



Province of Alberta

## **PUBLIC LANDS ACT**

Revised Statutes of Alberta 2000  
Chapter P-40

Current as of December 17, 2014

Office Consolidation

© Published by Alberta Queen's Printer

Alberta Queen's Printer  
Suite 700, Park Plaza  
10611 - 98 Avenue  
Edmonton, AB T5K 2P7  
Phone: 780-427-4952  
Fax: 780-452-0668

E-mail: [qp@gov.ab.ca](mailto:qp@gov.ab.ca)  
Shop on-line at [www.qp.alberta.ca](http://www.qp.alberta.ca)

## Copyright and Permission Statement

Alberta Queen's Printer holds copyright on behalf of the Government of Alberta in right of Her Majesty the Queen for all Government of Alberta legislation. Alberta Queen's Printer permits any person to reproduce Alberta's statutes and regulations without seeking permission and without charge, provided due diligence is exercised to ensure the accuracy of the materials produced, and Crown copyright is acknowledged in the following format:

© Alberta Queen's Printer, 20\_\_.\*

\*The year of first publication of the legal materials is to be completed.

### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2012 cE-0.3 s283 amends ss19(1)(a) and 66(a).

### Regulations

The following is a list of the regulations made under the *Public Lands Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Public Lands Act</b>		
Exploration Dispute Resolution .....	227/2003	61/2012
Exploration.....	284/2006	35/2007, 68/2008, 187/2011, 170/2012
Forest Land Use and Management .....	197/76	291/79, 221/2004, 27/2010
Land Stewardship Fund.....	31/2011	170/2012, 24/2016
Metallic and Industrial Minerals		
Exploration.....	213/98	206/2001, 251/2001, 27/2002, 63/2003, 227/2003, 35/2007, 68/2008, 189/2009,

		<i>104/2011, 31/2012,</i>
		<i>170/2012, 62/2013,</i>
		<i>206/2013, 198/2014,</i>
		<i>183/2015</i>
Public Lands Administration.....	187/2011 .....	<i>170/2012, 62/2013,</i>
		<i>197/2014, 35/2016,</i>
		<i>6/2017</i>
Recreational Access .....	228/2003 .....	<i>221/2004, 227/2006,</i>
		<i>20/2010, 48/2015</i>



# **PUBLIC LANDS ACT**

## Chapter P-40

### *Table of Contents*

1	Definitions
1.1	Incorporation of documents by reference
<b>Application of Act</b>	
2	Application of Act
2.01	Application of REDA
<b>Rules of Law</b>	
2.1	Crown as owner
3	Title to beds and shores, etc.
4	Acquisition by prescription
<b>Part 1</b>	
<b>Administration of Public Land</b>	
<b>Officers</b>	
5	Appointment of officials and designation of directors
6	Forms
<b>Powers of the Lieutenant Governor in Council</b>	
7	Powers of Lieutenant Governor in Council
8	Regulations
9	General regulations
9.1	Rent, fees and other charges
10	Variation of rentals under right of entry orders
<b>Powers of Officials</b>	
11	Classification of land
11.1	Conservation and resource management
11.2	Land Stewardship Fund
12	Transfer of administration

- 13 Purchase of land
- 14 Restrictions on dispositions
- 15 Terms and conditions of disposition
- 15.1 Refusal for non-compliance
- 16 Director's powers re application
- 17 Equity in Crown land as part of price
- 18 Sale of land
- 19 Grant of public land
- 20 Occupation of land
- 21 Agreements re use of land
- 22 Prohibition re sales to non-Canadians
- 23 Surveys
- 24 Grants made in error
- 25 Withdrawal and overlapping dispositions
- 26 Cancellation, suspension or amendment of disposition
- 26.1 Procedure for suspension
- 27 Procedure for cancellation
- 28 Reinstatement of disposition
- 29 Application of purchase money

**Notifications**

- 30 Notifications
- 31 Assistance in effecting sale
- 32 Notifications to deceased persons
- 33 Correction of grant
- 34 Refusal to issue notification

**Dispositions**

- 35 Exceptions and reservations in disposition
- 36 Execution of disposition by Crown
- 37 Execution by holder
- 38 Number and gender
- 39 Rights of holder
- 40 Disposition of fees
- 41 No warranty re land
- 42 Minors
- 43 Consent to assignment, etc.
- 44 Minister or director to determine compliance

**Recovery of Rent, etc.**

- 45 Recovery by distress
- 46 Seizure of grain

**Unauthorized Use of Public Lands**

- 47 Unauthorized use
- 47.1 Order to vacate
- 51 Seizure of crops
- 52 Seizure of clay, marl, sand or gravel
- 53 Destruction of or injury to surface
- 54 Prohibitions
- 54.01 Prohibited uses of roads, etc.
- 54.02 Disposition of seized items
- 54.03 Court orders
- 54.04 Actions by police officer
- 54.05 No compensation for damages

**Enforcement**

- 56 Offences re Crown land, property, etc.
- 56.1 Limitation period
- 57 Interference
- 57.1 Court orders re interference
- 58 Prohibited practices at sales
- 59 General penalty
- 59.01 Court orders relating to penalty
- 59.02 Compensation for loss of property
- 59.03 Variation of court orders
- 59.1 Enforcement order
- 59.2 Stop order
- 59.21 Enforcement of orders
- 59.22 Protection of officials from legal suit
- 59.3 Administrative penalty
- 59.4 Notice of administrative penalty
- 59.5 Daily penalty
- 59.6 Protection from prosecution
- 59.7 Limitation period
- 59.8 Enforcement in Court of Queen's Bench
- 59.9 Publication of information
- 59.91 Liability of directors and officers
- 59.92 Vicarious responsibility

**Miscellaneous**

- 60 Improvements
- 61 Application of money collected for improvements
- 62 Disposal of chattels and improvements after termination of disposition

- 62.1 Access for recreational purposes
- 63 Duties of holder
- 64 Shelter belts, etc.
- 65 Sale of disposition in execution
- 66 Exemption from tax recovery proceedings
- 67 Application of rent on taxes
- 68 Inspection of records
- 69 Investigations and inspections
- 69.1 Reporting programs
- 69.2 Order to enter and inspect
- 69.3 Seizure of evidence without order or warrant
- 69.4 Disposal of things seized
- 69.5 Assistance by other officials
- 69.6 Assistance to officers
- 70 Demand for rent
- 70.1 Documents as evidence
- 70.2 Proceeds held in trust for Crown
- 70.3 No review by court
- 71 Action for damages

### **Part 1.1 Public Land Uses**

- 71.1 Regulations
- 71.2 Order by director
- 71.3 Order by officer
- 71.4 Impounding

### **Part 2 Dispositions not Leading to Title**

- 72 Definitions
- 73 Refusal to issue lease
- 74 Age of applicant
- 75 Liability of lessees
- 76 Protection of lessees
- 77 Use of land
- 78 Use of cordwood and timber
- 79 Exemption from rent payment
- 80 Title to crops
- 81 Cancellation of lease
- 82 Withdrawal from lease



**Part 3  
Homestead Sales**

- 83 Definitions
- 84 Application of Part 3

**Purchase Price and Cultivation Duties**

- 85 Purchase price
- 86 Cultivation duties
- 87 Extension of time
- 88 Exemption from taxation

**Homestead Sales in Substitution for Homestead Leases**

- 89 Obligations of purchaser

**Cancellation**

- 90 Cancellation of homestead sale
- 91 Compensation and refunds after cancellation
- 92 Relief from cancellation
- 93 Assignments
- 94 Postponement of obligations
- 95 Sale of homestead sale

**Assignments**

- 96 Assignments

**Application for Title**

- 97 Application for title
- 98 Affidavits with application

**Miscellaneous**

- 99 Improvements
- 100 Use of land
- 101 Use of timber

**Part 4  
Grazing Leases**

- 102 Grazing lease
- 103 Annual rent
- 104 Grazing capacity of land
- 105 Grazing leases held by grazing association
- 106 Residence
- 107 Community grazing reserve

- 108 Regulations
- 109 Withdrawals from grazing leases
- 110 Cancellation or withdrawal after assignment refusal
- 111 Grazing lease of deceased lessee
- 112 Proof of corporate lessee

### **Part 5 Registration of Assignments**

- 113 Definitions
- 114 Registration of assignment
- 114.1 Assignment charges
- 115 Effect of registration of assignment
- 116 Assignments where holder assignor and assignee
- 117 Registration deemed to confer consent

### **Part 6 Homestead Leases Under Former Act**

- 118 Homestead leases

### **Part 7 Appeals**

- 119 Regulations
- 120 Appeal on the record
- 121 Notice of appeal
- 122 Hearing
- 123 Powers of appeal body
- 124 Decisions of appeal body
- 125 Variation of decisions
- 126 No review by court

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

#### **Definitions**

**1** In this Act,

- (a) “adjoining land” means
  - (i) parcels of land that adjoin or corner,
  - (ii) parcels of land separated by a road allowance or a surveyed highway or road that would adjoin or corner if they were not so separated, or

- (iii) parcels of land on either side of a correction line that are declared by the director to be adjoining land for the purposes of this Act;
- (a.1) “agricultural disposition” means an agricultural disposition within the meaning of the regulations;
- (b) “Assistant Deputy Minister” means the Assistant Deputy Minister designated by the Minister;
- (c) “certificate of title” means a certificate of title granted pursuant to the *Land Titles Act* in respect of an estate in fee simple;
- (c.1) “conservation” means the planning, management and implementation of an activity with the objective of protecting the essential physical, chemical and biological characteristics of the environment against degradation;
- (c.2) “conveyance” includes a motor vehicle, off-highway vehicle, trailer, watercraft, aircraft, bicycle, animal and tack when used as a conveyance, and any other means of conveyance pulled by animals or people, but does not include any conveyance used as a private dwelling;
- (c.3) “corporation” means an incorporated body, with or without share capital and wherever and however incorporated or otherwise established, and includes
  - (i) a limited liability partnership, and
  - (ii) any other person or body or class of person or body designated as a corporation in the regulations;
- (d) “Department” means the Department administered by the Minister;
- (d.1) “director” means, except in references to a director of a corporation in sections 37, 59.91, 59.92 and 114.1(2), a person designated as a director under section 5;
- (e) “disposition” means any instrument executed pursuant to this Act, the former Act, *The Provincial Lands Act*, RSA 1942 c62, or the *Dominion Lands Act (Canada)*, RSC 1927 c113, 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, but does not include a grant;

- (f) “farm” means an area of land on which commercial farming or ranching operations are conducted;
- (g) “former Act” means *The Public Lands Act*, SA 1949 c81 and RSA 1955 c259;
- (h) “grant” means letters patent under the Great Seal of Canada or a notification issued pursuant to *The Provincial Lands Act*, RSA 1942 c62, the former Act or this Act;
- (i) “holder” means the holder of a disposition according to the records of the Department;
- (j) repealed 2009 cA-26.8 s91(2);
- (k) “land” does not include mines and minerals;
- (l) “livestock” means horses, sheep, cattle and, to the extent permitted by the regulations, bison;
- (l.1) “loss or damage”, concerning public land under the administration of the Minister, includes
  - (i) with respect to employees, agents and contractors of the Crown in the exercise of their service to the Crown,
    - (A) personal injury to any of them, and
    - (B) loss of life of any of them,
  - (ii) with respect to any real property, personal property and resources of the Crown, whether or not a disposition has been issued for them,
    - (A) loss of use or enjoyment of any property or resource,
    - (B) any unlawful conversion of any property or resource, and
    - (C) any unauthorized alteration of any property or resource,and
  - (iii) any direct or indirect pecuniary loss of the Crown suffered in connection with matters listed in subclauses (i) and (ii), including costs;

- (m) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (n) “notification” means a notification in the prescribed form;
- (o) “officer” means, except in sections 37, 59.91, 59.92 and 114.1(2),
  - (i) an officer appointed under section 5;
  - (ii) the Assistant Deputy Minister;
  - (iii) a director;
  - (iv) a member of the Royal Canadian Mounted Police;
  - (v) a member of a police service other than the Royal Canadian Mounted Police whom the director authorizes in writing to act in respect of one or more purposes under this Act or the regulations;
  - (vi) a conservation officer appointed under section 1 of Schedule 3.1 of the *Government Organization Act*;
  - (vii) a forest officer under the *Forests Act*;
  - (viii) a wildlife officer under the *Wildlife Act*;
  - (ix) a peace officer under the *Peace Officer Act* authorized by the peace officer’s appointment under that Act to enforce all or part of this Act and the regulations;
- (o.1) “person responsible”, when referring to an activity or use on public land, means
  - (i) the holder of a disposition issued for the public land,
  - (ii) the holder of an authorization issued under section 20,
  - (iii) any person who has, or had, charge, management or control of the activity or use,
  - (iv) any successor, assignee, executor, administrator, receiver, receiver-manager or trustee of a person referred to in subclause (i), (ii) or (iii), or
  - (v) a principal or agent of a person referred to in subclause (i), (ii), (iii) or (iv) concerning the activity or use;

- (p) “public land” means land of the Crown in right of Alberta;
- (q) “Registrar” means the Registrar within the meaning of the *Land Titles Act*;
- (r) “rent” includes royalties, dues, fees, rates, charges or other money payable by any person to the Crown in right of Alberta under and by virtue of any disposition, but does not include money payable as the whole or part of a purchase price;
- (r.1) “resource” includes any naturally occurring or man-made thing on or concerning land;
- (s) “township”, “section”, “half section”, “quarter section”, and “legal subdivision” mean
  - (i) a township, section, half section, quarter section or legal subdivision, respectively, within the meaning of the *Surveys Act*, or
  - (ii) with reference to unsurveyed territory, what would be a township, section, half section, quarter section or legal subdivision, respectively, if the land were surveyed in accordance with the *Surveys Act*;
- (t) “Transfer Agreement” means the agreement in the Schedule to *The Alberta Natural Resources Act*, SA 1930 c21, and all amendments to that agreement;
- (u) “veteran” means a person certified under the *Veterans’ Land Act* (Canada) as a veteran.

RSA 2000 cP-40 s1;2003 c11 s3(2);2003 c46 s2;  
2006 c21 s26;2009 cA-26.8 s91(2)

#### **Incorporation of documents by reference**

**1.1** A regulation under this Act may adopt or incorporate in whole or in part or with modifications documents that set out standards, codes, objectives, guidelines or other bodies of rules that relate to any matter in respect of which a regulation may be made under this Act if the standards, codes, objectives, guidelines or other bodies of rules have been published and copies are available.

2003 c11 s3(3)

#### **Application of Act**

##### **Application of Act**

**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.

(2) All public land is under the administration of the Minister except that public land that is, by virtue of any other Act or an order of the Lieutenant Governor in Council, under the administration of another Minister of the Crown or of a Crown corporation.

(3) Unless otherwise provided in this Act, every disposition made or entered into

- (a) under the former Act or the regulations under it, or
- (b) under *The Provincial Lands Act*, RSA 1942 c62, or the *Dominion Lands Act* (Canada), RSC 1927 c113, or the regulations under those Acts and relating to land,

and any renewal or reissue of that disposition are in every respect subject to this Act and the regulations made under this Act.

RSA 1980 cP-30 s2;1982 c30 s3

#### **Application of REDA**

**2.01** This Act, to the extent that it applies to energy resource activities as defined in the *Responsible Energy Development Act*, shall be read and applied in conjunction with the *Responsible Energy Development Act*.

2012 cR-13.7 s102

#### **Rules of Law**

##### **Crown as owner**

**2.1** The right, title and interest of the Crown as owner of public land is confirmed.

2009 cA-26.8 s91(3)

##### **Title to beds and shores, etc.**

**3(1)** Subject to subsection (2) but notwithstanding any other law, the title to the beds and shores of

- (a) all permanent and naturally occurring bodies of water, and
- (b) all naturally occurring rivers, streams, watercourses and lakes,

is vested in the Crown in right of Alberta and a grant or certificate of title made or issued before, on or after May 31, 1984 does not convey title to those beds or shores.

(2) Subsection (1) does not operate

- (a) to affect a grant referred to in subsection (1) that specifically conveys by express description a bed or shore referred to in subsection (1) or a certificate of title founded on that grant,
- (b) to affect the rights of a grantee from the Crown or of a person claiming under the grantee, when those rights have been determined by a court before June 18, 1931, or
- (c) to affect the title to land belonging to the Crown in right of Canada.

(3) For the purposes of subsection (1), a river, stream or watercourse does not cease to be naturally occurring by reason only that its water is diverted by human act.

RSA 1980 cP-30 s3;1984 c34 s3

#### **Acquisition by prescription**

4 No person may acquire by prescription an estate or interest in public land or, as against the Crown, in any other land.

RSA 1980 cP-30 s4

## **Part 1 Administration of Public Land**

### **Officers**

#### **Appointment of officials and designation of directors**

**5(1)** In accordance with the *Public Service Act*, there may be appointed an Assistant Deputy Minister, officers and any other employees necessary for the administration of this Act.

(2) Without limiting the generality of subsection (1), the Minister may by order designate any person as a director for the purposes of all or part of this Act and the regulations.

(3) The Minister may, with respect to any director, and a director may, with respect to that director personally, designate any person as an acting director to act in the director's place in the event of the director's absence or inability to act.

(4) A designation under this section may direct that the authority conferred by the designation is to be exercised subject to any terms and conditions prescribed in the designation, including limitations on the scope of the designation.

(5) An officer in the performance of the officer's duties and in the exercise of the officer's powers under this Act or the regulations is a person employed for the preservation and maintenance of the public peace.

RSA 2000 cP-40 s5;2009 cA-26.8 s91(4)



**Forms**

**6** The Minister may prescribe forms to be used for the purposes of this Act.

RSA 2000 cP-40 s6;2003 c11 s3(4)

**Powers of the Lieutenant  
Governor in Council****Powers of Lieutenant Governor in Council**

**7** The Lieutenant Governor in Council may

- (a) authorize the Minister to sell public land to a municipal corporation or Metis settlement at a price to be determined by the Minister;
- (b) authorize the director to make any disposition or authorize the Minister to make any grant of public land in any special case for which no provision is made in this Act or the regulations;
- (c) set aside public land
  - (i) for use as a provincial park, historical site, natural area, ecological reserve, wilderness area, heritage rangeland, forest reserve, forest recreation area, wildlife sanctuary, habitat conservation area, public shooting ground or public resort or for the development of any natural resource, or
  - (ii) for the purposes of the Government of Canada, either with or without consideration;
- (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;
- (e) transfer the administration and control of any public land, whether the land is under the administration of the Minister or another Minister of the Crown, to the Crown in right of Canada on the terms and conditions and for the reasons set out in the order;
- (f) authorize the Minister to enter into agreements with the Government of Canada pertaining to the settlement and rehabilitation of veterans on public land, and order the payment out of the General Revenue Fund of any money payable by the Government of Alberta under such an agreement;

- (g) authorize the Minister to enter into an agreement with the Crown in right of Canada to transfer to Canada for national park purposes the right, title and interest of the Crown in right of Alberta to any public land;
- (h) make any orders that may be necessary
  - (i) to carry out this Act according to its intent,
  - (ii) to carry out the Transfer Agreement, or
  - (iii) to meet cases that arise and for which no provision is made in this Act.

RSA 2000 cP-40 s7;RSA 2000 c34(Supp) s14;  
2009 cA-26.8 s91(5)

### Regulations

**8(1)** The Lieutenant Governor in Council may make regulations authorizing and governing dispositions of public land including, without limitation, regulations

- (a) restricting the use to be made of land that is the subject of a disposition;
- (a.1) limiting or restricting the areas of the province in respect of which the director may issue dispositions or certain kinds of dispositions;
- (a.2) prescribing procedures, conditions and limits for the amendment and suspension of dispositions in whole or in part;
- (b) respecting the rights, duties and obligations of disposition holders;
- (c) respecting the terms for which dispositions may be granted and the renewal of dispositions;
- (c.1) adopting or incorporating, in whole or in part, with or without modification, any rule, directive, code, standard or guideline prescribed by the Minister in respect of any matter under this Act or the regulations concerning the rights, duties and obligations of disposition holders;
- (d) defining “agricultural disposition”;
- (e) defining “exploration” for the purposes of section 9(b.2);
- (f) defining “animal unit” and establishing zones for the purposes of section 114.1;

- (f.1) defining “vacant disposition area”;
  - (f.2) defining “vacant public land”;
  - (f.3) permitting, prohibiting or regulating the use of, or activities on, any public land that is a vacant disposition area;
  - (f.4) prescribing dispositions, classes of dispositions or vacant disposition areas that are subject to section 62.1(1) and regulations made under section 9(b.1) and (b.2), in whole or in part, with or without modification, in the same way as agricultural dispositions;
  - (g) respecting associated corporations and what constitutes a change in beneficial ownership for the purposes of section 114.1;
  - (h) providing for the enforcement of compliance with the regulations in respect of dispositions and for the recovery of money payable under or in respect of dispositions including, without limitation, the recovery of amounts owing by disposition holders to other persons by virtue of the operation of this Act or the regulations, or a term or condition of a disposition;
  - (i) varying, making inapplicable or authorizing the waiver of compliance with any of the provisions of Part 2;
  - (j) providing for any other matter or procedure related to dispositions.
- (2)** The regulations may be made retrospective as well as prospective where a disposition was made pursuant to regulations under the former Act in force on April 5, 1958, and the validity of those regulations is in doubt.
- (3)** The Lieutenant Governor in Council may make regulations
- (a) authorizing the Minister to sell public land by public auction, private sale or tender on the terms and conditions prescribed by the Minister and at a price not less than the fair value of the land and, for that purpose, the Minister may take into consideration the purposes for which the land will be used;
  - (b) authorizing the Minister to exchange public land for other land, when in the opinion of the Minister adequate compensation is obtained for the public land;

- (c) repealed 2003 c11 s3(5).

RSA 2000 cP-40 s8;2003 c11 s3(5);2003 c46 s3;  
2009 cA-26.8 s91(6)

### General regulations

#### 9 The Lieutenant Governor in Council may make regulations

- (a) prescribing the terms and conditions on which any persons may use public land for the purpose of exploration as defined in Part 8 of the *Mines and Minerals Act* and governing the conduct of the exploration in relation to the use of public land;
- (a.1) permitting, prohibiting or regulating the use of, or activity on, any public land that is vacant public land;
- (b) permitting, prohibiting or regulating the use of, or activities on, any public land that is not the subject of a disposition;
- (b.1) providing for one or more means of settling disputes in respect of any matter under the regulations including, without limitation, disputes
  - (i) among holders of dispositions, applicants for dispositions and persons who are or may be affected by operations under a disposition;
  - (ii) between the holder of an agricultural disposition and a person who wishes to exercise or exercises a right of reasonable access under section 62.1;
- (b.2) without limiting clause (b.1), providing for one or more means of settling disputes between the holder of an agricultural disposition and a person who wishes to carry out exploration on the land that is the subject of the agricultural disposition, including but not limited to
  - (i) authorizing the Surface Rights Board to hear matters related to compensation and damage resulting from exploration, and to issue orders for compensation and right of entry orders,
  - (ii) making provisions of the *Surface Rights Act* applicable, with any modifications that are necessary, for the purposes of subclause (i),
  - (iii) generally, governing proceedings before the Surface Rights Board for the purposes of subclause (i),

- (iv) authorizing an appeal or review body to hear or review matters related to operational and land use concerns in connection with the disputes, and
  - (v) generally, governing proceedings before an appeal or review body for the purposes of subclause (iv);
- (b.3) repealed 2009 cA-26.8 s91(7);
- (c) exempting any member of the Canadian Forces from the performance of any covenant, condition or obligation of a disposition;
  - (d) establishing the procedure for the submission of applications for dispositions and the requirements to be met by applicants to render them eligible to obtain the disposition;
  - (e) requiring or prohibiting the registration of assignments of any dispositions and prescribing the manner of execution of assignments and the conditions on which the assignment of a particular disposition may be accepted for registration;
  - (f) requiring the submission of agreements affecting dispositions for the consent of the director and prescribing the conditions on which the director may refuse the director's consent;
  - (g) prescribing the rate of interest 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;
  - (h) prescribing the rate of interest on money payable under a disposition that is not paid within one month from the date it is due;
  - (i) repealed 2003 c11 s3(6);
  - (j) repealed 2009 cA-26.8 s91(7);
  - (k) generally for the carrying out of this Act according to its intent or to meet cases that may arise and for which no provision is made by this Act;
  - (l) designating a person or body or class of person or body as a corporation for the purposes of section 1(c.3);
  - (m) prescribing contraventions of an ALSA regional plan, this Act or the regulations in respect of which an administrative penalty may be imposed;

- (n) prescribing the form and contents of notices of administrative penalties for the purposes of section 59.4;
- (o) prescribing the amounts, or respecting the manner of determining the amounts, of administrative penalties that may be imposed under section 59.3;
- (p) respecting any other matter necessary for the administration of the system of administrative penalties;
- (q) prescribing for the purposes of section 59.9 the form and manner of publication of information respecting any enforcement action taken under this Act or the regulations;
- (r) respecting the establishment, termination and regulation of delegated authorities and the delegation to one or more delegated authorities of the performance of any of the duties or functions or the exercise of any of the powers under this Act or the regulations;
- (s) prescribing time limits for orders made under section 59.2;
- (t) providing for the enforcement of compliance with this Act and the regulations concerning vacant public land and for the recovery of proceeds and economic benefits derived from contraventions of this Act and the regulations;
- (u) prescribing provisions of this Act or the regulations as provisions the contravention of which is an offence for the purposes of section 56;
- (v) prescribing provisions of this Act or the regulations as provisions the contravention of which is an offence to which section 59(3) applies.

RSA 2000 cP-40 s9;2003 c11 s3(6);2009 cA-26.8 s91(7)

#### **Rent, fees and other charges**

**9.1(1)** Subject to sections 103(1)(a) and 114.1 and the regulations under subsection (3), the Minister may, by order,

- (a) prescribe or provide for the manner of prescribing
  - (i) the rent or other amounts to be paid to the Crown in respect of dispositions,
  - (ii) the fees and other charges to be paid in connection with the submission of anything to the Crown or for any service or thing provided by the Crown under this Act, and

- (iii) the fees and costs that are payable in respect of any mechanism for settling disputes that is established under the regulations;
  - (b) provide for a lesser charge than would otherwise be payable under section 114.1 in the case of an assignment or share transaction involving next of kin or the beneficiaries of an estate.
- (2) The *Regulations Act* does not apply to an order under this section.
- (3) The Lieutenant Governor in Council may make regulations
- (a) imposing terms and conditions on the exercising by the Minister of the Minister's power under subsection (1);
  - (b) setting out matters that the Minister may or must consider in exercising the Minister's power under subsection (1).

2003 c11 s3(7)

**Variation of rentals under right of entry orders**

**10(1)** Notwithstanding the *Surface Rights Act*, where a new right of entry order is granted under the *Surface Rights Act* with respect to public land, whether or not the land is occupied, the compensation payable to the Crown under the order is to be an amount equal to the current charges payable under this Act for a new mineral surface lease.

(2) Notwithstanding the *Surface Rights Act*, the Minister may, within 180 days after each 5th anniversary date of the order, vary the amount of the compensation payable to the Crown under a right of entry order as defined in the *Surface Rights Act* in respect of public land that is the subject of the order to an amount not exceeding the current rental payable under this Act for a mineral surface lease.

(3) Subsection (2) applies to right of entry orders granted before or after this section comes into force.

1995 c23 s19

**Powers of Officials****Classification of land**

**11(1)** The Minister may by order classify public land and declare the use for which the Minister considers different classes to be adaptable.

(2) In the case of conflict between a declaration with respect to public land under subsection (1) and any applicable ALSA regional

plan, the ALSA regional plan prevails to the extent necessary to resolve the conflict.

RSA 2000 cP-40 s11;2009 cA-26.8 s91(9)

### **Conservation and resource management**

**11.1** The Minister may establish and support programs and initiatives for the purpose of conservation and resource management including, without limitation, programs and initiatives

- (a) to assist in resource protection and enhancement,
- (b) for the purposes of education and research, and
- (c) to assist in the resolution of multiple use concerns.

2003 c11 s3(8)

### **Land Stewardship Fund**

**11.2(1)** The Land Stewardship Fund is established.

**(2)** The Land Stewardship Fund may be used for the purposes of

- (a) purchasing any estate or interest in land and any personal property in conjunction with it under section 13;
- (b) for any other purpose prescribed in the regulations.

**(3)** Proceeds from sales of public land where title becomes vested in the purchaser shall be paid into the Land Stewardship Fund.

**(4)** The Land Stewardship Fund is to be held and administered by the Minister in accordance with this Act and the regulations.

**(5)** The Minister must maintain a separate accounting record of the Land Stewardship Fund.

**(6)** The Lieutenant Governor in Council may make regulations

- (a) limiting, regulating and controlling the exercise of the Minister's discretion with respect to the Land Stewardship Fund;
- (b) prescribing the types or classes of money, forfeited security, recovered economic benefits, proceeds, fees, levies, revenue, royalties, penalties, charges, dues, rents, gifts, donations, bequests, transfers and other sums to be paid into the Land Stewardship Fund;
- (c) prescribing purposes for which the Land Stewardship Fund may be used;



- (d) prescribing limits on the value of the Land Stewardship Fund to be held and administered by the Minister;
- (e) prohibiting, limiting, controlling and requiring accounting in the acquisition of public land by agents of the Crown;
- (f) directing that investment income earned on deposits of the Land Stewardship Fund accrues to and forms part of the Land Stewardship Fund;
- (g) permitting the Minister to be a participant under section 40 of the *Financial Administration Act* on behalf of the Land Stewardship Fund.

2009 cA-26.8 s91(10)

#### **Transfer of administration**

**12(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 the Minister's or Crown corporation's 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.

1982 c30 s7

#### **Purchase of land**

**13** The Minister may purchase any estate or interest in land and any personal property in conjunction with it when in the Minister's opinion the land is required to carry out or assist in carrying out any policy, program, service or other matter under the Minister's administration.

RSA 1980 cP-30 s11

#### **Restrictions on dispositions**

**14** The Minister may

- (a) restrict the disposition of or withdraw from disposition any public land in any specified area in any manner the Minister considers warranted, or
- (b) prescribe, as to any specified public land or as to public land in any area, when and on what conditions applications for dispositions may be made.

RSA 1980 cP-30 s13

**Terms and conditions of disposition**

**15(1)** Subject to the regulations, the director may make and renew a disposition for any term the director considers appropriate.

(2) The director may, in a disposition or renewal, prescribe terms and conditions to which the disposition is subject.

(3) The director may amend any disposition at any time if

- (a) in the director's opinion, an amendment is necessary in order for the disposition to comply with any applicable ALSA regional plan,
- (b) the director believes the amendment is necessary to prevent the continuation or occurrence of loss or damage not foreseen at the time of issuance of the disposition,
- (c) the amendment provides a monitoring or reporting requirement with respect to an activity on, or use of, the public land under disposition,
- (d) the amendment is consequential to an enforcement order or stop order issued under this Act or the regulations, whether the amendment is permanent or temporary in nature, or
- (e) the amendment is a condition of the director's or any other director's consent to a mortgage, assignment, transfer or sublet of all or part of the public land under the disposition.

(4) If, in the opinion of the director, there is a conflict between the holder of a disposition and one or more other holders of a disposition concerning the whole or a part of the same parcel of land or adjoining land, the director may amend one or more of the relevant dispositions at any time if, in the opinion of the director, the amendment is necessary to resolve the conflict.

RSA 2000 cP-40 s15;2003 c11 s3(9);2009 cA-26.8 s91(11),(51)

**Refusal for non-compliance**

**15.1** The director may refuse to issue, mortgage, assign, transfer, sublet or renew a disposition if the applicant

- (a) is indebted to the Crown, or
- (b) is otherwise in non-compliance with this Act or the regulations.

2009 cA-26.8 s91(12)

**Director's powers re application**

**16(1)** The director may

- (a) defer the director's approval of an application for a disposition until an investigation has been made of the land in respect of which the application is made, or
  - (b) refuse an application for a disposition at any time before the disposition is issued.
- (2) The director may, in any manner the director considers necessary, refuse to accept an application in respect of any specific land or for land in any particular district.
- (3) The director may settle in any manner the director considers appropriate all disputes that arise between persons applying for the same disposition, and the director may require all the applicants to submit tenders.
- (4) The director shall, in accordance with the regulations, provide public notice of a disposition application and a disposition application decision.

RSA 2000 cP-40 s16;2009 cA-26.8 s91(13)

#### **Equity in Crown land as part of price**

**17** 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 the person may become entitled to an estate in fee simple in other public land, enter into an arrangement with the proposed purchaser whereby the Minister, in consideration of the consent of the purchaser to the cancellation of the purchaser's disposition, will accept the purchaser's interest, at its fair value, in the public land held by the purchaser under the disposition in payment or partial payment of the purchase price under the proposed sale.

RSA 1980 cP-30 s16

#### **Sale of land**

- 18** The Minister may, if in the Minister's opinion doing so will not conflict or be inconsistent with any applicable ALSA regional plan,
- (a) within 2 years after a sale by public auction that did not find a purchaser, sell the land by private sale at a price not less than the upset price,
  - (b) sell the land contained in a homestead lease to the lessee on any terms and conditions that the Minister may prescribe if the lessee, in the opinion of the Minister, has faithfully and to the best of the lessee's ability endeavoured to perform the lessee's obligations under the homestead lease but from some unpreventable cause or mental or physical incapacity

or through some technicality has failed in doing so and yet has an equitable claim entitling the lessee to favourable consideration,

- (c) reserve public land for any reason and for any period and permit the use of that land for any period and subject to any terms and conditions that the Minister prescribes by the Crown in right of Canada, by any department of the Government or by any person, without executing a disposition for it, and
- (d) promote good farm cultural practices and require proper range management efforts and the adoption of farming and grazing practices by disposition holders for conservation purposes.

RSA 2000 cP-40 s18;2003 c11 s3(10);2009 cA-26.8 s91(14)

#### **Grant of public land**

**19(1)** The Minister may, if in the Minister's opinion doing so will not conflict or be inconsistent with any applicable ALSA regional plan, 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, Metis settlement or cemetery company as a site for a burial ground, and
- (d) to a society as a site for a community hall.

**(2)** 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.

**(3)** 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.

**(4)** The Registrar shall, when the Registrar 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.

(5) The Minister may order the Registrar to amend or strike out the restriction placed by the Registrar on a certificate of title pursuant to subsection (4).

(6) 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, the Minister may, subject to any terms and conditions that the Minister prescribes, require the person to whom the land was given or any of the person's successors in title

- (a) to retransfer the land to the Crown, or
- (b) to pay to the Minister the fair market value of the land.

(7) If the Minister chooses to act under subsection (6)(b), the Minister shall serve a notice on the person to whom the land was given or the person's successor in title demanding payment to the Minister within 60 days after 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.

(8) The notice under subsection (7) shall be served personally or by double registered mail addressed to the person for whom it is intended at the person's address according to the Minister's records.

(9) The person on whom a notice is served under subsection (7) shall, within 60 days after service of the notice,

- (a) pay the amount demanded by it, or
- (b) if the person 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.

(10) For the purpose of making a determination under subsection (9), 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.

(11) The applicant under subsection (9) 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 the appeal.

(12) The Minister may recover as a debt

- (a) the amount set out in a notice under subsection (7), where the person to whom the notice is directed does not comply with subsection (9), 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.

RSA 2000 cP-40 s19;2009 cA-26.8 s91(15)

### Occupation of land

**20(1)** No person shall enter on and occupy public land for any purpose unless

- (a) the director has authorized that person to enter on and occupy the public land for a stated period for the purpose of
  - (i) conducting appraisals, inspections, analyses, inventories or other investigations of the natural resources or underground formations that might exist on the land, or
  - (ii) exploring for or excavating fossil remains or objects of geological, ethnological, historical or scientific interest,
- (b) the director has authorized that person to enter on and immediately occupy the public land in respect of which the person has submitted an application for a disposition,
- (c) the person is the holder of a registered fur management agreement under the *Wildlife Act* respecting the public land,
- (d) the person is the holder of a timber disposition under the *Forests Act* respecting the public land,
- (e) the person is expressly authorized to enter on and occupy the public land for that purpose by the director or an officer, or
- (f) the person is otherwise authorized to enter on and occupy the public land under this Act or the regulations.

**(2)** The director or officer may grant an authorization under subsection (1) whether or not the public land to which the authorization relates is the subject of a disposition at the time the authorization is given.

**(3)** If there is a conflict between the terms and conditions of any authorization granted under subsection (1) and any applicable ALSA regional plan, the ALSA regional plan prevails to the extent necessary to resolve the conflict.

(4) A person who is authorized to enter on and immediately occupy public land under subsection (1)(b) is bound by this Act from the time the authorization is granted in the same manner and to the same extent as if the disposition for which the person applied had been granted to the person.

(5) If, in the director's opinion, a disposition or authorization is necessary for the purposes of meeting the objectives of an ALSA regional plan, the director may send a notice in writing to a person referred to in subsection (1)(c) or (d) requiring the person to apply for a disposition or authorization within a reasonable time determined by the director.

(6) A person who receives a notice under subsection (5) is bound by this Act from the date of the notice.

(7) The director or officer may impose any conditions the director or officer considers necessary on an authorization granted by the director or officer pursuant to this section.

(8) The director may, before or as a condition of granting an authorization under subsection (1), require the person to provide security in an amount and form acceptable to the director for any purpose that the director considers necessary.

(9) Nothing in this section is to be construed as in any way derogating from or adding to the rights of aboriginal peoples recognized and affirmed under Part 2 of the *Constitution Act, 1982* or the rights of Indians under the Transfer Agreement.

RSA 2000 cP-40 s20;2003 c11 s3(11);  
2009 cA-26.8 s91(16);2010 c14 s4

#### **Agreements re use of land**

**21(1)** When the Minister proposes to sell public land, the Minister 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 the purchaser's 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.

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

(3) An agreement under this section may be registered under the *Land Titles Act* and is not void by reason only that the agreement or any provision of the agreement infringes the rule against perpetuities.

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

RSA 1980 cP-30 s20;1982 c30 s10

#### **Prohibition re sales to non-Canadians**

**22(1)** The Minister shall not sell public land pursuant to section 18, the regulations or an order of the Lieutenant Governor in Council, or issue a notification in favour of the purchaser for that land, if the purchaser or one of the purchasers is

- (a) a person who is not a Canadian citizen or a permanent resident as defined in the *Immigration Act* (Canada),
- (b) a corporation that is not a Canadian corporation, or
- (c) a person or corporation acting as a trustee for a person who is not a Canadian citizen or a permanent resident as defined in the *Immigration Act* (Canada) or for a corporation that is not a Canadian corporation.

(2) This section does not apply when the purchaser has entered into an agreement under section 21(1) or with respect to a sale made before May 10, 1973.

(3) In this section,

- (a) “Canadian corporation” means
  - (i) in the case of a corporation with share capital, a corporation in which not less than 75% of the equity shares are registered in the name of and beneficially owned by
    - (A) one or more Canadian citizens or permanent residents as defined in the *Immigration Act* (Canada),
    - (B) one or more corporations with share capital, if in each case not less than 75% of its equity shares are registered in the name of and beneficially owned by Canadian citizens or permanent residents as defined in the *Immigration Act* (Canada),
    - (C) one or more corporations without share capital, if in each case not less than 75% of its members are



Canadian citizens or permanent residents as defined in the *Immigration Act* (Canada), or

- (D) any combination of persons or corporations referred to in paragraphs (A), (B) and (C),

or

- (ii) in the case of a corporation without share capital, a corporation in which not less than 75% of the members are Canadian citizens or permanent residents as defined in the *Immigration Act* (Canada);
- (b) “equity share” means any share of any class of shares of a corporation carrying full or limited voting rights and any share of any class of shares of the corporation carrying voting rights by reason of a contingency that has occurred and is continuing.

RSA 1980 cP-30 s21;1996 c28 s40

### Surveys

**23(1)** If for any reason the director considers it necessary or advisable to have a survey or re-survey made of the land contained in a disposition, or in respect of which an application for a disposition has been made, to determine its exact position, or in order to settle any dispute that may arise respecting it, the director may direct that the survey or re-survey be made by an Alberta land surveyor.

**(2)** The director may require payment in advance of the costs of the survey or re-survey to be made by the holder of, or the applicant for, the disposition or may require any portion of the payment of the costs that the director considers just.

**(3)** If the holder or the applicant fails to make the required payment in advance when required to do so by the director, the director in the director’s discretion may cancel the disposition or the application, as the case may be.

**(4)** The surveyor shall file with the director plans, notes and any other information that may be required to determine the exact position of the land, and the director shall forward a copy of the information to the holder or the applicant, as the case may be.

RSA 2000 cP-40 s23;2009 cA-26.8 s91(17)

### Grants made in error

**24(1)** If, through error, grants have been made for the same land that are inconsistent with each other, the director may cancel the grant made in error and order a new grant to the person deprived by

that cancellation, of land of a value equal to that of the earlier grant at the time it was made.

(2) If, through error, dispositions by way of sale, lease or licence have been made for the same land that are inconsistent with one another, the director may cause a refund to be made of any money paid on account of the sale, lease or licence with interest at the rate of 5% per year.

(3) No claim under this section shall be entertained unless it is submitted to the director within one year after the discovery of the error.

(4) If a disposition is found to cover public land included in a disposition or grant of prior date, the later disposition is void insofar as it interferes with the previous disposition or grant.

(5) If a grant is found to cover land included in a grant of prior date, the later grant is void insofar as it interferes with the previous grant.

RSA 2000 cP-40 s24;2009 cA-26.8 s91(51)

#### **Withdrawal and overlapping dispositions**

**25(1)** The director may

- (a) by agreement with the holder and without limitation to the director's power under any provision of an applicable ALSA regional plan, this Act or the regulations to withdraw land, withdraw from the disposition any part of the land contained in it, and
- (b) make more than one disposition in respect of the same land.

(2) If no application has been submitted for a disposition made under subsection (1)(b), the director must, in accordance with the regulations, provide notice of a disposition made under subsection (1)(b).

RSA 2000 cP-40 s25;2003 c11 s3(12);2009 cA-26.8 s91(18)

#### **Cancellation, suspension or amendment of disposition**

**26(1)** The director may cancel, suspend or amend a disposition when

- (a) the holder of the disposition fails to comply with the disposition, this Act or the regulations, or fails to comply with a notice given under this Act or the regulations,
- (b) in the case of a holder that is a corporation, the holder ceases to be incorporated or registered under the appropriate

enactment regulating the carrying on of business by the corporation in Alberta,

- (c) the holder acquired the disposition in error or through fraud, misrepresentation, personation or improvidence,
- (d) the holder of the disposition is convicted of an offence under an ALSA regional plan, this Act or the regulations that relates to the use of the land contained in the holder's disposition, or
- (e) the holder of the disposition is indebted to the Crown.

(2) Where the director is authorized to cancel a disposition under subsection (1)(a) or (d), the director may instead withdraw part of the land from the disposition, and in that case section 27(1), (2) and (3) apply in respect of the proposed withdrawal.

(3) The director may cancel a disposition if the director is requested in writing by the holder to do so.

(4) The director may cancel a disposition containing a clerical error, misnomer or wrong or defective description of land and issue a correct disposition in its place.

RSA 2000 cP-40 s26;2003 c11 s3(13);2009 cA-26.8 s91(18)

#### **Procedure for suspension**

**26.1(1)** When the director intends to suspend a disposition, the director shall send a written notice to the holder by mailing it to the holder's last known address according to the records of the Department.

(2) A suspension is effective from the date of the notice referred to in subsection (1).

(3) Where the director suspends a disposition under this Act or the regulations, the holder of the disposition remains bound by the terms and conditions of the disposition, including the payment of rents and other obligations, as though the disposition were not suspended.

2009 cA-26.8 s91(18)

#### **Procedure for cancellation**

**27(1)** Except in the case of cancellation under section 26(3) or (4) or section 82, 110 or 111, the director shall not cancel a disposition under this Act or pursuant to the disposition itself unless this section has been complied with.

(2) When the director intends to cancel a disposition, the director shall send a notice to the holder by mailing it to the holder's last

known address according to the records of the Department stating the director's intention to cancel the disposition after the 30th day following the date of the notice and the reason for the cancellation.

**(3)** If the holder does not object to the cancellation of the disposition or if, in the opinion of the director, the holder does not submit satisfactory reasons in objecting to the cancellation within the time limited for doing so, the director may cancel the disposition.

**(4)** When the provisions of the disposition itself prescribe a procedure for cancellation that is more advantageous to the holder than the procedure prescribed by this section, the director shall comply with the procedure prescribed in the disposition.

RSA 2000 cP-40 s27;2009 cA-26.8 s91(19),(51),(52)

#### **Reinstatement of disposition**

**28(1)** The director may by order reinstate a disposition that has been cancelled or forfeited if

- (a) the application for reinstatement is made within 6 months of the date on which the disposition was cancelled or forfeited,
  - (b) the land contained in the disposition is, at the time the application is made,
    - (i) available so as to permit the reinstatement to be made, and
    - (ii) classified as being adaptable for the same use as that permitted under the disposition,
- and
- (c) the applicant complies with any terms and conditions prescribed by the director on acceptance of the application.

**(2)** The Minister may make regulations

- (a) classifying dispositions for the purposes of this section and the regulations;
- (b) respecting terms and conditions on which dispositions may be reinstated;
- (c) respecting rules and procedures for obtaining reinstatement of dispositions for the purposes of this section;

- (d) respecting any other procedural and substantive matters necessary for carrying out the Minister's or director's powers under this section.

RSA 2000 cP-40 s28;2009 cA-26.8 s91(20)

#### **Application of purchase money**

**29(1)** If on the cancellation or expiration of a disposition, there is in the hands of the Minister any money in excess of the amount owing under it, the Minister may apply the excess in payment of any debt owed to the Crown and under the Minister's administration.

**(2)** When

- (a) an agreement for the sale of public land is cancelled or the purchaser surrenders the purchaser's interest to the Minister, and
- (b) the purchaser is in arrears for taxes on the land or for irrigation charges under the *Irrigation Districts Act*,

the Minister may apply not more than 1/2 of the amount paid by the purchaser as principal under the agreement in payment of the arrears.

**(3)** Subsection (2) does not apply when the agreement for sale pertained to

- (a) land situated in a land clearing and breaking project that was obtained in substitution for a homestead lease of the same land, or
- (b) land shown in the records of the Department as "tax recovery land".

RSA 1980 cP-30 s28;1984 c34 s9;1999 cI-11.7 s214

#### **Notifications**

##### **Notifications**

**30(1)** When a person is entitled to receive a title for an estate in fee simple to any public land, a notification shall be issued that shall be

- (a) signed by the Minister or Deputy Minister, and
- (b) signed by the Assistant Deputy Minister.

**(2)** Before issue of the notification, the fee payable under the *Land Titles Act* shall be paid to the Minister.

**(3)** The Minister shall forward the notification to the Registrar.

(4) If a certificate of title has not been issued by the Registrar for any public land vested in or belonging to the Crown, the Minister may issue a notification in favour of the Crown in right of Alberta or of Canada.

(5) When a notification is issued under subsection (4), it shall be forwarded to the Registrar who shall, without fee, forthwith issue a certificate of title.

RSA 1980 cP-30 s29

#### **Assistance in effecting sale**

**31(1)** When the holder of a homestead lease, homestead sale or other agreement for the sale of public land desires to effect the sale of part of the land contained in the holder's disposition to another person, the Minister may, in consideration of an amount of money specified by the Minister, 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 the land 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 money paid to the Minister under subsection (1) shall be credited to the payment of amounts owing or afterwards 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 cost 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.

RSA 1980 cP-30 s30

#### **Notifications to deceased persons**

**32** When a notification issues to or in the name of a person who is dead, the notification is not void for that reason but the title to the land granted or intended to be granted by it vests in the personal representative of the deceased person as if the notification had issued to or in the name of the deceased person during that person's lifetime.

RSA 1980 cP-30 s31

**Correction of grant**

**33(1)** When a grant has issued to or in the name of a wrong person or contains any clerical error or misnomer or wrong or defective description of the land intended to be granted by it, or when any of the conditions of the grant have been omitted, the director may, if there is no adverse claim, direct the defective grant to be cancelled and a correct notification to be issued in its place.

**(2)** The correct notification relates back to the date of the grant cancelled and has the same effect as if issued at the date of the cancelled grant.

RSA 2000 cP-40 s33;2009 cA-26.8 s91(51)

**Refusal to issue notification**

**34** The Minister may refuse to issue a notification to a person who is liable to the Crown or the Minister for the payment of any money or the delivery of any royalty, share of production or crop share.

RSA 2000 cP-40 s34;2009 cA-26.8 s91(21)

**Dispositions****Exceptions and reservations in disposition**

**35(1)** All mines and minerals and the right to work them are, by implication and without the necessity for any express words of exception, excepted from every disposition and notification made under this Act.

**(2)** The director, in the case of any disposition, or the Minister, in the case of a grant or any kind of disposition, may direct that it shall be made subject to a reservation or exception that the director or the Minister, as the case may be, may prescribe.

RSA 2000 cP-40 s35;2009 cA-26.8 s91(22)

**Execution of disposition by Crown**

**36(1)** Dispositions may be executed on behalf of the Crown by the Minister, the Deputy Minister, the Assistant Deputy Minister, the director or any other officer of the Department authorized to do so by the Minister, and no seal is necessary in connection with executions on behalf of the Crown.

**(2)** A permit may be issued by delivering it or mailing it to the holder and the signature of the person authorized to sign it on behalf of the Crown may be reproduced by any means on the permit.

RSA 2000 cP-40 s36;2009 cA-26.8 s91(23)

**Execution by holder**

**37(1)** The execution of a disposition or an assignment or surrender of a disposition by a person other than a corporation is valid to the

same extent as if it were under seal if it is executed by that person by the making of the person's signature and without the use of a seal.

**(2)** For the purposes of this Act, a disposition, an assignment or surrender of a disposition or any instrument executed in connection with this Act or the regulations is deemed to be sufficiently executed by a corporation if it is sealed with its corporate seal and signed by one officer or 2 directors of the corporation, notwithstanding anything to the contrary contained in any statute, charter of incorporation, memorandum of association or articles of association.

RSA 1980 cP-30 s36

#### **Number and gender**

**38** Where the singular or masculine or neuter is used in a disposition, it shall, when the context or parties require, be construed to mean respectively the plural or feminine or a corporation.

RSA 1980 cP-30 s37

#### **Rights of holder**

**39(1)** In this section, "issue" means to mail or deliver 2 or more copies of the disposition to the intended holder for execution by the intended holder.

**(2)** When a disposition required to be executed by the holder is issued, the person in whose favour it is made

- (a) is, subject to subsection (3), deemed to be the holder of it as against the Crown and all other persons as of the date of the disposition, and
- (b) is bound by the disposition to the same extent as if it were fully executed.

**(3)** When a disposition is issued and the intended holder fails to execute the disposition and return it to the Department at Edmonton within 60 days from the date of the disposition,

- (a) the director may cancel the disposition, and
- (b) the intended holder is deemed to have been the holder of the disposition only as to any liability incurred by the holder under it.

RSA 2000 cP-40 s39;2009 cA-26.8 s91(24)

#### **Disposition of fees**

**40(1)** When money is paid to the director by an applicant for a disposition or by the original holder of a disposition for any



purpose incidental to the application or the disposition, and if the director determines that the applicant or the holder is entitled to a refund of all or any portion of the money, the director may

- (a) pay the money to the applicant or the holder if the applicant or the holder is not indebted to the Crown, or
- (b) apply the money in payment of any debt the applicant or the holder owes to the Crown.

(2) If a disposition is issued and the applicant refuses to execute it in accordance with section 39(2) or if an applicant for a disposition fails to comply with any condition required to be complied with before the issue of the disposition, any money paid by the applicant or any portion of it may be forfeited to the Crown at the direction of the director.

RSA 2000 cP-40 s40;2009 cA-26.8 s91(51)

#### **No warranty re land**

**41** No disposition shall be construed to contain any implied warranty or condition as to the quality or fitness for a particular purpose of the land described in the disposition.

RSA 1980 cP-30 s40

#### **Minors**

**42** A disposition held by a minor and an assignment of a disposition by or in favour of a minor is as binding on the minor as if the minor were of full age.

RSA 1980 cP-30 s41

#### **Consent to assignment, etc.**

**43(1)** The holder shall not mortgage, assign, transfer or sublet the land contained in the holder's disposition, or any part of it, without the written consent of the director.

- (2) The Minister may make regulations
- (a) classifying dispositions for the purposes of this section and the regulations;
  - (b) respecting the terms and conditions on which consent may be given for dispositions to be mortgaged, assigned, transferred or sublet;
  - (c) respecting rules and procedures for obtaining consent to a mortgage, assignment, transfer or sublet of dispositions for the purposes of this section;

- (d) respecting any other procedural and substantive matters necessary for carrying out the Minister's or director's powers under this section.

RSA 2000 cP-40 s43;2009 cA-26.8 s91(25)

#### **Minister or director to determine compliance**

**44(1)** The Minister or the director, in the exercise of the Minister's or director's respective powers and duties under this Act or the regulations, or under any applicable ALSA regional plan, may determine whether the terms and conditions of a disposition are being performed, observed or complied with, and the Minister's or the director's decision, as the case may be, is final and binding on the holder of the disposition.

**(2)** At a time and in a form required by the Minister or the director, as the case may be, the holder of a disposition shall furnish proof by declaration or otherwise that the holder has complied with any or all of the provisions of the holder's disposition.

RSA 2000 cP-40 s44;2009 cA-26.8 s91(26)

#### **Recovery of Rent, etc.**

##### **Recovery by distress**

**45(1)** The director may recover by distress

- (a) rent owing under a disposition, or
- (b) money owing under a loan contract made pursuant to the *Homestead Lease Loan Act*, RSA 1980 cH-9.

**(2)** The *Civil Enforcement Act* applies to a distress under this section.

RSA 2000 cP-40 s45;2009 cA-26.8 s91(51)

##### **Seizure of grain**

**46(1)** The director may by order authorize an officer to seize any grain owned by a lessee who defaults in payment of

- (a) rent owing under a cultivation lease,
- (b) any crop share rent owing under a disposition, or
- (c) any money owing under a loan made pursuant to the *Homestead Lease Loan Act*, RSA 1980 cH-9.

**(2)** When grain is seized pursuant to this section, the officer making the seizure shall deliver a notice of seizure in the prescribed form to the lessee by

- (a) giving it to the lessee personally,

- (b) posting it in a prominent place on the land described in the lease, or
  - (c) mailing it to the lessee's last known address according to the records of the Department.
- (3) Any costs or expenses incurred by the officer in making a seizure under this section are deemed to be part of the unpaid rent or loan payment for which the seizure was made.
- (4) When an officer seizes grain under this section, the officer may
- (a) have the grain carried to a convenient place of storage,
  - (b) leave the grain in the possession of the lessee, or
  - (c) sell the grain at a price as near as possible to the current market price.
- (5) When grain is seized pursuant to this section, the officer making the seizure may sell all of the grain seized or a sufficient quantity of it to satisfy the total amount owing by the lessee at the time the grain is sold.
- (6) When the amount owing by the lessee at the time the grain is sold exceeds the amount the lessee owed when the seizure was made, the officer shall, before the officer sells the grain, deliver an amended notice of seizure to the lessee.
- (7) The director may refund to the lessee the amount, if any, by which the proceeds of the sale exceed the expenses of the sale and the total amount owing by the lessee at the time the grain is sold.
- (8) No officer while discharging the officer's duties under this section, or any officer assisting that officer, is liable for trespass on privately owned land.

RSA 2000 cP-40 s46;2009 cA-26.8 s91(51)

### **Unauthorized Use of Public Lands**

#### **Unauthorized use**

- 47(1)** A person who occupies public land and
- (a) is not the holder of a disposition authorizing the person to do so, or
  - (b) is not otherwise authorized to do so under this Act or the regulations,

is deemed to be a trespasser and any improvements created by the person are the property of the Crown.

(2) If an improvement becomes the property of the Crown under subsection (1),

- (a) the right, title and interest of all other persons to or in the improvements is terminated, and
- (b) the improvement may be removed, demolished, sold or otherwise disposed of in any manner the director considers appropriate.

RSA 2000 cP-40 s47;2009 cA-26.8 s91(27)

#### **Order to vacate**

**47.1** Where a person unlawfully occupies public land the director may order the person to vacate the public land, subject to any terms and conditions the director considers appropriate.

2003 c11 s3(14);2009 cA-26.8 s91(51)

**48 to 50** Repealed 2009 cA-26.8 s91(28).

#### **Seizure of crops**

**51** If a person without authority seeds or places a crop on public land, the director may

- (a) authorize an officer to seize the crop either before or after it is harvested, and
- (b) direct the crop to be disposed of as the director considers appropriate.

RSA 2000 cP-40 s51;2009 cA-26.8 s91(29)

#### **Seizure of clay, marl, sand or gravel**

**52(1)** When an officer believes on reasonable grounds that any clay, marl, sand, gravel, silica sand, topsoil or peat has been removed unlawfully from public land, the officer may seize it and any vehicle, tools or equipment used to remove or transport it.

(2) An officer making a seizure under this section shall make a written report to the director and shall retain any thing seized until the director instructs the officer how to dispose of it.

(3) When the director receives a report of a seizure, the director may

- (a) order whatever is seized to be confiscated to the Crown in right of Alberta and may dispose of it in any way the director considers proper, or
- (b) direct whatever is seized to be returned to the person from whom it was seized.

RSA 2000 cP-40 s52;2009 cA-26.8 s91(30)

#### **Destruction of or injury to surface**

**53** The holder of a disposition shall not do any act or thing that injures or destroys, or that is likely to injure or destroy, the surface of the public land described in the disposition unless

- (a) the holder has obtained the authorization of the director, or
- (b) the holder is expressly authorized by the disposition to injure or destroy the surface.

RSA 2000 cP-40 s53;2009 cA-26.8 s91(31),(51)

#### **Prohibitions**

**54(1)** No person shall cause, permit or suffer

- (a) the accumulation of waste material, debris, refuse or garbage on public land,
- (a.1) loss or damage to public land,
- (a.2) activities on, or the use of, public land that is likely to result in loss or damage to public land,
- (b) the existence on public land of any structure or excavation of any kind that is undesirable or otherwise in contravention of this Act or the regulations,
- (c) the existence on public land of any condition that may cause loss or damage to the public land,
- (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 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 is likely to result in soil erosion.

**(2)** A person lawfully carrying out any 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.

**(3) and (4)** Repealed 2003 c13 s3(17).

RSA 2000 cP-40 s54;2003 c11 s3(17);  
2009 cA-26.8 s91(32)

**Prohibited uses of roads, etc.**

**54.01(1)** In this section, “closed road” means a road that was constructed pursuant to a licence of occupation issued under this Act and has been closed

- (a) by an order of the director, or
- (b) in accordance with a term or condition of the licence of occupation.

**(2)** No person shall

- (a) travel on or enter on a closed road,
- (b) damage, destroy, remove or alter any posted notice or sign denoting a closed road,
- (c) damage, destroy, remove or alter any barrier set up to prevent access to a closed road, or
- (d) block, disrupt, hinder, impede, interfere with or otherwise obstruct access by a disposition holder or a commercial user to a closed road to which the disposition holder or commercial user is legally entitled to have access

unless the person is authorized to do so by the director or under this Act or the regulations.

**(3)** No person shall block, disrupt, hinder, impede, interfere with or otherwise obstruct free access to or passage on and over, or use by any other person of, a highway, road or trail located on public land unless that person is authorized to do so by the director or under this Act or the regulations.

**(4)** No person shall, directly or indirectly, induce or attempt to induce another person to provide money or other consideration for the purpose of gaining access to, passage on or over or use of public land unless

- (a) that person is the holder of a disposition or an authorization under section 20 and is entitled at law to request or receive money or other consideration for that purpose, and
  - (b) the desired access, passage or use is in respect of public land that is the subject of the disposition or authorization.
- (5) No person shall provide or receive money or other consideration for the purpose of gaining or allowing access to, passage on or over or use of public land unless
- (a) the person receiving the money or other consideration is the holder of a disposition or authorization under section 20 and is entitled at law to receive money or other consideration for that purpose, and
  - (b) the access, passage or use is in respect of public land that is the subject of the disposition or authorization.
- (6) Repealed 2009 cA-26.8 s91(33).
- (7) If a police officer has reasonable grounds to believe that a person has contravened subsection (2) or (3), the police officer may remove or seize and remove any material, barrier, equipment, vehicle, structure or obstruction used in or during the commission of that offence.

2003 c46 s4;2009 cA-26.8 s91(33),(51)

#### **Disposition of seized items**

**54.02(1)** Where a police officer seizes anything under section 54.01(7) the police officer shall, within a reasonable time,

- (a) provide a justice with an affidavit stating that the police officer has reasonable grounds to believe that a person named in the affidavit has contravened section 54.01(2) or (3) and that the thing seized was used in the commission of the offence, or
  - (b) return the thing seized to the person from whom it was seized.
- (2) On receipt of an affidavit under subsection (1), the justice may order that the affidavit be served on the person referred to in the affidavit, may set down a date to hear the matter and may order that the thing seized
- (a) be retained by the Crown until final disposition of the charge,
  - (b) be returned to the person from whom it was seized, or

- (c) be returned to any other person who is entitled to possession of it.
- (3)** If a thing that was seized is returned to the person from whom it was seized, the justice may order that person
- (a) to hold it as bailee for the Crown until final disposition of the charge, and
  - (b) to produce it if it is required with respect to proceedings related to the charge.
- (4)** Where a person is convicted of an offence under section 54.01(2) or (3) and a thing that was seized under section 54.01(7) in respect of the offence is being detained under this section, the court may direct
- (a) that the thing seized be forfeited to the Crown on the expiration of the time for an appeal or on conclusion of the proceedings, as the case may be, or
  - (b) that the thing be returned to the person from whom it was seized or to any other person who is entitled to possession of it, subject to any terms and conditions the court considers appropriate.
- (5)** Where a thing is forfeited to the Crown under this section, the director may destroy the thing or dispose of it in any manner the director considers appropriate.
- (6)** The costs of forfeiture and destruction or disposal of a thing under this section are a debt owing to the Crown payable by the person convicted of the offence.

2003 c46 s4;2009 cA-26.8 s91(34),(51)

#### **Court orders**

- 54.03(1)** Where a person has, contrary to section 54.01(2)(d) or (3), been prevented from gaining access to a closed road or from having free access to, passage on or over or use of a highway, road or trail, that person or the Crown may apply to a judge of the Court of Queen's Bench for a short-term order or a long-term order.
- (2)** An application for a short-term order
- (a) may be made ex parte, and
  - (b) must be supported by affidavit evidence, which may be based on information and belief.
- (3)** An application for a long-term order



- (a) must be made on at least 2 days' notice, and
  - (b) must be supported by affidavit evidence.
- (4)** Where an application for a long-term order is made, the judge may extend the duration of any short-term order that is then in effect until the application for the long-term order is decided.
- (5)** The judge may
- (a) make a short-term order or a long-term order if the judge is satisfied on a balance of probabilities that a contravention of section 54.01(2)(d) or (3) has occurred and is continuing, or
  - (b) in the case of an application for a long-term order in circumstances described in subsection (4), make a long-term order if the judge is satisfied on the balance of probabilities that a contravention of section 54.01(2)(d) or (3) has occurred and is likely to recur.
- (6)** A short-term order must be for a period of 7 days and a long-term order must be for a period exceeding 7 days but not exceeding one year.
- (7)** In an order under this section, the judge may
- (a) prohibit any person from engaging in or continuing any activity that constitutes the contravention,
  - (b) authorize a police officer to remove or seize and remove any material, barrier, equipment, vehicle, structure or obstruction used in the contravention, and
  - (c) make any other order the judge considers appropriate.
- (8)** Notice of an order under this section is sufficiently given to a person
- (a) by posting a copy of the order in a public place at or near any location where persons affected by the order might reasonably be expected to gather,
  - (b) by giving a copy of the order to or serving a copy of the order on the person in any manner in which service of process may be lawfully effected, or
  - (c) if it is given in any other manner permitted by the order.
- (9)** A police officer may without warrant arrest any person found contravening an order under this section for the purpose of bringing

that person before a judge of the Court of Queen's Bench to show cause why the person should not be held to be in contempt.

**(10)** Any person who is directly affected by an order under this section may apply to a judge of the Court of Queen's Bench on at least 2 days' notice for an order to set aside the order.

2003 c46 s4;2009 c53 s151

#### **Actions by police officer**

**54.04** Where section 54.01(7) or an order under section 54.03 authorizes a police officer to remove or seize and remove property, the police officer may cause the property to be removed or seized and removed by another person under the police officer's direction and control.

2003 c46 s4

#### **No compensation for damages**

**54.05** No person has a right to compensation or damages in respect of anything done or omitted to be done in good faith under section 54.01(7) or 54.03(9) or an order under section 54.03 including, without limitation, anything done or omitted to be done by a person acting under a police officer's direction and control under section 54.04.

2003 c46 s4

### **Enforcement**

**55** Repealed 2009 cA-26.8 s91(35).

#### **Offences re Crown land, property, etc.**

**56(1)** A person who

- (a) wilfully removes any property belonging to the Government from public land without authority,
- (b) removes any property belonging to the Government from public land without authority,
- (c) wilfully provides false or misleading information to an officer, the director or the Minister concerning public land, a disposition, this Act or the regulations,
- (d) occupies public land and is not the holder of a disposition or of an authorization under section 20 authorizing the person to do so and is not otherwise authorized to do so under this Act and the regulations,
- (e) wilfully and without lawful authority destroys, defaces or removes a notice posted under the authority of this Act,

- (f) fails to comply with an order of the director under section 47.1,
- (g) contravenes section 53, 54, 54.01(2), (3), (4) or (5), 57, 58 or 69.6,
- (h) wilfully contravenes an enforcement order issued under section 59.1,
- (i) wilfully contravenes section 62.1(1), the regulations under section 62.1(2) or an order, decision or term or condition given or imposed under the regulations under section 62.1(2),
- (j) contravenes regulations made under Part 1.1,
- (k) fails to comply with an order of an officer under section 71.3,
- (l) fails to comply with a notice under section 114.1(2),
- (m) as the holder of a disposition, wilfully contravenes a provision of the disposition,
- (n) as the holder of a disposition, contravenes a provision of the disposition,
- (o) unless otherwise provided in this Act or the regulations, fails to comply with a notice or order issued under an ALSA regional plan, this Act or the regulations, or
- (p) contravenes a provision of this Act or the regulations that is prescribed in the regulations for the purposes of this section,

is guilty of an offence.

**(2)** Every person who is guilty of an offence under this Act or the regulations is liable on conviction for each day or part of a day on which the offence occurs or continues.

RSA 2000 cP-40 s56;2003 c11 s3(20);2009 cA-26.8 s91(36)

#### **Limitation period**

**56.1** A prosecution in respect of an offence under this Act or the regulations may not be commenced later than 2 years after

- (a) the date on which the offence was committed, or
- (b) the date on which evidence of the offence first came to the attention of the director,

whichever is later.

2009 cA-26.8 s91(36)

### **Interference**

**57** No person shall interfere with or attempt to interfere with

- (a) an officer who is exercising powers or carrying out duties, or attempting to do so, under this Act or the regulations,
- (b) a person accompanying or assisting an officer under the authority of section 69.5 or 69.6,
- (c) a person who is conducting or attempting to conduct an inspection referred to in section 68 pursuant to an authorization given by the director, or
- (d) a person referred to in section 59.1(3) or 59.2(2) who is carrying out any work or doing anything pursuant to an enforcement order or stop order.

RSA 2000 cP-40 s57;2009 cA-26.8 s91(37)

### **Court order re interference**

**57.1** If a person interferes with another person contrary to section 57,

- (a) the officer, in a case referred to in section 57(a) or (b), or
- (b) the director, in a case referred to in section 57(c) or (d),

may apply to the Court of Queen's Bench for an order prohibiting the person from so interfering, and the Court may make any order it considers appropriate in the circumstances.

2009 cA-26.8 s91(37)

### **Prohibited practices at sales**

**58** No person shall, before or at the time of a public sale of public land, by intimidation, combination, unfair management or otherwise, hinder, prevent or attempt to hinder or prevent any other person from bidding on or purchasing any land offered for sale.

RSA 2000 cP-40 s58;2009 cA-26.8 s91(38)

### **General penalty**

**59(1)** A person who is guilty of an offence referred to in subsection (3) is liable

- (a) in the case of an individual, to a fine of not more than \$25 000, or
- (b) in the case of a corporation, to a fine of not more than \$100 000.

**(2)** Unless otherwise provided in this Act or the regulations, a person who is guilty of offence under this Act or the regulations is liable

- (a) in the case of an individual, to a fine of not more than \$100 000, or
- (b) in the case of a corporation, to a fine of not more than \$1 000 000.

**(3)** No person may be convicted of an offence under

- (a) section 56(1)(b), (d), (g), (j), (k), (l), (n), (o) or (p), or
- (b) a provision of this Act or the regulations that is prescribed in the regulations for the purposes of this section,

if the person establishes on a balance of probabilities that the person took all reasonable steps to prevent its commission.

RSA 2000 cP-40 s59;2003 c11 s3(21);2009 cA-26.8 s91(39)

#### **Court orders relating to penalty**

**59.01(1)** Where a person is convicted of an offence under an ALSA regional plan, this Act or the regulations, in addition to any other penalty that may be imposed under this Act or the regulations, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order having any or all of the following effects:

- (a) prohibiting the offender from doing anything that might result in the continuation or repetition of the offence;
- (b) directing the offender to take any action the court considers appropriate to remedy or prevent any loss or damage to public land that results or might result from the act or omission that constituted the offence;
- (c) directing the offender to publish, in the prescribed manner and at the offender's cost, the facts relating to the conviction;
- (d) directing the offender to notify any person aggrieved or affected by the offender's conduct of the facts relating to the conviction, in the prescribed manner and at the offender's cost;
- (e) directing the offender to post a bond or pay money into court in an amount that will ensure compliance with any order made pursuant to this section;

- (f) on application to the court by the Minister made within 3 years after the date of conviction, directing the offender to submit to the Minister any information with respect to the conduct of the offender as the court considers appropriate in the circumstances;
- (g) directing the offender to provide a full accounting of the proceeds derived directly or indirectly from the commission of the offence and to remit any proceeds to the Crown;
- (h) directing the offender to compensate the Minister, in whole or in part, for the cost of any remedial or preventive action that was carried out or caused to be carried out by the Crown and was made necessary by the act or omission that constituted the offence;
- (i) directing the offender to perform community service;
- (j) requiring the offender to comply with any other conditions the court considers appropriate in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

(2) Where an offender contravenes an order made under subsection (1)(c), the Minister may publish the facts in compliance with the order.

(3) Where the Minister incurs publication costs under subsection (2), the costs constitute a debt owing to the Crown.

(4) An order made under subsection (1) comes into force on the day on which it is made or on any other day specified in the order and continues in force for the period specified in the order, not to exceed 3 years.

2009 cA-26.8 s91(39)

#### **Compensation for loss of property**

**59.02(1)** Where a person is convicted of an offence under an ALSA regional plan, this Act or the regulations, the court may, at the time sentence is imposed and on the application of the Crown or an aggrieved person, order the offender to pay to the Crown or aggrieved person an amount by way of satisfaction or compensation for loss of or damage to property suffered by the Crown or that person as a result of the commission of the offence.

(2) The Crown or a person in whose favour an order is made under subsection (1) may file the order with the clerk of the Court of Queen's Bench and, on filing, the order may be enforced as if it

were a judgment of the Court of Queen's Bench in civil proceedings.

2009 cA-26.8 s91(39)

#### **Variation of court orders**

**59.03(1)** Subject to subsection (2), where a court has made an order under section 59.01, the court may, on application by the offender or the Minister of Justice and Solicitor General, require the offender to appear before it and, after hearing the offender and the Minister of Justice and Solicitor General, may make any or all of the following orders if it considers that the circumstances of the offender have changed so as to warrant such an order:

- (a) an order changing the original order or the conditions specified in it;
- (b) an order relieving the offender absolutely or partially from compliance with any or all of the original order;
- (c) an order reducing the period for which the original order is to remain in effect;
- (d) an order extending the period for which the original order is to remain in effect for an additional period not to exceed one year.

**(2)** Before making an order under subsection (1), the court may direct that notice be given to any persons the court considers to be interested, and the court may hear any of those persons.

**(3)** Where an application made under this section in respect of an offender has been heard by a court, no other application under this section may be made with respect to the offender except with the permission of the court.

2009 cA-26.8 s91(39);2013 c10 s34;2014 c13 s50

#### **Enforcement order**

**59.1(1)** Where, in the director's opinion, a person has contravened a provision of an ALSA regional plan, this Act or the regulations, the director may issue an enforcement order under this section to a person responsible, whether or not the person who contravened the provision has been charged with or convicted of an offence in respect of the contravention.

**(2)** The director shall serve the enforcement order on the person to whom it is directed personally or by ordinary mail addressed to the person at the person's address according to the director's records.

**(3)** In an enforcement order the director may

- (a) require the person to whom the order is directed
    - (i) to do or refrain from doing anything in connection with the contravention;
    - (ii) to carry out the measures specified in the order to effect compliance with an ALSA regional plan, this Act or the regulations;
    - (iii) to remedy the effects of the contravention;
    - (iv) to keep records and report to the director in respect of the contravention of or the compliance with an ALSA regional plan, this Act, the regulations or the order;
    - (v) to suspend activities on, or the use of, public land, whether or not a disposition has been issued for the land;
    - (vi) to provide an accounting of, and remit to the Crown, any benefits and proceeds of benefits derived directly or indirectly from the contravention;
  - (b) specify the manner or method of, or the procedures to be used in, carrying out the measures required by the order;
  - (c) specify the time within which any measure required by the order is to be commenced and the time within which the order or any portion of the order is to be complied with;
  - (d) suspend the rights of a holder under a disposition;
  - (e) cancel a disposition.
- (4)** The director may, at any time,
- (a) amend a term or condition of, add a term or condition to or delete a term or condition from an enforcement order, or
  - (b) cancel an enforcement order.
- (5)** A copy of an enforcement order under subsection (4) must be served on the person to whom it is directed in the manner set out in subsection (2).
- (6)** Costs incurred by the director under this section are recoverable by the Crown as a debt owing to the Crown against the person to whom the enforcement order was directed.



(7) For the purposes of this section the costs referred to in subsection (6) include, without limitation, any costs incurred in investigating and responding to

- (a) any matter to which the enforcement order relates, or
- (b) the failure to comply with the enforcement order.

(8) If an enforcement order is issued to more than one person, all persons named in the order are jointly responsible for complying with the enforcement order and are jointly and severally liable for carrying out its terms, including payment of the costs of doing so, including any costs incurred by the director under this section.

(9) In an enforcement order the director may require any person who, in the director's opinion, is in receipt of proceeds derived directly or indirectly from any use of public land in contravention of an ALSA regional plan, this Act or the regulations to provide a full accounting of the proceeds believed by the director to have been received by the person and to remit the proceeds to the Crown.

2003 c11 s3(22);2009 cA-26.8 s91(40)

#### **Stop order**

**59.2(1)** In addition to exercising other powers under this Act and the regulations, if in the opinion of a director or officer an activity or land use on public land is in contravention of one or more of

- (a) this Act,
- (b) the regulations under this Act,
- (c) a notice or order issued under this Act or the regulations,  
and
- (d) the terms and conditions of a disposition or an authorization under section 20,

the director or officer may act under subsection (2).

(2) If subsection (1) applies, the director or officer may, by written notice, order any person responsible for the contravention

- (a) to stop the activity or land use on the public land in whole or in part as directed by the notice,
- (b) to demolish, remove or replace any improvements made or in the process of being made, or

- (c) to carry out any other actions required by the notice so that the activity or land use on the public land complies with this Act or the regulations or the terms and conditions of a disposition or an authorization under section 20,

within the time set out in the notice.

- (3) A person who receives a notice referred to in subsection (2) may appeal to an appeal body in accordance with the regulations.
- (4) Costs incurred by the director or officer under this section are recoverable by the Crown as a debt owing to the Crown against the person to whom the stop order was directed.
- (5) The director may, at any time,
  - (a) amend a term or condition of, add a term or condition to or delete a term or condition from a stop order, or
  - (b) cancel a stop order.

2009 cA-26.8 s91(40)

#### **Enforcement of orders**

**59.21(1)** If a person fails or refuses to comply with an order directed to the person under section 59.1 or 59.2, the director may

- (a) enter on the public land and take any action necessary to carry out the order, or
- (b) issue a further order as the director considers appropriate.

(2) Costs incurred by the director under this section are recoverable by the Crown as a debt owing to the Crown against the person to whom the order or orders were directed.

2009 cA-26.8 s91(40)

#### **Protection of officials from legal suit**

**59.22** No action lies and no proceeding may be brought against the Crown, the Minister, the director or an officer or any person acting under the direction of the Crown, the Minister, the director or an officer for damages resulting from any order or decision under this Act or the regulations made or taken in good faith by the Crown, the Minister, the director, the officer or the person.

2009 cA-26.8 s91(40)

#### **Administrative penalty**

**59.3** The director may, in accordance with the regulations, require a person to pay an administrative penalty in an amount determined by the director if the person

- (a) contravenes a provision of an ALSA regional plan, this Act or the regulations that is prescribed in the regulations for the purposes of this section,
- (b) without legal authority makes use of public land,
- (c) as a holder of a disposition or of an authorization under section 20, without the consent of the director, or a person authorized by the Minister to provide consent, makes use of the public land that is the subject of the disposition or authorization for any purpose other than the purpose for which the disposition or authorization is granted,
- (d) contravenes a term or condition of a disposition or of an authorization under section 20,
- (e) contravenes a decision or order made under regulations made under section 9(b.1) or (b.2),
- (f) contravenes section 62.1 or a regulation made under that section, or
- (g) fails to notify the Minister of a transfer, redemption or allotment of shares to which section 114.1(4) applies.

2009 cA-26.8 s91(40)

#### **Notice of administrative penalty**

**59.4(1)** If the director requires a person to pay an administrative penalty under this Act or the regulations, the director shall serve by personal service or registered mail a notice of administrative penalty demanding payment of the penalty.

**(2)** A notice of administrative penalty must state the grounds on which the penalty was assessed.

**(3)** An administrative penalty to which a notice under subsection (1) relates must be paid within 30 days of the date of service of the notice.

**(4)** A notice of administrative penalty under this section may require one or more of the following:

- (a) payment of the penalty determined by the director under section 59.3;
- (b) any person who in the director's opinion is in receipt of proceeds derived directly or indirectly from any use of public land in contravention of this Act or the regulations to provide an accounting of the proceeds believed by the director to have been received by that person;

- (c) payment by a person referred to in clause (b) of any proceeds referred to in that clause, or an amount equivalent to the value of the proceeds if the person has converted the proceeds.

2009 cA-26.8 s91(40)

#### **Daily penalty**

**59.5** A person is liable for an administrative penalty for each day or part of a day on which the contravention occurs or continues, and where this Act or the regulations prescribe the maximum amount of an administrative penalty, the maximum is the maximum for each day or part of a day on which the contravention occurs or continues.

2009 cA-26.8 s91(40)

#### **Protection from prosecution**

**59.6** A person who pays an administrative penalty in respect of a contravention by the person shall not be prosecuted under this Act for an offence in respect of the same contravention.

2009 cA-26.8 s91(40)

#### **Limitation period**

**59.7** A notice of administrative penalty may not be issued more than 2 years after

- (a) the date on which the contravention to which the notice relates occurred, or
- (b) the date on which evidence of the contravention first came to the notice of the director,

whichever is later.

2009 cA-26.8 s91(40)

#### **Enforcement in Court of Queen's Bench**

**59.8(1)** Subject to any right to appeal the notice of administrative penalty, the director may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench and, on filing, the notice may be enforced as a judgment of the Court.

**(2)** On application by the director, the Court may make any order necessary to compel the person receiving a notice under section 59.4 to carry out the terms of the notice.

2009 cA-26.8 s91(40)

#### **Publication of information**

**59.9** The director shall, in accordance with the regulations, publish particulars of enforcement action taken under this Act.

2009 cA-26.8 s91(40)

**Liability of directors and officers**

**59.91** If a corporation commits an offence or is subject to an administrative penalty as a result of a contravention of this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence or contravention is guilty of the offence or responsible for the contravention and is liable to the punishment provided for the offence or the administrative penalty, whether or not the corporation has been prosecuted for or convicted of the offence or has been given notice of the administrative penalty.

2009 cA-26.8 s91(40)

**Vicarious responsibility**

**59.92** For the purposes of this Act and the regulations, an act or thing done or omitted to be done by a director, officer, official, employee or agent of a corporation in the course of employment or in the exercise of powers or the performance of duties is deemed also to be an act or thing done or omitted to be done by the corporation.

2009 cA-26.8 s91(40)

**Miscellaneous****Improvements**

**60(1)** A person applying for a disposition shall, after the person's 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 on the land to which the application relates.

**(2)** The director may exclude the whole or any part of the fencing from the value of the improvements.

**(3)** Cultivation is not an improvement unless the director declares it to be an improvement.

**(4)** Public land seeded to tame hay or grass is deemed to be cultivated land.

**(5)** When an application is made for a disposition of land on which clearing or breaking has been done by a former holder with the aid of a loan made pursuant to the *Homestead Lease Loan Act*, RSA 1980 cH-9, and the loan has not been repaid in full, the applicant shall pay for that clearing or breaking if it is declared an improvement in the manner directed by the director.

**(6)** Notwithstanding anything in this section, the director may defer the payment of any amount required to be paid under this section in excess of the portion, if any, required to be applied or

refunded under section 61, and if a deferment is made the disposition shall provide that the amount deferred be paid by the holder of the disposition on the date or dates fixed in the disposition for the payment of it.

(7) When the director receives a tender in respect of a contract to conduct improvements on public land, then, notwithstanding section 8 of the *Public Works Act*, the director is not required to accept the lowest or any tender.

RSA 2000 cP-40 s60;2009 cA-26.8 s91(51)

#### **Application of money collected for improvements**

**61** When a disposition is cancelled or expires and money is paid on account of improvements under section 60 on a subsequent application for a disposition of all or a part of the land contained in the cancelled or expired disposition, the director may

- (a) apply that money to the payment of any amount owing under the cancelled or expired disposition,
- (b) apply the balance, if any, for the purpose of paying any other debt to the Crown, any taxes owing to a municipality, any debt to a municipality arising out of the use of the land described in the cancelled or expired disposition, or any debt owing by the former holder to a rural electrification association incorporated under the *Co-operative Associations Act* or incorporated or continued under the *Rural Utilities Act*, and
- (c) refund the whole or part of the balance, if any, to the person who, in the opinion of the director, is entitled to it.

RSA 2000 cP-40 s61;2001 cC-28.1 s464;  
2001 c23 s1(16);2009 cA-26.8 s91(51)

#### **Disposal of chattels and improvements after termination of disposition**

**62(1)** During the term of a disposition or if

- (a) a disposition is surrendered or cancelled or has expired, or
- (b) any land is withdrawn from a disposition of public land,

the director may decide whether any building or other improvement on the land that is or was contained in the disposition is affixed to that land and is to be considered a part of it.

(2) When a disposition is surrendered or cancelled or has expired or when land is withdrawn from a disposition, the holder of the disposition at the date of the surrender, cancellation, expiration or withdrawal may

- (a) subject to subsection (4), and
- (b) before the expiration of one month following that date,

remove from the public land formerly in the disposition any chattels owned by the holder and any buildings or improvements erected or created by the holder.

**(3)** The Assistant Deputy Minister may, by notice in writing addressed to the holder referred to in subsection (2), extend the period of time provided by that subsection.

**(4)** Any chattel, building or other improvement on public land is forfeited to the Crown in right of Alberta

- (a) when the one-month period referred to in subsection (2) and any extension of it prescribed by the Assistant Deputy Minister has expired, or
- (b) when a disposition is cancelled or expires if the holder at the time of the cancellation or expiry of the disposition is indebted to the Crown or to the director.

**(5)** When a chattel, building or other improvement on public land is forfeited to the Crown pursuant to subsection (4)(b), the director may

- (a) sell the chattel, building or other improvement in satisfaction of the indebtedness, and
- (b) deal with the amount, if any, by which the proceeds exceed the expenses of the sale and the indebtedness in the same manner as that provided for under section 61 with respect to amounts collected from an applicant on account of improvements.

**(6)** When

- (a) the director decides that a building or other improvement is affixed to and forms a part of public land and the building or improvement is not owned or was not created by any person who occupies the public land pursuant to a disposition, or
- (b) the building or other improvement is forfeited to the Crown pursuant to subsection (4)(a),

the director may authorize any person to remove, demolish, sell or otherwise dispose of the building or improvement.

(7) When the director issues an authorization to a person pursuant to subsection (6), the director may require that person to

- (a) post a notice on the building or improvement stating that, on or after the 30th day following the posting of the notice, the building or improvement will be removed from the land, demolished, sold or otherwise disposed of, and
- (b) cause a notice to appear once a week for 2 consecutive weeks in a newspaper circulating in the vicinity of the land on which the building or improvement is situated describing the building or improvement, the land on which it is situated, and stating that it will be removed, demolished, sold or otherwise disposed of on or after the 30th day following the last appearance of the notice.

(8) During the term of a disposition the director may authorize any person to enter on the land and remove any chattels, fencing, buildings or other improvements that are not owned by the holder of the disposition.

(9) If a chattel, other than an improvement deemed by the director to be affixed to land and to form a part of it, is found on public land and the owner of that chattel cannot be ascertained or located on reasonable inquiry, the director may cause the chattel to be confiscated, removed from the public land and disposed of in any manner the director thinks fit.

(10) When the owner of a chattel referred to in subsection (9) is ascertained, the director may by notice in writing

- (a) require the owner to remove the chattel from the public land on or before a day designated in the notice, and
- (b) advise the owner that if the notice is not complied with the chattel may be confiscated and disposed of in any manner the director thinks fit.

(11) When

- (a) the director disposes of a chattel, building or other improvement pursuant to subsection (5),
- (b) a building or other improvement is disposed of pursuant to subsection (6), or
- (c) a chattel is confiscated, removed and disposed of pursuant to subsection (9),



all the right, title and interest of any person who may be the owner of, or may have any interest in, the building, improvement or chattel ceases.

RSA 2000 cP-40 s62;2009 cA-26.8 s91(51)

#### **Access for recreational purposes**

**62.1(1)** The holder of an agricultural disposition shall, in accordance with the regulations, allow reasonable access to the land that is the subject of the disposition to persons who wish to use the land for recreational purposes.

**(2)** The Minister may make regulations

- (a) classifying agricultural dispositions for the purposes of this section and the regulations;
- (b) respecting what constitutes reasonable access in respect of agricultural dispositions or classes of agricultural dispositions;
- (c) defining and classifying recreational purposes and setting out the nature and extent of the right of reasonable access with respect to specified recreational purposes on specified classes of agricultural disposition lands;
- (d) respecting terms and conditions applicable to the exercising of a right of reasonable access under this section;
- (e) authorizing an employee of the Government under the Minister's administration to make orders in respect of access for the purposes of this section, including the attachment of terms and conditions in respect of such an order;
- (f) governing rules and procedures for obtaining reasonable access for the purposes of this section and rules and procedures that apply where reasonable access is denied including, without limitation, regulations
  - (i) authorizing an employee of the Government under the Minister's administration to review the matters in dispute,
  - (ii) governing the rules and procedures or the establishment of the rules and procedures that apply in respect of a review,
  - (iii) respecting the powers and duties of the person conducting a review, and

- (iv) respecting the orders in respect of access that the person conducting a review may make;
- (g) respecting the enforcement of an order in respect of access;
- (h) respecting the establishment and operation of recreational management plans in respect of agricultural disposition lands;
- (i) prescribing matters referred to in clauses (a) to (h) concerning prescribed dispositions and vacant disposition areas.

**(3)** A person who enters land that is the subject of an agricultural disposition in contravention of the regulations under subsection (2) or of an order in respect of access and fails to leave when requested to do so may be apprehended without warrant by an officer.

2003 c11 s3(23);2009 cA-26.8 s91(41)

#### **Duties of holder**

**63** A holder of a disposition shall with respect to the land contained in the holder's disposition

- (a) use only first class seed that is free and clear of all noxious weeds and prohibited noxious weeds within the meaning of the *Weed Control Act*,
- (b) cut, keep down and destroy all noxious weeds and prohibited noxious weeds to which the *Weed Control Act* applies,
- (c) submit to the director when requested by the director to do so a plan and a statement showing the purpose for which the land is to be used or developed and the manner in which that use or development is to be achieved, and
- (d) use the land in a manner that promotes and implements conservation.

RSA 2000 cP-40 s63;2003 c11 s3(24);  
2008 cW-5.1 s32;2009 cA-26.8 s91(51)

#### **Shelter belts, etc.**

**64(1)** In wooded, parkland or brush-covered areas the holder of a disposition shall preserve and maintain for shelter belts, windbreaks and woodlots such areas of brush and forest cover as may from time to time be prescribed by the Assistant Deputy Minister.

**(2)** In an area where there is no native tree growth the lessee shall plant shelter belts and windbreaks in firebreaks or clumps or

plantations for future use as may from time to time be prescribed by the Assistant Deputy Minister.

RSA 1980 cP-30 s61

#### **Sale of disposition in execution**

**65** When the interest of a holder of a disposition is seized in execution, no sale in execution of that interest is effective unless

- (a) it is made to a person who would be eligible to acquire it as an assignee from the holder, and
- (b) an assignment or transfer in favour of the purchaser is consented to by the director and registered under Part 5.

RSA 2000 cP-40 s65;2009 cA-26.8 s91(51)

#### **Exemption from tax recovery proceedings**

**66** When the holder's interest under a disposition is liable to

- (a) assessment and taxation in a city, town, village, municipal district, improvement district, school district or school division, or
- (b) assessment and the payment of irrigation charges in an irrigation district or rates in a drainage district,

the holder's interest is not subject to any Act providing for the recovery of taxes, rates or charges to the extent that its provisions relate to the sale of land for the purpose of recovering taxes, rates or charges.

RSA 1980 cP-30 s63;1994 cM-26.1 s642(58);1995 c24 s99(27);  
1999 cI-11.7 s214

#### **Application of rent on taxes**

**67(1)** The Minister shall transfer to the taxing authority money received as rent or purchase money under a disposition of public land or as compensation to the Crown by reason of expropriation of the Crown's interest in public land, if that land is

- (a) in an improvement district or municipal district,
- (b) land the title to which was recovered through tax enforcement proceedings, and
- (c) land that is shown in records of the Department as "tax recovery land".

**(2)** The money received from the land shall be transferred immediately at the close of the fiscal year or at any other time the Minister directs.

RSA 2000 cP-40 c67;2006 c23 s67

**Inspection of records**

**68(1)** When a disposition provides for payment of rent on a royalty, share of production or crop share basis, the director may authorize any person to inspect any storage ticket, book of account or other document or record relating to the possession, delivery, transportation, storage or other dealing with the material, production or crop, share of the material, production or crop or portion of the material, production or crop taken from or grown on the land held under the disposition.

**(2)** Unless otherwise authorized by a court, a person authorized under this section may, for the purpose of inspection, enter during business hours the land and premises of the holder, or of any elevator, storage or transportation company, or of any other person, if on reasonable grounds the authorized person believes that any storage tickets, books of account or other documents or records are located there.

RSA 2000 cP-40 s68;2009 cA-26.8 s91(42)

**Investigations and inspections**

**69(1)** In this section and in sections 69.1 to 69.6,

- (a) “civil enforcement bailiff” has the same meaning as it has in the *Civil Enforcement Act*;
- (b) “computing device” includes a personal computer, telephone and any other device capable of creating or storing electronic records whether or not the device is wireless or connected by wires to a computer system;
- (c) “justice” has the same meaning as it has in the *Provincial Offences Procedure Act*;
- (d) “order to enter and inspect” means an order issued under section 69.2;
- (e) “peace officer” has the same meaning as it has in the *Peace Officer Act*;
- (f) “record” means a record of information in any form and includes notes, images, audiovisual recordings, x-rays, books, documents, maps, drawings, photographs, letters, vouchers and papers and any other information that is written, photographed, recorded or stored in any manner, but does not include software or any mechanism that produces records;

(g) “warrant” means a search warrant issued by reason of the operation of section 3 of the *Provincial Offences Procedure Act*.

(2) For the purpose of the administration of this Act or the regulations, an officer may, subject to subsection (3), without warrant or order, at any time do one or more of the following:

- (a) enter on any land and in any thing on land to conduct an inspection, investigation or survey;
- (b) enter on and inspect any land and any thing on land on or in which the officer on reasonable grounds believes an offence under this Act or the regulations has been, is being or is about to be committed;
- (c) enter on any land and in any thing on land the officer on reasonable grounds believes contains records relevant and material to any disposition, order or offence under this Act or the regulations for the purpose of reviewing and obtaining copies of the records;
- (d) stop, enter and inspect any conveyance that the officer on reasonable grounds believes is being operated in contravention of this Act or the regulations, or is being used in the commission of an offence under this Act or the regulations;
- (e) stop and inspect any conveyance to ascertain whether it or the manner in which it is being operated is in compliance with this Act and the regulations;
- (f) where any thing, in the opinion of the officer, has caused, is causing or might cause loss or damage to land or any thing on the land,
  - (i) require the person having charge, management or control of the thing to detain the thing at the place where it is found,
  - (ii) require the person having charge, management or control of the thing to remove the thing, or
  - (iii) cause the thing to be removed from the place where it is found and give a receipt for it;
- (g) require the production of any records that are required to be kept under any applicable ALSA regional plan, this Act or the regulations or any other records that are related to the

purpose for which the officer is exercising any power under clauses (a) to (f).

**(3)** An officer may not enter a private dwelling or any part of a place that is designed to be used and, in the opinion of the officer based on reasonable grounds, is being used as a permanent or temporary private dwelling place except

- (a) with the consent of the occupant, or
- (b) under the authority of an order to enter and inspect or a warrant.

**(4)** An officer may not detain or remove a thing under subsection (2)(f) for more than 5 days, excluding holidays, without the consent of the person having charge, management or control of it or the owner of it, except under the authority of an order issued under subsection (5).

**(5)** Where a justice is satisfied on evidence under oath by an officer that there are reasonable grounds to believe that a thing detained or removed under subsection (2)(f) should be detained or removed for longer than 5 days, excluding holidays, to protect or conserve public lands, the justice may issue or renew an order authorizing an officer to detain or remove the thing for the length of time set out in the order.

2009 cA-26.8 s91(43)

#### **Reporting programs**

**69.1** The Minister may establish programs to promote the reporting of

- (a) acts or omissions that are causing or may cause loss or damage on public land, and
- (b) offences under this Act and the regulations.

2009 cA-26.8 s91(43)

#### **Order to enter and inspect**

**69.2(1)** Where a justice is satisfied on evidence under oath by an officer

- (a) that there are reasonable grounds for believing that it is material to the administration of this Act or the regulations for the officer to do anything set out in section 69, and
- (b) one or more of the following applies:
  - (i) no person is present to grant access to land, or a thing on the land, that is locked or otherwise inaccessible;

- (ii) a person has denied the officer access to land or a thing on the land or there are reasonable grounds for believing that a person will deny the officer access to land or a thing on the land;
- (iii) a person has interfered with the officer or prevented the officer from doing anything set out in section 69 or denied the officer access to any thing as a result of which the officer is unable to do anything set out in section 69;
- (iv) there are reasonable grounds for believing that a person will prevent an officer from doing anything set out in section 69, or will deny the officer access to any thing, as a result of which the officer may be unable to do anything set out in section 69;
- (v) it is convenient, because of the remoteness of the land or thing on the land to be inspected or any other reason, for the officer to obtain an order under this section without delay in the event access might be denied;
- (vi) there are reasonable grounds for believing that an attempt by the officer to do anything set out in section 69 without an order might defeat the purpose of this Act or the regulations or present a reasonable apprehension of harm to the officer or any person,

the justice may issue an order to enter and inspect authorizing the officer to do anything set out in section 69 that is specified in the order for the period of time set out in the order.

**(2)** The period of time referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed on application for any reason set out in subsection (1) for one or more periods each of which is not more than 30 days.

**(3)** An application under subsection (2) may be made before or after the expiry of the period.

**(4)** An order under this section may be issued or renewed on application without notice.

**(5)** An officer exercising powers under this section must do so at a reasonable time unless otherwise authorized in an order granted under this section.

2009 cA-26.8 s91(43)

**Seizure of evidence without order or warrant**

**69.3(1)** An officer may, without order or warrant, seize any thing that is produced to the officer, or that is in plain view of the officer, during an inspection under section 69 or 69.2 if the officer has reasonable grounds to believe that there has been an offence committed under this Act or the regulations and that the thing will afford evidence as to the commission of the offence.

(2) The officer may remove the thing seized or may detain it in the place where it is seized.

(3) The officer must inform the person from whom the thing is seized of the reason for the seizure and must give the person a receipt for it.

(4) An officer who seizes any thing under the authority of this section must deal with it in the same way as if it were seized under the authority of a warrant.

2009 cA-26.8 s91(43)

**Disposal of things seized**

**69.4(1)** Where a person is convicted of an offence under this Act or the regulations and any thing relating to the conviction that was seized under section 69.3 is then being detained, the thing must, on the expiration of the time for taking an appeal from the conviction or on the final conclusion of the proceedings, as the case may be,

- (a) be forfeited to the Crown, if the court orders it, or
- (b) be restored to the person from whom it was seized or to any other person who is entitled to possession of it, subject to any terms and conditions imposed by the court.

(2) If a thing is forfeited to the Crown in accordance with subsection (1),

- (a) the director may dispose of or destroy the thing in any manner the director considers appropriate, and
- (b) the costs of the forfeiture and disposal or destruction are recoverable from the offender as a debt owing to the Crown.

2009 cA-26.8 s91(43)

**Assistance by other officials**

**69.5** While exercising powers or carrying out duties under this Act or the regulations, an officer may be accompanied by any person authorized by the director, a peace officer, a civil enforcement bailiff or a member of a police service.

2009 cA-26.8 s91(43)



**Assistance to officers**

**69.6** The disposition holder of, and every person found on, any land in respect of which an officer is exercising powers or carrying out duties under this Act or the regulations shall

- (a) give the officer all reasonable assistance to enable the officer to exercise those powers and carry out those duties, and
- (b) furnish all information that the officer may reasonably require for the exercising of those powers and the carrying out of those duties.

2009 cA-26.8 s91(43)

**Demand for rent**

**70** Notwithstanding the provisions of any disposition, the demand or acceptance of rent payable under a disposition is not a waiver of the right of the Crown to enforce the observance of any provision of the disposition, this Act or the regulations, or of the right to suspend or cancel the disposition under this Act or the regulations for any default or breach committed before the rent is demanded or accepted.

RSA 2000 cP-40 s70;2009 cA-26.8 s91(44)

**Documents as evidence**

**70.1(1)** In any proceeding under this Act or the regulations respecting an alleged offence or claim,

- (a) a certificate of title issued under the *Land Titles Act* in the name of the Crown as represented by the Minister, or
- (b) a certificate issued out of the office of the director bearing the director's signature and certifying the public land is under the administration of the Minister,

is sufficient evidence that this Act or the regulations apply to the public land where the offence or claim is alleged to have occurred.

**(2)** On filing with the court the evidence referred to in subsection (1), the onus to prove that this Act or the regulations do not apply to the public land where the offence or claim is alleged to have occurred is on the person claiming that this Act or the regulations do not apply to that public land.

2009 cA-26.8 s91(45)

**Proceeds held in trust for Crown**

**70.2** A person in receipt of proceeds derived directly or indirectly from any use of public land in contravention of this Act or the regulations is deemed to hold the proceeds in trust for the Crown

separate and apart from the person's property until the proceeds or an amount equal to the value of the proceeds is paid to the Crown.

2009 cA-26.8 s91(45)

#### **No review by court**

**70.3** Subject to a right of appeal under this Act or the regulations, where this Act or the regulations empower or compel the director or the Minister, as the case may be, to do anything under this Act or the regulations, the director or Minister has exclusive and final jurisdiction to do that thing and no decision, order, direction, ruling or proceeding of the director or the Minister shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court to question, review, prohibit or restrain the director or Minister from doing the thing.

2009 cA-26.8 s91(45)

#### **Action for damages**

**71** No person shall bring an action for the recovery of damages against a person who holds a licence of occupation granted under the regulations in respect of a road, if the damages are caused

- (a) by the presence, absence or insufficiency of a wall, fence, guardrail, railing, curb, pavement markings, traffic control device, sign, illumination device or barrier adjacent to, in, along or on the travelled portion of the licensed area, or
- (b) by
  - (i) any construction, obstruction or structure, or
  - (ii) the existence or arrangement of any earth, rock, tree or other material or thing

that is adjacent to, in, along or on the licensed area but that is not on the travelled portion of it.

RSA 1980 cP-30 s68

## **Part 1.1 Public Land Uses**

#### **Regulations**

**71.1(1)** The Lieutenant Governor in Council may make regulations

- (a) declaring any area of land to be a public land use zone;
- (b) permitting, prohibiting, regulating or controlling activities on and uses of land in public land use zones;

- (c) declaring any area of land to be a public land recreation area or public land recreation trail;
- (d) governing the use of public land recreation areas or public land recreation trails and prohibiting, regulating or controlling activities in them;
- (e) establishing fees payable for the use of public land recreation areas or public land recreation trails.

(2) On the coming into force of this Part, the

- (a) *Castle Special Management Area Forest Land Use Zone Regulation* (AR 49/98),
- (b) *Forest Recreation Regulation* (AR 343/79), and
- (c) *Forest Land Use and Management Regulations* (AR 197/76),

are continued under this Act.

(3) In any enactment made before or after the coming into force of this Part, references to a forest land use zone, forest recreation area and forest recreation trail are deemed to be references to a public land use zone, public land recreation area and public land recreation trail, respectively.

(4) In the regulations listed in subsection (2), a reference to a forest officer is deemed to be a reference to an officer under this Act.

2009 cA-26.8 s91(46)

#### **Order by director**

**71.2** Notwithstanding any regulations made under section 71.1(1)(d), the director may by order

- (a) prohibit or restrict entry to all or any part of a public land recreation area or public land recreation trail, or
- (b) prohibit any use or activity in all or any part of a public land recreation area or public land recreation trail.

2009 cA-26.8 s91(46)

#### **Order by officer**

**71.3** In addition to exercising other powers under this Act and the regulations, an officer may order a person in a public land recreation area or on a public land recreation trail to refrain from doing anything that, in the opinion of the officer, may result in loss

or damage or is detrimental to the management or use of the public land recreation area or public land recreation trail.

2009 cA-26.8 s91(46)

### **Impounding**

**71.4(1)** In addition to exercising other powers under this Act and the regulations, an officer may impound a conveyance or other property and take it to a place designated by the director if the officer believes on reasonable grounds that

- (a) the operation of the conveyance or other property has caused, is causing or might cause loss or damage on public land,
- (b) the operation of the conveyance or other property has interfered with, is interfering with or might interfere with the management or use of a public land recreation area or public land recreation trail, or
- (c) the conveyance or other property was left unattended without the written permission of an officer for a period of more than 24 hours in a part of a public land recreation area or public land recreation trail not specifically designated for that purpose.

**(2)** An officer who impounds a conveyance or other property pursuant to subsection (1) shall send a notice by registered mail to the person in whose name the conveyance or other property is registered, if known, and to the nearest detachment of the Royal Canadian Mounted Police, stating the location of the conveyance or other property and the cost of impounding and storage.

**(3)** All reasonable costs incidental to the impounding of a conveyance or other property under subsection (1) and to the storage of it for a period not exceeding 6 months constitute a debt owing to the Crown by the registered owner, or any subsequent purchaser, of the conveyance or other property.

**(4)** The owner of an impounded conveyance or other property is entitled to it on producing proof of ownership of the conveyance or property and paying the costs owing under subsection (3).

**(5)** An impounded conveyance or other property that remains unclaimed 60 days after it was impounded may be sold by public auction and the proceeds of the sale shall be disbursed in the following order of priority:

- (a) to pay the expenses of selling the conveyance or property;
- (b) to pay the debt owing to the Crown under subsection (3);

(c) to pay any amount remaining into the General Revenue Fund.

(6) If no bid is received for an impounded conveyance or other property at a public auction held under subsection (5), the conveyance or property may be disposed of in any convenient manner.

(7) Any amount remaining under subsection (5)(c) shall be paid to any person who, within one year of the date of sale of the conveyance or other property, produces evidence satisfactory to the director that the person is entitled to it.

(8) No liability attaches to a person

(a) who sells a conveyance or other property under subsection (5), or

(b) who disposes of a conveyance or other property pursuant to subsection (6),

and, in the case of a sale, that person passes good title as against the former owner or anyone claiming through the former owner.

2009 cA-26.8 s91(46)

## Part 2 Dispositions not Leading to Title

### Definitions

**72** In this Part,

(a) “lease” means a disposition other than a disposition under which the holder may become entitled to an estate in fee simple, but includes a disposition containing an option to purchase the land to the extent that its provisions do not pertain to the option;

(b) “lessee” means the holder of a lease.

RSA 1980 cP-30 s69;1984 c34 s14

### Refusal to issue lease

**73** The director may refuse to issue a lease or a renewal lease and may refund money paid in connection with any lease.

RSA 2000 cP-40 s73;2009 cA-26.8 s91(51)

### Age of applicant

**74** Unless otherwise provided in the regulations, a minor is not eligible to apply for a lease.

RSA 1980 cP-30 s71

**Liability of lessees**

**75** When a lease is held by 2 or more persons, the lessees are jointly and severally liable for the performance of all the lessee's obligations under the lease, the regulations and this Act regardless of the nature of their tenure under the lease.

RSA 1980 cP-30 s72

**Protection of lessees**

**76** When the director authorizes a person to enter on public land contained in a lease or withdraws any land from the lease, the director may prescribe the conditions which, in the director's opinion, must be met for the protection of the lessee's interest.

RSA 2000 cP-40 s76;2009 cA-26.8 s91(51),(52)

**Use of land**

**77** A lessee shall not make use of the land for any purpose other than that for which the lease was granted without the consent of the director, and then only on the terms and conditions the director may prescribe.

RSA 2000 cP-40 s77;2009 cA-26.8 s91(51)

**Use of cordwood and timber**

**78(1)** Notwithstanding the *Forests Act*, a lease may also authorize the lessee to harvest timber on land contained in the lease.

**(2)** In the case of a lease referred to in subsection (1) the lessee shall, notwithstanding the terms of any applicable forest management agreement, pay timber dues and additional charges on the timber in accordance with the provision in the regulations under the *Forests Act* that prescribes the timber dues and other charges that are payable in respect of timber that is cut, damaged or destroyed under an authority granted by the Crown, other than a timber disposition under the *Forests Act*.

**(3)** A lessee who prepares land contained in the lease for cultivation may, without any further authorization, use wood on the land for fuel and for the construction of buildings and other improvements on the land.

RSA 2000 cP-40 s78;2003 c29 s2

**Exemption from rent payment**

**79** The director may exempt a lessee from the payment of any portion of the lessee's rent for a period not exceeding 3 crop years following the date of issue of the lease if the land contained in the lease

- (a) is infested with noxious weeds or prohibited noxious weeds to which the *Weed Control Act* applies,

- (b) has partly reverted to its natural state, or
- (c) requires extensive clearing or excessive costs for land preparation before cultivation can be commenced.

RSA 2000 cP-40 s79;2008 cW-5.1 s32;2009 cA-26.8 s91(51)

#### **Title to crops**

**80** The title in and to all crops of every nature and description grown and produced on any public land held under lease is and remains in the Crown until the crops are divided and the Crown's share is delivered pursuant to the lease.

RSA 1980 cP-30 s77

#### **Cancellation of lease**

**81(1)** The director may cancel or amend a lease if the director is satisfied that

- (a) the leased land is not being used for the purpose for which it is leased,
- (a.1) the lease is contrary to an applicable ALSA regional plan,
- (b) when land is leased to 2 or more persons, one or more of them has ceased to use the land for the purpose for which it is leased,
- (c) the lease was issued in error,
- (d) the lease or the land described in it is not held by the lessee for the lessee's sole use and benefit,
- (e) the lessee was ineligible to apply for or acquire the lease or is ineligible to hold it, or
- (f) the lessee has failed to pay the rent, or any taxes, rates or assessments levied against the lessee's interest under the lease or any other money payable under the lease when it is due.

**(1.1)** Where the director is authorized to cancel or amend a lease under subsection (1)(a), the director may instead withdraw part of the land from the lease.

**(2)** Except as otherwise provided in the regulations, when the director cancels a lease pursuant to subsection (1) or withdraws land from a lease pursuant to subsection (1.1), all payments made to the Crown in connection with it are forfeited and the lessee is not entitled to any compensation for any work performed on the leased land or for any expenditure made by the lessee in respect of or incidental to the lessee's use of it.

(3) When a lease is cancelled or part of the land is withdrawn from the lease, any unpaid rent may be recovered as a debt owing to the Crown.

RSA 2000 cP-40 s81;2003 c11 s3(25);2009 cA-26.8 s91(47),(51)

#### **Withdrawal from lease**

**82(1)** Sixty days after the date on which the director mails a notice in writing to the last known address of the lessee, the director may cancel a lease or withdraw any part of the land contained in a lease

- (a) when, except in the case of a lease conveying rights to sand, silica sand, topsoil, peat, gravel, clay or marl, the director is satisfied that the land contained in the lease or to be withdrawn from it contains sand, silica sand, topsoil, peat, gravel, clay or marl in commercial quantities,
- (b) when the land contained in the lease or to be withdrawn from it is to be subdivided or made the subject of a disposition that will authorize its use for industrial or commercial purposes,
- (c) when the land contained in the lease or to be withdrawn from it is to be designated as a park pursuant to the *Provincial Parks Act* or added to a park designated under that Act or its predecessors, or is to be set aside as a public resort or recreation area,
- (d) when the land contained in the lease or to be withdrawn from it is, in the opinion of the director, irrigable in whole or in part,
- (e) when the land contained in the lease or to be withdrawn from it is required to provide public access to a public resort or recreation area or to a river, stream, watercourse, lake or other body of water,
- (f) when, in the opinion of the director, the land contained in the lease or to be withdrawn from it is required for a purpose that the director considers to be in the public interest, or
- (g) when, in the opinion of the director, the land contained in the lease or to be withdrawn from it is required for the purposes of an applicable ALSA regional plan.

(2) When the director withdraws land pursuant to subsection (1), the director may reduce the rent reserved in the lease by an amount in direct proportion to the area of land withdrawn.



(3) When the director at the request of an applicant for a grant or disposition of public land contained in a lease cancels the lease or withdraws land from the lease pursuant to subsection (1), the applicant for the grant or disposition shall negotiate with and pay compensation to the lessee for the loss of the lessee's interest under the lease.

(4) When the director cancels a lease or withdraws land from a lease pursuant to subsection (1)(d), no compensation is payable to the lessee.

(5) When the director cancels a lease or withdraws land from a lease otherwise than in the circumstances set out in subsections (3) and (4), the director shall negotiate with and pay compensation to the lessee for the loss of the lessee's interest under the lease.

(6) If after 60 days from the date the lease was cancelled or land was withdrawn from the lease under subsection (1) the amount of compensation payable to the lessee has not been settled, the applicant or the director, as the case may be, or the lessee may apply to the Land Compensation Board established under the *Expropriation Act* to determine the amount of compensation.

(7) When an application is made to the Land Compensation Board pursuant to subsection (6), the Board shall decide the compensation payable to the lessee on the same basis as if the lessee's interest in the land had been expropriated pursuant to the *Expropriation Act*, and that Act and the regulations made under it respecting the determination of compensation, hearings and procedures, including interest, costs and appeals, apply in the same manner as if the lessee's interest had in fact been expropriated.

RSA 2000 cP-40 s82;2009 cA-26.8 s91(48),(51)

### Part 3 Homestead Sales

#### Definitions

83 In this Part,

(a) "homestead sale" means an agreement between the Minister and another person to sell that person a parcel of public land classified by the Minister as available for settlement, that was entered into under this Part before July 1, 1984 or under the former Act;

(b) "purchaser" means the holder of a homestead sale.

RSA 1980 cP-30 s80;1984 c34 s16

**Application of Part 3**

**84(1)** This Part applies only to homestead sales issued as a result of applications received on or after April 20, 1964.

(2) Except as provided in subsection (3), homestead sales entered into by the Minister

- (a) before April 20, 1964, or
- (b) pursuant to an application for a homestead sale received before that date,

are subject to the former Act, with the exception of any residence requirements of that Act, as it read immediately before April 20, 1964.

(3) The Minister may treat the holder of a homestead sale referred to in subsection (2) as having complied with section 195(1)(c) of the former Act as it stood immediately before April 20, 1964 if that purchaser proves in the purchaser's application for notification that the purchaser has an area under cultivation equivalent to the area required to be under cultivation by the end of the 5th year of the term of the purchaser's homestead sale.

RSA 1980 cP-30 s81;1984 c34 s17

**Purchase Price and Cultivation Duties****Purchase price**

**85(1)** The purchase price under a homestead sale is payable by the purchaser in equal consecutive annual instalments commencing with

- (a) the 4th year, if less than 25 acres of land were under cultivation,
- (b) the 3rd year, if not more than 50 and not less than 25 acres of land were under cultivation, or
- (c) the 2nd year, if more than 50 acres of land were under cultivation,

at the time the homestead sale was executed.

(2) The purchase price shall, in the discretion of the Minister, be divided into instalments of not more than 19 in number.

(3) Every instalment of purchase price is due and payable on January 1 in the year in which it is due.

(4) Interest on the purchase price does not begin to accrue until the first instalment is due.

(5) Any money paid by a purchaser under a homestead sale shall be applied to the payment of any interest that is owing, before any money is applied toward payment of the purchase price.

(6) Any or all of the instalments of purchase price may be paid before they are due.

RSA 1980 cP-30 s86;1984 c34 s19

#### Cultivation duties

**86(1)** A purchaser of a homestead sale of land not exceeding one quarter section shall break and seed to crop not less than the following areas in each year after the issue of the homestead sale:

	<i>Break</i>	<i>Seed to crop</i>
First year.....	10 acres	nil acres
2nd year.....	10 acres	10 acres
3rd year.....	10 acres	20 acres
4th year.....	10 acres	30 acres
5th year.....		40 acres
6th year.....		40 acres
7th year.....	10 acres	40 acres
8th year.....	10 acres	50 acres
9th year.....		60 acres
each year afterwards.....		60 acres

(2) For the purposes of subsection (1),

- (a) any land that was under cultivation at the time the homestead sale was issued is deemed to be land broken by the purchaser, and
- (b) summerfallow, unseeded cultivated land or land seeded to tame hay or grass is, when authorized by the Assistant Deputy Minister, deemed to be land seeded to crop.

(3) When a homestead sale contains land exceeding one quarter section, the area to be broken and seeded to crop shall bear the same proportion to the total area as the areas set out in subsection (1) bear to one quarter section.

RSA 1980 cP-30 s87;1984 c34 s20

#### Extension of time

**87** The Minister may grant extensions of time to the purchaser for the performance of the terms and conditions of the homestead sale.

RSA 1980 cP-30 s89

**Exemption from taxation**

**88** No land contained in a homestead sale is liable to taxation under any Act authorizing the taxation of a purchaser's interest under a homestead sale until

- (a) the 4th year, if less than 25 acres of land were under cultivation,
- (b) the 3rd year, if not more than 50 and not less than 25 acres of land were under cultivation,
- (c) the 2nd year, if not more than 100 but more than 50 acres of land were under cultivation, or
- (d) the first year, if more than 100 acres of land were under cultivation,

on the day the homestead sale was issued.

RSA 1980 cP-30 s90;1984 c34 s22

**Homestead Sales in Substitution for Homestead Leases****Obligations of purchaser**

**89** Where, before July 1, 1984, a homestead sale was issued in substitution for a homestead lease, the purchaser is in the same position with respect to the commencement of payments of instalments under section 85(1) as the purchaser would be if the date of issue of the homestead sale were the same as the date of the commencement of the term of the cancelled homestead lease.

RSA 1980 cP-30 s93;1984 c34 s24

**Cancellation****Cancellation of homestead sale**

**90** The Minister may cancel a homestead sale if the purchaser

- (a) has not performed or misrepresents the performance of the purchaser's cultivation duties,
- (b) is more than 2 years in arrears in the payment of taxes against the purchaser's homestead sale,
- (c) neglects or refuses to pay for any improvements that were inadvertently not paid for at the time the homestead sale was issued,
- (d) purports to transfer, assign, mortgage, encumber, charge or otherwise dispose of the purchaser's interest under the homestead sale prior to the issue of a notification with

respect to the land described in it, without the consent of the Minister,

- (e) sells or otherwise disposes of improvements created or chattels purchased with financial assistance obtained under the *Veterans' Land Act* (Canada),
- (f) fails to comply with the terms and conditions of the purchaser's contract for a loan under the *Homestead Lease Loan Act*, RSA 1980 cH-9,
- (g) does not personally operate the land contained in the homestead sale or permits or agrees to permit any person other than the purchaser's employee to use, occupy or operate any part of the land, or
- (h) acquired the homestead sale in substitution for a homestead lease that was acquired by the purchaser in error or through fraud, misrepresentation, personation or improvidence.

RSA 1980 cP-30 s94;1984 c34 s25

#### **Compensation and refunds after cancellation**

**91** When a homestead sale is cancelled, the debt of the purchaser for the unpaid balance of the purchase price and interest is extinguished and the Minister may

- (a) pay or refuse to pay to the purchaser any money as compensation for improvements created by the purchaser on the land described in the homestead sale, and
- (b) refund or refuse to refund all or any portion of the money paid on account of the purchase price and interest.

RSA 1980 cP-30 s95

#### **Relief from cancellation**

**92(1)** Except as provided in this section, the Minister shall not cancel a homestead sale by reason of a default by a purchaser in the performance of the purchaser's cultivation duties or in the payment of the purchase price or interest when the default occurred

- (a) during the purchaser's last illness leading up to the purchaser's death,
- (b) after the purchaser's death, or
- (c) after the purchaser became mentally incapacitated, if it appears to the Minister that the default by reason of which the homestead sale might otherwise have been cancelled was attributable to the purchaser's mental incapacity.

- (2) The Minister may limit the time during which subsection (1) applies and may from time to time and as the Minister considers necessary extend that period of time.
- (3) No time limit or extensions shall be made beyond 3 years from the date of death of a purchaser or the date of the appointment of the purchaser's personal representative, whichever is sooner.
- (4) When the Minister sets a time limit pursuant to subsection (2) or allows an extension of a time limit, the Minister shall serve a notice to that effect by mail on
- (a) the personal representative, in the case of a deceased purchaser,
  - (b) a member of the next of kin of a deceased purchaser, if no personal representative has been appointed, or
  - (c) the administrator of the estate of a mentally incapacitated purchaser.
- (5) On the expiration of the time limit referred to in subsection (2) or any extensions of the time limit, subsection (1) no longer applies to the homestead sale.

RSA 1980 cP-30 s96;1984 c34 s26

**Assignments**

**93** Notwithstanding section 96(1)(a), the Minister may consent to an assignment of a homestead sale made earlier than the 5th year if the assignment is made by the personal representative of a deceased purchaser or the administrator of the estate of a mentally incapacitated purchaser.

RSA 1980 cP-30 s97

**Postponement of obligations**

**94** The Minister, on being satisfied that the physical or mental condition of the purchaser is or was such as to incapacitate the purchaser, may postpone

- (a) the payment of any instalment or instalments of the purchase price or of interest payable under a homestead sale, or
- (b) the performance of all or part of the purchaser's cultivation duties during any period in which the purchaser is or was so incapacitated and for any further period the Minister considers just.

RSA 1980 cP-30 s98;1984 c34 s27

**Sale of homestead sale**

**95** The Minister may sell the land contained in a homestead sale on any terms and conditions that the Minister prescribes to

- (a) a purchaser who, in the Minister's opinion, has faithfully and to the best of the purchaser's ability endeavoured to perform the purchaser's obligations under the homestead sale but from some unpreventable cause or mental or physical incapacity or through some technicality has failed in doing so and yet has an equitable claim entitling the purchaser to favourable consideration, or
- (b) a former purchaser whose homestead sale has been cancelled on the ground that the former purchaser was ineligible to acquire the homestead sale or the homestead lease for which it was substituted.

RSA 1980 cP-30 s99

**Assignments****Assignments**

**96(1)** A purchaser may, with the consent of the Minister, assign the purchaser's homestead sale, but the Minister shall not consent to an assignment

- (a) unless the assignor can be credited with the performance of cultivation duties equivalent to the cultivation duties prescribed for the first 2 years,
- (b) unless the assignor has paid the instalments due and owing on the purchase price,
- (c) unless the assignee is 18 years of age or older,
- (d) subject to clause (c), unless the assignee is a person who would be eligible to become a purchaser on the assignee's own application for the homestead sale,
- (e) when the purchaser is indebted in respect of financial assistance received by the purchaser under the *Veterans' Land Act* (Canada), or
- (f) when the purchaser has not repaid in full any money owing by the purchaser under a loan made pursuant to the *Homestead Lease Loan Act*, RSA 1980 cH-9.

**(2)** Notwithstanding anything in this Act or the regulations, the Minister may, on any terms and conditions that the Minister prescribes, 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 that has the potential of being developed as an economic enterprise.

RSA 1980 cP-30 s100

### Application for Title

#### Application for title

**97(1)** A notification may be issued for land contained in a homestead sale to a purchaser who

- (a) submits an application containing information satisfactory to the Minister,
- (b) has paid the purchase price or is entitled to a credit pursuant to this section sufficient to pay the purchase price,
- (c) has an area under cultivation equivalent to the area required to be under cultivation by the end of the 5th year of the term of the homestead sale,
- (d) has repaid all money loaned to the purchaser pursuant to the *Homestead Lease Loan Act*, RSA 1980 cH-9,
- (e) obtains the consent of The Director, the *Veterans' Land Act* (Canada) if the purchaser owes any money advanced to the purchaser as financial assistance under the *Veterans' Land Act* (Canada),
- (f) is a Canadian citizen or, with respect to a homestead sale issued before May 10, 1973, a British subject, and
- (g) has not fraudulently misrepresented any of the information contained in the purchaser's application.

**(2)** If a purchaser dies or is mentally incompetent and the purchaser's application for notification is made by the purchaser's personal representative or administrator, the personal representative or administrator is not required to prove that the deceased or mentally incompetent purchaser was or is a Canadian citizen or British subject.

RSA 1980 cP-30 s101;1984 c34 s28

#### Affidavits with application

**98(1)** Every application made by a purchaser for a notification shall be supported by the affidavit of the purchaser verifying the information given in the application.

**(2)** If the Minister so requires, the application shall be supported by affidavits of 2 persons residing in the vicinity of the land



contained in the homestead sale verifying the information given by the purchaser in the purchaser's application.

RSA 1980 cP-30 s102

### Miscellaneous

#### Improvements

**99** A purchaser shall not build or make any improvements of a permanent nature, other than fencing or cultivation, on any part of the land contained in a homestead sale that lies within one rod of a statutory road allowance.

RSA 1980 cP-30 s103

#### Use of land

**100** No purchaser shall use the land contained in a homestead sale other than as a farm and a place of residence, except with the consent of the Minister and then only on the terms and conditions that the Minister prescribes.

RSA 1980 cP-30 s104

#### Use of timber

**101** Section 78(3) applies, with the necessary changes, to homestead sales and the purchasers holding them.

RSA 2000 cP-40 s101;2003 c29 s2

## Part 4 Grazing Leases

#### Grazing lease

**102(1)** The director may in accordance with this Part lease public land for a term not exceeding 20 years for the purpose of grazing livestock when, in the director's opinion, the best use that may be made of the land is the grazing of livestock.

**(1.1)** Notwithstanding subsection (1), the director may in accordance with this Part

- (a) lease public land in a heritage rangeland for a term not exceeding 30 years, or
- (b) amend any lease granted under subsection (1) in a heritage rangeland to extend the term to one not exceeding 30 years and to include other terms and conditions,

if the lease is for the purpose of grazing livestock and the director is satisfied that ongoing grazing of livestock is essential for maintaining the grassland ecology and ensuring the effective management and lasting protection of the heritage rangeland.

(2) A lease under this Part shall be called a grazing lease.

(3) The area of land leased under this Part shall not exceed an area sufficient to graze 600 head of cattle, unless, in the opinion of the director, a larger area can be leased without adversely affecting the interests of other farmers or ranchers residing in the vicinity of the leased land.

RSA 2000 cP-40 s102;RSA 2000 c34(Supp) s14;  
2009 cA-26.8 s91(51),(52)

#### **Annual rent**

**103(1)** The rent payable under a grazing lease is

- (a) an annual rent equal to the percentage established by the Lieutenant Governor in Council of the forage value of the leased land, and
- (b) any additional annual rent prescribed by the Minister.

(2) The forage value of the land contained in a grazing lease shall be fixed annually by the director who shall for this purpose consider

- (a) the grazing capacity of the land,
- (b) the average gain in weight of cattle on grass, and
- (c) the average sale price per pound of cattle, other than finished cattle, sold in the principal livestock markets in Alberta during the preceding calendar year or the portion of that year selected by the director.

(3) Notwithstanding the date from which the term of a grazing lease is computed, the rent is payable for each calendar year or portion of a calendar year included in the term of the lease on or before

- (a) July 1 in each year if the lessee is a grazing association, or
- (b) April 1 in each year if the lessee is not a grazing association.

RSA 2000 cP-40 s103;2009 cA-26.8 s91(51)

#### **Grazing capacity of land**

**104(1)** The Minister may establish from time to time the grazing capacity of all grazing land in Alberta and for this purpose may

- (a) divide Alberta into districts,
- (b) establish the grazing capacity of grazing land in each district, and

- (c) establish the grazing capacity of grazing land held under a grazing lease either above or below the grazing capacity of other grazing land in the district in which the leased land is situated.

**(1.1)** Notwithstanding subsection (1), the director may establish the grazing capacity of grazing land contained in a grazing lease for any period.

**(2)** If the director does not establish the grazing capacity of land held under a particular grazing lease, the grazing capacity of that land is the same as the grazing capacity established under subsection (1) for the district in which that land is situated.

**(3)** A cow of average weight with calf at foot shall be considered as one animal unit for the purpose of establishing the grazing capacity of grazing land, and any variations in the proportions of an animal unit due to age, weight and type of livestock shall be determined by the Minister.

**(4)** The Minister may make regulations

- (a) classifying grazing leases and grazing dispositions for the purposes of this section and the regulations;
- (b) respecting rules and procedures for calculating grazing capacity of land;
- (c) respecting any other procedural and substantive matters necessary for carrying out the Minister's or director's powers under this section.

RSA 2000 cP-40 s104;2009 cA-26.8 s91(49)

#### **Grazing leases held by grazing association**

**105(1)** When a grazing lease is held by a grazing association, the land contained in the lease shall be used for the benefit of its members who are operating farms in the vicinity, if they qualify for grazing privileges under the bylaws of the association.

**(2)** Notwithstanding subsection (1), when a grazing lease is held by a grazing association and any person having a farm in the vicinity of the land contained in the lease has been refused membership in, or has been dismissed from the membership of, the association, the director may, after considering the complaint of that person and the representations of the association,

- (a) request the association to accept or reinstate that person as a member, as the case may be, and

(b) if the association refuses to do so, order the association to allow the stock of that person to graze on the leased land on the same terms that the association prescribes for its members.

**(3)** When a grazing lease is held by a grazing association and any member of the association has been allotted more than 20 animal units for the grazing season, the director may require the grazing association

(a) to reduce the allotment of that member to a minimum of 20 animal units in subsequent years, and

(b) to issue allotments to other persons operating farms in the vicinity of the grazing lease.

**(4)** When a grazing lessee is a grazing association, the association shall maintain a membership of at least 5 persons none of whom is the spouse or adult interdependent partner of any of the others.

RSA 2000 cP-40 s105;2002 cA-4.5 s68;2009 cA-26.8 s91(51)

#### **Residence**

**106(1)** The director may grant an ancillary lease to a grazing lessee of a parcel of public land not exceeding one quarter section in area on which the lessee may reside and erect the buildings the lessee requires to conduct the lessee's operations.

**(2)** The term of any lease granted pursuant to subsection (1) commences and expires on the same dates that the term of the lessee's grazing lease commences and expires, and if the grazing lease is cancelled the ancillary lease is thereby terminated.

RSA 2000 cP-40 s106;2009 cA-26.8 s91(51)

#### **Community grazing reserve**

**107** When the Minister is satisfied that the interests of the farmers or ranchers in any area demand it, the Minister may establish, maintain and operate a community grazing reserve.

RSA 1980 cP-30 s111

#### **Regulations**

**108** The Lieutenant Governor in Council may make regulations

(a) repealed 2003 c11 s3(26);

(b) varying the requirements of section 60 as to applicants for grazing leases;

(c), (d) repealed 2003 c11 s3(26);

- (e) prescribing the terms and conditions on which grazing lessees may conduct range improvement projects on the land contained in their grazing leases and authorizing the exemption from the payment of rent under those grazing leases for the periods and on the terms and conditions prescribed in the regulations;
- (f) repealed 2003 c11 s3(26);
- (g) prescribing the circumstances under which the Minister must refuse to consent to an assignment of a grazing lease and governing any other matter that relates to the assignment of grazing leases;
- (h) repealed 2003 c11 s3(26);
- (i) generally, providing for any other matter pertaining to grazing leases or grazing lessees.

RSA 2000 cP-40 s108;2003 c11 s3(26)

#### **Withdrawals from grazing leases**

**109(1)** One year after the date on which the director mails a notice in writing to the last known address of the grazing lessee stating the director's intention to do so, the director 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 director 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 director 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.

**(2)** The director 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 the lessee's spouse or adult interdependent partner, 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 the lessee's spouse or adult interdependent partner, or both, under a grazing lease within a special area,
- (c) when the lessee or the lessee's spouse or adult interdependent partner, 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 the lessee's spouse or adult interdependent partner, or both, bears to the total number of the joint lessees including the lessee or the lessee's spouse or adult interdependent partner, or both of them, and
- (d) when the lessee or the lessee's spouse or adult interdependent partner, 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 the lessee's spouse or adult interdependent partner, 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, called in this subsection the "lessee corporation", the director 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.

RSA 2000 cP-40 s109;2002 cA-4.5 s68;2009 cA-26.8 s91(51),(52)

**Cancellation or withdrawal after assignment refusal**

**110(1)** If the director refuses the director's consent to an assignment of a grazing lease, the director may

- (a) cancel the lease, or
- (b) withdraw any land from the lease,

on giving the lessee one year's notice in writing to that effect.

**(2)** If a grazing lessee to whom a notice has been given pursuant to subsection (1) makes an assignment of the lessee's lease to a person other than the person named as the assignee in the assignment to which the director refused the director's consent, and the director consents to the subsequent assignment, the notice given pursuant to subsection (1) is deemed to be withdrawn.

RSA 2000 cP-40 s110;2009 cA-26.8 s91(51),(52)

**Grazing lease of deceased lessee**

**111(1)** When the holder of a grazing lease has died and the personal representative of the lessee's estate has not obtained, within 2 years after the date of death of the lessee, the consent of the director to an assignment of the grazing lease, the director may give notice to the personal representative to submit to the director an assignment of the grazing lease within the time specified in the notice.

**(2)** The director may from time to time extend the time specified in the notice referred to in subsection (1).

**(3)** When a notice has been given pursuant to subsection (1), the submission by the personal representative of an assignment of a grazing lease

- (a) that the director may properly refuse for registration pursuant to Part 5, or
- (b) that is made under circumstances prescribed by the regulations under this Part as circumstances under which the director is required to refuse the director's consent to the assignment,

is not a compliance with the notice.

**(4)** If the personal representative does not comply with a notice given to him or her pursuant to subsection (1), the director may cancel the grazing lease.

RSA 2000 cP-40 s111;2009 cA-26.8 s91(51),(52)

**Proof of corporate lessee**

**112(1)** When any corporation is the holder of a grazing lease, the director may at any time by notice in writing require the lessee to furnish proof that at the time of the notice

- (a) it is incorporated under the laws of Canada or of Alberta, and
- (b) the majority of its shares are owned by residents of Alberta for their exclusive use and benefit and not in the interests of or for the benefit of any other person,

and, if the director should so desire, to furnish proof that the de facto control of the lessee corporation is in the persons resident in Alberta who own the major part of the shares of that corporation.

**(2)** If the lessee fails to comply with the notice or if the proof furnished by the lessee is not satisfactory to the director, the director may cancel the lease.

RSA 2000 cP-40 s112;2009 cA-26.8 s91(51)

## **Part 5 Registration of Assignments**

**Definitions**

**113** In this Part,

- (a) “assignment” includes transfer;
- (b) “disposition” includes any lease, permit or licence, or any instrument granting an estate or interest in public land and made pursuant to the *Forests Act* or its predecessors;
- (c) “registration” or “register” means
  - (i) the entering in a book authorized by the Minister for that purpose of an assignment, and
  - (ii) the endorsing on or attaching to the disposition affected of a memorandum evidencing an entry under subclause (i).

RSA 1980 cP-30 s118

**Registration of assignment**

**114(1)** An assignment of a disposition that the holder is not prohibited from assigning by any Act or regulation or by the disposition itself may be registered by the director.

**(2)** The Minister shall cause to be kept in the Department books for the registration of assignments.



- (3) The director may refuse to register an assignment unless
- (a) the assignment, other than an assignment of a mineral surface lease, is unconditional,
  - (b) all of the persons to whom the disposition was made are the assignors under the assignment,
  - (c) the assignment is executed in a manner satisfactory to the director and accompanied with proof of execution satisfactory to the director,
  - (d) the assignment is in a form satisfactory to the director, and
  - (e) all required charges and fees are paid.
- (4) When an assignment is executed by an attorney or agent, proof of the authority of the attorney or agent, in a form satisfactory to the director, shall be submitted to the Department.

RSA 2000 cP-40 s114;2003 c11 s3(27);2009 cA-26.8 s91(51)

#### **Assignment charges**

**114.1(1)** Where an assignment of a grazing lease or grazing licence is made, the assignee shall pay to the director a charge in an amount equal to \$100 or a charge determined in accordance with the following, whichever is greater:

- (a) \$50 for each animal unit month where the land that is the subject of the grazing lease or grazing licence is located in zone A1 or B;
- (b) \$100 for each animal unit month where the land that is the subject of the grazing lease or grazing licence is located in zone A2;
- (c) \$5 for each animal unit month where the land that is the subject of the grazing lease or grazing licence is located in zone C.

(2) The director may, when a grazing lease or grazing licence is issued or at any time during its term, by notice in writing sent by ordinary mail, require a corporation holding an interest in the grazing lease or grazing licence or any associated corporation to file with the director a statement certified by an officer or director of the corporation or associated corporation, as the case may be, showing the name, address, citizenship and occupation of, and the number of shares held by, each of the corporation's or associated corporation's shareholders.

(3) If a corporation holds a grazing lease or grazing licence and, as a result of a transfer, redemption or allotment of shares, the beneficial ownership of the issued and outstanding shares changes, the corporation shall

- (a) notify the director of the transfer, redemption or allotment of shares within 30 days after the date it occurs, and
- (b) unless subsection (4) applies, pay to the director a charge or an amount determined by the director that
  - (i) is a percentage of the assignment charge that the corporation would have had to pay under subsection (1) if the grazing lease or grazing licence had been assigned to it by another person, and
  - (ii) is based on the amount of change in beneficial ownership resulting from the transfer, redemption or allotment.

(4) Where a transfer, redemption or allotment of shares described in subsection (3) occurs, the director may cancel the grazing lease or grazing licence if the director considers that it is in the public interest to do so.

2003 c11 s3(28);2009 cA-26.8 s91(51)

#### **Effect of registration of assignment**

**115(1)** Notwithstanding anything in an assignment, but subject to this section, the interest of an assignor in a disposition ceases on registration of an assignment of the disposition and, on that registration, the assignee becomes the holder of the disposition.

(2) An assignment registered under this Part is valid against and takes priority over any unregistered assignment.

(3) Insofar as an assignment affects the Crown, the assignment is deemed to take effect from the time of its registration.

RSA 1980 cP-30 s120

#### **Assignments where holder assignor and assignee**

**116(1)** An assignor may assign a disposition to himself or herself and another person or persons and on registration of the assignment is entitled to the interest that the assignment purports to convey to the assignor to the same extent as if the assignor were not the assignor.

(2) Two or more persons, being the holders of a disposition, may assign the disposition to one or more of them, who on registration of the assignment are entitled to the interest that the assignment

purports to convey to that person or them to the same extent as if that person or they were not the assignors.

RSA 1980 cP-30 s121

#### **Registration deemed to confer consent**

**117(1)** When an Act or regulation or a provision of a disposition prohibits an assignment of the disposition except with the consent of the director, the consent of the director is deemed to be given by the registration of the assignment under this Part.

**(2)** Nothing in this Part abrogates or restricts the right of the director to refuse the director's consent to an assignment.

RSA 2000 cP-40 s117;2009 cA-26.8 s91(51),(52)

### **Part 6 Homestead Leases Under Former Act**

#### **Homestead leases**

**118(1)** Homestead leases granted by the Minister before April 20, 1964 or pursuant to an application received by the Minister before April 20, 1964, are subject to the former Act as it stood immediately before April 20, 1964 excepting the following provisions of that Act:

- (a) section 20(2) to (6) and (8);
- (b) section 21(3) to (7);
- (c) section 22(1);
- (d) section 23(5);
- (e) section 27;
- (f) section 39(2);
- (g) section 41(2);
- (h) section 29(5);
- (i) section 42(1), (2), (6), (7) and (8).

**(2)** Section 96 of this Act applies, with the necessary changes, to homestead leases and the lessees holding them.

RSA 1980 cP-30 s123

## Part 7 Appeals

### Regulations

**119** The Lieutenant Governor in Council may make regulations respecting appeals from decisions made under this Act or the regulations, including, without limitation, regulations

- (a) establishing or designating an appeal body;
- (b) respecting the composition and manner of appointment of an appeal body, designation of a chair, convening of a panel to hear a particular appeal and providing for the remuneration and travelling and living expenses that are payable to members of an appeal body;
- (c) respecting the process for providing notice of a disposition application and notice of a disposition application decision;
- (d) prescribing the decisions under this Act or the regulations from which an appeal is available;
- (e) respecting the persons or class of persons to whom an appeal is available;
- (f) respecting the form and contents of a notice of appeal;
- (g) respecting the extension of deadlines specified in this Act and the regulations regarding appeals;
- (h) respecting the conduct of proceedings before an appeal body;
- (i) respecting the evidence to be considered by an appeal body and the factors that an appeal body is to consider in reaching its decision;
- (j) respecting the awarding and review of costs;
- (k) generally, respecting the conduct and work of an appeal body with respect to proceedings;
- (l) authorizing an appeal body to charge fees for services or materials provided by an appeal body or things done by an appeal body under this Act or the regulations, and prescribing the amounts of those fees or the manner in which the amounts are to be determined;
- (m) generally for the carrying out of appeals according to the intent of this Act.

2009 cA-26.8 s91(50)

**Appeal on the record**

**120** An appeal under this Act must be based on the decision and the record of the decision-maker.

2009 cA-26.8 s91(50)

**Notice of appeal**

**121(1)** A notice of appeal of a prescribed decision may be submitted to an appeal body by a prescribed person in accordance with the regulations.

**(2)** A notice of appeal must contain the information, and be submitted, in a form and manner in accordance with the regulations.

**(3)** A notice of appeal submitted under subsection (2) initiates an appeal of the decision objected to.

**(4)** Submitting a notice of appeal does not operate to stay the decision objected to.

2009 cA-26.8 s91(50)

**Hearing**

**122(1)** On receipt of a notice of appeal under this Act and compliance with the applicable process set out in this Act, the regulations and the rules established by the appeal body, the appeal body has jurisdiction to determine an appeal.

**(2)** In conducting a hearing of an appeal, the appeal body is not bound to hold an oral hearing but may instead make its decision on the basis of written submissions.

**(3)** The appeal body may, with the consent of the parties to the appeal, make its report to the Minister without conducting a hearing of the appeal.

2009 cA-26.8 s91(50)

**Powers of appeal body**

**123(1)** The appeal body may, on the application of a party to a proceeding before the appeal body, stay a decision in respect of which a notice of appeal has been submitted.

**(2)** Prior to conducting a hearing of an appeal, the appeal body may, in accordance with the regulations, determine which matters included in notices of appeal properly before it will be included in the hearing of the appeal.

- (3) Where the appeal body determines that a matter will not be included in the hearing of an appeal, no representations may be made on that matter at the hearing.
- (4) The appeal body may require the submission of additional information.
- (5) The appeal body may dismiss a notice of appeal if
- (a) it considers the notice of appeal to be frivolous or vexatious or without merit,
  - (b) for any other reason the appeal body considers that the notice of appeal is not properly before it, or
  - (c) the person who submitted the notice of appeal fails to provide further information required by the appeal body.
- (6) The appeal body shall dismiss a notice of appeal if a matter has been adequately dealt with through a hearing or review under any enactment.
- (7) The appeal body shall give the opportunity to make representations on the matter before the appeal body to any persons who the appeal body considers should be allowed to make representations.
- (8) The appeal body shall discontinue its proceedings in respect of a notice of appeal if the notice of appeal is withdrawn, once the appeal body is satisfied that all issues related to the appeal have been resolved.
- (9) Subject to the regulations, the appeal body may establish its own rules and procedures for dealing with matters before it.
- (10) The *Regulations Act* does not apply to rules made under this section.
- (11) The appeal body may award costs of and incidental to any proceedings before it on a final or interim basis and may, in accordance with the regulations, direct by whom and to whom any costs are to be paid.

2009 cA-26.8 s91(50)

**Decisions of appeal body**

**124(1)** The appeal body shall, within 30 days after the completion of the hearing of the appeal, submit a report to the Minister, including recommendations and the representations or a summary of the representations that were made to it.

(2) The report may recommend confirmation, reversal or variance of the decision appealed.

(3) On receiving the report of the appeal body, the Minister may, by order, confirm, reverse or vary the decision appealed and make any decision that the person whose decision was appealed could have made, and make any further order that the Minister considers necessary for the purpose of carrying out the decision.

(4) The Minister shall immediately give notice of any decision made under this section to the appeal body, and the appeal body shall immediately, on receipt of the notice of the decision, give notice of the decision to all persons who submitted notices of appeal or made representations or written submissions to the appeal body and to all the persons who the appeal body considers should receive notice of the decision.

(5) On complying with subsection (4), the appeal body shall publish or otherwise make available the appeal body's report, or a summary of it, and a notice of the Minister's decision in the manner the appeal body considers appropriate.

(6) An order of the Minister under subsection (3) may be filed with the clerk of the Court of Queen's Bench and, on filing, is enforceable as if it were a judgment of the Court.

2009 cA-26.8 s91(50)

#### **Variation of decisions**

**125** The appeal body may reconsider, vary or revoke any report made by it.

2009 cA-26.8 s91(50)

#### **No review by court**

**126** Where this Act empowers or compels the Minister to do anything respecting an appeal, the Minister has exclusive and final jurisdiction to do that thing, and no decision, order, direction, ruling, proceeding, report or recommendation of the Minister or the appeal body shall be questioned or reviewed in any court, and no order shall be made or process entered or proceedings taken in any court to question, review, prohibit or restrain the Minister or the appeal body or any of its proceedings.

2009 cA-26.8 s91(50)













Printed on Recycled Paper 