Finding Legislation

Prepared For: Legal Education Society of Alberta
Research for Legal Support Staff

Presented by:
Shaunna Mireau
Director of Knowledge Management and Process Improvement
Field LLP
Edmonton, Alberta

For presentation in:
Edmonton, Alberta – November 17, 2015
Calgary, Alberta – November 24, 2015
FINDING LEGISLATION

In order to find legislation you have to understand the rules surrounding it. How is it made, what happens in order to bring that legislation into force. What motivates and guides the writing of legislation? These fascinating questions inspire law librarians to write pedagogical articles such as this one.

This article is intended to give a fairly detailed overview of how legislation comes to be and outlines some of the rules around it. Then it will outline processes for finding legislation.

What is Legislation

As McDougall’s overview outlines, legislation (statutes and regulations) is a primary legal resource. I like to describe statutes and regulations this way:

Statute law comprises principles and rules of law laid down in statutes and statutory instruments. A statute or an act is a form of law enacted by a legislative body and set forth in a formal document. A statute may make a new law or amend, overrule or abrogate any inconsistent principle or rule of law. Thus the effect of a statute is to declare the law or change the law or to do both.

Statutory instruments, also known as regulations or delegated legislation, are made in the exercise of powers conferred by a statute.

Process of Legislation

In Alberta the powers to make statutes are exercised by the Lieutenant-Governor who represents the Queen in right of Alberta. Laws are made by the legislature by the process of enactment of statutes.

A proposal for enactment of legislation in Alberta is introduced in the legislature in the form of a bill. Bills are of three kinds:

- Public Bills, which relate to matters of public policy, are introduced by a minister pursuant to government policy. They give rise to Public Statutes.
- Private Member's Bills relate to matters of public policy, but are introduced by a private member of the legislature to effect a desirable change in the law. A Private Member's Bill is processed as a Public Bill.
- Private Bills confer powers or benefits on particular persons, local authorities or private corporations. Such a bill is submitted by the parties interested themselves and it is governed by a special procedure. They give rise to Private Statutes.

All bills pass through the legislative processes that includes a first reading, a second reading (and debate), a Committee review – often a Committee of the Whole legislature (and debate) and a third reading (and debate). In practical terms, before a bill passes into an act, it must have received three readings in the legislature and then be assented to by the representative of the crown.

The first reading of a bill is simply an introduction of the bill to the members of the legislative assembly. The second reading of a bill is when Members debate the principles of the bill. At this stage, members can only discuss whether they support the ideas outlined in the bill or not. After debate concludes, the Speaker can call for a vote. If passed, the bill proceeds to the Committee of the Whole stage where it is looked at in detail. Amendments to a bill may take place at this stage. Once a bill passes the Committee stage, it proceeds to third reading. Members again have an opportunity to comment on the merits of the bill. If the bill passes a simple majority vote at this stage it is ready for the final stamp of legislative approval: Royal Assent by the Lieutenant-Governor.

That is the process of provincial law. The process for federal law in Canada at the bill stage is very similar, except that with the addition of the Senate, each Bill must pass first through third readings in both the House of Commons and the Senate before being assented to by the Governor General of Canada.

**Commencement of Statutes**

An Alberta statute or an act becomes operative or commences on one of three possible dates. The default date for coming in to force is the date a bill receives Royal Assent. A bill may also have a coming in to force section which either states a specific date the act is in force or it may state that the bill is in force on Proclamation. Proclamations are published in the *Alberta Gazette Part I* and bills that are in force on proclamation usually have a delay of coming in to force so that some administrative change can take place – a policy or regulatory adjustment that will make the law practical.

For federal statutes, the publication of proclamations is in *Canada Gazette Part II*. 
**The Revised Statutes of Alberta**

The Statutes of the Province of Alberta are periodically revised and consolidated. The Alberta Queen's Printer is charged with organizing the collected law in a synthesized set. Acts which are repealed or spent, or obsolete or superseded or otherwise ineffective are deleted by the Chief Legislative Counsel of Alberta. The *Revised Statutes of Alberta 2000* is Alberta's latest statute revision and was proclaimed as law on January 1, 2002.

**Regulations**

Regulations, also known as subordinate legislation, are a form of delegated legislation made in the exercise of powers conferred by a statute.

*The Regulations Act* for Alberta defines "regulation" with reference to the *Interpretation Act* as follows:

"(c) "regulation" means a regulation, order, rule, form, tariff of costs or fees, proclamation, by-law or resolution enacted

(i) in the execution of a power conferred by or under the authority of an Act,

(ii) by or under the authority of the Lieutenant Governor in Council,

but does not include an order of a court made in the course of an action or an order made by a public officer or administrative tribunal in a dispute between 2 or more persons. Regulations prescribe overall plans for the attainment of the objects of the empowering statute.

**Making Regulations**

Once regulations are made by an authority empowered under a statute to make regulations (usually the minister), a certified copy must be filed in duplicate with the Registrar of Regulations who must publish these regulations within one month of their filing in the *Alberta Gazette, Part II*. A regulation is of no effect unless it is so filed. However, the *Regulations Act* empowers the Lieutenant-Governor-in-Council to dispense with the publication of a regulation if the regulation, in its printed form, is available to all persons who are likely to be interested or if the regulation is so lengthy that its publication in the Alberta Gazette is undesirable or unnecessary.

Although the regulations form part of the statute law of Alberta, they are printed and published separately in the *Alberta Gazette, Part II*. Regulations for Canada are published in proposed form by