

Bill No. 85 of 1955

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, clause (a) is amended for clarification.

Section 11, subsection (1) is amended. This subsection presently authorizes the Minister to dispose of certain lands "declared to be agricultural lands" by way of homestead leases, but no one is authorized to make the declaration. The subsection is redrafted to permit the Minister of Lands and Forests to make the declaration and thereafter to dispose of the declared agricultural lands by homestead lease.

Section 14 is amended. Subsection (1) is amended to require that an accepted application for a homestead be noted in the records of the Department, instead of requiring that the land applied for be "reserved" for the applicant, since the land reserved may not be found after inspection to be fit and available for disposition. Subsection (1a) is added and provides that an application for a homestead lease may be reviewed and confirmed or refused at any time before the lease is issued.

Section 18, which prescribes the residence duties of homestead lessees, is amended to ease the residence requirements of the Act.

Section 19 is amended. This section prescribes the number of days residence which are to be calculated in the required monthly periods of residence and is being amended as a result of the easing of the residence requirements in section 18.

Section 21 is amended. This section prescribes the cultivation required to be done during the tenancy of the lease, and it is amended to permit the cultivation requirements to be complied with even though the residence requirements have not been complied with in that particular year.

Section 32, which prescribes the circumstances in which a homestead lease is liable to cancellation, is amended to include the case where the lessee fails to comply with the terms of a loan contract under the new *The Homestead Lease Loan Act*. Previously, an absence from the homestead for a period in excess of six months would make the lease subject to cancellation, and this provision is amended to extend that period to nine months.

Section 43 is amended: firstly, because of the amendments to section 18; secondly by authorizing a variation in the reduction of the purchase price for a notification, for each

additional year after the fifth upon which homestead duties are performed; and thirdly to permit cultivation and residence duties performed in different years to be counted when calculating for the reduction in the purchase price.

Section 44 is amended by the addition of subsection (7). Subsection (7) provides that the Minister shall not issue notification to a homestead lessee unless any loan made under *The Homestead Lease Loan Act* to that lessee is first repaid.

Section 45 is amended. Subsection (1a), which prohibits the assignment of a homestead lease to a person of a certain age, is amended to fix the age at twenty-one years instead of the age of eighteen at the commencement of the lease. Subsection (6) is added and prohibits a person who is indebted for a loan under *The Homestead Lease Loan Act* from assigning or exchanging his lease.

Section 79 is amended to permit School Endowment Fund lands to be leased for grazing purposes without the necessity of including them in other leases or determining that those lands are necessary for the establishment of an economic unit.

Section 81 is added and provides that when grazing lease land is not being used for the purpose for which it was leased, the lease may be cancelled.

A new section 100f is added. It authorizes the Minister to withdraw from a lease, other than a homestead lease, lands required for a right of way for electric and telephone poles, conduits and lines, upon thirty days' notice to the lessee and upon a reduction in the lessee's rents commensurate with the consequent reduction in the leased lands.

Section 115 is amended. This section authorizes the Lieutenant Governor in Council to modify any of the provisions of this Act relating to the payment of rent or crop share upon public lands in a special area. The section is being made to apply to lands removed from a special area since 1953 but still under the lease agreements provided for by this Act.

Section 118, which sets out the powers and duties of the Minister, is amended by the addition of a clause (g) which authorizes the Minister to prescribe the terms under which vacant public land may be posted and made available for disposition.

A new section 130a is added. The section permits the cancellation of a lease, license, permit, renewal or other instrument when an applicant or assignee fails to execute the instrument within ninety days after the due date. In case of such a cancellation, the fee and rental deposited or paid with or to the Department is forfeited and all rights under the lease, license, permit or other instrument, extinguished.

Section 133 is amended to decrease the interest rate on deferred payments to $3\frac{1}{2}\%$, and to decrease the interest rate on overdue payments to $4\frac{1}{2}\%$, from 4% and 5%, respectively, which prevailed heretofore.

Section 149a is amended to make a cross-reference to the provisions of *The Crown Cultivation Leases Act, 1954*, which governs crop share cultivation leases and overrides this section in regard to the disposal of the revenue therefrom in the form of quasi-tax payments.

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. 85 of 1955

An Act to amend The Public Lands Act

(Assented to _____, 1955)

HER 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, clause (a) is amended by striking out the words "those lands which are" and by substituting the words "lands lying side by side and". Section 2 amended

3. Section 11 is amended by striking out subsection (1) and by substituting the following: Section 11 amended

"11. (1) The Minister may declare any land, other than land belonging to the School Endowment Fund or land that has been withdrawn from disposition, to be agricultural land and thereafter the Minister may by lease and in accordance with this Act, dispose of adjoining agricultural lands, not exceeding one-half section, which when so leased shall be known as a homestead." Homestead leases

4. Section 14 is amended Section 14 amended

(a) as to subsection (1) by striking out the words "land shall be placed under reservation for the applicant until its" and by substituting the words "application shall be noted in the records of the Department until the land's",

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

"(1a) An application may be reviewed by the Director, who may refuse or confirm the application at any time before the issue of the homestead lease."

5. Section 18 is amended Section 18 amended

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

"18. (1) The lessee in the fourth year of the term of his lease and in each year thereafter shall perform on the leasehold, or on land in the vicinity as provided hereinafter, the following minimum residence duties: Residence requirements

- “(a) a total of twelve months’ residence in any two consecutive calendar years, commencing in or after the fourth calendar year of the term of the lease, with a minimum of three months’ residence in either of those consecutive years and thereafter three months’ residence per calendar year, or
 - “(b) six months’ residence in each of two calendar years, commencing in or after the fourth calendar year of the term of the lease and thereafter three months’ residence per year, or
 - “(c) four months’ residence in each of three calendar years, commencing in or after the fourth calendar year of the term of the lease and thereafter three months’ residence per year, or
 - “(d) three months’ residence in each calendar year of the term of the lease commencing the fourth year.”,
- (b) as to subsection (1a) by striking out the word “six” and by substituting the word “three”;
- (c) by adding immediately after subsection (6) the following new subsection:
- “(7) Residence by a lessee upon a farm
 - “(a) of an area of at least eighty acres,
 - “(b) situated within a distance in a direct line of five miles of the lands comprising the homestead, exclusive of road allowances crossed in the measurement, and
 - “(c) occupied by the lessee as owner, purchaser under an agreement of sale, or lessee from the Crown,
 may, in the discretion of the Minister, be accepted as residence if the farm was acquired by the lessee after the issuance of his homestead lease.”.

Section 19
amended

6. Section 19 is amended

- (a) by striking out subsection (2) and by substituting the following new subsection:
 - “(2) In calculating a period of residence performed in accordance with subsection (1) of section 18,
 - “(a) a total of three hundred and sixty-five days’ residence in the fourth and fifth or subsequent two consecutive calendar years shall be deemed to be the equivalent of twelve months’ residence,
 - “(b) a total of one hundred and eighty days’ residence in a calendar year shall be deemed to be the equivalent of six months’ residence,
 - “(c) a total of one hundred and twenty days’ residence in a calendar year shall be deemed to be the equivalent of four months’ residence, and
 - “(d) a total of ninety days’ residence in a calendar year shall be deemed to be the equivalent of three months’ residence.”,
- (b) by adding immediately after subsection (6) the following new subsection:
 - “(7) Residence duties performed in any year in accordance with this section shall count to the credit

of the lessee even though the lessee fails to comply with the cultivation requirements in the same year.”.

7. Section 21 is amended by adding immediately after subsection (5) the following new subsection: Section 21
amended

“(6) Cultivation duties performed in any year in accordance with this section shall count to the credit of the lessee even though the lessee fails to comply with the residence requirements in the same year.”.

8. Section 32 is amended

(a) as to clause (b) by striking out the word “six” and by substituting the word “nine”, Section 32
amended

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

“(j) the lessee fails to comply with the terms and conditions of his contract for a loan under *The Homestead Lease Loan Act.*”.

9. Section 43 is amended

(a) as to subsection (1) by adding immediately after the words “five years” the words “where residence is performed in accordance with clauses (a) or (b) of subsection (1) of section 18, or in each of six years where residence is performed in accordance with clause (c) of subsection (1) of section 18, or in each of seven years where residence is performed in accordance with clause (d) of subsection (1) of section 18,” Section 43
amended

(b) by striking out subsection (2) and by substituting the following new subsections:

“(2) After the performance by the lessee of the requirements of the homestead lease in accordance with subsection (1) of section 18, the purchase price shall be reduced, for each additional year during which the requirements of the homestead lease have been performed,

“(a) by twenty per cent after the fifth year where residence duties are performed under clauses (a) or (b) of subsection (1) of section 18,

“(b) by twenty-five per cent after the sixth year where residence duties are performed under clause (c) of subsection (1) of section 18, and

“(c) by thirty-three and one-third per cent after the seventh year where residence duties are performed under clause (d) of subsection (1) of section 18.”,

“(3) Residence or cultivation duties performed in any year in accordance with the provisions of the lease shall be counted to the credit of the lessee when calculating duties in connection with an application for notification or assignment, even though the duties were not performed in the same years.”.

Section 44
amended

10. Section 44 is amended by adding immediately after subsection (6) the following new subsection:

“(7) Until the loan under *The Homestead Lease Loan Act* has been repaid in full, the Minister shall not issue notification for land to a lessee who has obtained a loan under that Act.”.

Section 45
amended

11. Section 45 is amended

(a) as to subsection (1a) by striking out the words “who had attained the age of eighteen years at the date of the commencement of the lease” and by substituting the words “who is twenty-one years of age or over”,

(b) as to subsection (5) by striking out the words “six months’” where they occur in clause (b) and by substituting the words “the required”,

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

“(6) A person who is indebted for a loan under *The Homestead Lease Loan Act* is not eligible to assign or exchange his homestead lease.”.

Section 79
amended

12. Section 79 is amended by striking out the words “included in any tract or block of lands leased for grazing purposes if in the opinion of the Minister the land is essential for the establishment of an economic unit” and by substituting the words “leased for grazing purposes”.

New
section 81

13. The following new section is added immediately after section 80:

Cancellation
of grazing
lease

“**81.** When the land leased under a grazing lease is not being used for the purpose for which it was leased, the grazing lease may be cancelled at the discretion of the Minister.”.

New
section 100f

14. The following new section is added immediately after section 100e:

Withdrawal
of lands for
right of way

“**100f.** (1) When the Minister is satisfied that an easement or right of way for poles, lines, conduits and structures for the distribution, transmission, measuring or supplying of electric power, energy or current or for telephone lines and poles is required on, over or under any lands leased pursuant to this Act or *The Provincial Lands Act*, other than lands leased for a homestead, the Minister may, on giving the lessee thirty days’ notice in writing, withdraw from the lease so much of the land as is required for the easement or right of way.

Compensa-
tion for
withdrawal
of lands

“(2) When land is withdrawn from a lease pursuant to this section, the lessee is entitled to a reduction in his rent, which shall be proportionate to the reduction in the extent of the lands leased to him, but the lessee is not entitled to any other compensation unless, in his discretion, the Minister otherwise decides.”.

15. Section 115 is amended by adding immediately after the words "special area" the words "or any lands in an area taken out of a special area since 1953,".

Section 115
amended

16. Section 118 is amended by adding immediately after clause (f) the following new clause:

Section 118
amended

"(g) prescribe the terms and conditions under which any vacant public land may be posted and made available for disposition under this Act."

prescribe
terms re
disposal of
vacant public
land

17. The following new section is added immediately after section 130:

New
section 130a

"130a. (1) When

"(a) a successful applicant for a lease, license, permit or other instrument or for a renewal thereof, or

Cancellation
of lease, etc.
and forfei-
ture of
deposit

"(b) a registered assignee of a lease, license, permit or other instrument or of an interest therein,

fails to execute the lease, license, permit, renewal, or the substitutional lease, license, permit or other instrument, as the case may be, and return it to the Department within ninety days from its due date, the lease, license, permit or other instrument may be cancelled.

"(2) Upon a cancellation under this section of a lease, license, permit or other instrument

"(a) the applicant or the assignee, as the case may be, forfeits any fee or rental paid by him in respect of the land applied for, and

"(b) the rights of the applicant or assignee, as the case may be, to the lease, license, permit, renewal, or substitutional lease, license, permit, or other instrument are extinguished."

18. Section 133 is amended

Section 133
amended

(a) as to subsection (1) by striking out the word "four" and by substituting the words "three and one-half",

(b) as to subsection (2) by striking out the word "five" and by substituting the words "four and one-half".

19. Section 149a is amended by adding immediately after subsection (2) the following new subsection:

Section 149a
amended

"(3) Insofar as they affect a crop share cultivation lease granted under this Act or *The Provincial Lands Act*, the provisions of this section are subject to section 5 of *The Crown Cultivation Leases Act, 1954*."

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

Coming
into force

THIRD SESSION
TWELFTH LEGISLATURE
4 ELIZABETH II
1955

BILL

An Act to amend The Public Lands
Act

Received and read the

First time

Second time

Third time

HON. MR. CASEY
