

1979 BILL 48

First Session, 19th Legislature, 28 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 48

**THE ATTORNEY GENERAL STATUTES
AMENDMENT ACT, 1979 (NO.2)**

THE ATTORNEY GENERAL

First Reading
Second Reading
Committee of the Whole
Third Reading
Royal Assent

Bill 48

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1979

THE ATTORNEY GENERAL STATUTES AMENDMENT ACT, 1979 (NO.2)

(Assented to , 1979)

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

The Assignment of Book Debts Act

1(1) The Assignment of Book Debts Act is amended by this section.

(2) Section 7.1(2) is repealed.

The Commissioners for Oaths Act

2(1) The Commissioners for Oaths Act is amended by this section.

(2) The following is added after section 8:

8.1(1) A commissioner shall print or stamp his name next to his signature on each affidavit, declaration, affirmation or other document that he signs in his capacity as a commissioner.

(2) A commissioner who fails to comply with this section is guilty of an offence and liable on summary conviction to a fine of not more than \$100.

The Alberta Evidence Act

3(1) The Alberta Evidence Act is amended by this section.

(2) Section 11 is amended by striking out “, which shall be applied for before the examination of any of such witnesses”.

Explanatory Notes

The Assignment of Book Debts Act

1(1) This section will amend chapter 25 of the Revised Statutes of Alberta 1970.

(2) Section 7.1(2) presently reads:

(2) The Registrar shall note the fact of the postponement against each entry in the books of his office respecting the registration of the assignment of book debts, and shall make a like notation upon the assignment registered in his office.

The Commissioners for Oaths Act

2(1) This section will amend chapter 58 of the Revised Statutes of Alberta 1970.

(2) Commissioner must print or stamp his name on documents in respect of which he administers an oath.

The Alberta Evidence Act

3(1) This section will amend chapter 127 of the Revised Statutes of Alberta 1970.

(2) Section 11 presently reads:

11 Where it is intended by a party to examine as witnesses persons entitled according to the law or practice to give opinion evidence, not more than three of such witnesses may be called upon either side without the leave of the court, which shall be applied for before the examination of any of such witnesses.

(3) Section 51 is repealed and the following is substituted:

51 In order to establish a devise or other testamentary disposition of or affecting real estate, probate of the will or letters of administration with the will annexed containing the devise or disposition, or a copy of it under the seal of the Court of Queen's Bench or of the Supreme Court of the Northwest Territories if the probate or letters of administration were granted by that court, shall be received in evidence as prima facie proof of the will and of its validity and contents.

The Land Titles Act

4(1) The Land Titles Act is amended by this section.

(2) Section 2, clause 20 is repealed and the following is substituted:

20 "Registrar" means a Registrar of Titles and includes a Deputy Registrar, an Assistant Deputy Registrar, the Inspector of Land Titles Offices and the Assistant Inspector of Land Titles Offices;

(3) Section 7 is repealed and the following is substituted:

7 The Attorney General may appoint

(a) an Inspector of Land Titles Offices who shall, at the direction of the Attorney General, inspect the books and records of the Land Titles Offices, perform the duties of a Registrar and carry out other functions assigned to him, and

(b) an Assistant Inspector of Land Titles Offices who shall assist the Inspector of Land Titles Offices in the performance of his duties and act in the place of the Inspector during the Inspector's absence or when there is no Inspector of Land Titles Offices.

(4) Sections 11, 12, 17 and 18 are amended by adding " , the Assistant Inspector of Land Titles Offices" after "Inspector of Land Titles Offices" wherever it occurs.

(5) Sections 13, 14 and 15 are repealed.

(6) Section 18 is amended by striking out "duties as Inspector" and substituting "duties as Inspector, Assistant Inspector".

(7) Section 210 is repealed and the following is substituted:

(3) Section 51 presently reads:

51 In order to establish a devise or other testamentary disposition of or affecting real estate, probate of the will or letters of administration with the will annexed, containing such devise or disposition, or a copy thereof under the seal of the district court granting the same, or under the seal of the Supreme Court of Alberta or the Supreme Court of the Northwest Territories where the probate or letters of administration were granted by either of these courts shall be received in evidence as prima facie proof of the will and of its validity and contents.

The Land Titles Act

4(1) This section will amend chapter 198 of the Revised Statutes of Alberta 1970.

(2) Section 2, clause 20 presently reads:

20. "Registrar" means Inspector of Land Titles Offices, when acting as Registrar of Titles, a Deputy Registrar or an Assistant Deputy Registrar;

(3) Section 7 presently reads:

7. The Attorney General may from time to time appoint an Inspector of Land Titles Offices who shall, under instructions from The Attorney General, inspect the books and records of the several Land Titles Offices, and perform such other duties as he may be directed by the Attorney General to perform, and the inspector may, in the discretion of the Attorney General, be directed to perform any duty that any Registrar is empowered by this Act to perform.

(4) Consequential.

(5) Sections 13, 14 and 15 presently read:

13(1) Before the Inspector of Land Titles Offices or any Registrar or Deputy Registrar or Assistant Deputy Registrar is sworn into office he shall furnish to Her Majesty security in a penal sum of not less than one thousand dollars for the true and faithful performance by him of his duty in respect of all things directed to be done by or required of him by this Act or any law in that behalf.

210 A Registrar or any person acting under the authority of a Registrar is not liable for any act bona fide done or omitted to be done in the exercise or supposed exercise of a power given under this Act or an order or regulation made under this Act.

(8) Forms 1, 2 and 3 are repealed.

The Mechanical Recording of Evidence Act

5(1) The Mechanical Recording of Evidence Act is amended by this section.

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

8(1) Any time after 6 months from the making of the record, a duplicate record may be made by means of a sound recording mechanical device approved by the Attorney General and the original record may then be erased, cancelled or otherwise destroyed.

(2) A typewritten copy of the whole or any part of the contents of the duplicate record,

(2) The security shall, in the discretion of the Attorney General, be either a joint and several bond of the Inspector, Registrar, Deputy Registrar or Assistant Deputy Registrar, as the case may be, and of two sureties, or a guarantee bond of a guarantee company duly approved by the Lieutenant Governor in Council, and the bond or guarantee shall be in duplicate and approved by the Lieutenant Governor in Council.

14(1) When the security furnished is not the bond of a guarantee company, it shall be in Form 1 in the Schedule and be signed and sealed by the obligors, and the sureties shall justify under oath in Form 2 in the Schedule.

(2) The execution of the said bond shall be duly verified by the affidavit of a subscribing witness in Form 3 in the Schedule.

(3) The security with the affidavits appended shall then be forthwith transmitted to the Provincial Secretary to be filed in his office.

15 The Inspector of Land Titles Offices and any Registrar or Deputy Registrar or Assistant Deputy Registrar shall when required by the Attorney General furnish such further or other security as is deemed expedient.

(6) Consequential.

(7) Section 210 presently reads:

210 The Inspector of Land Titles Offices is not, nor is any Registrar, Deputy Registrar, or any person acting under authority of a Registrar, liable to any action or proceeding for or in respect of any act bona fide done or omitted to be done in the exercise or supposed exercise of the powers given by this Act, or any order or general rule made pursuant to this Act.

(8) Consequential to subsection (5). Repeals Forms entitled FORM OF BOND OF INSPECTOR, REGISTRAR AND DEPUTY REGISTRAR, AFFIDAVIT OF JUSTIFICATION BY A SURETY and AFFIDAVIT OF ATTESTATION OF BOND.

The Mechanical Recording of Evidence Act

5(1) This section will amend chapter 229 of the Revised Statutes of Alberta 1970.

(2) Section 8 presently reads:

8(1) Any time after two years from the making of a record, the judge who presided at the making of the record or a judge of the Supreme Court may order the record destroyed or the recording thereon erased, cancelled or otherwise destroyed.

(2) An order under subsection (1) may be made without notice to any person, and on the application of any party or of the Attorney General, but the order shall not be made if it appears that the recording is likely to be thereafter required for any purpose.

(a) reduced to writing by a reporter, and

(b) certified by the reporter to be a true and faithful transcript of the contents of the duplicated record,

is admissible in evidence by any court to the same extent and with the same effect as a typewritten copy of the original record.

8.1(1) A record or a duplicate record shall be kept for a period of 10 years from the making of the record or duplicate after which time the Court of Queen's Bench may order that the record or duplicate record be erased, cancelled or otherwise destroyed.

(2) An order under subsection (1) may be made on the application of the Attorney General without notice to any other person and may be a general order to apply with respect to all or any records or duplicate records made more than 10 years previous to the order.

(3) *Section 9(a) is amended by striking out "4 or 5" and substituting "4, 5 or 8".*

The Motor Vehicle Accident Claims Act

6(1) The Motor Vehicle Accident Claims Act is amended by this section.

(2) Section 3(3) and (4) are repealed and the following is substituted:

(3) Upon receipt from the Solicitor General of the fees collected under section 4, the Provincial Treasurer shall pay those fees into the Fund.

(4) The Provincial Treasurer may from time to time upon the request of the Minister advance to the Fund from the General Revenue Fund those amounts that are required for the purposes of the Fund.

(4.1) The Lieutenant Governor in Council may order that any surplus in the Fund or any portion of the surplus be paid into the General Revenue Fund.

(3) Section 16 is amended by adding "or" at the end of clause (f) and by adding the following after clause (f):

(g) in respect of any amount that the applicant is legally entitled to receive from any other source.

(3) An order under subsection (1) may be a general order to apply to all or any records made before a date set out in the order.

This amendment will allow the re-recording of evidence.

(3) Section 9(a) presently reads:

9 The Lieutenant Governor in Council may make regulations

(a) prescribing the form of the certificates given under section 4 or 5;

The Motor Vehicle Accident Claims Act

6(1) This section will amend chapter 243 of the Revised Statutes of Alberta 1970.

(2) Section 3(3) and (4) presently read:

(3) Where a portion of the Fund remains unexpended at the end of a fiscal year, the unexpended portion shall be carried forward to the credit of the Fund in the next fiscal year.

(4) The Lieutenant Governor in Council, having regard to the condition of the Fund and the amount paid out of the Fund during any period, may direct payment to the Fund out of the General Revenue Fund of whatever amount he considers necessary or advisable to subsidize the Fund.

(3) Prohibits payment out of Fund of any amount that will be paid by another source. Section 16 presently reads:

16 Where application is made for payment out of the Fund no payment shall be made

(a) in respect of any amount paid or payable by an insurer by reason of the existence of a contract of prepaid medical, dental or hospital services or a contract of insurance, other than life insurance, or

(b) in lieu of the applicant making a claim or receiving payment that is payable by reason of the existence of a contract of prepaid medical, dental or hospital services or a contract of insurance, other than life insurance, or

The Notaries Public Act

7(1) The Notaries Public Act is amended by this section.

(2) Section 2(3) is repealed and the following is substituted:

(3) An application under this section shall be accompanied by an affidavit of the applicant in the form and containing the information prescribed by the regulations.

(3) Section 7 is amended

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

7(1) A notary public shall, on each affidavit, affirmation, declaration or acknowledgement taken or given by him, each instrument attested by his seal and each notarial certificate given by him, print or stamp

(a) his name, and

(b) if he was appointed under section 2, the date upon which his appointment terminates.

(b) in subsection (2) by striking out “\$10” and substituting “\$100”.

(c) to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a contract of prepaid medical, dental or hospital services or a contract of insurance, other than life insurance, or

(d) to indemnify any person with respect to any amount

(i) which as the result of the ownership, use or operation of a motor vehicle by him, he is liable to pay and has paid to another person, or

(ii) which he is entitled to recover from another person by way of indemnity or contribution,

or

(e) to indemnify the owner of a motor vehicle for loss of or damage to property of the owner arising out of the use or operation of that motor vehicle and for which the operator is responsible, or

(f) in respect of

(i) bodily injury to or the death of a person, or

(ii) loss of or damage to property of a person,

occurring while the person is in or is entering into or descending from a bus or other public transportation vehicle owned and operated by a municipality unless a judgment is obtained against a person other than the municipality.

The Notaries Public Act

7(1) This section will amend chapter 261 of the Revised Statutes of Alberta 1970.

(2) Section 2(3) presently reads:

(3) An application under this section shall be accompanied by an affidavit of the applicant,

(a) stating that he is a British subject or a Canadian citizen by birth or naturalization, and

(b) giving the date and place of birth if the applicant is a British subject or a Canadian citizen by birth or the date and place of issue of his naturalization certificate if he is a British subject or a Canadian citizen by naturalization.

(3) Section 7 presently reads:

7(1) A notary public appointed under this Act shall, on each affidavit, affirmation, declaration or acknowledgement taken or given by him, each instrument attested by his seal and each notarial certificate given by him, write or stamp the date upon which his appointment terminates.

(2) A notary public failing to comply with the provisions of this section is guilty of an offence and liable on summary conviction to a fine of not more than \$10.

(4) The following is added after section 7:

8 The Lieutenant Governor in Council may make regulations governing the form and substance of affidavits under section 2.

The Provincial Court Act, 1978

8(1) The Provincial Court Act, 1978 is amended by this section.

(2) Section 21(1)(h) is amended by striking out “prescribing” and substituting “governing”.

(3) Section 38 is repealed.

(4) Section 39(2) is amended by adding “place and” after “plaintiff and the”.

(5) The following is added after section 39:

39.1(1) The clerk who issues a summons under section 39 shall set the action down for hearing at the place where the Court holds regular sittings that in the opinion of the clerk is nearest

(a) to the place where the defendant or one of the co-defendants resided or carried on business at the time the summons was issued, or

(b) to where the cause of action arose.

(2) An action heard under this Part is not invalid by reason only that it was set down for hearing and heard at a place other than the place provided for under subsection (1).

39.2 The Court may, upon its own direction or upon application by a party to an action, order that an action be heard by the Court at a place other than that set forth in the summons.

(6) Section 71 is amended by renumbering it as section 71(1) and by adding the following:

(2) Subsection (1)(b) does not apply to proceedings that take place in the Court of Queen’s Bench.

(4) Regulations.

The Provincial Court Act, 1978

8(1) This section will amend chapter 70 of the Statutes of Alberta, 1978.

(2) Section 21(1) presently reads in part:

21(1) The Lieutenant Governor in Council may make regulations

(h) prescribing the rates of fees and expenses payable to witnesses and interpreters;

(3) The subject matter of section 38 will be contained in the proposed section 39.1. See section 8(5) of this Bill. Section 38 presently reads:

38(1) An action shall be commenced, carried on and heard in the judicial district where

(a) the defendant or one of the defendants is then dwelling or carrying on business, or

(b) the cause of action arose.

(2) If a defendant is a local authority or school board, the claim may be heard in any judicial district

(a) that includes any area under the jurisdiction of the local authority or school board, or

(b) where any co-defendant resided or carried on business at the time the summons was issued.

(4) Section 39(2) presently reads:

(2) Upon an application being made under subsection (1), a clerk shall issue a summons that contains the particulars of the claim as provided by the plaintiff and the date set for hearing the matter.

(5) Place of hearing.

(6) Section 71 presently reads:

71 A person is entitled to be represented by

(a) a barrister and solicitor, or

The Public Trustee Act

9(1) The Public Trustee Act is amended by this section.

(2) Section 27 is amended

(a) in subsection (1) by striking out “\$1,000” and substituting “\$3000”, and

(b) in subsection (5) by striking out “\$1,500” and substituting “\$4000”.

(3) Section 28(1) is amended by striking out “\$1,000” and substituting “\$3000”.

10(1) This Act, except for sections 2 and 7, comes into force on the day upon which it is assented to.

(2) Sections 2 and 7 come into force on July 1, 1980.

(b) an agent

in respect of any proceedings under this Part.

The Public Trustee Act

9(1) This section will amend chapter 301 of the Revised Statutes of Alberta 1970.

(2) Section 27(1) and (5) presently read:

27(1) When a person dies intestate, in or out of the Province, leaving property in the Province, the gross value of which as estimated by the Public Trustee does not at the time of the election mentioned in this section exceed \$1,000, and no person has taken out letters of administration, the Public Trustee instead of obtaining letters of administration may make an election in writing electing to administer the estate.

(5) If after filing the election the gross value of the property to be administered is found to exceed \$1,500, the Public Trustee as soon as practicable after filing the election shall file in the office of the clerk of the court a memorandum stating that fact, and may proceed in the ordinary manner to obtain letters of administration.

(3) Section 28(1) presently reads:

28(1) When a person has died intestate, in or out of the Province, leaving property in the Province the gross value of which as estimated by the Public Trustee exceeds \$1,000, and no application for letters of administration has been made, the Public Trustee may apply for letters of administration of the estate.