

2014 Bill 8

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Third Session, 28th Legislature, 63 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 8**

**JUSTICE STATUTES  
AMENDMENT ACT, 2014**

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MS KENNEDY-GLANS

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First Reading . . . . .

Second Reading . . . . .

Committee of the Whole . . . . .

Third Reading . . . . .

Royal Assent . . . . .

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*Bill 8*  
*Ms Kennedy-Glans*

## **BILL 8**

2014

### **JUSTICE STATUTES AMENDMENT ACT, 2014**

*(Assented to , 2014)*

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

#### **Court of Queen's Bench Act**

##### **Amends RSA 2000 cC-31**

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

**(2) Section 8.2 is amended**

**(a) in subsection (3) by striking out "Lieutenant Governor in Council" and substituting "Minister";**

**(b) by repealing subsection (5) and substituting the following:**

**(5) Where the Chief Justice makes a request under subsection (2) in respect of a master in chambers, the Lieutenant Governor in Council shall, subject to subsection (6), reappoint the master in chambers for a term of one year.**

**(5.1) Where the Chief Justice makes a request under subsection (3) in respect of a master in chambers, the Minister shall, subject to subsection (6), reappoint the master in chambers for a term of one year.**

**(c) in subsection (7) by striking out "(5)" and substituting "(5.1)".**

## Explanatory Notes

### Court of Queen's Bench Act

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

(2) Section 8.2 presently reads in part:

*8.2(1) Notwithstanding section 8.1(1), a master in chambers may, in accordance with this section, be reappointed as a master in chambers.*

*(2) Where a master in chambers is approaching the age of 70 years, the Chief Justice may request that the Lieutenant Governor in Council reappoint that person as a master in chambers for a term of one year.*

*(3) Where a master in chambers has been reappointed as a master in chambers under this section, the Chief Justice may request that the Lieutenant Governor in Council reappoint that person as a master in chambers for a further term of one year.*

*(4) The Chief Justice may request the reappointment of a person as a master in chambers under this section if*

**(3) Section 8.21 is amended**

**(a) in subsection (5) by striking out “Lieutenant Governor in Council” and substituting “Minister”;**

**(b) by repealing subsection (7) and substituting the following:**

**(7)** Where the Chief Justice makes a request under subsection (2), (3) or (4), the Lieutenant Governor in Council shall, subject to subsection (8), appoint the person in respect of whom the request is made as a half-time master in chambers for a term set out in subsection (9).

- (a) *the Chief Justice 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 Justice and approved by the Judicial Council.*

*(5) Where the Chief Justice requests that the Lieutenant Governor in Council reappoint a master in chambers for a term of one year, the Lieutenant Governor in Council shall, subject to subsection (6), reappoint that master in chambers for a term of one year.*

*(6) A reappointment of a master in chambers under this section may be made only if*

- (a) *a request for the reappointment has been made under subsection (2) or (3),*
- (b) *the master in chambers in respect of whom the request has been made has consented to the reappointment,*
- (c) *the master in chambers is not nor has been an ad hoc master in chambers, and*
- (d) *the master in chambers has not attained the age of 75 years.*

*(7) A master in chambers who has been reappointed under this section may, subject to subsection (6), be reappointed under subsection (5) for further terms of one year.*

(3) Section 8.21 presently reads in part:

*8.21(1) Notwithstanding section 8.1(1), a master in chambers may, in accordance with this section, be appointed as a half-time master in chambers.*

*(2) Where a master in chambers*

- (a) *has attained the age of 60 years and has completed 10 years of service as a master in chambers, and*
- (b) *states in writing to the Chief Justice that the master in chambers is prepared to retire as a full-time master in chambers in order to be appointed as a half-time master in chambers,*

**(7.1)** Where the Chief Justice makes a request under subsection (5), the Minister shall, subject to subsection (8), reappoint the person in respect of whom the request is made as a half-time master in chambers for a term set out in subsection (9).

*the Chief Justice may request that the Lieutenant Governor in Council appoint that person as a half-time master in chambers on that person's retirement as a full-time master in chambers if the Chief Justice determines that the appointment will enhance the efficient and effective administration of the Court.*

*(3) Where a master in chambers*

- (a) is approaching the age of 70 years but has not attained age 70, and*
- (b) states in writing to the Chief Justice that the master in chambers is prepared to retire at age 70 as a full-time master in chambers in order to be appointed as a half-time master in chambers,*

*the Chief Justice may request that the Lieutenant Governor in Council appoint that person as a half-time master in chambers on that person's retirement as a full-time master in chambers if the conditions in subsection (6) are met.*

*(4) Where a master in chambers*

- (a) has been reappointed as a full-time master in chambers pursuant to section 8.2, and*
- (b) states in writing to the Chief Justice that the master in chambers is prepared to retire as a full-time master in chambers in order to be appointed as a half-time master in chambers,*

*the Chief Justice may request that the Lieutenant Governor in Council appoint that person as a half-time master in chambers on that person's retirement as a full-time master in chambers if the conditions in subsection (6) are met.*

*(5) Where a master in chambers*

- (a) is a half-time master in chambers and the appointment is about to expire, and*
- (b) states in writing to the Chief Justice that the master in chambers is prepared to be reappointed as a half-time master in chambers,*





*the Chief Justice may request that the Lieutenant Governor in Council reappoint that person for one year as a half-time master in chambers if the conditions in subsection (6) are met.*

*(6) A request under subsection (3), (4) or (5) may be made if*

- (a) the Chief Justice determines that the appointment under subsection (3) or (4) or the reappointment under subsection (5) 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 Justice and approved by the Judicial Council.*

*(7) Where a request is made under subsection (2), (3), (4) or (5), the Lieutenant Governor in Council shall, subject to subsection (8), appoint or reappoint the person as a half-time master in chambers for a term set out in subsection (9).*

*(8) An appointment or reappointment of a master in chambers as a half-time master in chambers shall be made only if*

- (a) the master in chambers has consented to the appointment or reappointment,*
- (b) the master in chambers is not nor has been appointed as an ad hoc master in chambers, and*
- (c) the master in chambers has not attained the age of 75 years.*

*(9) The term for which a half-time master in chambers is appointed or reappointed under this section is as follows:*

- (a) if the request for appointment is made under subsection (2), the term commences on the date the master is appointed as a half-time master and expires on the commencement of the master's 70th birthday;*
- (b) if the request for appointment is made under subsection (3), the term is one year commencing on the master's 70th birthday;*
- (c) if the request for appointment is made under subsection (4), the term commences on the date the master is appointed as a half-time master and expires on the commencement of the master's next birthday;*

**(4) The following is added after section 16:**

#### **Case Management Counsel**

##### **Appointment of case management counsel**

**16.1** In accordance with the *Public Service Act*, there may be appointed officers of the Court called case management counsel as the business of the Court requires.

##### **Power and duties of case management counsel**

**16.2(1)** Subject to this section, a case management counsel may perform all duties with respect to the case management of matters before the Court that are

- (a) assigned by the Chief Justice, or
- (b) expressly assigned for performance by a case management counsel in the *Alberta Rules of Court*.

**(2)** The powers and duties of a case management counsel do not include functions that require judicial independence and those functions shall not be assigned to case management counsel by the Chief Justice.

**(5) The heading preceding section 17 is repealed and the following is substituted:**

#### **Officers and Employees Generally**

##### **Estate Administration Act**

**Amends SA 2014 cE-12.5**

**2(1)** The *Estate Administration Act* is amended by this section.

**(2)** Section 10(1) is repealed and the following is substituted:

*(d) if the request for reappointment is made under subsection (5), the term is one year commencing on the expiry of the previous appointment.*

(4) Adds sections dealing with “Case Management Counsel”.

(5) The heading preceding section 17 presently reads:

*Officers and Employees*

### **Estate Administration Act**

**2(1)** Amends chapter E-12.5 of the Statutes of Alberta, 2014.

(2) Section 10(1) presently reads:

*10(1) A personal representative named in a will who acts in the administration of the estate without applying for a grant must serve, in accordance with the Rules,*

**Personal representative's notice when acting without a grant**

**10(1)** A personal representative named in a will who acts in the administration of the estate without applying for a grant must provide, in accordance with the Rules,

- (a) to the beneficiaries of the deceased person, the personal representative's notice to beneficiaries described in subsection (2),
- (b) to any family members of the deceased person, an attorney, a trustee, the Public Trustee or a guardian, on whom a notice would be required to be served under section 11(1) on application for a grant, a personal representative's notice to family members,
- (c) to a spouse of the deceased person on whom a notice would be required to be served under section 11(2) on application for a grant, a personal representative's notice to a spouse, and
- (d) to the Public Trustee and to the other persons referred to in section 12, as applicable, a personal representative's notice, as required by the Rules.

**(3) Section 12(1) is amended by striking out** "a copy of the application and".

- (a) *on the beneficiaries of the deceased person, the personal representative's notice to beneficiaries described in subsection (2),*
- (b) *on any family members of the deceased person, an attorney, a trustee, the Public Trustee or a guardian, on whom a notice would be required to be served under section 11(1) on application for a grant, a personal representative's notice to family members,*
- (c) *on a spouse of the deceased person on whom a notice would be required to be served under section 11(2) on application for a grant, a personal representative's notice to a spouse, and*
- (d) *on the Public Trustee and on the other persons referred to in section 12, as applicable, a personal representative's notice, as required by the Rules.*

(3) Section 12(1) presently reads:

*12(1) Unless otherwise ordered by the Court, an applicant for a grant must serve a copy of the application and a notice in accordance with the Rules on the following, as applicable:*

- (a) *an attorney acting for a person who is interested in the estate;*
- (b) *the trustee of a represented adult who is interested in the estate;*
- (c) *the Public Trustee, if any of the following are interested in the estate to which the application pertains:*
  - (i) *a minor;*
  - (ii) *a person who was a minor on the date of the deceased person's death;*
  - (iii) *a missing person as defined in the Public Trustee Act;*

**(4) Section 18(4)(a) is amended by striking out “and” and substituting “or”.**

**(5) Section 19(4)(a) is amended by striking out “and” and substituting “or”.**

**(6) Section 25 is amended by adding “and specify the value of any security held by the claimant wholly or partially to secure the claim” after “verify his or her claim”.**

**(7) Section 26(1) and (2) are repealed and the following is substituted:**

**Deciding contested claims**

**26(1)** If a claim is made against an estate or if the personal representative receives notice of a claim, the personal representative may contest the claim in whole or in part in accordance with the Rules.

*(d) the guardian of a minor referred to in clause (c)(i).*

(4) Section 18(4) presently reads:

*(4) A foreign grant must not be resealed under this section until*

*(a) a certificate has been issued by the registrar, clerk or other officer of the court that issued the foreign grant that security in a sum sufficient to cover the property of the deceased person in Alberta has been given to that court or is not required by that court, and*

*(b) security in a sum sufficient to cover the property of the deceased person in Alberta has been given to the Court as in the case of an application for an original grant or is not required by the Court.*

(5) Section 19(4) presently reads:

*(4) An ancillary grant must not be issued under this section until*

*(a) a certificate has been issued by the registrar, clerk or other officer of the court that issued the foreign grant that security in a sum sufficient to cover the property of the deceased person in Alberta has been given to that court or is not required by that court, and*

*(b) security in a sum sufficient to cover the property of the deceased person in Alberta has been given to the Court as in the case of an application for an original grant, or is not required by the Court.*

(6) Section 25 presently reads:

*25 Every claimant must, if required to do so by the personal representative, verify his or her claim in accordance with the Rules.*

(7) Section 26 presently reads:

*26(1) If a claim is made against an estate or if the personal representative receives notice of a claim, the personal representative may apply to the Court to contest the claim in whole or in part.*

(2) If the claimant does not make an application in accordance with the Rules within 2 months after the receipt of a notice under the Rules that the claim is being contested, the claimant's claim is barred.

**(8) Section 38(1)(a) is amended by striking out “grant” and substituting “will”.**

**(9) Section 46(3) is repealed and the following is substituted:**

(3) After a caveat is filed no further proceedings may be taken with respect to the application for a grant until the caveat

- (a) has expired,
- (b) has been discharged or withdrawn, or
- (c) has been otherwise dealt with in accordance with the Rules.

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

**(a) by repealing the new section 12.1(3) and substituting the following:**

(3) After a caveat is filed no further proceedings may be taken with respect to the application for a grant until the caveat

- (a) has expired,
- (b) has been discharged or withdrawn, or



*(2) If, within 2 months after the receipt of the notice of contestation under subsection (1), the claimant does not make an application in accordance with the Rules, the claimant's claim is barred.*

*(3) This section applies to a claim not presently payable and for which, for that reason, an action for the recovery of the claim could not be brought, but if such a claim is established under this section, no proceeding may be commenced to enforce payment without the permission of the Court.*

(8) Section 38(1) presently reads:

*38(1) If a person named in a will as a personal representative renounces probate of the will,*

*(a) the person's authority under the grant ceases, and*

*(b) the person's authority with respect to any trusteeship under the will ceases, except insofar as the renunciation expressly reserves the trusteeship.*

(9) Section 46(3) presently reads:

*(3) After a caveat is filed no further proceedings may be taken with respect to the application for a grant until the caveat has expired or has been discharged or withdrawn.*

(10) Section 53(4) presently reads:

*(4) The following is added after section 12:*

*12.2(1) Unless it is discharged or withdrawn in accordance with this Act and the Rules, a caveat remains in force for 3 months from the date it was filed, unless the Court orders otherwise.*

*(2) If a caveat has expired or has been discharged or withdrawn in accordance with this Act and the Rules, no further caveat in respect of the same trusteeship order may be*

(c) has been otherwise dealt with in accordance with the rules.

(b) **in the new section 12.2(2) by striking out “trusteeship order” and substituting “minor”.**

### **Family Law Act**

**Amends SA 2003 cF-4.5**

**3(1) The *Family Law Act* is amended by this section.**

**(2) The following is added after section 51:**

#### **Mandatory clauses concerning recalculation**

**51.1** Effective March 1, 2015, in making a child support order, the court shall include the mandatory clauses concerning recalculation that are required by the regulations under section 55.8(a.1).

**(3) Section 55.11 is amended by adding the following after subsection (2):**

**(2.1)** The recalculation program shall perform a recalculation under subsection (2) on a date that the recalculation program considers appropriate, even if the child support order specifies an annual recalculation date other than the date that the recalculation program considers appropriate.

*filed by or on behalf of the same caveator without the permission of the Court.*

*12.3 A person whose application for a trusteeship order is affected by a caveat may apply in accordance with the Rules requesting that the caveator be required to show cause why the caveat should not be discharged.*

### **Family Law Act**

**3(1)** Amends chapter F-4.5 of the Statutes of Alberta, 2003.

(2) Mandatory clauses concerning recalculation.

(3) Section 55.11 presently reads:

*55.11(1) There is hereby established a child support service to be known as the child support recalculation program.*

*(2) The recalculation program may, if a child support order meets the criteria established in the regulations under this Division, recalculate annually*

*(a) the amount of child support specified in the child support order that was determined in accordance with the applicable table of the child support guidelines, and*

*(b) the proportionate shares of any special or extraordinary expenses included in the child support order.*

*(3) The recalculation program shall perform a recalculation under subsection (2)*

*(a) subject to section 55.51, on the basis of updated income information, and*

*(b) in accordance with this Division, the regulations under this Division and the child support guidelines.*

**(4) Section 55.4 is amended**

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

**(1.1)** An application under subsection (1) shall

- (a) state that the person applying does not agree with the recalculated amount, and
- (b) include a copy of the notification respecting the recalculated amount to which the application relates.

**(b) by repealing subsection (4) and substituting the following:**

**(4)** Where an application has been commenced under subsection (1) but

- (a) the application is withdrawn, or
- (b) the application is dismissed by the court,

the payor and recipient become liable to pay the recalculated amount in accordance with section 55.31 as if the application had not been commenced.

**(5) Section 55.51(2) and (3) are repealed and the following is substituted:**

**(2)** For the purposes of this section, the income of the payor or recipient, as the case may be, is the greater of

- (a) the amount that would be earned by working 40 hours per week for 52 weeks earning the highest hourly minimum wage in effect under the *Employment Standards Code* (Alberta), or

*(4) The Minister may by order designate any individual as the Director of the recalculation program.*

(4) Section 55.4 presently reads:

*55.4(1) A payor or a recipient who does not agree with the recalculated amount may object, within 30 days after receiving notification respecting the recalculated amount, by commencing an application to a court to vary, suspend or terminate the child support order.*

*(2) At the time an application under subsection (1) is commenced, the person who commenced the application shall notify the recalculation program in writing in accordance with the regulations under this Division.*

*(3) Where an application has been commenced under subsection (1), the operation of section 55.31 is suspended pending the determination of the application and the child support order continues in effect as if the recalculation had not been made.*

*(4) Where an application has been commenced under subsection (1) but*

*(a) the application is withdrawn, or*

*(b) the application is dismissed by the court,*

*the payor becomes liable to pay the recalculated amount in accordance with section 55.31 as if the application had not been commenced.*

*(5) For the purposes of this section, commencing an application includes complying with any mandatory prerequisites or requirements of the court in respect of the application.*

(5) Section 55.51 presently reads in part:

*55.51(1) Subject to subsection (4), where a payor or recipient fails to provide the recalculation program with updated income information as required under section 55.41(1) and*

*(a) no updated income information relating to the payor or recipient is provided under section 55.41(3) by the other party, or*

- (b) the sum of
  - (i) the income of the payor or recipient last used to determine the current amount of child support payable, whether that income was
    - (A) determined by a court order,
    - (B) set out in an administrative recalculation of an amount of child support prepared by a provincial child support service of another jurisdiction in Canada,
    - (C) previously determined by the recalculation program from income information required to be provided under section 55.41(1) or provided by the other party and relied on under section 55.41(3), or
    - (D) previously determined by the recalculation program in accordance with this section,
  - and
  - (ii) the amount equal to the product obtained by multiplying the income of the payor or recipient described in clause (b)(i) by the applicable percentage determined in accordance with subsection (3).

**(3)** For the purpose of subsection (2)(b)(ii), the applicable percentage shall be determined based on the amount of time that has elapsed since the income of the payor or recipient, as the case may be, was last determined by any of the methods set out in subsection (2)(b)(i), as follows:

- (a) where less than 1 year has elapsed, 10%;
- (b) where a year or more but less than 2 years has elapsed, 13%;
- (c) where 2 years or more but less than 3 years has elapsed, 16%;



- (d) where 3 years or more but less than 4 years has elapsed, 19%;
- (e) where 4 years or more but less than 5 years has elapsed, 22%;
- (f) where 5 years or more has elapsed, 25%.



*(b) updated income information relating to the payor or recipient is provided under section 55.41(3) by the other party but the Director does not consider it appropriate to rely on the information,*

*the payor or recipient is deemed to have provided updated income information that discloses income in accordance with subsection (2).*

*(2) For the purposes of this section, the income of the payor or recipient, as the case may be, is the sum of*

*(a) the payor's or recipient's income used to determine the current amount of child support payable, whether that income was*

*(i) set out in a court order,*

*(ii) set out in an administrative recalculation of an amount of child support prepared by a provincial child support service of another jurisdiction in Canada,*

*(iii) previously determined by the recalculation program from income information required to be provided under section 55.41(1) or provided by the other party and relied on under section 55.41(3), or*

*(iv) previously determined by the recalculation program in accordance with this section,*

*and*

*(b) the amount equal to the product obtained by multiplying the payor's or recipient's income described in clause (a) by the applicable percentage determined in accordance with subsection (3).*

*(3) For the purpose of subsection (2)(b), the applicable percentage shall be determined based on the amount of time that has elapsed since the payor's or recipient's income was last determined in accordance with subsection (2)(a), as follows:*

*(a) where less than 1 year has elapsed, 10%;*

*(b) where a year or more but less than 2 years has elapsed, 13%;*

*(c) where 2 years or more but less than 3 years has elapsed, 16%;*

**(6) Section 55.8 is amended**

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

- (a.1) respecting the mandatory clauses referred to in section 51.1 and how orders that fail to include a mandatory clause referred to in section 51.1 may be dealt with;

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

- (g.1) respecting procedural requirements for objecting to a recalculated amount by commencing an application to a court to vary, suspend or terminate the child support order as referred to in section 55.4(1) and respecting the contents of the application;

**Limitations Act**

**Amends RSA 2000 cL-12**

**4(1) The *Limitations Act* is amended by this Act.**

**(2) Section 3 is amended**

**(a) in subsection (1) by striking out “section 11” and substituting “subsections (1.1) and (1.2) and section 11”;**

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

- (1.1)** If a claimant who is liable as a tort-feasor in respect of injury does not seek a remedial order to recover contribution under section 3(1)(c) of the *Tort-feasors Act* against a defendant, whether as a joint tort-feasor or otherwise, within

- (d) *where 3 years or more but less than 4 years has elapsed, 19%;*
- (e) *where 4 years or more but less than 5 years has elapsed, 22%;*
- (f) *where 5 years or more has elapsed, 25%.*

(6) Section 55.8 presently reads in part:

*55.8 The Lieutenant Governor in Council may make regulations*

- (a) *respecting the recalculation program and its structure, operations, duties and functions;*
- (g) *respecting the manner in which and the times at which a payor and a recipient may agree to waive a particular recalculation;*

### **Limitations Act**

**4(1)** Amends chapter L-12 of the Revised Statutes of Alberta 2000.

(2) Section 3 presently reads in part:

*3(1) Subject to section 11, if a claimant does not seek a remedial order within*

- (a) *2 years after the date on which the claimant first knew, or in the circumstances ought to have known,*
  - (i) *that the injury for which the claimant seeks a remedial order had occurred,*
  - (ii) *that the injury was attributable to conduct of the defendant, and*

- (a) 2 years after the date on which the claimant
  - (i) incurred a liability through the settlement of the claim for the injury,
  - (ii) was served with the pleading by which the claim for the injury was brought, or
  - (iii) first knew, or in the circumstances ought to have known, that the defendant was liable in respect of the injury or would have been liable in respect of the injury if the defendant had been sued within the limitation period provided by subsection (1) by the person who suffered the injury,

or

- (b) 10 years after the claim for contribution arose,

whichever period expires first, the defendant, on pleading this Act as a defence, is entitled to immunity from liability in respect of the claim for contribution.

**(1.2)** For greater certainty, no claim for contribution against a defendant in respect of damage referred to in section 3(1)(c) of the *Tort-feasors Act* is barred by the expiry of a limitation period within which the person who suffered that damage could seek a remedial order.

- (c) in subsection (2) by striking out “subsection (1)(a)” wherever it occurs and substituting “subsection (1)(a) or (1.1)(a)”;**
- (d) in subsection (3) by striking out “subsection (1)(b)” and substituting “subsections (1)(b) and (1.1)(b)”;**
- (e) in subsection (5)**
  - (i) in clause (a) by striking out “subsection (1)(a)” and substituting “subsection (1)(a) or (1.1)(a)”;**
  - (ii) in clause (b) by striking out “subsection (1)(b)” and substituting “subsection (1)(b) or (1.1)(b)”.**

*(iii) that the injury, assuming liability on the part of the defendant, warrants bringing a proceeding,*

*or*

*(b) 10 years after the claim arose,*

*whichever period expires first, the defendant, on pleading this Act as a defence, is entitled to immunity from liability in respect of the claim.*

*(2) The limitation period provided by subsection (1)(a) begins*

*(a) against a successor owner of a claim when either a predecessor owner or the successor owner of the claim first acquired or ought to have acquired the knowledge prescribed in subsection (1)(a),*

*(b) against a principal when either*

*(i) the principal first acquired or ought to have acquired the knowledge prescribed in subsection (1)(a), or*

*(ii) an agent with a duty to communicate the knowledge prescribed in subsection (1)(a) to the principal, first actually acquired that knowledge,*

*and*

*(c) against a personal representative of a deceased person as a successor owner of a claim, at the earliest of the following times:*

*(i) when the deceased owner first acquired or ought to have acquired the knowledge prescribed in subsection (1)(a), if the deceased owner acquired the knowledge more than 2 years before the deceased owner's death;*

*(ii) when the representative was appointed, if the representative had the knowledge prescribed in subsection (1)(a) at that time;*

*(iii) when the representative first acquired or ought to have acquired the knowledge prescribed in subsection (1)(a), if the representative acquired the knowledge after being appointed.*

**(3) Section 4(1) and (2) are amended by striking out “section 3(1)(b)” and substituting “section 3(1)(b) or (1.1)(b)”.**

(3) *For the purposes of subsection (1)(b),*

- (a) *a claim or any number of claims based on any number of breaches of duty, resulting from a continuing course of conduct or a series of related acts or omissions, arises when the conduct terminates or the last act or omission occurs;*
- (b) *a claim based on a breach of a duty arises when the conduct, act or omission occurs;*
- (c) *a claim based on a demand obligation arises when a default in performance occurs after a demand for performance is made;*
- (d) *a claim in respect of a proceeding under the Fatal Accidents Act arises when the conduct that causes the death, on which the claim is based, occurs;*
- (e) *a claim for contribution arises when the claimant for contribution is made a defendant in respect of, or incurs a liability through the settlement of, a claim seeking to impose a liability on which the claim for contribution can be based, whichever first occurs;*
- (f) *a claim for a remedial order for the recovery of possession of real property arises when the claimant is dispossessed of the real property.*

(5) *Under this section,*

- (a) *the claimant has the burden of proving that a remedial order was sought within the limitation period provided by subsection (1)(a), and*
- (b) *the defendant has the burden of proving that a remedial order was not sought within the limitation period provided by subsection (1)(b).*

(3) Section 4 presently reads:

*4(1) The operation of the limitation period provided by section 3(1)(b) is suspended during any period of time that the defendant fraudulently conceals the fact that the injury for which a remedial order is sought has occurred.*

**5(1)** Sections 12 to 14 and 16(2) and Forms 6 to 9 of the *Public Trustee General Regulation* (AR 241/2004) are validated and deemed to have been made in accordance with section 5.1(15) of the *Limitations Act* as of the day on which that Regulation came into force.

**(2)** A notice given or other thing done in accordance with the provisions and forms validated by subsection (1) is deemed to have been validly given or done.

**6(1) Section 4(2) and (3) are deemed to have come into force on March 1, 1999.**

**(2)** Despite subsection (1), sections 3 and 4 of the *Limitations Act* as they read immediately before the coming into force of this section continue to apply, and sections 3 and 4 of the *Limitations Act* as they read on or after the coming into force of this section do not apply, in respect of a claim for contribution under section 3(1)(c) of the *Tort-feasors Act* that was the subject of

- (a) a settlement entered into before the coming into force of this section by the claimant for contribution and the defendant against whom the claimant sought to recover contribution, whether or not the claim for contribution was ever the subject of an action, or
- (b) a remedial order for which the appeal period expired before the coming into force of this section.

### **Notaries and Commissioners Act**

**Amends SA 2013 cN-5.5**

**7(1) The *Notaries and Commissioners Act* is amended by this section.**

**(2) Section 31 is repealed and the following is substituted:**



*(2) Under this section, the claimant has the burden of proving that the operation of the limitation period provided by section 3(1)(b) was suspended.*

**5** Validates regulations.

**6** Coming into force and transitional provisions.

### **Notaries and Commissioners Act**

**7(1)** Amends chapter N-5.5 of the Statutes of Alberta, 2013.

(2) Section 31 presently reads:

*31(1) The Guarantees Acknowledgment Act is amended by this section.*

**Amends RSA 2000 cG-11**

**31(1) The *Guarantees Acknowledgment Act* is amended by this section.**

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

- (b) “lawyer” means,
  - (i) with reference to an acknowledgment made in Alberta, an active member of The Law Society of Alberta, other than an honorary member, who has not been suspended, and
  - (ii) with reference to an acknowledgment made in a jurisdiction other than Alberta, a lawyer entitled to practise law in that jurisdiction.

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

**Requirements**

**3** No guarantee has any effect unless the person entering into the obligation

- (a) appears before a lawyer,
- (b) acknowledges to the lawyer that the person executed the guarantee, and
- (c) in the presence of the lawyer signs the certificate referred to in section 4.

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

**Certificate**

**4(1)** The lawyer, after being satisfied by examination of the person entering into the obligation that the person is aware of the contents of the guarantee and understands it, must issue a certificate in the prescribed form.

**(5) Section 6 is repealed.**

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

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

*3(1) No guarantee has any effect unless the person entering into the obligation*

*(a) appears before a lawyer,*

*(b) acknowledges to the lawyer that the person executed the guarantee, and*

*(c) in the presence of the lawyer signs the certificate referred to in section 4.*

*(2) The lawyer referred to in subsection (1) must not represent or be employed by a person or corporation who stands to benefit as a result of the guarantee.*

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

*4(1) The lawyer, after being satisfied by examination of the person entering into the obligation that the person is aware of the contents of the guarantee and understands it, must issue a certificate in the prescribed form.*

*(5) Section 6 is repealed.*

## Oaths of Office Act

Amends SA 2000 cO-1

**8(1)** The *Oaths of Office Act* is amended by this section.

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

### Solemn affirmation

**4(1)** A person who is required by a statute of Alberta to take an oath prescribed by this Act may make a solemn affirmation instead of taking the oath.

**(2)** When on the administering of an oath prescribed by this Act the person about to take the oath is permitted by law to make a solemn affirmation instead of taking an oath, the person may make a solemn affirmation in the prescribed form of the oath, substituting the words “solemnly affirm” for the word “swear”, and omitting the words “So help me God”.

## Perpetuities Act

Amends RSA 2000 cP-5

**9(1)** The *Perpetuities Act* is amended by this section.

**(2)** The following is added after section 22:

### Rule against perpetuities not applicable to qualifying environmental trusts

**22.1(1)** In this section, “qualifying environmental trust” means a qualifying environmental trust as defined in section 1(2)(g.011) of the *Alberta Corporate Tax Act*.

**(2)** The rule against perpetuities does not apply to a qualifying environmental trust created after December 31, 2013.

## Provincial Court Act

Amends RSA 2000 cP-31

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

### **Oaths of Office Act**

**8(1)** Amends chapter O-1 of the Revised Statutes of Alberta 2000.

(2) Section 4 presently reads:

*4(1) A person who is required by a statute of Alberta to take an oath prescribed by this Act may make a solemn affirmation or declaration instead of taking the oath.*

*(2) When on the administering of an oath prescribed by this Act the person about to take the oath is permitted by law to make a solemn affirmation or declaration instead of taking an oath, the person may make a solemn affirmation in the prescribed form of the oath, substituting the words “solemnly swear and truly declare and affirm” for the word “swear”, and omitting the words “So help me God”.*

### **Perpetuities Act**

**9(1)** Amends chapter P-5 of the Revised Statutes of Alberta 2000.

(2) Rule against perpetuities not applicable to qualifying environmental trusts.

### **Provincial Court Act**

**10(1)** Amends chapter P-31 of the Revised Statutes of Alberta 2000.

**(2) Section 9.23 is amended**

**(a) in subsection (4) by striking out** “Lieutenant Governor in Council” **wherever it occurs and substituting** “Minister of Justice and Solicitor General”;

**(b) by repealing subsection (6) and substituting the following:**

**(6)** The Lieutenant Governor in Council shall, subject to subsection (7), reappoint a judge for a term of one year, where

- (a) the Chief Judge makes a request under subsection (2) in respect of that judge, or
- (b) the Judicial Council makes a request under subsection (3) in respect of that judge.

**(6.1)** The Minister of Justice and Solicitor General shall, subject to subsection (7), reappoint a judge for a term of one year, where

- (a) the Chief Judge makes a request under subsection (4)(a) in respect of that judge, or
- (b) the Judicial Council makes a request under subsection (4)(b) in respect of that judge.

**(c) in subsection (8) by striking out “(6)” and substituting “(6.1)”.**

(2) Section 9.23 presently reads:

*9.23(1) Notwithstanding section 9.22(1), a judge may, in accordance with this section, be reappointed as a judge.*

*(2) Where a 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 person as a judge for a term of one year.*

*(3) Where a 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 person as a judge for a term of one year.*

*(4) Where a judge has been reappointed as a 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 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 person as a judge for a term of one year.*

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

*(a) the Chief Judge or the Judicial Council, as the case may be, 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, as the case may be, requests that the Lieutenant Governor in Council reappoint a 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.*

**(3) Section 9.24 is amended**

- (a) in subsection (4) by striking out “Lieutenant Governor in Council” and substituting “Minister of Justice and Solicitor General”;**
- (b) by repealing subsection (6) and substituting the following:**
  - (6)** The Lieutenant Governor in Council shall, subject to subsection (7), appoint a person as a part-time judge for a term set out in subsection (8) where the Chief Judge makes a request under subsection (2), (3) or (3.1) in respect of that person.



*(7) A reappointment of a 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 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 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.*

*(10) Subject to Part 6 of the Judicature Act, no judge reappointed under this section may be removed from office before the expiry of that judge's term.*

(3) Section 9.24 presently reads:

*9.24(1) Notwithstanding section 9.22(1), a judge may, in accordance with this section, be appointed as a part-time judge.*

*(2) Where a judge*

- (a) has attained the age of 60 years,*
- (b) has completed 10 years of service as a judge, and*
- (c) states in writing to the Chief Judge that the judge is prepared to retire as a full-time judge in order to be appointed as a part-time judge,*

*the Chief Judge may request that the Lieutenant Governor in Council appoint that person as a part-time judge on that person's retirement as a full-time judge if the Chief Judge determines that the appointment will enhance the efficient and effective administration of the Court.*

**(6.1)** The Minister of Justice and Solicitor General shall, subject to subsection (7), reappoint a person as a part-time judge for a term set out in subsection (8) where the Chief Judge makes a request under subsection (4) in respect of that person.

*(3) Where a judge*

- (a) is approaching the age of 70 years but has not attained age 70, and*
- (b) states in writing to the Chief Judge that the judge is prepared to retire at age 70 as a full-time judge in order to be appointed as a part-time judge,*

*the Chief Judge may request that the Lieutenant Governor in Council appoint that person as a part-time judge on that person's retirement as a full-time judge if the conditions in subsection (5) are met.*

*(3.1) Where a judge*

- (a) has been reappointed as a full-time judge pursuant to section 9.23, and*
- (b) states in writing to the Chief Judge that the judge is prepared to retire as a full-time judge in order to be appointed as a part-time judge,*

*the Chief Judge may request that the Lieutenant Governor in Council appoint that judge as a part-time judge on the judge's retirement as a full-time judge if the conditions in subsection (5) are met.*

*(4) Where a judge*

- (a) is a part-time judge and the appointment is about to expire, and*
- (b) states in writing to the Chief Judge that the judge is prepared to be reappointed as a part-time judge,*

*the Chief Judge may request that the Lieutenant Governor in Council reappoint that person for one year as a part-time judge if the conditions in subsection (5) are met.*

*(5) A request under subsection (3), (3.1) or (4) may be made if*

- (a) the Chief Judge determines that the appointment under subsection (3) or (3.1) or reappointment under subsection (4) 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 a request is made under subsection (2), (3), (3.1) or (4), the Lieutenant Governor in Council shall, subject to subsection (7), appoint or reappoint the judge as a part-time judge for a term set out in subsection (8).*
- (7) *An appointment or reappointment of a judge as a part-time judge shall be made only if*
- (a) *the judge has consented to the appointment or reappointment,*
  - (b) *the judge is not nor has been appointed as a supernumerary judge, and*
  - (c) *the judge has not attained the age of 75 years.*
- (8) *The term for which a part-time judge is appointed or reappointed under this section is as follows:*
- (a) *if the request for appointment is made under subsection (2), the term commences on the date the judge is appointed as a part-time judge and expires on the commencement of the judge's 70th birthday;*
  - (b) *if the request for appointment is made under subsection (3), the term is one year commencing on the judge's 70th birthday;*
  - (b.1) *if the request for appointment is made under subsection (3.1), the term commences on the date the judge is appointed as a part-time judge and expires on the commencement of the judge's next birthday;*
  - (c) *if the request for reappointment is made under subsection (4), the term is one year commencing on the expiry of the previous appointment.*
- (9) *A part-time judge must serve the equivalent of 6 months of full-time service during the year.*
- (10) *Part-time judges shall, in addition to any pension benefits, be paid an annual salary of up to 50% of the annual salary of a full-time judge, but the total annual salary and pension benefits*

**Amends SA 2013 c23**

**11(1) The *Statutes Amendment Act, 2013 (No. 2)* is amended by this section.**

**(2) Section 11(2) is amended by repealing the new section 9.91(6)(d) and substituting the following:**

- (d) respecting the documents or classes of documents, including electronic documents, to which this section applies;

**12 Section 10 comes into force on February 1, 2015.**

**Wills and Succession Act**

**Amends SA 2010 cW-12.2**

**13(1) The *Wills and Succession Act* is amended by this Act.**

**(2) Section 1(1)(h) is amended by striking out “or trustee of the estate of a deceased individual” and substituting “or judicial trustee of the estate of a deceased individual and includes a personal representative named in the will whether or not a grant is issued”.**

**(3) Section 5(1)(b) is amended by striking out “section 599 or 690” and substituting “section 685 or 737”.**

*payable to a part-time judge cannot exceed the annual salary of a full-time judge.*

*(11) Notwithstanding anything in this section, the term of appointment of a part-time judge expires when the judge attains the age of 75 years.*

*(12) Subject to Part 6 of the Judicature Act, no part-time judge appointed or reappointed under this section may be removed from office before the expiry of that judge's term.*

**11(1)** Amends chapter 23 of the Statutes of Alberta, 2013.

(2) The new section 9.91(6)(d) presently reads:

*(6) The Lieutenant Governor in Council may make regulations*

*(d) providing that this section applies or does not apply in respect of certain documents or classes of documents, including electronic documents;*

**12** Coming into force.

### **Wills and Succession Act**

**13(1)** Amends chapter W-12.2 of the Statutes of Alberta, 2010.

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

*1(1) In this Act,*

*(h) "personal representative" means an executor or an administrator or trustee of the estate of a deceased individual;*

(3) Section 5(1)(b) presently reads:

*5(1) If 2 or more individuals die at the same time or in circumstances rendering it uncertain which of them survived the other or others, all rights and interests of each of the individuals with respect to property must be determined as if that individual had predeceased the other or others unless*

**(4) Section 6 is amended by striking out** “after this section comes into force” **and substituting** “on or after February 1, 2012”.

**(5) Section 8 is amended**

**(a) in subsection (1)(a) by striking out** “the day this section comes into force” **and substituting** “February 1, 2012”;

**(b) in subsection (2) by striking out** “after the coming into force of this section” **and substituting** “on or after February 1, 2012”.

**(6) Section 23(2) is repealed and the following is substituted:**

**(2)** No will or part of a will, regardless of when it was made, is revoked by

(a) a marriage of the testator that occurs on or after February 1, 2012,

(b) the testator’s entering into, on or after February 1, 2012, an adult interdependent partner agreement as defined in section 1(1)(b) of the *Adult Interdependent Relationships Act*, or

(c) any other change in circumstances of the testator, except to the extent that section 25(1) applies.

**(7) Section 25(3) is repealed and the following is substituted:**

**(3)** This section applies only in respect of the will of a testator

(a) whose marriage is terminated by a divorce judgment or found to be void, or



*(b) section 599 or 690 of the Insurance Act applies, or*

(4) Section 6 presently reads:

*6 This Part applies only in respect of deaths occurring after this section comes into force.*

(5) Section 8 presently reads in part:

*8(1) Except as expressly provided otherwise in section 23 or 25 or in another enactment of Alberta,*

*(a) this Part applies to wills made on or after the day this section comes into force,*

*(2) Despite subsection (1), sections 26 and 37 to 40 apply to a will or other writing, a marking or an obliteration regardless of when the will, writing, marking or obliteration was made, if the testator died after the coming into force of this section.*

(6) Section 23(2) presently reads:

*(2) For greater certainty,*

*(a) on and after the coming into force of this section, no will or part of a will is revoked by the marriage of the testator,*

*(b) on and after the coming into force of this section, no will or part of a will is revoked by the testator entering into an adult interdependent relationship, and*

*(c) no will or part of a will is revoked by a change in circumstances of the testator, except to the extent that section 25(1) applies.*

(7) Section 25(3) presently reads:

*(3) This section applies only in respect of the will of a testator*

*(a) whose marriage is terminated by a divorce judgment or found to be void, or*

*(b) who becomes a former adult interdependent partner*

*after this section comes into force.*

(b) who becomes a former adult interdependent partner

on or after February 1, 2012, and applies regardless of when the will was made.

**(8) Section 40(1) is amended**

(a) **by striking out** “or appointment”;

(b) **in clause (a) by striking out** “or to appoint the individual”.

**(9) Section 63(1) is amended by adding** “and section 13(1)(b)(i) of the *Estate Administration Act*” **after** “this Part”.

**(10) Section 70 is amended**

(a) **in subsection (1) by striking out** “after this section comes into force” **and substituting** “on or after February 1, 2012”;

(b) **in subsection (2)**

(i) **by striking out** “the coming into force of this section” **and substituting** “February 1, 2012”;

(8) Section 40(1) presently reads:

*40(1) The Court may, on application, order that a disposition or appointment referred to in section 21(1) is not void if the Court is satisfied that*

- (a) the testator intended to make the disposition to the individual or to appoint the individual despite knowing that the individual was an individual described in section 21(1), and*
- (b) neither the individual nor the individual's spouse or adult interdependent partner exercised any improper or undue influence over the testator.*

(9) Section 63(1) presently reads:

*63(1) For the purposes of this Part, the surviving spouse of an intestate is deemed to have predeceased the intestate if the intestate and the surviving spouse*

- (a) had been living separate and apart for more than 2 years at the time of the intestate's death,*
- (b) are parties to a declaration of irreconcilability under the Family Law Act, or*
- (c) are parties to an agreement or order in respect of their property or other marital or family issues which appears to have been intended by one or both of them to separate and finalize their affairs in recognition of their marital break-up.*

(10) Section 70 presently reads in part:

*70(1) This Part applies only in cases of death occurring after this section comes into force.*

*(2) The Intestate Succession Act, RSA 2000 cI-10, as it read immediately before the coming into force of this section, continues to apply in cases of death occurring on or after June 1, 2003 but before this section comes into force.*

- (ii) **by striking out** “this section comes into force” **and substituting** “February 1, 2012”.

**(11) Section 71(4) is amended**

- (a) **in clause (a) by striking out** “subsection (3) came into force” **and substituting** “February 1, 2012”;
- (b) **in clause (b) by striking out** “subsection (1)(d)(iii) came into force” **and substituting** “February 1, 2012”.

**(12) Section 86 is amended by striking out** “after this section comes into force” **and substituting** “on or after February 1, 2012”.

**(13) Section 95 is amended**

- (a) **by repealing subsections (1) and (2) and substituting the following:**
  - (2) Where an application is made under this Division,
    - (a) a family member, on the written request of
      - (i) another family member,
      - (ii) a personal representative of the deceased’s estate, or
      - (iii) any other person required to be served under section 91(1) with notice of the application,
    - or
    - (b) a personal representative of the deceased’s estate, on the written request of
      - (i) a family member, or

(11) Section 71(4) presently reads:

*(4) Subsection (3) does not apply if its application would*

- (a) alter the result in any proceedings in which a judgment or final order was granted before subsection (3) came into force, regardless of whether the judgment or order is appealable, or*
- (b) impose on a person the obligation to repay or account for proceeds of a plan referred to in subsection (1)(d)(iii) received or paid out by that person before subsection (1)(d)(iii) came into force.*

(12) Section 86 presently reads:

*86 This Division applies only to surviving spouses and partners of individuals who die after this section comes into force.*

(13) Section 95 presently reads in part:

*95(1) In this section, "party" means a family member or a personal representative of the deceased's estate.*

*(2) A party to an application under this Division shall, on the written request of another party, provide that other party with financial information as provided for by the regulations that is necessary for the determination of maintenance and support.*

*(5) If a party fails to comply with a request under subsection (2), the Court may, on application, do one or more of the following:*

- (a) order the party to provide some or all of the required information to one or more other parties or to the Court;*
- (b) dismiss any application made by or on behalf of that party, but proceed to hear the application in respect of the other parties;*
- (c) proceed to hear the application and, in the course of doing so, may draw an adverse inference against the party who failed to comply with the request and impute income or assets to that party in an amount the Court considers appropriate;*

- (ii) any other person required to be served under section 91(1) with notice of the application,

shall provide the family member, personal representative or other person making the request with financial information as required by the regulations that is necessary for the determination of maintenance and support.

**(b) by repealing subsection (5) and substituting the following:**

**(5)** If a family member or a personal representative fails to comply with a request under subsection (2), the Court may, on application, do one or more of the following:

- (a) order the family member or personal representative to provide some or all of the required information to one or more other persons or to the Court;
- (b) dismiss any application made by or on behalf of the family member or by the personal representative but proceed to hear the application in respect of the family members on whose behalf section 92 deems the application to have been made and any other parties;
- (c) proceed to hear the application and, in the course of doing so, may draw an adverse inference against the family member or personal representative who failed to comply with the request and, in the case of a family member, impute income or assets to that family member in an amount the Court considers appropriate;
- (d) award costs in favour of one or more other parties.

**(c) by repealing subsection (6).**

*(d) award costs in favour of one or more other parties.*

*(6) Financial information provided by an employer, partner or principal of a party or by any other person pursuant to an order under subsection (5)(a) may be received in evidence as prima facie proof of its contents.*

**(14) The following is added after section 95:**

**Transitional**

**95.1(1)** Where, on the coming into force of this section, an application referred to in section 95 is before the Court,

- (a) section 95 as it read immediately before the coming into force of this section applies, and
- (b) section 95 as it reads on or after the coming into force of this section does not apply

in respect of the application.

**(2)** Despite subsection (1), the Court may, if it considers it just to do so in all of the circumstances, order that subsection (1) does not apply in respect of the application.

**(15) Section 108 is amended**

- (a) in subsection (1) by striking out** “after the coming into force of this section” **and substituting** “on or after February 1, 2012”;
- (b) in subsection (3) by striking out** “the coming into force of this section” **and substituting** “February 1, 2012”.

**(16) Subsections (2), (9) and (13) come into force on Proclamation.**

**(17) Subsections (6) and (7) are deemed to have come into force on February 1, 2012.**



(14) Transitional.

(15) Section 108 presently reads in part:

*108(1) This Division applies only in respect of deaths occurring after the coming into force of this section.*

*(3) The Dependants Relief Act, RSA 2000 cD-10.5, continues to apply in cases of death occurring after June 1, 2003 but before the coming into force of this section.*

(16) Coming into force.

(17) Coming into force.

## **Court Rules Amendments**

### **Alberta Evidence Act**

**Amends RSA 2000 cA-18**

**14(1) The *Alberta Evidence Act* is amended by this section.**

**(2) Section 25(2) is amended by striking out “by leave of” and substituting “with the permission of”;**

**(3) Section 41.8(2) is amended by striking out “leave of the court” and substituting “the permission of the court”.**

### **Arbitration Act**

**Amends RSA 2000 cA-43**

**15(1) The *Arbitration Act* is amended by this section.**

**(2) Section 8(3) is repealed and the following is substituted:**

**(3) The court’s determination of a question of law may, with the permission of the Court of Appeal, be appealed to the Court of Appeal.**

**(3) Section 15(5) is repealed and the following is substituted:**

**(5) Within 30 days after receiving the court’s decision, the arbitrator or a party may, with the permission of the Court of Appeal, appeal to the Court of Appeal an order made under subsection (4) or the refusal to make such an order.**

**(4) Section 44(2) is repealed and the following is substituted:**

**(2) If the arbitration agreement does not provide that the parties may appeal an award to the court on a question of law, a party**

## **Court Rules Amendments**

### **Alberta Evidence Act**

**14(1)** Amends chapter A-18 of the Revised Statutes of Alberta 2000.

(2) Section 25(2) presently reads:

*(2) If the witness in the opinion of the judge or other person presiding proves adverse, the party producing the witness may by leave of the judge or other person presiding prove that the witness made at some other time a statement inconsistent with the witness's present testimony.*

(3) Section 41.8(2) presently reads:

*(2) Any party to the proceedings may, with leave of the court, cross-examine a person referred to in section 41.5(c).*

### **Arbitration Act**

**15(1)** Amends chapter A-43 of the Revised Statutes of Alberta 2000.

(2) Section 8(3) presently reads:

*(3) The court's determination of a question of law may be appealed to the Court of Appeal with leave of that Court.*

(3) Section 15(5) presently reads:

*(5) The arbitrator or a party may, within 30 days after receiving the court's decision, appeal an order made under subsection (4) or the refusal to make such an order to the Court of Appeal, with leave of that Court.*

(4) Section 44(2) presently reads:

*(2) If the arbitration agreement does not provide that the parties may appeal an award to the court on a question of law, a party may*

may, with the permission of the court, appeal an award to the court on a question of law.

**(2.1)** The court shall grant the permission referred to in subsection (2) only if it is satisfied that

- (a) the importance to the parties of the matters at stake in the arbitration justifies an appeal, and
- (b) the determination of the question of law at issue will significantly affect the rights of the parties.

**(5) Section 46(1)(b) is amended by striking out** “leave to appeal” **and substituting** “permission to appeal”.

**(6) Section 48 is repealed and the following is substituted:**

**Further appeal to Court of Appeal**

**48** An appeal from the Court of Queen’s Bench decision under section 44, 45 or 47 may, with the permission of a justice of the Court of Appeal, be made to the Court of Appeal.

**Child, Youth and Family  
Enhancement Act**

**Amends RSA 2000 cC-12**

**16(1) The *Child, Youth and Family Enhancement Act* is amended by this section.**

**(2) Section 21.1(5.1) is amended by striking out** “a motion” **and substituting** “an application”.

*appeal an award to the court on a question of law with leave, which the court shall grant only if it is satisfied that*

- (a) the importance to the parties of the matters at stake in the arbitration justifies an appeal, and*
- (b) determination of the question of law at issue will significantly affect the rights of the parties.*

(5) Section 46(1) presently reads:

*46(1) The following must be commenced within 30 days after the appellant or applicant receives the award, correction, explanation, change or statement of reasons on which the appeal or application is based:*

- (a) an appeal under section 44(1);*
- (b) an application for leave to appeal under section 44(2);*
- (c) an application to set aside an award under section 45.*

(6) Section 48 presently reads:

*48 An appeal from the Court of Queen's Bench decision under section 44, 45 or 47 may be made to the Court of Appeal with leave of a justice of the Court of Appeal.*

### **Child, Youth and Family Enhancement Act**

**16(1)** Amends chapter C-12 of the Revised Statutes of Alberta 2000.

(2) Section 21.1(5.1) presently reads:

*(5.1) The Court may hear a motion for an adjournment under subsection (4) by videoconference if the Court is satisfied that it is proper to do so.*

**(3) Section 71(2) is amended by striking out “with leave of the Court” and substituting “with the permission of the Court”.**

**(4) Section 126.2(2)(c)(iii) is amended by striking out “with leave of the Court” and substituting “with the permission of the Court”.**

**(5) Section 126.3(2)(c) is amended by striking out “with leave of the Court” and substituting “with the permission of the Court”.**

(3) Section 71(2) presently reads:

*(2) Notwithstanding subsection (1), an application may be filed with leave of the Court within the 2-year period set out in subsection (1) if the Court is satisfied that the reasons for dismissal of the previous application no longer exist.*

(4) Section 126.2(2) presently reads:

*(2) Despite subsection (1),*

*(a) a director may publish or consent to the publication of the name or a photograph of a child or of the child's parent or guardian and any other information related to the child if, in the opinion of the director, the publication is in the child's best interest or necessary for the proper administration of justice;*

*(b) a child who is 16 years of age or older may publish, or consent to the publication of, the child's name or photograph in a manner that reveals that the child has received intervention services;*

*(c) a Court may, on the application of*

*(i) a child,*

*(ii) a parent or guardian of a child, or*

*(iii) any interested party, with leave of the Court,*

*grant permission to the child, the parent or guardian or the interested party, as the case may be, to publish or consent to the publication of the name or photograph of the child or of the child's parent or guardian in a manner that reveals that the child is receiving or has received intervention services if the Court is satisfied that the publication is in the child's best interest or the public interest.*

(5) Section 126.3(2) presently reads:

*(2) Where a child who received intervention services has died,*

*(a) a director,*

*(b) a family member, or*

### **City Transportation Act**

**Amends RSA 2000 cC-14**

**17(1) The *City Transportation Act* is amended by this section.**

**(2) Section 18 is amended**

- (a) in subsection (2) by striking out “Leave to appeal” and substituting “Permission to appeal”;**
- (b) in subsection (3) by striking out “On leave being obtained” and substituting “On permission to appeal being obtained”.**

### **Civil Enforcement Act**

**Amends RSA 2000 cC-15**

**18(1) The *Civil Enforcement Act* is amended by this section.**

**(2) Section 24(2)(a) is amended by striking out “leave of the Court” and substituting “permission of the Court”.**



(c) *with leave of the Court, any other person*

*may make an ex parte application in accordance with the regulations to the Court for an order that no person shall publish, in a manner that reveals that the deceased child received intervention services, the name or a photograph of the deceased child, of any parent or guardian of the deceased child or of any other individual identified in the order.*

### **City Transportation Act**

**17(1)** Amends chapter C-14 of the Revised Statutes of Alberta 2000.

(2) Section 18 presently reads in part:

*(2) Leave to appeal shall be obtained from a judge of the Court of Appeal*

*(a) on application made within 30 days after the making of the decision of the Protection Area Appeal Board, and*

*(b) on notice to the proposed respondent and to the Protection Area Appeal Board.*

*(3) On leave being obtained the party appealing shall, within 10 days after the appeal has been set down, give notice of the date to the respondent.*

### **Civil Enforcement Act**

**18(1)** Amends chapter C-15 of the Revised Statutes of Alberta 2000.

(2) Section 24(2)(a) presently reads:

*(2) On application the Court may, where the Court considers that it would be just and equitable to do so, order one or more of the following:*

*(a) that no writ proceedings be commenced or continued against property that is the subject of an attachment order without the leave of the Court until the attachment order terminates;*

**(3) Section 73(3) is amended by striking out “leave of the Court” and substituting “the permission of the Court”.**

### **Class Proceedings Act**

**Amends SA 2003 cC-16.5**

**19(1) The *Class Proceedings Act* is amended by this section.**

**(2) Section 2(3)(b) is amended by striking out “with leave of the Court” and substituting “with the permission of the Court”.**

**(3) Section 17 is amended**

**(a) in subsection (4) by striking out “with leave of the Court” and substituting “with the permission of the Court”;**

**(b) in subsection (5) by striking out “leave” and substituting “permission”.**

(3) Section 73(3) presently reads:

*(3) Where an enforcement debtor does not within the waiting period referred to in section 72 serve on the agency a written claim under subsection (1), the enforcement debtor may not, without leave of the Court, subsequently claim that the land is in whole or in part exempt.*

#### **Class Proceedings Act**

**19(1)** Amends chapter C-16.5 of the Statutes of Alberta, 2003.

(2) Section 2(3) presently reads:

*(3) An application under subsection (2) must be made*

*(a) within 90 days after*

*(i) the day on which the statement of defence was served, or*

*(ii) the day on which the time prescribed by the Rules of Court for service of the statement of defence expires without its being served,*

*whichever is the later, or*

*(b) with leave of the Court, within any other time prescribed by the Court.*

(3) Section 17 presently reads in part:

*(4) Notwithstanding anything in this section, where the Court certifies a proceeding pursuant to an application by a defendant, a class member is prohibited from opting out of the class proceeding other than with leave of the Court.*

*(5) If the Court grants leave under subsection (4) for a person to opt out of a class proceeding, that person has, as a matter of right, the right to apply to the Court to be added, on any terms or conditions that the Court considers appropriate, as a named plaintiff for the purposes of allowing that plaintiff to conduct the plaintiff's own case.*

**(4) Section 18 is amended**

- (a) in subsection (2) by striking out “with leave of the Court” and substituting “with the permission of the Court”;**
- (b) in subsection (4) by striking out “leave” wherever it occurs and substituting “permission”.**

**(5) Section 19 is amended**

- (a) in subsection (1) by striking out “with leave of the Court” and substituting “with the permission of the Court”;**
- (b) in subsection (2) by striking out “leave” and substituting “permission”.**

**(6) Section 20(8) is amended by striking out “With leave of the Court” and substituting “With the permission of the Court”.**

(4) Section 18 presently reads in part:

*(2) After discovery of the representative plaintiff or, in a proceeding referred to in section 7, one or more of the representative plaintiffs, a defendant may, with leave of the Court, discover other class members or subclass members.*

*(4) In deciding whether to grant a defendant leave to discover other class members or subclass members, the Court may take into consideration any matter that the Court considers relevant, but in making its decision the Court must consider at least the following:*

- (a) the stage of the class proceeding and the issues to be determined at that stage;*
- (b) the presence of subclasses;*
- (c) whether the discovery is necessary in view of the defences of the party seeking leave;*
- (d) the approximate monetary value of individual claims, if any;*
- (e) whether discovery would result in oppression or in undue annoyance, burden or expense for the class members or subclass members sought to be discovered.*

(5) Section 19 presently reads:

*19(1) Except with leave of the Court, a party may not require a class member or subclass member, other than a representative plaintiff, to be questioned as a witness*

- (a) before the hearing of an application, or*
- (b) for the purpose of using any evidence arising from the questioning in respect of any application, petition or other proceeding before the Court.*

*(2) Section 18(4) applies to a decision whether to grant leave under this section.*

(6) Section 20(8) presently reads:

*(8) With leave of the Court, notice given under this section may include a solicitation of contributions from class members to assist in paying lawyers' fees and disbursements.*

**(7) Section 21(3)(e) is amended by striking out “with leave of the Court” and substituting “with the permission of the Court”.**

**(8) Section 27(3) is amended by striking out “With leave of the Court” and substituting “With the permission of the Court”.**

**(9) Section 28 is amended**

- (a) in subsection (5) by striking out “with leave of the Court” and substituting “with the permission of the Court”;**
- (b) in subsection (6) by striking out “leave” wherever it occurs and substituting “permission”.**

(7) Section 21(3) presently reads in part:

*(3) A notice given under this section must*

*(d) describe the steps that must be taken to establish an individual claim,*

*(e) state that failure on the part of a class member or subclass member to take those steps referred to in clause (d) will result in the member's not being entitled to assert an individual claim except with leave of the Court,*

(8) Section 27(3) presently reads:

*(3) With leave of the Court, a class member or a subclass member who*

*(a) did not receive notice of the certification order, or*

*(b) by reason of mental disability, did not respond within the specified time set out in the certification notice,*

*is to be treated as if that person had opted out of the class proceeding.*

(9) Section 28 presently reads in part:

*(5) If, with respect to individual issues, a class member or subclass member fails to make a claim within the time set under subsection (4), that member may, with leave of the Court, make a claim under this section at a later time with respect to the issues that are applicable only to that member.*

*(6) The Court may grant leave under subsection (5) only if the Court is satisfied that*

*(a) there are apparent grounds for relief,*

*(b) the delay was not caused by any fault of the person seeking the relief, and*

*(c) the defendant will not suffer substantial prejudice if leave is granted.*

**(10) Section 32 is amended**

- (a) in subsection (5) by striking out “with leave of the Court” and substituting “with the permission of the Court”;**
- (b) in subsection (6) by striking out “leave” wherever it occurs and substituting “permission”.**

**(11) Section 36 is amended**

- (a) in subsection (1) by striking out “may, without leave,” and substituting “, without permission to appeal, may”;**
- (b) in subsection (3) by striking out “leave” wherever it occurs and substituting “permission”;**
- (c) in subsection (4) by striking out “leave” and substituting “permission”.**



(10) Section 32 presently reads in part:

*(5) If a class member or subclass member fails to make a claim within the time set under subsection (4), that member may, with leave of the Court, make a claim under this section at a later time.*

*(6) The Court may grant leave under subsection (5) only if the Court is satisfied that*

- (a) there are apparent grounds for relief,*
- (b) the delay was not caused by any fault of the person seeking the relief, and*
- (c) neither the defendant nor any class member, subclass member, representative plaintiff or other person will suffer substantial prejudice if leave is granted.*

(11) Section 36 presently reads in part:

*36(1) Any party may, without leave, appeal to the Court of Appeal from any of the following:*

- (a) an order certifying or refusing to certify a proceeding as a class proceeding;*
- (b) an order decertifying a proceeding;*
- (c) a judgment on common issues;*
- (d) an order made under Division 2 of this Part, other than an order that determines individual claims made by class members or subclass members.*

*(3) If a representative plaintiff*

- (a) does not appeal as permitted under this section within the time limit set under the Rules of Court for bringing an appeal, or*
- (b) abandons an appeal commenced pursuant to this section,*

*any class member or subclass member for whom the representative plaintiff was appointed may apply to the Court of Appeal for leave to act as the representative plaintiff for the purposes of bringing or continuing an appeal or seeking leave to appeal.*

## **Climate Change and Emissions Management Act**

**Amends SA 2003 cC-16.7**

**20(1) The *Climate Change and Emissions Management Act* is amended by this section.**

**(2) Section 52(3) is amended by striking out “leave of the court” and substituting “the permission of the court”.**

**(3) Section 55(2) is amended by striking out “leave of the court” and substituting “permission of the court”.**

## **Companies Act**

**Amends RSA 2000 cC-21**

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

**(2) Section 220(b) is amended by striking out “by leave of the Court” and substituting “with the permission of the Court”.**

**(3) Section 294 is amended**

**(a) in subsection (1) by striking out “leave of the Court” and substituting “permission of the Court”;**

*(4) An application by a class member or subclass member for leave to act as the representative plaintiff under subsection (3) must be made within 30 days from the day of the expiry of the appeal period available to the representative plaintiff or by a later date as may be set by the Court of Appeal.*

### **Climate Change and Emissions Management Act**

**20(1)** Amends chapter C-16.7 of the Statutes of Alberta, 2003.

(2) Section 52(3) presently reads:

*(3) Where an application made under this section in respect of an offender has been heard by a court, no other application under this section may be made with respect to the offender except with leave of the court.*

(3) Section 55(2) presently reads:

*(2) The party against whom a certificate or report of an analyst is produced may, with the leave of the court, require the attendance of the analyst for the purpose of cross-examination.*

### **Companies Act**

**21(1)** Amends chapter C-21 of the Revised Statutes of Alberta 2000.

(2) Section 220(b) presently reads:

*220 When a winding-up order has been made,*

*(b) no action or proceeding shall be proceeded with or commenced against the company except by leave of the Court and subject to any terms the Court may impose, and*

(3) Section 294 presently reads in part:

*294(1) If any part of the property of a company in liquidation consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any*

- (b) in subsection (4) by striking out “leave” wherever it occurs and substituting “permission”;**
- (c) in subsection (5) by striking out “leave” and substituting “permission”.**

### **Cooperatives Act**

**Amends SA 2001 cC-28.1**

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

**(2) Section 355(1) and (2) are amended by striking out “leave” and substituting “permission”.**

*other property that is unsaleable or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the liquidator of the company, notwithstanding that the liquidator has endeavoured to sell or has taken possession of the property or exercised any act of ownership in relation thereto, may, with the leave of the Court and subject to this section, by writing signed by the liquidator, at any time within 12 months after the commencement of the winding-up or any extended period allowed by the Court, disclaim the property.*

*(4) The Court, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the Court thinks just.*

*(5) The liquidator is not entitled to disclaim any property under this section in any case where an application in writing has been made to the liquidator by any persons interested in the property requiring the liquidator to decide whether the liquidator will or will not disclaim, and the liquidator has not, within a period of 28 days after the receipt of the application or a further period allowed by the Court, given notice to the applicant that the liquidator intends to apply to the Court for leave to disclaim, and, in the case of a contract, if the liquidator, after an application, does not within that period or further period, disclaim the contract, the company shall be deemed to have adopted it.*

## **Cooperatives Act**

**22(1)** Amends chapter C-28.1 of the Statutes of Alberta, 2001.

(2) Section 355 presently reads:

*355(1) Subject to subsection (2), a complainant may apply to the Court for leave to bring legal proceedings in the name and on behalf of a cooperative, or to intervene in legal proceedings to which the cooperative is a party, for the purpose of prosecuting, defending or discontinuing the legal proceedings on behalf of the cooperative.*

*(2) No leave is to be granted unless the Court is satisfied that*

**(3) Section 360 is repealed and the following is substituted:**

**Appeal of Court orders**

**360** Any order made by the Court under this Act may, with the permission of a justice of the Court of Appeal, be appealed to the Court of Appeal.

**Credit Union Act**

**Amends RSA 2000 cC-32**

**23(1)** The *Credit Union Act* is amended by this section.

**(2)** Section 197(1)(b) is amended by striking out “without leave of the Court” and substituting “without the permission of the Court”.

- (a) *the complainant has given reasonable notice to the directors of the cooperative of intention to apply to the Court under subsection (1) if the directors of the cooperative do not bring, diligently prosecute, defend or discontinue the action,*
- (b) *the complainant is acting in good faith, and*
- (c) *it appears to be in the interests of the cooperative that the action be brought, prosecuted, defended or discontinued.*

(3) Section 360 presently reads:

*360 An appeal lies to the Court of Appeal from any order made by the Court under this Act, with leave of a justice of the Court of Appeal.*

### **Credit Union Act**

**23(1)** Amends chapter C-32 of the Revised Statutes of Alberta 2000.

(2) Section 197(1) presently reads:

*197(1) Where a liquidator is appointed under section 193 or the Court makes an order for liquidation,*

- (a) *the credit union shall cease to carry on any business other than what is, in the opinion of the liquidator, necessary for an orderly liquidation,*
- (b) *no civil, criminal or administrative action or proceeding may be commenced or continued against the credit union without leave of the Court, and then only in accordance with the terms and conditions imposed by the Court, and*
- (c) *an attachment, sequestration, distress or execution that is in force or levied against the property of the credit union after the date of the appointment or the order is void.*

## **Election Act**

**Amends RSA 2000 cE-1**

**24(1) The *Election Act* is amended by this section.**

**(2) Section 145(4) is amended by striking out “leave of” and substituting “the permission of”.**

**(3) Section 184(a) is amended by striking out “the motion of the person” and substituting “the application of the person”.**

## **Environmental Protection and Enhancement Act**

**Amends RSA 2000 cE-12**

**25(1) The *Environmental Protection and Enhancement Act* is amended by this section.**

**(2) Section 236(3) is amended by striking out “leave of the court” and substituting “the permission of the court”;**

**(3) Section 255(2) is amended by striking out “leave of the court” and substituting “permission of the court”.**



## **Election Act**

**24(1)** Amends chapter E-1 of the Revised Statutes of Alberta 2000.

(2) Section 145(4) presently reads:

*(4) No person other than those specified in subsection (3) may attend at the recount of votes without leave of the presiding judge.*

(3) Section 184 presently reads:

*184 If a person is subject to the prohibitions under section 178 or 181 and a witness on the basis of whose testimony the prohibitions arose is convicted of perjury in respect of that testimony, the Court of Appeal on*

*(a) the motion of the person subject to the prohibitions, and*

*(b) being satisfied that the prohibitions arose by reason of the perjury,*

*may order the prohibitions to cease.*

## **Environmental Protection and Enhancement Act**

**25(1)** Amends chapter E-12 of the Revised Statutes of Alberta 2000.

(2) Section 236(3) presently reads:

*(3) Where an application made under this section in respect of an offender has been heard by a court, no other application under this section may be made with respect to the offender except with leave of the court.*

(3) Section 255(2) presently reads:

*(2) The party against whom a certificate or report of an analyst is produced may, with the leave of the court, require the attendance of the analyst for the purpose of cross-examination.*

## **Expropriation Act**

**Amends RSA 2000 cE-13**

**26(1) The *Expropriation Act* is amended by this section.**

**(2) Section 38(3) is amended by striking out “leave” and substituting “the permission”.**

**(3) Section 64(4) is amended by striking out “by leave of the court” and substituting “with the permission of the court”.**

**(4) Section 69(2)(b) is amended by striking out “leave” and substituting “permission”.**

## **Family Law Act**

**Amends SA 2003 cF-4.5**

**27(1) The *Family Law Act* is amended by this section.**

**(2) Section 10(2) is amended by striking out “leave of the court” and substituting “permission of the court”.**

## Expropriation Act

**26(1)** Amends chapter E-13 of the Revised Statutes of Alberta 2000.

(2) Section 38(3) presently reads:

*(3) Pending a decision on the stated case, no further proceedings in respect of the application shall be taken by the Board except with leave of a judge of the Court of Appeal.*

(3) Section 64(4) presently reads:

*(4) Notwithstanding anything in this section, the expropriating authority is not, except by leave of the court, entitled to take possession*

*(a) in the case of land expropriated for a right of way, until the proposed payment has been tendered, and*

*(b) in all other cases, until the expiry of 30 days after the proposed payment has been tendered.*

(4) Section 69(2) presently reads:

*(2) When an application is made under subsection (1),*

*(a) notwithstanding section 31(2), the expropriating authority has 90 days from determination of the issue by the court to make its notification of proposed payment, and*

*(b) the expropriating authority may apply to the court for leave to take possession of the land as soon as it is required by the expropriating authority.*

## Family Law Act

**27(1)** Amends chapter F-4.5 of the Statutes of Alberta, 2003.

(2) Section 10(2) presently reads:

*(2) A person may not bring an application under this section without the leave of the court.*

**(3) Section 15(1) is amended by striking out “leave” and substituting “permission”.**

**(4) Section 35 is amended**

**(a) in subsections (2) and (3) by striking out “leave of the court” and substituting “permission of the court”;**

**(b) in subsection (4) by striking out “leave” and substituting “permission”.**

(3) Section 15(1) presently reads:

*15(1) On the request of a party to an application under this Part or Part 3 or on its own motion, the court may make an order granting leave to obtain blood tests, DNA tests or any other tests that the court considers appropriate from any person named in the order and to submit the results in evidence.*

(4) Section 35 presently reads in part:

*35(1) The court may, on application by any person, including a guardian, make an order providing for contact between a child and a person who is not a guardian.*

*(2) Subject to subsection (3), a person other than*

*(a) a parent or a guardian of a child, or*

*(b) a person standing in the place of a parent*

*may not make an application under this section without the leave of the court on notice to the guardians.*

*(3) A grandparent of a child does not require the leave of the court to make an application under this section if*

*(a) the guardians are the parents of the child and*

*(i) the guardians are living separate and apart, or*

*(ii) one of the guardians has died,*

*and*

*(b) the grandparent's contact with the child has been interrupted by*

*(i) the separation of the guardians, or*

*(ii) the death of the guardian.*

*(4) In determining whether to grant leave under subsection (2), the court shall consider the best interests of the child, including*

*(a) the significance of the relationship, if any, between the child and the person for whom contact with the child is proposed, and*

**(5) Section 45(4) is amended by striking out “leave of the court” and substituting “permission of the court”.**

**(6) Section 50 is amended**

- (a) in subsection (1)(d) by striking out “leave of the court” and substituting “the permission of the court”;**
- (b) in subsection (3) by striking out “motion” and substituting “application”.**

**(7) Section 91 is amended**

- (a) in subsection (1) by striking out “leave of the court” and substituting “permission of the court”;**
- (b) in subsection (2) by striking out “leave” wherever it occurs and substituting “permission”.**

### **Irrigation Districts Act**

**Amends RSA 2000 cl-11**

**28(1) The *Irrigation Districts Act* is amended by this section.**

*(b) the necessity of making an order to facilitate contact between the child and the person for whom contact with the child is proposed.*

(5) Section 45(4) presently reads:

*(4) An enforcement officer who has prepared a report under subsection (1) may be required to attend a proceeding under this Division only with the leave of the court.*

(6) Section 50 presently reads in part:

*50(1) Subject to this section, the court may make an order requiring a parent to provide support for his or her child on application by*

*(a) the child,*

*(b) a parent or guardian of the child,*

*(c) a person who has the care and control of the child, or*

*(d) any other person with leave of the court where the court considers the application would be in the best interests of the child.*

*(3) In an application for a child support order, the court may, on the respondent's motion, add as a party any other parent who may have an obligation to provide support for the child.*

(7) Section 91 presently reads:

*91(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.*

### **Irrigation Districts Act**

**28(1)** Amends chapter I-11 of the Revised Statutes of Alberta 2000.

**(2) Section 87(12)(b) is amended by striking out** “with leave of a judge of the Court of Appeal” **and substituting** “with the permission of a judge of the Court of Appeal”.

**(3) Section 159(1)(b) is amended by striking out** “with leave of a judge of the Court of Appeal” **and substituting** “with the permission of a judge of the Court of Appeal”.

### **Judicature Act**

**Amends RSA 2000 cJ-2**

**29(1) The *Judicature Act* is amended by this section.**

**(2) Section 3(b)(iv) and (v) are amended by striking out** “motions” **and substituting** “applications”.



(2) Section 87(12) presently reads:

*(12) An appeal lies to the Court of Appeal in respect of the amount of compensation determined by the Land Compensation Board under subsection (9)*

*(a) when the amount is determined as \$10 000 or more, or*

*(b) in any other case, with leave of a judge of the Court of Appeal.*

(3) Section 159(1) presently reads:

*159(1) An appeal lies to the Court of Appeal in respect of the amount determined by the Land Compensation Board as the market value of a seepage damage area under section 158*

*(a) when the amount is determined as \$10 000 or more, or*

*(b) in any other case, with leave of a judge of the Court of Appeal.*

## **Judicature Act**

**29(1)** Amends chapter J-2 of the Revised Statutes of Alberta 2000.

(2) Section 3(b) presently reads:

*3 The Court of Appeal*

*(b) has jurisdiction and power, subject to the Rules of Court, to hear and determine*

*(i) all applications for new trials,*

*(ii) all questions or issues of law,*

*(iii) all questions or points in civil or criminal cases,*

*(iv) all appeals or motions in the nature of appeals respecting a judgment, order or decision of*

*(A) a judge of the Court of Queen's Bench, or*

**(3) Section 23.1 is amended**

- (a) in subsections (1) and (2) by striking out “leave of the Court” and substituting “the permission of the Court”;**
- (b) in subsection (7) by striking out “leave” wherever it occurs and substituting “permission”.**

**(4) The following is added after section 28.2:**

**Consistency amendments to regulations**

**28.21(1)** The Lieutenant Governor in Council may, by regulation, amend other regulations

- (a) for consistency with the *Alberta Rules of Court* (AR 124/2010) as amended from time to time;

*(B) a judge of a court of inferior jurisdiction when an appeal is given by any other Act,*

*and*

*(v) all other petitions, motions, matters or things whatsoever that might be brought in England before a Divisional Court of the High Court of Justice or before the Court of Appeal.*

(3) Section 23.1 presently reads in part:

*23.1(1) Where on application or on its own motion, with notice to the Minister of Justice and Solicitor General, a Court is satisfied that a person is instituting vexatious proceedings in the Court or is conducting a proceeding in a vexatious manner, the Court may order that*

*(a) the person shall not institute a further proceeding or institute proceedings on behalf of any other person, or*

*(b) a proceeding instituted by the person may not be continued,*

*without leave of the Court.*

*(2) An application under subsection (1) may be made by a party against whom vexatious proceedings are being instituted or conducted, a clerk of the Court or the Minister of Justice and Solicitor General or, with leave of the Court, any other person.*

*(7) A person against whom an order has been made under subsection (1) or (4) may apply to a Court for leave to institute or continue a proceeding in that Court and the Court may, subject to any terms or conditions it may impose, grant leave if it is satisfied that the proceeding is not an abuse of process and that there are reasonable grounds for the proceeding.*

(4) Consistency amendments to regulations.

(b) as the result of the repeal of the *Alberta Rules of Court* (AR 390/68) or any provision or part of those Rules.

**(2)** An amendment under subsection (1) may be made notwithstanding that the regulation being amended was made by a member of the Executive Council or some other person or body.

**(5)** Section 29(2)(b) is amended by striking out “special leave” and substituting “permission”.

### **Jury Act**

Amends RSA 2000 cJ-3

**30(1)** The *Jury Act* is amended by this section.

**(2)** Section 17(2) is amended by striking out “a motion” and substituting “an application”.

**(3)** Section 20(2) is amended by striking out “leave of the judge” and substituting “the permission of the judge”.

(5) Section 29(2) presently reads:

*(2) No appeal lies from the judgment, order or decision of a judge made under subsection (1) unless*

*(a) an appeal is expressly authorized by the Act giving the jurisdiction, or*

*(b) special leave is granted by the judge or by a judge of the Court.*

### **Jury Act**

**30(1)** Amends chapter J-3 of the Revised Statutes of Alberta 2000.

(2) Section 17(2) presently reads:

*(2) If, on a motion for directions or on a subsequent application, it appears that the trial might involve*

*(a) a prolonged examination of documents or accounts, or*

*(b) a scientific or long investigation,*

*that in the opinion of a judge cannot conveniently be made by a jury, the judge may, notwithstanding that the proceeding has been directed to be tried by a jury, direct that the proceeding be tried without a jury.*

(3) Section 20(2) presently reads:

*(2) Where permission to separate cannot be given or is not given, the jury shall be kept under the charge of an officer of the Court as the judge directs, and that officer shall prevent the jurors from communicating with anyone other than that officer or another member of the jury without leave of the judge.*

## **Livestock Identification and Commerce Act**

**Amends SA 2006 cL-16.2**

**31(1) The *Livestock Identification and Commerce Act* is amended by this section.**

**(2) Section 61 is amended**

- (a) in subsection (3) by striking out “Leave to appeal” and substituting “Permission to appeal”;**
- (b) in subsection (4) by striking out “leave to appeal” and substituting “permission to appeal”.**

## **Loan and Trust Corporations Act**

**Amends RSA 2000 cL-20**

**32(1) The *Loan and Trust Corporations Act* is amended by this section.**

**(2) Section 241(1)(c) is amended by striking out “leave of the Court” and substituting “the permission of the Court”;**

**(3) Section 292(1) and (2) are amended by striking out “leave” and substituting “permission”.**

## **Livestock Identification and Commerce Act**

**31(1)** Amends chapter L-16.2 of the Statutes of Alberta, 2006.

(2) Section 61 presently reads in part:

*(3) Leave to appeal may be obtained from a judge of the Court of Appeal only on an application made within 30 days from the date of receipt of a copy of the Tribunal's decision under section 59(6).*

*(4) Within 30 days from the day that leave to appeal is obtained, the Tribunal must forward to the Registrar of the Court of Appeal*

*(a) a copy of the Tribunal's decision, with reasons, and*

*(b) all material and information provided to the Tribunal under section 59.*

## **Loan and Trust Corporations Act**

**32(1)** Amends chapter L-20 of the Revised Statutes of Alberta 2000.

(2) Section 241(1)(c) presently reads:

*241(1) If the Court makes an order for the liquidation of a provincial corporation,*

*(c) no civil, criminal or administrative action or proceeding may be commenced or continued against the corporation without leave of the Court, and then only in accordance with the terms and conditions imposed by the Court, and*

(3) Section 292 presently reads in part:

*292(1) Subject to subsection (2), a complainant may apply to the Court for leave to*

*(a) bring an action in the name and on behalf of a provincial corporation or any of its subsidiaries, or*

### **Metis Settlements Act**

**Amends RSA 2000 cM-14**

**33(1) The *Metis Settlements Act* is amended by this section.**

**(2) Section 204(1), (2) and (3) are amended by striking out “leave to appeal” and substituting “permission to appeal”.**

**(3) Section 205 is repealed and the following is substituted:**



(b) *intervene in an action to which a provincial corporation or any of its subsidiaries is a party, for the purpose of prosecuting, defending or discontinuing the action on behalf of the corporation or subsidiary.*

(2) *No leave may be granted under subsection (1) unless the Court is satisfied that*

(a) *the complainant has given reasonable notice to the directors of the provincial corporation or its subsidiary of the complainant's intention to apply to the Court under subsection (1) if the directors of the corporation or its subsidiary do not bring, diligently prosecute, defend or discontinue the action,*

(b) *the complainant is acting in good faith, and*

(c) *it appears to be in the interests of the provincial corporation or its subsidiary that the action be brought, prosecuted, defended or discontinued.*

### **Metis Settlements Act**

**33(1)** Amends chapter M-14 of the Revised Statutes of Alberta 2000.

(2) Section 204 presently reads:

*204(1) An appeal from a decision of the Appeal Tribunal on a question of law or a question of jurisdiction lies to the Court of Appeal after leave to appeal has been obtained.*

*(2) Application for leave to appeal to the Court of Appeal must be made to a judge of the Court of Appeal within 45 days after the issue of the decision sought to be appealed or within any further time that the judge, in special circumstances, permits.*

*(3) Notice of the application for leave to appeal must be given to the Appeal Tribunal and to any other person the judge directs.*

(3) Section 205 presently reads:

*205 The judge may*

**Decision about the application**

**205** The judge may

- (a) grant permission to appeal,
- (b) direct which persons or other bodies must be named as respondents to the appeal,
- (c) specify the questions of law or the questions of jurisdiction to be appealed, and
- (d) make an order about the costs of the application.

**(4) Section 206(1) and (2) are amended by striking out “leave to appeal” wherever it occurs and substituting “permission to appeal”.**

**(5) Section 207(a) is amended by striking out “special leave” and substituting “the Court’s permission”.**

**(6) Section 209(1) is amended by striking out “by leave of the Court of Queen’s Bench” and substituting “with the permission of the Court of Queen’s Bench”.**

- (a) *grant leave to appeal,*
- (b) *direct which persons or other bodies must be named as respondents to the appeal,*
- (c) *specify the questions of law or the questions of jurisdiction to be appealed, and*
- (d) *make an order about the costs of the application.*

(4) Section 206 presently reads:

*206(1) The Appeal Tribunal must be named*

- (a) *as a respondent to the application for leave to appeal, and*
- (b) *as a respondent to the appeal if leave to appeal is granted.*

*(2) The Appeal Tribunal is entitled to be represented by counsel at an application for leave to appeal and at the appeal itself.*

(5) Section 207 presently reads:

*207 At the hearing before the Court of Appeal*

- (a) *no evidence other than the evidence that was submitted to the Appeal Tribunal may be admitted by the Court without special leave to do so, but the Court may draw any inferences*
  - (i) *that are not inconsistent with the facts expressly found by the Appeal Tribunal, and*
  - (ii) *that are necessary for determining the question of law or the question of jurisdiction,*

*and*

- (b) *the Court may confirm, vary, or reverse a decision of the Appeal Tribunal or refer the matter back to the Tribunal with directions.*

(6) Section 209(1) presently reads:

## **Mines and Minerals Act**

**Amends RSA 2000 cM-17**

**34(1) The *Mines and Minerals Act* is amended by this section.**

**(2) Section 97(1)(d) is amended by striking out “leave from” and substituting “the permission of”.**

**(3) Section 98 is amended**

- (a) in subsection (3)(d) by striking out “leave from” and substituting “the permission of”;**
- (b) in subsection (9) by striking out “leave of” and substituting “the permission of”.**

*209(1) Appeal Tribunal decisions may, by leave of the Court of Queen's Bench, be enforced in the same manner as a judgment or order of the Court to the same effect.*

### **Mines and Minerals Act**

**34(1)** Amends chapter M-17 of the Revised Statutes of Alberta 2000.

(2) Section 97(1)(d) presently reads:

*97(1) A person may serve a demand under this section if the person is*

*(d) a person who has obtained leave from the Court of Queen's Bench to do so, or*

(3) Section 98 presently reads in part:

*(3) A person may serve a notice to take proceedings or apply under subsection (2)(b) if the person is*

*(d) a person who has obtained leave from the Court of Queen's Bench to do so, or*

*(9) If the registration of a security notice is cancelled in its entirety or in relation to any specified agreement or agreements pursuant to subsection (8), no person may submit for registration another security notice relating to*

*(a) the same security interest or purported security interest that was the subject of the security notice whose registration was cancelled in its entirety, or*

*(b) the same security interest or purported security interest in relation to the specified agreement or agreements,*

*as the case may be, except with leave of the Court of Queen's Bench.*

## **Municipal Government Act**

**Amends RSA 2000 cM-26**

**35(1) The *Municipal Government Act* is amended by this section.**

**(2) Section 470(3), (4), (5), (6), (7) and (9) are amended by striking out “leave to appeal” wherever it occurs and substituting “permission to appeal”.**

## Municipal Government Act

**35(1)** Amends chapter M-26 of the Revised Statutes of Alberta 2000.

(2) Section 470 presently reads in part:

*(3) An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision under section 469, and notice of the application for leave to appeal must be given to*

*(a) the assessment review board, and*

*(b) any other persons as the judge directs.*

*(4) If an applicant makes a written request for materials to the assessment review board for the purposes of the application for leave to appeal under subsection (3), the assessment review board must provide the materials requested within 14 days from the date on which the written request is served.*

*(5) On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant leave to appeal if the judge is of the opinion that the appeal involves a question of law or jurisdiction of sufficient importance to merit an appeal and has a reasonable chance of success.*

*(6) If a judge grants leave to appeal, the judge may*

*(a) direct which persons or other bodies must be named as respondents to the appeal,*

*(b) specify the question of law or the question of jurisdiction to be appealed, and*

*(c) make any order as to the costs of the application that the judge considers appropriate.*

*(7) On leave to appeal being granted by a judge, the appeal must proceed in accordance with the practice and procedure of the Court of Queen's Bench.*

**(3) Section 470.1(3) is amended by striking out “leave to appeal” and substituting “permission to appeal”.**

**(4) Section 506(3), (4), (5), (6), (7) and (9) are amended by striking out “leave to appeal” wherever it occurs and substituting “permission to appeal”.**



*(9) Within 30 days from the date that the leave to appeal is obtained, the assessment review board must forward to the clerk of the Court of Queen's Bench the transcript, if any, and the record of the hearing, its findings and reasons for the decision.*

(3) Section 470.1(3) presently reads:

*(3) No member of the assessment review board is liable for costs by reason of or in respect of an application for leave to appeal or an appeal under this Act.*

(4) Section 506 presently reads in part:

*(3) An application for leave to appeal must be filed with the Court of Queen's Bench within 30 days after the persons notified of the hearing receive the decision under section 505, and notice of the application for leave to appeal must be given to*

*(a) the Board, and*

*(b) any other persons as the judge directs.*

*(4) If an applicant makes a written request for materials to the Board for the purposes of the application for leave to appeal under subsection (3), the Board must provide the materials requested within 14 days from the date on which the written request is served.*

*(5) On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant leave to appeal if the judge is of the opinion that the appeal involves a question of law or jurisdiction of sufficient importance to merit an appeal and has a reasonable chance of success.*

*(6) If a judge grants leave to appeal, the judge may*

*(a) direct which persons or other bodies must be named as respondents to the appeal,*

*(b) specify the question of law or the question of jurisdiction to be appealed, and*

*(c) make any order as to the costs of the application that the judge considers appropriate.*

**(5) Section 506.1(3) is amended by striking out “leave to appeal” and substituting “permission to appeal”.**

**(6) Section 688 is amended**

**(a) in subsections (2), (2.1), (2.2), (3), (4), (4.1) and (4.3) by striking out “leave to appeal” wherever it occurs and substituting “permission to appeal”;**

**(b) by repealing subsection (5) and substituting the following:**

**(5)** If an appeal is from a decision of a subdivision and development appeal board, the municipality must be given notice of the application for permission to appeal and the board and the municipality

(a) are respondents in the application and, if permission to appeal is granted, in the appeal, and

(b) are entitled to be represented by counsel at the application and, if permission to appeal is granted, at the appeal.

**(c) by repealing subsection (6)(a) and (b) and substituting the following:**

(a) is a respondent in the application and, if permission to appeal is granted, in the appeal, and

(b) is entitled to be represented by counsel at the application and, if permission to appeal is granted, at the appeal.

*(7) On leave to appeal being granted by a judge, the appeal must proceed in accordance with the practice and procedure of the Court of Queen's Bench.*

*(9) Within 30 days from the date that the leave to appeal is obtained, the Board must forward to the clerk of the Court of Queen's Bench the transcript, if any, and the record of the hearing, its findings and reasons for the decision.*

(5) Section 506.1(3) presently reads:

*(3) No member of the Board is liable for costs by reason of or in respect of an application for leave to appeal or an appeal under this Act.*

(6) Section 688 presently reads in part:

*(2) An application for leave to appeal must be filed and served within 30 days after the issue of the decision sought to be appealed, and notice of the application for leave to appeal must be given to*

*(a) the Municipal Government Board or the subdivision and development appeal board, as the case may be, and*

*(b) any other persons that the judge directs.*

*(2.1) If an applicant makes a written request for materials to the Municipal Government Board or the subdivision and development appeal board, as the case may be, for the purposes of the application for leave to appeal under subsection (2), the Municipal Government Board or the subdivision and development appeal board, as the case may be, must provide the materials requested within 14 days from the date on which the written request is served.*

*(2.2) An applicant shall not request under subsection (2.1) the transcript of the hearing, but the Court of Appeal may, on application or on its own motion, if satisfied that the transcript is necessary for the purpose of determining the application for leave to appeal, direct that the Municipal Government Board or the subdivision and development appeal board, as the case may be, provide the transcript within the time provided by the Court.*

*(3) On hearing the application and the representations of those persons who are, in the opinion of the judge, affected by the application, the judge may grant leave to appeal if the judge is of the*



*opinion that the appeal involves a question of law of sufficient importance to merit a further appeal and has a reasonable chance of success.*

*(4) If a judge grants leave to appeal, the judge may*

- (a) direct which persons or other bodies must be named as respondents to the appeal,*
- (b) specify the questions of law or the questions of jurisdiction to be appealed, and*
- (c) make any order as to the costs of the application that the judge considers appropriate.*

*(4.1) On leave to appeal being granted by a judge of the Court of Appeal, the appeal must proceed in accordance with the practice and procedure of the Court of Appeal.*

*(4.3) Within 30 days from the date that the leave to appeal is obtained, the Municipal Government Board or the subdivision and development appeal board, as the case may be, must forward to the Registrar of the Court of Appeal the transcript and record of the hearing, its findings and reasons for the decision.*

*(5) If an appeal is from a decision of a subdivision and development appeal board, the municipality must be given notice of the application for leave to appeal and the board and the municipality*

- (a) are respondents in the application and, if leave is granted, in the appeal, and*
- (b) are entitled to be represented by counsel at the application and, if leave is granted, at the appeal.*

*(6) If a decision of the Municipal Government Board is appealed, the Board*

- (a) is a respondent in the application and, if leave is granted, in the appeal, and*
- (b) is entitled to be represented by counsel at the application and, if leave is granted, at the appeal.*

**(7) Section 689(3) is amended by striking out “leave to appeal” and substituting “permission to appeal”.**

### **Police Act**

**Amends RSA 2000 cP-17**

**36(1) The *Police Act* is amended by this section.**

**(2) Section 18(b) is repealed and the following is substituted:**

- (b) with the permission of a single judge of the Court of Appeal,

### **Powers of Attorney Act**

**Amends RSA 2000 cP-20**

**37(1) The *Powers of Attorney Act* is amended by this section.**

**(2) Section 12 is amended**

- (a) **in subsection (1) by striking out “leave of the Court” and substituting “the permission of the Court”;**
- (b) **in subsections (2), (3) and (5) by striking out “leave” and substituting “permission”.**

(7) Section 689(3) presently reads:

*(3) No member of the Municipal Government Board or a subdivision and development appeal board is liable to costs by reason or in respect of an application for leave to appeal or an appeal under this Act.*

### **Police Act**

**36(1)** Amends chapter P-17 of the Revised Statutes of Alberta 2000.

(2) Section 18 presently reads:

*18 The decision of the Board in respect of a matter appealed to it under section 48 may,*

*(a) within 30 days from the day that the Board gives its decision, and*

*(b) with the leave of a single judge of the Court of Appeal,*

*be appealed to the Court of Appeal on a question of law.*

### **Powers of Attorney Act**

**37(1)** Amends chapter P-20 of the Revised Statutes of Alberta 2000.

(2) Section 12 presently reads:

*12(1) Except with leave of the Court, an attorney shall not, during any period in which the attorney is required to exercise the attorney's duty imposed under section 8, renounce the appointment as the attorney.*

*(2) An application for leave to renounce shall*

*(a) be considered to be an application by the attorney to terminate the enduring power of attorney, and*

**Protection of Sexually Exploited  
Children Act**

**Amends RSA 2000 cP-30.3**

**38(1) The *Protection of Sexually Exploited Children Act* is amended by this section.**

**(2) Section 3.5(6) is amended by striking out “leave” and substituting “permission”.**

**(3) Section 6.3(2)(c)(iii) is amended by striking out “with leave of the Court” and substituting “with the permission of the Court”.**



*(b) be treated in the same manner as an application made under section 11.*

*(3) Notwithstanding subsection (2), where there is more than one attorney under an enduring power of attorney, an attorney may apply to the Court for leave to renounce that attorney's appointment.*

*(4) A copy of the application made under subsection (3) and any order granted in respect of the application shall, unless the Court provides otherwise, be served on the donor and any other attorney.*

*(5) On hearing an application under subsection (2), the Court may grant an order granting the attorney leave to renounce the attorney's appointment if the Court*

*(a) considers that this would be in the best interests of the donor, and*

*(b) is satisfied that any remaining attorney is prepared to carry out the attorney's duties.*

### **Protection of Sexually Exploited Children Act**

**38(1)** Amends chapter P-30.3 of the Revised Statutes of Alberta 2000.

(2) Section 3.5(6) presently reads:

*(6) Notwithstanding subsections (4) and (5), if an appeal is not heard within 90 days of the filing of the notice of appeal, unless the Court of Queen's Bench grants leave to extend the time within which the appeal must be heard, the clerk of the Court of Queen's Bench must fix the next available date as the date on which the appeal must be heard and must notify the parties of the time and place of the hearing.*

(3) Section 6.3(2)(c) presently reads in part:

*(2) Despite subsection (1),*

*(c) the Court may, on the application of*

## **Public Trustee Act**

**Amends SA 2004 cP-44.1**

**39(1) The *Public Trustee Act* is amended by this section.**

**(2) Section 30 is amended**

- (a) in subsection (1) by striking out “leave of the Court” and substituting “the permission of the Court”;**
- (b) in subsection (2) by striking out “Leave of the Court” and substituting “The permission of the Court”.**

- (i) a child,
- (ii) a parent or guardian of a child, or
- (iii) any interested party, with leave of the Court,

*grant permission to the child, the parent or guardian or the interested party, as the case may be, to publish or consent to the publication of the name or photograph of the child or of the child's parent or guardian in a manner that reveals that the child is receiving or has received services under this Act if the Court is satisfied that the publication is in the child's best interest or the public interest.*

### **Public Trustee Act**

**39(1)** Amends chapter P-44.1 of the Statutes of Alberta, 2004.

(2) Section 30 presently reads:

*30(1) Notwithstanding any other Act, on the Public Trustee becoming trustee of the estate of an incapacitated person,*

- (a) an action or other proceedings in a court, or*
- (b) a seizure by a civil enforcement agency or extrajudicial proceedings,*

*against the incapacitated person or that person's estate may be commenced or continued only with leave of the Court or with the consent in writing of the Public Trustee.*

*(2) Leave of the Court may be granted on application of which notice has been given to the Public Trustee subject to any terms as to security for costs or otherwise that to the Court appear just or expedient.*

## **Responsible Energy Development Act**

**Amends SA 2012 cR-17.3**

**40(1) The *Responsible Energy Development Act* is amended by this section.**

**(2) Section 45 is amended**

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

### **Appeal on a question of jurisdiction or of law**

**45(1)** A decision of the Regulator is appealable to the Court of Appeal, with the permission of the Court of Appeal, on a question of jurisdiction or on a question of law.

**(b) in subsections (2), (3), (4) and (6) by striking out “leave to appeal” and substituting “permission to appeal”.**

## **Safer Communities and Neighbourhoods Act**

**Amends SA 2007 cS-0.5**

**41(1) The *Safer Communities and Neighbourhoods Act* is amended by this section.**

**(2) Section 23 is amended**

## **Responsible Energy Development Act**

**40(1)** Amends chapter R-17.3 of the Statutes of Alberta, 2012.

(2) Section 45 presently reads in part:

*45(1) A decision of the Regulator is appealable to the Court of Appeal, with leave of the Court of Appeal, on a question of jurisdiction or on a question of law.*

*(2) An application for leave to appeal must*

*(a) be filed and served within the time prescribed by the regulations or within a further period of time granted by the judge of the Court of Appeal where, in the opinion of the judge, the circumstances warrant it, and*

*(b) be returnable within the time prescribed by the regulations.*

*(3) Notice of an application for leave to appeal must be given to the parties affected by the appeal and to the Regulator.*

*(4) The Court of Appeal may, on application or on its own motion, if satisfied that a transcript or other materials are necessary for the purpose of determining the application for leave to appeal, direct that the Regulator provide the transcript or other materials within the time provided by the Court of Appeal.*

*(6) On leave to appeal being granted by a judge of the Court of Appeal, the appeal shall proceed in accordance with the practice and procedure of the Court of Appeal.*

## **Safer Communities and Neighbourhoods Act**

**41(1)** Amends chapter S-0.5 of the Statutes of Alberta, 2007.

(2) Section 23 presently reads:

- (a) in subsection (1)(b) by striking out “with leave of a judge” and substituting “with the permission of a judge”;
- (b) in subsection (2) by striking out “leave to appeal” and substituting “permission to appeal”.

### **Securities Act**

**Amends RSA 2000 cS-4**

**42(1) The *Securities Act* is amended by this section.**

**(2) Section 211.08 is amended**

- (a) in subsection (1) by striking out “leave of the court” and substituting “the permission of the court”;
- (b) in subsections (2) and (5) by striking out “leave” and substituting “permission”.

**(3) Section 211.09 is amended by striking out “leave” wherever it occurs and substituting “permission”.**

*23(1) An order of the Court made pursuant to this Part may be appealed to the Court of Appeal*

*(a) on a question of law, and*

*(b) with leave of a judge of the Court of Appeal.*

*(2) An application for leave to appeal must be made within 14 days after the day the order of the Court is pronounced or within any further time that a judge of the Court of Appeal may allow.*

### **Securities Act**

**42(1)** Amends chapter S-4 of the Revised Statutes of Alberta 2000.

(2) Section 211.08 presently reads in part:

*211.08(1) No action may be commenced under section 211.03 without leave of the court granted on application with notice to each defendant.*

*(2) The court shall grant leave only where it is satisfied that*

*(a) the action is being brought in good faith, and*

*(b) there is a reasonable possibility that the action will be resolved at trial in favour of the plaintiff.*

*(5) A copy of the application for leave to proceed and any affidavits filed with the court shall be sent to the Commission when filed.*

(3) Section 211.09 presently reads:

*211.09 A person or company that has been granted leave to commence an action under section 211.03 shall*

*(a) promptly issue a news release disclosing that leave has been granted to commence an action under section 211.03,*

*(b) send a written notice to the Commission within 7 days of leave being granted, together with a copy of the news release, and*

**(4) Section 211.093 is amended by striking out “leave” and substituting “permission”.**

**(5) Section 211.095(a)(ii), (b)(ii) and (c)(ii) are amended by striking out “leave” and substituting “permission”.**



(c) *send a copy of the statement of claim or other originating document to the Commission when filed.*

(4) Section 211.093 presently reads:

*211.093 The Commission may intervene in an action under section 211.03 and in an application for leave under section 211.08.*

(5) Section 211.095 presently reads:

*211.095 No action shall be commenced under section 211.03,*

(a) *in the case of misrepresentation in a document, later than the earlier of*

(i) *3 years after the date on which the document containing the misrepresentation was first released, and*

(ii) *6 months after the issuance of a news release disclosing that leave has been granted to commence an action under section 211.03 or under comparable legislation in the other provinces or territories in Canada in respect of the same misrepresentation;*

(b) *in the case of a misrepresentation in a public oral statement, later than the earlier of*

(i) *3 years after the date on which the public oral statement containing the misrepresentation was made, and*

(ii) *6 months after the issuance of a news release disclosing that leave has been granted to commence an action under section 211.03 or under comparable legislation in another province or territory of Canada in respect of the same misrepresentation,*

*and*

(c) *in the case of a failure to make timely disclosure, later than the earlier of*

(i) *3 years after the date on which the requisite disclosure was required to be made, and*

## **Surface Rights Act**

**Amends RSA 2000 cS-24**

**43(1) The *Surface Rights Act* is amended by this section.**

**(2) Section 26(8) is repealed and the following is substituted:**

**(8)** Any party may, with the permission of a judge of the Court of Appeal, appeal from the judgment of the Court of Queen's Bench to the Court of Appeal.

**(8.1)** On permission to appeal being granted, the appeal must proceed in accordance with the rules and practice of the Court of Appeal, except as to costs.

## **Traffic Safety Act**

**Amends RSA 2000 cT-6**

**44(1) The *Traffic Safety Act* is amended by this section.**

**(2) Section 163(3)(d) and (4)(d) are amended by striking out "with leave of the court" and substituting "with the permission of the court".**

- (ii) *6 months after the issuance of a news release disclosing that leave has been granted to commence an action under section 211.03 or under comparable legislation in another province or territory of Canada in respect of the same failure to make timely disclosure.*

### **Surface Rights Act**

**43(1)** Amends chapter S-24 of the Revised Statutes of Alberta 2000.

(2) Section 26(8) presently reads:

*(8) By leave of a judge of the Court of Appeal, any party may appeal from the judgment of the Court of Queen's Bench to the Court of Appeal and the rules and practice applicable to appeals to the Court of Appeal apply, except as to costs.*

### **Traffic Safety Act**

**44(1)** Amends chapter T-6 of the Revised Statutes of Alberta 2000.

(2) Section 163 presently reads in part:

*(3) In any proceedings under which a person is charged with failing to comply with a provision of this Act or the regulations relating to the speed at which the motor vehicle was travelling or red lights shown at an intersection by a traffic control signal,*

*(d) the defendant may, with leave of the court, require the attendance of any person giving evidence by affidavit pursuant to clause (a) for the purpose of cross-examination.*

*(4) In any proceedings in respect of a charge that a person has failed to comply with this Act,*

*(d) the defendant may, with leave of the court, require the attendance of any person giving evidence by affidavit pursuant to clause (a) for the purpose of cross-examination.*

**(3) Section 181 is amended**

- (a) in subsection (1) by striking out “leave to appeal” and substituting “permission to appeal”;**
- (b) in subsection (2)(a) and (b) by striking out “leave to appeal” and substituting “permission to appeal”.**

(3) Section 181 presently reads in part:

*181(1) If a person who has been disqualified from driving a motor vehicle in Alberta appeals against that person's conviction, applies for leave to appeal against the conviction or applies to quash the conviction, the disqualification remains in effect unless*

- (a) the court being appealed to or to which the application is made orders that the disqualification be stayed pending the disposition of the appeal or application, and*
- (b) the appellant or applicant serves on the Registrar by personal service or by registered mail
  - (i) a copy of the notice of appeal, stated case, application or other document by which the appeal or application is commenced,*
  - (ii) a copy of the document by which the application to stay the disqualification from driving a motor vehicle is commenced,*
  - (iii) a copy of the order staying the disqualification, and*
  - (iv) a notice setting out the person's full name, address, date of birth and operator's licence number.**

*(2) An application for a stay of the disqualification under subsection (1) must be brought by*

- (a) an application, if the application for the stay is to be made in the same court as the application for the appeal, application for leave to appeal or application to quash the conviction, or*
- (b) an originating application, if the application for the stay is to be made in the Court of Queen's Bench and the application for leave to appeal or application to quash the conviction is to be made in the Court of Appeal.*

## Trustee Act

Amends RSA 2000 cT-8

**45(1)** The *Trustee Act* is amended by this section.

**(2)** Section 36(1) is amended by striking out “by leave of the Court of Queen’s Bench” and substituting “, with the permission of the Court of Queen’s Bench”.

**(3)** Section 37(1) is amended by striking out “by leave of the Court of Queen’s Bench” and substituting “, with the permission of the Court of Queen’s Bench”.

## Trustee Act

**45(1)** Amends chapter T-8 of the Revised Statutes of Alberta 2000.

(2) Section 36(1) presently reads:

*36(1) When*

- (a) any property either real or personal is held by a trustee in trust for a minor either absolutely or contingently on the minor attaining the age of 18 years or on the occurrence of any event prior to the minor attaining that age, and*
- (b) the income arising from the property is insufficient for the maintenance and education of the minor,*

*the trustee by leave of the Court of Queen's Bench, to be obtained on application, may sell and dispose of any portion of the real or personal property and pay the whole or any part of the money arising from the sale to the guardian, if any, of the minor or otherwise apply it for or toward the maintenance or education of the minor.*

(3) Section 37(1) presently reads:

*37(1) When*

- (a) any property either real or personal is held by a trustee in trust for a person for any interest whatever, whether contingent or vested either defeasibly or indefeasibly, and*
- (b) the income arising from the property is insufficient for the maintenance and education of the beneficiary,*

*the trustee by leave of the Court of Queen's Bench, to be obtained on application, may sell and dispose of any portion of that real or personal property and pay the whole or any part of the money arising from the sale to the guardian, if any, of the beneficiary or otherwise apply it for or toward the maintenance or education of the beneficiary.*

### **Water Act**

**Amends RSA 2000 cW-3**

**46(1) The *Water Act* is amended by this section.**

**(2) Section 149(3) is amended by striking out “leave of the court” and substituting “the permission of the court”.**

**(3) Section 161(2) is amended by striking out “leave of the court” and substituting “permission of the court”.**

### **Wildlife Act**

**Amends RSA 2000 cW-10**

**47(1) The *Wildlife Act* is amended by this section.**

**(2) Section 85(5) is amended by striking out “with leave of” and substituting “with the permission of”.**

**(3) Section 99(2) is amended by striking out “leave” and substituting “permission”.**

### **Youth Justice Act**

**Amends RSA 2000 cY-1**

**48(1) The *Youth Justice Act* is amended by this section.**



### **Water Act**

**46(1)** Amends chapter W-3 of the Revised Statutes of Alberta 2000.

(2) Section 149(3) presently reads:

*(3) If an application made under this section in respect of an offender has been heard by the court, no other application under this section may be made with respect to the offender except with leave of the court.*

(3) Section 161(2) presently reads:

*(2) The party against whom a certificate or report of an analyst is produced may, with the leave of the court, require the attendance of the analyst for the purpose of cross-examination.*

### **Wildlife Act**

**47(1)** Amends chapter W-10 of the Revised Statutes of Alberta 2000.

(2) Section 85(5) presently reads:

*(5) An accused against whom a certificate under subsection (3), (3.1) or (4) is produced may, with leave of the Court and for the purposes of cross-examination, require the attendance of the person who performed the examination.*

(3) Section 99(2) presently reads:

*(2) Where an application has been heard by the court under subsection (1), no other application may be made in respect of the same order except with the leave of the court.*

### **Youth Justice Act**

**48(1)** Amends chapter Y-1 of the Revised Statutes of Alberta 2000.

**(2) Section 14(3) is amended by striking out** “leave of the youth justice court” **and substituting** “the permission of the youth justice court”.

### Miscellaneous Amendments

#### Miscellaneous amendments

**49 The following enactments are amended by striking out** “leave” **and substituting** “permission”:

Act	Section
Agricultural Operation Practices Act	27(2), (4), (4.1), (4.2), (6), (7)
Alberta Corporate Tax Act	39.2(3)(c)(iv), 45(3)(a)
Alberta Utilities Commission Act	29(2), (3), (4), (5), (8), (10)
Business Corporations Act	240(1), (2), 242(3)(q)
Fatality Inquiries Act	40(5)
Fisheries (Alberta) Act	38.5(2)
Insurance Act	775(1), (2)
Natural Resources Conservation Board Act	31(2), (3), (3.1), (3.2), (4.1), (5)
Possessory Liens Act	9(3)(a), 10(2)(c)
Proceedings Against the Crown Act	21(2)
Provincial Parks Act	29(2)
Social Care Facilities Licensing Act	11(7)(b)
Supportive Living Accommodation Licensing Act	17(2)(b)
Victims Restitution and Compensation Payments Act	11(3), 13(1)(c), (d), (2), 19.91(3), 19.93(1)(c), (d), (2), 26(2)(b), (c), (3), 38(2)(c), (d), (3)
Wilderness Areas, Ecological Reserves, Natural Areas and Heritage Rangelands Act	14.4(2)

#### Miscellaneous amendments

**50 The following enactments are amended by striking out** “with leave of” **and substituting** “with the permission of”:

(2) Section 14(3) presently reads:

*(3) If a pre-youth-sentence report cannot reasonably be committed to writing, it may, with leave of the youth justice court, be submitted orally in youth justice court.*

### **Miscellaneous Amendments**

**49** Change in terminology.

**50** Change in terminology.

<b>Act</b>	<b>Section</b>
Forest and Prairie Protection Act	37.2(4)
Forests Act	57(3)
Protection of Children Abusing Drugs Act	4.1(1)(d)
Provincial Offences Procedure Act	5(8), 39(4)
Public Lands Act	59.03(3)

**Repeal of transitional provisions**

**51** The *Rules of Court Statutes Amendment Act, 2009* is amended by repealing section 8.

**51** Amends chapter 53 of the Statutes of Alberta, 2009. Section 8 presently reads:

*8(1) In this section, “former rules of court” means the Alberta Rules of Court (AR 390/68).*

*(2) The Lieutenant Governor in Council may make regulations for the purpose of*

*(a) amending terminology and references to procedural requirements in regulations that have become inapplicable or inappropriate as a result of the repeal of the former rules of court, or*

*(b) adding terminology and references to the procedural requirements of the Alberta Rules of Court in regulations as necessary.*

*(3) An amendment under subsection (2) may be made notwithstanding that the regulation being amended was made by a member of the Executive Council or some other person or body.*





