

1989 BILL 243

First Session, 22nd Legislature, 38 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 243

ALBERTA LANDS INVENTORY
AND PROTECTION ACT

MR. FOX

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 243
Mr. Fox

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ALBERTA LANDS INVENTORY AND PROTECTION ACT

(Assented to , 1989)

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

Definitions

1 In this Act,

(a) "Alberta Land Inventory" means the Alberta Land Inventory established pursuant to section 8;

(b) "agricultural land" means land designated as such pursuant to section 8(2)(a);

(c) "commission" means the commission established by section 2;

(d) "commission land" means land acquired by the commission for the purposes of this Act;

(e) "farm use" means an occupation or use of land for bona fide farm purposes, including, without limiting the generality of the foregoing, husbandry of the land and the plants and animals thereon, and any other similar activity designated as farm use by the Lieutenant Governor in Council;

(f) "green belt land" means land referred to in section 7(2)(a);

(g) "land" includes any estate or interest in land;

(h) "land bank land" means land referred to in section 7(2)(b);

(i) "land reserve plan" means a plan prepared pursuant to this Act in the manner prescribed by the regulations, which sets out clearly the areas within a municipality or improvement district that, subject to the approval of the Lieutenant Governor in Council, may be designated by the commission as an agricultural land reserve;

(j) "Minister" means the Minister of Agriculture;

(k) "park land" means land referred to in section 7(2)(c);

(l) "regulation" means a regulation or order of the Lieutenant Governor in Council made under this Act;

(m) "reserve" means a reserve of land established as such pursuant to section 8; and

(n) "vital agricultural land" means land designated as such pursuant to section 8(2)(b).

Commission
established

2(1) There is hereby established a commission to be known as the Provincial Land Commission consisting of not less than 5 members appointed by the Lieutenant Governor in Council to hold office during pleasure, and upon their appointment the members constitute a corporation and shall be the directors of it.

(2) Each member shall be reimbursed for any reasonable travelling or living expenses necessarily incurred by him in the discharge of his duties and may be paid such remuneration for his services as a member of the commission as the Lieutenant Governor in Council may determine providing that money has been appropriated to that purpose by the Legislature.

(3) Three members of the commission present, constitutes a quorum.

Appointment of
members

3(1) The Lieutenant Governor in Council shall designate 1 of the members as chairman and one other member as vice-chairman.

(2) In the absence of the chairman and vice-chairman from a meeting of the commission, the members present may elect an acting chairman for that meeting from amongst them.

Agent of Crown

4(1) The commission is an agent of the Crown.

(2) The commission may, on behalf of the Crown, carry out its powers and duties under this Act in its own name without specific reference to Her Majesty and may acquire and hold in its own name any land or other real or personal property, and may dispose of, mortgage, hypothecate, pledge or otherwise encumber, or assign any such property.

Staff

5(1) The commission may, pursuant to the *Public Service Act*, appoint such officers and employees as it considers necessary for the purpose of this Act, and may determine their duties.

(2) The commission may appoint or re-appoint a general manager of the commission, may fix his remuneration and term of appointment, and may declare that the *Public Service Act* applies to him.

(3) The Lieutenant Governor in Council may declare that the *Public Service Management Pension Act* applies to the members of the commission and to the general manager.

(4) The commission may, with the approval of the Minister, engage and retain such experts, consultants or specialists as it considers advisable and fix their remuneration.

(5) The appointments provided for in this section may only be made when money has been appropriated to that purpose by the Legislature.

By-laws

6 The commission may make such by-laws and pass such resolutions, not contrary to law or this Act, as it considers necessary or advisable for the conduct of the affairs of the commission and, without limiting the generality of the foregoing, may make by-laws and pass resolutions with respect to the time and place of calling and holding meetings, the procedure to be followed at the meetings, and generally with respect to the conduct, in all respects, of the affairs of the commission.

Objects

7(1) It is the object of the commission to

- (a) prepare and maintain an inventory of land in Alberta;
- (b) preserve agricultural land for farm use;
- (c) encourage the establishment and maintenance of family farms, and land in an agricultural land reserve, for a use compatible with the preservation of family farms and farm use of the land;
- (d) preserve green belt land in and around urban areas;
- (e) encourage the establishment and maintenance of land in a green belt land reserve for a use compatible with the preservation of a green belt;
- (f) preserve land bank land having desirable qualities for urban or industrial development and restrict subdivision or use of the land for other purposes;
- (g) encourage the establishment and maintenance of land in a land bank reserve for a use compatible with an ultimate use for industrial and urban development;
- (h) preserve park land for recreational use;
 - (i) encourage the establishment and maintenance of land in a park land reserve for a use compatible with an ultimate use of recreation; and
 - (j) advise and assist municipalities and improvement districts in the preparation and production of the land reserve plans required for the purpose of this Act;

and, for these objects, it has the power and capacity, by itself, or in co-operation with the Government of Canada, or any of its agencies or corporations, or with a department of the Government of Alberta or any of its agencies or corporations or with a municipality or improvement district to

- (k) purchase or acquire land, except by expropriation, on such terms and conditions as may be negotiated, and hold such land for the purposes of this Act;

(l) dispose of, by sale, lease or otherwise, commission land and Crown land that is in an agricultural land reserve, a green belt land reserve, a land bank land reserve, or a park land reserve, subject to such terms and conditions as the commission may determine;

(m) accept gifts of land subject to such terms and conditions as the commission may determine; and

(n) acquire and hold personal property and dispose of personal property so acquired by sale, lease, or otherwise.

(2) For the purposes of this section, the commission may

(a) purchase or acquire land, except by expropriation, including Crown land, the present condition or future potential of which merits preservation by reason of its aesthetic quality or its location in or around urban areas, as green belt land;

(b) purchase or acquire land, except by expropriation, including Crown land, having desirable qualities for urban or industrial development or redevelopment, as land bank land; and

(c) purchase or acquire land, except by expropriation, including Crown land having desirable qualities for, or future potential for recreational use, as park land;

and upon being so purchased or acquired the green belt land, land bank land or park land is established as a green belt land reserve, land bank reserve, or park land reserve as the case may be, and shall be subject to this Act and the regulations.

Inventory, land
reserve plan,
hearings

8(1)(a) The commission shall cause to be prepared, and shall maintain and update as it deems necessary, an Alberta Land Inventory.

(b) The Alberta Land Inventory shall constitute a record of all land in the Province

(i) showing its classification according to the land classifications established by the Canada Land Inventory and also according to the Agro-Climatic Resource Index established by the Lands Directorate of the Department of the Environment of the Government of Canada,

(ii) recording its area,

(iii) recording its location and legal description, and

(iv) recording the total area of land in each classification.

(c) The commission may determine the form of the Inventory.

(2) The commission may, subject to this section and with the prior approval of the Lieutenant Governor in Council

(a) designate land, including land held by Her Majesty in right of Alberta, that is suitable for farm use, as agricultural land, and upon being so designated the land is established as an agricultural land reserve and shall be subject to this Act; and

(b) in the case of land designated as agricultural land pursuant to clause (a), and deemed by the commission to be of superior and irreplaceable quality, designate such land as vital agricultural land, and upon being so designated the land is established as a vital agricultural land reserve subject to this Act and the regulations, and shall also be governed by the provisions of this Act and the regulations relating to agricultural land reserve except as set out in section 10(5).

(3)(a) The Minister of Municipal Affairs shall, for every improvement district, and

(b) The Council of every municipality shall, by by-law, for that municipality

within 1 year after the coming into force of this Act adopt a land reserve plan prepared in accordance with the regulations and file the by-law and land reserve plan with the commission.

(4) The Minister of Municipal Affairs or the Council, as the case may be, shall not issue an order for the purpose of this section until he has held a public hearing, notice of which has been given pursuant to Part 6, Division I of the *Planning Act*.

(5) The provisions of Part 6, Division I of the *Planning Act*, apply with the necessary changes and so far as are applicable, to a hearing under subsection (4).

(6) Where the commission considers that the land reserve plan filed under subsection (3) carries out the intent and purpose of this Act, it shall, after approval of the Lieutenant Governor in Council, designate the agricultural land shown therein as an agricultural land reserve.

(7) Where the commission considers it necessary or advisable to amend the land reserve plan filed under subsection (3) to better carry out the intent and purpose of this Act, it may recommend to the Lieutenant Governor in Council amendments to the land reserve plan, and shall, after approval by the Lieutenant Governor in Council of the land reserve plan or the land reserve plan as amended, designate the agricultural land therein as an agricultural land reserve.

(8) Where the council of a municipality or the Minister of Municipal Affairs in the case of an improvement district, as the case may be, fails or refuses to prepare and file a land reserve plan with the commission in accordance with subsection (3) the commission shall, subject to subsections (9), (10), and (11), prepare a land reserve plan and submit the land reserve plan to the Lieutenant Governor in Council for approval.

(9) The commission shall not submit the land reserve plan prepared under subsection (8) to the Lieutenant Governor in Council until it has held a public hearing, notice of which has been given in writing to each owner of land that is subject to the reserve plan.

(10) For the purpose of a hearing under subsection (9),

(a) the commission has and may exercise the powers of a Commissioner under the *Public Inquiries Act*;

(b) the commission may accept oral or written submissions or any other form of evidence.

(11) The Lieutenant Governor in Council may approve a land reserve plan as submitted by the commission under subsection (8), or with such alterations or variations as he may consider necessary or advisable to carry out the intent and purpose of this Act, and the commission may thereupon, pursuant to subsection (1)(a), designate the agricultural land shown therein as an agricultural land reserve.

(12) Notwithstanding the other provisions of this section, pending the establishment of an agricultural land reserve in a municipality or improvement district under this section, all land that is zoned for agricultural or farm use under a by-law of the municipality or improvement district subsisting immediately prior to the commencement of this Act shall be deemed to be an agricultural land reserve and subject to this Act and the regulations, unless excepted by the commission.

Exclusion from
plan

9(1) The Lieutenant Governor in Council, upon the application of a municipality, the Minister of Municipal Affairs or the commission or on his own, may, by order, exclude any land, whether Crown land or private land, from the reserve established under section 8(2)(a).

(2) Subject to subsection (5), an owner of land aggrieved by a designation by the commission of his land as part of an agricultural land reserve may, notwithstanding that he appeared before, or made representations to, the municipality, or to the Minister of Municipal Affairs in respect of an improvement district, or the commission under section 8(4) or (9), apply to the commission in the manner prescribed by the regulations to have his land excluded from the agricultural land reserve.

(3) The commission, after a hearing held in such manner and after such notice as is prescribed by the regulations, may allow the application upon such terms and conditions or with such amendments as it considers advisable, or may refuse the application.

(4) Where land of an owner was, immediately prior to the commencement of this Act, zoned for agricultural or farm use under a by-law of a municipality or order for an improvement district subsisting on that date, the owner is not entitled to apply to the commission under subsection (2) unless so authorized by a resolution of a municipality or by the Minister of Municipal Affairs in the case of an improvement district.

- (5) The commission shall, at the request of the owner,
- (a) deliver to him its decision in writing; and
 - (b) allow him to examine and make available to him copies of all relevant documents in the custody of the commission pertaining to his application.
- (6) A person who is dissatisfied with the decision of the commission,
- (a) upon being authorized to appeal by a resolution of the municipality or the Minister of Municipal Affairs as the case may be; and
 - (b) upon being granted leave to appeal by any 2 members of the commission,
- may appeal, in the manner prescribed in the regulations, to the Lieutenant Governor in Council.
- (7) Subject to the procedure prescribed by the regulations, an appeal under this section shall be a hearing and review, but the Lieutenant Governor in Council may accept written submissions or any other form of evidence, provided any such submission or any other form of evidence is made available to the appellant.
- (8) The Lieutenant Governor in Council may, after a hearing, allow the appeal subject to such terms and conditions as it may consider advisable, or refuse the appeal and, in the event the appeal is refused, may order that any costs of the hearing be paid by the appellant and, in the event the appeal is allowed, shall order that the reasonable costs incurred by the appellant be paid by the commission.
- (9) The commission is entitled to be a party to the hearing of the appeal and may take part in the proceedings.
- (10) Where land is excluded from a land reserve plan by order of the commission or the Lieutenant Governor in Council under this section, the commission shall amend the land reserve plan accordingly and notify the municipality or the Minister of Municipal Affairs as the case may be, and the Registrar of Titles.

Limit on use of
reserve

10(1) No person shall occupy or use agricultural land designated as an agricultural land reserve or vital agricultural land, pursuant to section 8 for any purpose other than farm use, except as permitted by this Act or the regulations or by order of the commission upon such terms and conditions as the commission may impose.

(2) In addition to the exceptions, reservations, or limitations set out in the *Land Titles Act*, a certificate of title previously issued under that Act in respect of agricultural land that is designated as an agricultural land reserve shall be subject, by implication and without special endorsement on the certificate of title, to this Act and the regulations respecting the reserve and farm use of the land contained in it, and the Registrar of Titles shall note on every certificate of title of agricultural land after the commencement of this Act, that relates to land that is designated as an agricultural land reserve an endorsement that the certificate of title may be affected by this Act.

(3) Notwithstanding subsection (2), the commission may, in respect of any agricultural land that is an agricultural land reserve, register a caveat in the appropriate Land Titles Office restricting the agricultural land described therein to farm use.

(4) From the date of commencement of this Act except as permitted by this Act, or the regulations, or by an order of the commission upon such terms and conditions as the commission may impose, no municipality, or person may use or be authorized to use agricultural land in an agricultural land reserve for a purpose other than farm use, or be authorized or permitted to erect a building on it except for

- (a) farm use;
- (b) residences necessary for farm use; or
- (c) such residences for an owner or occupier of the agricultural land as may be permitted to be erected by the regulations.

(5) Notwithstanding any other provision of this Act, no land may be withdrawn from a vital agricultural land reserve except by authority of an Act of the Legislature specifically designating the land to be so withdrawn.

Exemptions

11(1) Section 10 does not apply in respect of agricultural land in an agricultural land reserve that, on the commencement of this Act was, by separate certificate of title described as being 2 acres or less in area.

(2) Where a use of agricultural land that is within an agricultural land reserve

- (a) is a use other than farm use; and
- (b) was established and carried on continuously for a period of at least 6 months immediately prior to the commencement of this Act; and
- (c) is permitted by, or is not in contravention of, any other Act, regulation, by-law, order or any other law respecting land use,

that agricultural land is exempted from section 10 unless and until

- (d) the use of that agricultural land is changed to a use other than farm use without the permission of the commission; or
- (e) any other Act, regulation, by-law, order, or any other law made after the commencement of this Act, prohibits such use; or
- (f) permission or any other use granted under any other Act, regulation, by-law, or order is withdrawn or expires.

(3) Where agricultural land, exempted under subsection (2), is sold, leased, transferred, transmitted or otherwise disposed of, this Act and the regulations apply to that land, except as otherwise permitted by the commission.

(4) The commission may, in accordance with the regulations, hear and determine applications for permission under subsections (2) and (3), and under section 10(1) and (4) and may grant or refuse permission for a use of the land for other than farm use, and may impose whatever terms and conditions it considers advisable, and except as provided in subsection (6), the decision of the commission is final and no appeal lies from that decision.

(5) Where land of an owner was, immediately prior to the commencement of this Act, zoned for agricultural or farm use under a by-law of a municipality or order of the Minister of Municipal Affairs subsisting on that date, the owner is not entitled to apply to the commission for permission for any other use under section 10 or 11, unless so authorized by a resolution of a municipality or the Minister of Municipal Affairs as the case may be.

(6) An owner of land aggrieved

(a) by an order or decision of the commission refusing permission under section 10(1) or (4) or under this section, or

(b) by the terms and conditions imposed by the commission in an order made under section 10(1) or (4), or a permission granted under this section,

may appeal, on a question of law or excess of jurisdiction only, to the Court of Queen's Bench, which may confirm, vacate or vary the order, terms or conditions.

Use or disposal
of land

12 With respect to agricultural land designated as an agricultural land reserve, the commission may

(a) make arrangements with the owners of agricultural land respecting continued farm use of the agricultural land upon such terms and conditions as may be agreed;

(b) carry on farming operations on commission land or agree with other persons to do so;

(c) withdraw from an agricultural land reserve agricultural land owned by the commission and, with the prior approval of the Lieutenant Governor in Council, dispose of such land to the Crown for re-sale; and

(d) dispose of agricultural land owned by the commission, with the prior approval of the Lieutenant Governor in Council, to private ownership for permanent farm use, subject to the terms and conditions as the commission may determine.

Improvements on
commission land

13 The commission may make, place, or construct on or bring onto, or cause to be made, placed or constructed on or brought onto, any commission land such capital improvements as it considers necessary or desirable for the efficient development or use of the commission land or other land in the vicinity, and pay for or purchase any capital improvements made, placed or constructed on or brought onto any commission land by any person.

Taxes on
commission land

14 Where commission lands are unoccupied or a lease of commission land does not provide for the payment of tax by the lessee, the commission may pay a grant in lieu of taxes.

Fees

15 The commission may establish, with the approval of the Lieutenant Governor in Council, a schedule of fees to be paid to the commission for the preparation of leases and other documents, for appraisals and evaluations of land, and for copies of documents of the commission.

Injurious
affection

16 Land shall be deemed not to be taken or injuriously affected by reason only of the designation by the commission of that land as an agricultural land reserve.

Agreement

17 For the purpose of this Act, the Minister may, subject to the approval of the Lieutenant Governor in Council, enter into such agreements as the Minister considers advisable with

- (a) the Government of Canada;
- (b) a municipality;
- (c) an agent of the Crown; or
- (d) any other department of Government.

Report

18(1) The commission shall submit annually to the Minister within 90 days after the end of its fiscal year,

- (a) a report respecting the operations of the commission for the immediately preceding fiscal year, and
- (b) a financial statement showing the business of the commission for that fiscal year, in such form as may be required by the Auditor General.

(2) The Minister shall table the report and the statement in the Legislative Assembly when it is received by him if the Legislative Assembly is then sitting, and if not, within 15 days of the commencement of the next sitting.

Regulations

19 For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make such regulations and orders as are ancillary to them and not inconsistent with them and, without restricting the generality of the foregoing, the Lieutenant Governor in Council may make regulations

- (a) respecting land reserve plans for, and the designation, establishment and approval of, agricultural land reserves, and the definition of farm use;
- (b) respecting applications to the commission for permission under section 10 and section 11, and the practice and procedure for hearing the application, and for applications, hearings and appeals under sections 8 and 9;
- (c) respecting residences for owners under section 10(4);
- (d) respecting the appraisal of land and the acquisition, by purchase or lease, of land;
- (e) respecting applications for sale or lease of commission land or personal property, or Crown land that is in a reserve, and the terms and conditions of sale or lease;
- (f) respecting the management and control of commission land;
- (g) prescribing the method of determining the eligibility of applicants to lease or purchase commission land;
- (h) prescribing the interest payable in respect of purchases from the commission or arrears of rents;
- (i) providing for varying, waiving, postponing, or rescheduling of interest or rent or the payment of interest or rent; and
- (j) respecting any other matter required for carrying out the purpose of this Act.

20(1) This Act is subject to the *Clean Air Act*, the *Clean Water Act* and the *Land Surface Conservation and Reclamation Act*, but otherwise except as provided in this Act or in the regulations, this Act and the regulations are not subject to any other Act or regulation, and no Minister, department or Government or agent of the Crown shall exercise any power granted under any other Act or regulation except in accordance with this Act and the regulations.

(2) The commission, as agent of the Crown, shall administer as commission land all Crown land that is established as reserve land and may sell, lease, or otherwise dispose of any portion of such land in accordance with this Act upon such terms and conditions as the commission may determine.

(3) Notwithstanding subsection (1), where Crown land that is established as an agricultural land reserve under section 8 has been leased by the Crown or sold by agreement for sale by the Crown and not transferred to the purchaser before the commencement of this Act, and on that date was being used for a purpose other than farm use, and as permitted by, or not in contravention of, the terms and conditions of the lease or agreement for sale, that use may continue until the termination of the lease or the issue of title to the purchaser under the agreement for sale.

(4) Subject to subsection (5), nothing in this Act or the regulations affects or impairs the validity of a by-law of a municipality or regional order respecting an improvement relating to the use of agricultural land in an agricultural land reserve except insofar as the by-law or order is contrary to, or is in conflict with, inconsistent with or repugnant to, this Act, or the regulations, or an order of the commission, and in case of any conflict, inconsistency or repugnancy between the by-law and this Act, or the regulations, or order of the commission, this Act or the regulations or the order of the commission prevails.

(5) A by-law or regulation of a municipality or regional district, or any provision thereof, that is, in any manner, in conflict with, inconsistent with or repugnant to this Act, the regulations or orders of the commission, is suspended and of no effect to the extent of such conflict, inconsistency or repugnancy.

(6) A by-law or regulation of a municipality or regional district that provides for further or additional restrictions or conditions respecting farm use of agricultural land than those provided by this Act and the regulations is not, for that reason alone in conflict with, inconsistent with or repugnant to this Act and the regulations.

(7) Subject to subsection (8), the *Companies Act* does not apply to the commission.

(8) The Lieutenant Governor in Council may, by order, declare that any of the provisions of the *Companies Act* apply to the commission, and those provisions shall thereupon apply to the commission.

Transfer of funds

21 For the purposes of this Act and the establishment of an agricultural land reserve under section 8, the Provincial Treasurer shall, from time to time as required by the commission, transfer funds to the commission from such money as is appropriated by the Legislature to that purpose.

Coming into
force

22 This Act comes into force on Proclamation.