

2015 Bill 16

Third Session, 28th Legislature, 64 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 16

STATUTES AMENDMENT ACT, 2015

MR. DONOVAN

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 16
Mr. Donovan

BILL

2015

STATUTES AMENDMENT ACT, 2015

(Assented to , 2015)

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

Alberta Sport, Recreation, Parks and Wildlife Foundation Act

Amends RSA 2000 cA-34

**1(1) The *Alberta Sport, Recreation, Parks and Wildlife
Foundation Act* is amended by this section.**

**(2) The title of the Act is repealed and the following is
substituted:**

ALBERTA SPORT CONNECTION ACT

(3) Section 1(a) is repealed and the following is substituted:

(a) “corporation” means the corporation continued by section 2;

(4) Section 2 is amended

(a) **in subsection (1) by striking out** “is continued as a
corporation” **and substituting** “is continued as “Alberta
Sport Connection”, a corporation”;

Explanatory Notes

Alberta Sport, Recreation, Parks and Wildlife Foundation Act

1(1) Amends chapter A-34 of the Revised Statutes of Alberta 2000.

(2) The title of the Act presently reads:

*ALBERTA SPORT, RECREATION,
PARKS AND WILDLIFE FOUNDATION ACT*

(3) Section 1(a) presently reads:

1 In this Act,

(a) "Foundation" means the Alberta Sport, Recreation, Parks and Wildlife Foundation that was established and that is continued by this Act;

(4) Section 2 presently reads:

(1) The Alberta Sport, Recreation, Parks and Wildlife Foundation is continued as a corporation consisting of not more than 10 members appointed by the Lieutenant Governor in Council.

(b) in subsections (2), (3) and (4) by striking out “Foundation” wherever it occurs and substituting “corporation”.

(5) Section 3 is amended

(a) by repealing clauses (b), (c) and (d);

(b) by striking out “Foundation” wherever it occurs and substituting “corporation”.

(6) Sections 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 are amended by striking out “Foundation” wherever it occurs and substituting “corporation”.

(7) The following is added after section 13:

Transitional

14(1) In this section,

(a) “previous Act” means the *Alberta Sport, Recreation, Parks and Wildlife Foundation Act* as it read immediately before it was amended by this section;

(2) The Lieutenant Governor in Council may prescribe the term of office of any member of the Foundation.

(3) The Lieutenant Governor in Council shall designate one of the members of the Foundation as chair and one of the members of the Foundation as vice-chair.

(4) The Lieutenant Governor in Council may prescribe the rate of remuneration and the subsistence and travelling expenses to be paid to the members of the Foundation.

(5) A majority of the members constitutes a quorum.

(5) Section 3 presently reads:

3 The objects of the Foundation are

(a) to develop and maintain sport programs, facilities and services;

(b) to develop and maintain recreation programs, facilities and services;

(c) to develop and maintain parks programs, facilities and services;

(d) to develop and maintain fish and wildlife programs, facilities and services;

(e) to raise funds to be used in assisting the Foundation in the carrying out of its objects.

(6) References to “Foundation” replaced with “corporation”.

(7) Transitional.

(b) “restricted funds” means funds that are subject to a restriction imposed by the Alberta Sport, Recreation, Parks and Wildlife Foundation.

(2) Land or an interest in land managed by the Alberta Sport, Recreation, Parks and Wildlife Foundation immediately before the coming into force of this section shall, until a transfer of the land or of the interest in land has been completed, continue to be managed by the corporation, and the previous Act continues to apply to the management of the land or the interest in land by the corporation in all respects as if the corporation were the Alberta Sport, Recreation, Parks and Wildlife Foundation.

(3) Restricted funds, buildings and equipment associated with land or an interest in land managed by the Alberta Sport, Recreation, Parks and Wildlife Foundation immediately before the coming into force of this section shall, until a transfer of the land or of the interest in land has been completed, continue to be managed by the corporation, and the previous Act continues to apply to the management of the funds, buildings and equipment by the corporation in all respects as if the corporation were the Alberta Sport, Recreation, Parks and Wildlife Foundation.

(4) Revenue and donations received and expenses incurred in association with land or an interest in land managed by the Alberta Sport, Recreation, Parks and Wildlife Foundation immediately before the coming into force of this section shall, until a transfer of the land or of the interest in land has been completed, continue to be managed by the corporation, and the previous Act continues to apply to the management of the revenue and donations and the payment of expenses by the corporation in all respects as if the corporation were the Alberta Sport, Recreation, Parks and Wildlife Foundation.

(5) Land or an interest in land referred to in subsection (2) and restricted funds, buildings and equipment associated with the land or the interest in land may be transferred only to a party who agrees

- (a) to continue to protect the land and restricted funds, buildings and equipment associated with the land or the interest in land as set out in the terms and conditions referred to in section 4(2), and
- (b) to assume responsibility for all obligations, debts and liabilities associated with the land or the interest in land or with restricted funds, buildings and equipment

associated with the land or the interest in land, regardless of when the debt or liability was incurred.

(8) The *Conflicts of Interest Act* is amended in Part 3 of the Schedule by striking out “Alberta Sport, Recreation, Parks and Wildlife Foundation” and substituting “Alberta Sport Connection”.

Court of Queen’s Bench Act

Amends RSA 2000 cC-31

2(1) The *Court of Queen’s Bench Act* is amended by this section.

(2) Section 1(a) is amended by striking out “the Associate Chief Justice” and substituting “an Associate Chief Justice”.

(3) Section 3(1)(b) is repealed and the following is substituted:

(b) 2 associate chief judges, who shall each be called Associate Chief Justice of the Court of Queen’s Bench of Alberta,

(4) Section 4(2) is amended by adding “an” before “Associate”.

(5) Section 5 is amended by striking out “the Associate Chief Justice” and substituting “an Associate Chief Justice”.

(6) Section 9(1)(a) is amended by striking out “and” at the end of subclause (i), adding “and” at the end of subclause (ii) and adding the following after subclause (ii):

(iii) a matter for which the Chief Justice has given a direction that a master is not to exercise that jurisdiction,

(8) Consequential amendment.

Court of Queen's Bench Act

2(1) Amends chapter C-31 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads in part:

1 In this Act,

(a) "Associate Chief Justice" means the Associate Chief Justice of the Court of Queen's Bench of Alberta;

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

3(1) The Court consists of

(b) the associate chief judge, who shall be called the Associate Chief Justice of the Court of Queen's Bench of Alberta,

(4) Section 4(2) presently reads:

(2) If the Chief Justice or Associate Chief Justice makes an election under subsection (1), that Justice shall hold only the office of supernumerary judge of the Court.

(5) Section 5 presently reads:

5 Each judge and master in chambers, before entering on the duties of that office, shall take the oath prescribed by the Oaths of Office Act before the Lieutenant Governor, the Chief Justice of Alberta, the Chief Justice of the Court of Queen's Bench of Alberta or the Associate Chief Justice.

(6) Section 9(1)(a) presently reads:

9(1) In regard to all matters brought or proposed to be brought in the Court, a master in chambers

(a) has the same power and may exercise the same jurisdiction as a judge sitting in chambers except in respect of

(7) Section 22 is amended by striking out “Associate Chief Justice” **and substituting** “Associate Chief Justices”.

Land Titles Act

Amends RSA 2000 cL-4

3(1) The *Land Titles Act* is amended by this section.

(2) The following is added after section 56:

Electronic Submission, Filing and Registration

Definitions

56.1(1) For the purposes of sections 56.11 to 56.7 and section 213,

- (a) “certification authority” means a certification authority designated by the Registrar under section 56.41;
- (b) “digital signature” means a secure signature in electronic format that is authorized by a certificate of the Registrar or a certification authority issued under section 56.51;
- (c) “electronic version” of an application, instrument, plan, caveat or other document means an electronic application, instrument, plan, caveat or other document that is identical in content to the corresponding paper version and into which any required digital signatures have been incorporated;

(i) *appeals, applications in the nature of appeals, applications concerning the hearing of appeals and applications to vary or rescind an order made by a judge, and*

(ii) *subject to subsection (2), stays of proceedings after verdict or on judgment after trial or hearing before a judge, unless all parties consent to the exercise of that jurisdiction by the master,*

and

(7) Section 22 presently reads:

22 The Chief Justice, in consultation with the Associate Chief Justice, may designate the sittings of the Court.

Land Titles Act

3(1) Amends chapter L-4 of the Revised Statutes of Alberta 2000.

(2) Adds sections on electronic documents and submission.

- (d) “other document” means any document, other than an application, instrument, plan or caveat, that is required or permitted to be filed or registered in the Land Titles Office under this Act or any other enactment;
- (e) “paper version” of an application, instrument, plan, caveat or other document means the application, instrument, plan, caveat or other document that bears the hand-written signatures of all required signatories;
- (f) “subscriber” means an individual who is authorized by a certificate issued under section 56.51 to incorporate the individual’s digital signature into an electronic application, instrument, plan, caveat or other document and to submit the electronic version of the application, instrument, plan, caveat or other document to the Land Titles Office electronically.

(2) A reference in this Act to an electronic application, instrument, plan, caveat or other document shall be construed as meaning any of those documents in electronic format.

Registrar’s specifications, permission, requirements re documents in electronic format

56.11(1) The Registrar may permit or direct subscribers

- (a) to execute an electronic version of a particular type of application, instrument, plan, caveat or other document, and
- (b) to submit the electronic version of the application, instrument, plan, caveat or other document electronically.

(2) The Registrar may, subject to this Act and the regulations, specify the following in respect of electronic applications, instruments, plans, caveats and other documents:

- (a) the form, content and format;
- (b) the manner of incorporating a digital signature;
- (c) the method of electronic submission of the electronic version.

(3) Subject to subsection (2), the Registrar or a certification authority may set standards, guidelines and policies respecting the preparation, submission and acceptance of documents in electronic format.

(4) If a standard, guideline or policy set under subsection (3) is inconsistent or in conflict with, or is less stringent than, this Act or the regulations, this Act or the regulations prevail.

Requirements re digital signatures and paper versions

56.2(1) An electronic application, instrument, plan, caveat or other document that is submitted electronically to the Land Titles Office must contain the digital signature of a subscriber.

(2) A digital signature must be incorporated into an electronic application, instrument, plan, caveat or other document in compliance with

- (a) this Act and the regulations,
- (b) any requirements specified by the Registrar under section 56.11(2),
- (c) any applicable standards, guidelines and policies set under section 56.11(3), and
- (d) the approved certification practice statement of the certification authority that issued the subscriber a certificate under section 56.51.

(3) A subscriber shall not incorporate his or her digital signature into an electronic application, instrument, plan, caveat or other document unless a paper version of the application, instrument, plan, caveat or other document has been executed.

(4) The incorporation of the digital signature of a subscriber into an electronic application, instrument, plan, caveat or other document is a certification by the subscriber that

- (a) the paper version of the application, instrument, plan, caveat or other document has been executed,
- (b) to the subscriber's knowledge, the paper version was executed in accordance with all applicable requirements, and
- (c) the paper version of the application, instrument, plan, caveat or other document is in the possession of the subscriber.

(5) If an electronic version of an application, instrument, plan, caveat or other document is submitted, the subscriber shall keep the paper version of the application, instrument, plan, caveat or other document as prescribed in the regulations.

Equivalence of electronic application, instrument, plan, caveat or other document submitted

56.3 Despite any enactment or other rule of law to the contrary, an electronic application, instrument, plan, caveat or other document that has been prepared and submitted electronically in accordance with this Act, the regulations and any applicable standards, guidelines and policies is conclusively deemed to be equivalent to an application, instrument, caveat or other document prepared and submitted in written format.

Production of paper version

56.31(1) The Registrar may require a subscriber to produce the paper version of an application, instrument, plan, caveat or other document of which an electronic version was submitted.

(2) The Registrar may refuse to accept, register or file an electronic version of an application, instrument, plan, caveat or other document if the subscriber does not produce the paper version of the application, instrument, plan, caveat or other document.

Evidentiary matters

56.4(1) An electronic version of an application, instrument, plan, caveat or other document that has been submitted to and received by the Registrar electronically is conclusively deemed to be the original of the application, instrument, plan, caveat or other document.

(2) A copy of the electronic version of an application, instrument, plan, caveat or other document that is

- (a) obtained from the records of the Land Titles Office, and
- (b) certified by the Registrar as being an accurate representation of the original of the application, instrument, plan, caveat or other document

is conclusive evidence of the original and is admissible in a court to the same extent as the original.

(3) A certification of the Registrar referred to in subsection (2) is conclusive evidence that

- (a) the technology and procedure used by the Registrar to receive, store, retrieve and copy the electronic version of the application, instrument, plan, caveat or other document is capable of recording and reproducing all significant details of the electronic version of the

application, instrument, plan, caveat or other document without any additions, deletions, omissions or changes, and

- (b) the electronic version of the application, instrument, plan, caveat or other document was received, stored, retrieved and copied by the Registrar in the usual and ordinary course of business.

(4) If there is a difference between a copy of an electronic version of an application, instrument, plan, caveat or other document certified under subsection (2) and a copy of the application, instrument, plan, caveat or other document obtained from a source other than the records of the Land Titles Office, the former prevails over the latter whether or not the latter is the paper version of the application, instrument, plan, caveat or other document.

(5) The paper version of an application, instrument, plan, caveat or other document is admissible in a court for the purposes of proving the authenticity of a signature or other writing, mark or impression.

Certification authority

56.41(1) For the purposes of this Act, the Registrar may designate a person as a certification authority if

- (a) the person has adopted and published a certification practice statement that has been approved by the Registrar, and
- (b) the Registrar is satisfied that
 - (i) the person is capable of administering and complying with the certification practice statement, and
 - (ii) subscribers named in certificates issued by the person will be required to observe and comply with the certification practice statement.

(2) The Registrar may enter into an agreement with a person referred to in subsection (1) for the purpose of establishing the terms and conditions of the designation.

Certification practice statement

56.5(1) A certification practice statement must contain

- (a) a statement of the qualifications for eligibility to become a subscriber,

- (b) a description of the policies, practices and procedures to be used by the certification authority in
 - (i) issuing, administering, suspending and revoking a certificate,
 - (ii) providing access to the information contained in a certificate, and
 - (iii) establishing and maintaining the security and validity of digital signatures of subscribers,
- (c) a description of the practices and procedures that a subscriber must follow, including, without limitation, practices and procedures to ensure the security and validity of that subscriber's digital signature, and
- (d) any other content that the Registrar or certification authority considers necessary.

(2) The Registrar may require a certification authority to make changes to an approved certification practice statement to address

- (a) changes to the Registrar's policies, practices and procedures, or
- (b) issues respecting a certification authority.

(3) A certification authority shall submit any changes required under subsection (2) to the Registrar for approval.

(4) If an approved certification practice statement is inconsistent or in conflict with, or is less stringent than, a standard, guideline or policy set by the Registrar under section 56.11(3), the standard, guideline or policy set by the Registrar prevails.

Issuance of certificate re digital signature

56.51(1) The Registrar or a certification authority may

- (a) issue a certificate to an individual to authorize the individual to incorporate the individual's digital signature into electronic applications, instruments, plans, caveats and other documents, and
- (b) provide the individual with the information necessary to incorporate the individual's digital signature and to

submit the electronic version of applications, instruments, plans, caveats or other documents electronically.

(2) A certificate issued under subsection (1) may impose restrictions or conditions on the authorization.

(3) The Registrar or certification authority, as the case may be, may suspend or revoke a certificate issued under subsection (1) if the subscriber fails to comply with this Act or the regulations, the approved certification practice statement or other applicable standards, guidelines or policies.

(4) A certification authority shall maintain a directory of subscribers to whom the certification authority has issued a certificate.

Warranties of certification authority

56.6 The issuance of a certificate by a certification authority constitutes a warranty by the certification authority that

- (a) to the knowledge of the certification authority, the information contained in the certificate is true,
- (b) the individual to whom the certificate was issued is eligible to be a subscriber under the requirements set out in the approved certification practice statement,
- (c) the certificate was issued in accordance with the approved certification practice statement,
- (d) the individual to whom the certificate was issued has agreed to observe and comply with the requirements of the approved certification practice statement, and
- (e) where necessary, the certification authority will act promptly to suspend or revoke the certificate in accordance with the requirements of the approved certification practice statement.

Immunity

56.61 No action lies and no proceeding may be brought against a certification authority in respect of any loss or damage arising out of an unlawful or negligent act or omission of a subscriber under this Act or the regulations in the absence of an unlawful or negligent act or omission by the certification authority in relation to the exercise of its powers or performance of its duties under this Act or the regulations.

Offences re digital signatures

56.7 A person who

- (a) incorporates his or her digital signature into an electronic application, instrument, plan, caveat or other document without first complying with the requirements of this Act or the regulations, or
- (b) incorporates the digital signature of another person into an electronic application, instrument, plan, caveat or other document,

is guilty of an offence and subject to a fine of not more than \$10 000 or imprisonment for a term of not more than 6 months.

(3) Section 172 is repealed and the following is substituted:

**Final judgment against Registrar
where co-defendant liable**

172 In all actions where there is a defendant other than the Registrar and damages are recovered, if the court finds that some defendant other than the Registrar is liable for the loss sustained, final judgment shall not be entered against the Registrar until a judge of the court in which the action was brought has made an order declaring that

- (a) the judgment is not and cannot presently be satisfied, or can only be satisfied in part, out of
 - (i) the goods or land of the other defendant found liable, or
 - (ii) any other source, including but not limited to any money paid to the plaintiff pursuant to a claim under a contract of insurance,

and

- (b) the amount of the judgment in whole, or the part of it that remains unsatisfied, together with costs, should be a judgment against the Registrar,

and on the making of that order, judgment may be entered against the Registrar.

(4) Section 181 is amended by striking out “or” at the end of clause (f) and adding the following after clause (g):

- (h) if the interest or right on which the claim is founded is derived from a subrogated claim, or

(3) Section 172 presently reads:

172 In all such actions where there is a defendant other than the Registrar and damages are recovered, if the court finds that some defendant other than the Registrar is liable for the loss sustained, final judgment shall not be entered against the Registrar until a judge of the court in which the action was brought has made an order declaring that the judgment is not and cannot presently be satisfied in whole or in part out of the goods or land of the other defendant found liable, and that the amount of the judgment in whole or as to the part of it that remains unsatisfied, together with costs, should be a judgment against the Registrar, and judgment may on the making of that order be entered against the Registrar.

(4) Section 181 presently reads:

181 The General Revenue Fund is not under any circumstances liable for compensation for loss, damage or deprivation

- (i) if the person makes the claim on behalf of an insurer of the person.

(5) The following is added after section 181:

Transitional

181.1 No claim for compensation may be made against the General Revenue Fund after April 1, 2015 in respect of a claim referred to in section 181(h) or (i), notwithstanding that the

- (a) *occasioned by the owner's breach of any trust whether express, implied or constructive,*
 - (b) *in any case in which the same land has been included in 2 or more grants from the Crown,*
 - (c) *in any case in which loss, damage or deprivation has been occasioned by land being included in the same certificate of title with other land through misdescription of the boundaries or parcels, unless it is proved that the person liable for compensation and damages is dead or has absconded from Alberta or has been adjudged insolvent, or a civil enforcement agency has certified that the civil enforcement agency is not able to realize the full amount and costs awarded in an action for that compensation,*
 - (d) *by reason of the improper execution of an instrument on behalf of a corporation or the want of capacity in a corporation to deal with the estate or interest involved or to execute or take the benefit of the instrument registered,*
 - (e) *by reason of the registration of an instrument or caveat executed by a person under legal disability, unless the fact of the disability was disclosed on the instrument or caveat,*
 - (f) *by reason of the registration of an instrument executed by an attorney if*
 - (i) *the instrument is for a purpose specified in the power of attorney, and*
 - (ii) *the certificate referred to in section 115(5) has been registered,*
- or*
- (g) *by reason of a refusal of the Registrar under section 50.1 to register a transfer, caveat or other instrument.*
- (5) Transitional.

interest or right on which the claim for compensation is founded arose before the coming into force of section 181(h) and (i).

(6) Section 213 is amended by adding the following after clause (d):

- (d.1) respecting the preparation, submission, filing, registration or processing of documents in electronic format;
- (d.2) respecting digital signatures;
- (d.3) respecting the retention by a subscriber of the paper version of the documents of which an electronic version was submitted;
- (d.4) respecting powers, duties and functions of a certification authority;
- (d.5) defining for the purposes of this Act any term or expression that is used but not defined in this Act;

Police Act

Amends RSA 2000 cP-17

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

(2) Section 45(3) is repealed and the following is substituted:

(3) Where the chief of police is of the opinion that the actions of a police officer constitute a contravention of the regulations governing the discipline or the performance of duty of police officers, the chief of police, or a person designated by the chief of police who, pursuant to the regulations, is eligible to serve as the presiding officer at a hearing, shall conduct a hearing into the matter as it relates to that contravention.

(3) Section 52 is amended by striking out “If a complaint referred to in section 44, 45, 46 or 46.1 is made, the commission shall,” **and substituting** “A police service shall, in respect of a complaint made under section 44, 45 or 46.1, and the commission shall, in respect of a complaint made under section 46,”.

(6) Section 213 presently reads:

213 The Lieutenant Governor in Council may make regulations

- (a) prescribing forms to be used under this Act;*
- (b) prescribing for the purposes of section 19(2) the period of time that must pass before the original of an instrument or caveat may be destroyed;*
- (c) prescribing conditions, criteria or qualifications that are to be fulfilled in order for a search of information to be furnished under section 17;*
- (d) respecting types of identification and the number of identification documents that may be required as proof of identity under section 43.1, including substitutes that may be accepted by the Registrar at the Registrar's discretion for the purposes of that section;*
- (e) respecting the use of information furnished by the Registrar as a result of a search of the register under this Act.*

Police Act

4(1) Amends chapter P-17 of the Revised Statutes of Alberta 2000.

(2) Section 45(3) presently reads:

(3) Where the chief of police is of the opinion that the actions of a police officer constitute a contravention of the regulations governing the discipline or the performance of duty of police officers, the chief, or a police officer designated by the chief, shall conduct a hearing into the matter as it relates to that contravention.

(3) Section 52 presently reads:

52 If a complaint referred to in section 44, 45, 46 or 46.1 is made, the commission shall, at the end of the month in which the complaint is made or within a longer period of time as prescribed by the Director of Law Enforcement, advise the Director of the complaint

(4) The following is added after section 52:

Validation of hearings under Part 5

52.1 Despite any decision of a court to the contrary made before or after the coming into force of this section,

- (a) a hearing conducted under this Part,
- (b) a decision made pursuant to a hearing conducted under this Part, and
- (c) everything done in respect of a hearing conducted under this Part

by a former police officer or a former member of the judiciary, including a former judge of the Court of Queen's Bench or the Provincial Court, on or after May 1, 2011 and before the coming into force of this section, is not invalid by reason of the presiding officer conducting the hearing being a former police officer or a former member of the judiciary, including a former judge of the Court of Queen's Bench or the Provincial Court.

(5) Section 61(1) is amended by adding the following after clause (g):

- (g.01) governing the conduct of hearings generally, including which persons may serve as a presiding officer at a hearing under Part 5;

(6) The *Police Service Regulation (AR 356/90)*, as amended by section 6 of the *Police Service Amendment Regulation (AR 44/2011)* is, as of May 1, 2011, validated and deemed to have been made under section 61(1)(g.01) of the *Police Act*.

(7) Subsections (2) and (5) are deemed to have come into force on May 1, 2011.

and, after the disposition of the complaint, advise the Director as to how the complaint was disposed of and provide any other information respecting the investigation requested by the Director in a manner acceptable to and within a time period specified by the Director.

(4) Validation of hearings under Part 5.

(5) Regulation-making authority added.

(6) Validation of Regulation.

(7) Coming into force.

Post-secondary Learning Act

Amends SA 2003 cP-19.5

5(1) The *Post-secondary Learning Act* is amended by this section.

(2) The following is added after section 129.1:

Division 1.2 Orders in Council

Orders in Council remain in force

129.2(1) To eliminate any uncertainty as to whether the rescission of Order in Council numbered O.C. 309/70 affected the status of the Board of Governors of Medicine Hat College, that Order in Council is deemed never to have been rescinded.

(2) To eliminate any uncertainty as to whether the rescission of Order in Council numbered O.C. 406/82 affected the status of the Board of Governors of the Southern Alberta Institute of Technology, that Order in Council is deemed never to have been rescinded.

Provincial Court Act

Amends RSA 2000 cP-31

6(1) The *Provincial Court Act* is amended by this section.

(2) Section 1 is amended

(a) by renumbering clause (a) as clause (a.2) and by adding the following before clause (a.2):

(a) “binding judicial dispute resolution proceeding” means a binding judicial dispute resolution proceeding referred to in section 64.1;

(a.1) “claim” includes a third party claim unless the context requires otherwise;

(b) by adding the following after clause (a.1):

Post-secondary Learning Act

5(1) Amends chapter P-19.5 of the Statutes of Alberta, 2003.

(2) Orders in Council remain in force.

Provincial Court Act

6(1) Amends chapter P-31 of the Revised Statutes of Alberta 2000.

(2) Adds definitions.

- (a.2) “defendant” means a person against whom a remedy is sought in a claim or counterclaim filed under Part 4;
- (a.3) “electronic” has the same meaning as in the *Electronic Transactions Act*;
- (a.4) “hearing” includes an application, proceeding or trial before the Court under Part 4;

(c) by adding the following before clause (e):

- (d.1) “local authority” means
 - (i) a city, town, village, summer village, municipal district or Metis settlement,
 - (ii) the Minister responsible for the *Municipal Government Act*, in the case of an improvement district, or
 - (iii) the Minister responsible for the *Special Areas Act*, in the case of a special area;
- (d.2) “plaintiff” means a person who is named as plaintiff in a claim or counterclaim filed under Part 4;

(d) by adding the following after clause (e):

- (e.1) “recorded mail” means a form of document delivery by mail or courier in which the receipt of the document must be acknowledged in writing;
- (e.2) “school board” means a board as defined in the *School Act*;

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

Sending of documents by a clerk

6.1 Where a clerk is required or permitted to send a document, notice or other thing under this Act or a regulation under this Act, the clerk may send it

- (a) by ordinary mail,
- (b) by recorded mail, or
- (c) by an electronic method, if the intended recipient has provided an electronic address for that purpose.

(3) Section 6.1 presently reads:

6.1 Where a clerk is required or permitted to send a document, notice or other thing under this Act, the clerk may send it by ordinary or registered mail.

(4) Section 9 is amended

(a) in subsection (1)

(i) in clause (b) by striking out “that may be awarded” and substituting “and interest”;

(ii) in clause (c) by adding “, allowances” after “fees”;

(iii) by repealing clauses (e) and (f);

(iv) in clause (g) by striking out “transcripts,”;

(v) in clause (i) by striking out “\$50 000” and substituting “\$100 000”;

(vi) in clause (i.2)

(A) by striking out “providing for rules”;

(B) by adding “and in” after “procedure of”;

(C) by striking out “make rules”;

(D) by repealing subclauses (i) to (v) and substituting the following:

(i) respecting payment hearings and methods of payment referred to in section 44.2;

(ii) with respect to pre-trial conferences, binding judicial dispute resolution proceedings and mediations as defined in Part 4,

(A) respecting any practice or procedural matters not specifically provided for under sections 64 to 68;

(B) governing confidentiality of matters considered at pre-trial conferences, binding judicial dispute resolution proceedings and mediations;

(C) making sections 37.1 and 64 to 68 applicable to matters before the Court that do not come under Part 4;

(4) Section 9 presently reads in part:

9(1) The Lieutenant Governor in Council may make regulations

- (b) respecting costs that may be awarded in respect of proceedings in the Court;*
- (c) governing the rates of fees and expenses payable to witnesses and interpreters;*
- (e) prescribing fees, expenses and other forms of remuneration payable to court reporters;*
- (f) prescribing fees, expenses and other forms of remuneration payable to operators and transcribers of sound-recording machines;*
- (g) respecting fees for making copies of transcripts, orders, judgments and other documents;*
- (i) prescribing an amount, not to exceed \$50 000, for the purposes of section 9.6;*

(i.2) providing for rules governing the practice and procedure of the Court and, without limiting the generality of the foregoing, make rules

(i) governing payment hearings and methods of payments referred to in section 44.2;

(ii) with respect to pre-trial conferences and mediations as defined in Part 4,

(A) respecting any practice or procedural matters not specifically provided for under sections 64 to 68;

(B) governing confidentiality of matters considered at pre-trial conferences and mediations;

(C) making sections 9.8(2) and 64 to 68 applicable to other matters before the Court that do not come under Part 4;

(D) varying the provisions of sections 9.8(2) and 64 to 68 or substituting other provisions for the provisions of sections 9.8(2) and 64 to 68 and making those varied

- (D) varying section 37.1 and the provisions of sections 64 to 68 or substituting other provisions for section 37.1 and the provisions of sections 64 to 68 and making those varied or substituted provisions applicable to matters before the Court that do not come under Part 4;
- (iii) except as otherwise provided for under this Act or another enactment, governing in respect of any matter before the Court the period of time within which an act is to be carried out, the attendance of a person is required, a document must be filed with the Court or a document must be served on any party;
- (iv) determining when a notice period begins or ends, or both;
- (v) in respect of family law proceedings, governing the obligations of parties to attend courses, workshops or similar undertakings;
- (vi) respecting hearing procedures and requirements;

(vii) by adding the following after clause (i.2):

- (i.3) respecting default judgments, failures to appear, staying, setting aside or varying of judgments and dismissals of claims or counterclaims;
- (i.4) respecting the powers, duties and functions of clerks;
- (i.5) respecting the entry or filing of a copy of an order or judgment and filing of a notice of appeal in the Court of Queen's Bench;

(b) in subsection (1.1) by striking out "rules" and substituting "regulations";

(c) by repealing subsection (2)(e), (f) and (g).

(5) Section 9.6(3)(a) is amended by striking out "issued" and substituting "filed".

or substituted provisions applicable to other matters before the Court that do not come under Part 4;

- (iii) except as otherwise provided for under this Act or another enactment, governing in respect of any matter before the Court the period of time within which an act is to be carried out, an attendance of a person is required, a document must be filed with the Court or a document must be served on any party;*
- (iv) determining when a notice period commences or concludes or both;*
- (v) in respect of family law proceedings, governing the obligations of parties to attend courses, workshops or similar undertakings;*

(1.1) The Court may make recommendations to the Minister of Justice and Solicitor General respecting rules to be made under subsection (1)(i.2).

(2) The Minister of Justice and Solicitor General may make regulations

- (e) providing for the appointment and employment of court reporters to take down evidence in respect of proceedings in the Court;*
- (f) providing for the appointment of operators and transcribers of sound-recording machines when used to record evidence in respect of proceedings in the Court;*
- (g) defining the classes of cases and conditions in which court reporters may be used;*

(5) Section 9.6(3) presently reads:

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

- (a) to civil claims issued, or*

(6) Section 9.8 is repealed.

(7) Section 22(b), (c), (d), (d.2) and (e) are repealed.

(b) *subject to clause (a), to matters that arose, after the prescribed amount came into effect.*

(6) Section 9.8 presently reads:

9.8(1) The Court may at any time in any proceeding before the Court and on any conditions that the Court considers proper award costs in respect of any matters coming under Part 4.

(2) The Court may award costs at any time in respect of pre-trial conferences conducted under Part 4.

(7) Section 22 presently reads:

22 In this Part,

(a) *“Court” includes a justice of the peace;*

(b) *“defendant” means a person to whom a civil claim is issued under this Part;*

(c) *“local authority” means*

(i) a city, town, village, summer village, municipal district or Metis settlement,

(ii) the Minister responsible for the Municipal Government Act, in the case of an improvement district, or

(iii) the Minister responsible for the Special Areas Act, in the case of a special area;

(c.1) *“mediation” means mediation referred to in section 65;*

(d) *“plaintiff” means a person at whose instance a civil claim is issued under this Part;*

(d.1) *“pre-trial conference” means a pre-trial conference referred to in section 64;*

(d.2) *“registered mail” means any form of mail for which the addressee or a person on behalf of the addressee is required to acknowledge receipt of the mail by providing a signature;*

(e) *“school board” means a board as defined in the School Act.*

(8) Sections 25 to 35 are repealed and the following is substituted:

Practice and procedure for claims, hearings and enforcement of an order or judgment

24.1(1) The practice and procedure to be followed in making or defending a claim or counterclaim or in enforcing an order or judgment of the Court are as set out in this Part and in the regulations.

(2) The Court may, subject to the regulations, determine and provide direction to the parties regarding the practice and procedure to be followed before and at a hearing or a pre-trial conference.

(3) Subject to the regulations, the Court may adjourn a hearing or stay an action on any terms or conditions that the Court considers appropriate.

Default judgment, failure to appear, setting aside of judgment or dismissal

24.2(1) Where a defendant has failed to defend a claim or counterclaim within the time allowed, judgment may be entered against the defendant in accordance with the procedures set out in the regulations.

(2) If a plaintiff or defendant fails to appear on the date set for a hearing or a pre-trial conference, the Court may take the steps set out in this Act and the regulations.

(3) Subject to the regulations, the Court may, on any terms or conditions it considers appropriate, set aside or vary a judgment entered or dismissal made under or in accordance with this section and the regulations referred to in this section.

(9) The following is added after section 36:

Hearing procedures

36.1(1) The Court may direct the procedures to be followed in a hearing for the purposes of ensuring an expeditious and inexpensive resolution of a matter, including, without limitation, directions

(a) respecting the amount of hearing time,

(8) Sections 25 to 35 provide for practice and procedure for civil claims. This subject-matter is being moved to regulations.

(9) Hearing procedures.

- (b) respecting the number of witnesses,
- (c) respecting the amount and type of testimony and evidence, and
- (d) confining the parties to the particulars set out in the pleadings.

(2) The Court may receive evidence in a manner the Court considers appropriate for the amount of the claim or counterclaim, the complexity of the issues raised in the claim or counterclaim and the purposes of ensuring an expeditious and inexpensive resolution of the matter.

(10) Section 37 is amended

(a) by adding the following after subsection (2):

(2.1) Unless otherwise ordered by the Court, this section does not apply to a pre-trial conference or a binding judicial dispute resolution proceeding.

(b) by repealing subsection (3).

(11) The following is added after section 37:

Costs of action

37.1 Subject to the regulations, the Court may at any time and on any conditions that the Court considers appropriate award costs in respect of any matter coming under this Part.

(12) Sections 38 and 40 to 44 are repealed.

(13) Section 46(1)(b)(iii) is repealed and the following is substituted:

- (iii) a copy of the receipt evidencing that the appellant has ordered and paid for the transcript of the evidence heard before the judge of the Provincial Court.

(10) Section 37(3) presently reads:

(3) On payment of the prescribed fee, a party may obtain a record of the evidence taken at the hearing.

(11) Costs of action.

(12) Sections 38 and 40 to 44 address the conclusion of a claim and the processing of a judgment of the Court. This subject-matter is moving to regulations.

(13) Section 46 presently reads in part:

46(1) Any party may appeal a decision of the Provincial Court to the Court of Queen's Bench,

(b) by filing in the Court of Queen's Bench not later than 7 days after the last day for service of the notice of appeal on those parties served pursuant to clause (a)

(i) a copy of the notice of appeal referred to in clause (a)(ii),

(ii) an affidavit of service of the notice of appeal, and

(14) Section 61 is repealed and the following is substituted:

Refusal to file documents

61(1) The Court may, if it considers it proper to do so, order a clerk not to file a particular document.

(2) An order made under subsection (1) does not prejudice the right of a person to proceed in any other manner permitted by law.

(15) Section 63 is amended by adding “and the regulations” after “Part”.

(16) The following is added after section 64:

Binding judicial dispute resolution proceeding

64.1(1) The Court may, in its sole discretion, with the written agreement of all parties, conduct a binding judicial dispute resolution proceeding.

(2) The practice and procedure for a binding judicial dispute resolution proceeding shall be as set out in the regulations.

(3) If the action is not settled by the parties at the binding judicial dispute resolution proceeding, the judge may give a judgment in the action despite the judge’s participation in settlement discussions in respect of the action.

(4) A judgment given at a binding judicial dispute resolution proceeding is final and binding and, despite section 46, is not subject to appeal.

(17) Section 67 is amended

(a) in subsection (1) by adding “, binding judicial dispute resolution proceeding” after “pre-trial conference”;

(iii) *a copy of a requisition to a clerk of the Provincial Court for a transcript of evidence together with a receipt for payment of the transcript.*

(14) Section 61 presently reads:

61(1) The Court may, on application, if it considers it proper to do so, order a clerk not to issue

(a) a civil claim under section 25, or

(b) a notice to attend under section 30.

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

(15) Section 63 presently reads:

63 No proceeding is invalid for informality if there has been substantial compliance with the requirements of this Part.

(16) Adds binding judicial dispute resolution provisions.

(17) Section 67 presently reads in part:

67(1) Any settlement discussions in respect of an action that take place during a pre-trial conference or mediation are privileged and

(b) in subsection (2)

- (i) by adding** “or binding judicial dispute resolution proceeding” **after** “a pre-trial conference”;
- (ii) by adding** “, binding judicial dispute resolution proceeding” **after** “the pre-trial conference”;

(c) in subsection (3)

- (i) in clause (b) by adding** “, binding judicial dispute resolution proceeding” **after** “pre-trial conference”;

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

(b.1) to any judgment resulting from a binding judicial dispute resolution proceeding;

- (iii) in clause (d) by adding** “, binding judicial dispute resolution proceeding” **after** “pre-trial conference”;

- (d) in subsection (5) by adding** “, binding judicial dispute resolution proceeding” **after** “pre-trial conference”.

**Provincial Court Act
Consequential Amendments
and Coming into Force**

Amends RSA 2000 cC-22

7(1) The *Condominium Property Act* is amended by this section.

(2) Section 36(1)(a) is amended by adding “and the regulations under that Act” **after** “the *Provincial Court Act*” **whenever it occurs.**

are not admissible in any action under this Part or in any other civil action.

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

(3) Subsection (1) does not apply

(a) to any order made under section 64;

(b) to any written agreement arising from a pre-trial conference or mediation;

(c) to the admission in evidence of factual evidence relating to the claim or counterclaim that would otherwise be admissible except for the operation of subsection (1);

(d) to any facts that are relevant to the issue of the validity or enforceability of an agreement arising from a pre-trial conference or mediation.

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

*Provincial Court Act
Consequential Amendments
and Coming into Force*

7(1) Amends chapter C-22 of the Revised Statutes of Alberta 2000.

(2) Section 36(1)(a) presently reads:

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

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

Amends SA 2014 c10

8(1) The *Condominium Property Amendment Act, 2014* is amended by this section.

(2) Section 27(a) is amended in the new section 36(1)(a)(ii) by adding “and the regulations under that Act” after “*Provincial Court Act*”.

Amends SA 2012 cE-0.3

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

(2) If this section comes into force before section 288 of the *Education Act* comes into force, section 288 of the *Education Act* is amended in the row beginning with “Provincial Court Act” by striking out “22(e)” and substituting “1(e.2)”.

(3) If this section comes into force after section 288 of the *Education Act* comes into force, section 1(e.2) of the *Provincial Court Act* is amended by striking out “*School Act*” and substituting “*Education Act*”.

Amends RSA 2000 cF-2

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

(2) Section 7.4(1) is amended by adding “and the regulations under that Act” after “*Provincial Court Act*”.

(i) a monetary sanction, or

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

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

8(1) Amends chapter 10 of the Statutes of Alberta, 2014.

(2) The new section 36(1)(a)(ii) presently reads:

*(a) take proceedings in the forum provided for in the
regulations to recover from the person*

(i) a monetary sanction, or

*(ii) damages, in the case of any other sanction, in an
amount not exceeding the amount that may be granted
in damages under the Provincial Court Act,*

or

9(1) Amends chapter E-0.3 of the Statutes of Alberta, 2012.

(2) Updates reference to renumbered provision in a list.

(3) Updates statute reference.

10(1) Amends chapter F-2 of the Revised Statutes of Alberta
2000.

(2) Section 7.4(1) presently reads:

*7.4(1) Subject to the jurisdiction of the Provincial Court, an action
under section 7.1(5) may be commenced under Part 4 of the
Provincial Court Act.*

Amends RSA 2000 cJ-4

11(1) The *Justice of the Peace Act* is amended by this section.

(2) Section 6(2) is amended by adding “and the regulations under that Act” after “*Provincial Court Act*”.

(3) Section 12(1)(b) is amended by adding “and the regulations under that Act” after “*Provincial Court Act*”.

Amends SA 2013 c23

12(1) The *Statutes Amendment Act, 2013 (No. 2)* is amended by this section.

(2) If this section comes into force before section 11 of the *Statutes Amendment Act, 2013 (No. 2)* comes into force, section 11(2) of that Act is amended by repealing the new section 9.91(1)(d).

(3) If this section comes into force after section 11 of the *Statutes Amendment Act, 2013 (No. 2)* comes into force, section 9.91(1)(d) of the *Provincial Court Act* is repealed.

Coming into force

13 Sections 6 to 12 come into force on Proclamation.

11(1) Amends chapter J-4 of the Revised Statutes of Alberta 2000.

(2) Section 6(2) presently reads:

6(2) A justice of the peace may conduct a hearing or settlement conference or hear an application under Part 4 of the Provincial Court Act.

(3) Section 12(1) presently reads:

12(1) Where a justice of the peace

(a) hears, tries and determines a complaint or information, or

(b) conducts a hearing or settlement conference or hears an application under Part 4 of the Provincial Court Act,

that justice of the peace shall do the things referred to in subsection (2).

12(1) Amends chapter 23 of the Statutes of Alberta, 2013.

(2) The new section 9.91(1) presently reads in part:

9.91(1) In this section,

(d) “electronic” includes created, recorded, transmitted or stored in digital form or in any other intangible form by electronic, magnetic or optical means or by any other means that have similar capabilities for creation, recording, transmission or storage;

(3) Removes duplicated definition.

13 Coming into force.

