

Agricultural Crown Lands Leases and Permits Regulation amendments 2020

November 16, 2020

Keystone Agricultural Producers (KAP) represents and promotes the interests of 4,500 Manitoba farmers and 21 commodity associations. Input into the proposed amendments to the Agricultural Crown Lands (ACL) Leases and Permits Regulation was collected from KAP's livestock policy committee.

Lease Renewal – First Right of Renewal

Regulatory changes that affect the availability of ACL must be evaluated for their impact on young and beginning farmers and ranchers as they grow their operations. Regulatory changes must also consider the ability of an established farmer or rancher to maintain a sustainable land base. The Manitoba government should seek to balance the interests of all producers who currently farm, or would like to farm, Crown lands.

KAP supports amendments to ACL Leases and Permits Regulation section 6 (Leases) that establishes a right for legacy forage lease and renewable permit holders to renew their lease or permit. Long lease periods provide farmers with an incentive to maintain Crown lands. There must be a balance between holding the land long enough so that producers can see a return on their investments and yet not so long that other producers do not have the opportunity to access Crown land. A right of renewal for legacy leaseholders through regulation provides a safeguard for farmers and ranchers who have operations that depend on the use of Crown land. Additionally, the proposed application process for renewal will provide an opportunity for Manitoba Agriculture and Resource Development (ARD) to assess whether the Crown land is being used in accordance with the lease agreement and for agricultural purposes.

The Manitoba government consulted on the proposed amendments in April 2020, during which time KAP members raised concerns that only offering first right of renewal for legacy leaseholders will create tiers within the program that will be disadvantageous to new leaseholders. Legacy leaseholders will have the benefit of long-term planning, for example, as their land will not come up for auction every 15 years. Members also suggested that since 90% of current leases under the program are legacy leases, there will not be a significant amount of land that will come available, and new entrants and young farmers will continue to have challenges accessing Crown land.

Transfers

KAP supports the proposed inclusion of clause 6.1(7) that states if a legacy lease has undergone a family transfer, it will maintain legacy status for the purpose of renewals. This will enable family members of legacy leaseholders to continue farming and ranching the same land. The proposed section 8(3) provides a further explanation of those who may be eligible legacy leaseholders upon a family transfer including immediate family members, partnerships, or corporations. KAP recommends that ARD provide further clarity in the form of a frequently asked questions (FAQ) or policy guidance document made available online to assist farmers and ranchers in interpreting the proposed list of eligible family transferees.

KAP members have raised concerns regarding the proposed repeal of clause 27.4 (transfers) that removes the ability to consider unit transfers, even as a transitional measure. A unit transfer occurs when a farmer or rancher chooses to sell their operation and includes Crown land as part of the sale. There are conflicting interests among Manitoba farmers regarding unit transfers. Farmers and ranchers close to retirement would like the option to consider a unit transfer upon their farm sale. Farmers who would like to expand their operations through Crown land leases view unit transfers as an obstacle in accessing local Crown lands as private sales would not allow the Crown land to be up for auction.

ARD had previously considered an option to grandfather unit transfers for legacy leaseholders allowing for one final unit transfer. This option seemed to provide some balance for outgoing and incoming leaseholders and alleviated some of the concerns for farmers and ranchers nearing retirement. KAP encourages the Manitoba government to consider all possible solutions to balance the opposing interests in Crown land, including a one-time option for a final unit transfer.

Crown Land Credits

In October 2020, the Manitoba government shared details of their plan to support the cattle industry through updated Manitoba Agricultural Services Corporation programming, including the 2021 ACL Forage Rent Relief Program. Rent relief is available as a 20% discount applicable to 2021 invoices for legacy leaseholders in any of the municipalities that declared a Local State of Agricultural Emergency in 2019 due to drought conditions. Farmers welcome this support as they are concerned with the increased costs for leasing Crown lands and increased feed pressures stretching their financial capacity.

The Rent Relief Program is available to farmers in 18 out of 137 municipalities in Manitoba, which highlights not only that those areas faced hardship due to drought, but also that some regions of Manitoba are more significantly impacted than others by changes to the ACL regulation. Although there are some areas of the province with a disproportionate amount of Crown land pasture and forage leases (a product of the soil type and production conditions that are present) the importance of operations having access to ACL for pasture, hay, and crop production throughout Manitoba cannot be understated. KAP encourages ARD to consider the impact of the proposed amendments in terms of rural economic development and community building in areas where there are significantly more Crown land leases.

Recommendations

KAP acknowledges the dedication of the Manitoba government in consulting on the proposed changes to the ACL regulation.

KAP recommends that the Manitoba government:

- Provide further clarity in the form of an FAQ or policy guidance document made available online to assist farmers and ranchers in interpreting the proposed list of eligible family transferees;
- Consider all possible solutions to balance the opposing interests in Crown land (regarding unit transfers) including a one-time option for a final unit transfer; and
- Consider the impact of the proposed amendments in terms of rural economic development and community building in areas where there are significantly more Crown land leases.