

2010 Bill 18

Third Session, 27th Legislature, 59 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 18

GOVERNMENT ORGANIZATION AMENDMENT ACT, 2010

THE MINISTER OF INTERNATIONAL AND
INTERGOVERNMENTAL RELATIONS

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 18

2010

GOVERNMENT ORGANIZATION AMDEMENT ACT, 2010

(Assented to _____, 2010)

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

Amends RSA 2000 cG-10

1 The *Government Organization Act* is amended by this Act.

2 Schedule 6 is amended

(a) **by repealing the heading preceding section 2 and
section 2 and substituting the following:**

Domestic Trade Agreements

Definition

2 In sections 2.1, 2.2 and 4 to 4.4, “domestic trade
agreement” means

- (a) the Agreement on Internal Trade entered into on or about July 18, 1994 by the Government of Alberta, the Government of Canada and the governments of the other provinces of Canada and the Northwest Territories and Yukon, including any amendments to the agreement,
- (b) subject to the regulations, a trade enhancement arrangement entered into by the Government of Alberta that is consistent with Article 1800 of the Agreement on Internal Trade referred to in clause (a), including any amendments to the trade enhancement arrangement, or

Explanatory Notes

1 Amends chapter G-10 of the Revised Statutes of Alberta 2000.

2 Schedule 6 presently reads in part:

Agreement on Internal Trade

2 The Minister may appoint one or more persons as screeners under Article 1713 of the Agreement on Internal Trade.

3(1) The Ombudsman may be appointed as a screener.

(2) If the Ombudsman is to be appointed as a screener, the appointment must be made by the Lieutenant Governor in Council with the prior approval of the Legislative Assembly.

(3) If the Legislative Assembly is not sitting, the Lieutenant Governor in Council may appoint the Ombudsman as a screener with the prior approval of the Standing Committee on Legislative Offices, but the appointment must be confirmed by the Legislative Assembly within 30 days after the commencement of the next sitting of the Legislative Assembly.

(4) If an appointment under subsection (3) is not confirmed within 30 days after the commencement of the next sitting of the Legislative Assembly, the appointment of the Ombudsman as a screener lapses.

- (c) an agreement that is designated in the regulations as a domestic trade agreement, including any amendments to the agreement.

(b) by adding the following after section 2:

Assigning responsibilities of Government

2.1 Unless otherwise provided by a domestic trade agreement, the Minister is responsible for

- (a) carrying out on behalf of the Government of Alberta any of its powers or duties under the agreement, and
- (b) exercising on behalf of the Government of Alberta any discretion it has under the agreement.

Appointment of screeners and other officials

2.2 The Minister may appoint

- (a) one or more persons as screeners for the purposes of a domestic trade agreement that provides for the appointment of one or more screeners, and
- (b) a person to any position that may be necessary or advisable for the purposes of a domestic trade agreement, unless otherwise provided by the agreement.

(c) by repealing section 4 and substituting the following:

Enforcement of awards

4(1) In this section, “award” means an award or order for costs or a monetary award or monetary penalty that

- (a) is made under a provision of a domestic trade agreement, and
- (b) is not subject to review or appeal, as determined in accordance with the provisions of the agreement.

(2) If an award is made against the Government of Alberta under a domestic trade agreement and the agreement contains provisions providing for the award to be enforceable against the Government of Alberta as if it were an order of the Court of Queen’s Bench, the person or party to the agreement entitled to the award may at any time file a certified copy of the award or

(5) The appointment of the Ombudsman as a screener may be rescinded at any time by the Lieutenant Governor in Council with the prior approval of the Standing Committee on Legislative Offices, but the rescission must be confirmed by the Legislative Assembly within 30 days after the commencement of the next sitting of the Legislative Assembly.

(6) If a matter is referred to the Ombudsman as screener and in the opinion of the Ombudsman there is a conflict with respect to that matter between the Ombudsman's function as Ombudsman and the Ombudsman's function as screener, the Ombudsman must inform the Minister and the Standing Committee on Legislative Offices of that conflict.

(7) On being informed by the Ombudsman under subsection (6), the Minister may designate another person appointed as a screener to carry out the matter.

(8) A person employed or engaged in the Office of the Ombudsman may provide assistance to the Ombudsman in carrying out the Ombudsman's function as screener.

4 Where a panel has made an award of costs under Article 1718(3) of the Agreement on Internal Trade, the person entitled to the award may at any time file a certified copy of that award with the clerk of the Court of Queen's Bench, and on being filed with the clerk of the Court of Queen's Bench that award has the same force and effect as if it were a judgment of the Court of Queen's Bench.

the document containing the award with the clerk of the Court of Queen's Bench.

(3) On an award or a document containing an award being filed with the clerk of the Court of Queen's Bench under subsection (2), the award has the same force and effect as if it were a judgment of the Court of Queen's Bench.

(4) For the purposes of subsection (2), a copy of an award or a document containing an award must be certified as being a true copy by the appropriate official or body designated in the regulations.

(d) by adding the following after section 4:

Prohibition on private cause of action

4.1(1) Subject to subsection (2), no legal proceeding lies or may be brought or continued against the Government of Alberta or another person to enforce or determine a right or obligation that is claimed or arises solely under

- (a) a domestic trade agreement, or
- (b) a domestic trade agreement as interpreted by a decision issued by the Government of Alberta and the other party or parties to the agreement under a provision of the agreement that authorizes the parties to declare their interpretation of the agreement.

(2) Subsection (1) does not apply to

- (a) a proceeding that is provided for under the dispute resolution provisions of a domestic trade agreement, or
- (b) a proceeding to enforce an award that is filed with the clerk of the Court of Queen's Bench under section 4(2).

(3) No legal proceeding lies or may be brought or continued against the Government of Alberta for compensation, damages or any other remedy for anything arising as a consequence of a decision issued under a provision of a domestic trade agreement by the Government of Alberta and the other party or parties to the agreement declaring the parties' interpretation of the agreement.

(4) This section is deemed to have come into force on April 1, 2007.

Information sharing

4.2 Where information that

- (a) is subject to any type of legal privilege, including solicitor-client privilege and parliamentary privilege,
- (b) is subject to any kind of confidence, including Cabinet confidence, Treasury Board confidence and intergovernmental confidence, or
- (c) is supplied, explicitly or implicitly, in confidence,

is disclosed under an agreement entered into by the Government of Alberta and another party to a domestic trade agreement, under a regulation made under section 4.4(e) or otherwise pursuant to a domestic trade agreement, the disclosure of that information does not waive or negate any privilege or confidence attached to that information, and the privilege or confidence continues for all purposes.

Application of Arbitration Act

4.3 The *Arbitration Act* does not apply to a domestic trade agreement unless the agreement provides that the *Arbitration Act* applies, in which case it applies only to the extent provided for in the agreement.

Regulations respecting domestic trade agreements

4.4 The Minister may make regulations

- (a) defining words or expressions used but not defined in sections 2 to 4.3;
- (b) providing that a trade enhancement arrangement entered into by the Government of Alberta that is consistent with Article 1800 of the Agreement on Internal Trade is not a domestic trade agreement for the purposes of section 2(b);
- (c) designating agreements as domestic trade agreements for the purposes of section 2(c);

- (d) designating officials or bodies for the purposes of section 4(4);
- (e) respecting the collection, use and disclosure of information, including personal information, for the purposes of consultation under and compliance with the requirements of a domestic trade agreement;
- (f) respecting any matter the Minister considers necessary or advisable to carry out the intent and purposes of sections 2 to 4.3.

3 Schedule 6.1 is repealed.

4 Section 3 comes into force on Proclamation.

3 Repeal of the Schedule relating to the Trade, Investment and Labour Mobility Agreement.

4 Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To
Stage	Date	Member	From	To
		Questions and Comments	From	To