

1981 BILL 14

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 14

THE INTERPROVINCIAL SUBPOENA ACT

MR. KOWALSKI

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 14
Mr. Kowalski

BILL 14

1981

THE INTERPROVINCIAL SUBPOENA ACT

(Assented to , 1981)

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

Definitions

1 In this Act,

(a) "court outside Alberta" means

(i) a court in a province of Canada other than Alberta, or

(ii) a board, commission, tribunal or other body of a province that is designated pursuant to section 9 as a court outside Alberta for the purposes of this Act;

(b) "court in Alberta" includes a board, commission, tribunal or other body in Alberta;

(c) "subpoena" means a subpoena or other document requiring a person to attend as a witness.

Adoption of
subpoena from
outside Province

2 The Court of Queen's Bench shall receive and adopt as an order of the Court of Queen's Bench a subpoena from a court outside Alberta if

(a) the subpoena is accompanied by a certificate attached to or endorsed on the subpoena signed by a judge of a superior, county or district court of the issuing province and impressed with the seal of that court, signifying that, on hearing and examining the applicant, the judge is satisfied that the attendance in the issuing province of the person subpoenaed

(i) is necessary for the due adjudication of the proceeding in which the subpoena is issued, and

(ii) in relation to the nature and importance of the cause or proceeding, is reasonable and essential to the due administration of justice in that province; and

(b) the subpoena is accompanied by the prescribed witness fees and travelling expenses.

Conditions in
adopting subpoena

3 The Court of Queen's Bench shall not adopt a subpoena from another province under section 2 unless the law of that other province has a provision similar to section 6 that provides absolute immunity to a resident of Alberta who is required to attend as a witness in the other province from all proceedings of the nature set out in section 6 and within the jurisdiction of the Legislature of that other province except only those proceedings grounded on events occurring during or after the required attendance of the person in the other province.

Contempt of court
for failure to
comply

4 Where a person who has been served with a subpoena adopted under section 2 and given the prescribed witness fee and travelling expenses not less than 10 days, or such shorter period the judge of the court in the issuing province may indicate in his certificate, before the date the person is required to attend in the issuing court, fails without lawful excuse to comply with the order, he is in contempt of the Court of Queen's Bench and is subject to such penalty as that Court may impose.

Certificate for
issuance of
subpoena in
Alberta

5(1) Where a party to a proceeding in a court in Alberta causes a subpoena to be issued for service in another province, the party may attend on a judge of the Court of Queen's Bench, who

(a) shall hear and examine the party or his counsel, if any, and

(b) on being satisfied that the attendance in Alberta of the person required in Alberta as a witness

(i) is necessary for the due adjudication of the proceeding in which the subpoena or other document has been issued, and

(ii) in relation to the nature and importance of the proceedings, is reasonable and essential to the due administration of justice in Alberta,

shall sign a certificate in the prescribed form and shall cause the certificate to be impressed with the seal of the Court of Queen's Bench.

(2) The judge referred to in subsection (1) may indicate on the

certificate a shorter period for the payment of the witness fee and travelling expenses.

(3) The certificate referred to in subsection (1) shall be either attached to or endorsed on the subpoena.

Immunities

6 A person required to attend before a court in Alberta by a subpoena adopted by a court outside Alberta is deemed, while within Alberta in answer to the subpoena, not to have submitted to the jurisdiction of the courts of Alberta other than as a witness in the proceedings in which he is subpoenaed and is absolutely immune from seizure of goods, service of process, execution of judgment, garnishment, imprisonment or molestation of any kind relating to a legal or judicial right, cause, action, proceeding or process within the jurisdiction of the Legislature of Alberta except only those proceedings grounded on events occurring during or after the required attendance of the person in Alberta.

Additional fees

7 Where a person is required to attend before a court in Alberta by a subpoena adopted by a court outside Alberta, he may request the court in Alberta to order additional fees and expenses to be paid in respect of his attendance as a witness, and the court, if it is satisfied that the amount of fees and expenses previously paid to the person in respect of his attendance is insufficient, may order the party who obtained the subpoena to pay the person forthwith any additional fees and expenses that the court considers sufficient, and amounts paid pursuant to an order made under this section are disbursements in the cause.

Non-application of Act

8 This Act does not apply to a subpoena that is issued with respect to a criminal offence under an Act of Canada.

Designations as court

9 Where the Lieutenant Governor in Council considers it advisable, he may designate any board, commission, tribunal or other body of any other province of Canada that has the power to issue a subpoena as a court outside Alberta for the purposes of this Act.

Regulations

10 The Lieutenant Governor in Council may make regulations

- (a) prescribing the certificate referred to in section 5;
- (b) respecting the witness fees and travelling expenses that may be paid under this Act.

11 This Act comes into force on Proclamation.