



Province of Alberta

## **COURT OF APPEAL ACT**

Revised Statutes of Alberta 2000  
Chapter C-30

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### Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Regulations

The following is a list of the regulations made under the *Court of Appeal Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Court of Appeal Act</b>		
Fees and Expenses for Witnesses and Interpreters .....	123/84 .....	80/87, 289/88, 187/91, 206/2001, 64/2005, 221/2006, 306/2006, 68/2008, 31/2012, 170/2012

# **COURT OF APPEAL ACT**

## Chapter C-30

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

### Definitions

**1** In this Act,

- (a) “Court” means the Court of Appeal of Alberta;
- (b) “judge” includes a supernumerary judge of the Court of Appeal of Alberta.

RSA 1980 cC-28 s1

### Constitution of Court

#### Continuation of Court

**2(1)** The Appellate Division of the Supreme Court of Alberta is continued as a superior court of civil and criminal jurisdiction styled the Court of Appeal of Alberta.

**(2)** The Lieutenant Governor in Council may authorize a seal to be used by the Court as occasion requires.

RSA 1980 cC-28 s2

#### Constitution of Court

**3(1)** The Court of Appeal consists of

- (a) the chief judge, who shall be called the Chief Justice of Alberta,
- (b) 14 other judges, who shall be called justices of appeal, and
- (c) the supernumerary judges of the Court.

**(2)** The Lieutenant Governor in Council may by order increase the number of judges of the Court.

**(3)** Notwithstanding subsection (1), each judge of the Court of Queen’s Bench of Alberta is by virtue of that office a judge of the Court of Appeal.

**(4)** Notwithstanding subsection (1), there is an additional office of judge of the Court that a Chief Justice of Alberta who has resigned the office of Chief Justice of Alberta may elect to hold on compliance with, and on meeting the qualifications under, the *Judges Act* (Canada).

RSA 2000 cC-30 s3;2013 c23 s4;2017 c22 s14

#### Supernumerary judges

**4(1)** For each office of judge under section 3(1)(a) and (b) there is an additional office of supernumerary judge that any judge of the

Court may elect to hold on compliance with, and on meeting the qualifications under, the *Judges Act* (Canada).

**(2)** If the Chief Justice of Alberta makes an election under subsection (1), the Chief Justice shall hold only the office of a supernumerary judge of the Court.

RSA 1980 cC-28 s4

#### **Oath of office**

**5** Each judge, before entering on the duties of that office, shall take the oath prescribed by the *Oaths of Office Act* before the Lieutenant Governor, the Chief Justice of Alberta or the Chief Justice of the Court of Queen's Bench.

RSA 1980 cC-28 s5

#### **Residence of Court members**

**6** The Chief Justice of Alberta and justices of appeal shall reside at or in the neighbourhood of Edmonton or Calgary.

RSA 1980 cC-28 s6

### **Operation of the Court**

#### **Quorum**

**7** A quorum of the Court consists of 3 judges unless otherwise provided by the *Alberta Rules of Court*.

RSA 2000 cC-30 s7;2004 c11 s1

#### **Judge unable to continue**

**8(1)** If any matter before the Court has been heard by 3 or more judges and is standing for judgment and one of the judges who heard that matter

- (a) is transferred to any other court,
- (b) resigns that office,
- (c) dies,
- (d) is absent through illness or other cause, or
- (e) is for any other reason unable to act,

then the remaining judges may, if unanimous in their decision, give judgment on behalf of the Court notwithstanding section 7.

**(2)** If any matter before the Court has been heard by 2 judges and is standing for judgment and any of subsection (1)(a) to (e) applies to one of the judges, the remaining judge may give judgment on behalf of the Court.

RSA 2000 cC-30 s8;2004 c11 s1

**Judgment by former judge**

**9** A judge who ceases to hold office may, within 6 months after ceasing to hold office, give judgment in a matter previously heard and completed before that judge as if that judge had not ceased to hold office.

1998 c23 s5

**Assistance to Court**

**10** A judge of the Court of Queen's Bench may sit or act

- (a) in place of a judge who is absent,
- (b) when an office of a judge is vacant, or
- (c) as an additional judge,

on the request of a judge of the Court of Appeal.

RSA 1980 cC-28 s9

**Exclusion of judge**

**11** In any matter before the Court, no judge

- (a) by or before whom the verdict in question was pronounced,
- (b) who pronounced or made the judgment, order or decision in question at a previous proceeding in the same matter, or
- (c) who determined the matter being reheard,

may sit as one of the judges hearing the matter.

RSA 1980 cC-28 s10

**Costs**

**12** Subject to an express provision to the contrary in any enactment, the costs of and incidental to any matter authorized to be taken before the Court or a judge are in the discretion of the Court or judge and the Court or judge may make any order relating to costs that is appropriate in the circumstances.

RSA 1980 cC-28 s11

**Officers and Employees****Personnel**

**13** In accordance with the *Public Service Act*, there may be appointed Registrars, Deputy Registrars and case management officers of the Court and all other officers and employees that the business of the Court requires.

RSA 2000 cC-30 s13;RSA 2000 c16(Supp) s71

**Powers of officers of Court**

**14(1)** An officer of the Court, for the purpose of matters directed by the Court to be taken before that officer, has power to administer oaths, take affidavits and statutory declarations, receive affirmations and examine parties and witnesses, as the Court may direct.

**(2)** A Registrar, Deputy Registrar or case management officer, at the direction of the Court, may assist the Court with respect to the management of matters before the Court and the business of the Court and without restricting the generality of the foregoing may, without the attendance of a judge,

- (a) call the general appeal list or any other list of appeals, preside over the attendance by counsel in respect of a list and give any directions in connection with those matters as appear appropriate to the Registrar, Deputy Registrar or case management officer;
- (b) set cases down on the general appeal list or any other list of appeals and, subject to any conditions as appear appropriate to the Registrar, Deputy Registrar or case management officer, remove from a list any case that does not appear to be ready;
- (c) subject to any conditions as appear appropriate to the Registrar, Deputy Registrar or case management officer,
  - (i) fix, revise, extend or shorten the times for the filing of agreements as to contents of appeal books and factums;
  - (ii) order or permit deviations in the form of appeal books, factums or other documents except where a deviation would affect the substance of an appeal book, factum or other document;
  - (iii) fix, revise, extend or shorten the times for taking steps in an appeal.

RSA 2000 cC-30 s14;RSA 2000 c16(Supp) s71

**Duties of sheriffs, etc.**

**15** Sheriffs, civil enforcement bailiffs, jailers and peace officers shall give assistance to and comply with the directions of the Court and the judges in the exercise of the jurisdiction of the Court.

RSA 1980 cC-28 s14;1994 cC-10.5 s168

**16** Repealed 2009 c53 s3.

**Court sittings**

**17** The Chief Justice may designate the sittings of the Court.

RSA 1980 cC-28 s16;1998 c18 s6

**Council of judges**

**18(1)** A council comprised of the judges shall, at least once in every year on a day fixed by the Chief Justice of Alberta and of which the Chief Justice shall give notice to the judges, assemble for the purpose of

- (a) considering
  - (i) the operation of this Act and the rules made under this Act, and
  - (ii) the working of, and the arrangements governing the performance of duties by, the officers of the Court,
- and
- (b) inquiring into and examining any defects that appear to exist in the procedure of any court or other authority.

**(2)** If it considers it necessary and appropriate to do so, the council may form one or more subcommittees to deal with any matter referred to in subsection (1) and each subcommittee so formed shall meet at the times and places necessary to achieve the purpose for which it was formed.

**(3)** The council shall report its recommendations to the Lieutenant Governor in Council.

RSA 1980 cC-28 s17

**Transitional and Consequential****References**

**19** If in any statute, ordinance, regulation, rule, order, bylaw, agreement or other instrument or document reference is made or could be construed as being made to

- (a) the Supreme Court of the North-West Territories sitting en banc,
- (b) The Appellate Division of the Supreme Court of Alberta, or
- (c) a judge of either of those courts,

the reference shall be taken to mean a reference to the Court of Appeal of Alberta or a judge of that Court, as the case may be.

RSA 1980 cC-28 s18











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