

1978 BILL 43

Fourth Session, 18th Legislature, 27 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 43

THE SUMMARY CONVICTIONS ACT, 1978

THE ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

THE SUMMARY CONVICTIONS ACT, 1978

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BILL 43

1978

THE SUMMARY CONVICTIONS ACT, 1978

(Assented to , 1978)

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

1(1) In this Act,

- (a) “clerk of the court” means a clerk of The Provincial Court of Alberta;
- (b) “complaint” means the complaint part of a Violation Ticket;
- (c) “Crown counsel” means
 - (i) a barrister and solicitor or a student-at-law employed by the Department of the Attorney General, or
 - (ii) an agent of the Attorney General;
- (d) “defendant” means a person to whom a summons is issued on the basis of an information or complaint alleging the commission by that person of an offence under an enactment;
- (e) “enactment” means any Act, regulation, order or by-law enacted or passed in relation to any matter over which the Legislature has legislative authority;
- (f) “initial appearance date” means the first date on which a defendant to whom a summons is issued is required to appear before a justice;
- (g) “justice” means a justice of the peace or a provincial judge;
- (h) “local authority” means
 - (i) the council of a city, town, village, county or municipal district,

Explanatory Notes

1 Definitions.

- (ii) the board of administrators of a new town, or
- (iii) in the case of an improvement district or special area, the Minister of Municipal Affairs;
- (i) “Motor Vehicle Branch” means the Motor Vehicle Branch of the Department of the Solicitor General;
- (j) “offence” means an offence under an enactment;
- (k) “park”, when prohibited, means allowing a vehicle, whether occupied or not, to remain standing in one place, except
 - (i) when standing temporarily for the purpose of and while actually engaged in loading or unloading passengers, or
 - (ii) when standing in obedience to a peace officer or traffic control device;
- (l) “peace officer” means any person employed for the preservation and maintenance of the public peace, while he is in the exercise or discharge of his powers or duties, and includes
 - (i) a member of the Royal Canadian Mounted Police,
 - (ii) a member of a municipal police force,
 - (iii) a special constable,
 - (iv) a patrol officer of the Department of the Solicitor General,
 - (v) a by-law enforcement officer,
 - (vi) a parks officer appointed pursuant to *The Provincial Parks Act, 1974*, while he is in the exercise or discharge of his powers or duties in a provincial park,
 - (vii) a park warden appointed pursuant to the *National Parks Act* (Canada), while he is in the exercise or discharge of his powers or duties in a national park proclaimed under that Act, and
 - (viii) a person appointed under the *National Defence Act* (Canada) regulations for the purposes of section 134 of the *National Defence Act*, while he is in the exercise or discharge of his powers or duties in a defence establishment as defined in that Act;
- (m) “report of conviction” means the report of conviction portion of a Violation Ticket;

(n) “vehicle” means a device in, upon or by which a person or thing may be transported or drawn upon a highway or natural terrain including

(i) tractors,

(ii) bicycles as defined in *The Motor Vehicle Administration Act*,

(iii) implements of husbandry, and

(iv) off-highway vehicles as defined in *The Off-Highway Vehicle Act*.

(2) A reference in this Act to an Act of the Parliament of Canada means that Act as amended from time to time.

PART 1

GENERAL

2 Subject to any special provision otherwise enacted with respect to an offence, act or matter, this Act applies to

(a) every case in which a person commits, or is suspected of having committed, an offence or act under an enactment for which that person may be liable to imprisonment, fine, penalty or other punishment, and

(b) every case in which a complaint is made to a justice pursuant to an enactment and respecting which a justice has authority by law to make an order.

3(1) Except to the extent that they are inconsistent with this Act, all provisions of the *Criminal Code* that are applicable in any manner to summary convictions and related proceedings apply in respect of every matter to which this Act applies.

(2) Sections 662.1 and 722(3) to (11) of the *Criminal Code* do not apply to any matter to which this Act applies.

4 A person is a party to or guilty of an offence who

(a) actually commits the offence,

(b) does or omits an act for the purpose of aiding a person to commit the offence,

(c) abets a person in the commission of the offence, or

(d) counsels or procures a person to commit the offence.

5(1) A justice who is satisfied by information upon oath that there is reasonable ground for believing that there is in a building, receptacle or place

(a) any thing upon or in respect of which an offence has been or is suspected to have been committed, or

(b) any thing that there is reasonable ground to believe will afford evidence as to the commission of an offence,

may at any time issue a search warrant authorizing a peace officer or a named person to search the building, receptacle or place for any such thing, and to seize and take it before a justice to be dealt with by him according to law.

(2) A search warrant shall be executed between sunrise and sunset unless the justice in the search warrant authorizes its execution at night.

2 Application of Act.

3 Application of relevant Criminal Code provisions.

4 Parties.

5 Search warrants.

(3) Where any thing is seized and taken before a justice, he

(a) may detain the thing, taking reasonable care to preserve it until the conclusion of the investigation, and

(b) shall, if no one is convicted, direct the thing to be restored to the person from whom it was taken,

unless the justice is authorized or required by law to dispose of it otherwise.

6 Except where otherwise expressly provided by law, no proceedings to which this Act applies may be instituted more than 6 months after the time when the subject-matter of the proceedings arose.

7(1) Everyone who, being at large on his own undertaking or recognizance given to or entered into before a justice, fails without lawful excuse, the proof of which lies upon him, to attend court in accordance with that undertaking or recognizance or to surrender himself in accordance with an order of the justice, as the case may be, is guilty of an offence.

(2) Everyone who, being at large on his own undertaking or recognizance given to or entered into before a justice and being bound to comply with a condition of that undertaking or recognizance directed by a justice, fails without lawful excuse, the proof of which lies upon him, to comply with that condition, is guilty of an offence.

(3) Everyone who is served with a summons and who fails without lawful excuse, the proof of which lies upon him, to attend court in accordance with that summons, is guilty of an offence.

(4) Everyone who is named in an appearance notice or promise to appear, or in a recognizance entered into before an officer in charge, that has been confirmed by a justice and who fails without lawful excuse, the proof of which lies upon him, to attend court in accordance therewith, is guilty of an offence.

(5) For the purpose of subsection (4), it is not a lawful excuse that an appearance notice, promise to appear or recognizance states defectively the substance of the alleged offence.

(6) Where, at the trial of a person for an offence, that person does not appear at the time and place appointed for the trial or the resumption of the trial and the justice proceeds ex parte to hear the charge, no proceedings under this section arising out of the failure of the person to appear shall be instituted, or if instituted shall be proceeded with, except with the consent of the Attorney General.

(7) Subsection (3) does not apply to any defendant in proceedings commenced in respect of an offence to which Part 3 of this

6 Time limit on institution of proceedings.

7 Failure to attend.

Act applies, except proceedings commenced in respect of an offence for which a peace officer has issued a summons requiring the defendant to appear before a justice on the initial appearance date pursuant to section 24(1).

8(1) Except where otherwise expressly provided by law, every person who is convicted of an offence to which this Act applies is liable to a fine of not more than \$500 or to imprisonment for 6 months or to both.

(2) Where, upon a conviction,

- (a) the imposition of a fine, or
- (b) the making of an order for the payment of money

is authorized by law, but the law does not provide that imprisonment may be imposed in default of payment of the fine or compliance with the order, the court, upon application by a Crown counsel made upon such notice, if any, as the Court considers appropriate, may order that in default of payment of the fine or compliance with the order, as the case may be, the defendant shall be imprisoned for not more than 6 months.

9(1) Where a person is sentenced to a term of imprisonment, the term, unless otherwise directed in the sentence, begins on and from the day on which the prisoner is taken into custody under the sentence of imprisonment.

(2) No time during which the convicted person is out on bail may be included as part of the term of imprisonment to which he is sentenced.

10(1) Where a person is convicted of an offence for which a minimum punishment is not provided, the justice may, if he thinks it expedient having regard to

- (a) the age and character of the offender,
- (b) the nature of the offence, and
- (c) any extenuating circumstances,

direct that the passing of sentence for the convicted person be suspended and that he be released upon the conditions prescribed in a probation order.

(2) If an offender released upon a probation order fails to keep the peace and to be of good behavior he may, at any time within 2 years or any shorter period that the justice may fix, be called upon to appear and be sentenced.

8 General punishment.

9 Computation of a term of imprisonment.

10 Suspension of sentence.

(3) The justice may, if he sees fit, require a bond with or without sureties for the performance of the conditions prescribed in a probation order.

11(1) Any fine adjudged by a justice to be paid by a person who is convicted under an enactment shall be paid

(a) forthwith, or

(b) at such other time as the justice may direct.

(2) Where time has been allowed for payment, a justice shall not issue a warrant of committal in default of payment of the fine until the expiration of the time allowed for payment.

(3) Notwithstanding subsection (2), where, before the expiration of the time allowed for payment, the person who has been allowed time for payment appears before a justice and signifies in writing that he prefers to be committed immediately rather than await the expiration of the time allowed, the justice may immediately issue a warrant of committal.

(4) Subsections (2) and (3) do not apply to proceedings under Part 3.

(5) Where time has been allowed for payment under subsection (1), a justice may, upon application by or on behalf of the person allowed time for payment, allow further time for payment.

(6) In this section, “fine” includes a pecuniary penalty.

12 Where a justice adjudges in a conviction or order that a fine or penalty be paid, the conviction or order is not void nor is the right to collect a fine or to enforce a penalty under the conviction or order impaired because

(a) time has been allowed for the payment of all or any part of the sum,

(b) payment has been received of part of the sum, or

(c) the justice has accepted security for the payment of all or any part of the sum.

13(1) Where on the conviction of a person of an offence under an enactment, a fine is adjudged to be paid by the convicted person, if imprisonment of the convicted person in default of payment of the fine was not ordered and if the fine is not paid forthwith or within the time allowed by the justice, the Attorney General or his agent may, by filing the conviction, enter as a judgment the amount of the fine, if any, in a court having civil jurisdiction in the amount payable, and the judgment is enforceable against the convicted person in the same

11 Time for payment.

12 Orders relating to payment.

13 Civil recovery.

manner as if it were a judgment rendered against the convicted person in that court in a civil proceeding.

(2) Where a person has been convicted of an offence pursuant to this Act and

(a) a fine has been adjudged to be paid by him, or

(b) a default judgment has been granted against him,

a justice may order that the fine and costs or the judgment and costs be levied by distress and sale of the personal property of that person.

(3) Subsection (2) shall not be construed as in any way affecting, limiting or restricting any proceedings which might otherwise be had or taken for recovery of the amount owing.

14 If no contrary reference is made in an enactment respecting the disposition of a duty, penalty, fine or sum of money or the proceeds of a forfeiture under the enactment, it belongs to the Crown in right of Alberta.

15 In any proceeding under an enactment,

(a) it is not necessary for the justice to affix his seal to a document, and

(b) no document is invalid by reason only of the lack of a seal even if the document purports to be sealed.

16(1) Except as provided in subsection (2), where evidence in any case is recorded, there shall be no transcript of the evidence.

(2) If evidence is recorded in a case, the clerk of the court may provide either a copy of a mechanical recording of the evidence or a transcript of the evidence in a case where it is

(a) requested by one of the parties,

(b) required for an appeal from a conviction or order,

(c) required by the Attorney General, or

(d) ordered by a justice.

17(1) The Attorney General or his agent, or any person affected by a judgment or order to which this Part or Part 2 applies, may appeal a judgment or order of a justice to the District Court at the judicial district in which the trial was held.

(2) Following the decision of the District Court, any justice has authority to enforce the judgment or order upon the appeal.

14 Application of money received.

15 No seal required on documents.

16 Transcripts of evidence.

17 Appeals.

18(1) Where it appears to a judge of the Appellate Division of the Supreme Court, on the application of the Attorney General or his agent or of any person affected by a conviction or order to which this Act applies, that a judgment or order of the District Court made on appeal involves a question of law of sufficient importance to justify a further appeal, the judge of the Appellate Division may so certify and an appeal then lies to the Appellate Division of the Supreme Court from the judgment or order of the District Court.

(2) The procedure on the appeal shall be the same as that provided by sections 601 to 613 of the *Criminal Code* and the rules relating thereto insofar as they are applicable to appeals involving a question of law.

(3) Following the decision of the Appellate Division, any justice has authority to enforce the judgment or order upon the appeal.

19(1) No order, conviction or other proceeding of a justice to which this Act applies may be quashed or set aside and no defendant may be discharged because evidence is not given

(a) of a proclamation or order of the Lieutenant Governor in Council,

(b) of any rule, order, regulation or by-law made pursuant to a statute of Alberta, or

(c) of the publication or promulgation of a proclamation, rule, order, regulation or by-law in the Alberta Gazette or in any other manner in which it is by a statute of Alberta required to be published or promulgated.

(2) Every proclamation, order, rule, regulation or by-law referred to in subsection (1) and its publication or promulgation shall be judicially noticed.

18 Further appeals.

19 Safeguarding of proceedings in certain cases.

PART 2

VIOLATION TICKETS

20(1) Where an enactment is contravened, a complaint may be laid and a summons issued by means of a Violation Ticket in accordance with this Part.

(2) A Violation Ticket shall include the following parts:

- (a) a complaint;
- (b) a report of conviction form;
- (c) a police record form;
- (d) a summons.

(3) The complaint part of the Violation Ticket shall be

- (a) signed by the complainant, and
- (b) deposited, together with the report of conviction form, with a justice.

(4) When the Violation Ticket has been completed and the complaint has been sworn by the complainant, the defendant may be served with the summons part of the Violation Ticket in accordance with section 21.

(5) Notwithstanding subsection (4), a complaint laid by a peace officer is sufficient if signed by him and is not required to be sworn.

(6) The use on a Violation Ticket of a word, figure or expression or any combination of them authorized by a regulation to designate an offence under an enactment is sufficient for all purposes to describe the offence so designated.

(7) Failure to complete any information required in a Violation Ticket does not invalidate the Violation Ticket or any part of it if

- (a) the defendant is identified with reasonable clarity,
- (b) the offence with which the defendant is charged is specified in accordance with this Act and the regulations,
- (c) the date on which the offence is alleged to have been committed is specified, and
- (d) the place at or near which the offence is alleged to have occurred is specified.

20 Use of Violation Tickets.

21(1) Subject to subsection (2), service of a summons may be made upon a defendant

(a) either personally or by leaving a copy for him at his last or most usual place of abode with some person there present who is apparently at least 16 years of age, or

(b) by mailing a copy to the defendant by registered or certified mail to his last known post office address.

(2) Where a summons is issued in respect of an offence with respect to parking or leaving a vehicle unattended, service of the summons may be made

(a) in accordance with subsection (1),

(b) by mailing the summons to the address shown on the records of the Motor Vehicle Branch as the address of the owner of the vehicle concerned, or to the last known post office address of the owner, if no address is so shown at the Motor Vehicle Branch, or

(c) by attaching the summons to or leaving the summons on the vehicle in respect of which the offence is alleged to have been committed.

(3) Service of a summons in accordance with subsection (1) or (2) is deemed to be personal service of the summons upon the defendant.

(4) Service of a summons may be made on a holiday.

(5) An affidavit signed by the person effecting service attesting to the fact that service was effected upon the defendant in accordance with subsection (1) or (2) shall be received in evidence in all legal proceedings as proof of that service without the necessity of proof of the signature of the person making the affidavit.

22(1) Where authorized by the regulations or a municipal by-law, a defendant may make a voluntary payment in respect of a summons by

(a) signing the plea of guilty in the appropriate place on the summons, and

(b) delivering the summons together with

(i) an amount equal to the penalty specified in the regulations for the offence, if the defendant is charged with an offence under an enactment to which Part 3 does not apply,

(ii) an amount equal to 1/2 of the penalty specified in the regulations for the offence, if the defendant is

21 Service of summons.

22 Voluntary payments.

charged with an offence under an enactment to which Part 3 applies, or

(iii) an amount equal to the penalty specified in the relevant by-law for the offence, if the defendant is charged with an offence under a municipal by-law,

to the place stated on the summons within the time period prescribed by the regulations.

(2) Upon making a voluntary payment pursuant to subsection (1), the defendant shall be deemed to be convicted of the offence charged.

(3) A signature affixed to a plea of guilty on a summons and purporting to be that of the defendant is prima facie proof that it is the signature of that person.

(4) Where a summons and the appropriate penalty are delivered to the place stated in the summons but the plea of guilty is not signed, it shall be deemed to be an admission of guilt by the defendant.

23(1) Except as provided by subsection (2), a defendant shall appear, either personally or by agent, before a justice at the place and time stated on the summons to answer that summons.

(2) A defendant is not required to appear before a justice on the initial appearance date to answer a summons if,

(a) where authorized by the regulations, he enters a plea of guilty before a justice

(i) prior to the initial appearance date, and

(ii) in the manner and during the time period prescribed by the regulations for so doing,

(b) he enters a plea of not guilty

(i) prior to the initial appearance date, and

(ii) in the manner and during the time period prescribed by the regulations for so doing,

(c) he obtains an adjournment of the proceedings prior to the initial appearance date in accordance with the regulations, or

(d) where authorized by the regulations or a municipal by-law, he makes a voluntary payment in accordance with this Act and the regulations.

23 Appearances.

(3) A peace officer, if authorized by the regulations, may issue a summons respecting any offence mentioned in subsection (2)(d) requiring the defendant to appear before a justice on the initial appearance date without the alternative of making a voluntary payment, but a Crown counsel, if he thinks it appropriate, may instead direct that the defendant need not appear before a justice on the initial appearance date if the defendant pleads guilty to the offence alleged and makes a voluntary payment in accordance with this Act and the regulations.

24(1) If a defendant fails to answer a summons in accordance with section 23 or fails to appear before a justice for any other purpose, the justice may

- (a) adjourn the proceedings for a period not exceeding 30 days,
- (b) hear the matter ex parte,
- (c) issue a warrant for the arrest of the person, or
- (d) direct that a new summons be issued requiring the attendance of the person before a justice and set a time at which the attendance will be required.

(2) Where proceedings are adjourned pursuant to subsection (1)(a), the justice shall direct that the person be notified by ordinary mail at his last known address of the new time fixed for appearance and if the person fails to appear in court at that time, a justice may

- (a) enter a plea of not guilty on behalf of the person and set a time for an ex parte hearing of the charge, or
- (b) issue a warrant for the arrest of the person.

(3) This section does not apply

- (a) to proceedings commenced in respect of an offence to which Part 3 applies, except proceedings commenced in respect of an offence for which a peace officer has issued a summons requiring the defendant to appear before a justice on the initial appearance date, pursuant to section 23(3) and with respect to which no direction has been made by a Crown counsel, or
- (b) where the defendant is, pursuant to section 22, deemed to be convicted of the offence charged.

25 Where a voluntary payment is tendered after the time stipulated by the regulations for so doing, a justice may, without a hearing and notwithstanding any action he may have taken under section 24, direct that the voluntary payment

24 Failure to answer a summons.

25 Late receipt of voluntary payment.

(a) be accepted as if it had been made within the time allowed, or

(b) be applied in reduction of the judgment debt,

whichever he considers appropriate in the circumstances.

26(1) Where

(a) a justice convicts a defendant of an offence, or

(b) a defendant is deemed to have been convicted of an offence by virtue of having made a voluntary payment,

a justice or clerk of the court shall complete a report of conviction respecting the conviction.

(2) A copy of a report of conviction, certified by the convicting justice or a clerk of the court or proved to be a true copy, shall, upon proof of the identity of the person, be admitted in evidence in any legal proceedings as prima facie proof of the conviction of that person for the offence mentioned in the report.

(3) Upon the completion of a report of conviction in respect of an offence

(a) involving a vehicle, and

(b) to which this Part applies,

the convicting justice or a clerk of the court shall forthwith forward a report of conviction to the Registrar of the Motor Vehicle Branch.

(4) A report of conviction under subsection (1) shall be deemed to be a certificate of conviction for any of the purposes of this Act or the regulations or of *The Motor Vehicle Administration Act* or *The Motor Transport Act* or any regulations or orders made under either of those Acts.

26 Report of conviction.

PART 3

TRAFFIC OFFENCES

27 This Part applies only to offences under the following enactments:

- (a) *The Department of Government Services Act*, section 15;
- (b) *The Highway Traffic Act*, 1975;
- (c) *The Motor Vehicle Administration Act*;
- (d) *The Motor Transport Act*;
- (e) *The Off-Highway Vehicle Act*;
- (f) *The Provincial Parks Act*, 1974, sections 9(1)(c) and 11(b), (c) and (d);
- (g) *The Special Areas Act*, section 13;
- (h) a regulation or order made pursuant to any of the provisions enumerated in clauses (a) to (g);
- (i) a municipal by-law passed by a local authority pursuant to section 14 of *The Highway Traffic Act*, 1975.

28 Where a defendant is charged in respect of an offence under an enactment to which this Part applies, other than a municipal by-law, and the defendant

- (a) does not answer the summons in accordance with section 23, or
- (b) fails to attend before a justice, either personally or by agent, on a date fixed by a justice requiring the attendance of the defendant,

a justice may

- (c) adjourn the proceedings for a period not exceeding 30 days,
- (d) direct that a new summons be issued requiring the attendance of the person before a justice and set a time at which the attendance will be required, or
- (e) convict the defendant of the offence and grant default judgment in favour of the Crown in right of Alberta against the defendant in the full amount of the penalty specified in the regulations.

27 Application of the Part.

28 Default judgment.

29 Where a justice accepts a plea of guilty from a defendant in respect of an offence under an enactment to which this Part applies, other than a municipal by-law, the justice shall convict the defendant of the offence and impose a fine upon that person in an amount not less than 1/2 of the penalty specified in the regulations.

30 Sections 28 and 29 do not apply to proceedings commenced in respect of an offence for which a peace officer has issued a summons requiring the defendant to appear before a justice on the initial appearance date pursuant to section 23(3), unless a direction has been made by a Crown counsel pursuant to that subsection.

31 Where

(a) the defendant has been issued with a summons requiring his appearance before a justice on the initial appearance date pursuant to section 23(3),

(b) no direction has been made by a Crown counsel pursuant to that subsection, and

(c) the defendant enters a plea of guilty to the offence,

the justice shall convict the defendant of the offence and impose a fine upon that person in accordance with the relevant enactment.

32 Where a justice adjudges a defendant to be guilty of an offence under an enactment to which this Part applies, other than a municipal by-law, the justice shall convict the defendant of the offence and impose a fine upon that person in accordance with that enactment.

33 Notwithstanding sections 29, 31 and 32, if the fine imposed upon a defendant under any of those sections is not paid forthwith or within the time allowed by the justice for payment, a justice shall grant default judgment in favour of the Crown in right of Alberta against the defendant in an amount equal to the lesser of

(a) the maximum fine prescribed for the offence in the relevant enactment, and

(b) twice the amount of the fine imposed by the justice.

34 Where a defendant is charged with an offence under a municipal by-law to which this Part applies and the defendant

(a) does not answer the summons in accordance with section 20, or

29 Guilty pleas.

30 Exceptions.

31 Guilty pleas in cases of mandatory court appearances.

32 Convictions.

33 Default judgments for failure to pay a fine.

34 Failing to appear to answer a charge under a municipal by-law.

(b) fails to attend before a justice, either personally or by agent, on the date fixed by a justice requiring the attendance of the defendant,

a justice may

(c) adjourn the proceedings for a period not exceeding 30 days,

(d) order that a new summons be issued requiring the attendance of the person before a justice and set a time at which the attendance will be required, or

(e) proceed to

(i) convict the defendant of the offence,

(ii) impose a fine upon the defendant in an amount not less than the amount of the specified penalty if a penalty has been prescribed for the offence, or in accordance with the relevant by-law if no penalty has been specified for the offence, and

(iii) grant default judgment in favour of the Crown in right of Alberta against the defendant in an amount equal to the lesser of

(A) the fine imposed plus \$25 representing the costs of administration and a filing fee, and

(B) the maximum fine prescribed for the offence in the relevant by-law.

35(1) Where a justice accepts a plea of guilty from a defendant in respect of an offence under a municipal by-law to which this Part applies, the justice shall convict the defendant of the offence and impose a fine upon the defendant

(a) in the amount of the specified penalty, if a specified penalty has been established for the offence, or

(b) in the amount which the local authority has by by-law established for payment in lieu of prosecution, if no penalty has been specified for the offence.

(2) If no penalty has been specified and no amount established for payment, a justice shall impose a fine upon the defendant in accordance with the by-law.

(3) Where a justice adjudges a defendant to be guilty of an offence under a municipal by-law to which this Part applies, the justice shall convict the defendant of the offence and impose a fine upon the defendant in accordance with that by-law.

35 Convictions under municipal by-laws.

36 Notwithstanding section 35, if the fine imposed pursuant to section 35 is not paid forthwith or within the time allowed by the justice for payment, a justice shall grant default judgment in favour of the Crown in right of Alberta against the defendant in an amount equal to the lesser of

(a) the fine imposed by the justice plus \$25 representing the costs of administration and a filing fee, and

(b) the maximum fine prescribed for the offence in the relevant enactment.

37(1) Where a justice grants a default judgment pursuant to this Part, the justice or the clerk of the court shall complete a default judgment in the prescribed form.

(2) The clerk of the court may

(a) cause the default judgment to be filed with the District Court in the judicial district in which the action was tried in which case it shall be entered as a judgment of that court and execution and garnishee proceedings may be issued according to the ordinary procedure of the District Court, and

(b) notify the Registrar of the Motor Vehicle Branch of the default judgment by forwarding to him a certified copy of the default judgment.

(3) A copy of a default judgment certified by a justice or a clerk of the court is prima facie proof of the default judgment.

38 Where default judgment has been granted pursuant to this Part, the clerk of the court shall forthwith notify the defendant of the default judgment by registered mail addressed to his last known postal address.

39(1) Where default judgment has been granted by a justice pursuant to section 28 or 34, the default judgment may be set aside or varied by a justice upon proof by the defendant that there was a reasonable excuse for his failure to comply with the section, but the justice may not vary the default judgment to an amount less than

(a) 1/2 of the penalty specified by the regulations for the offence in the case of a default judgment under section 28, or

(b) the amount of the fine imposed in the case of a default judgment under section 34.

36 Default judgment with respect to municipal by-laws.

37 Entry of judgment.

38 Notification of entry of judgment.

39 Justice permitted to set aside or vary certain default judgments.

(2) Where a default judgment is ordered by a justice to be set aside pursuant to subsection (1), the justice may set a new date for trial.

(3) If a new date for trial is set by the justice, section 34 applies with all necessary modifications to the proceedings.

40 Where a default judgment has been granted by a justice pursuant to section 29, 33 or 36, the default judgment may be varied by a justice upon proof by the defendant that there was a reasonable excuse for his failure to pay forthwith or within the time allowed by the justice for payment, but

(a) in the case of a default judgment granted pursuant to section 29, the justice may not vary the default judgment to an amount less than 1/2 of the penalty specified by the regulations for the offence, or

(b) in the case of a default judgment granted pursuant to section 33 or 36, the justice may not vary the default judgment to an amount less than the fine imposed for the offence.

41 Where any default judgment is set aside by a justice, a suspension, disqualification or prohibition against an operator's license or against the right to obtain an operator's license imposed as a result of that default judgment is terminated.

40 Justice permitted to vary default judgments based on unpaid fines.

41 Restoration of driving privileges.

PART 4

REGULATIONS AND BY-LAWS

42 The Lieutenant Governor in Council may make regulations:

- (a) prescribing the fees payable with respect to any matter under this Act;
- (b) prescribing forms to be used under this Act or the regulations;
- (c) prescribing the manner of giving any notice required to be given under this Act or the regulations;
- (d) prescribing the procedure for the issuance of Violation Tickets;
- (e) prescribing the manner in which an initial appearance date or trial date shall be determined;
- (f) prescribing the procedure for the acceptance of pleas by justices;
- (g) prescribing how an offence may be indicated on a Violation Ticket;
- (h) authorizing the use on a Violation Ticket of any word, figure or expression, or any combination of them to designate an offence;
- (i) prescribing time periods under this Act;
- (j) requiring the keeping of records and prescribing the manner in which those records are to be kept;
- (k) prescribing the offences under any enactment in respect of which a voluntary payment may be made;
- (l) prescribing the amounts of specified penalties payable in respect of offences;
- (m) prescribing for any enactment the manner in which a voluntary payment may be made;
- (n) indicating those offences for which a peace officer may issue a summons requiring the defendant to appear before a justice on the initial appearance date;
- (o) exempting any offence or class of offences from the application of section 26(3).

42 Regulations.

43 A local authority may make by-laws

- (a) prescribing the offences under any municipal by-law in respect of which a voluntary payment may be made;
- (b) prescribing the amounts of specified penalties payable in respect of offences.

44(1) The Lieutenant Governor in Council may by regulation provide that a default judgment may be satisfied by the payment of a portion of the judgment debt within a particular period of time after the date of default judgment.

(2) In a regulation under subsection (1), the Lieutenant Governor in Council shall

- (a) stipulate the portion of a default judgment which must be paid, and
- (b) stipulate the time period in which the payment must be made.

43 By-laws.

44 Reduction of judgment debts.

PART 5

TRANSITIONAL AND CONSEQUENTIAL

45(1) Any proceeding commenced under *The Summary Convictions Act* prior to the commencement of this Act shall be continued to its conclusion and treated for all purposes as if this Act was not in force.

(2) Any proceeding commenced under this Act prior to the commencement of Part 3 shall be continued to its conclusion and treated for all purposes as if Part 3 was not in force.

46 Where in any enactment or document a reference is made to *The Summary Convictions Act*, the reference shall be read as a reference to *The Summary Convictions Act, 1978*.

47 *The Department of Government Services Act* is amended in section 15(5) by striking out “and in default of payment to imprisonment for a term not exceeding 14 days”.

48(1) *The Highway Traffic Act, 1975* is amended by this section.

(2) *Section 1* is amended

(a) by adding the following after clause 9:

9.1 “default judgment” means a default judgment granted pursuant to *The Summary Convictions Act, 1978*;

(b) by repealing clause 25 and substituting the following:

25. “peace officer” means any person employed for the preservation and maintenance of the public peace, while he is in the exercise or discharge of his powers or duties, and includes

(i) a member of the Royal Canadian Mounted Police,

(ii) a member of a municipal police force,

(iii) a special constable,

(iv) a patrol officer of the Department of the Solicitor General,

(v) a by-law enforcement officer,

(vi) a parks officer appointed pursuant to *The Provincial Parks Act, 1974*, while he is in the exercise

45 Prior proceedings.

46 References.

47 This section will consequentially amend chapter 11 of the Statutes of Alberta, 1975.

48 This section will make consequential amendments to chapter 56 of the Statutes of Alberta, 1975 (Second Session).

or discharge of his powers or duties in a provincial park,

(vii) a park warden appointed pursuant to the *National Parks Act* (Canada), while he is in the exercise or discharge of his powers or duties in a national park proclaimed under that Act, and

(viii) a person appointed under the *National Defence Act* (Canada) regulations for the purposes of section 134 of the *National Defence Act*, while he is in the exercise or discharge of his powers or duties in a defence establishment as defined in that Act;

and

(c) in clause 37 by adding “or a townsite in a national park” after “village”.

(3) Section 12(1)(d) is repealed and the following is substituted:

(d) in the case of a licence of occupation road, the Minister of Energy and Natural Resources;

(e) in the case of a road through an Indian reserve, if the title to the road is vested in the Crown in right of Alberta and the road is not the subject of an agreement under *The Public Highways Development Act*, the Minister.

(4) Section 14, subsection (1), clause 13 is repealed and the following substituted:

13. providing for the impounding and removal from a highway, street, alley, parking lot or other public place of a vehicle

(i) that is not registered under *The Motor Vehicle Administration Act*,

(ii) that is parked in contravention of a by-law or regulation, or

(iii) in respect of which a default judgment remains unsatisfied,

(5) Section 52(5)(e) is repealed.

(6) Section 53(1) and (2) is amended by adding “, the *National Parks Act* (Canada) or the *Government Property Traffic Act* (Canada)” after “section 5 or 12”,

(7) Section 148 is amended

(a) in subsection (1) by striking out “and in default of payment is liable to imprisonment for a term not exceeding six months or to imprisonment for a term not exceeding six months without the option of a fine”,

(b) in subsection (2) by striking out “and in default of payment is liable to imprisonment for a term of not less than three days”,

(c) in subsection (3) by striking out “and in default of payment is liable to imprisonment for a term of not less than seven days”,

(d) in subsection (4) by striking out “and in default of payment is liable to imprisonment for a term of not less than 14 days”,

(e) in subsection (5) by striking out “and in default of payment is liable to imprisonment for a term of not less than 21 days”, and

(f) in subsection (6) by striking out “and in default of payment to imprisonment for a term of not more than six months or to imprisonment for a term of not more than six months without the option of a fine”.

49(1) *The Motor Vehicle Administration Act is amended by this section.*

(2) *Section 1 is amended*

(a) *by adding the following after clause 2:*

2.1 “default judgment” means a default judgment granted pursuant to *The Summary Convictions Act, 1978*;

2.2 “defendant” means a person to whom a summons is issued by means of a Violation Ticket under *The Summary Convictions Act, 1978*;

and

(b) *by repealing clause 17 and substituting the following:*

17. “peace officer” means any person employed for the preservation and maintenance of the public peace, while he is in the exercise or discharge of his powers or duties, and includes

(i) a member of the Royal Canadian Mounted Police,

(ii) a member of a municipal police force,

49 This section will make consequential amendments to chapter 68 of the Statutes of Alberta, 1975 (Second Session) to provide for suspensions, prohibitions and disqualifications arising from default judgments.

(iii) a special constable,

(iv) a patrol officer of the Department of the Solicitor General,

(v) a by-law enforcement officer,

(vi) a parks officer appointed pursuant to *The Provincial Parks Act, 1974*, while he is in the exercise or discharge of his powers or duties in a provincial park,

(vii) a park warden appointed pursuant to the *National Parks Act* (Canada), while he is in the exercise or discharge of his powers or duties in a national park proclaimed under that Act, and

(viii) a person appointed under the *National Defence Act* (Canada) regulations for the purposes of section 134 of the *National Defence Act*, while he is in the exercise or discharge of his powers or duties in a defence establishment as defined in that Act;

(3) *Section 5(3), (4) and (5) is amended by striking out “Subsection (1)” and substituting “Subject to section 112.2(1) and to subsection (1)”.*

(4) *Section 7(2)(b) is amended by adding “or prohibited from driving in Alberta” after “licence”.*

(5) *Section 19 is amended by adding “or” at the end of clause (c) and by adding the following after clause (c):*

(d) the prohibition of any person from driving in Alberta,

(6) *Section 59(1) is amended by adding the following after clause (d):*

(e) prescribing time limits for the commencement of suspensions, disqualifications or prohibitions under section 112.2.

(7) *Section 103 is amended*

(a) *in subsection (1) by striking out “and in default of payment to imprisonment for a term not exceeding six months or to imprisonment for a term not exceeding six months without the option of a fine”,*

(b) *by repealing subsection (2),*

(c) *by repealing subsection 3(a) and (b) and substituting “to a fine of not more than \$1000.”,*

(d) in subsection (4) by striking out “and in default of payment to imprisonment for a term not exceeding 30 days”,

(e) in subsection (6) by striking out “, and in default of payment to imprisonment for a term not exceeding 90 days”,

(f) in subsections (8) and (9) by striking out “and in default of payment to imprisonment for a term not exceeding 60 days”, and

(g) in subsection (10) by striking out “or in default of payment to imprisonment for a term not exceeding 30 days”.

(8) Section 105(2) is repealed and the following is substituted:

(2) A certificate purporting to be signed by the Registrar or his deputy and certifying that the person named in the certificate

(a) is disqualified from holding a licence under this Act, or

(b) prohibited from driving in Alberta,

shall be admitted in evidence as prima facie proof of the facts stated in it without proof of the signature or official character of the person signing the certificate.

(9) The following is added after section 112.1:

112.2(1) Where a default judgment is granted against a defendant in respect of an offence involving a vehicle, the defendant is, if the default judgment remains unpaid upon the expiration of the prescribed time, disqualified from holding an operator's licence, and any operator's license held by that person is then suspended until the default judgment has been satisfied.

(2) Where a default judgment is granted against a defendant in respect of an offence involving a vehicle and the defendant is the holder of an operator's license from a jurisdiction outside Alberta, that person is, upon the expiration of the prescribed time, prohibited from driving in Alberta until the default judgment has been satisfied.

(3) Subsections (1) and (2) do not apply to an offence relating to the parking of a vehicle, the abandonment of a vehicle or leaving a vehicle unattended.

(4) Notwithstanding section 19, service of a summons in accordance with *The Summary Convictions Act, 1978* containing a notice as to the consequences of a default judgment

shall be deemed to be notice to any person that a suspension, disqualification or prohibition, as the case may be, will be imposed upon him in accordance with subsections (1) and (2) at the expiration of the prescribed time.

112.3(1) When a default judgment has been satisfied, the Registrar shall forthwith remove any suspension, disqualification or prohibition imposed pursuant to section 112.2.

(2) If any person against whom a default judgment was granted is not resident in Alberta, the Registrar may notify the authorities in charge of the registration of motor vehicles and the licensing of operators in the province, territory or state in which that person resides.

112.4(1) Upon the Minister being satisfied that any province or territory of Canada or any state of the United States of America has enacted legislation

(a) similar in effect to section 112.2(2), and

(b) that applies to default judgments by any court of competent jurisdiction in Alberta so that those judgments become final and result in similar suspensions, prohibitions or disqualifications against residents of that province, territory or state,

the Minister may by order extend and apply the provisions of section 112.2(2) to judgments rendered by a court of that province, territory or state so that the judgments become final and result in the suspensions, prohibitions or disqualifications mentioned in section 112.2(2) against residents of Alberta.

(11) Section 113 is repealed and the following is substituted:

113 If a person whose license has been suspended, or who has been disqualified or prohibited from driving, enters an appeal against

(a) his conviction, or

(b) a default judgment granted against him,

the clerk of the court to which the appeal is being made shall notify the Registrar of the appeal, and the suspension, disqualification or prohibition is stayed until the conviction or default judgment is sustained on appeal or the appeal is abandoned or struck out.

50 *The Municipal Government Act is amended in section 115 by adding the following after subsection (5):*

50 This section will make consequential amendments to chapter 146 of the Revised Statutes of Alberta 1970.

(6) Notwithstanding anything contained in this section, a council may not provide for imprisonment in default of payment of any fines or costs that are imposed for contravention of a by-law passed pursuant to section 14 of *The Highway Traffic Act, 1975*.

51 (1) *The Off-highway Vehicle Act is amended by this section.*

(2) *Section 1 is amended*

(a) *by repealing subsection (1)(l) and substituting the following:*

(l) “peace officer” means any person employed for the preservation and maintenance of the public peace, while he is in the exercise or discharge of his powers or duties, and includes

(i) a member of the Royal Canadian Mounted Police,

(ii) a member of a municipal police force,

(iii) a special constable,

(iv) a patrol officer of the Department of the Solicitor General,

(v) a by-law enforcement officer,

(vi) a parks officer appointed pursuant to *The Provincial Parks Act, 1974*, while he is in the exercise or discharge of his powers or duties in a provincial park,

(vii) a park warden appointed pursuant to the *National Parks Act* (Canada), while he is in the exercise or discharge of his powers or duties in a national park proclaimed under that Act, and

(viii) a person appointed under the *National Defence Act* (Canada) regulations for the purposes of section 134 of the *National Defence Act*, while he is in the exercise or discharge of his powers or duties in a defence establishment as defined in that Act;

and

(b) *in subsection (2) by striking out “section 103,” and substituting “sections 103 and 112.2”.*

(3) *Section 2(4) is amended by striking out “and in default of payment to imprisonment for not more than 15 days”.*

51 This section will make consequential amendments to chapter 73 of the Statutes of Alberta, 1972.

(4) Section 13(4) is amended by repealing clauses (a) and (b) and substituting “to a fine of not more than \$100”.

(5) Section 18 is amended by striking out “and in default of payment thereof to imprisonment for a term of not more than six months or for a term of not more than six months without the option of a fine”.

(6) Section 21 is amended by striking out “and in default of payment to imprisonment for a term not exceeding 30 days”.

52 *The Summary Convictions Act is repealed on a date or dates to be fixed by Proclamation.*

53 This Act comes into force on a date or dates to be fixed by Proclamation.

52 Chapter 355 of the Revised Statutes of Alberta is repealed.