

No. 69

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2nd Session, 14th Legislature, Alberta  
9 Elizabeth II

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## **BILL 69**

A Bill to amend The Public Lands Act

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HON. MR. WILLMORE

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## Explanatory Note

### 2. Section 2, clause (p) presently reads:

“(p) “lessee” means any person who has attained the age of eighteen years and who is named as a lessee, and the next-of-kin, executors and administrators of any such person, and his and their assigns;”.

### 3. Section 5, subsection (1), clause (e) reads:

“5. (1) There is hereby reserved to the Crown out of every disposition of public lands under this Act  
.....

(e) all mines and minerals, whether precious or base, together with the right to enter, locate and prospect for minerals, and with full power to work the minerals, and for this purpose to enter upon, use and occupy the public lands or so much thereof and to such an extent as is necessary for the effectual working and extracting of the minerals, and”.

The form of the reservation is simplified.

### 4. Section 12 is amended to enable a greater number of people to qualify for a homestead lease. Section 12, subsections (1) to (5) read:

“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.

(2) A husband and wife shall not by homestead leases be granted in their individual names agricultural lands that total a greater area than the maximum area obtainable by one person under a homestead lease.

(3) A married person whose spouse is in possession or control of a farm under a certificate or agreement of sale is not eligible for a homestead lease if the combined holdings of the husband and wife exceed one-half section.

(4) Any person who at the time of making application for a homestead lease is in possession or control of a farm under any terminable agreement, shall divest himself of all interest in such farm within twelve months from the obtaining of a homestead lease, failing which the homestead lease automatically becomes null and void without any declaration by the Minister.

(5) If the husband or wife of a person making application for a homestead lease is in possession or control of a farm under any terminable agreement, then the husband or wife shall, within twelve months from the date of issue of the homestead lease, divest himself or herself of all interest in such farm to the extent that the total area of the farm and the homestead exceeds two quarter sections, failing which the homestead lease automatically becomes null and void without any declaration by the Minister.”.

# BILL

No. 69 of 1961

An Act to amend The Public Lands Act

(Assented to \_\_\_\_\_, 1961)

**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 2 is amended by striking out clause (p) and by substituting the following:

(p) "lessee" means any person who is a party to any lease or other form of terminable grant issued pursuant to this Act;

**3.** Section 5, subsection (1) is amended by striking out clause (e) and by substituting the following:

(e) all mines and minerals and the right to work the same, and

**4.** Section 12 is amended

(a) by adding the following subsection immediately after subsection (1):

(1a) Notwithstanding clause (d) of subsection (1), a person who is in possession or control of a farm under a certificate or agreement for sale, but is otherwise eligible under subsection (1), is eligible to be a homestead lessee,

(a) if the farm consists of

(i) not more than one quarter section, if there is only one parcel of land in the farm, or

(ii) not more than one hundred and sixty acres, if there is more than one parcel of land in the farm,

and

(b) if the farm or any parcel of land included in the farm is not more than five miles from the land applied for.

(b) by striking out subsections (3), (4) and (5) and by substituting the following:

(3) A husband and wife may not be granted a homestead lease, either jointly or severally, if they

**5.** Section 38 is repealed and the subject matter will be dealt with in a new section 94a. See clause 11 of this Bill.

**6.** Section 43 reads:

“43. A homestead lessee to whom a notification has been granted is not eligible to apply for or acquire another homestead lease.”.

**7.** Self-explanatory.

possess jointly or severally under a certificate or an agreement for sale a farm if

- (a) the farm consists of
  - (i) more than one quarter section, if there is only one parcel of land in the farm, or
  - (ii) more than one hundred and sixty acres, if there is more than one parcel of land in the farm,
- or
- (b) the farm or any parcel of land included in the farm is more than five miles from the land applied for.

(4) Where, at the time of making application for a homestead lease, an applicant or the spouse of the applicant is, under any terminable agreement, in possession or control of a farm more than five miles from the land applied for, the applicant or the spouse shall, within three years from the date of issue of the homestead lease, divest himself of all interest in that farm, and the failure to so divest renders the homestead lease null and void without any declaration by the Minister.

(5) Where, at the time of making application for a homestead lease, an applicant or the spouse of the applicant is, under any terminable agreement, in possession or control of a farm within five miles from the land applied for, the applicant or the spouse shall, within three years from the date of issue of the homestead lease, divest himself of all interest in that farm to the extent that the total area of the farm and the homestead exceeds two quarter sections, and the failure to so divest renders the homestead lease null and void without any declaration by the Minister.

**5.** Section 38 is repealed.

**6.** Section 43 is amended by adding immediately after the word "lessee" the words "or the purchaser under a homestead lease loan sale".

**7.** Section 71 is amended by adding immediately after subsection (2) the following:

(3) Where a grazing lease is held by a grazing association and any member of the association has been allotted more than twenty animal units for the grazing season, the Minister may require the grazing association

- (a) to reduce the allotment of such a member to twenty animal units in subsequent years, and
- (b) to issue allotments to other persons operating farms in the vicinity of the grazing lease.

**8. Section 80 presently reads:**

- "80. The Minister in his discretion may cancel a grazing lease
- (a) where the land contained in the grazing lease is not being used for the purpose for which it is leased, or
  - (b) in the case of a lease granted to two or more persons, where one or more of the lessees ceased to use the lands contained in the grazing lease for the purpose of grazing his or their own stock."

**9. (84a) Leases of Crown lands by one or more persons.**

(84b) A new section is to be enacted to enable the Minister to prevent the untidiness of lands held under lease or permit.

**10. A minimum age of 18 years for lessees is prescribed.**

**11. Authority is given to the Minister to cancel leases for non-payment of rent or breach of covenant and to state that the Minister may sue a lessee for rent due.**

**8.** Section 80 is amended

- (a) by striking out the word "or" at the end of clause (a) and by adding the word "or" at the end of clause (b),
- (b) by adding the following clause after clause (b):
- (c) where the lessee fails to comply with the terms and conditions of a loan contract under *The Utilization of Lands and Forests Act*.

**9.** The following new sections are added immediately after section 84:

**84a.** Where a lease is granted or assigned to two or more persons, each lessee has an equal interest in the lease, and no lease or assignment of a lease shall express an undivided interest.

**84b.** (1) No lessee or permittee shall permit, suffer or allow the accumulation of waste material, debris, refuse and garbage, or the existence of any structure or excavation of any kind on the land described in the lease or permit that is undesirable in the opinion of the Minister.

(2) In respect of the matters referred to in subsection (1) the Minister may

- (a) order the lessee or permittee to take any action within such time as the Minister deems necessary,
- (b) if the lessee or permittee fails to comply with the order of the Minister, cause any action to be taken that the Minister deems necessary and recover any costs incurred as a debt owing to the Crown by court proceedings, and
- (c) cancel the lease or permit.

**10.** The following new section is added immediately after section 87a:

**87b.** No person is eligible to apply for a lease until he has attained the age of eighteen years.

**11.** The following new sections are added immediately after section 94:

**94a.** Where the Minister is satisfied that a lessee has defaulted in paying the rent upon the days appointed for the payment thereof or in performing or observing any of the covenants, conditions, stipulations or agreements of any lease issued pursuant to this Act, whether express or implied, and notwithstanding the waiver of any previous breach, the Minister by order may cancel the lease and any interest of the lessee created by the lease ceases.

**94b.** Where a lease is cancelled pursuant to this Act, any unpaid rents, fees, charges and crop share payments may be recovered as a debt owing to the Crown by court proceedings.

**12.** The Minister is authorized to cancel a sale agreement where he is satisfied that it was obtained through error, fraud or misrepresentation.

**13.** Section 118, subsection (4) reads:

"(4) The Registrar shall not alter, modify or remove from any certificate the clause restricting the use of the land unless authorized in writing by the Minister."

**14.** Lieutenant Governor in Council authorized to establish and regulate wilderness areas.

**15.** Section 132, subsection (1) is made applicable to loans under The Homestead Lease Loan Act. Section 132, subsection (1) reads:

"132. (1) Notwithstanding anything in The Seizures Act or any other Act to the contrary, in case any default is made in the due payment of any rent or any money payable by way of rent or on account of any dues or royalties, or on account of any purchase price, that is payable to the Crown in the right of the Province under and by virtue of any lease, licence, permit, agreement of sale or other instrument made, entered into or issued pursuant to any of the provisions of this Act or The Provincial Lands Act or of any Act of the Parliament of Canada, then and in every such case and whether the same is demanded or not, the Crown has the right to levy the same by distress."

**16.** Section 134, subsection (2) is amended in the same manner as section 132, subsection (1). See clause 15 above. Section 134, subsection (2) 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, notwithstanding that the lease, licence or permit has been cancelled or surrendered or has expired."

**17.** Subsection (3) of section 154 is omitted as being unnecessary. Section 154, subsection (3) reads:

(3) Upon attaining the age of twenty-one years, the minor shall forthwith ratify and confirm the agreement of sale, lease, licence, permit or other form of agreement entered into by the minor and the Crown in the right of the Province, and failure to do so within a reasonable time after reaching his majority renders the sale, lease, licence, permit or other form of agreement subject to summary cancellation in the discretion of the Minister."

**18.** Section 180, subsection (2), clause (b) reads:

"(2) No application shall be accepted under subsection (1),  
.....

(b) where the homestead lessee would not be eligible within section 166 to be a purchaser of the land intended to be purchased under the new homestead sale,".

**19.** Section 193 is amended to clarify the conditions under which a homestead sale may be assigned. Section 193, clause (a) reads:

"193. A purchaser may, with the consent of the Minister, assign his interest under a homestead sale, but the Minister shall not consent to an assignment

(a) that is executed earlier than in the fifth year,".

**20.** Commencement of Act.

**12.** Section 115 is amended by adding immediately after subsection (3) the following:

(4) Where the Minister is satisfied that a purchaser has acquired his interest under a sale agreement by error, fraud or misrepresentation, the Minister may by order cancel the sale and any interest of the purchaser created by the sale agreement thereby ceases.

**13.** Section 118, subsection (4) is amended by striking out the word "modify" and by substituting the word "amend".

**14.** Section 119 is amended by adding the following new clause immediately before clause (b):

(a) set aside public lands for use as wilderness areas for the benefit, education and recreation of the public and make regulations for the administration, management and protection of such areas,

**15.** Section 132, subsection (1) is amended by adding immediately after the words "or on account of any purchase price," the words "or on account of any indebtedness incurred under a loan contract entered into pursuant to *The Homestead Lease Loan Act* or *The Utilization of Lands and Forests Act*,".

**16.** Section 134, subsection (2) is amended by adding immediately after the words "*The Provincial Lands Act*," the words "or of any indebtedness owing under a loan contract entered into pursuant to *The Homestead Lease Loan Act*".

**17.** Section 154 is amended by striking out subsection (3).

**18.** Section 180, subsection (2) is amended by striking out clause (b) and by substituting the following:

(b) where the homestead lessee is not a British subject or a Canadian citizen, or does not declare in his application his intention of becoming a Canadian citizen,

**19.** Section 193 is amended by striking out clause (a) and by substituting the following:

(a) unless the assignor can be credited with the performance of cultivation duties for at least four years under section 171 or 182,

(a1) unless the assignor has paid the instalments due and owing on the purchase price,

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

No. 69

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SECOND SESSION

FOURTEENTH LEGISLATURE

9 ELIZABETH II

1961

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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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