

2022 Bill 1

Fourth Session, 30th Legislature, 1 Charles III

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 1

ALBERTA SOVEREIGNTY WITHIN A UNITED CANADA ACT

THE PREMIER

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 1

2022

ALBERTA SOVEREIGNTY WITHIN A UNITED CANADA ACT

(Assented to , 2022)

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Preamble

WHEREAS Albertans possess a unique culture and shared identity within Canada;

WHEREAS it is the role of the Legislative Assembly of Alberta and the Government of Alberta to preserve and promote this unique culture and shared identity;

WHEREAS the *Constitution Act, 1867*, the *Constitution Act, 1930* and the *Constitution Act, 1982* are foundational documents that establish the rights and freedoms of Albertans and the relationship between the provincial and federal orders of government, including the division of legislative powers between them;

WHEREAS the Province of Alberta is granted rights and powers under the *Constitution Act, 1867*, the *Constitution Act, 1930* and

the *Constitution Act, 1982* and is not subordinate to the Government of Canada;

WHEREAS actions taken by the Parliament of Canada and the Government of Canada have infringed on these sovereign provincial rights and powers with increasing frequency and have unfairly prejudiced Albertans;

WHEREAS actions taken by the Parliament of Canada and the Government of Canada have infringed on the rights and freedoms of Albertans enshrined in the *Canadian Charter of Rights and Freedoms* in an unjustified and unconstitutional manner;

WHEREAS the people of Alberta expect the Parliament of Canada and the Government of Canada to respect the *Constitution Act, 1867*, the *Constitution Act, 1930* and the *Constitution Act, 1982* as the governing documents of the relationship between Canada and Alberta and to abide by the division of powers and other provisions set out in those documents;

WHEREAS the people of Alberta expect the Parliament of Canada and the Government of Canada to respect the rights and freedoms of Albertans enshrined in the *Canadian Charter of Rights and Freedoms*; and

WHEREAS it is necessary and appropriate for the Legislative Assembly of Alberta to set out measures that the Lieutenant Governor in Council should consider taking in respect of actions of the Parliament of Canada and the Government of Canada that are unconstitutional or harmful to Albertans and for Members of the Legislative Assembly of Alberta to have a free vote on such measures according to their individual judgment;

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

Definitions

1 In this Act,

- (a) “aboriginal peoples of Canada” includes the Indian, Inuit and Métis peoples of Canada within the meaning of section 35 of the *Constitution Act, 1982*;
- (b) “Constitution of Canada” includes

- (i) the *Canada Act, 1982*, including the *Constitution Act, 1982*,
- (ii) the Acts and orders referred to in the Schedule to the *Constitution Act, 1982*, and
- (iii) any amendment to any Act or order referred to in subclause (i) or (ii);
- (c) “federal initiative” means a federal law, program, policy, agreement or action, or a proposed or anticipated federal law, program, policy, agreement or action;
- (d) “person” includes a corporation and the heirs, executors, administrators or other legal representatives of a person;
- (e) “provincial entity” means
 - (i) a public agency as defined in the *Alberta Public Agencies Governance Act*,
 - (ii) a Crown-controlled organization as defined in the *Financial Administration Act*,
 - (iii) an entity that carries out a power, duty or function under an enactment,
 - (iv) an entity that receives a grant or other public funds from the Government that are contingent on the provision of a public service,
 - (v) a regional health authority established under the *Regional Health Authorities Act*,
 - (vi) a public post-secondary institution as defined in the *Post-secondary Learning Act*,
 - (vii) a board as defined in the *Education Act*,
 - (viii) a municipal authority as defined in the *Municipal Government Act*,
 - (ix) a municipal police service as defined in the *Police Act*,
 - (x) a regional police service as defined in the *Police Act*, and

- (xi) any other similar provincially regulated entity prescribed by the regulations.

Interpretation

2 Nothing in this Act is to be construed as

- (a) authorizing any order that would be contrary to the Constitution of Canada,
- (b) authorizing any directive to a person, other than a provincial entity, that would compel the person to act contrary to or otherwise in violation of any federal law, or
- (c) abrogating or derogating from any existing aboriginal and treaty rights of the aboriginal peoples of Canada that are recognized and affirmed by section 35 of the *Constitution Act, 1982*.

Resolutions

3 If, on a motion of a member of Executive Council, the Legislative Assembly approves a resolution that

- (a) states that the resolution is made in accordance with this Act,
- (b) states that, in the opinion of the Legislative Assembly, a federal initiative
 - (i) is unconstitutional on the basis that it
 - (A) intrudes into an area of provincial legislative jurisdiction under the Constitution of Canada, or
 - (B) violates the rights and freedoms of one or more Albertans under the *Canadian Charter of Rights and Freedoms*,
 - or
 - (ii) causes or is anticipated to cause harm to Albertans,
- (c) sets out the nature of the harm, if the resolution states that, in the opinion of the Legislative Assembly, a federal

initiative causes or is anticipated to cause harm to Albertans, and

- (d) identifies a measure or measures that the Lieutenant Governor in Council should consider taking in respect of the federal initiative,

the Lieutenant Governor in Council may take the actions described in section 4.

Powers of the Lieutenant Governor in Council

4(1) If the Legislative Assembly approves a resolution described in section 3, the Lieutenant Governor in Council, to the extent that it is necessary or advisable in order to carry out a measure that is identified in the resolution, may, by order,

- (a) if the Lieutenant Governor in Council is satisfied that doing so is in the public interest, direct a Minister responsible for an enactment as designated under section 16 of the *Government Organization Act* to, by order,
 - (i) suspend or modify the application or operation of all or part of an enactment, subject to the terms and conditions that the Lieutenant Governor in Council may prescribe, or
 - (ii) specify or set out provisions that apply in addition to, or instead of, any provision of an enactment,

subject to the approval of the Lieutenant Governor in Council,

- (b) direct a Minister to exercise a power, duty or function of the Minister, including by making a regulation under an enactment for which the Minister is responsible, or
- (c) issue directives to a provincial entity and its members, officers and agents, and the Crown and its Ministers and agents, in respect of the federal initiative.

(2) A directive issued in accordance with subsection (1)(c) may be general or particular in its application.

(3) Where there is a conflict or inconsistency between

- (a) an order made or an order that is directed to be made under subsection (1), and
- (b) a provision of an enactment to which the order relates,

the order prevails to the extent of the conflict or inconsistency.

(4) Nothing in this Act abrogates any authority or power vested in the Legislative Assembly or Lieutenant Governor in Council by any other enactment or by operation of law, including any authority or power of the Lieutenant Governor in Council to take action with respect to the federal initiative.

Authority and orders cease

5(1) Subject to subsection (2), the Lieutenant Governor in Council ceases to have an authority to make an order under section 4(1), and any order issued by the Lieutenant Governor in Council or a Minister under section 4(1) expires and ceases to have any force or effect, on the earliest of

- (a) the date on which the Legislative Assembly rescinds the resolution referred to in section 4(1), or
- (b) 2 years after the date on which the resolution referred to in section 4(1) was approved by the Legislative Assembly.

(2) The Lieutenant Governor in Council may extend an order issued under section 4(1) for an additional 2 years from the date on which the original order was set to expire.

(3) An extension of an order by the Lieutenant Governor in Council under subsection (2) may be made only once.

Effect of directives

6(1) A provincial entity and its members, officers and agents, and the Crown and its Ministers and agents, must comply with any directive issued by the Lieutenant Governor in Council under this Act.

(2) A directive issued under this Act must be published in The Alberta Gazette within 30 days from the date the order is made by the Lieutenant Governor in Council under section 4(1).

(3) The *Regulations Act* does not apply to a directive issued under this Act.

Crown is bound

7 This Act is binding on the Crown.

No cause of action

8 No cause of action lies against and no action or proceeding may be commenced against

- (a) the Crown or its Ministers, agents, appointees or employees, or against the Legislative Assembly, the Speaker of the Legislative Assembly, an office of the Legislature, or any agents, appointees or employees of the Legislative Assembly or an office of the Legislature, in respect of any act or thing done or omitted to be done under or in relation to this Act or a resolution or order under this Act, including, without limitation, any failure to do something when that person has discretionary authority to do something but does not do it, or
- (b) any other person or entity in respect of any act or thing done or omitted to be done in good faith under a directive issued under this Act, including, without limitation, any failure to do something when that person has discretionary authority to do something but does not do it.

Judicial review

9(1) An originating application for judicial review in relation to a decision or act of a person or body under this Act must be filed and served within 30 days after the date of the decision or act.

(2) In an application for judicial review to set aside a decision or act of a person or body under this Act, the standard of review to be applied by the court is that of patent unreasonableness.

(3) Nothing in this section is to be construed as making a decision or act of the Legislative Assembly subject to judicial review.

Regulations

10 The Lieutenant Governor in Council may make regulations

- (a) prescribing provincial entities for the purposes of section 1(e);
- (b) defining any term or phrase used but not defined in this Act.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
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