

Alberta Sovereignty within a United Canada Act

What will the Alberta Sovereignty within a United Canada Act be used for?

The act provides a legislative framework to:

- Protect Albertans from federal legislation or policies that are unconstitutional or harmful to our province, our people or our economic prosperity.
- Enforce the Canadian Constitution's division of powers in recognition of both the federal and provincial government's respective exclusive and sovereign areas of constitutional jurisdiction.
- Provide authority to the cabinet, when authorized by the legislative assembly under the act, to direct provincial entities to not enforce specific federal laws or policies with provincial resources.
- Create opportunities for building national awareness of federal intrusion into provincial areas of exclusive jurisdiction.
- Shift the burden to the federal government to legally challenge Alberta's refusal to enforce unconstitutional or harmful federal laws or policies instead of Alberta having to initiate legal challenges and waiting years for a decision while those same federal laws or policies harm Albertans day in and day out.

What is the step-by-step process of how the act would function?

The *Alberta Sovereignty within a United Canada Act* functions as follows:

A member of the executive council (any minister, including the Premier) would introduce a resolution in the legislative assembly for a proposed use of the act.

This resolution would identify a federal initiative (i.e., policy or piece of legislation) as being, in the opinion of the legislative assembly, unconstitutional, contrary to the charter or otherwise harmful to Albertans, along with the nature of that harm.

The resolution would also propose specific measures for cabinet to consider with respect to the federal initiative in question.

The legislative assembly would then debate the resolution, with the resolution passing only if the majority of MLAs vote in favour of it. Government MLAs will have a free vote on any proposed resolutions under the act.

If the resolution passes, cabinet would then be authorized to carry out the measures contained in the resolution, which could include:

- Directing a minister to exercise a power vested in that minister by legislation or regulation.
- Amending regulations in accordance with the resolution.
- Giving specific directives to "provincial entities" as defined by the act.
- Any other action cabinet is legally able to take.

Does the *Alberta Sovereignty within a United Canada Act* grant any special powers to cabinet to amend an Alberta statute or pass new legislation?

No, it does not. If a resolution under the act is passed by the legislative assembly, and that resolution includes a recommendation to amend an existing Alberta statute or to pass a new piece of legislation, those legislative amendments and/or new legislation would have to be introduced, debated and passed through the regular legislative process in the assembly.

What kinds of unconstitutional or harmful federal legislation or other initiatives will the Government of Alberta consider addressing with the *Alberta Sovereignty within a United Canada Act*?

The Premier has instructed her cabinet ministers to review any federal legislation or policies, within the scope of their ministry, that are interfering with Alberta's constitutional jurisdictions that violate Albertans' charter rights or that are harmful to Albertans, and to prepare resolutions under the act for the spring legislative session to specifically push back on federal laws and policies that seek to:

- Regulate and control Alberta's natural resources and economic development (i.e., Bill C-69).
- Penalize the province's energy and agricultural sectors, including implementation of mandatory fertilizer cuts and arbitrary emissions reductions initiatives that would devastate Alberta's economy.
- Control the delivery of health care, education and other social programs with strings-attached funding or other controlling mechanisms.
- Confiscate legally owned firearms or that otherwise interfere with private property rights.
- Violate the charter rights of Albertans.
- Violate other sovereign areas of exclusive provincial jurisdiction.

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Could a resolution under the act be applied to take measures to push back on an abusive or improper use of an otherwise constitutional federal law?

Yes, resolutions under the act could include provincial measures to push back against abusive or improper uses of otherwise constitutional federal laws, when the federal actions in question affect or interfere with Alberta's exclusive areas of provincial jurisdiction or interfere with the Charter rights of Albertans.

Is the Alberta Sovereignty within a United Canada Act constitutional?

The *Alberta Sovereignty within a United Canada Act* asserts provincial jurisdiction already found in the Constitution. As written, it is likely to be found constitutional if challenged; however, the constitutionality of each resolution brought under the act will have to be carefully drafted and reviewed on a case-by-case basis to ensure the resolutions are constitutionally defensible.

Can the Government of Alberta ignore court orders or do anything unconstitutional under this act?

No, the *Alberta Sovereignty within a United Canada Act* states that nothing in the act can be construed to authorize the government to do anything that would be contrary to the Constitution of Canada.

This means the act could not be used to issue directives to "provincial entities" if those instructions would be outside of Alberta's constitutional jurisdiction.

Alberta will continue to respect, not disregard, court rulings and if the Alberta government's use of the act against any federal initiative is challenged in court, the decision of the court will be respected.

Does this act have anything to do with separation?

There is nothing in the act that relates in any way to the topic of separation. This is simply fearmongering by opponents to the government.

In fact, this act is intended to have the opposite effect. By restoring and respecting the constitutional rights of our creative and diverse provinces, including Alberta, Canada will become stronger, more prosperous and more unified than ever.

The act will not be used to separate Alberta from Canada, it is about making Alberta more prosperous while remaining within Canada.

How does this act affect Indigenous and treaty rights in any way?

The *Alberta Sovereignty within a United Canada Act* specifically states that nothing in the act can be construed as abrogating or derogating from any existing Aboriginal and treaty rights of the Aboriginal Peoples of Canada that are recognized and affirmed by section 35 of the Constitution Act, 1982. The act confirms that "Aboriginal Peoples of Canada" includes "the Indian, Inuit and Métis peoples of Canada within the meaning of section 35 of the Constitution Act, 1982."

Additionally, the Premier has committed to reaching out to the Chiefs of Treaty 6, 7 and 8 to book in-person meetings for the purposes of direct discussions on this issue, and to ensure the Chiefs are aware of the government's commitment to upholding the rights of Indigenous Peoples under the Canadian Constitution.

Can this act be used to compel individuals or private businesses to violate federal law?

No, the *Alberta Sovereignty within a United Canada Act* specifically states that nothing in the act can be construed as authorizing any directive to a person, other than a provincial entity, that would compel the person to act contrary to or otherwise in violation of any federal law. This includes any individual or private business.

What provincial entities may be subject to provincial directives under the act?

"Provincial entities" as defined in the act, include:

- a provincial public agency
- a provincial Crown-controlled organization
- an entity that carries out a power, duty or function under a provincial enactment
- an entity that receives a grant or other public funds from the provincial government that is contingent on the provision of a public service
- a regional health authority
- a public post-secondary institution
- a school board as defined
- a municipality
- a municipal or regional police service
- any other similar provincially regulated entity set out in the regulations.

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Will using the act risk creating economic chaos, as investors, businesses and public agencies would not know which laws to follow in Alberta?

Not at all. The use of the act won't harm Alberta's economy; it will instead help protect Alberta's freedoms, interests, economic growth and prosperity from intrusive federal policies and legislation that have caused hundreds of billions of dollars to flee Alberta to other jurisdictions over the past decade.

The *Alberta Sovereignty within a United Canada Act* will work to re-establish the rule of constitutional law into the Canadian legal system and create more stability and predictability for businesses over both the short and long term.

Each potential use of the act by resolution will be carefully drafted by constitutional experts, considered carefully by cabinet, and debated thoroughly in the legislature before being passed and implemented.

All actions taken by Cabinet or the Legislature under the act must be constitutional, will be subject to court review, and the act itself specifically states that nothing in the act can be construed as authorizing any directive to a person, other than a provincial entity, that would compel a person (including a private business) to act contrary to or otherwise in violation of any federal law.

What is the Alberta government's response to demands that this act be put to a vote as part of a provincial election or a province wide referendum?

For many years Albertans have voiced their concerns about federal intrusion into and attacks on Alberta's constitutional rights, interests and freedoms. A large majority of Albertans elected the government to stand up for Alberta against these unconstitutional attacks on our economy and provincial rights.

Another large majority voted in a referendum to end equalization payments to the federal government entirely.

The response by the federal government to the above has been increased violations of our provincial rights and the charter rights of Albertans.

This act, and its use, draws a line in the sand with the federal government by enabling legislation that protects and defends Alberta's constitutional rights, under the law.

The government has a clear mandate to defend the interests of Alberta from Ottawa's continued economic and other harmful policy decisions, and it will do so by using this legislation strategically and appropriately.

Will government MLAs be allowed a free vote on any proposed uses of the act?

Yes, government MLAs will have a free vote on any proposed uses of this act.

How will the act be different from the charter's notwithstanding clause?

The notwithstanding clause only applies to breaches of specific sections of the charter and not issues of jurisdiction while this act addresses both.

Also, the notwithstanding clause is a tool a government can use to protect its own legislation from charter challenge, while this bill is a tool that will be used against federal legislation and policies.

Was Alberta influenced by the Saskatchewan First Act?

Currently, no other jurisdiction in Canada has introduced legislation similar to the *Alberta Sovereignty within a United Canada Act*.

On Nov. 1, 2022, Saskatchewan introduced the *Saskatchewan First Act* in its legislature. While very different from Alberta's approach with our act, Saskatchewan's proposed legislation is meant to confirm its exclusive provincial authority over its natural resources.

One key difference between the two acts:

- Saskatchewan's act sets up a tribunal independent from government to determine if a federal measure is harmful, not unconstitutional, and that tribunal makes recommendations to cabinet.
- Alberta's act gives authority to the elected members of the legislative assembly to determine if a federal measure is harmful or unconstitutional, and then recommends next steps for cabinet consideration.

Is the Alberta government concerned the federal government might use the disallowance/reservation power in relation to the act?

If the federal government were to use the disallowance power against the act, they would provoke an unprecedented constitutional crisis. While we do not know for certain, we believe this scenario is unlikely.