CROWN’S RIGHT OF RECOVERY ACT

CROWN’S RIGHT OF RECOVERY REGULATION

Alberta Regulation 87/2012

With amendments up to and including Alberta Regulation 20/2017

Office Consolidation

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(Consolidated up to 20/2017)

ALBERTA REGULATION 87/2012
Crown’s Right of Recovery Act
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Definition
1 In this Regulation, “Act” means the Crown’s Right of Recovery Act.

Term in Act defined
2 In the Act and the regulations under the Act, “Minister” means the Minister determined under section 16 of the Government Organization Act as the Minister responsible for the Act.

Health services prescribed
3 The following goods and services are prescribed to be health services for the purposes of Parts 1 and 2 of the Act:

(a) a physical therapy service;

(b) an extended health benefit provided under the Alberta Aids to Daily Living and Extended Health Benefits Regulation (AR 236/85);

(c) a health aid provided under the Alberta Aids to Daily Living and Extended Health Benefits Regulation (AR 236/85);
(d) a service referred to in section 2(3) or (4) of the  
_Co-ordinated Home Care Program Regulation_  
(AR 296/2003) provided under a program under that  
Regulation.

Application

4 Sections 5 to 9 of this Regulation apply only in respect of Part 1  
of the Act.

Exception to Crown’s right of recovery

5(1) Where a wrongdoer is the spouse or adult interdependent  
partner of or a relative of a recipient, the Crown may not pursue its  
right under Division 1 or 4 of Part 1 of the Act to recover from that  
wrongdoer the Crown’s cost of health services that have been  
received by or provided to the recipient, or that will likely be  
received by or provided to the recipient in the future, for the  
personal injuries suffered as a result of the wrongful act or  
omission of that wrongdoer unless the recipient

(a) commences an action against that wrongdoer based on the  
wrongful act or omission, or

(b) enters into a settlement with that wrongdoer based on the  
wrongful act or omission.

(2) Nothing in this section affects the Crown’s right of recovery  
with respect to any other wrongdoer whose wrongful act or  
omission resulted in personal injuries to the recipient.

(3) In this section, “relative” means an individual who is related to  
the recipient by blood, marriage or adoption or by virtue of an adult  
interdependent relationship.

Calculation of pre-judgment interest

6(1) For the purposes of section 6 of the Act, the interest to be  
awarded is the sum of

(a) the amounts of interest calculated under subsection (2) for  
each full calendar month after the Crown’s right of  
recovery arises, up to the month in which the judgment is  
granted, and

(b) the amount of interest calculated under subsection (3) for  
the month in which the judgment is granted.

(2) The amount of interest for a month, other than the month in  
which the judgment is granted, is calculated in accordance with the  
following formula:
A x B x 1/12

(3) The amount of interest for the month in which the judgment is granted is calculated in accordance with the following formula:

\[ A \times B \times \frac{C}{365} \]

(4) The variables for the formulas in subsections (2) and (3) are as follows:

A is the total of the Crown’s cost of health services that have been provided to the recipient prior to the month;

B is the rate of interest for pecuniary damages that is established under Part 1 of the Judgment Interest Act for the year in which the month occurs;

C is the number of the days in the month up to and including the day the judgment is granted.

Aggregate assessment

7 The Minister shall, in the manner determined by the Minister, establish the aggregate assessment for a calendar year by making the estimate referred to in section 22(2) of the Act based on

(a) any report to the Minister under section 23(2) of the Act, and

(b) any of the following that the Minister considers should be taken into account:

(i) information prepared by the Department of Health;

(ii) information received or obtained from any person;

(iii) actuarial reports.

Payments to legal counsel

8(1) The maximum amounts payable to legal counsel who act for the recipient and for the Crown in a claim that is based on the Crown’s right of recovery are

(a) 15% of the first $20 000 that is payable to the Crown under a judgment or settlement, excluding reasonable disbursements, and 10% on the remainder of the amount payable to the Crown, excluding reasonable disbursements, and
(b) reasonable disbursements directly related to the Crown’s claim.

(2) The amounts payable to legal counsel who act only for the Crown in a claim that is based on the Crown’s right of recovery are the reasonable fees, costs and disbursements payable under an agreement entered into by the Director and the legal counsel.

(3) If the act or omission of a wrongdoer that gives rise to the Crown’s right of recovery occurs in a jurisdiction outside Alberta and legal counsel from that jurisdiction is hired to act for the Crown, the amounts payable to the legal counsel are the fees, costs and disbursements that are reasonable in that jurisdiction and that are payable under an agreement entered into by the Director and the legal counsel.

Payments to others

9 The amounts payable to physicians, private investigators, experts and others hired by the Crown for the purposes of the Crown’s right of recovery are the amounts approved by the Director.

10 Repealed AR 20/2017 s2.

Repeal

11 The Crown’s Right of Recovery Regulation (AR 163/96) is repealed.

Coming into force

12 This Regulation comes into force on the coming into force of section 40(1) of the Crown’s Right of Recovery Act.