

(Consolidated up to 251/2001)

ALBERTA REGULATION 102/99

Provincial Court Act

CONSTITUTIONAL NOTICE REGULATION

Notice of constitutional remedy

1(1) Unless a notice has been given under section 24 of the *Judicature Act*, if in a proceeding in the Provincial Court relating to the prosecution of an offence under an Act of the Legislature or an Act of the Parliament of Canada, an application is to be made to seek

- (a) a remedy under section 24(1) or (2) of the *Canadian Charter of Rights and Freedoms* or under section 52(1) of the *Constitution Act, 1982*, or
- (b) a determination of any aboriginal or treaty rights under section 35 of the *Constitution Act, 1982*,

a written notice of the application must be given.

(2) A notice must be given not less than 14 days before the date on which the proceeding is scheduled to commence unless the prosecutor agrees to a shorter period of time.

(3) The notice must be given

- (a) to the clerk of the Provincial Court, and
- (b) to the office of the prosecutor having carriage of the proceeding.

(4) The notice must state

- (a) the law in question, the right or freedom alleged to be infringed or denied or the aboriginal or treaty right to be determined, as the case may be,
- (b) the day and place on which the application is to be argued,
- (c) the relief sought, and
- (d) the grounds to be argued, including a concise statement of the constitutional principles to be argued and a reference to any

statutory provision or rule on which reliance will be placed.

(5) If a notice under section 24 of the *Judicature Act* or a notice under this section is given, the proceeding is to be heard by a judge of the Provincial Court.

(6) Where a notice under section 24 of the *Judicature Act* has not been given in accordance with that Act or a notice under this section has not been given within the time provided under subsection (2) but the notice is given after the proceeding has commenced, if the proceeding is presided over by a sitting justice, the sitting justice

- (a) may continue to conduct the proceeding or may transfer the proceeding to a judge of the Provincial Court, and
- (b) notwithstanding clause (a), must transfer the proceeding to a judge of the Provincial Court if requested by the prosecutor or the accused.

AR 251/2001

Coming into force

2 This Regulation comes into force on September 1, 1999.