

1975 Bill 84
(Second Session)

First Session, 18th Legislature, 24 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 84

THE PROVINCIAL COURT AMENDMENT ACT, 1975

THE ATTORNEY GENERAL

First Reading

Second Reading

Third Reading

BILL 84

1975

(Second Session)

THE PROVINCIAL COURT AMENDMENT ACT, 1975

(Assented to _____, 1975)

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

1. *The Provincial Court Act is hereby amended.*

2. *Section 1 is amended by adding after clause (b) the following clause:*

(b1) "Judicial Council" means the Judicial Council for Provincial Judges;

3. *Section 2 is amended by adding after subsection (1) the following subsection:*

(2) The Provincial Court is a court of record consisting of those persons who hold office as provincial judges from time to time.

4. *Section 3 is amended by adding after subsection (2) the following subsections:*

(3) The Lieutenant Governor in Council shall designate one judge to be chief judge of the Provincial Court for such period of time, being not less than five years, as the Lieutenant Governor in Council may specify.

(4) The chief judge has the power and duty to supervise the provincial judges in the performance of their duties, including the power and duty to

- (a) designate a particular case or other matter or class of cases or matters in respect of which a particular judge shall act;
- (b) designate which court facilities shall be used by particular judges;
- (c) assign duties to judges as the chief judge considers advisable;

Explanatory Notes

1. This Bill will amend chapter 86 of the Statutes of Alberta, 1971.

2. "Judicial Council" defined.

3. The Provincial Court will be a court of record.

4. Provision will be made for a chief judge of the court and for administrative judges in the discretion of the Lieutenant Governor in Council to perform administrative functions as well as judicial duties in any areas of Alberta having two or more judges sitting.

(d) exercise any other powers and perform any other duties prescribed by the Lieutenant Governor in Council.

(5) The Lieutenant Governor in Council may designate a judge as an administrative judge for any area of Alberta designated by the Attorney General where two or more provincial judges hold sittings to perform those functions which are delegated to him by the chief judge with regard to that area.

5. Sections 8, 9 and 10 are struck out and the following sections are substituted therefor:

8. The chief judge shall review any matter regarding the conduct of a judge which is brought to his attention in any manner, whether a complaint is made or not, and shall, where he considers it necessary,

- (a) reprimand the judge, or
- (b) take any corrective measures which he considers appropriate, or
- (c) refer the matter to the Judicial Council.

9. (1) There is hereby established a Judicial Council for Provincial Judges consisting of

- (a) the Chief Justice of Alberta or a judge of the Appellate Division of the Supreme Court of Alberta designated by him,
- (b) the Chief Justice of the Trial Division of the Supreme Court of Alberta or a judge of the Trial Division designated by him,
- (c) the Chief Judge of the District Court of Alberta or a judge of that court designated by him,
- (d) the chief judge of the Provincial Court of Alberta or a judge of that court designated by him,
- (e) the President of The Law Society of Alberta or a Bencher designated by him, and
- (f) not more than two other persons appointed by the Attorney General.

(2) The Attorney General shall designate one member of the Judicial Council to be chairman.

(3) All necessary officers and employees of the Judicial Council shall be appointed in accordance with *The Public Service Act*.

(4) The Judicial Council may make rules of procedure, subject to the approval thereof by the Attorney General, governing the calling of its meetings and the conduct of business at its meetings.

5. Establishment of a Judicial Council for Provincial Judges to advise on judicial appointments and investigate complaints.

(5) Four members of the Judicial Council constitute a quorum for the exercise of all jurisdiction and powers of the Judicial Council.

10. (1) The Judicial Council shall

- (a) consider proposed appointments of judges and report thereon to the Attorney General,
- (b) receive complaints respecting the lack of competence or misbehaviour of or neglect of duty by judges or the inability of judges to perform their duties, and
- (c) take any action to investigate complaints that it considers advisable and advise the Attorney General with respect thereto.

(2) The Judicial Council may refer any complaint to the chief judge of the Provincial Court or to a committee of the Judicial Council for inquiry and report to the Judicial Council.

(3) The Judicial Council or a committee thereof or the chief judge, in conducting any inquiry under this section, has all the powers of a commissioner under *The Public Inquiries Act*.

(4) An inquiry held under this section shall not be public.

(5) Where the Judicial Council recommends the removal or retirement of a judge from office, the Lieutenant Governor in Council may make an order of removal or retirement.

6. *Section 16, clause (d) is amended by striking out the words "The Public service Act of The Public Service Pension Act" and by substituting therefor the words "The Public Service Act, The Public Service Pension Act or The Public Service Management Pension Act".*

7. (1) *This Act, except section 3, comes into force on the day upon which it is assented to.*

(2) *Section 3 comes into force on a day to be fixed by Proclamation.*

6. Section 16 (d) presently reads:

- (d) providing for the benefits to which judges are entitled, including,
 - (i) leave of absence and vacations,
 - (ii) sick leave credits and payments in respect of such credits,
 - (iii) pension benefits for judges and their widows and surviving children, and for the transfer or other disposition of benefits in respect thereof to which persons appointed as judges under this Act were entitled under The Public service Act of The Public Service Pension Act at the time of their appointment under this Act,