

Bill No. 35 of 1954

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 19 of the Act deals with the calculation of residence duties by homestead lessees and is amended in two respects. Subsection (2) provides for the aggregating of residence periods of some days duration to meet the residence requirements expressed in months. In this subsection the reference to four month totals is deleted as such a period is less than the required period of residence during one year. Section 19 is also amended by adding a new subsection dealing with cases where lessees give up their original lease and get a different one instead, so that the three year period which the lessee has before his residence duties commence will be counted only once.

Section 32 of the Act is amended to authorize cancellation of a homestead lease where the lessee misrepresents residence or cultivation duties.

Section 45 of the Act deals with assignments and exchanges of homestead leases and is subject to some amendments. Subsection (1) contained the provision that the homestead lease could not be assigned until after the completion of three years' duties. One of the purposes of this provision was to require that the lessee reside on the land for at least one year before an assignment is made in order to assure that homesteads would be acquired only by actual prospective settlers in good faith. As the period during which the homestead lease may be held before the lessee commences his residence duties has been increased from two to three years, an amendment is now proposed to increase the period during which the homestead lease may not be assigned from three to four years. Another amendment to section 45, provides that the assignee of a homestead lease must have been at least 18 years of age at the date of the commencement of the term of the lease. This age is a requirement of an applicant for a homestead lease and the amendment to the provision regarding assignments is made so that the holder of a lease will not become otherwise entitled to the issue of a notification while he is still a minor. A further amendment to section 45 deals with the exchange of homesteads by two homestead lessees to clarify the positions they will hold upon completion of the exchange with respect to the duties already performed on the homesteads.

The provisions of section 54, dealing with the date of the commencement of the term of the cultivation lease are amended for clarification and for greater uniformity with the provisions dealing with homestead leases.

Section 94*a* provides that in certain cases where a lease is granted previous cultivation of the land must be classified as an improvement and paid for by the prospective lessee in cash. The amendment would place the operation of this provision in the discretion of the Minister rather than mandatory, in order to prevent the difficulty in disposition of such lands which arises when a prospective lessee is not in a position to pay cash for the cultivation.

Section 109 is amended to clarify the power of the Minister to cancel an agreement for sale of land when the purchaser is in default.

Section 113 contains references to the Minister of Mines and Resources of Canada. As a result of re-organization of the Canadian departments of government there is no longer such an official and the references are corrected accordingly.

Section 128*a* is amended for clarification.

This Bill comes into force upon assent.

J. W. RYAN,  
*Acting Legislative Counsel.*

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

# BILL

No. 35 of 1954

An Act to amend The Public Lands Act

(Assented to \_\_\_\_\_, 1954)

**H**ER 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 19 is amended,

Section 19  
amended

(a) by striking out the words "a total of one hundred and twenty days' residence in a calendar year is the equivalent of four months' residence, and" where they occur in subsection (2);

(b) by adding immediately after subsection (5) the following new subsection:

"(6) If a homestead lease has been cancelled and a new homestead lease comprising any of the former leasehold is issued to the same lessee, the lessee shall be in the same position with respect to residence duties under the new lease as he would be if the date of the new lease and the date of the commencement of its term were the same as the date of the cancelled lease and the date of the commencement of the term of the cancelled lease."

**3.** Section 32 is amended by adding immediately after clause (h) the following new clause:

Section 32  
amended

"(i) the lessee misrepresents the residence or cultivation duties."

**4.** Section 45 is amended,

Section 45  
amended

(a) by striking out the word "three" where it occurs in subsection (1) and by substituting the word "four";

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

"(1a) A homestead lease may be assigned only to a person who had attained the age of eighteen years at the date of the commencement of the term of the lease.";

(c) subsections (3) and (4) are struck out and the following are substituted:

**Exchange of  
homesteads**

“(3) Any two lessees of homestead leases may exchange their respective homesteads with the consent of the Minister, if

- “(a) the homesteads are in good standing,
- “(b) each lessee files proof in the same form as an application for notification that the requirements of his lease have been fulfilled up to date,
- “(c) the exchange shall not increase the holding of either lessee in excess of the acreage which he might acquire under the provisions of this Part, and
- “(d) each lessee pays an exchange fee of twenty-five dollars to the Minister.

“(4) A lessee who acquires a homestead by an exchange pursuant to subsection (3), shall be granted credit only for the duties performed by the former lessee on the homestead.”.

**Section 54  
amended**

**5.** Section 54 is amended,

- (a) by striking out subsection (2) and by substituting the following:

“(2) The term of the lease shall commence,

- “(a) if the lease is issued between the first day of January and the thirtieth day of June in any year, on the first day of January in that year;
- “(b) if the lease is issued between the first day of July and the thirty-first day of December in any year, on the first day of January in the following year

but the date on which the lessee is entitled to occupy the leasehold is the date of issue.”;

- (b) by adding immediately after subsection (4) the following new subsection:

“(5) The first day of January in each year is the anniversary date of the lease.”.

**Anniversary  
date****Section 94a  
amended**

**6.** Section 94a, subsection (5) is amended by striking out the words “cultivated land shall” and by substituting the words “the cultivation, in the discretion of the Minister, may”.

**Section 109  
amended**

**7.** Section 109 is amended by adding immediately after subsection (2) the following new subsection:

**Cancellation  
of agreement  
for sale**

“(3) If at any time the Minister is satisfied that the purchaser has made default in paying any part of the purchase price upon the days appointed for the payment thereof or in performing or observing any of the covenants, conditions, stipulations or agreements in the sale agreement, whether expressed or implied, and notwithstanding the waiver of any previous breach, the Minister by order may cancel the sale, and thereupon the sale agreement and any interest of

the purchaser created thereby shall cease and determine, and the purchaser shall have no relief in any court of law or equity or otherwise.”.

**8.** Section 113 is amended,

Section 113  
amended

- (a) by striking out the words “Mines and Resources” where they occur in clause (b) and by substituting the words “Citizenship and Immigration”;
- (b) by striking out the words “Mines and Resources” where they occur in clause (k) and by substituting the words “Northern Affairs and National Resources.”.

**9.** Section 128a is amended by striking out subsection (1) and by substituting the following:

Section 128a  
amended

“**128a.** (1) The Minister may require a person who without authority

Payment  
for public  
lands used  
without  
authority

“(a) makes use of public lands, or

“(b) makes use of public lands for any purpose other than that for which the lease was granted,

to pay such sum of money as the Minister may prescribe, in addition to the regular rate prescribed for such use.”.

**10.** This Act comes into force on the day upon which it is assented to.

Coming  
into force

SECOND SESSION  
TWELFTH LEGISLATURE  
3 ELIZABETH II  
1954

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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. CASEY

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