

2012

CHAPTER 33

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

(Assented to May 16, 2012)

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, 2012*.

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 4 amended

3 **Subsection 4(4.1) is amended by adding “487.1,” after “487.092,”.**

New section 15

4 **Section 15 is repealed and the following substituted:**

“Failure to answer summons

15(1) If a defendant fails to enter a plea or to pay the specified penalty sum in the manner provided for on the summons on or before the court appearance date, the justice may:

- (a) enter a plea of not guilty on behalf of the defendant and set a time for a trial;
- (b) issue a warrant for the arrest of the defendant; or
- (c) on application by the prosecutor, without a hearing, enter a conviction in the defendant’s absence and impose the specified penalty sum.

(2) When a time is set for a trial pursuant to clause (1)(a), the justice shall direct that a clerk give written notice to the defendant of the time, date and place for trial.

(3) If a defendant fails to appear in court in person or by an agent at the time fixed for the trial, on proof of service of the notice pursuant to subsection (2), a justice may:

- (a) if the certificate of offence is complete and regular on its face:
 - (i) proceed to conduct the trial in the absence of the defendant;
 - (ii) on application by the prosecutor:
 - (A) adjourn the proceedings;

- (B) set a new trial date; and
- (C) direct that a clerk give written notice to the defendant of the new time, date and place for trial; or
- (iii) on application by the prosecutor, without a hearing, enter a conviction in the defendant's absence and impose the specified penalty sum; or
- (b) if the certificate of offence is not complete and regular on its face:
 - (i) quash the proceedings; or
 - (ii) on application by the prosecutor, allow the defects, if they are minor, to be corrected, and:
 - (A) conduct a trial in the defendant's absence; or
 - (B) without a hearing, enter a conviction in the defendant's absence and impose the specified penalty sum.
- (4) If a defendant fails to appear in court for his or her trial set pursuant to subclause (3)(a)(ii), the justice may:
 - (a) proceed to conduct the trial in the absence of the defendant; or
 - (b) on application by the prosecutor, without a hearing, enter a conviction in the defendant's absence and impose the specified penalty sum.
- (5) If an offender is convicted at a trial mentioned in this section, the clerk shall give the offender notice of:
 - (a) the conviction;
 - (b) the amount of fine imposed; and
 - (c) the time allowed for payment of the fine".

Section 18 amended

5 Subclause 18(2)(b)(iii) is repealed and the following substituted:

- "(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".

Section 19 amended

6 Subsection 19(2) is amended by adding ", date" after "time".

Section 20 amended

7(1) Paragraph 20(1)(c)(ii)(C) is repealed and the following substituted:

- "(C) direct that a clerk give written notice to the defendant of the new time, date and place for trial".

(2) Clause 20(1)(c) is amended by striking out "or" after subclause (ii).

- (3) **Clause 20(1)(c) is amended by adding the following after subclause (iii):**
 “(iv) on application by a prosecutor, without a hearing, enter a conviction in the defendant’s absence and impose the specified penalty sum; or”.
- (4) **Subclause 20(1)(d)(ii) is repealed and the following substituted:**
 “(ii) on application by the prosecutor, allow the defects, if they are minor, to be corrected, and:
 (A) conduct a trial in the defendant’s absence; or
 (B) without a hearing, enter a conviction in the defendant’s absence and impose the specified penalty sum”.
- (5) **Subsection 20(2) is repealed and the following substituted:**
 “(2) If a defendant fails to appear in court for his or her trial set pursuant to paragraph (1)(c)(ii)(B), the justice:
 (a) may proceed to conduct the trial in the absence of the defendant; or
 (b) on application by the prosecutor, may, without a hearing, enter a conviction in the defendant’s absence and impose the specified penalty sum”.

Section 29 amended

8(1) Subsection 29(1) is repealed and the following substituted:

- “(1) A justice may direct imprisonment of the offender for a period not exceeding two years less a day if:
 (a) the proceedings have been commenced:
 (i) by information pursuant to the *Criminal Code*; or
 (ii) under Part III;
 (b) the fine is in default or the offender fails to satisfactorily complete the fine option program within the time allowed pursuant to the regulations; and
 (c) the offender has been given 15 days’ written notice by a clerk of the intent to issue a warrant of committal for imprisonment and has had an opportunity to be heard by a justice in accordance with the procedure for a hearing set out in section 31”.
- (2) **Subsection 29(2) is amended:**
 (a) **by striking out “and” after clause (b);**
 (b) **by adding “and” after clause (c); and**
 (c) **by adding the following clause after clause (c):**
 “(d) the offender has been given 15 days’ written notice by a clerk of the intent to issue a warrant of committal for imprisonment and has had an opportunity to be heard by a justice in accordance with the procedure for a hearing set out in section 31”.

(3) Clause 29(2.1)(b) is repealed and the following substituted:

“(b) two years less a day”.

(4) Subsection 29(2.2) is repealed.

(5) The following subsection is added after subsection 29(4):

“(5) If an offender is to be imprisoned pursuant to this section:

(a) for more than one fine that is in default, the justice may direct that the terms of imprisonment of the offender be served consecutively or concurrently; and

(b) the justice may direct that the term of imprisonment of the offender be served consecutively to or concurrently with any other term of imprisonment”.

Section 55 amended

9 The following clauses are added after clause 55(g):

“(g.1) respecting the completion, issuance and signing of electronic summary offence tickets;

“(g.2) respecting the filing of electronic summary offence tickets by direct electronic transmission;

“(g.3) respecting the printing of electronic summary offence tickets;

“(g.4) respecting the issuance and use of any non-electronic summary offence tickets that correspond to electronic summary offence tickets where electronic summary offence tickets are used;

“(g.5) modifying or adapting the procedures established in this Act or the regulations to facilitate the use of electronic summary offence tickets and requiring compliance with those modified or adapted provisions;

“(g.6) prescribing new or additional procedures and requirements that must be complied with regarding the use of electronic summary offence tickets;

“(g.7) respecting the facilitation of the use of electronic summary offence tickets for the purposes of this Act and the regulations”.

Coming into force

10 This Act comes into force on assent.