

2020 Bill 38

Second Session, 30th Legislature, 69 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 38

JUSTICE STATUTES AMENDMENT ACT, 2020

THE MINISTER OF JUSTICE AND SOLICITOR GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 38

2020

JUSTICE STATUTES AMENDMENT ACT, 2020

(Assented to _____, 2020)

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

Jury Act

Amends RSA 2000 cJ-3

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

(2) Section 8(3) is amended

- (a) in the portion preceding clause (a) by striking out “in the prescribed form”;**
- (b) by striking out “or” at the end of clause (a) and by adding the following after clause (a):**
 - (a.1) by sending it by electronic means, using information obtained under the authority of an enactment or with the person’s consent, or

(3) This section comes into force on Proclamation.

Police Act

Amends RSA 2000 cP-17

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

Explanatory Notes

Jury Act

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

(2) Section 8(3) presently reads:

(3) The sheriff shall, within a reasonable time before the day on which the person is to attend, provide a summons in the prescribed form to each person selected

(a) by sending it by ordinary mail, or

(b) by giving it directly to the person or by leaving a copy at the person's residence or place of business with someone who is at least 16 years of age.

(3) Coming into force.

Police Act

2(1) Amends chapter P-17 of the Revised Statutes of Alberta 2000.

(2) Section 1 is amended

(a) in clause (c) by striking out “or 28” and substituting “, 28 or 33.1(2)”;

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

(f.1) “First Nation” means a band as defined in the *Indian Act* (Canada);

(f.2) “First Nation police service” means a police service established under Part 3.1;

(c) in clause (k) by striking out “or” at the end of subclause (ii.1), by adding “or” at the end of subclause (iii) and by adding the following after subclause (iii):

(iv) is a member of a First Nation police service;

(d) in clause (l) by adding the following after subclause (iv):

(v) a First Nation police service;

(3) Section 6 is amended by striking out “in accordance with the regulations under the *Municipal Government Act*” and substituting “by the Minister responsible for section 1(i) of the *Local Government Fiscal Framework Act*”.

(4) The following is added after section 33:

**Part 3.1
First Nation Police
Services**

First Nation police service agreements

33.1(1) The Government of Alberta, the Government of Canada and one or more First Nations, or an entity representing a group of First Nations, may enter into an agreement to establish a police service to provide policing services to a First Nation reserve or group of First Nation reserves.

(2) Section 1 presently reads in part:

1 In this Act,

(c) “commission” means a police commission established under section 25 or 28;

(f) “Director” means the Director of Law Enforcement appointed under section 8;

(k) “police officer” means an individual who

(i) is appointed under section 36 as a police officer or a chief of police,

(ii) is a member of the Royal Canadian Mounted Police,

(ii.1) is appointed under section 5 as a police officer, or

(iii) is a member of the provincial police service;

(l) “police service” means

(iv) a police service established under an agreement made pursuant to section 5;

(3) Section 6 presently reads:

6 For the purposes of this Act, the population of a city, town, village or summer village shall be determined in accordance with the regulations under the Municipal Government Act.

(4) First Nation police service agreements; jurisdiction of First Nation police service; application.

(2) An agreement referred to in subsection (1) must provide for the establishment of a police commission for the First Nation police service.

(3) If the Government of Alberta, the Government of Canada and one or more First Nations, or an entity representing a group of First Nations, have entered into an agreement to establish a police service to provide policing services to a First Nation reserve or group of First Nation reserves, the agreement is deemed to be an agreement entered into under subsection (1).

Jurisdiction of First Nation police service

33.2 A First Nation police service may act as the police service only in the areas specified in the agreement referred to in section 33.1, or any additional areas specified in amendments to that agreement made by the parties set out in that section.

Application

33.3(1) All of the provisions of this Act apply, with necessary changes, to a First Nation police service and its police chief, police officers and police commission.

(2) If there is a conflict between this Act and the agreement establishing a First Nations police service, the agreement prevails.

(5) Section 39(1) is amended by striking out “or 27” and substituting “, 27 or 33.1(1)”.

(6) Section 41(1) is amended by striking out “or 27” and substituting “, 27 or 33.1(1)”.

(5) Section 39(1) presently reads:

39(1) For the purposes of this section, “employee” means any civilian employee or any peace officer appointed under the Peace Officer Act employed for a police service established under section 24 or 27.

(6) Section 41(1) presently reads:

41(1) The chief of police of a police service established under section 24 or 27 is responsible for the following:

- (a) the preservation and maintenance of the public peace and the prevention of crime within the municipality;*
- (b) the maintenance of discipline and the performance of duty within the police service, subject to the regulations governing the discipline and the performance of duty of police officers;*
- (c) the day to day administration of the police service;*

(7) Section 61(1)(j) is amended by striking out “and” at the end of subclause (i), by adding “and” at the end of subclause (ii) and by adding the following after subclause (ii):

(iii) First Nation police services;

(8) Section 62(2) is amended by adding “or 33.1(1)” after “section 5(1)”.

(9) This section comes into force on Proclamation.

- (d) *the application of professional police procedures;*
- (e) *the enforcement of policies made by the commission with respect to the police service.*

(7) Section 61(1) presently reads in part:

61(1) The Lieutenant Governor in Council may make regulations

- (j) governing, subject to this Act,*
 - (i) regional police services, and*
 - (ii) policing services provided pursuant to an agreement made under section 22(3);*

(8) Section 62(2) presently reads:

(2) Where the Minister enters into an arrangement or an agreement referred to in section 5(1), the Minister may make regulations

- (a) exempting the arrangement or the agreement from any provision of this Act or the regulations;*
- (b) exempting policing services that are provided under the arrangement or the agreement from any provision of this Act or the regulations;*
- (c) modifying any provision of this Act or the regulations for the purpose of applying the provision to*
 - (i) the arrangement or the agreement, or*
 - (ii) the policing services provided under the arrangement or the agreement;*
- (d) governing any matter not referred to in clauses (a) to (c) respecting*
 - (i) the arrangement or the agreement, or*
 - (ii) the policing services provided under the arrangement or the agreement.*

(9) Coming into force.

Provincial Offences Procedure Act

Amends RSA 2000 cP-34

3(1) The *Provincial Offences Procedure Act* is amended by this section.

(2) Section 1(e) is amended by adding “, and, with respect to the proceedings under Part 2 and Part 3, any bylaw made by a council of a First Nation band under the authority of the *Indian Act* (Canada) that makes the proceedings under Part 2 and Part 3 applicable to that bylaw” after “legislative authority”.

(3) Section 5(1), (2), (3), (4) and (5) are amended by striking out “, the proof of which lies on the person,”.

Provincial Offences Procedure Act

3(1) Amends chapter P-34 of the Revised Statutes of Alberta 2000.

(2) Section 1 presently reads in part:

1 In this Act,

(e) “enactment” means any Act, regulation, order or bylaw enacted in relation to any matter over which the Legislature has legislative authority;

(3) Section 5 presently reads in part:

5(1) A person who, being at large on a release order, fails without lawful excuse, the proof of which lies on the person, to attend Court in accordance with that release order, or to surrender themselves in accordance with that release order or an order of a justice, as the case may be, is guilty of an offence.

(2) A person who, being at large on a release order, fails without lawful excuse, the proof of which lies on the person, to comply with a condition of that release order, is guilty of an offence.

(3) A person who is served with a summons and who fails without lawful excuse, the proof of which lies on the person, to attend Court in accordance with that summons is guilty of an offence.

(4) A person who is named in

(a) an appearance notice, or

(b) an undertaking,

that has been confirmed by a justice and who fails without lawful excuse, the proof of which lies on the person, to attend Court in accordance with the appearance notice or undertaking is guilty of an offence.

(5) A person who, without lawful excuse, the proof of which lies on the person, fails to comply with any condition of an undertaking is guilty of an offence.

(4) The following is added after section 23.2:

**Proceedings by videoconferencing
or audioconferencing**

23.3(1) In this section,

- (a) “audioconferencing” means any method of telecommunication that allows the justice and any individual to communicate orally in a proceeding;
- (b) “two-way videoconferencing” means any means of telecommunication that allows the justice and any individual to engage in simultaneous visual and oral communication in a proceeding.

(2) Notwithstanding any provision in this Act, a justice may permit any party to participate in proceedings by two-way videoconferencing or audioconferencing.

(3) Notwithstanding any provision in this Act, a justice may preside at a proceeding by two-way videoconferencing or audioconferencing.

Routine court matters

23.4(1) In this section, “routine court matters” include

- (a) entering pleas,
- (b) applications for adjournment,
- (c) applications for time to pay, and
- (d) any other matter determined to be a routine court matter by the Court.

(2) Notwithstanding any provision in this Act, the Court may deal with and dispose of routine court matters by telephone, email or any other electronic means it determines appropriate and any notice required to be given or sent by the clerk may be given or sent in the same manner by which the application was dealt.

(4) Proceedings by videoconferencing or audioconferencing;
routine court matters.

(5) Section 26(1) is amended

- (a) by adding** “online as instructed in the summons or” **after** “in respect of a summons”;
- (b) by striking out** “at a location prescribed under section 9(2)(a) of the *Provincial Court Act*”.

(6) Section 31(5) is amended by striking out “or” at the end of clause (a), by adding “or” at the end of clause (b) and by adding the following after clause (b):

- (c) the Minister has designated the offence with which the defendant is charged as an offence that service can be effected by ordinary mail and the Registrar of Motor Vehicle Services has a record of a subsisting operator’s licence or identity card for the defendant,

(7) Section 32(3) is amended by striking out “complete an affidavit of service” and substituting “make a statement in writing certifying that the offence notice was served, and such statement is deemed to be a statement made under oath”.

(5) Section 26(1) presently reads:

26(1) When authorized by the regulations or a bylaw or ministerial order under section 44 and by a summons served on a defendant, the defendant who wishes to plead guilty may make a voluntary payment in respect of a summons by delivering on or before the initial appearance date the summons together with

- (a) an amount equal to the combined amounts of the specified penalty for the offence as provided for in the regulations and the applicable surcharge, if any, or*
- (b) if the defendant is charged with an offence under a bylaw or ministerial order, an amount equal to the specified penalty for the offence as provided in the relevant bylaw or ministerial order,*

to a Court office at a location prescribed under section 9(2)(a) of the Provincial Court Act or, where permitted by regulation, to a person acting as an agent of the Court for the purpose of receiving voluntary payments.

(6) Section 31(5) presently reads:

(5) Notwithstanding subsection (4), if

- (a) the defendant has been charged under section 160 of the Traffic Safety Act, or*
- (b) the offence notice relates to an alleged parking violation,*

the offence notice may be served by sending it by ordinary mail to the defendant's address as shown on the records of the Registrar of Motor Vehicle Services under the Traffic Safety Act or as shown in the records of an official of a jurisdiction other than Alberta who is a registrar of motor vehicles or performs a function for that jurisdiction similar to the function that the Registrar performs for Alberta.

(7) Section 32(3) presently reads:

(3) If an offence notice is served by a person other than the peace officer who issued it, that person shall complete an affidavit of service.

(8) Section 36(1) is amended

- (a) **by adding** “online as instructed in the offence notice or”
after “voluntary payment”;
- (b) **by striking out** “at a location prescribed under section 9(2)(a) of the *Provincial Court Act*”.

(9) Section 38 is repealed and the following is substituted:

Conviction set aside

38(1) Where a defendant has an excuse for failing to dispute the charge or failing to appear in person or by agent at a trial, the defendant or the defendant’s agent may, if not more than 30 days have elapsed since the conviction first came to the attention of the defendant, file a written application with the Court, deemed to have been made under oath, and a justice on being satisfied by the written application that the defendant has established on a balance of probabilities that the defendant’s excuse is reasonable shall set aside the conviction and

- (a) cause a notice of trial to be given to the defendant, or
- (b) proceed in accordance with section 35.

(2) A justice may direct the defendant or the defendant’s agent to appear before the justice if the justice determines it necessary.

Queen’s Counsel Act

Amends RSA 2000 cQ-1

4(1) The *Queen’s Counsel Act* is amended by this section.

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

Qualifications

2 No person shall be appointed pursuant to section 1 unless the person

(8) Section 36(1) presently reads:

36(1) If an offence notice is served on a defendant and the defendant wishes to plead guilty to the charge, the defendant may make a voluntary payment by delivering the offence notice together with an amount equal to the specified penalty and the applicable surcharge, if any, to a court office at a location prescribed under section 9(2)(a) of the Provincial Court Act or, where permitted by regulation, to a person acting as an agent of the Court for the purposes of receiving payment in the amount of the specified penalty.

(9) Section 38 presently reads:

38 Where a defendant has an excuse for failing to dispute the charge or failing to appear in person or by agent at a trial, the defendant or the defendant's agent may, if not more than 15 days have elapsed since the conviction first came to the attention of the defendant, appear before a justice and the justice on being satisfied by affidavit that the defendant has established on a balance of probabilities that the defendant's excuse is reasonable shall set aside the conviction and

(a) give the person appearing a notice of trial in accordance with section 33, or

(b) proceed in accordance with section 35.

Queen's Counsel Act

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

(2) Section 2 presently reads:

2 No person shall be appointed pursuant to section 1 who has not been entitled during 10 years to practise in the superior courts of the United Kingdom of Great Britain and Northern Ireland or of any province or territory of Canada or for a portion of that period in one, and for the remaining portion of that period in the other or others of those courts.

- (a) has been entitled during 10 years to practise in the superior courts of one or more provinces or territories of Canada, or
 - (b) has been entitled during 10 years to practise in the superior courts of one or more of
 - (i) the United Kingdom of Great Britain and Northern Ireland, and
 - (ii) any other jurisdiction within the Commonwealth that incorporates or uses the common law as the basis, in whole or part, for the jurisdiction's legal system
- and has been entitled during 5 of those years to practise in the superior courts of Alberta.

(3) Section 10 is amended by striking out “The Lieutenant Governor in Council shall revoke the appointment made pursuant to section 1 of a member who” **and substituting** “The appointment of a member made pursuant to section 1 is deemed to be revoked if the member”.

Referendum Act

Amends RSA 2000 cR-8.4

5(1) The *Referendum Act* is amended by this section.

(2) The following is added before section 1:

Interpretation

0.1(1) In this Act,

- (a) “council” means the council of a municipality as described in the *Municipal Government Act*;
- (b) “elected authority” means
 - (i) a council under the *Municipal Government Act*,
 - (ii) the council of the City of Lloydminster, or
 - (iii) a board of trustees under the *Education Act*.

(3) Section 10 presently reads:

10 The Lieutenant Governor in Council shall revoke the appointment made pursuant to section 1 of a member who is disbarred or is deemed to have been disbarred by virtue of a resignation by the member in the face of discipline pursuant to section 61 of the Legal Profession Act.

Referendum Act

5(1) Amends chapter R-8.4 of the Revised Statutes of Alberta 2000.

(2) Interpretation.

(2) Except as provided in subsection (1), words and phrases used in section 8 to 8.3 have the meanings given to them in the *Local Authorities Election Act*.

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

Councils to conduct vote

8(1) Where a referendum is to be held in conjunction with the general elections under the *Local Authorities Election Act*, every council, except the council of a summer village, and every Metis settlement council shall conduct a vote of the electors residing in the municipality or Metis settlement, as the case may be, for the purposes of the referendum.

(2) The council shall conduct the vote notwithstanding that a general election under the *Local Authorities Election Act* is not required in that municipality on that day.

(3) If the council has entered into an agreement with one or more elected authorities in the same area for the conduct of a general election under the *Local Authorities Election Act*, the elected authority that is responsible for the conduct of the general election under the agreement shall conduct the vote for the purposes of the referendum and has all the rights, powers and duties of the council to conduct the vote.

(4) The Minister responsible for the *Local Authorities Election Act* is responsible for conducting the vote of the electors residing in an improvement district, special area, summer village or Indian reserve or in the portion of the City of Lloydminster located in Alberta and for the purposes of a referendum has all the rights, powers and duties of a council to conduct the vote, including the authority to appoint officers.

(5) The Minister responsible for the *Local Authorities Election Act* may enter into an agreement

- (a) with any elected authority and band council of an Indian band in the area or in an area adjacent to the improvement district, special area, summer village, Indian reserve or the portion of the City of Lloydminster located in Alberta, or
- (b) with the advisory committee of an improvement district or special area or the council of a summer village

(3) Section 8 presently reads:

8(1) When a referendum is to be held under the Local Authorities Election Act, every council shall conduct the referendum of the electors residing in the municipality, except as otherwise provided in this section.

(2) The council shall conduct the referendum notwithstanding that a general election under the Local Authorities Election Act is not required in that municipality.

(3) If a council has entered into an agreement with one or more elected authorities in the same area for the conduct of a general election under the Local Authorities Election Act, the elected authority that is responsible for the conduct of the general election under the agreement shall conduct the referendum and has all the rights, powers and duties of the council to conduct the referendum.

(4) The Minister of Municipal Affairs is responsible for conducting a referendum of the electors residing in improvement districts, special areas, Metis settlements, summer villages, Indian reserves and national parks and for the purposes of the referendum has all the rights, powers and duties of a council to conduct the referendum, including the authority to appoint returning officers and other election officers.

(5) The Minister of Municipal Affairs may enter into an agreement

(a) with any elected authority in the area or in an area adjacent to an improvement district, special area, Metis settlement, summer village, new town, Indian reserve or national park, or

(b) with the advisory council of an improvement district or the advisory committee of a special area, the settlement council of a Metis settlement, the board of administrators of a new town or the council of a summer village

to conduct the referendum on the Minister's behalf, and the elected authority, advisory council, advisory committee, settlement council, board of administrators or council has authority to enter into such an agreement.

to conduct the vote on the Minister's behalf, and the elected authority, band council of an Indian band, advisory committee and council are authorized to enter into such an agreement.

(6) An elected authority, band council of an Indian band, advisory committee or council that enters into an agreement under subsection (5) has all the rights, powers and duties of the Minister to conduct the vote.

(7) In accordance with the regulations, payments must be made to elected authorities, band councils of Indian bands and other bodies that conduct a vote for the purposes of a referendum under this Act.

Electors list

8.1(1) The list of electors, if any, for a municipality compiled and revised under the *Local Authorities Election Act* is the list of electors for conducting a vote for the purposes of a referendum in that municipality.

(2) Where a referendum is to be held in a Metis settlement, a list of electors must be compiled and revised in accordance with the *Local Authorities Election Act* for the purposes of the referendum.

Electors in summer village

8.2 In the case of a summer village, only residents of the summer village are entitled to vote in a referendum.

Voting subdivisions and stations

8.3(1) The voting subdivisions and voting stations established for the purposes of the general elections under the *Local Authorities Election Act* are the voting subdivisions and voting stations for the purposes of a referendum.

(2) Where an elected authority, band council of an Indian band, advisory committee or council has entered into an agreement with the Minister under section 8(5) to conduct a vote on the Minister's behalf in one or more local areas, the elected authority, band council, advisory committee or council, as the case may be, may combine those local areas and divide them into one or more subdivisions.

(6) An elected authority, advisory council, advisory committee, settlement council, board of administrators or council that enters into an agreement under subsection (5) has all the rights, powers and duties of the Minister of Municipal Affairs to conduct the referendum.

(7) In accordance with the regulations, payments must be made to elected authorities and other bodies that conduct a referendum.

(8) In this section, “council” and “elected authority” include the council of the City of Lloydminster.

(3) For the purpose of subsection (2), “local area” means a municipality, improvement district, special area or Indian reserve or a park as defined in the *Canada National Parks Act* (Canada).

Victims Restitution and Compensation Act

Amends SA 2001 cV-3.5

6(1) The *Victims Restitution and Compensation Payment Act* is amended by this section.

(2) The title and chapter number of the Act are repealed and the following is substituted:

CIVIL FORFEITURE ACT Chapter C-15.2

(3) Section 1 is amended

(a) by repealing subsection (1)(a.1)(ii) and (iii);

(b) by repealing subsection (2) and substituting the following:

(2) A reference in this Act to an illegal act is a reference to any of the following:

- (a) anything done or carried out in contravention of, or that constitutes an offence under, an enactment of Canada;
- (b) anything done or carried out in contravention of, or that constitutes an offence under, an enactment of Alberta;
- (c) anything done or carried out in contravention of, or that constitutes an offence under, an enactment of another province or territory of Canada;
- (d) anything done or carried out in contravention of, or that constitutes an offence under, an enactment of a foreign jurisdiction if the thing would have constituted an offence under an enactment of Canada or Alberta had it occurred in Alberta.

Victims Restitution and Compensation Act

6(1) Amends chapter V-3.5 of the Statutes of Alberta, 2001.

(2) The title and chapter number presently read:

**VICTIMS RESTITUTION AND COMPENSATION
PAYMENT ACT**
Chapter V-3.5

(3) Section 1 presently reads in part:

1(1) In this Act,

(a.1) “legal action” means

(ii) a proceeding under Part 2 and includes any application or order made or step or process taken in respect of that proceeding;

(iii) a proceeding under Part 3 and includes any application or order made or step or process taken in respect of that proceeding;

(2) A reference in this Act to an illegal act is a reference to

(a) anything done or carried out in contravention of, or that constitutes an offence under, the Criminal Code (Canada) or the Controlled Drugs and Substances Act (Canada);

(b) subject to clause (a), anything done or carried out in contravention of, or that constitutes an offence under, an enactment of Canada or a provision of an enactment of Canada that is specified by regulation as an enactment or a provision to which this Act applies;

(c) anything done or carried out in contravention of, or that constitutes an offence under, an enactment of Alberta or a provision of an enactment of Alberta that is specified by regulation as an enactment or a provision to which this Act applies.

(4) Part 2, section 31 and Division 1 of Part 3 are repealed.

(4) Part 2, Section 31 and Division 1 of Part 3 presently read:

Part 2
Restitution Assistance

20(1) *In this Part,*

- (a) *“Court” means the court before which the offender was convicted of the offence arising out of an illegal act;*
- (b) *“offender” means a person against whom a restitution order has been made;*
- (c) *“property and revenue statement” means a statement referred to in section 25;*
- (d) *“restitution assistance hearing” means a hearing conducted under section 26;*
- (e) *“restitution assistance order” means an order made under section 21;*
- (f) *“restitution order” means an order of restitution made pursuant to section 738 or 739 of the Criminal Code (Canada);*
- (g) *“restitution payment order” means an order made under section 27.*

(2) *A reference*

- (a) *to a respondent under this Part is a reference to*
 - (i) *the offender,*
 - (ii) *the property victim in whose favour a restitution order has been made, and*
 - (iii) *any person not referred to in subclause (i) or (ii) who is added as a respondent to the proceeding;*
- (b) *to the parties to a proceeding under this Part is a reference to the Minister and the respondents to the proceeding.*

21(1) *If a restitution order has been made in respect of a property victim, the Court may, on the Court’s own motion or on the application of the Minister made at the time of or at any time*

following the making of the restitution order, make a restitution assistance order directing that a restitution assistance hearing be conducted for the purposes of determining matters respecting the making of restitution by the offender to the property victim.

(2) In a restitution assistance order, the Court is to set

- (a) a date, not sooner than 60 days from the day of the conviction that gave rise to the making of the restitution assistance order, on which the Court is to commence a restitution assistance hearing,*
- (b) the place at which the restitution assistance hearing is to be held, and*
- (c) the time at which the restitution assistance hearing is to commence.*

(3) Notwithstanding subsection (2), where the Court directs that a restitution assistance hearing be conducted, the Court may, on the request of the Minister following the giving of that direction, if the Court considers it appropriate to do so, proceed to conduct a restitution assistance hearing immediately following the conviction and the sentencing, if any, or at any other time within the 60-day period referred to in subsection (2) and grant a restitution payment order pursuant to that restitution assistance hearing.

22 At the time of or at any time following the making of a restitution assistance order, the Court may make an order

- (a) prohibiting the disposition or wasting of any of the offender's property, or*
- (b) directing a person to take possession or custody of any of the offender's property,*

pending the determination of the matters for which the restitution assistance hearing is to be conducted.

23 The Court may, on the application of a party to the proceedings or on the Court's own motion,

- (a) add a person as a respondent to the proceedings;*
- (b) give directions as to the conduct of the proceedings;*

(c) deal with any matters not referred to in clause (a) or (b) that are ancillary to the matters before the Court.

24 Unless the Court directs otherwise, the offender in respect of whom a restitution assistance order is made must attend the restitution assistance hearing in person.

25(1) For the purposes of determining matters at a restitution assistance hearing, the offender must, subject to any direction of the Court, file with the Court and provide to the Minister a property and revenue statement verified under oath setting out the information specified by regulation with respect to the offender's property and the offender's income and other revenue.

(2) The offender must, subject to any direction of the Court, include as an attachment to the property and revenue statement any documentary evidence that the offender has respecting the offender's property and the offender's income and other revenue.

(3) For the purposes of this Act, a property and revenue statement is considered to be an affidavit.

26(1) At a restitution assistance hearing the Court is to determine the means by which the offender is to pay to the property victim the amount set out in the restitution order.

(2) At a restitution assistance hearing

(a) the onus is on the Minister to establish that the offender has not paid the total amount that is to be paid pursuant to the restitution order;

(b) the parties to the proceeding may make representations to the Court in respect of the matters before the Court and any other person who is not a party to the proceedings may, with the permission of the Court, make representations to the Court in respect of the matters before the Court;

(c) with the permission of the Court any respondent or other person may give oral evidence.

(3) The Minister, or any other party with the permission of the Court, may cross-examine the offender at the restitution assistance hearing.

(4) If the offender or any other respondent fails to attend a restitution assistance hearing, the Court may nevertheless conduct the hearing and make a restitution payment order.

27(1) At the conclusion of a restitution assistance hearing, the Court may make a restitution payment order doing one or more of the following:

- (a) with respect to any property of the offender, setting aside a transfer or other disposal of any property or any charge or encumbrance placed on or against any of the property if, in the opinion of the Court,*
 - (i) the transfer or other disposal of the property or the charge or encumbrance was placed on or against the property subsequent to the commission of the offence that gave rise to the making of the restitution assistance order, and*
 - (ii) the transfer or disposal of the property or the charging or encumbering of the property was not made for reasonable consideration in an arm's length transaction;*
- (b) directing that any property of the offender up to the amount provided for under the restitution order be transferred or otherwise turned over by the offender, or by any other person having possession of or control over the property, to the property victim in whose favour the restitution order was made;*
- (c) directing that any property of the offender be disposed of and the proceeds from the disposal up to the amount provided for under the restitution order be distributed to the property victim;*
- (d) where property that the property victim was deprived of by the offender is in the possession of the offender, directing that the property be returned to the property victim and making a determination as to whether all, a portion or any of the amount owing under the restitution order has been satisfied by the return of the property.*

(2) The Court, in making a restitution payment order under subsection (1), may also do one or more of the following:

- (a) make the order subject to any terms or conditions that the Court considers appropriate in the circumstances;*
- (b) give directions as to the transferring of title or otherwise dealing with the title to the property;*

- (c) *where the Court determines, with respect to property that is being dealt with under this section, that there are bona fide intervening or other legal or equitable interests in the property, give directions with respect to priorities concerning those interests and the preservation or disposition of those interests or as to how those interests are to be otherwise dealt with;*
- (d) *give any ancillary directions that the Court considers appropriate in the circumstances;*
- (e) *subject to section 48, award costs with respect to the proceeding;*
- (f) *subject to section 48, direct the payment of any expenses incurred with respect to any matter concerning the property, including dealing with the title to the property.*

28(1) If an offender is required to appear under this Part and does not do so without a reasonable excuse, the Court may issue a warrant for the arrest of the offender to have the offender brought before the Court.

(2) When an offender is brought before the Court on a warrant, the Court may bind the offender over to appear at the proceeding that the offender was required to attend and failed to attend.

29(1) No application or order made or step or process taken under this Part, other than a restitution payment order, may be appealed.

(2) An appeal under this Division

- (a) is to be made to the Court having jurisdiction to hear an appeal from the sentence given in respect of the offence that gave rise to the order that is being appealed, and*
- (b) must be filed or served within 30 days from the day that the order being appealed was entered in the Court making that order.*

30(1) A person is guilty of an offence if that person

- (a) fails to comply with a restitution assistance order or a restitution payment order,*
- (b) subject to the directions of the Court, fails to provide a property and revenue statement, or*

- (c) *subject to the directions of the Court, fails to attend a restitution assistance hearing as required pursuant to section 24.*
- (2) *A person who is guilty of an offence under subsection (1) is liable*
 - (a) *to a fine that is not greater than double the amount set out in the restitution order, or*
 - (b) *to imprisonment for not more than 6 months,**or to both a fine and imprisonment.*

Part 3

Payment Of Compensation When The Victims Are Not Specified

31(1) In this Part,

- (a) *“compensation assistance hearing” means a hearing conducted under section 38;*
- (b) *“compensation assistance order” means an order made under section 33;*
- (c) *“compensation order” means an order made under section 32;*
- (d) *“compensation payment order” means an order made under section 39;*
- (e) *“Court” means the court before which the offender was convicted of the offence arising out of an illegal act;*
- (f) *“offender” means a person who*
 - (i) *has been convicted of an offence, or*
 - (ii) *has been convicted of an offence and has been granted a discharge under section 730 of the Criminal Code (Canada) in respect of that offence;*
- (g) *“property and revenue statement” means a statement referred to in section 37;*

(h) “restitution order” means an order of restitution made pursuant to section 738 or 739 of the Criminal Code (Canada).

(2) A reference

(a) to a respondent under this Part is a reference to

(i) the offender, and

(ii) any person not referred to in subclause (i) who is added as a respondent to the proceeding;

(b) to the parties to a proceeding under this Part is a reference to the Minister and the respondents to the proceeding.

Division 1

Determination Of Compensation

32 If

(a) an offender has been convicted of an offence arising out of an illegal act,

(b) the Court, during the trial or other proceeding that led to the conviction, had made a determination as to the amount of gain made or the value of property acquired by the offender by virtue of carrying out the illegal act, and

(c) in respect of that offence a restitution order has not been made or the offence was not one in respect of which a restitution order may be made,

the Court may, on the application of the Minister, make a compensation order directing that the offender pay to the Crown an amount, not greater than the amount referred to in clause (b), to be used for the purposes of making payments or grants or as otherwise provided for under Division 2.

33(1) If a compensation order has been made, the Court may, on the Court’s own motion or on the application of the Minister made at the time of or at any time following the making of the compensation order, make a compensation assistance order directing that a compensation assistance hearing be conducted for the purposes of determining matters respecting the payment of

compensation by the offender to the Crown to be used for the purposes of making payments or grants or as otherwise provided for under Division 2.

(2) In a compensation order the Court

(a) is to set

(i) a date, not sooner than 60 days from the day of the making of the compensation order, on which the Court is to commence a compensation assistance hearing,

(ii) the place at which the compensation assistance hearing is to be held, and

(iii) the time at which the compensation assistance hearing is to commence,

and

(b) may give directions as to the manner in which notice of the compensation assistance hearing is to be given.

(3) Notwithstanding subsection (2), where the Court directs that a compensation assistance hearing be conducted, the Court may, on the request of the Minister following the giving of that direction, if the Court considers it appropriate to do so, proceed to conduct a compensation assistance hearing immediately following the making of the compensation order or at any other time within the 60-day period referred to in subsection (2) and grant a compensation payment order pursuant to that compensation assistance hearing.

34 At the time of or at any time following the making of a compensation assistance order, the Court may make an order

(a) prohibiting the disposition or wasting of any of the offender's property, or

(b) directing a person to take possession or custody of any of the offender's property,

pending the determination of the matters for which the compensation assistance hearing is to be conducted.

35 The Court may, on the application of a party to the proceedings or on the Court's own motion,

- (a) add a person as a respondent to the proceedings;*
- (b) give directions as to the conduct of the proceedings;*
- (c) deal with any matters not referred to in clause (a) or (b) that are ancillary to the matters before the Court.*

36 Unless the Court directs otherwise, the offender in respect of whom a compensation assistance order is made must attend the compensation assistance hearing in person.

37(1) For the purposes of determining matters at a compensation assistance hearing, the offender must, subject to any direction of the Court, file with the Court and provide to the Minister a property and revenue statement verified under oath setting out the information specified by regulation with respect to the offender's property and the offender's income and other revenue.

(2) The offender must, subject to any direction of the Court, include as an attachment to the property and revenue statement any documentary evidence that the offender has respecting the offender's property and the offender's income and other revenue.

(3) For the purposes of this Act, a property and revenue statement is considered to be an affidavit.

38(1) At a compensation assistance hearing the Court is to determine the means by which the offender is to pay the amount set out in the compensation order.

(2) At a compensation assistance hearing

- (a) the onus is on the Minister to establish that the offender has not paid the total amount provided for under the compensation order;*
- (b) the Minister may make recommendations as to the method and form in which the payment should be made and whether the payment should be made in instalments;*
- (c) the parties to the proceeding may make representations in respect of matters before the Court and any other person who is not a party to the proceedings may, with the permission of the Court, make representations to the Court in respect of the matters before the Court;*

(d) with the permission of the Court any respondent or other person may give oral evidence.

(3) The Minister, or any other party with the permission of the Court, may cross-examine the offender at the compensation assistance hearing.

(4) If the offender or any other respondent fails to attend a compensation assistance hearing, the Court may nevertheless conduct the hearing and make a compensation payment order.

39(1) At the conclusion of a compensation assistance hearing, the Court may make a compensation payment order doing one or more of the following:

(a) with respect to any property of the offender, setting aside a transfer or other disposal of any property or any charge or encumbrance placed against any of the property if, in the opinion of the Court,

(i) the transfer or other disposal of the property or any charge or encumbrance was placed on or against the property subsequent to the commission of the offence that gave rise to the making of the compensation order, and

(ii) the transfer or disposal of the property or the charging or encumbering of the property was not made for reasonable consideration in an arm's length transaction;

(b) directing that any money of the offender, up to the amount provided for under the compensation order, be paid by the offender, or by any other person having possession or control over the money, to the Crown to be used for the purposes of making payments or grants or as otherwise provided for under Division 2;

(c) directing that any property of the offender be disposed of and the proceeds from the disposal, up to the amount provided for under the compensation order, be paid to the Crown to be used for the purposes of making payments or grants or as otherwise provided for under Division 2;

(d) directing the offender to make payments to the Crown by means of instalments, the total amount of the instalments not to exceed the amount provided for under the compensation order, to be used for the purposes of making payments or grants or as otherwise provided for under Division 2.

(2) The Court, in making a compensation payment order under subsection (1), may also do one or more of the following:

- (a) make the order subject to any terms or conditions that the Court considers appropriate in the circumstances;*
- (b) give directions as to the transferring of title or otherwise dealing with the title to the property;*
- (c) where the Court determines, with respect to property that is being dealt with under this section, that there are bona fide intervening or other legal or equitable interests in the property, give directions with respect to priorities concerning those interests and the preservation or disposition of those interests or as to how those interests are to be otherwise dealt with;*
- (d) give any ancillary directions that the Court considers appropriate in the circumstances;*
- (e) subject to section 48, award costs with respect to the proceedings;*
- (f) subject to section 48, direct the payment of any expenses incurred with respect to any matter concerning the property, including dealing with the title to the property.*

40(1) If an offender is required to appear under this Part and does not do so without a reasonable excuse, the Court may issue a warrant for the arrest of the offender to have the offender brought before the Court.

(2) When an offender is brought before the Court on a warrant, the Court may bind the offender over to appear at the proceeding that the offender was required to attend and failed to attend.

41(1) No application or order made or step or process taken under this Part, other than a compensation order or compensation payment order, may be appealed.

(2) An appeal under this Part

- (a) is to be made to the Court having jurisdiction to hear an appeal from the sentence given in respect of the offence that gave rise to the order that is being appealed, and*

(5) Section 44 is amended by adding the following after clause (d.2):

(d.3) police training and operations;

(6) The following is added after section 44:

Operational costs

44.1 The Minister may reimburse the General Revenue Fund from the money that is paid to the Crown under this Act for costs and expenses related to the administration of this Act, including costs and expenses related to

- (a) administrative disposition proceedings under Part 1, applications under section 1.8, actions under Part 1.01 or 1.1 and any related proceedings,
- (b) the management, preservation, handling, maintenance or disposal of property for the purposes of this Act, and

(b) *must be filed and served within 30 days from the day that the order being appealed was entered in the Court making that order.*

42(1) A person is guilty of an offence if that person

(a) *fails to comply with a compensation order, a compensation assistance order or a compensation payment order,*

(b) *subject to the directions of the Court, fails to provide a property and revenue statement, or*

(c) *subject to the directions of the Court, fails to attend a compensation assistance hearing as required pursuant to section 36.*

(2) A person who is guilty of an offence under subsection (1) is liable

(a) *to a fine that is not greater than double the amount set out in the compensation order, or*

(b) *to imprisonment for not more than 6 months,*

or to both a fine and imprisonment.

(5) Section 44 presently reads in part:

44 Subject to the regulations, the Minister may make payments or grants from money that is paid to the Crown under this Act for any one or more of the following purposes:

(d.2) *payments to successful claimants under section 1.8(5)(b);*

(6) Operational costs.

- (c) the employment of persons to assist the Minister in carrying out the Minister's functions under this Act.

(7) Section 46(6) is amended by striking out “19, 19.99, 29 and 41” and substituting “19 and 19.99”.

(8) Section 55 is amended

- (a) in subsection (1) by repealing clauses (a), (b) and (d);
- (b) by repealing subsection (2).

(9) Section 56(2) and (3) are repealed.

(10) This section has effect on January 1, 2021.

(7) Section 46(6) presently reads:

(6) Except as provided in sections 19, 19.99, 29 and 41, no decision made or action taken by the Minister in respect of a legal action is to be questioned, reviewed or restrained by means of an appeal or any proceedings in the nature of injunction, prohibition, mandamus, quo warranto or any other process or proceeding in any court or to be removed by any proceeding in the nature of certiorari or otherwise in any court.

(8) Section 55 presently reads in part:

55(1) The Lieutenant Governor in Council may make regulations

- (a) specifying enactments of Canada or provisions of those enactments to which this Act applies;*
- (b) specifying enactments of Alberta or provisions of those enactments to which this Act applies;*
- (d) specifying or otherwise prescribing the information and documentary evidence to be provided in respect of a property and revenue statement given under Part 2 or 3;*

(2) A regulation made under subsection (1)(a) or (b) may be made effective in respect of an illegal act regardless of whether that illegal act takes place before or after the regulation comes into force.

(9) Section 56 presently reads in part:

(2) Part 2 applies in respect of any restitution order as defined in that Part

- (a) made after Part 2 comes into force, or*
- (b) made before Part 2 comes into force but is still in effect after Part 2 comes into force.*

(3) Part 3 applies in respect of any conviction that takes place

- (a) after Part 3 comes into force, or*
- (b) within 90 days before Part 3 comes into force.*

(10) Coming into force.

RECORD OF DEBATE

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