

No. 151

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1st Session, 15th Legislature, Alberta  
12 Elizabeth II

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## **BILL 151**

A Bill to amend The Public Lands Act

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HON. MR. WILLMORE

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## Explanatory Note

**1.** This Bill amends The Public Lands Act, which is chapter 259 of the Revised Statutes.

**2.** Section 2, clause (g) is revised in the light of the amendment to section 156 and the repeal of section 138.

**3.** Section 5 is revised by adding a new subsection to provide for the transfer of administration and control of any public land required for a highway to the Minister of Highways.

**4.** This section repeals the provisions of the Act dealing with issuance and administration of homestead leases, and provides for the continuing administration of existing leases and for the manner in which applications for homestead leases received before the amending Act comes into force are to be dealt with.

**5.** Section 73, subsection (2) presently reads:

"(2) The lessee upon application to the Director and upon payment of a fee of one dollar and dues at the rate of fifty cents per ton, may be granted a permit to cut additional hay on the land covered by the grazing lease for the feeding of the lessee's own stock, but not for barter or sale."

# BILL

No. 151 of 1964

## An Act to amend The Public Lands Act

(Assented to \_\_\_\_\_, 1964)

**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* is hereby amended.

**2.** Section 2 is amended by striking out clause (g) and by substituting the following:

(g) "Director" means the Director of Lands of the Department;

**3.** Section 5 is amended by adding the following subsection:

(3) When plans of surveys of any public land required for any highway or road as defined in clause (i) of section 2 of *The Public Highways Act* are registered in a land titles office, the administration and control of the public land is thereby transferred to the Minister of Highways.

**4.** (1) Part I of the Act is repealed.

(2) Applications for homestead leases received by the Director before the twentieth day of April, 1964, shall be dealt with as if this section had not been enacted.

(3) Homestead leases granted by the Minister

(a) before the twentieth day of April, 1964, or

(b) pursuant to an application dealt with pursuant to subsection (2),

are subject to the provisions of *The Public Lands Act* as it was before this section was enacted.

**5.** Section 73 is amended by striking out subsection (2) and by substituting the following:

(2) The lessee, upon application to the Director and upon payment of the fees prescribed by the regulations, may be granted a permit to cut additional hay on the land covered by the grazing lease for the feeding of the lessee's own stock, but not for barter or sale.

**6.** Section 94 is revised in the light of a new general section 129a which deals with the manner in which improvements on public lands are to be dealt with.

**7.** See note to clause 6.

**8.** A new clause is added to empower the Lieutenant Governor in Council to transfer administration and control of lands to other departments.

**9.** Section 129a is revised to consolidate the provisions contained in the old section and in sections 94 and 95 to provide generally for the administration of improvements and their disposition on public land.

**6.** Section 94 is struck out and the following is substituted:

**94.** Where a lease has been cancelled or has expired and any sums owing to Her Majesty have been deducted from any money collected on account of improvements from any new occupant of the land described in the lease, the Minister may

- (a) apply the balance for the purpose of paying any debt arising out of the use of the land described in the cancelled or expired lease to any agency of the Crown, any debt owing to a municipality and any debt owing to a rural electrification association incorporated under *The Co-operative Associations Act*, and
- (b) refund the whole or part of the balance, if any, to the person who made the improvements or to any dependant of that person who, in the opinion of the Minister, is entitled to it.

**7.** Section 95 is repealed.

**8.** Section 119 is amended by adding the following clause after clause (r) :

- (s) transfer the administration and control of any public lands to any department or agency of the Province upon the terms and conditions and for the reasons given in the order,

**9.** Section 129a is struck out and the following is substituted:

**129a.** (1) During the term of any disposition of public lands or where

- (a) a disposition of public lands is surrendered or cancelled or has expired, or
- (b) any land is withdrawn from a disposition of public land,

the Minister in his discretion may decide whether or not any building or other improvement is affixed to the land and is to be considered a part thereof.

(2) When a disposition of public lands is surrendered or cancelled or has expired or when any land is withdrawn from a disposition of public lands, the person to whom the disposition was made may

- (a) subject to subsection (4), and
- (b) before the expiration of one month following the date of surrender, cancellation, expiration or withdrawal,

remove from the public lands any chattels owned by him and any buildings or improvements erected or created by him.



(3) The Director may, by notice in writing addressed to the person to whom a disposition was made, extend the period of time provided by subsection (2).

(4) Any chattels, buildings or other improvements on public lands are forfeited to the Crown in right of the Province when

(a) the period of time provided by subsection (2) and any extension thereof prescribed by the Director has expired, or

(b) at the time any disposition of the public lands is cancelled or expired, the person to whom the disposition was made is indebted to the Crown or to the Minister.

(5) When any chattels, buildings or other improvements on Crown land are forfeited to the Crown pursuant to clause (b) of subsection (4), the Minister may

(a) sell the chattels, buildings or other improvements in satisfaction of the indebtedness, and

(b) refund to the person to whom the disposition was made the amount, if any, by which the proceeds exceed the expenses of the sale and the indebtedness.

(6) When

(a) the Minister in his discretion decides that any building or other improvement is affixed to and forms a part of public land and the building or improvement is not owned or was not created by any person who occupies the public land pursuant to a disposition, or

(b) the building or other improvement is forfeited to the Crown pursuant to clause (a) of subsection (4), the Minister may authorize any person to remove, demolish, sell or otherwise dispose of the building or improvement.

(7) When the Minister issues an authorization to any person pursuant to subsection (6), he may require that person to

(a) post a notice on the building or improvement stating that, on or after the thirtieth day following the posting of the notice, the building or improvement will be removed from the land, demolished, sold or otherwise disposed of, and

(b) cause a notice to appear once a week for two consecutive weeks in a newspaper circulating in the vicinity of the land upon which the building or improvement is situated describing the building or improvement, the land upon which it is situated, and stating that it will be removed, demolished, sold or otherwise disposed of on or after the thirtieth day following the last appearance of the notice.

**10.** Section 134 is revised to permit payment of all arrears that accumulate between the date of seizure and the date of sale from the proceeds of the sale of the grain seized at any one time.

**11.** The provisions of section 138 are incorporated in a new section 156.



(8) During the term of any disposition of public land the Minister may authorize any person to enter upon the land and remove any chattels, fencing, buildings, or other improvements that are not owned by the person to whom the disposition was made.

(9) Where any chattel other than an improvement deemed by the Minister to be affixed to the land and to form a part thereof is found on any Crown land and the owner thereof cannot be ascertained or located upon reasonable enquiry, the Minister may cause the chattel to be confiscated, removed from the Crown land and disposed of in any manner he thinks fit.

(10) When the owner of any chattel referred to in subsection (9) is ascertained, the Minister may by notice in writing

(a) require the owner to remove the chattel from the Crown land on or before a day designated in the notice, and

(b) advise the owner that if the notice is not complied with the chattel may be confiscated and disposed of in any manner the Minister thinks fit.

(11) When

(a) the Minister disposes of any chattels, buildings or other improvements pursuant to subsection (5),

(b) any building or other improvement is disposed of pursuant to subsection (6),

(c) any chattel is confiscated, removed and disposed of pursuant to subsection (9),

all the right, title and interest of any person who may be the owner of the building, improvement or chattel shall end.

**10.** Section 134 is amended by striking out subsection (5) and by substituting the following:

(5) When any grain is seized pursuant to this section, the officer making the seizure may sell all of the grain seized or a sufficient quantity thereof to satisfy the total amount owing by the lessee at the time the grain is sold.

(6) Where the amount owing by the lessee at the time the grain is sold exceeds the amount he owed when the seizure was made, the officer shall, before he sells the grain, deliver an amended notice in Form B to the lessee.

(7) The Minister may refund to the lessee the amount, if any, by which the proceeds of the sale exceed the expenses of the sale and the total amount owing by the lessee at the time the grain is sold.

(8) No officer while discharging his duties under this section, or any officer assisting him, is liable for trespass on privately owned land.

**11.** Section 138 is repealed.

**12. Section 142 presently reads:**

"142. (1) If upon any disposition of public lands the payment of any money payable as the consideration therefor is deferred to a date subsequent to the making of the disposition, then, subject to any express agreement to the contrary, it bears interest at the rate of three and one-half per cent per annum.

(2) If any money payable under any sale, lease, licence or permit is not paid within one month from the date on which it becomes due, it bears interest at the rate of four and one-half per cent per annum from the due date."

**13. Section 156 is revised to expand the Minister's power to delegate the various powers, duties and functions conferred upon him by the Act and to expand this power to delegate as contained in the present section.**

**14. Section 163 is revised to provide for the new type of homestead sale of public lands to be entered into by the Minister after the discontinuance of homestead leases.**

**15. Section 166, subsection (4) is revised to increase the distance between homestead land and land owned, possessed or controlled by the applicant.**

**16. Section 168 is revised to reflect the new provisions regarding homestead sales.**

**12.** Section 142 is struck out and the following is substituted:

**142.** If upon any disposition of public lands the payment of any money payable as the consideration therefor is deferred to a date subsequent to the making of the disposition, then, subject to any express agreement to the contrary, it bears interest at the rate of four and one-half per cent a year.

**13.** Section 156 is struck out and the following is substituted:

**156.** (1) The Minister may, in writing, authorize the Director or any employee of the Department to exercise those powers, duties and functions conferred upon him by this Act that may, in his opinion, be exercised by the Director or employee.

(2) The Director may, in writing, authorize any employee of the Department under his supervision to exercise those powers, duties and functions conferred upon him by this Act that may, in his opinion, be exercised by the employee.

**14.** Section 163 is struck out and the following is substituted:

**163.** (1) The Minister may agree to sell parcels of adjoining public lands not exceeding three quarter sections in area for settlement as homesteads.

(2) When the Minister agrees to sell public lands pursuant to subsection (1), the agreement shall be called a homestead sale.

(3) When the Minister enters into a homestead sale between the first day of January and the thirtieth day of June in any year, the agreement takes effect on the first day of January in that year.

(4) When the Minister enters into a homestead sale between the first day of July and the thirty-first day of December in any year, the agreement takes effect on the first day of January in the following year.

(5) Notwithstanding subsections (3) and (4), the purchaser named in a homestead sale may take possession of the land described in the agreement on the date it is executed.

**15.** Section 166, subsection (4) is amended by striking out the word "five" and by substituting the word "seven".

**16.** Section 168 is amended by striking out subsections (2a) and (3) and by substituting the following:

**17.** Section 170, subsection (1) is revised to provide a new method of calculating the sale price of public land sold for use and development as a homestead.

**18.** The provisions respecting cultivation duties are amended.

**19.** 172a and 172b. New sections are enacted for the purpose of creating requirements as to residence on the land sold for use and development as a homestead.

(3) Where an application for a homestead sale is accepted and the applicant refuses to execute the agreement or fails to comply with any condition required to be complied with before the agreement is executed, the fee paid by the applicant or any portion of it may be forfeited to the Minister.

(4) Where the Minister enters into a homestead sale the application fee paid by the purchaser shall be applied on account of the payment of the first instalment of the purchase price.

(5) The Minister in his discretion and in any manner he considers warranted may restrict the acceptance of applications for any specific land or for land in any particular district, and the Minister shall settle in such manner as he considers best all disputes that arise between persons claiming the right to homestead the same land.

**17.** Section 170 is amended by striking out subsection (1) and by substituting the following:

**170.** (1) The price of public land sold pursuant to this Part shall be determined by the Minister who may for this purpose consider

- (a) the value of the public land determined by an officer of the Department who has inspected it,
- (b) the duties to be performed by the purchaser, and
- (c) the cost of constructing any works or improvements required to provide access to or facilitate the settlement of the land.

**18.** Section 171 is amended by adding the following subsection:

(4) Notwithstanding the failure of the purchaser to perform his residence in any year, the cultivation he completes pursuant to this section for that year shall be credited to him.

**19.** The following sections are added after section 172:

**172a.** (1) Every purchaser shall reside

- (a) on the land described in his homestead sale, or
- (b) on land in the vicinity,

as required by subsection (4), for a total of at least three months in each year of the term of the sale commencing not later than the first day of July in the seventh year of the term.

(2) Subject to section 195, a notification may be issued to a purchaser before the completion of the term of his sale if he resides

- (a) on the land described in his homestead sale, or

**20.** Section 180 is revised by providing that a homestead lessee may not apply for a sale unless he has complied with all the provisions of his homestead lease except those governing his performance of residence or cultivation duties.

(b) on land in the vicinity,  
as required by subsection (4), for a total of twelve months  
in two or more years commencing at any time after the  
third year of the term of the sale.

(3) Every purchaser shall comply with subsection (2) by  
residing on the land for a total of

(a) not less than three months or more than nine  
months in any one of two calendar years,

(b) six months in each of any two calendar years,

(c) four months in each of any three calendar years, or

(d) three months in each of any four calendar years.

(4) Every purchaser shall reside in a habitable house  
situated on the land described in the homestead sale or on a  
farm containing an area of at least eighty acres that is, in  
the opinion of the Minister, situated within a radius of  
seven miles from the land described in the homestead sale.

(5) For the purpose of this section one month shall be  
deemed to be a period of thirty consecutive days.

(6) Residence by the family in the absence of the pur-  
chaser may not be counted towards fulfilment of the resi-  
dence requirements.

(7) Any period of time spent on a homestead or on a  
farm in the vicinity of the homestead during which the  
purchaser was chiefly engaged in an occupation other than  
farming shall not count as a period of residence for the  
purposes of this section.

(8) Where a homestead sale has been cancelled and a new  
homestead sale comprising any of the former homestead is  
issued to the same purchaser, the purchaser is in the same  
position with respect to residence duties under the new sale  
as he would be in if the date of the new sale and the date of  
the commencement of its term were the same as the date of  
the cancelled sale and the date of the commencement of the  
term of the cancelled sale.

(9) Residence duties performed in any year in accord-  
ance with this section count to the credit of the purchaser  
even though the purchaser fails to comply with the cultiva-  
tion requirements in the same year.

**172b.** The Minister may grant an extension of time to  
the purchaser for the performance of the terms and condi-  
tions of the homestead sale.

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

(a) where the homestead lessee has failed to comply  
with the provisions of the homestead lease, except  
those governing his performance of residence, cul-  
tivation duties or the erection on the leasehold of a

**21. Section 185, subsection (1), clause (a) and subsection (3) presently read:**

**"185. (1) Subject to section 186, the Minister may cancel a homestead sale where the purchaser**

**(a) has not performed, or misrepresents the performance of, his cultivation duties,**

**....."**

**"(3) Subsection (2) applies only in respect of homestead sales applied for on or after the first day of December, 1962."**

**22. Section 195 is revised and consolidated to include the performance of periods of residence as one of the conditions upon which a notification may be issued to a purchaser of homestead lands, and to consolidate these provisions with the provisions of section 197.**



habitable dwelling house of the value of at least five hundred dollars by the end of the third calendar year of the lease,

**21.** Section 185 is amended

(a) as to subsection (1) by striking out clause (a) and by substituting the following:

(a) has not performed or misrepresents the performance of his residence or cultivation duties,

(b) by striking out subsection (3) and by substituting the following:

(3) Subsection (2) applies only in respect of homestead sales applied for between the first day of December, 1962, and the seventeenth day of April, 1964.

**22.** Section 195 is struck out and the following is substituted:

**195.** (1) A notification may be issued to every purchaser named in a homestead sale after the expiration of the fifth year of the term of the sale who

(a) submits an application containing information satisfactory to the Minister,

(b) has paid the purchase price or is entitled to a credit pursuant to this section sufficient to pay the purchase price,

(c) has performed his cultivation duties for not less than five years,

(d) has performed a minimum of twelve months' residence as required by section 172a,

(e) has repaid all money loaned to him pursuant to *The Homestead Lease Loan Act*,

(f) obtains the consent of the Director, *The Veterans' Land Act* (Canada) where he owes any money advanced to him by the Director pursuant to *The Veterans' Land Act* (Canada),

(g) is a Canadian citizen or British subject at the time he submits his application,

(h) has not fraudulently misrepresented any of the information contained in his application, and

(i) satisfies the Minister that he has been primarily occupied as a farmer for at least one year immediately before the date of his application for notification if he submitted his application to become a purchaser between the first day of December, 1962 and the seventeenth day of April, 1964.

**23.** Section 197 is consolidated with the new section 195. The provisions of section 198 are now contained in section 163, subsection (5).

**24.** The sections named in section 201 apply to leases generally and are made to apply mutatis mutandis to agreements for the sale of homestead lands.

**25.** Commencement of Act.

(2) Where the purchaser performs his residence in a habitable house worth, in the opinion of the Minister, at least one thousand dollars, constructed on a permanent foundation on the land described in his homestead sale, and his application for notification is approved by the Minister, the Minister may grant to the purchaser a credit of two dollars per acre not exceeding the total sum of five hundred dollars and may

(a) apply all or any portion of the total sum in payment of any unpaid balance of the purchase price, or

(b) pay the total sum or any portion of it to the purchaser.

(3) The credit referred to in subsection (2) shall not be granted

(a) where the purchaser performs his residence in a habitable house worth, in the opinion of the Minister, less than one thousand dollars, or

(b) where the purchaser performs his residence on land in the vicinity of the land described in the homestead sale.

(4) Where a purchaser dies or is mentally incompetent and his application for notification is made by his personal representative, the personal representative is not required to prove that the deceased or mentally incompetent purchaser was or is a Canadian citizen or British subject.

**23.** Sections 197 and 198 are repealed.

**24.** Section 201 is struck out and the following sections are substituted:

**201.** Sections 84*b*, 85, 86, 87*a*, 88, 89, 90, subsection (1) of section 91, and sections 92 to 99, sections 101 to 103, sections 105, 107 and 108 apply *mutatis mutandis* to homestead sales and to the purchasers therein named.

**202.** (1) Applications for the purchase of public lands for settlement as homesteads received by the Director before the twentieth day of April, 1964, shall be dealt with in accordance with the provisions of *The Public Lands Act* as it was before this section was enacted.

(2) Homestead sales entered into by the Minister

(a) before the twentieth day of April, 1964, or

(b) pursuant to an application dealt with pursuant to subsection (1),

are subject to the provisions of *The Public Lands Act* as it was before this section was enacted.

**25.** This Act comes into force on the twentieth day of April, 1964.

No. 151

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FIRST SESSION

FIFTEENTH LEGISLATURE

12 ELIZABETH II

1964

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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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