

# BULLETIN

09-2017

April 20, 2017

To all Authorized Employers:

**Re: Warrant Reduction and eTicketing Changes**

This is an update to Bulletin 04-2017 dated February 21, 2017.

*An Act to Modernize Enforcement of Provincial Offences* and a new Procedures Regulation (AR 63/2017) come into force **May 1, 2017**.

The new legislation and amendments will end to the use of warrants to enforce minor, non-vehicle related provincial statute and municipal bylaw infractions and expand the scope and use of electronic ticketing, i.e. where law enforcement officers issue paper violation tickets but file the tickets with the court in electronic form.

The Act and the Regulation amend existing legislation to change ticketing procedures in Alberta as follows:

1. **All** provincial and municipal bylaw offences (both traffic and non-traffic) with a specified penalty of \$1,000 or less committed on or after May 1, 2017 must be charged using a Part 3, yellow Offence Notice, unless it is in the public interest to issue the defendant a Part 2, pink Summons.
  - If a Part 2 ticket is issued in the public interest, officers should note their rationale in the "Officer's Notes - Details" section of the violation ticket (back of Part 4 – Police Record). In the officer's absence, the notes can inform the court why issuing a Part 3 ticket was deemed inappropriate and assist in determining a proper disposition. .
2. Record the operator's licence number on the ticket whenever possible, even for non-traffic offences. In the event of non-payment of fines this will assist with matching the overdue fine to defendant's file in the motor vehicle database and triggering registry service restrictions.
3. Section 4 of the *Procedures Regulation* sets out the factors to be considered when determining if a Part 2, pink Summons (in the public interest) is to be issued. It includes a new factor. It also includes a new subsection (4) that affirms a peace officer's discretion

to use other measures that are appropriate instead of issuing a violation ticket (note, authorized employer policy may impact this).

4. If a Part 2 ticket is issued it must require the defendant to appear in Court (no voluntary payment option) unless
  - a. it was issued in the public interest because the defendant's operator's licence was an out-of-province one, or
  - b. the specified penalty is more than \$1,000.

When either of the two exceptions apply officers can provide the voluntary payment option. If a Part 2 ticket is issued with a voluntary payment option other than in these two exceptions, it will be quashed.

5. Section 25 of the *Provincial Offences Procedures Act* (POPA) is being amended to eliminate the requirement to have a Part 2 ticket sworn before a commissioner of oaths.
  - When a Part 2 ticket is completed and signed by a peace officer who believes on reasonable and probable grounds that an offence has been committed, it is deemed to have been made under oath.
  - For Part 2 tickets issued on or after May 1, 2017 there will be no requirement to have them sworn or affirmed before a commissioner for oaths.
  - Current stock of violation tickets can be used until supplies are exhausted.

The attached tables (Table 1- statutory amendments and Table 2 – regulatory amendments) include a breakdown of the specific changes to assist with interpretation of the new requirements.

Should you have any questions about interpretation or application of these changes, please contact Rob Anderson, Legal Counsel, Resolution and Court Administration Services, Justice and Solicitor General, at [rob.anderson@gov.ab.ca](mailto:rob.anderson@gov.ab.ca).

Sincerely,

Tammy Spink  
Manager, Peace Officer Program

Attachment

**Table 1**

Statutory amendments made by *An Act to Modernize Enforcement of Provincial Offences*, SA 2016, c – 11 (current provisions are in red and provisions coming into effect May 1, 2017 are in green)

Current	Change
<p>Section 7 of the Provincial Offences Procedure Act (POPA) provides the range of punishment if convicted of an offence (unless punishment is expressly provided for in other legislation). Subsection (2) provides:</p> <p><b>(2)</b> Subject to any express provision in another enactment, if the imposition of a fine or the making of an order for the payment of money is authorized by an enactment but the enactment does not provide that imprisonment may be imposed in default of payment of the fine or compliance with the order, the Court may order that in default of payment of the fine or compliance with the order, as the case may be, the defendant shall be imprisoned for a period of not more than 6 months.</p>	<p>A new subsection (2.1) is being added to section 7. It provides:</p> <p><b>(2.1)</b> In proceedings commenced under Part 2 pursuant to section 22(3), a justice sentencing a defendant convicted of an offence shall consider the ability of the defendant to pay a fine and, notwithstanding any provision to the contrary in any other enactment, may refuse to impose a period of imprisonment in default of payment of the fine where imprisonment would not serve the public interest.</p>
<p>Section 22 (2) and (3) of POPA provide that the procedures set out in Part 2 and Part 3 of the Act may be followed in respect of offences provided for in the regulations and If the regulations provide that proceedings with respect to an offence may be commenced under either Part 2 or Part 3, the proceedings must be commenced under Part 3 unless it is in the public interest to compel the defendant to appear before a justice in proceedings under Part 2.</p> <p><b>(2)</b> If the regulations provide that proceedings with respect to an offence may be commenced under either Part 2 or Part 3, the proceedings shall be commenced under Part 3 unless it is in the public interest to compel the defendant to appear before a justice in proceedings under Part 2.</p> <p><b>(3)</b> If the proceedings with respect to an offence referred to in subsection (2) are commenced under Part 2, the peace officer shall issue a summons in accordance with section 27(3).</p>	<p>Section 22 (2) and (3) of POPA are being amended to provide:</p> <p><b>(2)</b> Where the procedure in the <i>Criminal Code</i> (Canada) for laying an information is not followed, the procedure set out in Part 2 must be followed with respect to offences specified in the regulations, and subject to subsection (3), the procedure set out in Part 3 must be followed with respect to offences for which a specified penalty of \$1000 or less, excluding any applicable surcharge, is provided for in the regulations.</p> <p><b>(3)</b> If it is in the public interest to commence proceedings under Part 2 for an offence for which the specified penalty is \$1000 or less, excluding any applicable surcharge, the peace officer shall issue a summons in accordance with the regulations.</p>
<p>Section 25 of POPA provides what a Part 2 violation ticket must contain and how it must be completed and served. Subsection (2) provides:</p> <p><b>(2)</b> The complaint part of the violation ticket shall be</p> <p>(a) sworn before a commissioner for oaths by a complainant who believes on reasonable and probable grounds that an offence has been committed, and</p> <p>(b) filed with a clerk prior to the initial appearance date indicated on the violation ticket.</p>	<p>Subsection 25(2) is being amended to provide:</p> <p><b>(2)</b> The complaint part of the violation ticket</p> <p>(a) must be completed and signed by a complainant who believes on reasonable and probable grounds that an offence has been committed, and</p> <p>(b) must be filed with the clerk prior to the initial appearance date indicated on the violation ticket, and is deemed to have been made under oath.</p> <p>When new violation tickets are printed for the purposes of subsection (2),</p> <p>(a) the violation tickets previously printed may also be used until supplies of those previously printed tickets are exhausted, and</p>

	(b) there is no requirement for the complaint part of the previously printed violation tickets to be sworn before a commissioner for oaths.
<p>Section 27(3) of POPA provides where it is in the public interest to require a defendant to appear before a justice, a peace officer <u>may</u> issue a summons requiring the defendant to appear before a justice without the option of making a voluntary payment.</p> <p><b>(3)</b> If it is in the public interest to compel the defendant to appear before a justice in proceedings under this Part, a peace officer may, if authorized by the regulations, issue a summons respecting any offence for which a voluntary payment may be made, requiring the defendant to appear before a justice on the initial appearance date without the alternative of making a voluntary payment.</p>	<p>Section 27(3) is being amended to provide:</p> <p><b>(3)</b> Notwithstanding anything in the regulations or in a bylaw or ministerial order referred to in section 44 that authorizes a voluntary payment to be made in respect of an offence, if it is in the public interest to compel the defendant to appear before a justice in proceedings under this Part, a peace officer shall issue a summons requiring the defendant to appear before a justice on the initial appearance date without the alternative of making a voluntary payment.</p>
<p>Section 42 of POPA provides that the Lieutenant Governor in Council may make regulations respecting matters under the Act.</p> <p><b>42</b> The Lieutenant Governor in Council may make regulations</p> <p>(j) respecting the determination of the public interest under sections 22(2) and 27(3);</p>	<p>A new subsection (c.1) is being added to Section 42 and subsection (j) is being amended to provide:</p> <p><b>42</b> The Lieutenant Governor in Council may make regulations</p> <p>(c.1) respecting voluntary payments to be made and specified penalties to be imposed in respect of any offence for which proceedings may be commenced under Part 2;</p> <p>(j) respecting the determination of the public interest for the purposes of this Act.</p>
<p>Section 57 of the <i>Traffic Safety Act</i> provides that where a person has not paid a fine levied under the <i>Traffic Safety Act</i>, a bylaw under the <i>Traffic Safety Act</i>, an enactment or bylaw as prescribed by regulation, or any law in another jurisdiction that in the opinion of the Registrar deals with matters in that jurisdiction that are similar in nature to matters dealt with under the <i>Traffic Safety Act</i>, the Registrar may refuse to provide motor vehicle registry services to that person until the fine is paid.</p> <p><b>57</b> Notwithstanding anything in this Act, where a person has not paid a fine or penalty levied against that person under</p> <p>(a) this Act or a bylaw made under this Act,</p> <p>(b) any other enactment or bylaw as prescribed by regulation, or</p> <p>(c) any law in another jurisdiction that in the opinion of the Registrar deals with matters in that jurisdiction that are similar in nature to matters dealt with under this Act,</p>	<p>Section 57 is being amended to repeal (b) and amend (a) to provide:</p> <p><b>57</b> Notwithstanding anything in this Act, where a person has not paid a fine or penalty levied against that person under</p> <p>(a) any enactment or municipal bylaw, or any bylaw made under this Act, or</p> <p>(b) repealed;</p> <p>(c) any law in another jurisdiction that in the opinion of the Registrar deals with matters in that jurisdiction that are similar in nature to matters dealt with under this Act,</p> <p>the Registrar may,</p> <p>(d) in respect of that person, refuse to perform that function or service or to issue, renew or otherwise deal with any motor vehicle document or other document until the fine or penalty is paid, and</p>

the Registrar may,

(d) in respect of that person, refuse to perform that function or service or to issue, renew or otherwise deal with any motor vehicle document or other document until the fine or penalty is paid, and

(e) if authorized by regulation, refuse to register a vehicle in the name of the new owner if the ownership of a registered vehicle passes directly or through intermediary owners from the person who has not paid the fine or penalty to a person described by regulation.

(e) if authorized by regulation, refuse to register a vehicle in the name of the new owner if the ownership of a registered vehicle passes directly or through intermediary owners from the person who has not paid the fine or penalty to a person described by regulation.

**Table 2**

Regulatory amendments made by the new *Procedures Regulation* (AR 73/2017)  
(current provisions are in red and provisions coming into force May 1, 2017 are in green)

Current	Change
<p>Section 2 provides proceedings may be commenced under Part 2 of the Act for a contravention of the following enactments: (The enactments that are listed are a number of provincial acts and regulations and any municipal bylaw).</p> <p><b>2</b> Proceedings may be commenced under Part 2 of the Act for a contravention of the following enactments:</p>	<p>Section 2 is being amended to provide:</p> <p><b>2</b> A violation ticket may be used in respect of an offence under the following enactments:</p>
<p>Section 3 provides when proceedings may be commenced under Part 3 of the act:</p> <p><b>3(1)</b> Notwithstanding section 2, proceedings may be commenced under either Part 2 or Part 3 of the act for a contravention of a provision designated in Schedule 2 as one for which proceedings may be commenced in that manner.</p> <p><b>(2)</b> Notwithstanding section 2, proceedings may be commenced under either Part 2 or Part 3 of the act for contravention of a municipal by-law made under the <i>Traffic Safety Act</i>.</p>	<p>A new subsection (3) is being added to section 3 and subsections (1) and (2) are being amended:</p> <p><b>3(1)</b> Where a violation ticket is used, proceedings must be commenced under Part 2 of the Act in respect of an offence that</p> <p>(a) has no specified penalty, or</p> <p>(b) has a specified penalty of more than \$1000, excluding any applicable surcharge.</p> <p><b>(2)</b> Subject to section 22(3) of the Act, proceedings must be commenced under Part 3 of the Act in respect of an offence that has a specified penalty of \$1000 or less, excluding any applicable surcharge.</p> <p><b>(3)</b> If a person is issued a violation ticket in respect of an offence referred to in subsection (1)(b), that person may make a voluntary payment in accordance with the Act.</p>
<p>Section 4 sets out the factors a peace officer may consider in determining whether to issue a Part 2 ticket in the public interest.</p> <p><b>4(1)</b> Without limiting the factors that may be considered in determining the public interest under section 22(2) or 27(3) of the Act, the following factors may be considered:</p> <p>(a) the seriousness of the nature or consequences of the offence;</p> <p>(b) the number of previous convictions and outstanding fines levied against the accused;</p> <p>(c) the number of outstanding proceedings commenced against the accused under either Part 2 or Part 3 of the Act.</p> <p><b>(2)</b> A peace officer may, if it is in the public interest, issue a summons respecting any offence for which a voluntary payment may be made requiring the defendant to appear before a justice on the initial appearance date without the alternative of making a voluntary payment.</p>	<p>New subsections (1)(d), (3) and (4) are being added to section 4 and subsections (1) and (2) are being amended:</p> <p><b>4(1)</b> In determining whether to issue a summons in the public interest under section 22(3) or 27(3) of the Act, a peace officer must consider the following factors:</p> <p>(a) the seriousness of the nature or consequences of the offence;</p> <p>(b) the number of previous convictions and outstanding fines levied against the defendant;</p> <p>(c) the number of outstanding proceedings commenced against the defendant under either Part 2 or Part 3 of the Act;</p> <p>(d) whether the defendant's operator's licence is an out-of-province operator's licence.</p> <p><b>(2)</b> Subject to subsection (3), a peace officer shall, if the peace officer determines it is in the public interest, issue</p>

	<p>a summons respecting any offence for which a voluntary payment may be made requiring the defendant to appear before a justice on the initial appearance date without the alternative of making a voluntary payment.</p> <p><b>(3)</b> Notwithstanding subsection (2), where the defendant has an out-of-province operator's licence, a peace officer may issue a summons that</p> <p>(a) gives the defendant the option of making a voluntary payment, and</p> <p>(b) does not require the defendant to appear before a justice on the initial appearance date to answer the summons if the defendant makes a voluntary payment in accordance with the Act.</p> <p><b>(4)</b> Nothing in this section restricts a peace officer from exercising the peace officer's discretion to instead of issuing a violation ticket to a person for contravening an enactment, use other measures as are appropriate, given the circumstances of the person involved.</p>
<p>Section 5(1) provides when a voluntary payment may be made:</p> <p><b>5(1)</b> If a person is issued a violation ticket for a contravention of a provision of an enactment listed in Schedule 2, that person may make a voluntary payment in accordance with the Act.</p>	<p>Section 5 (1) and (2) are being amended to provide:</p> <p><b>5(1)</b> The specified penalty for a contravention of a provision of an Act or regulation is set out in the Schedule.</p> <p><b>(2)</b> The specified penalty for a contravention of a provision of a bylaw or ministerial order under section 44 of the Act is set out in the bylaw or ministerial order.</p>
<p>Section 12(2) sets out those sections of the <i>Criminal Code</i> that are not applicable to proceedings commenced under Part 3 of the Act:</p> <p><b>(2)</b> Sections 731, 732, 732.1, 732.2, 733, 734 and 736 of the <i>Criminal Code</i> (Canada) are not applicable to proceedings that are commenced under Part 3 of the Act.</p>	<p>Se12(2) is being amended to provide:</p> <p><b>(2)</b> Sections 731, 732, 732.1, 732.2, 733 and 734 of the <i>Criminal Code</i> (Canada) are not applicable to proceedings that are commenced under Part 3 of the Act.</p>
<p>Section 13 sets out the elements that a violation tickets must contain and provides that they shall be in the form set out in Schedule 1 of the regulation:</p> <p><b>13(1)</b> A violation ticket under Part 2 of the Act must contain at least the following elements:</p> <p>(a) the following heading:</p> <p><b>Province of Alberta</b></p> <p>(b) a reasonably clear description of the defendant to facilitate identification,</p> <p>(c) the offence with which the defendant is charged,</p> <p>(d) the date on which the offence is alleged to have occurred,</p>	<p>Section 13 is being amended to provide:</p> <p><b>13(1)</b> A violation ticket under Part 2 of the Act must contain at least the following elements:</p> <p>(a) the following heading:</p> <p><b>Province of Alberta</b></p> <p>(b) a reasonably clear description of the defendant to facilitate identification;</p> <p>(c) the offence with which the defendant is charged;</p> <p>(d) the date on which the offence is alleged to have occurred;</p>



<p>(e) the place at or near which the offence is alleged to have occurred,</p> <p>(f) the manner in which the defendant may respond to the summons, and</p> <p>(g) the consequences to the defendant if the summons is not responded to by the date indicated.</p> <p><b>(2)</b> A violation ticket under Part 3 of the Act must contain at least the following elements:</p> <p>(a) the following heading:</p> <p><b>Province of Alberta</b></p> <p>(b) a reasonably clear description of the defendant to facilitate identification,</p> <p>(c) the offence with which the defendant is charged,</p> <p>(d) the date on which the offence is alleged to have occurred,</p> <p>(e) the place at or near which the offence is alleged to have occurred,</p> <p>(f) the manner in which the defendant may respond to the offence notice, and</p> <p>(g) the consequences to the defendant if the offence notice is not responded to by the date indicated.</p> <p><b>(3)</b> A violation ticket under Part 2 of the Act shall be in Form 1 of Schedule 1.</p> <p><b>(4)</b> A violation ticket under Part 3 of the Act shall be in Form 2 or Form 3 of Schedule 1.</p>	<p>(e) the place at or near which the offence is alleged to have occurred;</p> <p>(f) the manner in which the defendant may respond to the summons;</p> <p>(g) the initial court appearance date and location;</p> <p>(h) the consequences to the defendant if the summons is not responded to by the date indicated.</p> <p><b>(2)</b> A violation ticket under Part 3 of the Act must contain at least the following elements:</p> <p>(a) the following heading:</p> <p><b>Province of Alberta</b></p> <p>(b) a reasonably clear description of the defendant to facilitate identification;</p> <p>(c) the offence with which the defendant is charged;</p> <p>(d) the date on which the offence is alleged to have occurred;</p> <p>(e) the place at or near which the offence is alleged to have occurred;</p> <p>(f) the manner in which the defendant may respond to the offence notice;</p> <p>(g) the initial court appearance date and location;</p> <p>(h) the consequences to the defendant if the offence notice is not responded to by the date indicated.</p> <p><b>(3)</b> A violation ticket under Part 2 of the Act shall be in a form approved by the Minister.</p> <p><b>(4)</b> A violation ticket under Part 3 of the Act shall be in a form approved by the Minister.</p> <p><b>(5)</b> A violation ticket under Part 2 or Part 3 of the Act must use the numbering convention set by the Minister.</p>
<p>New</p>	<p>A new section 14 is being added and will provide:</p> <p><b>14(1)</b> The Court may use electronic violation tickets in carrying out the Court's functions in proceedings under Part 2 of the Act if</p> <p>(a) the complaint included in the electronic violation ticket</p> <p>(i) is endorsed in accordance with section 16 by the peace officer who issued the electronic violation ticket, and</p>



	<p>(ii) is filed with the Court in accordance with subsection (2),</p> <p>and</p> <p>(b) the information included in the electronic violation ticket cannot be altered after the electronic violation ticket has been transmitted to JOIN.</p> <p><b>(2)</b> The complaint included in an electronic violation ticket is filed with the Court if</p> <p>(a) it has been transmitted to JOIN, and</p> <p>(b) the data necessary to display or print the complaint in a form approved by the Minister for any purpose under the Act has been stored in JOIN.</p>
<p>Section 13.1 provides when the court may use electronic violation tickets in carrying out the court's functions in proceedings under Part 3 of the Act.</p> <p><b>13.1(1)</b> The Court may use electronic violation tickets in carrying out the Court's functions in proceedings under Part 3 of the Act if all of the following apply:</p> <p>(a) the defendant described in the electronic violation ticket is charged under section 160 of the <i>Traffic Safety Act</i> or the offence notice relates to an alleged parking violation;</p> <p>(b) the certificate of offence included in the electronic violation ticket</p> <p>(i) contains the date that the offence notice was sent by ordinary mail to the defendant's address,</p> <p>(ii) is endorsed in accordance with section 13.2 by the peace officer who issued the electronic violation ticket, and</p> <p>(iii) is filed with the Court in accordance with subsection (2);</p> <p>(c) the information referred to in clause (b)(i) and in section 13(2) that is included in the electronic violation ticket cannot be altered after the electronic violation ticket has been transmitted to JOIN.</p> <p><b>(2)</b> The certificate of offence included in an electronic violation ticket is filed with the Court if</p> <p>(a) it has been transmitted to JOIN, and</p> <p>(b) the data necessary to display or print the certificate of offence in Part 1 of Form 3 of Schedule 1 for any purpose under the Act has been stored in JOIN.</p>	<p>Section 13.1 is being renumbered as section 15 which will provide:</p> <p><b>15(1)</b> Subject to subsection (2), the Court may use electronic violation tickets in carrying out the Court's functions in proceedings under Part 3 of the Act if</p> <p>(a) the certificate of offence included in the electronic violation ticket</p> <p>(i) is endorsed in accordance with section 16 by the peace officer who issued the electronic violation ticket, and</p> <p>(ii) is filed with the Court in accordance with subsection (3),</p> <p>and</p> <p>(b) the information included in the electronic violation ticket cannot be altered after the electronic violation ticket has been transmitted to JOIN.</p> <p><b>(2)</b> If the defendant described in the electronic violation ticket is charged under section 160 of the <i>Traffic Safety Act</i> or the offence notice relates to an alleged parking violation, in addition to the requirements set out in subsection (1), the certificate of offence must contain the date that the offence notice was sent by ordinary mail to the defendant's address.</p> <p><b>(3)</b> The certificate of offence included in an electronic violation ticket is filed with the Court if</p> <p>(a) it has been transmitted to JOIN, and</p> <p>(b) the data necessary to display or print the certificate of offence in a form approved by the Minister for any purpose under the Act has been stored in JOIN.</p>

Schedule 1 sets out the form of the violation ticket for use under Part 2 and Part 3 of the Act.	Schedule 1 is being deleted.
Schedule 2 sets out the specified penalties for offences under provincial Acts and Regulations.	Provisions in Schedule 2 that authorize a violation ticket to be issued under either Part 2 or Part 3 in respect of certain offences are being deleted.