

1981 BILL 226

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Third Session, 19th Legislature, 30 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 226**

**AN ACT TO ESTABLISH THE INDEPENDENCE  
OF THE HUMAN RIGHTS COMMISSIONER**

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MR. R. CLARK

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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Bill 226  
Mr. R. Clark

## BILL 226

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### AN ACT TO ESTABLISH THE INDEPENDENCE OF THE HUMAN RIGHTS COMMISSIONER

(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) "Committee" means the Select Standing Committee of the Legislative Assembly on Legislative Offices;
- (b) "Commissioner" means the Human Rights Commissioner appointed pursuant to this Act.

Office of  
Commissioner  
created

**2** There shall be appointed as an officer of the Legislature, a commissioner for the investigation of the infringement of individual's rights, to be called the Human Rights Commissioner.

Appointment

**3(1)** The Lieutenant Governor in Council shall appoint the Commissioner on the recommendation of the Assembly.

(2) Notwithstanding subsection (1) the first Commissioner shall be the person who holds the position of Chairman of the Alberta Human Rights Commission immediately prior to the commencement of this Act.

Restriction as to  
holding other  
offices

**4(1)** The Commissioner may not be a member of the Assembly and shall not hold any office of trust or profit, other than his office as Commissioner, or engage in any occupation for reward outside the duties of his office.

(2) The Commissioner shall be a Canadian citizen.

Term of office

**5(1)** Unless his office sooner becomes vacant, a person appointed as Commissioner holds office for 5 years from the date of his appointment and any person, if otherwise qualified, may be reappointed.

(2) The Commissioner may at any time resign his office by writing addressed to the Speaker of the Assembly or, if there is no Speaker or if the Speaker is absent, to the Clerk of the Assembly.

Suspension or  
removal from  
office

**6**(1) On the recommendation of the Assembly, the Lieutenant Governor in Council may, at any time, suspend or remove the Commissioner from his office for disability, neglect of duty, misconduct or bankruptcy.

(2) At any time the Legislature is not in session the Lieutenant Governor in Council, on the recommendation of the Committee, may suspend the Commissioner from office for disability, neglect of duty, misconduct or bankruptcy, but the suspension shall not continue in force beyond the end of the next ensuing session of the Legislature.

Vacancy of office

**7**(1) If the Commissioner dies, retires, resigns or is removed from office, the vacancy thereby created shall be filled in accordance with this section.

(2) If a vacancy occurs while the Legislature is in session, but no recommendation is made by the Assembly before the close of that session, subsection (3) applies as if the vacancy had occurred while the Legislature was not in session.

(3) If a vacancy occurs while the Legislature is not in session, the Lieutenant Governor in Council, on the recommendation of the Committee, may appoint a Commissioner to fill the vacancy and unless his office sooner becomes vacant, the person so appointed holds office until his appointment is confirmed by the Assembly.

(4) If an appointment under subsection (3) is not confirmed within 30 days after the commencement of the next ensuing regular session, the appointment lapses and there shall be deemed to be another vacancy in the office of the Commissioner.

Salary

**8**(1) The Commissioner shall be paid a salary at a rate set by the Committee payable from money appropriated to the purpose by the Legislature, and the Committee shall review that salary rate at least once a year.

(2) The salary of the Commissioner shall be similar to that of a Deputy Minister.

(3) The Commissioner shall receive similar benefits as are provided to a Deputy Minister.

Oath of office

**9**(1) Before entering upon his duties, the Commissioner shall take an oath that he will faithfully and impartially perform the duties of his office and that he will not, except as is necessary in carrying out the purposes of this Act, divulge any information received by him under this Act.

(2) The oath shall be administered by the Speaker of the Assembly or by the Clerk of the Assembly.

Office of the  
Commissioner

**10(1)** The Commissioner may appoint, pursuant to *The Public Service Act*, such officers and employees as may be necessary to assist him in the efficient carrying out of his functions under this Act.

(2) On the recommendation of the Commissioner, the Committee may, by resolution, direct that any regulation, order or directive made under *The Public Service Act* or *The Financial Administration Act, 1977* or any allocation, designation or other decision of the Public Service Commissioner under *The Public Service Act* be inapplicable to, or be varied in its operations in respect of, the office and staff of the Commissioner.

(3) A direction made under subsection (2) in relation to a regulation, order or directive made under *The Financial Administration Act, 1977* operates notwithstanding that Act.

(4) The persons appointed pursuant to this section shall be paid out of money appropriated to the purpose by the Legislature.

Oath for  
employees

**11** Every person holding an office or appointment under the Commissioner shall, before he begins to perform his duties under this Act, take an oath, to be administered by the Commissioner, that he will not divulge any information received by him under this Act except for the purpose of giving effect to this Act.

Consequential  
amendments  
reflecting  
independence of  
Commissioner

*12(1) The Individual's Rights Protection Act is amended by this section.*

(2) *“Commission” is struck out and “Commissioner” is substituted wherever it occurs in the Act.*

(3) *Section 11.1 is amended by adding at the end of it:*

(4) The Commissioner may make recommendations to the Lieutenant Governor in Council for regulations where power has not been delegated to him pursuant to subsection (2) and shall include in his report made pursuant to section 16 the results of any such recommendation.

(4) Section 12 is repealed

(5) Section 13 is amended by striking out “to the Minister”.

(6) *Section 15 is repealed.*

(7) *Section 16 is amended by striking out “Minister” and substituting “Speaker”.*

(8) *Section 18(1) is amended*

(a) *by striking out* “it shall report to the Minister and may in its discretion” *and substituting* “he may in his discretion”,

(b) *by repealing subsection (1.1), and*

(c) *in subsection (2)*

(i) *by striking out* “or (1.1)”, *and*

(ii) *by striking out* “Minister” *and substituting* “Commissioner”.

(9) *Section 26 is amended by striking out* “No member of the Commission, the Director or any employee mentioned in section 15”, *and substituting* “Neither the Commissioner nor any of his officers or employees”.

(10) *Section 28 is amended by repealing clauses (d) and (g).*

Coming into force **13** This Act comes into force on January 1, 1982.