

1970 Bill 107

Third Session, 16th Legislature, 19 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 107

An Act to amend The Public Lands Act, 1966

THE MINISTER OF LANDS AND FORESTS

First Reading

Second Reading

Third Reading

Printed by L. S. Wall, Queen's Printer, Edmonton

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An Act to amend The Public Lands Act, 1966

(Assented to _____, 1970)

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

1. *The Public Lands Act, 1966* is hereby amended.

2. The following section is added after section 13:

13a. (1) This section does not apply to public lands in that part of Alberta classified by an order of the Minister under section 13 as forest lands and commonly referred to as the "Green Area".

(2) Subject to subsection (3), the Minister shall, with respect to each township, select one or more parcels of undisposed of public lands not exceeding the area of two sections that are in his opinion suitable for establishment as natural areas.

(3) In lieu of making a selection in each township under subsection (1), the Minister may group not more than five adjoining townships for the purposes of this section and may select anywhere in that group of townships one or more parcels of undisposed of public lands not exceeding the area of 10 sections that are in his opinion suitable for establishment as natural areas.

(4) The Minister shall recommend to the Lieutenant Governor in Council that the lands selected under subsections (2) and (3) be set aside under section 10, clause (e) for use as natural areas.

3. The following section is added after section 16:

16a. The Minister may, in the case of an application for a homestead sale or other sale of agricultural land made by a person who is the holder of a disposition under which he may become entitled to an estate in fee simple in other public lands, enter into an arrangement with the proposed purchaser whereby the Minister, in consideration of the

Explanatory Notes

1. This Bill amends chapter 80 of the Statutes of Alberta, 1966.

2. The new section 13a requires the Minister to select public lands suitable as natural areas and recommend that they be set aside for that purpose. Section 10, clause (e) empowers the Lieutenant Governor in Council to set aside public lands for use as natural areas.

3. The new section 16a will permit the Minister to accept purchaser's equity in Crown land as payment or partial payment of the price where that purchaser applies to purchase other Crown land.

consent of the purchaser to the cancellation of his disposition, shall accept the purchaser's interest, at its fair value, in the public lands held by him under the disposition in payment or partial payment of purchase price under the proposed sale.

4. Section 19, subsection (1), clause (a) is amended by striking out the words "any period not exceeding one year" and by substituting the words "a stated period".

5. The following section is added after section 28:

28a. (1) Where the holder of a homestead lease, homestead sale or other agreement for the sale of public lands desires to effect the sale of part of the land contained in his disposition to another person, the Minister may, in consideration of an amount of money specified by him, enter into and carry out an arrangement under this section with the holder and the proposed purchaser for the purpose only of effecting that sale to the proposed purchaser.

(2) In carrying out an arrangement made pursuant to subsection (1)

- (a) the Minister shall cancel the disposition as to lands concerned, with the consent of the holder,
- (b) the Minister shall issue a notification in favour of the purchaser with respect to the land concerned,
- (c) the moneys paid to the Minister under subsection (1) shall be credited to the payment of amounts owing or thereafter becoming due to the Minister under the disposition,
- (d) the Minister may waive compliance by the holder of any terms or conditions of the disposition, and
- (e) the Minister shall not pay any costs incurred in connection with surveying or arranging for the registration under *The Land Titles Act* of any plan of survey of the land to be sold.

6. Section 52 is amended by adding the word "or" at the end of clause (b) and by adding the following clause:

- (c) contravenes any provision of section 49 or 50,

4. Section 19, subsection (1), clause (a) presently reads:

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
 - (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,

5. On occasion the holder of a homestead sale or other agreement for sale of Crown lands may wish to sell a part of his land to an industrial or commercial concern but is prevented from doing so until he acquires title. The new section 28a will enable the making of arrangement to facilitate the sale before then.

6. A person who contravenes section 49 or 50 will be guilty of an offence and liable to prosecution.

Sections 49 and 50 presently read:

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
- (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.

7. Section 56 is amended by striking out subsections (1), (2) and (3) and by substituting the following subsection:

56. (1) A person applying for a disposition shall, after his application is approved and before the disposition is issued, pay to the Minister an amount of money equal to the most recent valuation made by an inspector of the Department of the improvements upon the lands to which the application relates.

8. Section 83, subsection (2) is amended

(a) by striking out clause (b) and by substituting the following clause:

(b) is in possession or control of a farm or whose spouse is in possession or control of a farm pursuant to an agreement for sale, or

(b) as to clause (c) by striking out subclauses (ii) and (iii) and by substituting the following subclause:

(ii) in possession or control of a farm pursuant to an agreement for sale,

9. Section 100 is amended

(a) by renumbering the section as subsection (1),

(b) as to clause (a) of the renumbered subsection (1) by striking out the words "for at least four years" and by substituting the words "equivalent to the cultivation duties prescribed for the first two years",

(c) as to clause (c) of the renumbered subsection (1) by striking out the words "twenty-one years" and substituting the words "18 years",

(d) by adding the following subsection:

(2) Notwithstanding any provisions of this Act or the regulations the Minister may, upon such terms and conditions as he may prescribe, consent to an assignment of a homestead sale or a homestead lease when the Minister is satisfied that the assignment is essential to creating a farm unit which has the potential of being developed as an economic enterprise.

7. Section 56, subsections (1), (2) and (3) presently read:

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
- (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.

The amount to be paid by an applicant on account of improvements will be based on a valuation made by an inspector of the Department in every case. The amount will no longer have to be paid at the time of making application but will have to be paid after the application has been approved and before the disposition is actually issued.

8. Section 83, subsection (2) presently reads:

(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,

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 four quarter-sections.

9. Section 100 presently reads:

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.

10. Section 124 is amended

- (a) as to subsection (1) by adding the following clauses:
 - (h) section 29, subsection (5),
 - (i) section 42, subsections (1), (2), (6), (7) and (8).
- (b) as to subsection (2) by adding after the words “subsections (3), (5), (6) and (7) of section 88” the words “and section 100”.

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

10. The effect of the amendment is to make assignment requirements for homestead leases issued under the former Act uniform with those that apply to homestead sales under the present Act.