



Province of Alberta

# **ALBERTA LAND STEWARDSHIP ACT**

Statutes of Alberta, 2009  
Chapter A-26.8

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Office Consolidation

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### **Note**

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### **Regulations**

The following is a list of the regulations made under the *Alberta Land Stewardship Act* that are filed as Alberta Regulations under the Regulations Act

<b>Alta. Reg.</b>	<i>Amendments</i>
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Conservation Easement Registration.....	129/2010
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# ALBERTA LAND STEWARDSHIP ACT

## Chapter A-26.8

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

**Purposes of Act**

**1(1)** In carrying out the purposes of this Act as specified in subsection (2), the Government must respect the property and other rights of individuals and must not infringe on those rights except with due process of law and to the extent necessary for the overall greater public interest.

**(2)** The purposes of this Act are

- (a) to provide a means by which the Government can give direction and provide leadership in identifying the objectives of the Province of Alberta, including economic, environmental and social objectives;
- (b) to provide a means to plan for the future, recognizing the need to manage activity to meet the reasonably foreseeable needs of current and future generations of Albertans, including aboriginal peoples;
- (c) to provide for the co-ordination of decisions by decision-makers concerning land, species, human settlement, natural resources and the environment;

- (d) to create legislation and policy that enable sustainable development by taking account of and responding to the cumulative effect of human endeavour and other events.

2009 cA-26.8 s1;2011 c9 s2

### Definitions

#### 2(1) In this Act,

- (a) “activity” means
  - (i) anything that requires a statutory consent, and
  - (ii) anything that, under an enactment, must comply with a rule, code of practice, guideline, directive or instrument;
- (b) “Compensation Board” means
  - (i) in respect of land other than settlement patented land, the Land Compensation Board, and
  - (ii) in respect of settlement patented land, the Metis Settlements Appeal Tribunal Land Access Panel established under section 186(1) of the *Metis Settlements Act*;
- (c) “conservation directive” means a conservation directive expressly declared to be established in a regional plan under section 37;
- (d) “conservation easement” means a conservation easement granted by agreement under Part 3;
- (e) “decision-maker” means a person who, under an enactment or regulatory instrument, has authority to grant a statutory consent, and includes a decision-making body;
- (f) “decision-making body” means, subject to any regulations made under section 66, an entity established by or under an enactment, all or a majority of whose members are appointed or designated
  - (i) by their personal names or by their names of office by an enactment,
  - (ii) by an order of the Lieutenant Governor in Council,
  - (iii) by an order of a Minister, or

- (iv) by any combination of the methods described in subclauses (i) to (iii);
- (g) “Designated Minister” means, as the case requires,
  - (i) a Minister designated as responsible for a provision of this Act under section 16 of the *Government Organization Act*, or
  - (ii) a Minister named in a regional plan as the Minister responsible for an element or provision of a regional plan or any component of a regional plan,and may include the Stewardship Minister if the Stewardship Minister is named as the Designated Minister;
- (h) “effect” includes
  - (i) any effect on the economy, the environment, a community, human health or safety, a species or an objective in a regional plan, regardless of the scale, nature, intensity, duration, frequency, probability or potential of the effect, and
  - (ii) a cumulative effect that arises over time or in combination with other effects;
- (i) “enactment” means an Act or a regulation, as defined in section 1(1)(f) of the *Regulations Act*, including an Act or regulation passed after this Act comes into force;
- (j) “environment” means the components of the earth and includes
  - (i) air, land and water,
  - (ii) all layers of the atmosphere,
  - (iii) all organic and inorganic matter and living organisms, and
  - (iv) the interacting natural systems that include components referred to in subclauses (i) to (iii);
- (k) “exchange” means the person or government department established or designated as the exchange by any regulations made under section 45;



- (l) “General Council” means the Metis Settlements General Council under the *Metis Settlements Act*;
- (m) “General Council Policy” means a General Council Policy made under the *Metis Settlements Act*;
- (n) “government department” means department as defined in section 1(1)(f) of the *Financial Administration Act*;
- (o) “land” includes everything in, on or under land;
- (p) “local authority” means the council of a municipality or the council of a Metis settlement;
- (q) “local government body” means, subject to any regulations made under section 66,
  - (i) the governing body of a municipal authority as defined in the *Municipal Government Act*;
  - (ii) the board of directors of a regional services commission under the *Municipal Government Act*;
  - (iii) the council of a Metis settlement and the General Council;
  - (iv) a board of directors established under the *Irrigation Districts Act*;
  - (v) a board of trustees established under the *Drainage Districts Act*;
  - (vi) a management body established under the *Alberta Housing Act*;
  - (vii) any person or entity designated as a local government body by any regulations made under section 66;
- (r) “manage” includes prohibit or regulate and control;
- (s) “planning region” means an integrated planning region established under section 3 or by a regional plan, as amended from time to time;
- (t) “policy” includes a strategy, plan, scheme, program or initiative;

- (u) “regional advisory council” means a regional advisory council established under section 52;
- (v) “regional plan” means
  - (i) a regional plan made under section 4, as amended from time to time;
  - (ii) anything made, approved, adopted or incorporated as part of a regional plan under section 10, as amended from time to time;
- (w) “regulatory instrument” means, subject to any regulations made under section 66,
  - (i) a bylaw of a local government body;
  - (ii) a rule, code of practice, guideline, directive or instrument having binding, guiding or recommending effect that is enacted under or used for the purpose of administering an enactment;
  - (iii) any of the following instruments of a government department, local government body or decision-making body:
    - (A) policies, plans, objectives or procedures;
    - (B) rules, directions or administrative regulations to guide or direct administrative conduct;
    - (C) instruments used to administer, guide or direct the exercise of regulatory, administrative or decision-making discretion or authority;
    - (D) instruments that manage, authorize, permit or allow an activity, other than a statutory consent or a regulation made under an enactment;
  - (iv) any instrument designated as a regulatory instrument by any regulations made under section 66,  
  
but does not include a General Council Policy;
- (x) “secretariat” means the Land Use Secretariat established by section 57;

- (y) “settlement patented land” means patented land as defined in section 1(1)(c) of the *Metis Settlements Land Protection Act*;
- (z) “species” means a species or subspecies or variety of animal or fish as defined in the *Fisheries Act* (Canada);
- (aa) “statutory consent” means, subject to subsection (2), a permit, licence, registration, approval, authorization, disposition, certificate, allocation, agreement or instrument issued under or authorized by an enactment or regulatory instrument;
- (bb) “stewardship commissioner” means the person appointed to the position of stewardship commissioner under section 57(2);
- (cc) “Stewardship Minister” means the Minister designated under section 16 of the *Government Organization Act* as the Minister responsible for all or part of this Act;
- (dd) “stewardship unit” means a unit created or authorized under section 46;
- (ee) “TDC scheme” means a scheme for the transfer of development credits established in accordance with Part 3, Division 5;
- (ff) “threshold” has the meaning given to it in a regional plan and may include a limit, target, trigger, range, measure, index or unit of measurement;
- (gg) “title holder” means
  - (i) in respect of land other than settlement patented land,
    - (A) a person registered in the land titles office as the owner of an estate in fee simple in the land,
    - (B) a person who is shown by the records of the land titles office as having an estate or interest in the land,
    - (C) any other person who is in possession or occupation of the land, or
    - (D) in the case of Crown land, a person shown on the records of the department administering the land as having an estate or interest in the land,

and

- (ii) in respect of settlement patented land, the person named or described in the regulations made under section 43,

but does not include the holder of

- (iii) a disposition as defined in the *Mines and Minerals Act*,
- (iv) a unit agreement as defined in the *Mines and Minerals Act*, or
- (v) a contract under section 9(a) of the *Mines and Minerals Act*.

**(2)** For greater clarification, the definition of statutory consent does not include any permit, licence, registration, approval, authorization, disposition, certificate, allocation, agreement or instrument issued under or authorized by

- (a) the *Land Titles Act*,
- (b) the *Personal Property Security Act*,
- (c) the *Vital Statistics Act*,
- (d) the *Wills Act*,
- (e) the *Cemeteries Act*,
- (f) the *Marriage Act*,
- (g) the *Traffic Safety Act*, or
- (h) any enactment prescribed by the regulations.

**(3)** Nothing in this Act, a regulation under this Act or a regional plan is to be interpreted as limiting, reducing, restricting or otherwise affecting the compensation payable or rights to compensation provided for under any other enactment or in law or equity.

2009 cA-26.8 s2;2011 c9 s3

## **Part 1 Regional Plans**

### **Division 1 Making, Amending and Reviewing Regional Plans**

#### **Integrated planning regions**

**3(1)** The Lieutenant Governor in Council may establish integrated planning regions under this section or as part of a regional plan, describe their boundaries and give them names.

**(2)** The Lieutenant Governor in Council may amend the boundaries and names of planning regions.

#### **How regional plans are made and amended**

**4(1)** Subject to section 5, the Lieutenant Governor in Council may make or amend regional plans for planning regions.

**(2)** The Lieutenant Governor in Council may make regulations

- (a) classifying amendments to regional plans;
- (b) prescribing the process, procedure or criteria, if any, for all or any class of amendments to regional plans;
- (c) respecting the notice or consultation, or both, required for amendments to regional plans or for a class of amendment;
- (d) respecting the conditions or criteria to be met in applying for an amendment to a regional plan, who may apply for an amendment to a regional plan and to whom the application must be made, and the procedure for verifying that any conditions or criteria have been met;
- (e) respecting the role and function of the secretariat, government departments and other persons in reviewing, preparing or developing amendments to regional plans for consideration by the Lieutenant Governor in Council;
- (f) appointing or designating a person or entity to perform any function with respect to a proposed amendment to a regional plan and, if required, appointing a person as a commissioner under the *Public Inquiries Act* for the purposes described in the regulation.

(3) A regulation under subsection (2) may be made with respect to all or one or more regional plans.

(4) If a regulation is made under subsection (2) about how a regional plan is to be amended, an amendment to the regional plan may be made by the Lieutenant Governor in Council only in accordance with the regulation.

2009 cA-26.8 s4;2011 c9 s4

#### **Consultation required**

**5** Before a regional plan is made or amended, the Stewardship Minister must

- (a) ensure that appropriate public consultation with respect to the proposed regional plan or amendment has been carried out, and present a report of the findings of such consultation to the Executive Council, and
- (b) lay before the Legislative Assembly the proposed regional plan or amendment.

2009 cA-26.5 s5;2011 c9 s5

#### **Review of regional plans**

**6(1)** At least once every 10 years, the secretariat must review each regional plan and report to the Stewardship Minister on its ongoing relevancy and effectiveness.

(2) The extent and nature of each review of a regional plan is in the discretion of the secretariat, subject to any terms of reference set by the Lieutenant Governor in Council under section 51.

(3) A regional plan expires if a review of the regional plan is not started within 10 years of the date the regional plan is made.

(4) If a regional plan expires or is repealed by the Lieutenant Governor in Council, the Lieutenant Governor in Council may make regulations

- (a) respecting the transition of any matter in the expired or repealed regional plan;
- (b) to remedy any confusion, difficulty, inconsistency, impossibility or other circumstance resulting from the expiry or repeal of the regional plan.

(5) A regulation may not be made under subsection (4) after the expiration of one year from the date the regional plan expires or is repealed.

## **Division 2 Contents of Regional Plans**

### **State of the planning region statements**

**7** A regional plan may contain

- (a) information relevant to the history of the planning region, its geography, its demographics and its economic, environmental and social characteristics;
- (b) a description of the state of the planning region describing matters of particular importance in or to the planning region, and the trends and the opportunities and challenges for the planning region, including the economic, environmental and social opportunities and challenges.

### **Elements of a regional plan**

**8(1)** A regional plan must

- (a) describe a vision for the planning region, and
- (b) state one or more objectives for the planning region.

**(2)** A regional plan may

- (a) include policies designed to achieve or maintain the objectives for the planning region;
- (b) set or provide for one or more thresholds for the purpose of achieving or maintaining an objective for the planning region;
- (c) name, describe or specify indicators to determine or to assist in determining whether an objective or policy in the regional plan has been, is being or will be achieved or maintained and whether policies in the regional plan are working;
- (d) describe or specify the monitoring required of thresholds, indicators and policies, who will do the monitoring and when, and to whom the monitoring will be reported;

- (e) describe or specify the times and means by which, and by whom, an assessment or analysis will be conducted to determine if the objectives or policies for the planning region have been, are being or will be achieved or maintained;
- (f) describe or specify the actions or measures or the nature of the actions or measures to be taken to achieve or maintain the objectives and policies in the regional plan, and by whom they are to be taken or co-ordinated, if
  - (i) an adverse trend or an adverse effect occurs;
  - (ii) an objective or policy is or might be in jeopardy or a threshold is or might be exceeded or jeopardized;
  - (iii) an objective or policy has not been achieved or maintained, is not being achieved or maintained, or might not be achieved or maintained;
- (g) describe and convey to a person named in the regional plan authority to achieve or maintain an objective or policy, which may include delegating authority under any enactment or regulatory instrument to the person named;
- (h) make different provision for
  - (i) different parts of a planning region, or for different objectives, policies, activities or effects in a planning region;
  - (ii) different classes of effect arising from an activity in a planning region;
- (i) manage an activity, effect, cause of an effect or person outside a planning region until a regional plan comes into force with respect to the matter or person;
- (j) specify that it applies for a stated or described period of time;
- (k) provide for an exclusion from, exception to or exemption from its legal effect;
- (l) specify whether, in whole or in part, it is specific or general in its application;



- (m) delegate and authorize subdelegation of any authority under the regional plan, except authority
  - (i) to make a regional plan or amend a regional plan, or to make or adopt rules under a regional plan, or
  - (ii) to approve, adopt or incorporate a subregional plan or issue-specific plan as part of a regional plan, or to adopt or incorporate a plan, agreement or arrangement as part of a regional plan, or to amend any of them.

2009 cA-26.8 s8;2011 c9 s6

**Implementing regional plans**

**9(1)** A regional plan may contain provisions that the Lieutenant Governor in Council considers necessary or appropriate to advance or implement, or to both advance and implement, the purposes of this Act.

**(2)** Without limiting subsection (1), a regional plan may

- (a) include or adopt statements of provincial policy for one, all or some planning regions to inform, guide or direct;
- (b) adopt, as part of the regional plan, regulations made under Part 3 or 4 for the purpose of achieving or maintaining an objective or policy in the regional plan;
- (c) whether or not another enactment deals with the same, similar or associated matters, make, as part of the regional plan, law on any matter within the legislative authority of the Legislature that is designed to advance or implement, or to both advance and implement, the purposes of this Act;
- (d) make, as part of the regional plan, law that may be made as a regulation under this Act, or as a regulation under any other Act, and also make, amend or repeal regulations under any other Act whether
  - (i) the other Act is enacted before or after this Act comes into force, or
  - (ii) the authority to make regulations under the other Act is given to the Lieutenant Governor in Council, a Minister, a board or agency, or any combination of those persons;
- (e) manage whatever is necessary to achieve or maintain an objective or policy, including managing all or part of the

cause of an effect or those matters that affect or that might affect the economy, social objectives, the environment, human health or safety, a species or any element of any of them;

- (f) repealed 2011 c9 s7;
  - (g) manage the surface or subsurface of land and any natural resource;
  - (h) authorize expropriation by the Crown under the *Expropriation Act*, including expropriation of mines and minerals;
  - (i) designate persons or existing entities, or establish a corporation or other entity, to perform any function under the regional plan;
  - (j) establish conflict resolution processes for any dispute, conflict or matter requiring resolution, including mediation, facilitation, conciliation, regulatory negotiation or arbitration under the *Arbitration Act*;
  - (k) authorize a Designated Minister to make an agreement or arrangement for the purpose of achieving or maintaining an objective or policy in the regional plan;
  - (l) provide for transitional or bridging arrangements;
  - (m) define, for the purposes of a regional plan, any term in this Act in a manner that is not inconsistent with this Act;
  - (n) specify or describe a means to determine which local government bodies and decision-making bodies, if any, must file a compliance declaration with the secretariat under Part 2, Division 3 after an amendment is made to a regional plan or after a subregional or issue-specific plan comes into effect or a plan, agreement or arrangement is adopted or incorporated as part of a regional plan;
  - (o) include any other matter that this Act or the regulations under this Act permit or authorize to be included in a regional plan.
- (3)** A regional plan may
- (a) specify those provisions of a regional plan the contravention of or non-compliance with which constitutes an offence or

makes the person who contravenes or does not comply liable to an order, directive or administrative or other penalty under another enactment;

- (b) specify the fine, penalty or other enforcement mechanism in another enactment that applies to the contravention of or non-compliance with a regional plan;
- (c) name or describe an official or other person having authority under another enactment to enforce a contravention of or non-compliance with a regional plan under that other enactment;
- (d) provide that any appeal or review provisions under another enactment apply with respect to decisions made to enforce compliance with a regional plan.

2009 cA-26.8 s9;2011 c9 s7

#### **Subregional plans, issue-specific plans and other arrangements**

##### **10(1)** A regional plan may

- (a) authorize the preparation of a subregional plan or an issue-specific plan and specify or describe how it is to be approved as part of the regional plan;
- (b) make or authorize a Designated Minister to make, or authorize a Designated Minister to adopt by incorporation or reference, rules, a code of practice, guidelines, best practices or any other instrument on matters described in the regional plan for the purpose of advancing or implementing an objective or policy in the regional plan;
- (c) approve, as part of the regional plan, a plan made under the *Public Lands Act*, whether the plan is made before or after this Act comes into force, with or without modifications, as a subregional plan or an issue-specific plan of the regional plan;
- (d) adopt or incorporate, as part of the regional plan, a plan made under an enactment, or an agreement or arrangement, whether made before or after this Act comes into force, with or without modification to the plan, agreement or arrangement, as a subregional plan or an issue-specific plan of the regional plan.

(2) A subregional plan or an issue-specific plan approved by or in accordance with a regional plan, or a plan, agreement or arrangement adopted by or incorporated in a regional plan,

- (a) may contain anything that a regional plan may contain;
- (b) becomes effective in accordance with section 13(5).

(3) When a subregional plan or an issue-specific plan comes into effect, and when a Designated Minister makes or adopts rules, a code of practice, guidelines, best practices or any other instrument authorized by a regional plan, the subregional plan, issue-specific plan or rules, code of practice, guidelines, best practices or other instrument, as the case may be, becomes part of the regional plan that authorized it or them.

#### **Statutory consents may be affected**

**11(1)** For the purpose of achieving or maintaining an objective or a policy of a regional plan, a regional plan may, by express reference to a statutory consent or type or class of statutory consent, affect, amend or rescind the statutory consent or the terms or conditions of the statutory consent.

(2) Before a regional plan includes a provision described in subsection (1), a Designated Minister must

- (a) give reasonable notice to the holder of the statutory consent of the objective or policy in the regional plan that the express reference under subsection (1) is intended to achieve or maintain,
- (b) provide an opportunity for the holder of the statutory consent to propose an alternative means or measures of achieving or maintaining the policy or objective without an express reference referred to in subsection (1), including, if appropriate, within a regulatory negotiation process referred to in section 9(2)(j), and
- (c) give reasonable notice to the holder of the statutory consent of any proposed compensation and the mechanism by which compensation will be determined under any applicable enactment in respect of any effect on or amendment or rescission of the statutory consent.

(3) Notwithstanding subsection (1), a regional plan may not affect, amend or rescind

- (a) a development permit or an approval in respect of a development, or
- (b) an approval for which no development permit is required under a land use bylaw

under Part 17 of the *Municipal Government Act* where the development has progressed to the installation of improvements on the relevant land at the time the regional plan comes into force.

2009 cA-26.8 s11;2011 c9 s8

12 Repealed 2011 c9 s9.

## **Part 2 Nature and Effect of Regional Plans and Compliance Declarations**

### **Division 1 Nature and Effect of Regional Plans**

#### **Legal nature of regional plans**

**13(1)** A regional plan is an expression of the public policy of the Government and therefore the Lieutenant Governor in Council has exclusive and final jurisdiction over its contents.

(2) Regional plans are legislative instruments and, for the purposes of any other enactment, are considered to be regulations.

(2.1) Notwithstanding subsection (2), a regional plan may provide rules of application and interpretation, including specifying which parts of the regional plan are enforceable as law and which parts of the regional plan are statements of public policy or a direction of the Government that is not intended to have binding legal effect.

(3) The meaning of a regional plan is to be ascertained from its text, in light of the objectives of the regional plan, and in the context in which the provision to be interpreted or applied appears.

(4) A regional plan and every amendment to a regional plan must

- (a) be published in Part I of The Alberta Gazette, and

- (b) be made publicly available by the secretariat in accordance with section 59(c).

**(5)** A regional plan and every amendment to a regional plan comes into effect when it is published in Part I of The Alberta Gazette or on any later date specified in the regional plan or amendment.

2009 cA-26.8 s13;2011 c9 s10

#### **Application of the Regulations Act**

**14(1)** Subject to subsection (2), the *Regulations Act* does not apply to a regional plan.

**(2)** The *Regulations Act* applies to the making, amending or repeal of regulations under any other Act pursuant to section 9(2)(d).

#### **Binding nature of regional plans**

**15(1)** Except to the extent that a regional plan provides otherwise, a regional plan binds

- (a) the Crown,
- (b) local government bodies,
- (c) decision-makers, and
- (d) subject to section 15.1, all other persons.

**(2)** Subsection (1) is given effect, if at all, only

- (a) by the provisions of the regional plan itself,
- (b) in accordance with another enactment, or
- (c) as a result of an order of the Court of Queen's Bench under section 18.

**(3)** Subject to subsection (5), subsection (1) does not

- (a) create or provide any person with a cause of action or a right or ability to bring an application or proceeding in or before any court or in or before a decision-maker,
- (b) create any claim exercisable by any person, or

(c) confer jurisdiction on any court or decision-maker to grant relief in respect of any claim.

(4) For the purposes of subsection (3), a claim includes any right, application, proceeding or request to a court for relief of any nature whatsoever and includes, without limitation,

(a) any cause of action in law or equity,

(b) any proceeding in the nature of certiorari, prohibition or mandamus, and

(c) any application for a stay, injunctive relief or declaratory relief.

(5) Subsection (3) does not apply in respect of an application by the stewardship commissioner to the Court of Queen's Bench under section 18.

2009 cA-26.8 s15;2011 c9 s11

### Variance

**15.1(1)** A title holder may apply to the Stewardship Minister for a variance in respect of any restriction, limitation or requirement regarding a land area or subsisting land use, or both, under a regional plan as it affects the title holder.

(2) The Stewardship Minister may, by order, grant a variance despite the regional plan if the Stewardship Minister is of the opinion that

(a) the proposed variance is consistent with the purposes of this Act,

(b) the proposed variance is not likely to diminish the spirit and intent of the regional plan, and

(c) refusal to grant the proposed variance would result in unreasonable hardship to the applicant without an offsetting benefit to the overall public interest.

(3) The Stewardship Minister may stay the application for a proposed variance for not more than one year if, in the Stewardship Minister's opinion, a proposed amendment to the regional plan will render the variance unnecessary.

- (4) The Stewardship Minister may impose any terms and conditions that the Stewardship Minister considers appropriate with respect to any variance granted under this section.
- (5) The Stewardship Minister shall publish any variance granted under this section in Part I of The Alberta Gazette.
- (6) Any application for a variance and any variance granted under this section must be made publicly available in their entirety by the secretariat in accordance with the regulations.
- (7) A variance under this section is neither an interest in land nor any other type of property.
- (8) The Lieutenant Governor in Council may make regulations
- (a) respecting the form and manner of making applications to the Stewardship Minister under this section;
  - (b) respecting fees that may be charged for an application under this section;
  - (c) establishing rules regarding the granting, effect and repeal of orders made under this section;
  - (d) respecting the manner in which applications and variances are to be made publicly available.

2011 c9 s12

**Public health, safety, property protection and emergencies**

**16** The Government, a Minister, a local government body, a decision-maker or any other person does not contravene a regional plan by reason only of

- (a) an action taken or an order made under or in accordance with an enactment or regulatory instrument for the purpose of protecting the public health or safety or protecting property, or
- (b) an action taken to respond to an emergency.

**Resolution of conflicting provisions**

**17(1)** Subject to subsection (2), if there is a conflict or inconsistency between



- (a) a regional plan and a regulation made under an Act, the regional plan prevails;
  - (b) a regional plan and a regulatory instrument, the regional plan prevails.
- (2) A regional plan does not prevail over a General Council Policy or anything authorized under or by the Co-Management Agreement, as amended, referred to in Schedule 3 of the *Metis Settlements Act*.
- (3) If there is a conflict or inconsistency between an Act and a regional plan, the Act prevails.
- (4) If there is a conflict or inconsistency between this Act and any other enactment, this Act prevails.

## Division 2 The Court, Compensation and Review

### Court orders

- 18(1)** The stewardship commissioner may apply to the Court of Queen's Bench for an order under this section if, in the opinion of the stewardship commissioner, non-compliance with this Act, a regulation under this Act or a regional plan cannot be remedied or rectified under another enactment.
- (2) On application by the stewardship commissioner, if the Court is satisfied that this Act, a regulation under this Act or a regional plan has not been or is not being complied with, the Court may make an order to remedy or rectify the non-compliance.
- (3) The Court may make any interim or final order it thinks fit, including, without limitation, any or all of the following orders:
- (a) to stop something being done, to require something to be done or to change the way in which something is being done;
  - (b) to manage the conduct of a person who is non-compliant;
  - (c) declaring that any regulatory instrument of a local government body does or does not comply with a regional plan and, if necessary, ordering compliance;

- (d) to take any action or measure necessary to remedy or rectify non-compliance with a regional plan and, if necessary, an order to prevent a reoccurrence of the contravention;
- (e) to amend or repeal a regulatory instrument of a local government body that does not comply with a regional plan.

### **Compensation**

**19** A person has a right to compensation by reason of this Act, a regulation under this Act, a regional plan or anything done under a regional plan

- (a) as provided for under section 19.1,
- (b) as provided for under Part 3, Division 3, or
- (c) as provided for under another enactment.

2009 cA-26.8 s19;2011 c9 s14

### **Right to compensation for compensable taking**

**19.1(1)** In this section,

- (a) “compensable taking” means the diminution or abrogation of a property right, title or interest giving rise to compensation in law or equity;
- (b) “private land” means land that is owned by a person other than
  - (i) the Crown in right of Alberta or of Canada or their agents, or
  - (ii) a municipality;
- (c) “registered owner” means a person registered in a land titles office as the owner of an estate in fee simple in private land or freehold minerals.

**(2)** If, as a direct result of a regional plan or an amendment to a regional plan, a registered owner has suffered a compensable taking in respect of the registered owner’s private land or freehold minerals, the registered owner may, within 12 months from the date that the regional plan or amendment comes into force, apply to the Crown for compensation in accordance with the regulations.

**(3)** If after 60 days from the date of an application under subsection (2) one or both of the following matters remain in dispute, the registered owner or the Crown may apply to the Compensation Board, in accordance with the regulations, for the Compensation Board to determine those matters:

- (a) whether the registered owner has suffered a compensable taking;
- (b) if the registered owner has suffered a compensable taking, the amount of any compensation payable in respect of the compensable taking.

**(4)** If, on application under subsection (3), the Compensation Board determines that the registered owner has suffered a compensable taking, the Compensation Board must, subject to the regulations, determine the amount of compensation on the same basis as if the registered owner's private land or freehold minerals were the subject of a conservation directive under Part 3, Division 3, and that Division and the regulations made under that Division respecting the determination of compensation payable, and hearings and procedures, including interest, costs and appeals, apply in the same manner as if the registered owner's private land or freehold minerals were the subject of a conservation directive.

**(5)** Section 42 applies to any determination of the Compensation Board under this section.

**(6)** Notwithstanding subsection (3), the registered owner may apply to the Court of Queen's Bench for the Court to determine the matters in dispute, and, subject to the regulations, the provisions of this Act and the regulations respecting the determination by the Compensation Board of compensation payable apply with all necessary modifications to the proceedings before the Court.

**(7)** If a registered owner brings an application under subsection (6), any application to or proceedings before the Compensation Board under this section in respect of the same dispute are discontinued.

**(8)** The Crown is liable to pay any compensation payable under this section to a registered owner.

**(9)** Nothing in this section gives a person a right to compensation

- (a) for anything done by a decision-maker under Part 17 of the *Municipal Government Act*, or

- (b) as a result of the operation or application of any provisions of that Part.

**(10)** The Lieutenant Governor in Council may make regulations

- (a) respecting the form and manner of making applications to the Crown, the Compensation Board or the Court of Queen's Bench under this section;
- (b) respecting the application or modification of Part 3, Division 3, and the regulations made under that Division, in respect of applications to the Compensation Board or the Court of Queen's Bench under this section.

2011 c9 s14

**Request for review of regional plan**

**19.2(1)** A person who is directly and adversely affected by a regional plan or an amendment to a regional plan may, within 12 months from the date the regional plan or amendment affecting the person comes into force, request a review of the regional plan or amendment affecting the person in accordance with the regulations.

**(2)** On receiving a request under subsection (1), the Stewardship Minister must establish a panel to conduct a review of the regional plan or amendment and report the results of the review and any recommendations to the Stewardship Minister.

**(3)** On receiving a report and any recommendations under subsection (2), the Stewardship Minister must present the report and recommendations to the Executive Council.

**(4)** Any request for a review and any report and recommendations under this section must be made publicly available in their entirety by the secretariat in accordance with the regulations.

**(5)** The Lieutenant Governor in Council may make regulations

- (a) respecting requests for a review under subsection (1);
- (b) respecting the establishment of panels under subsection (2), including, without limitation, regulations respecting the appointment, powers, duties and remuneration of panel members;
- (c) respecting the form and manner in which reports and recommendations of a panel must be provided to the Stewardship Minister;

- (d) respecting the manner in which requests for a review and reports and recommendations under this section are to be made publicly available.

2011 c9 s14

### **Division 3 Compliance Declarations**

#### **Local government bodies**

**20(1)** When a regional plan is made, every local government body affected by the regional plan must

- (a) review its regulatory instruments, and
- (b) decide what, if any, new regulatory instruments or changes to regulatory instruments are required for compliance with the regional plan.

**(2)** Every local government body affected by the regional plan must, within the time set in or under, or in accordance with, the regional plan,

- (a) make any necessary changes or implement new initiatives to comply with the regional plan, and
- (b) file a statutory declaration with the secretariat that the review required by this section is complete and that the local government body is in compliance with the regional plan.

#### **Decision-making bodies**

**21(1)** When a regional plan is made, every decision-making body affected by the regional plan must

- (a) review its regulatory instruments, and
- (b) decide what, if any, new regulatory instruments or changes to regulatory instruments are required for compliance with the regional plan.

**(2)** Every decision-making body affected by the regional plan must, within the time set in or under, or in accordance with, the regional plan,

- (a) make any necessary changes or implement new initiatives to comply with the regional plan, and

- (b) file a statutory declaration with the secretariat that the review required by this section is complete and that the decision-making body is in compliance with the regional plan.

#### **Amendments, subregional and issue-specific plans**

**22(1)** This section applies when

- (a) a subregional plan or an issue-specific plan is approved or adopted by or is incorporated in a regional plan as part of the regional plan,
- (b) an agreement or arrangement is adopted by or is incorporated in a regional plan as part of the regional plan, or
- (c) a regional plan is amended.

**(2)** A local government body or decision-making body affected by a change to a regional plan described in subsection (1) must, if so directed by or under the regional plan, file with the secretariat a declaration described in section 20(2) or 21(2), as the case requires, with respect to a matter described in subsection (1).

### **Part 3**

## **Conservation and Stewardship Tools**

### **Division 1**

#### **Research and Development**

#### **Market-based instruments**

**23** The Lieutenant Governor in Council may

- (a) support or advance research and development into the creation, application and implementation of instruments, including market-based instruments, to support, enhance and implement the purposes of this Act and objectives and policies in or proposed for a regional plan;
- (b) establish, support or encourage pilot projects to investigate or test instruments, including market-based instruments, to advance or implement the purposes of this Act and objectives and policies in or proposed for a regional plan.

**Programs and measures to support regional plans**

**24** The Lieutenant Governor in Council may establish, support or participate in programs and other measures to carry out the purposes of this Act and the objectives and policies of regional plans.

**Funding to support conservation, environmental and agricultural values**

**25** The Lieutenant Governor in Council is responsible for establishing, supporting or facilitating funding and cost-sharing initiatives, mechanisms and instruments to support or enhance any one or more of the following:

- (a) conservation easements;
- (b) conservation directives;
- (c) instruments, including market-based instruments, designed or intended to support, encourage or enhance all or any of the following:
  - (i) the protection, conservation and enhancement of the environment;
  - (ii) the protection, conservation and enhancement of natural scenic or esthetic values;
  - (iii) the protection, conservation and enhancement of agricultural land or land for agricultural purposes.

**Delegation to Stewardship Minister**

**26** The Lieutenant Governor in Council may delegate any or all of its powers, duties or functions under sections 23 to 25 to the Stewardship Minister subject to any terms and conditions that the Lieutenant Governor in Council imposes.

**Tax-based measures, initiatives, etc. require approval**

**27** No tax-based measures, initiatives, programs, mechanisms, projects or instruments, including market-based instruments, proposed or developed under sections 23 to 26 may be implemented without the approval of the Minister of Finance and Enterprise.

## Division 2 Conservation Easements

### Definitions

**28** In this Division,

- (a) “grantee” means the recipient of a conservation easement and includes a successor, assignee, executor, administrator, receiver, receiver manager, liquidator and trustee of the grantee;
- (b) “grantor” means the person who grants a conservation easement and includes a successor, assignee, executor, administrator, receiver, receiver manager, liquidator and trustee of the grantor;
- (c) “qualified organization” means
  - (i) the Government,
  - (ii) a Government agency,
  - (iii) a local government body, or
  - (iv) a corporation that
    - (A) has as one of its objects the acquisition and holding of interests in land for purposes that are substantially the same as any of the purposes for which a conservation easement may be granted,
    - (B) has in its constating instrument a requirement that, on or in contemplation of the winding-up of the corporation, all conservation easements that the corporation holds are to be transferred to another qualified organization, and
    - (C) is a registered charity within the meaning of the *Income Tax Act* (Canada).

### Purpose of conservation easements

**29(1)** A registered owner of land may, by agreement, grant to a qualified organization a conservation easement in respect of all or part of the land for one or more of the following purposes:



- (a) the protection, conservation and enhancement of the environment;
- (b) the protection, conservation and enhancement of natural scenic or esthetic values;
- (c) the protection, conservation and enhancement of agricultural land or land for agricultural purposes;
- (d) providing for any or all of the following uses of the land that are consistent with the purposes set out in clause (a), (b) or (c):
  - (i) recreational use;
  - (ii) open space use;
  - (iii) environmental education use;
  - (iv) use for research and scientific studies of natural ecosystems.

**(2)** In subsection (1), “registered owner of land” means

- (a) the person registered in a land titles office as the owner of the fee simple in the land, and
- (b) in the case of settlement patented land, a person registered as the owner in the Metis Settlements Land Registry established under the *Metis Settlements Act*, subject to any General Council Policy with respect to who is to be considered the registered owner of land for the purposes of this Division.

#### **Enforcement of conservation easements**

**30(1)** A conservation easement may be enforced by

- (a) the grantee, or
- (b) a qualified organization, other than the grantee, that the grantor has designated in writing as having the power to enforce the conservation easement,

or by both the grantee and the qualified organization.

- (2) A grantor may not designate more than one qualified organization at a time to enforce the conservation easement.
- (3) A grantee may assign a conservation easement to another qualified organization.
- (4) A grantee who assigns a conservation easement must immediately notify the grantor of that assignment.

#### **Modification or termination of conservation easement**

- 31** A conservation easement may be modified or terminated
- (a) by agreement between the grantor and the grantee, or
  - (b) by order of a Designated Minister, whether or not the Designated Minister is a grantor or grantee, if the Designated Minister considers that it is in the public interest to modify or terminate the conservation easement.

#### **Nature of conservation easements**

- 32(1)** A conservation easement constitutes an interest in land in the grantee.
- (2) A conservation easement does not lapse by reason only of
- (a) non-enforcement of it,
  - (b) the use of the land that is the subject of the conservation easement for a purpose that is inconsistent with the purposes of the conservation easement, or
  - (c) a change in the use of land that surrounds or is adjacent to the land that is the subject of the conservation easement.
- (3) With respect to settlement patented land, subsection (1) is subject to any General Council Policy.

#### **Registration of conservation easement**

- 33(1)** A conservation easement may be registered
- (a) under the *Land Titles Act* with the Registrar of Titles, or

- (b) under the regulations under the *Metis Settlements Act* with the Registrar of the Metis Settlements Land Registry, subject to any General Council Policy.

**(2)** A person intending to register a conservation easement must give prior notice of the registration in accordance with the regulations to

- (a) the following persons, as required:
  - (i) the Minister responsible for the *Municipal Government Act*, if the land that is the subject of the conservation easement is located in an improvement district;
  - (ii) the Special Areas Board, if the land that is the subject of the conservation easement is located in a special area;
  - (iii) the council of the municipality or the council of the Metis settlement in which the land that is the subject of the conservation easement is located,
- (b) the Minister of Infrastructure, and
- (c) the Minister of Transportation.

**(3)** When a conservation easement is presented for registration, the appropriate Registrar must endorse a memorandum of the conservation easement on the certificate of title to the estate or interest in land that is the subject of the conservation easement.

**(4)** If a conservation easement is modified or is terminated, one of the parties to the agreement, or a Designated Minister in the case of a modification or termination of the conservation easement under section 31(b), must register a copy of the document effecting the modification or termination with the appropriate Registrar, and the Registrar must endorse a memorandum on the certificate of title to the estate or interest in land noting the modification or discharging the registration, as the case may be.

**(5)** If a conservation easement expires, one of the parties to the agreement must notify the appropriate Registrar, and the Registrar must endorse a memorandum on the certificate of title to the estate or interest in land discharging the registration.

**Effect of registration**

**34(1)** A conservation easement that is registered under section 33 runs with the land and may be enforced whether it is positive or negative in nature and notwithstanding that the person wishing to enforce the conservation easement does not have an interest in any land that would be accommodated or benefited by the conservation easement.

**(2)** Subject to subsection (3), this Division applies notwithstanding section 48 of the *Land Titles Act*.

**(3)** A conservation easement is deemed to be a condition or covenant for the purpose of section 48(4) and (6) of the *Land Titles Act*.

**(4)** With respect to settlement patented land, subsection (1) is subject to any General Council Policy.

**Conservation easement regulations**

**35** A Designated Minister may make regulations for the purpose of this Division.

**Division 3  
Conservation Directives****Right to compensation**

**36** A title holder whose estate or interest in land is the subject of a conservation directive has a right to apply for compensation in accordance with this Division.

**Conservation directives**

**37(1)** A regional plan may permanently protect, conserve, manage and enhance environmental, natural scenic, esthetic or agricultural values by means of a conservation directive expressly declared in the regional plan.

**(2)** A conservation directive must

- (a) describe the precise nature of the conservation directive, its intended purpose and the protection, conservation, management or enhancement that is the subject of the conservation directive;

- (b) identify or prescribe a means of identifying the parcels of land that are the subject of the conservation directive.

(3) A conservation directive does not constitute an estate or interest in land.

#### **Notice to title holders**

**38(1)** A title holder whose estate or interest in land is the subject of a conservation directive must be given notice of the conservation directive.

(2) The notice must

- (a) identify the estate or interest in land affected,
- (b) describe or include a copy of the conservation directive and describe its purpose,
- (c) notify the title holder of the title holder's right to apply for compensation to the Compensation Board if the title holder considers the market value of the estate or interest in land that is the subject of the conservation directive has decreased as a result of the conservation directive,
- (d) describe how to make an application to the Compensation Board, and
- (e) specify that the title holder has a right to apply to the Court of Queen's Bench to determine any compensation payable instead of the Compensation Board.

(3) A notice of the conservation directive may only be served on the title holder by personal service or by any other method provided for in the regulations.

#### **Right to compensation for a conservation directive**

**39(1)** If a conservation directive is expressly declared to be established in a regional plan, the title holder whose estate or interest in land is the subject of the conservation directive has the right, subject to the regulations made under section 43, to apply for compensation.

(2) An application for compensation under subsection (1) may be made no later than 12 months after notice of the conservation directive is served on the title holder.

(3) Subject to the regulations made under section 43, if a title holder referred to in subsection (1) is entitled to compensation, the compensation to which the title holder is entitled is

- (a) the amount of the decrease in the market value of the estate or interest in land
  - (i) resulting solely from the express declaration of the conservation directive, and
  - (ii) determined as of the date the conservation directive became effective,
- (b) damages for injurious affection as a result of the conservation directive, and
- (c) damages for any other loss specified in the regulations as a result of the conservation directive.

(4) For the purposes of this section, “market value”, in respect of an estate or interest in land, is the amount that the estate or interest might be expected to realize if sold in the open market by a willing seller to a willing buyer.

#### **Crown pays compensation**

**40** The Crown is liable to pay any compensation payable under this Division as a result of a conservation directive.

#### **Compensation Board to resolve disputes**

**41(1)** Subject to subsection (2), if the Crown and a title holder referred to in section 39(3) cannot agree on the compensation payable as a result of a conservation directive, the Compensation Board must, in accordance with this Act and the regulations, determine the compensation payable and, if necessary, to whom it is payable.

(2) Notwithstanding subsection (1), the title holder may elect to have the compensation fixed by the Court of Queen’s Bench and in that case the provisions of this Act and the regulations relating to determination of compensation by the Compensation Board apply

with all necessary modifications to the proceedings before the Court.

### **Appeal**

**42(1)** An appeal lies to the Court of Appeal from any determination of the Compensation Board.

**(2)** An appeal under subsection (1) may be made on questions of law or fact, or both, and the Court of Appeal may

- (a) refer any matter back to the Compensation Board, or
- (b) make any decision or order that the Compensation Board has power to make.

### **Conservation directive regulations**

**43(1)** The Lieutenant Governor in Council may make regulations

- (a) repealed 2011 c9 s15;
- (b) respecting applications by title holders to the Compensation Board to determine compensation claims as a result of a conservation directive;
- (c) governing the process for considering claims for compensation;
- (d) respecting any process or procedure as a condition of an application to or as a condition of considering of an application by the Compensation Board;
- (e) respecting who is to pay the costs of an application or authorizing the Compensation Board to make that decision;
- (f) respecting the criteria the Compensation Board must take into consideration when making a decision and matters that it may not take into consideration;
- (g) authorizing the Compensation Board to exercise any powers given to it under any other enactment, with or without modifications, with respect to an application under this Division;

- (h) prescribing a period within which an appeal to the Court of Appeal may be made under section 42;
- (i) specifying losses as a result of conservation directive for the purposes of section 39(3)(c);
- (j) respecting the deduction from compensation, or the consideration to be given, of any amount received by the title holder as compensation or payment for loss in respect of an estate or interest in land for which the title holder claims compensation
  - (i) under another enactment,
  - (ii) as a result of the terms of an agreement,
  - (iii) under the terms or conditions of a statutory consent, or
  - (iv) as a result of any other provision of a regional plan or regulations providing for compensation for a decrease in the market value of an estate or interest in land;
- (k) providing for additional methods of service of a notice under section 38.

**(2)** The Lieutenant Governor in Council may make regulations

- (a) respecting the person who must give notice of a conservation directive to title holders of an estate or interest in land that is the subject of the conservation directive;
- (b) respecting the terms and conditions that must be incorporated in or that attach to a conservation directive or any class or type of conservation directive;
- (c) respecting the enforcement of conservation directives, including
  - (i) the appointment of a person, Designated Minister, government department or local government body or a qualified organization as defined in Division 2 to enforce conservation directives, and
  - (ii) the terms, conditions and duration of the appointment and the powers respecting enforcement;
- (d) respecting the registration, recording or filing of notice of a conservation directive under the *Land Titles Act*, the persons



to whom notice of the registration, recording or filing must be given, by whom the notice is to be given, and the terms and conditions of that registration, recording or filing and of any subsequent amendment, termination or repeal of the conservation directive;

- (e) respecting the regulation or control of amendments to, or the termination or repeal of, conservation directives or of any particular conservation directives or class or type of conservation directive;
- (f) respecting the duties and responsibilities of the Registrar of Titles respecting the registration, recording, filing, amendment, termination or repeal of a conservation directive;
- (g) applying any regulation made under this subsection despite anything in the *Land Titles Act*;
- (h) naming or describing a person as a title holder for the purpose of section 2(gg)(ii).

(3) The General Council may make a General Council Policy with respect to settlement patented land and title holders of settlement patented land modifying, substituting or adding to any provision of regulations made under this section.

(4) A reference in this Act to “regulations made under section 43” includes a General Council Policy referred to in subsection (3).

2009 cA-26.8 s43;2011 c9 s15

#### **Municipal authority unaffected**

**44** Except for section 37, nothing in this Division affects

- (a) the authority of a municipal authority under Part 17 of the *Municipal Government Act*, or
- (b) the operation or application of any provisions of that Part.

### **Division 4**

#### **The Exchange, Stewardship Units and Conservation Off-set Programs**

#### **The exchange**

**45** The Lieutenant Governor in Council may make regulations

- (a) establishing or designating a person or government department as the exchange and naming the exchange;
- (b) conferring on the exchange, by agreement or by regulation, or both, all or any of the following:
  - (i) the authority, subject to the regulations under this Part, to create, hold, issue, approve, verify, authenticate, distribute, modify, suspend or extinguish all or part of a stewardship unit;
  - (ii) the authority to establish, administer or manage one or more programs, schemes or systems to register, record and administer stewardship units;
- (c) providing for the manner and method of reporting by the exchange on matters required by the regulations under this Part;
- (d) delegating to the exchange the authority described by the regulations under this Part or under a regional plan;
- (e) requiring the exchange to provide education and information about the services it provides.

**Stewardship units**

**46(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting the creation, holding, issuance, approval, verification, authentication, distribution, modification, suspension or extinguishment of stewardship units;
- (b) respecting how a stewardship unit is created and by whom;
- (c) establishing or authorizing different types or classes of stewardship unit and the name or names of the types or classes and the terms, conditions and restrictions with respect to each type or class of stewardship unit, including development credits that are the subject of a TDC scheme;
- (d) respecting the attributes of each type or class of stewardship unit, including, without limitation, regulations
  - (i) describing what the type or class of stewardship unit represents;

- (ii) describing the nature of the type or class of stewardship unit, in particular, whether the type or class of stewardship unit is one of benefit or obligation, or both;
  - (iii) whether the stewardship unit is irrevocable, and if not, its term or any other conditions applying to it;
- (e) for managing the holding, use, sale, trading, exchange, lease, assignment and disposition, including disposition by will or on death without a will, of stewardship units, and if regulation or control is required, including, without limitation, regulations
- (i) respecting the establishment of a registry and a system for the recording of stewardship units;
  - (ii) respecting the powers, duties and functions of the exchange, including as a registry operator;
  - (iii) respecting the establishment, operation and closing of trading accounts for stewardship units;
  - (iv) respecting the recording of transactions or use of stewardship units;
  - (v) respecting the collection of information and the use of information and records kept by the exchange and records in respect of trading in stewardship units;
  - (vi) respecting, authorizing and prohibiting the disclosure of information and records kept by the exchange with respect to the registry and otherwise;
  - (vii) respecting the records to be kept by persons holding stewardship units or participating in the trading of stewardship units;
  - (viii) authorizing a person to prescribe forms for the purposes of the regulations;
- (f) delegating to a Designated Minister, a local government body or a decision-maker any authority, function or requirement under the regulations made under this Part with respect to the use, imposition or extinguishment of a stewardship unit;
- (g) applying or exempting all or any provisions of the *Securities Act* or any regulations or rules under the *Securities Act* with

respect to any provision of this Act or the regulations concerning a stewardship unit or a type or class of stewardship unit;

- (h) respecting the compatibility of regulations under this section with similar regulatory schemes in other jurisdictions, inside and outside Canada.

(2) A stewardship unit is not and may not be created as an interest in land.

#### **Conservation off-set programs**

**47(1)** The Lieutenant Governor in Council may make regulations to counterbalance the effect of an activity.

(2) In this section, “counterbalance” includes

- (a) avoiding, limiting or mitigating the adverse effect of an activity;
- (b) minimizing the impact of an activity by limiting the magnitude or degree of the activity;
- (c) rectifying or reducing an adverse effect by repairing, rehabilitating, restoring or reclaiming;
- (d) reducing or eliminating an adverse effect over time by conservation and maintenance operations;
- (e) compensating for an activity by replacing, providing, acquiring, using or extinguishing stewardship units as described in regulations made under this Part;
- (f) requiring any or all of the counterbalancing requirements described in this subsection to be increased by a ratio or factor prescribed by regulations under this section as a result of the effect of the activity;
- (g) encouraging voluntary measures to offset an activity by committing, without limitation, to additional restoration, reclamation or mitigation, the acquisition of land, the establishment of a conservation easement or the donation of actual or in-kind, financial or other resources;

- (h) requiring any action described in this subsection to be taken before or after an activity starts or before or after an activity ends.

**(3)** Regulations under this section may

- (a) require a decision-maker, in the circumstances described in the regulations, to impose terms and conditions on an existing or proposed statutory consent to counterbalance the effect of an activity or proposed activity;
- (b) set a limit or restriction on the maximum effect of an activity in respect of human health or safety, a species or the environment within a period of time specified in the regulations, and for that purpose may
  - (i) describe or specify a stewardship unit that is to counterbalance the effect of an activity;
  - (ii) specify the period of time within which the stewardship unit must be used or extinguished;
  - (iii) prohibit an activity without the extinguishment of all or part of a stewardship unit;
- (c) establish, certify, credit or accredit anything that is suitable as a stewardship unit to counterbalance an activity;
- (d) provide a means of assigning to a stewardship unit an attribute with respect to an investment or project indicating its benefit or obligation measured against the effect of an activity;
- (e) establish a program to certify an activity as a stewardship unit, including providing for
  - (i) who is to issue the certification;
  - (ii) how and when and under what terms and conditions a person may be certified and how and by whom a certification may be terminated;
  - (iii) what a certification entitles the holder of the certification to do;
- (f) adopt or prescribe one or more guidelines or best practices with respect to counterbalancing the effect of an activity;

- (g) provide for the management, monitoring and enforcement of a stewardship unit, including
  - (i) how monitoring is to be conducted and by whom;
  - (ii) requiring periodic or special reports, specifying with whom a report must be filed and requiring its availability for public inspection;
  - (iii) the inspection of an activity and the monitoring and reports on the effect of the activity to determine compliance with a stewardship unit;
  - (iv) testing anything related to an activity at a time or times and at a frequency specified by the regulations;
  - (v) an audit of compliance with a stewardship unit and the regulations;
  - (vi) security for performance of an obligation under a stewardship unit and compliance with its terms and conditions, including, without limitation, insurance, a bond, certification or audit by a third party agency or other person specified by the regulations.

## **Division 5 Transfer of Development Credit Schemes**

### **Establishing a TDC scheme**

**48(1)** A TDC scheme may be established only in accordance with this Division.

**(2)** A TDC scheme may be established by

- (a) a regional plan,
- (b) a local authority if the scheme is first approved by the Lieutenant Governor in Council, or
- (c) 2 or more local authorities in accordance with an agreement or arrangement among them, with or without other persons, if the agreement or arrangement is first approved by the Lieutenant Governor in Council.

**Components of a TDC scheme**

**49(1)** Unless regulations under section 50 provide otherwise, every TDC scheme must include the following components:

- (a) the designation of an area or areas of land as a conservation area with one or more of the following purposes:
  - (i) the protection, conservation and enhancement of the environment;
  - (ii) the protection, conservation and enhancement of natural scenic or esthetic values;
  - (iii) the protection, conservation and enhancement of agricultural land or land for agricultural purposes;
  - (iv) providing for all or any of the following uses of the land that are consistent with the purposes set out in subclause (i), (ii) or (iii):
    - (A) recreational use;
    - (B) open space use;
    - (C) environmental education use;
    - (D) use for research and scientific studies of natural ecosystems;
  - (v) designation as a Provincial Historic Resource or a Municipal Historic Resource under the *Historical Resources Act*;
- (b) identification or provision for the identification of every parcel of land in the conservation area and the title holder of each parcel of land or a means of identifying them;
- (c) the attributes of the one or more stewardship units established by the TDC scheme in accordance with regulations made under section 46;
- (d) the terms and conditions under which a stewardship unit may be realized or used, or both, by a title holder in the conservation area;
- (e) the designation of an area or areas of land as a development area and any terms and conditions of that designation;

- (f) any other matter required to be included in a TDC scheme by the regulations under section 50.

**(2)** If a local authority or 2 or more local authorities establish a TDC scheme, the scheme must include

- (a) in the case of a TDC scheme established by a single local authority, provisions to adopt or amend a municipal development plan, area structure plan, land use bylaw, intermunicipal development plan or other bylaw to implement the TDC scheme;
- (b) in the case of a TDC scheme between 2 or more local authorities,
  - (i) a written arrangement or agreement between the local authorities with respect to the scheme, with or without other persons, and
  - (ii) provisions to adopt or amend municipal development plans, area structure plans, land use bylaws, intermunicipal development plans or other bylaws to implement the scheme;
- (c) any other provision considered necessary or desirable by the Lieutenant Governor in Council or required by the regulations made under section 50.

#### **TDC regulations**

**50(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting any additional components of or modification to the components of a TDC scheme required by section 49;
- (b) respecting what a stewardship unit may or may not be used for in a TDC scheme and the terms and conditions on the use of stewardship units;
- (c) managing the realization, sale, assignment or disposition of stewardship units and the conditions under which a realization, sale, assignment or disposition of a stewardship unit may occur, including, without limitation, if the title holder
  - (i) enters into a conservation easement satisfactory to the Stewardship Minister or the local authority or local



- authorities, as the case requires, and the conservation easement is registered in a land titles office,
- (ii) consents to a Provincial Historic Resource or a Municipal Historic Resource designation under the *Historical Resources Act* with respect to a parcel of land or an aspect of it, or
  - (iii) provides a form of conservation or protection with respect to a parcel of land that is designated as part of a conservation area that, in the opinion of the Stewardship Minister or the local authority or local authorities, as the case may be, provides a satisfactory means of conservation;
- (d) respecting the functions and responsibilities of the exchange in a TDC scheme;
  - (e) respecting the amendment or repeal of a bylaw designating a conservation area or development area, or both, and the conditions that must be met before a bylaw designating a conservation area or development area is amended or repealed.
- (2) Nothing in regulations made under subsection (1) limits or restricts the regulation-making authority of the Lieutenant Governor in Council under section 46.

## **Part 4 Regional Planning Process and its Administration**

### **Division 1 Regional Planning Process**

#### **Commencement**

- 51(1)** The Lieutenant Governor in Council may
- (a) authorize the commencement of a regional planning process, a process to amend a regional plan or a process to review a regional plan;
  - (b) set the terms of reference under which a process authorized under clause (a) is to be conducted and by whom;

- (c) describe the public and stakeholder communication and consultation required;
- (d) describe the role and function of regional advisory councils, government departments and the secretariat in respect of a process;
- (e) direct recognition, consideration or development of provincial policies and provide guidance on how they are to be respected, prioritized, balanced, incorporated or integrated in the development of a regional plan, amendment to a regional plan or review of a regional plan;
- (f) require a list to be prepared of areas that are candidates for a conservation directive for the protection, conservation, management or enhancement of environmental, natural scenic, esthetic or agricultural values;
- (g) describe the consideration to be given to any matter, including economic, environmental and social issues;
- (h) set out the expectations of and timeframe for the process of developing a regional plan or amendments to a regional plan or for the review of a regional plan.

(2) Nothing in this Act requires an order to be made under subsection (1) before the Lieutenant Governor in Council makes or amends a regional plan.

## **Division 2 Regional Advisory Councils**

### **Establishment and appointment**

**52(1)** The Lieutenant Governor in Council may establish a regional advisory council for a planning region.

(2) The Lieutenant Governor in Council may

- (a) appoint members of a regional advisory council, including individuals who are members of aboriginal peoples;
- (b) provide for the payment of expenses and remuneration for some or all members of a regional advisory council;
- (c) provide or authorize the provision of information, data and other materials to assist regional advisory councils in their work.

(3) The Lieutenant Governor in Council may establish a date on which the mandate of a regional advisory council terminates unless the mandate and terms of office of one or more members is extended.

(4) The Lieutenant Governor in Council may delegate to the Stewardship Minister any of the functions of the Lieutenant Governor in Council under this section.

#### **Terms of reference**

**53(1)** For each regional advisory council, the Lieutenant Governor in Council may establish terms of reference, which may include

- (a) roles and responsibilities of members of the regional advisory council;
- (b) designation of a chair and vice-chair and their responsibilities or delegating that responsibility to the regional advisory council;
- (c) rules governing the calling and conduct of meetings;
- (d) a means or method for resolving disputes;
- (e) a code of ethics for members of the regional advisory council;
- (f) a description of the nature or kind of advice to be given by the regional advisory council and to whom it is to be given.

(2) The Lieutenant Governor in Council may delegate to the Stewardship Minister any of the functions of the Lieutenant Governor in Council under this section, including authority to delegate to a regional advisory council any of the functions described in subsection (1)(b) and (c).

#### **Exemption from liability**

**54** No action lies against a member of a regional advisory council for anything done or omitted to be done by the member in good faith while acting as a member of the regional advisory council and carrying out the functions of a member.

**Resources for regional advisory councils**

- 55(1)** The secretariat is responsible, in accordance with any terms of reference established by the Lieutenant Governor in Council,
- (a) for providing or co-ordinating the provision of the human and financial resources, information, data and other material that the secretariat considers to be necessary or appropriate for use by a regional advisory council;
  - (b) for establishing and co-ordinating the conduct of a project team to advise and assist a regional advisory council.
- (2)** The resources provided under subsection (1) may be provided subject to terms and conditions.

**Terms of reference may vary**

- 56** The terms of reference established by the Lieutenant Governor in Council for regional advisory councils may vary from one regional advisory council to another.

### **Division 3 Land Use Secretariat**

**Land Use Secretariat**

- 57(1)** There is established, as part of the public service of Alberta but not as part of a government department, a secretariat to be known as the Land Use Secretariat, headed by the stewardship commissioner, whose powers, duties and functions under this Act, the regulations and regional plans are subject to any directives of the Stewardship Minister under section 57.1.
- (2)** In accordance with the *Public Service Act*, there must be appointed a person to the position of stewardship commissioner and other employees as are required to administer the business and affairs of the secretariat.
- (3)** Repealed 2011 c9 s16.

2009 cA-26.8 s57;2011 c9 s16

**Directives**

**57.1** The Stewardship Minister may, by order, issue directives that the secretariat and the stewardship commissioner must follow in carrying out their powers, duties and functions under this Act, the regulations and regional plans.

2011 c9 s17

**Regional plans**

**58** The secretariat has the following mandate with respect to regional plans and proposed regional plans:

- (a) to prepare or direct the preparation of regional plans and amendments to regional plans for consideration by the Lieutenant Governor in Council;
- (b) to prepare, direct, participate in or co-ordinate the preparation of subregional or issue-specific plans, or amendments to either of them, for approval, adoption or incorporation in a regional plan and to review proposed subregional plans, issue-specific plans and plans, agreements and arrangements proposed for adoption by or incorporation in a regional plan;
- (c) to identify the need for policies and the integration or co-ordination of policy for consideration by the Lieutenant Governor in Council for incorporation in a regional plan and, if required, to facilitate, co-ordinate or assist in the preparation of that policy;
- (d) at least once every 5 years, to appoint a committee under section 63(3)(b) to evaluate the objectives and audit the policies of regional plans for the purpose of determining whether either or both are meeting the purposes of this Act, and to make a public report to the Stewardship Minister on the evaluation and audit;
- (e) to make recommendations to keep or facilitate keeping regional plans up-to-date;
- (f) to conduct a review of regional plans at least once every 10 years in accordance with section 6 or earlier as required by the Lieutenant Governor in Council.

**Regional plan implementation**

**59** The secretariat, with respect to a regional plan or an amendment to a regional plan,

- (a) may facilitate and co-ordinate the implementation of the regional plan or the amendment to the regional plan and assist those affected by the regional plan to understand and implement the regional plan or the amendment to the regional plan;
- (b) may facilitate and encourage co-operation between government departments and agencies and co-operative relationships between government departments and local government bodies;
- (c) must maintain regional plans as a public record with the capacity to determine the contents of a regional plan at any given point in time, which may include
  - (i) electronic versions of regional plans;
  - (ii) loose-leaf and other hard-copy versions of regional plans;
- (d) must maintain a public record of planning regions, their boundaries and any interpretation bulletins issued under section 64.

**Co-ordination of information systems**

**60** The secretariat is responsible for co-ordinating or supporting the co-ordination of integrated information systems, including data collection, monitoring, analysis and reporting, that are capable of providing any information required to develop, maintain, monitor, analyze, assess and implement regional plan objectives and policies.

**Monitoring and reporting functions**

**61** The secretariat

- (a) must periodically monitor progress on achieving or maintaining objectives in regional plans and the effectiveness of policies to achieve or maintain those objectives, and to issue reports as the secretariat considers necessary;

- (b) may make recommendations to a local government body or government department to encourage or ensure regional plan objectives and policies are achieved or maintained.

#### **Complaint review**

**62(1)** A person may make a written complaint to the secretariat that a regional plan is not being complied with.

**(2)** The secretariat may investigate a complaint if the stewardship commissioner is satisfied that

- (a) the complaint has or may have sufficient merit to warrant an investigation,
- (b) the matter complained of is not the subject or part of the subject of an application, process, decision or appeal governed by an enactment or regulatory instrument, or that there is not an adequate remedy under the law or existing administrative practices, and
- (c) no other person should investigate the matter complained of.

**(3)** If the secretariat decides a complaint should not be investigated by the secretariat, the stewardship commissioner must notify the complainant accordingly.

**(4)** Subject to subsection (2), the secretariat may conduct or authorize a person to conduct any investigation or inquiry as is considered necessary or appropriate in the circumstances and provide a report to the stewardship commissioner.

**(5)** A government department or local government body must co-operate with an investigation or inquiry conducted by the secretariat or a person authorized by the secretariat.

**(6)** If the secretariat is satisfied that there is clearly non-compliance with a regional plan, the stewardship commissioner may refer the matter, with or without a report or recommendations, to either or both of the following who have jurisdiction or authority with respect to the matter:

- (a) a Minister or government department, or
- (b) a local government body.

(7) The stewardship commissioner may delegate the secretariat's authority to conduct an investigation or inquiry under this section to one or more other persons, with or without conditions, but may not delegate authority to decide whether an investigation or inquiry should be conducted.

#### **Other functions and responsibilities**

**63(1)** In addition to its mandate under this Act and any other enactment, the secretariat must perform the duties imposed or conferred on it by a regional plan or by the Lieutenant Governor in Council.

(2) If a regional plan does not contain provisions respecting how to respond to the failure of a policy or to the lack of progress in achieving or maintaining an objective or policy in a regional plan, the secretariat is responsible for co-ordinating an effective response.

(3) In fulfilling the mandate of the secretariat, subject to the prior approval of the Stewardship Minister,

- (a) the stewardship commissioner may appoint experts to provide advice or assistance;
- (b) the stewardship commissioner may appoint a committee for particular purposes and prescribe the committee's responsibilities and the timeframe for completing them;
- (c) the stewardship commissioner may enter into agreements or arrangements with any other person.

(4) The secretariat may develop, co-ordinate or assist in the development of programs, schemes, services and research to support its mandate and the objectives and policies in a regional plan.

(5) The secretariat must comply with any protocols established by the Lieutenant Governor in Council for the secretariat to ensure appropriate consultation with government departments or local government bodies that have an interest in or are affected by the secretariat's mandate.

(6) The stewardship commissioner may delegate to another person, or designate another person to perform, all or any of the secretariat's functions, with or without conditions.



## Division 4 Other Administrative Matters

### Interpretation bulletins

- 64(1)** The Lieutenant Governor in Council may make regulations
- (a) authorizing the secretariat or any other person named in the regulations to issue interpretation bulletins on the interpretation, application, compliance, non-compliance and intended purpose, application or implementation of a regional plan;
  - (b) authorizing interpretation bulletins to be issued on the initiative of the secretariat or any other person named in the regulations, and prescribing conditions on the issuance of the interpretation bulletins;
  - (c) describing any process required or conditions to be met before an interpretation bulletin is issued;
  - (d) stating the binding, advisory, persuasive or informational character of interpretation bulletins, including, if so stated in the regulations, that an interpretation bulletin has the same effect as if it had been included in a regional plan.
- (2)** The *Regulations Act* does not apply to interpretation bulletins.
- (3)** Interpretation bulletins must be published in Part I of The Alberta Gazette.

### Fees for services

- 65** The Stewardship Minister may, by regulation, prescribe fees or describe how they are to be calculated for any service or function provided, action taken or matter considered under this Act, regulations made under this Act or a regional plan.

### General regulation-making authority

- 66** The Lieutenant Governor in Council may make regulations
- (a) designating a person or entity as a local government body, or exempting a local government body, for the purposes of the definition of local government body;

- (b) exempting an entity from the definition of decision-making body;
- (c) designating an instrument as a regulatory instrument for the purposes of the definition of regulatory instrument or exempting an instrument described in that definition from the definition;
- (d) prescribing or authorizing the stewardship commissioner to prescribe the form of statutory declarations required under this Act or the regulations and the nature and contents of other forms that may be required;
- (e) respecting matters that may be included in a regional plan;
- (f) designating an order establishing a regional advisory council under section 7 of the *Government Organization Act* before this section comes into force as an order in council establishing a regional advisory council under section 52, with or without modifications;
- (g) defining any word or expression used but not defined in this Act;
- (h) prescribing enactments for the purposes of section 2(2)(h).

2009 cA-26.8 s66;2011 c9 s18

**Incentives and programs**

**67(1)** The Lieutenant Governor in Council may make regulations providing for financial and other incentives to support the purposes of this Act and the objectives and policies of regional plans.

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

- (a) respecting grants or conditional grants and describing their purposes;
- (b) respecting the human, financial and technical services to support or advance the objectives and policies of regional plans;
- (c) respecting eligibility for and terms and conditions of grants, conditional grants and other support or services;
- (d) promoting research, best practices and management programs to advance the purposes of this Act and to

advance and implement the objectives and policies of regional plans;

- (e) respecting recognition programs, awards or rewards;
- (f) establishing best or beneficial practices, ethical use and management for the purposes of attaining regional plan objectives and implementing regional plan policies;
- (g) respecting education, information and resources to support programs and policies to advance and implement regional plan objectives and policies.

(3) The Lieutenant Governor in Council may designate a government department, local government body, the secretariat or any other person as responsible for any provision of the regulations made under this section.

## **Part 5 Transitional Provisions, Related Amendments and Coming into Force**

### **Conservation easement transition**

**68(1)** A conservation easement granted or registered, or granted and registered, under the *Environmental Protection and Enhancement Act* before the coming into force of this section is deemed for all purposes to have been granted or registered or granted and registered, as the case may be, under this Act and continues with the same effect under this Act.

(2) The *Conservation Easement Registration Regulation* (AR 215/96) made under the *Environmental Protection and Enhancement Act* remains in force and is deemed to have been made under this Act.

**69 to 94** (*These sections amend other Acts; the amendments have been incorporated into those Acts.*)

### **Amendment**

**95(1)** This section applies only if Bill 19 of 2009, Land Assembly Project Area Act, introduced on March 2, 2009, receives Royal Assent.

**(2) On the later of the day this section comes into force and the day section 4(1) of Bill 19 comes into force, section 4(1) of Bill 19 of 2009 is amended by striking out “Notwithstanding” and substituting “Subject to any applicable ALSA regional plan and notwithstanding”.**

**Coming into force**

**96** This Act comes into force on Proclamation.

*(NOTE: Proclaimed in force , except sections 77 and 91, October 1, 2009. Sections 77 and 91 proclaimed in force April 1, 2010.)*