

1980 BILL 3

Second Session, 19th Legislature, 29 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 3

**THE ATTORNEY GENERAL STATUTES
AMENDMENT ACT, 1980**

THE ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 3

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1980

THE ATTORNEY GENERAL STATUTES AMENDMENT ACT, 1980

(Assented to , 1980)

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

The Administration of Estates Act

1(1) The Administration of Estates Act is amended by this section.

(2) Section 20 is repealed and the following is substituted:

20 If a grant of probate or administration is sought and it appears that the estate of the deceased consists only of personal property of an aggregate value not exceeding \$3000 so far as can be ascertained after reasonable inquiry, the clerk may

(a) prepare, in accordance with the Rules, the application and any other papers necessary to lead to the grant, including a bond, if any, and

(b) give on behalf of the applicant any notice required to be given by this or any other Act in connection with the application.

(3) Section 21 is repealed.

Explanatory Notes

The Administration of Estates Act

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

(2) Section 20 presently reads:

20 Where a grant of probate or administration is sought and the whole property of the deceased is of an aggregate value not exceeding \$1,000 so far as can be ascertained after reasonable inquiry, the clerk or the Public Trustee may

(a) prepare the application and any other papers necessary to lead to the grant, including the bond, if any, and

(b) give on behalf of the applicant any notice required to be given by this or any other Act in connection with the application,

and the fee payable by the applicant under the Rules shall not exceed \$10.

(3) Section 21 presently reads:

21(1) Where it appears to the court that the estate of the deceased consists only of personal property of an aggregate value not exceeding \$1,000 so far as can be ascertained after reasonable inquiry, the court may, without a grant, by fiat authorize the clerk to issue to the applicant a certificate under this section upon payment of a fee of \$5.

(4) Section 70(2) is amended by striking out “or the Public Trustee”.

The Provincial Court Act

2(1) The Provincial Court Act is amended by this section.

(2) Section 16 is amended by renumbering it as section 16(1) and by adding the following:

(2) Salaries prescribed pursuant to a regulation made under subsection (1)(a) shall, if so provided in the regulation, be effective from a date prior to the making of the regulation.

The Provincial Court Act, 1978

3(1) The Provincial Court Act, 1978 is amended by this section.

(2) *The certificate shall be in the form prescribed by the Rules and shall*

(a) authorize the person to whom it is issued to make a demand of payment or possession and to receive and give a valid receipt for the money or other personal property so received as effectively as if he had been issued a grant, and

(b) order the person to whom it is issued to dispose of the estate by paying the reasonable funeral expenses and the debts of the deceased and by distributing the remainder, if any, of the estate,

(i) in the case of property of which the deceased dies testate, to the beneficiaries entitled thereto, or if none can conveniently be found, to the Provincial Treasurer to be paid into the General Revenue Fund, and

(ii) in the case of property of which the deceased died intestate, but subject to The Ultimate Heir Act, to the persons entitled thereto.

(3) Where a balance is paid over to the Provincial Treasurer under subsection (2), clause (b), subclause (i) and any claim thereto is subsequently proved to the satisfaction of the court, the Provincial Treasurer, upon order of the court, shall pay the claim out of the General Revenue Fund.

(4) The provisions of this Act or the Rules with respect to the grant of probate or administration, inventories and bonds on administration do not apply in cases coming within this section.

(4) Section 70(2) presently reads:

(2) Subsection (1) does not apply in the case of an application prepared by the clerk or the Public Trustee under section 20.

The Provincial Court Act

2(1) This section will amend chapter 86 of the Statutes of Alberta, 1971.

(2) Section 16(a) presently reads:

16 The Lieutenant Governor in Council may make regulations

(a) fixing the salaries to be paid to judges,

The Provincial Court Act, 1978

3(1) This section will amend chapter 70 of the Statutes of Alberta, 1978.

(2) Section 21 is amended by adding the following after subsection (1):

(1.1) Salaries prescribed pursuant to a regulation made under subsection (1)(a) shall, if so provided in the regulation, be effective from a date prior to the making of the regulation.

The Uniformity of Legislation Act

4(1) This section will amend The Uniformity of Legislation Act.

(2) Section 2(1) is amended

(a) by striking out “three suitable” and substituting “6”, and

(b) in clause (b) by striking out “successors are respectively appointed” and substituting “respective successors are appointed”.

(3) Section 6 is repealed.

Commencement

5(1) This Act, except for sections 1 and 3, comes into force on the day upon which it is assented to.

(2) Sections 1 and 3 come into force on a date or dates to be fixed by Proclamation.

(2) Section 21(1)(a) presently reads:

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

(a) fixing the salaries to be paid to judges;

The Uniformity of Legislation Act

4(1) This section will amend chapter 350 of the Revised Statutes of Alberta, 1955.

(2) Section 2(1) presently reads:

2(1) The Lieutenant Governor in Council shall from time to time appoint three suitable members of the Bar of the Province

(a) who with their successors are constituted a Board of Commissioners for the Promotion of Uniformity of Legislation in Canada, and

(b) who all hold office for a term of three years from the date of appointment or until their successors are respectively appointed.

(3) Section 6 presently reads:

6(1) The Lieutenant Governor in Council may appoint a fourth member to the Board from the Bar of the Province to be nominated by the Benchers of the Law Society of Alberta.

(2) This Act applies to a member appointed under subsection (1).