

No. 46

4th Session, 13th Legislature, Alberta
6 Elizabeth II, 1958

BILL 46

A Bill respecting the Interpretation and Construction of
Statutes and to Make Uniform the Law in
Respect Thereto

HON. MR. MANNING

Printed by L. S. WALL, Printer to the Queen's Most Excellent Majesty,
Edmonton, Alberta, 1958

Explanatory Note

General. In 1938 a uniform Interpretation Act was prepared by the Conference of Commissioners for Uniformity of Legislation in Canada. In all, five jurisdictions adopted the Uniform Act prior to 1953. Alberta has not to date adopted the Uniform Act although its Act has many similar provisions. In 1953, the Conference revised its Uniform Interpretation Act and since that date two jurisdictions have adopted the revised Uniform Act. The Uniform Interpretation Act has been recommended for adoption in Alberta by the Alberta Commissioners on the Conference, and this Bill would enact that Act in Alberta with slight modification to suit local conditions. References herein are to The Revised Statutes of Alberta, 1955, chapter 160, the present Interpretation Act.

2. New

3. New, but to the same effect as present sections 2 and 3.

BILL

No. 46 of 1958

An Act respecting the Interpretation and Construction of Statutes and to Make Uniform the Law in Respect Thereto

(Assented to _____, 1958)

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

1. This Act may be cited as "*The Interpretation Act, 1958*".

Interpretation

2. (1) In this Act, the expression

- (a) "enactment" means an Act or a regulation or any portion of an Act or a regulation, and as applied to a territory of Canada, includes an ordinance of the territory;
- (b) "Public Officer" includes any person in the public service of the Province,
 - (i) who is authorized to do or enforce the doing of any act or thing or to exercise any power, or
 - (ii) upon whom any duty is imposed, by or under any public Act;
- (c) "regulation" includes any rule, rule of court, order prescribing regulations, tariff of costs or fees, form, by-law, resolution or order made in the execution of a power given by an enactment;
- (d) "repeal" includes revoke or cancel.

(2) For the purposes of this Act, an enactment that has expired or lapsed or otherwise ceased to have effect shall be deemed to be repealed.

Application

3. (1) Every provision of this Act extends and applies to every enactment, unless a contrary intention appears, enacted or made before or after the commencement of this Act.

(2) Where an enactment contains an interpretation section or provision, it shall be read and construed as being applicable only if the contrary intention does not appear.

4. (1) Present section 14.

(2) Present section 5 (1).

5. (1) New, but to same effect as present section 11.

(2), (3) Removes a difficulty encounter under this section.

(3) The provisions of this Act apply to the interpretation of this Act.

(4) Nothing in this Act shall be construed to exclude the application to any enactment of a rule of construction applicable thereto and not inconsistent with this Act.

Operation

4. (1) Where an enactment is expressed to come into force or operation on a particular day, or on a day fixed by proclamation or otherwise, it shall be construed as coming into force or operation immediately on the expiration of the previous day; and where an enactment is expressed to expire, lapse or otherwise cease to have effect on a particular day, it shall be construed as ceasing to have effect immediately on the commencement of the following day.

(2) Where an enactment is not to come into force or operation immediately on its being passed or made and it confers power,

- (a) to make appointments,
- (b) to hold elections,
- (c) to make regulations,
- (d) to make, grant or issue instruments,
- (e) to give notices,
- (f) to prescribe forms, or
- (g) to do any other thing,

that power may, for the purpose of making the enactment effective upon its commencement, be exercised at any time after the passing or making thereof but a regulation made thereunder before the commencement of the enactment has no effect until the commencement of the enactment, except in so far as may be necessary to make the enactment effective upon its commencement.

Construction

5. (1) Whenever by an enactment judicial or quasi-judicial powers are given to a judge or officer of a court, the judge or officer shall be deemed to exercise such power in his official capacity and as representing the court to which he is attached, and he may for the purpose of performing the duties imposed upon him by the enactment, subject to the provisions thereof, exercise the powers he possesses as a judge or officer of the court.

(2) Without restricting the generality of subsection (1), where under any Act an appeal is given from any person, board, commission, or other body to a court or judge, unless otherwise specifically provided in that Act, an appeal lies from the decision of the court or judge as in the case of any other action, matter, or proceeding, in that court or in the court of which the judge is a member.

6. (1) Present section 4.

(2) New.

(3) Replaces present section 41(n) and (v).

(4) Replaces present section 41(g).

(5) New.

7. Section 6 without reference to "public and private Acts" as in this context a public Act is one that is to be judicially noticed, and all Acts are by this clause made public Acts in that sense.

8. Present section 7.

9. Present section 8.

10. New

11. Present section 9 in shortened form.

12. New.

(3) Where any enactment of Alberta or any law in force in Alberta provides that any proceeding, matter, or thing shall be done by or before a judge, the term "judge" in all such cases means a judge of the court mentioned or referred to in the enactment; and any proceeding, matter or thing, when properly commenced before a judge, may be continued or completed before any other judge of the same court.

6. (1) The law shall be considered as always speaking, and whenever a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise so that effect may be given to each enactment and every part thereof according to its true spirit, intent and meaning.

(2) The expression "now", "next", "heretofore" or "hereafter" shall be interpreted as having reference to the time when the enactment or the part or provision thereof containing the expression came into force.

(3) The expression "shall" shall be read as imperative and the expression "may" as permissive and empowering.

(4) The expression "herein" used in a section or provision of an enactment relates to the whole enactment and not to that section or provision only.

(5) Definitions or rules of interpretation contained in an enactment, unless the contrary intention appears, apply to the construction of the provisions of the enactment that contain those definitions or rules of interpretation, as well as to the other provisions of the enactment.

7. Every Act of the Legislature shall be judicially noticed by all judges, justices and others.

8. No provision in a private Act affects the rights of a person except only as therein mentioned or referred to.

9. The preamble of an enactment shall be read as a part thereof intended to assist in explaining its purport and object.

10. Marginal notes and headings in the body of an enactment and the references to former enactments form no part of the enactment but shall be deemed to have been inserted for convenience of reference only.

11. Every enactment shall be deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best insures the attainment of its objects.

12. Where an enactment confers power to make regulations or to grant, make or issue an order, writ, warrant, scheme or letters patent, expressions used therein shall, unless the contrary intention appears, have the same respective meanings as in the enactment conferring the power.

13. New.

14. Section 35, but modified to provide for the situation where one person (or even no designated person) is made a corporation by statute.

15. Present section 23.

16. Present section 33 reviscd.

17. (1) Present section 30.

(2) Present section 32.

(3) Present section 31.

13. No enactment is binding on Her Majesty or affects Her Majesty or Her Majesty's rights or prerogatives in any manner unless it is expressly stated therein that Her Majesty is bound thereby.

14. Words in an enactment establishing a corporation

- (a) vest in the corporation power to sue and be sued, to contract and be contracted with by its corporate name, to have a common seal and to alter or change it at pleasure, to have perpetual succession, to acquire and hold personal property or movables for the purposes for which the corporation is constituted and to alienate the same at pleasure,
- (b) vest in a majority of the members of the corporation the power to bind the others by their acts, and
- (c) exempt from personal liability for its debts, obligations or acts such individual members of the corporation as do not contravene the provisions of the enactment incorporating them.

15. Where the Lieutenant Governor is authorized to do an act by proclamation, it is to be understood that the proclamation is a proclamation issued under an order of the Lieutenant Governor in Council, but it is not necessary to mention in the proclamation that it is issued under the order.

16. Every public officer appointed before or after the commencement of this Act by or under the authority of an enactment or otherwise, holds office during pleasure only, unless it is otherwise expressed in the enactment or in his commission or appointment.

17. (1) Words authorizing the appointment of a public officer include the power of

- (a) removing or suspending him,
- (b) reappointing or reinstating him,
- (c) appointing another in his stead or to act in his stead, and
- (d) fixing his remuneration and varying or terminating it,

in the discretion of the authority in whom power of appointment is vested.

(2) Words directing or empowering a public officer to do any act or thing, or otherwise applying to him by his name of office include his successors in the office and his or their deputy.

(3) Words directing or empowering a Minister of the Crown to do an act or thing, or otherwise applying to him by his name of office, include a Minister acting for him, or, if the office is vacant a Minister designated to act in the office by or under the authority of an order in council, and also his successors in the office, and his or their deputy.

(4) New.

18. (1) (a) Present section 27 revised.

(b) Present section 28 revised.

(c) New.

(d) Present section 34.

(e) New.

(f) Present section 37 revised.

(g) Present section 36 revised.

(h) Section 24 (b) revised and extended to include corporations but restricted to the masculine gender without reference to the converse as is the present case.

(i) Present section 24 (a)

(j) New.

(k) New.

(l) Present section 26 (1) shortened.

(4) Where a power is conferred or a duty imposed on the holder of an office as such, the power may be exercised and the duty shall be performed by the person for the time being charged with the execution of the powers and duties of the office.

18. (1) In an enactment,

- (a) where anything is directed to be done by or before a public officer, it shall be done by or before one whose jurisdiction or power extends to the place where such thing is to be done;
- (b) where power is given to the Lieutenant Governor in Council or a public officer to do or enforce the doing of any act or thing, all such powers shall be deemed to be also given as are necessary to enable him to do or enforce the doing of the act or thing;
- (c) where the doing of an act that is expressly authorized is dependent upon the doing of any other act by the Lieutenant Governor in Council or by a public officer, the Lieutenant Governor in Council or public officer, as the case may be, has the power to do that other act;
- (d) where any act or thing is required to be done by more than two persons, a majority may do it;
- (e) where a power is conferred or a duty imposed, the power may be exercised and the duty shall be performed, from time to time, as occasion requires;
- (f) where power is conferred to make regulations, the power shall be construed as including power, exercisable in like manner and subject to like consent and conditions, if any, to rescind, revoke, amend or vary the regulations and make others;
- (g) where a form is prescribed, deviations therefrom not affecting the substance or calculated to mislead, do not invalidate the form used;
- (h) words importing male persons include female persons and corporations;
- (i) words in the singular include the plural, and words in the plural include the singular;
- (j) where a word is defined other parts of speech and tenses of that word have corresponding meanings;
- (k) where a period of time dating from a given day, act or event is prescribed or allowed for any purpose, the time shall, unless the contrary intention appears, be reckoned exclusively of such day or of the day of such act or event;
- (l) a reference to time shall be read as a reference to mountain standard time.

(2) Where in an enactment the time limited for the doing of anything expires or falls upon a holiday, the time so limited extends to and the thing may be done on the

(2) and (3) Present section 25 (1) and (2).

19. New. This provision will remove an uncertainty in citations and references.

20. (1) Present section 38 revised.

(2) New.

(3) New.

first following day that is not a holiday subject to subsection (3).

(3) Where

(a) the proceeding to be taken or the thing to be done

- (i) involves service upon or filing or registering or attendance at, a department, commission, board or other branch of the public service of Alberta, or

- (ii) involves service upon or filing or registering with or attendance upon, an official of a department, commission, board or other branch of the public service of Alberta,

and

(b) the time limited for the taking or the doing of the proceeding or thing

- (i) expires or falls upon a Saturday, or

- (ii) expires or falls upon a holiday and a Saturday is the first following day that is not a holiday,

the time shall be deemed to be extended to and the proceeding may be taken or the thing done on the first day that follows the Saturday and is not a holiday.

References

19. (1) In an enactment or document, an Act of Alberta or any other province or territory of Canada or of Canada may be cited by reference to its title or its short title, if any, either with or without reference to the chapter, or by reference to the number of the chapter of the Revised Statutes or Revised Ordinances or of the Statutes or Ordinances for the year of Our Lord or the regnal year in which the Act was passed.

(2) A citation of or reference to an Act of Alberta or any other province or territory of Canada or of Canada shall be deemed to be a citation of or reference to the Act as amended.

20. (1) A reference in an enactment by number or letter to two or more parts, divisions, sections, subsections, paragraphs, subparagraphs, clauses, subclauses, schedules or forms in an enactment shall be read as including the number or letter first mentioned and the number or letter last mentioned.

(2) A reference in an enactment to a part, division, section, schedule or form shall, unless the contrary intention appears, be read as a reference to a part, division, section, schedule or form of the enactment in which the reference occurs.

(3) A reference in an enactment to a subsection, paragraph, subparagraph, clause or subclause shall, unless the contrary intention appears, be read as a reference to a

(4) New

(5) Present section 39 revised.

21. (1) (a). New

(b) New.

(c) Present section 41 (b) extended to include regulations.

(d) New.

(e) New.

(f) New.

(g) New.

(h) New.

(i) New.

(j) Present 41 (h).

(k) Present section 41 (i).

subsection, paragraph, subparagraph, clause or subclause of the section, subsection, paragraph, subparagraph or clause, as the case may be, in which the reference occurs.

(4) A reference in an enactment to regulations shall, unless the contrary intention appears, be read as a reference to regulations made under the enactment in which the reference occurs.

(5) A reference in an enactment by number or letter to any section, subsection, paragraph, subparagraph, clause, subclause or other division or line of another enactment shall be read as a reference to the section, subsection, paragraph, subparagraph, clause, subclause or other division or line of such other enactment as printed by authority of law.

Words and Phrases

21. (1) In an enactment, the expression
- (a) "assembly" means the Legislative Assembly of the Province;
 - (b) "bank" or "chartered bank" means a bank to which the *Bank Act* (Canada) applies, and includes a branch, agency, and office of a bank;
 - (c) "commencement" when used with reference to an enactment means the time at which the enactment comes into operation;
 - (d) "duly qualified medical practitioner" or "legally qualified medical practitioner" or any other words or expression importing legal recognition of any person as a medical practitioner or member of the medical profession means a person registered under *The Medical Profession Act*;
 - (e) "Gazette" means *The Alberta Gazette* published by the Queens Printer of the Province;
 - (f) "Government" or "Government of Alberta" means Her Majesty the Queen acting for the Province of Alberta;
 - (g) "Government of Canada" means Her Majesty the Queen acting for Canada;
 - (h) "Governor", "Governor of Canada" or "Governor General" means the Governor General of Canada, or other chief executive officer or administrator carrying on the Government of Canada on behalf and in the name of the Sovereign by whatever title he is designated;
 - (i) "Governor in Council" or "Governor General in Council" means the Governor General of Canada, or person administering the Government of Canada, acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the Queen's Privy Council for Canada;
 - (j) "Her Majesty", "His Majesty", "the Queen", "the King" or "the Crown" means the Sovereign of the United Kingdom, Canada and Her other realms and territories, and Head of the Commonwealth;
 - (k) "holiday" includes
 - (i) every Sunday, New Year's Day, Good Friday,

(l) New, the present definition of "justice" in section 41(j) abbreviated.

(m) New.

(n) Section 41 (l) revised.

(o) Section 41 (l) revised.

(p) Section 41 (m) with reference to justice of the peace omitted.

(q) Section 41 (p).

(r) Section 41 (q) revised and extended to refer to "swear" in similar contexts.

(s) Section 41 (r).

(t) Section 41 (s) revised).

(u) Section 41 (t).

(v) Section 41 (u).

(w) New.

(x) Section 41 (w) revised.

- (ii) the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning sovereign,
- (iii) Dominion Day, Labour Day Remembrance Day, and Christmas Day,
- (iv) the twenty-sixth day of December or when such day falls on a Sunday or a Monday, then the twenty-seventh day of December,
- (v) any day appointed by proclamation of the Governor General in Council or by proclamation of the Lieutenant Governor in Council for a public holiday or for a day of fast or thanksgiving or as a day of public mourning, and
- (vi) with reference to any particular part of the Province such day in each year as may by proclamation of the Lieutenant Governor in Council, be appointed as a public holiday for that part of the Province for the planting of forest or other trees;
- (l) "justice" means a justice within the meaning of *The Summary Convictions Act*;
- (m) "Legislature" means the Lieutenant Governor acting by and with the advice and consent of the Legislative Assembly of the Province;
- (n) "Lieutenant Governor" means the Lieutenant Governor of the Province or the chief executive officer or administrator carrying on the Government of the Province on behalf and in the name of the Sovereign by whatever title he is designated;
- (o) "Lieutenant Governor in Council" means the Lieutenant Governor of the Province or person administering the Government of the Province, acting by and with the advice of the Executive Council of the Province;
- (p) "magistrate" means a magistrate appointed under *The Magistrates and Justices Act*;
- (q) "month" means calendar month;
- (r) "oath" or "affidavit" in the case of persons for the time being allowed or required by law to affirm or declare instead of swearing, includes affirmation and declaration and the word "swear" in the like case includes "affirm" and "declare";
- (s) "ordinance" means an ordinance of the Territories;
- (t) "person" includes a corporation and the heirs, executors, administrators or other legal representatives of a person;
- (u) "proclamation" means a proclamation under the Seal of the Province;
- (v) "Province" means the Province of Alberta;
- (w) "Revised Statutes" or "Revised Statutes of Alberta" means the latest revised and consolidated statutes of the Province;
- (x) "security" means sufficient security;

- (y) Section 41 (*w*) revised.
- (z) New.

- (aa) New.
- (bb) Section 41 (*aa*).

- (cc) Section 41 (*bb*) revised.
- (2) Present section 10.

22 (1) Present section 16.

- (2) Present section 15.
- (3) New.

23. (1) Present section 17 revised.

- (2) Present section 18 in part,

- (y) "surety" means a sufficient surety;
- (z) "treasury branch" means a treasury branch under *The Treasury Branches Act*;
- (aa) "will" includes codicil;
- (bb) "writing", "written", or any term of like import includes words printed, painted, engraved, lithographed, photographed or represented or reproduced by any mode of representing or reproducing words in a visible form;
- (cc) "year" means calendar year.

(2) In an enactment a name commonly applied to a country, place, body, corporation, society, officer, functionary, person, party or thing means the country, place, body, corporation, society, officer, functionary, person, party or thing to which the name is commonly applied although the name is not the formal or extended designation thereof.

Repeal and Amendment

22. (1) An Act shall be construed as reserving to the Legislature the power of repealing or amending it and revoking, restricting or modifying a power, privilege or advantage thereby vested in or granted to a person.

(2) An Act may be amended or repealed by an Act passed in the same session.

(3) An amending enactment, so far as consistent with the tenor thereof, shall be construed as part of the enactment that it amends.

23. (1) Where an enactment is repealed in whole or in part, the repeal does not,

- (a) revive an enactment or thing not in force or existing at the time when the repeal takes place,
- (b) affect the previous operation of the enactment so repealed or anything duly done or suffered thereunder,
- (c) affect a right, privilege, obligation or liability acquired, accrued, accruing or incurred under the enactment so repealed,
- (d) affect an offence committed against or a violation of the provisions of the enactment so repealed, or any penalty, forfeiture, or punishment incurred in respect thereof, or
- (e) affect an investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and an investigation, legal proceeding or remedy, of the kind described in clause (e) may be instituted, continued or enforced and the penalty, forfeiture or punishment imposed as if the enactment had not been repealed.

(2) Where an enactment is repealed in whole or in part and other provisions are substituted therefor,

(a) Present section 18 (a).

(b) New.

(c) Present section 18 (b) in part.

(d) Present section 18 (b) the balance.

(e) Present section 18 (d).

24. (1) Present section 18 the balance.

(a) Present section 18 (c).

(b) Section 20 (1) and (2) revised.

(2) Present section 19 extended.

- (a) every person acting under the enactment so repealed shall continue to act as if appointed under the provisions so substituted until another is appointed in his stead,
- (b) every bond and security given by a person appointed under the enactment so repealed remains in force, and all offices, books, papers and things made or used under the repealed enactment shall continue to be used, as before the repeal as far as consistent with the substituted provisions,
- (c) every proceeding taken under the enactment so repealed shall be taken up and continued under and in conformity with the provisions so substituted, as far as consistently may be,
- (d) in the recovery or enforcement of penalties and forfeitures incurred and in the enforcement of rights, existing or accruing under the enactment so repealed or in a proceeding in relation to matters that have happened before the repeal, the procedure established by the substituted provisions shall be followed as far as it can be adapted thereto, and
- (e) when any penalty, forfeiture or punishment is reduced or mitigated by any of the provisions so substituted, the penalty, forfeiture or punishment if imposed or adjudged after the repeal shall be reduced or mitigated accordingly.

24. (1) Where an enactment is repealed in whole or in part and other provisions are substituted by way of amendment, revision or consolidation,

- (a) all regulations made under the repealed enactment remain in force, in so far as they are not inconsistent with the substituted enactment, until they are annulled or others made in their stead, and
- (b) a reference in an unrepealed enactment to the repealed enactment shall, as regards a subsequent transaction, matter or thing, be read as a reference to the provisions of the substituted enactment relating to the same subject-matter as the repealed enactment; but where there are no provisions in the substituted enactment relating to the same subject-matter, the repealed enactment shall be read as unrepealed as far as is necessary to maintain or give effect to the unrepealed enactment.

(2) Where an enactment of any other province or territory of Canada or of Canada is repealed in whole or in part and other provisions are substituted by way of amendment, revision or consolidation, a reference in an enactment of Alberta to the repealed enactment shall as regards a subsequent transaction, matter or thing be construed to be a reference to the provisions of the substituted enactment relating to the same subject-matter as the repealed enactment.

25. (1) and (2) New.

(3) Present section 21.

(4) New.

26. Present section 29 (1).

27. Present section 40.

25. (1) The repeal of an enactment in whole or in part shall not be deemed to be or to involve a declaration that the enactment was or was considered by the Legislature or other body or person by whom the enactment was passed or made to have been previously in force.

(2) The amendment of an enactment shall not be deemed to be or to involve a declaration that the law under the enactment was or was considered by the Legislature or other body or person by whom the enactment was passed or made to have been different from the law as it is under the enactment as amended.

(3) The repeal of an enactment in whole or in part or the amendment of an enactment shall not be deemed to be or to involve any declaration as to the previous state of the law.

(4) A re-enactment, revision, consolidation or amendment of an enactment shall not be deemed to be an adoption of the construction that has by judicial decision or otherwise been placed upon the language used in the enactment or upon similar language.

26. Where by an Act a sum of public money is appropriated for any purpose or is directed to be paid then, if no other provision is made respecting it, the sum shall be paid out of the General Revenue Fund of the Province under warrant of the Lieutenant Governor in Council directed to the Treasurer of the Province.

27. Where by an enactment public records are required to be kept or any written process to be had or taken, the records or process shall be had or taken in the English language.

28. *The Interpretation Act*, being chapter 160 of The Revised Statutes of Alberta, 1955 is hereby repealed.

29. This Act comes into force on the day upon which it is assented to.

No. 46

FOURTH SESSION

THIRTEENTH LEGISLATURE

6 ELIZABETH II

1958

BILL

An Act respecting the Interpretation
and Construction of Statutes and to
Make Uniform the Law in Respect
Thereof

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. MANNING
