



Province of Alberta

## **JUDICATURE ACT**

Revised Statutes of Alberta 2000  
Chapter J-2

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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 *Judicature Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Judicature Act</b>		
Alberta Provincial Judges and Masters in Chambers Compensation Commission .....	205/2010	170/2012
Court Rules and Forms.....	39/2002	85/2016
Justices of the Peace 2009 Compensation Commission .....	111/2012	158/2012
Justices of the Peace 2013 Compensation Commission .....	34/2013	
Justices of the Peace 2017 Compensation Commission .....	61/2017	
Provincial Judges and Masters in Chambers 2013 Compensation Commission .....	33/2013	
Provincial Judges and Masters in Chambers 2017 Compensation Commission .....	62/2017	
Rules of Court .....	390/68	<i>R &amp; S, except Parts 57, 58 and 60, by 124/2010, 128/2015</i>

Rules of Court .....	124/2010 .....	163/2010, 143/2011, 216/2011, 31/2012, 122/2012, 170/2012, 62/2013, 140/2013, 41/2014, 71/2015, 76/2015, 128/2015, 145/2015, 85/2016
Surrogate Rules .....	130/95 .....	135/96, 238/99, 132/2000, 53/2001, 110/2001, 206/2001, 251/2001, 201/2003, 107/2004, 221/2004, 7/2005, 110/2006, 196/2006, 306/2006, 209/2007, 306/2009, 10/2010, 101/2010, 165/2010, 121/2011, 10/2012, 44/2015, 71/2015, 76/2015
Transcript Fees and Format.....	167/2010 .....	31/2012, 170/2012, 62/2013, 145/2015



# JUDICATURE ACT

## Chapter J-2

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

**Definition**

**1** In this Act, except in Part 2.1, “Court” means the Court of Queen’s Bench or, on appeal, the Court of Appeal.

RSA 2000 cJ-2 s1;2013 c23 s8

**Part 1**  
**Jurisdiction of the Court**

**Powers, etc., of Court**

**2(1)** The Court has generally all the jurisdiction, powers and authority that before its organization were by any law, order or regulation vested in, or capable of being exercised within, Alberta by the Supreme Court of the North-West Territories.

**(2)** The Court has all the jurisdiction, powers and authority that were by any law, order or regulation vested in, or capable of being exercised by, The Surrogate Court of Alberta immediately before the coming into force of this subsection.

RSA 2000 cJ-2 s2;RSA 2000 c16(Supp) s36

**Jurisdiction of Court of Appeal**

**3** The Court of Appeal

- (a) has all the jurisdiction and powers possessed by the Supreme Court of the North-West Territories en banc immediately before the Court’s organization, and
- (b) has jurisdiction and power, subject to the Rules of Court, to hear and determine
  - (i) all applications for new trials,
  - (ii) all questions or issues of law,
  - (iii) all questions or points in civil or criminal cases,
  - (iv) all appeals or applications in the nature of appeals respecting a judgment, order or decision of
    - (A) a judge of the Court of Queen’s Bench, or
    - (B) a judge of a court of inferior jurisdiction when an appeal is given by any other Act,

and



- (v) all other petitions, applications, matters or things whatsoever that might be brought in England before a Divisional Court of the High Court of Justice or before the Court of Appeal.

RSA 2000 cJ-2 s3;2014 c13 s29

**Powers of judges**

**4** The judges of the Court have and shall use, exercise and enjoy all the powers, rights, incidents, privileges and immunities of a judge of a superior court of record, and all other powers, rights, incidents, privileges and immunities as amply and as fully to all intents and purposes as they were on and before July 15, 1870, had, used, exercised and enjoyed in England by any of the judges of the following courts:

- (a) the Superior Courts of Law or Equity;
- (b) the Court of Exchequer as a court of revenue;
- (c) the Court of Probate;
- (d) the Courts created by Commissions of Assize, of Oyer and Terminer and of Gaol Delivery, or any of those commissions;
- (e) any other superior court or court of record.

RSA 1980 cJ-1 s4

**Additional powers of Court**

**5(1)** For the administration of the law, the Court possesses, in addition to any other jurisdiction, powers, rights, incidents, privileges and authorities that immediately before the organization of the Supreme Court of Alberta were vested in, or capable of being exercised within, Alberta by the Supreme Court of the North-West Territories, the jurisdiction that on July 15, 1870, was in England vested in

- (a) the High Court of Chancery, as a common law court as well as a court of equity, including the jurisdiction of the Master of the Rolls as a judge or master of the Court of Chancery, and any jurisdiction exercised by the Master of the Rolls in relation to the Court of Chancery as a common law court,
- (b) the Court of Queen's Bench,
- (c) the Court of Common Pleas at Westminster,
- (d) the Court of Exchequer as a court of revenue as well as a common law court,

- (e) the Court of Probate,
- (f) the courts created by Commission of Assize, of Oyer and Terminer and of Gaol Delivery, or any of those commissions, and
- (g) any other superior court or court of record.

**(2)** The jurisdiction mentioned in subsection (1) includes

- (a) the jurisdiction that at any time before the organization of the Court was vested in or capable of being exercised by all or any one or more of the judges of the courts mentioned in subsection (1), sitting in court or chambers or elsewhere, when acting as judges or a judge pursuant to a statute, law or custom,
- (b) all the powers given to any such court or to any judges or judge by a statute, and
- (c) all ministerial powers, duties and authorities incident to any and every part of the jurisdiction so conferred.

**(3)** For the purpose of removing any doubt, but not so as to restrict the generality of subsections (1) and (2), it is declared that the Court has the like jurisdiction and powers that by the laws of England were, on July 15, 1870, possessed and exercised by the Court of Chancery in England in respect of

- (a) fraud, mistake and accident,
- (b) all matters relating to trusts, executors and administrators, partnerships and accounts, mortgages and awards, or to infants, idiots or lunatics and to the estates of infants, idiots or lunatics,
- (c) the staying of waste,
- (d) compelling specific performance of agreements and contracts,
- (e) compelling discovery of concealed papers or evidence, or such as might be wrongfully withheld from the party claiming the benefit of them,
- (f) preventing the multiplicity of actions,
- (g) decreeing the issue of letters patent from the Crown to rightful claimants,
- (h) decreeing the repeal of and making void letters patent issued by mistake or improvidently or through fraud,

- (i) the administration of justice where there exists no adequate remedy at law, and
- (j) a grant of injunction to stay waste in a proper case notwithstanding that the party in possession claims by an adverse legal title.

**(4)** The rules of decision in matters mentioned in subsection (3), except where otherwise provided, shall be the same as governed the Court of Chancery in England in like cases on July 15, 1870.

RSA 1980 cJ-1 s5

**Pronouncement on wills, etc.**

**6(1)** The Court has jurisdiction

- (a) to try the validity of last wills and testaments, whether relating to real or personal estate and whether probate has been granted or not, and
- (b) to pronounce the wills and testaments to be void for fraud and undue influence or otherwise,

in the same manner and to the same extent as the Court has jurisdiction to try the validity of deeds and other instruments.

**(2)** The Court has the same jurisdiction as the Court of Chancery had in England on July 15, 1870, with regard to

- (a) leases and sales of settled estates,
- (b) enabling infants with the approbation of the Court to make binding settlements of their real and personal estates on marriage, and
- (c) questions submitted for the opinion of the Court in the form of special cases on the part of those persons that by themselves, their committees or guardians, or otherwise, concur therein.

RSA 1980 cJ-1 s6

**Jurisdiction regarding lunatics**

**7** In the case of lunatics and their property and estates, the jurisdiction of the Court includes, subject to the Rules of Court, the jurisdiction that in England is conferred on the Lord High Chancellor by a Commission from the Crown under the Sign Manual.

RSA 1980 cJ-1 s7

**General jurisdiction**

**8** The Court in the exercise of its jurisdiction in every proceeding pending before it has power to grant and shall grant, either

absolutely or on any reasonable terms and conditions that seem just to the Court, all remedies whatsoever to which any of the parties to the proceeding may appear to be entitled in respect of any and every legal or equitable claim properly brought forward by them in the proceeding, so that as far as possible all matters in controversy between the parties can be completely determined and all multiplicity of legal proceedings concerning those matters avoided.

RSA 1980 cJ-1 s8

#### **Province-wide jurisdiction**

**9** Each judge of the Court has jurisdiction throughout Alberta, and in all causes, matters and proceedings, other than those of the Court of Appeal, has and shall exercise all the powers, authorities and jurisdiction of the Court.

RSA 1980 cJ-1 s9

## **Part 2 Powers of the Court**

#### **Relief against forfeiture**

**10** Subject to appeal as in other cases, the Court has power to relieve against all penalties and forfeitures and, in granting relief, to impose any terms as to costs, expenses, damages, compensation and all other matters that the Court sees fit.

RSA 1980 cJ-1 s10

#### **Declaration judgment**

**11** No proceeding is open to objection on the ground that a judgment or order sought is declaratory only, and the Court may make binding declarations of right whether or not any consequential relief is or could be claimed.

RSA 1980 cJ-1 s11

#### **Canadian law**

**12** When in a proceeding in the Court the law of any province or territory is in question, evidence of that law may be given, but in the absence of or in addition to that evidence the Court may take judicial cognizance of that law in the same manner as of any law of Alberta.

RSA 1980 cJ-1 s12

#### **Part performance**

**13(1)** Part performance of an obligation either before or after a breach thereof shall be held to extinguish the obligation

- (a) when expressly accepted by a creditor in satisfaction, or
- (b) when rendered pursuant to an agreement for that purpose though without any new consideration.

(2) An order in the nature of a mandamus or injunction may be granted or a receiver appointed by an interlocutory order of the Court in all cases in which it appears to the Court to be just or convenient that the order should be made, and the order may be made either unconditionally or on any terms and conditions the Court thinks just.

RSA 1980 cJ-1 s13

**Interest**

**14(1)** In addition to the cases in which interest is payable by law or may be allowed by law, when in the opinion of the Court the payment of a just debt has been improperly withheld and it seems to the Court fair and equitable that the party in default should make compensation by the payment of interest, the Court may allow interest for the time and at the rate the Court thinks proper.

(2) Subsection (1) does not apply in respect of a cause of action that arises after March 31, 1984.

RSA 1980 cJ-1 s15;1984 cJ-0.5 s10

**Equity prevails**

**15** In all matters in which there is any conflict or variance between the rules of equity and common law with reference to the same matter, the rules of equity prevail.

RSA 1980 cJ-1 s16

**Equitable relief**

**16(1)** If a plaintiff claims to be entitled

- (a) to an equitable estate or right,
- (b) to relief on an equitable ground
  - (i) against a deed, instrument or contract, or
  - (ii) against a right, title or claim whatsoever asserted by a defendant or respondent in the proceeding,

or

- (c) to any relief founded on a legal right,

the Court shall give to the plaintiff the same relief that would be given by the High Court of Justice in England in a proceeding for the same or a like purpose.

(2) If a defendant claims to be entitled

- (a) to an equitable estate or right, or
- (b) to relief on an equitable ground

- (i) against a deed, instrument or contract, or
- (ii) against a right, title or claim asserted by a plaintiff in the proceeding,

the Court shall give to each equitable defence so alleged the same effect by way of defence against the claim of the plaintiff that the High Court of Justice in England would give if the same or like matters had been relied on by way of defence in a proceeding for the same or like purpose.

**(3)** The Court may grant to a defendant respecting an equitable estate or right or other matter of equity and also respecting a legal estate, right or title claimed or asserted by the defendant, all such relief against a plaintiff that the defendant has properly claimed by the defendant's pleading.

**(4)** The Court shall recognize and take notice

- (a) of all equitable estates, titles and rights, and
- (b) of equitable duties and liabilities,

appearing incidentally in the course of a proceeding, in the same manner in which the High Court of Justice in England would recognize and take notice of them in a proceeding instituted in that Court.

RSA 1980 cJ-1 s17;1991 c21 s15

### **Stay of proceedings**

**17(1)** In a proceeding

- (a) for the recovery of a debt or liquidated demand,
- (b) for the enforcement of a security or charge on land,
- (c) for the determination or specific performance of an agreement for the sale of land, or
- (d) for the possession of land,

the Court in its discretion may at any stage of the proceeding grant a stay of proceedings on any terms that the Court may prescribe, and in like manner the Court in its discretion may with or without imposing terms, after final judgment in any proceeding whatsoever, grant a stay of execution of an order for sale or of other similar process, including a stay of an order for possession of land, and may by an order granting the stay extend the time for payment of a judgment debt or the time for doing any act or making any payment prescribed by a previous order of the Court.

**(2)** In a proceeding

- (a) for the enforcement of a security or charge on farm land,
- (b) for the determination or specific performance of an agreement for the sale of farm land, or
- (c) for the possession of farm land,

the Court, notwithstanding the terms of an order or judgment previously made, shall grant a stay of proceedings when it appears that the default of the mortgagor, purchaser or other person is in whole or in part caused by the inability of the mortgagor, purchaser or other person to market grain by reason of lack of elevator space or by reason of the restrictions as to delivery of grain imposed under the *Canadian Wheat Board Act* (Canada) and the regulations under that Act.

**(3)** A stay granted under subsection (2) remains in force until set aside by the Court, but shall be set aside only on application after notice and on the Court being satisfied that the conditions existing at the time of the granting of the stay and by reason of which it was granted no longer exist.

**(4)** Nothing in this section limits the authority of the Court, at or after the time that a judgment is granted, to stay the enforcement of the judgment or to remove or extend any stay already granted in respect of the judgment.

RSA 2000 cJ-2 s17;2009 c53 s1

#### **Restraint by prohibition, injunction**

**18(1)** No proceeding at any time pending in the Court shall be restrained by prohibition or injunction, but each matter of equity on which an injunction against the prosecution of the proceeding might formerly have been obtained either unconditionally or on any terms or conditions may be relied on by way of defence in the proceeding.

**(2)** Nothing in subsection (1) disables the Court from directing, if it thinks fit, a stay of proceedings in a proceeding pending before it, and any person, whether a party or not to any proceeding at any time pending in the Court

- (a) who would have been entitled formerly to apply to a court to restrain the prosecution of it, or
- (b) who may be entitled to enforce by attachment or otherwise a judgment, decree, rule or order contrary to which all or part of the proceedings may be taken,

may apply to the Court for a stay of proceedings in the proceeding either generally or so far as might be necessary for the purposes of

justice, and the Court shall on that application make any order that will be just.

RSA 2000 cJ-2 s18;2009 c53 s1

### **Damages instead of injunction, specific performance**

**19** In all cases in which the Court has jurisdiction to entertain an application

- (a) for an injunction against
  - (i) a breach of a covenant, contract or agreement, or
  - (ii) the commission or continuance of a wrongful act,
- or
- (b) for the specific performance of a covenant, contract or agreement,

the Court if it thinks fit may award damages to the injured party either in addition to or in substitution for the injunction or specific performance, and the damages may be ascertained in any manner the Court may direct, or the Court may grant any other relief that it considers just.

RSA 1980 cJ-1 s20

### **Periodic payment of damages**

**19.1(1)** In this section,

- (a) “damages” means damages
  - (i) for personal injuries or for the death of a person, or
  - (ii) provided for under the *Fatal Accidents Act*;
- (b) “judgment” means a judgment under which damages are to be paid in whole or in part by periodic payments;
- (c) “judgment creditor” means a person who is entitled to receive periodic payments under a judgment;
- (d) “periodic payment termination date” means the date or event on which periodic payments are to cease being paid;
- (e) “proceeding” means a proceeding under which damages are claimed.

**(2)** On application by any party to a proceeding, the Court may order that damages awarded be paid in whole or in part by periodic payments, and where no party to a proceeding has made an application for periodic payments, the Court nevertheless



- (a) may, in the Court's discretion and on the terms that the Court thinks just, order that an award for damages be paid by periodic payments if the Court considers it to be in the best interests of the plaintiff, and
- (b) shall order that an award for damages be paid by periodic payments if the plaintiff requests that an amount be included in the award to compensate for income tax payable on income from investment of the award.

**(2.1)** Notwithstanding subsection (2), the Court shall not make an order under this section

- (a) if all the parties agree otherwise,
- (b) if one or more of the parties in respect of whom the order would be made satisfies the Court that the parties do not have sufficient means to fund the order, or
- (c) if the Court, on considering all the circumstances, including but not limited to considering whether an order for periodic payments would have the effect of preventing the plaintiff or another person from obtaining full recovery for damages awarded, is satisfied that such an order would not be in the best interests of the plaintiff.

**(3)** Where the Court orders that damages are to be paid by periodic payments, the Court in its judgment

- (a) must identify the specific damages for which periodic payments are to be made and, with respect to each of those specific damages, set out
  - (i) the amount of each periodic payment,
  - (ii) the date of each periodic payment or the interval between periodic payments,
  - (iii) the recipient of each periodic payment,
  - (iv) the annual percentage increase, if any, in the amount of each periodic payment, and
  - (v) the periodic payment termination date,

and

- (b) in addition to any matter referred to in clause (a), may make any direction and include any material that the Court considers appropriate.

(4) The Court may, for the purposes of assuring payment of a judgment, order any party liable under the judgment to provide security in the form of an annuity contract that complies with the requirements of the *Income Tax Act* (Canada) regarding the tax-free status of the payments, issued by a life insurer satisfactory to the Court and irrevocably payable to the plaintiff, subject to any terms or conditions the Court considers appropriate.

(5) and (6) Repealed 2006 c4 s2.

(7) Periodic payments of damages for loss of future earnings are exempt from civil enforcement proceedings to the same extent that wages or earnings are exempt from civil enforcement proceedings.

(8) Periodic payment of damages that are for the cost of future care of the judgment creditor are not assignable to another person unless

- (a) the person who is to be the assignee is a provider of care to the judgment creditor and the assignment is to pay for the costs of products, services and accommodation, or any one or more of those items, in respect of the judgment creditor, and
- (b) the Court, on application, approves the assignment.

(9) This section applies to any proceeding, whether the proceeding was commenced before or after this section comes into force.

2004 c11 s3;2006 c4 s2;2017 c22 s30

#### **Assignment of chose in action**

**20(1)** When a debt or other legal chose in action is assigned by an absolute assignment made in writing under the hand of the assignor and not purporting to be by way of charge only, if express notice in writing of the assignment has been given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim the debt or chose in action, the absolute assignment is effectual in law to pass and transfer

- (a) the legal right to the debt or chose in action from the date of the notice of the assignment,
- (b) all legal and other remedies for the debt or chose in action, and
- (c) power to give a good discharge for the debt or chose in action without concurrence of the assignor,

and is subject to all equities that would have been entitled to priority over the right of the assignee if this section had not been enacted.

**(2)** In the case of an assignment of a debt or other chose in action, if the debtor, trustee or other person liable in respect of the debt or chose in action has had notice

- (a) that the assignment is disputed by the assignor or anyone claiming under the assignor, or
- (b) of any other opposing or conflicting claims to the debt or chose in action,

the debtor, trustee or other person is entitled, if the debtor, trustee or other person thinks fit, to call on the several persons making claim to the debt or chose in action to interplead concerning it.

RSA 1980 cJ-1 s21

#### **Time of essence**

**21** Stipulations in contracts, as to time or otherwise, that would not heretofore have been deemed to be or have become of the essence of the contracts in a court of equity shall receive the same construction and effect as they would receive in equity.

RSA 1980 cJ-1 s22

#### **Validity of orders**

**22** No order of the Court under any statutory or other jurisdiction may, as against a purchaser, and whether with or without notice, be invalidated on the ground

- (a) of want of jurisdiction, or
- (b) of want of concurrence, consent, notice or service.

RSA 1980 cJ-1 s23

## **Part 2.1 Vexatious Proceedings**

#### **Definitions**

**23(1)** In this Part,

- (a) “clerk of the Court” means
  - (i) in the case of the Court of Appeal, the Registrar or Deputy Registrar of the Court,
  - (ii) in the case of the Court of Queen’s Bench, a clerk, deputy clerk or acting clerk of the court of the judicial centre in which the proceeding is being instituted, and
  - (iii) in the case of the Provincial Court, a clerk or deputy clerk of the Court;

- (b) “Court” means
  - (i) the Court of Appeal,
  - (ii) the Court of Queen’s Bench, or
  - (iii) the Provincial Court.

**(2)** For the purposes of this Part, instituting vexatious proceedings or conducting a proceeding in a vexatious manner includes, without limitation, any one or more of the following:

- (a) persistently bringing proceedings to determine an issue that has already been determined by a court of competent jurisdiction;
- (b) persistently bringing proceedings that cannot succeed or that have no reasonable expectation of providing relief;
- (c) persistently bringing proceedings for improper purposes;
- (d) persistently using previously raised grounds and issues in subsequent proceedings inappropriately;
- (e) persistently failing to pay the costs of unsuccessful proceedings on the part of the person who commenced those proceedings;
- (f) persistently taking unsuccessful appeals from judicial decisions;
- (g) persistently engaging in inappropriate courtroom behaviour.

2007 c21 s2

### **Application**

**23.1(1)** Where on application or on its own motion, with notice to the Minister of Justice and Solicitor General, a Court is satisfied that a person is instituting vexatious proceedings in the Court or is conducting a proceeding in a vexatious manner, the Court may order that

- (a) the person shall not institute a further proceeding or institute proceedings on behalf of any other person, or
- (b) a proceeding instituted by the person may not be continued,

without the permission of the Court.

**(2)** An application under subsection (1) may be made by a party against whom vexatious proceedings are being instituted or

conducted, a clerk of the Court or the Minister of Justice and Solicitor General or, with the permission of the Court, any other person.

**(3)** The Minister of Justice and Solicitor General of Alberta has the right to appear and be heard in person or by counsel on an application or a Court's motion under subsection (1) or (4).

**(4)** The Court may at any time on application or on its own motion, with notice to the Minister of Justice and Solicitor General, make an order under subsection (1) applicable to any other individual or entity specified by the Court who in the opinion of the Court is associated with the person against whom an order under subsection (1) is made.

**(5)** An order under subsection (1) or (4) may not be made against a member of The Law Society of Alberta or a person authorized under section 48 of the *Legal Profession Act* when acting as legal counsel for another person.

**(5.1)** Subject to the *Alberta Rules of Court*, any party to a proceeding under subsection (1) or (4) before the Provincial Court, the Court of Queen's Bench or a single justice of the Court of Appeal may appeal an order under subsection (1) or (4) to the Court of Appeal.

**(6)** Subject to the right to appeal an order made under subsection (1) or (4), the Court of Appeal or the Court of Queen's Bench may make an order made under subsection (1) or (4) binding on any one or more of the other Courts referred to in section 23(1)(b), but an order under subsection (1) or (4) made by the Provincial Court is binding only on that Court.

**(7)** A person against whom an order has been made under subsection (1) or (4) may apply to a Court for permission to institute or continue a proceeding in that Court and the Court may, subject to any terms or conditions it may impose, grant permission if it is satisfied that the proceeding is not an abuse of process and that there are reasonable grounds for the proceeding.

**(8)** With respect to an application under this section before the Court of Appeal, the matter may be heard by a single justice.

**(9)** Nothing in this section limits the authority of a Court to stay or dismiss a proceeding as an abuse of process or on any other ground.

RSA 2000 cJ-2 s23;2007 c21 s2;2013 c10 s20;  
2013 c23 s8;2014 c13 s29

### Part 3 Constitutional Questions

#### Validity of enactment

**24(1)** If in a proceeding the constitutional validity of an enactment of the Parliament of Canada or of the Legislature of Alberta is brought into question, the enactment shall not be held to be invalid unless 14 days' written notice has been given to the Attorney General of Canada and the Minister of Justice and Solicitor General of Alberta.

**(2)** When in a proceeding a question arises as to whether an enactment of the Parliament of Canada or of the Legislature of Alberta is the appropriate legislation applying to or governing any matter or issue, no decision may be made on it unless 14 days' written notice has been given to the Attorney General of Canada and the Minister of Justice and Solicitor General of Alberta.

**(3)** The notice shall include what enactment or part of an enactment is in question and give reasonable particulars of the proposed argument.

**(4)** The Attorney General of Canada and the Minister of Justice and Solicitor General of Alberta are entitled as of right to be heard, either in person or by counsel, notwithstanding that the Crown is not a party to the proceeding.

**(5)** No person other than the Minister of Justice and Solicitor General of Alberta or counsel designated by the Minister of Justice and Solicitor General of Alberta shall, on behalf of Her Majesty in right of Alberta or on behalf of an agent of Her Majesty in right of Alberta, appear and participate in any proceeding within or outside Alberta in respect of a question referred to in subsection (1) or (2).

**(6)** If the Minister of Justice and Solicitor General of Alberta or counsel designated by the Minister of Justice and Solicitor General of Alberta appears in a proceeding within Alberta in respect of a question referred to in subsection (1) or (2), the Minister of Justice and Solicitor General of Alberta is deemed to be a party to the proceeding for the purpose of an appeal from an adjudication in respect of that question and has the same rights with respect to an appeal as any other party to the proceeding.

RSA 2000 cJ-2 s24;2013 c10 s20

#### Action by Attorney General or Minister of Justice and Solicitor General

**25(1)** The Court has jurisdiction to entertain an action at the instance of either

- (a) the Attorney General of Canada, or

(b) the Minister of Justice and Solicitor General of Alberta,

for a declaration as to the validity of an enactment of the Legislature though no further relief is prayed or sought.

(2) An action under this section for a declaration as to the validity of an enactment is deemed sufficiently constituted if the Attorney General of Canada and the Minister of Justice and Solicitor General of Alberta are parties to it.

(3) A judgment in an action under this section may be appealed against as other judgments of the Court.

RSA 2000 cJ-2 s25;2013 c10 s20

#### Reference of questions for consideration

**26(1)** The Lieutenant Governor in Council may refer to the Court of Appeal for hearing or consideration any matter the Lieutenant Governor in Council thinks fit to refer, and the Court of Appeal shall hear or consider the matter that is referred.

(2) If the matter referred to the Court of Appeal relates to the constitutional validity of an enactment of Alberta, the Attorney General of Canada shall be notified of the hearing in order that the Attorney General of Canada may be heard if the Attorney General of Canada sees fit.

(3) If any matter relating to a tax collection agreement between the Government of Canada and the Government of Alberta and entered into pursuant to the *Alberta Personal Income Tax Act* is referred to the Court, the Attorney General of any province or territory of Canada that has entered into a tax collection agreement of a like nature and having like purposes to the tax collection agreement entered into by the Government of Alberta may appear before the Court of Appeal, and is entitled to be heard as a party on the reference.

(4) The Court of Appeal or the Chief Justice of Alberta may direct

(a) that a person interested, or

(b) if there is a class of persons interested, that any one or more persons as representatives of that class

be notified of the hearing and those persons are entitled to be heard at the hearing.

(5) When any interest affected is not represented by counsel, the Court of Appeal may in its discretion request counsel to argue the case in that interest, and the reasonable expenses of it shall be paid out of the General Revenue Fund.

(6) The Court of Appeal shall certify its opinion on the matter referred to it with the reasons for its opinion to the Lieutenant Governor in Council and the opinion shall be given in like manner as in the case of a judgment in an ordinary action, and a judge who differs from the opinion of the majority may in like manner certify that judge's opinion with that judge's reasons for it to the Lieutenant Governor in Council.

(7) The opinion of the Court is deemed a judgment of the Court, and an appeal lies from it as in the case of a judgment in an action.

RSA 2000 cJ-2 s26;RSA 2000 cA-30 s91;2013 c11 s2

## Part 4 Federal Courts Jurisdiction

### Jurisdiction of federal courts

**27** The Supreme Court of Canada and the Federal Court of Canada, or the Supreme Court of Canada alone, according to the *Supreme Court Act* (Canada) and the *Federal Court Act* (Canada) have jurisdiction

- (a) in controversies between Canada and Alberta;
- (b) in controversies between Alberta and any other province or territory of Canada in which an Act similar to this Act is in force;
- (c) in proceedings in which the parties by their pleadings have raised the question of the validity of an Act of the Parliament of Canada or of an Act of the Legislature of Alberta, when in the opinion of a judge of the court in which they are pending the question is material, and in that case the judge shall, at the request of the parties, and may without request if the judge thinks fit, order the case to be removed to the Supreme Court of Canada in order that the question may be decided.

RSA 1980 cJ-1 s28

### Use of courthouse facilities

**28** Where sittings of a court created by the Parliament of Canada, or of a judge of such a court, are appointed to be held in a place in which a courthouse is situated, that court or judge has in all respects the same authority as a judge of the Court of Queen's Bench in regard to the use of the courthouse and other buildings or apartments set apart in that place for the administration of justice.

RSA 1980 cJ-1 s29



## Part 4.1 Rules of Court

### Rules of Court

**28.1(1)** The Lieutenant Governor in Council may by regulation make rules governing

- (a) for the Court of Queen's Bench and the Court of Appeal,
  - (i) practice and procedure in the Court,
  - (ii) the duties of officers of the Court,
  - (iii) costs in matters before the Court,
  - (iv) the fees to be collected by officers of the Court, and
  - (v) the rates of fees, expenses and allowances payable to interpreters and witnesses,

and

- (b) for the Court of Queen's Bench,
  - (i) surrogate matters, and
  - (ii) judicial review in civil matters.

**(2)** The rules made by the Lieutenant Governor in Council under subsection (1) in relation to the practice and procedure in the Court may, subject to subsection (3), alter or conform to the substantive law.

**(3)** Subsection (2) does not authorize the making of rules that conflict with an Act of the Legislature or of the Parliament of Canada, or regulations made under those Acts, but the rules may supplement the provisions of an Act or regulation in respect of practice and procedure.

2009 c53 s1

### Rules of Court Committee

**28.2(1)** The Rules of Court Committee established by the *Court of Queen's Bench Act* is continued and consists of the following members:

- (a) the Chief Justice of Alberta or a judge of the Court of Appeal designated by the Chief Justice of Alberta;
- (b) the Chief Justice of the Court of Queen's Bench of Alberta or a judge of the Court of Queen's Bench

designated by the Chief Justice of the Court of Queen's Bench of Alberta;

- (c) the Chief Judge of The Provincial Court of Alberta or a judge of the Provincial Court designated by the Chief Judge;
- (d) 2 persons who are members of the Law Society of Alberta appointed by the Minister from among those recommended by the Benchers of the Law Society of Alberta;
- (e) one other person appointed by the Minister.

(2) The Committee shall elect one of its members as chair.

(3) The Committee shall meet as occasion requires to consider the rules of court made under this Act and any other Act and may make recommendations respecting those rules of court to the Minister.

(4) The Committee may create, amend or delete information notes and other informational guides for the assistance of users of the *Alberta Rules of Court*.

(5) A person appointed by the Minister under subsection (1)(d) or (e) serves for a term not to exceed 7 years and may be reappointed for one additional term.

(6) The members of the Committee shall serve without remuneration, but the Minister may pay the reasonable travel and living expenses incurred by the members in the performance of their duties under this section.

(7) The Minister shall provide to the Committee those legal, secretarial and other services that the Minister considers appropriate.

2009 c53 s1

#### **Consistency amendments to regulations**

**28.21(1)** The Lieutenant Governor in Council may, by regulation, amend other regulations

- (a) for consistency with the *Alberta Rules of Court* (AR 124/2010) as amended from time to time;
- (b) as the result of the repeal of the *Alberta Rules of Court* (AR 390/68) or any provision or part of those Rules.

(2) An amendment under subsection (1) may be made notwithstanding that the regulation being amended was made by a member of the Executive Council or some other person or body.

2014 c13 s29

**Ministerial regulations**

**28.3** The Minister may make regulations respecting court-annexed dispute resolution processes.

2009 c53 s1

**Part 5  
Extra-curial Orders****Special jurisdiction**

**29(1)** When special jurisdiction is given by an Act to a judge as persona designata, the judge is deemed to have that special jurisdiction as a judge of the court to which the judge belongs, and

- (a) for enforcing the judge's orders and judgments,
- (b) as to proceedings generally, and
- (c) as to costs and otherwise,

the judge has the same jurisdiction as in matters under the judge's ordinary jurisdiction as a judge of that court, so far as that jurisdiction is not varied or it is not otherwise directed by the Act conferring the special jurisdiction.

**(2)** No appeal lies from the judgment, order or decision of a judge made under subsection (1) unless

- (a) an appeal is expressly authorized by the Act giving the jurisdiction, or
- (b) permission is granted by the judge or by a judge of the Court.

**(3)** An order of a judge of the Court made under statutory authority as mentioned in subsection (1) may be filed with the court clerk at the judicial centre at which the matter is heard.

**(4)** On an order being so filed it becomes an order of the Court, and may be enforced in the same manner and by the same process as if made in ordinary proceedings in the Court.

**(5)** The like fees as would be payable on the issue of an order made by a judge of the Court, in the exercise of the judge's ordinary jurisdiction, are payable at the time of filing the order.

**(6)** Every order filed under this section shall be entered in the same manner as a judgment of the Court.

RSA 2000 cJ-2 s29;2009 c53 s1;2014 c13 s29

## Part 6 Functions of Judicial Council and Complaints Procedure

### Definitions

**30** In this Part,

- (a) “complaint” means a complaint under section 9.4 of the *Provincial Court Act*, section 15 of the *Court of Queen’s Bench Act* or section 10 of the *Justice of the Peace Act*;
- (b) “judge” means a judge as defined in the *Provincial Court Act*;
- (c) “Judicial Council” means the Judicial Council established under section 31(1);
- (d) “judicial inquiry” means a judicial inquiry conducted under section 35;
- (e) “justice of the peace” means a justice of the peace appointed under the *Justice of the Peace Act* but does not include a justice of the peace designated as a non-presiding justice of the peace;
- (f) “master” means a master in chambers as defined in the *Court of Queen’s Bench Act*;
- (g) “respondent” means the judge, master in chambers or justice of the peace against whom a complaint has been made.

RSA 2000 cJ-2 s30;RSA 2000 c16(Supp) s27;  
2008 c13 s14;2011 c20 s8

### Judicial Council

**31(1)** The Judicial Council is established and shall consist of

- (a) the Chief Justice of Alberta or a designate of the Chief Justice,
- (b) the Chief Justice of the Court of Queen’s Bench or a designate of the Chief Justice,
- (c) the Chief Judge of The Provincial Court of Alberta or a designate of the Chief Judge,
- (d) the President of The Law Society of Alberta or a designate of the President, and
- (e) not more than 2 other persons appointed by the Minister of Justice and Solicitor General.

(2) The Judicial Council shall designate one of its members as the chair of the Judicial Council.

(3) The Judicial Council may make rules of procedure governing its proceedings.

(4) Repealed RSA 2000 c16(Supp) s27.

RSA 2000 cJ-2 s31;RSA 2000 c16(Supp) s27;2013 c10 s20

### **Powers of Judicial Council**

**32** The Judicial Council may

- (a) consider proposed appointments of persons as masters, judges and justices of the peace and report its recommendations to the Minister of Justice and Solicitor General,
- (b) receive complaints about masters, judges and justices of the peace and deal with them in accordance with this Part,
- (c) establish rules relating to conflicts of interest and a code of ethics for masters, judges and justices of the peace, and
- (d) carry out any other function authorized by an enactment.

RSA 2000 cJ-2 s32;2013 c10 s20

### **Staff**

**33** In accordance with the *Public Service Act*, there may be appointed officers and employees required to conduct the business of the Judicial Council.

1998 c18 s2

### **Complaints**

**34(1)** A complaint may be made

- (a) to the Chief Judge of the Provincial Court in the case of a complaint about a judge or justice of the peace or to the Chief Justice of the Court of Queen's Bench in the case of a complaint about a master, or
- (b) to the Judicial Council.

(2) The Chief Judge or the Chief Justice, as the case may be, shall review any complaints made under subsection (1)(a) and shall review any matter regarding the conduct of a judge, justice of the peace or master that comes to the Chief Judge's or Chief Justice's attention, whether or not a complaint has been made, and may do one or more of the following:

- (a) reprimand the judge, justice of the peace or master, as the case may be;

- (b) take corrective measures;
- (c) refer the matter to the Judicial Council;
- (d) determine that no further action need be taken.

**(3)** The Chief Judge may delegate the function of reviewing a matter or complaint in respect of a justice of the peace referred to in subsection (2) to the person referred to in section 9(1)(b) of the *Justice of the Peace Act*.

**(4)** The Judicial Council shall receive and informally inquire into a complaint received by it under subsection (1) or referred to it under subsection (2)(c) and may do one or more of the following:

- (a) reprimand the judge, justice of the peace or master, as the case may be;
- (b) take corrective measures;
- (c) refer the complaint for a judicial inquiry;
- (d) dismiss the complaint if it is frivolous or vexatious or is not about a matter in respect of which a complaint may be made;
- (e) determine that no further action need be taken.

**(5)** The proceedings under this section are not public.

**(6)** Where

- (a) the Judicial Council finds that a complaint is frivolous or vexatious or is not about a matter in respect of which a complaint may be made, or
- (b) the Chief Justice of the Court of Queen's Bench, the Chief Judge of the Provincial Court or the Judicial Council determines that no further action need be taken,

the Judicial Council, the Chief Justice or the Chief Judge, as the case may be, shall in writing advise the complainant as to why that conclusion was reached.

RSA 2000 cJ-2 s34;2011 c20 s8

#### **Judicial inquiries**

**35(1)** Where a complaint is referred for a judicial inquiry, the Judicial Council shall establish a judicial inquiry board consisting of one or more judges of any court in Alberta or may, if it is in the public interest to do so, appoint one or more judges from any other court in Canada.

- (2) If more than one person is appointed to conduct the judicial inquiry, a decision by a majority of the members constitutes a decision by the judicial inquiry board.
- (3) The judicial inquiry board has, in conducting an inquiry under this section, all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.
- (4) The respondent shall be given
- (a) reasonable notice of the time and place of the inquiry and the matter to be investigated, and
  - (b) the opportunity for the respondent or the respondent's counsel to be heard and to cross-examine witnesses and adduce evidence.

1998 c18 s2

**Inquiry in private**

- 36(1)** The proceedings of the judicial inquiry are not public, but the judicial inquiry board may make public the fact that an investigation is being undertaken.
- (2) The judicial inquiry board may order that information or documents relating to its proceedings not be published or disclosed.

1998 c18 s2

**Report of recommendations**

- 37(1)** After investigating a complaint under this section, the judicial inquiry board shall prepare a report, which must set out
- (a) the facts found by the judicial inquiry board, and
  - (b) the findings of the judicial inquiry board as to whether there was a basis for the complaint and if there was, the recommendations of the judicial inquiry board, if any, for a sanction.
- (2) The judicial inquiry board may recommend any one or more of the following sanctions:
- (a) that the respondent be warned;
  - (b) that the respondent be reprimanded;
  - (c) that, as a condition of continuing to sit as a judge, justice of the peace or master, as the case may be, the respondent apologize to the complainant or to any other person;
  - (d) that, as a condition of continuing to sit as a judge, justice of the peace or master, as the case may be, the respondent take specified measures, such as receiving education or

treatment with or without taking a leave of absence and with or without pay;

- (e) that the respondent be suspended with pay for any period;
- (f) that the respondent be suspended without pay for a period of up to 90 days;
- (g) that the respondent be retired from office;
- (h) that the respondent be removed from office.

**(3)** A sanction referred to in subsection (2)(g) or (h) may be recommended only if there was a finding of misbehaviour, neglect of duty or inability to perform duties.

**(4)** The report of the judicial inquiry board shall be made public, and a copy shall be given to the Judicial Council, the Minister of Justice and Solicitor General, the respondent and the complainant.

RSA 2000 cJ-2 s37;2013 c10 s20

### Sanctions

**38(1)** On receipt of a report of the judicial inquiry board, the Judicial Council shall review the report of the judicial inquiry board and,

- (a) if the judicial inquiry board has determined that there was a basis for the complaint, impose, subject to subsection (2), the sanction recommended by the judicial inquiry board or any other sanction referred to in section 37(2) that it considers appropriate, except a sanction referred to in section 37(2)(g) or (h), or
- (b) if the inquiry board had determined that the complaint was unfounded, dismiss the complaint.

**(2)** Where the sanction to be imposed on the respondent is a sanction referred to in section 37(2)(g) or (h), the Judicial Council may recommend to the Lieutenant Governor in Council that the sanction be imposed.

**(3)** When the Judicial Council has dealt with a complaint regarding a respondent, it shall inform the complainant and the respondent of its disposition.

1998 c18 s2

### Costs

**39** The Judicial Council, on the conclusion of any hearing, may make an order regarding costs as it considers just, including costs relating to the judicial inquiry board.

1998 c18 s2



**Decisions final**

**40** The findings and recommendations of the judicial inquiry board and the decisions of the Judicial Council are final, and no appeal lies from the findings, recommendations and decisions.

1998 c18 s2

**Order to retire or remove**

**41** If a sanction under section 37(2)(g) or (h) is recommended by the Judicial Council, the Lieutenant Governor in Council may make an order to retire or remove, as the case may be, the respondent from office, and to revoke the appointment.

1998 c18 s2

**Complaints**

**41.1(1)** In this section,

- (a) “administrative decision” means a decision made,
  - (i) in the case of a judge, by a supervisory judge that relates to administrative or supervisory matters in respect of the judge, including any decision made pursuant to section 9.1(5) or (6) or 9.42 of the *Provincial Court Act*;
  - (i.1) in the case of a judge, by the Chief Judge that relates to a request for reappointment of the judge made pursuant to section 9.23(2) or (4)(a) of the *Provincial Court Act*;
  - (i.2) in the case of a judge, by the Chief Judge that relates to a request for appointment or reappointment of the judge as a part-time judge made pursuant to section 9.24 of the *Provincial Court Act*;
  - (ii) in the case of a justice of the peace, by a supervisory judge that relates to administrative or supervisory matters in respect of the justice of the peace, including any decision made pursuant to section 9 of the *Justice of the Peace Act*;
- (b) “complaint” means a complaint made about an administrative decision;
- (c) “supervisory judge” means
  - (i) in respect of a judge, the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge of the Provincial Court of Alberta;
  - (ii) in respect of a justice of the peace, the Chief Judge of the Provincial Court of Alberta or another judge to

whom a delegation is made under section 9(1)(b) or 9(2) of the *Justice of the Peace Act*.

- (2) Subject to this section and section 9.1(7) of the *Provincial Court Act*, an administrative decision is final and no appeal lies from that decision.
- (3) Where a judge or a justice of the peace wishes to make a complaint, that person shall make the complaint to the Judicial Council.
- (4) The Judicial Council shall not consider a complaint unless
- (a) the complaint is made in writing,
  - (b) the supervisory judge in respect of whom the complaint is made is given written notification of the complaint prior to or at the time that the complaint is made to the Judicial Council, and
  - (c) the complaint is made to the Judicial Council within 30 days from the day that the complainant is notified in writing of the administrative decision in respect of which the complaint is made.
- (5) The Judicial Council shall, subject to subsection (4), receive and informally inquire into a complaint made to it and may do one or more of the following:
- (a) confirm, rescind or vary the administrative decision;
  - (b) rescind the administrative decision and make any administrative decision that the supervisory judge is entitled to make;
  - (c) return the matter to the supervisory judge for reconsideration and make any recommendations that the Judicial Council considers appropriate;
  - (d) grant any interim relief that the Judicial Council considers appropriate.
- (6) The proceedings under this section are not public.
- (7) The Minister may by order establish or otherwise provide for a tariff of fees and expenses that may be paid by the Government to parties to proceedings conducted under this section to reimburse them, to the extent of the tariff, for their costs of legal representation in respect of those proceedings.
- (8) Where the Minister establishes or otherwise provides for a tariff of fees and expenses under subsection (7), the Government is

not liable for nor can it be compelled to pay an amount that is greater than that established or otherwise provided for under that tariff.

RSA 2000 c16(Supp) s73;2001 c24 s9;2003 c42 s11;  
2005 c15 s7;2011 c20 s8

### **No judicial review**

**41.2(1)** In this section, “complaint proceedings” means

- (a) any decision made or any proceedings or actions taken under this Part in respect of or arising out of a complaint as defined in section 30;
- (b) any decision, finding or recommendation by or proceedings before a judicial inquiry board established under section 35;
- (c) any administrative decision as defined in section 41.1 and any decision made or any proceedings or actions taken under section 41.1 in respect of a complaint as defined in section 41.1.

**(2)** Subject to section 9.1(7) of the *Provincial Court Act*,

- (a) no complaint proceedings shall be questioned or reviewed in any court by application for judicial review or otherwise, and
- (b) no order shall be made, process entered or proceedings taken in any court, whether by way of certiorari, injunction, declaratory judgment, prohibition, quo warranto, application to quash or set aside or otherwise, to question, review, prohibit or restrain any complaint proceedings or the person, the Judicial Council or a judicial inquiry board that presided or is presiding over the complaint proceedings.

RSA 2000 c16(Supp) s73

## **Part 7 Compensation Commissions**

### **Compensation commissions**

**42(1)** One or more commissions must be established in accordance with the regulations under subsection (3) to review the remuneration and benefits to be paid to judges, justices of the peace and masters as defined in Part 6 and to make recommendations with respect to any changes in remuneration and benefits.

**(2)** The commission or commissions must be established on or before April 1 in 2006 and 2009 and every 4 years thereafter.

- (3) The Lieutenant Governor in Council, on the recommendation of the Minister of Justice and Solicitor General, may make regulations
- (a) establishing a commission for the purposes of this section;
  - (b) respecting the procedure of the commission;
  - (c) respecting appointments to the commission, including persons or categories of persons who are not eligible to be appointed to the commission;
  - (d) respecting the criteria on which the commission must base its review and recommendations;
  - (e) respecting the time within which the commission must complete its review and make recommendations;
  - (f) respecting the implementation of any recommendations of the commission;
  - (g) respecting the costs of the commission;
  - (h) respecting any other matter the Lieutenant Governor in Council considers necessary to carry out the purposes of this Part.

RSA 2000 cJ-2 s42;2004 c11 s3;2013 c10 s20

## **Part 8**

### **Service of Documents During Postal Interruptions**

#### **Definitions**

**43** In this Part,

- (a) “authorizing instrument” means
  - (i) a law, contract or instrument that requires, provides for or permits service by mail, and
  - (ii) if the common law requires or permits service by mail, the common law;
- (b) “offer” includes an option that the optionor is required to hold open until accepted or rejected by the optionee within a specified time limit;
- (c) “postal interruption” means a cessation of normal public postal service in Canada or in any part of Canada that is or may reasonably be expected to be of more than 48 hours’ duration;

- (d) “service by mail” means service by ordinary mail, registered mail, double registered mail, certified mail and any other form of delivery by a public postal service.

1980 c88 s1

**Application of Part**

**44(1)** This Part applies if

- (a) an authorizing instrument provides for, requires or permits service by mail,
- (b) the authorizing instrument does not require an alternative mode of service during a postal interruption, and
- (c) a postal interruption causes or may reasonably be expected to cause delay in the service by mail.

**(2)** Subject to section 45(2), this Part applies to the acceptance of an offer by service by mail.

1980 c88 s2

**Effective service by mail**

**45(1)** Notwithstanding anything contained in the authorizing instrument, if service by mail is attempted

- (a) during a postal interruption,
- (b) during the 5 days preceding the day on which a postal interruption commences, or
- (c) during the 5 days following the day on which the postal interruption terminates,

that service is effective only on actual receipt of the thing to be served.

**(2)** This section does not apply to the acceptance of an offer by service by mail.

1980 c88 s3

**Alternative forms of service**

**46** The service by mail required, provided for or permitted in an authorizing instrument may be effected by the alternative mode of service provided for or permitted in the authorizing instrument, or, if the authorizing instrument does not provide for or permit an alternative mode and notwithstanding the provisions of the authorizing instrument, by

- (a) personal service,

- (b) delivery to an address for service given by the person to be served as an address for service unless that address is or is at a Post Office,
- (c) delivery to the registered office of a company or a society,
- (d) delivery to or to the office of the attorney of an extra-provincial company, or
- (e) a mode of service directed by the Court under section 47.

1980 c88 s4

**Application to Court**

**47(1)** The Court may, notwithstanding the provisions of an authorizing instrument but before the expiration of the period of time for service of anything prescribed in the authorizing instrument,

- (a) give directions for a mode of service not specified in section 46(b) to (e),
- (b) if the authorizing instrument is a law, substitute a new time requirement or limitation period in place of that provided by the authorizing instrument, and
- (c) impose terms and conditions on the mode of service, time requirement or limitation period.

**(2)** An application under subsection (1) may be made ex parte.

**(3)** A copy of the order shall be served with the thing to be served.

**(4)** The Provincial Court may exercise the powers of the Court under this section in respect of a notice or document filed in or authorized by the Provincial Court.

RSA 1980 cJ-1 s37

**Interpretation Act**

**48** This Part operates notwithstanding section 23 of the *Interpretation Act*.

1981 c50 s4

## **Part 9 Court Security**

**Definitions**

**49** In this Part,

- (a) “courthouse” means a building in which a courtroom is located;

- (b) “courtroom” means any place where a justice of the Court of Appeal or Court of Queen’s Bench, a judge of the Provincial Court or a justice of the peace holds court;
- (c) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (d) “restricted area” means any portion of a courthouse to which access by the public is restricted and that is identified as a restricted area by a sign;
- (e) “security officer” means a person, or a member of a class of persons, appointed by the Minister under section 50;
- (f) “weapon” means any substance or thing that in the opinion of a security officer could be used to threaten or harm any person or cause damage to property and includes, without limitation, a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition, prohibited ammunition and an explosive device, within the meaning of the *Criminal Code* (Canada).

RSA 2000 cJ-2 s49;RSA 2000 c16(Supp) s36;  
2002 c32 s9;2003 c41 s1

#### **Security officers**

**50(1)** The Minister may appoint persons or a class of persons as security officers for the purpose of providing security in a courthouse.

**(2)** Every security officer has, for the purposes of this Part, the powers of a peace officer.

RSA 2000 cJ-2 s50;2003 c41 s1

#### **Identity checks and weapon screening**

**51(1)** Before a person enters a courtroom or courthouse a security officer may

- (a) require the person to satisfy the security officer as to the person’s identity, and
- (b) screen the person for weapons.

**(2)** If the security officer is not satisfied as to the person’s identity, the person refuses to be screened for weapons or the person has possession of a weapon, the security officer may refuse the person entry to the courthouse or a courtroom and use as much force as is reasonably necessary to prevent the person from entering.

(3) A security officer may at any time require a person, other than a peace officer or a person authorized by the regulations to have possession of a weapon in a courthouse, who the security officer reasonably believes has possession of a weapon to leave the courthouse and may use as much force as is reasonably necessary to force the person to leave.

RSA 2000 cJ-2 s51;2002 c32 s9

### Offences

**52(1)** Every person who enters or attempts to enter or remains in a courthouse or a restricted area after having been refused entry or after having been requested to leave by a security officer is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a period not exceeding one year or to both fine and imprisonment.

(2) Every person who has possession of a weapon in a courthouse, other than a peace officer or a person authorized by the regulations to have possession of a weapon in a courthouse, is guilty of an offence and liable to a fine of not more than \$10 000 or to imprisonment for a period not exceeding one year or to both fine and imprisonment.

1997 c13 s2

### Non-derogation of judges' powers

**53** Nothing in this Part derogates from or is intended to replace the power of a judge, whether established by common law or otherwise, to control proceedings in a courtroom.

1997 c13 s2

### Regulations

**54** The Lieutenant Governor in Council may make regulations

- (a) providing for the organization, co-ordination, supervision, discipline and control of security officers;
- (b) designating persons authorized to have possession of weapons in a courthouse.

1997 c13 s2

## Part 10 Miscellaneous

### Misuse of court forms, etc.

**55** Any person using any court process or form or any process or form similar to it in any manner likely or intended to deceive any other person is guilty of an offence and liable to a fine of not less than \$100 and not more than \$500 or to a term of imprisonment not exceeding 6 months, or to both.

RSA 1980 cJ-1 s38



**Demise of the Crown**

**56(1)** The holding of an office under the Crown in right of Alberta is not affected by nor is a fresh appointment to it necessary on the demise of the Crown.

**(2)** The right or capacity of a person in Alberta to practise, engage in or pursue a profession, occupation or calling is not affected by the demise of the Crown.

**(3)** On the demise of the Crown, it is not necessary for a person again to take an oath of allegiance or an oath of office in respect of an office, profession, occupation or calling.

**(4)** The Legislature is not dissolved by the demise of the Crown and continues as if the demise had not occurred.

RSA 1980 cJ-1 s39;1983 cL-10.1 s57

**Regulations regarding the demise of the Crown**

**56.1(1)** The Lieutenant Governor in Council may, by regulation, amend any Act or regulation to make any necessary changes as a result of the demise of the Crown.

**(2)** The regulations authorized by this section may be made notwithstanding that a regulation being amended was made by a member of the Executive Council or some other person or body.

2018 c20 s9

**Removal of sex disqualification**

**57** A person is not to be disqualified by sex or marriage

- (a) from the exercise of a public function,
- (b) from being appointed to or holding a civil or judicial office or post,
- (c) from entering or assuming or carrying on a civil profession or vocation, or
- (d) for admission to an incorporated society.

RSA 1980 cJ-1 s40

**Time of attaining particular age**

**58(1)** The time at which a person attains a particular age expressed in years shall be on the commencement of the relevant anniversary of the date of the person's birth.

**(2)** This section applies only where the relevant anniversary falls on a date after July 1, 1971, and in relation to any enactment, deed, will or other instrument, has effect subject to any provision in it.

RSA 1980 cJ-1 s41

**Minor's wages**

**59** Minors may sue for wages in the same way as if they were of full age.

RSA 1980 cJ-1 s42

**Defence of common employment**

**60** It is not a good defence in law by an employer or the successor or legal representative of an employer to an action for damages for the injury or death of an employee of the employer that the injury or death resulted from the negligence of an employee engaged in a common employment with the injured employee, notwithstanding a contract or agreement to the contrary.

RSA 1980 cJ-1 s43

**Crown costs**

**61** In any proceeding to which Her Majesty is a party, either as represented by the Minister of Justice and Solicitor General of Alberta or otherwise, costs adjudged to Her Majesty shall not be disallowed or reduced on assessment merely because the solicitor or the counsel who earned the costs or in respect of whose services the costs are charged

- (a) was a salaried officer of the Crown performing those services in the discharge of the officer's duty and remunerated for it by the officer's salary, or
- (b) was for that or any other reason not entitled to recover any costs from the Crown in respect of the services so rendered,

and the costs recovered by or on behalf of Her Majesty in any such case must be paid into the General Revenue Fund.

RSA 2000 cJ-2 s61;2009 c53 s1;2013 c10 s20

**Contingent fees**

**62(1)** No agreement between a barrister and solicitor and a client respecting the barrister's and solicitor's fees is invalid or unenforceable solely by reason of the fact that the amount of the fee is contingent or dependent, in whole or in part, on the successful accomplishment or disposition of the matter to which the fee relates, if the agreement is made in compliance with the rules made under this section.

**(2)** The Lieutenant Governor in Council may by the Rules of Court make rules prescribing conditions, restrictions and prohibitions to which any such agreement shall be subject.

RSA 1980 cJ-1 s46

**Validation of Alberta Rules of Court**

**63(1)** In this section, “Alberta Rules of Court” means the *Alberta Rules of Court* (AR 390/68) as amended prior to the coming into force of this section.

**(2)** The Alberta Rules of Court are validated notwithstanding that any provision in the Rules may affect substantive rights.

RSA 2000 cJ-2 s63;2004 c11 s3



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