

An Act to Govern Access

Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:-

1. This Act may be cited as the Access Act.

2. In this Act, unless the context otherwise requires,

"access road" means any road, cat-road, tote-road, industrial road, way, trail, lane, bridge or trestle when so designated by the Lieutenant-Governor in Council for any use deemed to be in the general public interest; but shall not include a public highway under the Highway Act;

"cat-road" means an unsurfaced road of a temporary nature over which logs or materials are dragged by any means;

"Department" means the Department of Commercial Transport;

"Industrial road" means any road which is constructed or exists for the transportation of natural resources, raw or manufactured, or the transportation of machinery, materials, or personnel by means of motor-vehicles, and includes all bridges, wharves, log-dumps, and works forming a part thereof, but does not include a public road, street, lane, or other public way; a privately owned road used by a farmer or resident for his own purposes; a road used exclusively for the construction and maintenance of electric-power lines, telephone-lines, or pipe-lines; roads and yards within manufacturing plants, industrial sites, storage-yards, airports, and construction-sites; access roads, tote-roads and cat-roads, as herein defined;

"industrial use" means the use of an access road by an industrial user for the transportation of natural resources, products from natural resources, machinery, materials or personnel;

"Minister" means Minister of Commercial Transport;

"road" means a graded strip of ground used by motor-vehicles and other traffic, which is not on the right-of-way of a public highway under the Highway Act;

"road owner" means the person who has legally constructed or acquired an access road;

"tote-road" means a road of a temporary nature over which construction materials and supplies are moved by any means.

3. This Act is divided into four parts, relating to the following subjects:

| PART | SECTION |
|----------------------------------|---------|
| I -- Administration of Act | 4- 8 |
| II -- Access Roads | 9-13 |
| III -- Industrial Roads | 14-11 |
| IV -- General Provisions | 12-17 |

PART I

Administration of Act

4. Officers and employees required for the proper administration of this Act may be appointed pursuant to the Civil Service Act, all of whom shall hold office during pleasure and, respectively, shall have the powers and perform the duties given to them under this Act and regulations made pursuant thereto.

5. Every officer or employee appointed pursuant to Section 4 shall have so far as is necessary in the discharge of his duties or exercise of his rights, at all times, a free right of ingress and egress upon, in and over any land and premises.

6. Whenever it appears to the Minister that proper determination of any matter necessitates a public hearing or other inquiry, he may conduct such hearing or inquiry, or he may appoint an officer or employee to conduct such hearing or inquiry and to report thereon to him, and for this purpose the officer or employee so appointed shall have the power and jurisdiction of a Justice of the Peace under the Summary Convictions Act.

7. No action may be brought against the Minister, any officer or employee for anything done or left undone by him in good faith in the performance or intended performance of any authority conferred or duty imposed under this Act or regulations.

8. No public hearing, inquiry, investigation or other proceeding involving the Minister or any officer or employee appointed pursuant to this Act shall be questioned, reviewed, or restrained by injunction, prohibition, or other process or proceeding in any Court, or be removed by certiorari or otherwise into any Court, save for excess or want of jurisdiction.

Heavenly returned for

PART II

Access Roads

9. The Lieutenant-Governor in Council may:-

- (a) designate any road, cat-road, tote-road, industrial road, way, trail, lane, bridge or trestle, including those in the right of the Crown Provincial, as an access road, or alter or rescind any designation so made; and,
- (b) without unreasonably restricting the needs and operating practices of the road owner, may make, alter, amend or repeal and remake rules and regulations for the use of access roads and, without restricting the generality of the foregoing, in respect to the following matters:
 - (i) the mode of travel on access roads;
 - (ii) the speeds at which vehicles may be moved on access roads;
 - (iii) the type, size, width and weight of vehicles using access roads and the maximum loads which may be carried or hauled on access roads;
 - (iv) traffic control and special rules when required for the use of access roads;
 - (v) the days and hours during which use may be made of access roads;
 - (vi) the carriage of freight and passengers on access roads;
 - (vii) the prevention, reporting and suppression of fires resulting from public use of the road;
 - (viii) the manner of reporting accidents;
 - (ix) the specifying of any sections of Part III of this Act which shall be applicable to access roads.

10. When a road includes a crossing of a railway operating under the jurisdiction of the Board of Transport Commissioners for Canada, the Minister shall secure the approval of the Board to establishment of a public railway crossing before the road is designated an access road. If the Board requires alteration of the road at the crossing, such alteration shall be arranged between the Minister and the road owner.

Appeal

11. Compensation for the use of access roads, other than for industrial use, shall be determined by the Minister having regard to the interests of the road owner and recommendations of all departments of Government which may be involved. An appeal lies to the Lieutenant-Governor in Council who may delegate three or more members of the Executive Council of the Province to hear the appeal and pronounce a decision thereon for and on behalf of the Lieutenant-Governor in Council.

12. Subject to the provisions of this Act and the regulations made pursuant thereto, arrangement for industrial use of access roads will be by agreement between an industrial user and the road owner. Failing agreement the Minister shall adjudicate and his decision shall be final.

13. Any person using an access road shall have no claim against the road owner or the Crown for accidents attributable to the condition of the access road.

PART III

Industrial Roads

14. In this Part,

"company" means a natural person, partnership of two or more persons having a joint or common interest, or a corporation which constructs, owns, or operates an industrial road;

"construction-site" means an area where actual construction operations are being carried out, and includes tote-roads and cat-roads;

"equipment" includes all rolling-stock and vehicles, log loaders and dumpers, loading works and transfers, hoists and cranes, and other machinery used in the operation or construction of an industrial road;

"motor-vehicle" includes all vehicles propelled otherwise than by muscular power, excepting the cars of electric and steam railways and other motor-vehicles running only upon rails or tracks;

"traffic" means the traffic of vehicles on industrial roads.

15. No company shall operate an industrial road except in accordance with any rules and regulations pertaining thereto made under this Act, provided that such shall not be inconsistent with the requirements of Part VI of the Forest Act.

16. No company shall, without the authority of the Minister, locate its proposed industrial road, or construct the same or any portion thereof, so as to obstruct or interfere with, or injuriously affect the working of, the access or adit to any mine then open, or for the opening of which preparations are at the time of such location being lawfully and openly made.

17. (1) An industrial road shall not cross or join, or be crossed or joined, by any public road or highway until leave therefor has been obtained from the Minister as provided in this section.

(2) Upon any application for such leave, the applicant shall submit to the Minister a plan and profile of such crossing or junction, and such other plans, drawings, and specifications as the Minister may in any case or by regulation require, and shall satisfy the Minister that the Minister of Highways has consented to the proposed crossing or junction.

(3) The Minister may, in writing,

- (a) grant such application on such terms as to public protection and safety as he deems expedient;
- (b) change the plan and profile, drawings, and specifications so submitted, and fix the place and mode of crossing or junction;
- (c) direct that the industrial road be carried over or under the public highway;
- (d) direct that such works, structure, equipment, appliances, and materials be constructed, provided, installed, maintained, used, or operated, watchmen or other persons employed and measures taken, as under the circumstances appear to the Minister best adapted to remove and prevent all danger of accident, injury or damage;
- (e) direct that stop-signs be placed on the industrial road, as well as other warning signs and devices as the Minister may deem to be expedient;
- (f) require that detail plans, drawings, and specifications of existing highway crossings and junctions be submitted to the Minister for approval;
- (g) reject such application.

(4) No motor-vehicle shall be operated over, upon, or through such highway crossing or junction until the Minister grants an order in writing authorizing such operation.

(5) The Minister shall not grant an order under subsection (4) until satisfied that his orders and directions under subsection (3) have been

carried out and the provisions of this section complied with.

18. Sections 157 to 164 of the Railway Act apply, *mutatis mutandis*, in respect to the crossing of a railway by an industrial road or vice versa, and the word "highway," wherever used in those sections, shall be taken to mean "industrial road."

19. Sections 165 to 167 of the Railway Act apply, *mutatis mutandis*, and the word "railway," wherever used in those sections, shall be taken to mean "industrial road."

20. Section 168 of the Railway Act applies, *mutatis mutandis*, to an industrial road, and the word "railway," wherever used in that section, shall be taken to mean "industrial road."

21. All bridges and structures on industrial roads through, over, or under which motor-vehicles may travel shall be constructed, reconstructed, safely maintained, or abandoned consistent with any rules and regulations pertaining thereto made under this Part.

22. A company abandoning the operation of an industrial road shall, when ordered in writing so to do by the Minister, remove every bridge, structure, or other thing that in the opinion of the Minister is objectionable or is likely to menace public safety, create a fire-hazard, or obstruct a stream.

23. (1) The Minister may order in writing any repairs, renewal, reconstruction or alteration to be made or done by a company upon an industrial road, and until his order has been complied with use of the industrial road shall be terminated or restricted in accordance with such terms and conditions as the Minister may impose.

(2) When necessary to resolve any doubt, the Minister may declare in writing any road within the definition of this Act to be an industrial road.

(3) The Minister may declare in writing any industrial road to be abandoned.

24. All motor-vehicles and equipment used upon an industrial road shall be maintained in a safe and proper condition consistent with any rules and regulations pertaining thereto made under this Part.

25. Motor-vehicles used upon an industrial road and equipped to haul trailers and semi-trailers, as well as all trailers so hauled or intended to be so hauled, shall be equipped and maintained with air-brakes or a

type of power-brakes approved by the Minister in accordance with specific requirements and limitations as set forth in any regulations made under this Part.

26. The Minister may direct that any safety appliance deemed expedient for the safety of workmen be installed and maintained on an industrial road or motor-vehicle used thereon.

27. Motor-vehicles which operate upon an industrial road during darkness shall be equipped with head-lights, tail-lights, stop-lights, and clearance-lights in accordance with the regulations under this Part.

28. (1) The Lieutenant-Governor in Council may make rules and regulations for carrying out this Part, including the examination and certification of drivers and operators, the governing of traffic, the approval of safety appliances used on motor-vehicles, and setting the fees to be paid in respect to matters transacted by companies with the Department, and including matters in respect whereof no express or only partial or imperfect provision has been made in this Part.

(2) The power to make rules and regulations under this section includes the power to set and impose fees to be paid by a company sufficient to cover the cost of all inspections of industrial roads made by an officer for the purpose of carrying out any of the provisions of this Part or the regulations in respect to such industrial roads.

29. The company may, subject to the provisions of this Part and not inconsistent with the requirements of the Forest Act, make by-laws, rules, or regulations respecting

- (a) the mode by which and the speed at which any vehicle operating on its industrial road may be moved;
- (b) the weights which vehicles may carry on its industrial roads;
- (c) the over-all width, size, and weight of vehicles used on its industrial roads;
- (d) the travelling upon or using of its industrial roads;
- (e) the special rules of the road required by the company in the operation of its industrial roads;
- (f) blocking off traffic on any portion of its industrial roads;
- (g) placing of stop-signs where deemed necessary;
- (h) the carriage of freight on its industrial roads;

- (i) the carriage of passengers on its industrial roads;
- (j) the governing of vehicles other than its own using its industrial roads; and
- (k) the governing of all traffic on its industrial roads.

30. All by-laws, rules, and regulations made by the company, shall be in writing, be signed by the chairman or person presiding at the meeting at which they are adopted, and have affixed thereto the common seal of the company.

31. (1) All such by-laws, rules, and regulations shall be submitted to the Lieutenant-Governor in Council for approval and he shall have the power to reject, alter or amend the same.

(2) No such by-laws, rules, and regulations shall have any force or effect without such approval.

32. Such by-laws, rules, and regulations, when so approved, are binding upon and shall be observed by all persons, and are sufficient to justify all persons acting thereunder.

33. A printed copy of a portion of any by-law, rule, or regulation relating to the conduct of or affecting the officers or employees of the company shall be given by the company to every officer and employee of the company thereby affected.

34. If the violation or non-observance of any by-law, rule, and regulation is attended with danger or annoyance to the public, or hindrance to the company in the lawful use of the industrial road, the company may summarily interfere, using reasonable force, if necessary, to prevent the violation or to enforce observance, without prejudice to any penalty incurred in respect thereto.

35. (1) No person shall trespass upon an industrial road of any company.

(2) This section does not apply in respect to any part of the industrial road of any company that is laid along, upon, or across a highway, or access road or has been openly accepted for use by the public for a continuous period exceeding one year.

36. Signs shall be placed at the junction of a public road or highway or access road and an industrial road warning the public or the drivers of vehicles that they are entering upon an industrial road, and that, if they are permitted to enter, they must govern themselves according to the rules governing such road.

37. Every company shall cause its vehicles, including buses or crew-cars, when approaching any railway, public-road or access road crossing to come to a complete stop, whether or not stop-signs to that effect are posted adjacent to such crossings.

38. (1) Every company shall as soon as possible, and immediately after the responsible officers of the company have received information of the occurrence upon the industrial road belonging to such company of any accident attended with personal injury to any person using the industrial road, give notice thereof in full particulars to the Minister.

(2) The Minister may declare the manner and form in which such information and notice shall be given and the class of accidents to which this section shall apply, and may declare any such information so given to be privileged.

39. (1) No person shall drive a motor-vehicle equipped with air-brakes on an industrial road unless,

- (a) except as otherwise provided by regulation, he is the holder of a valid certificate of competency as an operator of air-brake-equipped vehicles issued under the regulations made under this Act; or
- (b) he is the holder of a temporary permit to operate air-brake-equipped vehicles issued by the Department; or
- (c) where the motor-vehicle is one for which a licence as a public passenger-vehicle is required under the Motor Carrier Act, he is the holder of a Class A chauffeur's licence issued under the Motor-vehicle Act.

(2) No person shall drive a motor-vehicle not equipped with air-brakes on an industrial road unless he is

- (a) the holder of a valid driver's licence issued under the Motor-vehicle Act; or
- (b) the holder of a certificate of competency as an operator of motor-vehicles issued under the regulation made under this Act; or
- (c) the holder of a temporary permit to operate motor-vehicles issued by the Department.

40. (1) The Minister may appoint such officers and employees as he thinks fit to inquire into all matters and things which he deems likely to cause or prevent accidents, and the causes of and the circumstances connected with any accident or casualty to life or property occurring on any industrial road, and into all particulars relating thereto.

(2) The officers or employees so appointed shall report in writing to the Minister on the matters or things into which he has or they have been appointed to inquire, and upon receipt of such report the Minister may recommend that the company

- (a) suspend or dismiss any employee of the company who appears by the report to have been negligent or wilful in the circumstances of any matter or thing inquired into; or
- (b) transfer any employee of the company from his regular occupation if medical examination of such employee shows him to be physically unfit for his regular occupation and that such physical unfitness has contributed to the occurrence of any matter or thing inquired into.

(3) Nothing in this section shall prevent any employee or his representative from making representations to the officers or employees appointed to conduct an inquiry hereunder.

41. No inspection had under this Act, and nothing in this Act contained, and nothing done or ordered or omitted to be done or ordered, under or by virtue of the provisions of this Act, shall relieve, or be construed to relieve, any company of or from or in anywise diminish or affect any liability or responsibility resting upon it, either toward Her Majesty or toward any person, or the wife or husband, parent or child, executor or administrator, heir or personal representative, of any person, for anything done or omitted to be done by such company, or for any wrongful act, neglect, default, misfeasance, malfeasance, or nonfeasance of such company.

PART IV

General Provisions

42. The Lieutenant-Governor in Council in addition to the powers granted elsewhere in this Act, may from time to time make, alter, and repeal regulations for carrying out the spirit, intent, meaning, and purpose of this Act, including

matters in respect to which no express or only partial or imperfect provision has been made and without restricting the generality of the foregoing in respect to the following matters:-

- (a) the specifying of the powers and duties of officers and employees administering this Act;
- (b) the defining of specialized equipment;
- (c) prescribing the form and manner of issuing certificates.

43. All actions or suits for indemnity for damages or injury sustained by reason of the construction or operation of an industrial road, or the operation of an access road, shall be commenced within one year next after the time when the damage is alleged to have been sustained, or, if there is continuation of damage, within one year next after the doing or committing of such damage ceases, and not afterwards.

44. Notwithstanding anything herein contained, the driver of every motor-vehicle, while operating on an access road, during the hours of public access, shall be the holder of a valid driver's license issued under the "Motor-vehicle Act."

45. In the absence of a special appropriation of the Legislature for the payment of the expenses of the administration of this Act or the payment of any monies for which the Crown becomes liable under this Act, such expenses and liabilities shall be paid out of the Consolidated Revenue Fund.

46. Every person guilty of an offence against this Act is liable on summary conviction to a penalty of not more than five hundred dollars or to a term of imprisonment not exceeding six months or both. All penalties paid or received under this section shall be paid to the Minister of Finance and form part of the Consolidated Revenue Fund.

47. The Industrial Transportation Act is hereby repealed.

Proposed Amendments to the Forest Act:

Amend section 120 by deleting the word "and" in the eighth line of sub-section (b) and inserting the word "or" in lieu thereof.

Amend section 120 by inserting after (b):

"(c) when the obligation imposed by this section has been diligently discharged and it is proved to the satisfaction of the Minister that the fire was caused by public use of an access road designated under the Access Act; and"

Amend section 120 by re-numbering sub-sections (c), (d), (e) and (f) as (d), (e), (f) and (g).

Amend section 123 (4)(b) by adding:

"except where it is proved to the satisfaction of the Minister that the fire was caused by public use of an access road designated under the Access Act."

Proposed Amendment to the Highway Act

New section 6 reading as follows:

6. Where public money has been expended on a travelled road that has not been theretofore established by notice in the Gazette or otherwise dedicated to the public use by a plan deposited in the Land Registry Office for the district in which the road is situate, that travelled road shall be deemed and is declared to be a public highway, but the expenditure of compensation or other monies under the provisions of the Access Act shall not have the effect of dedicating an access road as a public highway.

Proposed Amendment to the Land Registry Act

New Part XII reading as follows:

PART XII

Designations under the Access Act or Restrictive Conditions
and Obligations Imposed by the Forest Act

208. Where a certificate of title has been issued and the land included therein is or becomes subject to section 36 of the Forest Act or section 9(a) of the Access Act, the Minister of Lands, Forests, and Water Resources or the Minister of Commercial Transport, as the case may be, shall file a notice in writing under his hand with the Registrar of the land registration district in which the land lies to that effect, and the Registrar shall file the notice and make a reference to it in the proper register against the title to which the notice relates. One notice may cover any number of parcels that are registered collectively under one certificate of title, but where the parcels are not so registered separate notices shall be required in respect of each parcel.

Further Amendment to the Land Registry Act

That section 38(1)(k) of the Act be amended by inserting at the beginning thereof the words:

"any designation under the Access Act or"

Proposed Amendments to the Motor-vehicle Act:

Amend definition of "highway" as follows:

"highway" includes every highway within the meaning of the Highway Act, and every access road under the Access Act, and every road, street, lane, or right-of-way designed or intended for or used by the general public for the passage of vehicles, and every private place or passage-way to which the public, for the purpose of the parking or servicing of vehicles, has access or is invited; excepting access roads when used for industrial use as defined in the Access Act.

Amend section 140(2) by adding at the end:

"This subsection does not apply to access roads under the Access Act."