

2000 BILL 204

Fourth Session, 24th Legislature, 49 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 204

**AGRICULTURAL AND RECREATIONAL
LAND OWNERSHIP AMENDMENT ACT, 2000**

MR. McFARLAND

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 204
Mr. McFarland

BILL 204

2000

AGRICULTURAL AND RECREATIONAL LAND OWNERSHIP AMENDMENT ACT, 2000

(Assented to _____, 2000)

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

Amends RSA
1980 cA-9

1 The *Agricultural and Recreational Land Ownership Act* is amended by this Act.

2 Section 1 is repealed and the following is substituted:

Definitions

1 In this Act,

- (a) “controlled land” means land in Alberta but does not include
 - (i) land of the Crown in right of Alberta,
 - (ii) land within the boundaries of a city, town, village or summer village, and
 - (iii) mines and minerals;
- (b) “corporation” includes a co-operative association under the *Co-operative Associations Act*;
- (c) “cultivated land” means land in Alberta that has been cleared, improved and prepared to raise agricultural crops or livestock, and includes pastures, improved range and privately owned residential land that produces turf and ornamental plantings;

Explanatory Notes

1 Amends chapter A-9 of the Revised Statutes of Alberta, 1980.

2 Section 1 presently reads:

1 In this Act,

(a) "controlled land" means land in Alberta but does not include

(i) land of the Crown in right of Alberta,

(ii) land within the boundaries of a city, town, village or summer village, and

(iii) mines and minerals;

(b) "parcel" means an area of land the boundaries of which are

(i) shown on a plan registered or filed in a land titles office, or

(ii) described in the certificate of title to the land,

and that has not been divided into smaller areas by an instrument or plan registered or filed in a land titles office,

- (d) “hold”, in relation to land, includes the right to use, possess or occupy land, but does not include land or an interest in land acquired by a bank, trust company or other financial institution in the ordinary course of its business by way of security for a debt or other obligation;
- (e) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (f) “municipal district” means a municipal district under the *Municipal Government Act*;
- (g) “parcel” means an area of land the boundaries of which are
 - (i) shown on a plan registered or filed in a land titles office, or
 - (ii) described in the certificate of title to the land,

and that has not been divided into smaller areas by an instrument or plan registered or filed in a land titles office, other than a registered road plan or right of way plan, or by a natural boundary shown on a plan registered in a land titles office;

- (h) “person” means a person as defined in the *Interpretation Act* and includes a partnership, an unincorporated association and an unincorporated organization;
- (i) “share” means,
 - (i) in relation to a co-operative association, a unit representing a proportion of the ownership of the association;
 - (ii) in relation to a corporation, an issued voting share, and includes
 - (A) a security currently convertible into a voting share, and
 - (B) an option or rights to acquire a voting share.

other than a registered road plan or right of way plan, or by a natural boundary shown on a plan registered in a land titles office.

3 The following heading is added before section 2:

PART 1

CONTROLLED LAND

4 The following is added after section 5:

PART 2

CULTIVATED LAND

Application of
Part

6 This Part does not apply in respect of the following:

- (a) the succession by any person to an interest in cultivated land arising out of the death of a person;
- (b) the taking or acquisition of an interest in cultivated land by a person as the executor or administrator of the estate of a deceased person.

Maximum
cultivated land
holdings
permitted

7 No person shall hold more than 15% of the total amount of cultivated land in a municipal district.

Calculation of
cultivated land
holdings

8 For the purposes of section 7,

- (a) cultivated land held by an individual includes
 - (i) cultivated land held by the individual's minor children, and
 - (ii) the relevant amount of cultivated land held by a corporation in which the individual, or any of the individual's minor children, holds more than 5% of the shares;
- (b) cultivated land held by a corporation includes
 - (i) the relevant amount of cultivated land held by an individual and any of the individual's minor children who hold more than 5% of the shares in the corporation, and

3 Part and heading added.

4 Cultivated land.

- (ii) the relevant amount of cultivated land held by any other corporation that holds more than 5% of the shares in the corporation.

Share in corporation

9 For the purposes of section 8, a person holds a share in a corporation if

- (a) the person owns the share,
- (b) in the case of a share held in trust, the person is the beneficiary of the trust, or
- (c) the person, not being the owner of the share, controls any rights attached to the share through a contract or other arrangement.

Relevant amount of cultivated land holdings

10(1) Any person who holds shares in a corporation is deemed to have an interest in cultivated land to the extent of the relevant amount of cultivated land as determined under subsection (2).

(2) For the purposes of section 8, the relevant amount of cultivated land is determined by multiplying the total cultivated land held by a corporation by the proportion that the number of shares in the corporation held by a person bears to the total number of shares in the corporation.

Leases, trusts, tenants in common and joint tenants

11 For the purposes of calculating the cultivated land holdings of a person,

- (a) cultivated land under lease to another person is deemed to be held by both the lessor and lessee;
- (b) cultivated land held on trust is deemed to be held by both the trustee and beneficiary;
- (c) where cultivated land is held by tenants in common, the cultivated land attributed to each tenant in common is equal to the proportion of each tenant's interest in the land;
- (d) where cultivated land is held by joint tenants, the cultivated land attributed to each joint tenant is

deemed to be equal to the proportion of each tenant's interest in the land as if the land were held by tenants in common.

Existing
cultivated land
holdings

12(1) Where a person holds on December 31, 2000, cultivated land in excess of the limit set out in section 7, the person shall before June 1, 2002

- (a) submit a landholding disclosure statement to the Minister in the form prescribed in the regulations, and
- (b) apply for a permit under this section.

(2) On application for a permit under subsection (1), the Minister may issue a permit authorizing the person to hold cultivated land in excess of the limit set out in section 7, subject to the divestiture schedule described in subsection (3).

(3) A permit issued under subsection (2) must include a divestiture schedule that requires the divestiture of that amount of cultivated land in excess of the limit set out in section 7 as follows:

- (a) at least 50% of the excess cultivated land must be divested within 5 years from the date the permit was issued;
- (b) at least 80% of the excess cultivated land must be divested within 7 years from the date the permit was issued;
- (c) the person shall comply with the limit set out in section 7 within 9 years from the date the permit was issued.

Order by
Minister

13(1) Notwithstanding anything in this Act, if the Minister has reasonable and probable grounds to believe that any person has contravened section 7, the Minister may issue an order requiring the person to comply with the limit set out in section 7.

(2) If a person fails to comply with an order of the Minister under subsection (1), the Minister may apply to a judge of the Court of Queen's Bench by way of originating notice for

an order directing the person to comply with the Minister's order.

Production of documents

14(1) For the purpose of ensuring that this Part is complied with, the Minister or any person authorized by the Minister may demand the production, within a reasonable time, of any record or document pertaining in any manner to compliance with this Part, and may on giving a receipt for it remove it for not more than 48 hours for the purpose of making copies of it.

(2) If a person to whom a demand is made under subsection (1) refuses or fails to comply, the person conducting the investigation may apply to a judge of the Court of Queen's Bench by way of originating notice, and the judge may make any order that the judge considers necessary to enforce compliance with subsection (1).

Offence

15(1) A person who

- (a) contravenes section 7, or
- (b) fails to comply with a divestiture schedule or other conditions of a permit issued under section 12,

is guilty of an offence and liable to a fine of not more than \$10 000.

(2) When a corporation has contravened a provision of this Act, every principal, director, manager, employee or agent of the corporation who authorized the contravention or acquiesced or participated in it is guilty of an offence and is liable to the penalty provided for in subsection (1) whether or not the corporation has been prosecuted or convicted.

(3) When a person is convicted of an offence under this section, a judge of the Court of Queen's Bench may, on the application of the Minister by way of originating notice, make an order for the sale of the cultivated land in excess of the limit set out in section 7 and the distribution of the proceeds from the sale.

Regulations

16 The Lieutenant Governor may make regulations

- (a) classifying any land in Alberta as cultivated land for the purposes of this Act;
- (b) exempting classes of persons from this Part or any provision of this Part and attaching conditions to any exemption;
- (c) prescribing forms to be used and the information to be required in disclosure statements;
- (d) prescribing the procedure in respect of applications for permits under section 12;
- (e) respecting the giving, sending and serving of notices under this Part.

5 This Act comes into force on Proclamation.

5 Coming into force.