

1998 BILL 43

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Second Session, 24th Legislature, 47 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 43

MISCELLANEOUS STATUTES  
AMENDMENT ACT, 1998

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THE MINISTER OF JUSTICE AND ATTORNEY GENERAL

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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## BILL 43

1998

### MISCELLANEOUS STATUTES AMENDMENT ACT, 1998

(Assented to \_\_\_\_\_, 1998)

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

#### **Alberta Treasury Branches Act**

Amends SA  
1997 cA-37.9

**1 The *Alberta Treasury Branches Act* is amended in section 31 by striking out “The Minister may” and substituting “Alberta Treasury Branches shall”.**

#### **Alberta Resources Railway Corporation Act**

Repeals RSA  
1980 cA-38

**2(1) The *Alberta Resources Railway Corporation Act* is repealed.**

**(2)** Any right, power or function that is vested in or is to be exercised by or on behalf of the Alberta Resources Railway Corporation is vested in the Crown in right of Alberta and may be exercised or performed by or on behalf of the Crown in right of Alberta.

**(3)** Any assets of the Alberta Resources Railway Corporation are vested in the Crown in right of Alberta.

**(4)** Unless expressly provided otherwise in an agreement to which the Crown in right of Alberta is a party, the Crown is not vested with any liabilities, obligations or duties of the Alberta Resources Railway Corporation.

**(5) The *Metric Conversion Amendment Act* is amended by repealing section 1(3).**

**(6) The *Public Service Employee Relations Act* is amended by repealing section 1(c) of the Schedule.**

### **Artificial Insemination of Domestic Animals Act**

Repeals RSA  
1980 cA-45

**3(1) The *Artificial Insemination of Domestic Animals Act* is repealed.**

**(2) The *Artificial Insemination of Domestic Animals Amendment Act, 1981* is repealed.**

**(3) The *Veterinary Profession Act* is amended by repealing section 2(2)(b).**

### **Child and Family Services Authorities Act**

Amends SA  
1996 cC-7.3

**4 The *Child and Family Services Authorities Act* is amended in section 3 by adding the following after subsection (5):**

**(5.1)** Despite subsection (5), a person who resides in the part of the City of Lloydminster that is located in Saskatchewan may be a member of the Authority that administers the region in which the City of Lloydminster is located.

### **Court of Appeal Act**

Amends RSA  
1980 cC-28

**5 The *Court of Appeal Act* is amended by adding the following after section 8:**

**8.1** A judge who ceases to hold office may, within 6 months after ceasing to hold office, give judgment in a matter previously heard and completed before that judge as if that judge had not ceased to hold office.

### **Dependent Adults Act**

Amends RSA  
1980 cD-32

**6 The *Dependent Adults Act* is amended in section 12(2) by striking out “Act or the regulations” and substituting “or any other Act or a regulation under any of those Acts”.**

### **Fatality Inquiries Act**

Amends RSA  
1980 cF-6

**7(1) The *Fatality Inquiries Act* is amended by this section.**

**(2) Section 16(1) is amended by striking out “has inspected the body and”.**

**(3) In the following provisions “public inquiry” is struck out wherever it occurs and “public fatality inquiry” is substituted:**

section 1(l);  
section 4(a);  
section 22(2);  
section 31(1) and (2)(b);  
section 34(2)(a) and (b) and (3);  
section 36(1), (2), (3) and (4);  
section 36.1;  
section 37(2);  
section 39(2);  
section 40(1), (2), (3) and (4);  
section 40.1;  
section 40.3;  
section 40.5;  
section 40.6(1);  
section 41(1) and (2);  
section 42(1) and (2);  
section 43(1) and (2);  
section 45;  
section 46;  
section 47(1);  
section 48(3).

#### **Government Organization Act**

Amends SA  
1994 cG-8.5

**8 The *Government Organization Act* is amended by repealing the heading to Schedule 6 and substituting the following:**

#### **SCHEDULE 6**

#### **INTERGOVERNMENTAL AND ABORIGINAL MATTERS**

#### **Interpretation Act**

Amends RSA  
1980 cl-7

**9 The *Interpretation Act* is amended in section 25(1)(a) by striking out “Northwest” and substituting “North-West”.**

#### **Jury Act**

Amends SA  
1982 cJ-2.1

**10(1) The *Jury Act* is amended by this section.**

**(2) Section 1(c) is amended by adding “and” at the end of subclause (iii).**

**(3) Section 4(i) is amended by striking out** “periods referred to in section 42 of the *Legislative Assembly Act*” **and substituting** “period that their attendance is required”.

### **Legal Profession Act**

Amends SA  
1990 cL-9.1

**11(1) The *Legal Profession Act* is amended by this section.**

**(2) Section 103 is amended by adding the following after subsection (2):**

**(3)** Subsection (2)(l) does not include a person who is disbarred.

**(3) In the following provisions “Conduct Review Committee” is struck out wherever it occurs and “Practice Review Committee” is substituted:**

section 49(1)(b);  
section 50(1)(b) and (f);  
section 55;  
section 56(2);  
section 61;  
section 65(1);  
section 70(1)(a)(i), (b)(i) and (e) and (4)(a)(i) and (b)(i);  
section 73(2)(b).

### **Licensing of Trades and Businesses Act**

Amends RSA  
1980 cL-13

**12 The *Licensing of Trades and Businesses Act* is amended by adding the following after section 15:**

Order to make  
restitution

**15.1** Where a person is convicted of an offence under this Act, the Court of Queen’s Bench may, in addition to any other penalty it may impose, order that person to make restitution to any other person in relation to the contravention.

### **Limitations Act**

Amends SA  
1996 cL-15.1

**13(1) The *Limitations Act* is amended by this section.**

**(2) Section 1(e) is repealed.**

**(3) Section 5(2) is amended by striking out** “cause of action” **and substituting** “claim”.

### **Livestock Diseases Act**

Amends RSA  
1980 cL-22

**14 The *Livestock Diseases Act* is amended in section 1(e) by striking out “Veterinary Services” and substituting “the Animal Industry Division”.**

### **Livestock and Livestock Products Act**

Amends RSA  
1980 cL-24

**15 The *Livestock and Livestock Products Act* is amended in section 3(1)(c) by striking out “, the fees payable in respect of the licences and different fees for different classes of licences”.**

### **Motor Vehicle Accident Claims Act**

Amends RSA  
1980 cM-21

**16(1) The *Motor Vehicle Accident Claims Act* is amended by this section.**

**(2) Section 1 is amended**

**(a) by adding the following after clause (a):**

(a.1) “judgment” includes a partial judgment;

**(b) by adding the following after clause (f):**

(f.1) “partial judgment” means a judgment

(i) that is for the maximum amount prescribed by this Act or the regulations that may be paid out of the General Revenue Fund with respect to all claims arising out of one accident, and

(ii) that permits the plaintiff to continue the action against

(A) the defendant against whom the partial judgment is obtained, and

(B) any other defendant or defendants to the action,

to the extent that the plaintiff has claims against them for an amount in excess of the amount awarded in the partial judgment;

**(3) The following is added after section 9:**

Partial judgment

**9.1(1)** Where, under section 6, the Administrator consents to a partial judgment against a defendant or makes an offer of partial judgment against a defendant, a court shall award partial judgment in either case on the application of the plaintiff.

(2) When the Administrator is a defendant under section 9, the Administrator may consent to a partial judgment, or make an offer of partial judgment, and a court shall award partial judgment in either case on the application of the plaintiff.

#### **Protection from Second-hand Smoke in Public Buildings Act**

Amends SA 1996 cP-19.7

**17** The *Protection from Second-hand Smoke in Public Buildings Act* is amended by repealing section 13 and substituting the following:

Coming into force

**13** This Act comes into force on January 1, 1999.

#### **Public Service Act**

Amends RSA 1980 cP-31

**18** The *Public Service Act* is amended in section 2(2) by adding “, the Ethics Commissioner, the Information and Privacy Commissioner” after “Ombudsman”.

#### **Public Service Employee Relations Act**

Amends RSA 1980 cP-33

**19** The *Public Service Employee Relations Act* is amended in section 21(1)(h) by striking out “or” at the end of subclause (iii) and by adding the following after subclause (iv):

(v) the Office of the Ethics Commissioner, or

(vi) the Office of the Information and Privacy Commissioner;

#### **Public Trustee Act**

Amends RSA 1980 cP-36

**20(1)** The *Public Trustee Act* is amended by this section.

(2) Section 8 is repealed and the following is substituted:

Property of  
missing  
persons

**8(1)** When a person appears to be a missing person within the meaning of this Act and the Public Trustee is of the opinion that it is impracticable to obtain an order under section 9, the Public Trustee may

- (a) take possession of the money and other property of the missing person, or
- (b) if the Public Trustee is already in possession of the missing person's money and other property under this or any other Act, retain possession of the money and other property of the missing person.

**(2)** Subject to subsection (3), the Public Trustee shall safely keep, preserve and protect the money and other property referred to in subsection (1)(a) or (b).

**(3)** The Public Trustee may, if in the absolute discretion of the Public Trustee it is in the best interests of the missing person's estate, sell and convert any of the property of the missing person into money.

**(4)** If a missing person referred to in subsection (1) ceases to be missing, the Public Trustee may return the money and other property to the person.

**(5)** If it is determined that a missing person referred to in subsection (1) is deceased, the Public Trustee may transfer the money and other property to the personal representative of the person's estate.

**(3) Section 9 is repealed and the following is substituted:**

Court may  
declare person  
to be missing

**9(1)** If it is proved to the satisfaction of the Court of Queen's Bench that a person is a missing person within the meaning of this Act, the Court may

- (a) declare that person to be a missing person, and
- (b) by order, appoint the Public Trustee as trustee of the money and other property of the missing person.

**(2)** The Public Trustee, on being appointed as trustee of the money and other property of the missing person, may

- (a) manage, handle, administer, sell, dispose of or otherwise deal with any of the money and other property of the missing person, and
- (b) pay out of the capital or income of the money and other property, sums of money



- (i) that the missing person might otherwise have been liable to pay, and
  - (ii) for the maintenance, education, benefit and advancement of
    - (A) a spouse of the missing person,
    - (B) a minor child of the missing person,
    - (C) an adult child of the missing person who by reason of a physical or mental disability is unable to earn a living, or
    - (D) with the consent of the Court of Queen's Bench, any other person,
- or all of them.

**(3) The Registrar of Land Titles,**

- (a) on production of an instrument effecting a disposition of real property under subsection (2), and
- (b) on production of a copy or a certified copy of the order referred to in subsection (1)(b),

shall deal with the instrument in the same manner as if the instrument were executed by the missing person.

**(4) The Public Trustee may, without a further order of the Court of Queen's Bench, transfer the money and other property of a missing person to the Provincial Treasurer in the circumstances described in section 33(2)(a) in accordance with the procedures described in section 33(2)(d) and (e).**

**(5) The Public Trustee may, by a further order of the Court of Queen's Bench,**

- (a) if a person declared to be a missing person ceases to be missing, return the money and other property to the person,
- (b) if it is determined that a person declared to be a missing person is deceased, transfer the money and other property to the personal representative of the person's estate, or

- (c) transfer the money and other property to any other person that the Court may direct.

**(4) Section 10 is repealed.**

**(5) Section 33(2) is repealed and the following is substituted:**

(2) Money or other property that is in the hands of the Public Trustee and forms part of the estate of

- (a) a person who is declared under section 9 to be a missing person, if 2 years has elapsed from the date of the Court of Queen's Bench order,
- (b) a missing beneficiary of a deceased person's estate, if 2 years has elapsed from the date of the distribution to a trust for the benefit of the missing beneficiary, or
- (c) a person who has not been heard of by the Public Trustee, including but not limited to a missing person under section 8, if 2 years has elapsed from the date of the completion of reasonable inquiries to locate that person,

may

- (d) in the case of money, be remitted to the Provincial Treasurer, and
- (e) in the case of other property, be sold and converted into money and the proceeds remitted to the Provincial Treasurer.

**(6) The *Oil and Gas Conservation Act* is amended in section 77(c) by striking out "pending an order of the Court of Queen's Bench" and substituting "in accordance with section 8 of the *Public Trustee Act*".**

**Rural Utilities Act**

Amends SA  
1985 cR-21

**21(1) The *Rural Utilities Act* is amended by this section.**

**(2) Section 13(5) is amended by striking out "attending the meeting to the same extent as if the election had been by vote of all the members present at the meeting" and substituting "who voted for the directors to the same extent as if the election had been by vote of all the members eligible to vote".**

**(3) The following is added after section 13:**

Alternative  
methods of  
voting

**13.1** A vote in respect of any matter relating to an association, including but not limited to a matter before a general meeting, may be conducted by mail or electronic means in accordance with the by-laws of an association.

**(4) Section 51 is amended by striking out “Union of Rural Electrification Associations Co-operative” and substituting “Federation of REA’S”.**

**Societies Act**

Amends RSA  
1980 cS-18

**22(1) The *Societies Act* is amended by this section.**

**(2) The following is added after section 27:**

**Amalgamation**

Amalgamation

**27.1(1)** Two or more societies may amalgamate and continue as one society.

**(2)** Each society proposing to amalgamate shall enter into an amalgamation agreement setting out the terms and means of effecting the amalgamation and, in particular, setting out

- (a) the name of the amalgamated society;
- (b) the objects of the amalgamated society;
- (c) the name and address of each proposed director of the amalgamated society;
- (d) whether the by-laws of the amalgamated society are to be those of one of the amalgamating societies and, if not, a copy of the proposed by-laws of the amalgamated society;
- (e) any other matters that may be necessary to effect the amalgamation and to provide for the subsequent management and working of the amalgamated society.

**(3)** The directors of each amalgamating society shall submit the amalgamation agreement to the members of the society for adoption by special resolution.

**(4)** After an amalgamation has been adopted under subsection (3), an application for amalgamation in prescribed

form must be filed with the Registrar together with the following:

- (a) a copy of the special resolution of each amalgamating society adopting the amalgamation agreement, certified to be a true copy by the president and secretary of the society;
  - (b) the amalgamation agreement;
  - (c) if the name of the amalgamated society is not the same as that of one of the amalgamating societies, documents relating to the name of a society as prescribed by the regulations;
  - (d) any other information required by the Registrar.
- (5) On receipt of the documents and the prescribed fee, the Registrar may issue a certificate of amalgamation in prescribed form.
- (6) On the date shown in a certificate of amalgamation,
- (a) the amalgamating societies are amalgamated and are continued as one society;
  - (b) the property of each amalgamating society continues to be the property of the amalgamated society;
  - (c) the amalgamated society continues to be liable for all debts and obligations of each amalgamating society;
  - (d) a civil, criminal or administrative action or proceeding pending by or against an amalgamating society may be continued to be prosecuted by or against the amalgamated society;
  - (e) a conviction against, or a ruling, order or judgment in favour of or against, an amalgamating society may be enforced by or against the amalgamated society;
  - (f) the certificate of amalgamation is deemed to be the certificate of incorporation of the amalgamated society.

**(3) This section comes into force on Proclamation.**

## Victims of Crime Act

Amends SA  
1996 cV-3.3

**23(1) The *Victims of Crime Act* is amended by this section.**

**(2) Section 3(2)(a) is amended by striking out “dependants” and substituting “families”.**

**(3) Section 7 is amended**

**(a) by adding the following after subsection (1):**

(1.1) The Minister may appoint not more than 3 persons as associate members of the Appeal Board.

(1.2) If a member appointed under subsection (1) is unable to hear an appeal as a result of a reasonable apprehension of bias, the chair of the Appeal Board may select an associate member to be a member of the Appeal Board and to exercise the powers and perform the duties of the member who is unable to hear the appeal.

**(b) by repealing subsection (2) and substituting the following:**

(2) The Minister may designate one of the members of the Appeal Board to act as chair and another to act as vice-chair of the Appeal Board.

(2.1) In the absence or incapacity of the chair, the vice-chair of the Appeal Board may act and exercise all of the powers of its chair.

**(c) by adding the following after subsection (4):**

(5) The Appeal Board and each member of the Appeal Board have all the powers of a commissioner under the *Public Inquiries Act*.

**(4) Section 12 is amended**

**(a) by repealing subsection (1) and substituting the following:**

Eligibility for  
financial  
benefits

**12(1)** Subject to subsection (4), the following persons may, in accordance with the regulations, apply to the Director for financial benefits if the injury to or death of a victim was the direct result of an act or omission that occurred in Alberta and is one of the offences under the *Criminal Code* (Canada) specified in the regulations:

(a) in respect of the victim’s injury, the victim;

- (b) in respect of the victim's death, a dependant or, if the victim dies leaving no dependants,
  - (i) a spouse, cohabitant, parent, child, sister or brother of the victim who is not a dependant, or
  - (ii) any other person who in the opinion of the Director is eligible for financial benefits.

**(b) in subsection (4) by adding the following after clause (b):**

- (c) a spouse, cohabitant, parent, child, sister or brother of a person described in clause (a) who is not a dependant unless, in the case of a parent, child, sister or brother, the parent, child, sister or brother is also a parent, child, sister or brother of another person who is a victim as a result of the same events.

**(5) Section 13 is amended**

- (a) in subsection (2)(a) by striking out** "or dependant resulting from the victim's injury or death";
- (b) in subsection (3) by striking out "dependant" and substituting "other applicant".**