

BILL

No. 126

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

(Assented to)

HIS 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, 2022*.

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 repealing subclause (a)(iv) and substituting the following:**

“(iv) the Provincial Capital Commission”;

(b) **by adding the following clause after clause (i):**

“(i.1) ‘**First Nation law**’ means:

(i) a bylaw made by a council of a First Nation band under the authority of the *Indian Act* (Canada) that makes the proceedings pursuant to this Act applicable to that bylaw;

(ii) a First Nation law made by a council of a First Nation pursuant to the *First Nations Land Management Act* (Canada) that makes the proceedings pursuant to this Act applicable to that law; or

(iii) a law made by a First Nation prescribed in the regulations under the authority of a self-government agreement that it has entered into with the Government of Canada, which has been given effect by a federal Act, that makes the proceedings pursuant to this Act applicable to that law”;

(c) **by adding the following subclause after subclause (u)(ii):**

“(iii) with respect to a First Nation law, anyone authorized by a First Nation to prosecute First Nation laws on its behalf”; **and**

(d) **by repealing subclause (w)(i) and substituting the following:**

“(i) in the case of an offence under a bylaw or a First Nation law, the sum provided in the bylaw or First Nation law for an offence”.

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Section 3 amended

4 Section 3 is amended by striking out “or bylaw” and substituting “, bylaw or First Nation law”.

Section 4 amended

5(1) Subsection 4(1) is amended by striking out “or bylaw” and substituting “, bylaw or First Nation law”.

(2) Subsection 4(5) is amended by adding “or First Nation law” after “bylaw”.

Section 5 amended

6 Clause 5(1)(d) is amended by striking out “or bylaw” and substituting “, bylaw or First Nation law”.

Section 6 amended

7 Subsection 6(3) is amended by striking out “or bylaw” and substituting “, bylaw or First Nation law”.

Section 10 amended

8 Subsection 10(1) is amended in the portion preceding clause (a) by striking out “or a bylaw” and substituting “, a bylaw or a First Nation law”.

Section 14 amended

9 Subclause 14(2)(a)(i) is amended by striking out “or a bylaw” and substituting “, a bylaw or a First Nation law”.

New section 15.1

10 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 or the prosecutor 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 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 a guilty plea was entered by another party on behalf of the offender without the authorization of the offender.

(3) If the justice is satisfied that the circumstances in subsection (1) or (2) 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.

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(4) A justice may extend the period set out in subsection (1) or (2) if, on the application of the offender with the consent of the prosecutor or by the prosecutor directly, the justice is satisfied that, due to circumstances beyond the control of the offender:

- (a) the offender was unable to dispute the charge or appear in person or by agent; or
- (b) a guilty plea was entered by another party on behalf of the offender without the authorization of the offender”.

New section 23**11 Section 23 is repealed and the following substituted:****“Application for reconsideration**

23(1) If not more than 60 days have elapsed since a conviction was recorded, the offender or the prosecutor 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 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 a guilty plea was entered by another party on behalf of the offender without the authorization of the offender.

(3) If the justice is satisfied that the circumstances in subsection (1) or (2) 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.

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

(5) A justice may extend the period set out in subsection (1) or (2) if, on the application of the offender with the consent of the prosecutor or by the prosecutor directly, the justice is satisfied that, due to circumstances beyond the control of the offender:

- (a) the offender was unable to dispute the charge or appear in person or by agent; or
- (b) a guilty plea was entered by another party on behalf of the offender without the authorization of the offender”.

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Section 26 amended**12 The following subsection is added after subsection 26(9):**

“(10) If a payment of a fine is in default pursuant to section 27, no justice shall grant an extension pursuant to this section and the offender remains liable for the late payment charge mentioned in subsection 28(1) notwithstanding any further extension otherwise granted by a justice”.

Section 28 amended**13 The following subsection is added after subsection 28(1):**

“(1.1) Subject to subsection 23(4), if a justice grants any extension of time to pay a fine mentioned in subsection (1), the offender shall continue to be liable to pay the late payment charge mentioned in subsection (1)”.

Section 32 amended**14 The following subsection is added after subsection 32(4):**

“(5) A First Nation or an agent of the First Nation may enter the amount of a fine payable by an offender for an offence as a judgment pursuant to subsection (3) if:

- (a) a fine or penalty is imposed against the offender on conviction pursuant to a First Nation law; and
- (b) the conviction has not been entered as a judgment pursuant to this section”.

Section 33 amended**15 Section 33 is amended in the portion preceding clause (a) by striking out “or bylaw” and substituting “, bylaw or First Nation law”.****Section 52 amended****16 Subsection 52(2) is amended in the portion following clause (b) by adding “or First Nation law” after “bylaw”.****Section 53 amended****17 Section 53 is amended in the portion following clause (b) by adding “or First Nation law” after “bylaw”.****Section 55 amended****18 Section 55 is amended:**

- (a) in clause (c) in the portion preceding subclause (i) by striking out “or bylaw” and substituting “, bylaw or First Nation law”;
- (b) in clause (h) by striking out “or bylaw” and substituting “, bylaw or First Nation law”; and
- (c) in clause (t.1) by adding “or First Nation law” after “bylaw”.

Coming into force

19(1) Subject to subsections (2) and (3), this Act comes into force by order of the Lieutenant Governor in Council.

(2) If section 12 of *The Summary Offences Procedure Amendment Act, 2021* comes into force after the date on which this Act comes into force, section 10 of this Act comes into force on the date on which section 12 of *The Summary Offences Procedure Amendment Act, 2021* comes into force.

(3) If section 18 of *The Summary Offences Procedure Amendment Act, 2021* comes into force after the date on which this Act comes into force, section 11 of this Act comes into force on the date on which section 18 of *The Summary Offences Procedure Amendment Act, 2021* comes into force.

THIRD SESSION

Twenty-ninth Legislature

SASKATCHEWAN

BILL

No. 126

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

Received and read the

First time

Second time

Third time

And passed

Honourable Bronwyn Eyre
