

Lease Guidelines Agricultural Crown Land

July 2021

A. Definitions

1. "**Account in acceptable status**" means having all Ministry accounts current and having accounts with Agricultural Credit Corporation of Saskatchewan and Saskatchewan Crop Insurance Corporation (SCIC) in a status that is acceptable to the respective agency.
2. "**Actively manage**" means to be actively involved in the operation of the leased lands and to make all management decisions relating to the leased lands.
3. "**Reserve value**" also called the starting bid is determined by the Ministry.
4. "**Corporation**" means a corporation that is engaged in the business of farming whose members are Canadian citizens or resident persons.
5. "**Ascending family member**" includes parent, or grandparent, and includes any agricultural corporation of which the majority of issued voting shares are legally or beneficially owned by any or all of them, and any co-operative that is owned by any or all of them.
6. "**Deeded land associated with the lease**" includes all deeded land adjoining and operated with the lease. This includes lands in adjoining Canadian provinces and territories.
7. "**Descending family member**" includes spouse, son, daughter, stepchild¹, grandchild or spouse thereof, and includes any agricultural corporation of which the majority of issued voting shares are legally or beneficially owned by any or all of them and any co-operative that is owned by any or all of them.
8. "**Distant family member**" includes brother, sister, nephew, niece, or spouse thereof, and includes any agricultural corporation of which the majority of issued voting shares are legally or beneficially owned by any or all of them and any co-operative that is owned by any or all of them.
9. "**Home quarter**" is where grain or livestock facilities are located.
10. "**Renewal**" refers to a new lease that has been granted, after the termination of a lease, to the lessee who held the lease before termination.
11. "**Spouse**" includes a common-law spouse where the couple has co-habited for no less than one year.

¹ The assignor will need to demonstrate that they were married or legally common law to the parent of the assignee prior to the assignee becoming 18 years of age.

B. Procedures

1. Lease Auction

- a. The Lease Application may be in the name of the successful bidder or designate(s), including corporations; provided the successful bidder submits the request in writing at the time of preparation, at no charge.
- b. The person(s) or corporation being issued the lease, must complete an Application for Agricultural Lease and meet all eligibility requirements; including the requirements of *The Saskatchewan Farm Security Act* and complete a 'Farm Land Ownership Declaration'.
- c. The fee for issuing a new lease will be included in the bid price.
- d. Leases may be for a maximum term of up to 33 years. Lease term length will be advertised in each auction lot listing. Shorter terms may be used at the discretion of the Ministry.
- e. Leases allocated through auction are subject to the terms and conditions outlined in the Lease Policy and Lease Guidelines.
- f. Successful bidders or designates(s) are responsible for paying the municipal property tax on leased lands; which the rural municipality will bill directly to the lessee.
- g. Annual lease rentals will be determined based on formula(s) listed in *The Provincial Lands (Agriculture) Regulations*.
- h. The value of any improvements on the lease is included in the reserve value. The lessee is responsible for the construction and maintenance of improvements on the leased land.
- i. Permits may be offered to the successful bidder for the current season if a lease cannot be issued quickly.
- j. Appeals can be made through court on the point of law.
- k. The Ministry of Agriculture will refund 100 per cent of the bid amount to the bidder if they are unable to meet the eligibility requirements.
- l. Lands where a rental premium (Section 3-8 *The Provincial Lands (Agriculture) Regulations*) was not applied due to their ineligibility for sale, will have the premium applied when the originally allocated lease is renewed or assigned.

2. Renewal

- a. Lessees will be sent an application early in January of the year that their lease expires.
- b. Lessees must continue to actively manage and operate the leased lands and have shown satisfactory performance as lessees in order to be eligible for a new lease. Unsatisfactory performance includes, but is not limited to:
 - i. Evidence of prolonged heavy grazing resulting in a deterioration in range condition;
 - ii. Evidence of prolonged severe weed infestation on cultivated land.
- c. Lessees whose lease is not renewable as a long-term lease because of unsatisfactory performance must be counselled and advised of the specific reasons. They may receive up to a three-year lease after which if they show no improvement the lease will not be renewed.

3. Lease Assignment

- a. Lessees wishing to assign their lease must complete an application on the

- prescribed form expressing their intent to do so.
- b. The applicant who wishes to receive the assignment must complete the normal application for agricultural Crown land.
 - c. No deeded land needs to change hands for an assignment to a family member.
 - d. Where a lessee who has a lease containing the associated deeded land clause applies for a family assignment, a review may be undertaken to determine if the associated deeded land clause can be removed. The Land Management Specialist and Director will complete the review by determining if the deeded land is integral to the operation of the leased land. Where the associated deeded land is determined integral to the lease, the associated deeded land will be included in the family assignment.
 - e. The deeded land associated with the lease must be included in the purchase where an assignment to a non-family member is applied for. A maximum of one quarter may be retained where the assignor wishes to retain the residence. Assignments, where there is no deeded land, will only be approved where the lessee obtains title to a minimum of one of the quarters of the lease and in turn, transfers it to the assignee. The quarter purchased must include the residence if there is one or, the quarter must be the one with the most improvements (i.e. livestock facilities) where there is no residence. Verification with Information Services Corporation that the title on the deeded land was transferred is required prior to completing the assignment.
 - f. The effective date of the assignment will be January 1 of the year in which the assignment is completed.
 - g. Preparation of a new lease is required for all assignments and will follow the assignment of lease form when it specifies the effective date to be:
 - i. Prior to September 1, then the lease will be prepared as of January 1 of the current year; or
 - ii. After September 1, then the lease will be prepared as of January 1 of the following year.
 - h. A request to assign that is received from an Estate will be treated as though the lessee were alive.
 - i. To be eligible for an assignment, all accounts held by the assignee and assignor whether individually or jointly with the Ministry must be in acceptable status.

4. Lease Assignments Involving Corporations

- a. A family assignment will be used where the assignee (corporation* or individual) **AND** the assignor (corporation* or individual) meets the appropriate family member definition.
- b. A non-family assignment will be used where the assignee (corporation* or individual) **OR** the assignor (corporation* or individual) does not meet the appropriate family member definitions.

*The person/s in the corporation with the relationship to the assignee or assignor must control 51% of the corporation.

5. Leases with Associated Deeded Land

- a. Under Section 2-15(2) of *The Provincial Lands Act, 2016*, the Ministry may cancel a lease if the lessee fails to comply with any term or condition of the lease. For a lease received through a non-family assignment, the lease includes a clause stating that the lessee will not dispose or cease to have control over the land identified.
- b. Associated deeded land may be sold if:
 - i. The associated deeded land is replaced by deeded land that is closer to the lessee's farm operation; **AND**
 - ii. A number of years have passed since the assignment, which would indicate the lessee has not purchased the deeded land solely to acquire the lease; **OR**
 - iii. The lessee has experienced extenuating circumstances such as financial problems or family situations. These will be assessed on a case-by-case basis and a decision may depend on the lessee providing proof of the situation.
- c. Associated deeded land may not be sold if:
 - i. The leased land cannot be accessed once the associated deeded land is sold;
 - ii. The leased land and the associated deeded land are managed as a unit. For example, pastureland with perimeter fencing includes associated deeded land and leased land.
- d. The Director of the Land Management Unit must provide approval prior for the sale of associated deeded land.

6. Direct Lease

- a. Prior to issuing a direct lease, the Land Management Specialist will confirm that issuing the lease would meet the conditions set out in the policy.
- b. The LMS will provide rationale on how issuing the lease is in the public's interest (i.e. why this is the only person it makes sense to lease to and the land will be managed sustainably, preserving it for future generations).
- c. Direct leasing will be approved at the Land Management Director's discretion.
- d. When there is only one individual with direct physical or legal access to the land, the LMS and Director will confirm if they want the lease. When there are

two, three, or four individuals with direct physical or legal access to the land, the LMS and Director will complete an invitational tender to determine who will receive the direct lease.

- e. Vacant land that does not have direct physical or legal access should be direct leased and not advertised in a lease auction.

7. Access to Forest Resources on Occupied Crown Land

- a. Prior to any timber harvest on Crown land, the following is required:
 - i. Permission from the Ministry;
 - ii. Permission from the lessee;
 - iii. A license from the Ministry of Environment; and/or
 - iv. A management plan approved by the Ministry of Environment.
- b. A lessee may deny access to the leased land for the following reasons:
 - i. Potential negative impacts on the agricultural production; and/or
 - ii. The lessee has taken steps to harvest the timber on the leased land.
- c. The Ministry may provide access to the forest resources as requested if the reasons given by the lessee to deny access are deemed invalid.

8. General

- a. A spouse’s name may be added to a lease at the time of lease preparation, provided they meet the eligibility criteria. A spouse’s name added at a different time must be done by assignment.
- b. Limits of the amount of Crown land in special project areas which any individual can hold under a lease are as follows (the limit may be waived where no acceptable applicant is found):

Project	Maximum acreage
Brokenshell Wetlands (Buttermilk & Ibsen Lakes)	40
Cheal Lake	120 or 3 plots
Dead Lake	1 plot
Gilroy	80
Grainland	80 or 2 plots
Horseshoe Bend	160 (useable)
Masher Lake	80 or 2 plots
Miry Creek	100
Ponass Lake Basin	80 (useable)
Rosthern	80 (useable)
Rush Lake	Federal jurisdiction
Souris Valley	1 plot
Spangler	80
Squaw Creek	160
Vidora	80

- c. Rental adjustments that the Ministry considers appropriate will be applied as follows:
- i. In the case of an increase in rental, the adjustment will be effective for the year the change is made.
 - ii. In the case of a decrease in rental, the adjustment will be made retroactive to the year in which the client can prove an adjustment was requested, or where the Ministry considers it appropriate to adjust the rental in the case of a client seeding previously cultivated land to forage; the rental adjustment will only be made retroactive to the date that the lessee informed the Ministry of the change. Written documentation that the land was in forage must be provided. Examples of written documentation include information from SCIC and Saskatchewan Assessment Management Agency (SAMA). This adjustment can only be made if the forage produced on lands in question is utilized by livestock owned by the lessee.
- d. SAMA ratings and/or SCIC ratings are to be used in all new lease setups. Land Management Specialists (LMS) can establish their own ratings, where these values are not available from these agencies. The agency responsible for the rating must be notified and any disagreement resolved through discussion, where the LMS disagrees with the SAMA or SCIC ratings.
- e. Subleasing on grazing land is prohibited unless approved by the Ministry. The lessee is required to submit a record of the number of the livestock grazed and the names of the owners if a sublease is approved. Legitimate custom farming is not classified as a sublease but a written agreement is required in order to verify the custom farming operation.
- f. A lessee may, with permission from the Ministry, cut hay on leased pasture and use it for their cattle. A lessee may not cut hay on leased pasture and sell the hay.
- g. At the request of the lessee, the Ministry may reduce rent for any loss on leased land if the lessee is ineligible for insurance caused by an uncontrollable natural event. The lessee must complete a Rental Reduction Request form, available on the Ministry's website, indicating the inability to obtain insurance through SCIC or a private insurer.
- i. Upon receiving written notification from a lessee impacted by fire, the Ministry will inspect the leased land in the calendar year of the fire. The LMS will create a Restoration Plan that identifies a specific carrying capacity for the leased land. The Restoration Plan will not exceed three years and will trigger a rental reduction the year after the fire occurred based on the new temporary carrying capacity. The Ministry may adjust the Restoration Plan if required.

Further information on insurance coverage: <https://www.scic.ca/ci/forage/cause-of-loss/>.
Visit saskatchewan.ca/crownlands for more information or to contact your local regional office.