

1984 BILL 96

Second Session, 20th Legislature, 33 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 96

JUDGMENT INTEREST ACT

MR. STILES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 96
Mr. Stiles

BILL 96

1984

JUDGMENT INTEREST ACT

(Assented to , 1984)

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

- Interpretation **1** In this Act,
- (a) "court" includes the Provincial Court of Alberta;
 - (b) "judgment" includes an order of a court.

PART 1

PRE-JUDGMENT INTEREST

- Award of interest **2(1)** Where a person obtains a judgment for the payment of money or a judgment that money is owing, the court shall award interest in accordance with this Part
- (a) if the judgment is made on a liquidated claim, from the date the cause of action arose to the date of the judgment, or
 - (b) if the judgment is made on an unliquidated claim, from the date the person entitled gave notice in writing of his claim to the person liable therefor to the date of the judgment.
- (2)** The court shall not award interest under this Part
- (a) on that part of a judgment that represents pecuniary loss arising after the day of judgment and that is identified by the court;

- (b) on interest awarded under this Act;
- (c) on exemplary or punitive damages;
- (d) on an award of costs in the action;
- (e) on money, or interest on that money, borrowed by a party to pay for expenses which are claimed as special damages;
- (f) on money that is
 - (i) paid into court and accepted, or
 - (ii) contained in an offer of judgment or an offer to settle made and accepted

in accordance with the Alberta Rules of Court in satisfaction of a claim;

- (g) on a judgment that is given on consent, unless agreed to by the parties;
- (h) where there is an agreement between the parties respecting interest;
- (i) where the payment of pre-judgment interest is otherwise provided by law.

(3) If it considers it just to do so having regard to changes in market interest rates, the circumstances of the case or the conduct of the action, the court may

- (a) refuse to award interest under this Part,
- (b) award interest under this Part at a rate higher or lower than the rate set out in this Part, or
- (c) award interest under this Part for a period other than the period provided for in this Part.

(4) In a jury trial, the judge shall exercise the powers of the court under this Act.

(5) In the case of a default judgment, other than an entry of a default judgment ordered by a court, the clerk of the court shall award interest calculated in accordance with this Part, but shall not exercise any discretion granted to the court under subsection (3).

Payment into court and offer of judgment

3 Where a party

- (a) pays money into court in satisfaction of the claim of another party, or
- (b) makes an offer of judgment specifying the terms on which the party is willing to settle the claim of another party,

and the other party does not accept the payment or the offer and obtains a judgment for an amount equal to or less than the amount paid into court or the amount offered, the court shall award interest under this Part from the date specified in section 2(1) only to the day the payment into court was made or the date of service of the offer of judgment, as the case may be.

- Calculation of interest **4(1)** Interest awarded under this Part on non-pecuniary damages shall be calculated at the rate of 4% per year.
- (2) Interest awarded under this Part on pecuniary damages and in debt or other actions shall be calculated, for each year or part of a year included in the period in respect of which the interest is payable, at the prescribed rate applicable to that year.
- (3) Before the beginning of each year, the Lieutenant Governor in Council may, by regulation, prescribe the rate to be applied under subsection (2) for that year.
- (4) If a rate is not prescribed in accordance with subsection (3), the rate then in effect continues to apply until the beginning of a year for which a rate is prescribed.
- Interest deemed part of judgment **5** For the purpose of enforcing a judgment, interest awarded under this Part is included in the judgment.

**PART 2
POST-JUDGMENT INTEREST**

- Interest on a judgment debt **6(1)** In this section, “judgment debt” means a sum of money or any costs, charges or expenses made payable by or under a judgment in a civil proceeding.
- (2) Notwithstanding that the entry of judgment may have been suspended by a proceeding in an action, including an appeal, a judgment debt bears interest from the day on which it is payable by or under the judgment until it is satisfied, at the rate or rates prescribed under section 4(3) for each year during which any part of the judgment debt remains unpaid.

**PART 3
GENERAL**

- Application **7** The Crown is bound by this Act.
- Transitional **8(1)** *This Act applies to a judgment given after this Act comes into force whether the cause of action in respect of which the judgment is given arose before or after this Act comes into force.*
- (2) *No interest shall be awarded under Part 1 for the period before April 1, 1984.*
- (3) *If a cause of action arose before April 1, 1984 in respect of which section 15 of the Judicature Act applies, section 15 of the Judicature Act applies in respect of the period before April 1, 1984.*
- Transitional **9** *The rate of interest payable under section 4(2) from April 1, 1984 to December 31, 1984 shall be prescribed by the Lieutenant Governor in Council by regulation.*
- Amends RSA 1980 cJ-1 **10** *Section 15 of the Judicature Act is renumbered as section 15(1) and the following is added after subsection (1):*
- (2) *Subsection (1) does not apply in respect of a cause of action that arises after March 31, 1984.*
- Amends RSA 1980 cM-21 **11** *Section 11(3)(a) of the Motor Vehicle Accident Claims Act is repealed.*

Amends
RSA 1980 cP-20

12 *Section 36(1) of the Provincial Court Act is amended*

(a) in clause (a) by striking out “\$2000” wherever it occurs and substituting “\$2000 exclusive of interest payable under an Act or by agreement on the amount claimed”;

(b) in clause (b) by striking out “\$2000” wherever it occurs and substituting “\$2000 exclusive of interest payable under an Act or by agreement on the amount counterclaimed”.

Coming
into force

13 *Section 6 comes into force on Proclamation.*

In accordance with section 4(1) of the Interpretation Act, this Bill, except section 6, comes into force on the date it receives Royal Assent.