

2009 Bill 9

Second Session, 27th Legislature, 58 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 9

GOVERNMENT ORGANIZATION AMENDMENT ACT, 2009

MR. CAMPBELL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 9
Mr. Campbell

BILL 9

2009

GOVERNMENT ORGANIZATION AMENDMENT ACT, 2009

(Assented to , 2009)

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

Amends RSA 2000 cG-10

1 The *Government Organization Act* is amended by this Act.

2 Schedule 12 is amended

(a) in section 3 by adding the following after subsection (1):

(1.1) An agreement referred to in subsection (1) must specify

- (a) the registry services that the registry agent must provide, as determined by the Minister, and
- (b) the location at which the registry services must be provided, as determined by the Minister in accordance with regulations made under section 12.

(1.2) A registry agent shall not provide registry services other than those specified under subsection (1.1)(a).

(1.3) No change in the ownership of a registry agent and no sale, lease or other disposition of the business operations of a registry agent that pertain to the provision of registry services may occur without the prior approval of the Minister, and the Minister may attach terms and conditions to an approval.

Explanatory Notes

1 Amends chapter G-10 of the Revised Statutes of Alberta 2000.

2 Schedule 12 presently reads in part:

3(1) The Minister may enter into an agreement with a person under which the person is authorized to be a registry agent.

11 If the Government

- (a) is liable for something done or omitted to be done by a registry agent or other person,*
- (b) assumes the liability for something done or omitted to be done by a registry agent or other person, or*
- (c) assumes an obligation for something done or omitted to be done by a registry agent or other person,*

and the Government makes a payment in respect of that liability or obligation, the registry agent or the other person, as the case may be, shall, subject to any agreement entered into between the Government and the registry agent or the other person, indemnify the Government for that payment and any interest owing in respect of that payment, notwithstanding any law that provides otherwise.

(b) by renumbering section 11 as section 11(1) and adding the following after subsection (1):

(2) Where any costs, fees or other amounts identified in the regulations that are payable by a registry agent to the Government remain unpaid, the costs, fees or other amounts constitute a debt due to the Government and may be recovered by the Minister in an action in debt against the registry agent.

(c) in section 12(1)

(i) by renumbering clause (a) as clause (a.5) and adding the following before clause (a.5):

- (a) respecting the requirements to be met by persons applying to become registry agents;
- (a.1) respecting the authority to carry out background checks on the persons referred to in clause (a) in order to determine the suitability of a person to become a registry agent, including, but not limited to,
 - (i) making inquiries respecting those persons,
 - (ii) if the person is a corporation, making inquiries respecting all shareholders and directors of the corporation,
 - (iii) making inquiries respecting the spouses or adult interdependent partners of the persons referred to in subclause (i) and the shareholders and directors referred to in subclause (ii), and
 - (iv) requesting credit reports and obtaining information from law enforcement agencies and records from the Registrar of Motor Vehicle Services relating to any of the persons referred to in subclauses (i) to (iii);
- (a.2) respecting the Minister's absolute discretion to determine whether an agreement under section 3 should be entered into with any person;

12(1) The Minister may make regulations

- (a) respecting the holding and handling of money by registry agents;*
- (b) respecting the carrying out of registry services;*
- (c) respecting the provision of information;*
- (d) respecting the maximum and minimum amounts that may be charged by registry agents as service charges;*
- (d.1) respecting limits or conditions on the service charges that a registry agent may charge for providing registry services;*
- (e) designating a registry as a registry to which section 7 applies;*
- (f) governing the accreditation and the suspension or cancellation of accreditation of persons as accredited persons for the purposes of section 7;*
- (g) governing functions respecting document authorization for the purposes of section 7;*
- (h) governing service charges that may be charged in respect of services provided by accredited persons under section 7;*
- (i) governing document handling procedures in respect of a registry where the enactment under which the registry operates does not provide for document handling procedures;*
- (j) providing for the restriction of or the cancellation or suspension of registry services to persons who owe money or are in arrears with respect to the payment of fees for registry services that are payable or otherwise owing to the Government;*
- (k) providing for forms to be used in respect of registries and the provision of registry services.*

15(3) A person who contravenes subsection (1) or (2) or section 4(2) is guilty of an offence and liable to a fine of not more than \$10 000 or to a term of imprisonment of not more than one year or to both a fine and a term of imprisonment.

- (a.3) respecting ongoing requirements to be met by registry agents;
- (a.4) respecting the matters to be considered by the Minister in determining the location at which registry services are to be provided under an agreement entered into under section 3;

(ii) in clause (f) by adding “and providing for disclosure of information related to the status of a person’s accreditation” **after** “section 7”;

(iii) by adding the following after clause (k):

- (l) respecting access and the manner of access to a registry, including the restriction of that access as a consequence of a contravention of
 - (i) this Part,
 - (ii) the regulations made under this section,
 - (iii) another enactment under which a registry operates,
 - (iv) an agreement under this Part, or
 - (v) a code of conduct or policies and procedures referred to in clause (o),

and respecting the use of information in a registry by registry agents, other persons authorized to provide registry services and accredited persons;

- (m) identifying costs, fees and other amounts for the purposes of section 11(2);
- (n) respecting the conduct of inspections and audits of registry agents, other persons authorized to provide registry services and accredited persons and of functions carried out by those persons;
- (o) respecting the development of
 - (i) codes of conduct, and

(ii) policies and procedures

relating to the operation of a registry and the provision of registry services and requiring registry agents, other persons authorized to provide registry services and accredited persons to comply with those codes of conduct and policies and procedures;

- (p) providing, with respect to any provision of the regulations made under this section, that its contravention constitutes an offence;
- (q) requiring registry agents, other persons authorized to provide registry services and accredited persons to report to the Minister any conduct that may amount to a contravention referred to in clause (l);
- (r) respecting the appeal by a registry agent, another person authorized to provide registry services or an accredited person of any decision relating to a contravention referred to in clause (l);
- (s) exempting a registry agent from the operation of any provision of the regulations;
- (t) respecting the provision of registry services when an agreement under section 3 expires or is terminated;
- (u) respecting the appointment of a receiver or manager of the property of a registry agent;
- (v) respecting any administrative or other matter that is considered necessary or advisable to carry out the intent of this Part.

(d) by repealing section 15(3);

(e) by adding the following after section 15:

General offence

15.1 A person who contravenes

- (a) a provision of this Part, or

- (b) a provision of the regulations made under section 12 the contravention of which is, pursuant to those regulations, an offence,

is guilty of an offence and liable to a fine of not more than \$10 000 or to a term of imprisonment of not more than one year or to both a fine and a term of imprisonment.

Limitation period

15.2 No proceedings under section 15 or 15.1 may be instituted after the expiry of

- (a) 9 months from the date on which the Registrar first becomes aware that an alleged offence has occurred, or
- (b) 6 years from the date on which an alleged offence occurred,

whichever occurs first.

Right of entry, audit and inspection

15.3(1) For the purpose of the administration of and monitoring compliance with this Part, the regulations made under section 12, an agreement under this Part or a code of conduct or policies and procedures developed under section 12(1)(o), the Minister or a person designated by the Minister may, without a warrant or court order, at any reasonable time,

- (a) enter, inspect and audit the business premises of a registry agent or other person authorized to provide registry services and any other premises, other than a private dwelling, used by the registry agent or other person authorized to provide registry services to store records or other documents that relate to or are required to be kept for the provision of registry services,
- (b) require the production of any records or other documents referred to in clause (a),
- (c) make copies of or take extracts from any records or other documents referred to in clause (a),

- (d) use any computer system at the business premises to examine any data contained in or available to the computer system,
- (e) interview the registry agent or other person authorized to provide registry services, any officers, employees or agents of the registry agent or other person authorized to provide registry services and any accredited persons,
- (f) make reasonable inquiries of any person, orally or in writing,
- (g) remove any records or other documents referred to in clause (a) for the purpose of examining them and making copies, and
- (h) in addition, where the person designated by the Minister is a peace officer appointed under the *Peace Officer Act*, carry out any other investigation or activity that that peace officer is by law authorized to carry out.

(2) For the purpose of taking possession of records or other documents, equipment, inventory and supplies that are the property of the Government when an agreement under section 3 expires or is terminated, the Minister or a person designated by the Minister may, without a warrant or court order, at any reasonable time and without advance notice if the Minister or other person considers it appropriate,

- (a) enter the business premises of the registry agent with whom the agreement was entered into and any other premises, other than a private dwelling, used by the registry agent to store records or other documents that relate to or are required to be kept for the provision of registry services, and
- (b) require the production of, and remove, the records and other documents, equipment, inventory and supplies that are the property of the Government.

(3) On entering premises under subsection (1) or (2), the Minister or the person designated by the Minister must, on request, produce identification.

(4) When the Minister or a person designated by the Minister removes any records or other documents pursuant to subsection (1), the Minister or person must

- (a) give to the person from whom those items were taken a receipt for those items within a reasonable period after removing them, and
- (b) return those items to the person from whom they were taken after they have served the purpose for which they were taken.

(5) No registry agent or other person authorized to provide registry services, no officer, employee or agent of a registry agent or other person authorized to provide registry services and no accredited person shall

- (a) refuse or fail to permit the Minister or a person designated by the Minister to enter any premises under subsection (1) or (2), or
- (b) obstruct or refuse or fail to assist the Minister or a person designated by the Minister in the exercise of rights and performance of duties under this section.

Registry is property of Government

15.4 Each registry, and all records and information that form part of the registry, are the property of the Government.

(f) in the following provisions by striking out “this Schedule” wherever it occurs and substituting “this Part”:

- section 1(1) and (2);
- section 3(2) and (3);
- section 5(1);
- section 7(1)(a);
- section 8;
- section 13(1) and (5);
- section 15(1) and (2).

