

## BILL 56

2003

### ALBERTA COURT OF JUSTICE ACT

(Assented to , 2003)

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

**Definitions**

**1** In this Act,

- (a) “clerk” means a clerk or deputy clerk of the Court;
- (b) “Court” means the Alberta Court of Justice;
- (c) “Family Division” means the Family Division of the Court;
- (d) “federally appointed judge” means a judge of the Family Division appointed under the *Judges Act* (Canada) and includes a supernumerary judge described in section 5;
- (e) “Judicial Council” means the Judicial Council established under Part 6 of the *Judicature Act*;
- (f) “justice of the peace” has the same meaning as in the *Justice of the Peace Act*;

- (g) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (h) “presiding justice of the peace” means a justice of the peace designated by the Lieutenant Governor in Council as a presiding justice of the peace under the *Justice of the Peace Act*;
- (i) “Provincial Division” means the Provincial Division of the Court;
- (j) “provincial judge” means a judge appointed under this Act and includes a supernumerary judge described in section 6;
- (k) “Rules of Court” means the rules of court made under section 100;
- (l) “sitting justice of the peace” means a justice of the peace designated by the Lieutenant Governor in Council as a sitting justice of the peace under the *Justice of the Peace Act*.

## **Part 1 Alberta Court of Justice**

### **Constitution of the Court**

#### **Constitution of Court**

**2(1)** The Alberta Court of Justice is hereby established consisting of the following Divisions:

- (a) the Family Division;
- (b) the Provincial Division.

**(2)** The Family Division is a superior court of civil and criminal jurisdiction.

**(3)** The Provincial Division is a court of record.

**(4)** The Lieutenant Governor in Council may by order authorize a seal to be used by the Court as occasion requires.

### **Composition of Court**

**3(1)** The Family Division consists of

- (a) the chief judge, who must be a federally appointed judge and shall be called the Chief Justice of the Family Division,
- (b) subject to section 3(1.1) of the *Court of Queen's Bench Act*, one or more federally appointed judges, who shall be called justices of the Family Division,
- (c) one or more provincial judges, who shall be called provincial judges of the Family Division, and
- (d) the supernumerary judges of the Family Division.

**(2)** The Provincial Division consists of

- (a) the chief judge, who must be a provincial judge and shall be called the Chief Judge of the Provincial Division,
- (b) if designated under section 21(3), the deputy chief judge, who must be a provincial judge and shall be called the Deputy Chief Judge of the Provincial Division,
- (c) if designated under section 21(7), one or more assistant chief judges, who must be provincial judges and shall be called Assistant Chief Judges of the Provincial Division,
- (d) one or more provincial judges, who shall be called provincial judges of the Provincial Division, and
- (e) the supernumerary judges of the Provincial Division.

**(3)** The Lieutenant Governor in Council may by order increase the number of federally appointed judges of the Family Division.

### **Other judges of Family Division**

**4** Notwithstanding section 3(1),

- (a) each judge of the Court of Appeal of Alberta is by virtue of that office a federally appointed judge of the Family Division;

- (b) each judge of the Court of Queen's Bench is by virtue of that office a federally appointed judge of the Family Division.

#### **Federally appointed supernumerary judges**

**5(1)** A federally appointed judge may elect to become a supernumerary judge of the Family Division on compliance with, and on meeting the qualifications under, the *Judges Act* (Canada).

**(2)** If the Chief Justice of the Family Division makes an election under subsection (1), that person may hold only the office of supernumerary judge of the Family Division.

#### **Provincial supernumerary judges**

**6(1)** Where

- (a) a provincial judge retires, or
- (b) the term of office of a provincial judge reappointed under section 26 expires,

that person may elect to become a supernumerary judge of the Provincial Division.

**(2)** A provincial judge who is retired from office under Part 6 of the *Judicature Act* is not entitled to elect to become a supernumerary judge of the Provincial Division.

**(3)** The Lieutenant Governor in Council may, on the recommendation of the Chief Judge of the Provincial Division, appoint a person as a supernumerary judge of the Provincial Division if the person has made an election under subsection (1).

**(4)** The term of appointment as a supernumerary judge is 2 years, but the Minister shall renew the appointment for further periods of 2 years on the recommendation of the Chief Judge of the Provincial Division.

**(5)** Section 25 does not apply to a supernumerary judge of the Provincial Division.



### **Oath of office**

**7(1)** Every federally appointed judge shall, before taking office as a judge, take and subscribe before the Lieutenant Governor in Council, the Chief Justice of Alberta or the Chief Justice of the Family Division the judicial oath prescribed by the *Oaths of Office Act*.

**(2)** Every provincial judge shall, before taking office as a judge, take and subscribe before the Chief Justice of Alberta, the Chief Justice of the Family Division, the Chief Judge of the Provincial Division, the Deputy Chief Judge of the Provincial Division or an Assistant Chief Judge of the Provincial Division the oath of allegiance and the judicial oath prescribed by the *Oaths of Office Act*.

**(3)** The judicial oath taken under subsection (1) or (2) and the oath of allegiance taken under subsection (2) are to be transmitted forthwith by the judge to the Minister or a person designated by the Minister.

### **Inability of judge to complete proceeding**

**8(1)** If a proceeding has commenced in the Family Division and the presiding judge is for any reason unable to complete the proceeding, any judge of the Family Division requested to act by the Chief Justice of the Family Division may continue the proceeding from where the proceeding was left off, and the judge requested to act may continue the proceeding to completion or recommence the proceeding as that judge decides is required to ensure justice.

**(2)** If a proceeding has commenced in the Provincial Division and the presiding judge is for any reason unable to complete the proceeding, any judge of the Provincial Division requested to act by the Chief Judge of the Provincial Division may continue the proceeding from where the proceeding was left off, and the judge requested to act may continue the proceeding to completion or recommence the proceeding as that judge decides is required to ensure justice.

### **Residence re federally appointed judges**

**9(1)** The Chief Justice of the Family Division shall reside at or in the neighbourhood of Edmonton or Calgary.

(2) Before entering on the duties of office, each federally appointed judge other than the Chief Justice of the Family Division shall reside at or in the neighbourhood of a city approved in writing by the Minister and may subsequently, with the approval in writing of the Minister, change the judge's place of residence so as to reside at or in the neighbourhood of another city.

(3) In exercising the Minister's powers of approval under subsection (2), the Minister shall, as far as possible, ensure that one or more federally appointed judges reside at or in the neighbourhood of each of Calgary, Edmonton, Grande Prairie, Lethbridge, Medicine Hat and Red Deer.

#### **Residence re provincial judges**

**10(1)** The Minister or a person authorized by the Minister may, on the appointment of a provincial judge, designate the place at which the judge is to reside.

(2) Where a designation is made under subsection (1), any subsequent change in designation may be made only by the Judicial Council at the request of the Chief Judge and only if, in the opinion of the Judicial Council, the change in residence is required for the better administration of the Court.

(3) Nothing in this section affects a provincial judge's jurisdiction throughout Alberta.

#### **Judgment by former judge**

**11** If a judge ceases to hold office without giving a judgment in any proceeding that was fully heard by him or her, the judge may, within 3 months after ceasing to hold office, give judgment in that proceeding as if the judge were still a judge of the Court, and that judgment has the same effect as though given by a judge of the Court.

#### **Court sittings**

**12(1)** The Chief Justice of the Family Division may designate the sittings of the Family Division.

(2) The Chief Judge of the Provincial Division in consultation with the Assistant Chief Judges may designate the sittings of the Provincial Division.

## Officers and Employees

### Staff

**13(1)** In accordance with the *Public Service Act*, there may be appointed officers and employees required to conduct the business of the Court.

**(2)** The Minister may designate any officer or employee appointed under subsection (1) as

- (a) a case management officer, or
- (b) a clerk or deputy clerk.

### Authority of case management officer

**14** A case management officer may, at the direction of the Court, assist the Court with minor judicial functions including, without limitation, providing directions and orders regarding

- (a) management of cases,
- (b) service of documents, and
- (c) disclosure requirements.

### Duties of clerk

**15** In addition to performing the duties prescribed under this or any other Act, a clerk shall perform those duties assigned to the clerk by the Minister.

### Children in need of protective services

**16** In the case of a child in need of protective services, a clerk shall

- (a) prepare and keep the reports and information that the Minister responsible for the *Child Welfare Act* requires, and
- (b) forward the reports and information at the times and on the forms that the Minister responsible for the *Child Welfare Act* requires.

**Fees**

**17** A clerk shall not file or issue a document in respect of proceedings in the Court until the prescribed fee payable in respect of the filing or issuance has been paid.

**Delegation of clerk's duties**

**18(1)** A clerk may in writing authorize a person to do any act or thing required or permitted to be done by a clerk under this or any other Act.

**(2)** An authorization given under this section may be

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

**(3)** An authorization given under subsection (1)

- (a) purporting to be signed by the person giving it, and
- (b) stating that the person named in it is authorized under this section to do the act or thing set out in the written authorization,

or a copy of it, shall be admitted in evidence as proof, in the absence of evidence to the contrary, of that person's authorization to do the act or thing without proof of the signature or official character of the person appearing to have signed the authorization.

**Powers of officers of Court**

**19(1)** An officer of the Court has, for the purpose of matters directed by the Court to be taken before the officer, the power to administer oaths, take affidavits and statutory declarations, receive affirmations and examine parties and witnesses, as the Court may direct.

**(2)** An officer of the Court may, at the direction of the Court, assist the Court with respect to the management of matters before the Court and the business of the Court.

**Duties of sheriffs, etc.**

**20** Sheriffs, deputy sheriffs, civil enforcement bailiffs, persons employed at correctional institutions and peace officers shall give

assistance to and comply with the directions of the Court, the judges and the justices of the peace in the exercise of the jurisdiction of the Court.

## **Part 2 Provincial Judges**

### **Appointment of judges to Provincial Division**

**21(1)** The Lieutenant Governor in Council may appoint judges to the Provincial Division.

**(2)** No person other than a Canadian citizen may be appointed as a provincial judge.

**(3)** The Lieutenant Governor in Council shall designate one provincial judge as the Chief Judge of the Provincial Division and may designate one provincial judge as the Deputy Chief Judge of the Provincial Division.

**(4)** If the Chief Judge is ill, absent from Alberta or unable to act, the Deputy Chief Judge has all the powers and duties of the Chief Judge.

**(5)** Subject to section 10, the Chief Judge has the power and duty to supervise the provincial judges in the performance of their duties, including the power and duty to

- (a) designate a particular case or other matter or class of cases or matters in respect of which a particular judge is to act;
- (b) designate which court facilities must be used by particular judges;
- (c) assign duties to judges;
- (d) exercise any other powers and perform any other duties prescribed by the Lieutenant Governor in Council.

**(6)** Where the Chief Judge makes any decision or takes any action with respect to a matter referred to in subsection (5) or any other matter relating to the administration of the Provincial Division, that decision or action is not subject to any type of judicial review by a superior court unless that decision or action is, in the opinion of a superior court, patently unreasonable or not within the powers, duties or jurisdiction of the Chief Judge.

(7) The Lieutenant Governor in Council may designate one or more provincial judges as Assistant Chief Judges in respect of one or more of the following:

- (a) the Provincial Division;
- (b) a location within Alberta;
- (c) any particular matter or class of matters;
- (d) any circumstance or situation not referred to in clauses (a) to (c) that the Minister considers appropriate.

(8) The Assistant Chief Judges shall perform those functions that are delegated to them by the Chief Judge.

(9) The Minister may designate a provincial judge to act in the place of the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge

- (a) who is ill, absent from Alberta or unable to act, or
- (b) when the office is vacant.

(10) A provincial judge designated under subsection (9) has the powers and duties of the Chief Judge, Deputy Chief Judge or Assistant Chief Judge, as the case may be.

#### **Provincial judges of Family Division**

**22** Each judge appointed to the Provincial Division is by virtue of that office a provincial judge of the Family Division.

#### **Jurisdiction of provincial judges**

**23** Subject to this Act, every provincial judge has jurisdiction throughout Alberta and

- (a) shall exercise all the powers and perform all the duties conferred or imposed on a provincial judge by or under any Act of the Legislature or of the Parliament of Canada,
- (b) has all the power and authority vested by or under any Act of the Legislature in a magistrate or 2 justices of the peace sitting together,

- (c) may exercise all the powers and perform all the duties conferred or imposed on a magistrate, a provincial magistrate or one or more justices of the peace under any Act of the Parliament of Canada, and
- (d) is, by virtue of being a judge, a justice of the peace, a notary public and a commissioner for administering oaths and taking affidavits.

#### **Designation of Chief Judge and Deputy and Assistant Chief Judges**

**24(1)** A provincial judge designated as the Chief Judge holds that office for a term of 7 years and may not be redesignated to that office.

**(2)** A provincial judge designated as the Deputy Chief Judge holds that office for a term not exceeding 7 years as set out in the order designating the Deputy Chief Judge and may not be redesignated to that office.

**(3)** A provincial judge designated as an Assistant Chief Judge holds that office for a term of 5 years and may not be redesignated to that office or designated to any other office of Assistant Chief Judge.

**(4)** This section applies only to a judge designated as the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge after April 28, 1999.

#### **Retirement age**

**25(1)** Subject to Part 6 of the *Judicature Act*, every provincial judge must retire on attaining the age of 70 years.

**(2)** Subject to Part 6 of the *Judicature Act*, no provincial judge may be removed from office before attaining retirement age.

#### **Reappointment of judges**

**26(1)** Notwithstanding section 25, a provincial judge may, in accordance with this section, be reappointed as a provincial judge.

**(2)** Where a provincial judge, other than a judge referred to in subsection (3), has attained the age of 70 years, the Chief Judge

may request that the Lieutenant Governor in Council reappoint that judge as a provincial judge for a term of one year.

(3) Where a provincial judge who is the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge has attained the age of 70 years, the Judicial Council may request that the Lieutenant Governor in Council reappoint that judge as a provincial judge for a term of one year.

(4) Where a provincial judge has been reappointed as a provincial judge under this section,

- (a) in the case of a judge other than a judge referred to in clause (b), the Chief Judge may request that the Lieutenant Governor in Council reappoint that person as a provincial judge for a term of one year, and
- (b) in the case of a judge who is the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge, the Judicial Council may request that the Lieutenant Governor in Council reappoint that judge as a provincial judge for a term of one year.

(5) The request of the Chief Judge or the Judicial Council for the reappointment of a judge as a provincial judge under this section may be made if

- (a) the Chief Judge or the Judicial Council determines that the reappointment will enhance the efficient and effective administration of the Court, and
- (b) the request is made in accordance with and subject to the criteria established by the Chief Judge and approved by the Judicial Council.

(6) Where the Chief Judge or the Judicial Council requests that the Lieutenant Governor in Council reappoint a provincial judge for a term of one year, the Lieutenant Governor in Council shall, subject to subsection (7), reappoint that judge for a term of one year.

(7) A reappointment of a provincial judge under this section shall be made only if

- (a) a request for the reappointment has been made under subsection (2), (3) or (4),



- (b) the judge in respect of whom the request has been made has consented to the reappointment,
- (c) the judge is not nor has been a supernumerary judge, and
- (d) the judge has not attained the age of 75 years.

**(8)** A provincial judge who has been reappointed under this section may, subject to subsection (7), be reappointed under subsection (6) for further terms of one year.

**(9)** Notwithstanding anything in this section, if a provincial judge who is reappointed under this section attains the age of 75 years at any time during the judge's term, that judge's term expires when that judge attains that age.

#### **Resignation**

**27** A provincial judge may at any time resign from being a judge by delivering to the Minister a signed written notice of resignation that includes the effective date of the resignation.

#### **Confidentiality of selection process**

**28** Records containing information arising during the process for the selection of provincial judges are confidential and notwithstanding the *Freedom of Information and Protection of Privacy Act* are not subject to that Act.

#### **Complaints**

**29** A complaint about the competence, conduct, misbehaviour or neglect of duty of a provincial judge or the inability of a provincial judge to perform duties is to be dealt with in accordance with Part 6 of the *Judicature Act*.

#### **Restriction on other employment**

**30** Unless otherwise authorized by the Lieutenant Governor in Council, a provincial judge who is employed as a full-time judge shall not carry on or practise any other business, profession, trade or occupation.

**Conflict of interest**

**31** A provincial judge does not have jurisdiction to hear any matter in which the judge has or has had an interest.

**Regulations**

**32(1)** The Lieutenant Governor in Council shall make regulations

- (a) fixing the salaries to be paid to provincial judges;
- (b) fixing the amount to be paid to provincial judges sitting part time;
- (c) prescribing fees to be paid for each proceeding or specified service;
- (d) providing for the benefits to which provincial judges are entitled, including
  - (i) personal expense allowances and services;
  - (ii) travel and moving allowances;
  - (iii) leaves of absence and vacations;
  - (iv) sick leave credits and payment in respect of those credits;
  - (v) benefits under one or more pension plans for specified judges and other individuals deriving benefit entitlements through them;
- (e) respecting the terms and conditions of appointment of supernumerary provincial judges;
- (f) without limiting anything in clause (d), providing for the continuation or establishment of
  - (i) one or more pension plans, including a supplemental retirement plan that may or may not be registrable under the *Income Tax Act* (Canada), and
  - (ii) one or more pension funds,

including the making of any provisions in respect of those plans or funds that are made, or that are similar to or that

correspond to provisions made, by or under, or that could be made under, the *Public Sector Pension Plans Act* with respect to any pension plan or pension fund continued or established by that Act;

- (g) providing for the transfer or other disposition of those benefits to which persons appointed as provincial judges under the *Provincial Court Judges Act*, the *Provincial Court Act* or this Act were entitled under the *Public Service Act* and the regulations under that Act or the Public Service Pension Plan, the Public Service Management (Closed Membership) Pension Plan or the Management Employees Pension Plan at the time of their appointment under the *Provincial Court Judges Act*, the *Provincial Court Act* or this Act.

(2) A regulation made under subsection (1) is, if so provided in the regulation, effective from a date prior to the making of the regulation.

### **Part 3 Family Division**

#### **Jurisdiction of Family Division**

**33(1)** The Family Division has and shall exercise jurisdiction in relation to proceedings in the following matters, including the enforcement of any orders or judgments in respect of those matters:

- (a) marriage;
- (b) divorce;
- (c) division of matrimonial property;
- (d) support for spouses and adult interdependent partners;
- (e) support for children;
- (f) custody of and access to children;
- (g) guardianship and parentage of children;
- (h) adoption;
- (i) protection of children, including child welfare and child prostitution matters;

- (j) protection and restraining orders, including orders under the *Protection Against Family Violence Act*;
- (k) youth criminal justice;
- (l) those other matters that are provided by or under an enactment to be within the jurisdiction of the Family Division.

(2) In addition to those matters referred to in subsection (1), the Lieutenant Governor in Council may by order confer on the Family Division such other matters as the Lieutenant Governor in Council considers appropriate.

(3) The federally appointed judges of the Family Division may act in a *parens patriae* capacity respecting children.

#### **Further jurisdiction of Family Division judges**

**34** A federally appointed judge of the Family Division may hear and determine any proceeding brought in the Court of Queen's Bench or the Court of Appeal, but the substantial majority of that judge's time shall be spent hearing and determining proceedings in the Family Division.

#### **Further powers of Family Division**

**35** The Family Division is a youth justice court within the meaning of and for the purposes of the *Young Offenders Act* and the *Youth Criminal Justice Act* (Canada), and has all the powers vested in a youth justice court under those Acts.

#### **Consolidation of proceedings**

**36** Where a cause, action or matter within the jurisdiction of the Family Division contains a matter within the jurisdiction of the Court of Queen's Bench, a federally appointed judge of the Family Division may, on application or on the judge's own motion, order the entire cause, action or matter to be heard by the Family Division.

#### **Jurisdiction of provincial judges**

**37** In all proceedings brought or proposed to be brought in the Family Division, a provincial judge of the Family Division has all

the powers of and may exercise the same jurisdiction as a federally appointed judge of the Family Division except in respect of

- (a) appeals and applications to vary or rescind an order made by a federally appointed judge,
- (b) applications for an injunction or for a judgment or order in the nature of certiorari, prohibition, mandamus or quo warranto, and
- (c) anything that by law is required to be done by a federally appointed judge.

#### **Interests of child**

**38(1)** The Family Division may at any time appoint an individual to represent the interests of a child in a proceeding before the Family Division.

**(2)** Where the Family Division appoints an individual under this section, the Court shall allocate the costs relating to the appointment among the parties, including the child, if appropriate.

#### **Authority to direct assessment**

**39(1)** The Family Division may, in a proceeding before the Family Division, direct the parties to attend before a person approved by the Family Division for an assessment concerning any matter that, in the opinion of the Family Division, is a subject of the proceeding.

**(2)** A person who conducts an assessment under subsection (1) shall file a written report of the assessment with the Family Division together with a copy of the report for each party to the proceeding and for the judge.

**(3)** The contents of a report filed pursuant to subsection (2) may be received in evidence in the proceeding.

**(4)** A person filing a report pursuant to subsection (2) is a competent and compellable witness.

**(5)** Any party, including the party calling the witness, may cross-examine the person referred to in subsection (4).

(6) No action may be brought against a person who conducts an assessment under subsection (1) for any act done or omitted to be done in the execution of that person's duty or for any act done in respect of that assessment unless it is proved that the person acted maliciously and without reasonable and probable cause.

(7) The Family Division shall allocate among the parties any costs related to an assessment under this section.

#### **Courses and programs**

**40** The Family Division may, in a proceeding before the Family Division, require the parties to attend any course or program prescribed by the regulations and shall allocate among the parties the costs of the course or program.

#### **Private hearing**

**41** The Family Division may, if it is in the best interests of a child or would promote the proper administration of justice, exclude from any proceeding before the Family Division

- (a) any person except the parties to the proceeding and their lawyers, and
- (b) a child, whether or not the child is a party, but not the child's lawyer.

#### **Publication and broadcast ban**

**42** For the purpose of protecting the well-being of a child, the Family Division may prohibit the publication or broadcast of any report of a proceeding before the Family Division that may identify the child.

#### **Appeal**

**43** Subject to the Rules of Court, an appeal lies to the Court of Appeal from a decision of the Family Division.

## **Part 4 Provincial Division**

### **Division 1 Jurisdiction**

#### **Jurisdiction of Provincial Division**

**44(1)** The Provincial Division has, subject to this Act, the following jurisdiction:

- (a) for the purposes of Division 2,
  - (i) to hear and adjudicate on any claim or counterclaim
    - (A) for debt, whether payable in money or otherwise, if the amount claimed or counterclaimed, as the case may be, exclusive of interest payable under an Act or by agreement on the amount claimed, does not exceed the amount prescribed by the regulations,
    - (B) for damages, including damages for breach of contract, if the amount claimed or counterclaimed, as the case may be, exclusive of interest payable under an Act or by agreement on the amount claimed, does not exceed the amount prescribed by the regulations,
    - (C) for the return of personal property if the value of the personal property does not exceed the amount prescribed by the regulations, and
    - (D) for specific performance or rescission of a contract if the value of the rights in issue does not exceed the amount prescribed by the regulations;
  - (ii) to grant an equitable remedy in respect of a claim or counterclaim referred to in subclause (i);
- (b) where provided for or directed under any enactment, and subject to that enactment, to hear and adjudicate on any matter, provide any relief, carry out any duty or perform any function assigned to the Provincial Division under that enactment or in respect of which the Provincial

Division is empowered to undertake or provide under that enactment;

- (c) for the purposes of the *Mobile Home Sites Tenancies Act* and the *Residential Tenancies Act*, without limiting the jurisdiction of the Provincial Division provided for under those Acts, to grant
  - (i) an order terminating a tenancy;
  - (ii) an order for the recovery of possession of premises;
  - (iii) an order to vacate premises.

**(2)** The Provincial Division does not have jurisdiction to hear and adjudicate on a claim or counterclaim

- (a) in which the title to land is brought into question,
- (b) in which the validity of any devise, bequest or limitation is disputed,
- (c) against a provincial judge, justice of the peace or peace officer for anything done by that person while executing the duties of that office, or
- (d) by a local authority or school board for the recovery of taxes, other than taxes imposed in respect of the occupancy of or an interest in land that is itself exempt from taxation.

**(3)** Where an amount is prescribed by the regulations for the purposes of subsection (1), that amount applies with respect to

- (a) civil claims issued, or
- (b) subject to clause (a), matters that arose,

after the prescribed amount came into effect.

**(4)** If the claim of a plaintiff or the counterclaim of a defendant exceeds the amount prescribed for the purposes of subsection (1), the plaintiff or the defendant, as the case may be, may abandon that portion of the claim or counterclaim that is in excess by filing a notice to that effect with the Provincial Division.



(5) Subject to section 80(4), where a notice is filed under subsection (4), the person forfeits the excess and is not entitled to recover it in the Provincial Division or in any other court.

**Certificate of judgment, etc.**

**45(1)** If a judgment is entered or given under Division 2, the party in whose favour the judgment is made is, unless otherwise provided for by the regulations or directed by the Provincial Division, responsible for

- (a) preparing a certificate of judgment that accurately reflects the Provincial Division's judgment,
- (b) filing a copy of the certificate of judgment with the Provincial Division, and
- (c) sending a copy of the filed certificate of judgment to the other parties to the action.

(2) If an order is made by the Provincial Division under this Part or any other enactment, the party in whose favour the order is made is, unless otherwise provided for by the regulations or directed by the Provincial Division, responsible for

- (a) preparing the order,
- (b) filing a copy of the order with the Provincial Division, and
- (c) sending a copy of the filed order to the other party to the proceeding.

(3) Notwithstanding subsections (1) and (2), a clerk

- (a) may, where the clerk considers it appropriate to do so in the circumstances, or
- (b) shall, where directed to do so by the Provincial Division,

prepare a certificate of judgment or order referred to in subsection (1) or (2) and send the certificate of judgment or order to the parties to the proceedings.

(4) A copy of the certificate of judgment or the order referred to in subsection (1) or (2), at any time after it is filed with the Provincial Division or otherwise acknowledged by a clerk as being the

judgment or order made by the Provincial Division, is, in the absence of evidence to the contrary, admissible in evidence as proof of its contents in any court dealing with a subsequent proceeding, without proof of the signature or official character of the person appearing to have signed the certificate or order.

(5) A certificate of judgment or an order of the Provincial Division under this Part under which money is payable may be filed in the Court of Queen's Bench and on its being filed,

- (a) the judgment for which the certificate of judgment was prepared or the order, as the case may be, becomes a judgment or order of the Court of Queen's Bench, and
- (b) writ proceedings may be taken pursuant to the *Civil Enforcement Act*.

#### **Action for damages**

**46(1)** No action may be brought against a provincial judge for any act done or omitted to be done in the execution of the judge's duty or for any act done in a matter in which the judge has exceeded the judge's jurisdiction unless it is proved that the judge acted maliciously and without reasonable and probable cause.

(2) No action for the recovery of damages lies against a provincial judge in respect of an order or warrant made or sentence imposed before or after the coming into force of this section by a judge while acting in the place of any other provincial judge who has then ceased for any reason to be a judge if the order, warrant or sentence could have been lawfully made or imposed by the judge by whom the conviction was made.

(3) No action for the recovery of damages lies against a provincial judge in respect of an order or warrant made or sentence imposed before or after the coming into force of this section against, on or in respect of a person who had been previously convicted by another provincial judge but had not been sentenced by that other judge if the order, warrant or sentence could have been lawfully made or imposed by the judge by whom the conviction was made.

(4) No action for the recovery of damages lies against any person in respect of an act or thing done or omitted to be done at any time before or after the coming into force of this section in the execution of an order, warrant or sentence to which subsection (1), (2) or (3)

relates, or purporting to be done in compliance with or incidental to an order, warrant or sentence.

(5) The Minister may make a payment for damages or costs, including solicitor-client costs, incurred by a provincial judge in respect of an act, omission or matter described in subsection (1), (2) or (3).

### **Contempt**

**47(1)** For the purposes of enforcing compliance or the continuing of compliance with an order of

- (a) a provincial judge,
- (b) a sitting justice of the peace, or
- (c) a presiding justice of the peace,

a provincial judge may, on application or on the judge's own initiative, declare that a person is in civil contempt if that person fails, without adequate excuse, to obey an order of a provincial judge, a sitting justice of the peace or a presiding justice of the peace.

(2) Where a provincial judge is satisfied that there are reasonable and probable grounds for believing that a person may be in civil contempt, the judge may order

- (a) the person to appear before a provincial judge, or
- (b) a peace officer to take the person into custody and bring that person before a provincial judge,

to show cause why the person should not be held to be in civil contempt.

(3) Every person held to be in civil contempt under this section is liable to any one or more of the following:

- (a) imprisonment until the person has purged the contempt;
- (b) imprisonment for not more than 2 years;
- (c) a fine not exceeding \$25 000 and in default of paying the fine to imprisonment for not more than 2 years.

(4) The provincial judge who imposed a sanction on a person whom the judge declared to be in civil contempt may waive the sanction in whole or in part or suspend any imprisonment where the judge is satisfied that the person has purged that person's contempt.

(5) This section does not apply

- (a) to an order for the payment of money, or
- (b) to an order made under the *Criminal Code* (Canada).

(6) Section 61 does not apply to proceedings under this section.

## **Division 2 Civil Claims**

### **Definitions**

**48** In this Division,

- (a) “defendant” means a person to whom a civil claim is issued under this Part;
- (b) “local authority” means
  - (i) a city, town, village, summer village, municipal district or Metis settlement,
  - (ii) the Minister responsible for the *Municipal Government Act*, in the case of an improvement district, or
  - (iii) the Minister responsible for the *Special Areas Act*, in the case of a special area;
- (c) “mediation” means mediation referred to in section 96;
- (d) “plaintiff” means a person at whose instance a civil claim is issued under this Division;
- (e) “pre-trial conference” means a pre-trial conference referred to in section 95;
- (f) “Provincial Division” includes a sitting justice of the peace;

- (g) “registered mail” means any form of mail for which the addressee or a person on behalf of the addressee is required to acknowledge receipt of the mail by providing a signature;
- (h) “school board” means a board as defined in the *School Act*.

#### **Issue of civil claim**

**49(1)** A person who has a claim may apply to a clerk for the issuance of a civil claim.

**(2)** When an application is made under subsection (1), a clerk shall, subject to section 82, issue a civil claim in the prescribed form that contains the particulars of the claim and an address for service as provided by the plaintiff, together with a copy of the form of a dispute note.

**(3)** The civil claim and a copy of the form of a dispute note must be served on the defendant by the plaintiff.

**(4)** A civil claim and a copy of the form of a dispute note may be served outside Alberta without an order of the Provincial Division.

#### **Dispute note**

**50(1)** The defendant shall satisfy the civil claim or file a dispute note with a clerk,

- (a) where the defendant has been served in Alberta, within 20 days from the date of service of the civil claim and a copy of the form of a dispute note;
- (b) where the defendant has been served outside Alberta, within 30 days from the date of service of the civil claim and a copy of the form of a dispute note.

**(2)** The dispute note must

- (a) state clearly the nature or grounds of the defendant’s defence,
- (b) where a claim is disputed in part only, state clearly which part or which items are disputed,

- (c) state clearly the particulars of the defendant's counterclaim, if any,
- (d) state clearly the particulars of the defendant's claim for set-off, if any, and
- (e) have endorsed on it the defendant's address and, if it is different, the defendant's address for service.

#### **Notice of hearing**

**51(1)** On the filing of a dispute note under section 50, a clerk shall

- (a) set the time, date and place either for a hearing or for a pre-trial conference or mediation,
- (b) send to all parties a notice of the time, date and place set for the hearing, pre-trial conference or mediation, and
- (c) send a copy of the dispute note to all parties other than the party filing the dispute note.

**(2)** For the purposes of subsection (1)(c),

- (a) a copy of a dispute note may be sent to a party by ordinary mail addressed to that party at that party's last known address, and
- (b) notwithstanding section 53, the sending of a copy of a dispute note to a party under clause (a) constitutes service of the dispute note by mail on that party.

**(3)** A proceeding referred to in subsection (1) is not invalid only because it was held at a time, date or place other than the time, date or place set out in the notice referred to in subsection (1)(b).

#### **Change of hearing**

**52** The Provincial Division may, on its own initiative or on application by a party, order that the hearing be held at a time, date or place other than that set out in the notice referred to in section 51(1)(b).

### **Service of documents**

**53(1)** Service of documents under this Division, other than notices to attend, may be effected on the person to be served

- (a) either personally or by leaving a copy of the document for the person at the person's most usual place of abode with some resident of the abode apparently 16 years of age or older,
- (b) by mailing a copy to the person by registered mail, in which case service is deemed to be effected at the time that the acknowledgment of receipt of that mail is signed by the person to be served or the person receiving that mail on behalf of the person to be served, or
- (c) as directed by the Provincial Division.

**(2)** Service of a document on a partnership may be effected by serving it on one of the partners of the partnership.

**(3)** Service of a document on a local authority may be effected by serving it

- (a) in the case of a city, town, village, summer village or municipal district, on the chief elected official or chief administrative officer,
- (b) in the case of an improvement district, on the Minister responsible for the *Municipal Government Act*,
- (c) in the case of a special area, on the Minister responsible for the *Special Areas Act*, and
- (d) in the case of a Metis settlement, on the settlement chair or settlement administrator.

**(4)** Service of a document on a corporation, other than a local authority, may be effected

- (a) by serving it on the president, chair or other head officer, by whatever name the person is known, a director or the secretary of the corporation,
- (b) by serving it on a manager, agent or officer of the corporation transacting business on behalf of the

corporation in the judicial district in which the civil claim was issued, or

(c) by leaving it at or sending it by registered mail to the registered office of the corporation.

(5) The Provincial Division may dispense with service of any document if sufficient cause is shown.

#### **Service of counterclaims**

**54** Where a dispute note includes a counterclaim by the defendant, service of the dispute note constitutes service of the counterclaim.

#### **Notice to attend**

**55(1)** A party may apply to a clerk to issue notices to attend to persons who may be witnesses at the hearing and, subject to section 82, the clerk shall issue the notices to attend.

(2) A person may serve a notice to attend

(a) by delivering to a person a copy of the notice to attend together with the prescribed witness fee, or

(b) as directed by the Provincial Division.

(3) A person served with a notice to attend shall attend the hearing in accordance with the terms set out in the notice.

(4) A notice to attend has the same effect as a notice to attend given in a proceeding in the Court of Queen's Bench and is enforceable in the same manner.

#### **Proof of service**

**56(1)** For the purposes of this Division, service of a document may be proved

(a) by the oral testimony of the person serving it,

(b) by an affidavit of service proving the service,

(c) in the case of service on a corporation by registered mail, by an affidavit of service proving the mailing by



registered mail and exhibiting the receipt provided by the post office showing that the document was sent by registered mail, or

- (d) by an affidavit of service proving the mailing by registered mail and exhibiting the acknowledgment of receipt of that mail purporting to be signed by the person to be served or by any person receiving that mail on behalf of the person to be served.

(2) Notwithstanding that a document has not been served in the required manner, the Provincial Division may, if it is satisfied that the document has come to the attention of the person to be served, deem the service to be valid service on the person to be served.

#### **Payment into Provincial Division**

**57(1)** A party may at any time before the date of the hearing pay into the Provincial Division a sum of money to satisfy

- (a) the plaintiff's claim and costs, or
- (b) the defendant's counterclaim and costs.

(2) When a party makes a payment under subsection (1), a clerk shall send to the other party a notice setting out the date payment was made, the amount paid in respect of the claim or counterclaim and the amount paid in respect of the costs.

(3) If a party accepts in writing the payment made under subsection (1) in full satisfaction of the claim or counterclaim and the costs, a clerk shall pay the money to the person.

(4) If a party proceeds with the claim or counterclaim after receiving the notice referred to in subsection (2) and is not awarded a greater sum than the amount paid into the Provincial Division, the party is liable to the other party for those costs that the Provincial Division considers appropriate.

(5) If the money paid into Provincial Division under subsection (1) is not paid under subsection (3), the Provincial Division may make an order with respect to the disposition of that money.

#### **Adjournment**

**58** The Provincial Division may adjourn a hearing to another date

- (a) on the application of a party, on serving notice to the other parties,
- (b) on the non-appearance of a party, or
- (c) if there is insufficient time to hold the hearing.

**Parties confined to particulars**

**59(1)** At a hearing, the parties are confined to the particulars set out in the civil claim and the dispute note.

**(2)** If the Provincial Division is satisfied that sufficient cause is shown, it may allow the civil claim or the dispute note to be amended.

**Admission of liability**

**60(1)** A party may admit the party's indebtedness or liability by filing a notice to that effect with the Provincial Division.

**(2)** When a notice is filed under subsection (1), the Provincial Division may order that judgment be given with respect to the claim or counterclaim.

**Taking of evidence**

**61(1)** For the purposes of a hearing, the Provincial Division

- (a) is not bound by the laws of evidence applicable to judicial proceedings, and
- (b) may admit any oral or written evidence that it, in its discretion, considers appropriate, whether admissible in a court of law or not.

**(2)** Nothing is admissible in evidence at a hearing

- (a) that would be inadmissible by reason of any privilege under the law of evidence, or
- (b) that is inadmissible pursuant to any Act.

**Withdrawal of claim**

**62(1)** A party may

- (a) withdraw the party's claim or counterclaim, or
- (b) consent to a judgment's being entered in favour of the other party

at any time prior to the hearing by filing a notice to that effect with the Provincial Division.

(2) When a party files a notice under subsection (1), a clerk shall send to the other party a notice stating that the claim or counterclaim has been withdrawn or that a judgment has been entered in favour of that other party, as the case may be.

(3) Within 30 days after the day that notice of the withdrawal of the claim or counterclaim is sent by the clerk to the other party, the other party to the claim or counterclaim may apply to the Provincial Division for costs.

#### **Dismissal of claim**

**63(1)** If a plaintiff fails to appear on the date set for the hearing, the Provincial Division may order that the plaintiff's claim be dismissed.

(2) If the Provincial Division dismisses a plaintiff's claim under subsection (1), it shall not give judgment on any counterclaim of the defendant until the defendant has presented the defendant's case in respect of the counterclaim

- (a) by the oral evidence given under oath of the defendant and any witnesses the defendant may have, or
- (b) by means of affidavit evidence if the Provincial Division is satisfied that oral evidence cannot reasonably be presented to the Provincial Division.

#### **Default judgment**

**64(1)** Where a civil claim includes a claim for a debt or liquidated demand and no dispute note has been filed within the time specified in section 50, a clerk shall, on the request of the plaintiff and on proof of service of the civil claim and a copy of the form of a dispute note on the defendant, enter judgment against the defendant for the full amount of the claim.

**(2)** With respect to claims other than those described in subsection (1), the plaintiff may, on proof of service of the civil claim and a copy of the form of a dispute note on the defendant, apply to a clerk to note the defendant in default and may either

- (a) apply ex parte to the Provincial Division for judgment, and the provincial judge hearing the application may
  - (i) on proof of the plaintiff's claim make an order for judgment, or
  - (ii) set the matter over for a hearing to hear the claim or assess the damages,

or

- (b) apply to the clerk to set a hearing to assess the damages.

**(3)** The plaintiff shall serve on the defendant at least 10 days' notice of the time, date and place

- (a) of the hearing referred to in subsection (2)(a)(ii), or
- (b) of the hearing to assess the damages referred to in subsection (2)(b).

**(4)** After the hearing referred to in subsection (2)(b), the clerk shall enter judgment against the defendant for the amount determined.

#### **Failure to appear**

**65(1)** Notwithstanding section 89, in the case of a civil claim, if the defendant fails to appear on the date set for the hearing or a pre-trial conference in respect of the claim, the Provincial Division may

- (a) where the claim is for a debt or liquidated demand, enter a default judgment;
- (b) where the claim requires the assessment of damages, note the defendant in default and proceed to assess the damages or adjourn the matter to a subsequent date for assessment of damages;
- (c) where the claim is for a remedy, other than a remedy referred to in clause (a) or (b), that is within the

jurisdiction of the Provincial Division, note the defendant in default and grant the remedy to the extent that the Provincial Division considers appropriate in the circumstances, or adjourn the matter to a subsequent date for the determination and granting of the remedy.

(2) In the case of a counterclaim to a civil claim, if the plaintiff fails to appear on the date set for the hearing or a pre-trial conference in respect of the counterclaim, the Provincial Division may

- (a) where the counterclaim is for a debt or liquidated demand, enter a default judgment;
- (b) where the counterclaim requires the assessment of damages, note the plaintiff in default and proceed to assess the damages or adjourn the matter to a subsequent date for assessment of damages;
- (c) where the counterclaim is for a remedy, other than a remedy referred to in clause (a) or (b), that is within the jurisdiction of the Provincial Division, note the plaintiff in default and grant the remedy to the extent that the Provincial Division considers appropriate in the circumstances, or adjourn the matter to a subsequent date for the determination and granting of the remedy.

(3) If, in the case of a civil claim, a default judgment is entered or the defendant is noted in default, the Provincial Division may dismiss any counterclaim of the defendant.

(4) If, in the case of a counterclaim, a default judgment is entered or the plaintiff is noted in default, the Provincial Division may dismiss any claim of the plaintiff.

#### **Setting aside default judgment**

**66(1)** The Provincial Division may, on any terms it considers appropriate, set aside or vary

- (a) any judgment entered under section 64 or 65,
- (b) the dismissal of a claim ordered under section 63, or
- (c) any judgment on any counterclaim given under section 63.

(2) The person in whose favour an order under subsection (1) is made may file a certified copy of the order in the Court of Queen's Bench, and on its being filed

- (a) the judgment referred to in subsection (1)(a) or (c) is set aside or varied or the dismissal is set aside or varied as the order provides, and
- (b) any execution or garnishee summons issued pursuant to the judgment is stayed subject to the order of the Court of Queen's Bench.

#### **Counterclaim**

**67(1)** Subject to this section, a counterclaim shall, to the extent it is established, be applied in satisfaction of any plaintiff's claim established by the Provincial Division.

(2) If a counterclaim is established that

- (a) exceeds the amount of the plaintiff's established claim, the Provincial Division shall give judgment in favour of the defendant in the amount of the excess, or
- (b) is less than the amount of the plaintiff's established claim, the Provincial Division shall give judgment in favour of the plaintiff for the difference.

(3) In the event that both a claim and a counterclaim are established, the Provincial Division may, if it awards costs for and against both the plaintiff and the defendant, make an order for a net amount of costs in favour of the party entitled to them.

#### **Costs and interest**

**68** Where judgment is entered or given under this Division, the amount of the judgment shall include costs and any pre-judgment interest claimed or payable pursuant to the *Judgment Interest Act*.

#### **Payment hearings, etc.**

**69** Where a person owes money under a judgment or an order of the Provincial Division, the Provincial Division may, subject to the regulations,

- (a) conduct a payment hearing for the purposes of determining that person's ability to pay the money owing under the judgment or order, and
- (b) if the Provincial Division considers it appropriate to do so, establish a schedule or other method under which the amount owing is to be paid.

**Commencing an appeal**

**70(1)** Any party may appeal a decision of the Provincial Division to the Court of Queen's Bench,

- (a) within 30 days after the judgment is given, by
  - (i) filing with the Provincial Division a notice of appeal setting out the grounds of appeal, and
  - (ii) serving the notice of appeal on
    - (A) the respondent, and
    - (B) any other person that the Court of Queen's Bench directs,

and

- (b) by filing with the Court of Queen's Bench not later than 7 days after the last day for service of the notice of appeal on those parties served pursuant to clause (a)
  - (i) a copy of the notice of appeal referred to in clause (a)(ii),
  - (ii) an affidavit of service of the notice of appeal, and
  - (iii) a copy of a requisition to a clerk of the Provincial Division for a transcript of evidence together with a receipt for payment for the transcript.

**(2)** The Court of Queen's Bench may, on application made before or after the expiration of the periods fixed by subsection (1)(a) and (b), by order fix a further period, not exceeding 30 days from the date of the order, within which the service and filing referred to in subsection (1)(a) and (b) may be effected.

(3) The appellant shall file with the Court of Queen's Bench a transcript of the evidence heard before the provincial judge of the Provincial Division within 3 months of the date that the notice of appeal is filed with the Court of Queen's Bench unless an order has been made by a judge of the Court of Queen's Bench prior to the expiration of the 3-month period extending the time for filing the transcript.

(4) Where a judge of the Court of Queen's Bench is satisfied that a transcript cannot be provided for the appeal, the judge may, on application by the appellant,

- (a) order that the matter be returned to the Provincial Division for a new hearing, or
- (b) make any other order that the judge considers appropriate.

#### **Transfer of action**

**71** When a notice of appeal is filed with a clerk of the Provincial Division, the clerk shall forward to a clerk of the Court of Queen's Bench any money paid into the Provincial Division, other than court fees, and all other documents and exhibits in the possession of the Provincial Division that pertain to the matter being appealed.

#### **Failure to comply**

**72(1)** If an appellant fails to comply with the requirements of section 70, the Court of Queen's Bench shall dismiss the appeal.

(2) If an appeal is dismissed under subsection (1), the Court of Queen's Bench may make any order as to costs that it considers appropriate.

#### **Stay of proceedings**

**73** On section 70(1)(a) and (b) being complied with, an appeal operates as a stay of proceedings under the judgment being appealed, subject to the order of the Court of Queen's Bench.

#### **Hearing at regular sitting**

**74** On sections 70 and 71 being complied with, the Court of Queen's Bench shall set down the appeal for hearing at a regular sitting.



**Appeal on the record**

**75** An appeal is to be heard as an appeal on the record unless, on application by a party, the Court of Queen's Bench orders the appeal to be heard as a new trial.

**Adjournment and costs of appeal**

**76** The Court of Queen's Bench may adjourn an appeal from time to time as circumstances require and may make any order that it considers appropriate in respect of costs.

**Hearing of appeal**

**77(1)** The Court of Queen's Bench shall

- (a) hear and determine an appeal,
- (b) give its judgment, and
- (c) make an order awarding costs, if any, to the parties, including costs of all proceedings previous to the appeal.

**(2)** The decision of the Court of Queen's Bench is final and cannot be further appealed.

**Failure to appear**

**78(1)** Notwithstanding section 77, if the appellant fails to appear on the date set for the hearing of the appeal, the Court of Queen's Bench may dismiss the appeal.

**(2)** If an appeal is dismissed under subsection (1), the Court of Queen's Bench may make any order as to costs that it considers appropriate.

**Entry of judgment**

**79** A party to an appeal may have the judgment entered as a judgment of the Court of Queen's Bench, and execution and garnishee summons may be issued on it in accordance with the procedure of the Court of Queen's Bench.

### **Transfer into Court of Queen's Bench**

**80(1)** If at any time a claim, counterclaim or defence involves a matter that is beyond the jurisdiction of the Provincial Division, the Provincial Division may order that the matter be transferred to the Court of Queen's Bench.

**(2)** When an order is made under subsection (1), a clerk of the Provincial Division shall forward to a clerk of the Court of Queen's Bench the record of any evidence in the form in which it was taken, any money paid into the Provincial Division, other than court fees, and all other documents and exhibits in the possession of the Provincial Division that pertain to the matter.

**(3)** When a matter is transferred into the Court of Queen's Bench, the Court of Queen's Bench may, on any conditions it considers appropriate,

- (a) continue the matter to completion, or
- (b) order the matter to be recommenced.

**(4)** If a matter is transferred into the Court of Queen's Bench and a party had abandoned a portion of the party's claim or counterclaim under section 44(4), that party may, subject to any conditions that the Court of Queen's Bench considers appropriate, withdraw the abandonment of that portion of the claim or counterclaim and proceed on the entire claim or counterclaim, as the case may be.

### **Transfer into Provincial Division**

**81(1)** On application by a party to the clerk of the Court of Queen's Bench, with the consent of the other parties, before the hearing commences, an action in the Court of Queen's Bench in which the claim is within the jurisdiction of the Provincial Division may be transferred into the Provincial Division by the clerk of the Court of Queen's Bench in the judicial district where the action was commenced.

**(2)** An action transferred into the Provincial Division under subsection (1) continues as if it had been commenced in the Provincial Division.

### **Refusal to issue documents**

**82(1)** The Provincial Division may, on application, if it considers it appropriate to do so, order a clerk not to issue

- (a) a civil claim under section 49, or
- (b) a notice to attend under section 55.

(2) An order made under subsection (1)(a) or (b) does not prejudice the right of a person having a claim or counterclaim to proceed on it in any other manner permitted by law.

#### **Representation of party**

**83(1)** A person is entitled to be represented by

- (a) a barrister and solicitor, or
- (b) an agent

in respect of any proceedings under this Division.

(2) Subsection (1)(b) does not apply to proceedings that take place in the Court of Queen's Bench.

## **Part 5 General Judicial Matters**

#### **Non-application of sections**

**84** Sections 88 to 98 do not apply to any matter that comes under the *Young Offenders Act*, the *Youth Criminal Justice Act* (Canada) or the *Criminal Code* (Canada).

#### **Interim order**

**85** Pending the hearing of an application before the Court, the Court may make an interim order granting the relief that the Court considers appropriate pending the determination of the application.

#### **Adjournment**

**86** The Court may grant adjournments at any time in any proceeding before the Court on any conditions that the Court considers appropriate.

#### **Exhibits**

**87(1)** Where exhibits are in the possession or under the control of the Court and the party on whose behalf the exhibits were put into

evidence has not made an application to the Court for the return of the exhibits

- (a) within 6 months from the conclusion of the proceeding in respect of which the exhibits were put into evidence, or
- (b) in the case of an appeal from the judgment or direction of the Court, within 6 months from the conclusion of the appeal,

a clerk may notify that party that the clerk may destroy or otherwise dispose of the exhibits unless, within 3 months from a date specified in the notice, that party applies to the clerk for the return of the exhibits.

**(2)** If a party who was notified by a clerk under subsection (1) does not apply for the return of the exhibits within the time period specified in the notice, the clerk may destroy or otherwise dispose of the exhibits.

**(3)** Notwithstanding subsection (1) or (2),

- (a) where requested to do so by a party to the proceedings, the clerk may retain possession or control of the exhibits for a further period of time that appears appropriate to the clerk, or as otherwise directed by the Court, or
- (b) where directed to do so by the Court, the clerk shall retain possession or control of the exhibits as directed by the Court.

**(4)** Notwithstanding subsections (1), (2) and (3), the clerk may, unless otherwise directed by the Court, at any time after

- (a) the expiration of the appeal period, or
- (b) the disposition of the appeal

return the exhibits to the party on whose behalf the exhibits were put into evidence at the proceeding before the Court.

**(5)** Notwithstanding anything in this section, a clerk at any time may, where permitted by the Court and subject to any directions by the Court, return or otherwise dispose of any exhibit that is in the possession or control of the Court.

**(6)** This section

- (a) applies in respect of proceedings before the Court that are governed under another enactment, subject to any provisions of that enactment respecting exhibits, but
- (b) does not apply in respect of proceedings under the *Criminal Code* (Canada).

**Consent order**

**88(1)** If the parties to an application before the Court

- (a) are in agreement respecting the matters in question, and
- (b) consent to an order on the terms agreed on,

the Court may in its discretion make the order without holding a hearing.

**(2)** An order made under subsection (1) has the same force and effect as an order made after a hearing.

**Failure to appear**

**89(1)** If in an application to the Court

- (a) notice of the application has been served on the respondent, and
- (b) the respondent fails to appear at the hearing,

the Court may proceed in the absence of the respondent and may make any finding or order that it could have made if the respondent had appeared at the hearing.

**(2)** If an order is made pursuant to subsection (1), the respondent may, within 30 days after the date of the order, apply to the Court for a rehearing, and the Court may

- (a) direct a rehearing and confirm, vary or reverse the order, and
- (b) make any award as to costs of the rehearing that the Court considers appropriate.

### **Frivolous or vexatious applications**

**90(1)** Where the Court is satisfied that a person has made a frivolous or vexatious application to the Court, the Court may prohibit that person from making further applications under this Act without the leave of the Court.

**(2)** The Court, before granting leave under subsection (1), may impose any terms as a condition of granting leave and make any other order in the matter as the Court considers appropriate.

### **Stay of proceedings**

**91** The Court may grant a stay of proceedings at any stage in any proceeding before the Court on any conditions that the Court considers appropriate.

### **Stay of judgment**

**92** The Court may stay a judgment entered or given under this or any other Act subject to any terms or conditions that the Court considers appropriate.

### **Costs of action**

**93** Subject to the regulations, the Court may at any time in a proceeding before the Court and on any conditions that the Court considers appropriate award costs in respect of any matters coming before the Court.

### **Informality of proceedings**

**94** All proceedings in the Court will be conducted as informally as the circumstances permit, and no action shall be set aside because of informality.

### **Pre-trial conference**

**95(1)** In any action before the Court, the Court may direct the parties or their lawyers or agents to appear before the Court for a pre-trial conference to consider one or more of the following:

- (a) the possibility of settling the claim, counterclaim or other matter by agreement;
- (b) the simplification of the issues;

- (c) the necessity or desirability of amendments to pleadings;
- (d) the possibility of obtaining any admission that will facilitate the trial;
- (e) any other matters that may aid in the disposition of the action.

(2) During or at the conclusion of a pre-trial conference or otherwise in respect of a pre-trial conference, the Court may make an order doing one or more of the following:

- (a) giving directions with respect to matters raised or otherwise considered during the pre-trial conference;
- (b) setting out the results of the pre-trial conference;
- (c) amending pleadings;
- (d) striking out pleadings because of the failure of a party to attend the pre-trial conference;
- (e) giving any further directions as the Court considers appropriate in the circumstances with respect to the trial of the action;
- (f) varying or setting aside an order made under this subsection.

(3) An order, when entered, shall control the subsequent course of the action unless modified at the trial of the action to prevent injustice.

(4) The judge who conducts a pre-trial conference in an action shall not, except where all the parties to the action give their consent for the judge to do so, conduct the trial of the action.

### **Mediation**

**96(1)** In a proceeding before the Court, the Court may, on application by one or more of the parties or on the Court's own motion, appoint a mediator to assist the parties in resolving all or some of the matters in issue before the Court.

(2) Where the Court appoints a mediator under subsection (1), the Court must direct which of the parties must pay for the costs of the mediator.

#### **Action in abeyance**

**97** Except as otherwise directed by the Court, if a pre-trial conference or mediation is to be conducted in respect of an action, that action shall not be set down for trial or otherwise continued until the conclusion of the pre-trial conference or the mediation, as the case may be.

#### **Privilege**

**98(1)** Any settlement discussions in respect of an action that take place during a pre-trial conference or mediation are privileged and are not admissible in any action before the Court or in any other civil action.

(2) Neither a judge who conducts a pre-trial conference nor a mediator who conducts a mediation is compellable to give evidence in any court or in any proceedings of a judicial nature concerning any proceeding, discussion or matter that takes place during or with respect to the pre-trial conference or mediation.

(3) Subsection (1) does not apply

- (a) to any order made under section 95;
- (b) to any written agreement arising from a pre-trial conference or mediation;
- (c) to the admission in evidence of factual evidence relating to the claim or counterclaim that would otherwise be admissible in the absence of subsection (1);
- (d) to any facts that are relevant to the issue of the validity or enforceability of an agreement arising from a pre-trial conference or mediation.

(4) Subsection (2) does not apply where a judge or a mediator is required by law to disclose those discussions if the disclosure is to the person who under that law is entitled to receive the disclosure.



(5) The *Freedom of Information and Protection of Privacy Act* does not apply to any document, information or record arising during or as a result of a pre-trial conference or mediation.

#### **Immunities**

**99** No action may be brought against a mediator who conducts a mediation for any act done or omitted to be done in the execution of the mediator's duty unless it is proved that the mediator acted maliciously and without reasonable and probable cause.

## **Part 6 Other Matters**

#### **Rules of Court**

**100(1)** The Lieutenant Governor in Council may by regulation make rules governing

- (a) the practice and procedure in the Court,
- (b) the duties of case management officers, clerks and other officers of the Court,
- (c) costs in matters before the Court,
- (d) the fees to be collected by officers of the Court, and
- (e) the rates of fees and expenses payable to witnesses and interpreters.

(2) The Lieutenant Governor in Council may make regulations respecting judicial review in civil matters.

#### **Rules of Court Committee**

**101(1)** The Rules of Court Committee is established consisting of the following members:

- (a) the Chief Justice of the Family Division or a judge of the Family Division designated by that Chief Justice;
- (b) the Chief Judge of the Provincial Division or a judge of the Provincial Division designated by that Chief Judge;

- (c) 2 members of The Law Society of Alberta appointed by the Minister from among those members recommended by the Benchers of The Law Society of Alberta;
  - (d) one person appointed by the Minister.
- (2) The Committee shall elect one of its members as chair.
- (3) The Committee shall meet as occasion requires to consider the Rules of Court and may make recommendations to the Minister in respect of the Rules of Court.
- (4) The members of the Committee shall serve without remuneration, but the Minister must pay the reasonable travel and living expenses incurred by the members in the performance of their duties under this section.
- (5) The Minister shall provide to the Committee those secretarial and other services that the Minister considers appropriate.

#### **Council of judges**

**102(1)** A council of judges is established consisting of the following members:

- (a) the Chief Justice of the Family Division;
  - (b) the Chief Judge of the Provincial Division;
  - (c) 3 Assistant Chief Judges of the Provincial Division;
  - (d) 3 federally appointed judges of the Family Division.
- (2) The council shall, at least once every year on a day fixed by the Chief Justice of the Family Division, of which the Chief Justice shall give notice to the other members of the council, assemble for the purposes of
- (a) reviewing the business plans of the Court,
  - (b) setting general policy guidelines for sittings of the Court, and
  - (c) considering
    - (i) the operation of this Act and the Rules of Court, and

- (ii) the working of, and the arrangements governing the performance of duties by, the officers of the Court.

(3) If it considers it necessary and appropriate to do so, the council may form one or more subcommittees to deal with any matter referred to in subsection (1), and each subcommittee so formed shall meet at the times and places necessary to achieve the purpose for which it was formed.

(4) The council shall report its recommendations to the Lieutenant Governor in Council.

#### **Judicial districts**

**103** The Lieutenant Governor in Council may by regulation

- (a) establish judicial districts and sub-districts;
- (b) alter the boundaries of any judicial district or sub-district;
- (c) provide for and govern the transfer and the effect of the transfer of documents and judicial processes from one judicial district or sub-district to another judicial district or sub-district;
- (d) make any provision that the Lieutenant Governor in Council considers necessary to protect any interests affected by the operation of a regulation made under this section.

#### **Regulations**

**104(1)** The Lieutenant Governor in Council may make regulations

- (a) respecting costs that may be awarded in respect of proceedings in the Court;
- (b) governing the rates of fees and expenses payable to witnesses and interpreters;
- (c) prescribing fees payable for the filing or issuing of documents in respect of proceedings in the Court and providing for waiving the payment of those fees;
- (d) prescribing fees, expenses and other forms of remuneration payable to stenographic court reporters;

- (e) prescribing fees, expenses and other forms of remuneration payable to operators and transcribers of sound-recording machines;
- (f) respecting fees for copies of transcripts, orders, judgments and other documents;
- (g) respecting fees for searches of court files;
- (h) respecting the preparation, filing and sending of certificates of judgments and orders;
- (i) respecting the consolidation of proceedings under section 36;
- (j) respecting the courses and programs that a person may be required to attend under section 40;
- (k) prescribing an amount, not to exceed \$50 000, for the purposes of section 44;
- (l) respecting any matter or thing that may be or is to be prescribed, required or provided for by the regulations;
- (m) respecting any matter necessary or advisable to carry out effectively the intent and purposes of this Act.

**(2) The Minister may make regulations**

- (a) prescribing locations at which the Court shall maintain court offices;
- (b) requiring and governing the making of returns and reports by judges and clerks;
- (c) prescribing the records that must be maintained by the Court;
- (d) providing for the safekeeping, inspection and destruction of books, documents and papers of the Court and judges;
- (e) providing for the appointment and employment of stenographic court reporters to take down evidence in respect of proceedings in the Court;

- (f) providing for the appointment of operators and transcribers of sound-recording machines used to record evidence in respect of proceedings in the Court;
- (g) defining the classes of cases and conditions in which stenographic court reporters may be used;
- (h) prescribing forms to be used in the Court or issued by the Court.

## **Part 7 Transitional Provisions, Consequential Amendments, Repeals and Coming into Force**

### **Previous appointments**

**105** Every person who, immediately before the coming into force of this section, was a judge under the *Provincial Court Act* and whose appointment is in full force and effect on the coming into force of this section is deemed to have been appointed a provincial judge of the Provincial Division under this Act.

### **References**

**106** Where in any statute, ordinance, regulation, rule, order, bylaw, agreement or other instrument or document a reference is made to

- (a) the Provincial Court of Alberta, or
- (b) a judge of that court,

the reference shall be read as a reference to the Family Division if the matter in respect of which the reference is made is within the jurisdiction of the Family Division, or the Provincial Division in all other cases, or a provincial judge of either of those Divisions, as the case may be.

### **Continuation of matters before Provincial Court**

**107(1)** Where, on the coming into force of this section, any matter is before the Provincial Court of Alberta or a judge of that court,

- (a) the matter shall be continued before the Family Division if the matter is within the jurisdiction of the Family Division, or the Provincial Division in all other cases,
- (b) the judge dealing with the matter shall continue to deal with it in his or her capacity as a provincial judge of the Family Division or the Provincial Division, and
- (c) subject to section 109, all documents required to be filed in or in connection with the cause or matter after the coming into force of this section shall be styled in the Family Division of the Alberta Court of Justice or the Provincial Division of the Alberta Court of Justice, as the case may be.

(2) On the coming into force of this section, the records and files of the Provincial Court of Alberta, whether concluded or not, become the records and files of the Family Division or the Provincial Division, as the case may be.

#### **Cases referred back on appeal**

**108** A matter that

- (a) was before the Provincial Court of Alberta prior to the coming into force of this section, and
- (b) as a result of an appeal
  - (i) has, before or after the coming into force of this section, been referred back to that court to be further dealt with, or
  - (ii) after the coming into force of this section would, except for this section, have been referred back to that court to be further dealt with,

shall be dealt with by the Family Division or the Provincial Division, as the case may be, as though the matter had instead been before one of those Divisions.

#### **Documents under former style of cause**

**109(1)** Where any matter before the Provincial Court of Alberta or a judge of that court is continued under section 107, an affidavit styled in the Provincial Court of Alberta

- (a) shall be accepted for filing after the coming into force of this section if it was sworn before the coming into force of this section, or
- (b) may be accepted for filing where it was sworn after the coming into force of this section if the clerk is satisfied that it is impossible or that it would result in undue delay or hardship to have an affidavit sworn that is properly styled.

**(2)** A provincial judge may, on the application of any person interested in a matter before the Family Division or the Provincial Division or a judge of either of those Divisions, give directions

- (a) as to the filing of documents or matters of procedure in cases for which no provision is made by section 107 or subsection (1), and
- (b) for the purpose of removing or minimizing any procedural difficulty arising from the coming into force of this Act.

#### **Continuation of proceedings re Court of Queen's Bench**

**110** Where, on the coming into force of this section, any matter is before the Court of Queen's Bench or a judge of that court that is entirely within the jurisdiction of the Family Division,

- (a) the matter shall be continued before the Family Division,
- (b) the judge dealing with the matter shall continue to deal with it in his or her capacity as a federally appointed judge of the Family Division, and
- (c) subject to section 111, all documents required to be filed in or in connection with the cause or matter after the coming into force of this section shall be styled in the Family Division of the Alberta Court of Justice.

#### **Documents under former style of cause**

**111(1)** Where any matter before the Court of Queen's Bench or a judge of that court is continued under section 110, an affidavit styled in the Court of Queen's Bench

- (a) shall be accepted for filing after the coming into force of this section if it was sworn before the coming into force of this section, or
- (b) may be accepted for filing where it was sworn after the coming into force of this section if the clerk is satisfied that it is impossible or that it would result in undue delay or hardship to have an affidavit sworn that is properly styled.

(2) A judge of the Court of Queen's Bench may, on the application of any person interested in a matter before the Family Division or a judge of that Division, give directions

- (a) as to the filing of documents or matters of procedure in cases for which no provision is made by section 110 or subsection (1), and
- (b) for the purpose of removing or minimizing any procedural difficulty arising from the coming into force of this Act.

#### **Transitional regulations**

**112(1)** In this section, "former Act" means the *Provincial Court Act*.

(2) The Lieutenant Governor in Council may make regulations

- (a) respecting the transition to this Act of anything under the former Act, including the interpretation of any transitional provision in this Act;
- (b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act from the former Act.

(3) A regulation made under subsection (2) may be retroactive to the extent set out in the regulation.

(4) A regulation made under subsection (2) is repealed on the earliest of

- (a) the coming into force of an amendment that adds the subject-matter of the regulation to this Act,



- (b) the coming into force of a regulation that repeals the regulation made under subsection (2), or
- (c) 2 years after the regulation comes into force.

(5) The repeal of a regulation under subsection (4)(b) or (c) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

**Amends RSA 2000 cA-4**

**113 The *Adult Adoption Act* is amended in section 1 by striking out “Court of Queen’s Bench” and substituting “Family Division of the Alberta Court of Justice”.**

**Amends RSA 2000 cA-15**

**114 The *Alberta Corporate Tax Act* is amended in sections 76(5) and (6), 77.1(1) and 77(5)(e) by striking out “provincial court judge” and substituting “provincial judge”.**

**Amends RSA 2000 cA-18**

**115 The *Alberta Evidence Act* is amended in sections 44 and 56(1), (3), (4) and (5)(a) by adding “or the Family Division of the Alberta Court of Justice” after “Queen’s Bench” wherever it occurs.**

**Amends RSA 2000 cA-38**

**116 The *Alcohol and Drug Abuse Act* is amended in section 9(7) by striking out “Provincial Court” wherever it occurs and substituting “Family Division of the Alberta Court of Justice”.**

**Amends RSA 2000 cA-41**

**117 The *Animal Protection Act* is amended in section 1(1)(d) by striking out “Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice”.**

**Amends RSA 2000 cA-43**

**118 The *Arbitration Act* is amended in section 1(1)(c)(i) by striking out “Provincial Court” and substituting “Alberta Court of Justice”.**

**Amends RSA 2000 cB-9**

**119** The *Business Corporations Act* is amended in section 250 by striking out “Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice”.

**Amends RSA 2000 cC-12**

**120(1)** The *Child Welfare Act* is amended by this section.

**(2)** Section 1(1)(h) is amended by striking out “Provincial Court” and substituting “Family Division of the Alberta Court of Justice”.

**(3)** Section 22(8) is amended by striking out “, a judge of the Court of Queen’s Bench”.

**(4)** Section 30 is amended

**(a)** in subsection (1) by striking out “the Court of Queen’s Bench” and substituting “a federally appointed judge of the Court”;

**(b)** in subsection (2) by striking out “The Court of Queen’s Bench” and substituting “A judge”;

**(c)** by repealing subsections (3) to (5) and substituting the following:

**(3)** If a judge makes an order under this section restraining a parent of the child, the judge may make a further order prescribing the contributions, financial or otherwise, to be made by that parent for the maintenance of the child.

**(4)** A person who is restrained under a restraining order may apply to a federally appointed judge of the Court for a review of the order.

**(5)** On hearing an application under subsection (4), the judge may continue, vary or terminate the order.

**(5)** Section 58(1)(a) is repealed.

**(6)** Section 109(8) is amended by striking out “Queen’s Bench” wherever it occurs and substituting “Appeal”.

**(7) Section 114 is amended by striking out “Queen’s Bench” wherever it occurs and substituting “Appeal”.**

**(8) Section 116 is amended by striking out “Queen’s Bench” wherever it occurs and substituting “Appeal”.**

**(9) Section 117 is amended by striking out “Queen’s Bench” wherever it occurs and substituting “Appeal”.**

**(10) Section 119(6) and (7) are amended by striking out “Queen’s Bench” and substituting “Appeal”.**

**(11) Section 133(3)(c) is amended by adding “and” at the end of clause (a), striking out “and” at the end of clause (b) and repealing clause (c).**

**Amends RSA 2000 cC-15**

**121 The *Civil Enforcement Act* is amended in section 4(b) by striking out “Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice”.**

**Amends RSA 2000 cC-20**

**122 The *Commissioners for Oaths Act* is amended by repealing section 4 and substituting the following:**

**Judges**

**4** Every master in chambers, judge of the Alberta Court of Justice, judge of the Court of Queen’s Bench and judge of the Court of Appeal is by virtue of the judge’s or master’s office a commissioner empowered to administer oaths and take and receive affidavits, declarations and affirmations in Alberta.

**Amends RSA 2000 cC-22**

**123 The *Condominium Property Act* is amended in section 36(1)(a) by striking out “*Provincial Court Act*” wherever it occurs and substituting “*Alberta Court of Justice Act*”.**

**Amends RSA 2000 cC-23**

**124 The *Conflicts of Interest Act* is amended in Part 1 of the**

**Schedule by striking out** “Judges of The Provincial Court of Alberta” **and substituting** “Provincial judges”.

**Amends RSA 2000 cC-30**

**125 The *Court of Appeal Act* is amended by repealing section 3(3) and substituting the following:**

- (3) Notwithstanding subsection (1),
- (a) each judge of the Court of Queen’s Bench, and
  - (b) each federally appointed judge of the Family Division of the Alberta Court of Justice

is by virtue of that office a judge of the Court of Appeal.

**Amends RSA 2000 cC-31**

**126(1) The *Court of Queen’s Bench Act* is amended by this section.**

**(2) Section 3 is amended**

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

**(1.1)** Notwithstanding subsection (1)(c), when a vacancy occurs in the Court,

- (a) the number of judges referred to in subsection (1)(c) shall be reduced by one, and
- (b) the number of federally appointed judges included in the Family Division of the Alberta Court of Justice pursuant to section 3(1)(b) of the *Alberta Court of Justice Act* shall be increased by one.

**(1.2)** Subsection (1.1) applies only until the number of judges referred to in subsection (1)(c) is reduced to the number prescribed by order of the Lieutenant Governor in Council.

**(b) by repealing subsection (3) and substituting the following:**

- (3) Notwithstanding subsection (1),

- (a) each judge of the Court of Appeal of Alberta, and
- (b) each federally appointed judge of the Family Division of the Alberta Court of Justice

is by virtue of that office a judge of the Court of Queen's Bench.

**(3) Section 25(1) is amended by repealing clause (c) and substituting the following:**

- (c) the Chief Judge of the Provincial Division of the Alberta Court of Justice or a judge of the Provincial Division of the Alberta Court of Justice;

**Amends RSA 2000 cE-1**

**127 The *Election Act* is amended in section 154(2) by striking out "The Provincial Court of Alberta" and substituting "the Provincial Division of the Alberta Court of Justice".**

**Amends SA 2001 cE-5.5**

**128 The *Electronic Transactions Act* is amended in section 1(1)(h)(ix) by striking out "The Provincial Court of Alberta" and substituting "the Alberta Court of Justice".**

**Amends RSA 2000 cE-11**

**129 The *Engineering, Geological and Geophysical Professions Act* is amended in section 53(2) by striking out "Provincial Court" and substituting "the Provincial Division of the Alberta Court of Justice".**

**Amends RSA 2000 cE-12**

**130(1) The *Environmental Protection and Enhancement Act* is amended by this section.**

**(2) Section 194(a) is amended by striking out "provincial court judge" and substituting "provincial judge".**

**(3) Sections 206(2), (6)(c), (9) and (10) are amended by striking out "The Provincial Court of Alberta" and substituting "the Provincial Division of the Alberta Court of Justice".**

**(4) Section 250(5) is amended by striking out “Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice”.**

**Amends RSA 2000 cF-2**

**131(1) The *Fair Trading Act* is amended by this section.**

**(2) Section 14(1) is repealed and the following is substituted:**

**Provincial Division of the Alberta Court of Justice**

**14(1)** Subject to the jurisdiction of the Provincial Division of the Alberta Court of Justice, an action under section 13(1) may be commenced under Part 4 of the *Alberta Court of Justice Act*.

**(3) Section 50(2) is amended by striking out “Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice”.**

**(4) Section 58(j) is amended by striking out “Provincial Court, the Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice, the Provincial Division of the Alberta Court of Justice”.**

**Amends RSA 2000 cF-7**

**132 The *Farm Implement Act* is amended in section 22(1) by striking out “judge of the Provincial Court” and substituting “provincial judge”.**

**Amends RSA 2000 cF-9**

**133 The *Fatality Inquiries Act* is amended in section 34(a), (b) and (c) by striking out “The Provincial Court of Alberta” and substituting “the Provincial Division of the Alberta Court of Justice”.**

**Amends RSA 2000 cF-12**

**134 The *Financial Administration Act* is amended in section 98(1)(b) by striking out “judge of the Provincial Court” and substituting “provincial judge”.**

**Amends RSA 2000 cF-13**

**135(1) The *Financial Consumers Act* is amended by this section.**

**(2) Section 26(2)(a) is repealed and the following is substituted:**

- (a) a civil claim can be filed in the Provincial Division of the Alberta Court of Justice if the amount claimed does not exceed the amount prescribed for civil claims under Part 4 of the *Alberta Court of Justice Act*, or

**(3) Section 30(1) is amended by striking out “Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice”.**

**Amends RSA 2000 cF-25**

**136 The *Freedom of Information and Protection of Privacy Act* is amended in sections 1(p)(ix) and 4(1)(a) and (3) by striking out “The Provincial Court of Alberta” and substituting “the Alberta Court of Justice”.**

**Amends RSA 2000 cG-10**

**137 The *Government Organization Act* is amended in section 14(1)(d) of Schedule 11 by striking out “The Provincial Court of Alberta” and substituting “the Alberta Court of Justice”.**

**Amends RSA 2000 cH-14**

**138 The *Human Rights, Citizenship and Multiculturalism Act* is amended in section 24(1) by striking out “provincial court judge” and substituting “provincial judge”.**

**Amends RSA 2000 cI-3**

**139 The *Insurance Act* is amended in section 753(2) by striking out “*Provincial Court Act*” and substituting “*Alberta Court of Justice Act*”.**

**Amends SA 2002 cI-3.5**

**140 The *Interjurisdictional Support Orders Act* is amended in**

**section 23(a) by striking out “judge of the Provincial Court” and substituting “provincial judge”.**

**Amends RSA 2000 cl-8**

**141 The *Interpretation Act* is amended in section 28(1)**

**(a) by repealing clause (xx);**

**(b) by repealing clause (yy) and substituting the following:**

(yy) “provincial judge” means a provincial judge of the Alberta Court of Justice;

**Amends RSA 2000 cJ-1**

**142 The *Judgment Interest Act* is amended in section 1(a) by striking out “The Provincial Court of Alberta” and substituting “the Alberta Court of Justice”.**

**Amends RSA 2000 cJ-2**

**143(1) The *Judicature Act* is amended by this section.**

**(2) Section 1 is amended by adding “the Family Division of the Alberta Court of Justice,” before “the Court of Queen’s Bench”.**

**(3) Section 30 is amended**

**(a) in clause (a) by striking out “9.4 of the *Provincial Court Act*” and substituting “29 of the *Alberta Court of Justice Act*”;**

**(b) by repealing clause (b) and substituting the following:**

(b) “judge” means a provincial judge as defined in the *Alberta Court of Justice Act*;

**(4) Section 31(1)(c) is amended by striking out “The Provincial Court of Alberta” and substituting “the Provincial Division of the Alberta Court of Justice”.**

**(5) Section 34(1)(a) and (6)(b) are amended by striking out**



“Provincial Court” **and substituting** “Provincial Division of the Alberta Court of Justice”.

**(6) Section 41.1(1) and (2) are repealed and the following is substituted:**

**Complaints**

**41.1(1)** In this section,

- (a) “administrative decision” means a decision made,
  - (i) in the case of a judge, by a supervisory judge that relates to administrative or supervisory matters in respect of the judge, including any decision made pursuant to section 10, 12(2) or 21(5) of the *Alberta Court of Justice Act*;
  - (ii) in the case of a judge, by the Chief Judge that relates to a request for reappointment of the judge made pursuant to section 26(2) or (4)(a) of the *Alberta Court of Justice Act*;
  - (iii) in the case of a justice of the peace, by a supervisory judge that relates to administrative or supervisory matters in respect of the justice of the peace, including any decision made pursuant to section 9 of the *Justice of the Peace Act*;
- (b) “complaint” means a complaint made about an administrative decision;
- (c) “supervisory judge” means
  - (i) in respect of a judge, the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge of the Provincial Division of the Alberta Court of Justice;
  - (ii) in respect of a justice of the peace, the Chief Judge of the Provincial Division of the Alberta Court of Justice or another judge to whom a delegation is made under section 9(b) of the *Justice of the Peace Act*.

(2) Subject to this section and section 21(6) of the *Alberta Court of Justice Act*, an administrative decision is final and no appeal lies from that decision.

(7) **Section 41.2(2) is amended by striking out** “9.1(7) of the *Provincial Court Act*” **and substituting** “21(6) of the *Alberta Court of Justice Act*”.

(8) **Section 47(4) is amended by striking out** “Provincial Court” **wherever it occurs and substituting** “Provincial Division of the Alberta Court of Justice”.

(9) **Section 49(b) is amended by striking out** “judge of the Provincial Court” **and substituting** “provincial judge of the Alberta Court of Justice”.

#### **Amends RSA 2000 cJ-3**

**144** The *Jury Act* is amended in section 4(d) by striking out “Provincial Court” **and substituting** “Alberta Court of Justice”.

#### **Amends RSA 2000 cJ-4**

**145(1)** The *Justice of the Peace Act* is amended by this section.

(2) **Section 1(a) is amended by striking out** “The Provincial Court of Alberta” **and substituting** “the Provincial Division of the Alberta Court of Justice”.

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

- (c) adjourning cases where a judge of the Provincial Division of the Alberta Court of Justice or a sitting justice of the peace is not present;

(4) **Section 6(2) is amended by striking out** “*Provincial Court Act*” **and substituting** “*Alberta Court of Justice Act*”.

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

##### **Supervision and duties**

**9** The Chief Judge of the Provincial Division of the Alberta Court of Justice

- (a) shall supervise and assign duties to justices of the peace, and
- (b) may delegate the supervision and assignment of duties referred to in clause (a) to a provincial judge or a provincial supernumerary judge of the Provincial Division of the Alberta Court of Justice.

**(6) Section 11 is amended by striking out “Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice”.**

**(7) Section 12 is amended**

- (a) in subsection (1)(b) by striking out “*Provincial Court Act*” and substituting “*Alberta Court of Justice Act*”;**
- (b) in subsection (2)(b) by striking out “provincial court judge” and substituting “judge of the Provincial Division of the Alberta Court of Justice”.**

**(8) Section 13 is repealed and the following is substituted:**

**Alberta Court of Justice Act**

**13** Sections 8, 31 and 46 of the *Alberta Court of Justice Act* apply to a justice of the peace in the same manner as if the justice of the peace were a provincial judge.

**Amends RSA 2000 cL-6**

**146(1) The *Languages Act* is amended by repealing section 4(1)(d) and substituting the following:**

- (d) the Alberta Court of Justice.

**(2) Le paragraphe 4(1)(d) de la *Loi linguistique* est abrogé et remplacé par ce qui suit:**

- (d) la Cour de justice de l’Alberta.

**Amends RSA 2000 cL-8**

**147(1) The *Legal Profession Act* is amended by this section.**

**(2) Section 33(a) is amended by striking out “Provincial Court of Alberta” and substituting “Alberta Court of Justice”.**

**(3) Section 106(2)(l) is amended by striking out “, the Provincial Court or a provincial judge” and substituting “or the Alberta Court of Justice”.**

**(4) In the following provisions, “Provincial Court” is struck out and “Alberta Court of Justice” is substituted:**

section 38(2)(c);  
section 48(1)(a)(iv);  
section 85(1);  
section 105.

**Amends RSA 2000 cM-1**

**148(1) The *Maintenance Enforcement Act* is amended by this section.**

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

**(a) by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):**

(a) “Court” means the Family Division of the Alberta Court of Justice;

**(b) in clauses (d)(iv) and (e) by striking out “Queen’s Bench” and substituting “Family Division”.**

**(3) Section 10.1(4.1) is amended by striking out “in the Provincial Court” and substituting “before a provincial judge of the Court”.**

**(4) Section 16(2) is repealed and the following is substituted:**

(2) If a maintenance order filed under subsection (1) was made by a provincial judge of the Court, a federally appointed judge of the Court may from time to time vary the order either by altering the times of payment or by increasing or decreasing the amount, or may temporarily suspend the order as to the whole or any part of the money so ordered to be paid and may again

revive the order wholly or in part, as the federally appointed judge of the Court considers appropriate.

**(5) Section 31(6) and (7) are repealed and the following is substituted:**

**(6)** If on hearing an application a federally appointed judge of the Court is satisfied that

- (a) the debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, and
- (b) with respect to property or funds that are legally owned or otherwise held by a corporation or other person, the debtor, or another person on behalf of the debtor, is exercising or has exercised authority over the corporation or other person,

the judge may make an order under subsection (7).

**(7)** If subsection (6) applies, the federally appointed judge may by order do one or more of the following:

- (a) for the purposes of payment of the arrears of maintenance payable under the maintenance order, direct that the property or those funds or any specific portion of that property or those funds is attached, is subject to seizure and sale or is subject to a continuing attachment, as the case may be;
- (b) give any other directions that the judge considers appropriate in the circumstances;
- (c) award costs.

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

**Appeal**

**33** An appeal lies to the Court of Appeal by way of a new trial from an order of the Court made under section 30.

**(7) Section 34 is amended by striking out “The Court of Queen’s Bench” and substituting “A federally appointed judge of the Court”.**

**(8) In the following provisions, “of Queen’s Bench” is struck out wherever it occurs:**

section 7(2);  
section 10.1(1);  
section 13(3);  
section 16(1);  
section 17(2), (3), (6), (8) and (11)(a);  
section 19(1), (3), (5), (6) and (7);  
section 23(4) and (5);  
section 25(1), (2), (3) and (4);  
section 26(b);  
section 27(1), (2) and (3);  
section 29;  
section 30(1) and (2);  
section 31(2);  
section 32(1), (6), (7) and (8);  
section 35(1);  
section 40(2);  
section 42.

**Amends RSA 2000 cM-5**

**149(1) The *Marriage Act* is amended by this section.**

**(2) Section 1 is amended by renumbering clause (a) as clause (a.1) and by adding the following before clause (a.1):**

(a) “Court” means the Family Division of the Alberta Court of Justice;

**(3) Sections 15(1)(b)(i), 20(1), 21(1), 22(2) and 23(1) are amended by striking out “of Queen’s Bench”.**

**Amends RSA 2000 cM-8**

**150 The *Matrimonial Property Act* is amended in section 1(a) by striking out “Court of Queen’s Bench” and substituting “Alberta Court of Justice and includes a judge of the Court other than a provincial judge”.**

**Amends RSA 2000 cM-10**

**151 The *Mechanical Recording of Evidence Act* is amended in section 1(a)(ii) by striking out “Provincial Court” and substituting “Alberta Court of Justice”.**

**Amends RSA 2000 cM-13**

**152(1) The *Mental Health Act* is amended by this section.**

**(2) Section 1 is amended**

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

(c.1) “Court” means the Family Division of the Alberta Court of Justice;

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

(f.1) “judge” means a judge of the Court;

**(3) Sections 10(1), (2), (3) and (7) and 11(1), (2), (5), (6) and (7) are amended by striking out “provincial” wherever it occurs.**

**(4) Sections 17(7)(f), 41(3), 42 and 43(1) are amended by striking out “of Queen’s Bench”.**

**Amends RSA 2000 cM-14**

**153 The *Metis Settlements Act* is amended in section 66(2) by striking out “Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice”.**

**Amends RSA 2000 cM-18**

**154 The *Minors’ Property Act* is amended in section 1 by striking out “Court of Queen’s Bench” and substituting “Family Division of the Alberta Court of Justice”.**

**Amends SA 2001 c23**

**155 The *Miscellaneous Statutes Amendment Act, 2001 (No. 2)* is amended by repealing section 7(6)(a) and substituting the following:**

**(a) in subsections (1) and (2) by adding “or the Provincial Division of the Alberta Court of Justice” after “Bench”;**

**Amends RSA 2000 cM-20**

**156(1) The *Mobile Home Sites Tenancies Act* is amended by this section.**

**(2) Section 1(1)(c)(i) is repealed and the following is substituted:**

- (i) the Provincial Division of the Alberta Court of Justice, or

**(3) The heading for Part 5 is repealed and the following is substituted:**

**Part 5  
The Provincial Division of  
the Alberta Court of Justice**

**(4) Section 53(1) is amended**

- (a) by striking out** “The Provincial Court” **and substituting** “The Provincial Division of the Alberta Court of Justice”;
- (b) in clause (a) by striking out** “the *Provincial Court Act*” **and substituting** “Part 4 of the *Alberta Court of Justice Act*”.

**(5) Section 54 is amended**

- (a) by striking out** “*Provincial Court Act*” **and substituting** “*Alberta Court of Justice Act*”;
- (b) by striking out** “the Provincial Court” **wherever it occurs and substituting** “the Provincial Division of the Alberta Court of Justice”.

**(6) In the following provisions, “Provincial Court” is struck out wherever it occurs and “Provincial Division of the Alberta Court of Justice” is substituted:**

- section 55;
- section 56(1) and (2);
- section 57;
- section 58(1), (2)(a) and (4);
- section 59(1) and (2);
- section 65(a).



**Amends RSA 2000 cN-6**

**157** The *Notaries Public Act* is amended by repealing section 4 and substituting the following:

**Judges**

**4** Every master in chambers, judge of the Alberta Court of Justice, judge of the Court of Queen's Bench and judge of the Court of Appeal is by virtue of that office a notary public for Alberta.

**Amends RSA 2000 cP-17**

**158** The *Police Act* is amended in sections 20(1)(o) and 47(1)(k) by striking out "Provincial Court" and substituting "Provincial Division of the Alberta Court of Justice".

**Amends RSA 2000 cP-25**

**159** The *Proceedings Against the Crown Act* is amended in section 10 by striking out "*Provincial Court Act*" and substituting "*Alberta Court of Justice Act*".

**Amends RSA 2000 cP-27**

**160(1)** The *Protection Against Family Violence Act* is amended by this section.

(2) Section 1 is amended

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

(a.1) "Court" means the Family Division of the Alberta Court of Justice;

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

(c.1) "Family Division protection order" means an order granted under section 4;

(c) by repealing clauses (f), (g) and (h) and substituting the following:

(f) "judge" means a judge of the Court;

(g) "protection order" means an emergency protection order or a Family Division protection order;

**(3) Section 2 is amended**

- (a) in subsections (1), (2), (3)(g) and (4) by striking out “provincial court judge” and substituting “provincial judge of the Court”;**
- (b) in subsection (6) by striking out “justice of the Court of Queen’s Bench” and substituting “federally appointed judge of the Court”.**

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

**Confirmation of emergency protection order**

**3(1)** If a provincial judge of the Court or a designated justice of the peace grants an emergency protection order, the judge or justice of the peace must, immediately after granting the order, forward to a federally appointed judge of the Court a copy of the order and all supporting documentation, including any notes.

**(2)** A hearing referred to in section 2(6) must be based on affidavit evidence and any other sworn evidence.

**(3)** The evidence that was before the provincial judge or designated justice of the peace may also be considered as evidence at the hearing.

**(4)** At the hearing, a federally appointed judge of the Court may, whether or not the claimant or the respondent is in attendance,

- (a) revoke the order,
- (b) direct that an oral hearing be held,
- (c) confirm the order, in which case the order becomes an order of the Court, or
- (d) revoke the order and grant an order under section 4.

**(5) Section 4(1) is repealed and the following is substituted:**

**Family Division protection order**

**4(1)** An order under this section may be granted by a federally appointed judge of the Court on application if the judge

determines that the claimant has been the subject of family violence.

**(6) Section 5(2)(b) and (3)(b) are amended by striking out “Queen’s Bench” and substituting “Family Division”.**

**(7) Section 6(4) is amended by striking out “the Court of Queen’s Bench” and substituting “a federally appointed judge of the Court”.**

**(8) Section 7(3) is amended by striking out “The Court of Queen’s Bench” and substituting “A federally appointed judge of the Court”.**

**(9) Section 8(1) is amended by striking out “clerks of the Court of Queen’s Bench and of the Provincial Court” and substituting “clerk of the Court”.**

**Amends RSA 2000 cP-28**

**161(1) The *Protection of Children Involved in Prostitution Act* is amended by this section.**

**(2) Section 1(1)(b) is repealed and the following is substituted:**

(b) “Court” means the Family Division of the Alberta Court of Justice;

**(3) Section 6.1 is repealed and the following is substituted:**

**Definition**

**6.1** In sections 6.2 to 6.5, “Court” means the Family Division of the Alberta Court of Justice and the Court of Appeal.

**(4) In the following provisions, “Court of Queen’s Bench” is struck out wherever it occurs and “Court of Appeal” is substituted:**

section 3.3(2);  
section 3.4(1) and (2);  
section 3.5(1), (2), (3), (4), (5) and (6);  
section 3.6(1) and (2);  
section 6(1) and (2).

**Amends RSA 2000 cP-34**

**162(1)** The *Provincial Offences Procedure Act* is amended by this section.

(2) **Section 1(c)** is amended by striking out “The Provincial Court of Alberta” and substituting “the Provincial Division of the Alberta Court of Justice”.

(3) **Sections 26(1) and 36(1)** are amended by striking out “section 9(2)(a) of the *Provincial Court Act*” and substituting “section 104(2)(a) of the *Alberta Court of Justice Act*”.

**Amends RSA 2000 cP-37**

**163** The *Public Health Act* is amended in sections 30(3) and 47(1) and (2) by striking out “provincial court judge” and substituting “provincial judge”.

**Amends RSA 2000 cP-39**

**164** The *Public Inquiries Act* is amended in section 7(3) by striking out “Provincial Court” and substituting “Alberta Court of Justice”.

**Amends RSA 2000 cR-17**

**165(1)** The *Residential Tenancies Act* is amended by this section.

(2) **Section 1(1)(c)(i)** is repealed and the following is substituted:

- (i) the Provincial Division of the Alberta Court of Justice, or

(3) **The heading for Part 5** is repealed and the following is substituted:

**Part 5  
The Provincial Division of  
the Alberta Court of Justice**

(4) **Section 50(1)** is amended

- (a) **by striking out** “The Provincial Court” **and substituting** “The Provincial Division of the Alberta Court of Justice”;

**(b) in clause (a) by striking out “the *Provincial Court Act*” and substituting “Part 4 of the *Alberta Court of Justice Act*”.**

**(5) Section 51 is amended**

**(a) by striking out “*Provincial Court Act*” and substituting “*Alberta Court of Justice Act*”;**

**(b) by striking out “the Provincial Court” wherever it occurs and substituting “the Provincial Division of the Alberta Court of Justice”.**

**(6) In the following provisions, “Provincial Court” is struck out wherever it occurs and “Provincial Division of the Alberta Court of Justice” is substituted:**

section 52;  
section 53(1) and (2);  
section 54;  
section 55(1), (2)(a) and (4);  
section 56(1) and (2);  
section 62.

**Amends RSA 2000 cS-3**

**166(1) The *School Act* is amended by this section.**

**(2) Section 14(1)(b) is repealed and the following is substituted:**

(b) “judge” means a provincial judge of the Family Division of the Alberta Court of Justice;

**(3) Section 127(1) is amended**

**(a) in clause (d) by striking out “the Court of Queen’s Bench” and substituting “a federally appointed judge of the Family Division of the Alberta Court of Justice”;**

**(b) in clause (n) by striking out “Court” and substituting “Division of the Alberta Court of Justice”.**

**(4) Section 128(3) and (4) are amended by striking out “Court of Queen’s Bench” and substituting “Family Division of the Alberta Court of Justice”.**

**Amends RSA 2000 cS-20**

**167** The *Stray Animals Act* is amended in section 26 by striking out “Provincial Court” wherever it occurs and substituting “Provincial Division of the Alberta Court of Justice”.

**Amends RSA 2000 cT-4**

**168(1)** The *Tobacco Tax Act* is amended by this section.

**(2)** Section 23(5) is amended by striking out “judge of The Provincial Court of Alberta” and substituting “provincial judge”.

**(3)** Section 24(4)(a) is amended by striking out “judge of the Provincial Court” and substituting “provincial judge”.

**Amends RSA 2000 cT-6**

**169(1)** The *Traffic Safety Act* is amended by this section.

**(2)** Section 170 is amended

**(a)** in subsections (3), (5), (6) and (7) by striking out “Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice”;

**(b)** in subsection (4)

**(i)** by striking out “Provincial Court may” and substituting “Provincial Division of the Alberta Court of Justice may”;

**(ii)** in clause (c) by striking out “the *Provincial Court Act*” and substituting “Part 4 of the *Alberta Court of Justice Act*”.

**(3)** Section 171 is amended

**(a)** in subsections (2), (4), (5) and (6) by striking out “Provincial Court” and substituting “Provincial Division of the Alberta Court of Justice”;

**(b)** in subsection (3)

- (i) **by striking out** “Provincial Court may” **and substituting** “Provincial Division of the Alberta Court of Justice may”;
- (ii) **in clause (c) by striking out** “the *Provincial Court Act*” **and substituting** “Part 4 of the *Alberta Court of Justice Act*”.

**Amends RSA 2000 cT-7**

**170** The *Trespass to Premises Act* is amended in section 7(1) **by striking out** “Provincial Court” **and substituting** “Provincial Division of the Alberta Court of Justice”.

**Amends SA 2001 cV-3.5**

**171** The *Victims Restitution and Compensation Payment Act* is amended in section 54 **by striking out** “Provincial Court” **and substituting** “Provincial Division of the Alberta Court of Justice”.

**Amends RSA 2000 cW-3**

**172** The *Water Act* is amended in section 132(2), (6)(c), (9) and (10) **by striking out** “The Provincial Court of Alberta” **and substituting** “the Provincial Division of the Alberta Court of Justice”.

**Amends RSA 2000 cY-1**

**173(1)** The *Young Offenders Act* is amended by this section.

**(2)** Section 1(1) is amended by repealing clauses (n) and (o) **and substituting the following:**

- (n) “youth court” means the Family Division of the Alberta Court of Justice and includes a youth court judge and a justice;
- (o) “youth court judge” means a judge of the Family Division of the Alberta Court of Justice;

**(3)** Section 26(1) is amended **by striking out** “Provincial Court” **and substituting** “Family Division of the Alberta Court of Justice”.

## Repeal

**174** The *Provincial Court Act* is repealed.

## Coming into force

**175** This Act comes into force on Proclamation.

## Explanatory Notes

**113** Amends chapter A-4 of the Revised Statutes of Alberta 2000. Section 1 presently reads:

*1 In this Act, "Court" means the Court of Queen's Bench.*

**114** Amends chapter A-15 of the Revised Statutes of Alberta 2000. Consequential amendments.

**115** Amends chapter A-18 of the Revised Statutes of Alberta 2000. Sections 44 and 56(1), (3), (4) and (5)(a) presently read:

*44 A judgment, decree or other judicial proceeding recovered, made, had or taken*

- (a) in the Supreme Court of Judicature in England,*
- (b) in a Court of Record in England or Ireland,*
- (c) in any of the Superior Courts of Law, Equity or Bankruptcy in Scotland,*
- (d) in a Court of Record in Canada or in a British Colony or Possession, or*
- (e) in a Court of Record of the United States of America or of any State of the United States of America,*



*may be proved by an exemplification of it under the seal of the Court without any proof of the authenticity of the seal or other proof whatever, in the same manner as a judgment, decree or other judicial proceeding of the Court of Queen's Bench may be proved by an exemplification of it.*

*56(1) When, on application to the Court of Queen's Bench, it is made to appear that a court or tribunal of competent jurisdiction in a foreign country has by commission, order or other process authorized the obtaining of the testimony, in or in relation to any action, suit, proceeding or inquiry pending in or before the foreign court or tribunal of a witness out of its jurisdiction and within the jurisdiction of the Court of Queen's Bench, the Court may order the examination of the witness before the person appointed and in the manner and form directed by the commission, order or other process.*

*(2) The Court by that order or by a subsequent order,*

*(a) may command*

*(i) the attendance of a person named in the order for the purpose of being examined, or*

*(ii) the production of any writing, document or thing mentioned in the order,*

*and*

*(b) may give all directions with regard to the time and place of the examination and all other matters connected with it that seem proper.*

*(3) The order may be enforced and any disobedience to it punished in like manner as the case of an order made by the Court of Queen's Bench in an action pending in the Court.*

*(4) A person whose attendance is so ordered is entitled to the same conduct money and payment for expenses and loss of time as on attendance at a trial in the Court of Queen's Bench.*

*(5) A person examined under the commission, order or other process*

*(a) may object to answer and may refuse to answer any questions that the person would be entitled to object to or refuse to*

*answer in an action pending in the Court of Queen's Bench,  
and*

**116** Amends chapter A-38 of the Revised Statutes of Alberta 2000. Section 9(7) presently reads:

*(7) If the Provincial Court issues a subpoena pursuant to the Child Welfare Act, the Commission or an employee of the Commission shall release, in accordance with that Act, any information, file, record, document or paper in respect of the child to whom the proceedings before the Provincial Court relate or with respect to a guardian of that child.*

**117** Amends chapter A-41 of the Revised Statutes of Alberta 2000. Section 1(1)(d) presently reads:

*1(1) In this Act,*

*(d) "Court", except in section 13, means the Provincial Court;*

**118** Amends chapter A-43 of the Revised Statutes of Alberta 2000. Section 1(1)(c)(i) presently reads:

*1(1) In this Act,*

*(c) "court" means,*

*(i) in sections 6 and 7, the Court of Queen's Bench and the Provincial Court, and*

**119** Amends chapter B-9 of the Revised Statutes of Alberta 2000. Section 250 presently reads:

*250 An appeal lies from an order of the Provincial Court under section 253(1) to the Court of Queen's Bench.*

**120(1)** Amends chapter C-12 of the Revised Statutes of Alberta 2000.

(2) Section 1(1)(h) presently reads:

*1(1) In this Act,*

*(h) "Court" means the Provincial Court;*

(3) Section 22(8) presently reads:

*(8) An application pursuant to subsection (7) may be heard by a judge of the Court, a judge of the Court of Queen's Bench or a sitting justice of the peace.*

(4) Section 30 presently reads:

*30(1) If a child has been apprehended under section 19 or is the subject of a supervision order or a temporary or permanent guardianship order and a director has reasonable and probable grounds to believe that a person has physically or emotionally injured or sexually abused the child, or is likely to physically or emotionally injure or sexually abuse the child or has encouraged or is likely to encourage the child to engage in prostitution, the director may apply by originating notice to the Court of Queen's Bench for either or both of the following orders:*

- (a) an order restraining that person from residing with the child;*
- (b) an order restraining that person from contacting the child or associating in any way with the child.*

*(2) The Court of Queen's Bench may make an order under this section for periods of not more than 6 months each.*

*(3) If the Court of Queen's Bench makes an order under this section restraining a parent of the child, the Court may make a further order prescribing the contributions, financial or otherwise, to be made by that parent for the maintenance of the child.*

*(4) A person who is restrained under a restraining order may apply to the Court of Queen's Bench for a review of the order.*

*(5) On hearing an application under subsection (4), the Court of Queen's Bench may continue, vary or terminate the order.*

(5) Section 58(1)(a) presently reads:

58(1) In this Part,

(a) “Court”, notwithstanding section 1(1)(h), means the Court of Queen’s Bench;

(6) Section 109(8) presently reads:

*(8) If the Court makes an order at any time during the proceedings before it and that order is appealed to the Court of Queen’s Bench, that part of the hearing before the Court of Queen’s Bench that relates to the documents, records or other information shall be heard in camera.*

(7) Section 114 presently reads:

*114(1) An order of the Court made under this Act may be appealed to the Court of Queen’s Bench not more than 30 days after the date on which the order is made or renewed by*

- (a) a guardian of the child other than a director,*
- (b) a person who was a guardian of the child immediately before the order was made,*
- (c) the child, if the child is 12 years of age or older,*
- (d) the child, if the child is the subject of a secure treatment order,*
- (e) a director, or*
- (f) the Minister.*

*(2) If the Court refuses to make an order under this Act, the applicant may appeal the refusal to the Court of Queen’s Bench not more than 30 days after the date of the refusal.*

(8) Section 116 presently reads:

*116(1) An appeal to the Court of Queen’s Bench under this Act is to be commenced by*

- (a) filing a notice of appeal setting out the grounds of the appeal with the clerk of the Court, and*

*(b) filing a copy of the notice of appeal in the Court of Queen's Bench.*

*(2) If a notice of appeal is filed pursuant to this section, the appellant may apply to the Court of Queen's Bench for an order*

*staying the execution of the order appealed pending the hearing of the appeal.*

*(3) The appellant shall serve the notice of appeal on*

*(a) the guardian of the child other than a director,*

*(b) the child, if the child is 12 years of age or older,*

*(c) the child, if the child is the subject of a secure treatment order, and*

*(d) a director.*

*(4) On a notice of appeal being filed with the clerk of the Court, the clerk shall forward to the clerk of the Court of Queen's Bench the record of the evidence taken and all other material in the possession of the Court that pertains to the matter being appealed not more than 7 days from the time that the notice of appeal is filed with the clerk of the Court.*

*(5) On subsections (3) and (4) being complied with, the Court of Queen's Bench shall set down the appeal for hearing.*

*(6) Unless the Court of Queen's Bench otherwise directs, the appeal shall come on for a hearing at the first sitting of the Court of Queen's Bench to be held after the filing of the notice of appeal in the Court of Queen's Bench.*

*(7) Notwithstanding subsections (5) and (6), if an appeal is not heard within 90 days after the filing of the notice of appeal, unless the Court of Queen's Bench grants leave to extend the time within which the appeal shall be heard, the clerk of the Court of Queen's Bench shall fix the next available date as the date on which the appeal shall be heard and shall notify the parties of the time and place of the hearing.*

*(9) Section 117 presently reads:*

*117(1) On hearing an appeal, the Court of Queen's Bench shall determine the appeal on the material filed with or forwarded to the Court of Queen's Bench and any further evidence that the Court of Queen's Bench may require or permit to be given.*

*(2) The Court of Queen's Bench may*

- (a) confirm the order or refusal,*
- (b) revoke or vary the order made, or*
- (c) make any order the Court could have made in the hearing before it.*

(10) Section 119(6) and (7) presently read:

*(6) A decision of an Appeal Panel may be appealed to the Court of Queen's Bench by a party to the appeal before the Appeal Panel or by the Minister not more than 30 days after the date on which the decision was made.*

*(7) Sections 116 and 117 apply to an appeal under this section to the Court of Queen's Bench.*

(11) Section 133(3) presently reads:

*(3) On the repeal of section 58(1)(a) pursuant to subsection (1) of this section, a reference in Part 6*

- (a) to "petitioner" means "applicant",*
- (b) to "petition" means "application", and*
- (c) in section 91(3) to "Court" means "Court of Queen's Bench".*

**121** Amends chapter C-15 of the Revised Statutes of Alberta 2000. Section 4(b) presently reads:

*4 A person who has suffered loss or damage as a result of another person's failure to comply with this Act*

*(b) is entitled, if the Court or the Provincial Court finds that the person has suffered loss or damage, to a judgment for the damages suffered or \$200, whichever is greater.*

**122** Amends chapter C-20 of the Revised Statutes of Alberta 2000. Section 4 presently reads:

*4 Every provincial judge, master in chambers, judge of the Court of Queen's Bench and judge of the Court of Appeal is by virtue of the judge's or master's office a commissioner empowered to administer oaths and take and receive affidavits, declarations and affirmations in Alberta.*

**123** Amends chapter C-22 of the Revised Statutes of Alberta 2000. Section 36(1)(a) presently reads:

*36(1) If a person fails to comply with a sanction or to pay a monetary sanction imposed pursuant to a bylaw, the corporation may, in respect of the contravention,*

*(a) take proceedings under Part 4 of the Provincial Court Act to recover from the person*

*(i) a monetary sanction, or*

*(ii) damages, in the case of any other sanction,*

*in an amount not exceeding the amount that may be granted in damages under the Provincial Court Act, or*

**124** Amends chapter C-23 of the Revised Statutes of Alberta 2000. Part 1 of the Schedule presently reads in part:

*1. Judges of The Provincial Court of Alberta*

**125** Amends chapter C-30 of the Revised Statutes of Alberta 2000. Section 3(3) presently reads:

*(3) Notwithstanding subsection (1), each judge of the Court of Queen's Bench of Alberta is by virtue of that office a judge of the Court of Appeal.*

**126(1)** Amends chapter C-31 of the Revised Statutes of Alberta 2000.

(2) Section 3 presently reads in part:

*3(1) The Court consists of*

- (a) the chief judge, who shall be called the Chief Justice of the Court of Queen's Bench of Alberta,*
- (b) the associate chief judge, who shall be called the Associate Chief Justice of the Court of Queen's Bench of Alberta,*
- (c) 61 other judges, who shall be called justices of the Court of Queen's Bench of Alberta, and*
- (d) the supernumerary judges of the Court.*

*(2) The Lieutenant Governor in Council may by order increase the number of judges of the Court.*

*(3) Notwithstanding subsection (1), each judge of the Court of Appeal of Alberta is by virtue of that office a judge of the Court of Queen's Bench.*

(3) Section 25(1)(c) presently reads:

*25(1) There shall be a Rules of Court Committee consisting of the following members:*

- (c) the chief judge of The Provincial Court of Alberta or a judge of the Provincial Court designated by the chief judge;*

**127** Amends chapter E-1 of the Revised Statutes of Alberta 2000. Section 154(2) presently reads:



*(2) An offence under this Part shall be tried in The Provincial Court of Alberta under the summary conviction procedure.*

**128** Amends chapter E-5.5 of the Statutes of Alberta, 2001.  
Section 1(1)(h)(ix) presently reads:

*1(1) In this Act,*

*(h) “public body” means*

*(ix) the Court of Appeal of Alberta, the Court of Queen’s Bench of Alberta or The Provincial Court of Alberta;*

**129** Amends chapter E-11 of the Revised Statutes of Alberta 2000. Section 53(2) presently reads:

*(2) Notwithstanding subsection (1), if proceedings in respect of the same circumstances or events are commenced in Provincial Court or the Court of Queen’s Bench, the Discipline Committee may adjourn the hearing.*

**130(1)** Amends chapter E-12 of the Revised Statutes of Alberta 2000.

(2) Section 194(a) presently reads:

*194 In this Part,*

*(a) “justice” means a justice of the peace or a provincial court judge, and includes 2 or more justices where 2 or more justices are, by law, required to act or, by law, act or have jurisdiction;*

(3) Section 206 presently reads in part:

*(2) An information submitted by telephone or other means of telecommunication shall be on oath and shall be recorded verbatim by the justice, who shall, as soon as practicable, cause to be filed with the clerk of The Provincial Court of Alberta nearest to the area in which the tele-warrant is intended for execution the record or a*

*transcription of the record certified by the justice as to time, date and contents.*

*(6) Where a justice issues a tele-warrant under subsection (5),*

*(c) the justice shall, as soon as practicable after the tele-warrant has been issued, cause the tele-warrant to be filed with the clerk of The Provincial Court of Alberta nearest to the area in which the tele-warrant is intended for execution.*

*(9) An investigator to whom a tele-warrant is issued under subsection (5) shall file a written report with the clerk of The Provincial Court of Alberta nearest to the area in which the tele-warrant was intended for execution as soon as is practicable but within a period not exceeding 7 days after the tele-warrant has been executed, which report shall include*

*(a) a statement of the time and date the tele-warrant was executed, or if the tele-warrant was not executed, a statement of the reasons why it was not executed,*

*(b) a statement of the things, if any, that were seized pursuant to the tele-warrant and the location where they are being held, and*

*(c) a statement of the things, if any, that were seized in addition to the things mentioned in the tele-warrant and the location where they are being held, together with a statement of the investigator's grounds for believing that those additional things had been obtained by, or used in, the commission of an offence.*

*(10) The clerk of The Provincial Court of Alberta with whom a written report is filed pursuant to subsection (9) shall, as soon as is practicable, cause the report, together with the information on oath and the tele-warrant to which it pertains, to be brought before a justice to be dealt with in respect of any thing that was seized and is referred to in the report, in the same manner as if the things were seized pursuant to a search warrant issued by a justice on an information presented personally by an investigator.*

*(4) Section 250(5) presently reads:*

*(5) Where a judge of the Provincial Court is satisfied on evidence under oath that a person has been prevented from entering a place or has been denied access to a place that person is authorized to*

*enter under this section, the judge may issue an order authorizing that person to enter the place for the purpose of carrying out any work or doing any thing that the person is authorized to carry out or do.*

**131(1)** Amends chapter F-2 of the Revised Statutes of Alberta 2000.

(2) Section 14(1) presently reads:

*14(1) Subject to the jurisdiction of the Provincial Court, an action under section 13(1) may be commenced under Part 4 of the Provincial Court Act.*

(3) Section 50(2) presently reads:

*(2) In this section, "court" includes the Provincial Court, even though a contravention may also constitute a libel or slander.*

(4) Section 58(j) presently reads:

*58 In this Part,*

*(j) "Court" means the Court of Queen's Bench or, subject to the jurisdiction of the Provincial Court, the Provincial Court;*

**132** Amends chapter F-7 of the Revised Statutes of Alberta 2000. Section 22(1) presently reads:

*22(1) If the manufacturer's serial number on a farm implement has been obliterated, defaced, altered, rendered illegible or removed, the owner may apply to a judge of the Provincial Court to make a recommendation under subsection (3).*

**133** Amends chapter F-9 of the Revised Statutes of Alberta 2000. Section 34 presently reads:

*34 In this Part,*

- (a) *“chief judge” means the chief judge of The Provincial Court of Alberta;*
- (b) *“clerk” means a clerk of The Provincial Court of Alberta;*
- (c) *“judge” means a judge of The Provincial Court of Alberta;*

**134** Amends chapter F-12 of the Revised Statutes of Alberta 2000. Section 98(1)(b) presently reads:

*98(1) In this section,*

- (b) *“participant” means a public employee, a member of the Legislative Assembly, a master in chambers of the Court of Queen’s Bench, a judge of the Provincial Court or any person approved by the Treasury Board in the directive that establishes the benefit fund;*

**135(1)** Amends chapter F-13 of the Revised Statutes of Alberta 2000.

(2) Section 26(2)(a) presently reads:

*(2) If court proceedings are started,*

- (a) *a civil claim can be filed in The Provincial Court of Alberta if the amount claimed does not exceed the limit prescribed for civil claims under the Provincial Court Act, or*

(3) Section 30(1) presently reads:

*30(1) If the Director has reason to believe that this Act is not being complied with, the Director can apply to the Provincial Court for an order authorizing the Director to enter and search anywhere for evidence that this Act has been contravened or of the extent of the contravention.*

**136** Amends chapter F-25 of the Revised Statutes of Alberta 2000. Section 1(p)(ix) and 4(1)(a) and (3) presently read:

*1 In this Act,*

(p) “public body” means

*but does not include*

(ix) *the Court of Appeal of Alberta, the Court of Queen’s Bench of Alberta or The Provincial Court of Alberta;*

*4(1) This Act applies to all records in the custody or under the control of a public body, including court administration records, but does not apply to the following:*

(a) *information in a court file, a record of a judge of the Court of Appeal of Alberta, the Court of Queen’s Bench of Alberta or The Provincial Court of Alberta, a record of a master of the Court of Queen’s Bench of Alberta, a record of a sitting justice of the peace or a presiding justice of the peace under the Justice of the Peace Act, a judicial administration record or a record relating to support services provided to the judges of any of the courts referred to in this clause;*

(3) *In this section, “judicial administration record” means a record containing information relating to a judge of the Court of Appeal of Alberta, the Court of Queen’s Bench of Alberta or The Provincial Court of Alberta or to a master of the Court of Queen’s Bench of Alberta or a sitting justice of the peace or a presiding justice of the peace under the Justice of the Peace Act, and includes*

(a) *the scheduling of judges and trials,*

(b) *the content of judicial training programs,*

(c) *statistics of judicial activity prepared by or for a judge, and*

(d) *any record of the Judicial Council established under Part 6 of the Judicature Act.*

**137** Amends chapter G-10 of the Revised Statutes of Alberta 2000. Section 14(1)(d) of Schedule 11 presently reads:

*14(1) In this section, “department” means*

(d) *the Court of Appeal of Alberta, the Court of Queen’s Bench of Alberta and The Provincial Court of Alberta,*

**138** Amends chapter H-14 of the Revised Statutes of Alberta 2000. Section 24(1) presently reads:

*24(1) Where a provincial court judge is satisfied on an investigator's evidence under oath that there are reasonable grounds for an investigator to exercise a power under section 23(1) and that*

- (a) in the case of a room or place actually used as a dwelling, the investigator cannot obtain the consent under section 23(2) or, having obtained the consent, has been obstructed or interfered with,*
- (b) the investigator has been refused entry to a place other than a dwelling,*
- (c) a person refuses or fails to answer inquiries under section 23(1)(b), or*
- (d) a person on whom a demand is made under section 23(1)(c) refuses or fails to comply with the demand or to permit the removal of a thing under section 23(1)(d),*

*the judge may make any order the judge considers necessary to enable the investigator to exercise the powers under section 23(1).*

**139** Amends chapter I-3 of the Revised Statutes of Alberta 2000. Section 753(2) presently reads:

*(2) The word "action" in this section includes a proceeding under Part 4 of the Provincial Court Act.*

**140** Amends chapter I-3.5 of the Statutes of Alberta, 2002. Section 23(a) presently reads:

*23 Nothing in this Part*

- (a) authorizes a judge of the Provincial Court to vary a support order made in Canada by a federally appointed judge, or*

**141** Amends chapter I-8 of the Revised Statutes of Alberta 2000. Section 28(1)(xx) and (yy) presently read:

28(1) *In an enactment,*

(xx) *“Provincial Court” means The Provincial Court of Alberta;*

(yy) *“provincial judge” means a judge of the Provincial Court;*

**142** Amends chapter J-1 of the Revised Statutes of Alberta 2000.  
Section 1(a) presently reads:

*1 In this Act,*

(a) *“court” includes The Provincial Court of Alberta;*

**143(1)** Amends chapter J-2 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads:

*1 In this Act, “Court” means the Court of Queen’s Bench or, on appeal, the Court of Appeal.*

(3) Section 30 presently reads in part:

*30 In this Part,*

(a) *“complaint” means a complaint under section 9.4 of the Provincial Court Act, section 15 of the Court of Queen’s Bench Act or section 10 of the Justice of the Peace Act;*

(b) *“judge” means a judge as defined in the Provincial Court Act;*

(4) Section 31(1)(c) presently reads:

*31(1) The Judicial Council is established and shall consist of*

(c) *the Chief Judge of The Provincial Court of Alberta or a designate of the Chief Judge,*

(5) Section 34(1)(a) and (6)(b) presently read:

34(1) *A complaint may be made*

- (a) *to the Chief Judge of the Provincial Court in the case of a complaint about a judge or justice of the peace or to the Chief Justice of the Court of Queen's Bench in the case of a complaint about a master, or*

(6) *Where*

- (b) *the Chief Justice of the Court of Queen's Bench, the Chief Judge of the Provincial Court or the Judicial Council determines that no further action need be taken,*

(6) Section 41.1(1) and (2) presently read:

41.1(1) *In this section,*

- (a) *“administrative decision” means a decision made,*
  - (i) *in the case of a judge, by a supervisory judge that relates to administrative or supervisory matters in respect of the judge, including any decision made pursuant to section 9.1(5) or (6) or 9.42 of the Provincial Court Act;*
  - (i.1) *in the case of a judge, by the Chief Judge that relates to a request for reappointment of the judge made pursuant to section 9.23(2) or (4)(a) of the Provincial Court Act;*
  - (ii) *in the case of a justice of the peace, by a supervisory judge that relates to administrative or supervisory matters in respect of the justice of the peace, including any decision made pursuant to section 9 of the Justice of the Peace Act;*
- (b) *“complaint” means a complaint made about an administrative decision;*
- (c) *“supervisory judge” means*
  - (i) *in respect of a judge, the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge of the Provincial Court of Alberta;*
  - (ii) *in respect of a justice of the peace, the Chief Judge of the Provincial Court of Alberta or another judge to whom a*



*delegation is made under section 4(b) of the Justice of the Peace Act.*

*(2) Subject to this section and section 9.1(7) of the Provincial Court Act, an administrative decision is final and no appeal lies from that decision.*

(7) Section 41.2(2) presently reads:

*(2) Subject to section 9.1(7) of the Provincial Court Act,*

- (a) no complaint proceedings shall be questioned or reviewed in any court by application for judicial review or otherwise, and*
- (b) no order shall be made, process entered or proceedings taken in any court, whether by way of certiorari, injunction, declaratory judgment, prohibition, quo warranto, application to quash or set aside or otherwise, to question, review, prohibit or restrain any complaint proceedings or the person, the Judicial Council or a judicial inquiry board that presided or is presiding over the complaint proceedings.*

(8) Section 47(4) presently reads:

*(4) The Provincial Court may exercise the powers of the Court under this section in respect of a notice or document filed in or authorized by the Provincial Court.*

(9) Section 49(b) presently reads:

*49 In this Part,*

- (b) “courtroom” means any place where a justice of the Court of Appeal or Court of Queen’s Bench, a judge of the Provincial Court or a justice of the peace holds court;*

**144** Amends chapter J-3 of the Revised Statutes of Alberta 2000.  
Section 4(d) presently reads:

*4 The following persons are excluded from serving as jurors:*

*(d) judges of the Provincial Court, justices of the Court of Appeal and Court of Queen's Bench and justices of the peace, whether retired or not;*

**145(1)** Amends chapter J-4 of the Revised Statutes of Alberta 2000.

(2) Section 1(a) presently reads:

*1 In this Act,*

*(a) "Chief Judge" means the Chief Judge of The Provincial Court of Alberta;*

(3) Section 5(2)(c) presently reads:

*(2) A non-presiding justice of the peace is appointed as a justice of the peace solely for the purposes of exercising the following, to the extent that their exercise is consistent with the constitutional requirements for independence, if any:*

*(c) adjourning cases where a judge of the Provincial Court or a sitting justice of the peace is not present;*

(4) Section 6(2) presently reads:

*(2) A justice of the peace who has been designated as a sitting justice of the peace may conduct a hearing or settlement conference or hear an application under Part 4 of the Provincial Court Act.*

(5) Section 9 presently reads:

*9 The Chief Judge of the Provincial Court*

*(a) shall supervise and assign duties to justices of the peace, and*

*(b) may delegate the supervision and assignment of duties referred to in clause (a) to a judge or a supernumerary judge of the Provincial Court.*

(6) Section 11 presently reads:

*11 A justice of the peace may at any time resign the position of justice of the peace in writing signed by the justice of the peace and delivered to the Chief Judge of the Provincial Court.*

(7) Section 12 presently reads in part:

*12(1) Where a sitting justice of the peace*

*(b) conducts a hearing or settlement conference or hears an application under Part 4 of the Provincial Court Act,*

*that sitting justice of the peace shall do the things referred to in subsection (2).*

*(2) Where subsection (1) applies, the sitting justice of the peace while carrying out the functions referred to in subsection (1)*

*(b) for the purpose of hearing, trying and determining the matter is, subject to the regulations, empowered to exercise all of the powers and perform all of the duties of a provincial court judge.*

(8) Section 13 presently reads:

*13 Sections 9.21, 9.5 and 9.51 of the Provincial Court Act apply to a justice of the peace in the same manner as if the justice of the peace were a provincial judge.*

**146** Amends chapter L-6 of the Revised Statutes of Alberta 2000. Section 4(1)(d) presently reads:

*4(1) Any person may use English or French in oral communication in proceedings before the following courts:*

*(d) The Provincial Court of Alberta.*

*4(1) Chacun peut employer le français ou l'anglais dans les communications verbales dans les procédures devant les tribunaux suivants de l'Alberta:*

*(d) la cour provinciale de l'Alberta.*

**147(1)** Amends chapter L-8 of the Revised Statutes of Alberta 2000.

(2) Section 33(a) presently reads:

*33 A person ceases to be a member of the Society on becoming*

*(a) a judge of the Court of Appeal, the Court of Queen's Bench or the Provincial Court of Alberta,*

(3) Section 106(2)(1) presently reads:

*(2) Subsection (1) does not apply to the following:*

*(1) a person permitted by statute to appear as the agent of another person before a justice of the peace, the Provincial Court or a provincial judge in respect of services provided by that person as an agent;*

(4) Consequential amendments.

**148(1)** Amends chapter M-1 of the Revised Statutes of Alberta 2000.

(2) Section 1(1)(d)(iv) and (e) presently read:

*1(1) In this Act,*

*(d) "maintenance" means maintenance, support or alimony and includes*

*(iv) an amount payable under a Queen's Bench protection order under the Protection Against Family Violence Act,*

*(e) "maintenance order" means an order or interim order of a court in Alberta, a Queen's Bench protection order under the Protection Against Family Violence Act or an order, other than a provisional order that has not been confirmed, registered under the Reciprocal Enforcement of Maintenance Orders Act or the Interjurisdictional Support Orders Act that has a provision requiring the payment of maintenance.*

(3) Section 10.1(4.1) presently reads:

*(4.1) Filing an agreement under subsection (1) does not affect the right of a party to the agreement to apply for a maintenance order in the Provincial Court.*

(4) Section 16(2) presently reads:

*(2) If a maintenance order filed under subsection (1) was made by the Provincial Court, the Court of Queen's Bench may from time to time vary the order either by altering the times of payment or by increasing or decreasing the amount, or may temporarily suspend the order as to the whole or any part of the money so ordered to be paid and may again revive the order wholly or in part, as the Court of Queen's Bench considers appropriate.*

(5) Section 31(6) and (7) presently read:

*(6) If on hearing an application the Court is satisfied that*

- (a) the debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, and*
- (b) with respect to property or funds that are legally owned or otherwise held by a corporation or other person, the debtor, or another person on behalf of the debtor, is exercising or has exercised authority over the corporation or other person,*

*the Court may make an order under subsection (7).*

*(7) If subsection (6) applies, the Court may by order do one or more of the following:*

- (a) for the purposes of payment of the arrears of maintenance payable under the maintenance order, direct that that property or those funds or any specific portion of that property or those funds is attached, is subject to seizure and sale or is subject to a continuing attachment, as the case may be;*
- (b) give any other directions that the Court considers appropriate in the circumstances;*

(c) *award costs.*

(6) Section 33 presently reads:

*33 Notwithstanding section 12 of the Court of Queen's Bench Act, an appeal lies to a judge of the Court of Queen's Bench by way of a new trial from an order of a master in chambers made under section 30.*

(7) Section 34 presently reads:

*34 The Court of Queen's Bench may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a maintenance order.*

(8) Consequential amendments.

**149(1)** Amends chapter M-5 of the Revised Statutes of Alberta 2000.

(2) Definition of Court.

(3) Consequential amendments.

**150** Amends chapter M-8 of the Revised Statutes of Alberta 2000. Section 1(a) presently reads:

*1 In this Act,*

*(a) "Court" means the Court of Queen's Bench;*

**151** Amends chapter M-10 of the Revised Statutes of Alberta 2000. Section 1(a)(ii) presently reads:

*1 In this Act,*

- (a) “court” means
- (ii) the Provincial Court,

**152(1)** Amends chapter M-13 of the Revised Statutes of Alberta 2000.

(2) Definitions of Court and judge.

(3) Sections 10 and 11 presently read in part:

*10(1) Anyone who has reasonable and probable grounds to believe that a person is*

- (a) suffering from mental disorder, and*
- (b) in a condition presenting or likely to present a danger to the person or others*

*may bring an information under oath before a provincial judge.*

*(2) If the provincial judge is satisfied that*

- (a) the person is in a condition presenting or likely to present a danger to the person or others, and*
- (b) an examination can be arranged in no other way,*

*the provincial judge may issue a warrant to apprehend that person for an examination.*

*(3) If the provincial judge issues a warrant under this section, the provincial judge shall also issue brief written reasons for the issuance of the warrant.*

*(7) Where a peace officer has not apprehended a person within 7 days from the date of the warrant, the warrant ceases to be effective unless, before the expiry of the 7-day period, a provincial judge extends the duration of the warrant under section 11.*

*11(1) On the application of a peace officer, a provincial judge may extend the duration of a warrant issued under section 10 on one occasion only for a period of up to 7 days from the day on which the warrant expires under that section.*

*(2) If, in the opinion of a peace officer, it would be impracticable to appear personally before a provincial judge to apply for an order in accordance with subsection (1), the peace officer may make the application by telephone or other means of telecommunication to a provincial judge.*

*(5) The information submitted by telephone or other means of telecommunication shall include a statement of the circumstances that make it impracticable for the peace officer to appear personally before a provincial judge.*

*(6) A provincial judge who is satisfied that an application made by telephone or other means of telecommunication*

- (a) conforms to the requirements of subsection (5), and*
- (b) discloses reasonable grounds for dispensing with personal appearance for the purpose of making an application under subsection (1)*

*may make an order extending the duration of the warrant for a period of up to 7 days from the day on which the warrant expires under section 10.*

*(7) If a provincial judge makes an order under subsection (6),*

- (a) the judge shall complete and sign an order in the prescribed form, noting on its face the date, time and place at which it was made,*
- (b) the peace officer, on the direction of the judge, shall complete, in duplicate, a facsimile of the order in the prescribed form, noting on its face the name of the provincial judge making the order and the date, time and place at which it was made, and*
- (c) the judge shall, as soon as practicable after the order has been made, cause the order to be filed with the clerk of the court.*

(4) Consequential amendments.



**153** Amends chapter M-14 of the Revised Statutes of Alberta 2000. Section 66(2) presently reads:

*(2) A judge of the Provincial Court who is satisfied by information on oath of a person authorized by the settlement council that*

*(a) there are reasonable grounds to believe that a nuisance exists in a dwelling house, or*

*(b) it is necessary to enter a dwelling house to inspect for compliance with this Act or the regulations or a settlement bylaw or General Council Policy under this Act,*

*may, ex parte or on such notice as the judge directs, issue a warrant in a form satisfactory to the judge authorizing the person named in the warrant to enter the dwelling house subject to any conditions that the judge considers appropriate.*

**154** Amends chapter M-18 of the Revised Statutes of Alberta 2000. Section 1 presently reads:

*1 In this Act, "Court" means the Court of Queen's Bench.*

**155** Amends chapter 23 of the Statutes of Alberta, 2001. Section 7(6)(a) presently reads:

*(6) Section 44 is amended*

*(a) in subsections (1) and (2) by adding "or of the Provincial Court" after "Bench";*

**156(1)** Amends chapter M-20 of the Revised Statutes of Alberta 2000.

(2) Section 1(1)(c)(i) presently reads:

*1(1) In this Act,*

*(c) "court" means*

(i) *the Provincial Court, or*

(3) The heading for Part 5 presently reads:

*Part 5  
The Provincial Court*

(4) Section 53(1)(a) presently reads:

*53(1) The Provincial Court has the jurisdiction to grant any remedy or relief under this Act other than*

*(a) giving a judgment for debt or damages in excess of the amount prescribed under the Provincial Court Act, or*

(5) Section 54 presently reads:

*54 The Provincial Court Act and the regulations made under that Act, to the extent they are not changed by or provided for in this Act or the regulations under this Act, apply to proceedings before the Provincial Court and to appeals from decisions of the Provincial Court.*

(6) Consequential amendments.

**157** Amends chapter N-6 of the Revised Statutes of Alberta 2000. Section 4 presently reads:

*4 Every provincial judge, master in chambers, judge of the Court of Queen's Bench and judge of the Court of Appeal is by virtue of that office a notary public for Alberta.*

**158** Amends chapter P-17 of the Revised Statutes of Alberta 2000. Sections 20(1)(o) and 47(1)(k) presently read:

*20(1) For the purpose of conducting an appeal or an inquiry before the Board, the following applies:*

(o) *a witness, other than one employed for a police service, attending a proceeding before the Board is entitled to the same fees and allowances as a witness summoned to attend at the Provincial Court unless otherwise provided for by a regulation made under this Act;*

47(1) *Where a hearing is proceeded with under section 45(3) or 46(4), the following applies:*

(k) *a witness, other than one employed for a police service, attending a hearing is entitled to the same fees and allowances as a witness summoned to attend at the Provincial Court unless otherwise provided for by a regulation made under this Act.*

**159** Amends chapter P-25 of the Revised Statutes of Alberta 2000. Section 10 presently reads:

*10 Nothing in this Act authorizes proceedings against the Crown under the Provincial Court Act or the Masters and Servants Act.*

**160(1)** Amends chapter P-27 of the Revised Statutes of Alberta 2000.

(2) Section 1(f), (g) and (h) presently read:

*1 In this Act,*

(f) *“judge” means a justice of the Court of Queen’s Bench, a judge of the Provincial Court or a designated justice of the peace;*

(g) *“protection order” means an emergency protection order and a Queen’s Bench protection order;*

(h) *“Queen’s Bench protection order” means an order granted under section 4;*

(3) Section 2 presently reads in part:

*2(1) An order under this section may be granted by a provincial court judge or a designated justice of the peace, on application without notice to the respondent, if the judge or justice of the peace determines*

- (a) that family violence has occurred, and*
- (b) that, by reason of seriousness or urgency, the order should be granted to ensure the immediate protection of the claimant.*

*(2) In determining whether an order should be granted, the provincial court judge or designated justice of the peace must consider, but is not limited to considering, the following:*

- (a) the nature of the family violence;*
- (b) the history of family violence by the respondent toward the claimant;*
- (c) the existence of any immediate danger to persons or property;*
- (d) the best interests of the claimant and any child of the claimant or any child who is in the care and custody of the claimant.*

*(3) An order under this section may include any or all of the following:*

- (g) any other provision that the provincial court judge or designated justice of the peace considers necessary to provide for the immediate protection of the claimant.*

*(4) An order under this section may be subject to any terms and conditions that the provincial court judge or designated justice of the peace considers appropriate.*

*(6) An order under this section must indicate the date, time and place at which the order is scheduled for review at a hearing by a justice of the Court of Queen's Bench, which may not be later than 7 working days after the granting of the order.*

(4) Section 3 presently reads:

*3(1) If a provincial court judge or a designated justice of the peace grants an emergency protection order, the judge or justice of the*

*peace must, immediately after granting the order, forward to the Court of Queen's Bench a copy of the order and all supporting documentation, including any notes.*

*(2) A hearing referred to in section 2(6) must be based on affidavit evidence and any other sworn evidence.*

*(3) The evidence that was before the provincial court judge or designated justice of the peace may also be considered as evidence at the hearing.*

*(4) At the hearing, the justice of the Court of Queen's Bench may, whether or not the claimant or the respondent is in attendance,*

*(a) revoke the order,*

*(b) direct that an oral hearing be held,*

*(c) confirm the order, in which case the order becomes an order of the Court of Queen's Bench, or*

*(d) revoke the order and grant an order under section 4.*

(5) Section 4(1) presently reads:

*4(1) An order under this section may be granted by a justice of the Court of Queen's Bench on application if the justice determines that the claimant has been the subject of family violence.*

(6) Consequential amendments.

(7) Section 6(4) presently reads:

*(4) An application to the Court of Queen's Bench under this Act must be made by originating notice unless it is further to proceedings that have been commenced.*

(8) Section 7(3) presently reads:

*(3) The Court of Queen's Bench may, on application, extend the term of a protection order for periods not exceeding one year each.*

(9) Section 8(1) presently reads:

*8(1) The clerks of the Court of Queen's Bench and of the Provincial Court must keep confidential any information relating to the location of a claimant unless the claimant or a person acting on the claimant's behalf consents to the giving of the information.*

**161(1)** Amends chapter P-28 of the Revised Statutes of Alberta 2000.

(2) Section 1(1)(b) presently reads:

*1(1) In this Act,*

*(b) "Court" means the Provincial Court;*

(3) Section 6.1 presently reads:

*6.1 In sections 6.2 to 6.5, "Court" means the Provincial Court and the Court of Queen's Bench.*

(4) Consequential amendments.

**162(1)** Amends chapter P-34 of the Revised Statutes of Alberta 2000.

(2) Section 1(c) presently reads:

*1 In this Act,*

*(c) "Court" means The Provincial Court of Alberta;*

(3) Sections 26(1) and 36(1) presently read:

*26(1) When authorized by the regulations or a bylaw or ministerial order under section 44 and by a summons served on a defendant, the defendant who wishes to plead guilty may make a voluntary payment in respect of a summons by delivering on or before the initial appearance date the summons together with*

- (a) *an amount equal to the combined amounts of the specified penalty for the offence as provided for in the regulations and the applicable surcharge, if any, or*
- (b) *if the defendant is charged with an offence under a bylaw or ministerial order, an amount equal to the specified penalty for the offence as provided in the relevant bylaw or ministerial order,*

*to a Court office at a location prescribed under section 9(2)(a) of the Provincial Court Act or, where permitted by regulation, to a person acting as an agent of the Court for the purpose of receiving voluntary payments.*

*36(1) If an offence notice is served on a defendant and the defendant wishes to plead guilty to the charge, the defendant may make a voluntary payment by delivering the offence notice together with an amount equal to the specified penalty and the applicable surcharge, if any, to a court office at a location prescribed under section 9(2)(a) of the Provincial Court Act or, where permitted by regulation, to a person acting as an agent of the Court for the purposes of receiving payment in the amount of the specified penalty.*

**163** Amends chapter P-37 of the Revised Statutes of Alberta 2000. Sections 30(3) and 47(1) and (2) presently read:

*(3) When the medical officer of health is not able to complete the investigation within 24 hours, the medical officer of health may make an application to a provincial court judge for an order to extend the period of detention or closure under subsection (2) for an additional period of not more than 7 days, and the judge may make the order accordingly.*

*47(1) Any person who has reasonable and probable grounds to believe that a person*

- (a) *is infected with a disease prescribed in the regulations for the purpose of this section, and*
- (b) *refuses or neglects*
  - (i) *to submit*

- (A) *to a medical examination for the purpose of ascertaining whether the person is infected with the disease, or*
- (B) *to medical, surgical or other remedial treatment that has been prescribed by a physician and that is necessary to render the person non-infectious, or*
- (ii) *to comply with any other conditions that have been prescribed by a physician as being necessary to mitigate the disease or limit its spread to others,*

*may bring an information under oath before a provincial court judge.*

*(2) Where an information is brought before a provincial court judge under subsection (1) and the judge is satisfied that the person with respect to whom the information is brought should be examined in the interests of the person's own health or the health of others and that the examination cannot reasonably be arranged in any other way, the judge may issue a warrant in the prescribed form to apprehend that person for the purpose of the examination.*

**164** Amends chapter P-39 of the Revised Statutes of Alberta 2000. Section 7(3) presently reads:

*(3) If a commissioner who is also a judge of the Court of Appeal, the Court of Queen's Bench or the Provincial Court is of the opinion that a view or inspection of any public building will assist the inquiry, the commissioner may issue an order permitting any person whom the commissioner names in the order, together with any peace officer that person calls on for assistance, to enter, if necessary by force, and view or inspect the public building.*

**165(1)** Amends chapter R-17 of the Revised Statutes of Alberta 2000.

(2) Section 1(1)(c)(i) presently reads:

*1(1) In this Act,*

*(c) "court" means*



(i) *the Provincial Court, or*

(3) The heading for Part 5 presently reads:

*Part 5  
The Provincial Court*

(4) Section 50(1)(a) presently reads:

*50(1) The Provincial Court has the jurisdiction to grant any remedy or relief under this Act other than*

*(a) giving a judgment for debt or damages in excess of the amount prescribed under the Provincial Court Act, or*

(5) Section 51 presently reads:

*51 The Provincial Court Act and the regulations made under that Act to the extent they are not changed by or provided for in this Act or the regulations under this Act apply to proceedings before the*

*Provincial Court and to appeals from decisions of the Provincial Court.*

(6) Consequential amendments.

**166(1)** Amends chapter S-3 of the Revised Statutes of Alberta 2000.

(2) Section 14(1)(b) presently reads:

*14(1) In this section,*

*(b) “judge” means a judge of the Provincial Court;*

(3) Section 127(1)(d) and (n) presently read:

*127(1) For the purpose of conducting a hearing before the Attendance Board, the following apply:*

- (d) *if a person fails to attend, to answer questions or to produce an item as required under clause (b) or (c) or subsection (2) or (3), the Attendance Board may apply to the Court of Queen's Bench for an order committing that person for contempt in the same manner as if that person were in breach of an order or judgment of that Court;*
- (n) *a witness attending a proceeding before the Attendance Board may be paid the same fees and allowances as a witness summoned to attend at the Provincial Court unless otherwise prescribed in the regulations;*

(4) Section 128(3) and (4) presently read:

*(3) A copy of an order of the Attendance Board made under subsection (1) may be filed with the clerk of the Court of Queen's Bench in the judicial district in which the cause of the proceedings before the Attendance Board arose.*

*(4) On the filing of a copy of an order with the clerk of the Court of Queen's Bench pursuant to subsection (3), the order of the Attendance Board has the same force and effect as if the order were an order of that Court.*

**167** Amends chapter S-20 of the Revised Statutes of Alberta 2000. Section 26 presently reads:

*26(1) When a person believes that any other person owns or has in that other person's possession a dog that within one month before the date of an application under this section has worried, injured or destroyed livestock or domestic fowl outside land owned or occupied by the owner or person in possession of the dog, the person who so believes may apply to the Provincial Court for an order that the dog be killed.*

*(2) When the Provincial Court finds that a dog has, within one month before the date of the application under subsection (1), worried, injured or destroyed livestock or domestic fowl outside the land occupied by the owner or person in possession of the dog, the Provincial Court may*

- (a) order the dog to be killed, or*

- (b) *make any other order the Court considers appropriate in the circumstances.*

**168(1)** Amends chapter T-4 of the Revised Statutes of Alberta 2000.

(2) Section 23(5) presently reads:

(5) *If an officer*

- (a) *is refused entry into premises or a place referred to in subsection (3),*
- (b) *is not given consent to enter a dwelling house,*
- (c) *has reasonable grounds to believe that*
  - (i) *the officer will be refused entry into premises or a place referred to in subsection (2), or*
  - (ii) *the officer will not be given consent to enter a dwelling house,*

*or*

- (d) *is impeded or has reasonable grounds to believe that the officer will be impeded in the carrying out of an inspection, audit or examination of any record, document, item or thing,*

*the officer may apply to a judge of The Provincial Court of Alberta for an order authorizing the officer to enter the premises, place or dwelling house and carry out the officer's inspection, audit or examination.*

(3) Section 24(4)(a) presently reads:

- (4) *Following a seizure under subsection (3), other than a seizure of tobacco in or near a vehicle, the officer shall, within a reasonable time,*
  - (a) *furnish a judge of the Provincial Court with an affidavit stating that the officer has reasonable and probable grounds to believe that the person named in the affidavit has committed an offence under this Act or the regulations, or*

**169(1)** Amends chapter T-6 of the Revised Statutes of Alberta 2000.

(2) Section 170 presently reads in part:

*(3) When a peace officer has seized a vehicle pursuant to subsection (2), the peace officer shall, as soon as practicable after the seizure, apply to the Provincial Court for an order permitting the examination, testing or detention of the seized vehicle.*

*(4) On application under subsection (3), the Provincial Court may, if it considers it appropriate in the circumstances, do one or more of the following:*

*(a) order the examination or testing of the seized vehicle;*

*(b) order the further detention and storage of the vehicle;*

*(c) order the release of the vehicle to any person with a rightful claim to it, with or without a requirement that the person deposit with the Court security not exceeding the amount that*

*the Court may grant in damages under the Provincial Court Act.*

*(5) An order made under subsection (4) may be renewed, amended or extended on application to the Provincial Court.*

*(6) In hearing an application pursuant to subsection (4), the Provincial Court may, if it orders the vehicle to be released to a person with a rightful claim to it without the requirement of any deposit of security with the Court, order that the costs referred to in section 63(1) be paid*

*(a) in any case where the seizure was effected by a member of a municipal police service, by the municipality, or*

*(b) in any other case, by the Crown in right of Alberta.*

*(7) In hearing a trial of any offence relating to any vehicle seized pursuant to this section the Provincial Court may, if the person with a rightful claim to the vehicle is not convicted of any offence relating to the vehicle, order that the costs referred to in section 63(1) be paid*

- (a) *in any case where the seizure was effected by a member of a municipal police service, by the municipality, or*
- (b) *in any other case, by the Crown in right of Alberta.*

(3) Section 171 presently reads in part:

*(2) When a peace officer has seized a vehicle pursuant to subsection (1), the peace officer shall, as soon as practicable after the seizure, apply to the Provincial Court for an order permitting the seized vehicle to be detained until the final disposition of any proceedings that may be taken under this Act in respect of the offence for which the vehicle was seized.*

*(3) On application under subsection (2), the Provincial Court may, if it considers it appropriate in the circumstances, do one or more of the following:*

- (a) *order that the seized vehicle be detained until the final disposition of any proceedings taken under this Act in respect of the offence for which the vehicle was seized;*
- (b) *order that the seized vehicle be detained for a period of time that is less than that provided for under clause (a);*
- (c) *order the release of the vehicle to any person with a rightful claim to it, with or without a requirement that the person deposit with the Court security not exceeding the amount that the Court may grant in damages under the Provincial Court Act.*

*(4) An order made under subsection (3) may be renewed, amended or extended on application to the Provincial Court.*

*(5) In hearing an application pursuant to subsection (3), the Provincial Court may, if it orders the vehicle to be released to a person with a rightful claim to it without the requirement of any deposit of security with the Court, order that the costs referred to in section 63(1) be paid*

- (a) *in any case where the seizure was effected by a member of a municipal police service, by the municipality, or*
- (b) *in any other case, by the Crown in right of Alberta.*

*(6) In hearing a trial of the offence in respect of which the vehicle was seized the Provincial Court may, if the person with a rightful claim to the vehicle is not convicted of any offence relating to the vehicle, order that the costs referred to in section 63(1) be paid*

*(a) in any case where the seizure was effected by a member of a municipal police service, by the municipality, or*

*(b) in any other case, by the Crown in right of Alberta.*

**170** Amends chapter T-7 of the Revised Statutes of Alberta 2000. Section 7(1) presently reads:

*7(1) Nothing in this Act authorizes the Provincial Court to hear and determine a case of trespass in which the title to premises, or to any interest in the premises, is called in question or affected.*

**171** Amends chapter V-3.5 of the Statutes of Alberta, 2001. Section 54 presently reads:

*54 If the Provincial Court makes an order directing the payment of money or the transfer of property under this Act, that order may be filed in the Court of Queen's Bench and on being filed in the Court of Queen's Bench that order becomes a judgment of the Court of Queen's Bench.*

**172** Amends chapter W-3 of the Revised Statutes of Alberta 2000. Section 132 presently reads in part:

*(2) An information submitted by telephone or other means of telecommunication must be on oath and must be recorded verbatim by the justice, who must, as soon as practicable, cause to be filed with the clerk of The Provincial Court of Alberta nearest to the area in which the tele-warrant is intended for execution, the record or a transcription of the record certified by the justice as to time, date and contents.*

*(6) If a justice issues a tele-warrant under subsection (5),*

*(c) the justice must, as soon as practicable after the tele-warrant has been issued, cause the tele-warrant to be filed with the*

*clerk of The Provincial Court of Alberta nearest to the area in which the tele-warrant is intended for execution.*

*(9) An investigator to whom a tele-warrant is issued under subsection (5) must file a written report with the clerk of The Provincial Court of Alberta nearest to the area in which the tele-warrant was intended for execution as soon as is practicable but within a period not exceeding 7 days after the tele-warrant was executed, which report must include*

- (a) a statement of the time and date the tele-warrant was executed, or if the tele-warrant was not executed, a statement of the reasons why it was not executed,*
- (b) a statement of the things, if any, that were seized pursuant to the tele-warrant and the location where they are being held, and*
- (c) a statement of the information, data, records, reports, documents and things, if any, that were seized in addition to the things mentioned in the tele-warrant and the location where they are being held, together with a statement of the investigator's grounds for believing that those additional things had been obtained by, or used in, the commission of an offence under this Act.*

*(10) The clerk of The Provincial Court of Alberta with whom a written report is filed pursuant to subsection (9) must, as soon as is practicable, cause the report, together with the information on oath and the tele-warrant to which it pertains, to be brought before a justice to be dealt with in respect of anything that was seized and is referred to in the report, in the same manner as if the things were seized pursuant to a search warrant issued by a justice on an information presented personally by an investigator.*

**173(1)** Amends chapter Y-1 of the Revised Statutes of Alberta 2000.

(2) Section (1)(n) and (o) presently read:

*1(1) In this Act,*

- (n) "youth court" means the Provincial Court and includes a youth court judge and a justice;*

(o) “youth court judge” means a person appointed as a judge of the Provincial Court;

(3) Section 26(1) presently reads:

*26(1) The youth court has the same power, jurisdiction and authority to deal with and impose punishment for contempt against the court as may be exercised by the Provincial Court.*

**174** Repeals chapter P-31 of the Revised Statutes of Alberta 2000.

**175** Coming into force.