

1996 BILL 216

Fourth Session, 23rd Legislature, 45 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 216

CROWN CONTRACTS DISPUTE RESOLUTION ACT

MR. JACQUES

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 216
Mr. Jacques

BILL 216

1996

CROWN CONTRACTS DISPUTE RESOLUTION ACT

(Assented to _____, 1996)

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

Definitions

1 In this Act

- (a) "action" means a Court proceeding initiated by statement of claim which includes a claim for liquidated damages or debt;
- (b) "arbitration agreement" means an arbitration agreement as defined in the *Arbitration Act*;
- (c) "collective agreement" means a collective agreement as defined in the *Labour Relations Code*;
- (d) "Court" means the Court of Queen's Bench;
- (e) "Crown" means Her Majesty the Queen in Right of Alberta;

Application of
Act

2(1) This Act applies to actions arising from a contract where the Crown is a plaintiff or defendant unless

- (a) the dispute arises from a contract which contains an

arbitration agreement or is otherwise subject to the *Arbitration Act*,

- (b) the contract is a collective agreement,
- (c) the action is a proceeding for judicial review governed by Part 56.1 of the Alberta Rules of Court, or
- (d) the action was commenced prior to the coming into force of this Act.

(2) This Act does not apply to contracts entered into pursuant to or otherwise governed by

- (a) the *Police Officers Collective Bargaining Act*,
- (b) the *Public Service Employees Relations Act*, or
- (c) any other enactment set out in the regulations.

(3) If there is a conflict between this Act and the *Arbitration Act*, the *Arbitration Act* prevails.

Mediation

3(1) After the close of pleadings in an action, the parties shall arrange for and attend a mediation session prior to taking any further step in the action.

(2) The parties shall appoint an individual to be the mediator at the mediation session.

(3) If the parties cannot agree on an individual to be the mediator then one of the parties may apply to the Court to name a mediator.

(4) Within 60 days after the close of pleadings the parties shall

- (a) appoint a mediator, or
- (b) apply to the Court to name a mediator.

(5) Within 60 days of the mediator being appointed by the parties or named by the Court, the mediator shall hold a mediation session.

(6) The costs of the mediation session shall be divided equally between the parties unless the parties agree otherwise.

(7) After the mediation session

- (a) the parties may continue with the mediation, or
- (b) any party may discontinue the mediation and continue with the action.

(8) After the mediation session, unless the parties agree to continue with mediation, the mediator shall file a certificate of completion with the Court which shall be proof of the mediation session.

**Non-attendance
at mediation
session**

4(1) At the request of a party, the mediator shall file a certificate of non-attendance with the Court where a party did not attend the mediation session.

(2) When a certificate of non-attendance is filed, the Court may, on application

- (a) adjourn the application and order the party who did not attend the mediation session to attend,
- (b) adjourn the application and order that further mediation occur, on any terms the Court considers appropriate, or
- (c) strike out the pleadings or other documents of the party that did not attend unless
 - (i) that party satisfies the Court that the party has a reasonable excuse for not attending, and
 - (ii) it would be inequitable to strike out the party's pleadings, or
- (d) grant any other relief it considers appropriate.

**Evidence not
admissible**

5 Evidence arising from anything said, evidence of anything said or evidence of an admission or communication made in the course of mediation or a mediation session is not admissible in any action, matter or proceeding before a court, except with the written consent of the mediator and all the parties to the action in which the mediator acted.

Mediator not
liable

6 No proceeding shall be instituted against a mediator for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by the mediator in

- (a) the carrying out or supposed to be carrying out of any duty or power conferred under this Act; or
- (b) the carrying out or supposed carrying out of any order made pursuant to this Act.

Regulations

7 The Lieutenant Governor in Council may make regulations

- (a) prescribing enactments, under which contracts are made, to which this Act does not apply;
- (b) excluding contracts or classes of contracts to which this Act does not apply;
- (c) respecting the procedures for the mediation process;
- (d) respecting forms relating to the mediation process.

Crown bound

8 This Act binds the Crown.

Coming into
force

9 This Act comes into force on Proclamation.