



Province of Alberta

## SPECIAL AREAS ACT

# SPECIAL AREAS DISPOSITION REGULATION

### **Alberta Regulation 137/2001**

With amendments up to and including Alberta Regulation 296/2009

### Office Consolidation

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Alberta Queen's Printer  
5<sup>th</sup> Floor, 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)

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(Consolidated up to 296/2009)

**ALBERTA REGULATION 137/2001**

**Special Areas Act**

**SPECIAL AREAS DISPOSITION REGULATION**

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#### **Definitions**

**1** In this Regulation,

- (a) “Act” means the *Special Areas Act* and, where the context requires because of the operation of section 5 of the *Special Areas Act*, includes the *Public Lands Act*;
- (b) “Board” means the Special Areas Board;
- (c) “Minister” means the Minister of Municipal Affairs;

- (d) “occupant” means any person shown in the records of the Minister as having an interest in land;
- (e) “public land” means land belonging to the Crown in right of Alberta and under the administration of the Minister.

AR 137/2001 s1;35/2007;68/2008

## **Part 1 General**

### **Dispositions**

**2** The Minister may issue and renew dispositions of public land within special areas in accordance with this Regulation.

### **Amounts payable under disposition**

**3** The Minister may prescribe the rent, rates, dues and royalties payable under any disposition.

### **Refusal**

**4** The Minister may refuse to issue or renew a disposition if the applicant or holder has a debt owing to the Crown or the Board arising out of the operation of the Act or this Regulation.

### **Application for disposition**

**5(1)** An application for a disposition

- (a) must be made in a form and manner acceptable to the Minister,
- (b) must accurately describe the land to which the application relates, and
- (c) must be accompanied with the fees prescribed in the *Special Areas Service Fees Regulation* and the applicable rent prescribed by the Minister.

**(2)** An application for a disposition under Part 6, 7 or 8 must be accompanied with the following:

- (a) the consent of the occupant, if any, of the land involved;
- (b) the acknowledgment and acceptance of that consent by the applicant;
- (c) a sketch or plan in a form acceptable to the Minister.

**Statement re shareholders**

**6(1)** The Minister may, when a disposition 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 disposition to file with the Minister a statement certified by an officer or director of the corporation, showing the name, address and citizenship of, and the number of shares held by, each of the corporation's shareholders.

**(2)** A corporation to which a disposition is issued shall notify the Board in writing of any change in the name of the corporation.

**Duties of holder**

**7** The holder of a disposition shall

- (a) pay promptly and regularly, as it becomes due and payable, any tax, rate or assessment that is duly assessed and charged against the holder of the disposition or against the land under the disposition;
- (b) pay promptly and regularly any rent, rate, royalty, charge or fee that is payable by the holder under the disposition or this Regulation;
- (c) observe and carry out the terms and conditions of the disposition;
- (d) not commit or permit waste on the land under the disposition;
- (e) not allow the accumulation of waste material, debris, refuse or garbage on the land under the disposition unless authorized under the disposition;
- (f) not use a structure or building on the land under the disposition as a dwelling place or an office unless the Minister consents in writing to that use;
- (g) keep and maintain in a good and serviceable state of repair any building or other improvement that the holder is authorized to occupy or use and that is on the land under the disposition;
- (h) not erect any building or improvements on the land under the disposition other than those authorized under the disposition or this Regulation;
- (i) erect fences, cattle guards, fireguards and other works as directed by the Minister.

**Order to carry out work**

**8(1)** Where the Minister considers that a holder has contravened

- (a) section 7(d), (e), (g), (h) or (i), or
- (b) a term or condition of the disposition,

the Minister may issue an order to the holder requiring the holder to carry out the work specified in the order in the manner and within the time outlined in the order.

**(2)** Where the holder fails to comply with an order under subsection (1) to the Minister's satisfaction, the Minister may carry out the work or cause it to be carried out.

**(3)** The Minister may recover the costs of carrying out an order under subsection (2) from the holder as debt owing to the Crown.

**Exploration**

**9(1)** The Minister may, with respect to any land under a disposition, other than a disposition under Part 7, grant to any person the right to enter on the land to explore and search for sand or gravel, and permission of the Minister includes permission to take onto the land any equipment that may be required in those operations.

**(2)** The holder is not entitled to any compensation with respect to the operations described in subsection (1) except for actual damages that the holder suffers as a result of them and any other damages the holder may be entitled to by virtue of any other law.

**Reclamation of land**

**10(1)** Where a disposition issued under Part 6, 7 or 8 expires, is cancelled or is abandoned by the holder, the holder shall restore and reclaim the land under the disposition in the manner and within the time that is acceptable to the Minister.

**(2)** If the holder contravenes subsection (1), the Minister may, despite the fact that the disposition has expired or has been cancelled or abandoned, issue an order in writing requiring the holder to do any work that the Minister considers necessary to properly restore and reclaim the land.

**(3)** Section 8(2) and (3) apply where the holder fails to comply with an order under subsection (2) of this section.

**(4)** This section applies in addition to the applicable requirements, if any, of the *Environmental Protection and Enhancement Act* and regulations in respect of conservation and reclamation.

**Renewal**

**11(1)** Where the holder is in compliance with the Act, this Regulation and terms and conditions of the disposition, the Minister may

- (a) renew the disposition, or
- (b) issue a new disposition to that holder, instead of renewing the disposition.

**(2)** The Minister

- (a) may, subject to this Regulation, renew or issue a disposition under subsection (1) for the period of time the Minister considers appropriate, and
- (b) on renewing or issuing a disposition under subsection (1), may add to, vary or delete the terms and conditions to which the previous disposition was subject.

**Changes to terms and conditions**

**12** The Minister may, with the consent of the disposition holder, add terms and conditions to, delete terms and conditions from or vary terms and conditions in a disposition.

**Refusal of assignment**

**13(1)** The Minister shall not consent to the assignment of a disposition unless the Minister is satisfied that

- (a) the assignee is eligible to hold the disposition, and
- (b) no party to the assignment is in arrears in respect of any debt owing to the Crown or the Board in respect of the disposition or, if a party is in arrears, satisfactory arrangements have been made to pay the amount owing.

**(2)** Subsection (1) does not apply in respect of the assignment of a grazing lease.

**Indemnification**

**14** The holder of a disposition shall keep the Minister indemnified against all actions, claims and demands brought or made against the Minister by reason of anything done by the holder in the exercise or purported exercise of the duties, rights, powers and privileges imposed or granted under the disposition.

**Waiver of condition**

**15** A waiver by the Minister of the strict performance or observance by the holder of a condition to which a disposition is subject is not binding on the Minister unless it is in writing, and the waiver does not abrogate any condition or operate so as to waive any subsequent breach of the same or any other conditions.

**Service**

**16(1)** Any order, notice or other document is sufficiently served on a disposition holder if it is sent by ordinary mail to or left at the last known address for the disposition holder shown in the Minister's records.

**(2)** An order, notice or other document sent by ordinary mail is deemed to be received at the time when in the due course of the mail it would have been delivered to the address to which it was sent.

**Arrears of rent**

**17** If on December 31 in a year rent is in arrears under a disposition, an amount equal to 10% of the amount in arrears is payable in addition to the rent owing under the disposition.

## **Part 2 Grazing Dispositions**

**Definition**

**18** In this Part, "grazing disposition" means a grazing lease or grazing permit.

### **Division 1 General**

**Application for grazing disposition**

**19(1)** An application for a grazing disposition may be made by

- (a) a person who is at least 18 years of age and is a Canadian citizen or a permanent resident within the meaning of the *Immigration and Refugee Protection Act* (Canada), or
- (b) a corporation.

**(2)** If an applicant is a corporation, it shall submit with its application

- (a) a copy of its certificate of incorporation or other evidence of its corporate status;
- (b) a statement from an officer of the corporation of the names, addresses and citizenship status of the persons who hold shares in the corporation and the number of shares held by each person;
- (c) where the corporation is not incorporated in Alberta, evidence that it is entitled to carry on business in Alberta;
- (d) where the corporation is incorporated under the *Societies Act* or the *Co-operative Associations Act*, a copy of the corporation's by-laws;
- (e) where the corporation is a grazing association, a list of its current members.

AR 137/2001 s19;288/2009

#### **Limitation re corporate holder**

**20(1)** No grazing disposition may be issued to a corporation with share capital unless

- (a) the majority of the corporation's shares are beneficially owned by residents of Alberta who are Canadian citizens or permanent residents within the meaning of the *Immigration Act* (Canada), and
- (b) those shares are owned for the exclusive use and benefit of the shareholders and not in the interests of or for the benefit of any other person.

**(2)** A corporation that holds a grazing disposition shall notify the Board in writing forthwith of any change in the shareholders of the corporation or the share holding in the corporation.

#### **Range management**

**21(1)** The holder of a grazing disposition

- (a) shall use the land under the disposition in accordance with proper range management and conservation practices, and
- (b) shall not allow the land under the disposition to be grazed at a level greater than the carrying capacity for the land, established in accordance with sound range management principles.

(2) The Minister may at any time by notice in writing to the holder adjust the number of livestock authorized to graze the land under a grazing disposition.

(3) The grazing disposition holder has no right to compensation for anything done under subsection (2).

#### **Statement to Minister**

**22** The holder of a grazing disposition shall, on the written request of the Minister, submit to the Minister a statement in a form acceptable to the Minister setting out the number of livestock owned by the holder and maintained on the land under the disposition.

#### **Brands required**

**23(1)** No holder of a grazing disposition shall graze livestock or cause or permit livestock to graze on the land under the disposition unless

- (a) the livestock is legibly branded with the holder's registered brand, or
- (b) the Minister consents in writing to the grazing of livestock that is not branded with the holder's registered brand.

(2) Notwithstanding subsection (1), a member of a grazing association may graze livestock owned by the member on the land under a grazing disposition issued to the grazing association if the livestock is legibly branded with the member's registered brand.

#### **Credit for water development**

**24** The Minister may, by means of a credit against the rent payable under a grazing disposition, grant assistance to the holder of a grazing disposition for water development projects that are carried out by the holder and are approved by the Minister.

#### **Improvements**

**25** The holder of a grazing disposition may erect on the land under the disposition any barns, shelters, corrals, livestock watering facilities or other improvements that are required for the proper care of the holder's livestock.

#### **No cultivation without permit**

**26(1)** The holder of a grazing disposition shall not break, plough, cultivate or disturb the land under the disposition, or permit any person to do so, without a permit under this section.

- (2) A holder who contravenes subsection (1) shall, at his own expense, seed the land back to grass in accordance with the Minister's direction.
- (3) The Minister may issue to the holder
- (a) a feed permit allowing cultivation on a specified acreage solely for the purpose of growing feed, or
  - (b) a regrassing permit allowing cultivation on a specified acreage solely for the purpose of regrassing.
- (4) The holder of a regrassing permit shall regrass cultivated land in accordance with the regrassing permit.

#### **Confining livestock**

- 27(1)** The holder of a grazing disposition shall confine the holder's livestock to the land under the disposition and any other land that is controlled by the holder and grazed in conjunction with the land under the disposition.
- (2) The holder of a grazing disposition shall erect any fences and cattle guards that are necessary to permit the holder to comply with subsection (1).

#### **Use of hay**

- 28(1)** The holder of a grazing disposition may, without payment of any fee, cut hay on land under the disposition to the extent of 3 tons for each head of livestock authorized in accordance with the carrying capacity of land under the disposition.
- (2) The holder of the grazing disposition shall use hay referred to in subsection (1) only for the purpose of feeding the holder's own livestock.
- (3) The Minister may issue a hay permit under Part 4 to the holder of a grazing disposition to cut hay on the land under the disposition in amounts in excess of the amount referred to in subsection (1).

## **Division 2 Grazing Leases**

#### **Issuance and renewal**

- 29(1)** The Minister may issue grazing leases permitting the grazing of livestock on public land in a special area.
- (2) The term of a grazing lease is 20 years and the lease may be renewed for additional terms of 20 years.

(3) A grazing lease may be renewed on application made any time within the last 5 years of the term of the lease.

#### **Assignments**

**30(1)** An assignment of a grazing lease must show on its face the true consideration for the making of the assignment.

(2) The Minister may, for the purpose of determining the true consideration for an assignment of a grazing lease, require the assignor and assignee under an assignment to furnish statements setting out

- (a) the value of the consideration where it is wholly or partly a consideration other than money,
- (b) the value of any improvements on the land to which the assignment relates,
- (c) the consideration paid or agreed to be paid by the assignee to the assignor under
  - (i) a transfer or agreement for the sale of any freehold land of the assignor, or
  - (ii) a sale or agreement for the sale of any livestock, equipment or other chattels of the assignor,

and

- (d) any other information required by the Minister that relates to the assignment.

(3) If the Minister considers that any valuation given in a statement furnished pursuant to subsection (2) is not a fair market valuation, the Minister may cause a valuation to be made for the purpose of determining the true consideration for the assignment of the grazing lease.

#### **Refusal of assignment**

**31(1)** Subject to subsection (2), the Minister shall refuse to consent to an assignment if

- (a) all rent, taxes, interest, penalties and other money due and owing under the grazing lease have not been fully paid,
- (b) the lessee has not been in possession of the land contained in the grazing lease continuously for 3 years prior to the date of registration of the assignment with the Minister, either by virtue of the grazing lease or of both the grazing

lease and any other disposition to the lessee by the Minister, or

- (c) the assignment is made to a person who is not eligible to acquire the grazing lease.

**(2)** Subsection (1)(b) does not apply if

- (a) the assignor has continuously held not less than 2/3 of the land being assigned for a period of not less than 3 years immediately prior to the assignment,
- (b) the lessee dies and an assignment is made by the lessee's executor or administrator,
- (c) the assignment is made to the spouse or adult interdependent partner, son, daughter, father, mother, brother, sister, son-in-law or daughter-in-law of the lessee,
- (d) the lessee is a dependent adult, as defined in the *Dependent Adults Act*, and the lessee's trustee under that Act makes the assignment,
- (e) the assignor became the lessee as a beneficiary under the estate of the former lessee,
- (f) there are 2 or more lessees who assign all their right, title and interest in the lease to one or more of the remaining lessees, or
- (g) an assignment is made by a person who is certified by a physician as a physically disabled person with respect to farming and ranching.

AR 137/2001 s31;109/2003

**Partial assignments**

**32** If the Minister consents to an assignment with respect to part of the land contained in a grazing lease, the Minister may consolidate that part of the land with an existing grazing lease or issue a new grazing lease.

**Land bordering water**

**33** Where the land under a grazing lease borders a river, the Minister may not include in the disposition such bordering land in excess of one mile in length for every 4 miles in depth unless the Minister is satisfied that doing so would not adversely affect the interests of the farmers and ranchers in the area.

**Joint grazing**

**34** If, in the opinion of the Minister, the terrain or access to water of adjoining tracts of land described in 2 or more grazing leases prevents or impedes the construction of adequate line fences, the holders may, on obtaining the written consent of the Minister, graze their livestock jointly on the land described in all the leases.

**Contagious animal disease**

**35(1)** If the holder of a grazing lease fails to comply with any enactment or order in force for the prevention, control or eradication of any contagious animal disease of which the holder has received notice, the Minister may take any action the Minister considers necessary to ensure compliance with the enactment or order.

**(2)** The holder is liable to the Minister for the costs of any action taken by the Minister pursuant to subsection (1).

**Withdrawal from lease**

**36(1)** Where the Minister has issued a grazing lease in respect of a larger area of land than is necessary to graze 600 head of cattle and it is necessary in the interests of residents of the area to reduce the area under the control of the holder, the Minister may, without compensation and on giving the holder one year's written notice, withdraw from the lease land in excess of the area sufficient to graze 600 head of cattle.

**(2)** In determining the area of land that is sufficient to graze 600 head of cattle, the following land must be considered:

- (a) all of the land held under a grazing lease by the holder or the holder's spouse or adult interdependent partner or both of them, including public land outside the special area;
- (b) when the holder or the holder's spouse or adult interdependent partner or both of them hold jointly with any other person land under a grazing lease, including public land outside the special area, an area that bears the same proportion to the total area of public land leased that the holder or spouse or adult interdependent partner or both of them bear to the total number of joint holders;
- (c) when the holder or the holder's spouse or adult interdependent partner or both of them hold shares in a corporation that holds land under a grazing lease, including public land outside the special area, an area that bears the same proportion to the total area held by the corporation under the grazing lease that the number of shares held by the holder or spouse or adult

interdependent partner or both of them in that corporation bears to the total number of existing shares in the corporation.

AR 137/2001 s36;109/2003

### **Division 3 Grazing Permits**

#### **Authority to issue**

**37(1)** The Minister may issue grazing permits permitting the grazing of livestock on public land in a special area.

**(2)** A grazing permit expires on December 31 next following its date of issue.

#### **Permit not assignable**

**38** A grazing permit is not assignable.

### **Part 3 Cultivation Dispositions**

#### **Definition**

**39** In this Part, “cultivation disposition” means a cultivation lease or cultivation permit.

### **Division 1 General**

#### **Application for cultivation disposition**

**40(1)** An application for a cultivation disposition may be made by

- (a) a person who is at least 18 years of age and is a Canadian citizen or a permanent resident within the meaning of the *Immigration Act* (Canada), or
- (b) a corporation.

**(2)** If an applicant is a corporation, it shall submit with its application

- (a) a copy of its certificate of incorporation or other evidence of its corporate status;
- (b) a statement from an officer of the corporation of the names, addresses and citizenship status of the persons who hold shares in the corporation and the number of shares held by each person;

- (c) where the corporation is not incorporated in Alberta, evidence that it is entitled to carry on business in Alberta.

#### **Limitation re corporate holder**

**41(1)** No cultivation disposition may be issued to a corporation with share capital unless

- (a) the majority of the corporation's shares are beneficially owned by residents of Alberta who are Canadian citizens or permanent residents within the meaning of the *Immigration Act* (Canada), and
- (b) those shares are owned for the exclusive use and benefit of the shareholders and not in the interests of or for the benefit of any other person.

**(2)** A corporation that holds a cultivation disposition shall notify the Board in writing forthwith of any change in the shareholders of the corporation or the share holding in the corporation.

#### **Improvements**

**42** The holder of a cultivation disposition may erect on the land under the disposition buildings, fences and other improvements that are necessary for carrying out the purposes of the disposition.

#### **Increasing cultivation area**

**43(1)** The holder of a cultivation disposition shall not increase the area of land that is under cultivation without prior written consent from the Minister.

**(2)** A disposition holder who contravenes subsection (1) shall forthwith seed the area of unauthorized cultivation to grass to the satisfaction of the Minister.

## **Division 2 Cultivation Leases**

#### **Issuance and renewal**

**44(1)** The Minister may issue cultivation leases permitting cultivation on public land in a special area.

**(2)** A cultivation lease may be issued and renewed for terms not exceeding 10 years.

**(3)** A cultivation lease may be renewed on application made any time within the last 3 years of the lease.

**Commencement**

**45** The term of a cultivation lease commences,

- (a) if the lease is issued between January 1 and June 30 in any year, on January 1 in that year, or
- (b) if the lease is issued between July 1 and December 31 in any year, on January 1 in the next following year.

**No compensation for improvements**

**46** The holder of a cultivation lease is not entitled to compensation in respect of cultivation or in respect of any improvements made by the holder.

### **Division 3 Cultivation Permits**

**Authority to issue**

**47** The Minister may issue cultivation permits permitting cultivation on public land in a special area.

**Expiry**

**48** A cultivation permit expires on December 31 next following its date of issue.

**Permit not assignable**

**49** A cultivation permit is not assignable.

### **Part 4 Hay Permits**

**Authority to issue**

**50** The Minister may issue hay permits permitting the cutting of hay on public land in a special area.

**Term**

**51(1)** No hay permit may be issued before May 1 in any year.

**(2)** A hay permit expires on October 31 next following its date of issue.

**Permit not assignable**

**52** A hay permit is not assignable.

**Exclusive right**

**53** A hay permit vests in the holder the exclusive right of ownership to the quantity of hay authorized in the permit to be cut on the land described in the permit.

**Declaration**

**54(1)** The holder of a hay permit shall forward to the Special Areas District Office not later than December 31 following the expiry of the permit a declaration in a form acceptable to the Minister setting out the amount of hay cut.

**(2)** The Minister may refund dues payable under the hay permit if the Minister is satisfied that, due to circumstances beyond the control of the holder, the holder was unable to cut all or was able to cut only part of the hay authorized in the permit.

## **Part 5 Community Pasture Dispositions**

**Definitions**

**55** In this Part,

- (a) “livestock” means cattle and bulls;
- (b) “resident” means a person who
  - (i) is at least 18 years of age,
  - (ii) makes his home in and is ordinarily present in a special area, and
  - (iii) owns or leases land in a special area.

**Minister may issue permits**

**56** The Minister may issue permits for the purpose of grazing livestock on land in a special area that the Minister has set aside as a community pasture.

**Permit required**

**57** No person may graze livestock on a community pasture except pursuant to a permit under this Part.

**Application**

**58(1)** An application for a permit may be made by a person who is a resident.

- (2) Where spouses or adult interdependent partners are recognized as an operating unit, applications by both of them are to be treated as one application.
- (3) Applications for permits are to be given priority according to the following order of preference:
- (a) Class 1 - residents operating and residing on a ranch or farm property near the pasture, whose livestock has been regularly grazing on the pasture and who, in the discretion of the Minister, are dependent on the pasture for grazing to maintain a satisfactory ranch or farm unit;
  - (b) Class 2 - residents operating and residing on a ranch or farm property not near the pasture but whose livestock has been regularly grazing on the pasture and who, in the discretion of the Minister, are dependent on the pasture for grazing to maintain a satisfactory ranch or farm unit;
  - (c) Class 3 - residents operating and residing on a ranch or farm property near the pasture whose livestock has not been regularly grazing on the pasture but who, in the discretion of the Minister, require additional grazing lands in order to maintain a satisfactory ranch or farm unit;
  - (d) Class 4 - residents operating but not residing on a ranch or farm property near the pasture whose livestock has been regularly grazing on the pasture and who, in the discretion of the Minister, are dependent on the pasture for grazing to maintain a satisfactory ranch or farm unit;
  - (e) Class 5 - All residents who do not fall within any of the above classes.
- (4) In determining priority the Minister may consider any other factors that affect an applicant's need for a permit.
- (5) The Minister may refuse a permit to any applicant who in the Minister's opinion has other grazing land to maintain a satisfactory ranch or farm unit.

AR 137/2001 s58;109/2003

#### **Breeding pastures**

**59** No person is eligible to hold a permit in respect of a breeding pasture unless that person is a member of a pasture association that has been designated by the Minister for the purposes of that breeding pasture.

**Particulars of permit**

**60(1)** A permit must set out

- (a) the term of the permit,
- (b) a description of the land or the name of the community pasture on which livestock may be grazed,
- (c) the number of animal unit months allotted to the permittee and the kind of livestock that may be grazed,
- (d) the entry and exit dates of the permit, and
- (e) any other terms and conditions as determined by the Minister.

**(2)** A permit is not assignable.

**Allotment committee**

**61** Each pasture association shall elect an allotment committee consisting of not more than 5 members, who shall meet annually with the Minister to provide advice and recommendations on the operation of the community pasture.

**Allotment of livestock**

**62(1)** Each year in advance of the grazing season the Minister shall, on the recommendation of the allotment committee,

- (a) determine the number and kind of livestock that may be grazed on the community pasture and the period during which grazing will be permitted, and
- (b) determine the allotment of livestock among applicants.

**(2)** The Minister may on the request of an applicant or permit holder review the allotment under subsection (1) and make any adjustments to it that the Minister considers appropriate.

**Dues**

**63** A permittee shall pay dues as established by the Minister but the Minister may, on application made not later than the end of the calendar year in which the permit was issued, refund all or part of the dues where the Minister is satisfied that, due to circumstances beyond the control of the permittee, the permittee was unable to fully use the grazing rights under the permit.

**Disease**

**64(1)** The permittee shall comply with all laws relating to animal disease that are in effect in the area in which the community pasture is located.

**(2)** The Minister may by order require the owner of any livestock on a community pasture to remove and isolate at the owner's cost any animal that may be infected with a dangerous or infectious disease.

**(3)** A range rider may reject or have removed from a community pasture, at the owner's expense, any animal that the range rider considers is unfit or is a menace or nuisance to other livestock or to the welfare of the pasture.

**Presenting permit**

**65** A range rider shall refuse to permit a permittee's livestock to enter a community pasture unless the permittee presents a copy of the permit to the range rider.

**Branding**

**66(1)** Unless the Minister consents in writing to the grazing of unbranded livestock on a community pasture, all animals entering the community pasture must be legibly branded with the permittee's registered brand.

**(2)** A range rider may reject any animal whose brand is not legible.

**Castration**

**67** No person may bring a male calf that is 2 months of age or older onto a community pasture unless the calf has been castrated.

**Removal of livestock**

**68(1)** No person may remove livestock from a community pasture during the term of a permit without the consent of the range rider or another person acting on behalf of the Minister.

**(2)** No person shall remove livestock from a community pasture until all dues and other money owing in respect of the permit have been paid.

**Minister not liable**

**69** The Minister is not responsible for any claims arising out of the loss of or injury or damage to livestock while the livestock is on or is entering or leaving a community pasture.

## **Part 6 Mineral Surface Leases**

### **Definition**

**70** In this Part, “operator” means a person who has the right to a mineral or the right to work it, and includes that person’s agent.

### **Issuing of lease**

**71(1)** The Minister may issue a mineral surface lease of public land in a special area to an operator who requires land for purposes in connection with or incidental to the recovery and production of minerals.

**(2)** The term of a mineral surface lease is 25 years and the lease may be renewed for additional 25-year periods.

### **Application**

**72** The Minister may require an applicant for a mineral surface lease to produce proof of the applicant’s right to work the minerals, the recovery and production of which are the subject of the application.

### **Existing disposition**

**73** No mineral surface lease may be issued in respect of land that is the subject of an existing disposition under the Act with a term exceeding one year unless

- (a) the holder under that disposition consents to the issuance of the mineral surface lease in a form acceptable to the Minister, and
- (b) the operator acknowledges and accepts the consent.

### **Entry before lease**

**74(1)** Where a person has applied for a mineral surface lease, the Minister may before issuing the lease consent to the applicant’s entering the land applied for for any purpose related to the lease.

**(2)** The Minister may not give consent under subsection (1) until the applicant has submitted a plan to the Minister in a form satisfactory to the Minister.

**(3)** The Minister may give consent under subsection (1) subject to any terms and conditions the Minister considers appropriate.

**Crossing roadway**

**75** If the whole or part of land under a mineral surface lease is used as an access roadway, the operator shall permit the occupant of the land on either side of the roadway to cross the roadway without charge at all reasonable times and at the place or places designated for that purpose by the operator.

**Increasing leased area**

**76** The Minister may, with the consent of the holder and subject to section 73, increase the area of land under the mineral surface lease.

**Successors, assigns, etc**

**77** A mineral surface lease binds the heirs, executors, administrators and assigns of the holder and, if the holder is a corporation, the mineral surface lease binds the successors and assigns of the corporation.

**Consent to assignment**

**78(1)** No holder shall assign a mineral surface lease without the consent of the Minister.

**(2)** An assignment of a mineral surface lease without the consent of the Minister is void.

**Structures, equipment, etc.**

**79(1)** Subject to this section, the holder of a mineral surface lease may erect on the land under the lease any structures and equipment that the holder requires for the purposes of carrying out its operations.

**(2)** Notwithstanding subsection (1), a holder shall not without the consent of the Minister erect a building or structure that will be used as a residence or office.

## **Part 7 Right of Way Dispositions**

**Definitions**

**80** In this Part,

- (a) “agreement” means a pipeline agreement referred to in section 81;

- (b) “operator” means a person who is authorized under any Act of Alberta or under any Act of Canada
  - (i) to construct a pipeline or to undertake any operations preparatory to its construction, or
  - (ii) to operate a pipeline;
- (c) “pipeline” means a pipeline for the transmission of fluid or gaseous substances;
- (d) “pipeline installation” means any equipment, apparatus, mechanism, machinery or instrument that is incidental to the operation of a pipeline, including, without limitation,
  - (i) a separator, pumping station, metering facility, tank, pump, rack, storage facility or loading or other terminal facility or other structure connected to the pipeline for treating the substance being or to be transmitted, and
  - (ii) any other installation that the Minister considers to be a pipeline installation,but does not include a refinery, processing plant, marketing plant or a right of way installation;
- (e) “right of way” means the public land that is the subject of an agreement;
- (f) “right of way installation” means any equipment, apparatus, mechanism, machinery or instrument that is incidental to the operation of a pipeline and is within a right of way, including, without limitation,
  - (i) a valve, valve box, drip, blow-down, connection, foundation, bridge or support structure for a pipeline above the surface, scraper trap and cathodic protection apparatus, and
  - (ii) any other installation that the Minister considers to be a right of way installation.

**Agreements by Minister**

**81(1)** The Minister may enter into an agreement with an operator who requires public land in a special area

- (a) for the purposes of a pipeline that the operator is authorized to construct, and

- (b) for the purposes of a right of way installation that is incidental to the pipeline.

**(2)** The Minister may require an applicant for an agreement to produce proof that the applicant is an operator and that the land applied for is required as a right of way or as a site for a right of way installation in connection with the operator's pipeline.

**(3)** The Minister may not enter into an agreement in respect of any land that is the subject of an existing disposition under the Act with a term exceeding one year unless the application for the agreement is accompanied with the consent of the holder under that disposition, in a form acceptable to the Minister.

#### **Entry before agreement**

**82(1)** Where an operator has applied for an agreement, the Minister may, before an agreement is entered into, consent to the operator's entering the land applied for for any purpose related to the pipeline.

**(2)** The Minister may give consent under subsection (1) subject to any terms and conditions the Minister considers appropriate.

**(3)** The operator shall, within one year after consent is given under subsection (1), submit a plan to the Minister in a form acceptable to the Minister.

**(4)** If the operator fails to comply with subsection (3), the Minister may

- (a) withdraw consent, and
- (b) refuse to enter into an agreement with the operator with respect to the land applied for.

#### **Increase in area**

**83(1)** The Minister and the operator may agree to increase or decrease the area of the right of way in an agreement.

**(2)** Section 81(3) applies in the case of an increase in area under subsection (1) where all or part of the land in the agreement is the subject of a disposition under the Act with a term exceeding one year.

**(3)** The operator is not entitled to a refund of rent or other consideration payable under an agreement where a decrease in area is made under subsection (1).

**(4)** The Minister may

- (a) amend an agreement to reflect an increase in area under subsection (1), or
- (b) amend an agreement or enter into a new agreement with the operator where the area is decreased under subsection (1).

**Implied easement**

**84(1)** Every agreement is subject to an easement in favour of

- (a) the Crown, and
- (b) if the Crown makes or has made a disposition of land and the disposition is made subject to the agreement, the person to whom the disposition was or is made,

to use the surface layer of the right of way

- (c) for the growing of crops and the grazing of livestock,
- (d) for the purpose of erecting fences, where the fences are necessary extensions of those erected to enclose or partition the land adjoining the right of way, and
- (e) for the purposes of a road crossing the right of way.

**(2)** Subsection (1) does not apply to any part of a right of way where a right of way installation is erected on or protrudes above the surface of the ground.

**(3)** Nothing in subsection (1) derogates from the right of the operator to re-enter the right of way for any of the purposes for which the agreement was entered into.

**(4)** Notwithstanding subsection (3), an operator who enters the right of way is liable to pay compensation to the Crown or any person entitled to it in respect of damage caused to

- (a) crops, whether standing or cut, or livestock on the right of way,
- (b) fencing erected on the right of way, or
- (c) roads crossing the right of way.

**(5)** An operator may, instead of paying compensation under subsection (4)(b) or (c), agree with the Crown or other person to repair the fencing or recondition the roads.

**(6)** No person shall construct a road crossing a right of way under the authority of subsection (1)(e) unless the person has ascertained

from the operator the depth of the pipeline and the exact location of the point of crossing, and no such road may be constructed so as to damage or interfere with the pipeline.

**Right of access**

**85(1)** Every agreement grants the operator the right of access to and from the right of way over any public land on either side of the right of way from the nearest public highway, road or road allowance, whether there is an occupant on the public land or not.

**(2)** If an operator exercises any rights of access under subsection (1), the operator shall compensate the Minister and the occupant, if any, of the public land, for any damage caused in the course of exercising the right of access.

**Additional pipeline**

**86(1)** An operator may, with the consent of the Minister, lay down, construct and install more than one pipeline within the limits of the right of way and, on obtaining the consent, has the same rights with respect to the additional pipeline as with respect to the original pipeline.

**(2)** If an additional pipeline is laid down, constructed and installed under subsection (1), the operator shall compensate the Minister and the occupant, if any, of the right of way for any damage caused in the course of laying down, constructing, operating, maintaining, inspecting, altering, removing, replacing, reconstructing or repairing the additional pipeline and the right of way installations that are incidental to the pipeline.

**Rights under agreement**

**87** An operator may use the right of way under an agreement solely for the purposes of laying down, constructing, operating, maintaining, inspecting, altering, removing, replacing, reconstructing and repairing a pipeline and the right of way installations incidental to the pipelines.

**Notice of construction**

**88** When any right of way installation is constructed or installed on the right of way after the agreement is executed, the operator shall within 60 days of such construction or installation inform the Board of its location on the right of way.

**Completion of work**

**89(1)** An operator shall

- (a) bury the pipeline, and
- (b) restore the right of way as nearly as possible to the condition it was in when the application for the original agreement was made

within one year after the date of execution of the agreement, in the case of the first pipeline in the right of way, or within one year after the date of the Minister's consent under section 86, in the case of an additional pipeline in the right of way.

**(2)** The Minister may extend the period of time under subsection (1) where the Minister considers it appropriate to do so.

**(3)** The operator shall restore the right of way under subsection (1) to the Minister's satisfaction.

**(4)** If an operator fails to comply with subsection (1) or (3), the Minister may by notice in writing direct the operator to remove structures, fill excavations and do all other things the Minister considers necessary in order to effect compliance with subsection (1) or (3).

**(5)** If an operator fails to comply with Minister's direction under subsection (4), the Minister may do or have done the things directed to be done, and the reasonable costs of doing so, as determined by the Minister, are recoverable from the operator as a debt owing to the Crown.

#### **Removal of material**

**90** An operator shall not remove from the right of way any sand, gravel, clay, marl or topsoil.

## **Part 8 Miscellaneous Dispositions**

#### **Miscellaneous dispositions**

**91(1)** The Minister may issue

- (a) a lease,
- (b) a licence of occupation, or
- (c) an easement

in respect of public land in a special area for any other purpose for which no disposition is specifically provided for in the Act or this Regulation.

(2) The term of a lease, licence of occupation or easement under this Part must be at least one year.

**Application for disposition**

**92(1)** An application for a lease, licence of occupation or easement under this Part may be made by

- (a) a person who is at least 18 years of age and is a Canadian citizen or a permanent resident within the meaning of the *Immigration Act* (Canada), or
- (b) a corporation.

(2) If an applicant is a corporation, it shall submit with its application

- (a) a copy of its certificate of incorporation or other evidence of its corporate status;
- (b) a statement from an officer of the corporation of the names, addresses and citizenship status of the persons who hold shares in the corporation and the number of shares held by each person;
- (c) where the corporation is not incorporated in Alberta, evidence that it is entitled to carry on business in Alberta.

**Consent to assignment**

**93** No holder of a lease, licence of occupation or easement under this Part shall assign the lease, licence of occupation or easement without the consent of the Minister, and any such assignment is void.

**Part 9  
Transitional Provisions,  
Repeals and Expiry**

**Transitional - grazing lease**

**94** Notwithstanding section 33, where on the coming into force of this Regulation, the land in a grazing lease includes more bordering land than is permitted under that section, the Minister may nevertheless renew the disposition if the Minister is satisfied that doing so would not adversely affect the interests of the farmers and ranchers in the area.

**Transitional - dispositions**

**95** On the coming into force of this Regulation,

- (a) a subsisting grazing lease under the *Special Areas Grazing Lease Regulation* (AR 116/92) is continued as a grazing lease under Part 2 of this Regulation;
- (b) a subsisting grazing permit under the *Special Areas Grazing Permit Regulation* (AR 113/92) is continued as a grazing permit under Part 2 of this Regulation and expires on December 31, 2001;
- (c) a subsisting cultivation lease under the *Special Areas Cultivation Lease Regulation* (AR 147/89) is continued as a cultivation lease under Part 3 of this Regulation;
- (d) a subsisting cultivation permit under the *Special Areas Cultivation Permit Regulation* (AR 112/92) is continued as a cultivation permit under Part 3 of this Regulation and expires on December 31, 2001;
- (e) a subsisting hay permit under the *Special Areas Hay Permit Regulation* (AR 114/92) is continued as a hay permit under Part 4 of this Regulation;
- (f) a subsisting permit under the *Special Areas Community Pasture Regulation* (AR 111/92) is continued as a permit under Part 5 of this Regulation;
- (g) a subsisting mineral surface lease under the *Special Areas Mineral Surface Lease Regulation* (AR 117/92) is continued as a mineral surface lease under Part 6 of this Regulation;
- (h) a subsisting agreement under the *Special Areas Right of Way Regulation* (AR 110/92) is continued as an agreement under Part 7 of this Regulation;
- (i) a subsisting lease under the *Special Areas Miscellaneous Lease Regulation* (AR 118/92) is continued as a lease under Part 8 of this Regulation.

**Repeals**

**96** The following Regulations are repealed:

- (a) the *Special Areas Grazing Lease Regulation* (AR 116/92);
- (b) the *Special Areas Grazing Permit Regulation* (AR 113/92);

- (c) the *Special Areas Cultivation Lease Regulation* (AR 147/89);
- (d) the *Special Areas Cultivation Permit Regulation* (AR 112/92);
- (e) the *Special Areas Hay Permit Regulation* (AR 114/92);
- (f) the *Special Areas Community Pasture Regulation* (AR 111/92);
- (g) the *Special Areas Mineral Surface Lease Regulation* (AR 117/92);
- (h) the *Special Areas Right of Way Regulation* (AR 110/92);
- (i) the *Special Areas Miscellaneous Lease Regulation* (AR 118/92);
- (j) the *Rent Arrears Penalty Regulation* (AR 107/92).

**Expiry**

**97** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on October 31, 2014.

AR 137/2001 s97;354/2003;168/2008;296/2009