

1981 BILL 6

---

Third Session, 19th Legislature, 30 Elizabeth II

---

THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 6

**THE ATTORNEY GENERAL STATUTES AMENDMENT  
ACT, 1981**

---

---

THE ATTORNEY GENERAL

---

---

First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

---

---

Bill 6

## BILL 6

1981

### THE ATTORNEY GENERAL STATUTES AMENDMENT ACT, 1981

(Assented to \_\_\_\_\_, 1981)

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

#### The Commissioners For Oaths Act

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

*(2) Section 3(1) is repealed and the following is substituted:*

**3(1)** The Inspector of Legal Offices may appoint commissioners to administer oaths and take and receive affidavits, declarations and affirmations in Alberta.

*(3) Section 6 is amended by adding “, a member or member elect from Alberta of the House of Commons of Canada, a member of the Senate of Canada who at the time of his appointment as a senator is a resident of Alberta” after “of Alberta”.*

*(4) Section 8.1(1) is repealed and the following is substituted:*

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

(a) his name, and

(b) if he is appointed under section 3 or 4, the date on which his appointment terminates.

## Explanatory Notes

### The Commissioners for Oaths Act

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

(2) Section 3(1) presently reads:

*3(1) The Inspector of Legal Offices may appoint commissioners*

*(a) to administer oaths and take and receive affidavits, declarations and affirmations in Alberta, and*

*(b) to make a charge therefor not exceeding the sum of 50 cents for each such oath, affidavit, declaration or affirmation so administered or taken.*

(3) Section 6 presently reads:

*6 A member or a member elect of the Legislative Assembly of Alberta, a member of a municipal council in Alberta or a member of a board of trustees of a school district or school division in Alberta is ex officio a commissioner empowered to administer oaths and take and receive affidavits, declarations and affirmations in or outside Alberta for use in Alberta.*

(4) Section 8.1(1) presently reads:

*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.*

(5) *Section 9(3) is repealed and the following is substituted:*

- (3) The Lieutenant Governor in Council may make regulations
  - (a) governing the execution of documents by commissioners;
  - (b) respecting the fees that a commissioner may charge for each oath, affidavit, declaration or affirmation administered or taken.

### **The Court of Queen's Bench Act**

*2(1) The Court of Queen's Bench Act is amended by this section.*

*(2) Section 9 is amended*

*(a) in subsection (1)(a)(ii) by adding "subject to subsection (1.1)," before "stays", and*

*(b) by adding the following after subsection (1):*

*(1.1) A master in chambers may, under section 113(1)(a) of *The Motor Vehicle Administration Act*, order that a suspension of a licence be stayed.*

*(3) The Motor Vehicle Administration Act is amended in section 113(1)(a) by striking out "a judge of".*

(5) Section 9(3) presently reads:

*(3) The Lieutenant Governor in Council may make regulations governing the execution of documents by commissioners.*

### **The Court of Queen's Bench Act**

2(1) This section will amend chapter 51 of the Statutes of Alberta, 1978.

(2) Section 9(1) presently reads:

*9(1) In regard to all matters brought or proposed to be brought in the Court, a master in chambers*

*(a) has the same power and may exercise the same jurisdiction as a judge sitting in chambers except in respect of*

*(i) appeals, applications in the nature of appeals, applications concerning the hearing of appeals and applications to vary or rescind an order made by a judge, and*

*(ii) stays of proceedings after verdict or on judgment after trial or hearing before a judge, unless all parties consent to the exercise of that jurisdiction by the master,*

*and*

(3) Section 113(1) of The Motor Vehicle Administration Act presently reads:

*113(1) If a person whose licence has been suspended appeals against his conviction or applies to quash the conviction, the suspension applies unless*

*(a) a judge of the court being appealed to or to which the application is made orders that the suspension be stayed pending the disposition of the appeal or application, and*

*(b) the appellant or applicant serves on the Registrar by personal service or by registered or certified mail*

*(i) a copy of the notice of appeal, stated case, notice of motion or other document by which the appeal or application is commenced,*

*(ii) a copy of the order staying the suspension, and*

*(iii) a notice setting out his full name, address, date of birth and operator's licence number.*

### **The Execution Creditors Act**

*3(1) The Execution Creditors Act is amended by this section.*

*(2) Section 39 is amended*

*(a) by striking out “a judge” and substituting “the Court of Queen’s Bench”;*

*(b) by striking out “the judge” and substituting “the Court”;*

*(c) by striking out “he in his” wherever it occurs and substituting “it in its”;*

*(d) in clause (b) by striking out “he” and substituting “it”.*

### **The Limitation of Actions Act**

*4(1) The Limitation of Actions Act is amended by this section.*

*(2) Section 61(1)(c) is amended by adding “or The Survival of Actions Act” after “The Administration of Estates Act”.*

### **The Notaries Public Act**

*5(1) The Notaries Public Act is amended by this section.*

### **The Execution Creditors Act**

**3(1)** This section will amend chapter 128 of the Revised Statutes of Alberta 1970.

(2) Section 39 presently reads:

*39 Where any question, doubt or difficulty arises with regard to the exercise by the sheriff or the clerk of the court of any power, duty or authority conferred upon him by this Act, he may upon his own motion apply to a judge for directions and upon the application the judge may*

*(a) fix the length and manner of notice to be given to the parties which he in his discretion thinks proper, and*

*(b) after hearing any evidence either orally or by affidavit, which he thinks proper,*

*make an order giving such directions not inconsistent with this Act as he in his discretion deems proper and convenient, and no action or proceeding lies against the sheriff or clerk for anything done pursuant to or in conformity with any direction so given.*

### **The Limitation of Actions Act**

**4(1)** This section will amend chapter 209 of the Revised Statutes of Alberta 1970.

(2) Section 61(1) presently reads in part:

*61(1) Where an action to which this Part applies has been commenced within the time allowed by or under this Part, the court, upon application, may authorize an amendment to any pleading or proceeding therein that will result in a change of parties to the action:*

*(c) where the action is one brought against a person who was in fact deceased at the time the action was commenced against him, if the court is satisfied that the action is one which under The Administration of Estates Act could, at the time, have been maintained against the estate of a deceased person and if the change is only the substitution of the estate of the deceased person;*

### **The Notaries Public Act**

**5(1)** This section will amend chapter 261 of the Revised Statutes of Alberta 1970.

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

**3** A member or member elect of the Legislative Assembly of Alberta, a member or member elect from Alberta of the House of Commons of Canada or a member of the Senate of Canada who at the time of his appointment as a senator is a resident of Alberta is ex officio a notary public for Alberta.

(3) *Section 7(1) is amended by striking out “print or stamp” and substituting “legibly print or stamp in legible printing”.*

### **The Possessory Liens Act**

*6(1) The Possessory Leins Act is amended by this section.*

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

**2** In this Act, “Court” means the Court of Queen’s Bench.

(3) *Section 5(3) is amended by striking out “A judge” and substituting “The Court”.*

(4) *Section 9(4) is amended*

(a) *in clause (a) by striking out “a judge” and substituting “the Court”;*

(b) *in clause (b)*

(i) *by striking out “judge” and substituting “Court”;*

(ii) *by striking out “him” and substituting “it”.*

(5) *Section 10 is amended*

(a) *in subsection (2)(c) by striking out “a judge” and substituting “the Court”;*

(b) *in subsection (3) by striking out “a judge” and substituting “the Court”;*



(2) Section 3 presently reads:

*3 A member or member-elect of the Legislative Assembly of Alberta is ex officio a notary public for the Province.*

(3) Section 7(1) presently reads:

*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.*

#### **The Possessory Liens Act**

**6(1)** This section will amend chapter 279 of the Revised Statutes of Alberta 1970.

(2) Section 2 presently reads:

*2 In this Act "judge" means a judge of the Court of Queen's Bench.*

(3) Section 5(3) presently reads:

*(3) A judge may dispense with the giving of the notice by the bailee if the bailor's address or whereabouts is unknown.*

(4) Section 9(4) presently reads:

*(4) When a bailee has in his possession perishable goods that might deteriorate or be destroyed by detention,*

*(a) he may forthwith apply to a judge for leave to sell the goods, and*

*(b) on such application the judge may forthwith give directions for the sale of goods or may make such order in the matter as to him seems just.*

(5) Section 10 presently reads in part:

*(2) The notice shall specify*

*(a) a reasonable time and place for payment of the debt,*

*(b) the amount owing and the property detained, and*

*(c) in subsection (4)*

*(i) in clause (a) by striking out “a judge” and substituting “the Court”;*

*(ii) in clause (b)*

*(A) by striking out “judge” and substituting “Court”;*

*(B) by striking out “him” and substituting “it”;*

*(d) in subsection (5)*

*(a) by striking out “a judge” and substituting “the Court”;*

*(b) by striking out “the judge” and substituting “the Court”;*

*(e) in subsection (6) by striking out “judge” and substituting “Court”.*

*(6) Section 11 is amended*

*(a) by striking out “a judge” and substituting “the Court”;*

*(b) by striking out “he” and substituting “the Court”.*

*(7) Section 12 is amended*

*(a) in subsection 3(b) by striking out “a judge” and substituting “the Court”;*

*(b) by repealing subsection (4) and substituting the following:*

*(4) Where the Provincial Treasurer refers facts to the Court under subsection (3), the Court may direct interpleader proceedings to be taken if there is more than one claimant, or in any case may on the production of evidence that it considers necessary make an order that to it seems just.*

---

*In accordance with section 4(1) of The Interpretation Act, 1980, this Bill comes into force on the date it receives Royal Assent.*

*(c) that in default of payment an application will be made to a judge on the day and at the hour and place stated in the notice for leave to sell the goods and chattels.*

*(3) The day fixed for the application to a judge shall be not less than 30 days after the date of mailing or serving the notice.*

*(4) If the amount claimed is not paid to the bailee*

*(a) the bailee may apply on the day and at the hour and place specified in the notice to a judge informally for a sale of the goods and chattels, and*

*(b) the judge may make such order as to him seems just with respect to the sale and the manner of conducting it.*

*(5) Unless a judge otherwise directs, it is not necessary to take out an order for sale, but the judge may note informal directions for the sale on the notice or on any affidavit that is used.*

*(6) If a dispute arises between the bailor and bailee as to the amount due, or in the absence of the bailor, the judge*

*(a) may fix the amount due in a summary way, or*

*(b) may direct an action to be brought.*

(6) Section 11 presently reads:

11 If it is made to appear to a judge that it is not practicable to serve a notice required to be given by this Act on a debtor, either personally or by registered mail, he may, on the application ex parte by or on behalf of the lienholder, make an order for substituted or other service or for the substitution for service of notice by letter, public advertisement or otherwise, or may dispense with service.

(7) Section 12 presently reads in part:

*(3) The Provincial Treasurer may entertain an application, verified by such affidavit or affidavits as he requires, on the part of a mortgagee of the goods and chattels so sold, or on the part of a creditor of the owner of the goods and chattels, and may in his discretion*

*(a) make an order for the payment of all or a portion of the balance to the mortgagees or creditors according to their priorities, or*

*(b) may informally refer the facts to a judge.*

*(4) The judge to whom an application is referred under subsection (3) may direct interpleader proceedings to be taken where there is more than one claimant, or in any case may on the production of such evidence as he deems necessary make such order as to him seems just.*

*(5) An order made under subsection (4) is sufficient authority for the Provincial Treasurer to pay any moneys in his possession according to the tenor of the order.*

-