



This Act is Current to June 26, 2013

# **SAFETY STANDARDS ACT**

## **[SBC 2003] CHAPTER 39**

*Assented to May 29, 2003*

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## Definitions

### 1 In this Act:

**"advisory body"** means an advisory body established under section 81;

**"alteration"** includes adding to, replacement and removal;

**"alternative safety approach"** means a written proposal, accepted by a safety manager under section 33, which

(a) sets out approaches to safety that are consistent with the objectives under this Act and are substituted for one or more requirements of the regulations, or

(b) if the regulations do not address safety in respect of particular regulated work or a particular regulated product, establishes a plan consistent with the objectives under this Act for the safe undertaking of that regulated work or the safe use of that regulated product;

**"appeal board"** means the Safety Standards Appeal Board established under section 43;

**"certificate of qualification"** means a certificate issued by a provincial safety manager to an individual who provides evidence of their knowledge and ability to do regulated work in a manner that meets the requirements under this Act and which allows an individual to perform regulated work in British Columbia within the scope of the certificate;

**"certification agency"** means a person or class of persons designated by the regulations as a certification agency;

**"certification mark"** means a stamp, mark, seal, label, tag or other identification of a certification agency certifying that the regulated product to which it is affixed or attached or in which it is embedded meets the standard that the product must meet for that certification;

**"incident"** means an event occurring as a result of regulated work, or the testing, use or operation of a regulated product, that

(a) causes death, personal injury or damage to property, or

(b) creates a risk of personal injury or damage to property;

**"inspect"** includes investigate, monitor and audit;

**"licensed contractor"** means a person who is licensed under section 23 as a licensed contractor to do regulated work in one or more disciplines specified in the licence;

**"local government"** has the same meaning as in the *Local Government Act*, and includes the council of the City of Vancouver;

**"local safety manager"** means an individual appointed as a local safety manager

under section 12 (2);

**"monetary penalty"** means a monetary penalty imposed under section 40;

**"operating permit"** means a permit issued by a safety officer under section 28;

**"owner"** includes a lessee;

**"permission"** means a permission authorized under this Act;

**"premises"** means land, a building or a structure in, on or under which a regulated product is located or where regulated work is done;

**"provincial safety manager"** means an individual appointed under section 12 (1) as a provincial safety manager;

**"registrar"** means the provincial safety manager designated as the registrar under section 20 (1);

**"registry"** means the registry established under section 20 (1);

**"regulated product"** means a product or thing referred to in section 2 (1) (b), and if specified in the regulations, a part of that product or thing;

**"regulated work"** means

(a) the assembly, manufacture, construction, installation, operation, testing, maintenance or repair of a regulated product, and

(b) the alteration of a regulated product;

**"regulations"** includes codes and standards adopted under this Act;

**"safety manager"** means a provincial safety manager or a local safety manager;

**"safety officer"** means an individual qualified under this Act and appointed under section 11 as a safety officer;

**"variance"** means a document without precedential value issued, for an individual circumstance on a single occasion, by a safety officer or safety manager allowing

(a) a deviation from the application of a regulation under this Act, or

(b) a use, other than the standard use, of a regulated product if the proposed use is not specifically prohibited under this Act.

## **Part 1 — Application**

### **Application of this Act**

2 (1) This Act and the regulations apply to all of the following:

(a) persons doing regulated work;

(b) all of the following regulated products as they are defined in the regulations:

- (i) amusement rides;
- (ii) passenger ropeways;
- (iii) boilers and boiler systems;
- (iv) electrical equipment;
- (v) elevating devices and passenger conveyors;
- (vi) gas systems and equipment;
- (vii) pressure vessels;
- (viii) pressure piping;
- (ix) refrigeration systems and equipment;
- (x) any other regulated product specified in the regulations;

(c) all of the disciplines, as defined by the regulations, relating to regulated products.

(2) The regulations may, with or without conditions, exempt completely or partially from the application of any or all provisions of this Act and the regulations any of the following:

- (a) a person or class of persons;
- (b) any regulated product;
- (c) any regulated work or class of regulated work;
- (d) anything referred to in this subsection that is in a specified geographic area.

### **Application of Act to mines and pipelines**

**3** (1) While a regulated product is used in the operation of or in association with a mine as defined in the *Mines Act*, this Act does not apply to the regulated product or to a person who does regulated work in respect of that regulated product.

(2) While a regulated product, other than products referred to in section 2 (1)(b) (iii), (iv), (vii), (viii) or (ix), is attached to, used in the operation of or in association with, a pipeline as defined in section 1 (2) of the *Oil and Gas Activities Act*, this Act does not apply to the regulated product or to a person who does regulated work in respect of that regulated product.

## **Part 2 – Administrative Responsibility**

### **Administration of this Act**

**4** The minister is responsible for the administration of this Act and the regulations except to the extent that

- (a) the administration of any provision of this Act or the regulations is delegated under section 5 to a local government, or
- (b) the administration of any provision of this Act or the regulations is

delegated to an authority under Part 12.

## **Delegation of administration of this Act to a local government**

- 5 (1) The minister may enter into an administrative agreement with a local government to administer provisions of this Act and the regulations.
- (2) The administrative agreement must provide for all of the following:
- (a) the objectives that the local government must meet in administering the matters delegated to the local government;
  - (b) timely reporting of incidents that come to the attention of the local government;
  - (c) the process by which the administrative agreement may be amended.
- (3) If the minister enters into an administrative agreement with a local government, the Lieutenant Governor in Council may, by regulation, delegate to a local government the administration of any of the provisions of this Act and the regulations except a power to make regulations.
- (4) If an amendment to the delegation regulation could substantively affect an administrative agreement, the minister must give reasonable notice to the local government of the proposed amendment and must consult on it with the local government.
- (5) If the Lieutenant Governor in Council repeals a regulation made under subsection (3), the administrative agreement is terminated.
- (6) A local government administering this Act and the regulations may, on reasonable notice to the minister, transfer back to the government all or any part of that administration.
- (7) Section 175 of the *Community Charter* does not apply to an agreement under this section.

## **Powers of local governments to adopt bylaws**

- 6 (1) Despite any other enactment, a local government may not adopt a bylaw concerning a standard that is or could be dealt with under this Act unless the bylaw is
- (a) enacted in accordance with a regulation under subsection (2),
  - (b) enacted in accordance with an agreement under subsection (3), or
  - (c) approved by the minister.
- (2) The minister may, by regulation, do any of the following:
- (a) establish matters in relation to which local governments may exercise authority with regard to standards that could otherwise be dealt with under this Act,
    - (i) by specifying the matters in relation to which local governments may exercise the authority, or

(ii) by providing that the restriction under subsection (1) only applies in relation to specified matters;

(b) provide that the exercise of that authority is subject to the restrictions and conditions specified by the minister responsible or by a person designated by name or title in the regulation.

(3) The minister may enter into an agreement with a local government that has the same effect in relation to the local government as a regulation that could be made under subsection (2).

(4) If,

(a) a regulation or agreement under this section is amended or repealed, and

(b) the effect of the amendment or repeal is that bylaws that previously did not require approval under subsection (1) would now require that approval

those bylaws affected that were validly in force at the time of the amendment or repeal continue in force as if they had been approved by the minister.

(5) Subsection (1) applies to the amendment or repeal of a bylaw that is in force on the coming into force of this section.

### **Fees to be retained by local government**

7 Fees, monetary penalties or charges imposed by a local government in the course of its administration and enforcement of this Act and the regulations must be paid to the local government.

## **Part 3 — Adoption of Standards, Effect of Certification Mark and Regulated Product Approval**

### **Minister's powers to make regulations for safety standards**

8 The minister may make regulations as follows:

(a) establishing codes or standards respecting regulated work and regulated products;

(b) as provided in the *Regulations Act*, enacting a code or standard by adopting material by reference or adopting all or part of a code or standard by reference.

### **Certification mark as evidence of meeting standards for a regulated product**

9 The presence of a certification mark is proof, in the absence of evidence to the contrary, that the regulated product meets the standard that the product must meet for that certification.

### **Provincial safety manager may approve regulated products for use**

**10** (1) Every provincial safety manager, other than the registrar, may approve regulated products in accordance with the regulations for use in British Columbia even if there is no certification mark present on the regulated product.

(2) If a provincial safety manager approves a product for use under subsection (1), the provincial safety manager may attach an approval mark that is readily identifiable as an approval mark or if it is impracticable to attach an approval mark, may order that notice of the product approval accompany the regulated product or be posted where the regulated product is to be used or installed.

(3) If a provincial safety manager accepts, for use under an alternative safety approach, a regulated product that does not have a certification mark or an approval mark attached,

(a) the provincial safety manager must order the proponent of the alternative safety approach to

(i) attach to the regulated product a notice stating that the regulated product has been accepted for use in accordance with an alternative safety approach, or

(ii) if it would be impractical to attach the notice referred to in subparagraph (i), ensure that the notice accompany the regulated product or post the notice where the regulated product is to be used or installed, and

(b) the regulated product may be used only in accordance with the requirements, terms and conditions of the alternative safety approach.

## **Part 4 – Safety Officers and Safety Managers**

### **Division 1 – Appointments and Duties**

#### **Safety officers**

**11** The minister or a local government that administers this Act and the regulations must appoint safety officers in accordance with this Act and the regulations.

#### **Safety managers**

**12** (1) The minister must appoint provincial safety managers to administer this Act and the regulations.

(2) A local government that administers any part of this Act and the regulations must appoint local safety managers to administer this Act and the regulations for the purposes of the local government.

#### **Joint appointment by local governments of safety officers and local safety managers**

**13** For the purposes of sections 11 and 12 (2), a local government may enter into an agreement with one or more other local governments to appoint safety officers or local safety managers and authorize them to act for all the participating local governments.

## **Identification documents for safety officers and safety managers**

- 14** (1) The minister must issue appropriate identification to safety officers appointed by the minister and to provincial safety managers.
- (2) A local government must issue appropriate identification to safety officers and local safety managers appointed by the local government.
- (3) On request by any person, safety officers and safety managers must produce for inspection their identification issued under subsection (1) or (2).

## **Powers of provincial safety manager**

- 15** A provincial safety manager may exercise any or all of the powers of a safety officer and may do one or more of the following:
- (a) issue, suspend or revoke a certificate of qualification;
  - (b) issue, suspend or revoke a licence;
  - (c) when issuing a licence, include in the licence a term or condition;
  - (d) issue a safety order;
  - (e) review a decision of a safety officer appointed by the minister;
  - (f) issue a directive or discipline order;
  - (g) delegate any of the powers under paragraphs (a) to (f) of this section to a safety officer appointed by the minister;
  - (h) delegate to a safety officer or class of safety officers the power to issue a licence for a licensed contractor or certificate of qualifications to an individual;
  - (i) require a person who holds a licence, certificate, permit or other permission under this Act to be re-examined as to their qualifications to maintain or renew the licence, certificate, permit or other permission;
  - (j) if the regulations require further training for persons who hold a certificate, permit or other permission of a particular class, require a person who holds a certificate, permit or other permission to undertake further training or examination in order to maintain their status and for that purpose may devise and administer tests;
  - (k) recognize programs of training for the purpose of qualifying for a licence, certificate, permit or other permission under this Act;
  - (l) evaluate the qualifications of a person who applies for a licence, certificate, permit or other permission under this Act.

## **Powers of local safety manager**

- 16** A local safety manager may exercise any or all of the powers of a safety officer and may do the following:
- (a) recommend to a provincial safety manager the revocation or suspension of

a licence under this Act;

(b) review a decision of a safety officer appointed by the local government.

### **Powers of safety managers**

**17** (1) A safety manager may do any of the following:

(a) subject to the regulations,

(i) accept, with or without terms and conditions, an alternative safety approach,

(ii) vary the terms and conditions of, or impose new terms and conditions on, an alternative safety approach, and

(iii) suspend or cancel an alternative safety approach;

(b) impose a monetary penalty.

(2) In addition to the powers under subsection (1), a safety manager has the powers assigned by the regulations.

### **Powers of safety officers**

**18** (1) For the purposes of this Act and in the course of performing their duties, safety officers may exercise any or all of the following powers and any other powers assigned to them under the regulations:

(a) issue, suspend or revoke a permit under this Act;

(b) when issuing a permit, include terms and conditions;

(c) if satisfied that there are reasonable grounds to do so, enter any premises at any reasonable time for the purpose of

(i) inspecting regulated work, regulated products and records respecting regulated work or regulated products, or

(ii) investigating any incident;

(d) inspect all regulated products and regulated work found on any premises by a safety officer;

(e) require any regulated product that is being inspected to be started, turned on, put in motion, tested, used, operated, stopped or turned off for the purpose of its inspection by a safety officer;

(f) require the production to a safety officer of all plans and specifications a safety officer considers necessary for the inspection of any regulated work or regulated product that a safety officer is inspecting;

(g) after giving reasonable notice of the intention to do so, remove or take samples of or direct the removal of a regulated product or a part of a regulated product, or require any of them to be provided or delivered to a safety officer;

(h) require that the names and addresses of licensed contractors or other persons engaged to do regulated work be provided, together with a statement

setting out their qualifications, the nature of the work they do and when and where it is done;

(i) require that a person provide evidence that this Act and the regulations, and any safety order, compliance order, discipline order or decision of a provincial safety manager, a local safety manager or the appeal board is being, or has been, complied with;

(j) if the presence of a person is necessary in respect of a regulated product or regulated work about which the person has particular knowledge, on reasonable notice, require that a person come to a location at a specified time to answer oral or written questions;

(k) require that a person produce any record for inspection;

(l) require a person to produce for inspection any licence, permit, other permission, certificate or any other document issued under this Act to the person by the minister or a local government;

(m) temporarily remove a record to copy it;

(n) during or after completion of regulated work, require a certificate or affidavit, given by a person recognized by the regulations as having the authority to provide a certificate or affidavit, that the specified regulated work meets the requirements of this Act and the regulations;

(o) issue a compliance order;

(p) issue a variance;

(q) recommend that the appropriate safety manager impose a monetary penalty.

(2) A safety officer may require that a person provide information orally, in writing or by an affidavit.

(3) Despite any other provision under this Act, a safety officer may refuse to issue or may cancel or suspend any certificate, licence, permit or other permission under this Act if a person is delinquent in the payment of any fee, penalty or other money owed under this Act.

(4) If a safety officer considers that it is necessary to take immediate action in order to prevent, avoid or reduce a risk of personal injury or damage to property and there is no person who could carry out the action, a safety officer may take the necessary action and issue any safety order that could be made by a safety manager under section 31 (4).

## **Division 2 — Cooperation with Safety Managers and Safety Officers**

### **Disclosure, cooperation and assistance to safety managers and safety officers**

**19** (1) Every person who is subject to this Act and the regulations must cooperate with safety managers and safety officers in the performance of their duties, and provide to them any equipment or assistance that is reasonably necessary.

- (2) An owner and the person in charge of the premises must take all necessary precautions to ensure the safety of people and property while safety managers and safety officers carry out their duties.
- (3) A licensed contractor or other person performing regulated work must disclose to a safety manager or safety officer any regulated product or regulated work that creates a risk of personal injury or damage to property.
- (4) An employer must not dismiss, suspend, lay off, penalize, discipline or discriminate against any person if the reason for doing so is in any way related to the disclosure referred to in subsection (3).

### **Division 3 – Residential Electricity Information**

#### **Definitions**

**19.1** In this Division:

**"account information"** means

- (a) the name of the account holder with respect to,
- (b) the service address of and billing address for, and
- (c) the electricity consumption data with respect to,

a residence to which an electricity distributor distributes electricity;

**"electricity consumption data"** means available electricity consumption data

- (a) for the most recently completed billing period at the time a request is made under section 19.2 (1), and
- (b) for the previous 24-month billing period;

**"electricity distributor"** means

- (a) the British Columbia Hydro and Power Authority continued under the *Hydro and Power Authority Act*,
- (b) a public utility, within the meaning of the *Utilities Commission Act*, that owns or operates electricity equipment or facilities, and
- (c) a municipality that owns or operates electricity equipment or facilities and that would be a public utility within the meaning of the *Utilities Commission Act*, but for paragraph (c) of the definition of "public utility" in that Act;

**"residence"** means premises designed for use as a private dwelling, and any other building or structure adjacent to those premises that is intended for the private use of the owner or occupier of those premises;

**"residential electricity information"** means the available account information for all of the residences that

- (a) are within the jurisdictional boundaries of a local government that makes a request under section 19.2 (1), and

(b) according to the current records of the electricity distributor distributing electricity to the residences, are consuming electricity at a level within a range prescribed by regulation.

## **Residential electricity information**

**19.2** (1) A local government may request, in writing, from an electricity distributor the residential electricity information with respect to the residences within its jurisdictional boundaries.

(2) If an electricity distributor receives a request under subsection (1), the electricity distributor must provide that residential electricity information to the local government within a reasonable time.

(3) A local government that receives residential electricity information from an electricity distributor under this section may disclose account information derived from that residential electricity information, or a portion of that account information, to

(a) an authority to which the administration of the Act has been delegated under Part 2 or Part 12, and

(b) a provincial police force or a municipal police department, as those terms are defined in the *Police Act*.

## **Notice of inspection**

**19.3** (1) If, after receiving account information under section 19.2 (3), a safety officer intends on the basis of that information to exercise the power granted under section 18 (1) (c) and (d) with respect to a residence identified in the account information, the safety officer must give a notice to the owner or occupier of that residence.

(2) The notice under subsection (1) must

(a) be in writing,

(b) state the safety officer's intention to enter the residence and conduct an inspection, and the reasons for the intended entry and inspection,

(c) set out the date by which the owner or occupier must reply to the notice to arrange a date and time for the safety officer to enter the residence and conduct an inspection,

(d) set out how to reply to the notice, and

(e) state that the safety officer may issue a compliance order if the owner or occupier does not

(i) reply to the notice within 2 days of the date on which it was received,

(ii) within a reasonable time complete arrangements to the satisfaction of the safety officer for the safety officer to enter the residence and conduct an inspection, or

(iii) allow the safety officer to enter the residence at the arranged date and time.

## **Compliance with notice**

**19.4** An owner or occupier who receives a notice under section 19.3 (1) must

- (a) reply to the notice within 2 days of the date on which it was received,
- (b) within a reasonable time complete arrangements to the satisfaction of the safety officer for the safety officer to enter the residence and conduct an inspection, and
- (c) allow the safety officer to enter the residence at the arranged date and time.

## **Part 5 – Registry**

### **Information that may be recorded in the registry**

**20** (1) For the purpose of furthering safety in relation to regulated work and regulated products, the minister must designate a provincial safety manager as the registrar and must establish a registry to record the names of licensed contractors and former licensed contractors and any information required by this Act and the regulations, including the following:

- (a) each discipline defined in the regulations under section 2 (1) (c) in which each contractor is licensed to do regulated work;
- (b) the nature and scope of the regulated work a contractor is licensed to do and any terms and conditions imposed on the contractor or attached to their licences;
- (c) the status of their licences;
- (d) any compliance orders, monetary penalties or discipline orders issued to them, any convictions for offences under this Act and whether any amounts payable remain outstanding;
- (e) an address for each of them for the purpose of service of documents.

(2) The registrar is responsible for maintaining the registry and for carrying out any duties in respect of the registry under this Act.

(3) The registrar may remove the name of any of the following:

- (a) a licensed contractor or former licensed contractor if
  - (i) the licensed contractor or former licensed contractor is a corporation and the corporation is dissolved or struck off the register of companies, or
  - (ii) the licensed contractor or former licensed contractor is an individual and the individual dies or surrenders their licence;
- (b) a licensed contractor or a former licensed contractor if their licence is revoked or cancelled under a discipline order.

(4) A record of a compliance order, monetary penalty or discipline order that has been complied with, and any other information recorded in the registry, may be removed in accordance with the regulations.

(5) A person whose name is entered in the register under this section must provide the registrar with and keep the registrar informed of the person's current address for the purpose of service of documents.

### **Public access to registry information**

**21** (1) In this section, "**personal information**" means personal information as defined in the *Freedom of Information and Protection of Privacy Act* only in respect of the following individuals:

- (a) a licensed contractor;
- (b) a former licensed contractor.

(2) On the request of any person and on payment of any required fee, personal information recorded in the registry under section 20 (1) in respect of licensed contractors and former licensed contractors must be disclosed by the registrar, except the following information:

- (a) the details of a compliance order other than the existence of an order and the date of issue;
- (b) details of a discipline order other than the existence of a discipline order issued against a person, the date of issue, the reason for issuing it and any sanction contained in the order;
- (c) personal financial information;
- (d) any address.

(3) The registrar must not disclose personal information recorded under section 20 about a licensed contractor or a former licensed contractor

- (a) until the time for requesting a review under section 49 has expired, or if a review has been requested, the review has been completed, and
- (b) until the time for filing an appeal from the matter has expired or, if an appeal is filed, the appeal is disposed of or abandoned.

(4) Despite subsections (1) and (2), the registrar must not disclose whether a monetary penalty imposed on a licensed contractor or a former licensed contractor has been paid.

### **Administrators to record information in the registry**

**22** (1) The minister or a local government that administers this Act and the regulations may collect information necessary for

- (a) the issuing of any licence, permit, certificate, variance, safety order, discipline order or compliance order under this Act or other document required under this Act, or

(b) the evaluation of a proposed alternative safety approach.

(2) Any information collected under subsection (1) must be submitted to the registrar in a form specified by the registrar.

(3) The minister or a local government that

(a) issues a licence, permit, certificate, variance, safety order, discipline order or compliance order under this Act, or

(b) accepts an alternative safety approach

must submit a record of its issue or acceptance, and its contents, to the registrar in a form specified by the registrar.

(4) The minister or a local government that administers this Act and the regulations must not

(a) issue a permit or variance under this Act, or

(b) accept an alternative safety approach

unless the applicant or the proponent, as applicable, already holds an appropriate and current licence or other permission recorded in the registry.

## **Part 6 — Licensed Contractors and Certificates of Qualification**

### **Division 1 — Licensed Contractors**

#### **Licensing of contractors**

**23** (1) A person must not do any of the following unless licensed by a provincial safety manager or authorized to do so under this Act:

(a) manage or direct individuals doing regulated work;

(b) do regulated work for another person who is not a licensed contractor.

(2) If a person pays the required application fee and meets the prescribed requirements for licensing, the person must be issued a licence for each discipline defined in the regulations under section 2 (1) (c) for which the person qualifies.

(3) A licence issued under subsection (2)

(a) may specify the regulated work that the licensed contractor may do, and

(b) is subject to terms and conditions provided for under the regulations or attached by a safety manager.

(4) A person who holds a licence issued under this section must comply with the terms and conditions of the licence.

(5) A provincial safety manager may examine the person's qualifications and the qualifications of the person's employees and determine the scope of the contractor's licence.

(6) For the purposes of subsection (5), a provincial safety manager may devise and

administer examinations.

(7) If, in the opinion of a provincial safety manager, the person does not meet the requirements for a licence or if the licence is issued with terms or conditions attached to it under subsection (3) (b) that are not requested or agreed to by the person, the provincial safety manager must give the person written notice of that decision.

(8) The notice must state the reasons for the decision and that the person has the right to appeal the decision to the appeal board.

### **Duties and entitlements of a licensed contractor**

**24** (1) A contractor is entitled to engage in the regulated work for which the contractor is licensed.

(2) A licensed contractor must not

(a) manage or do regulated work that is

(i) outside the scope of the licence,

(ii) contrary to any term or condition of the licence, or

(iii) contrary to any term or condition imposed by the regulations on the use of the licence, or

(b) permit regulated work to be undertaken by persons under the control of the licensed contractor if they are not authorized under this Act.

(3) A licensed contractor must

(a) maintain current knowledge of this Act, relevant regulations, relevant directives, relevant safety orders and any other relevant material that the minister makes publicly available, and

(b) ensure that individuals who do regulated work for the licensed contractor maintain similar current knowledge.

### **Maintaining and renewing licenses**

**25** (1) A licensed contractor must do all of the following in accordance with the regulations:

(a) maintain any bond, guarantee, warranty, insurance or other form of security, as required by the regulations, with respect to regulated work;

(b) before a licence is renewed or reissued, pay any unpaid penalty, costs, interest or other charge imposed under this Act, unless some other arrangement for payment has been made that is satisfactory to a provincial safety manager.

(2) If any amount referred to in subsection (1) (b) has not been paid, a renewal or reissue of any licence may be refused.

(3) Subsection (2) does not apply to a monetary penalty while the penalty is the subject of an appeal.

(4) Unless a provincial safety manager otherwise directs, the licence of a licensed

contractor is automatically suspended without notice if the licensed contractor fails to renew the licence on or before the date indicated in the licence.

(5) The automatic suspension of a licence ends as soon as the licence is renewed.

## **Division 2 – Certificate of Qualification**

### **Certificate of qualification**

**26** (1) An individual who wishes to be certified as qualified to perform regulated work may, in accordance with the regulations, apply to a provincial safety manager for a certificate of qualification in one or more disciplines as defined in the regulations under section 2 (1) (c).

(2) An applicant who pays the required application fee and meets the requirements of the regulations for a certificate of qualification must be issued a certificate of qualification in each discipline for which the applicant is qualified.

(3) A provincial safety manager must examine the applicant's qualifications and determine their level or category of qualification and for that purpose may devise and administer tests.

(4) If, in the opinion of a provincial safety manager, the applicant does not meet the requirements under the regulations for a certificate of qualification, the provincial safety manager must give the applicant written notice of that decision.

(5) The notice must state the reasons for the decision and that the applicant has the right to appeal the decision to the appeal board.

## **Part 7 – Administration and Enforcement**

### **Division 1 – Issue of Permissions**

#### **Issue of permissions**

**27** (1) If required under this Act, a person must obtain a permission to undertake regulated work or use a regulated product.

(2) If a person applies for a permit, certificate or other permission and a safety manager or safety officer refuses to issue it, or issues it with terms or conditions attached to it that are not requested or agreed to by the applicant, the safety manager or safety officer who deals with the application must inform the applicant and, if the applicant requests written notice, give the applicant written notice of that decision.

(3) A permission issued under subsection (1) is subject to terms and conditions provided for under the regulations or attached to the permission by a safety manager or safety officer.

(4) A person who holds a permit issued under this section must comply with the terms and conditions of the permit.

(5) A written notice under subsection (2) must state the reasons for the decision and

that the applicant has the right to make a written request for a review by a safety manager under section 49 or to appeal to the appeal board.

(6) A permit, certificate or other permission issued under this section may be renewed.

### **Operating permits**

**28** (1) In accordance with the regulations, a safety officer may issue an operating permit that allows the use of a regulated product listed in section 2 (1) (b) for one or more disciplines.

(2) A permit issued under subsection (1) is subject to terms and conditions provided for under the regulations or attached to the permit by a safety officer.

(3) An operating permit may be issued for a term up to 5 years.

(4) A person who holds a permit issued under this section must comply with the terms and conditions of the permit.

(5) A person who holds an operating permit must ensure that individuals who do regulated work under the permit maintain current knowledge of this Act, relevant regulations, relevant directives, relevant safety orders and any other relevant material that the minister makes publicly available.

(6) A person who holds an operating permit must not allow regulated work to be undertaken by persons under the permit unless they are authorized under this Act.

### **Discretion whether to inspect after issue of permit**

**29** Except as otherwise provided under this Act a safety officer is not required to inspect regulated work or a regulated product solely because a permit was issued in respect of the regulated work or regulated product.

## **Division 2 – Directives, Safety Orders and Variances**

### **Directives**

**30** (1) A provincial safety manager may, in writing, on their own initiative or if requested by any person, issue a directive on the interpretation, application or operation of this Act and the regulations.

(2) The directive may be issued

(a) generally,

(b) for a specific regulated product or class of regulated products,

(c) for specific regulated work or class of regulated work,

(d) for a class of persons, or

(e) for or in relation to a specified period of time.

(3) The provincial safety manager must make reasonable efforts to notify all persons affected by a directive.

(4) If there is a conflict between a regulation and a directive of a provincial safety manager, the regulation prevails.

(5) A directive may be given in advance of an application for a permit, certificate or other permission required under this Act.

## **Safety orders**

**31** (1) To prevent, avoid or reduce risk of personal injury or damage to property, a provincial safety manager may, in writing, issue a safety order.

(2) A safety order may be issued to any person in relation to any of the following:

(a) regulated work or regulated products generally;

(b) a specific class of regulated product or regulated work;

(c) a specific regulated product or regulated work.

(3) For certainty, a safety order issued under this section may apply to

(a) regulated work that meets the requirements under this Act,

(b) regulated work that previously met the requirements under this Act or a former Act but does not meet the current requirements under this Act,

(c) regulated products that meet the requirements under this Act, or

(d) regulated products that previously met the requirements under this Act or a former Act but do not meet the current requirements under this Act, including a regulated product that bears a certification mark.

(4) A safety order may specify any requirement that is intended to prevent, avoid or reduce the risk of personal injury or damage to property and may include any of the following orders:

(a) that an existing regulated work or regulated product must be made safe in compliance with the safety order;

(b) that a regulated product must be

(i) disconnected from a power source,

(ii) uninstalled, or

(iii) modified before continued use;

(c) that a regulated product must be operated, installed, manufactured or disposed of only as specified or that a regulated product must not be moved;

(d) that current or future regulated work or a regulated product must conform to the terms or conditions of the order;

(e) that a person take or refrain from taking any action that a safety manager considers necessary to prevent, avoid or reduce a risk of personal injury to persons or damage to property;

(f) that the manufacturer make reasonable efforts to recall the regulated product.

(5) The provincial safety manager must give written notice of the safety order to the following persons:

- (a) the manufacturer of the regulated product;
- (b) an owner of the regulated product if the identity of the owner is known to the provincial safety manager;
- (c) the person in charge of the regulated work.

(6) The notice must state the reasons for the decision and that the person has the right to appeal the decision to the appeal board.

(7) Despite section 54, a safety order may not be stayed during an appeal.

## **Variances**

**32** (1) A safety officer may, if requested by any person, issue, in writing, a variance to the person varying the application of a provision of the regulations with respect to a regulated product or regulated work.

(2) A variance may

- (a) be made subject to terms and conditions specified by the safety officer, and
- (b) continue for a specified period of time.

(3) If the person who holds a variance complies with the terms and conditions of the variance, the person must be considered to be in compliance with the regulation that it varies.

(4) If a person applies for a variance and a safety officer refuses to issue it, or issues it with terms or conditions attached to it that are not requested or agreed to by the applicant, the safety officer who deals with the application must inform the applicant and, if the applicant requests written notice, give the applicant written notice of that decision.

(5) A written notice under subsection (4) must state the reasons for the decision and that the applicant has the right to make a written request for a review by a safety manager.

(6) A decision of a safety manager on a review of a decision under subsection (4) is not appealable to the appeal board.

## **Division 3 — Alternative Safety Approaches**

### **Alternative safety approaches**

**33** (1) A proposal for an alternative safety approach must be submitted to a safety manager in the form and in the manner acceptable to the safety manager.

(2) In accordance with the regulations and sections 34 and 35, a safety manager may accept a proposed alternative safety approach if

- (a) the safety manager considers that the proposed alternative safety

approach limits the risk of personal injury or damage to property to a level that is consistent with the objectives of this Act and the regulations made under it, and

(b) in all the circumstances, the safety manager is satisfied that the proposed alternative safety approach should be accepted.

(3) If a safety manager accepts an alternative safety approach,

(a) the proponent is exempt from one or more requirements of the regulations as set out in the alternative safety approach, if any, except as modified by the safety manager,

(b) the exemption under paragraph (a) continues for the time set out in the alternative safety approach, except

(i) as modified by the safety manager,

(ii) during any period the alternative safety approach is suspended, or

(iii) if the alternative safety approach is cancelled, and

(c) any matter addressed in the alternative safety approach may be inspected for the purpose of determining the following:

(i) whether the proponent is complying with the requirements, terms and conditions of the alternative safety approach;

(ii) the extent to which the alternative safety approach is meeting the objectives of this Act and the regulations made under it.

(4) The proponent of an accepted alternative safety approach is responsible for ensuring that persons who undertake regulated work or use a regulated product that is the subject of the alternative safety approach comply with the requirements, terms and conditions of that alternative safety approach.

(5) If a safety manager refuses to accept, or suspends or cancels, an alternative safety approach,

(a) the safety manager must provide the proponent, on the proponent's request, with written reasons for the refusal, suspension or cancellation, and

(b) the refusal, suspension or cancellation is not appealable to the appeal board.

### **When a provincial safety manager may accept an alternative safety approach**

**34** (1) Unless section 35 (1) applies, a provincial safety manager may accept an alternative safety approach that applies to any area of British Columbia, including an area in which this Act and the regulations are administered by a local government.

(2) A provincial safety manager may accept an alternative safety approach that applies to more than one discipline as defined by regulation under section 2 (c).

(3) A provincial safety manager may accept an alternative safety approach if more than one administrator would have administrative responsibility for the alternative safety approach because it relates to more than one site.

- (4) For the purposes of subsection (3), "**administrator**" means either of the following:
- (a) the minister;
  - (b) a local government to which administration of this Act and the regulations is delegated under section 5.

### **When a local safety manager may accept an alternative safety approach**

- 35** (1) A local safety manager may only accept an alternative safety approach that
- (a) applies within that local government area, and
  - (b) applies to disciplines that are administered by that local government.
- (2) Even if a local safety manager could accept an alternative safety approach under subsection (1), the local safety manager may refer a request to accept an alternative safety approach to a provincial safety manager.
- (3) On a referral under subsection (2), a provincial safety manager may
- (a) accept an alternative safety approach as if the request had been made under section 33 and, if so, that section applies as if the alternative safety approach did not relate to a local government area, or
  - (b) refuse to accept an alternative safety approach.

## **Division 4 — Incident Reports and Investigations**

### **Reporting incidents**

- 36** (1) As soon as practicable after an incident occurs, the person in charge of the regulated product or regulated work, the owner of the regulated product and any other person specified by regulation are responsible for reporting the incident, in accordance with the regulations, to the appropriate safety manager.
- (2) A person must not remove, disturb or interfere with anything in, on or about the place where the incident occurred except for the following:
- (a) as is necessary to rescue a person, to prevent personal injury or death or to protect property;
  - (b) in accordance with the regulations;
  - (c) in accordance with the directions of a safety officer or safety manager.

### **Investigating incidents**

- 37** (1) Whether or not the incident was reported, a safety officer may investigate an incident.
- (2) A provincial safety manager may appoint persons to assist in the investigation of an incident.
- (3) A person appointed under subsection (2), for the purposes of assisting in the investigation,

- (a) has all the powers of a safety officer under section 18 (1) (c) to (n) and (2), and
- (b) must report on the investigation to the provincial safety manager who appointed the person.

## **Division 5 – Enforcement**

### **Compliance orders**

**38** (1) A safety officer may, in writing, issue to a person a compliance order under this section if

- (a) in the opinion of the safety officer there is a risk of personal injury or damage to property because
  - (i) regulated work is being carried out in a manner that does not comply with this Act and the regulations, or a requirement, term or condition of an alternative safety approach, or
  - (ii) a regulated product is being used or disposed of in a manner that does not comply with this Act and the regulations,
- (b) a person
  - (i) fails to comply with a requirement of a safety officer or safety manager who is carrying out duties assigned under this Act, or
  - (ii) obstructs, hinders, delays or fails to cooperate with or provide necessary assistance to a safety officer or safety manager who is carrying out duties assigned under this Act, or
- (c) a person fails to comply with this Act and regulations.

(2) A compliance order under subsection (1) must

- (a) name the person to whom the order is addressed,
- (b) specify the action to be taken, stopped or modified,
- (c) state the reasons for the order,
- (d) state that the person may, in writing, request a review by a safety manager under section 49 or may appeal to the appeal board,
- (e) be dated the day the order is made, and
- (f) be served on the person to whom it is addressed.

(3) Without limiting subsection (2) (b), a compliance order may specify any of the following requirements:

- (a) that regulated work be stopped, or that practices involving the regulated work be modified;
- (b) that a regulated product be stopped, closed down or disconnected from energy sources, or that practices involving the regulated product be modified;
- (c) that advertising, display or disposal of a regulated product be stopped;

(d) that any other action by a person be taken, modified or stopped if necessary to prevent, avoid or reduce risk of personal injury or damage to property.

(4) A safety officer may amend a compliance order and subsection (2) applies.

(5) If satisfied that the circumstances that gave rise to a compliance order are no longer present, a safety officer may terminate the compliance order by providing the person to whom the order is addressed with written permission to resume the work or activity detailed in the order.

(6) Regulated work or a regulated product that has been closed down, stopped, disconnected or turned off must not be started, reconnected or turned on again except

(a) as provided for in the order, or

(b) with written permission of a safety officer.

### **Court ordered compliance**

**39** (1) If a person refuses or fails to comply with a safety order under section 31 or a compliance order under section 38, a safety manager may apply to the Supreme Court for an order to direct compliance with the safety order or compliance order.

(2) The court may order that the safety order or compliance order be complied with, on any conditions the court considers necessary, and the order takes precedence over any decision of a safety manager or the appeal board.

### **Monetary penalty**

**40** (1) A safety manager may, in accordance with the regulations, impose a monetary penalty on a person who fails to comply with any of the following:

(a) a provision of this Act or a regulation, the contravention of which is stated in the regulations to make the person liable to a monetary penalty;

(b) a compliance order;

(c) a discipline order;

(d) a safety order;

(e) a term or condition of a licence, permit, certificate or variance;

(f) a requirement, term or condition of an alternative safety approach.

(2) A monetary penalty may be

(a) a single amount, or

(b) an amount for each day that the contravention continues.

(3) If, in the opinion of the safety manager, a person who is the subject of a monetary penalty under subsection (2) (b) is taking reasonable measures to bring the regulated work or regulated product into compliance, the safety manager may, in writing, suspend the application of the daily penalty.

(4) The total amount imposed on a person under this section for a contravention must not be greater than \$100 000.

(5) If a monetary penalty is recommended by a safety officer, the safety officer must serve notice on the person who may be liable to the monetary penalty.

(6) If a recommendation under subsection (5) is dismissed by a safety manager the safety manager must serve notice of the dismissal on the person named in the recommendation.

(7) If a monetary penalty is imposed on a person by a safety manager under this section, the safety manager must serve notice on the person.

(8) A notice under subsection (5) must state the following:

(a) the name of the person liable to pay the monetary penalty;

(b) the reasons for recommending the monetary penalty.

(9) A notice under subsection (6) or (7) must state the following:

(a) the name of the person liable to pay the monetary penalty;

(b) if a monetary penalty is imposed,

(i) the reasons for imposing the monetary penalty;

(ii) the time at which the monetary penalty is to take effect;

(iii) the amount of the proposed monetary penalty and whether it is imposed as a single amount or as an amount for each day the contravention continues;

(iv) the date by which the monetary penalty is to be paid;

(v) a statement that the person liable to pay the monetary penalty may appeal the imposition of the penalty to the appeal board.

(10) A person subject to a monetary penalty under this section must pay the amount of the penalty

(a) if it is imposed by a provincial safety manager, to the minister, or

(b) if it is imposed by a local safety manager, to the local government.

(11) If a monetary penalty is reduced or cancelled on appeal, the amount to be returned to the person must include interest at the rate set under the *Financial Administration Act*.

(12) If a corporation is liable to pay a monetary penalty imposed under this section, every director, officer, or other person who authorizes, permits or acquiesces in the contravention is personally liable for the penalty.

(13) A monetary penalty imposed under this section must be paid

(a) within 30 days after the date on which the notice referred to in subsection (7) is served on the person or within a longer time specified by a safety manager, or

(b) if there is an appeal respecting the monetary penalty, within 30 days after the amount of a monetary penalty is determined by the appeal board or within

a longer time specified by the appeal board.

## **Enforcement of monetary penalties**

**41** (1) When the appeal period has expired or the appeal board has dismissed the appeal,

(a) the monetary penalty constitutes a debt payable by the person on whom the penalty is imposed, and

(b) a safety manager may enforce the monetary penalty by filing with the Supreme Court or Provincial Court a certified copy of the notice imposing the monetary penalty and on being filed all proceedings may be taken on it as if it were a judgment of that court.

(2) If the appeal board varies a monetary penalty, subsection (1) applies to the monetary penalty as if the order of the appeal board were the notice referred to in subsection (1) (b).

## **Discipline orders**

**42** (1) A provincial safety manager may, in writing, on their own initiative or if requested by a safety officer or local safety manager, issue a discipline order to any person performing regulated work who

(a) is in breach of a condition of, or restriction on, any licence or permission, whether stated in the licence or permission or stated in the regulations,

(b) practises in a discipline under this Act for which the contractor is not licensed, or undertakes regulated work that the individual or contractor is not qualified to undertake,

(c) fails to comply with a compliance order,

(d) fails to comply with a safety order,

(e) fails to comply with a requirement, term or condition of an alternative safety approach, or

(f) is convicted of an offence under this Act.

(2) A discipline order under subsection (1) must

(a) name the person to whom the order is addressed,

(b) state the sanction imposed by the order,

(c) state the reasons for the order,

(d) state that the person affected may appeal the order to the appeal board,

(d.1) be dated the day the order is made,

(e) be signed by the provincial safety manager, and

(f) be served on the person named in the order.

(3) A discipline order under subsection (1) may impose any sanction that the provincial safety manager considers necessary in the circumstances, including any of the following

orders:

- (a) an order suspending or revoking the licence of a licensed contractor or revoking any permission granted to any person;
- (b) an order changing the terms or conditions of, or attaching additional terms or conditions to, the certificate of qualification of an individual or the licence of a licensed contractor;
- (c) an order requiring that any person performing regulated work act only under supervision or as directed in the order.

(4) Despite subsection (3), a discipline order may allow a person whose permission to do regulated work has been suspended under this section to undertake regulated work in order to bring non-complying regulated work into compliance.

## **Part 8 – Safety Standards Appeal Board**

### **Appeal board established**

**43** (1) The Safety Standards Appeal Board is established consisting of

- (a) a member appointed by the minister as the chair after a merit based process, and
- (b) members appointed by the minister after a merit based process and consultation with the chair.

(2) The minister may designate one or more members of the board as vice chair after consultation with the chair.

### **Application of *Administrative Tribunals Act***

**44** Sections 1 to 22, 24, 26 to 30, 31 (1) (a) to (e), (2) and (3), 32, 33, 34 (3) and (4), 35 to 42, 44, 46.3, 47 to 58, 60 and 61 of the *Administrative Tribunals Act* apply to the appeal board.

### **Impartiality of appeal board**

**45** Members of the appeal board must faithfully, honestly and impartially perform their duties and must not, except in the proper performance of those duties, disclose to any person any information obtained as members.

### **Repealed**

**46** [Repealed 2004-45-157.]

### **Repealed**

**47** [Repealed 2003-47-59.]

### **Repealed**

## **Part 9 — Review and Appeal Process**

### **Division 1 — Request for Review**

#### **Review of safety officer's decision**

**49** (1) Within 30 days of the date of a safety officer's decision, a person who is served with written notice of the decision may, in writing, request a review by a safety manager of the safety officer's decision and must state the reason for the request.

(2) A safety manager may allow any other person affected by a decision referred to in subsection (1) to request a review by the safety manager of the safety officer's decision.

(3) A decision of a safety manager under subsection (2) refusing a request for a review is not appealable to the appeal board.

(4) A request under subsection (1) or (2) must be made

(a) if the decision was made by a safety officer appointed by a local government, to a local safety manager, or

(b) if the decision was made by a safety officer appointed by the minister, to a provincial safety manager.

(5) A safety manager who receives a request for review may refer the matter directly to the appeal board.

(6) On the safety manager's own initiative within 30 days of the service of a safety officer's decision, a safety manager may review a decision of a safety officer that could be reviewed under subsection (1) by serving notice of the intention to do so on the safety officer and the person who has a right to request a review of the decision, and section 50 applies.

#### **Safety manager's decision**

**50** (1) Unless the safety manager refers the matter to the appeal board under section 49 (5), a safety manager must, as soon as practicable after receiving a request under section 49 or initiating a review under section 49 (6), review the safety officer's decision.

(2) The safety manager

(a) must hear the submissions of the person who requests a review of a safety officer's decision,

(b) may review the matter on the basis of documents only, or may make any investigation of the matter that the safety manager considers necessary,

(c) may, by written order with reasons, confirm, vary or reverse the safety officer's decision, substitute a decision or refer the matter back to the safety officer with or without directions,

(d) must serve notice of the order on the person who makes a request under section 49, and

(e) must provide a copy of the order to the safety officer.

(3) The notice under subsection (2) (d) must state the reasons for the safety manager's decision and that the person who requested the review has the right to appeal the decision to the appeal board.

## **Division 2 — Appeals to the Safety Standards Appeal Board**

### **Right to appeal**

**51** (1) [Repealed 2004-45-157.]

(2) If a safety manager makes a decision that could otherwise have been made by a safety officer, a person who would have a right to a review under section 49 has instead a right to appeal the decision to the appeal board.

(3) [Repealed 2004-45-157.]

(4) The appeal board must decide

(a) who is a party to the appeal.

(b) [Repealed 2004-45-158.]

(5) The appeal board must serve notice of the date, time and place of the hearing to the parties to the appeal, any intervenors and any other person it considers to be sufficiently interested in the appeal.

### **Jurisdiction of the appeal board**

**52** (1) When hearing appeals the appeal board must consider the maintenance and enhancement of public safety.

(2) Unless an appeal is withdrawn, the parties otherwise agree, or the appeal is resolved in another way, the appeal board must hear an appeal as soon as practicable after receiving the appeal.

### **Nature of appeal**

**53** An appeal is a new hearing unless the appeal board otherwise recommends and the parties to the appeal agree.

### **Appeal does not operate as a stay unless appeal board otherwise orders**

**54** (1) The commencement of an appeal does not operate as a stay or suspend the operation of the decision being appealed unless the appeal board orders otherwise.

(2) On application, the appeal board, a panel or a member of the board may order that the decision being appealed is stayed for a period of time or subject to conditions, or both.

(3) Subsection (2) does not apply if an application under section 39 to the Supreme Court to enforce an order for compliance has been made in respect of the decision under appeal.

## **Repealed**

**55–58** [Repealed 2004-45-159.]

## **Appeal board's hearing**

**59** The appeal board must decide the matter by confirming, varying or reversing the decision or by dismissing the appeal.

## **Decision of appeal board is final**

**60** (1) The appeal board has exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal under this Act and to make any order permitted to be made.

(2) A decision or order of the appeal board on a matter in respect of which the appeal board has exclusive jurisdiction is final and conclusive and is not open to question or review in any court.

## **Repealed**

**61** [Repealed 2004-45-159.]

## **Enforcement of appeal board orders**

**62** A certified copy of an order of the appeal board may be filed in the Supreme Court by a safety manager or the applicant and on being filed all proceedings may be taken on it, as if it were an order of the Supreme Court.

# **Part 10 — Prohibitions, Offences and Penalties**

## **Division 1 — Prohibitions**

### **General prohibitions**

**63** A person must not do any of the following:

(a) assemble, manufacture, construct, test, install, operate, use, dispose of, maintain, repair or alter a regulated product contrary to this Act and the regulations;

(b) if the regulations require a person to obtain a permit, certificate or other permission before starting regulated work, do, or continue to do, the regulated work without the required permit, certificate or permission;

(c) if the regulations require a person to obtain a permit, certificate or other permission before using or operating a regulated product, use or operate, or

continue to use or operate, the regulated product without the required permit, certificate or permission;

(d) contravene a term or condition of a permit, a certificate or other permission or a licence;

(e) contravene a requirement, term or condition of an alternative safety approach.

### **Assembly, construction or installation of regulated products**

**64** A person must not assemble, construct or install a regulated product unless that person is

(a) a licensed contractor, or

(b) authorized to do so under this Act.

### **Testing of regulated products**

**65** A person must not test a regulated product unless that person is

(a) a licensed contractor,

(b) acting under the authority of a certification agency,

(c) a safety officer or safety manager, or a person authorized by a safety officer or safety manager, or

(d) authorized to do so under this Act.

### **Maintenance and repair of regulated products**

**66** A person must not maintain or repair a regulated product unless that person is

(a) a licensed contractor, or

(b) authorized to do so under this Act.

### **Additions to a regulated product**

**67** A person must not assemble, construct or install an addition to, or add anything to, a regulated product unless that person is

(a) a licensed contractor, or

(b) authorized to do so under this Act.

### **Alteration of regulated products**

**68** (1) A person must not alter a regulated product if the alteration would or is likely to

(a) result in the product ceasing to meet the requirements of the regulations, or

(b) result in the product ceasing to meet the standards

- (i) required to be met by the certification agency, or any successor of that agency, that authorized the use of a certification mark for the regulated product, or
- (ii) applied to that regulated product by a provincial safety manager in issuing an approval under section 10.

(2) If an alteration to a regulated product is permitted under subsection (1), a person must not do the alteration unless that person is

- (a) a licensed contractor,
- (b) authorized to do so under this Act, or
- (c) approved by the appropriate safety manager if the safety manager is satisfied that the person is capable of safely doing the alteration.

### **Operation and use of regulated products**

**69** (1) If required by the regulations, a person must not operate a regulated product unless that person is

- (a) a licensed contractor,
- (b) authorized to do so under this Act, or
- (c) any other person approved by the appropriate safety manager if the safety manager is satisfied that the person is capable of safely operating the regulated product.

(2) A person must not use or possess a regulated product unless

- (a) it bears a certification mark,
- (b) the regulations provide for notice of the certification to be posted on the premises where the regulated product is found and the notice of the certification is posted, or
- (c) it is exempted by regulation for the purposes of this section.

(3) A person must not use a regulated product in a manner that is unsafe or that creates a risk of personal injury or damage to property.

### **Disposal of regulated products**

**70** (1) A person must not display, have available for disposal, advertise for disposal or dispose of a regulated product unless it bears a certification mark.

(2) A person must not display, have available for disposal, advertise for disposal or dispose of a regulated product knowing that, if the product were used or operated normally, it would or could be unsafe, or create a risk of personal injury or damage to property.

(3) Subsection (2) applies even if the regulated product bears a certification mark.

(4) If required by the regulations, a record of every regulated product that is disposed of must be kept in accordance with the regulations.

## **Regulated work**

**71** A person must not do regulated work unless the person is

- (a) a licensed contractor, or
- (b) authorized to do so under this Act.

## **Division 2 — Offences**

### **Offences**

**72** (1) A person who does any of the following commits an offence:

- (a) contravenes, or fails to comply with, section 19 (4), 23 (1) or 36 (2) or any of sections 63 to 71;
- (b) obstructs a safety officer or safety manager in the exercise of their powers or the performance of their duties;
- (c) contravenes, or fails to comply with, a compliance order, a safety order or discipline order;
- (d) contravenes, or fails to comply with, an order of the appeal board;
- (e) contravenes, or fails to comply with, any provision of the regulations, the contravention of which is stated in the regulations or in this Act to be an offence;
- (f) knowingly furnishes false information in
  - (i) any application under this Act,
  - (ii) any statement or return required to be furnished under this Act, or
  - (iii) any proposal for an alternative safety approach under this Act.

(2) For the purposes of subsection (1) (b), a person obstructs a safety officer or safety manager if the person does any of the following:

- (a) intentionally hinders or delays the safety officer or safety manager;
- (b) fails to comply, as soon as practicable, with any valid request or requirement of the safety officer or safety manager;
- (c) fails to attend, without reasonable excuse, at a place and time specified by the safety officer or safety manager under section 18 (1) (j);
- (d) gives false or misleading information to a safety officer or a safety manager;
- (e) fails to answer, without reasonable excuse, an oral or written question that the person is able to answer;
- (f) fails to produce for inspection a record required to be produced by the safety officer or safety manager.

## **Creating unsafe conditions and condoning prohibited activities**

**73** (1) A person commits an offence who engages in any activity, practice or conduct that creates or may create an unsafe regulated product or causes or may cause unsafe regulated work.

(2) A person commits an offence who requires, authorizes, allows, counsels, condones or acquiesces in any of the following:

(a) any activity, practice or conduct that is an offence under this Act;

(b) any activity, practice or conduct that creates or may create an unsafe regulated product or causes or may cause unsafe regulated work;

(c) an individual or licensed contractor doing regulated work for which the individual is not appropriately qualified or the contractor is not licensed.

### **Tampering with certification or product approval mark**

**74** (1) A person commits an offence who removes, interferes with, changes, defaces or tampers with a certification mark or a product approval mark under section 9 or 10 (2) without approval.

(2) In this section, "**approval**" means the approval of an appropriate certification agency, a successor of that agency or a safety manager, as the case may be, that authorized the use of a certification or approval mark for a regulated product.

### **Offences by corporations**

**75** (1) If a corporation commits an offence under this Act, an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence also commits that offence, whether or not the corporation is prosecuted or convicted.

(2) In a prosecution for an offence under or arising out of sections 72 to 74, it is sufficient proof of the offence to establish that it was committed by an employee, officer, director or agent of the defendant.

(3) Subsection (2) applies whether or not the employee, officer, director or agent is identified or has been prosecuted for the offence, but that subsection does not apply if the defendant establishes that

(a) the offence was committed without the defendant's knowledge or consent,  
or

(b) the defendant exercised due diligence to prevent commission of the offence.

### **Offence Act**

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

### **Limitation period for starting proceedings**

**77** A prosecution of an offence under this Act may not be commenced more than one year after the facts on which the proceeding is based first come to the knowledge of a safety

officer or safety manager.

## **Division 3 – Penalties**

### **Penalty**

- 78** (1) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$100 000 or to imprisonment for not more than 18 months, or to both.
- (2) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$200 000.
- (3) In the case of a continuing offence, an individual who commits the offence is liable to a further penalty of not more than \$5 000 for each day during which the offence continues.
- (4) In the case of a continuing offence, a corporation that commits the offence is liable to a further penalty of not more than \$10 000 for each day during which the offence continues.

### **Remedial orders**

- 79** In addition to any fine imposed on a person, the court may order that the person take or cease taking any action as the court directs and may make any remedial or other order that the court considers appropriate.

## **Part 11 – General**

### **How to serve documents and notices**

- 80** (1) If this Act or the regulations require or authorize an order, notice, decision or other document to be given or served, it may be served in the following manner:
- (a) on a licensed contractor or other individual whose address is recorded in the registry, by ordinary mail or by delivery to that address;
  - (b) on a person whose address is not recorded in the registry, by ordinary mail or by delivery to an address for service provided by the person for that purpose or to an address obtained under section 19.2;
  - (c) personally, by leaving it with the individual to whom it is addressed;
  - (d) if the person to be served is a corporation, by leaving the document at, or mailing it by registered mail to, the registered office of the corporation or by personally serving a director or officer of the corporation;
  - (e) by registered mail addressed to the person to be served;
  - (f) by any other method specified by the court under subsection (3).
- (2) If a decision or other document is served
- (a) under subsection (1) (a) or (b) by leaving it at the address for service, the document is deemed to have been received 3 days after it was delivered to

that address,

(b) under subsection (1) (d) by leaving it at the registered office of the corporation, the corporation is deemed to have received the document 3 days after it was left at the registered office, and

(c) by ordinary mail or registered mail, the person to whom it is addressed is deemed to have received the document on the 14th day after deposit of the mail in the Canada Post Office at any place in Canada.

- (3) On application by any person, the Supreme Court may, for the purposes of this Act,
- (a) give directions on how to give notice to, or serve a document on, a person, or
  - (b) dispense with service of the document if the court is satisfied that the person already has actual notice of the contents of the document and is avoiding service.
- (4) If the court makes an order dispensing with service of the document, the document takes effect without being served.

## **Advisory bodies**

**81** (1) The minister may establish, by order, one or more advisory bodies.

(2) An advisory body's duties include providing advice to the minister on safety, safety standards, qualification and licensing, enforcement and other matters specified by the minister.

(3) For each advisory body, the minister may do one or more of the following:

- (a) appoint members;
- (b) designate a chair of the advisory body.

(4) The minister must reimburse members for reasonable expenses incurred in carrying out their duties.

## **Part 12 — Delegation of Administration**

### **Definitions for this Part**

**82** In this Part:

**"administrative agreement"** means an agreement under section 83;

**"authority"** means a person to which administration is delegated or is to be delegated in a regulation under section 84.

### **Administrative agreement with an authority required**

**83** (1) The minister may enter into an administrative agreement with an authority to administer provisions of this Act and the regulations.

- (2) An administrative agreement must include provisions that specify all of the following:
- (a) the expected safety outcomes to be achieved by the authority in its administration of this Act and the regulations;
  - (b) the performance objectives of the authority;
  - (c) the acceptance by the authority of the responsibility to administer powers delegated to the authority under section 84 (1);
  - (d) the terms for financial arrangements between the authority and the government including the collection and payment of fees due to the authority or the government and any other financial transitional matters;
  - (e) the right of access of the authority to records created by the government and the right of access of the government to records created by the authority;
  - (f) the requirements for records management by the authority;
  - (g) the requirements that the authority report to the government any matters in respect of the operation of powers administered by the authority under this Act;
  - (h) a requirement that the authority carry adequate insurance;
  - (i) provisions for indemnification between the authority and the government;
  - (j) the obligations of the parties if the agreement is terminated;
  - (k) the time period of the agreement or the procedure for the review of the agreement by the authority and the government;
  - (l) that the authority establish and implement an administrative code of fair conduct;
  - (m) provisions for the settlement of disputes;
  - (n) a specification of the liability of the authority arising out of the authority carrying out its administration of this Act and the regulations.

### **Power to delegate administration of Act to an authority**

**84** (1) If the minister enters into an administrative agreement with an authority, the Lieutenant Governor in Council may, by regulation, delegate to that authority the administration of any of the provisions of this Act and the regulations except a power to make regulations.

(2) If an amendment to the delegation regulation could substantively affect an administrative agreement, the minister must give reasonable notice to the authority of the proposed amendment and must consult on it with the authority.

(3) If the Lieutenant Governor in Council repeals a regulation under subsection (1), the administrative agreement is terminated.

### **Delegation does not make an authority an agent of the government**

**85** An authority to which the administration of any of the provisions of this Act and the

regulations are delegated under section 84 is not an agent of the government for the purpose of that administration.

### **Power of an authority to set fees for matters under its administration**

**86** (1) Despite any power of the Lieutenant Governor in Council or the minister to prescribe fees for matters under the administration of the government, an authority may set fees in accordance with a fee setting process established by the authority for any matter required under the authority's administration.

(2) The fee setting process established under subsection (1) must be in accordance with criteria that are established by the minister by regulation.

### **Power to order an audit**

**87** The Lieutenant Governor in Council may direct a person to conduct an audit of the authority to which administration is delegated under section 84.

## **Part 13 – Regulation-making Authority**

### **Minister's power to make regulations**

**88** (1) The minister may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the minister may make regulations as follows:

- (a) defining any term or word used but not defined in this Act;
- (b) exempting, completely or partially and with or without conditions, from the application of any or all provisions of this Act and the regulations any of the following:
  - (i) a person or class of persons;
  - (ii) any regulated product;
  - (iii) any regulated work or class of regulated work;
  - (iv) anything referred to in this subsection that is in a specified geographic area;
- (c) for the purposes of section 6 (2);
- (d) respecting or requiring insurance or a bond for any purpose under this Act and providing for the approval by safety managers of the adequacy of insurance coverage;
- (e) respecting the submission or production of documents, the records to be made and maintained for the purposes of this Act and the issue of duplicate copies of any document issued under this Act;
- (f) providing for the suspension, revocation or cancellation of a document issued inadvertently or by mistake and requiring the return of a document;

- (g) prescribing fees in respect of matters administered by the government;
- (h) establishing criteria for setting fees for the purposes of section 86;
- (i) respecting the qualifications, certificates of qualification, licensing, training, examination and duties of persons, and any reporting requirements under this Act, including, but not limited to, safety officers, licensed contractors, approved inspecting contractors, manufacturer's technical representatives and field safety representatives;
- (j) requiring a permit, certificate or other permission in respect of regulated work or regulated products, providing for the issue of licences, permits, certificates, other permissions and other documents required under this Act and respecting terms and conditions of a licence, permit, certificate or other permission;
- (k) respecting classes of licences, permits, certificates and other permissions;
- (l) respecting the issue, reissue, return, renewal, revocation and suspension of, or expiry date for, any permit, certificate or other permission or a licence under this Act;
- (m) [Repealed 2010-21-171.]
- (n) recognizing a person or class of persons as a certification agency;
- (o) requiring the posting or display of any identification label, document, notice or other communication for the purposes of this Act;
- (p) respecting the registration of
  - (i) regulated products,
  - (ii) designs of regulated products, and
  - (iii) procedures used in respect of regulated products;
- (q) regulating the odorization of gas;
- (r) prohibiting, regulating and controlling regulated work and regulated products, the acquisition, disposal, alteration, repair, installation, maintenance, testing, and use of regulated products and respecting permission for, or notification of, the use of regulated products or the performance of regulated work;
- (s) establishing codes or standards respecting regulated work and regulated products or adopting by reference all or part of a code or standard;
- (t) governing the conduct and obligations of persons in the vicinity of regulated work or regulated products, and requiring a person to notify or obtain permission from a person in authority in respect of an intended activity in the vicinity of regulated work or regulated products and requiring the person in authority to perform duties necessary for the safe conduct of the intended activity;
- (u) for the purposes of section 17 (2),

- (i) assigning additional powers to a safety manager, and
    - (ii) providing that, in respect of additional powers relating to alternative safety approaches, provincial safety managers only, or all safety managers, may exercise those powers;
  - (v) assigning additional powers to a safety officer for the purposes of section 18 (1);
  - (w) defining a thing to be a regulated product;
  - (x) prescribing one or more ranges of levels of electricity consumption for the purposes of the definition of "residential electricity information" in section 19.1.
- (3) Without limiting subsection (1), the minister may make regulations respecting alternative safety approaches, including the following:
- (a) respecting regulated work or regulated products that may be the subject of an alternative safety approach;
  - (b) respecting the submission, amendment or renewal of an alternative safety approach, including
    - (i) making requirements in relation to content, and
    - (ii) requiring, at a proponent's expense, persons not associated with the proponent to perform duties in respect of the submission, amendment or renewal;
  - (c) respecting criteria to be considered in determining whether to accept a proposed alternative safety approach;
  - (d) for the purposes of paragraph (c), conferring a power on a provincial safety manager to establish
    - (i) categories of alternative safety approaches based on hazards that present a risk of personal injury or damage to property, and
    - (ii) for each category established under subparagraph (i), requirements that must be included in alternative safety approaches that fall within that category;
  - (e) respecting premises, equipment, staff, record keeping and production, monitoring, analysis and reporting, including
    - (i) designating persons, by title or otherwise, who are responsible for communicating with safety officers and ensuring compliance with the requirements, terms and conditions of an alternative safety approach, and
    - (ii) requiring, at a proponent's expense, persons who are not associated with the proponent to perform duties in respect of an alternative safety approach;
  - (f) respecting criteria to be considered in determining whether to suspend or cancel a proposed alternative safety approach;
  - (g) respecting procedures that must be followed before

- (i) terms and conditions of an alternative safety approach may be varied or new terms and conditions imposed,
  - (ii) a safety manager may require an alternative safety approach to be amended, or
  - (iii) an alternative safety approach may be suspended or cancelled;
- (h) making different regulations for different classes of regulated work, regulated products, hazards or alternative safety approaches.

## **Lieutenant Governor in Council power to make regulations**

**89** The Lieutenant Governor in Council may make regulations as follows:

- (a) specifying a thing to be a regulated product for the purposes of section 2 (1) (b) (x);
- (b) delegating to a local government the administration of any of the provisions of this Act and the regulations except a power to make regulations;
- (c) delegating to an authority the administration of any of the provisions of this Act and the regulations except a power to make regulations;
- (d) [Repealed 2004-45-160.]
- (e) [Repealed 2003-47-60.]
- (f) providing, for a regulation made under this Act, that its contravention constitutes an offence and is subject to the penalties specified in section 78;
- (g) respecting the imposition of and notice of monetary penalties, the criteria for determining appropriate monetary penalties, setting different limits on the monetary penalties that may be imposed and specifying those regulations for which a contravention makes a person liable to a monetary penalty;
- (h) providing for increased monetary penalties for repeated contraventions and specifying the time within which a contravention is to be considered a repeat contravention of an earlier contravention.

## **Part 14 – Transitional Provisions**

### **Transitional**

**90** (1) The Lieutenant Governor in Council may make regulations considered necessary or advisable for the purpose of more effectively bringing into operation the provisions of this Act and to prevent, minimize, address or resolve any transitional difficulties encountered in doing so, including but not limited to providing for the transition from

- (a) the Acts repealed by this Act,
- (b) the regulations made under the Acts repealed by this Act, or
- (c) the provisions of the *Railway Act* that are amended or repealed by this Act and regulations under that Act.

(2) For the purposes of transition, the Lieutenant Governor in Council may make regulations allowing a local government to temporarily continue its administration of gas systems and equipment or electrical equipment until it enters into an agreement under section 5.

(3) Despite section 85 and for the purposes of collecting fees on behalf of the government, the authority to which administration is delegated under section 84 is an agent of the government.

(4) A regulation under this section may be made retroactive to a date not earlier than the date on which this section comes into force.

## Repealed

91 [Repealed 2003-39-91.]

## Part 15 – Transitional Appropriation

### Appropriation for allocation of long term fees to British Columbia Safety Authority

**91 .1** (1) In this section, "**long term fees**" means that portion of any fees that are collected by the government in respect of licences, permits or other permissions under any of the *Electrical Safety Act*, the *Elevating Devices Safety Act*, the *Gas Safety Act* or the *Power Engineers and Boiler and Pressure Vessel Safety Act* during the fiscal year of the government beginning April 1, 2003 and that relate to a licence period, permit period or other period that extends beyond that fiscal year.

(2) Despite the *Financial Administration Act*, revenue collected by the government as long term fees must be considered to have been collected by the government as agent for the authority under the *Safety Authority Act* and must be paid into the consolidated revenue fund.

(3) Despite the *Financial Administration Act*, money paid into the consolidated revenue fund under subsection (2) must be paid by the government out of the consolidated revenue fund to the authority under the *Safety Authority Act* without an appropriation other than this section.

(4) This Part is repealed on a date to be set by regulation of the Lieutenant Governor in Council.

### Consequential Amendments

[Note: See Table of Legislative Changes for the status of sections 92 to 102.]

Section(s)	Affected Act
92	<i>Engineers and Geoscientists Act</i>
93	<i>Hydro and Power Authority Act</i>
94	<i>Pipeline Act</i>
95–97	<i>Railway Act</i>
98–101	<i>Vancouver Charter</i>

## Repeals

<b>Section(s)</b>	<b>Affected Act</b>
102	<i>Electrical Safety Act</i>
	<i>Elevating Devices Safety Act</i>
	<i>Gas Safety Act</i>
	<i>Power Engineers and Boiler Pressure Vessel Safety Act</i>

## Commencement

**103** This Act, except section 6 and Part 14, comes into force by regulation of the Lieutenant Governor in Council.