



Province of Alberta

JURY ACT

Revised Statutes of Alberta 2000 Chapter J-3

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

	Alta. Reg.	<i>Amendments</i>
Jury Act		
Jury Act.....	68/83	124/84, 155/87, 243/89, 81/93, 310/93, 87/97, 206/2001, 251/2001, 18/2003, 65/2005, 150/2006, 164/2010, 178/2010, 170/2012

JURY ACT

Chapter J-3

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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) “clerk” means the clerk of the Court for the judicial centre in the judicial district in which the Court is sitting;
- (b) “Court” means the Court of Queen’s Bench;
- (c) “expenses” includes, in relation to the conducting of a trial with a jury,
 - (i) the costs of summoning a jury panel and any costs incidental to the summoning,
 - (ii) the fees and allowances paid to jurors,
 - (iii) costs arising from the order of a judge to view evidence under section 15, and
 - (iv) costs for food, refreshments, accommodation and other requirements for a jury;
- (d) “judge” means a judge of the Court;
- (e) “juror” means a person sworn as a juror under section 11(3);
- (f) “jury panel” means those persons summoned pursuant to section 8;
- (g) “jury panel list” means a list prepared under section 8(4);
- (h) “municipality” means a city, town, village, municipal district, special area, improvement district or Metis settlement;
- (i) “proper officer of a municipality” includes, in addition to the person who has the actual custody or control of the public papers referred to in section 7(a), (b) or (c), the chief administrative officer of the municipality or, in the case of a Metis settlement, the settlement administrator;
- (j) “sheriff” means a person designated as a sheriff by the Minister of Justice and Solicitor General.

RSA 2000 cJ-3 s1;2009 c53 s91;2011 c14 s13;
2013 c10 s34

Application

- 2** Except as otherwise stated or where this Act is inconsistent with the *Criminal Code* (Canada) or with any other statute of Canada

respecting criminal procedure, this Act applies to civil and criminal proceedings tried by a jury in Alberta.

1982 cJ-2.1 s2

Qualifications of jurors

3 Every person who is

- (a) resident in Alberta,
- (b) a Canadian citizen, and
- (c) 18 years of age or older,

is qualified to serve as a juror.

1982 cJ-2.1 s3

Exclusion from jury service

4 The following persons are excluded from serving as jurors:

- (a) members of the Privy Council, the Senate and the House of Commons of Canada;
- (b) members of the Legislative Assembly of Alberta and the Executive Council;
- (c) members of the council of a municipality or members of a board of trustees of a school division;
- (d) judges of the Provincial Court, justices of the Court of Appeal and Court of Queen's Bench and justices of the peace, whether retired or not;
- (e) barristers and solicitors, whether or not they are practising, and students-at-law;
- (f) medical examiners under the *Fatality Inquiries Act*;
- (g) officers and employees of the Legislative Assembly of Alberta;
- (h) persons who
 - (i) have been convicted of a criminal offence for which a pardon has not been granted, or
 - (ii) are currently charged with a criminal offence;
- (i) witnesses summoned to attend before the Legislative Assembly or a committee of the Legislative Assembly during the period that their attendance is required;

- (j) persons confined in an institution;
- (k) persons engaged in the administration of justice, including
 - (i) members and employees of any police service,
 - (ii) probation officers,
 - (iii) employees of the Department of Justice and Solicitor General, and
 - (iv) employees of the Department of Justice of Canada or the Department of the Solicitor General of Canada.

RSA 2000 cJ-3 s4;2008 c20 s2;2012 cE-0.3 s273;2013 c10 s36

Exemption from jury service

5(1) The following persons may be exempted from serving as jurors:

- (a) a person whose conscience or religious vows preclude the person from serving on a jury;
- (b) a person who has served on a jury within the 2 years preceding the person's summons to serve on a jury;
- (c) a person for whom service on a jury will cause severe hardship in respect of the person's health or livelihood or in respect of any legal or moral obligations the person may have to others;
- (d) a person who does not reside within a reasonable distance of the place where the proceedings are to be tried;
- (e) a person who suffers from a physical, mental or other infirmity that is incompatible with the discharge of the duties of a juror;
- (f) a person who is unable to understand, speak or read the language in which the trial is to be conducted;
- (g) a person whose service on a jury would be contrary to the public interest by reason of that person's performance of urgent and essential services of public importance that cannot reasonably be rescheduled or performed by another during that person's absence;
- (h) a person 65 years of age or over.

(2) On application in the prescribed manner, if a sheriff is satisfied that a person is eligible for exemption under subsection (1), the sheriff shall exempt the person from jury service.

(3) If the sheriff refuses to exempt a person, that person may either

(a) on application, prior to the date on which the person has been summoned to attend for the selection of the jury, appeal to any judge, or

(b) at the time of the selection of the jury, appeal to the judge that is presiding at the jury selection.

(4) In the case of an appeal pursuant to subsection (3)(a), the clerk shall inform the sheriff if a person has been exempted from serving as a juror.

1982 cJ-2.1 s5

Aiding jurors

6(1) Section 5(1)(e) does not apply to a person who suffers from a physical infirmity and wishes to serve as a juror who

(a) if aided would be able to see and hear adequately and to attend court in adequate comfort, and

(b) will receive the assistance of a person, a device or altered physical surroundings that the Court considers adequate to enable the person to discharge the duties of a juror.

(2) A person giving assistance under subsection (1)(b) may, as directed by the Court, attend with and assist the juror in all the proceedings, including the deliberations of the jury.

(3) A person giving assistance under subsection (1)(b) shall not comment on the proceedings and shall take part in the proceedings only by assisting the juror as the Court directs.

1992 c17 s2

Information from municipalities

7 On the request of a sheriff, the proper officer of each municipality situated within or partly within the judicial district shall provide any information that may be of assistance to the sheriff respecting the selection of persons as jurors including

(a) the list of electors,

(b) the assessment rolls, and

(c) any other public papers

under the actual custody or control of the proper officer.

1982 cJ-2.1 s6

Selection of jury panel

8(1) When a jury is required, the clerk shall immediately direct the sheriff to summon a sufficient number of persons from which the jury is to be selected.

(2) The persons to be summoned shall be selected at random in accordance with the regulations.

(3) The sheriff shall, within a reasonable time before the day on which the person is to attend, provide a summons in the prescribed form to each person selected

- (a) by sending it by ordinary mail, or
- (b) by giving it directly to the person or by leaving a copy at the person's residence or place of business with someone who is at least 16 years of age.

(4) The sheriff shall prepare a list of the names, addresses and occupations of the persons that have been summoned and shall deliver a copy of the list to the clerk.

(5) A party to a proceeding may receive a copy of the list referred to in subsection (4) on payment of the fee prescribed by the regulations and subject to any direction of the Court respecting its use.

(6) Notwithstanding anything in this section, the addresses of the persons that have been summoned shall not

- (a) be made available to any person other than the sheriff and the clerk, or
- (b) be included in any list provided under subsection (5).

RSA 2000 cJ-3 s8;RSA 2000 c16(Supp) s74

Challenge of jury panel

9(1) A party may challenge the selection of the jury panel on the ground that the sheriff exercised partiality or was fraudulent with respect to, or wilfully misconducted, the selection or summoning of the jury panel.

(2) The judge may require that a challenge under subsection (1) be made in writing.

(3) When a challenge is made under subsection (1), the judge shall determine whether the ground of challenge is true, and if the judge

is satisfied that it is true, the judge shall direct a new jury panel to be summoned.

1982 cJ-2.1 s8;1983 c37 s31

Jury panel

10 At the time of the selection of the jury, the judge may

- (a) conduct any inquiries that the judge considers necessary regarding the qualification or exclusion of any person on the jury panel,
- (b) direct the discharge from the jury panel of any person who the judge is satisfied is not qualified or is excluded, and
- (c) on the application or appeal of any person for an exemption, grant the exemption on being satisfied that the person who has applied is eligible for an exemption.

1982 cJ-2.1 s9

Empanelling jury

11(1) When

- (a) the jury panel is not challenged, or
- (b) the jury panel is challenged but the judge does not direct a new jury panel to be returned,

the clerk shall, in open court, select at random one at a time, from the remaining names on the jury panel list, a sufficient number to provide a full jury after allowing for challenges.

(2) After each name is selected, a party to the proceeding may in accordance with section 12 challenge the selection.

(3) The clerk shall swear or take an affirmation from each member of the jury in the order in which their names were drawn.

(4) If the number of persons on the jury panel who are in attendance is insufficient or is so reduced by exemptions, exclusions, challenges or persons being found not qualified as to be insufficient to select a full jury, additional persons shall be summoned immediately to be included on the jury panel.

(5) If it is considered necessary by the sheriff, persons may be summoned under subsection (4) by word of mouth.

(6) If at any time it appears to the judge that the persons forming the jury panel will not be required, the judge may discharge any or all the persons the judge considers unnecessary.

1982 cJ-2.1 s10

Challenge of jurors

12(1) In a civil proceeding a party to the proceedings has the right to challenge 3 persons peremptorily.

(2) In addition to any challenges that may be made under subsection (1), a party is entitled to any number of challenges for cause on the following grounds:

- (a) the name of the person does not appear on the jury panel list, but no misnomer or misdescription is a ground for challenge if it appears to the judge that the description given on the jury panel list sufficiently designates the person referred to;
- (b) the person is not qualified for or is excluded from serving as a juror;
- (c) the person has an interest in the proceeding or is not indifferent as between any parties to the proceeding who are adverse in interest;
- (d) the person is a potential witness in the proceeding;
- (e) the person suffers from a physical, mental or other infirmity that is incompatible with the discharge of the duties of a juror;
- (f) the person is unable to understand, speak or read the language in which the trial is to be conducted.

(3) No challenge for cause shall be allowed on a ground not mentioned in subsection (2).

(4) The judge may require that a challenge under subsection (2) be made in writing.

(5) When a challenge is made under subsection (2),

- (a) the judge shall determine whether the ground of challenge is true and, if the judge is satisfied that the ground of challenge is true, the judge shall discharge the person, and
- (b) the party making the challenge or any other party to the action may call the person as a witness and adduce any evidence that the judge considers relevant respecting the issue of whether the challenge is true.

1982 cJ-2.1 s11

Jury in a civil proceeding

13(1) In a civil proceeding a jury shall consist of 6 jurors.

(2) Any 5 of the jury may return a verdict or answer a question submitted to the jury by the judge, and the verdict or answer given by 5 jurors has the same effect as a verdict or answer given by 6 jurors.

(3) If, in the course of a trial, the judge is satisfied that a juror should not, because of illness or other reasonable cause, continue to act, the judge may discharge that juror.

(4) If, in the course of a trial, one juror dies or is discharged pursuant to subsection (3), the judge may direct the trial to proceed without the juror, and the verdict of the remaining jurors is valid if unanimous.

1982 cJ-2.1 s12

Impeachment of verdict

14 Failure to observe any one or more provisions of this Act is not grounds for impeaching a verdict in a civil proceeding unless a substantial miscarriage of justice results.

1982 cJ-2.1 s13

Viewing of evidence by jury

15(1) If it appears to the judge that in order to better understand the evidence the jurors who are to try the issues should view the place or the property in question, the judge may, before they give their verdict, order that the jurors be given that view.

(2) Repealed 2009 c53 s91.

(3) The order shall contain

- (a) directions to the sheriff as to the manner in which, and the persons by whom, the place or the property in question is to be shown to the jurors,
- (b) directions or terms respecting costs, and
- (c) any other directions or terms that under the circumstances the judge considers necessary.

RSA 2000 cJ-3 s15;2009 c53 s91

General or special verdict

16(1) In the absence of a direction to the contrary by the judge, a jury may give a general or special verdict, but shall only give a special verdict if the judge so directs and shall not give a general verdict if directed by the judge not to do so.

(2) A judge may, instead of directing the jury to give either a general or special verdict, direct the jury to answer any question of fact placed before them, and if so directed the jury shall answer the

question of fact, and the question and reply to it constitute a special verdict.

(3) A judgment may be directed to be entered on the answer to a question mentioned in subsection (2).

(4) This section does not apply to an action for defamation.

1982 cJ-2.1 s15

Right to jury in civil proceeding

17(1) Subject to subsections (1.1) and (2), on application by a party to the proceeding, the following shall be tried by a jury:

- (a) an action for defamation, false imprisonment, malicious prosecution, seduction or breach of promise for marriage,
- (b) an action founded on any tort or contract in which the amount claimed exceeds an amount prescribed by regulation, or
- (c) an action for the recovery of property the value of which exceeds an amount prescribed by regulation.

(1.1) If, on an application made under subsection (1) or on a subsequent application, a judge considers it appropriate, the judge may direct that the proceeding be tried by judge alone pursuant to the summary trial procedure set out in the *Alberta Rules of Court*.

(2) If, on an application for directions or on a subsequent application, it appears that the trial might involve

- (a) a prolonged examination of documents or accounts, or
- (b) a scientific or long investigation,

that in the opinion of a judge cannot conveniently be made by a jury, the judge may, notwithstanding that the proceeding has been directed to be tried by a jury, direct that the proceeding be tried without a jury.

(3) In this section, “proceeding” includes a counterclaim.

RSA 2000 cJ-3 s17;RSA 2000 c16(Supp) s74;2004 c11 s4;
2009 c53 s91;2014 c13 s30

Deposit of money for expenses with clerk

18(1) When a judge orders that a proceeding be tried by a jury, the party at whose request the order is made shall, unless otherwise ordered, deposit with the clerk within 10 days from the order being made a sum of money that the clerk considers sufficient to pay the expenses of conducting the trial by a jury, and if the sum is

insufficient, the party shall on demand by the clerk pay any further sum that the clerk requires.

(2) Any surplus money remaining after payment of the expenses shall be returned to the party who made the deposit.

1982 cJ-2.1 s17;1997 c18 s14

Costs to be apportioned between parties

19 If for any civil sittings of the Court a jury is required in more than one trial, the expenses of conducting a trial with a jury shall, at the end of the sittings, be apportioned between the parties and be paid as directed by a judge.

1982 cJ-2.1 s18

Separation of jury

20(1) A judge may, during the course of a trial, allow the jurors to separate.

(2) Where permission to separate cannot be given or is not given, the jury shall be kept under the charge of an officer of the Court as the judge directs, and that officer shall prevent the jurors from communicating with anyone other than that officer or another member of the jury without the permission of the judge.

(3) Where the jurors separate pursuant to subsection (1), no person shall, before the jury retires to consider its verdict, publish in any newspaper or broadcast any information regarding any portion of the trial at which the jury is not present.

(4) A person who contravenes subsection (3) is guilty of an offence and liable to a fine of not more than \$5000 or to imprisonment for not more than 3 months or to both fine and imprisonment.

(5) A person who discloses the contents of any discussions held by a jury on which the person has served is guilty of an offence and liable to a fine of not more than \$1000 or to imprisonment for not more than one month or to both fine and imprisonment.

(6) The judge shall direct the sheriff to provide the jurors with suitable and sufficient food, refreshment, accommodations and other requirements while they are together until they have given their verdict.

RSA 2000 cJ-3 s20;2014 c13 s30

Penalty for non-attendance by juror

21 A person summoned to serve as a juror, except a person who is not qualified, is excluded or has been exempted, who fails to obey the summons or fails to answer to the person's name when

called by the clerk is guilty of an offence and liable to a fine of not more than \$1000 or to imprisonment for not more than one month or to both fine and imprisonment.

1982 cJ-2.1 s20

Penalty for refusal to provide information

22 A proper officer of a municipality who contravenes section 7 is guilty of an offence and liable to a fine of not more than \$1000 or to imprisonment for not more than one month or to both fine and imprisonment.

1982 cJ-2.1 s21

Contempt of court

23(1) It is contempt of court for

- (a) a person interested in a proceeding, or
- (b) a barrister, solicitor, counsel or agent,

before or during the trial or at any time after a person has been summoned to serve as a juror, to knowingly, directly or indirectly, speak to or consult with that person respecting the proceeding or any matter or thing relating to the proceeding.

(2) It is contempt of court for a person, after the person has been summoned, to speak to or consult with

- (a) a person interested in a proceeding for which the person has been summoned, or
- (b) a barrister, solicitor, counsel or agent of that person,

respecting the proceeding or any matter or thing relating to the proceeding.

(3) This section does not apply if a person summoned to serve as a juror is not qualified or is excluded and does not serve as a juror in the proceeding, nor to anything that properly takes place in the course of the trial or the conduct of the proceeding.

1982 cJ-2.1 s22

Leave from employment to serve as juror

24(1) An employer shall allow an employee a sufficient leave of absence from the employee's employment to serve as a juror when that employee is summoned to serve as a juror.

(2) An employer or agent of an employer who, directly or indirectly, threatens to cause or causes actual loss of position or employment of an employee summoned because of the employee's response to the summons or the employee's service as a juror, is

guilty of an offence and liable to a fine of not more than \$5000 or to imprisonment not exceeding 3 months or to both fine and imprisonment.

1982 cJ-2.1 s23

Regulations

25 The Lieutenant Governor in Council may make regulations

- (a) prescribing the manner of applying for an exemption under section 5;
- (b) respecting the selection of persons to a jury panel;
- (c) prescribing the manner and form in which the names and addresses of persons on a jury panel are to be recorded;
- (d) respecting the selection of persons from the jury panel to provide a jury;
- (e) governing the fees, expenses and allowances payable to jurors;
- (f) prescribing forms to be used under this Act;
- (f.1) prescribing the amounts for the purposes of section 17(1)(b) and (c).

RSA 2000 cJ-3 s25;RSA 2000 c16(Supp) s74;
AR 49/2002 s10;2002 c30 s18;2009 c53 s91



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