

1993 BILL 10

First Session, 23rd Legislature, 42 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 10

ALBERTA REGISTRIES ACT

HON. DR. WEST

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 10

1993

ALBERTA REGISTRIES ACT

(Assented to , 1993)

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

Definitions

1(1) In this Act,

- (a) “Board” means the board of the Corporation;
- (b) “Corporation” means the corporation established under section 2 with the name “Alberta Registries”;
- (c) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- (d) “registry” means a registry, document recording system, information recording system, information bank, data bank or similar system that is designated in a regulation made under section 10;
- (e) “registry agent” means a person who is not an employee of the Corporation or of the Government and who enters into an agreement under section 4 to carry out statutory functions for and to provide services and products to the public on behalf of the Corporation or one or more registries;
- (f) “statutory function” means a duty, task or other function that is performed or otherwise carried out pursuant to an enactment under or in the name of the office of a statutory officer;
- (g) “statutory officer” means a person who holds an office that is established or otherwise provided for under an enactment.

(2) For the purposes of this Act,

- (a) a reference to registrations includes
 - (i) the registration of a document in a registry,
 - (ii) the recording of information in a registry,

- (iii) the filing of a document in a registry,
- (iv) the providing of a document or information to a registry for the purposes of making a filing or registration in the registry, and
- (v) the issuance of a document by or in a registry under which a person has title to, claims an interest in or affects the status of property,

or any one or more of those functions, but does not include the provision of information that is not provided as part of carrying out a function referred to in subclauses (i) to (v);

- (b) a reference to the public includes any individual, organization, corporation, public institution or government and their heirs, executors, administrators or other legal representatives, as the case may be.

PART 1

THE CORPORATION AND ITS BUSINESS

- | | |
|----------------------------------|---|
| Establishment of the Corporation | 2 There is hereby established a corporation with the name "Alberta Registries" consisting of the members of the Board. |
| Purposes of the Corporation | <p>3 The purposes of the Corporation are the following:</p> <ul style="list-style-type: none"> (a) where directed to do so by the Minister, <ul style="list-style-type: none"> (i) to supervise on behalf of the Minister the operation of one or more enactments that are administered by the Minister, and (ii) to administer registries; (b) subject to any enactment of the Province of Alberta governing the accessibility or provision of information, to provide to the public information <ul style="list-style-type: none"> (i) that is maintained in or by a registry, or (ii) that is provided to the Corporation for the purposes of being made available to the public; (c) where authorized to do so pursuant to a regulation made under section 5, to permit registry agents to carry out, on behalf of the public, registrations in a registry using the facilities and services provided by registry agents; |

(d) to generate revenue

- (i) through the operation of the registries;
- (ii) by selling or otherwise providing information that is maintained in the registries or that is provided to the Corporation for the purposes of being sold or otherwise being made available to the public through the Corporation;
- (iii) through the provision of services or products offered by the Corporation;
- (iv) through the disposal of intellectual property.

Provision of
services by
registry agents

4(1) The Corporation may enter into an agreement with a person under which the person is authorized to be a registry agent for the purposes of carrying out statutory functions for and providing services or products to the public on behalf of the Corporation or one or more registries.

(2) Notwithstanding that an enactment provides that a statutory function is to be carried out by a statutory officer, a registry agent may carry out that statutory function where permitted to do so under this Act, the regulations or an agreement entered into under this Act.

(3) Where

- (a) a registry agent carries out a statutory function for or provides a service or a product to a person, and
- (b) a fee or charge is payable to the Corporation with respect to the carrying out of the statutory function or the provision of the service or product,

the Corporation may authorize that registry agent to collect from that person for the registry agent's benefit a service charge that is in addition to the fee or charge that is payable to the Corporation.

(4) If the Corporation sets the maximum or minimum amount that a registry agent may collect by way of a service charge for carrying out a statutory function or providing a service or a product, the amount of the service charge that the registry agent may collect for carrying out that statutory function or providing that service or product must not be greater than the maximum amount or less than the minimum amount, as the case may be, that is set by the Corporation.

Registrations
by registry
agents

5(1) The Lieutenant Governor in Council may by regulation authorize the Corporation to enter into agreements with registry agents under which registry agents may carry out, on behalf of the public, registrations in a registry using the facilities and services provided by registry agents.

(2) A registry agent shall not carry out registrations in a registry on behalf of the public except when permitted to do so under an agreement entered into between the Corporation and the registry agent and in accordance with that agreement.

(3) For the purposes of carrying out registrations under the enactments under which a registry operates using the facilities and services provided by registry agents, the Lieutenant Governor in Council may, notwithstanding any provision of those enactments, make regulations facilitating the carrying out of registrations in that registry using the facilities and services provided by registry agents.

Agent of
Corporation,
etc.

6(1) A registry agent is an agent of the Corporation and the Crown in right of Alberta, but only for the purposes of carrying out functions or duties or exercising powers as permitted pursuant to this Act or the agreement entered into between the Corporation and the registry agent.

(2) Where a statutory function is carried out by a registry agent, that statutory function is deemed to have been carried out by the appropriate statutory officer.

Provision of
services, etc.
by the
Corporation

7(1) The Corporation may enter into an agreement with a person who is not a registry agent under which that person acquires services or products that are provided by the Corporation or a registry.

(2) Where a person enters into an agreement with the Corporation under subsection (1), that person is not by virtue of that agreement or any dealings carried out under that agreement an agent of the Corporation or of the Crown in right of Alberta.

Funds held in
trust

8(1) Where a registry agent or other person has possession of or control over funds that are owing to the Corporation,

(a) those funds are impressed with a trust for the benefit of the Corporation, and

(b) that registry agent or other person holds those funds in trust for the Corporation whether the registry agent or other person holds those funds separately or has commingled

those funds with other funds that are not owing to the Corporation.

(2) Nothing in subsection (1) shall be construed so as to require trust funds to be held in a separate account or an account designated as a trust account unless the regulations require that those funds be so held.

Recovery from
registry
agents, etc.

9 If the Corporation or the Government

- (a) is liable for something done or omitted to be done by a registry agent or other person,
- (b) assumes the liability for something done or omitted to be done by a registry agent or other person, or
- (c) assumes an obligation for something done or omitted to be done by a registry agent or other person,

and the Corporation or the Government makes a payment in respect of that liability or obligation, the registry agent or the other person, as the case may be, shall, where requested to do so by the Corporation or Government, indemnify the Corporation or the Government for that payment and any interest owing in respect of that payment, notwithstanding any law or agreement that provides otherwise.

Regulations

10(1) The Lieutenant Governor in Council may make regulations

- (a) designating the registries, document recording systems, information recording systems, information banks, data banks or similar systems that are to be administered by the Corporation;
- (b) governing the holding and handling of money by registry agents;
- (c) governing the carrying out of statutory functions and the provision of services or products;
- (d) governing the provision of information.

(2) Where an enactment under which a registry operates provides for the carrying out of statutory functions or the provision of services or products in respect of the registry, the Minister may, notwithstanding that enactment, make regulations for the purposes of facilitating the carrying out of statutory functions for or the provision of services or products to the public other than the

carrying out of registrations, as the case may be, using the facilities and services provided by registry agents.

(3) Where the Corporation is directed under section 3(a) to supervise the operation of an enactment on behalf of the Minister, the Lieutenant Governor in Council may, notwithstanding any provision in that enactment respecting the establishment or collection of any fees or charges under that enactment, make regulations

- (a) prescribing any fees or charges to be paid with respect to registrations carried out under that enactment;
- (b) authorizing the Corporation to charge any fees or charges, other than fees or charges referred to in clause (a), that the Corporation considers appropriate for the carrying out of statutory functions or the provision of information, services or products under or relating to that enactment.

(4) If

- (a) a fee or charge is established pursuant to an enactment, and
- (b) a fee or charge is established or provided for under subsection (3),

with respect to the same matter, the fee or charge referred to in clause (b) prevails over the fee or charge referred to in clause (a).

PART 2

OPERATION OF THE CORPORATION

Board of the
Corporation

11(1) The Board shall be made up of

- (a) the Minister,
- (b) the chief executive officer of the Corporation, and
- (c) not more than 3 other persons appointed by the Lieutenant Governor in Council as members of the Board.

(2) The Minister is the chair of the Board and the chief executive officer is the vice-chair of the Board.

(3) The chair may designate a member of the Board to act as the chair when the chair and the vice-chair are absent or otherwise unable to act.

(4) A quorum of the Board is a majority of the members then holding office.

By-laws and resolutions

12(1) The Board may make by-laws respecting the following:

- (a) the calling of meetings of the Board;
- (b) the conduct of business at meetings of the Board;
- (c) the duties and conduct of members of the Board;
- (d) subject to the regulations, the conduct of the business, affairs and operation of the Corporation generally.

(2) At its meetings, the Board may exercise any of its powers by resolution except where some other mode of exercising a power is prescribed by this Act.

(3) The *Regulations Act* does not apply to a by-law or resolution made by the Board.

Corporate powers

13(1) For the purposes of carrying out its functions under this Act, the Corporation has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

(2) Notwithstanding subsection (1), the Corporation does not have the following powers:

- (a) the power to borrow funds;
- (b) the power to acquire securities;
- (c) the power to hold an estate in fee simple in real property.

Advisory or administrative committees

14(1) The Board may establish any committees or councils that the Board considers necessary or desirable to act in an advisory or administrative capacity in connection with any of the policies, programs, services or other matters that come under the administration or supervision of the Corporation.

(2) The Board may, with respect to any committee or council established under this section,

- (a) appoint or provide for the manner of appointment of its members,
- (b) prescribe the term of office of any member,

- (c) designate a chair, vice-chair and secretary, and
- (d) authorize, fix and provide for the payment of remuneration and expenses to its members.

(3) A committee or council established pursuant to this section may make rules of procedure, subject to the approval of the Board, governing the calling of meetings, the procedure to be used at and the conduct of the meetings, reporting and any other matters as required.

(4) A committee or council established pursuant to this section may exercise the powers and shall perform the duties and functions that the Board approves or confers or imposes on it.

(5) The Corporation shall, with respect to any committee or council established under this section,

- (a) pay to the members of the committee or council remuneration and the expenses incurred in the course of carrying out their duties under this section, and
- (b) provide to the committee or council the administrative, secretarial and technical services that are required by the committee or council.

Agent of the
Crown

15(1) The Corporation is for the purposes of this Act an agent of the Crown in right of Alberta, and the powers of the Corporation provided for under this Act may be exercised by the Corporation only as an agent of the Crown.

(2) An action or other legal proceeding in respect of a right or obligation acquired or incurred by the Corporation on behalf of the Crown in right of Alberta, whether in the name of the Corporation or in the name of the Crown in right of Alberta, may be brought by or taken against the Corporation in the name of the Corporation in any court that would have jurisdiction if the Corporation were not an agent of the Crown.

Staff of the
Corporation

16(1) In accordance with the *Public Service Act*, there may be appointed a chief executive officer of the Corporation and employees required by the Corporation for the carrying out of the functions of the Corporation.

(2) The chief executive officer, subject to any direction given by the Board,

- (a) has control over and is responsible for the organization, administration and management of the Corporation, its staff and their activities,
- (b) is responsible for the Corporation's activities, and
- (c) is responsible for the administrative and business practices of the Corporation.

Delegation of authority

17(1) Where,

- (a) under this Act, or
- (b) under another enactment that relates to matters that come under this Act,

the Minister is authorized to do an act or thing, other than to make regulations or to make a direction referred to in section 3(a), the Minister may authorize the Corporation to do that act or thing.

(2) The Corporation may authorize

- (a) an employee of the Government who is under the administration of the Corporation, or
- (b) a committee or council established under this Act or any member of the Board or of a committee or council established under this Act,

to do any act or thing that the Corporation is required or permitted to do under this Act or pursuant to an authorization given under subsection (1).

(3) The chief executive officer may authorize an employee of the Government who is under the administration of the Corporation to do any act or thing that the chief executive officer is required or permitted to do under this Act.

(4) An authorization given under this section may be

- (a) general or applicable to a particular case, and
- (b) conditional or unconditional.

(5) Notwithstanding that a person has given an authorization under this section, that person may do the act or thing in respect of which the authorization was given.

- Remuneration and expenses **18** The Corporation shall, as determined by the Lieutenant Governor in Council, pay members of the Board, other than the Minister or persons who are employed under the *Public Service Act*, remuneration and travelling, living and other expenses incurred in the course of carrying out their duties as members of the Board under this Act.
- Liability **19** The members of the Board, officers of the Corporation and employees of the Government who are under the administration of the Corporation are not personally liable for anything done or omitted to be done in good faith in the exercise or purported exercise of a power under this Act or any other enactment.
- Business plan **20(1)** In each year the Corporation shall submit to the Treasury Board for approval a business plan governing the Corporation's operations for the next fiscal year.
- (2)** On considering a business plan submitted to it under subsection (1), the Treasury Board may approve the business plan, approve the business plan subject to changes prescribed by the Treasury Board or reject the business plan.
- (3)** Once a business plan is approved by the Treasury Board, the Corporation shall carry out its operations for the fiscal year for which the business plan is approved in accordance with the approved business plan.
- (4)** If a fiscal year commences before the Treasury Board approves a business plan for that fiscal year, the Corporation shall continue to carry out its operations in accordance with the latest business plan that was approved by the Treasury Board.
- (5)** The Treasury Board may at any time amend a business plan where it considers it appropriate to do so.
- Money payable to Corporation **21(1)** Where
- (a)** the Corporation is supervising the operation of an enactment on behalf of the Minister, and
- (b)** money is payable to the Government under that enactment,
- that money, notwithstanding the *Financial Administration Act* or any other enactment, shall be paid to the Corporation.
- (2)** Where an enactment referred to in subsection (1)(a) provides for an insurance, assurance, indemnity or similar fund with respect to the operation of a registry, the Corporation shall provide or

otherwise make arrangements for that fund so that the fund is operated in accordance with the intent of that enactment.

- Technology fund** **22** From funds received by the Corporation that are surplus to its operation, the Corporation shall, subject to the direction of the Treasury Board, establish and maintain a fund to provide sufficient resources as required by the Corporation for the purposes of
- (a) developing, enhancing, redesigning and maintaining computer and communication systems, and
 - (b) purchasing, replacing, maintaining and relocating computers and communication equipment and ancillary equipment
- that are necessary for the conducting of the Corporation's business.
- Fees** **23** Except where a fee or charge is established by regulation, the Corporation may charge any fee or charge that the Corporation considers appropriate for the provision of information, services or products that are provided by the Corporation.
- Depositor in CCITF** **24** The Corporation may be designated as a depositor in the Consolidated Cash Investment Trust Fund.
- Fiscal year** **25** The fiscal year of the Corporation is the period commencing on April 1 and ending on the following March 31.
- Annual report** **26(1)** The Corporation shall, as soon as possible after the end of each fiscal year, provide the Minister with a report that summarizes the operation of the Corporation during the last fiscal year.
- (2)** The Minister shall lay a copy of the report before the Legislative Assembly if it is sitting and, if it is not sitting, within 15 days after the commencement of the next sitting.
- Court order** **27(1)** If a person fails to comply with this Act or a regulation or an agreement made under this Act, the Corporation may apply to the Court of Queen's Bench for an order granting the relief provided for under subsection (5).
- (2)** An application under this section shall be by way of an originating notice.

(3) On the filing of an originating notice with the clerk of the Court of Queen's Bench, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice and make an interim order granting such relief as the Court considers appropriate pending the determination of the application.

(4) An interim order under subsection (3) may be made ex parte if the Court considers it appropriate to do so in the circumstances.

(5) On hearing an application the Court may do one or more of the following:

- (a) direct the person to comply with this Act, the regulations or the agreement, as the case may be;
- (b) direct a person to cease carrying out any action that in the opinion of the Court does not comply with this Act, the regulations or the agreement, as the case may be;
- (c) give those directions that it considers necessary in order to ensure compliance with this Act, the regulations or the agreement, as the case may be;
- (d) make its order subject to any terms or conditions that the Court considers appropriate;
- (e) dismiss the application;
- (f) award costs.

(6) Nothing in this section shall be construed so as to restrict or otherwise affect any right of action or remedy that the Corporation has at law or under an enactment.

Offences

28(1) No person shall

- (a) purport to be a registry agent, or
- (b) carry on the business of a registry agent,

unless that person is a registry agent under this Act.

(2) Where a regulation is made under this Act governing the provision of information, no person shall provide information in contravention of that regulation.

(3) A person who contravenes subsection (1) or (2) or section 5(2) is guilty of an offence and liable to a fine of not more than \$10 000 or to a term of imprisonment of not more than one year or to both a fine and a term of imprisonment.

PART 3

CONSEQUENTIAL AND COMMENCEMENT

- Amends RSA
1980 cA-17
- 29** *The Alberta Corporate Tax Act is amended in section 77(3)(b) by striking out “a person employed or engaged by the Government in the Department of Consumer and Corporate Affairs” and substituting “the Registrar of Corporations or the Registrar of Companies or a person employed or engaged by the Government and under the administration of either of those Registrars”.*
- Amends SA
1981 cB-15
- 30** *The Business Corporations Act is amended by repealing section 1(l) and substituting the following:*
- (l) “Minister” means the member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act;
- Amends RSA
1980 cD-13
- 31** *The Department of the Attorney General Act is amended in section 2(j) by repealing subclause (i).*
- Amends RSA
1980 cH-7
- 32** *The Highway Traffic Act is amended in section 16(1.1)(a) by striking out “Solicitor General” and substituting “Minister responsible for the Motor Vehicle Administration Act”.*
- Amends RSA
1980 cL-5
- 33(1)** *The Land Titles Act is amended by this section.*
- (2) *Section 1 is amended by adding the following after clause (b):*
- (b.1) “Corporation” means the Corporation as defined in the *Alberta Registries Act*;
- (3) *Section 5 is amended*
- (a) *by striking out “The Attorney General” and substituting “The Minister charged with the administration of this Act”;*
- (b) *in clause (a) by striking out “the Attorney General” and substituting “that Minister”.*
- (4) *Section 9 is amended*
- (a) *by striking out “Department of the Attorney General” and substituting “Corporation”;*

(b) by striking out “Attorney General” and substituting “Minister charged with the administration of this Act”.

(5) Section 15 is amended by striking out “Attorney General” and substituting “Corporation”.

(6) Section 155 is repealed and the following is substituted:

Inspectors of transfers

155 The Minister charged with the administration of this Act may appoint one or more inspectors of transfers, and the inspectors shall investigate any valuations the Registrar requires and report thereon, and shall perform any other duties the Minister may from time to time assign to them.

(7) Section 164 is amended by striking out “Attorney General” and substituting “Minister of Justice and Attorney General”.

(8) Section 170 is amended by striking out “Attorney General” wherever it occurs and substituting “Minister charged with the administration of this Act”.

(9) Section 172(5) is amended by striking out “Attorney General” and substituting “Minister of Justice and Attorney General”.

Amends RSA 1980 cL-8

34(1) *The Law of Property Act is amended by this section.*

(2) Section 31(4) is amended by striking out “Attorney General” and substituting “Minister charged with the administration of this Act”.

(3) Section 32 is amended

(a) in subsection (1) by striking out “Attorney General” wherever it occurs and substituting “Minister charged with the administration of this Act”;

(b) in subsection (9) by striking out “Attorney General” and substituting “Minister charged with the administration of this Act”.

Amends RSA 1980 cM-20

35 *The Motor Transport Act, RSA 1980 cM-20, is amended in section 15 by striking out “Solicitor General, with the approval of the Minister” and substituting “Minister charged with the administration of the Motor Vehicle Administration Act, with the approval of the Minister charged with the administration of this Act”.*

Amends RSA
1980 cM-21

36 *The Motor Vehicle Accident Claims Act is amended in sections 2, 3 and 5 by striking out “Solicitor General” wherever it occurs and substituting “Minister”.*

Amends RSA
1980 cM-22

37(1) *The Motor Vehicle Administration Act is amended by this section.*

(2) *Section 1 is amended*

(a) in clause (i) by striking out “Solicitor General” and substituting “member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act”;

(b) in clause (u) by striking out “of the Department of the Solicitor General”.

(3) *Section 10(1)(e) is amended by adding “or a person licensed as a driver examiner pursuant to the regulations” after “an examiner”.*

(4) *Section 59 is amended*

(a) in subsection (1) by adding the following after clause (e):

(e.01) governing the charging of service charges with respect to services offered under this Act;

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

(3) The Minister may make regulations

(a) providing for the establishment of a system for the licensing of driver training schools and of driver examiners;

(b) specifying the activities authorized by the licences and respecting conditions for them;

(c) with respect to the licensing and conditions of licences of driver training schools and driver examiners,

(i) governing the operation of driver training schools;

(ii) governing qualifications, restrictions and prohibitions for licensees;

(iii) governing applications, testing and training for licensees;

- (iv) prescribing conditions for licensing generally or prescribing specific conditions in individual cases;
- (v) permitting the Registrar to develop policies regarding the conditions of licensing;
- (vi) governing terms of licences and terms of renewal;
- (vii) establishing the components and criteria for examination as to competency as a driver;
- (viii) governing investigations and inspections;
- (ix) governing suspensions, cancellations and reinstatements of licences;
- (x) governing the records to be kept by licensees and the reports to be submitted to the Registrar;
- (xi) establishing an advisory committee to advise the Minister regarding matters concerning driver training schools and driver examiners.

(4) No person shall

- (a) operate a driver training school unless licensed to do so;
- (b) operate a driver training school except in accordance with the regulations;
- (c) conduct driver examinations unless permitted to do so under the regulations;
- (d) conduct driver examinations except in accordance with the regulations.

Amends RSA
1980 cO-4

38(1) *The Off-highway Vehicle Act is amended by this section.*

(2) *Section 1(1) is amended*

- (a) *in clause (h) by striking out "Solicitor General" and substituting "member of the Executive Council charged by the Lieutenant Governor in Council with the administration of this Act";*
- (b) *in clause (o) by striking out "a member of the patrol division of the Department of the Solicitor General,";*

(c) in clause (q) by striking out “of the Department of the Solicitor General” and substituting “under the Motor Vehicle Administration Act”.

(3) Section 30(j) is amended by striking out “the Department of the Solicitor General” and substituting “the Minister”.

Amends SA
1988 cP-21.5

39 *The Provincial Offences Procedure Act is amended in section 20(3)(b) by striking out “of the Department of the Solicitor General”.*

Amends RSA
1980 cV-4

40 *The Vital Statistics Act is amended in section 25(1) by striking out “a division of the Department of Health” and substituting “a branch of the Government”.*

Coming into
force

41 *This Act comes into force on Proclamation.*