

No. 80

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3rd Session, 15th Legislature, Alberta  
14 Elizabeth II

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## **BILL 80**

A Bill respecting Public Lands

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HON. MR. RUSTE

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## **Explanatory Note**

General. This Bill is a general revision of the present Public Lands Act, being chapter 259 of the Revised Statutes. Part II of the present Act dealing with cultivation leases is omitted as existing and future cultivation leases will be administered under regulations. Section references in the notes to the Bill are to sections in the present Act.

### **2. Definitions.**

# BILL

No. 80 of 1966

An Act respecting Public Lands

(Assented to \_\_\_\_\_, 1966)

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

1. This Act may be cited as "*The Public Lands Act, 1966*".
2. In this Act,
  - (a) "adjoining lands" means
    - (i) lands that adjoin or corner, or
    - (ii) lands separated by a road allowance or a surveyed highway or road that would adjoin or corner if they were not so separated, or
    - (iii) lands on either side of a correction line that are declared by the Minister to be adjoining lands for the purposes of this Act;
  - (b) "certificate of title" means a certificate of title granted pursuant to *The Land Titles Act* in respect of an estate in fee simple;
  - (c) "Department" means the Department of Lands and Forests;
  - (d) "Director" means the Director of Lands of the Department;
  - (e) "disposition"
    - (i) means every instrument executed pursuant to this Act, the former Act, *The Provincial Lands Act* or the *Dominion Lands Act* whereby any estate, right or interest in any lands of the Crown is or has been granted to any person or by which the Crown divests or has divested itself in favour of any person of any estate, right or interest in any lands, and
    - (ii) without derogating from the generality of subclause (i), includes a conveyance, assurance, sale, lease, licence, permit, contract or agreement made, entered into or issued pursuant to any of the said Acts and relating to land, but does not include a grant;
  - (f) "farm" means an area of land on which commercial farming or ranching operations are conducted;



- (g) "former Act" means *The Public Lands Act*, being chapter 81 of the Statutes of Alberta, 1949 and chapter 259 of the Revised Statutes;
- (h) "grant" means letters patent under the Great Seal of Canada or a notification issued pursuant to *The Provincial Lands Act*, the former Act or this Act;
- (i) "holder" means the holder of a disposition according to the records of the Department;
- (j) "issue", with reference to a disposition that is required to be executed by the holder, means to mail or deliver two or more copies of the disposition to the intended holder for execution by him;
- (k) "land" or "lands" does not include mines and minerals;
- (l) "livestock" means cattle, horses or sheep;
- (m) "Minister" means the Minister of Lands and Forests;
- (n) "notification" means a notification in Form A in the Schedule;
- (o) "officer" means the Director, an inspector or any employee of the Department designated as an officer by the Minister;
- (p) "public lands" means lands of the Crown in right of Alberta;
- (q) "Registrar" means a Registrar within the meaning of *The Land Titles Act*;
- (r) "rent" includes royalties, dues, fees, rates, charges, or other moneys payable by any person to the Crown in right of Alberta under and by virtue of any disposition, but does not include moneys payable as the whole or part of a purchase price;
- (s) "sub-agent" means an employee of the Department employed as a sub-agent;
- (t) "township", "section", "half-section", "quarter-section", and "legal subdivision" means
  - (i) a township, section, half-section, quarter-section or legal subdivision, respectively, within the meaning of *The Alberta Surveys Act*, or
  - (ii) with reference to unsurveyed territory, what would be a township, section, half-section, quarter-section or legal subdivision, respectively, if the land were surveyed in accordance with *The Alberta Surveys Act*;
- (u) "Transfer Agreement" means the agreement in the Schedule to *The Alberta Natural Resources Act*, being chapter 21 of the Statutes of Alberta, 1930, and all amendments thereof;
- (v) "veteran" means any person certified under the *Veterans' Land Act* (Canada) as a veteran.

**3.** Application of Act. See the consequential amendments in this Bill to The Special Areas Act for an example of another Act that makes this new Act applicable to Crown lands not administered by the Minister of Lands and Forests.

**4.** New. This statement confirms the actual practice in public lands administration .

**5.** Previous disposition subject to this Act. Section 140.

**6.** This section replaces sections 5 (2) and 6. Section 6 acknowledges that the original grant from the Crown might expressly have conveyed a part of a bed or shore of a lake or watercourse, whereas section 5 (2) appears to have attempted to extinguish such express grants. In effect, the new section in this Bill resolves the conflict in favour of section 6. The main object of this section (and its predecessors) is to abolish the common law rule that a riparian owner's title is to be construed as extending to the middle thread of a watercourse that forms a boundary of his land.

**7.** No rights obtained by prescription. Section 9.

### **Application of Act**

**3.** This Act does not apply to any public lands that are not under the administration of the Minister except where any other Act expressly provides that this Act or any of its provisions are made applicable to those public lands.

**4.** All public lands shall be under the administration of the Minister except those public lands that are, by virtue of any other Act or an order of the Lieutenant Governor in Council, under the administration of another Minister of the Crown or of a Crown corporation.

**5.** Unless otherwise provided in this Act, every disposition made or entered into

- (a) under the former Act or the regulations thereunder, or
- (b) under *The Provincial Lands Act* or the *Dominion Lands Act* or the regulations under those Acts and relating to land,

and any renewal or re-issue thereof, is in every respect subject to this Act and the regulations made under this Act.

### **Rules of Law**

**6.** (1) Subject to subsection (2), the title to the beds and shores of all rivers, streams, watercourses, lakes and other bodies of water is hereby declared to be vested in the Crown in right of Alberta and no grant or certificate of title made or issued before or after the commencement of this Act shall be construed to convey title to such beds or shores.

(2) Subsection (1) does not operate

- (a) to affect any grant made before or after the commencement of this Act that specifically conveys by express description the bed or shore of any river, stream, watercourse, lake or other body of water, or any certificate of title founded on that grant, or
- (b) to affect the rights of a grantee from the Crown or of any person claiming under him, where such rights have been determined by a court before June 18, 1931, or
- (c) to affect the title to any land belonging to the Crown in right of Canada.

**7.** No person may acquire by prescription any estate or interest in public lands or, as against the Crown, in any other land.

**8.** Appointment of officers. New.

**9.** Delegation of powers. Section 156 revised.

**10.** Sections 115 (1) and (2), 119 in part, 120 and 122. Clause (b) is new.



## PART 1

### ADMINISTRATION OF PUBLIC LANDS

#### Officers

8. In accordance with *The Public Service Act, 1962*, there may be appointed a Director of Lands, inspectors and such other officers as may be necessary for the administration of this Act.

9. (1) The Minister may, in writing, authorize the Director or any employee of the Department to exercise any powers, duties and functions conferred upon the Minister by this Act or the regulations and specified in the authorization.

(2) The Director may, in writing, authorize any employee of the Department under his supervision to exercise any powers, duties and functions conferred upon the Director by this Act or the regulations and specified in the authorization.

#### Powers of the Lieutenant Governor in Council

10. The Lieutenant Governor in Council may

- (a) authorize the Minister to sell public lands by public auction or by private sale upon the terms and conditions and at a price not less than the fair value of similar lands in the immediate district in which the public lands are situated, and taking into consideration the purposes for which the land may be used,
- (b) authorize the Minister to sell public lands to a municipal corporation at a price to be determined by the Minister,
- (c) authorize the Minister to exchange public lands for other lands, where in the opinion of the Minister adequate compensation is obtained for the public lands,
- (d) authorize the Minister to make any disposition or grant of public lands in any special case for which no provision is made under this Act or the regulations, and
- (e) set aside public lands
  - (i) for use as provincial parks, historical sites, natural areas, wilderness areas, forest reserves, forest recreation areas, game preserves, bird sanctuaries, public shooting grounds or public resorts or for the development of any natural resource, or
  - (ii) for the purposes of the Government of Canada, either with or without consideration,
- (f) transfer the administration of public lands to any other Minister of the Crown or to any Crown corporation,

**11.** Regulations as to types of dispositions not specifically authorized by the Act itself. Section 119a (1) (a) and (2) in part.

- (g) transfer the administration and control of any public lands to the Crown in right of Canada upon the terms and conditions and for the reasons set out in the order,
- (h) authorize the Minister to enter into agreements with the Government of Canada pertaining to the settlement and rehabilitation of veterans on public lands, and order the payment out of the General Revenue Fund of any money payable by the Province under such an agreement,
- (i) authorize the Minister to enter into an agreement with the Crown in right of Canada to transfer to Canada for National Park purposes the right, title and interest of the Crown in right of Alberta to any public lands,
- (j) make such orders as may be necessary
  - (i) to carry out the provisions of this Act according to their intent, or
  - (ii) to carry out the Transfer Agreement, or
  - (iii) to meet cases that arise and for which no provision is made in this Act.

**11.** (1) The Lieutenant Governor in Council may make regulations authorizing and governing dispositions of public lands not expressly provided for by this Act, and without restricting the generality of the foregoing, the regulations may, with respect to the dispositions so authorized,

- (a) restrict the use to be made of lands that are the subject of the dispositions,
- (b) prescribe the duties and obligations of the persons to whom the dispositions are made in relation to the use and occupation of the lands by them,
- (c) prescribe the terms and conditions to which the dispositions are subject,
- (d) provide for the enforcement of compliance with the regulations and remedies for the recovery of moneys payable by virtue of dispositions,
- (e) prescribe the conditions under which the Minister may cancel a disposition,
- (f) vary, make inapplicable, or authorize the waiver of compliance with any of the provisions of Part 2,
- (g) prescribe the form of any disposition and any other documents or forms used in connection with the regulations,
- (h) provide for the arbitration and settlement of any matter relating to the regulations or the dispositions made under them,
- (i) provide, as to any provision in the regulations, that its contravention constitutes an offence, and
- (j) provide for any other procedure or matter that relates to the dispositions.

**12.** General regulations. Section 119 (j) and 119a in part. Clause (g) is new.

(2) The regulations may be made retrospective as well as prospective where a disposition was made pursuant to regulations under the former Act in force on the fifth day of April, 1958, and the validity of those regulations is in doubt.

**12.** The Lieutenant Governor in Council may make regulations

- (a) prescribing the terms and conditions upon which any persons may use public lands for the purpose of geophysical exploration within the meaning of *The Mines and Minerals Act, 1962*, and governing the conduct of such exploration in relation to the use of public lands,
  - (b) exempting any member of the armed forces from the performance of any covenant, condition or obligation of a disposition,
  - (c) establishing the procedure for the submission of applications for dispositions, prescribing the form and content of applications and the requirements to be met by applicants to render them eligible to obtain the disposition,
  - (d) requiring or prohibiting the registration of assignments of any dispositions, prescribing their form and manner of execution and the conditions upon which the assignment of a particular disposition may be accepted for registration,
  - (e) requiring the submission of agreements affecting dispositions for the consent of the Minister and prescribing the conditions upon which the Minister may refuse his consent,
  - (f) prescribing the rate of interest at any rate not exceeding six per cent per annum on money payable as the whole or part of the consideration under any disposition, the payment of which is deferred to a date subsequent to the date of the disposition,
  - (g) prescribing the rate of interest at any rate not exceeding six per cent per annum on money payable under any disposition that is not paid within one month from the date it is due,
  - (h) establishing a tariff of fees
    - (i) for all applications, dispositions, renewals or reinstatements,
    - (ii) copies of maps, plans, field notes, documents, papers, certificates or other records of the Department,
    - (iii) for the registration of assignments and transfers under Part 5, and
    - (iv) for any other service provided by the Department,
- and

**13.** Classification of land. Section 124 (e).

**14.** Minister's powers as to making land available or unavailable for disposition. Sections 119 (h) and 124 (a) and (g).

**15.** Minister's powers as to application. Sections 85 and 169.

**16.** Forms. Section 97.

**17.** Section 116 in part and section 124 (b) and (c).

- (i) generally for the carrying out of the provisions of this Act according to their intent or to meet cases that may arise and for which no provision is made by this Act.

#### **Powers of the Minister**

**13.** The Minister may by order classify public lands and declare the use for which he considers them to be adaptable.

**14.** The Minister may

- (a) restrict the disposition of or withdraw from disposition any public lands in any specified area in any manner he may consider warranted, or
- (b) prescribe, as to any specified public lands or public lands in any area, when and upon what conditions applications for dispositions may be made.

**15.** (1) The Minister may

- (a) defer his approval of an application for a disposition until an investigation has been made of the land for which application is made, or
- (b) refuse an application for a disposition at any time before the disposition is issued.

(2) The Minister in his discretion may in any manner refuse to accept applications for any specific land or for land in any particular district, and he may settle in such manner as he considers best all disputes that arise between persons applying for the same disposition and he may require the several applicants to submit tenders.

**16.** Except where a form is prescribed by regulation, the Minister may prescribe such forms to be used under this Act as he considers necessary in connection with its administration, or he may prescribe any other form that he considers applicable to any special case.

**17.** The Minister may

- (a) within two years after any sale by public auction that did not find a purchaser, sell the land by private sale at a price not less than the upset price,
- (b) sell a part of a quarter-section or a fractional quarter-section of any public land at a price not less than the fair value of similar lands in the immediate district in which the public land is situated,
- (c) sell the lands contained in a homestead lease to the lessee upon such terms and conditions as the Minister may prescribe if the lessee, in the opinion of the Minister, has faithfully and to the best of his ability endeavoured to perform his obligations under the homestead lease but from some unpreventable cause or mental or physical incapacity or through some technicality has failed in doing so and

**18.** Free grants for schools, churches, cemeteries, community halls. Section 118.

**19.** Authority to occupy lands for specified purposes or prior to issue of a disposition. Sections 119a (1) (b), 124 (h) and 124a.



yet has an equitable claim entitling him to favourable consideration,

- (d) authorize the Director to reserve public land for any specified reason for a stated period and to permit the use of that land for a stated period by the Crown in right of Canada, by any department of the Government, or by any person, without executing any disposition therefor, and
- (e) promote good farm cultural practices and require efficient range management community efforts and enterprise and the adoption of farming and grazing practices by lessees for the purpose of preventing soil drifting or overgrazing.

**18. (1)** The Minister may give public land to

- (a) the board of trustees of a school district or school division in a rural area, where the land is required as a site for school purposes,
- (b) a religious corporation or the trustees of a religious society or congregation, where the land is to be used as a site for a church or mission,
- (c) a religious corporation, the trustees of a religious society or congregation, a municipal corporation or cemetery company as a site for a burial ground, and
- (d) a society as a site for a community hall.

(2) The area of public land the Minister may give to the board of trustees of a school district or school division pursuant to clause (a) of subsection (1) shall not exceed twelve acres and the length of the area shall not exceed twice its width.

(3) The area of public land the Minister may give pursuant to clauses (b), (c) and (d) of subsection (1) shall not exceed six acres and the length of the area shall not exceed twice its width.

(4) Where the land is to be used as a site for a church, mission or community hall, a notification shall not be issued until a building has been erected upon the land.

(5) A notification issued pursuant to this section shall restrict the use of the land to the purpose for which it is given.

(6) In the case of any grant that restricts the use of the land as a site for school purposes or as a site for a church, mission or community hall, the Minister may order the Registrar to amend or strike out the restricting clause in the subsisting certificate for the land concerned.

**19. (1)** The Minister may authorize any person

- (a) to enter upon and occupy public land for any period not exceeding one year for the purpose of

**20.** Authorization for survey or re-survey. Section 99.

**21.** Powers as to inconsistent dispositions. Section 147 (1) and (2).

- (i) conducting appraisals, inspections, analyses, inventories or other investigations of the natural resources which may exist thereon, or
- (ii) exploring for or excavating fossil remains or objects of geological, ethnological, historical or scientific interest,

or

- (b) to enter upon and immediately occupy any public land mentioned in any application he has submitted for a disposition thereof.

(2) A person who enters upon and occupies public lands pursuant to an authority under clause (b) of subsection (1) is bound by this Act in the same manner and to the same extent as if the disposition for which he applied had been granted to him.

**20.** (1) If for any reason the Minister considers it necessary or advisable to have a survey or re-survey made of the land contained in a disposition to determine its exact position, or in order to settle any dispute that may arise respecting it, he may direct that such a survey or re-survey be made by an Alberta land surveyor.

(2) The Minister may require payment in advance of the costs of the survey or re-survey to be made by the holder of the disposition concerned in whole or in part, or the Minister may require such portion of the payment of the costs as seems to him just.

(3) If the holder fails to make such payment in advance when required to do so by the Minister, the Minister in his discretion may cancel the disposition.

(4) The surveyor shall file with the Department plans, notes and any other information that may be required to determine the exact position of the land and the Department shall forward a copy of such information to the holder.

**21.** (1) Where, through error, grants have been made for the same land that are inconsistent with each other, the Minister may cancel the grant made in error and order a new grant to the person thereby deprived, of land of a value equal to that of the earlier grant at the time it was made.

(2) Where, through error, dispositions by way of sale, lease or licence have been made for the same land that are inconsistent with one another, the Minister may cause a refund to be made of any money paid on account of the sale, lease or licence with interest at the rate of five per cent per annum.

(3) No claim under this section shall be entertained unless it is submitted to the Department within one year after the discovery of the error.

(4) If a disposition is found to cover public lands included in any disposition or grant of prior date, the later

**22.** Withdrawal of land from dispositions and cancellation of dispositions on request. New.

**23.** Corrected disposition. New.

**24.** General power of cancellation of dispositions.

**25.** General procedure for cancellation. Section 186.

disposition is void in so far as it interferes with the previous disposition or grant.

(5) If a grant is found to cover land included in a grant of prior date, the later grant is void in so far as it interferes with the previous grant.

**22.** (1) The Minister may, by agreement with the holder,

(a) withdraw from the disposition any part of the lands contained in it, or

(b) make his disposition subject to another disposition that does not give the holder thereof any exclusive rights of possession.

(2) The Minister may cancel a disposition if he is requested in writing by the holder to do so.

**23.** The Minister may cancel any disposition containing any clerical error, misnomer, or wrong or defective description of land, and issue a correct disposition in its stead.

**24.** The Minister may cancel a disposition where

(a) the holder of the disposition fails to comply with a provision of this Act, the regulations or the disposition, or fails to comply with a notice given under this Act, or

(b) the holder acquired the disposition in error or through fraud, misrepresentation, personation or improvidence, or

(c) the holder of the disposition is convicted of an offence against this Act or the regulations that relates to the use of the land contained in his disposition.

**25.** (1) Except in the case of cancellation under sections 22, 23, 79, 114 or 115, the Minister shall not cancel a disposition under this Act or pursuant to the disposition itself unless this section has been complied with.

(2) Where the Minister intends to cancel a disposition, he shall send a notice to the holder by mailing it to his last known address according to the records of the Department stating his intention to cancel the disposition after the thirtieth day following the date of the notice and the reason therefor.

(3) If the holder does not object to the cancellation of the disposition or if, in the opinion of the Minister, the holder does not submit satisfactory reasons in objecting to the cancellation within the time limited therefor, the Minister may cancel the disposition.

(4) Where the provisions of the disposition itself prescribe a procedure for cancellation that is more advantageous to the holder than the procedure prescribed by this section, the Minister shall comply with the procedure prescribed in the disposition.

**26.** Reinstatement of disposition. Section 119 (k).

**27.** Application of purchase moneys in payment of arrears of rates or taxes. Section 117a.

**28.** Notifications. Section 10.

**26.** The Minister may by order reinstate any disposition that has been cancelled or forfeited if

- (a) the application for reinstatement is made within six months of the date on which the disposition was cancelled or forfeited,
- (b) the land contained in the disposition is, at the time the application is made,
  - (i) available so as to permit the reinstatement to be made, and
  - (ii) classified as being adaptable for the same use as that permitted under the disposition,and
- (c) the applicant complies with any terms and conditions prescribed by the Minister upon acceptance of the application.

**27.** (1) If upon the cancellation or expiration of a disposition, there is in the hands of the Minister any money in excess of the amount owing under it, the Minister may apply the excess in payment of any rates or taxes due and owing in respect of the interest under that disposition.

(2) When an agreement for the sale of public lands is cancelled or the purchaser surrenders his interest to the Minister, and the purchaser is in arrears for taxes on the land or for water rates under *The Irrigation Districts Act*, *The St. Mary and Milk Rivers Development Act, 1950* or *The Bow River Development Act*, the Minister may apply not more than one-half of the amount paid by the purchaser as principal under the agreement in payment of the arrears.

(3) Subsection (2) does not apply where the agreement for sale pertained to

- (a) lands situated in a land clearing and breaking project that was obtained in substitution for a home-stead lease of the same lands, or
- (b) lands shown in the records of the Department as "tax recovery lands".

#### **Notifications**

**28.** (1) When any person is entitled to receive a title for an estate in fee simple to any public lands, a notification in Form A in the Schedule shall be issued, which shall be

- (a) signed by the Minister or Deputy Minister, and
- (b) signed by the Director.

(2) Before issue of the notification the fee payable under *The Land Titles Act* shall be paid to the Minister.

(3) The Minister shall forward the notification to the Registrar.

(4) Where a certificate of title has not been issued by the Registrar for any public lands vested in or belonging to the Crown, the Minister may issue a notification in Form A

**29.** Notifications to deceased persons. Section 145.

**30.** Correction of defective grants. Section 146.

**31.** No notification to Crown debtor. Section 108.

**32.** Exceptions and reservations. (1) Section 5 (1) (e). (2)  
New.

**33.** Execution on behalf of the Crown. New.

**34.** Execution of dispositions, assignments, etc. Section 150.



in the Schedule in favour of the Crown in right of Alberta or of Canada.

(5) When a notification is issued under subsection (4) it shall be forwarded to the Registrar who shall, without fee, forthwith issue a certificate of title.

**29.** When a notification issues to or in the name of a person who is dead, the notification is not void for that reason but the title to the land thereby granted or intended to be granted vests in the personal representative of the deceased person as if the notification had issued to or in the name of the deceased person during his lifetime.

**30.** (1) When a grant has issued to or in the name of a wrong person or contains any clerical error, misnomer, or wrong or defective description of the land thereby intended to be granted, or when any of the conditions of the grant have been omitted, the Minister may, if there is no adverse claim, direct the defective grant to be cancelled and a correct notification to be issued in its stead.

(2) The correct notification relates back to the date of the grant cancelled and has the same effect as if issued at the date of the cancelled grant.

**31.** The Minister may refuse to issue a notification to any person who is liable to Her Majesty or the Minister for the payment of any money or the delivery of any crop share.

#### **Dispositions**

**32.** (1) All mines and minerals and the right to work the same are, by implication and without the necessity for any express words of exception, excepted from every disposition and notification made under this Act.

(2) The Minister in the case of any disposition or grant, or any kind of disposition, may direct that it shall be made subject to any reservation or exception that he may prescribe.

**33.** (1) Dispositions may be executed on behalf of the Crown by the Minister, the Deputy Minister, the Director or by any other officer of the Department authorized to do so by the Minister, and no seal is necessary in connection with executions on behalf of the Crown.

(2) A permit may be issued by delivering it or mailing it to the holder and the signature of the person authorized to sign it on behalf of the Crown may be reproduced by any means on the permit.

**34.** (1) The execution of a disposition or an assignment or surrender of a disposition by a person other than a corporation is valid to the same extent as if it were under

**35.** Number and gender in dispositions. Section 155.

**36.** Rights of holder upon issue of dispositive. Sections 96, 164 and 139.

**37.** Minister's powers as to application fees. Sections 93 (4) and 168 (3).

seal if it is executed by that person by the making of his signature and without the use of a seal.

(2) For the purposes of this Act, a disposition, an assignment or surrender of a disposition or any instrument executed in connection with this Act or the regulations shall be deemed to be sufficiently executed by a body corporate if it is sealed with its corporate seal and signed by one officer or two directors of the body corporate, notwithstanding anything to the contrary contained in any statute, charter of incorporation, memorandum of association or articles of association.

**35.** Where the singular or masculine or neuter is used in any disposition, it shall, when the context or parties require, be construed to mean respectively the plural or feminine or a corporation.

**36.** (1) When a disposition required to be executed by the holder is issued, the person in whose favour it is made

- (a) shall, subject to subsection (2), be deemed to be the holder thereof as against the Crown and all other persons as of the date of the disposition, and
- (b) shall be bound by the disposition to the same extent as if it were fully executed.

(2) When a disposition is issued and the intended holder fails to execute the disposition and return it to the Department at Edmonton within ninety days from the date the disposition is dated

- (a) the Minister may cancel the disposition, and
- (b) the intended holder shall be deemed to have been the holder of the disposition only as to any liability incurred by him under it.

**37.** (1) Where money is paid to the Minister by an applicant for a disposition or by the original holder of a disposition for any purpose incidental to the application or the disposition, and where the Minister determines that the applicant or the holder is entitled to a refund of all or any portion of the money, the Minister may

- (a) pay the money to the applicant or the holder if the applicant or the holder is not indebted to the Crown, or
- (b) apply the money in payment of any debt the applicant or the holder owes to the Crown.

(2) Where a disposition is issued and the applicant refuses to execute it in accordance with subsection (2) of section 36 or where an applicant for a disposition fails to comply with any condition required to be complied with before the issue of the disposition any moneys paid by the applicant or any portion thereof may be forfeited to the Crown at the direction of the Minister.

**38.** No warranty or condition as to land. New.

**39.** Disposition binding on minor. Section 154.

**40.** No assignment, etc., without consent. Section 88.

**41.** Proof of compliance with disposition. Section 91 (1).

**42.** Minister's decision re compliance by holder. Section 107.

**43.** Distress. Section 132.

**44.** Seizure of grain. Section 134.

**38.** No disposition shall be construed to contain any implied warranty or condition as to the quality or fitness for a particular purpose of the land described in the disposition.

**39.** A disposition held by a minor and an assignment of a disposition by or in favour of a minor is as binding upon the minor as if he were of full age.

**40.** The holder shall not assign, transfer or sublet the lands contained in his disposition, or any part thereof, without the consent of the Minister in writing.

**41.** At such time and in such form as may be required by the Minister, the holder of a disposition shall furnish proof by declaration or otherwise that he has complied with any or all the provisions of his disposition.

**42.** The Minister shall determine whether or not the terms and conditions of a disposition are being performed, observed or complied with and his decision is final and binding upon the holder of the disposition.

#### **Recovery of Rent, etc.**

**43.** (1) The Minister may recover by distress

- (a) rent owing under a disposition, or
- (b) moneys owing under a loan contract made pursuant to *The Homestead Lease Loan Act*.

(2) *The Seizures Act* applies to a distress under this section.

**44.** (1) The Minister may by order authorize an officer to seize any grain owned by a lessee who defaults in payment of

- (a) rent owing under a cultivation lease, or
- (b) any crop share rent owing under a disposition, or
- (c) any money owing under a loan made pursuant to *The Homestead Lease Loan Act*.

(2) When any grain is seized pursuant to this section, the officer making the seizure shall deliver a notice in Form B to the lessee by

- (a) giving it to him personally,
- (b) posting it in a prominent place on the land described in the lease, or
- (c) mailing it to his last known address according to the records of the Department.

(3) Any costs or expenses incurred by the officer in making a seizure under this section shall be deemed to be part of the unpaid rent or loan payment for which the seizure was made.

(4) When an officer seizes grain under this section, he may

**45.** Unauthorized use. Section 129 (1).

**46.** Payment for unauthorized use. Section 135 (1) and (2).

**47.** Unauthorized seeding of crops. Section 129b.

- (a) have the grain carried to any convenient place of storage, or
  - (b) leave the grain in the possession of the lessee, or
  - (c) sell the grain at a price as near as possible to the current market price.
- (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.

#### **Unauthorized Use of Public Lands**

- 45.** Any person who occupies public lands and
- (a) is not the holder of a disposition authorizing him to do so, or
  - (b) is not otherwise authorized to do so under the Act or the regulations,
- shall be deemed to be a trespasser and any improvements created by him are the property of the Crown.
- 46.** (1) The Minister may require a person who without authority
- (a) makes use of public lands, or
  - (b) as a holder of a disposition, makes use of the public lands contained in his disposition for any purpose other than that for which the disposition was granted without the consent of the Minister,
- to pay such sum of money as the Minister may prescribe in addition to the regular rate prescribed for such use.
- (2) The sum of money prescribed by the Minister pursuant to subsection (1) is a debt payable to the Crown on demand by the Minister.
- 47.** Where a person without authority seeds a crop on public lands, the Minister may
- (a) authorize an officer to seize the crop either before or after it is harvested, and
  - (b) order the crop to be disposed of as he decides.

**48.** Seizure of sand, gravel, clay or marl. Section 133.

**49.** Destruction of or injury to surface. Section 153.

**50.** Prohibited acts as to public land. Section 84b. Subsection  
(3) is new.



**48.** (1) Where an officer believes on reasonable grounds that any clay, marl, sand or gravel, has been removed unlawfully from public lands, he may seize the clay, marl, sand or gravel, and any vehicle, tools or equipment used to remove or transport the clay, marl, sand or gravel.

(2) Any officer making a seizure under this section shall make a written report to the Minister and shall retain any thing seized until the Minister instructs him how to dispose of it.

(3) When the Minister receives a report of a seizure he may

- (a) order whatever is seized to be confiscated to the Crown in right of Alberta and may dispose of it in any way he considers proper, or
- (b) order whatever is seized to be returned to the person from whom it was seized.

**49.** The holder of a disposition shall not do any act or thing which injures or destroys, or which is likely to injure or destroy, the surface of the public land described in the disposition unless

- (a) he has obtained the authorization of the Minister, or
- (b) he is authorized by the disposition to injure or destroy the surface.

**50.** (1) No person shall cause, permit or suffer

- (a) the accumulation of waste material, debris, refuse or garbage on public land, or
- (b) the existence on public land of any structure or excavation of any kind that is undesirable in the Minister's opinion, or
- (c) the existence on public land of any condition which, in the opinion of the Minister, may cause danger by fire to life, property or forest growth, or
- (d) the doing of any act on public land that may injuriously affect watershed capacity, or
- (e) the disturbance of any public land in any manner that results or, in the opinion of the Minister is likely to result, in injury to the bed or shore of any river, stream, watercourse, lake or other body of water or land in the vicinity thereof, or
- (f) the creation of any condition on public land which, in the Minister's opinion, is likely to result in soil erosion.

(2) In respect of any act prohibited by this section, the Minister may

- (a) order the person responsible for doing the act to take such remedial action as the Minister may direct within such time as the Minister considers reasonable, and

**51.** Unlawful occupation of public land. Section 129 (2) and (3).

**52.** Removal of Crown property or damage to notices. Sections 135 (3) (a) and 160 (b).

**53.** Obstruction of officers. Section 160 (a).

**54.** Prohibited practices at sales. Section 157.

**55.** General penalty. Section 161.

**56.** Payment by applicants of valuation of improvements. Section 93.

- (b) if that person fails to comply with the order of the Minister, cause any remedial action to be taken that the Minister considers necessary and recover any costs so incurred as a debt owing to the Crown.
- (3) The Crown has, in addition to any cause of action under subsection (2), a right of action against the person to whom an order is given under this section for exemplary damages by reason of the doing of an act prohibited by subsection (1) or the failure to comply with the order or both.

#### **Offences and Penalties**

**51.** Any person who is unlawfully occupying public lands and fails to comply with an order by the Minister requiring him to vacate the land forthwith after its service upon him, is guilty of an offence.

**52.** A person who

- (a) removes any property belonging to Her Majesty from public lands without authority, or
- (b) without lawful authority destroys, defaces or removes any notice posted up under the authority of the Act,

is guilty of an offence.

**53.** Any person who hinders, obstructs or impedes any officer in the performance of his duty under the Act is guilty of an offence.

**54.** Any person who, before or at the time of a public sale of public lands, by intimidation, combination, unfair management or otherwise, hinders or prevents, or attempts to hinder or prevent, any other person from bidding upon or purchasing any lands offered for sale, is guilty of an offence.

**55.** Every person who is guilty of an offence under this Act or the regulations for which no penalty is provided is liable upon summary conviction to a fine not exceeding three hundred dollars and in default of payment to imprisonment for a term not exceeding sixty days.

#### **Miscellaneous**

**56.** (1) Any person applying for a disposition shall declare what improvements, if any, there are upon the land with respect to which his application is made, and shall submit with the application sufficient money to cover

- (a) the amount of the most recent valuation of the improvements made by an inspector of the Department, or

**57.** Disposal of moneys collected as payments for improvements.  
Section 94.

**58.** Disposal of chattels and improvements following termination of disposition. Section 129a.

- (b) if no previous valuation has been made by an inspector, the amount of the applicant's valuation of the improvements.
- (2) Where no previous valuation has been made by an inspector or where the Minister considers that that valuation should not be used, the Minister may direct
  - (a) that the applicant's valuation be accepted, or
  - (b) that a valuation of the improvements be made by an inspector.
- (3) When a valuation is made by an inspector pursuant to subsection (2), the applicant shall submit a sum of money equal to the amount by which the inspector's valuation exceeds the amount of money already submitted by the applicant but where the inspector's valuation is less than the amount so submitted, the difference shall be refunded to the applicant.
- (4) The Minister may exclude the whole or any part of the fencing from the value of the improvements.
- (5) Cultivation is not an improvement unless the Minister declares it to be an improvement.
- (6) Public land seeded to tame hay or grass shall be deemed to be cultivated land.
- (7) Where an application is made for a lease of land on which clearing or breaking has been done by a former lessee with the aid of a loan made pursuant to *The Homestead Lease Loan Act*, and the loan has not been repaid in full the applicant shall pay for such clearing or breaking where it is declared an improvement in the manner directed by the Minister.

**57.** Where a disposition is cancelled or expires and moneys are paid on account of improvements under section 56 on a subsequent application for a disposition of all or a part of the land contained in the cancelled or expired disposition, the Minister may

- (a) apply those moneys to the payment of any amounts owing under the cancelled or expired disposition,
- (b) apply the balance, if any, for the purpose of paying any other debt to the Crown, any taxes owing to a municipality, any debt to a municipality arising out of the use of the land described in the cancelled or expired disposition, or any debt owing by the former holder to a rural electrification association incorporated under *The Co-operative Associations Act*, and
- (c) refund the whole or part of the balance, if any, to the person who, in the opinion of the Minister, is entitled to it.

**58.** (1) During the term of any disposition or where



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

the Minister may decide whether or not any building or other improvement on the land that is or was contained in the disposition is affixed to that land and is to be considered a part thereof.

(2) When a disposition is surrendered or cancelled or has expired or when any land is withdrawn from a disposition, the holder of the disposition at the date of the surrender, cancellation, expiration or withdrawal may

- (a) subject to subsection (4), and
- (b) before the expiration of one month following that date,

remove from the public lands formerly in the disposition 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 holder referred to in subsection (2), extend the period of time provided by that subsection.

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

- (a) when the one month period referred to in subsection (2) and any extension thereof prescribed by the Director has expired, or
- (b) when any disposition is cancelled or expires if the holder at the time of the cancellation or expiry of the disposition is indebted to the Crown or to the Minister.

(5) When any chattels, buildings or other improvements on public 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) deal with the amount, if any, by which the proceeds exceed the expenses of the sale and the indebtedness in the same manner as that provided for under section 57 with respect to amounts collected from an applicant on account of improvements.

(6) When

- (a) the Minister 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.

(8) During the term of any disposition 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 holder of the disposition.

(9) Where any chattel other than an improvement deemed by the Minister to be affixed to land and to form a part thereof is found on any public land and the owner thereof cannot be ascertained or located upon reasonable inquiry, the Minister may cause the chattel to be confiscated, removed from the public 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 public 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), or
- (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, or may have any interest in, the building, improvement or chattel ceases.

**59.** Rounding up and disposal of stray livestock on vacant public lands. Section 136.

**59.** (1) All livestock found on public lands that are not the subject of a disposition are the property of the Crown in right of Alberta as against every one except a person who is able to establish a better title thereto.

(2) Any person appointed for the purpose by the Minister may round up, seize and detain any livestock that are found on any public lands that are not the subject of a disposition.

(3) Upon seizing any livestock bearing any visible brand, mark or vent and any offspring running with them, the person making the seizure shall send to the owner by mail at his last known post office address, a notice in writing setting out

- (a) the date of seizure,
- (b) the description of the livestock seized,
- (c) the description of the place at which the livestock is kept, and
- (d) the amount of rental payable for the use of the public lands upon which the livestock was found grazing.

(4) Unless the owner pays to the Minister the amount owing under clause (d) of subsection (3), together with the costs of rounding up, seizing and detaining the livestock by the expiration of fifteen days from the date of the mailing of the notice, the Minister may dispose of the livestock in any manner he sees fit.

(5) Where seizure is made of livestock not bearing any visible brand, mark or vent, the Minister may dispose of them in any manner he thinks fit.

(6) The property in any livestock that is disposed of by the Minister pursuant to this section passes to the purchaser and all rights of property that existed in the livestock immediately before the sale are extinguished.

(7) Any moneys received by the Minister as a result of a disposition of livestock pursuant to subsection (4) or (5) shall be applied firstly in payment of the costs incurred in seizing, rounding up, detaining, offering for sale and selling or otherwise disposing of the livestock and, secondly, in payment of the sum payable to the Minister under clause (d) of subsection (3).

(8) The balance, if any, shall be paid to the persons who, in the opinion of the Minister, are entitled thereto and who, within six months after the date of the sale, make application in writing to the Minister for payment.

(9) If after the expiration of six months from the date of the sale and after paying such persons as have within that period made application for payment, any surplus remains, the surplus shall be paid into and forms part of the General Revenue Fund.

**60.** Duties of holder. Section 172.

**61.** Shelter belts, windbreaks, etc. Sections 89 and 90.

**62.** Sale of disposition in execution. Section 141 (2). In many cases, and particularly in the case of homestead sales, there are eligibility requirements for applicants. A sheriff's purchaser would also have to be eligible.

**63.** Holder's interest not subject to rate or tax recovery proceedings. Section 143.

**64.** Payment of rent, etc., to taxing authority in the case of tax recovery lands. Section 162.

**60.** A holder of a disposition shall with respect to the land contained in his disposition

- (a) use only first class seed that is free and clear of all noxious weeds,
- (b) cut, keep down and destroy all noxious weeds,
- (c) submit to the Minister when requested by him to do so a plan and a statement showing the purpose for which the land is to be used or developed and the manner in which that use or development is to be achieved, and
- (d) use the land in a proper and husbandlike manner.

**61.** (1) In wooded, parkland or brush-covered areas the holder of a disposition shall preserve and maintain for shelter belts, windbreaks and woodlots such areas of brush and forest cover as may from time to time be prescribed by the Director.

(2) In any area where there is no native tree growth the lessee shall plant shelter belts and windbreaks in firebreaks or clumps or plantations for future use as may from time to time be prescribed by the Director.

**62.** Where the interest of a holder of a disposition is seized in execution, no sale in execution of that interest is effective unless

- (a) it is made to a person who would be eligible to acquire it as an assignee from the holder, and
- (b) an assignment or transfer in favour of the purchaser is consented to by the Minister and registered under Part 5.

**63.** Where the holder's interest under a disposition is liable to

- (a) assessment and taxation in any city, town, new town, village, municipal district, county, improvement district, school district or school division, or
- (b) assessment and the payment of rates in any irrigation district or drainage district or under *The St. Mary and Milk Rivers Development Act, 1950* or *The Bow River Development Act*,

the holder's interest is not subject to any Act providing for the recovery of taxes or rates to the extent that its provisions relate to the sale of land for the purpose of such recovery.

**64.** (1) The Provincial Treasurer shall transfer to the taxing authority moneys received as rent or purchase moneys under a disposition of public land or as compensation to the Crown by reason of the expropriation of the Crown's interest in public land, where that land is

**65.** Inspection of grain records. Section 137.

**66.** Entry to survey or examine land. Section 159.

**67.** Who may administer oaths. Section 128.

**68.** Demand for or acceptance of rent not a waiver. Section 152.

**69.** Definitions. Section 2 (o) and (p).

- (a) in an improvement district, municipal district or county,
  - (b) land the title to which was recovered through tax enforcement proceedings, and
  - (c) land that is shown in records of the Department as "tax recovery land".
- (2) The moneys received from such land shall be transferred immediately at the close of the fiscal year or at such other time as the Minister may direct.
- (3) In so far as they affect a crop share cultivation lease granted under the former Act or *The Provincial Lands Act*, the provisions of this section are subject to section 5 of *The Crown Cultivation Leases Act*.

**65.** Where a disposition provides for payment of rent on a crop share basis, the Minister may authorize any person to inspect any storage ticket, book of account or other document or record relating to the possession, delivery, transportation, storage or other dealing with the crop, share of crop or portion thereof grown on the lands held under the disposition, and for that purpose the person so authorized may enter during the hours of daylight the lands and premises of the holder, or of any elevator, storage or transportation company, or of any other person, if on reasonable grounds he believes that any storage tickets, books of account or other documents or records are located therein.

**66.** Any person acting lawfully in the performance of duties assigned to him under this Act or the regulations may enter any lands held under a disposition or buildings erected thereon for the purpose of surveying or examining the state and condition thereof.

**67.** All affidavits, oaths, statutory declarations and solemn affirmations required to be taken or made under this Act may be made before the judge or clerk of any court, a justice of the peace, a commissioner for oaths or a notary public.

**68.** Notwithstanding the provisions of any disposition, the demand or acceptance of rent payable under a disposition is not a waiver of the right of the Minister to enforce the observance of any provision of the disposition, the regulations or this Act, or of the right to cancel the disposition under this Act for any default or breach committed before the rent is demanded or accepted.

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## **PART 2**

### **DISPOSITIONS NOT LEADING TO TITLE**

**69.** In this Part,

- (a) "lease" means any disposition other than a disposition under which the holder may become entitled

**70.** Refusal to issue lease, etc. Section 84 (1).

**71.** Eligibility of minors to apply. Section 87b.

**72.** Lessees have equal interests. Section 84a.

**73.** Protection of lessees. Section 101 (4).

**74.** Unauthorized use of lands. Section 84 (2).

**75.** Use of cordwood and timber. Section 92.

**76.** Exemption from rent payment. Section 87.

**77.** Crown's title to crops. Section 87c.



to an estate in fee simple, but includes a disposition containing an option to purchase the lands to the extent that its provisions do not pertain to the option;

(b) "lessee" means the holder of a lease.

**70.** The Minister may refuse to issue a lease or a renewal lease and may refund moneys paid in connection with any lease.

**71.** Unless otherwise provided in the regulations, no person is eligible to apply for a lease until he has attained the age of eighteen years.

**72.** Where a lease is held by two or more persons, each lessee as against the Crown has an equal interest in the lease, and no lease or assignment of a lease shall express an undivided interest.

**73.** When the Minister authorizes any person to enter upon public land contained in a lease or withdraws any land from the lease, he may prescribe the conditions which in his opinion must be met for the protection of the lessee's interest.

**74.** A lessee shall not make use of the land for any purpose other than that for which the lease was granted without the consent of the Minister, and then only on such terms and conditions as the Minister may prescribe.

**75.** (1) Every lessee who prepares land contained in his lease for cultivation may use cordwood for fuel and timber for the construction of buildings and improvements on the leased land without a permit.

(2) Except as permitted by subsection (1), no lessee shall cut timber on land contained in his lease for any purpose without the authority of a permit issued pursuant to the regulations under *The Forests Act, 1961*.

**76.** 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 or excessive costs for land preparation before cultivation can be commenced.

**77.** The title in and to all crops of every nature and description grown and produced on any public land held under lease is and remains in the Crown until the crops are divided and the Crown's share is delivered pursuant to the lease.

**78. Cancellation of lease. Sections 80, 87a and 91 (3).**

**79. Withdrawals from leases. Sections 104 and 106.**

**78.** (1) The Minister may cancel a lease when he is satisfied that

- (a) the leased land is not being used for the purpose for which it is leased,
- (b) where land is leased to two or more persons, one or more of them has ceased to use the land for the purpose for which it is leased,
- (c) the lease was issued in error,
- (d) the lease or the land described therein is not held by the lessee for his sole use and benefit,
- (e) the lessee was ineligible to apply for or acquire the lease or is ineligible to hold it, or
- (f) the lessee has failed to pay the rent, or any taxes, rates or assessments levied against his interest under the lease or any other money payable under the lease when it is due.

(2) Except as otherwise provided in the regulations, when the Minister cancels a lease pursuant to subsection (1), all payments made to the Crown in connection therewith are forfeited and the lessee is not entitled to any compensation for any work performed on the leased land or for any expenditure made by him in respect of or incidental to his use of it.

(3) When a lease is cancelled, any unpaid rent may be recovered as a debt owing to the Crown.

**79.** (1) One month after the date upon which the Minister mails a notice in writing to the last known address of the lessee, he may cancel a lease or withdraw any part of the land contained in a lease

- (a) where, except in the case of a lease conveying rights to sand, gravel, clay or marl, he is satisfied that the land contained in the lease or to be withdrawn from it contains sand, gravel, marl or clay in commercial quantities,
- (b) where the land contained in the lease or to be withdrawn from it is to be subdivided or made the subject of a disposition that will authorize its use for industrial or commercial purposes,
- (c) where the land contained in the lease or to be withdrawn from it is to be designated as a park pursuant to *The Provincial Parks Act, 1964* or added to a park designated under that Act or its predecessors, or is to be set aside as a public resort or recreation area,
- (d) where the land contained in the lease or to be withdrawn from it is, in the opinion of the Minister, irrigable in whole or in part, or
- (e) where the land contained in the lease or to be withdrawn from it is required to provide public access

**80. Definitions. New.**

**81. Application of Part. Section 202. Subsection (4) is new and is intended to give purchasers of homestead sales referred to in subsection (3) the same benefit that other purchasers will have under section 101 (1) (c) of this Bill.**

**82. Homestead sales generally. Sections 163 and 165.**

to a public resort or recreation area or to a river, stream, watercourse, lake or other body of water.

(2) When the Minister withdraws land pursuant to subsection (1) he may reduce the rent reserved in the lease by an amount in direct proportion to the area of land withdrawn.

(3) When the Minister cancels a lease or withdraws land from a lease pursuant to subsection (1) he may pay to the lessee such amount to which the lessee, in the opinion of the Minister, is entitled by way of compensation.

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### **PART 3**

#### **HOMESTEAD SALES**

**80.** In this Part,

- (a) "arable land" means land which, in the opinion of the Minister, is suitable for cultivation;
- (b) "purchaser" means the holder of a homestead sale.

**81.** (1) This Part applies only to homestead sales issued as a result of applications received on or after the twentieth day of April, 1964.

(2) Applications for homestead sales received by the Director before the twentieth day of April, 1964, shall be dealt with in accordance with the provisions of the former Act as they were immediately before that date.

(3) Except as provided in subsection (4), 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 (2),

are subject to the provisions of the former Act as they were immediately before the twentieth day of April, 1964.

(4) The Minister may treat the holder of a homestead sale referred to in subsection (3) as having complied with clause (c) of subsection (1) of section 195 of the former Act as it stood immediately before the twentieth day of April, 1964 if that purchaser proves in his application for notification that he has an area under cultivation equivalent to the area required to be under cultivation by the end of the fifth year of the term of his homestead sale.

**82.** (1) The Minister may in accordance with this Part, agree to sell parcels of public lands classified by him as available for settlement.

(2) An agreement to sell public lands pursuant to this Part shall be called a homestead sale.

**83.** Eligibility of applicant. Section 166.

- (3) A homestead sale
  - (a) subject to clause (c), shall contain adjoining lands not exceeding three quarter-sections in area,
  - (b) shall not contain adjoining lands exceeding one half-section in area if the half-section contains two hundred and forty acres or more of arable land, and
  - (c) may contain one quarter-section in area of adjoining lands, or less, if the area contains eighty acres or more of arable land.
- (4) A homestead sale issued during the first six months in any year is effective as of the first day of January in that year.
- (5) A homestead sale issued during the last six months in any year is effective on the first day of January in the following year.

#### **Applications for Homestead Sales**

**83. (1) Every person who**

- (a) is a veteran or has resided in the Province for an aggregate total of one year within the three years prior to the date he applies for a homestead sale,
- (b) has attained the age of eighteen years and who has not attained the age of seventy-one years, and
- (c) is a Canadian citizen or a British subject or declares in his application his intention to become a Canadian citizen,

may apply for a homestead sale unless he is ineligible to do so by reason of subsection (2).

**(2) Every person who complies with subsection (1) and who**

- (a) is the registered owner or whose spouse is the registered owner of a farm, either solely or jointly with any other person, or
- (b) is in possession or control of a farm or whose spouse is in possession or control of a farm pursuant to
  - (i) a disposition other than a grazing lease or grazing permit from the Crown, or
  - (ii) an agreement, lease or other arrangement made with the registered owner thereof or any person claiming under him,
 or
- (c) is a shareholder or whose spouse is a shareholder in a corporation that is either
  - (i) the registered owner of a farm, or
  - (ii) in possession or control of a farm pursuant to a disposition other than a grazing lease or grazing permit from the Crown, or
  - (iii) in possession or control of a farm pursuant to an agreement, lease or other arrangement made with the registered owner thereof,

**84.** Applications for homestead sales. Section 167.



is eligible to apply for a homestead sale only if the public land applied for, combined with

- (d) the land so owned, possessed or controlled by the applicant and by the spouse of the applicant, and
- (e) an area of land that bears the same proportion to the area of all land owned, possessed or controlled by the corporation as the number of shares in the corporation held by the applicant and his spouse bears to the total number of issued shares in the corporation,

does not exceed three quarter-sections, or two quarter-sections where the combined area of two quarter-sections contains at least two hundred and forty acres of arable land.

(3) Subject to subsection (2), a purchaser may apply to purchase additional public land which is, in relation to the public land contained in his homestead sale, adjoining land.

(4) Subject to subsection (2) the spouse of a purchaser of a homestead sale may apply for a homestead sale.

(5) No person may apply for a homestead sale pursuant to subsection (2) or (4) unless the public land described in the application is situated, in the opinion of the Minister, within a radius of seven miles exclusive of statutory road allowances from the other land referred to in those subsections.

**84.** (1) An application for a homestead sale shall be made in person during regular office hours at

- (a) the public lands office of the Department in Edmonton,
- (b) the office of a sub-agent, or
- (c) such other places as may be authorized by the Minister.

(2) The Director shall consider all applications in the order they are received at the public lands office of the Department in Edmonton.

(3) Where an application is made at the office of a sub-agent or such other place as the Minister may authorize, the application has no effect until it is received at the public lands office of the Department in Edmonton.

(4) Notwithstanding subsection (3), where an application is made at the office of a sub-agent or such other place as the Minister may authorize, the sub-agent may at the expense of the applicant inform the Director of the application and the Director may at the expense of the applicant acknowledge the application by a reply.

(5) Where subsection (4) applies, the application shall be deemed to have been received at the public lands office of the Department in Edmonton at the time of the receipt of the information from the sub-agent.

**85.** Application fee. Section 168.

**86.** Purchase price. Section 170.

**85.** (1) Every application to purchase shall be accompanied by a deposit in an amount fixed by the Lieutenant Governor in Council for each quarter-section or fractional quarter-section of land applied for.

(2) The deposit shall be refunded to the applicant where the Director rejects his application.

(3) Where the Minister enters into a homestead sale the deposit paid by the purchaser shall be applied on account of the payment of the purchase price.

#### **Purchase Price and Cultivation Duties**

**86.** (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.

(2) The purchase price is payable by the purchaser in equal consecutive annual instalments commencing with

- (a) the fourth year, where less than twenty-five acres of land are under cultivation,
- (b) the third year, where not more than fifty and not less than twenty-five acres of land are under cultivation, or
- (c) the second year, where more than fifty acres of land are under cultivation,

at the time the homestead sale is executed.

(3) The purchase price shall, in the discretion of the Minister, be divided into instalments of not more than nineteen in number.

(4) Every instalment of purchase price is due and payable on the first day of January in the year in which it is due.

(5) Interest on the purchase price does not begin to accrue until the first instalment is due.

(6) Any money paid by a purchaser under a homestead sale shall be applied to the payment of any interest that is owing, before any money is applied toward payment of the purchase price.

(7) Any or all of the instalments of purchase price may be paid before they are due.

**87.** Cultivation duties. Section 171.

**88.** Residence requirement. Section 172a.

**87.** (1) A purchaser of a homestead sale of land not exceeding one quarter-section shall break and seed to crop not less than the following areas in each year:

	<i>Break</i>	<i>Seed to crop</i>
First year .....	10 acres	nil acres
Second year .....	10 acres	10 acres
Third year .....	10 acres	20 acres
Fourth year .....	10 acres	30 acres
Fifth year .....		40 acres
Sixth year .....		40 acres
Seventh year .....	10 acres	40 acres
Eighth year .....	10 acres	50 acres
Ninth year .....		60 acres
Each year thereafter .....		60 acres

(2) For the purposes of subsection (1),

- (a) any land under cultivation at the time the homestead sale is issued shall be deemed to be land broken by the purchaser, and
- (b) summerfallow, unseeded cultivated land or land seeded to tame hay or grass shall, where authorized by the Director, be deemed to be land seeded to crop.

(3) Where a homestead sale contains land exceeding one quarter-section, the acreage to be broken and seeded to crop shall bear the same proportion to the total acreage as the acreages set out in subsection (1) bear to one quarter-section.

(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.

**88.** (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 (3), 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 101, 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
- (b) on land in the vicinity,

**89.** Extended time for performance. Section 172b.

**90.** Exemptions from taxation. Section 173.

as required by subsection (3), for a total of twelve months in two or more years commencing

- (c) at any time after the date of issue of the homestead sale, where it is issued during the first six months of the year, or
- (d) at any time after the effective date of the homestead sale, where it is issued during the last six months of the year,

if the residence periods total not less than three months in any one year.

(3) The purchaser shall reside in a habitable house situated on the land contained in the homestead sale or on a farm having an area of at least eighty acres that is, in the opinion of the Minister, situated within a radius of seven miles, exclusive of statutory road allowances, from the land contained in the homestead sale.

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

(5) Residence by the family in the absence of the purchaser shall not be counted towards fulfilment of the residence requirements.

(6) 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 be counted as a period of residence for the purposes of this section.

(7) Residence duties performed in any year in accordance with this section count to the credit of the purchaser even though the purchaser fails to comply with the cultivation requirements in the same year.

**89.** The Minister may grant extensions of time to the purchaser for the performance of the terms and conditions of the homestead sale.

**90.** No land contained in a homestead sale is liable to taxation under any Act authorizing the taxation of a purchaser's interest under a homestead sale until

- (a) the fourth year, where less than twenty-five acres of land are under cultivation,
- (b) the third year, where not more than fifty and not less than twenty-five acres of land are under cultivation,
- (c) the second year, where not more than one hundred but more than fifty acres of land are under cultivation, or
- (d) the first year, where more than one hundred acres of land are under cultivation,

on the day the homestead sale is issued.

**91.** Substitutional homestead sales. Sections 174, 175, 176 and 179.

**92.** Homestead sales in substitution for homestead leases. Sections 180, 181, 182 and 183.



### **Substitutional Homestead Sales**

**91.** (1) Subject to section 83, the purchaser of a homestead sale may apply to the Minister to cancel the homestead sale and enter into a new homestead sale containing all or part of the same land.

(2) Subject to section 83, an application under this section may include land other than land contained in the homestead sale.

(3) Where an application is made under this section, the Minister shall prescribe the conditions with respect to

(a) repayment of any loan under *The Homestead Lease Loan Act*,

(b) transfer of any moneys paid as principal on account of the purchase price under the cancelled homestead sale, and

(c) the addition of any moneys due as interest under the cancelled sale to the purchase price of the new sale.

(4) The value of the land contained in the cancelled homestead sale and included in the new homestead sale shall be the value established at the time of issue of the cancelled homestead sale or as nearly as it can be ascertained.

(5) Where a new homestead sale is granted pursuant to this section, the purchaser shall be in the same position with respect to payments of instalments of purchase price, the performance of residence duties and exemption from taxation as he would be if the date of the new homestead sale were the same as the date of the cancelled homestead sale.

### **Homestead Sales in Substitution for Homestead Leases**

**92.** (1) Upon payment of the deposit referred to in subsection (1) of section 85, the holder of a homestead lease may apply to the Minister to cancel the lease and enter into a homestead sale containing all or part of the same land.

(2) No application may be made under this section by a homestead lessee who is, at the time of applying, seventy-one years of age or older.

(3) An application under this section may include land other than the land contained in the homestead lease and in that case the eligibility of the applicant shall be determined by section 83.

(4) Where a homestead lessee applies under this section to obtain a homestead sale the Minister shall prescribe the conditions to be met with respect to

(a) repayment of any loan under *The Homestead Lease Loan Act*,

**93.** Obligations of purchaser. Section 184.

**94.** Cancellation. Section 185.

- (b) the proportion of rent paid in connection with the homestead lease to be credited toward payment of the purchase price under the homestead sale,
  - (c) the transfer of credit for cultivation duties,
  - (d) the dates when instalments of purchase price become payable, and
  - (e) any other conditions relevant to the issue of the homestead sale.
- (5) The value of the land contained in the homestead lease and included in the homestead sale shall be the value established at the time of issue of the homestead lease or as nearly as it can be ascertained.
- (6) Residence duties performed under the cancelled homestead lease shall not be credited to the purchaser under a homestead sale issued pursuant to this section.
- (7) When a homestead sale is granted pursuant to this section the purchaser shall be in the same position with respect to the performance of cultivation duties and exemption from taxation as he would be if the date of the homestead sale were the same as the date of the cancelled homestead lease.

**93.** (1) Where a homestead sale is issued in substitution for a homestead lease, the purchaser is in the same position with respect to the commencement of payments of instalments under subsection (2) of section 86 as he would be if the date of issue of the homestead sale were the same as the date of the commencement of the term of the cancelled homestead lease.

(2) Where a homestead lessee makes an application pursuant to section 92 during the fourth or any subsequent year of the term of the homestead lease, the Minister shall determine whether the first instalment under the homestead sale shall be paid

- (a) on or before the date of issue of the homestead sale or on the first day of January in the next succeeding year, where the homestead sale is issued on or before the thirtieth day of June, or
- (b) on the first day of January in the next succeeding year, or on the first day of January in the second succeeding year, where the homestead sale is issued on or after the first day of July.

#### **Cancellation**

**94.** (1) The Minister may cancel a homestead sale where the purchaser

- (a) has not performed or misrepresents the performance of his residence or cultivation duties,
- (b) is more than two years in arrears in the payment of taxes against his homestead sale,

**95.** Minister's powers as to compensation and refunds after cancellation. Section 188.

**96.** Relief from cancellation. Section 189.

- (c) neglects or refuses to pay for any improvements that were inadvertently not paid for at the time the homestead sale was issued,
- (d) purports to transfer, assign, mortgage, encumber, charge or otherwise dispose of his interest under the homestead sale prior to the issue of a notification with respect to the land described therein, without the consent of the Minister,
- (e) sells or otherwise disposes of improvements created or chattels purchased with financial assistance obtained under the *Veterans' Land Act* (Canada),
- (f) fails to comply with the terms and conditions of his contract for a loan under *The Homestead Lease Loan Act*,
- (g) does not personally occupy and operate the land contained in the homestead sale or permits or agrees to permit any person other than his employee to use, occupy or operate any part of the land, or
- (h) acquired the homestead sale in substitution for a homestead lease that was acquired by him in error or through fraud, misrepresentation, personation or improvidence.

(2) If, at any time after seven years from the date of a homestead sale, the Minister is of the opinion that the purchaser was not primarily occupied as a farmer during the immediately preceding twelve months, he may, subject to section 25, cancel the homestead sale.

(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.

**95.** Where a homestead sale is cancelled, the debt of the purchaser for the unpaid balance of the purchase price and interest is extinguished and the Minister may

- (a) pay or refuse to pay to the purchaser any moneys as compensation for improvements created by the purchaser on the land described in the homestead sale, and
- (b) refund or refuse to refund all or any portion of the moneys paid on account of the purchase price and interest.

**96.** (1) Except as hereinafter provided in this section, the Minister shall not cancel a homestead sale by reason of a default by a purchaser in the performance of his cultivation and residence duties or in the payment of the purchase price or interest where the default occurred

- (a) during the purchaser's last illness leading up to his death,
- (b) after the purchaser's death, or

**97.** Consent to assignment by representative of purchaser. Section 190.

**98.** Postponement of obligations. Section 191.

**99.** Sale in cases of hardship. Section 192.

(c) after the purchaser became mentally incapacitated, if it appears to the Minister that the default by reason of which the homestead sale might otherwise have been cancelled was attributable to his mental incapacity.

(2) The Minister may limit the time during which subsection (1) applies and may from time to time and as he considers necessary extend such period of time.

(3) No time limit or extensions thereof shall be made beyond three years from the date of death of a purchaser or the date of the appointment of his personal representative, whichever is sooner.

(4) Where the Minister sets a time limit pursuant to subsection (2) or allows an extension thereof, he shall serve a notice to that effect by mail upon

- (a) the personal representative, in the case of a deceased purchaser,
- (b) a member of the next-of-kin of a deceased purchaser, where no personal representative has been appointed, or
- (c) the administrator of the estate of a mentally incapacitated purchaser.

(5) Upon the expiration of the time limit referred to in subsection (2) or any extensions thereof, subsection (1) no longer applies to the homestead sale.

**97.** Notwithstanding clause (a) of section 100, the Minister may consent to an assignment of a homestead sale made earlier than in the fifth year where the assignment is made by the personal representative of a deceased purchaser or the administrator of the estate of a mentally incapacitated purchaser.

**98.** The Minister, upon being satisfied that the physical or mental condition of the purchaser is or was such as to incapacitate him, may postpone

- (a) the payment of any instalment or instalments of purchase price or of interest payable under a homestead sale, or
- (b) the performance of all or part of his cultivation and residence duties during any period in which the purchaser is or was so incapacitated and for such further period as the Minister considers just.

**99.** The Minister may sell the lands contained in a homestead sale upon such terms and conditions as he may prescribe to

- (a) a purchaser who, in the Minister's opinion, has faithfully and to the best of his ability endeavoured to perform his obligations under the homestead sale

**100.** Assignments. Section 193.

**101.** Application for title. Section 195.



- but from some unpreventable cause or mental or physical incapacity or through some technicality has failed in doing so and yet has an equitable claim entitling him to favourable consideration, or
- (b) a former purchaser whose homestead sale has been cancelled on the ground that he was ineligible to acquire the homestead sale or the homestead lease for which it was substituted.

#### **Assignments**

**100.** A purchaser may, with the consent of the Minister, assign his homestead sale, but the Minister shall not consent to an assignment

- (a) unless the assignor can be credited with the performance of cultivation duties for at least four years,
- (b) unless the assignor has paid the instalments due and owing on the purchase price,
- (c) unless the assignee is twenty-one years of age or older,
- (d) subject to clause (c), unless the assignee is a person who would be eligible to become a purchaser upon his own application therefor,
- (e) where the purchaser is indebted in respect of financial assistance received by him under the *Veterans' Land Act* (Canada), or
- (f) where the purchaser has not repaid in full any moneys owing by him under a loan made pursuant to *The Homestead Lease Loan Act*.

#### **Application for Title**

**101.** (1) A notification may be issued for land contained in a homestead sale to a purchaser 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 an area under cultivation equivalent to the area required to be under cultivation by the end of the fifth year of the term of the homestead sale,
- (d) has performed a minimum of twelve months' residence as required by this Part,
- (e) has repaid all money loaned to him pursuant to *The Homestead Lease Loan Act*,
- (f) obtains the consent of The Director, *The Veteran's Land Act* where he owes any money advanced to him as financial assistance under the *Veterans' Land Act* (Canada),

**102.** Affidavits in support. Section 196.

**103.** Improvements near road allowance. Section 199.

**104.** Use of land. Section 200.

**105.** Application of section 75. Section 201.

**106.** Authority to grant grazing leases; restrictions as to area.  
Sections 56 and 59.

- (g) is a Canadian citizen or British subject,
  - (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 for a homestead sale between the first day of December, 1962, and the seventeenth day of April, 1964.
- (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 contained 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) Where a purchaser dies or is mentally incompetent and his application for notification is made by his personal representative or administrator, the personal representative or administrator is not required to prove that the deceased or mentally incompetent purchaser was or is a Canadian citizen or British subject.

**102.** (1) Every application made by a purchaser for a notification shall be supported by the affidavit of the purchaser verifying the information given in the application.

(2) Where the Minister so requires, the application shall be supported by affidavits of two persons residing in the vicinity of the land contained in the homestead sale verifying the information given by the purchaser in his application.

#### **Miscellaneous**

**103.** A purchaser shall not build or make any improvements of a permanent nature, other than fencing or cultivation, on any part of the land contained in a homestead sale that lies within one rod of a statutory road allowance.

**104.** No purchaser shall use the land contained in a homestead sale other than as a farm and a place of residence, except with the consent of the Minister and then only on such terms and conditions as the Minister may prescribe.

**105.** Section 75 applies, with the necessary changes, to homestead sales and the purchasers holding them.

#### **PART 4 GRAZING LEASES**

**106.** (1) The Minister may in accordance with this Part lease public land for a term not exceeding twenty years for

**107.** Determination of annual rent. Section 61.

**108.** Determination of grazing capacity of land. Section 63  
(2) to (4).

the purpose of grazing livestock when, in the Minister's opinion, the best use that may be made of the land is the grazing of livestock.

(2) A lease under this Part shall be called a grazing lease.

(3) The area of land leased under this Part shall not exceed an area sufficient to graze six hundred head of cattle, unless, in the opinion of the Minister, a larger area can be leased without adversely affecting the interests of other farmers or ranchers residing in the vicinity of the leased land.

**107.** (1) The rent payable under a grazing lease shall be

- (a) an annual rent equal to such percentage as may be established by the Lieutenant Governor in Council of the forage value of the leased land, and
- (b) any additional annual rent prescribed by the Minister in respect of cultivated land.

(2) The forage value of the land contained in a grazing lease shall be fixed annually by the Minister who shall for this purpose consider

- (a) the grazing capacity of the land,
- (b) the average gain in weight of cattle on grass, and
- (c) the average sale price per pound of cattle, other than choice grades and fed calves, sold in the Calgary livestock market during the preceding calendar year, or the portion thereof selected by the Minister.

(3) Before or after the commencement of this Act, and notwithstanding the date from which the term of any grazing lease is computed, the rent is payable for each calendar year or portion thereof included in the term of the lease on or before

- (a) the first day of July in each year if the lessee is a grazing association, or
- (b) the first day of April in each year if the lessee is not a grazing association.

**108.** (1) The Minister may establish from time to time the grazing capacity of all grazing lands in the Province and for this purpose may

- (a) divide the Province into districts,
- (b) establish the grazing capacity of grazing lands in in each district, and
- (c) establish the grazing capacity of grazing lands held under a grazing lease either above or below the grazing capacity of other grazing lands in the district in which the leased lands are situated.

(2) If the Minister does not establish the grazing capacity of land held under a particular grazing lease, the grazing capacity of that land shall be the same as the grazing capacity established for the district in which that land is situated.

**109.** Leases held by grazing associations. Section 71.

**110.** Ancillary lease for residence. Section 83.

**111.** Community grazing reserve. Section 83a.

(3) A cow of average weight with calf at foot shall be considered as one animal unit for the purpose of establishing the grazing capacity of grazing lands, and any variations in the proportions of an animal unit due to age, weight and type of livestock shall be determined by the Minister.

**109.** (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 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 representations 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.

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

(4) Where a grazing lessee is a grazing association, the association shall maintain a membership of at least five persons none of whom is the spouse of any of them.

**110.** (1) The Minister may grant an ancillary lease to a grazing lessee of a parcel of public land not exceeding one quarter-section in area on which the lessee may reside and erect the buildings he requires to conduct his operations.

(2) The term of any lease granted pursuant to subsection (1) commences and expires on the same dates that the term of the lessee's grazing lease commences and expires, and if the grazing lease is cancelled the ancillary lease is thereby terminated.

**111.** When the Minister is satisfied that the interests of the farmers or ranchers in any area of the Province demand it, he may establish, maintain and operate a community grazing reserve.

**112.** Regulations. Clause (f) is derived from section 72 (3) but apart from that, this provision is new. It is intended that a number of the sections in the present Part III, particularly those pertaining to applications and range conservation practices, will be dealt with in the regulations.

**113.** Withdrawals from leases. Section 56a.



**112.** The Lieutenant Governor in Council may make regulations

- (a) governing applications for grazing leases and the eligibility of applicants for grazing leases,
- (b) varying the requirements of section 56 as to applicants for grazing leases,
- (c) prescribing the rights and obligations of grazing lessees in relation to the use and occupation of the lands held by them under grazing leases,
- (d) authorizing the Minister to prescribe additional rent payable by grazing lessees in respect of cultivated land contained in their grazing leases,
- (e) prescribing the terms and conditions upon which grazing lessees may conduct range improvement projects on the lands contained in their grazing leases and authorizing the exemption from the payment of rent under those grazing leases for the periods and upon the terms and conditions prescribed in the regulations,
- (f) varying, making inapplicable, or authorizing the waiver of compliance with, any of the provisions of Part 2,
- (g) prescribing the circumstances under which the Minister shall refuse to consent to an assignment of a grazing lease and governing any other matter that relates to the assignment of grazing leases,
- (h) providing, as to any provision in the regulations, that its contravention constitutes an offence, and
- (i) generally, providing for any other matter pertaining to grazing leases or grazing lessees.

**113.** (1) One year after the date upon which the Minister mails a notice in writing to the last known address of the grazing lessee stating his intention to do so, the Minister may, without compensation, withdraw from

- (a) a grazing lease issued to or validly assigned to the grazing lessee prior to the first day of May, 1959, the land the Minister may select for the purpose of reducing the area of land held by the grazing lessee under that lease and any other lands referred to in subsection (2) to an area of land sufficient to graze one thousand animal units for a calendar year in accordance with its grazing capacity, or
- (b) a grazing lease issued to or validly assigned to the grazing lessee on or after the first day of May, 1959, the land the Minister may select for the purpose of reducing the area of land held by the grazing lessee under that lease and any other lands referred to in subsection (2) to an area of land sufficient to graze six hundred animal units for a calendar year in accordance with its grazing capacity.

**114.** Cancellation or withdrawal upon refusal of assignment.  
Section 72 (4) and (5).

(2) The Minister may determine the area of land greater than that which is sufficient to graze one thousand or six hundred animal units, as the case may be, pursuant to subsection (1), and for this purpose may include

- (a) any area of land held by the grazing lessee or his spouse or both under a grazing lease other than that from which the withdrawal is to be made,
- (b) any area of land held by the grazing lessee or his spouse or both under a grazing lease within a special area,
- (c) where the lessee or his spouse or both hold jointly with any other person land under a grazing lease, including land within a special area, an area that bears the same proportion to the total area of land held under the lease that the lessee or his spouse or both bears to the total number of the joint lessees including himself or his spouse or both of them, and
- (d) where the lessee or his spouse or both hold shares in a corporation that holds land under a grazing lease, including land within a special area, an area that bears the same proportion to the total area of land held by the corporation under the grazing lease, that the number of shares held by the lessee or his spouse or both in that corporation bears to the total number of existing shares in the corporation.

(3) Where the grazing lease is held by a corporation (in this subsection called the "lessee corporation"), the Minister may, for the purposes of subsection (2),

- (a) treat the person or persons holding all or a majority of the shares of the lessee corporation as being the lessee,
- (b) in case any such shareholder is itself a corporation, treat the persons holding all the shares of that second corporation as being the holders of that second corporation's shares in the lessee corporation,
- (c) in case any shareholder of the second corporation is itself a corporation, treat the persons holding all the shares of that third corporation as being the holders of that third corporation's shares in the second corporation,

and so on, until all the natural persons having an interest in the lessee corporation have been determined.

**114.** (1) Where the Minister refuses his consent to an assignment of a grazing lease he may

- (a) cancel the lease, or
- (b) withdraw any lands from the lease,

upon giving the lessee one year's notice in writing to that effect.

(2) Where a grazing lessee to whom a notice has been given pursuant to subsection (1) makes an assignment of

**115.** Cancellation of lease held by personal representative of deceased lessee. Section 72a.

**116.** Requirement to furnish proof by corporate lessees. Section 79.

**117.** Minister's powers on change of share control of corporate lessee. Section 79a.

his lease to a person other than the person named as the assignee in the assignment to which the Minister refused his consent, and the Minister consents to the subsequent assignment, the notice given pursuant to subsection (1) shall be deemed to be withdrawn.

**115.** (1) Where the holder of a grazing lease dies or has died and the personal representative of his estate does not obtain or has not obtained, within two years of the date of death of the lessee, the consent of the Minister to an assignment of the grazing lease, the Minister may give notice to the personal representative to submit to him an assignment of the grazing lease within the time specified in the notice.

(2) The Minister from time to time may extend the time specified in the notice referred to in subsection (1).

(3) Where a notice has been given pursuant to subsection (1), the submission by the personal representative of an assignment of a grazing lease

(a) which the Minister may properly refuse for registration pursuant to Part 5, or

(b) which is made under circumstances prescribed by the regulations under this Part as circumstances under which the Minister is required to refuse his consent to the assignment,

is not a compliance with the notice.

(4) Where the personal representative does not comply with a notice given to him pursuant to subsection (1), the Minister may cancel the grazing lease.

**116.** (1) Where any corporation is the holder of a grazing lease, the Minister at any time by notice in writing may require the lessee to furnish proof that at the time of the notice

(a) it is incorporated under the laws of Canada or of Alberta, and

(b) the majority of its shares are owned by residents of the Province for their exclusive use and benefit and not in the interests of or for the benefit of any other person,

and, if the Minister should so desire, to furnish proof that the *de facto* control of the lessee company is in the persons resident in the Province who own the major part of the shares of such company.

(2) If the lessee fails to comply with the notice or if the proof furnished by the lessee is not satisfactory to the Minister, the Minister may cancel the lease.

**117.** (1) The Minister may require a corporation that holds a grazing lease to file a statement certified by an officer or director of the corporation showing the names,

General. Part 5 is new. These provisions are presently found in The Department of Lands and Forests Act but are being re-enacted here as being a more convenient place. As the definition of "disposition" indicates, this Part will extend to registration of assignments of dispositions made under the other Acts administered by the Department. Section references in the notes in this Part are to the equivalent provisions in The Department of Lands and Forests Act.

**119.** Registration of assignments. Section 13. Subsections (4) and (5) are new.

addresses and number of shares held by each of the shareholders at the time the grazing lease is issued or at any time during its term.

(2) Where a corporation holds a grazing lease and by the transfer of shares or by the allotment of new shares, or both, the majority of its shares at any time become vested in persons other than those persons who held the majority of its shares prior to such transfer or allotment, the Minister may

- (a) cancel the grazing lease if he considers it in the public interest to do so, or
- (b) require the corporation to pay a sum equivalent to to the assignment fee that it would be required to pay by the regulations if the grazing lease had been assigned by it to another person.

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## PART 5

### REGISTRATION OF ASSIGNMENTS

**118.** In this Part,

- (a) "assignment" includes transfer;
- (b) "disposition" includes any lease, permit or licence, or any instrument granting an estate or interest in public lands and made pursuant to
  - (i) *The Forests Act, 1961* or its predecessors, or
  - (ii) *The Provincial Parks Act, 1964* or its predecessors;
- (c) "registration" or "register" means
  - (i) the entering in a book authorized by the Minister for that purpose of an assignment, and
  - (ii) the endorsing on or attaching to the disposition affected of a memorandum evidencing an entry under subclause (i).

**119.** (1) An assignment of a disposition that the holder is not prohibited from assigning by any provision of any Act or regulation or of the disposition itself may be registered by the Minister.

(2) The Minister shall cause to be kept in the Department books for the registration of assignments.

(3) The Minister may refuse to register an assignment unless

- (a) the assignment is unconditional,
- (b) all of the persons to whom the disposition was made are the assignors under the assignment,
- (c) the assignment is executed in a manner satisfactory to the Minister and accompanied by proof of execution satisfactory to the Minister,

**120.** Idem. Sections 14 (1) and 17. Subsection (3) is new.

**121.** Assignments where holder is both an assignor and assignee.  
Section 14 (2) and (3).

**122.** Registration deemed to confer consent. Section 15.

**123.** New. Transitional.



(d) the assignment is in a form satisfactory to the Minister, and

(e) the prescribed fee is paid.

(4) Where an assignment is executed by an attorney or agent, proof of the authority of the attorney or agent, in a form satisfactory to the Minister, shall be submitted to the Department.

(5) Before an assignment may be registered the holder's copy of the disposition or a certified copy thereof shall be submitted to the Department.

**120.** (1) Notwithstanding anything contained in an assignment, but subject to this section, the interest of an assignor in a disposition ceases and determines upon registration of an assignment of the disposition and the assignee thereupon becomes the holder of the disposition.

(2) An assignment registered under this Part is valid against and takes priority over any unregistered assignment.

(3) In so far as an assignment affects the Crown, the assignment shall be deemed to take effect from the time of its registration.

**121.** (1) An assignor may assign a disposition to himself and another person or persons and upon registration of the assignment is entitled to the interest that the assignment purports to convey to him to the same extent as if he were not the assignor.

(2) Two or more persons, being the holders of a disposition may assign the disposition to one or more of them, who upon registration of the assignment are entitled to the interest that the assignment purports to convey to him or them to the same extent as if he or they were not the assignors.

**122.** (1) Where an Act or regulation or a provision of a disposition prohibits an assignment of the disposition except with the consent of the Minister, the consent of the Minister shall be deemed to be given by the registration of the assignment under this Part.

(2) Nothing in this Part abrogates or restricts the right of the Minister to refuse his consent to an assignment.

**123.** All assignments of dispositions registered with the Minister before the commencement of this Act shall be deemed to have been registered under this Part.

**124.** Section 4 (2) and (3) of the Statutes of Alberta, 1964, c. 74. Homestead leases under the former Act.

**125.** Schedule One of The Expropriation Procedure Act, Statutes of Alberta, 1961, c. 30, lists certain statutory provisions that are excepted from the operation of that Act. The present sections 104 to 106 of The Public Lands Act are among them.

**126.** The Metis Betterment Act, R.S.A. 1955, c. 202, is amended to make certain provisions conform to the new Public Lands Act. Sections 6 and 22 (1) presently read:

6. The Lieutenant Governor in Council may

(a) by order set aside out of any unoccupied public lands as defined in The Public Lands Act areas that are deemed suitable for the settlement of members of settlement associations and withdraw such areas from disposal under The Public Lands Act, and

(b) make such areas available for occupation by members of Metis settlement associations

until such time as the Lieutenant Governor in Council is satisfied for any reason that the areas so set aside and withdrawn from disposal are unsuitable or are not required for the settlement of members of any settlement association.

22. (1) Notwithstanding anything to the contrary in any other Act, the Lieutenant Governor in Council on the recommendation of the Minister of Lands and Forests and of the Minister may at any time set aside as reserved areas for the rehabilitation of game, fish and fur-bearing animals

(a) any or a part of any lands set aside for occupation by a settlement association, and

(b) any unoccupied public lands as defined in The Public Lands Act, including therein all road allowances bounded on both sides by such lands.

**127.** The Prohibition Against Dealing in Crown Lands Act, R.S.A. 1955, c. 244 is amended to bring the definition of "Crown lands" into conformity with Acts pertaining to provincial natural resources. Section 2, clause (c) presently reads:

(c) "Crown lands"

(i) means all lands, mines and minerals belonging to the Crown in right of the Province, and

(ii) includes all public lands within the meaning of The Public Lands Act.

## PART 6

### TRANSITIONAL AND CONSEQUENTIAL

#### Homestead Leases

**124.** Homestead leases granted by the Minister

- (a) before the twentieth day of April, 1964, or
  - (b) pursuant to an application received by him before the twentieth day of April, 1964,
- are subject to the provisions of the former Act as it was immediately before the twentieth day of April, 1964.

#### Consequential Amendments

**125.** *The Expropriation Procedure Act* is amended as to Schedule One by striking out item 3 and by substituting the following:

3. *The Public Lands Act, 1966*

Cancellations or withdrawals under sections 79, 113 and 114.

**126.** *The Metis Betterment Act* is amended

- (a) by striking out section 6 and by substituting the following:

**6.** (1) Public lands under the administration of the Minister for the purposes of this Act shall be used for the settlement of or occupation by members of settlement associations.

(2) When any public lands are no longer suitable or required for the purposes of this Act, the Lieutenant Governor in Council shall transfer the administration of the lands to the Minister of Lands and Forests.

- (b) as to section 22, subsection (1) by striking out clause (b) and by substituting the following:
  - (b) any public lands under the administration of the Minister of Lands and Forests and not subject to a disposition made under any Act administered by him,

**127.** *The Prohibition Against Dealing in Crown Lands Act* is amended as to section 2 by striking out clause (c) and by substituting the following:

- (c) "Crown lands" means all lands, mines and minerals belonging to the Crown in right of Alberta and any estate or interest therein, including, without limitation,
  - (i) an agreement or mineral claim within the meaning of *The Mines and Minerals Act, 1962*,

**128.** The Special Areas Act, 1964, Statutes of Alberta, 1964, c. 87 is amended.

(a) Section 2, clause (e) presently reads:

(e) "public lands" means and includes all real property of any kind to which The Public Lands Act applies;

(b) Section 6 sets out powers of the Lieutenant Governor in Council. The new clause (f) is a re-enactment of the present clause (b).

(c) The new section 7 (4) replaces section 3 (2) of the present Public Lands Act.

(d) The new section 7a is complementary to section 4 of this Bill.

- (ii) a disposition within the meaning of *The Public Lands Act, 1966*, and
- (iii) a lease, licence or permit under *The Forests Act, 1961*.

**128.** *The Special Areas Act, 1964* is amended

- (a) as to section 2 by striking out clause (e) and by substituting the following:
  - (e) "public lands" means land belonging to the Crown in right of Alberta and under the administration of the Minister;
- (b) as to section 6 by striking out the word "and" at the end of clause (a) and by striking out clause (b) and by substituting the following:
  - (b) by regulation to declare that any provision of *The Public Lands Act, 1966* is to apply in a special area,
  - (c) to make any regulation or order with respect to public lands in a special area that he is empowered to make under *The Public Lands Act, 1966* with respect to public lands administered by the Minister of Lands and Forests,
  - (d) by regulation to declare that any regulations under *The Public Lands Act, 1966* are to apply in a special area,
  - (e) to make regulations providing for the charging of interest or penalties not exceeding six per cent per annum on arrears of rent under leases issued under this Act, and
  - (f) to make such orders and regulations for the administration of any special area or special areas or any part thereof as are deemed proper and necessary for the rehabilitation or betterment of the special area or any part thereof and the inhabitants thereof.
- (c) as to section 7 by adding the following subsection:
  - (4) Where any provisions of *The Public Lands Act, 1966* or any regulations thereunder are made applicable to special areas, a reference therein to the Minister of Lands and Forests, the Deputy Minister of Lands and Forests, the Department of Lands and Forests or the Director of Lands shall be deemed to be a reference to the Minister or Deputy Minister of Municipal Affairs, the Department of Municipal Affairs and the Board, respectively.
- (d) by adding the following section after section 7:
  - 7a.** All public lands within a special area shall be under the administration of the Minister except those public lands that are under the administration

**129.** The Water Resources Act, R.S.A. 1955, c. 362 is amended.

(a) Section 8 presently reads:

8. (1) Except in pursuance of a valid agreement or undertaking existing on the first day of April, 1931, no grant shall be made by the Crown of lands or of any estate therein, in such terms as to vest in the grantee any exclusive right or privilege with respect to any water or any exclusive or perpetual property, interest, or privilege in the land forming the bed or shore of any water.

(2) Subsection (1) does not affect the right of the Crown under any other Act of the Legislature to dispose of minerals in, on or under lands forming the bed or shore of any water.

The matter of beds and shores is sufficiently dealt with in section 7 of this Bill and section 8 of The Water Resources Act is amended to remove superfluous reference to beds and shores.

(b) Section 51, subsection (1) is recast to conform to this Bill. It presently reads:

51. (1) When the land to be irrigated by the water granted to a licensee is land for which title has not been granted by the Crown, and is held by the licensee under a conditional entry or a lease in accordance with The Public Lands Act or under an agreement to purchase the land, the licence for the water shall be cancelled upon receipt by the Minister of a certificate of the cancellation of the conditional entry, lease or agreement.

(c) Section 69 presently reads:

69. Provincial lands

(a) upon or within which there is water-power,

(b) required for the protection of any water-power, or

(c) required for the purposes of an undertaking,

and the water-powers and waters thereon shall not be alienated, and except as hereinafter otherwise provided, no interest therein shall be leased or otherwise granted or conveyed by the Crown, and any grant or conveyance made after the first day of April, 1931, of any such lands or any interest therein does not, unless made pursuant to this Act or the regulations, vest in the grantee any property or interest with respect to such lands.

Section 69 is removed as being now unnecessary in view of the provisions of this Bill. The control of land for water-power purposes is primarily an administrative function involving co-operation between the Department and the Water Resources Branch.

**130.** (a) The present Public Lands Act is repealed.

(b) The Land Clearing and Breaking Act is repealed as all clearing and breaking agreements made under it are discharged and as no new agreements under it are contemplated.

(c) Sections 13 to 18 of The Department of Lands and Forests Act are repealed as they are being replaced by Part 5 of this Bill.

**131.** Commencement of Act.

of another Minister or of a Crown corporation by virtue of an order of the Lieutenant Governor in Council or the provisions of any Act other than section 4 of *The Public Lands Act, 1966*.

**129.** *The Water Resources Act* is amended

- (a) as to section 8
  - (i) by striking out of subsection (1) the words “or any exclusive or perpetual property, interest, or privilege in the land forming the bed or shore of any water”,
  - (ii) by striking out subsection (2),
- (b) as to section 51 by striking out subsection (1) and by substituting the following:

**51.** (1) When the land to be irrigated by the water granted to a licensee or permittee is held by him from the Crown under an agreement for sale, lease or permit, the Minister may cancel the licence or permit for the water upon receiving proof that the agreement for sale, lease or permit has been cancelled or has expired.
- (c) by striking out section 69.

**Repeal**

**130.** The following are hereby repealed:

- (a) *The Public Lands Act*, being chapter 259 of the Revised Statutes,
- (b) *The Land Clearing and Breaking Act*, being chapter 168 of the Revised Statutes, and
- (c) sections 13 to 18 of *The Department of Lands and Forests Act*, being chapter 172 of the Revised Statutes.

**Coming into Force**

**131.** This Act comes into force on the first day of September, 1966.

Form A. Notification for title.



SCHEDULE

FORM A

(Sections 2 and 28)

DEPARTMENT OF LANDS AND FORESTS

THE PUBLIC LANDS ACT, 1966

NOTIFICATION FOR ISSUE OF CERTIFICATE  
OF TITLE

The Registrar,

..... Alberta Land Registration District,  
....., Alberta.

The undernamed is entitled to the issue of a certificate  
of title in his favour for an estate in fee simple in the  
following land:

Description .....

Name .....

Address .....

Occupation .....

Nature of grant .....

Remarks .....

Date .....

Notification No. ....

.....  
*Director of Lands*

.....  
*Deputy Minister of Lands  
and Forests*



FORM B

(Section 44 (2) )

NOTICE OF SEIZURE

TO .....

TAKE NOTICE that pursuant to the authority given to me by an order of the Minister of Lands and Forests under section 43 of *The Public Lands Act, 1966*, a seizure has been made by me of the grain described as follows:

AND FURTHER TAKE NOTICE that this grain is being seized for the following reasons:

Further particulars and instructions may be obtained on application to .....

Dated this..... day of ....., 19.....

.....  
*An Officer of the Department  
of Lands and Forests*

No. 80

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THIRD SESSION  
FIFTEENTH LEGISLATURE  
14 ELIZABETH II  
1966

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**BILL**

An Act respecting Public Lands

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Received and read the

First time .....

Second time .....

Third time .....

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HON. MR. RUSTE

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