

No. 68

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

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## **BILL 68**

A Bill to amend The Public Lands Act

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HON. MR. WILLMORE

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## Explanatory Note

**2.** Section 12(1) is amended to provide a residence qualification in the Act rather than in the regulations. See clause (a) of the new subsection. Subsection (1) of section 12 presently reads:

"12. (1) Every person who,  
(a) has attained the age of eighteen years,  
(b) is not in possession or control of a farm under a certificate or agreement of sale,  
(c) is a British subject or Canadian citizen or declares his intention of becoming a Canadian citizen, and  
(d) who makes application in the manner hereinafter provided,  
is eligible for a homestead lease."

**3.** This amendment increases the application fee, removes the veteran's exemption in subsection (3), and authorizes a fee refund when an application is rejected. Section 13 presently reads:

"13. (1) Application for a homestead lease shall be made by the applicant in person during the regular office hours at the Public Lands Agency or at such other place as may be authorized by the Minister.

(2) A fee of five dollars shall be paid with the application and the Director, or officer acting for him, shall deal with applications in the order in which they are received.

(3) No fee shall be paid with an application made by a veteran."

**4. New.** This amendment will enable a homestead lessee who is eligible to apply for a notification but who has not paid a loan under The Homestead Lease Loan Act to enter into a contract without the stringent restrictions applying during the lease continuing throughout the term of the loan.

# BILL

No. 68 of 1960

An Act to amend The Public Lands 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 Public Lands Act*, being chapter 259 of the Revised Statutes, is hereby amended.

**2.** Section 12 is amended by striking out subsection (1) and by substituting the following:

**12.** (1) Subject to subsections (2) to (5), every person is eligible to be a homestead lessee who

- (a) is a person resident in the Province for an aggregate total of two years within the three years immediately prior to making his application for a homestead lease,
- (b) has attained the age of eighteen years or more,
- (c) is a British subject, a Canadian citizen, or declares in his application his intention of becoming a Canadian citizen, and
- (d) is not in possession or control of a farm under a certificate or agreement for sale.

**3.** Section 13 is amended by striking out subsections (2) and (3) and by substituting the following:

(2) Every application shall be accompanied by a fee of ten dollars for each quarter section or fractional quarter section of land for which application is made.

(3) The fee shall be refunded to the applicant where the Director rejects his application.

(4) Where an application is accepted but the applicant refuses to enter into a lease or fails to satisfy any condition required before the lease is issued, the application fee is forfeited.

(5) The Director, or officer acting for him, shall deal with applications in the order in which they are received.

**4.** The following new section is added immediately after section 41:

**5.** This amendment gives to the Lieutenant Governor in Council the authority to set the percentage of the assessed value of land under a cultivation lease, and to divide the Province into districts for the purpose of determining the amount payable. Section 52, subsection (1) presently reads:

"52. (1) The lessee shall pay a yearly rent of a sum of money equivalent to

- (a) five per cent of the value of the lands as assessed in accordance with The Assessment Act by the municipal district or improvement district in which the lands are situate, and
- (b) a sum sufficient to reimburse the Minister for any amounts paid by him pursuant to section 5 of The Crown Cultivation Leases Act."

**6.** Section 57, subsection (4) presently reads:

"(4) A grazing association making application for a lease shall show that it is incorporated under The Societies Act, and shall file in the Department a copy of its by-laws."

**41a.** (1) Where a homestead lessee has not fully repaid a loan obtained under *The Homestead Lease Loan Act*, but is otherwise eligible to apply for a notification, the lessee, upon payment of a fee of ten dollars may apply in the manner prescribed by sections 40 and 41, and the Minister may cancel the homestead lease and enter into a contract for the sale of the land with the lessee as purchaser.

- (2) The contract for the sale of the land shall
- (a) require the purchaser to pay the taxes assessed against the land,
  - (b) require the purchaser to keep the cultivated land in a good state of cultivation,
  - (c) grant the purchaser the right to obtain notification after the loan obtained under *The Homestead Lease Loans Act* has been paid in full, and
  - (d) contain such other terms and conditions as the Minister may prescribe.

**5.** Section 52 is amended

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

**52.** (1) The lessee shall pay a yearly rent of a sum equivalent to

- (a) such percentage, as may be determined by the Lieutenant Governor in Council, of the value of the lands, as assessed in accordance with *The Assessment Act, 1960*, by the municipal district, county or improvement district in which the lands are situate, and
- (b) a sum sufficient to reimburse the Minister for any amounts paid by him pursuant to section 5 of *The Crown Cultivation Leases Act*, and for the purposes of clause (a), the Lieutenant Governor in Council may divide the Province into districts and determine the percentage of the assessed value of the lands in each district.

(1a) For the purpose of determining the rental and tax rate under clauses (a) and (b) of subsection (1) where no assessment has been made under *The Assessment Act, 1960*, the Minister may make a provisional assessment to calculate the rental and taxes payable until such time as the land is assessed under *The Assessment Act, 1960*, but when the land is so assessed, any rents or taxes paid under the provisional assessment shall be adjusted according to the assessment made under *The Assessment Act, 1960*.

- (b) by renumbering present subsection (1a) as (1b).

**6.** Section 57, subsection (4) is amended by adding immediately after the word "Act" the words "or *The Co-operative Associations Act*".

**7.** This amendment permits the establishing of a basic unit to calculate the carrying capacity of grazing land.

**8.** This amendment will qualify subsection (1) with respect to permitting members of an association holding a grazing lease to graze cattle on the leased land. Section 69 presently reads:

"69. The lessee shall not graze, place, hold, pasture or feed any stock not belonging to himself upon the land comprising the lease, or permit or allow any such stock to be grazed, placed, held, pastured or fed, without the consent of the Director in writing."

**9.** Section 71 is revised to be more specific. Section 71 presently reads:

"71. (1) If a lease is held by a grazing association, the association shall operate the leasehold for the benefit of the settlers in the district in which the leasehold is located.  
(2) If a dispute arises regarding the right to graze stock on the leasehold, the Minister shall settle the dispute as he deems best."

**10.** This amendment will authorize a lessee to pay for improvements on the land at the time of his leasing it, by way of instalments. Section 93 requires a cash payment therefor at the time of the lease.

**7.** Section 63 is amended by adding immediately after subsection (3) the following new subsection:

(4) For the purpose of determining carrying capacity, a cow of average weight with calf at foot shall be considered as one animal unit, and any variations in the proportion of the animal unit due to age, weight and type of stock, shall be determined by the Minister.

**8.** Section 69 is amended

- (a) by renumbering the section as subsection (1),
- (b) by adding immediately after the renumbered subsection (1) the following:

(2) Notwithstanding subsection (1), where a grazing lease is held by a grazing association, the association may, without the consent of the Director, allow its members to graze stock owned by them on the lands contained in the grazing lease.

**9.** Section 71 is struck out and the following is substituted:

**71.** (1) Where a grazing lease is held by a grazing association, the land contained in the lease shall be used for the benefit of its members who are operating farms in the vicinity thereof.

(2) Notwithstanding subsection (1), where a grazing lease is held by a grazing association and any person having a farm in the vicinity of the lands contained in the lease who has been refused membership in, or has been dismissed from the membership of, the association, the Minister may, after considering the complaint of that person and the representatives of the association,

- (a) request the association to accept or reinstate that person as a member, as the case may be, and
- (b) if the association refuses to do so, order the association to allow the stock of that person to graze on the leased lands on the same terms that the association prescribes for its members.

**10.** The following new section is added immediately after section 78:

**78a.** (1) Where an application is made for a grazing lease, the Minister may waive the provisions of subsection (1) and subsection (3) of section 93 and direct that the amount in cash equal to the value of the improvements be paid in instalments on such terms as the Minister may prescribe.

(2) Where subsection (1) applies in respect of any grazing lessee, and default is made in the payment of the instalments, the Minister may recover the whole of the remaining instalments in the same manner as if it were rent, or cancel the lease, or both.

**11. Permits Minister to establish community grazing reserves.**

**12. Section 87 is amended to add a further ground (clause (c)) upon which the Minister may exempt a lessee from the payment of a portion of his rent. Section 87 presently reads:**

"87. The Minister may exempt a lessee from the payment of any portion of his rent for a period not exceeding three crop years following the date of issue of the lease in any case where the lands contained in the lease are infested with noxious weeds or have partly reverted to their natural state."

**13. Section 94, clause (b) presently reads:**

"94. In any case where a lease has been cancelled or has expired the Minister in his discretion may

.....

(b) refund to the person who made the improvements, or to any dependant or dependants of such person adjudged by the Minister to be entitled thereto, any moneys collected by the Minister on account of the value of the improvements or so much thereof as he may in his discretion consider proper after deducting any amount that is owing to Her Majesty with respect to the lands concerned."

**14. The Minister is given additional power to withdraw land from leases other than homestead leases. Section 104, subsection (1) presently reads:**

"104. (1) The Minister may, upon giving a lessee one month's notice in writing, withdraw any land contained in a lease other than a homestead lease, where

- (a) the Minister is satisfied that the land to be withdrawn contains sand and gravel in commercial quantities, or
- (b) the land to be withdrawn is intended to be subdivided or made the subject of a disposition to a person requiring it for an industrial or commercial purpose."

**15. These provisions relating to the exchange of lands are repealed. The Lieutenant Governor in Council has power under section 119(f) to exchange lands. (The sections to be repealed are set out at the end of these notes.)**



**11.** The following new section is added immediately after section 83:

**83a.** Where the Minister considers it in the interest of the farmers or ranchers of any area to do so, the Minister may establish, maintain and operate a community grazing reserve for the grazing of the stock of the farmers or ranchers of that area, in such manner and upon such terms and conditions as may be prescribed by him.

**12.** Section 87 is struck out and the following is substituted:

**87.** The Minister may exempt a lessee from the payment of any portion of his rent for a period not exceeding three crop years following the date of issue of the lease in any case where the lands contained in the lease

- (a) are infested with noxious weeds,
- (b) have partly reverted to their natural state, or
- (c) require extensive clearing before cultivation can be commenced.

**13.** Section 94 is amended by striking out clause (b) and by substituting the following:

- (b) after deducting any sums owing to Her Majesty from any moneys collected in respect of improvements,
  - (i) pay any amount owing for taxes by the lessee in respect of the lands contained in the cancelled lease to the city, town, new town, village, municipal district, county, or the Minister of Municipal Affairs in respect of improvement districts, and any indebtedness owing to a rural electrification association incorporated under *The Co-operative Associations Act*, as the case may be, and
  - (ii) refund the whole or part of the balance, if any, to the person who made the improvements or to any dependant of such person adjudged by the Minister to be entitled thereto.

**14.** Section 104, subsection (1) is amended

- (a) by striking out the word "or" at the end of clause (a),
- (b) by adding the word ", or" immediately at the end of clause (b),
- (c) by adding immediately after clause (b) the following:
  - (c) the land to be withdrawn is to be constituted as a park under *The Provincial Parks Act* or is intended to be set aside by the Minister as a public recreation area.

**15.** Sections 109 to 113 are repealed.

**16. New. Self-explanatory.**

**17.** The amendment is to extend the authority to seize thereunder to cases where the lease, etc. has terminated. Section 134, subsection (2) presently reads:

"(2) Where default is made in the due payment of any rent payable under a cultivation lease or of any share of the crop payable to Her Majesty the Queen in the right of the Province, under any lease, licence 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."

**18.** The residence requirements are broadened. Section 166, subsection (1), clause (a) presently reads:

"166. (1) Subject to subsections (2) to (4) every person is eligible to be a purchaser who  
(a) is a veteran or a person resident in the Province continuously for two years immediately prior to making his application for a homestead sale,".

**19.** New. Cf. new section 13(4) added by clause 3 of this Bill.

**20. Commencement.**

The sections repealed by clause 15 read as follows:

"109. (1) Any person who owns any freehold land in an area that suffers from drought, may for the purpose of the establishment of an economic unit, be allowed to transfer to the Crown any such land in exchange for vacant and available public land.

(2) In such a case the applicant, before the issue of a notification for the land selected, shall demonstrate his good faith by performing settlement duties, including residence and cultivation, or the maintenance of livestock, to the satisfaction of the Minister during the period of not less than one year immediately subsequent to the authorization of the exchange.

110. The public land selected by the applicant shall not exceed in extent or acreage the property surrendered, and the exchange shall be made on the basis of value for value following an investigation and corroboration of the representations made by the applicant, and upon the recommendation of the investigating officer.

111. (1) Before the issue of a notification for the public land, the applicant shall pay to the Provincial Treasurer the sum by which the value of the public land exceeds the value of the freehold land surrendered.

(2) The Minister shall not pay to the applicant the amount by which the value of the applicant's freehold land surrendered exceeds the value of the public land selected.

112. The applicant for an exchange with the Crown shall pay in addition to any other charge the sum of twenty-five dollars for each quarter section of public land or fraction thereof comprised in the exchange, and shall convey to the Minister title to the freehold land surrendered free and clear of encumbrances.

113. Lands belonging to the School Endowment Fund are not available for exchange."

**16.** The following new section is added immediately after section 117:

**117a.** (1) Where an agreement for the sale of public lands under this Part is cancelled or the purchaser quit claims his interest under the agreement to the Minister and the purchaser at that time owes taxes in respect of that land, the Minister may pay the taxes owing to the city, town, new town, village, municipal district, county or to the Minister of Municipal Affairs in respect of an improvement district, as the case may be, but no such payment shall exceed half the amount collected by the Minister as principal under the agreement for sale.

(2) Subsection (1) does not apply to the cancellation of an agreement for the sale of lands situated in a land clearing and breaking project and that was obtained in substitution for a homestead lease of the same lands.

**17.** Section 134 is amended by adding immediately at the end of subsection (2) the words "notwithstanding that the lease, licence or permit has been cancelled or surrendered or has expired".

**18.** Section 166, subsection (1) is amended by striking out clause (a) and by substituting the following:

(a) is a veteran or a person resident in the Province for an aggregate total of two years within the three years immediately prior to making his application for a homestead sale,

**19.** Section 168 is amended by adding immediately after subsection (2) the following:

(2a) Where the application has been accepted but the applicant refuses to enter into a homestead sale or fails to satisfy any condition required before the agreement for sale is made, the application fee is forfeited.

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

No. 68

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FIRST SESSION

FOURTEENTH LEGISLATURE

8 ELIZABETH II

1960

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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. WILLMORE

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