

Bill No. 78 of 1950.

A BILL TO AMEND THE PUBLIC LANDS ACT.

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NOTE.

This Bill amends *The Public Lands Act*, being chapter 81 of the Statutes of Alberta, 1949.

Section 2 of the Act is amended. All Public Lands Agencies except the one situated in Edmonton have been closed and, accordingly, it is necessary to strike out clause (b) of section (2) which defines "agent" and to substitute separate definitions for "Public Lands Agencies" and "sub-agent".

The Act is further amended by striking out the word "agent" and by substituting the word "Director" wherever it occurs in the Act. As a result of the closing of all Public Lands Agencies the duties formerly performed by the agents are now the responsibility of the Director of Lands.

Section 3 is amended so that the Act will apply to all lands within the Province where the context so permits.

Subsection (1) of section 5 is amended so that all travelled trails, roads and highways are reserved out of every disposition of Crown lands.

Also, a new subsection (2) is added to clarify the position regarding ownership of lands that comprise the shore or beds of streams, rivers and lakes.

Section 12 is amended by striking out clause (c) so that a person who holds a cultivation lease may also apply for a homestead lease.

Section 16 is amended by adding a new subsection (2a) which provides that where moneys provided by the Government of Canada under *The Veterans' Land Act, 1942*, have been expended on the cultivation of land forming part of the homestead, such cultivation is to be considered an improvement.

The Act is further amended by adding new sections 16a and 16b. Section 16a fixes the rental payable under a homestead lease at a one-eighth share of the crop with respect to lands required to be broken and seeded to crop.

Section 16b fixes the rental payable by a homestead lessee at a one-quarter share of the crop with respect to lands which had been cultivated when the homestead lessee acquired a lease of the lands. This rent is payable for ten years only.

Subsection (1) of section 17 is deleted and new subsections (1), (1a) and (1b) are substituted. The new subsection (1) provides that no rental is payable under section 16a during the first ten years if the area required to be seeded to crop under section 21 does not exceed the area which was under cultivation at the commencement of the lease.

Subsection (1a) provides that during the first ten years if the area required to be seeded to crop under section 21 exceeds the area which was under cultivation at the time of the commencement of the lease, the rent prescribed by section 16a is payable only in respect of the excess.

Subsection (1b) provides that in the case of lands on the cultivation of which moneys provided by the Government of Canada under *The Veterans' Land Act, 1942*, have been expended, no rent shall be paid under section 16b for such cultivation. The lessee is already required to pay for such cultivation as an improvement and it would be inequitable to require him to pay for it a second time by rentals under section 16b.

The first few words of subsection (2) are deleted which change is necessary by reason of the previous amendments to this section.

New subsections (5) and (6) are added to section 17. Subsection (5) provides that the Minister with the consent of the lessee may rescind any existing lease and issue a new lease. Subsection (6) provides that the duties performed and rents paid under the rescinded lease shall count for obtaining a notification under the new lease.

Section 19 is amended by adding a new subsection (4). It prevents a person from counting as a period of residence the time spent living on a homestead lease when such person is chiefly engaged in an occupation other than farming.

Subsection (5) of section 21 is amended so that the Director of Lands may authorize the counting of any summer fallow as lands seeded to crop.

The Act is further amended by striking out sections 29, 30, 31, 35 and 42. These sections provide a procedure whereby a person who is eligible for a homestead may apply for cancellation of a homestead issued to another person if the applicant knows that such other person is in default. When these sections are struck out cancellation proceedings may only be taken by the Department.

Section 34 is similarly amended by striking out the provisions in the section relating to the taking of proceedings for cancellation of a homestead lease.

Section 43 is amended. A new subsection (1a) provides that where a lessee wishes to obtain notification of his land before the expiration of ten years and a portion of the land was under cultivation at the commencement of the lease, he is required to pay such amount as the Minister may fix

for the land under cultivation at the commencement of the lease in lieu of the one-quarter crop share payable under section 16*b*.

Section 49 is amended. This section presently refers to section 17. As a result of the earlier amendments to this Act the portion of section 17 to which reference was made has now been changed to sections 16 (*a*) and 16 (*b*) and a corresponding change in the reference is accordingly necessary.

Section 52 is amended to make it possible for a person obtaining a cultivation lease of lands under cultivation to pay for such cultivation in such manner as may be prescribed by the Minister.

Section 54 is amended so that regardless of the date on which a cultivation lease is or has been entered into the lease and any renewal thereof will be extended so that it terminates at the end of the calendar year.

Section 55 is amended so that regardless of the date of issue of any cultivation lease the rental payable after the first year will be payable in advance on the first day of January of that year. The time for payment is thus extended to the end of the year to coincide with the new term for which the lease will run as provided under the amendment to section 54.

A new section 56*a* is added so that the Minister may permit the holder of a cultivation lease to cut natural hay on the lands leased by him.

Section 59 is amended by reducing the required age of an applicant for a grazing lease from twenty-one to eighteen years.

Section 61 is amended to describe the moneys payable upon the filing of an application for a grazing lease as a "deposit" and not as a "fee".

Section 63 is amended so that notwithstanding the provisions of any grazing lease, payment of the rental is required on or before February 1st in each year.

Section 68 is amended. A new subsection (1*a*) enables the Minister to authorize a lessee of a grazing lease to cultivate, seed to grass or otherwise reclaim land where such is necessary for the purpose of conservation or weed control.

Section 86 is amended so that instead of the rental for any land which is leased by the holder of a grazing lease for his residence being twenty-four dollars, the rental will be the amount prescribed in the lease at the time of making the lease.

Section 110 is amended. A new clause is added to authorize the Minister to sell lands on such terms as he considers reasonable when required for a reservoir, church, cemetery, hospital, or other public purposes, or for a right-of-way.

Section 112 is amended by substituting a new clause (a) in subsection (1) which restricts the power of the Minister to grant land by way of gift to boards of school districts or divisions to cases where the districts or divisions are situated in rural areas. The amount of land which may be granted for such purposes is increased from four to six acres.

Section 113 is amended. Subclause (v) of clause (a) is amended so that the Lieutenant Governor in Council may by regulation fix the price to be paid by pipe line companies for public lands required for pipe lines.

A further amendment to clause (a) is the addition of a new subclause (x) by which the Lieutenant Governor in Council is authorized to make regulations governing entry upon public lands for geophysical or geological exploration.

A third amendment is the addition of a new clause (q) which authorizes the Minister to lease or transfer to Canada lands required by Canada for use as an experimental station or purposes connected therewith upon such terms and conditions as the Lieutenant Governor in Council may prescribe.

Section 118 is amended. A new clause (f) enables the Minister from time to time to close to any specified type of traffic, any road through public lands held by any person under license of occupation.

Section 128 is struck out and a new section 128 substituted. The new section authorizes the Minister to follow and seize, wherever it may be, any grain grown upon public lands if default is made in payment of the Crown's share of the grain and to immediately store and sell such grain.

The Act is further amended by the addition of two new sections, 128a and 128b. Section 128a authorizes the Minister to fix rental and collect the same as a debt due to the Crown with respect to any public lands where any person uses such lands without authority.

Section 128b authorizes the Minister to seize any live stock found grazing on public lands which are not leased at the time and if the owner fails to pay the rentals prescribed by the Minister for the unauthorized use of the lands, the Minister may sell the live stock seized and apply the proceeds in payment of the prescribed rental.

A new section 148a is added which provides that no action shall lie against any person for anything done by him in the performance of duties assigned to him under this Act.

A new Form B is added to the Act. The Form B is the Notice of Seizure to be used under section 128 where grain which has been grown on public lands has been seized by the Minister.

KENNETH A. MCKENZIE,  
*Acting Legislative Counsel.*

*(This note does not form any part of the Bill but is offered in explanation of its provisions.)*

# BILL

No. 78 of 1950.

An Act to amend The Public Lands Act.

(Assented to \_\_\_\_\_, 1950.)

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

1. *The Public Lands Act*, being chapter 81 of the Statutes of Alberta, 1949, is hereby amended as to section 2,—

- (a) by striking out clause (b);
- (b) by adding immediately after clause (t) the following new clause:

“(tt) ‘Public Lands Agency’ means the Public Lands Agency in the city of Edmonton;”;

- (c) by adding immediately after clause (v) the following new clause:

“(vv) ‘sub-agent’ means any person employed in connection with the administration, management, sale or settlement of public lands in a particular part or division of a defined district;”.

2. The said Act is further amended by striking out the word “agent” wherever it occurs in the Act and by substituting the word “Director”.

3. The said Act is further amended as to section 3, subsection (1) by adding immediately after the words “provisions of this Act” the words “and where the context so permits, to all lands in the Province”.

4. The said Act is further amended as to section 5,—

- (a) by renumbering the same as subsection (1);
- (b) by adding immediately after clause (e) of subsection 1) the following new clause:

“(f) all travelled trails, public roads and highways.”;

- (c) by adding immediately after subsection (1) the following new subsection:

“(2) Nothing in this Act or any other Act or the rules of the English Common Law shall be construed to vest or to have heretofore vested in any person the land which comprises the bed or shore of any lake, river or stream and notwithstanding

the provisions of any certificate of title, the title to land shall be construed accordingly.”.

**5.** The said Act is further amended as to section 12, subsection (1),—

- (a) by striking out clause (c);
- (b) by relettering clause (d) as clause (c).

**6.** The said Act is further amended as to section 16 by adding immediately after subsection (2) the following new subsection:

“(2a) Notwithstanding the provisions of subsection (2), where moneys provided by the Government of Canada under *The Veterans' Land Act, 1942*, have been expended for cultivation, such cultivation shall be considered an improvement.”.

**7.** The said Act is further amended by adding immediately before section 17 the following new sections:

“**16a.** In the fourth and in each subsequent crop year the rent payable under a homestead lease shall be a one-eighth share of the crop or crops of every kind and description grown or harvested on the lands required to be seeded to crop under section 21.

“**16b.** On lands which are under cultivation at the time of the granting of the lease, the lessee shall pay a one-quarter share of the whole of the crop or crops of every kind and description grown or harvested upon the land under cultivation at the date of the commencement of the term of the homestead for a period of ten years.”.

**8.** The said Act is further amended as to section 17,—

- (a) by striking out subsection (1) and by substituting following new subsections:

“**17.—(1)** In any year during the first ten years in which the acreage required to be seeded to crop pursuant to section 21, does not exceed the acreage which was under cultivation at the time of the granting of the lease, there shall be no rent payable under section 16a.

“(1a) In any year during the first ten years in which the acreage required to be seeded to crop pursuant to section 21 does exceed the acreage which was under cultivation at the time of the granting of the lease, the rent payable under section 16a is payable only in respect of the number of acres by which the acreage required to be seeded under section 21 is in excess of the acreage which was under cultivation at the time of the commencement of the lease.

“(1b) In the case of land, on the cultivation of which moneys provided by the Government of Can-

ada under *The Veterans' Land Act, 1942*, have been expended, the rent payable by a homestead lessee shall be that rent prescribed by section 16a and no rent shall be paid under section 16b for any land which was under cultivation at the time of the granting of the lease as a result of such an expenditure under *The Veterans' Land Act, 1942*".;

- (b) by striking out the words "Notwithstanding the provisions of subsection (1), where the lessee crops land in any year in excess of the acreage requirements of this Act," where they occur in subsection (2);
- (c) by adding immediately after subsection (4) the following new subsections:

"(5) The Minister with the consent of an agricultural or homestead lessee may rescind any existing lease and thereupon enter into a new lease with the original lessee upon the terms and conditions set out in the Act.

"(6) The new lease shall take effect on the date of the commencement of the surrendered lease and any duties performed or rents paid under the rescinded lease shall be counted for the obtaining of a notification under the new lease and the account shall be adjusted accordingly."

**9.** The said Act is further amended as to section 19 by adding immediately after subsection (3) the following new subsection:

"(4) Any period of time spent on a homestead or on a farm in the vicinity of the homestead during which the lessee was chiefly engaged in an occupation other than farming, shall not count as a period of residence for the purposes of this Act."

**10.** The said Act is further amended as to section 21, subsection (5) by striking out the words "For purposes of this section only and".

**11.** The said Act is further amended by striking out sections 29, 30 and 31.

**12.** The said Act is further amended as to section 34 by striking out the words "and where such proceedings are taken by the agent an application for cancellation cannot thereafter be accepted from an individual".

**13.** The said Act is further amended by striking out sections 35 and 42.

**14.** The said Act is further amended as to section 43 by adding immediately after subsection (1) the following new subsection:

"(1a) In the case of lands which were under cultivation at the time of the commencement of the lease a lessee who pays the purchase price prescribed in subsection (1) before

the expiration of ten years shall also pay, on account of the cultivated land in lieu of the one-quarter crop share payable under section 16*b*, such amount as may be fixed by the Minister.”.

**15.** The said Act is further amended as to section 49, subsection (1) by striking out the word and figures “section 17” and by substituting the words and figures “sections 16*a* and 16*b*”.

**16.** The said Act is further amended as to section 52, subsection (6) by adding immediately after the words “shall be made” the words “unless otherwise provided”.

**17.** The said Act is further amended as to section 54,—

(a) by renumbering the same as subsection (1) :

(b) by adding immediately after subsection (1) the following new subsections:

“(2) Notwithstanding the provisions of subsection (1), and irrespective of the date on which the cultivation lease is issued, the first day of January in each year shall be deemed to be the anniversary date of the lease and it shall expire ten years after the thirty-first day of December next following the date of issue of the lease.

“(3) Notwithstanding any provision to the contrary in any lease presently in effect, the date of termination of the lease shall be extended to the thirty-first day of December in the year in which the lease by the provisions therein contained would terminate, and the first day of January in the year 1951 and in each year thereafter shall be deemed to be the anniversary date of the lease and the account shall be adjusted accordingly.”.

**18.** The said Act is further amended as to section 55 by adding immediately after subsection (3) the following new subsection:

“(4) Notwithstanding any provision to the contrary in any lease presently in effect, the cash rental payable under the lease shall be paid on or before the first day of January.

**19.** The said Act is further amended by adding immediately after section 56 the following new section:

“**56*a*.** A lessee may cut natural hay on the lands contained in a cultivation lease on such terms and conditions as the Minister may prescribe.”.

**20.** The said Act is further amended as to section 59, subsection (1), clause (b), by striking out the word “twenty-one” and by substituting the word “eighteen”.

**21.** The said Act is further amended as to section 61 by striking out the word “fee” wherever it occurs therein and by substituting the word “deposit”.

**22.** The said Act is further amended as to section 63 by adding immediately after subsection (2) the following new subsection:

“(3) Notwithstanding any provision to the contrary in any grazing lease presently in effect, the cash rental payable under such lease shall be paid on or before the first day of February in each year.”.

**23.** The said Act is further amended as to section 68 by adding immediately after subsection (1) the following new subsection:

“(1a) For the purpose of conservation or weed control the Minister may authorize the lessee of grazing land to cultivate and seed to grass or otherwise reclaim the land in such manner as the Minister may prescribe.”.

**24.** The said Act is further amended as to section 86, subsection (1), by striking out the words “an annual rental of twenty-five dollars” and by substituting the words “such annual rental as may be prescribed by the Minister at the time of the making of the agreement”.

**25.** The said Act is further amended as to section 110,—

(a) by striking out the word “may” where it occurs at the beginning of clause (e);

(b) by adding immediately after clause (e) the following new clause:

“(f) sell lands required for reservoir, church, cemetery or hospital sites or other public purposes or required as a right-of-way for any project, at the actual market value of the land as determined by the Minister and upon such terms of payment as may be prescribed.”.

**26.** The said Act is further amended as to section 112,—

(a) by striking out clause (a) of subsection (1) and by substituting the following:

“(a) the board of trustees of a school district or school division in a rural area where the land is required as a site for a school or purposes connected therewith;”;

(b) by striking out the word “four” where it occurs in subsection (2) and by substituting the word “six”.

**27.** The said Act is further amended as to section 113,—

(a) by adding immediately after the words “by a railway,” where they occur in clause (a), subclause (v) the words “pipe line,”;

(b) by adding immediately after the word “roadbed,” where it occurs in clause (a), subclause (v) the words “pipe line,”;

(c) by adding immediately after clause (a), subclause (ix) the following new subclause:

- “(x) entry upon public lands for geological and geophysical exploration;”;
- (d) by adding immediately after clause (p) the following new clause:
- “(q) authorize the Minister to enter into agreements with the Government of Canada for the purpose of leasing or transferring to Canada lands to be used for an experimental station or for any purposes in connection therewith upon such terms and conditions as may be prescribed by the Lieutenant Governor in Council.”.

**28.** The said Act is further amended as to section 118 by adding immediately after clause (e) the following new clause:

- “(f) close to travel or use by any specified type of vehicle any road through public lands held under license of occupation granted pursuant to this Act for the reason set out in the order, and the road shall remain closed to travel by such vehicles until re-opened by the Minister.”.

**29.** The said Act is further amended by striking out section 128 and by substituting the following:

“**128.**—(1) The title in and to all crops of every nature and description grown and produced on any public lands shall be and remain in His Majesty the King, in the right of the Province, until the same is divided and His Majesty's share delivered to him as set out in any lease, license or permit entered into by His Majesty pursuant to this Act or *The Provincial Lands Act*.

“(2) In case default is made in the due payment of any share of the crop payable to His Majesty the King, in the right of the Province, under any lease, license or permit entered into pursuant to this Act or *The Provincial Lands Act*, the Minister by an order in writing may authorize the person named in the order to seize any grain wherever found within the Province belonging to the lessee, licensee, or permittee named in the order.

“(3) Whenever any grain is seized pursuant to the provisions of this section, a notice in Form “B” of the Schedule shall be left with the lessee, licensee or permittee.

“(4) In the event of failure to personally serve the lessee, licensee or permittee, the notice shall be posted up on the land or any part thereof, described in the lease, license or permit as the case may be, or mailed to his last known address.

“(5) The costs and expenses incurred by any person making a seizure under this section shall be added to and become part of the rent remaining unpaid to His Majesty by any lessee, licensee or permittee, as the case may be.

“(6) The onus of proof that any grain found upon any land or premises is not the property of the lessee, licensee or permittee, shall lie upon the lessee, licensee or permittee, as the case may be.

“(7) The Minister or any person appointed by him in writing may have any grain seized by him pursuant to the provisions of subsection (2), hauled to the nearest elevator or to any other convenient and suitable place of storage and may dispose of the grain at the current market price.

“(8) In the discharge of his duties, the person designated in the order signed by the Minister and every authorized person accompanying him, may enter upon and pass through or over private property without being liable for trespass.

“(9) *The Seizures Act* shall not apply to any seizure made under this section.”.

**30.** The said Act is further amended by adding immediately after section 128 the following new sections:

“**128a.** The Minister may require any person who makes use of public lands without authority to pay such rental as he may prescribe in addition to the regular rate and may collect such rental by proceedings in any court as if it were a debt due to the Crown.

“**128b.**—(1) Any person appointed for the purpose by the Minister may round up, seize and detain any live stock found grazing on public lands which lands are not for the time being leased for grazing purposes.

“(2) Immediately upon the seizing of any live stock the person making the seizure shall send to the owner by mail at his last known post office address, a notice in writing setting out,—

“(a) the date of seizure;

“(b) the description of the live stock seized;

“(c) the description of the place at which the live stock is kept; and

“(d) the amount of rental payable for the use of the public lands upon which the live stock was found grazing.

“(3) Unless the owner has paid to the Minister the amount owing under subsection (2), clause (d), together with the costs of rounding up, seizing and detaining the live stock, upon the expiration of fifteen days from the date of mailing of the notice, the Minister may cause the live stock to be offered for sale by public auction and to be sold to the highest bidder.

“(4) The property in any live stock which is sold by the Minister pursuant to this section shall pass to the purchaser and all rights of property which existed in the live stock immediately before the sale shall be extinguished.

“(5) The proceeds of any sale pursuant to subsection (3) shall be applied firstly in payment of the costs incurred in seizing, rounding up, detaining offering for sale and selling the live stock and, secondly, in payment of the sums payable to the Minister under subsection (2), clause (d).

“(6) The balance, if any, shall be paid over by the Minister to such persons who may be entitled thereto and

who, within six months after the date of the sale, make application in writing to the Minister for payment and having regard only to applications so made.

“(7) If after the expiration of six months from the date of the sale and after paying such persons as have within that period made application for payment, any surplus remains, the surplus shall be paid into and form part of the General Revenue Fund.”.

**31.** The said Act is further amended by adding immediately after section 148 the following new section:

“**148a.** No action shall lie at any time against any person for anything done by him in the performance of the duties assigned to him pursuant to this Act.”.

**32.** The said Act is further amended as to the Schedule by adding immediately after Form A the following new Form B:

“FORM B  
“NOTICE OF SEIZURE

“To.....  
.....

“Take Notice that pursuant to the powers vested in me by section 128 of *The Public Lands Act*, being chapter 81 of the Statutes of Alberta, 1949, and amendments thereto, a seizure has been made by me of the grain described as follows:  
.....  
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“And Further Take Notice that this grain is being seized on the following grounds:  
.....  
.....

“Further particulars and instructions may be obtained on application to  
.....

“Dated this..... day of..... A.D. 19.....  
.....”.

**33.** This Act shall come into force on the day upon which it is assented to.

No. 78

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THIRD SESSION  
ELEVENTH LEGISLATURE  
14 GEORGE VI  
1950

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**BILL**

An Act to amend The Public  
Lands Act.

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Received and read the

First time .....

Second time .....

Third time .....

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HON. MR. TANNER.

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