

1990 BILL 22

Second Session, 22nd Legislature, 39 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 22

AGRICULTURAL DEVELOPMENT
AMENDMENT ACT, 1990

THE MINISTER OF AGRICULTURE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 22

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1990

AGRICULTURAL DEVELOPMENT AMENDMENT ACT, 1990

(Assented to , 1990)

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

1 The Agricultural Development Act is amended by this Act.

2 Section 1 is amended by repealing clause (e).

3 Section 4(6) and (7) are repealed.

4 Section 5(1) is repealed and the following is substituted:

5(1) The Corporation

(a) may appoint any employees it considers necessary,

(b) shall fix the salaries or remuneration of its employees
and define their duties,

Explanatory Notes

1 This Bill will amend chapter A-7 of the Revised Statutes of Alberta 1980.

2 Section 1(e) presently reads:

1 In this Act,

(e) "Fund" means the Agricultural Development Fund;

3 Section 4(6) and (7) presently read:

(6) The Board may authorize a committee of one or more of its members to do any act or thing required or permitted to be done by the Board under this Act.

(7) An authorization given under subsection (6) may be

(a) general or applicable to a particular case, and

(b) conditional or unconditional.

4 Section 5(1) presently reads:

5(1) In accordance with the Public Service Act there may be appointed any employees required for the purposes of carrying out the business and affairs of the Corporation.

(c) shall prescribe the conditions of employment of its employees, and

(d) may prescribe a code of conduct and ethics to be complied with by its employees.

5 *The following is added after section 5:*

5.1(1) The Board may authorize

(a) a committee of one or more of its members to do any act or thing required or permitted to be done by the Board under this Act, or

(b) any officer, employee or agent of the Corporation to do any act or thing on behalf of the Corporation that is not by this Act or the regulations or a by-law or resolution of the Board specifically reserved to be done by the Board or a committee of one or more of the Board's members.

(2) An authorization given under subsection (1) may be

(a) general or applicable to a particular case, and

(b) conditional or unconditional.

6 *Section 6 is amended*

(a) *by renumbering it as section 6(1);*

(b) *in subsection (1)*

(i) *by repealing clauses (b) and (c) and substituting the following:*

(b) the power to set and collect fees or charges in respect of any service or materials provided or any function performed or thing done by the Corporation;

(c) the power

(i) to acquire and hold real and personal property or any estate or interest in real property or any rights or privileges of any nature or kind, as the Corporation considers necessary or convenient to achieve the objects of the Corporation, and

(ii) to alienate, sell, lease or dispose of any property referred to in subclause (i) as the Corporation considers expedient;

5 Delegation of authority.

6 Section 6 presently reads:

6 To achieve the purposes of this Act the Corporation may, with the prior approval of the Minister, exercise any and all of the following powers in addition to the powers vested in it by any other Act:

(a) the power to receive money either as payment on contracts or as deposit on the purchase of farm land or as fees for services;

(b) the power to set and collect an administration or other fee in respect of a loan made or guaranteed by the Corporation under this Act;

(c) the power to purchase and sell real and personal property in accordance with this Act and the regulations;

(d) the power to invest and deal with any proceeds of the sale of real and personal property that are not immediately required, in a manner that may be prescribed by the regulations;

(e) the power to borrow money in accordance with this Act;

(ii) by repealing clause (e);

(iii) by repealing clause (g) and substituting the following:

(g) the power to take, hold, assign, realize on or otherwise dispose of security held for loans or guarantees for loans, whether the security is real or personal property;

(iv) by repealing clause (i) and substituting the following:

(i) the power to buy, sell, invest in, either directly or indirectly, or otherwise deal in the shares, bonds, debentures, investment certificates, trust deeds or any other instruments or documents of ownership, control or indebtedness of any corporation, partnership or sole proprietorship;

(v) by adding the following after clause (k):

(k.1) the power to enter into business and commercial transactions, undertakings and ventures with one or more other persons;

(k.2) for the purposes of entering into business and commercial transactions, undertakings and ventures under clause (k.1), the power to do all acts and enter into all transactions that a natural person has the capacity or power to transact;

(k.3) the power to act as a broker or agent for a borrower or for a lender described in the regulations, with respect to all aspects of any loan, mortgage, agreement for sale or other financial assistance provided by that lender to primary producers of agricultural products or the owners of associated businesses or agricultural industries;

(c) by adding the following after subsection (1):

(2) The Corporation may, with the prior approval of the Lieutenant Governor in Council, borrow money to achieve the purposes of this Act.

7 Sections 11 and 12 are repealed.

(f) the power to draw, make, accept, endorse, execute and issue promissory notes, bills of exchange, or other negotiable or transferable instruments for the purposes of this Act;

(g) the power to take, hold, realize on, or otherwise dispose of securities held for loans, whether the securities are real or personal property;

(h) the power to sell, improve, manage, develop, exchange, lease, dispose of, turn to account or otherwise deal with all or any part of the property of the Corporation;

(i) the power to buy, sell or otherwise deal in the shares of any corporation;

(j) the power to sell its land by agreement for sale extending over any period not in excess of 40 years;

(k) the power to mortgage its property or otherwise secure any borrowings of the Corporation;

(l) the power to establish offices and agencies in Alberta as it considers expedient;

(m) the power to do all other things that are incidental or conducive to the attainment of the objects and the exercise of the powers of the Corporation.

7 Sections 11 and 12 presently read:

11(1) The Provincial Treasurer shall establish a fund to be known as the Agricultural Development Fund.

(2) All money received by the Corporation shall be paid into the Fund and all money expended by the Corporation shall be paid out of the Fund.

8 Section 13 is amended

- (a) by striking out “from the Fund”;*
- (b) in clause (h) by striking out “secondary”.*

9 Section 14(2) is amended by adding “or any portion of the principal or payment of interest or any portion of the interest” after “of principal”.

10 Section 16 is amended

- (a) in subsection (1) by striking out “together with the interest or any part thereof” and substituting “or any portion of the principal amounts or the interest or any portion of the interest”;*
- (b) in subsection (2) by striking out “, to the extent that the loss suffered exceeds the amount of the Fund”;*
- (c) by adding the following after subsection (3):*

(3) From time to time, on the requisition of the Corporation approved by the Lieutenant Governor in Council, money required for the purposes of this Act shall be advanced from the General Revenue Fund to the Fund, but the amount of advances outstanding at any time shall not exceed \$200 000 000.

(4) The Provincial Treasurer may transfer from the Fund to the General Revenue Fund any money not then required to be used for the purposes of the Fund.

(5) The outstanding advances to the Fund from the General Revenue Fund are reduced by any transfer of money made under subsection (4).

12(1) In addition to money advanced under section 11(3) and from money voted by the Legislature for the purposes of this Act, the Provincial Treasurer shall pay to the Corporation an amount not exceeding the total interest paid by the Corporation during the fiscal year on the advances outstanding to the Fund under section 11(3).

(2) The amount referred to in subsection (1) shall be paid in the manner and at the times agreed on by the Corporation and the Provincial Treasurer.

8 Section 13(h) presently reads:

13 The Corporation may make loans from the Fund to primary producers of agricultural products, the owners of associated businesses and agricultural industries for any of the following purposes:

(h) establishing, developing or maintaining secondary agricultural industries;

9 Section 14(2) presently reads:

(2) Notwithstanding subsection (1), repayment of principal may be deferred in accordance with the regulations.

10 Section 16 presently reads:

16(1) The Corporation may guarantee the principal amounts together with the interest or any part thereof accruing thereon of loans made to primary producers of agricultural products, owners of associated businesses or agricultural industries for any of the purposes set out in section 13.

(2) The Government shall indemnify the Corporation against loss suffered by the Corporation by reason of its liability under guarantees made under subsection (1), to the extent that the loss suffered exceeds the amount of the Fund.

(4) For the purposes of giving a guarantee under this Act, "loan" includes any loan, mortgage, agreement for sale or other form of financial assistance provided by a lender as defined in the regulations to primary producers of agricultural products, owners of associated businesses or agricultural industries for any of the purposes set out in section 13.

11 Section 17 is amended

(a) in subsection (1)

(i) in clauses (a) and (b) by striking out "\$500 000" and substituting "\$1 000 000";

(ii) by repealing clause (c) and substituting the following:

(c) approve a loan or execute a guarantee if the amount of the loan or guarantee and the then outstanding balance of any other loan or guarantee made or executed by the Corporation to or for the benefit of the same borrower exceeds in the aggregate \$1 000 000.

(b) by repealing subsection (2)(a) and (b) and substituting the following:

(a) the balance outstanding of any existing loan or guarantee at the time of approval by the Corporation of any increase is then in excess of \$1 000 000,

(b) the increase does not exceed 10% of the balance of the loan or guarantee referred to in clause (a), and

12 Section 19(1) is repealed and the following is substituted:

19(1) The Corporation may acquire, hold or dispose of land for purposes that, in the opinion of the Corporation, generally advance the interests of agriculture.

(1.1) Notwithstanding subsection (1), the Corporation shall not, without the approval of the Lieutenant Governor in Council, acquire, hold or dispose of land for the purposes of withdrawing land from agricultural use.

13 Section 20(1) is repealed and the following is substituted:

(3) When the Corporation receives an amount as indemnification under subsection (2), the Government is subrogated to the rights of the Corporation to recover that amount from the borrower.

11 Section 17 presently reads:

17(1) The Corporation shall not, except with the approval of the Lieutenant Governor in Council,

(a) make a loan in excess of \$500 000,

(b) execute a guarantee in excess of \$500 000, or

(c) make a loan or execute a guarantee if the amount of the loan or guarantee and the amount of any other loan or guarantee made or executed by the Corporation to or for the benefit of the same borrower then exceed in the aggregate \$500 000.

(2) Notwithstanding subsection (1), the Corporation may increase the amount of an existing loan or guarantee without obtaining the approval of the Lieutenant Governor in Council when

(a) the existing loan or guarantee is then in excess of \$500 000,

(b) the increase does not exceed 10% of the existing loan or guarantee, and

(c) the increase is made once only in respect of any existing loan or guarantee.

12 Section 19(1) presently reads:

19(1) The Corporation may acquire, hold or dispose of land for the purpose of

(a) farm consolidation;

(b) establishment of community pastures;

(c) withdrawing land from agricultural use;

(d) generally advancing, in the opinion of the Corporation, the interests of agriculture.

13 Section 20(1) presently reads:

20(1) It is an implied term of every agreement for sale of farm land between the Corporation and a purchaser under this Act

20(1) It is an implied term of every agreement for sale or mortgage of farm land between the Corporation and a purchaser or a borrower under this Act

(a) that

(i) no assignment of the agreement for sale and no further agreement for sale, and

(ii) no assumption of the mortgage,

may be made or entered into by the purchaser or the borrower except to or with a person who is approved as a purchaser by the Corporation,

(b) that

(i) on the assignment of the agreement for sale or the entry into the further agreement for sale, or

(ii) on the assumption of the mortgage

to, by or with a person who is not approved, all instalments under the agreement or mortgage become due and payable,

(c) that the purchaser or the borrower will pay when due all assessments, taxes and other charges levied against the farm land and will effect any insurance the Corporation requires, and

(d) that if any assessments, taxes or charges referred to in clause (c) or any premiums on insurance effected pursuant to clause (c) are not paid when due, the purchaser or the borrower shall be considered in default under the agreement for sale or mortgage, and they may be paid by the Corporation and charged to the purchaser with interest thereon at the rate for defaulted payments.

14 Section 21 is repealed and the following is substituted:

21 Notwithstanding anything in this Act, when

(a) a purchaser or a borrower wishes to dispose of his interest in land being purchased under an agreement for sale or that is the subject of a mortgage in favour of the Corporation, or an agreement has been cancelled or surrendered or a quit claim concerning that mortgage has been completed, and

(a) that no assignment of the agreement for sale and no further agreement for sale may be made by the purchaser except to or with a person who is approved as a purchaser by the Corporation, and on the assignment of the agreement for sale or the entry into the further agreement for sale to or with a person who is not approved, all instalments under the agreement become due and payable,

(b) that the purchaser will pay when due all assessments, taxes and other charges levied against the farm land and will effect any insurance the Corporation requires, and

(c) that if any assessments, taxes or charges referred to in clause (b) or any premiums on insurance effected pursuant to clause (b) are not paid when due, the purchaser shall be considered in default under the agreement for sale, and they may be paid by the Corporation out of the Fund and charged to the purchaser with interest thereon at the rate for defaulted payments.

14 Section 21 presently reads:

21 Notwithstanding anything in this Act, when

(a) a purchaser wishes to dispose of his interest in land being purchased under an agreement for sale, or an agreement has been cancelled or surrendered, and

(b) no person who is qualified to obtain assistance under this Act is interested in acquiring the land,

the Corporation may

(b) no person who is qualified to obtain assistance under this Act is interested in acquiring the land,

the Corporation may

(c) permit an assignment to or an assumption of the mortgage and the loan it relates to by,

(d) permit a further agreement for sale by the purchaser with, or a further mortgage by the borrower with, or

(e) enter into an agreement for sale or a mortgage and loan agreement with,

a person who is not qualified to obtain assistance under this Act, on any terms the Corporation stipulates.

15 Section 22(1) is amended

(a) *by striking out* "In conjunction with the purchase of the freehold estate in farm land, the" *and substituting* "The";

(b) *by striking out* "as well as the freehold land".

16 Section 23 is repealed and the following is substituted:

23 When the Corporation considers it expedient to do so in order to achieve the purposes of this Act, the Corporation may make grants or provide other incentives as prescribed by the Lieutenant Governor in Council

(a) to primary producers of agricultural products,

(b) to owners of associated businesses or agricultural industries,

(c) to lenders as defined in the regulations who are persons for whom the lending of money is not part of their ordinary business, or

(d) to any other person not referred to in clauses (a) to (c) who is involved in agriculture.

17 Section 27 is amended

(a) *by repealing clause (e) and substituting the following:*

(e) relating to deferred repayment of the principal or any portion of the principal or payment of interest or any portion of the interest of loans;

(c) *permit an assignment to,*

(d) *permit a further agreement for sale by the purchaser with, or*

(e) *enter into an agreement for sale with,*

a person who is not qualified to obtain assistance under this Act, on any terms the Corporation stipulates.

15 Section 22(1) presently reads:

22(1) In conjunction with the purchase of the freehold estate in farm land, the Corporation may grant assistance for acquisition of a leasehold interest in Crown land if, in its opinion, the applicant requires the leasehold land as well as the freehold land in order to have an economic farm unit.

16 Section 23 presently reads:

23 The Corporation may make grants or provide other incentives as prescribed by the Lieutenant Governor in Council to primary producers of agricultural products, owners of associated businesses and agricultural industries when it considers it expedient to do so in order to achieve the purposes of this Act.

17 Section 27 presently reads in part:

27 The Lieutenant Governor in Council may make regulations

(e) relating to deferred repayment of the principal amount of loans;

(b) by adding the following after clause (j):

(j.1) governing the terms and conditions of any broker agreement or agency agreement that the Corporation may enter into with a lender or borrower;

(j.2) defining “lender” for the purposes of section 23(c);

18 With respect to mortgages granted pursuant to the Agricultural Development Act, section 20(1) of the Agricultural Development Act as enacted by section 13 of this Act applies only to mortgages granted after the coming into force of section 13 of this Act.

19 Section 4 comes into force on Proclamation.

(j) prescribing the duties and obligations during the period that his indebtedness is outstanding of a person who has obtained a guarantee or loan;

18 Transitional.

19 Coming into force.