

1981 BILL 77

Third Session, 19th Legislature, 30 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 77

JUDICATURE AMENDMENT ACT, 1981

THE ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 77

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JUDICATURE AMENDMENT ACT, 1981

(Assented to _____, 1981)

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

1 The Judicature Act is amended by this Act.

2 Section 31 is amended

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

31(1) If in an action or proceeding the constitutional validity of an enactment of the Parliament of Canada or of the Legislature of Alberta is brought into question, the enactment shall not be held to be invalid unless 14 days' written notice has been given to the Attorney General for Canada and the Attorney General for Alberta.

(b) in subsection (1.1)

(i) by striking out "other";

(ii) by adding "14 days' written" before "notice";

(c) by adding the following after subsection (1.1):

(1.2) The notice shall include what enactment or part of an enactment is in question and give reasonable particulars of the proposed argument.

(d) in subsection (2)

(i) by striking out "Canada or" and substituting "Canada and";

(ii) by striking out "Alberta is" and substituting "Alberta are";

Explanatory Notes

1 This Bill will amend chapter 193 of the Revised Statutes of Alberta 1970.

2 Section 31 presently reads:

31(1) When in an action or other proceeding the constitutional validity of an enactment of the Parliament of Canada or of the Legislature of Alberta is brought in question the enactment shall not be held to be invalid unless notice has been given to the Attorney General for Canada or the Attorney General for Alberta, as the case may be.

(1.1) When in an action or other proceeding a question arises as to whether an enactment of the Parliament of Canada or of the Legislature of Alberta is the appropriate legislation applying to or governing any matter or issue, no decision may be made thereon unless notice has been given to the Attorney General for Alberta and the Attorney General for Canada.

(2) The Attorney General for Canada or the Attorney General for Alberta is entitled as of right to be heard either in person or by counsel, notwithstanding that the Crown is not a party to the action or proceeding.

(e) by adding the following after subsection (2):

(3) No person other than the Attorney General for Alberta or counsel designated by him shall, on behalf of Her Majesty in right of Alberta or on behalf of an agent of Her Majesty in right of Alberta, appear and participate in any action or proceeding within or without Alberta in respect of a question referred to in subsection (1) or (1.1).

(4) If the Attorney General or counsel designated by him appears in an action or proceeding within Alberta in respect of a question referred to in subsection (1) or (1.1), the Attorney General is deemed to be a party to the action or proceeding for the purpose of an appeal from an adjudication in respect of that question and has the same rights with respect to an appeal as any other party to the proceeding.

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

