

**REVISED STATUTES  
OF  
NOVA SCOTIA  
2023**

BEING A  
CONSOLIDATION AND REVISION OF  
THE PUBLIC GENERAL STATUTES OF THE PROVINCE  
PRINTED AND PUBLISHED PURSUANT TO  
CHAPTER 443 OF THE REVISED STATUTES, 1989,  
THE STATUTE REVISION ACT, AND  
REPRESENTING THE LAW AS OF DECEMBER 31, 2023, AND  
IN FORCE ON A DAY TO BE FIXED BY  
THE GOVERNOR IN COUNCIL BY PROCLAMATION

**VOLUME J**



© 2024 His Majesty the King in right of the Province of Nova Scotia  
Published by Authority of the Speaker of the House of Assembly  
Halifax



**VOLUME J**  
**Revised Statutes of Nova Scotia**  
**2023**

<b>Chapter</b>		<b>Page</b>
J-1	Joint Regional Transportation Agency Act .....	4291
J-2	Judgment Recovery (N.S.) Ltd Act.....	4298
J-3	Judicature Act.....	4302
J-4	Judicial Disqualifications Removal Act.....	4330
J-5	Juries Act.....	4331
J-6	Justices of the Peace Act.....	4340

## CHAPTER J-1

# An Act to Establish a Joint Regional Transportation Agency

### Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Interpretation.....	2
Supervision and management of Act .....	3
Joint Regional Transportation Agency.....	4
Objects of Agency.....	5
Management and control of Agency .....	6
Interim Board .....	7
Composition of Board.....	8
Disqualification from Board .....	9
Removal from Board.....	10
Chair of Board.....	11
Officers, directors and consultants.....	12
Bylaws and policies .....	13
Policy directions.....	14
Quorum .....	15
Vacancy on Board .....	16
Remuneration and expenses of Board members.....	17
Application of Conflict of Interest Act .....	18
Technical Advisory Board.....	19
Freedom of Information and Protection of Privacy Act.....	20
Duty of good faith and care.....	21
Capacity and powers of Agency.....	22
Fiscal year of Agency.....	23
Accounting, auditing and revenue of Agency .....	24
Annual business plan .....	25
Five-year master transportation plan.....	26
Annual report .....	27
Regulations.....	28

---

### Short title

**1** This Act may be cited as the *Joint Regional Transportation Agency Act*. 2021, c. 23, s. 1.

### Interpretation

**2** In this Act,  
“Agency” means the Joint Regional Transportation Agency;  
“Board” means the Board of Directors of the Agency;  
“Deputy Minister” means the Deputy Minister of Public Works;  
“Minister” means the Minister of Public Works;  
“Municipality” means the Halifax Regional Municipality. 2021, c. 23,  
s. 2.

**Supervision and management of Act**

**3** The Minister has the general supervision and management of this Act. 2021, c. 23, s. 3.

**Joint Regional Transportation Agency**

**4 (1)** A body corporate to be known as the Joint Regional Transportation Agency is established.

**(2)** The Agency is a Crown corporation within the meaning of the *Finance Act*.

**(3)** The Minister is the sole shareholder of the Agency. 2021, c. 23, s. 4.

**Objects of Agency**

**5** The objects of the Agency are

(a) to conduct a comprehensive review of all modes of transportation associated with the Municipality, including roads, bridges, highways, ferries, transit, rail, airports and ports, for the purpose of creating a master transportation plan to ensure

(i) a regional approach to transportation consistent with the Municipality's growth and development, and

(ii) the safe, efficient and coordinated movement of people and goods; and

(b) to conduct any other activities considered necessary to fulfill the intent of this Act in accordance with the regulations. 2021, c. 23, s. 5.

**Management and control of Agency**

**6** The management and control of the affairs of the Agency are vested in a Board of Directors and the Board may, subject to this Act and the regulations, exercise the powers of the Agency. 2021, c. 23, s. 6.

**Interim Board**

**7 (1)** There is an interim Board consisting of the Deputy Minister and the Chief Engineer for the Province.

**(2)** The interim Board remains in place until, and ceases to exist upon, the appointment of the Board by the Governor in Council. 2021, c. 23, s. 7.

**Composition of Board**

**8 (1)** The Board consists of as many members as determined and appointed by the Governor in Council.

**(2)** The Board's members must be licensed professional planners or professional engineers or hold such other technical expertise and qualifications as may be determined by the Governor in Council in the regulations.

(3) The Deputy Minister or a person designated in writing by the Deputy Minister may attend meetings of the Board, but the Deputy Minister, or the Deputy Minister's designate, is not a member of the Board.

(4) Board members hold office for such period of time as is determined by the Governor in Council. 2021, c. 23, s. 8.

#### **Disqualification from Board**

9 (1) The following persons are disqualified from being appointed to the Board:

- (a) a person who is less than 19 years of age;
- (b) a person who is of unsound mind and has been so found by a court in Canada or elsewhere;
- (c) a person convicted of an offence under the *Criminal Code* (Canada) or the criminal law of any jurisdiction outside of Canada

- (i) in connection with the promotion, formation or management of a corporation, or

- (ii) involving fraud,

unless

- (iii) 10 years have elapsed since the expiration of the period fixed for suspension of the passing of sentence without sentencing or since a fine was imposed, or

- (iv) the term of imprisonment and probation imposed, if any, has concluded,

whichever is the later, or unless a pardon has been granted or a record of suspension has been issued;

- (d) an undischarged bankrupt; and

- (e) a member, at any time in the preceding 10 years, of the Parliament of Canada, the legislature of a province of Canada or a municipal council in Canada.

(2) A person who becomes disqualified ceases to be a Board member. 2021, c. 23, s. 9.

#### **Removal from Board**

10 (1) The Board may remove a Board member who

- (a) contravenes this Act, the regulations or the bylaws of the Agency; or

- (b) becomes disqualified under Section 9.

(2) Where in the opinion of the Minister there are exceptional circumstances, the Minister may remove a Board member. 2021, c. 23, s. 10.

**Chair of Board**

**11** The Board shall appoint a Chair of the Board, who holds the position for such period of time as is determined by the Board. 2021, c. 23, s. 11.

**Officers, directors and consultants**

- 12** (1) The Board may appoint officers and directors of the Agency.
- (2) The officers and directors appointed under subsection (1) must include
- (a) an Executive Director, who reports to the Board;
  - (b) a Director of Engineering, who reports to the Executive Director; and
  - (c) a Director of Planning, who reports to the Executive Director.
- (3) The Board may retain consultants, who report to the Executive Director, as it considers necessary to carry out its objectives. 2021, c. 23, s. 12.

**Bylaws and policies**

**13** The Board may make bylaws and policies, not inconsistent with this Act, for its internal organization and the regulation of its operations. 2021, c. 23, s. 13.

**Policy directions**

- 14** (1) The Minister may issue such policy directions to the Board as are consistent with this Act and the strategic transportation objectives of the Government if, in the opinion of the Minister, it is in the public interest to do so.
- (2) The Board shall comply with any policy directions issued under subsection (1). 2021, c. 23, s. 14.

**Quorum**

**15** A majority of the Board members constitutes a quorum. 2021, c. 23, s. 15.

**Vacancy on Board**

- 16** (1) A vacancy on the Board does not impair the right of the remaining Board members to Act.
- (2) Where a person ceases to be a Board member or is unable to act prior to the expiration of the Board member's term of office, the Governor in Council may fill the vacancy by appointment in accordance with Sections 8 and 9. 2021, c. 23, s. 16.

**Remuneration and expenses of Board members**

**17** Each Board member is entitled to receive such remuneration and reasonable expenses as is determined by the Governor in Council. 2021, c. 23, s. 17.

**Application of Conflict of Interest Act**

**18** The Board is a department for the purpose of the definition of “department” in the *Conflict of Interest Act* and, for greater certainty, Section 22 of that Act applies to Board members. 2021, c. 23, s. 18.

**Technical Advisory Board**

**19 (1)** The Minister may appoint a Technical Advisory Board, consisting of stakeholders, that reports to the Minister on any considerations the stakeholders consider necessary to meet the objects of the Agency.

**(2)** The Technical Advisory Board appointed under subsection (1) must include representatives from

- (a) the Municipality;
- (b) the Halifax Port Authority;
- (c) the Halifax International Airport Authority; and
- (d) the Halifax-Dartmouth Bridge Commission. 2021, c. 23,

s. 19.

**Freedom of Information and Protection of Privacy Act**

**20** The Agency is a public body as defined in the *Freedom of Information and Protection of Privacy Act* for the purpose of that Act. 2021, c. 23, s. 20.

**Duty of good faith and care**

**21** Each Board member and officer of the Agency shall, when exercising the powers or performing the duties of the member’s or officer’s position,

- (a) act honestly and in good faith with a view to the best interests of the Agency; and
- (b) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances. 2021, c. 23, s. 21.

**Capacity and powers of Agency**

**22 (1)** The Agency has the capacity and, subject to this Act, the rights, powers and privileges of a natural person.

**(2)** The Agency may do such things necessary for or incidental to the effective attainment of its objects and exercise of its powers, including

- (a) paying the costs, charges and expenses preliminary and incidental to the formation and establishment of the Agency;
- (b) subject to this Act and the regulations, entering into agreements with any person or body, including governmental entities; and
- (c) pursuing such other activities as may be prescribed by the Governor in Council in the regulations. 2021, c. 23, s. 22.

**Fiscal year of Agency**

**23** The fiscal year of the Agency is the same as the fiscal year of the Province. 2021, c. 23, s. 23.



**Accounting, auditing and revenue of Agency**

**24 (1)** The system of accounting and the books and records of the Agency are subject to the approval of the Minister of Finance and Treasury Board and to audit by the Auditor General.

**(2)** Subject to subsection (3) and the *Finance Act*, revenue of the Agency from any source may be retained by the Agency to be used for the attainment of its objects.

**(3)** Where the Agency sells real property for monetary consideration, the net monetary proceeds of the sale must be deposited in the General Revenue Fund. 2021, c. 23, s. 24.

**Annual business plan**

**25** Annually as required by the Minister, the Agency shall submit to the Minister for approval a detailed business plan for the following fiscal year, including estimates of budgetary requirements, for the operation of the Agency. 2021, c. 23, s. 25.

**Five-year master transportation plan**

**26 (1)** As required by the Minister, the Agency shall submit to the Minister for approval a five-year master transportation plan to improve the flow of people and goods in and out of the Municipality, factoring in all modes of transportation.

**(2)** The Minister shall submit the five-year master transportation plan required by subsection (1) to the Governor in Council for approval. 2021, c. 23, s. 26.

**Annual report**

**27 (1)** The Agency shall submit to the Minister an annual report, on or before December 31st of each calendar year, outlining its progress on implementing the five-year master transportation plan required by subsection 26(1).

**(2)** The Minister shall submit the annual report required by subsection (1) to the Governor in Council for approval. 2021, c. 23, s. 27.

**Regulations**

- 28 (1)** The Governor in Council may make regulations
- (a)** prescribing matters to be included in the annual reports required by Section 25 and subsection 27(1);
  - (b)** respecting any matter authorized by this Act to be done by regulation;
  - (c)** defining any word or expression used but not defined in this Act;
  - (d)** respecting any matter or thing that the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2021, c. 23, s. 28.

---

## CHAPTER J-2

# An Act to Incorporate Judgment Recovery (N.S.) Ltd

### Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Judgment Recovery (N.S.) Ltd .....	2
Objects and powers .....	3
Acquisition and alienation of property.....	4
Members.....	5
Action by and against Company .....	6
Directors.....	7
Election and term of office.....	8
Vacancy .....	9
Bylaws.....	10
Meetings.....	11
Quorum .....	12
Annual meeting not mandatory.....	13
Cheques.....	14
Operating costs.....	15
Assessment of member .....	16
Default of payment by member .....	17
Power of Insurance Bureau of Canada.....	18
Power of Attorney General .....	19
Exemption from fee and tax.....	20
Cessation of operation.....	21

### Short title

**1** This Act may be cited as the *Judgment Recovery (N.S.) Ltd Act*. R.S., c. 239, s. 1.

### Judgment Recovery (N.S.) Ltd

**2** Donald McInnes, Wilfred Shakespeare, George Robertson, all of Halifax, in the County of Halifax, and Edward H.S. Piper of Montreal, in the Province of Quebec, and such other persons as, pursuant to this Act, become members of the Company constituted by this Act, are constituted a body corporate under the name of Judgment Recovery (N.S.) Ltd herein referred to as the “Company”. R.S., c. 239, s. 2.

### Objects and powers

**3** The objects of the Company are and it has power to

(a) pay unsatisfied judgments arising out of automobile accidents to the limits and on the terms and conditions prescribed in the *Motor Vehicle Act*;

(b) defend, if it considers it desirable, uncontested third party liability actions arising out of automobile accidents in accordance with the *Motor Vehicle Act*;

(c) negotiate agreements with claimants and obtain consent judgments referred to in the *Motor Vehicle Act*;

(d) take and exercise subrogation of the rights of judgment creditors in respect of whose judgments the Company has made payment on the terms and conditions prescribed in the *Motor Vehicle Act*;

(e) generally, ensure that victims of uninsured or otherwise financially irresponsible motorists are expeditiously indemnified to the extent and on the terms and conditions prescribed in the *Motor Vehicle Act*;

(f) enter into such financial or other agreements or arrangements with the Government of the Province as may be necessary to accomplish its objects;

(g) borrow from any chartered bank in Canada such sum or sums of money as the Company thinks fit;

(h) draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments. R.S., c. 239, s. 3.

#### **Acquisition and alienation of property**

4 The Company has the power to rent, purchase, acquire, receive, own and hold such office space and equipment, buildings or lands as it considers necessary for the carrying out of its aims, objects and purposes, and to sell the same. R.S., c. 239, s. 4.

#### **Members**

5 The Company consists only of those persons named in Section 2 or their successors (hereinafter referred to as "Group One") and insurers licensed to issue a policy of motor vehicle liability insurance in the Province (hereinafter referred to as "Group Two"). R.S., c. 239, s. 5.

#### **Action by and against Company**

6 The Company may sue or be sued in its corporate name and may defend and prosecute actions in connection with or relative to its objects or the carrying out of any of the provisions of this Act. R.S., c. 239, s. 6.

#### **Directors**

7 (1) The affairs of the Company must be managed by Directors.

(2) There must be not fewer than four nor more than six Directors. R.S., c. 239, s. 7.

#### **Election and term of office**

8 Each Director holds office until such appointment is terminated by the death, resignation, refusal or inability to act of the Director or by a vote by the representatives of Group Two members present at a meeting or by proxy. R.S., c. 239, s. 8.

**Vacancy**

**9** (1) Any vacancy in the office of a Director may be filled by a person appointed by the representatives of Group Two members present at a meeting or by proxy.

(2) Notwithstanding subsection (1), where a vacancy exists for more than 30 days, such vacancy may be filled by a person appointed by the Vice-president, Atlantic, of the Insurance Bureau of Canada. R.S., c. 239, s. 9.

**Bylaws**

**10** The Directors have power to make, amend or repeal bylaws not inconsistent with this Act or with the laws of the Province relating to matters connected with the management of the Company. R.S., c. 239, s. 10.

**Meetings**

**11** (1) Subject to Section 13, annual meetings must be held each year at a time and place to be determined by the Directors.

(2) Special meetings of the Company may be called by the Directors or any two of them or by the petition of 20 or more members of Group Two presented to the Directors at the chief address of the Company.

(3) The Directors shall notify all members of the Company of the time and place of an annual or special meeting. R.S., c. 239, s. 11.

**Quorum**

**12** A majority of Group Two members represented by proxy or otherwise constitutes a quorum. R.S., c. 239, s. 12.

**Annual meeting not mandatory**

**13** The Company is not bound to hold an annual meeting unless it is resolved to do so at a special meeting of the Company. R.S., c. 239, s. 13.

**Cheques**

**14** The Directors have power and authority to draw cheques signed by any two of them. R.S., c. 239, s. 14.

**Operating costs**

**15** The cost of operating the Company, together with any obligations it may assume, must be shared by all members of Group Two rateably in proportion to each such member's share of the total motor vehicle liability insurance premiums written in the Province. R.S., c. 239, s. 15.

**Assessment of member**

**16** (1) The Directors shall assess members of Group Two as set out in Section 15 at such times as they see fit.

(2) Where any such member or members fail to pay the Company the amount or amounts so assessed, the Company has a right of action to recover

such amount or amounts together with costs against such member or members. R.S., c. 239, s. 16.

**Default of payment by member**

**17** Where the Company is unable to recover the amount or amounts assessed against any member or members of Group Two, the Directors may require that the total of such amount or amounts be contributed by the other members of Group Two in the manner set out in Section 15. R.S., c. 239, s. 17.

**Power of Insurance Bureau of Canada**

**18** Where the Directors fail to make and collect sufficient assessments under Sections 16 and 17, the General Manager of the Insurance Bureau of Canada shall do so and has all the rights and powers of the Directors in this regard. R.S., c. 239, s. 18.

**Power of Attorney General**

**19** Where the General Manager of the Insurance Bureau of Canada fails to make and collect sufficient assessments under Sections 16 and 17, the Attorney General has the power and authority to assume the rights therein provided. R.S., c. 239, s. 19.

**Exemption from fee and tax**

**20** The fees payable under the *Companies Act* and the *Corporations Registration Act* and for the incorporation of companies under a special Act or any other Provincial fees or taxes under any other Acts of the Legislature are not payable by the Company. R.S., c. 239, s. 20.

**Cessation of operation**

**21 (1)** The Company has the power and authority to cease operations in the Province upon giving the Attorney General six months notice in writing expiring at the end of any calendar year.

**(2)** The Company is liable in respect of judgments for which it would ordinarily be responsible arising from causes of action that occur on or before the date of expiry of such notice. R.S., c. 239, s. 21.

---

## CHAPTER J-3

# An Act Respecting the Superior Courts of Judicature

### Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Interpretation	
Interpretation.....	2
Constitution of the Court of Appeal and the Supreme Court	
Reference to Supreme Court in banco or Appeal Division.....	3
Reference to Supreme Court or Trial Division .....	4
Reference to Chief Justice.....	5
Reference to Court for Divorce and Matrimonial Causes.....	6
Supreme Court of Nova Scotia .....	7
Jurisdiction, power and authority .....	8
Court for Divorce and Matrimonial Causes .....	9
Jurisdiction and power of Court of Appeal .....	10
Jurisdiction and power of Supreme Court.....	11
Exercise of jurisdiction .....	12
Marking of court documents .....	13
Seals	
Seals for Supreme Court and for Court of Appeal .....	14
Judges	
Composition of Court of Appeal.....	15
Composition of Supreme Court .....	16
Holding other office under Government.....	17
Constitution Act, 1867 .....	18
Responsibilities of Chief Justices and duties of Associate Chief Justices .....	19
Equal power and jurisdiction of judges.....	20
Ex officio judge.....	21
Precedence of judges.....	22
Acting Chief Justices and judges .....	23
Attendance at meetings .....	24
Judicial Districts	
Descriptions of districts and resident judges.....	25
Power to establish justice centres and areas.....	26
Oath of Justices	
Oath of office .....	27
Sessions and Sitings	
Sessions and sittings.....	28
Rules.....	29
Special sittings .....	30

Extension and adjournment of sittings .....	31
Delay of sittings .....	32
Family Division	
Jurisdiction .....	33
Judges of Family Division .....	34
Transfer from or to Family Division .....	35
Open court .....	36
Power to adjourn .....	37
Power to direct report .....	38
Duties of peace officer .....	39
Power to designate area .....	40
Regulations .....	41
Trials and Procedures	
Single judge in Supreme Court and power to decide or reserve decision .....	42
Trials and procedure .....	43
Assessor to assist Court .....	44
Periodic payments .....	45
Duty of court respecting order for periodic payments .....	46
Security for periodic payments .....	47
Where judgment creditor dies .....	48
Commutation of periodic payments to lump sum .....	49
Exemption of periodic payments from execution, etc. ....	50
Award for periodic payments not assignable or transferable .....	51
Application of Sections 45 to 51 .....	52
Judgment by judge leaving office or absent .....	53
Exclusion of public from court .....	54
Appeals	
Appeal to Court of Appeal .....	55
Appeal from costs or consented to order .....	56
Appeal from interlocutory order upon leave .....	57
Rules of Law	
Rules of law .....	58
Discontinuance of foreclosure proceedings .....	59
Further rules of law .....	60
Injunction in labour-management dispute .....	61
Exemption from seizure under execution .....	62
Order against proceeding without leave .....	63
Appeal .....	64
Leave to start or continue proceeding .....	65
Effect of Sections 63 to 65 .....	66
Rules	
Rules of Court .....	67
Publication, confirmation and evidence of rules of Court .....	68
Powers to make rules of Court .....	69
Modification of statutory provision .....	70
Extension of time .....	71
Tabling of rules .....	72
General Provisions	
Officers of Court directed by Rules .....	73
Referees .....	74
Disposal of court records .....	75



**Short title**

**1** This Act may be cited as the *Judicature Act*. R.S., c. 240, s. 1.

**INTERPRETATION****Interpretation**

**2** In this Act and the Rules,  
“clerk of the Court” means  
    (a) for the Supreme Court, the prothonotary;  
    (b) for the Supreme Court (Family Division), a court officer; or  
    (c) for the Court of Appeal, the Registrar;  
“Court” means the Court of Appeal or the Supreme Court;  
“Court of Appeal” means the Nova Scotia Court of Appeal and includes a judge thereof whether sitting in court or in chambers;  
“defendant” includes every person served with an originating notice or other process or entitled to attend any proceeding;  
“judgment” includes an order, rule or decree;  
“judgment creditor” means a person who is entitled to receive payment of or to enforce a judgment;  
“judgment debtor” means a person who is obligated to make payment under a judgment or against whom a judgment may be enforced;  
“oath” includes solemn affirmation and statutory declaration;  
“party” includes every person served with an originating notice, or entitled to attend any proceeding although not named on the record;  
“periodic payments” means the payment of money to a judgment creditor at a future time or times.  
“plaintiff” includes every person asking any relief or declaration against any other person in any proceeding;  
“proceeding” means any civil or criminal action, suit, cause or matter, or any interlocutory application therein, including a proceeding formerly commenced by a writ of summons, third party notice, counterclaim, petition, originating summons or originating motion or in any other manner;  
“Rules” includes the *Civil Procedure Rules* and any other rules made pursuant to this Act;  
“Supreme Court” means the Supreme Court of Nova Scotia as continued by this Act and includes a judge thereof whether sitting in court or in chambers;  
“Supreme Court (Family Division)” means the Supreme Court of Nova Scotia (Family Division) and includes a judge thereof whether sitting in court or in chambers. R.S., c. 240, s. 2; 1992, c. 16, s. 30; 1998, c. 12, s. 3; 2003 (2nd Sess.), c. 1, s. 26; 2009, c. 17, s. 1.

CONSTITUTION OF THE COURT OF APPEAL  
AND THE SUPREME COURT

**Reference to Supreme Court in banco or Appeal Division**

3 A reference in any enactment to the Supreme Court *in banco* or a judge thereof or to the Appeal Division of the Court or a judge thereof is, whether expressed in those terms or not, a reference to the Court of Appeal or a judge thereof and is to be so construed. R.S., c. 240, s. 9; 1992, c. 16, s. 38.

**Reference to Supreme Court or Trial Division**

4 Subject to Section 3, a reference in any other enactment to the Supreme Court or the Trial Division of the Supreme Court or a judge thereof is a reference to the Supreme Court or a judge thereof and is to be so construed. R.S., c. 240, s. 10; 1992, c. 16, s. 39.

**Reference to Chief Justice**

5 A reference in any other enactment to the Chief Justice that relates to the functions assigned by this Act to the Supreme Court or a reference in any other enactment to the Chief Justice of the Trial Division of the Supreme Court is a reference to the Chief Justice of the Supreme Court and is to be so construed, but in any other case a reference to the Chief Justice is a reference to the Chief Justice of Nova Scotia. R.S., c. 240, s. 11; 1992, c. 16, s. 40.

**Reference to Court for Divorce and Matrimonial Causes**

6 A reference in any other enactment to the Court for Divorce and Matrimonial Causes, or to judges of that Court, is a reference to the Supreme Court or a judge thereof. R.S., c. 240, s. 12; 1992, c. 16, s. 41.

**Supreme Court of Nova Scotia**

7 The Supreme Court of Nova Scotia as constituted before March 1, 1972, a court of common law and equity possessing original and appellate jurisdiction in both civil and criminal cases, shall continue as the Supreme Court of Nova Scotia with original jurisdiction and as the Nova Scotia Court of Appeal with appellate jurisdiction for the Province. R.S., c. 240, s. 3; 1992, c. 16, s. 32.

**Jurisdiction, power and authority**

8 The Court continues to be a superior court of record, having civil and criminal jurisdiction and it has all the jurisdiction, power and authority that on March 1, 1972, was vested in or might have been exercised by the Supreme Court of Nova Scotia, and such jurisdiction, power, and authority shall be exercised in the name of the Court. R.S., c. 240, s. 4; 1992, c. 16, s. 33.

**Court for Divorce and Matrimonial Causes**

9 The Supreme Court shall exercise all the jurisdiction, powers and authority belonging to or exercised by the Court for Divorce and Matrimonial Causes before March 1, 1972. R.S., c. 240, s. 5; 1992, c. 16, s. 34.

**Jurisdiction and power of Court of Appeal**

**10** The Court of Appeal shall exercise all the jurisdiction, powers and authority belonging to or exercised by the Supreme Court *in banco* before August 1, 1966, and the judges of the Court of Appeal shall exercise all the jurisdiction, powers and authority belonging to or exercised by a judge of the Supreme Court before that date in relation to the Supreme Court *in banco*. R.S., c. 240, s. 7; 1992, c. 16, s. 36.

**Jurisdiction and power of Supreme Court**

**11** The Supreme Court shall exercise all the jurisdiction, powers and authority belonging to or exercised by the Supreme Court of Nova Scotia before August 1, 1966, and not assigned to the Court of Appeal by this or any other Act and the judges of the Supreme Court shall exercise all the jurisdiction, powers and authority belonging to or exercised by a judge of the Supreme Court of Nova Scotia before that date and not assigned to the judges of the Court of Appeal by this or any other Act. R.S., c. 240, s. 8; 1992, c. 16, s. 37.

**Exercise of jurisdiction**

**12** The jurisdiction of the Court must be exercised in the manner provided in this Act and the Rules and, where no special provisions are contained in this Act or the Rules, it must be exercised in accordance with the practice and procedure followed by the Supreme Court of Nova Scotia before March 1, 1972. R.S., c. 240, s. 13; 1992, c. 16, s. 42.

**Marking of court documents**

**13 (1)** Every document relating to a proceeding in the Court of Appeal must be marked with the name of the Court of Appeal.

**(2)** Every document relating to a proceeding in the Supreme Court must be marked with the name of the Supreme Court.

**(3)** Every document relating to a proceeding in the Supreme Court (Family Division) must be marked with the name of the Supreme Court (Family Division). R.S., c. 240, s. 14; 1992, c. 16, s. 43; 1998, c. 12, s. 4.

**SEALS****Seals for Supreme Court and for Court of Appeal**

**14 (1)** The Governor in Council may determine and declare the seal to be used in the Supreme Court and by which its proceedings shall be certified and authenticated.

**(2)** The Governor in Council may determine and declare the seal to be used in the Court of Appeal and by which its proceedings shall be certified and authenticated. R.S., c. 240, s. 15; 1992, c. 16, s. 44.

**JUDGES****Composition of Court of Appeal**

**15 (1)** The Court of Appeal is composed of the Chief Justice of Nova Scotia, who is the chief justice of the Court of Appeal, and seven other judges.

(2) For each office of judge of the Court of Appeal there is the additional office of supernumerary judge of the Court of Appeal and for the office of Chief Justice of Nova Scotia there shall be such additional offices of judge as are required for the purpose of section 32 of the *Judges Act* (Canada). 1992, c. 16, s. 45.

#### **Composition of Supreme Court**

- 16 (1) The Supreme Court shall be composed of
- (a) the Chief Justice of the Supreme Court;
  - (b) the Associate Chief Justice of the Supreme Court;
  - (c) the Associate Chief Justice of the Supreme Court (Family Division); and
  - (d) not more than 47 other judges.

(2) The Supreme Court shall include a Family Division composed of the Chief Justice of the Supreme Court, the Associate Chief Justice of the Supreme Court (Family Division) and not more than 24 other judges.

(3) For each office of judge of the Supreme Court there shall be the additional office of supernumerary judge of the Supreme Court and for the office of Chief Justice of the Supreme Court and the office of Associate Chief Justice of the Supreme Court there shall be such additional offices of judge as are required for the purpose of section 32 of the *Judges Act* (Canada). 1992, c. 16, s. 45; 1997 (2nd Sess.), c. 5, s. 1; 2000, c. 28, s. 55; 2019, c. 17, s. 1.

#### **Holding other office under Government**

17 The judges of the Court shall hold no other office under Government, except by way of judicial appointment. R.S., c. 240, s. 19.

#### **Constitution Act, 1867**

18 The person appointed Chief Justice of Nova Scotia, the person appointed Chief Justice of the Supreme Court, the person appointed Associate Chief Justice of the Supreme Court, the person appointed Associate Chief Justice of the Supreme Court (Family Division) and the persons appointed as judges of the Court shall be appointed in accordance with the *Constitution Act, 1867*. R.S., c. 240, s. 20; 1992, c. 16, s. 46; 1997 (2nd Sess.), c. 5, s. 2.

#### **Responsibilities of Chief Justices and duties of Associate Chief Justices**

19 (1) The Chief Justice of Nova Scotia is responsible for the administration of the judicial functions of the Court of Appeal, including the scheduling of the sittings of the Court of Appeal and the assignment of judicial duties.

(2) The Chief Justice of the Supreme Court is responsible for the administration of the judicial functions of the Supreme Court, including the scheduling of the sittings of the Supreme Court and the assignment of judicial duties.

(3) The Associate Chief Justice of the Supreme Court shall carry out the duties assigned to the Associate Chief Justice by the Chief Justice of the Supreme Court.

(4) The Associate Chief Justice of the Supreme Court (Family Division) shall carry out the duties assigned to the Associate Chief Justice (Family Division) by the Chief Justice of the Supreme Court. 1992, c. 16, s. 47; 1997 (2nd Sess.), c. 5, s. 3.

#### **Equal power and jurisdiction of judges**

20 Except where otherwise provided, all judges of the Court of Appeal have in all respects equal power, authority and jurisdiction and all judges of the Supreme Court have in all respects equal power, authority and jurisdiction. 1992, c. 16, s. 48.

#### **Ex officio judge**

21 A judge of the Supreme Court is ex officio a judge of the Court of Appeal. 1996, c. 23, s. 10.

#### **Precedence of judges**

22 (1) The Chief Justice of Nova Scotia has precedence over all the other judges of the Court.

(2) The Chief Justice of the Supreme Court has precedence next after the Chief Justice of Nova Scotia over all other judges of the Court.

(3) The Associate Chief Justice of the Supreme Court has precedence next after the Chief Justice of the Supreme Court over all other judges of the Court.

(4) The Associate Chief Justice of the Supreme Court (Family Division) has precedence next after the Associate Chief Justice of the Supreme Court over all other judges of the Court.

(5) The other judges of the Court of Appeal have precedence next after the Associate Chief Justice of the Supreme Court (Family Division) according to seniority of appointment.

(6) The other judges of the Supreme Court have precedence next after the judges of the Court of Appeal according to seniority of first appointment to a court pursuant to section 96 of the *Constitution Act, 1867*. R.S., c. 240, s. 22; 1992, c. 16, s. 49; 1997 (2nd Sess.), c. 5, s. 4.

#### **Acting Chief Justices and judges**

23 (1) In the absence or incapacity of the Chief Justice of Nova Scotia or where such office is vacant, the next senior judge, other than a supernumerary judge of the Court of Appeal, has and shall exercise the powers and perform the duties of the Chief Justice of Nova Scotia.

(2) In the absence or incapacity of a judge of the Court of Appeal or in case of a vacancy in the Court of Appeal, the Chief Justice of Nova Scotia may designate a judge of the Supreme Court to act as a judge of the Court of Appeal.

(3) In the absence or incapacity of the Chief Justice of the Supreme Court or where such office is vacant, the Associate Chief Justice of the

Supreme Court has and shall exercise the powers and perform the duties of the Chief Justice.

(4) In the absence or incapacity of the Chief Justice of the Supreme Court and the Associate Chief Justice of the Supreme Court or where such offices are vacant, the Associate Chief Justice (Family Division) has and shall exercise the powers and perform the duties of the Chief Justice.

(5) In the absence or incapacity of the Chief Justice of the Supreme Court, the Associate Chief Justice of the Supreme Court and the Associate Chief Justice of the Supreme Court (Family Division) or where such offices are vacant, the next senior judge, other than a supernumerary judge, of the Supreme Court has and shall exercise the powers and perform the duties of the Chief Justice. R.S., c. 240, s. 23; 1992, c. 16, s. 50; 1997 (2nd Sess.), c. 5, s. 5.

#### **Attendance at meetings**

24 The judges of the Court are authorized to attend meetings, on the call of either the Chief Justice of Nova Scotia or the Chief Justice of the Supreme Court, for the purpose of considering the operation of this Act or any other matters relating to the administration of justice. R.S., c. 240, s. 24; 1992, c. 16, s. 51.

### **JUDICIAL DISTRICTS**

#### **Descriptions of districts and resident judges**

25 (1) The Province consists of the following judicial districts:

(a) Cape Breton District, consisting of the counties of Cape Breton, Inverness, Richmond and Victoria;

(b) Central District, consisting of the counties of Antigonish, Colchester, Cumberland, Guysborough and Pictou and the Municipality of the District of East Hants;

(c) Halifax District, consisting of the County of Halifax;

(d) Southwestern District, consisting of the Counties of Annapolis, Digby, Kings, Lunenburg, Queens, Shelburne and Yarmouth and the Municipality of the District of West Hants.

(2) There must be for each judicial district at least two judges of the Supreme Court designated as resident judges.

(3) Subject to subsection (4), the resident judges shall be designated by the Chief Justice of the Supreme Court after consultation with the Minister of Justice.

(4) A designation of a judge pursuant to or deemed by this Section may not be changed or rescinded except with the consent of that judge.

(5) A resident judge shall reside within the judicial district for which the judge is designated. 1992, c. 16, s. 52.

**Power to establish justice centres and areas**

**26** The Minister of Justice may establish justice centres and for each the justice centre area it serves. 1996, c. 23, s. 11.

**OATH OF JUSTICES****Oath of office**

**27 (1)** Before assuming the duties of office, a judge of the Court shall take the following oath:

I do solemnly and sincerely promise and swear, that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as . . . . . So help me God.

**(2)** The oath shall be administered by the Lieutenant Governor or such person as is appointed by the Lieutenant Governor to administer the same or by any person who is appointed by the Governor General to administer oaths of office. R.S., c. 240, s. 27.

**SESSIONS AND SITTINGS****Sessions and sittings**

**28** Subject to the Rules, the Supreme Court and the judges thereof have power to sit and act at any time and at any place for the transaction of any part of the business of the Supreme Court, or of a judge, or for the discharge of any duty that by any statute or otherwise is required to be discharged. R.S., c. 240, s. 28; 1992, c. 16, s. 54.

**Rules**

**29** The judges of the Supreme Court or a majority of them, in addition to any other such power granted to them by this Act, may make rules respecting sessions, sittings or circuits of the Supreme Court and any matter relating thereto. R.S., c. 240, s. 29; 1992, c. 16, s. 54.

**Special sittings**

**30 (1)** Whenever it appears necessary for the disposal of any proceeding in any county, the Supreme Court may order special sittings of the Supreme Court to be held in such county for the trial and disposal of such proceeding.

**(2)** The judge presiding at such sittings may hear and determine any proceeding that may be disposed of by a judge sitting in court or chambers. R.S., c. 240, s. 30; 1992, c. 16, s. 54.

**Extension and adjournment of sittings**

**31** The presiding judge may from time to time in the judge's discretion extend and adjourn any sittings for such time as the judge considers necessary for the disposal of any proceeding on the docket. R.S., c. 240, s. 31.

**Delay of sittings**

**32** Where a judge is prevented for any reason from arriving at the place appointed for holding sittings on the day fixed for holding the same, the sheriff shall

give public notice that the Supreme Court will sit on the following day and shall give such notice from day to day until a judge arrives for the sittings. R.S., c. 240, s. 32; 1992, c. 16, s. 54.

## FAMILY DIVISION

### Jurisdiction

**33 (1)** The Supreme Court (Family Division) has and may exercise in such judicial districts, or parts of a district, as are designated by the Governor in Council pursuant to Section 40 the powers and duties possessed by the Supreme Court in relation to, and has and may exercise jurisdiction in relation to, proceedings in the following matters:

- (a) formation of marriage;
- (b) dissolution and annulment of marriage;
- (c) judicial separation and separation orders;
- (d) rights to property in disputes among spouses or members of the same family;
- (e) restitution of conjugal rights;
- (f) applications under the *Testators Family Maintenance Act*;
- (g) declarations of status, including validity of marriage, parentage, legitimacy and legitimation;
- (h) alimony, maintenance and protection for spouses;
- (i) maintenance of children, including affiliation proceedings and agreements;
- (j) maintenance of parents;
- (k) enforcement of alimony and maintenance orders, including reciprocal enforcement of those orders;
- (l) custody and access to children;
- (m) adoption;
- (n) matters arising under the *International Child Abduction Act*;
- (o) interspousal and familial torts;
- (p) consent to medical treatment of minors;
- (q) change of name;
- (r) *parens patriae* jurisdiction;
- (s) divorce;
- (t) the interpretation, enforcement or variation of a marriage contract, cohabitation agreement, separation agreement or paternity agreement;
- (u) resulting trust or unjust enrichment involving persons who have cohabited, including relief by way of constructive trust or a monetary award;



(v) those other matters that are provided by or under an enactment to be within the jurisdiction of the Family Division.

(2) In addition to those matters referred to in subsection (1), the Governor in Council may by order confer on the Supreme Court (Family Division) jurisdiction over any or all charges, offences and matters arising from any one or more of the following Acts or subjects:

(a) the *Labour Standards Code* in so far as it relates to a prosecution for an offence respecting the employment of children;

(b) the *Youth Justice Act*;

(c) the *Youth Criminal Justice Act* (Canada);

(d) sections 172, 215 and 733.1 of the *Criminal Code* (Canada);

(e) sections 266, 810 and 811 of the *Criminal Code* (Canada), where the parties are spouses or parent and child;

(f) charges or proceedings under the *Criminal Code* (Canada) with respect to incest and other sexual offences committed by a family member against another member of the same family, corrupting children, failing to provide necessities, abandoning children, abduction of children by members of the same family, assaults by a member of a family against another member of the same family and thefts by a family member from another member of the same family;

(g) such other Acts or matters as the Governor in Council considers appropriate. 1997 (2nd Sess.), c. 5, s. 6.

#### **Judges of Family Division**

**34** (1) Any judge of the Supreme Court may hear and determine proceedings brought in the Supreme Court (Family Division) and for such purpose such judge is a judge of the Supreme Court (Family Division).

(2) Any judge of the Supreme Court (Family Division) may hear and determine any proceeding brought in the Supreme Court but the substantial majority of that judge's time shall be spent hearing and determining proceedings in the Supreme Court (Family Division). 1998, c. 12, s. 7.

#### **Transfer from or to Family Division**

**35** (1) A judge of the Supreme Court (Family Division) may, in accordance with the Rules, order that a proceeding commenced in the Supreme Court (Family Division) be transferred out of that Division or to another court.

(2) Where a proceeding that should not have been commenced in the Supreme Court (Family Division) is so commenced, a judge of the Supreme Court (Family Division) may at any stage of the proceeding, order that the proceeding be transferred out of that Division or to another court in which the proceeding may properly be taken, and all steps taken by any party in the proceeding and all orders made therein before the transfer are valid and effective as if they were taken or made where the proceedings ought to have been commenced.

(3) A judge of the Supreme Court or of another court having jurisdiction in a proceeding that could be commenced in the Supreme Court (Family Division) may, in accordance with the Rules, order that the proceeding be transferred to the Supreme Court (Family Division). 1997 (2nd Sess.), c. 5, s. 6; 1998, c. 12, s. 9.

#### **Open court**

**36** Subject to Section 54 and any other Act, whether of the Legislature of the Province or of the Parliament of Canada, that applies to proceedings in the Supreme Court (Family Division), a judge of the Supreme Court (Family Division) shall hear a matter in open court unless, after considering

- (a) the public interest in hearing the proceeding in open court;
- (b) any potential harm that may be caused to any person if matters of a private nature were disclosed in open court; and
- (c) any representations made by the parties,

the judge is of the opinion that the matter should be heard, in whole or in part, in camera. 1997 (2nd Sess.), c. 5, s. 6; 1998, c. 12, s. 9.

#### **Power to adjourn**

**37 (1)** A judge, on application or on the judge's own motion, may adjourn a proceeding brought in the Supreme Court (Family Division) if the judge considers that any party to the proceeding or any child affected by the proceeding would benefit by counselling, mediation or professional services.

**(2)** Where a proceeding brought in the Supreme Court (Family Division) is adjourned pursuant to subsection (1), the judge may order a party to pay all or any portion of the fees and expenses specified in the order for any of the services. 1997 (2nd Sess.), c. 5, s. 6; 1998, c. 12, s. 9.

#### **Power to direct report**

**38 (1)** Upon application or on the judge's own motion, a judge of the Supreme Court (Family Division) may direct a family counsellor, social worker, probation officer or other person to make a report concerning any matter that, in the opinion of the judge, is a subject of the proceeding.

**(2)** A person directed to make a report pursuant to subsection (1) shall file a written report with the Supreme Court (Family Division) together with a copy of the report for each party to the proceeding and for the judge.

**(3)** The contents of a report filed pursuant to subsection (2) may be received in evidence in the proceeding.

**(4)** A person filing a report pursuant to subsection (2) is a competent and compellable witness.

**(5)** Any party, including the party calling the person as a witness, may cross-examine the person referred to in subsection (4).

**(6)** No action lies or may be instituted against a person who prepares a report pursuant to subsection (1) for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be

done, attempted to be done or omitted to be done by that person in the carrying out or supposed carrying out of that duty.

(7) A judge may, subject to the regulations, specify in an order made pursuant to subsection (1) the amount of any charge for the report that each party is required to pay. 1997 (2nd Sess.), c. 5, s. 6; 1998, c. 12, s. 9.

#### **Duties of peace officer**

39 It is the duty of a peace officer to serve any process issued out of the Supreme Court (Family Division), to execute any order issued by any judge of the Supreme Court (Family Division), to convey a young person to such place or places as may be directed in such orders and to assist the Supreme Court (Family Division) and the officers of the Division in carrying out the *Youth Criminal Justice Act* (Canada) and any other matters or enactment for which the Supreme Court (Family Division) is responsible. 1997 (2nd Sess.), c. 5, s. 6; 1998, c. 12, s. 9.

#### **Power to designate area**

40 The Governor in Council may designate a judicial district, or part of a district, in which the Supreme Court (Family Division) may exercise its jurisdiction and may designate whether that jurisdiction is exclusive or concurrent. 1997 (2nd Sess.), c. 5, s. 6; 1998, c. 12, s. 8.

#### **Regulations**

- 41 The Governor in Council may make regulations respecting
- (a) mediation and alternative dispute-resolution mechanisms; and
  - (b) costs and fees for services provided in the Supreme Court (Family Division). 1997 (2nd Sess.), c. 5, s. 6; 1998, c. 12, s. 9.

### **TRIALS AND PROCEDURES**

#### **Single judge in Supreme Court and power to decide or reserve decision**

42 (1) Every proceeding in the Supreme Court and all business arising out of the same must be heard, determined and disposed of before a single judge.

(2) In all such proceedings any judge sitting in court is deemed to constitute the Supreme Court.

(3) A judge of the Supreme Court shall decide questions coming properly before the judge, but may reserve any proceeding or any point in any proceeding for the consideration of the Court of Appeal. R.S., c. 240, s. 33; 1992, c. 16, s. 55.

#### **Trials and procedure**

43 Subject to rules of Court, the trials and procedure in all cases, whether of a legal or equitable nature, must be as nearly as possible the same and the following provisions apply:

- (a) in civil proceedings, unless the parties in person or by their counsel or solicitors consent to a trial of the issues of fact or the assessment

or inquiry of damages without a jury, the issues of fact must be tried with a jury in the following cases:

- (i) where the proceeding is an action for libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution or false imprisonment,
- (ii) where either of the parties in a proceeding requires the issues of fact to be tried or the damages to be assessed or inquired of with a jury and files with the prothonotary and leaves with the other party or the other party's solicitor a notice to that effect at least 60 days before the first day of the sittings at which the issues are to be tried or the damages assessed or inquired of, except that, upon an application to the Supreme Court made before the trial or by the direction of the judge at the trial, such issues may be tried or such damages assessed or inquired of by a judge without a jury, notwithstanding such notice,
- (iii) where the judge at the trial in the judge's discretion directs that the issues of fact be tried or the damages assessed or inquired of with a jury;
- (b) in all other cases the issues of fact or the assessment or inquiry of damages in civil proceedings must be tried, heard and determined and judgment given by a judge without a jury;
- (c) where in any proceeding both legal and equitable issues are raised, they must be heard and determined at the same time, unless the Supreme Court or a judge, or the judge at the trial, otherwise directs or unless under the foregoing provisions of this Section either of the parties requires that the legal issues of fact be tried with a jury;
- (d) upon the hearing of any proceeding, the presiding judge may, of the judge's own motion or by consent of the parties, reserve judgment until a future day, not later than six months from the day of reserving judgment, and the judgment whenever given must be considered as if given at the time of the hearing and must be filed with the prothonotary of the Supreme Court for the county in which the hearing was tried, who shall immediately give notice in writing to the parties to the cause or their respective solicitors that such judgment has been filed, and each of the parties has and may exercise, within 20 days, or within such further time as the Supreme Court may order, from the service of such notice, all such rights as the party possessed or might have exercised if judgment had been given on the hearing of the proceeding;
- (e) upon any trial with a jury of any proceeding except a proceeding for libel, the jury shall, where so directed by the judge, give a special verdict, and where not so directed may give either a general or a special verdict;
- (f) upon a trial with a jury of any proceeding, except a proceeding for libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution or false imprisonment,
  - (i) the judge, instead of directing the jury to give either a general or a special verdict, may direct the jury to answer any questions of fact raised by the issues,

(ii) such questions may be stated to them by the judge, and counsel may require the judge to direct the jury to answer any other questions raised by the issues or necessary to be answered by the jury in order to obtain a complete determination of all matters involved in the proceeding,

(iii) the jury shall answer such questions and may not give any verdict and the judge shall give a judgment in the proceeding not inconsistent with the answers of the jury to such questions,

(iv) where the judge refuses to direct the jury to answer any questions that counsel requires the judge to submit to them, such refusal may be used as a ground for a new trial. R.S., c. 240, s. 34; 1992, c. 16, s. 56.

#### **Assessor to assist Court**

**44 (1)** Subject to the Rules, the Court may, in any proceeding in which it considers it expedient, call in the aid of one or more assessors specially qualified and try and hear such proceeding wholly or in part with the assistance of such assessor or assessors.

**(2)** The remuneration, if any, to be paid by any party to such assessor shall be determined by the Court. R.S., c. 240, s. 35.

#### **Periodic payments**

**45** In a court proceeding in which damages are claimed for personal injuries or for the death of a person, or under the *Fatal Injuries Act*, the court may, on the application of any party, order that the future pecuniary damages and such other damages as the parties may agree be paid in whole or in part by periodic payments. 2003 (2nd Sess.), c. 1, s. 26.

#### **Duty of court respecting order for periodic payments**

**46** Where the court orders damages to be paid by periodic payments, the judgment must

(a) identify each head of damage for which a periodic payment is to be made;

(b) in respect of each head of damage for which periodic payments are awarded, state

(i) the amount of each periodic payment,

(ii) the date of or the interval between each periodic payment,

(iii) the recipient of each periodic payment,

(iv) any annual percentage increase in the amount of each periodic payment, and

(v) the date or event on which the periodic payments will terminate; and

(c) contain or have attached to it any other material that the court considers appropriate. 2003 (2nd Sess.), c. 1, s. 26.

**Security for periodic payments**

**47 (1)** Unless the court orders otherwise, a judgment that orders damages to be paid by periodic payments is conditional on the judgment debtor's filing with the court, within 30 days after the day the judgment is rendered or such other time as the court may fix, security to assure the payment of the judgment.

**(2)** Security under subsection (1) must be in the form of an annuity contract issued by a life insurer satisfactory to the court, or in any other form that is satisfactory to the court.

**(3)** Where security is filed and approved under this Section, the judgment debtor by whom or on whose behalf the security is filed is discharged from all liability to the judgment creditor in respect of the damages that are to be paid by periodic payments, but the owner of the security remains liable for the periodic payments until they are paid. 2003 (2nd Sess.), c. 1, s. 26.

**Where judgment creditor dies**

**48** Where a judgment creditor dies before the date or event on which periodic payments are terminated for a head of damage under subclause 46(b)(v), the remaining periodic payments for that head of damage shall continue to be paid to the estate of the judgment creditor until the termination date, unless the judgment provides otherwise. 2003 (2nd Sess.), c. 1, s. 26.

**Commutation of periodic payments to lump sum**

**49** Except as provided in subsection 47(2) and Section 48, no award for periodic payments of damages may be commuted into a lump sum. 2003 (2nd Sess.), c. 1, s. 26.

**Exemption of periodic payments from execution, etc.**

**50** Periodic payments of damages for loss of future earnings are exempt from garnishment, attachment, execution or any other process or claim to the same extent that wages or earnings are exempt under law. 2003 (2nd Sess.), c. 1, s. 26.

**Award for periodic payments not assignable or transferable**

**51** An award for periodic payments is not assignable or transferable. 2003 (2nd Sess.), c. 1, s. 26.

**Application of Sections 45 to 51**

**52** Sections 45 to 51 apply to all proceedings, whether commenced before, on or after October 30, 2003. 2003 (2nd Sess.), c. 1, s. 26.

**Judgment by judge leaving office or absent**

**53 (1)** Where a judge resigns, is appointed to any other court or ceases to hold office, the judge may at any time within eight weeks after such event give judgment or grant an order in any proceeding previously tried or heard before the judge, as if the judge had continued in office.

**(2)** Where a judge has heard any proceeding jointly with other judges in the Court of Appeal, the judge may at any time within the period men-

tioned in subsection (1) take part in the giving of judgment by the Court of Appeal, as if the judge were a member of it.

(3) Where a judge has heard a proceeding jointly with other judges in the Court of Appeal and the judge resigns, is appointed to any other court, ceases to hold office, dies or is absent through illness or other cause without having handed the judge's opinion in writing to any other judge of the Court of Appeal, then the remaining judges shall, notwithstanding any other provision of this Act, give the judgment or order of the Court of Appeal in the proceeding.

(4) Where a judge has heard a proceeding jointly with other judges in the Court of Appeal, and the judge resigns, is appointed to any other court, ceases to hold office, dies or is absent through illness or other cause before judgment is delivered by the Court of Appeal but has handed the judge's opinion in writing to any other judge of the Court of Appeal, the remaining judges shall, notwithstanding any other provision of this Act, deliver judgment in the proceeding and the written judgment of the deceased or absent judge shall be read by one of the other judges and has the same effect as if the deceased or absent judge were present. R.S., c. 240, s. 36; 1992, c. 16, s. 57.

#### **Exclusion of public from court**

54 Where a judge of the Supreme Court at any proceeding considers it to be in the interest of public morals, the maintenance of order or the proper administration of justice, the judge may order that the public be excluded from the court. R.S., c. 240, s. 37; 1992, c. 16, s. 58.

### **APPEALS**

#### **Appeal to Court of Appeal**

55 (1) Except where it is otherwise provided by any enactment, an appeal lies to the Court of Appeal from any decision, verdict, judgment or order of the Supreme Court.

(2) Notwithstanding any enactment but subject to Sections 56 and 57, an appeal lies to the Court of Appeal from any decision, verdict, judgment or order of the Supreme Court (Family Division).

(3) The Court of Appeal also has jurisdiction as provided by any Act of the Parliament of Canada or of the Legislature.

(4) Where, upon the hearing of any appeal, it appears to the Court of Appeal that a new trial should be ordered, it may order that the decision, verdict, judgment or order be set aside and that a new trial be held subject to such terms and conditions as the Court of Appeal may direct.

(5) Nothing in this Section restricts the jurisdiction and power of the Court of Appeal exercised by the Appeal Division of the Supreme Court before March 1, 1972. R.S., c. 240, s. 38; 1992, c. 16, s. 59; 1997 (2nd Sess.), c. 5, s. 7; 1998, c. 12, s. 10.

#### **Appeal from costs or consented to order**

56 No order of the Supreme Court made with the consent of the parties is subject to appeal, and no order of the Supreme Court as to costs only that by law

are left to the discretion of the Supreme Court is subject to appeal on the ground that the discretion was wrongly exercised or that it was exercised under a misapprehension as to the facts or the law or on any other ground, except by leave of the Court of Appeal. R.S., c. 240, s. 39; 1992, c. 16, s. 60.

#### **Appeal from interlocutory order upon leave**

**57** There is no appeal to the Court of Appeal from any interlocutory order whether made in court or chambers, save by leave as provided in the Rules or by leave of the Court of Appeal. R.S., c. 240, s. 40; 1992, c. 16, s. 61.

### **RULES OF LAW**

#### **Rules of law**

**58** In every proceeding commenced in the Court, law and equity must be administered therein according to the following provisions:

(a) where a plaintiff claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim whatsoever, asserted by a defendant in any such proceeding or to relief founded upon a legal right that before October 1, 1884, could only have been given by a court of equity, the Court shall give to the plaintiff the same relief as would have been given by the court of the Equity Judge or the High Court of Chancery in England when the same existed, in a suit or proceedings for the same or the like purpose properly instituted before October 1, 1884;

(b) where a defendant

(i) claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract or against any right, title or claim, asserted by a plaintiff in a proceeding, or

(ii) alleges any ground of equitable defence to any claim of the plaintiff in such a proceeding,

the Court shall give to every equitable estate, right or ground of relief so claimed, and to every equitable defence so alleged, the same effect by way of defence against the claim of the plaintiff as the court of the Equity Judge or the Court of Chancery would have given, if the same or the like matters had been relied on by way of defence in any suit or proceeding instituted in either of those courts, for the same or the like purpose, before October 1, 1884;

(c) the Court shall have power to grant to a defendant in respect of any equitable estate or right, or other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by the defendant,

(i) all such relief against a plaintiff or petitioner as such defendant has properly claimed by the defendant's pleading, and as the Court might grant in any suit instituted for that purpose by the same defendant against the same plaintiff, and

(ii) also all such relief relating to or connected with the original subject of the proceeding and in like manner claimed against any other person, whether already a party to the same proceeding or



not, who has been duly served with notice in writing of the claim, pursuant to any rule of Court or any order of the Court, as might properly be granted against such person if the person had been made a defendant to a proceeding duly instituted by the same defendant for the like purpose,

and every person served with any such notice is thenceforth deemed a party to the proceeding with the same rights in respect of the person's defence against the claim as if the person had been duly sued in the ordinary way by the defendant;

(d) the Court shall recognize and take notice of all equitable estates, titles and rights, and all equitable duties and liabilities appearing incidentally in the course of any proceeding, in the same manner in which the court of equity judge, or the said Court of Chancery, would have recognized, and taken notice of the same, in any suit or proceeding duly instituted therein before October 1, 1884;

(e) no proceeding at any time pending in the Court may be restrained by prohibition or injunction but every matter of equity on which an injunction against the prosecution of any such proceeding might have been obtained prior to October 1, 1884, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto but nothing in this Act contained disables the Court from directing a stay of proceedings in any proceeding pending before the Court if it thinks fit, and any person, whether a party or not to any such proceeding who could have been entitled, prior to October 1, 1884, to apply to the Court to restrain the prosecution thereof, or who is entitled to enforce by attachment or otherwise any judgment, contrary to which all or any part of the proceedings have been taken, may apply to the Court thereof by motion in a summary way for a stay of proceedings in such proceeding either generally, or so far as is necessary for the purposes of justice and the Court shall thereupon make such order as is just;

(f) subject to the foregoing provisions for giving effect to equitable rights and other matters of equity, and to the other express provisions of this Act, the Court shall recognize and give effect to all legal claims and demands, and all estates, rights, duties, obligations and liabilities existing by the common law or created by any statute, in the same manner as the same would have been recognized and given effect to before October 1, 1884, by the Court either at law or in equity;

(g) the Court, in the exercise of the jurisdiction vested in it in every proceeding pending before it, has power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to the Court seems just, all such remedies whatsoever as any of the parties thereto appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in the proceeding so that as far as possible all matters so in controversy between the parties may be completely and finally determined and all multiplicity of legal proceedings concerning any of such matters avoided;

(h) when

(i) bondholders, debenture holders or debenture-stock holders are entitled to a mortgage or charge or both by virtue of a trust deed,

(ii) a proceeding is brought for foreclosure and sale of the mortgaged property, and

(iii) on bringing the same to sale no offer is made therefor or no bid or offer as high as the reserved bid, if any, is received therefor,

the sheriff or person authorized by the Court to make such sale, may, with the approbation of the Court, sell the mortgaged property as a whole or in parcels, to the best purchaser or purchasers that can be found, and where, under the terms of such trust deed, the bondholders, debenture holders or debenture-stock holders, or a specified majority of them, have power to sanction the sale or exchange of the mortgaged premises for a consideration, in whole or in part, other than cash, the Court has power in any such proceeding to sanction any such sale or exchange, first ascertaining that it has the approval of the requisite number or proportion of bondholders, debenture holders or debenture-stock holders, and to give the necessary directions for the purpose of carrying the same into effect and to direct the trustee to exercise all or any of the powers conferred by such trust deed;

(i) in any proceeding for the recovery of any debt or damages, the Court shall include in the sum for which judgment is to be given interest thereon at such rate as it thinks fit for the period between the date when the cause of action arose and the date of judgment after trial or after any subsequent appeal;

(j) where a party pays money into court in satisfaction of a claim and another party becomes entitled to judgment for an amount equal to or less than that paid into court, the Court shall award interest under clause (i) only to the date of payment into court as if said date had been the date of judgment;

(k) the Court in its discretion may decline to award interest under clause (i) or may reduce the rate of interest or the period for which it is awarded if

(i) interest is payable as of right by virtue of an agreement or otherwise by law,

(ii) the claimant has not during the whole of the pre-judgment period been deprived of the use of money now being awarded, or

(iii) the claimant has been responsible for undue delay in the litigation. R.S., c. 240, s. 41.

#### **Discontinuance of foreclosure proceeding**

**59 (1)** In this Section, "mortgagor" means the original mortgagor to a mortgage document and includes any person deriving title through the original mortgagor.

**(2)** Where a mortgagor is in default of a mortgage

(a) either

(i) in failing to make a payment of principal or interest or a payment otherwise due under the mortgage, or

(ii) in failing to observe a covenant or term of the mortgage; and

(b) as a result of the default referred to in either subclause (a)(i) or (ii) or both, the whole of the balance of the outstanding principal and interest secured by the mortgage has become due and payable,

the mortgagor may, before the granting of an order for foreclosure or foreclosure and sale, make an application to the Supreme Court to have any proceedings commenced by the mortgagee for the order for foreclosure or foreclosure and sale discontinued.

(3) The Supreme Court may grant an order of discontinuance conditional upon

(a) the payment of all arrears of principal and interest and any other payments due under the mortgage;

(b) the performance of the covenant in default;

(c) the payment of any costs and expenses incurred by the mortgagee and allowed by the Supreme Court; and

(d) the performance of the conditions of the order within such time as the Supreme Court may allow.

(4) The Supreme Court may not grant more than one order pursuant to this Section in respect of the same mortgage.

(5) The Crown is bound by this Section. R.S., c. 240, s. 42; 1992, c. 16, s. 62.

#### Further rules of law

**60** (1) No claim of a *cestui que trust* against the trustee, for any property held on any express trust or in respect of any breach of such trust, may be held to be barred by any statute of limitation.

(2) An estate for life without impeachment of waste may not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right expressly appears by the instrument creating such estate.

(3) There may not be any merger by operation of law only of any estate the beneficial interest in which would not before October 1, 1884, have been deemed merged or extinguished in equity.

(4) A mortgagor entitled for the time being to the possession or the receipt of the rents and profits of any land, as to which no notice of intention to take possession or to enter into the receipt of the rents and profits thereof has been given by the mortgagee, may sue for such possession, or for the recovery of such rents or profits, or to prevent injury or recover damages in respect to any trespass or other wrong relative thereto, in the mortgagor's own name only, unless the cause of action arises upon a lease or other contract made by the mortgagor jointly with any other person, and in that case the mortgagor may sue jointly with such other person.

(5) Any absolute assignment by writing under the hand of the assignor, not purporting to be by way of charge only, of any debt or other legal chose in action, of which express notice in writing has been given to the debtor, trustee, or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, is deemed to have been effective in law, subject to all equities that would have been entitled to priority over the right of the assignee if this subsection had not been enacted, to pass and transfer the legal right to such debt or chose in action from the date of such notice, and all legal and other remedies for the same, and the power to give a good discharge for the same, without the concurrence of the assignor.

(6) In case of an assignment of a debt or other chose in action, where the debtor, trustee or other person liable in respect of such debt or chose in action has had notice that such assignment is disputed by the assignor or anyone claiming under the assignor, or of any other opposing or conflicting claims to such debt or chose in action, the debtor, trustee or other person liable may, where the person thinks fit, call upon the several persons making claim thereto to interplead concerning the same, or may, where the person thinks fit, pay the same into the Supreme Court, upon obtaining an order therefor, to abide the determination of the Supreme Court in respect thereof.

(7) Every person who, being surety for the debt or duty of another or being liable with another for any debt or duty, pays such debt or performs such duty, is entitled to have assigned to the person, or to a trustee for the person, every judgment, specialty or other security that is held by the creditor in respect of such debt or duty, whether such judgment, specialty or other security is or is not deemed at law to be satisfied by the payment of the debt or performance of the duty, and such person is entitled to stand in the place of the creditor and to use all the remedies and, if need be, and upon a proper indemnity, use the name of the creditor in any proceeding in order to obtain from the principal debtor, or any co-surety, co-contractor or co-debtor, as the case may be, indemnification for the advances made and the loss sustained by the person who has so paid such debt or performed such duty, and such payment or performance so made by such surety is not a defence to such proceeding by the person, provided always, that no co-surety, co-contractor or co-debtor is entitled to recover from any other co-surety, co-contractor or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last mentioned person is justly liable.

(8) Stipulations in contracts, as to time or otherwise, that would not before October 1, 1884, have been deemed to be, or to have become, of the essence of such contracts in a court of equity, must receive in the Court the same construction and effect as they would previously thereto have received in equity.

(9) A *mandamus* or an injunction may be granted or a receiver appointed by an interlocutory order of the Supreme Court, in all cases in which it appears to the Supreme Court to be just or convenient that such order should be made, and any such order may be made either unconditionally or upon such terms and conditions as the Supreme Court thinks just, and where an injunction is asked, either before or at or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted if the Supreme Court thinks fit, whether the person against whom such injunction is sought is, or is not, in possession under any claim of title or otherwise or, where out of possession, does or does not claim a right to do the act sought to be restrained,

under any colour of title, and whether the estates claimed by both or by either of the parties are legal or equitable.

(10) In questions relating to the custody and education of infants, the rules of equity prevail.

(11) Generally, in all matters not previously mentioned, in which there is any conflict or variance between the rules of equity and the rules of the common law, with reference to the same matter, the rules of equity prevail. R.S., c. 240, s. 43; 1992, c. 16, s. 63.

#### **Injunction in labour-management dispute**

61 (1) In this Section,

“injunction” means an injunction granted by an interlocutory order or judgment and includes an interim injunction;

“labour-management dispute” means a dispute or difference affecting its employer and its employees or a trade union as defined in the *Trade Union Act*.

(2) Subject to subsection (3), no injunction to restrain a person or a trade union from any act in connection with a labour-management dispute may be granted *ex parte*.

(3) The Supreme Court may grant an injunction *ex parte* in a labour-management dispute if it is satisfied that

(a) the case is a proper one for the granting of an injunction;

(b) a breach of the peace, an interruption of an essential public service, injury to persons or severe damage to property has occurred or is about to occur; and

(c) reasonable attempts have been made to notify the persons or the trade union affected by the application. R.S., c. 240, s. 44; 1992, c. 16, s. 64.

#### **Exemption from seizure under execution**

62 (1) The following articles are exempt from seizure under execution:

(a) the wearing apparel and household furnishings and furniture that are reasonably necessary for the debtor and the debtor’s family;

(b) all fuel and food reasonably necessary for the ordinary use of the family;

(c) all grain and other seeds, and all cattle, hogs, fowl, sheep and other livestock that are reasonably necessary for the domestic use of the debtor and the debtor’s family;

(d) all medical and health aids reasonably necessary for the debtor and the debtor’s family;

(e) such farm equipment, fishing nets, tools and implements of, or other chattels, as are used in the debtor's chief occupation, not exceeding in aggregate value the sum determined by the Governor in Council;

(f) one motor vehicle not exceeding in aggregate value the sum of \$3,000 or such sum as may be determined by the Governor in Council.

(2) For greater certainty, subsection (1) does not affect the rights of a person secured by a duly filed agreement for hire, lease, chattel, conditional sale or charge, other than a floating charge, on a chattel to secure the payment of money or the performance of an obligation and acting pursuant to that agreement, lease, contract, conditional sale or charge, other than a floating charge, on a chattel to secure the payment of money or the performance of an obligation.

(3) The Governor in Council may make regulations determining the aggregate value of chattels used in the debtor's chief occupation and of the motor vehicle actually used in the course of and required for the debtor's full-time occupation, that are exempt from seizure pursuant to this Section.

(4) The exercise by the Governor in Council of the authority contained in subsection (3) is a regulation within the meaning of the *Regulations Act*. R.S., c. 240, s. 45.

#### **Order against proceeding without leave**

**63** (1) Where the Court is satisfied that a person has habitually, persistently and without reasonable grounds, started a vexatious proceeding or conducted a proceeding in a vexatious manner in the Court, the Court may make an order restraining the person from

(a) starting a further proceeding on the person's own behalf or on behalf of another person; or

(b) continuing to conduct a proceeding,

without leave of the Court.

(2) The Court may make the order apply to a spokesperson or agent of a party or to any other person specified by the Court who in the opinion of the Court is associated with the person against whom the order is made.

(3) Notice of a motion for an order under subsection (1) or (2) must be given to the Attorney General, except when the Attorney General is a party to the proceeding in respect of which the motion is made.

(4) A motion for an order under subsection (1) or (2) may be made by the party against whom the vexatious litigation has been started or conducted, a clerk of the Court or, with leave of the Court, any other person.

(5) An order may not be made against counsel of record or a lawyer who substitutes for counsel of record. 2009, c. 17, s. 1.

**Appeal**

**64** A person against whom an order has been made under subsection 63(1) or (2) by the Supreme Court or a judge of the Court of Appeal may appeal the order to the Court of Appeal. 2009, c. 17, s. 1.

**Leave to start or continue proceeding**

**65 (1)** A person against whom an order has been made under subsection 63(1) or (2) may make a motion for leave to start or continue a proceeding and, where the Court is satisfied that the proceeding is not an abuse of process and is based on reasonable grounds, the Court may grant leave on such terms as the Court determines.

**(2)** A motion in a proceeding in the Court of Appeal for a restraining order under subsection 63(1) or (2), or for an order for leave under subsection (1), may be made to a judge of the Court of Appeal.

**(3)** The Court may make rules of court respecting granting leave, including a rule requiring the Court to consider the frequency of motions made by or on behalf of the person making the motion for leave. 2009, c. 17, s. 1.

**Effect of Sections 63 to 65**

**66** Nothing in Sections 63 to 65 limits the authority of the Court to make an order in respect of an abuse of a process of the Court, including an order for dismissal, a stay or indemnification or to strike a pleading. 2009, c. 17, s. 1.

**RULES****Rules of Court**

**67** The judges of the Court of Appeal or a majority of them may make rules of court in respect of the Court of Appeal and the judges of the Supreme Court or a majority of them may make rules of court in respect of the Supreme Court for carrying this Act into effect and, in particular,

- (a) regulating the sittings of the Court and of the judges of the Court in chambers;
- (b) regulating the pleading, practice and procedure in the Court and the rules of law that are to prevail in relation to remedies in proceedings therein;
- (c) regulating appeals and applications in the nature of appeals;
- (d) providing for service out of the jurisdiction;
- (e) prescribing and regulating the proceedings under any enactment that confers jurisdiction upon the Court or a judge;
- (f) regulating the payment, transfer or deposit into, in or out of any court of any money or property or the dealing therewith;
- (g) respecting the rate of interest to be used in determining the capitalized value of an award in respect of future damages;
- (h) providing for the physical or mental examination of a party to any proceeding;

(i) regulating the means by which particular facts may be proved and the mode in which evidence thereof may be given in any proceeding or on any application in connection with or at any stage of any proceeding;

(j) generally for regulating any matter relating to the practice and procedure of the Court, or to the duties of the officers thereof, or to the costs of proceedings therein and every other matter deemed expedient for better attaining the ends of justice, advancing the remedies of suitors and carrying into effect the provisions of this Act, and of all other statutes in force respecting the Court. R.S., c. 240, s. 46; 1992, c. 16, s. 65.

#### **Publication, confirmation and evidence of rules of Court**

**68 (1)** All rules of Court made in pursuance of this Act, from and after the publication thereof in the Royal Gazette, or from and after publication in such other manner as the Governor in Council determines, regulate all matters to which they extend.

**(2)** Notwithstanding subsection (1) and Section 72, the *Civil Procedure Rules* made by the judges of the Court of Appeal and the Supreme Court on June 6, 2008, and tabled in the House of Assembly by the Minister of Justice, are ratified and confirmed and are declared to be the *Civil Procedure Rules* of the Court of Appeal and the Supreme Court and have the force of law as and to the extent provided in those *Civil Procedure Rules* until varied in accordance with this Act.

**(3)** Printed copies of the Rules purporting to be published by the King's Printer are evidence of those Rules. R.S., c. 240, s. 47; 2008, c. 60, s. 1.

#### **Powers to make rules of Court**

**69** Subject to any rules of Court that are made under this Act, the judges of the Court shall continue to have and exercise all the powers that immediately preceding the coming into force of this Act they possessed or exercised as to making rules of Court for the regulation of the practice of the Court. R.S., c. 240, s. 48.

#### **Modification of statutory provision**

**70** Where any provisions in respect of the Court are contained in any Act, rules of Court may be made for modifying such provisions to any extent that is considered necessary for adapting the same to the practice and procedure of the Court, unless, in the case of any Act passed on or after October 1, 1884, this power is expressly excluded with respect to such Act or any provision thereof. R.S., c. 240, s. 49.

#### **Extension of time**

**71** Where an enactment authorizes an appeal to the Supreme Court or the Court of Appeal and prescribes a time period during which

- (a) the appeal is to be commenced;
- (b) an application for leave to appeal is to be made;
- (c) a notice is to be given; or
- (d) any other procedural step preliminary to the appeal is to be taken,



the judges of the Court may make rules respecting extension of the time period, notwithstanding that the time period has expired. R.S., c. 240, s. 50; 1992, c. 16, s. 66.

#### **Tabling of rules**

**72** All rules made in pursuance of this Act must be laid before the House of Assembly within 20 days next after the same are made, if the Legislature is then sitting, or, where the Legislature is not then sitting, within 20 days after the meeting of the Legislature next after such rules are made, and, where an address praying that any such rules may be cancelled is presented to the Lieutenant Governor by the Assembly within 30 days during which the Legislature has been sitting next after such rules are laid before it, the Governor in Council may thereupon, by order in council, annul the same and the rules so annulled thenceforth become void and of no effect but without prejudice to the validity of any proceeding that in the meantime has been taken under the same. R.S., c. 240, s. 51.

### **GENERAL PROVISIONS**

#### **Officers of Court directed by Rules**

**73** Subject to any order in that behalf, the business to be performed in the Court or in the chambers of any judge thereof, other than that performed by the judges, must be distributed among the several officers attached to the Court, in such manner as is directed by the Rules and the officers shall perform such duties in relation to the business as is directed by the Rules and subject to such Rules, all officers respectively shall continue to perform the same duties, as nearly as may be, and in the same manner, as before this Act came into force. R.S., c. 240, s. 52.

#### **Referees**

**74** Subject to the Rules, the prothonotaries and clerks of the Crown shall be official referees for the trial of such questions as are directed to be tried by such officer and the Governor in Council may, where necessary, appoint additional official referees. R.S., c. 240, s. 53; 1992, c. 16, s. 67.

#### **Disposal of court records**

**75 (1)** In this Section, “court records” include all documents, records, letters, transcripts, recordings, exhibits and papers of any kind, or any thing on which information is recorded or stored by any means, including graphic, electronic or mechanical means, deposited or on file with or held by the Court.

**(2)** Court records of the Court of Appeal that are no longer required must be disposed of by

- (a) destruction without photographing or preserving an image thereof in electronic or other form;
- (b) destruction after having been photographed or an image thereof having been preserved in electronic or other form; or
- (c) transfer to the Public Archives of Nova Scotia,

in accordance with the directions of the Deputy Attorney General, after consultation with the Provincial Archivist or such other officer or employee of the Public Archives of Nova Scotia as the Provincial Archivist may designate, and subject to the approval of the Chief Justice of Nova Scotia, or in accordance with a schedule

for the retention and disposal of court records established by the Deputy Attorney General and the Chief Justice after consultation with the Provincial Archivist or such other officer or employee.

(3) Court records of the Supreme Court that are no longer required must be disposed of by

- (a) destruction without photographing or preserving an image thereof in electronic or other form;
- (b) destruction after having been photographed or an image thereof having been preserved in electronic or other form; or
- (c) transfer to the Public Archives of Nova Scotia,

in accordance with the directions of the Deputy Attorney General, after consultation with the Provincial Archivist or such other officer or employee of the Public Archives of Nova Scotia as the Provincial Archivist may designate, and subject to the approval of the Chief Justice of the Supreme Court, or in accordance with a schedule for the retention and disposal of court records established by the Deputy Attorney General and the Chief Justice after consultation with the Provincial Archivist or such other officer or employee. 1992, c. 16, s. 68.

---

## CHAPTER J-4

# An Act Respecting the Removal of Judicial Disqualifications

### Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
No disqualification.....	2
Invalid objection .....	3

---

#### Short title

**1** This Act may be cited as the *Judicial Disqualifications Removal Act*.  
R.S., c. 241, s. 1.

#### No disqualification

**2** A judge, justice of the peace, juror or other person empowered by law to exercise judicial functions is not incapable of acting in the discharge of any judicial duty, in any cause, matter or proceeding, by reason of being or having been interested as one of several ratepayers, or as one of the inhabitants of any regional municipality, town or municipality of a county or district, or as one of any other class of persons, liable, in common with others, to contribute to, or be benefited by, any fund of a public nature that may be affected by the disposition or determination of such cause, matter or proceeding. R.S., c. 241, s. 2.

#### Invalid objection

**3** No disqualification of the nature mentioned in Section 2 may be held to be a valid objection to any decision, judgment or verdict given in any such cause, matter or proceeding. R.S., c. 241, s. 3.

---

## CHAPTER J-5

# An Act Respecting Juries

### Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Interpretation.....	2
Qualifications of jurors .....	3
Disqualifications .....	4
Excuse and deferral.....	5
Application to be excused.....	6
Preparation of jury list.....	7
Availability of information for list.....	8
Certification and approval of list .....	9
Jury panel .....	10
Availability of jury panel list .....	11
Order for additional names .....	12
Attendance of panel .....	13
Manner of selection in criminal matters .....	14
Manner of selection in civil matters.....	15
Challenges.....	16
Power to summon.....	17
Duty to attend.....	18
Duties of jury co-ordinator.....	19
Jury fees .....	20
Confidential information.....	21
Effect of failing to observe certain direction .....	22
Lodging and refreshment .....	23
Offences .....	24
Power to arrest .....	25
Powers of Minister's designate .....	26
Regulations.....	27

### Short title

- 1 This Act may be cited as the *Juries Act*. 1998, c. 16, s. 1.

### Interpretation

- 2 (1) In this Act,
- “Chief Justice” means the Chief Justice of the Supreme Court of Nova Scotia, the judge authorized to exercise the powers and perform the duties of the Chief Justice or a judge designated by the Chief Justice;
- “civil matter” means a cause, issue or matter, other than a criminal matter, that involves or might involve a jury and includes an assessment of damages;
- “criminal matter” means a prosecution or trial for an offence triable by a judge and jury in accordance with the *Criminal Code* (Canada);

“judge” means a judge of the Supreme Court of Nova Scotia;

“juror” means a person sworn or affirmed as a juror pursuant to subsection 15(3) or the *Criminal Code* (Canada);

“jury co-ordinator” means a prothonotary or other person designated by the prothonotary or the Director, Court Services Division of the Department of Justice, to carry out the functions assigned to the jury co-ordinator pursuant to this Act;

“jury district” means an area referred to in subsection (2);

“jury list” means the list of names prepared pursuant to subsection 7(1);

“jury panel” means the persons selected pursuant to subsection 10(1);

“jury panel list” means the list prepared pursuant to subsection 10(1);

“Minister” means the Minister of Justice;

“session” includes any convening of the Supreme Court of Nova Scotia for the purpose of hearing one or more civil matters or one or more criminal matters.

(2) Each justice centre area established pursuant to the *Judicature Act*, or other area designated by the regulations, constitutes a jury district for the purpose of this Act. 1998, c. 16, s. 2.

### Qualifications of jurors

3 Subject to Section 4, every Canadian citizen residing in the Province who has reached the age of 18 years is qualified to serve as a juror. 1998, c. 16, s. 3.

### Disqualifications

4 The following people are disqualified from serving as a juror:

(a) the Lieutenant Governor and a member of the House of Assembly, the House of Commons or the Senate of Canada;

(b) a judge of the Nova Scotia Court of Appeal, the Supreme Court of Nova Scotia, the Provincial Court of Nova Scotia, the Family Court for the Province of Nova Scotia, a justice of the peace and an officer of any court;

(c) a barrister and solicitor of the Supreme Court of Nova Scotia and an articulated clerk as defined by the *Legal Profession Act*;

(d) every person engaged in the administration of justice, including a sheriff, a warden of a penitentiary, a superintendent or officer of a correctional institution or lockup, a probation officer, a police officer, a court official, an employee of the Department of Justice (Canada) or the Department of Public Safety and Emergency Preparedness (Canada), and an employee of the Department of Justice or the Public Prosecution Service of the Province;

(e) a person who has been convicted of a criminal offence for which the person was sentenced to a term of imprisonment of two years or more;

(f) a person or class of persons designated by the regulations. 1998, c. 16, s. 4; 2002, c. 10, s. 5.

#### **Excuse and deferral**

**5 (1)** A jury co-ordinator may, in advance of trial, excuse a person from service as a juror or defer a person to a later jury panel on the basis of hardship or illness.

**(2)** A jury co-ordinator may, in advance of trial, defer a person to a later jury panel on the basis of inconvenience.

**(3)** A judge may, in advance of or at the time of the trial, excuse a person from service as a juror or defer a person to a later jury panel on the basis of hardship, illness or inconvenience.

**(4)** A judge may excuse from serving as a juror a person whom the judge determines is unable for any reason to discharge the duties of a juror. 1998, c. 16, s. 5.

#### **Application to be excused**

**6 (1)** A person who receives a juror summons may, in advance of trial and by using the form prescribed by the Minister, make an application to the jury co-ordinator to be excused from service as a juror or deferred to a later jury panel.

**(2)** Where a jury co-ordinator refuses to excuse or defer a person pursuant to subsection 5(1) or (2), the person may apply to a judge by using the form prescribed by the Minister. 1998, c. 16, s. 6.

#### **Preparation of jury list**

**7 (1)** Before the end of August of each year, the jury co-ordinator for each jury district shall cause to be prepared a jury list of names drawn randomly from a database that, to the extent possible, includes the entire population, 18 years or older, of the jury district.

**(2)** The number of names on the jury list prepared pursuant to subsection (1) is determined by the jury co-ordinator in consultation with a judge. 1998, c. 16, s. 7.

#### **Availability of information for list**

**8 (1)** Notwithstanding any other enactment, a person, department or agency of Government or municipality that has control or custody of a list prescribed pursuant to the regulations shall make available to the jury co-ordinator at all reasonable times such information as the jury co-ordinator requires for the purpose of the preparation of a jury list.

**(2)** Where a person or body described in subsection (1) has control or custody of a list prescribed pursuant to the regulations in the form of a com-

puter database, the person or body shall permit the jury co-ordinator to have access to the list and shall allow the jury co-ordinator, upon request, reasonable use of any computer equipment in the control or custody of the person or body. 1998, c. 16, s. 8.

#### **Certification and approval of list**

**9 (1)** When the jury list is prepared, the jury co-ordinator shall certify it as follows:

I hereby certify that the foregoing jury list for . . . . . [jury district] was prepared in accordance with the *Juries Act* and the names of the persons selected were chosen by random choice and the persons selected appear to me to be qualified to serve as jurors.

**(2)** A judge, if satisfied that the jury list has been properly prepared, shall approve the jury list.

**(3)** The judge shall order the jury co-ordinator to prepare a new jury list under the direction of the judge if the judge does not approve the jury list pursuant to subsection (2).

**(4)** A list approved by a judge is the jury list for the jury district until a new list is prepared and approved pursuant to this Act and must be kept in the possession of the jury co-ordinator until it is required for use. 1998, c. 16, s. 9.

#### **Jury panel**

**10 (1)** Before the beginning of each session or whenever a jury is required, the jury co-ordinator for each jury district shall randomly select from the jury list the number of names determined by the jury co-ordinator in consultation with a judge and the persons whose names are selected constitute the jury panel.

**(2)** The jury panel list must be approved by a judge.

**(3)** The jury co-ordinator shall mail to each person a juror summons setting out the time and place to appear and a juror information form containing information regarding the grounds for disqualification and for being excused from serving as a juror.

**(4)** A summons and juror information form must be given to a person pursuant to subsection (3) within a reasonable time before the person is to appear.

**(5)** The form of the juror summons and juror information form may be prescribed by the Minister in consultation with the Chief Justice.

**(6)** Every person who receives a juror summons and juror information form shall accurately and truthfully complete the juror information form and return it forthwith upon receipt to the jury co-ordinator for the jury district.

**(7)** Based on the information contained in the juror information form, the jury co-ordinator may remove from the jury panel list anyone who is disqualified from jury service under Section 4 and may excuse a person from serving on a jury pursuant to subsection 5(1). 1998, c. 16, s. 10; 2002, c. 10, s. 6.

**Availability of jury panel list**

**11** Not earlier than eight days or such longer period as is prescribed by the regulations, nor later than four days before the time to appear stated in the juror summons, the jury co-ordinator shall make the jury panel list available for inspection in the office of the jury co-ordinator in the jury district where the trial is to occur and the list must be available for inspection by any person until the time stated for appearance. 1998, c. 16, s. 11.

**Order for additional names**

**12 (1)** Where, in the opinion of a judge, a sufficient number of persons on the jury panel list will not or do not attend, the judge may make an order directing the jury co-ordinator to select such additional names from the jury list as the judge considers necessary and require the persons selected to attend forthwith or at such time as the judge directs.

**(2)** Notice to appear may be given by mail or personal service to a person directed to appear pursuant to subsection (1) but no period of notice is required. 1998, c. 16, s. 12.

**Attendance of panel**

**13 (1)** The jury co-ordinator shall, on each day on which the jury panel is required to attend, determine which persons on the jury panel are present and, where a member is not present, make an entry of that fact.

**(2)** The persons on the jury panel shall continue to attend until discharged by a judge. 1998, c. 16, s. 13.

**Manner of selection in criminal matters**

**14** Where a jury panel for a session is before a judge in a criminal matter, the jurors required must be selected in the manner prescribed by the *Criminal Code* (Canada). 1998, c. 16, s. 14.

**Manner of selection in civil matters**

**15 (1)** When a jury panel for a session is before a judge in a civil matter, the jurors required for the civil matter must be selected in the following manner or such alternative manner as is prescribed by the regulations:

(a) the name of each person on the jury panel, and the person's number on the panel and name and address, must be written on a separate card and all the cards must, as far as possible, be of equal size;

(b) after any disqualifications have been made or excuses granted, the jury co-ordinator shall place the cards of the persons on the jury panel who are present together in a box and thoroughly shake the cards together;

(c) the jury co-ordinator shall, in open court, draw out a card from the box and call out the name and number upon the card as it is drawn, and continue drawing cards out of the box until the number of persons who have answered to their names are, in the opinion of the judge, sufficient to provide a full jury; and



(d) the jury co-ordinator shall continue to select persons until a sufficient number of persons are selected.

(2) The jury for the trial of a civil matter must consist of seven persons, five of whom may, after deliberating for at least four hours, return a verdict.

(3) Where a person chosen pursuant to subsection (1) is

- (a) qualified to serve;
- (b) not peremptorily challenged;
- (c) not successfully challenged for cause on the basis of partiality; or
- (d) not excused,

the jury co-ordinator shall swear that person or take an affirmation from that person as a member of the jury. 1998, c. 16, s. 15.

### Challenges

16 (1) Subject to the *Civil Procedure Rules*, the plaintiff or plaintiffs and the defendant or defendants in a civil matter may peremptorily challenge four persons chosen pursuant to subsection 15(1).

(2) Notwithstanding subsection (1) but subject to the *Civil Procedure Rules*, where there are defendants who are adverse in interest, the presiding judge may permit each group of defendants who have a common interest to peremptorily challenge four persons chosen pursuant to subsection 15(1).

(3) Any party may challenge a person for cause and the burden is on the party to state and establish the cause. 1998, c. 16, s. 16.

### Power to summon

17 (1) Where a full jury cannot be provided notwithstanding compliance with this Act, the presiding judge may order the sheriff or other officer forthwith to summon and bring before the judge as many persons, whether qualified jurors or not, as the judge directs for the purpose of providing a full jury.

(2) Jurors may be summoned pursuant to subsection (1) by word of mouth if necessary and brought before the judge.

(3) The names of the persons who are summoned pursuant to this Section must be added to the jury panel for the purpose for which the panel was selected and this Act applies as though the persons were named as members of the original jury panel. 1998, c. 16, s. 17.

### Duty to attend

18 (1) A person required to attend a session as a juror shall continue to attend until discharged from attendance by the presiding judge.

(2) Where, during the course of a trial, the judge is satisfied that a juror should not, because of illness or other reasonable cause, continue to serve as a juror, the judge may discharge the juror.

(3) Where a juror dies or is discharged pursuant to subsection (1) or (2), the judge may direct the trial to proceed without the juror and the verdict of the remaining jurors is valid if the number of jurors is not reduced below six and at least five of them concur with the verdict. 1998, c. 16, s. 18.

#### **Duties of jury co-ordinator**

19 The jury co-ordinator shall, on each day on which the jurors are required to attend, determine

- (a) upon the opening of the court, the names of all the jurors; and
- (b) upon any proceeding to be tried with a jury being called for trial, the names of the jurors,

and, when a juror does not answer to that juror's name, make an entry of that fact. 1998, c. 16, s. 19.

#### **Jury fees**

20 (1) A person is entitled to such fees as are prescribed by the regulations.

(2) The jury co-ordinator shall prepare and certify a statement containing

- (a) the names of the jurors who attended the hearing;
- (b) the number of days of attendance and the basis for the allowance of each juror;
- (c) the distance travelled by each juror; and
- (d) the amount to which the juror is entitled.

(3) Unless the presiding judge otherwise orders, a juror is not paid for any day on which the juror does not answer when the juror's name is called in open court, nor for any day in which the juror does not attend by reason of the jurors having been excused from attendance. 1998, c. 16, s. 20.

#### **Confidential information**

21 Notwithstanding any other enactment but subject to this Act, the names included on a jury list or a jury panel list and the information provided by a person on a juror information form must not be disclosed. 1998, c. 16, s. 21.

#### **Effect of failing to observe certain direction**

22 A failure to observe a direction contained in this Act in respect of

- (a) the disqualification or excusing of jurors;
- (b) the preparation, form or revision of the jury list or the requirements in respect of the jury list; or

- (c) the selection, empanelling, notification or summoning of jurors,

is not a ground for impeaching or quashing the verdict in any civil matter. 1998, c. 16, s. 22.

#### **Lodging and refreshment**

**23** Where, during the trial of a civil matter or criminal matter, the jurors are not allowed to separate, the jury co-ordinator shall provide lodging and refreshment and the cost must be paid for by the Minister. 1998, c. 16, s. 23.

#### **Offences**

- 24** (1) Every person preparing jury lists who
- (a) knowingly places the name of a person on the jury list who is not qualified to serve;
  - (b) knowingly omits from a jury list the name of a person who is qualified to serve;
  - (c) falsely certifies or approves a jury list or jury panel; or
  - (d) wilfully fails to perform any duty imposed by this Act,

is guilty of an offence and liable on summary conviction to a penalty of not more than \$1,000.

- (2) Every person who
- (a) is required to complete and return a juror information form and, without reasonable excuse, fails to do so;
  - (b) without reasonable excuse, gives false or misleading information in a juror information form or in an application to be excused from service as a juror;
  - (c) is summoned to attend and, without reasonable excuse, fails to obey the summons or fails to answer when called by the jury co-ordinator; or
  - (d) contravenes any other provision of this Act,

is guilty of an offence and liable on summary conviction to a penalty of not more than \$1,000. 1998, c. 16, s. 24.

#### **Power to arrest**

**25** Every person who is required to attend at any place by a juror summons and who fails to attend may be arrested and brought before a judge on any day that the person is required to appear. 1998, c. 16, s. 25.

#### **Powers of Minister's designate**

**26** Anything required to be done by the Minister pursuant to this Act may be performed by a person designated by the Minister. 1998, c. 16, s. 26.

#### **Regulations**

- 27** (1) The Governor in Council may make regulations

- (a) designating areas for the purpose of subsection 2(2);
- (b) respecting persons who may be disqualified from serving on a jury;
- (c) respecting the form of the jury list;
- (d) respecting lists to be made available pursuant to subsections 8(1) and (2);
- (e) prescribing periods of time for the purpose of Section 11;
- (f) respecting the manner in which jurors required for a civil matter are selected;
- (g) respecting the fee to be paid to a juror;
- (h) respecting the method of paying jurors;
- (i) designating persons or classes of persons to whom fees may be paid;
- (j) respecting fees to be paid to a person or class of persons designated by the regulations and the method of paying those persons or classes of persons;
- (k) enabling forms and information to be filed electronically;
- (l) defining any word or expression used but not defined in this Act;
- (m) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 1998, c. 16, s. 27.

---

## CHAPTER J-6

# An Act Respecting Justices of the Peace

### Table of Contents

(The table of contents is not part of the statute)

	Section
Short title.....	1
Interpretation.....	2
Presiding justice of the peace.....	3
Staff justice of the peace.....	4
Administrative justice of the peace.....	5
Immunity.....	6
Oath of office.....	7
Powers, privileges, immunities.....	8
Resignation.....	9
Removal from office.....	10
Supervision by Chief Judge of Provincial Court.....	11
Supervision by Chief Judge of Family Court.....	12
Supervision by Chief Justice of Supreme Court.....	13
Discipline of presiding justices of the peace.....	14
Commission.....	15
Commission report.....	16
Term of office of commission.....	17
Powers of commission.....	18
Determination of procedure.....	19
No standing before tribunal.....	20
Periods to be covered.....	21
Deadline for reports.....	22
Request for change to report.....	23
Duties of Governor in Council.....	24
Introduction of legislation.....	25
Review of proposed legislation.....	26
Governor in Council regulations.....	27
Ministerial regulations.....	28

### Short title

**1** This Act may be cited as the *Justices of the Peace Act*. R.S., c. 244, s. 1.

### Interpretation

**2** In this Act,

“administrative justice of the peace” means an individual appointed as an administrative justice of the peace pursuant to this Act;

“Association” means the Nova Scotia Presiding Justices of the Peace Association;

“commission” means a commission established pursuant to this Act;

“Court of Appeal” means the Nova Scotia Court of Appeal;

“Family Court” means the Family Court for the Province of Nova Scotia;

“justice of the peace” means an administrative justice of the peace, a presiding justice of the peace or a staff justice of the peace;

“Minister” means the Minister of Justice;

“presiding justice of the peace” means an individual appointed as a presiding justice of the peace pursuant to this Act;

“Provincial Court” means the Provincial Court of Nova Scotia;

“staff justice of the peace” means an individual appointed as a staff justice of the peace pursuant to this Act;

“Supreme Court” means the Supreme Court of Nova Scotia;

“tribunal” means a tribunal established pursuant to Section 46 of the *Provincial Court Act*. 2000, c. 28, s. 56; 2013, c. 39, s. 1.

### **Presiding justice of the peace**

**3** (1) The Governor in Council, on the recommendation of the Minister, may appoint an individual as a presiding justice of the peace.

(2) An appointment made pursuant to subsection (1) may be on a full-time or part-time basis.

(3) A presiding justice of the peace holds office during good behaviour until age 70 unless the justice is removed from office by the Governor in Council as provided in Section 10. 2000, c. 28, s. 56; 2007, c. 18, s. 1.

### **Staff justice of the peace**

**4** (1) The Minister may appoint an employee of the Department of Justice as a staff justice of the peace to perform such duties as are prescribed in the regulations.

(2) The appointment of a staff justice of the peace expires upon the earlier of termination of employment with the Department of Justice or upon the appointment being revoked by the Minister. 2000, c. 28, s. 56.

### **Administrative justice of the peace**

**5** (1) The Minister may appoint an individual as an administrative justice of the peace to perform such duties as are prescribed in the regulations.

(2) An administrative justice of the peace holds office for the term prescribed in the regulations. 2000, c. 28, s. 56.

### **Immunity**

**6** A justice of the peace has the same immunity from liability as a judge of the Supreme Court. 1992, c. 16, s. 72.

### **Oath of office**

**7** (1) A person appointed to be a justice of the peace may take an oath of office in the form prescribed by the regulations before a judge of the Court of Appeal, a judge of the Supreme Court, a judge of the Family Court or a judge of the Provincial Court.

(2) A justice of the peace forthwith after the taking of the oath of office pursuant to subsection (1) shall transmit the oath to the Minister. R.S., c. 244, s. 6; 1992, c. 16, s. 73; 2000, c. 28, s. 57.

#### **Powers, privileges, immunities**

8 (1) Every person so appointed and sworn is invested with all the rights, powers, privileges, immunities and advantages previously had, held, exercised and enjoyed by any justice of the peace appointed before April 10, 1880, in this Province, and is entitled to the rights, privileges, immunities and advantages given, granted and extended before that date to any justice of the peace, as well by any statute in force in this Province or otherwise.

(2) Notwithstanding subsection (1) but subject to any other enactment, a justice of the peace, when exercising powers and performing functions pursuant to an enactment, shall do so in accordance with the regulations and the directions of the Chief Judge of the Provincial Court, the Chief Judge of the Family Court or the Chief Justice of the Supreme Court, as the case may be. R.S., c. 244, s. 7; 1992, c. 16, s. 74; 2000, c. 28, s. 58.

#### **Resignation**

9 (1) A justice of the peace may resign from office by delivering a signed letter of resignation to the Minister.

(2) The resignation takes effect on the day the letter is delivered to the Minister or, where the letter specifies a later day, on that day. 2000, c. 28, s. 59.

#### **Removal from office**

10 (1) A presiding justice of the peace may only be removed from office before the expiration of that justice's term by order of the Governor in Council.

- (2) The order referred to in subsection (1) may be made only if
- (a) a complaint regarding the presiding justice of the peace has been made to the Chief Judge of the Provincial Court, the Chief Justice of the Supreme Court or the Chief Judge of the Family Court; and
  - (b) the removal is recommended by the Chief Judge of the Provincial Court, the Chief Justice of the Supreme Court or the Chief Judge of the Family Court, as the case may be, following an inquiry held pursuant to Section 14 on the ground that the presiding justice of the peace has become incapacitated or disabled from the due execution of the justice's office by reason of
    - (i) infirmity,
    - (ii) conduct that is incompatible with the execution of the duties of the justice's office, or
    - (iii) having failed to perform the duties of the justice's office as assigned.

(3) The order referred to in subsection (2) must be laid before the House of Assembly if it is sitting or, if not, within 15 days after the commencement of the next sitting. 2000, c. 28, s. 59.

#### **Supervision by Chief Judge of Provincial Court**

11 (1) Except as provided in Section 12 or 13, the Chief Judge of the Provincial Court has the general supervision and direction over all presiding justices of the peace and, without limiting the generality of the foregoing, the Chief Judge may

- (a) establish duty rosters for presiding justices of the peace;
- (b) supervise the sittings of presiding justices of the peace;
- (c) give direction to presiding justices of the peace in the performance of their duties; and
- (d) issue directions to presiding justices of the peace on law and procedure.

(2) A presiding justice of the peace shall follow the directions of the Chief Judge unless determined otherwise by a court of competent jurisdiction.

(3) Notwithstanding subsection (1), the Chief Judge may delegate to one or more judges of the Provincial Court the general supervision and direction over presiding justices of the peace. 1992, c. 16, s. 75; 2000, c. 28, s. 60; 2002, c. 10, s. 7.

#### **Supervision by Chief Judge of Family Court**

12 (1) The Chief Judge of the Family Court has the general supervision and direction over all presiding justices of the peace who perform duties and functions relating to the Family Court and, without limiting the generality of the foregoing, the Chief Judge may

- (a) establish duty rosters for presiding justices of the peace;
- (b) supervise the sittings of presiding justices of the peace;
- (c) give direction to presiding justices of the peace in the performance of their duties; and
- (d) issue directions to presiding justices of the peace on law and procedure.

(2) A presiding justice of the peace shall follow the directions of the Chief Judge unless determined otherwise by a court of competent jurisdiction.

(3) Notwithstanding subsection (1), the Chief Judge may delegate to one or more judges of the Family Court the general supervision and direction over presiding justices of the peace. 1992, c. 16, s. 75; 2000, c. 28, s. 61; 2002, c. 10, s. 8.

#### **Supervision by Chief Justice of Supreme Court**

13 (1) The Chief Justice of the Supreme Court of Nova Scotia has the general supervision and direction over all presiding justices of the peace who



perform duties and functions relating to the Supreme Court and, without limiting the generality of the foregoing, the Chief Justice may

- (a) establish duty rosters for presiding justices of the peace;
- (b) supervise the sittings of presiding justices of the peace;
- (c) give direction to presiding justices of the peace in the performance of their duties;
- (d) issue directions to presiding justices of the peace on law and procedure.

(2) A presiding justice of the peace shall follow the directions of the Chief Justice unless determined otherwise by a court of competent jurisdiction.

(3) Notwithstanding subsection (1), the Chief Justice may delegate to one or more judges of the Supreme Court of Nova Scotia the general supervision and direction over presiding justices of the peace. 2000, c. 28, s. 62.

#### **Discipline of presiding justices of the peace**

**14** (1) The Chief Judge of the Provincial Court, the Chief Justice of the Supreme Court of Nova Scotia or the Chief Judge of the Family Court, as the case may be, is responsible for the discipline of presiding justices of the peace who are under the supervision and direction of the Chief Judge or Chief Justice.

(2) Where a question arises relating to the discipline of a presiding justice of the peace, the Chief Judge or Chief Justice, as the case may be, may appoint a committee of judges and presiding justices of the peace to inquire into the matter and make a recommendation to the Chief Judge or Chief Justice on what action, if any, should be taken.

- (3) The Chief Judge or Chief Justice, as the case may be, may
- (a) recommend to the Governor in Council that the appointment of a presiding justice of the peace be revoked; or
  - (b) suspend or restrict the powers and duties of a presiding justice of the peace notwithstanding the terms of appointment of the presiding justice of the peace.

(4) The Chief Judge or Chief Justice, as the case may be, or a member of a committee appointed pursuant to subsection (2) is immune from civil action for anything done in good faith pursuant to this Section. 1992, c. 16, s. 75; 2000, c. 28, s. 63; 2002, c. 10, s. 9.

#### **Commission**

**15** (1) There is a commission to recommend the hourly rate to be paid to presiding justices of the peace.

(2) The person selected as chair of the tribunal in accordance with subsection 46(3) of the *Provincial Court Act* is the commission.

(3) The commission is entitled to remuneration and reimbursement for reasonable expenses as determined by the Minister. 2013, c. 39, s. 2; 2019, c. 18, s. 1.

#### **Commission report**

**16 (1)** The commission shall inquire into and prepare a report containing recommendations with respect to

(a) the hourly rate to be paid to presiding justices of the peace; and

(b) the annual adjustments to the hourly rate in respect of cost-of-living increases.

(2) The hourly rate referred to in subsection (1) must be a percentage of the per diem payment made to judges not receiving salaries as recommended by the tribunal pursuant to clause 50(1)(b) of the *Provincial Court Act*.

(3) A presiding justice of the peace is not entitled to any benefits.

(4) When making recommendations pursuant to this Section, the commission shall take into consideration the following:

(a) the constitutional law of Canada;

(b) the need to maintain the independence of the presiding justices of the peace;

(c) the need to attract excellent candidates for appointment as presiding justices of the peace;

(d) the unique nature of the role of presiding justices of the peace;

(e) the manner in which the hourly rate paid to presiding justices of the peace in the Province compares to the hourly rates paid to presiding justices of the peace in other jurisdictions in Canada, having regard to the differences amongst those jurisdictions;

(f) the provision of a fair and reasonable hourly rate for presiding justices of the peace in light of prevailing economic conditions in the Province and the overall state of the Provincial economy;

(g) the adequacy of the hourly rate for presiding justices of the peace having regard to the cost of living and the growth or decline in real per person income in the Province;

(h) the relevant submissions made to the commission;

(i) the nature of the jurisdiction and responsibility of the presiding justices of the peace;

(j) public sector compensation trends;

(k) the financial policies and priorities of the Province;

(l) the part-time nature of the employment of presiding justices of the peace;

(m) other such factors as the commission considers relevant to the matters in issue. 2013, c. 39, s. 2.

**Term of office of commission**

17 (1) The first commission holds office until January 14, 2016.

(2) Each subsequent commission holds office for a term of three years commencing on January 15th following the day the previous commission ceases to hold office. 2013, c. 39, s. 2.

**Powers of commission**

18 The commission has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2013, c. 39, s. 2.

**Determination of procedure**

19 (1) Subject to this Section, the commission may determine its own procedures, including procedures for the making of submissions to the commission.

(2) The commission shall consider all written materials transmitted by the tribunal pursuant to Section 53 of the *Provincial Court Act*.

(3) The commission shall provide copies of all materials referred to in subsection (2) to the Association and the Minister.

(4) The commission shall consider any written submissions from the Association and the Minister.

(5) The commission may submit written questions to the Association and to the Minister after the commission has reviewed written submissions referred to in subsection (4).

(6) The commission may, where it considers it necessary to complete its report, convene a hearing to receive oral submissions from the Association and the Minister. 2013, c. 39, s. 2.

**No standing before tribunal**

20 Notwithstanding subsection 49(1) of the *Provincial Court Act*, the Association and any presiding justice of the peace do not have standing to make submissions to a tribunal established pursuant to Section 46 of the *Provincial Court Act* on matters referred to in Section 50 of the *Provincial Court Act*. 2013, c. 39, s. 2.

**Periods to be covered**

21 The report of the first commission must contain recommendations covering the period from April 1, 2014, to March 31, 2020, inclusive, and the report of each subsequent commission must cover each subsequent six-year period. 2013, c. 39, s. 2.

**Deadline for reports**

22 (1) The report of the first commission must be submitted to the Minister on or before December 1, 2014.

(2) The report of the second commission must be submitted to the Minister on or before December 1, 2019.

(3) The report of subsequent commissions must be submitted to the Minister on or before December 1st of every sixth year thereafter. 2013, c. 39, s. 2; 2019, c. 18, s. 2.

#### **Request for change to report**

23 (1) The Minister or the Association may, within 15 days of the receipt of the commission's report, request the commission amend, alter or vary its report if the Minister or the Association is of the view that the commission failed to deal with a matter arising from an inquiry or that the commission made an error that is apparent on the face of the report.

(2) Where the commission amends, alters or varies its report pursuant to subsection (1), the commission shall, within 15 days, deliver to the Minister and the Association the amended, altered or varied report.

(3) The amendments, alterations or variations in the report referred to in subsection (2) may only deal with matters referred to the commission pursuant to subsection (1). 2013, c. 39, s. 2; 2019, c. 18, s. 4.

#### **Duties of Governor in Council**

24 (1) Within 45 days of receipt of the report prepared by the commission pursuant to subsection 16(1), the Minister shall forward the report to the Governor in Council.

(2) The Governor in Council shall, without delay, confirm, vary or reject each of the recommendations contained in the report referred to in subsection (1).

(3) Upon varying or rejecting the commission's recommendations in accordance with subsection (2), the Governor in Council shall provide reasons for so doing to both the commission and the Association.

(4) The Governor in Council shall, without delay, cause the confirmed and varied recommendations to be implemented, and the recommendations have the same force and effect as if enacted by the Legislature once implemented and are in substitution of any existing legislation relating to those matters. 2019, c. 18, s.3.

#### **Introduction of legislation**

25 (1) Recommendations made in the report of a commission that are confirmed or varied by the Governor in Council, other than those that require legislation, take effect on April 1st in the year immediately following the year in which the commission is required to submit its report or such later date as recommended by the commission and confirmed or varied by the Governor in Council.

(2) Where recommendations of the commission that are confirmed or varied by the Governor in Council require legislation for implementation, the Minister shall, within one year of the report of the commission, introduce in the House of Assembly the necessary legislation to implement the recommendations as confirmed or varied by the Governor in Council. 2019, c. 18, s. 3.

**Review of proposed legislation**

**26 (1)** Where the Minister proposes to introduce legislation that deals with matters referred to in subsection 16(1) other than that required to implement the recommendations of the commission, the Minister shall forward the proposed legislation to the commission for review and comment.

**(2)** The commission shall provide the Minister with its comments within 30 days, unless the Minister specifies a longer period of time for review and comment by the commission. 2013, c. 39, s. 2.

**Regulations**

**27 (1)** The Governor in Council may make regulations

- (a) governing the process under which a person may be appointed a justice of the peace;
- (b) establishing categories or classes of justices of the peace;
- (c) fixing the powers, duties and functions associated with the categories or classes of justices of the peace;
- (d) prescribing powers, duties and functions that a justice of the peace cannot perform, notwithstanding any enactment;
- (e) prescribing the fees to be paid to a justice of the peace for a proceeding or service;
- (f) requiring and governing the making of returns and reports by a justice of the peace;
- (g) respecting the remission of fees, fines and other money paid to a justice of the peace;
- (h) respecting the discipline procedure;
- (i) defining any word used but not defined in this Act;
- (j) to carry out effectively the intent and purpose of this Act.

**(2)** A regulation made pursuant to subsection (1) may be specific or general in nature and, without limiting the generality of the foregoing, may be specific to a part of the Province, to a class or category of justices of the peace, or to justices of the peace who are employed in the public service.

**(3)** The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 1992, c. 16, s. 75; 2013, c. 39, s. 3.

**Ministerial regulations**

**28 (1)** The Minister may make regulations prescribing the form of the oath of office to be taken by a person appointed to be a justice of the peace.

**(2)** The form contained in the Schedule to Chapter 244 of the Revised Statutes, 1989, is deemed to be prescribed pursuant to subsection (1) and to

have been published in accordance with the *Regulations Act* and may be amended or repealed pursuant to this Section.

(3) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

---