

1982 BILL 6

Fourth Session, 19th Legislature, 31 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 6

PUBLIC LANDS AMENDMENT ACT, 1982

THE ASSOCIATE MINISTER OF
PUBLIC LANDS AND WILDLIFE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 6

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1982

PUBLIC LANDS AMENDMENT ACT, 1982

(Assented to _____, 1982)

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

1 *The Public Lands Act is amended by this Act.*

2 *Section 1(e) is repealed and the following is substituted:*

(e) "disposition" means every instrument executed pursuant to this Act, the former Act, *The Provincial Lands Act* or the *Dominion Lands Act* (Canada) whereby

(i) any estate or interest in land of the Crown, or

(ii) any other right or privilege in respect of land of the Crown that is not an estate or interest in land,

is or has been granted or conveyed by the Crown to any person and, without derogating from the generality of subclauses (i) and (ii), includes a conveyance, assurance, sale, lease, licence, permit, contract or agreement made, entered into or issued pursuant to any of those Acts, but does not include a grant;

3 *Section 2(1) is repealed and the following is substituted:*

2(1) Except where this or any other Act expressly provides to the contrary, this Act does not apply to public land that is not under the administration of the Minister.

4 *Section 7(d) is repealed and the following is substituted:*

(d) transfer the administration of any public land from one Minister of the Crown or Crown corporation to any other Minister of the Crown or Crown corporation;

Explanatory Notes

1 This Bill will amend chapter P-30 of the Revised Statutes of Alberta 1980.

2 Section 1(e) presently reads:

1 *In this Act,*

(e) “*disposition*”

(i) *means every instrument executed pursuant to this Act, the former Act, The Provincial Lands Act or the Dominion Lands Act (Canada) whereby any estate, right or interest in any land 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 land, 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 those Acts and relating to land,*

but does not include a grant;

3 Section 2(1) presently reads:

2(1) *This Act does not apply to any public land that is not under the administration of the Minister except when any other Act expressly provides that this Act or any of its provisions are made applicable to that public land.*

4 Section 7(d) presently reads:

7 *The Lieutenant Governor in Council may*

(d) *transfer the administration of public land to any other Minister of the Crown or to any Crown corporation;*

5 Section 8(3)(a) is amended by striking out “taking into consideration the purposes for which the land may be used” and substituting “, for that purpose, the Minister may take into consideration the purposes for which the land will be used”.

6 Section 9(f) and (g) are amended by striking out “at any rate not exceeding 6% per year”.

7 The following is added after section 10:

10.1(1) Except where the Lieutenant Governor in Council orders otherwise, any Minister of the Crown or Crown corporation may transfer the administration of public land under his or its administration to any other Minister of the Crown or Crown corporation where the area of land the administration of which is to be transferred is less than 640 acres.

(2) No transfer may be made under subsection (1) without the written consent of the Minister of the Crown or the Crown corporation to whom the administration is to be transferred.

8 Section 17 is amended

(a) by repealing clause (b);

(b) in clause (d) by adding “and subject to any terms and conditions the Assistant Deputy Minister prescribes” before “by the”.

5 Section 8(3)(a) presently reads:

(3) The Lieutenant Governor in Council may make regulations

(a) authorizing the Minister to sell public land by public auction or by private sale on the terms and conditions prescribed by the Minister and at a price not less than the fair value of similar land in the immediate district in which the public land is situated, and taking into consideration the purposes for which the land may be used;

6 Section 9(f) and (g) presently read:

9 The Lieutenant Governor in Council may make regulations

(f) prescribing the rate of interest at any rate not exceeding 6% per year on money payable as the whole or part of the consideration under a 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 6% per year on money payable under a disposition that is not paid within one month from the date it is due;

7 Transfer of administration.

8 Section 17 presently reads in part:

17 The Minister may

(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 land in the immediate district in which the public land is situated,

(d) authorize the Assistant Deputy Minister 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 a disposition for it, and

9 Section 18 is amended by repealing subsections (4), (5) and (6) and substituting the following:

(4) When land that is the subject of a gift under this section is to be used as a site for a church, mission or community hall, no notification shall be issued and no transfer shall be executed until a building has been erected on the land.

(5) A notification issued and a transfer executed pursuant to a gift under this section shall restrict the use of the land that is the subject of the gift to the purpose for which it is given.

(6) The Registrar shall, when he receives a notification or transfer pursuant to a gift under this section, place on the certificate of title that is issued pursuant to the notification or transfer the restriction contained in the notification or transfer.

(7) The Minister may order the Registrar to amend or strike out the restriction placed by him on a certificate of title pursuant to subsection (6).

(8) If the Minister is satisfied that land that is the subject of a gift under this section is not being used for the purpose for which it was given he may, subject to any terms and conditions he prescribes, require the person to whom the land was given or any of his successors in title

(a) to retransfer the land to the Crown, or

(b) to pay to him the fair market value of the land.

(9) If the Minister chooses to act under subsection (8)(b), he shall serve a notice on the person to whom the land was given or his successor in title demanding payment to him within 60 days of the date of service of the notice of an amount determined by the Minister to be the fair market value of the land on the date of the notice.

(10) The notice under subsection (9) shall be served personally or by double registered mail addressed to the person for whom it is intended at his address according to the Minister's records.

(11) The person on whom a notice is served under subsection (9) shall, within 60 days after service of the notice,

(a) pay the amount demanded by it, or

(b) if he disagrees with the Minister's determination of the fair market value of the land, apply to the Land Compensation Board for a determination of the fair market value of the land on the date of the notice.

9 Section 18 presently reads:

18(1) The Minister may give public land

(a) to the board of trustees of a school district or school division in a rural area, when the land is required as a site for school purposes,

(b) to a religious corporation or the trustees of a religious society or congregation, when the land is to be used as a site for a church or mission,

(c) to 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) to a society as a site for a community hall.

(2) The area of public land the Minister gives to the board of trustees of a school district or school division pursuant to subsection (1)(a) must not exceed 12 acres and the length of the area shall not exceed twice its width.

(3) The area of public land the Minister gives pursuant to subsection (1)(b), (c) or (d) must not exceed 6 acres and the length of the area shall not exceed twice its width.

(4) When 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 on 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 a 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.

(12) For the purposes of making a determination under subsection (11), the Land Compensation Board may exercise the powers given to it pursuant to section 28 of the *Expropriation Act* and may also make any order as to costs that it considers appropriate.

(13) The applicant under subsection (11) and the Minister may, within 30 days after receiving notice of the determination of the Land Compensation Board, appeal the determination to the Court of Appeal, and section 37 of the *Expropriation Act* applies to such an appeal.

(14) The Minister may recover as a debt

(a) the amount set out in a notice under subsection (9), where the person to whom the notice is directed does not comply with subsection (11), or

(b) the amount determined by the Land Compensation Board or the Court of Appeal, as the case may be, as the fair market value of the land.

10 *Section 20 is amended*

(a) *by repealing subsection (1) and substituting the following:*

20(1) When the Minister proposes to sell public land he may, as a condition of the sale, require the intended purchaser to enter into an agreement containing either or both of the following:

(a) restrictions on the purposes for which the land to be sold may be used, including a requirement that the purchaser or any of his successors in title retransfer the land to the Crown in the event that the land is no longer used for the purposes referred to in the agreement;

(b) a prohibition of the sale of the land for a period specified in the agreement except with the written consent of the Minister.

(1.1) Notwithstanding subsection (1), the Minister may make an agreement under this section subject to any other terms and conditions he considers necessary.

(b) *by adding the following after subsection (2):*

(3) The Minister may order the Registrar to cancel the registration of any agreement registered under this section.

10 Section 20(1) presently reads:

20(1) When the Minister proposes to sell public land pursuant to section 17 or pursuant to an order of the Lieutenant Governor in Council, the Minister may, as a condition of the sale, require the intended purchaser to enter into an agreement

*(a) restricting the purposes to which the land to be sold may be used,
and*

(b) requiring the purchaser or his successors in title to retransfer the land to the Crown in the event that the land is no longer used for the purposes referred to in the agreement,

on the terms and conditions the Minister prescribes.

11 *The following is added after section 47:*

47.1(1) The Minister may require a person who holds a disposition or an authorization under section 19(1) and who contravenes a term of the disposition or authorization to pay to the Minister a penalty in an amount prescribed by him, not to exceed \$5000.

(2) The Minister shall serve on the person referred to in subsection (1) personally or by ordinary mail addressed to him at his address according to the Minister's records, a notice demanding payment of the amount of the penalty within 30 days of the date of service of the notice.

(3) The notice shall state the grounds on which the penalty was assessed.

(4) If the person referred to in subsection (1) fails to pay the amount in accordance with the notice, the Minister has a cause of action for the recovery of it and, in such an action, the court

(a) may make any order it considers just regarding the payment by that person of the amount or any of it, and

(b) may make any other order it considers appropriate, including an order respecting costs.

12 *Section 51 is amended by adding the following after subsection (1):*

(1.1) A person lawfully carrying out any industrial activity on public land in accordance with

(a) the terms and conditions of a disposition or authorization issued under this Act, and

(b) any other applicable Acts and regulations

shall not, by reason of that fact alone, be considered to have contravened this section.

11 Recovery of penalty.

12 Section 51 presently reads in part:

51(1) No person shall cause, permit or suffer

(a) the accumulation of waste material, debris, refuse or garbage on public land,

(b) the existence on public land of any structure or excavation of any kind that is undesirable in the Minister's opinion,

(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,

(d) the doing of any act on public land that may injuriously affect watershed capacity,

(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 of that public land, or

(f) the creation of any condition on public land which, in the Minister's opinion, is likely to result in soil erosion.

13 Section 56 is amended by striking out “\$1000” and substituting “\$5000”.

14 Section 112 is amended by adding the following after clause (g):

(g.1) respecting the circumstances under which and the methods by which the Minister may

(i) withdraw land from a grazing lease, or

(ii) order a person who has an interest in a grazing lease to dispose of all or part of his interest in a grazing lease

for the purpose of ensuring compliance with section 106(3), and the regulations made under this clause may define any term used in them;

(g.2) requiring a grazing lessee to file with the Minister statements or reports at the times and containing the information prescribed in the regulations;

(g.3) respecting the payment by a corporation that is a grazing lessee of an amount of money to the Minister on the transfer or allotment of shares of the corporation, including the circumstances under which the amount is to be paid and the manner of calculating it;

(g.4) authorizing and respecting the cancellation by the Minister of the grazing lease of a corporation after a transfer or allotment of shares of the corporation;

15 Section 113 is repealed.

13 Section 56 presently reads:

56 Every person who is guilty of an offence under this Act or the regulations for which no penalty is provided is liable to a fine not exceeding \$1000 and in default of payment to imprisonment for a term not exceeding 90 days.

14 Lieutenant Governor in Council may make regulations.

15 Section 113 presently reads:

113(1) One year after the date on 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 May 1, 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 land referred to in subsection (2) to an area of land sufficient to graze 1000 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 May 1, 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 land referred to in subsection (2) to an area of land sufficient to graze 600 animal units for a calendar year in accordance with its grazing capacity.

16 Section 117 is repealed.

(2) The Minister may determine the area of land greater than that which is sufficient to graze 1000 or 600 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) when 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) when 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) When 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 2nd corporation as being the holders of that 2nd corporation's shares in the lessee corporation, and

(c) in case any shareholder of the 2nd corporation is itself a corporation, treat the persons holding all the shares of that 3rd corporation as being the holders of that 3rd corporation's shares in the 2nd corporation,

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

16 Section 117 presently reads:

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, 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) If a corporation holds a grazing lease and, as a result of the transfer of shares or the allotment of new shares, or both, a number of shares equal to or greater than 5% of the total number of issued shares prior to the transfer or allotment becomes vested in persons other than those persons who held them prior to the transfer or allotment, the Minister may

17 Sections 13, 14 and 15 come into force on Proclamation.

(a) require the corporation to pay to him an amount equal to the percentage that the number of shares transferred or allotted is of the total number of issued shares prior to the transfer or allotment multiplied by the assignment fee that the corporation would be required to pay under the regulations if the grazing lease had been assigned to it by another person, or

(b) if he considers it in the public interest to do so, cancel the grazing lease.