

JUSTICE UPDATE

Saskatchewan Justice

The Adult Guardianship and Co-decision-making Amendment Act, 2005

(Bill 90) Chapter 2

This amendment Act will affect legal proceedings respecting contracts entered into by adults for whom property guardians have been appointed within a year after the execution of the contracts. Where the question of what the other party to the contract knew about the adult's capacity arises, that party will have the onus to show that he or she did not have reasonable grounds to believe the adult lacked capacity at the time of the contract.

This Act came into force on May 27, 2005.

The Alcohol and Gaming Regulation Amendment Act, 2005/Loi de 2005 modifiant la Loi de 1997 sur la réglementation des boissons alcoolisées et des jeux de hasard *

(Bill 67) Chapter 3

In addition to a number of minor housekeeping amendments, the following changes are made:

- authorize the Liquor and Gaming Authority to provide grants in lieu of property taxes to municipalities;
- provide individuals who have been denied access to a casino with an appeal to the Liquor and Gaming Licensing Commission;
- remove the requirement that applicants for commercial liquor permits sign a statutory declaration before a Commissioner for Oaths and instead require the applicant to certify that the contents of the application are complete and accurate, to allow commercial liquor permit applicants to eventually apply for a permit via the Internet;
- require that gaming regulators and gaming directors be registered with the Liquor and Gaming Authority;
- ensure that casinos have the statutory authority to deny access to persons whose presence in the casino is undesirable, and create an offence for entering or remaining in a casino while prohibited from doing so;

- provide that section 3 of *The Slot Machine Act*, respecting ownership of slot machines, does not apply to slot machines owned or leased by the Liquor and Gaming Authority;
- repeal and replace certain provisions of *The Alcohol and Gaming Regulation Amendment Act, 2002 (No. 2)*, to allow for proclamation of the provisions in stages.

Portions of clause 3(a) that add definitions for "exhibition casino operator" and "Saskatchewan Indian Gaming Authority", sections 6 to 9, 12, 23, clause 24(c) and sections 28 were proclaimed in force June 1, 2006. That portion of clause 3(a) that adds the definition for "First Nation gaming licensing authority" was proclaimed in force on November 1, 2006. That portion of clause 3(a) that adds the definition for "gaming regulator", clause 3(b), sections 4, 15 to 22, clauses 24(a), (b) and (d), and subsections 26(1), (3) and (4) were proclaimed in force on June 1, 2008. Subsection 26(2) came into force March 23, 2009. The balance of the Act came into force on May 27, 2005. [Section 27 was repealed by 2008, c.8. s.31(3)]

The Apiaries Act, 2005

(Bill 94) Chapter A-22.01

This new legislation repeals the existing *Apiaries Act*. The Act requires the registration of beekeepers, sets out conditions for operating apiaries and creates an inspection regime. It provides the chief inspector with the authority to order quarantine, and the minister with the authority to order destruction, of bees, honeycombs, brood combs, bees on comb and beekeeping equipment, to prevent the transmission of disease or pests. In addition, specific provisions regulate the import, transport and disposition of honey bees.

The Act came into force on December 30, 2005.

The Archives Amendment Act, 2005

(Bill 13) Chapter 33

This amendment Act:

- clarifies that the head of a government institution who has been designated to sit on the public records committee may name a delegate to sit on the committee;

- authorizes the Archives Board to develop agreements to receive and manage Cabinet records in addition to ministerial records and records of the Office of the Executive Council;
- clarifies that public records created and maintained by the Legislative Assembly Service or an officer of the Assembly are subject to the Act.

This Act came into force on December 2, 2005.

The Automobile Accident Insurance Amendment Act, 2005

(Bill 124) Chapter 5

This Act increases the income benefits payable to an individual who sustained a catastrophic injury in a motor vehicle accident prior to July 31, 2002, to the industrial average wage. This benefit will be adjusted annually for inflation during entitlement.

Two consequential amendments arising out of the enactment of *The Traffic Safety Act* came into force on July 1, 2006 when that Act was proclaimed in force. The balance of the Act came into force on June 28, 2005.

The Business Corporations Amendment Act, 2005

(Bill 108) Chapter 6

The Business Corporations Amendment Act, 2005 contains amendments which:

- reduce the requirement for Canadian resident directors from a majority to 25 percent;
- clarify the list of corporate documents to which creditors may have access;
- expand the list of documents that are to be kept at a corporation's registered office;
- clarify that service on a corporation's power of attorney does not constitute effective service, if a corporation has been struck from the register;
- enable the creation of regulations to prescribe the qualifications of persons eligible to serve as auditor of a corporation as well as regulations to prescribe the manner in which electronic communications can be used to satisfy notice and service requirements under the Act.

The bulk of the provisions in the Act respond to changes in Saskatchewan securities laws. Current provisions in *The Business Corporations Act* regarding the solicitation of proxies and the preparation, auditing, filing and distribution of financial statements were out of step with provisions contained in national rules that have been adopted as regulations of the Saskatchewan Financial Services Commission. The amendments provide that

wherever corporations comply with the relevant provisions under Saskatchewan securities laws, they will be exempt from the corresponding provisions in *The Business Corporations Act*.

This Act came into force on June 15, 2006.

The Canadian Information Processing Society of Saskatchewan Act

(Bill 99) Chapter C-0.2

This new professions legislation provides powers to the Canadian Information Processing Society of Saskatchewan to regulate its membership. It sets out standard bylaw-making and disciplinary procedures for the profession. It provides for a public representative to be appointed to their executive, and for the filing of all regulatory bylaws of the society with the Minister Responsible for Information Technology for approval prior to their coming into force. It provides that no one other than a member of the society may use the title "Information Systems Professional of Canada".

This Act came into force on June 24, 2005.

The Collective Bargaining Agreement Expiry Date Exception Act

(Bill 20) Chapter 34

This Act extends the expiry date for two collective bargaining agreements beyond the three years provided for in *The Trade Union Act*. The new expiry dates are those set out in the respective agreements.

This Act came into force on December 2, 2005.

The Corporation Capital Tax Amendment Act, 2005

(Bill 125) Chapter 7

The amendments to *The Corporation Capital Tax Act* extend the corporate capital tax resource surcharge to operating entities that have an affiliation with an income or resource trust.

These amendments came into force on May 27, 2005, but are retroactive in effect to April 1, 2005.

The Corporation Capital Tax Amendment Act, 2005 (No.2)

(Bill 23) Chapter 35

The amendments to *The Corporation Capital Tax Act* apply to small financial institutions. The aggregate taxable paid-up capital threshold for small financial institutions paying tax at the 0.7 per cent rate is increased from \$400 million to \$1 billion for taxation years ending on or after October 31, 2003.

The Act came into force on December 2, 2005, but is retroactive in effect to October 31, 2003.

The Criminal Enterprise Suppression Act

(Bill 109) Chapter C-46.1

This new Act establishes a procedure whereby a police chief (which includes an officer in charge of a detachment for the RCMP) may apply to the court for a number of different orders regarding the management, operation or ownership of a provincially licensed business.

Where the chief is satisfied that the respondent is a member of a criminal organization and owns or manages a business, the police chief may apply to the court for an order to cancel any license used or held in connection with the business, prohibit the respondent from owning or managing a business or direct the Liquor and Gaming Authority not to approve an application for a liquor license. The definition of “**criminal organization**” is adopted from the *Criminal Code (Canada)* and is linked to criminal organization offences under the *Criminal Code (Canada)*. The police chief may also apply to court for an order to deny a pending application for a license by a person who is a member of a criminal organization and owns or manages a business or who is expected to own or manage a business.

Where the police chief is satisfied that the respondent owns or manages a business that is being used to advance an unlawful activity, the police chief may apply to the court for an order:

- requiring the respondent to cease owning or managing the business;
- requiring that the business cease operations;
- requiring that the business be liquidated and dissolved;
- cancelling any license;
- prohibiting the respondent from owning or managing a business whose operation requires a license;
- liquidating or dissolving a corporation under *The Business Corporations Act*;
- cancelling the registration of the business under *The Business Names Registration Act*;
- directing the Liquor and Gaming Authority not to approve an application for a liquor license.

Finally, the police chief may also make an application to the court for an order where he or she is satisfied that the respondents have conspired to engage in unlawful activity, the respondents knew or ought to have known that the unlawful activity would result in injury to the public and injury to the public has resulted or will likely result from the unlawful activity. The court may make any order necessary to restrain the respondents' activities as well as an order that the respondents pay damages for any injury.

This Act came into force on October 24, 2005.

The Doukhobors of Canada C.C.U.B. Trust Fund Amendment Act, 2005

(Bill 93) Chapter 8

This Act addresses the manner in which members are appointed to the board of directors of The Doukhobors of Canada C.C.U.B. Trust Fund. It provides that Doukhobor societies in Alberta, British Columbia and Saskatchewan nominate members to the board for appointment by the Lieutenant Governor in Council.

This Act came into force on May 27, 2005.

The Ecological Reserves Amendment Act, 2005

(Bill 95) Chapter 9

This Act provides that the boundaries of any of the province's ecological reserves cannot be changed without approval of the Legislative Assembly. In addition, land uses allowed in the Great Sand Hills Ecological Reserve cannot be changed without approval of the Legislative Assembly. Consequential amendments remove land from *The Wildlife Habitat Protection Act* so that it can be brought under the protection of *The Ecological Reserves Act*.

This Act came into force on May 27, 2005

The Education Amendment Act, 2005/Loi de 2005 modifiant la Loi de 1995 sur l'éducation *

(Bill 80) Chapter 10

This amendment provides that, for the members of the boards of education elected between June 1, 2005 and January 1, 2006 for the new school divisions established in 2005:

- the requirement for a school board election to be held in those divisions in October 2006 is eliminated;
- their term of office will continue until the following province-wide school board elections in October 2009.

This Act came into force on May 27, 2005.

**The Education Amendment Act, 2005 (No. 2)/
Loi de 2005 (n°2) modifiant la Loi de 1995 sur
l'éducation**

(Bill 114) Chapter 11

In addition to a number of minor housekeeping amendments, the following changes are made:

- the Minister of Learning is authorized to establish school divisions at a future date, provide for the members of the boards of education of those school divisions to take office before that date, and assign specific powers and duties to them to exercise prior to that date;
- certain provisions that are currently applicable to boards of education are made applicable to members of a conseil d'école;
- the use of corporal punishment in schools is prohibited;
- the membership of the Board of Teacher Education and Certification is expanded;
- the minister is authorized to use equivalency assessments in determining the amount of grants to be paid to school divisions in Lloydminster.

The amendment respecting the use of equivalency assessments is retroactive in effect to January 15, 2005. Section 24, which corrects a typographical error, is retroactive in effect to January 1, 2003. The balance of the Act came into force on May 27, 2005.

The Education Property Tax Credit Act

(Bill 115) Chapter E-4.1

This Bill provides the authority for the education property tax credit program:

- municipalities are required to reduce school taxes by the amount of the credit calculated in accordance with the regulations;
- municipalities are required to show the credit on their tax notices;
- municipalities are required to provide a credit report to each school division on whose behalf they levy taxes;
- school divisions submit a credit summary report to the Department of Learning to apply for a grant to compensate them for the reduced amount of school taxes they receive;
- the Minister of Learning may also make payments, enter into agreements or engage the services of any person to assist municipalities with the costs of complying with the Act.

This Act came into force on assent, but is retroactive in effect to January 1, 2005.

The Election Amendment Act, 2005

(Bill 119) Chapter 12

The Election Amendment Act, 2005 includes numerous procedural changes, including:

- authorize the development of a permanent electronic voters list;
- simplify authorization for election advertising;
- standardize treatment of surplus funds in election financing;
- provide that election signs will be permitted on rental properties;
- authorize access for candidates to condominium properties and authorize individuals living in condominiums to display election advertising;
- provide for facsimile submission of nomination papers in an emergency;
- treat polling as an election expense;
- increase the rebate to candidates;
- increase the rebate to registered parties;
- provide that the Chief Electoral Officer will appoint Returning Officers;
- provide that the Returning Officer is not to break a tie vote;
- authorize security assistance for enumerators;
- simplify absentee voting; and
- provide for the reservation of a name for a political party.

Changes have also been made to provide prisoner voting rights and to reduce the number of candidates required to qualify to be a registered political party from ten candidates to two candidates.

This Act came into force on March 22, 2006.

**The Enforcement of Foreign Judgments Act /
Loi sur l'exécution des jugements étrangers**

(Bill 101) Chapter E-9.121

This new Act establishes rules for recognition and enforcement of foreign judgments. The Act establishes that where a foreign court has a "real and substantial" connection to the subject matter for which the judgment was issued, that judgment may be registered in Saskatchewan and subsequently enforced as a Saskatchewan judgment. Foreign judgments will be recognized in Saskatchewan if they meet the recognition criteria set out in the Act. Where a foreign judgment includes a financial award that exceeds that

which would have been granted in a similar judgment in Saskatchewan, an application can be made to have that judgment enforced only to the extent that a similar Saskatchewan judgment would have been awarded.

This Act came into force on April 19, 2006.

The Farm Financial Stability Amendment Act, 2005

(Bill 121) Chapter 13

The amendments to *The Farm Financial Stability Act* affect Production Associations Loan Guarantees. The amendments:

- clarify that producer agreements are not to be considered guarantees for the purposes of section 31 of *The Saskatchewan Farm Security Act*;
- allow associations to continue with debt collection after a guarantee payment is made;
- exempt assurance funds from seizure by other creditors;
- allow members who have paid out their account to obtain a refund of or to leave the assurance fund with the association;
- provide that if a member is entitled to a refund of a contribution, or elects to retain his or her contribution in the assurance fund, that amount is subject to enforcement of a maintenance order.

These amendments came into force on May 27, 2005.

The Farm Financial Stability Amendment Act, 2005 (No. 2)

(Bill 7) Chapter 36

This amendment Act:

- allows the Minister of Finance to provide a second government guarantee to lenders on advances, subject to terms and conditions to be set out in the regulations;
- allows a provincial supervisor to obtain a warrant to enter premises where production association commodities may be kept, after making reasonable efforts to contact the person in charge of the premises and being unable to do so.

This Act came into force on December 2, 2005.

The Film Employment Tax Credit Amendment Act, 2005

(Bill 2) Chapter 37

This Act amends *The Film Employment Tax Credit Act* to:

- increase the film employment tax credit from 35 per cent to 45 per cent of eligible salaries effective January 1, 2006;
- allow for an additional film employment tax credit of 5% of eligible salaries if the total production costs exceed an amount set out in the regulations and Saskatchewan residents occupied at least six key positions in relation to the production of the eligible film;
- revise the list of payments that are not considered "government assistance" in the calculation of the tax credit.

This Act comes into force on December 31, 2005.

The Fuel Tax Amendment Act, 2005

(Bill 120) Chapter 14

The Fuel Tax Act, 2000 is amended by reducing the tax rate on aviation fuel from 3.5 to 1.5 cents per litre. An identical reduction is applied to the tax rate on any ethanol or other prescribed product added to aviation fuel.

The amendments came into force on May 27, 2005, but are retroactive in effect to March 24, 2005.

The Health Labour Relations Reorganization Amendment Act, 2005 *

(Bill 88) Chapter 15

This amendment Act:

- extends to January 1, 2006 the moratorium preventing the Labour Relations Board from amending, varying or rescinding certification orders designating specific unions as representing certain bargaining units in the health sector;
- adds regulation-making authority to give the Board the power to make certification orders creating multi-employer appropriate units.

This Act came into force on May 27, 2005.

The International Protection of Adults (Hague Convention Implementation) Act/Loi de mise en oeuvre de la Convention de la Haye sur la protection internationale des adultes

(Bill 92) Chapter I-10.21

This Act provides the framework for implementation of the *2000 Hague Convention on the International Protection of Adults*. The Act gives the force of law to the Convention, which is set out as a Schedule to the Act.

The Convention provides for the protection of adults who, by reason of an “impairment or insufficiency of personal faculties”, are not in a position to protect their person or property. The Convention addresses such issues as jurisdiction to take measures to protect the person or property of vulnerable adults, the law to be applied in exercising jurisdiction, the interjurisdictional recognition and enforcement of protective measures and cooperation between state authorities. The Public Guardian and Trustee will carry out the duties of the Central Authority under the Convention.

This Act will come into force on proclamation.

The Labour Standards Amendment Act, 2005 *

(Bill 86) Chapter 16

This amendment Act:

- sets out the “lawful authorities” to whom an employee may report offences and receive “whistleblower” protection; these include, along with law enforcement agencies and others with the power to investigate offences, persons directly or indirectly responsible for supervising the employee;
- authorizes the Director of Labour Standards to investigate and issue a decision respecting an employee’s complaint of wrongful dismissal or discrimination as a result of reporting an illegal activity;
- allows the director’s decision to be appealed to an independent adjudicator.

This Act came into force on May 27, 2005.

The Land Surveys Amendment Act, 2005

(Bill 91) Chapter 17

The amendments include:

- defining and assigning responsibilities for the ongoing maintenance of the cadastral parcel mapping system;

- providing regulation-making powers respecting the establishment and maintenance of the cadastral parcel mapping system; and
- providing the Controller of Surveys with greater flexibility to determine and alter the hours of operation of the Controller’s office.

This Act came into force on May 27, 2005.

The Legal Profession Amendment Act, 2005

(Bill 16) Chapter 38

This Act makes a number of changes to *The Legal Profession Act, 1990*, including the following:

- authorizing the Law Society to participate in the establishment and maintenance of a national special fund, and administer the special funds through an insurance program;
- repealing election procedure provisions from the Act, and expanding the rule-making powers of the benchers with respect to bencher election procedures;
- providing that appeals by complainants from decisions not to take action on a complaint will be heard by a committee of benchers, rather than all of the benchers;
- allowing an additional option of referring a public complaint to the ethics committee;
- providing the benchers with the power to make rules authorizing hearing committees to impose suspensions and disbarments as disciplinary penalties;
- providing that a member who is disbarred may not apply for reinstatement for the period, not exceeding five years, ordered by the discipline or hearing committee;
- allowing the court to order that the costs of a court-ordered trustee be paid by the member whose practice is being administered, or the member’s estate;
- allowing the court to extend the time for taxation of a lawyer’s bill if it is in the interests of justice that the taxation proceed.

This Act came into force on July 1, 2006.

The Legislative Assembly and Executive Council Act, 2005

(Bill 96) Chapter L-11.2

This new Act replaces *The Legislative Assembly and Executive Council Act* and updates the procedures of the Legislative Assembly to better reflect current practices. Provisions respecting the composition and operation of the Assembly, qualifications of members, by-elections, Office of Executive Council, etc., are continued. The legislation consolidates and updates the allowance and remuneration provisions and sets out the powers and duties of the Board of Internal Economy. The Act provides that all member allowances and payments are subject to Board directives.

Additional changes update the functions and duties of the officers and employees of the Legislative Assembly under the direction of the Speaker and the Clerk. This includes the establishment of the Legislative Assembly Service as the organizational unit within which the employees of the Legislative Assembly provide their services.

This Act came into force on May 27, 2005, but is retroactive in effect to April 1, 2005.

The Legislative Assembly and Executive Council Consequential Amendment Act, 2005 / Loi de 2005 sur une modification corrélative découlant de la loi intitulée The Legislative Assembly and Executive Council Act, 2005

(Bill 97) Chapter 18

This amending legislation makes a single bilingual consequential amendment to *The Jury Act, 1998* that will update the reference in that Act to the new legislation.

This Act came into force on May 27, 2005, but is retroactive in effect to April 1, 2005.

The Local Government Election Amendment Act, 2005

(Bill 105) Chapter 19

The Act amends *The Local Government Election Act* to:

- incorporate provisions from *The Rural Municipality Act, 1989* regarding the election provisions and procedures for rural municipalities;
- allow voters who are unable to enter a polling place because of physical disability or limited mobility to vote at another polling place;

- remove the reference to population when determining whether a school division is “wholly or substantially within a municipality” and base the determination on the geographic area of the school division;
- clarify that where a school division is not “wholly or substantially within a municipality”, the municipality is responsible for determining the polling areas and places within the city and the school board is responsible for determining the polling areas and places outside the city;
- authorize the Minister of Learning to issue an order relieving a municipality of the responsibility to conduct an election pursuant to the Act and requiring the school division to conduct the election;
- require at least 10 electors to sign a nomination form for a candidate running in a school board election; and
- clarify that the closing time for receiving second call for nominations for board members of a school division in a city is six days.

Section 3, clauses 4(1)(a) to (d), sections 6 and 15, clause 17(b), section 18, clause 19(b), section 20 and sections 22 to 26 of the Act came into force on January 1, 2006. The other provisions in the Act came into force on May 27, 2005.

The Mandatory Testing and Disclosure (Bodily Substances) Act

(Bill 102) Chapter M-2.1

This new legislation establishes a procedure for the compulsory taking of bodily substance samples, analysis of those samples, and the limited disclosure of personal health information derived from that analysis, to assist with the treatment of an applicant. The Act applies only if the source individual refuses to provide a sample voluntarily and if the exposed individual came into contact with a potentially infectious bodily substance of the source individual as a crime victim, or while providing emergency services to the source individual.

An application to the court for an order that a source individual be tested must be accompanied by a doctor's report in the prescribed form. The court may make a testing order if there are reasonable grounds to believe the applicant may become infected, the information to be obtained by the test cannot reasonably be obtained in any other manner (including by testing of the applicant) and the testing order is necessary to decrease or eliminate the risk to the applicant. The results of the test would be held confidential for the purposes of this Act only and it is an offence under the

Act to disclose the results of a testing order or to identify the source individual involved in a testing order except in accordance with the Act. The Act applies only to the communicable diseases set out in the regulations.

This Act came into force on October 17, 2005.

The Miscellaneous Labour Statutes Amendment Act, 2005

(Bill 122) Chapter 20

This amendment Act:

- repeals unproclaimed provisions of *The Labour Standards Act* respecting additional hours of work (section 13.4 and clause 84(1)(e.2));
- clarifies that, under section 35 of *The Labour Standards Act*, holiday pay is to be provided to employees whose employment is terminated prior to completion of one year's employment;
- clarifies that the Radiation Health and Safety Committee, appointed under *The Radiation Health and Safety Act, 1985*, has the power to act where there is a vacancy in its membership;
- makes a number of additional housekeeping amendments to labour law statutes.

This Act came into force on May 27, 2005.

The Municipalities Act

(Bill 106) Chapter M-36.1

This Act updates and consolidates the legislative framework for rural municipalities, towns, villages and resort villages. It repeals and replaces *The Rural Municipality Act, 1989* and *The Urban Municipality Act, 1984* (except subsection 59(4) of *The Urban Municipality Act, 1984* which relates to the participation of employees of the Regina General Hospital in the Regina Civic Employees' Superannuation and Benefit Plan).

The Municipalities Act.

- provides for the structure, governance, powers and jurisdiction of municipalities;
- provides that a municipality has the capacity, rights, powers and privileges of a natural person, subject to any limitations contained in this Act or any other Act;
- provides that a municipality has the general power to pass bylaws in relation to a number of matters respecting the municipality, including the peace, order and good government of the municipality, the safety and protection of people and property, nuisances, transportation systems, businesses and business activities;

- provides that a council may regulate and require licensing of certain types of businesses, including transient traders, mining contractors, oil or gas well operators and building contractors;
- contains standardized provisions regarding incorporation, alteration and restructuring of municipalities, including procedures and requirements for petitions, public notices, calls for objections, public meetings and public votes;
- requires councils to adopt a public notice policy setting out minimum notice requirements and methods of giving notice;
- contains annual requirements for municipalities to publicize their financial statements, including the debt limit and the amount of debt of the municipality;
- contains rules regarding property assessment, including the manner in which property is to be assessed, the manner in which assessment rolls and notices are to be prepared and the process for appeals;
- contains provisions regarding taxation, including the manner in which property taxes are levied, collected and enforced;
- sets out provisions regarding legal actions, liability of municipalities, intermunicipal dispute resolution and transitional and consequential matters.

The Act came into force on January 1, 2006, with the exception of section 474, which deals with consequential amendments to *The Traffic Safety Act*. Section 474 came into force on July 1, 2006 when section 1 of *The Traffic Safety Act* came into force.

The Municipalities Consequential Amendment Act, 2005/Loi de 2005 sur les modifications corrélatives découlant de la loi intitulée The Municipalities Act

(Bill 107) Chapter 21

This Act contains amendments to four bilingual Acts as a result of the passage of

The Municipalities Act. It amends:

- *The Alcohol and Gaming Regulation Act, 1997*;
- *The Education Act, 1995*;
- *The Interpretation Act, 1995*; and
- *The Traffic Safety Court of Saskatchewan Act, 1988*.

This Act came into force on January 1, 2006.

The Non-profit Corporations Amendment Act, 2005/Loi de 2005 modifiant la Loi de 1995 sur les sociétés sans but lucratif

(Bill 113) Chapter 22

The Non-profit Corporations Act, 1995 is amended by increasing from \$100,000 to \$250,000 the threshold of annual revenues below which a charitable corporation may waive the requirement for an audit. In addition, amendments will enable the creation of regulations which will prescribe the qualifications of individuals conducting audits or financial reviews for non-profit corporations as well as regulations which will allow the use of electronic communications to satisfy certain notice and service requirements under the Act. The Canadian resident director requirement is reduced from a majority to 25 percent. A new provision stipulates that the appointment or election of a director to a non-profit corporation will not be valid without the consent of the new director.

The Act came into force on June 15, 2006.

The Osteopathic Practice Repeal Act

(Bill 116) Chapter 23

This Act repeals *The Osteopathic Practice Act*.

The Act came into force on May 27, 2005.

The Planning and Development Amendment Act, 2005

(Bill 104) Chapter 24

This Act makes a number of detailed amendments to *The Planning and Development Act, 1983*. The Act provides regulation-making authority to allow the Minister to develop provincial land use policies and statements of provincial interest to guide community and land use planning. It requires every development plan, basic planning statement, subdivision bylaw or zoning bylaw to be consistent with the provincial land use policies and statements of provincial interest.

The Act exempts councils that have been declared approving authorities from obtaining ministerial approval of basic planning statements, development plans, zoning bylaws, subdivision bylaws, interim development control bylaws and the sale or exchange of buffer strips, municipal reserves or walkways. Instead, the Act requires approving authorities to transmit proposed bylaws to the minister for review. If the Minister determines that the proposed bylaw is not consistent with a provincial land use policy or statement of provincial interest, the council is required to make changes to the proposed bylaw. To be eligible to be declared an approving authority, a council must employ or retain a professional community planner.

The Act allows approving authorities to:

- establish public notice policies for planning and zoning;
- determine the membership, powers and duties of their local municipal planning commissions and development appeal boards;
- extend the time limit for referring or appealing matters.

The Act also provides for a number of other amendments, including:

- broadening the application of architectural controls to include the site on which a building is located;
- allowing for the passing of an interim development control bylaw where planning studies are being undertaken;
- establishing a two year maximum limit on the effect of an interim development control bylaw;
- eliminating the requirement that council adopt a five-year capital works program in conjunction with the adoption of a development plan;
- permitting development officers to order a person in contravention of a zoning bylaw to complete all work necessary to comply;
- providing that every decision of the Development Appeal Board is subject to the condition that the Board's approval lapses on the expiration of the period for which the development permit is valid and that the Board's decision is specific to the proposed development.

Sections 1 to 4, portions of section 5, sections 6, 7, 8, 11 to 15, 17, 18, 22 to 26, 28 to 37 and 39 to 50 came into force on July 1, 2005.

The 2005 Act amended *The Planning and Development Act, 1983*. The 1983 Act was repealed by *The Planning and Development Act, 2007* on March 21, 2007, in effect repealing the 2005 Act.

The Police Amendment Act, 2005

(Bill 100) Chapter 25

This amending legislation provides for the following changes:

- expansion of the office of the complaints investigator into a five person Public Complaints Commission (PCC) appointed following consultations with the Federation of Saskatchewan Indian Nations, the Saskatchewan Federation of Police Officers, the Saskatchewan Association of Chiefs of Police and the municipal police boards;

- every complaint regarding a police officer and every investigation with respect to a possible criminal offence with respect to a police officer will be subject to the direction of the PCC;
- the PCC will determine whether investigations should be conducted:
 - by the PCC itself through its investigative arm;
 - by the police service against whose member the complaint was made;
 - by the police service with an outside observer; or,
 - by a separate police service;
- where a serious injury or death has occurred while a person was in police custody or as a result of a police action the municipal police service or RCMP detachment concerned will be required to request that the Deputy Minister of Justice appoint an investigation observer from another police service or RCMP detachment to monitor the investigation and report back on that investigation to the Deputy Minister;
- implementation of new rules respecting cross-border policing to provide clear appointing and governance authority in cases where an out-of-province police officer needs to continue an investigation in Saskatchewan or where a Saskatchewan police officer must leave the province for similar reasons;
- the introduction of a Commission to be issued by the Lieutenant Governor in Council under the Great Seal of Saskatchewan to police officers on their first appointment to any of the ranks of inspector, superintendent, deputy chief or chief.

This Act came into force on April 1, 2006.

The Prairie and Forest Fires Amendment Act, 2005

(Bill 98) Chapter 26

This Act repeals the section of *The Prairie and Forest Fires Act, 1982* which provides for the Forest Fire Contingency Fund and provides for the winding-up of the fund.

The Act came into force on May 27, 2005.

The Provincial Court Amendment Act, 2005

(Bill 112) Chapter 27

The Provincial Court Act, 1998 is amended to establish a Civil Division of the Provincial Court of Saskatchewan. The Civil Division of the Provincial Court will focus on addressing civil matters brought forward under *The Small Claims Act, 1997*.

The Act further provides that, with the consent of the Chief Judge, the Lieutenant Governor in Council may set the number of judges to be assigned by the Chief Judge to the new Civil Division and designate the location of such an assignment. The Chief Judge may also assign non-Civil Division work to these judges where necessary or assign additional judges to act as judges of the Civil Division where the workload makes this appropriate.

This Act came into force on January 1, 2006.

The Provincial Emblems and Honours Amendment Act, 2005

(Bill 14) Chapter 39

This Act creates two new provincial emblems, the walleye as the fish emblem and the Saskatoon Berry as the fruit emblem. It also provides official status to the Fransaskois flag.

This Act came into force on December 2, 2005.

The Real Estate Amendment Act, 2005

(Bill 103) Chapter 28

This Act amends *The Real Estate Act* to:

- allow the Commission to take disciplinary action against former industry members for up to two years after the member leaves the industry;
- allow the Commission to apply to the court for an interim suspension of a registrant;
- establish a new category of registration for associate brokers; and
- revise the requirements for the deposit of trust funds by requiring a brokerage to deposit all money received by the brokerage in trust for other persons within two business days after the later of the day on which the offer to purchase is accepted and day on which the money is received by the brokerage.

This Act came into force on May 27, 2005.

The Real Estate Amendment Act, 2005 (No. 2)

(Bill 17) Chapter 40

This Act amends *The Real Estate Act* to:

- allow the Commission to acquire real and personal property for its corporate purposes;
- allow the Commission to borrow money and mortgage or charge any of its property as security for money borrowed;
- clarify that all fees, fines, costs and penalties receivable or recoverable pursuant to the Act are the property of the Commission; and

- allow the Commission to invest its funds in investments in which trustees are authorized to invest pursuant to *The Trustee Act*.

This Act came into force on December 2, 2005.

The Safer Communities and Neighbourhoods Amendment Act, 2005

(Bill 1) Chapter 41

This amending legislation amends *The Safer Communities and Neighbourhoods Act*:

- to create a new offence that creates a restriction against gang colours being worn in “permitted premises”, as defined in *The Alcohol and Gaming Regulation Act, 1997*;
- to add housing or providing support to a gang or criminal organization as a “specified use” for a property that could form the basis for an application;
- to add the commission or promotion of a criminal organization offence as a “specified use” for a property that could form the basis for an application;
- to expand the liquor related “specified use” to include the use, consumption, transfer and exchange of alcohol in addition to the sale of alcohol; and,
- to create a presumption that a person is a member of a criminal organization where they have been convicted of a criminal organization offence under the *Criminal Code (Canada)*.

This Act came into force on December 2, 2005.

The Saskatchewan Watershed Authority Act, 2005

(Bill 118) Chapter S-35.03

This Act repeals and replaces *The Saskatchewan Watershed Authority Act* and *The Ground Water Conservation Act*. The changes in the new Act are:

- providing additional remedies for the Authority to enforce its orders and the orders of the Water Appeal Board or Court of Queen’s Bench including the ability to register an interest against the title to the affected land;
- changing the drainage complaint procedure to incorporate a preliminary, informal dispute resolution procedure and to streamline the resolution of formal complaints between private parties;
- allowing transfer of the administration and control of portions of the province’s beds or shores of water bodies to the federal government for the purpose of constructing public wharfs;

- allowing the registration of ground water drillers, instead of registering drilling equipment;
- incorporating provisions of *The Ground Water Conservation Act*; and
- reorganizing and updating the Act.

Most provisions of the Act came into force on May 27, 2005. Certain orders of the Saskatchewan Water Corporation in existence on September 30, 2002, and certain agreements entered into by the Saskatchewan Water Corporation with the federal government or an Indian Band in existence on September 30, 2002, are continued under the Act, retroactively from October 1, 2002.

The Seizure of Criminal Property Act

(Bill 110) Chapter S-46.001

This new Act provides a process whereby a police chief (defined to include an officer in charge of a detachment for the RCMP) may make an application to the Court of Queen’s Bench for a forfeiture order where the police chief is satisfied that property is the proceeds of unlawful activity or an instrument of unlawful activity.

Property is defined to be an “instrument of unlawful activity” where it is likely to be used to engage in unlawful activity that, in turn, would be likely to or is intended to result in the acquisition of other property or serious bodily harm to a person. The “proceeds of unlawful activity” is defined to mean property acquired directly or indirectly, in whole or in part, as a result of unlawful activity, before or after the coming into force of the Act.

After filing an application for forfeiture, the police chief is required to file notice of the application with either the Registrar of Titles or the Personal Property Registry to ensure that adequate notice is given to third parties with respect to that property. The police chief may also apply for an interim order to preserve property pending the hearing of the forfeiture order application.

Where the court finds that the property is the proceeds of unlawful activity or an instrument of unlawful activity the court shall direct that the property be forfeited to the Crown in right of Saskatchewan unless it clearly would not be in the interests of justice to make the order.

In making such an order the court shall also make an order to protect the interests in the property held by persons entitled to a protection order. This includes interest holders such as banks or credit unions as well as any person that is able to establish that they had acquired the interest prior to a notice being registered and they did not acquire the interest as a result of unlawful activity.

Subject to any established protection order holders, forfeited property is then liquidated and distributed first, to the Crown in right of Saskatchewan to pay any costs incurred in selling the forfeited property and second, to the police chief to reimburse him or her for expenses incurred in bringing the application for the forfeiture order.

In making an application, the police chief is required to name as respondents, the owner, anyone else in possession of the property, anyone with a prior registered interest and anyone else known to the police chief to have an interest in the property.

An order under the Act may be appealed to the Court of Appeal on a question of law, with leave, however, there is no appeal of a forfeiture order.

The Act also establishes certain presumptions regarding members of criminal organizations, instruments of unlawful activity and offences where someone has previously been proven to be a member of a criminal organization under the criminal organization offences of the *Criminal Code (Canada)*.

This Act came into force on November 3, 2005.

The Small Claims Amendment Act, 2005/ Loi de 2005 modifiant la Loi de 1997 sur les petites créances

(Bill 111) Chapter 29

The amendments to *The Small Claims Act, 1997* include changes to:

- implement case management conferences between the parties to a dispute and a judge prior to their small claims trial;
- specifically authorize small claim judges to settle matters before them during a case management conference or to otherwise seek to expedite resolution of the dispute;
- provide more flexibility for the court in determining the appropriate court location for a trial;
- provide discretion to a judge to refuse to issue a summons if the claim is without reasonable grounds, discloses no triable issue, is frivolous, vexatious or an abuse of the court's process;
- provide a judge with more flexibility in awarding costs;
- limit the provision allowing the Court of Queen's Bench to extend the time for an appeal of a small claims judgment, to 150 days after the appeal period expires;
- authorize the disposal of trial exhibits after the expiry of any possible appeal.

This Act came into force on January 1, 2006.

The Summary Offences Procedure Amendment Act, 2005

(Bill 3) Chapter 42

This Act amends *The Summary Offences Procedure Act, 1990*. The most significant changes in the legislation relate to enforcement of municipal bylaws relating to parking. These amendments:

- allow a parking summons to be served by mail;
- provide that where a person does not respond in any way to a summons, a default conviction can occur;
- provide that the city or other authority may register a lien against a vehicle owned by the person with an outstanding parking fine at the Personal Property Registry;
- set out the procedure to be followed before a person can be incarcerated for an outstanding parking fine.

The legislation also includes several amendments that update the Act. These amendments:

- remove the \$400 maximum voluntary payment amount on tickets for driving offences;
- add the production order provisions of the *Criminal Code (Canada)* to the search warrant powers;
- specify that days in default will be determined by dividing the fine amount by the minimum wage;
- include a regulation-making power so that the legislation can be kept up to date when new arrangements are made between the province and municipalities respecting distribution of fine revenues.

The amendments that remove the maximum voluntary payment and that amend the search warrant provisions as well as several housekeeping amendments came into force on December 2, 2005. All other provisions came into force on January 1, 2006, except those respecting distribution of fine revenues which came into force on April 1, 2006.

The Trade Union Amendment Act, 2005 *

(Bill 87) Chapter 30

This amendment Act:

- allows members of the Labour Relations Board to complete their active cases after their appointments have expired;
- allows the chairperson or a vice-chairperson of the board to sit alone to hear applications respecting fair representation and employee - trade union disputes;

- allows the board chairperson to make regulations prescribing rules of procedure;
- clarifies and sets out in greater detail procedural powers of the board, including specifically providing for pre-hearing procedures;
- gives members of the board the same privileges and immunities as a Queen's Bench judge;
- requires the trade union and the employer to commence bargaining within 20 days of bargaining unit certification, unless the parties agree otherwise;
- upon the application of one of the parties, permits the board to assist in the settlement of a first collective agreement if the parties have not reached an agreement within 90 days of bargaining unit certification.

This Act came into force on June 17, 2005.

The University of Regina Amendment Act, 2005

(Bill 9) Chapter 43

The University of Regina Act is amended to reduce the number of government appointed members on the University's board of governors from six to five.

The Act came into force on December 2, 2005.

The University of Saskatchewan Amendment Act, 2005

(Bill 10) Chapter 44

The University of Saskatchewan Act, 1995 is amended to reduce the number of government appointed members on the University's board of governors from six to five.

The Act came into force on December 2, 2005.

The Western Development Museum Amendment Act, 2005

(Bill 8) Chapter 45

This Act amends *The Western Development Museum Act* to:

- revise the length of the term for which a member of The Western Development Museum Board holds office from one year to three years; and
- eliminate the requirement that no member of the board shall hold office for more than four consecutive years.

This Act came into force on December 2, 2005.

The Wildlife Habitat Protection Amendment Act, 2005

(Bill 123) Chapter 31

This Act takes 2,223 hectares out of the scope of the Act.

This Act came into force on May 27, 2005.

The Workers' Compensation Amendment Act, 2005

(Bill 25) Chapter 46

This bill extends the rebuttable presumption, that certain cancers in firefighters were caused by their work, to include primary site ureter cancer, primary site colorectal cancer, primary site testicular cancer, primary site lung cancer in non-smokers, and heart injury that manifests within 24 hours of an emergency response. The presumption applies to persons who have been employed as firefighters for the minimum period to be prescribed in the regulations. Regulations will also prescribe the minimum period without smoking required for a person to be considered a non-smoker.

This Act came into force on March 1, 2006.

The Youth Drug Detoxification and Stabilization Act

(Bill 27) Chapter Y-1.1

A youth worker, parent, or other person with whom a youth has a close personal relationship may lay an information before a Provincial Court judge where a youth aged 12 to 17 meets certain criteria, including suffering from severe drug addiction or abuse, at risk of serious danger to self or others, in need of detainment to ensure his or her safety or the safety of others or to facilitate the youth's detoxification and stabilization, and in need of being examined by a physician. If the judge is satisfied that the criteria have been met, the judge may issue a warrant to have the youth apprehended and taken to be examined by a physician. A police officer may apprehend a youth without a warrant and take the youth to be examined by a physician if the same criteria are met, and the police officer believes the youth is in immediate risk of serious harm or immediate danger to himself or herself or others.

After the youth is examined by two physicians, the physicians may issue a community order or a detoxification order. A detoxification order provides for the youth to remain in involuntary detoxification and stabilization within a facility for up to 5 days, with the possibility of extension to a maximum of 15 days. A

community order provides for a youth to undergo detoxification and stabilization outside a facility, subject to conditions imposed by the physicians, for up to 30 days. Community orders and detoxification orders are subject to appeal to a review panel, and from there to the Court of Queen's Bench. An official representative will assist youth in understanding the orders and exercising their rights of appeal. The procedural aspects of this process are modelled closely on provisions in *The Mental Health Services Act*.

This Act came into force on April 1, 2006.

The Youth Justice Administration Amendment Act, 2005

(Bill 11) Chapter 47

This Act grants peace officer status to community youth workers. This provides them with the authority to transport youth in custody and to apprehend a young person who is at large from a custody facility or not in compliance with the community portion of a custody sentence.

This Act came into force on December 2, 2005.

* These Bills were introduced in 2004 but not passed until 2005. The short titles of these Bills were corrected by the Office of the Law Clerk and Parliamentary Counsel, to indicate the year in which the Act was passed and received Royal Assent.

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