



Province of Alberta

## PUBLIC LANDS ACT

# RECREATIONAL ACCESS REGULATION

### **Alberta Regulation 228/2003**

With amendments up to and including Alberta Regulation 58/2017

### Office Consolidation

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(Consolidated up to 58/2017)

**ALBERTA REGULATION 228/2003**

**Public Lands Act**

**RECREATIONAL ACCESS REGULATION**

*Table of Contents*

1	Interpretation
	<b>Part 1</b>
	<b>Access for Recreational Purposes</b>
2	Local settlement officers and directors
3	Other requirements unaffected
4	Contact information
5	Contact before access
6	Duty to allow access
7	Terms and conditions
8	Access not restricted or prohibited
9	Duties of recreational user
10	Recreational management plans
11	Terms and conditions
12	Director's order
12.1	Availability of publications
	<b>Part 2</b>
	<b>Dispute Resolution</b>
13	Application to resolve dispute
14	Combining applications
15	Review and decision by local settlement officer
16	Review of decision by director
17	Review does not operate as stay
18	Decision binding
19	Request for information
20	Procedure
21	Dismissal of frivolous matters
22	Extension of time
	<b>Part 3</b>
	<b>Miscellaneous</b>
23	Fees and costs

**24** Service**Part 4**  
**Expiry and Coming into Force****25** Expiry**26** Coming into force**Interpretation****1(1)** In this Regulation,

- (a) “Act” means the *Public Lands Act*;
- (b) “agricultural disposition” means the following agricultural dispositions under the Act:
  - (i) a grazing lease;
  - (ii) a grazing permit;
  - (iii) a farm development lease;
  - (iv) a cultivation permit;
  - (v) a grazing licence;
  - (vi) an authorization to harvest hay;
  - (vii) a head tax grazing permit;
- (c) “bicycle” means any cycle on which a person may ride and that is propelled by muscular power, regardless of the number of wheels it has;
- (d) “crop” means an annual crop, but does not include forages grown for winter use or tame or native hay;
- (e) “director” means a person who is designated as a director under section 2;
- (f) “local settlement officer” means a person who is designated as a local settlement officer under section 2;
- (g) “motor vehicle” means a device in, on or by which a person may be transported or drawn and that is propelled by any power other than muscular power and includes, without limitation, an off-highway vehicle within the meaning of section 117 of the *Traffic Safety Act*, other than a motor boat;

- (h) “party” means an agricultural disposition holder and a person who for recreational purposes exercises access or wishes to exercise access to the agricultural disposition land;
- (i) “recreational management plan” means a recreational management plan listed in the document titled *Directory of Recreational Management Plans* published by the Minister’s department, as amended or replaced from time to time;
- (j) “recreational purposes” includes, without limitation, any of the following activities when carried out for recreational purposes:
  - (i) hunting within the meaning of the *Wildlife Act*;
  - (ii) camping;
  - (iii) fishing;
  - (iv) boating, swimming and other water sports;
  - (v) berry picking, mushroom picking and picking of other fruits or herbs;
  - (vi) picnicking;
  - (vii) hiking;
  - (viii) nature study and viewing or photographing scenic sites;
  - (ix) snow skiing, snowshoeing, skating, sledding and other winter sports;
  - (x) hang-gliding;
  - (xi) hot air ballooning;
  - (xii) bicycling;
  - (xiii) the use of animals for transportation;
  - (xiv) the use of motor vehicles.

**(2)** A reference in this Regulation to a local settlement officer or a director is to be read as a reference to the local settlement officer or director with power pursuant to a designation or authorization under section 2 to exercise jurisdiction in the area of Alberta in which the relevant agricultural disposition land is located.

AR 228/2003 s1;221/2004;227/2006

## **Part 1**

### **Access for Recreational Purposes**

#### **Local settlement officers and directors**

**2(1)** The Minister may in writing designate persons or classes of persons who are employees of the Government and under the Minister's administration as local settlement officers or directors for the purposes of this Regulation.

**(2)** A designation of a local settlement officer or director must describe the area in Alberta in which the local settlement officer or director may exercise jurisdiction under this Regulation.

**(3)** Notwithstanding subsection (2), where the Assistant Deputy Minister responsible for public lands considers it appropriate to do so, the Assistant Deputy Minister may, in writing, authorize a director or local settlement officer other than the director or local settlement officer who is designated in respect of a particular area to exercise jurisdiction under this Regulation in that area.

**(4)** A person who has been designated under subsection (1) as a local settlement officer or a director may in writing designate any employee of the Government who is under the Minister's administration as an acting local settlement officer or director to act in the local settlement officer's or director's place in the event of the local settlement officer's or director's absence or inability to act.

#### **Other requirements unaffected**

**3(1)** Nothing in this Regulation negates a requirement under the Act or any other law to obtain for recreational purposes a licence, permit, approval or other authorization in connection with the use of agricultural disposition land.

**(2)** Where a disposition is required for a related business or commercial enterprise that a recreational access user intends to carry on, the recreational access user must obtain the disposition before entering the agricultural disposition land.

AR 228/2003 s3;227/2006

#### **Contact information**

**4(1)** The holder of an agricultural disposition that is a grazing lease or a farm development lease shall provide to the Minister in the form and manner and at the time requested by the Minister the name and the telephone number, facsimile number or e-mail address of the person who will act as the agricultural disposition holder's contact person for the purposes of section 5.

(2) The Minister shall keep a record of the information referred to in subsection (1) and shall make the information available to the public in a manner the Minister considers appropriate.

(3) Without limiting the means by which the Minister may make information available under subsection (2), the Minister may post the information on a website.

#### **Contact before access**

**5(1)** A person who for recreational purposes wishes to gain access to land that is the subject of an agricultural disposition that is a grazing lease or a farm development lease to use the land shall contact the disposition holder's contact person and provide the following information to that person:

- (a) the number of persons wishing to gain access to the land and, if the disposition holder's contact person requests it, their names and the licence numbers of the vehicles that will be used to transport those persons to the land;
- (b) the name of a person who will act as a contact for the person or persons wishing to gain access and the means by which that person may be contacted;
- (c) the recreational purpose for which access is desired, the proposed date, time and duration of the access and the location, in as much detail as is practicable, at which the recreational purpose will be carried out.

(2) Subsection (1) does not apply in respect of agricultural disposition land where the holder of the agricultural disposition

- (a) fails to comply with section 4(1), or
- (b) has provided notice in writing to the Minister that contact under subsection (1) is not required.

(3) Subject to subsection (4), a person shall not enter land referred to in subsection (1)

- (a) if the person has not complied with subsection (1), or
- (b) if the agricultural disposition holder's contact person does not respond to contact made under subsection (1).

(4) Where

- (a) after reasonable attempts, a person wishing to gain access is unable to contact an agricultural disposition holder's contact person under subsection (1), or

- (b) the agricultural disposition holder's contact person does not respond to contact made under subsection (1)

a local settlement officer may, after conducting any inquiry that he or she considers appropriate, allow access to the land subject to any terms and conditions he or she considers appropriate.

- (5) In the event of a dispute, the onus is on the person wishing to gain access to prove that this section has been complied with.

AR 228/2003 s5;227/2006

#### **Duty to allow access**

**6(1)** Where a person wishing to gain access for recreational purposes to land that is the subject of an agricultural disposition that is a grazing lease or a farm development lease to use the land complies with section 5, the agricultural disposition holder shall allow access to the agricultural disposition land unless one or more of the following circumstances exist:

- (a) the proposed use would involve the use of one or more bicycles, animals for transportation or motor vehicles;
- (b) the proposed use would occur
  - (i) in a fenced pasture unit where livestock are present in accordance with the terms and conditions of the agricultural disposition and the Act, or
  - (ii) on cultivated land on which a crop is growing or has not been completely harvested;
- (c) a fire ban imposed by a competent authority under any law in force in Alberta is in effect in respect of all or part of the agricultural disposition land;
- (d) the proposed use would involve hunting within the meaning of the *Wildlife Act* at a location that is unreasonably close to a fenced pasture in which livestock of the agricultural disposition holder are present in accordance with the terms and conditions of the agricultural disposition and the Act;
- (d.1) the proposed use would involve the discharge of a firearm or use of an explosive at a location that is unreasonably close to a fenced pasture in which livestock of the agricultural disposition holder are present in accordance with the terms and conditions of the agricultural disposition and the Act;
- (e) the proposed use is camping;



- (f) the proposed use would be contrary to a recreational management plan, to terms and conditions imposed under section 10 or 11 or to an order of a director under section 12.

(2) Where the agricultural disposition holder is in compliance with section 4(1) and

- (a) the person wishing to gain access fails to comply with section 5, or
- (b) one or more of the circumstances referred to in subsection (1) exists,

the agricultural disposition holder may

- (c) refuse access to the person wishing to gain access, or
- (d) allow access subject to any terms or conditions imposed under section 7.

(3) Where an agricultural disposition holder refuses access under subsection (2)(c), the holder shall give to the person wishing to gain access reasons orally or in writing as to why access was refused.

AR 228/2003 s6;227/2006;58/2017

#### **Terms and conditions**

**7** In allowing access for recreational purposes to land that is the subject of an agricultural disposition that is a grazing lease or a farm development lease, an agricultural disposition holder may, subject to the approval of the Minister, impose any reasonable terms and conditions that the holder considers are necessary in respect of use and access as they relate to matters referred to in section 6(1)(a) to (e).

AR 228/2003 s7;227/2006

#### **Access not restricted or prohibited**

**8** Unless access is restricted or prohibited

- (a) by a recreational management plan,
- (b) under section 10(4)(a),
- (c) by a term or condition imposed under section 10(4)(b) or 11, or
- (d) by an order of a director under section 12,

the holder of an agricultural disposition that is a grazing permit, cultivation permit, grazing licence, authorization to harvest hay or head tax grazing permit shall not restrict or prohibit access for recreational purposes to the agricultural disposition land by persons who wish to use the land for recreational purposes.

AR 228/2003 s8;227/2006

**Duties of recreational user**

**9(1)** No person who for recreational purposes uses agricultural disposition land that is subject to a grazing lease or farm development lease shall

- (a) litter on the agricultural disposition land,
- (b) bring an animal onto the agricultural disposition land, or allow an animal to enter or remain on the agricultural disposition land unless the animal is under the direct control of the person,
- (c) park a vehicle within the boundaries of the agricultural disposition land or block an approach to the land without the consent of the agricultural disposition holder,
- (d) set, light or maintain a fire on the agricultural disposition land without the consent of the agricultural disposition holder,
- (e) enter or use any building or improvement on the agricultural disposition land without the consent of the agricultural disposition holder, or
- (f) cause any damage to the agricultural disposition land or the property of the agricultural disposition holder.

**(2)** A person who for recreational purposes uses agricultural disposition land that is subject to a grazing lease or farm development lease shall

- (a) leave gates and other property on the agricultural disposition land in the same condition and state that they were in before the recreational use,
- (b) forthwith advise the agricultural disposition holder or the agricultural disposition holder's contact person designated under section 4 of any damage to property or other matters of concern that arose as a result of the activity of the recreational user while on the land,
- (c) comply with an applicable recreational management plan, if any,

- (d) comply with the terms and conditions, if any, imposed by the agricultural disposition holder under section 7,
- (e) comply with any prohibitions or restrictions under section 10(4)(a),
- (e.1) comply with the terms and conditions, if any, imposed under section 10(4)(b) or 11, and
- (f) comply with an order of a director under section 12, if any.

**(3)** No person who for recreational purposes uses agricultural disposition land that is subject to a grazing permit, cultivation permit, grazing licence, authorization to harvest hay or head tax grazing permit shall

- (a) litter on the agricultural disposition land,
- (b) bring an animal onto the agricultural disposition land, or allow an animal to enter or remain on the agricultural disposition land unless the animal is under the direct control of the person,
- (c) park a vehicle so that it blocks an approach to the agricultural disposition land,
- (d) enter or use a building or improvement on the agricultural disposition land, or
- (e) cause any damage to the agricultural disposition land or the property of the agricultural disposition holder.

**(4)** A person who for recreational purposes uses agricultural disposition land that is subject to a grazing permit, cultivation permit, grazing licence, authorization to harvest hay or head tax grazing permit shall

- (a) leave gates and other property on the agricultural disposition land in the same condition and state that they were in before the recreational use,
- (b) comply with an applicable recreational management plan, if any,
- (c) comply with any prohibitions or restrictions under section 10(4)(a),
- (c.1) comply with the terms and conditions, if any, imposed under section 10(4)(b) or 11, and

- (d) comply with an order of a director under section 12, if any.

AR 228/2003 s9;227/2006

#### **Recreational management plans**

**10(1)** The Minister may establish recreational management plans that apply in respect of agricultural disposition land.

**(2)** The Minister shall not establish a recreational management plan, or make any changes to such a plan, unless the Minister first secures the agreement to the plan or changes of all persons who hold agricultural dispositions in respect of land to which the plan applies.

**(3)** Where there is a conflict between a recreational management plan and

- (a) a provision of this Part, or
- (b) an order made or a term or condition imposed under this Part,

the recreational management plan is paramount.

**(4)** The Minister may

- (a) prohibit or restrict access to, or
- (b) impose terms and conditions respecting recreational use of and access to,

agricultural disposition land pending the establishment of a recreational management plan in respect of the land.

**(5)** Agricultural disposition holders, contact persons and persons exercising access for recreational purposes to agricultural disposition land shall comply with any recreational management plan that applies in respect of the land.

AR 228/2003 s10;227/2006

#### **Terms and conditions**

**11(1)** A local settlement officer or a director may impose any terms and conditions respecting recreational use of and access to agricultural disposition land that the local settlement officer or director considers are necessary for the purposes of proper land management, public safety or animal health.

**(2)** In the case of an agricultural disposition that is a grazing lease or a farm development lease, a local settlement officer or director may not impose terms and conditions under subsection (1) without

first consulting with the holder of the grazing lease or farm development lease in the form and manner the local settlement officer or director considers appropriate.

**Director's order**

**12(1)** A director may, with respect to agricultural disposition land described in the access order, issue an access order to

- (a) prohibit access for recreational purposes to all or part of the agricultural disposition land,
- (b) require the agricultural disposition holder to permit reasonable access for recreational purposes to all or part of the land, or
- (c) require a person who is exercising access to agricultural disposition land to comply with a provision of the Act or this Regulation or with any term or condition that is validly imposed under this Regulation,

subject to any terms and conditions that the director considers appropriate.

**(2)** An access order under this section operates notwithstanding any provision of this Regulation.

**(3)** Where a director makes an access order under this section, the director shall

- (a) provide a copy of the access order to the holder of the agricultural disposition land to which the access order relates, and
- (b) otherwise make the access order available to the public in the form and manner that the director considers appropriate.

AR 228/2003 s12;227/2006

**Availability of publications**

**12.1** The following shall be published on the Department's website and copies made available in a manner determined by the Minister:

- (a) terms and conditions approved by the Minister under section 7;
- (b) recreational management plans;
- (c) prohibitions or restrictions imposed under section 10(4)(a);

- (d) terms and conditions imposed under section 10(4)(b) or 11.

AR 227/2006 s11

## **Part 2 Dispute Resolution**

### **Application to resolve dispute**

**13(1)** Where a dispute arises between the holder of an agricultural disposition that is a grazing lease or a farm development lease and a person who is exercising access or wishes to exercise access to the agricultural disposition land for recreational purposes, and the dispute relates to

- (a) the allowing or refusal of access to the agricultural disposition land,
- (b) the imposition of a term or condition by the agricultural disposition holder under section 7, or
- (c) the making of contact under section 5,

and the parties are unable to resolve the dispute, either party may apply to a local settlement officer to have the dispute resolved under this Part.

**(2)** An application must be made in writing, must be provided to the local settlement officer within 7 days of the date that the dispute arose, and must contain

- (a) the grounds for the application,
- (b) a description of the relief requested by the applicant, and
- (c) an address for the applicant.

**(3)** A party who applies to a local settlement officer under subsection (1) shall forthwith provide a copy of the application to the other party.

### **Combining applications**

**14** Where a local settlement officer receives more than one application under section 13, the local settlement officer may combine the applications for the purposes of dealing with them under this Regulation.

**Review and decision by local settlement officer**

**15(1)** Where a local settlement officer receives an application that complies with section 13, the settlement officer shall review the dispute and make a determination in accordance with this Regulation and any rules made under section 20.

- (2)** On conducting a review the local settlement officer may
- (a) deny access to all or part of the agricultural disposition land for recreational purposes;
  - (b) require the agricultural disposition holder to allow access to all or part of the agricultural disposition land for recreational purposes, subject to any terms and conditions the local settlement officer considers appropriate;
  - (c) give any directions with respect to the making of contact under section 5 that the local settlement officer considers appropriate.
- (3)** The local settlement officer shall forthwith provide a copy of the local settlement officer's decision to the parties.

**Review of decision by director**

**16(1)** Any party may request a review of a local settlement officer's decision under section 15 by a director.

- (2)** A request for review must be in writing and must be provided to the local settlement officer within 7 days after receipt of notice of the local settlement officer's decision, and must contain
- (a) a copy of the local settlement officer's decision,
  - (b) the grounds upon which the review is requested,
  - (c) a description of the relief requested by the applicant, and
  - (d) an address for the applicant.
- (3)** A party who provides a request for review to a local settlement officer under subsection (2) shall forthwith also provide a copy of the request for review to the other party.
- (4)** A local settlement officer who receives a request for review that complies with subsection (2) shall forthwith forward it to a director.
- (5)** On reviewing the local settlement officer's decision the director may

- (a) confirm, reverse or vary the decision;
- (b) order any thing a director may order in an access order under section 12;
- (c) make any decision that the local settlement officer could have made.

**(6)** In a review under this section the director must consider the material provided under subsection (2) but may accept new information if the director considers that the new information is relevant to the dispute.

**(7)** The director shall provide written notice of the director's decision to the parties.

#### **Review does not operate as stay**

**17** Where a request for review of a decision of a local settlement officer is made under section 16, the decision of the local settlement officer remains in effect pending the director's decision under section 16.

#### **Decision binding**

**18** The parties are bound by and shall comply with a decision of a local settlement officer or director under this Part.

#### **Request for information**

**19(1)** A local settlement officer or a director may by notice in writing request a party to provide any information that the local settlement officer or director considers is necessary to enable him or her to carry out his or her powers and duties under this Part.

**(2)** A party who receives a request under subsection (1) shall comply with it within 7 days after it is received.

#### **Procedure**

**20(1)** Subject to this section, the Assistant Deputy Minister responsible for public lands may establish rules governing the procedure to be followed by local settlement officers and directors in carrying out their powers and duties under this Part.

**(2)** Before making a decision on a dispute under this Part, a local settlement officer or a director may hold preliminary discussions with the parties and any other persons the local settlement officer or director considers appropriate for the purpose of resolving the dispute including, without limitation, determining any preliminary issues that are relevant to the dispute.



(3) A local settlement officer or director may, with the consent of the parties, engage the services of any persons the local settlement officer or director considers appropriate for the purpose of assisting him or her in resolving the dispute.

(4) A local settlement officer in reviewing a dispute and a director in reviewing the decision of a local settlement officer may carry out the review by means of discussions, meetings, written submissions or a teleconference, or a combination of any of them, as the local settlement officer or director considers appropriate.

#### **Dismissal of frivolous matters**

**21** A local settlement officer reviewing a dispute and a director reviewing the decision of a local settlement officer may at any time dismiss the application or the request for review where the local settlement officer or director considers that the application or request for review is frivolous or vexatious or without merit.

#### **Extension of time**

**22** A local settlement officer or director may, before or after the expiry of the period, extend a time period referred to in section 13(2), 16(2) or 19(2) where the local settlement officer or director considers that there are sufficient grounds for doing so.

### **Part 3 Miscellaneous**

#### **Fees and costs**

**23** A local settlement officer and a director may, as provided for in an order of the Minister under section 9.1 of the Act, charge fees and costs for things done and services provided under this Regulation.

#### **Service**

**24** A document provided under section 12(3)(a), 13, 15(3), 16 or 19 is sufficiently provided if it is

- (a) personally provided to the person to whom it is directed,
- (b) sent by ordinary or registered mail addressed to the person at the last known address for that person,
- (c) sent by facsimile addressed to the person at the last known facsimile number for that person, or
- (d) sent by electronic mail to the person's e-mail address.

## **Part 4**

### **Expiry and Coming into Force**

#### **Expiry**

**25** 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 March 31, 2022.

AR 228/2003 s25;20/2010;48/2015;58/2017

#### **Coming into force**

**26** This Regulation comes into force on the date on which section 3(23) of the *Agricultural Dispositions Statutes Amendment Act, 2003* comes into force.





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