

Bill No. 77 of 1951.

A BILL TO AMEND THE PUBLIC LANDS ACT.

NOTE.

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

Section 2 is amended by adding a definition for the word "lease" and for the words "small holding".

Subsection (2) of section 5 is amended to clarify the position regarding ownership of lands that comprise the shore and beds of streams, rivers and lakes.

Section 12, subsection (5) is amended to make it clear that any veteran, subject to the other provisions of this section, may obtain a homestead lease regardless of the amount of other land of which he is the owner.

Section 18 is amended by adding a new subsection (6) which enables the Minister to accept residence upon a small holding situated near the leased lands as the residence required under the Act.

Section 32 is amended by making a homestead lease liable to cancellation if the lessee disposes of improvements paid for with moneys advanced under *The Veterans' Land Act, 1942*.

Subsection (3) of section 45 is amended to require the payment of a fee of twenty-five dollars by each party when homestead leases are exchanged. A new subsection (4) provides for the exchange of credit for duties performed by a homestead lessee when homestead leases are exchanged.

Section 52 is struck out as it is being incorporated into the Act as section 94a.

A new section 54a is added which provides that a lessee under a cultivation lease shall have the right to reside and construct improvements on the land leased.

Subsection (3) of section 57 is amended by striking out that part which relates to the payment to a lessee on termination of a lease, for improvements made by him. A new section 94b deals with payments for improvements and incorporates that portion of subsection (3) being struck out.

Section 63 is amended by fixing at 12½% the percentage of forage value of grazing lands which will be the basis for

computation of the rent payable for the land and the tax payable under *The Grazing Lease Taxation Act* in areas other than special areas. The percentage of forage value of lands used as the basis for computation was formerly such percentage as might be fixed from time to time by the Lieutenant Governor in Council.

Subsection (2) of section 73 is amended to make it clear that the consent of the Minister to the assignment of a grazing lease can only be obtained if, among other things, the lessee seeking the consent has personally been in possession of the land for a period of not less than three years.

Sections 80, 81, 82 and 85 are repealed and their provisions incorporated into new sections 100, 100*b*, 100*c* and 94*b*.

A new section 89*a* is added. It authorizes the Minister to exempt from payment of a crop share for any period not exceeding three years, the lessee of lands which are infested with noxious weeds.

Section 93 is amended by striking out subsection (4) the provisions of which have been incorporated into section 94*b*.

A new section 94*a* establishes the procedure to be followed in obtaining a lease of public lands. Its provisions were formerly contained in section 52 which dealt only with cultivation leases. The procedure will now apply in the case of all types of leases except homestead leases where the procedure varies slightly.

A new section 94*b* empowers the Minister where a lease of lands has been terminated to permit the removal of improvements created upon the land and further authorizes him to refund to any person who has made improvements on public lands any moneys collected by him on account of the value of the improvements. Similar provisions were formerly contained in sections 57, 82, 85 and 93.

Section 100 is struck out and new sections 100, 100*a*, 100*b* and 100*c* are substituted. Section 100 replaces section 82 which is being deleted and authorizes the Minister to withdraw any lands leased pursuant to *The Public Lands Act* from a lease if it is in the public interest to do so.

Section 100*a* empowers the Minister to grant a right of entry for the purpose of geological and geophysical exploration upon public lands which have been leased and to withdraw from any lease lands which are found to contain minerals of value or which are found to be suitable for the development of water power.

Section 100*b* was formerly section 80. It requires the lessee of public lands to permit the Minister to enter upon lands for the purpose of constructing or operating works authorized under *The Water Resources Act*.

Section 100*c* was formerly section 81. It prohibits the lessee from trespassing upon or damaging any works constructed under *The Water Resources Act* and requires the lessee to repair any works damaged by him.

Section 108 is amended. The reference to gold, silver and other minerals contained in school lands is deleted because minerals are administered pursuant to *The Mines and Minerals Act* and this Act deals entirely with the surface of land.

Section 110 is amended as to clause (*b*) so that the Minister may sell not only a fractional quarter section of any land but also a part of a quarter section of land. The amendment is rendered necessary by the technical difference between the meaning of the words "part of" a quarter section and "fractional" quarter section when used by surveyors.

A new clause (*r*) is added to section 113. This clause authorizes the Lieutenant Governor in Council to exempt from the residence and cultivation requirements under the Act, any lessee during the time he is on active service in defence of Canada or as a member of the special forces of Canada.

A new section 148*b* authorizes inspectors of the Department to enter and inspect the lands and buildings of any lessee who has obtained a lease under this Act.

The Bill comes into force on the 1st day of July, 1951.

KENNETH A. MCKENZIE,
Legislative Counsel.

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

BILL

No. 77 of 1951.

An Act to amend The Public Lands Act.

(Assented to _____, 1951.)

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.

2. Section 2 is amended,—

Section 2
amended

(a) by adding immediately after clause (o) the following new clause:

“(oo) ‘lease’ includes, in addition to its ordinary meaning, a right of entry granted pursuant to *The Right of Entry Arbitration Act*, a license of occupation, easement, and any other form of terminable grant issued pursuant to the provisions of this Act;”;

“lease”

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

“(uu) ‘small holding’ means any area situated elsewhere than in a city, town, village or hamlet, that is in the immediate vicinity of the leasehold and is approved by the Minister as a place of residence for the leaseholder;”.

“small
holding”

3. Section 5, subsection (2) is amended by adding immediately after the word “comprises” the words “at any time”.

Section 5
amended

4. Section 12, subsection (5) is amended by adding immediately before the words “A veteran” the words “Notwithstanding the other provisions of this section,”.

Section 12
amended

5. Section 18 is amended by adding immediately after subsection (5) the following new subsection:

Section 18
amended

“(6) The Minister, in his discretion, may accept residence upon a small holding as residence under this Act.”.

Residence
on small
holding

6. Section 32 is amended by adding immediately after clause (f) the following new clause:

Section 32
amended

“(g) improvements purchased or created with financial assistance obtained under *The Veterans’ Land Act, 1942*, are sold or otherwise disposed of by the lessee.”.

Section 45
amended

7. Section 45 is amended,—

- (a) by adding immediately after the words “respective homesteads”, where they occur in subsection (3) the words “upon payment to the Minister by each lessee of a fee of twenty-five dollars,”;
- (b) by adding immediately after subsection (3) the following new subsection:

Exchange of
homestead

“(4) Where a lessee exchanges his homestead pursuant to subsection (3), credit for the duties performed on his former lease may be transferred to the lease taken in exchange if immediately before the transfer is made the lessee files proof in the form of an application for notification, that the requirements of his lease up to that date have been fulfilled.”.

Section 52
repealed

8. Section 52 is repealed.

New
section 54a

9. The following new section 54a is added immediately after section 54:

Erection of
buildings
and improve-
ments

“**54a.** The lessee may reside on the lands contained in the lease and may erect thereon any buildings and improvements required in connection with his operations.”.

Section 57
amended

10. Section 57, subsection (3) is amended by striking out the words “, and the Minister shall pay to the former lessee who made the improvements the money paid by the purchaser for the improvements”.

Section 63
amended

11. Section 63, subsection (1) is amended by adding immediately after the words “shall be” the words “twelve and one-half per cent of the forage value of the lands included in the lease, except in a special area where the rent, together with the tax, shall be”.

Section 73
amended

12. Section 73, subsection (2), clause (b) is amended by adding immediately after the words “the said lessee” the word “personally”.

Sections 80,
81, 82 and
85 repealed

13. Sections 80, 81, 82 and 85 are repealed.

New
section 89a

14. The following new section 89a is added immediately after section 89:

Exemption
from pay-
ment of crop
share

“**89a.** The Minister, in his discretion, may exempt a lessee from the payment of a crop share for a period not exceeding three crop years following the date of the granting of the lease if the demised lands are infested with noxious weeds.”.

15. Section 93 is amended by striking out subsection (4). Section 93
amended

16. The following new sections are added immediately after section 94: New sections
94a and 94b

“94a. (1) Any person applying for a lease shall declare what improvements, if any, there are upon the land with respect to which his application is made, and shall submit with the application an amount in cash sufficient to cover his valuation of the improvements. Cash deposit
to cover
value of im-
provements

“(2) On receipt of the application the Director shall cause the improvements to be examined and valued by an officer.

“(3) Where the officer’s valuation exceeds that of the applicant, the difference shall be paid by the applicant to the Department, and where the officer’s valuation is less than that of the applicant, the difference shall be refunded by the Department to the applicant.

“(4) If the application is not accepted any moneys received for the purchase of the improvements shall be refunded unless the applicant is indebted to the Department.

“(5) Where moneys provided by Canada under *The Veterans’ Lands Act, 1942*, have been expended for cultivation, or where in any specific case the Minister so orders, cultivated land shall be considered an improvement. When culti-
vated land
deemed im-
provement

“94b. In any case where a lease has been cancelled or has expired the Minister in his discretion may,— Procedure
where lease
cancelled

“(a) authorize the lessee to remove from the lands included in the lease any improvements created or owned by him;

“(b) refund to the person who made the improvements or to any dependent or dependents of the person adjudged by the Minister to be entitled thereto, any moneys collected by him on account of the value of the improvements or so much thereof as he may in his discretion consider proper after deducting any amount which may be owing to His Majesty with respect to the lands concerned.”.

17. Section 100 is struck out and the following new sections are substituted: Section 100
amended
and new
sections
100a, 100b
and 100c
added

“100. (1) If the Minister, at any time during the term of a lease, is of the opinion that it is in the public interest to withdraw the whole or any portion of the land included in a lease, other than a lease of a homestead, he may, on giving the lessee three years’ notice, withdraw such land and cancel the lease to that extent. Withdrawal
of land

“(2) Any land included in a lease other than a lease of a homestead that is required for any irrigation project may be withdrawn by the Minister at any time during the term of the lease on giving the lessee one year’s notice.

“(3) Service of the notice may be effected by mailing the same by registered mail to the address or the last known Service of
notice

address of the lessee, and in such case service shall be deemed to have been effected upon the lessee on the day on which the notice was mailed.

Right of
entry

“**100a.** (1) The Minister may grant a right of entry to explore and search for gold, silver, copper, coal or other minerals with respect to any land leased pursuant to the provisions of this Act.

“(2) The right of entry granted pursuant to this section shall be subject to such conditions for the protection of the interests of the lessee as the Minister may prescribe.

Withdrawal
of land for
development
of water
power

“(3) If the Minister is satisfied that any portion of any land leased pursuant to the provisions of this Act contains gold, silver, copper, coal or other minerals or is suitable for the development of water power, he may withdraw from the lease any portion of the land on giving the lessee one year’s notice.

“(4) Where a right of entry has been granted pursuant to *The Right of Entry Arbitration Act* to recover minerals, a copy of any notice given pursuant to subsection (3) shall be served upon the Right of Entry Arbitration Board by mailing the same by registered mail.

“(5) If any lands are withdrawn from his lease, the lessee shall be entitled to a reduction in the rent proportionate to the reduction in the lands leased but shall have no further or other claim with respect to the lands withdrawn and shall not be entitled to any other compensation therefor.

“(6) Where entry upon the land is granted by the Minister for the purpose of exploration or by the Right of Entry Arbitration Board for the purpose of recovering minerals, or by the Board of Public Utility Commissioners for pipe line purposes, the area may remain in the lease subject to such right of entry.

Entry for
construction
of irrigation
works

“**100b.** The lessee shall permit the Minister or his duly authorized agent to enter upon the land with men, horses, machinery, and equipment of any kind, for the purpose of constructing, maintaining, repairing and operating any works authorized under the provisions of *The Water Resources Act*.

Trespassing

“**100c.** (1) The lessee shall not trespass upon, damage or destroy, or permit or allow his stock or any person or the stock of any person to trespass upon, damage or destroy any of the works constructed upon the land under *The Water Resources Act*.

Repairing
of damaged
works

“(2) The lessee shall repair or reconstruct any works so damaged or destroyed upon receiving notice in writing from the Minister requiring him to do so.”

Section 108
amended

18. Section 108, subsection (1) is amended by striking out the words “together with the gold and silver as well as other minerals contained therein.”

19. Section 110, clause (b) is amended by adding immediately after the words "sell a" the words "part of a quarter section or a". Section 110
amended

20. Section 113 is amended by adding immediately after clause (q) the following new clause: Section 113
amended

"(r) exempt any lessee who enlists for active service in the special forces of Canada or is called for active service in defence of Canada from the provisions of the residence and cultivation requirements during those crop years in which he is on active service and in accordance with such regulations as may be made." exempt
lessee for
active
service

21. The following new section 148b is added immediately after section 148a: New
section 148b

"**148b.** Any person acting lawfully in the performance of duties assigned to him under this Act may enter any lands leased under this Act or buildings erected thereon for the purpose of surveying and examining the state and condition thereof." Entry to
survey and
examine
public lands

22. This Act shall come into force on the first day of July, 1951. Coming
into force

No. 77.

FOURTH SESSION
ELEVENTH LEGISLATURE

15 GEORGE VI

1951

BILL

An Act to amend The Public Lands
Act.

Received and read the

First time

Second time

Third time

HON. MR. TANNER.
