

# *The Constitutional Questions Act*

*being*

Chapter C-29 of *The Revised Statutes of Saskatchewan, 1978* (effective February 26, 1979) as amended by the *Statutes of Saskatchewan, 1983-84, c.31; 1989-90, c.54; 1999, c.4; 2000, c.I-2.01; and 2004, c.10.*

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

## Table of Contents

1	Short title
2	Reference to Court of Appeal
3	Court to certify opinion
4	Notice to Attorney General of Canada
5	Notice to persons interested
6	Appointment of counsel for unrepresented interests
7	Appeal
8	Notice to Attorneys General required
9	Reference pursuant to taxation agreement

## CHAPTER C-29

### An Act respecting the Decision of Constitutional and other Provincial Questions

#### Short title

1 This Act may be cited as *The Constitutional Questions Act*.

#### Reference to Court of Appeal

2 The Lieutenant Governor in Council may refer to the Court of Appeal for hearing and consideration any matter that he thinks fit, and the court shall thereupon hear and consider the matter.

R.S.S. 1978, c.C-29, s.2

#### Court to certify opinion

3 The court shall certify to the Lieutenant Governor in Council its opinion on the matter referred, with the reasons therefor, which shall be given in the same manner as in the case of a judgment in an ordinary action; and a judge who differs from the opinion of the majority may in the same manner certify his opinion and his reasons.

R.S.S. 1978, c.C-29, s.3.

#### Notice to Attorney General of Canada

4 Where the matter relates to the constitutional validity of an Act that has heretofore been or is hereafter passed by the Legislature or of any Ordinance passed by the Legislative Assembly of the North-West Territories or of some provision in any such Act or Ordinance, the Attorney General of Canada shall be notified of the hearing in order that he may be heard if he sees fit.

R.S.S. 1978, c.C-29, s.4.

#### Notice to persons interested

5 The court may direct that any person interested, or, where there is a class of persons interested, any one or more persons as representatives of that class, shall be notified of the hearing, and those persons shall be entitled to be heard.

R.S.S. 1978, c.C-29, s.5.

#### Appointment of counsel for unrepresented interests

6 Where any interest affected is not represented by counsel the court may request counsel to argue the case in that interest, and reasonable expenses thereof shall be paid out of the general revenue fund.

R.S.S. 1978, c.C-29, s.6; 2004, c.10, s.17.

**Appeal**

7 The opinion of the court shall be deemed a judgment of the court and an appeal shall lie therefrom as in the case of a judgment in an action.

R.S.S. 1978, c.C-29, s.7.

**Notice to Attorneys General required**

8(1) In this section:

(a) **“law”** includes:

(i) all or any portion of an Act or a regulation, order, rule, rule of court, form, tariff of costs or fees, proclamation, letter patent, bylaw or resolution enacted in the execution of a power conferred by or pursuant to the authority of an Act;

(ii) all or any portion of an Act of the Parliament of Canada or an order, regulation, rule, rule of court, form, tariff of costs or fees, letter patent, commission, warrant, bylaw, resolution or other instrument issued, made or established:

(A) in the execution of a power conferred by or pursuant to the authority of an Act of the Parliament of Canada; or

(B) by or under the authority of the Governor in Council;

(b) **“remedy”** means a remedy provided pursuant to section 24 of the *Canadian Charter of Rights and Freedoms* but does not include a remedy of exclusion of evidence or a remedy consequential on exclusion of evidence.

(2) When, in a court of Saskatchewan:

(a) the constitutional validity or constitutional applicability of any law is brought into question; or

(b) an application is made to obtain a remedy;

the court shall not adjudge the law to be invalid or inapplicable nor shall it grant the remedy until after notice is served on the Attorney General of Canada and on the Attorney General for Saskatchewan in accordance with this section.

(3) When, in a court of Saskatchewan, the validity or applicability of a proclamation, regulation or Order in Council made or purportedly made in the execution of a power given by an Act of the Legislature is brought into question on grounds other than those mentioned in subsection (2), the court shall not adjudge the proclamation, regulation or Order in Council to be invalid until after notice is served on the Attorney General for Saskatchewan in accordance with this section.

(4) Subject to subsection (5), a notice mentioned in subsection (2) or (3) is required to be served at least 14 days before the day of argument.

(5) The court may, on an *ex parte* application made for the purpose, order an abridgement of the time for service of a notice mentioned in subsection (2) or (3).

- (6) A notice mentioned in subsection (2) or (3) is required:
- (a) to be headed in the action, cause, matter or proceeding in which the question arises or application is made;
  - (b) to state:
    - (i) the law or provision thereof in question; or
    - (ii) the right or freedom alleged to be infringed or denied;
  - (c) to state the day and place for the argument of the question; and
  - (d) to give the particulars that are necessary to show the point to be argued.
- (7) The Attorney General for Saskatchewan is entitled as of right to appear and be heard either in person or through counsel in any action, cause, matter or proceeding to which subsection (2) or (3) applies.
- (8) The Attorney General of Canada is entitled as of right to appear and be heard either in person or through counsel in any action, cause, matter or proceeding to which subsection (2) applies.
- (9) Where the Attorney General of Canada or the Attorney General for Saskatchewan appears in an action, cause, matter or proceeding to which subsection (2) or (3) applies, he is a party for the purposes of appeal from an adjudication therein respecting the validity or applicability of a law or respecting entitlement to a remedy.

1983-84, c.31, s.2; 1989-90, c.54, s.4; 1999, c.4, s.2.

**Reference pursuant to taxation agreement**

- 9(1) Where pursuant to an agreement with the Government of Canada entered into under *The Taxation Agreement Act, 1952*, *The Taxation Agreement Act*, chapter 58 of *The Revised Statutes of Saskatchewan, 1953*, *The Tax Rental Agreement Act, 1957*, *The Income Tax Act*, chapter 62 of *The Revised Statutes of Saskatchewan, 1965*, *The Income Tax Act*, chapter I-2 of these Revised Statutes or *The Income Tax Act, 2000*, or an agreement of a like nature and having like purposes, a matter is to be referred to the Court of Appeal, it shall be referred to the court and the form and terms of the reference shall be such as may be agreed upon by the parties to the agreement or if they cannot agree the form and terms shall be determined by the Chief Justice of Saskatchewan upon the application of either party.
- (2) The Attorney General of Canada and the Attorney General of any other province that after the first day of January, 1952, entered or hereafter enters into an agreement with the Government of Canada of a like nature and having like purposes to an agreement mentioned in subsection (1) may appear before the court and be heard as a party in respect of any matter referred under this Act pursuant to that agreement.

R.S.S. 1978, c.C-29, s.9; 2000, c.I-2.01, s.142.

