
Fifth Session, Forty-second Parliament
2 Charles III, 2024
Legislative Assembly of British Columbia

BILL 19

**CHILDREN AND FAMILY DEVELOPMENT
STATUTES AMENDMENT ACT, 2024**

Honourable Grace Lore
Minister of Children and Family Development

Explanatory Notes

CLAUSE 1: *[Adoption Act, section 74.1]* adds and removes definitions related to the amendments made by this Bill.

CLAUSE 2: *[Adoption Act, section 74.2]*

- authorizes the minister to enter into power or duty agreements with an Indigenous governing body and requires the agreements and any amendments to be published;
- removes the requirement that the Lieutenant Governor in Council approve the agreements and requirements under the *Declaration on the Rights of Indigenous Peoples Act*.

MINISTER OF CHILDREN AND FAMILY DEVELOPMENT

BILL 19 – 2024

**CHILDREN AND FAMILY DEVELOPMENT
STATUTES AMENDMENT ACT, 2024**

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Adoption Act

1 Section 74.1 of the Adoption Act, R.S.B.C. 1996, c. 5, is amended

(a) by adding the following definitions:

“director’s duty” means a duty, responsibility or function given by law to a director other than a statutory power of decision under this Act;

“director’s power” means a power or right given by law to a director other than a statutory power of decision under this Act;

“power or duty agreement” means an agreement entered into under section 6 of the *Declaration on the Rights of Indigenous Peoples Act* relating to one or both of the following:

(a) the exercise of a director’s power, or the performance of a director’s duty, jointly by an Indigenous governing body and a director;

(b) the consent of an Indigenous governing body before the exercise of a director’s power or the performance of a director’s duty; , **and**

(b) by repealing the definitions of “statutory power” and “statutory power agreement”.

2 Section 74.2 is repealed and the following substituted:

**Agreements in relation to the
Declaration on the Rights of Indigenous Peoples Act**

74.2 (1) For the purposes of this Act, the minister, on behalf of the government, may enter into a power or duty agreement with an Indigenous governing body.

(2) The minister must publish a copy of each power or duty agreement and any amendments to each agreement on a publicly accessible website maintained by or on behalf of the government.

CLAUSE 2: *[Adoption Act, section 74.2 – continued]*

CLAUSE 3: *[Adoption Act, section 74.3]* is consequential to the amendments made by this Bill to the Act.

CLAUSE 4: *[Adoption Act, section 74.4]* is consequential to the amendments made by this Bill to the Act.

CLAUSE 5: *[Child, Family and Community Service Act, section 89.1]* adds and removes definitions related to the amendments made by this Bill.

(3) A single agreement may contain both a decision-making agreement and a power or duty agreement.

3 *Section 74.3 is amended by striking out “statutory power agreement” and substituting “power or duty agreement”.*

4 *Section 74.4 is repealed and the following substituted:*

Effect of agreements

74.4 If a decision-making agreement or a power or duty agreement has been entered into,

- (a) the statutory power of decision or the director’s power or duty, as applicable, must be exercised or performed in accordance with the agreement,
- (b) a reference under this Act to that statutory power of decision or that director’s power or duty is to be read as a reference to the statutory power of decision or the director’s power or duty as exercised or performed in accordance with the agreement, and
- (c) the following terms of the agreement have the force of law:
 - (i) terms identifying the person who is exercising or performing, or providing consent in relation to, a statutory power of decision or a director’s power or duty in accordance with an agreement;
 - (ii) terms relating to the criteria or procedures for the exercise or performance of, or consent in relation to, a statutory power of decision or a director’s power or duty in accordance with an agreement.

Child, Family and Community Service Act

5 *Section 89.1 of the Child, Family and Community Service Act, R.S.B.C. 1996, c. 46, is amended*

(a) by adding the following definitions:

“**director’s duty**” means a duty, responsibility or function given by law to a director other than a statutory power of decision under this Act;

“**director’s power**” means a power or right given by law to a director other than a statutory power of decision under this Act;

“**power or duty agreement**” means an agreement entered into under section 6 of the *Declaration on the Rights of Indigenous Peoples Act* relating to one or both of the following:

- (a) the exercise of a director’s power, or the performance of a director’s duty, jointly by an Indigenous governing body and a director;

CLAUSE 5: *[Child, Family and Community Service Act, section 89.1 – continued]*

CLAUSE 6: *[Child, Family and Community Service Act, section 89.2]*

- authorizes the minister to enter into power or duty agreements with an Indigenous governing body and requires the agreements and any amendments to be published;
- removes the requirement that the Lieutenant Governor in Council approve the agreements and requirements under the *Declaration on the Rights of Indigenous Peoples Act*.

CLAUSE 7: *[Child, Family and Community Service Act, section 89.3]* is consequential to the amendments made by this Bill to the Act.

CLAUSE 8: *[Child, Family and Community Service Act, section 89.4]* is consequential to the amendments made by this Bill to the Act.

(b) the consent of an Indigenous governing body before the exercise of a director's power or the performance of a director's duty; , *and*

(b) by repealing the definitions of “statutory power” and “statutory power agreement”.

6 *Section 89.2 is repealed and the following substituted:*

**Agreements in relation to the
Declaration on the Rights of Indigenous Peoples Act**

- 89.2** (1) For the purposes of this Act, the minister, on behalf of the government, may enter into a power or duty agreement with an Indigenous governing body.
- (2) The minister must publish a copy of each power or duty agreement and any amendments to each agreement on a publicly accessible website maintained by or on behalf of the government.
- (3) A single agreement may contain both a decision-making agreement and a power or duty agreement.

7 *Section 89.3 is amended by striking out “statutory power agreement” and substituting “power or duty agreement”.*

8 *Section 89.4 is repealed and the following substituted:*

Effect of agreements

- 89.4** If a decision-making agreement or a power or duty agreement has been entered into,
- (a) the statutory power of decision or the director's power or duty, as applicable, must be exercised or performed in accordance with the agreement,
- (b) a reference under this Act to that statutory power of decision or that director's power or duty is to be read as a reference to the statutory power of decision or the director's power or duty as exercised or performed in accordance with the agreement, and
- (c) the following terms of the agreement have the force of law:
- (i) terms identifying the person who is exercising or performing, or providing consent in relation to, a statutory power of decision or a director's power or duty in accordance with an agreement;
- (ii) terms relating to the criteria or procedures for the exercise or performance of, or consent in relation to, a statutory power of decision or a director's power or duty in accordance with an agreement.

CLAUSE 9: *[Child, Family and Community Service Act, section 99.2]* provides for further appeals to the Supreme Court and Court of Appeal if the Provincial Court has jurisdiction in relation to a legal dispute arising under an Indigenous law.

9 *The following section is added:*

**Appeals to Supreme Court and Court of
Appeal from orders under Indigenous law**

- 99.2** (1) This section applies if the Provincial Court has jurisdiction under section 99.1 in relation to a legal dispute arising under an Indigenous law.
- (2) A party may appeal to the Supreme Court from an order of the Provincial Court made under an Indigenous law.
- (3) Section 81 (2) to (8) applies in respect of an appeal under subsection (2) of this section.
- (4) With leave of the Court of Appeal, a party may appeal to that court on a question of law from an order of the Supreme Court made by it on an appeal under subsection (2).

Commencement

- 10** This Act comes into force on the date of Royal Assent.