

BILL

No. 27

An Act to amend *The Summary Offences Procedure Act, 1990*

(Assented to _____)

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

Short title

1 This Act may be cited as *The Summary Offences Procedure Amendment Act, 2021*.

SS 1990-91, c S-63.1 amended

2 *The Summary Offences Procedure Act, 1990* is amended in the manner set forth in this Act.

Section 2 amended

3 **Section 2 is amended:**

(a) **by adding the following clause before clause (i):**

“(h.1) ‘**Early Resolution and Offence Adjudication System**’ or ‘**EROAS**’ means the Early Resolution and Offence Adjudication System established pursuant to section 9.1”;

(b) **in clause (o) by adding “or 23.2(1)” after “subsection 18(1)”;** and

(c) **by adding the following clause before clause (u):**

“(t.1) ‘**prescribed**’ means prescribed in the regulations”.

Section 4 amended

4(1) **Subsections 4(4) and (4.1) are repealed and the following substituted:**

“(4) Subject to this Act and to the regulations, any other Act or any regulation, Parts XXII, XXVI and XXVII, other than section 840, and sections 20, 21, 22, 24, 484, 485, 508.1 and 527 insofar as it relates to a witness, sections 718.3, 719, subsection 732(1) and section 734.8 of the *Criminal Code* apply, with any necessary modification, to:

(a) summary conviction proceedings before justices; and

(b) appeals from convictions, acquittals, sentencing or other orders made under summary conviction proceedings.

“(4.1) Subject to subsection (4.2) and to the regulations, sections 487, 487.01, 487.011 to 487.0196, 487.02, 487.092, 487.1, 487.11, 487.3, 488, 489, 489.1, 490, 490.01, 491.1, 491.2, 492, 492.1 and 492.2 of the *Criminal Code* apply, with any necessary modification, to the enforcement of every Act to which this Act applies”.

(2) **Subsection 4(5) is amended by striking out “those bylaw offences that are prescribed in the regulations” and substituting “the prescribed bylaw offences”.**

New section 4.1

5 The following section is added after section 4:

“Burden of proving exception, etc.

4.1 The burden of proving that an authorization, exception, exemption or qualification imposed by law operates in favour of the defendant is on the defendant, and the prosecutor is not required, except by way of rebuttal, to prove that the authorization, exception, exemption or qualification does not operate in favour of the defendant, whether or not it is set out in the information or summary offence ticket”.

Section 7 amended

6 Clause 7(2)(b) is repealed and the following substituted:

“(b) in the case of an offence notice ticket, the date mentioned in subclause 18(2)(b)(iii) or 23.2(2)(b)(iii), as the case may be, indicated on the offence notice”.

Section 8 amended

7(1) Subsection 8(3) is amended by striking out “manner prescribed in the regulations” and substituting “the prescribed manner”.

(2) Subsection 8(4) is amended by striking out “time prescribed in the regulations” and substituting “prescribed time”.

New section 9.1

8 The following section is added after section 9:

“Early Resolution and Offence Adjudication System established, etc.

9.1(1) The minister may establish the Early Resolution and Offence Adjudication System for the purpose of administering early resolution and offence adjudication in accordance with this Act.

(2) The minister is responsible for the administration, maintenance and operation of the EROAS.

(3) The minister may use the EROAS in accordance with this Act and the regulations.

(4) The minister may require any person to submit the prescribed information and to carry out any duties imposed on the person by this Act and the regulations through the EROAS in accordance with this Act and the regulations.

(5) If the minister requires a person to do anything pursuant to subsection (4), the minister shall cause notice of the requirement to be given to the person in any manner that the minister considers appropriate to bring the requirement to that person’s attention, including publishing that notice on the ministry’s website”.

New sections 10.1 and 10.2**9 The following sections are added after section 10:****“Automatic extension of time to pay**

10.1(1) This section applies with respect to the payment of a specified penalty sum with respect to which a defendant:

- (a) has been served with an offence notice for a prescribed offence;
- (b) wishes to plead guilty to the charge;
- (c) wishes to request an extension of time to pay; and
- (d) has not previously been granted an extension of time to pay pursuant to this section.

(2) A defendant who wishes to apply for an automatic extension of time to pay a specified penalty sum mentioned in subsection (1) shall, within the prescribed period:

- (a) apply in the prescribed form and manner; and
- (b) comply with any prescribed requirements.

(3) A defendant who meets the application requirements of subsection (2) is to be granted one extension, for a prescribed period, of time to pay.

(4) If an extension is granted pursuant to subsection (3), the clerk shall provide the defendant with written notice of the revised due date for payment of the specified penalty sum.

(5) The recording by the clerk in the court records of receipt of the prescribed form in the prescribed manner mentioned in subsection (2) constitutes:

- (a) an acceptance of a guilty plea; and
- (b) the conviction and the imposition of a fine in the amount of the specified penalty sum.

“Application for fine option program

10.2(1) This section applies with respect to an offence notice for a prescribed offence with respect to which a defendant:

- (a) wishes to plead guilty to the charge; and
- (b) wishes to register in the fine option program.

(2) A defendant mentioned in subsection (1) shall, within the prescribed period:

- (a) apply in the prescribed form and manner; and
- (b) comply with any prescribed requirements.

(3) A defendant who applies pursuant to subsection (2) is to be registered in the fine option program in accordance with the regulations if the defendant meets the prescribed registration requirements.

(4) The recording by the clerk in the court records of receipt of the prescribed form in the prescribed manner mentioned in subsection (2) constitutes:

- (a) an acceptance of a guilty plea; and
- (b) the conviction and the imposition of a fine in the amount of the specified penalty sum”.

Section 12 amended

10 Subsection 12(2) is amended by striking out “Parts IV” and substituting “Parts IV, IV.1”.

Section 13 amended

11 Clause 13(1)(b) is amended by striking out “a form prescribed by the regulations” and substituting “the prescribed form”.

New section 15.1

12 Section 15.1 is repealed and the following substituted:

“Application for reconsideration

15.1(1) If not more than 60 days have elapsed since a conviction was recorded, the offender may apply in writing to a justice to strike out the conviction on the grounds that the offender did not have the opportunity:

- (a) to dispute the charge; or
- (b) to appear in person or by agent at the trial.

(2) If the justice is satisfied that the circumstances in subsection (1) apply, the justice may:

- (a) set aside the conviction; and
- (b) either:
 - (i) give the defendant a notice of trial; or
 - (ii) enter a conviction and permit the offender to make submissions respecting the penalty.

(3) A justice may extend the period set out in subsection (1) if, on the application of the offender with the consent of the prosecutor or by the prosecutor directly, the justice is satisfied that the offender was unable to dispute the charge or appear in person or by agent due to circumstances beyond the control of the offender”.

Section 17 amended

13 Subsection 17(2) is amended by striking out “Parts III” and substituting “Parts III, IV.1”.

Section 18 amended

14 Clause 18(1)(b) is amended by striking out “a form prescribed by the regulations” and substituting “the prescribed form”.

Section 19 amended

15 Clause 19(1)(b) is amended by striking out “prescribed” and substituting “indicated”.

Section 21 amended

16 Clause 21(1)(b) is amended by striking out “prescribed” and substituting “indicated”.

Section 22 amended

17 Clause 22(1)(b) is amended by striking out “section 10, 19 or 21” and substituting “section 10, 10.1, 10.2, 19 or 21”.

New section 23**18 Section 23 is repealed and the following substituted:****“Application for reconsideration**

23(1) If not more than 60 days have elapsed since a default conviction was recorded, the offender may apply in writing to a justice to strike out the conviction on the grounds that the offender did not have the opportunity:

- (a) to dispute the charge; or
- (b) to appear in person or by agent at the trial.

(2) If the justice is satisfied that the circumstances in subsection (1) apply, the justice may:

- (a) set aside the conviction; and
- (b) either:
 - (i) give the defendant a notice of trial; or
 - (ii) enter a conviction and permit the offender to make submissions respecting the penalty.

(3) If a conviction is set aside pursuant to this section, any late payment charge imposed pursuant to section 28 is cancelled.

(4) A justice may extend the period set out in subsection (1) if, on the application of the offender with the consent of the prosecutor or by the prosecutor directly, the justice is satisfied that the offender was unable to dispute the charge or appear in person or by agent due to circumstances beyond the control of the offender”.

New Part IV.1**19 The following Part is added after section 23:****“PART IV.1****Use of EROAS for Certain Offence Notice Tickets****“Application of Part**

23.1(1) Proceedings pursuant to this Part may be commenced by issuing an offence notice ticket in the prescribed form for prescribed offences in prescribed parts of Saskatchewan.

(2) Parts III, IV and V.1 do not apply to proceedings commenced pursuant to this Part.

“Offence notice ticket

23.2(1) An offence notice ticket pursuant to this Part is required to:

- (a) include:
 - (i) a certificate of offence; and
 - (ii) an offence notice; and
- (b) be in the prescribed form.

- (2) An offence notice is required to:
- (a) be served on the defendant; and
 - (b) indicate:
 - (i) the specified penalty sum for the offence;
 - (ii) how and when the defendant may respond to the offence notice;
 - (iii) that the defendant may be convicted in the defendant's absence, without a hearing:
 - (A) if the defendant fails to respond to the ticket by the date indicated on the offence notice; or
 - (B) if the defendant responds to the ticket by the date indicated on the offence notice but fails to appear for a trial date; and
 - (iv) that payment of the specified penalty sum made more than 15 days after the due date indicated on the offence notice will result in a late payment charge pursuant to section 28.

“Trial may be held electronically

23.3 A trial may be held in electronic format.

“Documents made under oath or affirmation

23.4 Any reports, notes or other documents confirmed by a peace officer in accordance with the regulations are deemed to have been made under oath or affirmation.

“Early resolution discussion

23.5(1) A defendant who has been served with an offence notice and does not wish to respond pursuant to section 10, 10.1 or 10.2 shall file a request for an early resolution discussion in the prescribed form and manner.

(2) The defendant shall complete the prescribed requirements for an early resolution discussion within the prescribed periods.

“Case management discussion

23.6(1) The defendant and the prosecutor may jointly apply to a justice for a case management discussion in the prescribed form and manner.

(2) The justice may grant an application for a case management discussion if the justice is satisfied that:

(a) the early resolution discussion has not been resolved by the entry of a plea; and

(b) the assistance of a justice is necessary before the matter is set for trial.

(3) The clerk shall, as soon as is practicable, give notice to the defendant and the prosecutor of a case management discussion arranged pursuant to this section.

“Default conviction

23.7(1) A defendant is deemed not to wish to dispute the charge if the defendant:

- (a) has been served with an offence notice; and
- (b) has not:
 - (i) responded in the manner provided for pursuant to section 10, 10.1 or 10.2; or
 - (ii) completed an early resolution discussion or case management discussion, as the case may be, in accordance with the requirements set out in section 23.5 or 23.6.

(2) Subsections 22(2) to (3) apply, with any necessary modification, in the circumstances described in subsection (1).

“Application for reconsideration

23.8(1) If not more than 60 days have elapsed since a default conviction was recorded, the offender may apply in writing to a justice to strike out the conviction on the grounds that the offender did not have the opportunity:

- (a) to dispute the charge; or
- (b) to appear in person or by agent at the trial.

(2) If the justice is satisfied that the circumstances in subsection (1) apply, the justice may set aside the conviction and do one of the following:

- (a) direct the defendant to file a request for an early resolution discussion pursuant to section 23.5;
- (b) if the offence is an offence to which section 10.1 or 10.2 applies, direct the defendant to file an application pursuant to one of those sections;
- (c) give the defendant a notice of trial.

(3) If a conviction is set aside pursuant to this section, any late payment charge imposed pursuant to section 28 is cancelled.

(4) A justice may extend the period set out in subsection (1) if, on the application of the offender with the consent of the prosecutor or by the prosecutor directly, the justice is satisfied that the offender was unable to dispute the charge or appear in person or by agent due to circumstances beyond the control of the offender”.

Section 24 amended**20 Subsection 24(2) is repealed and the following substituted:**

“(2) A defendant is guilty of an offence and liable on summary conviction to a fine of not more than \$500 if:

- (a) the defendant has been arrested under a warrant as a result of failing to appear pursuant to a summons or a summons issued pursuant to the *Criminal Code*;
- (b) in connection with the arrest under warrant mentioned in clause (a), the defendant has entered into a release order or an undertaking or has been given an appearance notice; and
- (c) the defendant has failed to appear at the time and in the court indicated in the release order, undertaking or appearance notice mentioned in clause (b)”.

Section 25 amended

21 Section 25 is amended in the portion preceding clause (a) by adding “or IV.1” after “Part IV”.

Section 26 amended

22(1) Subsection 26(1) is amended by striking out “Unless a justice” and substituting “Subject to section 10.1, unless a justice”.

(2) Subsection 26(5) is amended by striking out “prescribed” and substituting “set out”.

(3) Subsection 26(6) is amended by striking out “form prescribed by the regulations” and substituting “prescribed form”.

Section 27 amended

23 Section 27 is amended by striking out “section 26” and substituting “section 10.1 or 26”.

Section 28 amended

24(1) Subsection 28(1) is amended:

(a) in clause (a) by adding “or IV.1” after “Part IV”; and

(b) in the portion following clause (b) by striking out “late payment charge prescribed in the regulations” and substituting “prescribed late payment charge”.

(2) Subsection 28(4) is amended by striking out “mentioned in subsection (1) that is prescribed in the regulations” and substituting “prescribed pursuant to subsection (1)”.

Section 29 amended

25(1) Clause 29(3)(b) is amended by striking out “*The Victims of Crime Act*” and substituting “*The Victims of Crime Act, 1995*”.

(2) Subsection 29(4) is amended by striking out “form prescribed by the regulations” and substituting “prescribed form”.

Section 30 amended

26 Subsection 30(3.1) is amended by striking out “period prescribed in the regulations” and substituting “prescribed period”.

Section 31 amended

27(1) Subsection 31(1) is amended:

(a) in clause (a) by adding “or IV.1” after “Part IV”; and

(b) in the portion following clause (c) by striking out “form prescribed in the regulations” and substituting “prescribed form”.

(2) Subsection 31(2) is amended by striking out “form prescribed by the regulations” and substituting “prescribed form”.

Section 32 amended

28 Subclause 32(3)(a)(iii) is amended by striking out “late payment charge prescribed in the regulations” and substituting “prescribed late payment charge”.

Section 32.8 amended

29 Subsection 32.8(3) is amended by striking out “late payment charge prescribed in the regulations” and substituting “prescribed late payment charge”.

Section 32.83 amended

30 Clause 32.83(6)(b) is amended by striking out “maximum amount prescribed by regulation” and substituting “prescribed maximum amount”.

New section 49.1

31 Section 49.1 is repealed and the following substituted:

“Interim release

49.1(1) If a defendant has been arrested pursuant to this Act under a warrant other than a warrant of committal, a peace officer may release the defendant, after the defendant has entered into an undertaking in the prescribed form, without sureties, on a condition to appear in court.

(2) If the defendant is held for the reason only that the defendant is not ordinarily resident in Saskatchewan, and the peace officer believes that the defendant will not obey a summons, the peace officer, in addition to anything required in subsection (1), may require the defendant to deposit cash or other satisfactory negotiable security in an amount not to exceed the maximum fine for the offence or \$500, whichever is less”.

Section 55 amended

32 Section 55 is amended:

(a) by adding the following clauses after clause (b):

“(b.1) for the purposes of subsections 4(4) and (4.1), prescribing provisions of the *Criminal Code* that apply;

“(b.2) prescribing information and duties for the purposes of subsection 9.1(4);

“(b.3) respecting the EROAS, including:

(i) modifying or adapting the procedures established in this Act or the regulations to facilitate the use of the EROAS and requiring compliance with those modified or adapted provisions;

(ii) prescribing new or additional procedures and requirements that must be complied with regarding the use of the EROAS; and

(iii) respecting the facilitation of the use of the EROAS for the purposes of this Act and the regulations;

“(b.4) for the purposes of section 10.1, prescribing:

(i) the offences to which the section applies;

(ii) the manner of applications;

(iii) the requirements for applications, including any required periods; and

(iv) the period of the extension;

“(b.5) for the purposes of section 10.2, prescribing:

- (i) the offences to which the section applies;
- (ii) the manner of applications;
- (iii) the requirements for applications, including any required periods; and
- (iv) the registration requirements for the fine option program”;

(b) in clause (c):

- (i) by striking out “or” after subclause (i);**
- (ii) by adding “or” after subclause (ii); and**
- (iii) by adding the following subclause after subclause (ii):**
“(iii) Part IV.1”; and

(c) by adding the following clauses after clause (n):

“(n.01) for the purposes of section 23.1, prescribing parts of Saskatchewan;

“(n.02) for the purposes of section 23.5, prescribing requirements for early resolution discussions, including:

- (i) the manner of filing requests; and
- (ii) the steps to be completed by a defendant as part of an early resolution discussion and the period for completing those steps;

“(n.03) for the purposes of section 23.6, prescribing the manner of applications for a case management discussion”.

Section 58 amended

33 Clause 58(b) is amended by striking out “prescribed” wherever it appears and in each case substituting “specified”.

New section 60.1

34 The following section is added after section 60:

“Transitional—*The Summary Offences Procedure Amendment Act, 2021*

60.1(1) All summary offence tickets issued before the coming into force of *The Summary Offences Procedure Amendment Act, 2021* are to be dealt with as if that Act were not in force.

(2) If, before the coming into force of *The Summary Offences Procedure Amendment Act, 2021*, an offence is alleged to have been committed by a person and no proceedings have been commenced respecting that offence, the offence may be dealt with pursuant to this Act, as amended by *The Summary Offences Procedure Amendment Act, 2021*”.

SS 2016, c 30, certain provisions repealed

35 Sections 1 and 2, 4 to 7 and 11 of *The Summary Offences Procedure Amendment Act, 2016* are repealed.

SS 2017, c 26 repealed

36 *The Summary Offences Procedure Amendment Act, 2017* is repealed.

Coming into force

37 This Act comes into force by order of the Lieutenant Governor in Council.

FIRST SESSION
Twenty-ninth Legislature
SASKATCHEWAN

B I L L

No. 27

An Act to amend *The Summary Offences
Procedure Act, 1990*

Received and read the

First time

Second time

Third time

And passed

Honourable Gordon Wyant
