

2002 BILL 216

Second Session, 25th Legislature, 51 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 216

FALSE CLAIMS ACT

MR. LORD

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 216

2002

FALSE CLAIMS ACT

(Assented to _____, 2002)

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) “action” means a civil proceeding;
- (b) “Court” means the Court of Queen’s Bench;
- (c) “Crown” means Crown in right of Alberta;
- (d) “Crown entity” includes
 - (i) a department,
 - (ii) a provincial agency,
 - (iii) a provincial corporation,
 - (iv) a regional health authority,
 - (v) any other agent of the Crown, and
 - (vi) any other entity designated as a Crown entity for the purposes of this Act by the Lieutenant Governor in Council;
- (e) “Minister” means the Minister of Justice and Attorney General of Alberta;
- (f) “provider” means any person, organization or entity that

provides or is engaged to provide goods or services to the Crown or a Crown entity;

- (g) “public interest plaintiff” means a person who commences an action under section 2(1).

(2) For the purposes of subsection (1)(d), the terms in subclauses (i) to (iii) have the same meanings as in the *Financial Administration Act*.

Action by
public interest
plaintiff

2(1) Subject to section 3(1), a person may commence an action against a provider on behalf of a Crown entity

- (a) for breach of contract,
- (b) in tort, or
- (c) for any other civil wrong

arising from providing or failing to provide goods or services to the Crown entity.

(2) An action under subsection (1) must be commenced in the Court of Queen’s Bench.

(3) An action commenced under subsection (1) may not be dismissed or struck out on the grounds that the public interest plaintiff

- (a) is not a party to the contract to which the action relates,
- (b) did not personally suffer any loss or damage, or
- (c) lacks standing in Court to commence or maintain an action.

Minister’s
authority

3(1) No action may be commenced under section 2(1) without the permission of the Minister to sue on behalf of the Crown or Crown entity.

(2) The document conveying the Minister’s permission must be attached to the pleadings commencing the action when the pleadings are served.

(3) In determining whether to grant permission to a potential public interest plaintiff, the Minister may require the person to provide any documents or things the person has with respect to the putative action in order to assist the Minister in making a determination.

(4) Documents or things provided to the Minister under this section are specifically excluded from the operation of the *Freedom of Information and Protection of Privacy Act*.

(5) The Minister may set a percentage of the award of damages or costs or settlement that the public interest plaintiff is entitled to retain should that person be successful.

Cooperation
by Crown
entity

4 When the Minister grants permission to the public interest plaintiff to commence an action, the Crown entity that would benefit if the action is successful must cooperate with the public interest plaintiff in the course of the legal proceedings subject to any restrictions imposed by the Minister.

Conditions on
action

5(1) A public interest plaintiff may not claim or be entitled to rely upon any of the rights, privileges, immunities or prerogatives at common law or by statute that may be enjoyed by the Crown when the Crown is a party to an action.

(2) Any award of damages, costs or the amount of any settlement is payable to the Crown, less any amount set by the Minister under section 3(5).

(3) A public interest plaintiff is liable for any penalties or costs that may be awarded by the Court.

(4) Upon written notice to the public interest plaintiff and the Court, the Minister may take over and assume the conduct of an action at any stage before judgment.

Pleadings
against Crown

6 Any party who claims against the Crown in an action by a public interest plaintiff by counterclaim, set-off, third-party notice or who otherwise brings the Crown into the action must do so in accordance with the *Proceedings Against the Crown Act*.

Crown bound

7 This Act is binding on the Crown.

No new cause
of action

8 This Act is not to be interpreted as creating any new cause of action in law.

Regulations

9 The Lieutenant Governor in Council may by regulation

- (a) designate entities as Crown entities for the purposes of this Act;

- (b) define any term not defined in this Act.

Regulations

10 The Minister may by regulation

- (a) prescribe any forms for use under this Act;
- (b) set schedules for any damages, costs, other awards or percentage amounts to be retained by the successful public interest plaintiffs.

Powers of the Minister

11 The Minister may by order

- (a) grant permission to a person to commence an action under section 2(1);
- (b) set any terms and conditions to a permission granted under section 3(1);
- (c) establish the percentage of an award of damages and costs that a successful public interest plaintiff is to retain.

Coming into force

12 This Act comes into force on Proclamation.