

1972 Bill 77

First

~~Second~~ Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 77

The Legal Profession Amendment Act, 1972 (No. 2)

THE ATTORNEY GENERAL

First Reading

Second Reading

Third Reading

Printed by the QUEEN'S PRINTER for the Province of Alberta, EDMONTON

BILL 77

1972

THE LEGAL PROFESSION AMENDMENT ACT, 1972 (NO. 2)

(Assented to _____, 1972)

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

1. *The Legal Profession Act is hereby amended.*
2. *Section 39, subsection (1) is amended by striking out clause (c) and by substituting therefor the following clause:*
 - (c) has received a degree in law from a university in Alberta or has received a degree in law from a university outside Alberta which, in the opinion of the Co-ordinating Council, is equivalent to the degree of Bachelor of Laws granted by a university in Alberta.
3. *Section 41, subsection (1) is amended by striking out clause (c) and by substituting therefor the following clause:*
 - (c) has received a degree in law from a university in Alberta or has received a degree in law from a university outside Alberta which, in the opinion of the Co-ordinating Council, is equivalent to the degree of Bachelor of Laws granted by a university in Alberta.
4. *Section 43 is amended by adding after subsection (2) the following subsection:*
 - (3) An appeal lies to the Appellate Division of the Supreme Court from any decision or direction of the Benchers made pursuant to this section and in any such appeal the provisions of sections 70, 71 and 72 apply with all necessary modifications.
5. *Section 58, subsection (2) is amended by striking out the words "and report on" and by adding after the words "prepare his answer to the new matter" the words "and sections 59 to 65 apply to the investigation".*

Explanatory Notes

1. This Bill will amend chapter 203 of the Revised Statutes of Alberta 1970.

2. This amendment will limit recognition of law degrees obtained outside Alberta to those granted by universities. Section 39(1)(c) presently reads:

39. (1) The Education Committee shall approve the admission of a person as a student-at-law if he proves to its satisfaction and in accordance with the rules that he

(c) has received a degree in law from a university in Alberta or has received a degree in law which, in the opinion of the Co-ordinating Council, is equivalent to the degree of Bachelor of Laws granted by a university in Alberta.

3. This amendment will limit admission as a student-at-law to persons having law degrees from a university. Section 41(1)(c) presently reads:

41. (1) The Education Committee shall approve the admission of a person as a student-at-law if he proves to its satisfaction and in accordance with the rules that he

(c) has received a degree in law from a university in Alberta or has received a degree in law which, in the opinion of the Co-ordinating Council, is equivalent to the degree of Bachelor of Laws granted by a university in Alberta,

4. There will be a right of appeal to the Appellate Division from any decisions of the Benchers concerning admission to the Society.

5. Section 58 (2) reads:

(2) An investigating committee may also investigate any other matter concerning the conduct of the member that arises in the course of the investigation, but in that event, the committee shall declare its intention to investigate and report on the new matter and shall permit the member sufficient opportunity to prepare his answer to the new matter.

This amendment will permit the committee to deal summarily with new matters arising in the course of an investigation as it may with the matters initiating the investigation.

6. *The following new Part is added after section 101:*

PART 7

ALBERTA LAW FOUNDATION

102. There is hereby established a body corporate with the name "Alberta Law Foundation" (in this Part called the "Foundation").

103. The objects of the Foundation are

- (a) to receive moneys and property and to maintain and manage a fund, the interest and capital of which is to be used from time to time as the board of directors of the Foundation see fit for
 - (i) conducting research into and recommending reform of law and the administration of justice;
 - (ii) establishing, maintaining and operating law libraries;
 - (iii) contributing to the legal education and knowledge of the people of Alberta and providing programs and facilities therefor;
 - (iv) providing assistance to native people's legal programs, student legal aid programs and programs of like nature;
- (b) doing all other things that are, in the opinion of the directors, incidental or conducive to the attainment of the objects enumerated in clause (a).

104. (1) The affairs of the Foundation shall be conducted by a board of directors composed of

- (a) the Attorney General of Alberta or a person designated by him to act in his absence;
- (b) two persons appointed by the Attorney General who are not members of the Society;
- (c) two persons appointed by the Benchers of whom
 - (i) one shall be a Bencher, and
 - (ii) one shall be a member of the Society who is not a Bencher;
- (d) two persons, one of whom is a member of the Society and one of whom is not a member of the Society, appointed by the other directors of the Foundation.

(2) The term of office of the directors of the Foundation shall

- (a) in the case of directors who are members of the Society, be until the commencement of the meeting of Benchers next following each election of Benchers, and
- (b) in the case of all other directors, be for a period of two years.

6. Provision is made for a Foundation financed mainly by interest on the cumulative trust funds of members of the Law Society to be used for law research and reform, legal education of the public, establishment and maintenance of law libraries and specialized assistance in legal areas to the public.

(3) The Attorney General shall, by order, designate one member of the board as chairman.

(4) A quorum of the board shall consist of four members thereof.

(5) The continuing members of the board may act notwithstanding any vacancy in the board.

(6) No act done by the authority of the board shall be invalid in consequence of any defect that is afterwards discovered in the appointment of the members.

(7) An appointed member of the board may resign from office upon giving one month's notice in writing to the board of his intention to do so, and his resignation shall take effect upon the expiration of the notice, or upon its earlier acceptance by the board.

(8) The office of a member of the board shall be vacated if he ceases to hold the qualifications necessary for his appointment.

105. (1) The board may make by-laws respecting calling of meetings of the board and the conduct of business thereat, the duties and conduct of members and generally as to the conduct of the business and affairs of the Foundation.

(2) Without limiting the generality of subsection (1), the board may make by-laws regarding

- (a) the number and designation of officers of the Foundation;
- (b) the appointment of and terms of office of officers of the Foundation and all matters relating to their offices;
- (c) the resignation or removal from office of officers of the Foundation;
- (d) the number and designations of employees of the Foundation other than officers, and their terms and conditions of employment;
- (e) the remuneration, if any, of officers and employees of the Foundation, and
- (f) the operation of the Law Foundation Account.

106. (1) The board shall apply, and cause to be applied, the funds of the Foundation, in such manner as the board may decide, in carrying out the objects of the Foundation.

(2) The funds of the Foundation shall consist of all sums paid to the Foundation pursuant to section 108, interest accruing from investment of the funds of the Foundation, and any other moneys received by the Foundation.

(3) There shall be paid out of the funds of the Foundation the costs, charges and expenses involved in the administration of the Foundation, and the costs, charges, and expenses incurred by the board in carrying out the objects of the Foundation.

(4) No director may receive any remuneration for his services but the directors shall be entitled to be paid out of the funds of the Foundation their reasonable travelling and living expenses while absent from their respective ordinary places of residence in the course of their duties as members of the board.

(5) All moneys of the Foundation shall, pending investment or application in accordance with this section, be paid into a bank, trust company or treasury branch in Alberta to the credit of a separate account to be called the "Law Foundation Account", and that account shall be used for the objects of the Foundation.

(6) Any moneys that are not immediately required for the purposes of the Foundation may be invested in the name of the Foundation by the directors in securities of the kind, but not limited to the proportions, in which insurance companies are permitted to invest under the *Canadian and British Insurance Companies Act* (Canada).

(7) The accounts of the Foundation shall be audited annually by a chartered accountant or firm of chartered accountants appointed for the purpose by the board.

107. The Foundation may borrow or raise or secure the payment of money upon the credit of the Foundation from time to time as the board of directors thinks fit to fulfil the objects of the Foundation and may for that purpose issue notes, bonds, debentures, debenture stock or other evidences of indebtedness.

108. (1) Every member (or firm of more than one member which shall be included in the term "member") shall maintain an interest-bearing trust account in a bank, trust company or treasury branch into which he shall deposit any moneys received by him upon trust from or on account of any client and shall instruct the bank, trust company or treasury branch to remit the interest earned thereon to the Foundation semi-annually in April and October of each year and such interest thereupon becomes the property of the Foundation.

(2) A member is not liable, by virtue of the relation between the member and his client, to account to any client for interest earned on money deposited in the bank, trust company or treasury branch pursuant to subsection (1).

(3) Nothing in this Part affects any arrangement made between a member and his client to deposit money received from or on behalf of the client or to which the client is entitled, in a separate account for the client at interest, which interest shall be the property of the client.

7. (1) *This Act, except section 6, comes into force on January 1, 1973.*

(2) *Section 6 comes into force on April 1, 1973.*

