (2) may appeal the decision to the Environmental Appeal Board continued under the *Environmental Management Act*.

(2) The time limit for commencing an appeal is 30 days after notice is given

(a) to the affected person under section 101 (2), or

(b) in accordance with the regulations.

(3) An appeal under this section

(a) must be commenced by notice of appeal in accordance with the practice, procedure and forms prescribed by regulation under the *Environmental Management Act*, and

(b) subject to this Act, must be conducted in accordance with the *Environmental Management Act* and the regulations under that Act.

(4) The appeal board may conduct an appeal by way of a new hearing.

(5) On an appeal, the appeal board may

(a) send the matter back to the regional manager or director, with directions,

(b) confirm, reverse or vary the decision being appealed, or

(c) make any decision that the person whose decision is appealed could have made, and that the board considers appropriate in the circumstances.

(6) An appeal taken under this Act does not operate as a stay or suspend the operation of the decision being appealed unless the appeal board orders otherwise.

Commercial vendors of licences

102 Despite the *Financial Administration Act*, the Lieutenant Governor in Council may

- (a) authorize a commercial vendor of licences to retain a prescribed fee or commission for issuing licences, and
- (b) prescribe a different fee or commission for different licences.

Time limit for prosecuting offence

103 (1) The time limit for laying an information in respect of an offence under this Act is

- (a) 3 years after the date that the facts on which the information is based arose, or
- (b) if the minister completes a certificate described in subsection (2), 18 months after the date that facts on which the information is based first came to the knowledge of the minister.

(2) A document purporting to have been issued by the minister, certifying the date that the facts on which the information is based first came to the knowledge of the minister,

- (a) is admissible without proof of the signature or official character of the person appearing to have signed the certificate, and
- (b) is proof of the certified matters.

Liability for offence by employee

104 (1) In a prosecution of a person for an offence under this Act, if it is proved that the offence was committed by an employee or agent of the person, whether or not the employee or agent is identified or has been prosecuted for the offence, the person is a party to the offence and is liable to the penalties prescribed for the offence as a principal offender unless the person establishes that the offence was committed without his or her knowledge or consent or that he or she exercised all due diligence to prevent its commission.

(2) Nothing in this section relieves the person who actually committed the offence from liability for it.

Proof of citizenship or residence

105 In a prosecution for an offence under this Act, if it is alleged that the defendant was not a Canadian citizen or a resident, the onus is on the defendant to prove that he or she was a Canadian citizen or a resident at the time of the offence.

Wildlife hunted or fish taken in British Columbia

106 In a prosecution under this Act, wildlife or fish found in British Columbia is presumed, unless the contrary is proved, to have been hunted or taken in British Columbia.

Certificate evidence and presumptions

107 (1) In a proceeding under this Act in which proof is required with regard to

- (a) the issue, non renewal, suspension or cancellation of or the suspension of the right to obtain a licence, permit or limited entry hunting authorization,
- (b) the person who is the licensee or permittee named in a licence, permit or limited entry hunting authorization,
- (c) the appointment or authority of an officer, or
- (d) the delivery, service, mailing or giving of a notice or document by an official of the government,

a certificate signed by a regional manager certifying as to a matter referred to in paragraph (a), (b), (c) or (d) is admissible and is proof of the facts stated in the certificate and of the authority of the regional manager without further proof of his or her appointment or signature.

(2) In a proceeding under this Act, a certificate signed by a regional manager stating that wildlife or fish

- (a) has been examined by a person qualified to judge and classify wildlife or fish, and
- (b) is of a certain species or sex or is in a certain condition

is proof of the facts stated in the certificate and of the authority of the regional manager without further proof of his or her appointment or signature.

(3) The fact that the person charged in an information laid in respect of an offence under this Act has the same name as the person who is referred to as being the holder of a licence, permit or limited entry hunting authorization in a certificate issued under subsection (1) (b) is proof that the person charged in the information is the holder of the licence, permit or limited entry hunting authorization.

(4) In a proceeding under this Act, a certificate relating to the analysis of a thing or a sample, signed by a person who is in charge of a laboratory operated, maintained, supported or certified by the government of Canada, a province, the United States of America or a state of it, is proof of the facts stated in the certificate and of the authority of the person signing the certificate without further proof of his or her appointment or signature.

Notice requirements

107.1 Notice required by section 97.4 (2), 97.6 (1) or 98 may be given in accordance with section 101 (3).

Regulations by Lieutenant Governor in Council

108 (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) respecting threatened species or endangered species;
- (b) respecting the use and occupation of a wildlife management area;
- (c) respecting applications for licences, permits and limited entry hunting authorizations, specifying conditions of eligibility for them including proof of financial responsibility or insurance for third party liability and discriminating among classes of applicants for them whether or not the classes are specified in this Act;
- (d) prescribing conditions of eligibility including proof of financial responsibility or insurance for third party liability for different classes of licence applicants and for different licences, permits and limited entry hunting authorizations;
- (e) prescribing the conditions of a licence and conditions that the director or a regional manager may attach to a licence when he or she issues it to a person;

- (f) limiting the number and types of licences and limited entry hunting authorizations that may be held by a person;
- (g) prescribing surcharges, royalties and fees, including fees for applications, licences, permits and limited entry hunting authorizations and for the transfer of guiding privileges and a trapline registration, and establishing different surcharges or fees for different classes including, without limitation, classes based on the following:
 - (i) age;
 - (ii) residence;
 - (iii) the nature of the activity;
 - (iv) the manner of collection of the surcharge or fee;
 - (v) the person entitled to collect the surcharge or fee;
- (h) prohibiting or regulating the trafficking or possession in British Columbia of wildlife or fish or parts of either;
- (i) prescribing exceptions to requirements for guides and for guides for fish, defining classes of and prescribing qualification of guides and guides for fish, prescribing rules and conditions that a regional manager may attach to a guide outfitter licence, assistant guide licence, angling guide licence or assistant angling guide licence and prescribing penalties, including the prohibition of a person from guiding or guiding for fish, for contravention of this Act or the regulations;
- (i.1) respecting applications for guiding territory certificates and prescribing qualifications of applicants for guiding territory certificates;
- (j) providing for the disposal of guide areas to licensed guide outfitters;
- (k) exempting persons or classes of persons from the application of provisions of this Act or the regulations;
- (l) prescribing bag limits for wildlife by species, type, sex, age, circumstances or physical features of the wildlife and by periods of time;
 - (l.01) in respect of a regulation under paragraph (l), requiring that wildlife taken or killed by a person be included in the bag limit of another person;
 - (l.1) prescribing, by species, type, sex, age or physical features of the wildlife, the maximum number of wildlife that a person

may possess and respecting the circumstances in which a person may possess a prescribed number of wildlife;

(l.2) respecting the circumstances in which a person may take, kill or possess wildlife;

(m) constituting a portion of British Columbia as a wildlife unit, area, district or region with a distinctive name or number;

(n) designating no shooting areas;

(o) regulating or prohibiting the types and calibres of firearms or types of projectiles that may be discharged in a prescribed area;

(p) providing for cancellation or suspension of, periods of ineligibility for and periods of suspension of licences for specified offences or combinations of offences, and specifying what is a second or subsequent offence;

(q) specifying lakes, streams or areas of British Columbia for the purpose of requiring a member of a class of persons to hold a licence issued under section 53 (1) (f) to engage in angling in that lake, stream or area;

(r) respecting how notice of a decision may be given for the purposes of section 101.1 (2) (b);

(s) prohibiting or regulating methods and devices for hunting, trapping, capturing or taking wildlife and respecting safety in those activities;

(t) requiring specified parts to be left attached to a wildlife carcass;

(u) providing for the reporting and recording

(i) by taxidermists, tanners, meatcutters and operators of cold storage plants of wildlife or fish processed or prepared by them or in their possession, and

(ii) by holders of licences, permits and limited entry hunting authorizations of any matters or activities relating to their licences, permits or authorizations,

and prescribing exceptions to reporting requirements;

(v) requiring wildlife, whether alive or dead, or a part of wildlife to be permanently marked or tagged;

(w) prohibiting or regulating the keeping of wildlife in captivity, and specifying the conditions under which wildlife may be released from captivity;

(x) requiring that a person who captures or kills wildlife take that wildlife or a part of it to a place and report to a member of the staff of the ministry or a person specified by the Lieutenant Governor in Council;

(y) prohibiting or regulating field trials of hunting and gun dogs;

(z) prohibiting or regulating the causing or allowing of a dog to hunt or pursue wildlife.

(3) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:

(a) controlling the transportation in British Columbia of wildlife or fish or parts of either;

(b) defining methods and devices for trapping and the conditions under which and areas in which trapping may be carried on by a licensed trapper;

(c) providing for the conditions for a person or association to organize or carry on an operation for the purpose of hunting wildlife on property owned or controlled by the person or association and regulating the hunting of wildlife on the property of the person or association;

(d) prescribing the conditions under which boats, aircraft, motor vehicles or snowmobiles may be used for the purpose of hunting, trapping, taking or viewing wildlife or for angling;

(e) prescribing open seasons or closed seasons, or both, for

(i) wildlife by species, type, sex, age, circumstances or physical features of the wildlife, or

(ii) persons, licences or permits, including prescribing different seasons for different classes of persons, including, without limitation, classes based on age;

(f) prescribing the hours of the day or night during which the hunting of wildlife is prohibited or allowed;

(g) respecting the selection, by an auction or other means, of applicants who qualify under section 42 for registration of a trapline;

- (h) prescribing restrictions on the manner in which fish caught by angling may be dressed or packed and limits on the amount of fish or fish parts possessed by a person at a place other than at a private residence;
- (i) respecting the information and undertakings to be included in fur management plans and requirements for the renewal and amendment of fur management plans;
- (j) prescribing licences, permits or stamps that, in addition to an angling licence, must be held to angle for or to catch and retain a designated species of fish or to angle in a designated area of British Columbia;
- (k) prescribing tags that must be attached in the prescribed manner to fish caught by angling;
- (l) prescribing an offence under a specified provision of this Act, or a regulation under this Act, as an offence for the purposes of
 - (i) section 84 (1) (a) (ii),
 - (ii) section 84 (1) (b) (ii), or
 - (iii) section 84.3 (2);
- (m) prescribing a species of wildlife as dangerous wildlife;
- (n) for any purpose contemplated by this Act;
- (o) prohibiting or regulating in relation to
 - (i) hunting by a person who is under 18 years of age or who holds an initiation hunting licence, and
 - (ii) persons in the company of a person referred to in subparagraph (i) while he or she hunts,including, without limitation, for the purpose of sections 11, 17.1 and 17.2, prescribing the qualifications of a person who may accompany and supervise another person and prescribing the maximum number of persons that a person may accompany and supervise at one time.

(4) The Lieutenant Governor in Council may delegate a power under subsection (2) or (3) to the minister.

(5) The Lieutenant Governor in Council, despite anything in this Act, may make regulations respecting the issue of permits.

Regulations by the minister

109 (1) The minister may make regulations as follows:

- (a) designating employees of the government, by name or by their positions, as officers;
- (b) prohibiting, restricting or allowing access by members of the public to designated areas of British Columbia, for the purposes of wildlife management;
- (c) with the approval of the minister responsible for the highway or road, for the temporary closure of or for the imposition of restrictions on vehicular access to a highway or road, or part of either, for the purpose of protecting wildlife;
- (d) providing, for a regulation made by the minister, that its contravention constitutes an offence;
- (e) to (g) [Not in force.]
- (h) regulating or prohibiting the feeding or attracting of specified wildlife in a specified area, which may be different for different wildlife, different classes of wildlife or different areas;
- (i) respecting controlled alien species, including, without limitation, exercising in relation to controlled alien species any authority in relation to wildlife under section 108 (2) (s) to (v), (x) and (z) and (3) (a) and (c) to (f);
- (j) prescribing a substance or thing for the purposes of the definition of "attractant".

(2) In making regulations under subsection (1) (j), the minister may make different regulations in relation to different dangerous wildlife, different classes of dangerous wildlife, different areas, different time periods or different circumstances.

Application of *Offence Act*

110 Section 5 of the *Offence Act* does not apply to this Act or the regulations.

Part 2

Repealed

111-117 [Repealed 2007-24-51.]

Part 3 — Habitat Conservation Trust

Definitions

118 In this Part:

"society" means the Habitat Conservation Trust Foundation, a society incorporated under the *Society Act*;

"trust property" means the property referred to in section 119;

"trust purposes" means the purposes, referred to in section 122 (1) (a) to (d), for which the trust property may be used;

"trustee" means the society.

Trust property

119 (1) The trust property consists of the following:

- (a) all of the assets that were included in the Habitat Conservation Trust Fund immediately before the coming into force of this section;
- (b) surcharges collected under this Act and paid to the trustee under section 120;
- (c) revenue derived by the trustee from
 - (i) fundraising, or
 - (ii) the disposition of promotional, educational or other materials, goods, programs or services under section 122 (2) (j);
- (d) property received by the trustee by
 - (i) gift, donation or bequest, or
 - (ii) disposition of any trust property;
- (e) property acquired by the trustee under
 - (i) an enactment or court order, or
 - (ii) without limiting subparagraph (i), subsections (3) and (4);
- (f) revenue derived from lands administered by the minister for the benefit of fish or wildlife and paid to the trustee under section 120;
- (g) property received by the trustee as contributions
 - (i) under an appropriation or a requisition, or
 - (ii) from the government of Canada, municipalities or others;

(h) any interest and other income earned by the trustee on the trust property.

(2) The trustee may accept, as part of the trust property, gifts, donations or bequests that are subject to conditions, unless the conditions are inconsistent with section 122.

(3) A reference in any record, including, without limitation, in any security agreement, commercial paper, lease, licence, permit, contract, instrument, document, certificate, will or other testamentary document, court order or enactment, to the Habitat Conservation Trust Fund, or to the trustee of the Habitat Conservation Trust Fund, is deemed to be a reference to the trustee.

(4) Without limiting subsection (3),

(a) any payment or transfer of property that must be made to the Habitat Conservation Trust Fund, or to the trustee of the Habitat Conservation Trust Fund, under any of the records referred to in subsection (3) must be made to the trustee, and

(b) any payment or transfer of property that may be made to the Habitat Conservation Trust Fund, or to the trustee of the Habitat Conservation Trust Fund, under any of the records referred to in subsection (3) may be made to the trustee.

Government as agent

120 (1) Any surcharge under this Act, and any revenue derived from lands administered by the minister for the benefit of fish or wildlife, that is received by the government after the coming into force of this section

(a) is received by the government as agent of the trustee, and

(b) must be paid into the consolidated revenue fund.

(2) The surcharges and revenue referred to in subsection (1) must be paid out of the consolidated revenue fund to the trustee in accordance with section 124.

(3) Section 27 (1) (a) of the *Financial Administration Act* does not apply to the appropriation under subsection (2) of this section.

Holding of trust property

121 (1) The society is the trustee of the trust property.

(2) Without limiting subsection (1), the trust property

- (a) is deemed to be provided to the trustee for the trust purposes and to be held in trust by the trustee for those purposes,
- (b) must be used by the trustee for the trust purposes, and
- (c) if not immediately required for the trust purposes, may be invested by the trustee as permitted under the provisions of the *Trustee Act* respecting the investment of trust property by a trustee.

(3) The trust property

- (a) may be converted into money or other forms of property, and
- (b) must, in its original or converted form, be used by the trustee for the trust purposes.

Use of trust property

122 (1) The trustee may use the trust property for one or more of the following purposes and for no other purpose:

- (a) the conservation or enhancement of biological diversity, fish, fish habitat, wildlife or wildlife habitat;
- (b) the acquisition and management of land for the conservation or enhancement of a population of a species of fish or wildlife and its habitat;
- (c) the furthering, stimulation and encouragement of knowledge and awareness of fish or wildlife and their habitat, or of the existence and purpose of the society, by way of promotional, educational or other materials, goods, programs or services;
- (d) any other related charitable purpose prescribed under the regulations made under section 125.

(2) For the purposes of subsection (1) of this section but without limiting that subsection, the trustee may pay out, or dispose of, trust property in full or partial satisfaction of any payment, cost or expense reasonably required to give effect to, or to facilitate the achievement of, one or more of the trust purposes, including, without limitation, any of the following payments, costs and expenses:

- (a) administrative costs for services and supplies provided in relation to the trustee's operations and management of the trust property;

- (b) any obligation imposed on the trustee under a federal, provincial or municipal legislative enactment, including, without limitation, taxes of the trustee;
- (c) payments, costs and expenses required to comply with any obligation imposed on the trustee under this Part, including reporting and auditing;
- (d) costs for insurance for the directors and officers of the society;
- (e) reasonable travelling and out-of-pocket expenses incurred by the directors, officers and employees of the society and by persons advising the trustee on matters relating to the trust property;
- (f) reasonable remuneration for services rendered by directors of the society;
- (g) reasonable remuneration for employees of the trustee and money reasonably payable under contracts for services;
- (h) grants to other charitable organizations;
- (i) payments, costs and expenses required to engage agents, partners and contractors;
- (j) payments, costs and expenses required for the development, preparation and disposition, by sale or otherwise, of promotional, educational or other materials, goods, programs and services related to the trust purposes;
- (k) payments, costs and expenses required for fundraising activities.

Trustee reporting requirements

123 (1) The trustee must, within 6 months after the end of each fiscal year of the trustee,

- (a) prepare, in accordance with generally accepted accounting principles, financial statements for the trustee for that fiscal year and have those financial statements audited, and
- (b) publish a copy of those audited financial statements in a manner that can reasonably be expected to bring those financial statements to the attention of the public.

(2) The trustee must provide to the minister, on request of the minister,

(a) any record that the minister may require relating to the trust property, including, without limitation, any record relating to the receipt, retention, use or disposition of the trust property, and

(b) without limiting paragraph (a), any record that the minister may require relating to the assets that were at any time included in the Habitat Conservation Trust Fund before the repeal of Part 2 of this Act, including, without limitation, any record relating to the receipt, retention, use or disposition of those assets.

Government reporting requirements

124 (1) The minister must report to the trustee in respect of any surcharges referred to in section 120 (1) that

(a) are payable to the trustee, and

(b) have not yet been referred to in a report made under this section.

(2) The minister must

(a) report under subsection (1) not less frequently than monthly,

(b) provide, concurrently with each report, payment of the total amount of the surcharges for which the report is made, and

(c) provide in each report the financial information that indicates the portion of the payment referred to in paragraph (b) of this subsection that is attributable to each type of applicable transaction.

(3) The minister must report to the trustee in respect of any revenue, derived from lands administered by the minister for the benefit of fish or wildlife, referred to in section 120 (1) that

(a) is payable to the trustee, and

(b) has not yet been referred to in a report made under this section.

(4) The minister must

(a) report under subsection (3),

(i) in the case of the first report to be made under this subsection, on or before March 31, 2008, and

- (ii) for each subsequent report, annually within 3 months after the end of the society's fiscal year,
- (b) provide, concurrently with each report, payment of the revenue amount for which the report is made, and
- (c) provide in each report the financial information that indicates the portion of the payment referred to in paragraph (b) of this subsection that is attributable to each type of revenue and land.

Regulations

125 The minister may, on the request of the trustee, prescribe one or more charitable purposes, related to the purposes referred to in section 122, for which the trust property may be used.

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