

1987 BILL 18

Second Session, 21st Legislature, 36 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 18

LAND SURVEYORS AMENDMENT ACT, 1987

MR. HERON

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 18
Mr. Heron

BILL 18

1987

LAND SURVEYORS AMENDMENT ACT, 1987

(Assented to _____ *, 1987)*

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

- 1 The Land Surveyors Act is amended by this Act.*
- 2 Section 55(1) is amended by striking out “, the Court or the Court of Appeal, as the case may be,” and substituting “or the Court of Appeal”.*

- 3 Section 59 is repealed.*

- 4 Section 60(1) is repealed and the following is substituted:*
60(1) An investigated person may appeal to the Court of Appeal any finding or order made by Council in accordance with section 58.
- 5 Section 61 is repealed and the following is substituted:*
61 The appellant may, after commencing an appeal and on notice to the Registrar, apply to the Court of Appeal for an order staying all or any part of the decision of the Council appealed.

Explanatory Notes

1 This Bill will amend chapter L-4.1 of the Statutes of Alberta, 1981.

2 Section 55(1) presently reads:

55(1) Notwithstanding an appeal under this Part, the Discipline Committee may order that its decision remain in effect until the time that the Council, the Court or the Court of Appeal, as the case may be, makes a decision on the appeal.

3 Section 59 presently reads:

59(1) An investigated person may appeal to the Court on mixed questions of law and fact relating to a finding or order made by the Council under section 58.

(2) The Association shall be the respondent in an appeal under subsection (1) and may make representations to the Court.

(3) An appeal under this section shall be commenced

(a) by filing an originating notice with the clerk of the Court, and

(b) by serving a copy of the originating notice on the Registrar,

both within 30 days from the date on which the decision of the Council is served on the investigated person.

(4) An appeal under this section shall be dealt with as a new trial.

4 Section 60(1) presently reads:

60(1) An investigated person may appeal to the Court of Appeal on a question of law only that relates to a finding or order made by the Council in accordance with section 58.

5 Section 61 presently reads:

61 The appellant may, after commencing an appeal and on notice to the Registrar, apply to the Court or the Court of Appeal, as the case may be, for an order staying all or any part of the order or decision of the Council appealed.

6 *Section 62(1) is amended by striking out “59 or”.*

7 *Section 63 is amended*

(a) in subsection (1)

(i) by striking out “Court or the” wherever it occurs;

(ii) by adding the following after clause (c):

(d) direct that a new trial of any mixed questions of law and fact relating to a finding or order of the Council made under this Part be held before the Court of Queen’s Bench.

(b) in subsection (2) by striking out “or the Court of Appeal, as the case may be,” and substituting “of Appeal”.

8 *Section 65 is amended*

(a) in subsection (2) by striking out “, the Court”;

(b) in subsection (3)(b) by striking out “the Court or” wherever it occurs.

6 Section 62(1) presently reads:

62(1) An appeal under section 59 or 60 shall be supported by copies, certified by the Registrar, of the decision of the Council and of the record of the appeal before the Council.

7 Section 63 presently reads:

63(1) The Court or the Court of Appeal on hearing the appeal may do any or all of the following:

(a) make any finding that in its opinion ought to have been made;

(b) quash, confirm or vary the order or decision of the Council or any part of it;

(c) refer the matter back to the Council for further consideration in accordance with any direction of the Court or the Court of Appeal.

(2) The Court or the Court of Appeal, as the case may be, may make any award as to the costs of an appeal to it that it considers appropriate.

8 Section 65 presently reads in part:

(2) If the registration of a practitioner has been cancelled under this Part, the registration shall not be reinstated in the register except by order of the Council, the Court or the Court of Appeal.

(3) No order shall be made under subsection (2) within 1 year after

(a) the date on which the registration was cancelled, or

(b) if an order was granted under this Part staying the imposition of a punishment imposed by the Council and the punishment is later confirmed by the Court or the Court of Appeal, the date on which the Court or the Court of Appeal made its order confirming the punishment.