

No. 63

---

---

1st Session, 14th Legislature, Alberta  
8 Elizabeth II

---

---

## **BILL 63**

A Bill to amend The Communal Property Act

---

HON. MR. HOOKE

---

## Explanatory Note

**2.** (b) Communal property redefined. Subclause (i) is the present definition revised to fit in subclause (ii), which is new. Clause (b) presently reads:

“(b) “communal property” means land held by a colony in such a manner that

- (i) no member of the colony has any individual or personal ownership or right of ownership in the land, and
- (ii) each member shares in the distribution of profits or benefits according to his needs or in equal measure with his fellow members;”.

(c) The “Director” under the Act is being replaced by the new Board. Section 2, clause (c) reads:

“(c) “Director” means the Chairman of the Alberta Assessment Commission appointed under The Alberta Municipal Assessment Commission Act.”.

**3.** These sections authorize the Communal Property Control Board; provide for its composition, employees and expenses.

# BILL

No. 63 of 1960

An Act to amend The Communal Property Act

(Assented to \_\_\_\_\_, 1960)

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

**1.** *The Communal Property Act*, being chapter 52 of the Revised Statutes, is hereby amended.

**2.** Section 2 is amended by striking out clauses (b) and (c) and by substituting the following:

(b) "communal property" means

(i) land held by a colony in such a manner that no member of the colony has any individual or personal ownership or right of ownership in the land, and each member shares in the distribution of profits or benefits according to his needs or in equal measure with his fellow members, and

(ii) land held by personal ownership or right of ownership by any person but used in conjunction with and as part of other land held in the manner described in subclause (i);

(c) "Board" means the Communal Property Control Board established pursuant to this Act.

**3.** The following sections are added immediately after section 3:

**3a.** (1) The Lieutenant Governor in Council may establish a board to be known as the Communal Property Control Board, which shall be composed of not more than three members appointed from time to time by the Lieutenant Governor in Council.

(2) The members of the Board hold office during pleasure of the Lieutenant Governor in Council.

**3b.** (1) The Lieutenant Governor in Council shall designate the chairman of the Board from among the members thereof, and in the case of the illness, absence or other disability of the chairman, the member earliest named in the order appointing the members and present, or the member

4. (a) Changes a reference to the Director to a reference to the proposed Communal Property Control Board.

(b) Section 7 is to be replaced by the provision contained in clause 5 hereof, which will be restricted to new colonies. The reference to section 7 then becomes ineffective.

5. The 40-mile separation rule is to be abrogated in favour of a more variable rule (see clause 10). Section 8 is also removed. Sections 7 and 8 presently read:

"7. No colony and no branch of a colony and no person acting on behalf of a colony as trustee or otherwise, shall purchase, agree to purchase, attempt to purchase, lease or otherwise acquire any land or enter into any contract or agreement that may directly or indirectly result in the vesting of title or the right of possession of land in a colony or in any trustee or other person on behalf of a colony, or in the acquisition of land by a colony or any branch thereof within forty miles of any part of the communal property held by an established colony.

8. No land exceeding sixty-four hundred acres in area or such lesser amount as when added to the land already held by the colony would make its total holdings exceed sixty-four hundred acres shall be acquired by a colony established in the Province after the first day of May, 1947, and before the first day of May, 1951."

holding the longest appointment to the Board and present, shall act in the stead of the chairman.

(2) The chairman of the Board shall summon the members to all meetings of the Board and preside thereat.

**3c.** (1) The Lieutenant Governor in Council may appoint a secretary for the Board and may authorize the employment by the Board of such clerical assistance as may be considered necessary.

(2) The secretary of the Board

(a) shall have the custody and care of the records and documents of the Board,

(b) shall ensure that all orders and recommendations made by the Board are drawn pursuant to the directions of the board, properly authenticated and filed, and

(c) shall obey all rules and directions made or given by the board in respect of his duties or office.

**3d.** (1) The members of the Board and the secretary are entitled to be reimbursed for all expenses incurred by them in the performance of their duties, including all reasonable travelling and subsistence expenses.

(2) The members of the Board who are not employees of the Public Service of the Province, within the meaning of *The Public Service Act*, shall be paid such remuneration for their services on the Board as the Lieutenant Governor in Council may fix.

(3) The operating expenses of the Board shall be paid out of the General Revenue Fund of the Province.

**4.** Section 4 is amended

(a) as to subsection (4) by striking out the words "the Director, in his discretion," and by substituting the words "the Board, in its discretion,"

(b) as to subsection (6) by striking out the words and figure ", subject to section 7,".

**5.** Sections 7 and 8 are struck out and the following is substituted:

**7.** Without first obtaining the consent of the Lieutenant Governor in Council thereto, no colony and no branch of a colony and no person acting on behalf of a colony as trustee or otherwise, shall, for the purpose of establishing a new colony, purchase, agree to purchase, attempt to purchase, lease or attempt to lease, or enter into any agreement that could or would directly or indirectly result in the vesting of title or the right of possession of land in a colony, or in any trustee or other person on behalf of a colony.

**6.** Section 9 applied to colonies established after the commencement of The Communal Property Act. Section 9 reads:

"9. No land exceeding in area the number of acres that a colony may hold in any zone as designated by the Lieutenant Governor in Council under section 5 shall be acquired by a colony established in the Province on or after the first day of May, 1951."

**7.** (1) Changes reference from Director to new Board.

(b) Removes provision based upon the 40-mile separation rule, now to be abrogated. Section 10, subsection (3) reads:

"(3) Notwithstanding section 7, where a colony was established in the Province on or after the first day of May, 1951, and where, according to the system of surveys under The Alberta Surveys Act, any part of a section of land immediately adjoining the colony's holdings lies within forty miles of another established colony, the colony, at the discretion of the Director, may purchase, lease or otherwise acquire all of such section, if by so doing the colony does not exceed the authorized acreage of the zone in which it is located."

**8.** (a) Amended to change reference from Director to Board. Subsection (1) reads:

"12. (1) A colony shall, upon the written request of the Director, furnish to him, in such form as he may require, a statement showing by legal description all lands owned, leased, or in any way operated by the colony."

(b) Amended to change a reference from the Director to Board.

**9.** (a) Changes references from Director to references to the new Board.

(b) Clause (b) is new. The balance of the subsection is the present subsection (4) with references to the Director changed to "Board". Section 13, subsection (4) reads:

"(4) On the hearing of the application the Director shall determine as a matter of fact whether the applicant,

(a) if a person other than a colony, has the right to dispose of the land to the colony under this Act, and

(b) if a colony, has the right to acquire the land under this Act, and the Director shall make an order granting or refusing the application in whole or in part."

(c) Section 13, subsection (8) reads:

"(8) The Director shall within seven days of service of the notice of appeal on him transmit to the clerk of the court all documents and material in his hands relating to the application, and on receipt of the documents and material, the clerk of the court shall apply to a judge of the district having jurisdiction to fix a time and place for the hearing of the appeal and shall notify the Director and the appellant and such other person as the judge may direct of the time and place so fixed."

**6.** Section 9 is amended by striking out the figures “1951” and by substituting the figures “1947”.

**7.** Section 10 is amended

- (a) as to subsection (2) by striking out the word “Director” and by substituting the word “Board”,
- (b) by striking out subsection (3).

**8.** Section 12 is amended

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

**12.** (1) A colony shall, upon the written request of the Board, furnish to it, in such form as it may require, a statement showing by legal description all lands owned, leased, or in any way operated by the colony.

- (b) as to subsection (2) by striking out the word “Director” and by substituting the word “Board”.

**9.** Section 13 is amended

- (a) as to subsections (1), (2), (3), (5), (6), (7) and (9) by striking out the word “Director” and by substituting the word “Board”,
- (b) by striking out subsection (4) and by substituting the following:

(4) On the hearing of the application, the Board shall determine as a matter of fact

- (a) whether or not the applicant,
  - (i) if the applicant is a person other than a colony, has the right to dispose of the land to the colony under this Act, and
  - (ii) if the applicant is a colony, has the right to acquire the land under this Act,

and

- (b) whether or not it is in the public interest that the application be granted,

and the Board shall make an order granting or refusing the application in whole or in part.

- (c) by striking out subsection (8) and by substituting the following:

(8) The Board shall within seven days of service of the notice of appeal on it transmit to the clerk of the court all documents and material in its hands relating to the application, and on receipt of the documents and material, the clerk of the court shall apply to a judge of the district having jurisdiction to fix a time and place for the hearing of the appeal and shall notify the Board and the appellant and such other person as the judge may direct of the time and place so fixed.

**10.** These provisions are substituted for the present sections 7 and 8. See note to clause 5.

**10.** Section 14 is renumbered as section 15 and the following section is added immediately after section 13:

**14.** (1) Where the granting of any application made under subsection (1) or (2) of section 13 would result in the establishment of a new colony, a public hearing shall be held by the Board to determine whether or not it is in the public interest to grant the application, giving due consideration to

- (a) the location of the lands applied for and the location of existing colonies,
- (b) the geographical location of the lands intended for communal use in relation to lands not so used, and
- (c) any other factors that the Board may deem relevant to the application.

(2) After the completion of a public hearing the Board shall submit a report to the Minister as to the Board's decision to either grant or refuse the application with the reasons therefor.

(3) After consideration of the report of the Board, the Lieutenant Governor in Council may withhold the consent required under section 7 or may consent to the acquisition of land for and the establishment of the new colony, as to the Lieutenant Governor in Council seems proper in the public interest, irrespective of the decision of the Board thereon.

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

No. 63

---

---

FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

---

---

**BILL**

An Act to amend The Communal  
Property Act

---

---

Received and read the

First time.....

Second time.....

Third time.....

---

---

HON. MR. HOOKE

---

---