

1996

CHAPTER 61

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

(Assented to June 25, 1996)

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, 1996*.

S.S. 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) in subclause (r)(vii) by adding “, section 174.1 of *The Rural Municipality Act, 1989*” after “1984”; and

(b) by repealing subclause (u)(i) and substituting the following:

“(i) the Attorney General or, where the Attorney General does not intervene, the informant or the person who issued the ticket, and includes counsel or the agent acting on behalf of the Attorney General, the informant or the person who issued the ticket”.

Section 4 amended

4 Subsection 4(4) is amended:

(a) in the portion preceding clause (a) by striking out “717, 721 and 722 and clause 737(1)(c)” and substituting “718.3, 719, subsection 732(1) and section 734.8”; and

(b) in clause (b) by striking out “subject to section 50,”.

Section 25 amended

5 Clause 25(b) is repealed and the following substituted:

“(b) the offender is not liable to imprisonment:

(i) as a sentence; or

(ii) in the event that a fine is in default or the offender fails to satisfactorily complete the fine option program within the time allowed pursuant to the regulations”.

New sections 32.1 to 32.4

6 The following sections are added after section 32:

"Recovery of fine from corporation by distress

32.1(1) Where a fine is imposed on a corporation and the fine is in default, the minister or a person authorized by the minister may apply to a justice for a warrant of distress.

(2) On an application pursuant to subsection (1), the justice may issue a warrant of distress directed to any sheriff, bailiff or peace officer requiring the sheriff, bailiff or peace officer to levy on the goods and chattels of the corporation the amount of the fine in default that is specified in the warrant together with the costs and charges of the levy and distress.

"Restitution where property damaged, etc.

32.2(1) In this section and section 32.3, 'property' includes:

- (a) real and personal property of every description and deeds and instruments relating to or evidencing the title or right to property, or giving a right to recover or receive money or goods;
- (b) property originally in the possession or under the control of any person, and any property into or for which it has been converted or exchanged and anything acquired at any time by the conversion or exchange.

(2) At the sentencing of an offender, on application of the prosecutor or on the justice's own motion, the justice may order the offender to pay as restitution all or part of the cost of restoring or replacing property damaged, lost or destroyed as a result of the commission of the offence:

- (a) in addition to any other measure imposed on the offender; and
- (b) if the cost is readily ascertainable.

(3) The amount ordered to be paid is not to exceed the replacement value of the property as of the date the order is imposed, less the value of any part of the property that is returned to that person as of the date it is returned.

"Restitution to person acting in good faith

32.3(1) At the sentencing of an offender, on application of the prosecutor or on the justice's own motion, the justice, in addition to any other measure imposed on the offender, may order the offender to pay an amount as restitution to a person:

- (a) to whom property obtained in the commission of an offence was transferred where:
 - (i) the property was transferred to the person for valuable consideration, in good faith and without notice; and
 - (ii) the property has been returned to the person from whom it was obtained; or
- (b) who loaned money to the offender on the security of property obtained in the commission of an offence where:
 - (i) the person who loaned the money acted in good faith and without notice; and
 - (ii) the property has been returned to the person from whom it was obtained.

(2) The amount ordered to be paid is not to exceed the amount of consideration for that property or the total amount outstanding respecting the loan, as the case may be.

“Enforcing restitution order

32.4(1) Where a justice makes an order pursuant to section 32.2 or 32.3, the justice shall ensure that a copy of the order is given to the person to whom the restitution is ordered to be paid.

(2) Where the offender is in default of payment pursuant to the order, the person to whom the amount was ordered to be paid may file the copy of the order, together with an affidavit in the prescribed form that the order has not been satisfied, with the Court of Queen's Bench.

(3) On filing, the order:

(a) is deemed to be a judgment in the Court of Queen's Bench for the amount of the order; and

(b) is enforceable against the offender as if it were a judgment rendered against the offender in that court in a civil proceeding.

(4) A civil remedy for an act or omission is not affected by reason only that an order pursuant to section 32.2 or 32.3 has been made respecting that act or omission”.

New section 51.1

7 The following section is added after section 51:

“Exceptions re offence notice tickets

51.1 Notwithstanding any other Act, subsections 92(3) and (4) of *The Urban Municipality Act, 1984* do not apply to bylaws respecting:

(a) traffic control made pursuant to section 158 of that Act; or

(b) regulation of the speed of vehicles pursuant to section 161 of that Act”.

Coming into force

8 This Act comes into force on proclamation.