



Province of Alberta

# **JUSTICE STATUTES AMENDMENT ACT, 2020**

Statutes of Alberta, 2020  
Chapter 37

Assented to December 9, 2020

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**JUSTICE STATUTES  
AMENDMENT ACT, 2020**

Chapter 37

*(Assented to December 9, 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.**

**(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)** 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)”.

(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.

**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,”.

(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.

**(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”.

**(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

- (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*.

**(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 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.

(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.

**(4) Part 2, section 31 and Division 1 of Part 3 are repealed.**

**(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
- (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.**

