



Province of Alberta

PROVINCIAL COURT ACT

Revised Statutes of Alberta 2000
Chapter P-31

Current as of January 1, 2019

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.

Amendments Not in Force

This consolidation incorporates only those amendments in force on the consolidation date shown on the cover. It does not include the following amendments:

2012 cE-0.3 s288 (2015 c12 s9 - effective January 1, 2019) amends s1(e.2).

2012 cE-0.3 s288 (2015 c12 s9 (unproclaimed) amends s22.

2013 c23 s11 (2014 c13 s11 - effective December 17, 2014) (2015 c12 s12 - effective January 1, 2019) adds s9.91, s12 amends s37(1)(a).

2015 c12 s6(4)(a)(v) amends s9.

Regulations

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

	Alta. Reg.	<i>Amendments</i>
Provincial Court Act		
Constitutional Notice	102/99	251/2001, 110/2012
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

Intake and Caseflow Management	150/2005	
Mediation Rules of the Provincial Court - Civil Division.....	271/97	
Provincial Court of Alberta Court Offices.....	322/2003	
Provincial Court of Alberta Seal	255/80	
Provincial Court Civil Forms	179/2018	
Provincial Court Civil Procedure	176/2018	205/2018
Provincial Court Fees.....	18/91	220/93, 251/2001, 47/2002, 216/2002, 91/2003, 139/2008, 164/2010, 71/2015, 76/2015, 176/2018
Provincial Court Judges and Masters in Chambers Compensation	176/98	14/99, 104/99, 211/99, 216/2000, 54/2001, 197/2001, 251/2001, 198/2002, 131/2003, 221/2004, 239/2004, 66/2005, 117/2005, 266/2006, 104/2007, 170/2007, 61/2008, 12/2009, 43/2009, 20/2012, 170/2012, 178/2015
Provincial Judges and Masters in Chambers Registered and Unregistered Pension Plans.....	196/2001	251/2001, 24/2002, 78/2002, 97/2002, 118/2005, 267/2006, 68/2008, 13/2009, 43/2009, 21/2012, 31/2012, 170/2012, 222/2017, 8/2019
<i>NOTE: AR 8/2019 comes into force on Mar 1, 2019</i>		
Sittings of the Provincial Court.....	144/80	414/81
Transcript Fees and Format.....	167/2010	31/2012, 170/2012, 62/2013, 145/2015

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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) “binding judicial dispute resolution proceeding” means a binding judicial dispute resolution proceeding referred to in section 64.1;
- (a.1) “claim” includes a third party claim unless the context requires otherwise;
- (a.2) “clerk” means a clerk or deputy clerk of the Provincial Court;
- (a.21) “defendant” means a person against whom a remedy is sought in a claim or counterclaim filed under Part 4;
- (a.3) “electronic” has the same meaning as in the *Electronic Transactions Act*;
- (a.4) “hearing” includes an application, proceeding or trial before the Court under Part 4;

- (b) “judge” means a judge of the Provincial Court appointed or approved to continue in office under this Act and includes a Chief Judge, Deputy Chief Judge, Assistant Chief Judge, part-time judge and supernumerary judge;
- (b.1) “Judicial Council” means the Judicial Council established under Part 6 of the *Judicature Act*;
- (c) “justice of the peace” has the same meaning as in the *Justice of the Peace Act*;
- (d) repealed 2011 c20 s8;
- (d.1) “local authority” means
 - (i) a city, town, village, summer village, municipal district, specialized municipality or Metis settlement,
 - (ii) the Minister responsible for the *Municipal Government Act*, in the case of an improvement district, or
 - (iii) the Minister responsible for the *Special Areas Act*, in the case of a special area;
- (d.2) “plaintiff” means a person who is named as plaintiff in a claim or counterclaim filed under Part 4;
- (e) “Provincial Court” or “Court” means The Provincial Court of Alberta;
- (e.1) “recorded mail” means a form of document delivery by mail or courier in which the receipt of the document must be acknowledged in writing;
- (e.2) “school board” means a board as defined in the *School Act*;
- (f) repealed 2011 c20 s8.

RSA 2000 cP-31 s1;RSA 2000 c16(Supp) s2;
2005 c15 s2;2011 c20 s8;2017 c22 s42;2015 c12 s6

Part 1

The Provincial Court of Alberta

The Provincial Court

2(1) There shall be a provincial court for Alberta to be styled “The Provincial Court of Alberta”.

(2) Repealed RSA 2000 c16(Supp) s3.

(3) The Provincial Court is a court of record.

RSA 2000 cP-31 s2;RSA 2000 c16(Supp) s3

Transition to new court name

2.1(1) The Lieutenant Governor in Council may amend section 2(1) so that the provincial court for Alberta is styled as something other than “The Provincial Court of Alberta”.

(2) For the purposes of making any necessary changes as a result of amendments made under subsection (1), the Lieutenant Governor in Council may, by regulation,

- (a) amend the title to this Act, and
- (b) amend this Act, the regulations under this Act or any other Act or any regulation.

(3) 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 s15

Staff

3(1) In accordance with the *Public Service Act*, there may be appointed officers and employees required to conduct the business of the Court.

(2) The Minister of Justice and Solicitor General may designate any officer or employee appointed under subsection (1) as a clerk or deputy clerk.

RSA 2000 cP-31 s3;RSA 2000 c16(Supp) s4;2013 c10 s34

Delegation of clerk’s duties

4(1) A clerk may authorize in writing a person to do any act or thing required or permitted to be done by a clerk under this or any other Act.

(2) An authorization given under this section may be

- (a) general or applicable to a particular case, and
- (b) conditional or unconditional.

(3) An authorization given under subsection (1)

- (a) purporting to be signed by the person giving it, and
- (b) stating that the person named in it is authorized under this section to do the act or thing set out in the written authorization,

or a copy of it, shall be admitted in evidence as proof, in the absence of evidence to the contrary, of that person's authorization to do the act or thing without proof of the signature or official character of the person appearing to have signed the authorization.

RSA 1980 cP-20 s16

Duties of clerk

5 In addition to performing the duties prescribed under this Act or any other Act, a clerk shall perform those duties assigned to the clerk by the Minister of Justice and Solicitor General.

RSA 2000 cP-31 s5;2013 c10 s34

Powers of clerk

6 A clerk, for the purpose of matters directed by the Court to be taken before the clerk, has power to administer oaths, take affidavits and statutory declarations, receive affirmations and examine parties and witnesses, as the Court may direct.

RSA 1980 cP-20 s18

Sending of documents by a clerk

6.1 Where a clerk is required or permitted to send a document, notice or other thing under this Act or a regulation under this Act, the clerk may send it

- (a) by ordinary mail,
- (b) by recorded mail,
- (c) by an electronic method, if the intended recipient has provided an electronic address for that purpose.

2001 c24 s2;2015 c12 s6

Duties of sheriffs, etc.

7 Sheriffs, deputy sheriffs, civil enforcement bailiffs, persons employed at correctional institutions and peace officers shall give assistance to and comply with the directions of the Court, the judges, and the justices of the peace in the exercise of the jurisdiction of the Court.

RSA 2000 cP-31 s7;AR 49/2002 s7;
2002 c30 s25;2011 c20 s8

Rules of Court

8(1) The practice and procedure of the Court shall be as provided in this Act and the regulations.

(2) Where this Act or the regulations do not provide for a specific practice or procedure of the Court that is necessary to ensure an expeditious and inexpensive resolution of a matter before the Court, the Court may

- (a) apply the *Alberta Rules of Court*, and
- (b) modify the *Alberta Rules of Court* as needed.

1996 c28 s37

Regulations**9(1)** The Lieutenant Governor in Council may make regulations

- (a) repealed RSA 2000 c16(Supp) s5;
- (b) respecting costs and interest in respect of proceedings in the Court;
- (c) governing the rates of fees, allowances and expenses payable to witnesses and interpreters;
- (d) prescribing fees payable for the filing or issuing of documents in respect of proceedings in the Court and providing for waiving the payment of those fees;
- (e), (f) repealed 2015 c12 s6;
- (g) respecting fees for making copies of orders, judgments and other documents;
- (h) respecting fees for searches of court files;
- (i) prescribing an amount, not to exceed \$50 000, for the purposes of section 9.6;
- (i.1) respecting the preparation of judgments and orders;
- (i.2) governing the practice and procedure of and in the Court and, without limiting the generality of the foregoing,
 - (i) respecting payment hearings and methods of payment referred to in section 44.2;
 - (ii) with respect to pre-trial conferences, binding judicial dispute resolution proceedings and mediations as defined in Part 4,
 - (A) respecting any practice or procedural matters not specifically provided for under sections 64 to 68;
 - (B) governing confidentiality of matters considered at pre-trial conferences, binding judicial dispute resolution proceedings and mediations;

- (C) making sections 37.1 and 64 to 68 applicable to matters before the Court that do not come under Part 4;
 - (D) varying section 37.1 and the provisions of sections 64 to 68 or substituting other provisions for section 37.1 and the provisions of sections 64 to 68 and making those varied or substituted provisions applicable to matters before the Court that do not come under Part 4;
 - (iii) except as otherwise provided for under this Act or another enactment, governing in respect of any matter before the Court the period of time within which an act is to be carried out, the attendance of a person is required, a document must be filed with the Court or a document must be served on any party;
 - (iv) determining when a notice period begins or ends, or both;
 - (v) in respect of family law proceedings, governing the obligations of parties to attend courses, workshops or similar undertakings;
 - (vi) respecting hearing procedures and requirements;
 - (i.3) respecting default judgments, failures to appear, staying, setting aside or varying of judgments and dismissals of claims or counterclaims;
 - (i.4) respecting the powers, duties and functions of clerks;
 - (i.5) respecting the entry or filing of a copy of an order or judgment and filing of a notice of appeal in the Court of Queen's Bench;
 - (j) respecting any matter necessary and advisable to carry out effectively the intent and purposes of this Act.
- (1.1)** The Court may make recommendations to the Minister of Justice and Solicitor General respecting regulations to be made under subsection (1)(i.2).
- (2)** The Minister of Justice and Solicitor General may make regulations
- (a) prescribing locations at which the Court shall maintain court offices;

- (b) requiring and governing the making of returns and reports by judges and clerks;
- (c) prescribing the records that must be maintained by the Court;
- (d) providing for the safekeeping, inspection and destruction of books, documents and papers of the Court and judges;
- (e), (f), (g) repealed 2015 c12 s6;
- (h) prescribing forms to be used in the Court or issued by the Court.

RSA 2000 cP-31 s9;RSA 2000 c16(Supp) s5; 2008 c32 s1;
2009 c53 s146;2013 c10 s34;2015 c12 s6

Part 1.1 Provincial Court Judges

Appointment of judges

9.1(1) The Lieutenant Governor in Council may appoint judges.

(2) No person other than a Canadian citizen may be appointed a judge.

(3) The Lieutenant Governor in Council shall designate one judge to be Chief Judge of the Court and may designate one judge to be Deputy Chief Judge of the Court.

(4) If the Chief Judge is ill, absent from Alberta or unable to act, the Deputy Chief Judge has all the powers and duties of the Chief Judge.

(5) Subject to section 9.42, the Chief Judge has the power and duty to supervise the judges in the performance of their duties, including the power and duty to

- (a) designate a particular case or other matter or class of cases or matters in respect of which a particular judge is to act;
- (b) designate which court facilities shall be used by particular judges;
- (c) assign duties to judges;
- (d) exercise any other powers and perform any other duties prescribed by the Lieutenant Governor in Council.

(6) The Chief Judge in consultation with the Assistant Chief Judges may designate the sittings of the Court.

(7) Where the Chief Judge makes any decision or takes any action with respect to a matter referred to in subsection (5) or (6) or any other matter relating to the administration of the Court, that decision or action is not subject to any type of judicial review by a superior court unless that decision or action is, in the opinion of a superior court, patently unreasonable or not within the powers, duties or jurisdiction of the Chief Judge.

(8) The Lieutenant Governor in Council may designate one or more judges as Assistant Chief Judges in respect of or for one or more of the following:

- (a) the Court;
- (b) a location within Alberta;
- (c) any particular matter or class of matters;
- (d) any circumstance or situation not referred to in clauses (a) to (c) that the Minister of Justice and Solicitor General considers appropriate.

(9) The Assistant Chief Judges shall perform those functions that are delegated to them by the Chief Judge.

(10) The Minister of Justice and Solicitor General may designate a judge to act in the place of the Chief Judge, Deputy Chief Judge or an Assistant Chief Judge

- (a) who is ill, absent from Alberta or unable to act, or
- (b) when the office is vacant.

(11) A judge designated under subsection (10) has the powers and duties of the Chief Judge, Deputy Chief Judge or Assistant Chief Judge, as the case may be.

RSA 2000 c16(Supp) s6;2013 c10 s34

Appointments of Chief Judge and Deputy and Assistant Chief Judges

9.11(1) A judge appointed as Chief Judge holds that office for a term of 7 years and may not be reappointed to that office.

(2) A judge appointed as Deputy Chief Judge holds that office for a term not exceeding 7 years as set out in the order appointing the Deputy Chief Judge and may not be reappointed to that office.

(3) A judge appointed as Assistant Chief Judge holds that office for a term of 5 years and may not be reappointed to that office or appointed to any other office of Assistant Chief Judge.

(4) This section applies only to a judge appointed as the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge after April 28, 1999.

RSA 2000 c16(Supp) s6

Oath of office

9.12(1) Every judge, before taking office as Chief Judge, Deputy Chief Judge, Assistant Chief Judge, judge or supernumerary judge, shall take and subscribe before the Chief Justice of Alberta, the Chief Justice of the Court of Queen's Bench of Alberta or the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge of the Provincial Court the oath of allegiance and the judicial oath prescribed by the *Oaths of Office Act*.

(2) The oath of allegiance and the judicial oath are to be transmitted forthwith by the judge to the Minister of Justice and Solicitor General or a person designated by that Minister.

RSA 2000 c16(Supp) s6;2013 c10 s34

Jurisdiction

9.2 Every judge has jurisdiction throughout Alberta and

- (a) shall exercise all the powers and perform all the duties conferred or imposed on a provincial judge or a judge of the Provincial Court by or under any Act of the Legislature or of the Parliament of Canada,
- (b) has all the power and authority vested by or under any Act of the Legislature in a magistrate or 2 justices of the peace sitting together,
- (c) may exercise all the powers and perform all the duties conferred or imposed on a magistrate, provincial magistrate or one or more justices of the peace under any Act of the Parliament of Canada, and
- (d) is, by virtue of being a judge, a justice of the peace, a notary public and a commissioner for administering oaths and taking affidavits.

RSA 2000 c16(Supp) s6

Inability of judge to complete proceedings

9.21 If a proceeding, other than a trial or application under the *Criminal Code* (Canada), has commenced and the presiding judge is unable for any reason to complete the proceedings, any judge requested to act by the Chief Judge or Deputy Chief Judge may continue the proceedings from where the proceedings were left off and, according to the opinion of the judge requested to act as to

what is required to ensure justice, that judge may continue the proceedings to completion or recommence the proceedings.

RSA 2000 c16(Supp) s6

Judgment by former judge

9.211 If a judge ceases to hold office without giving a judgment in any matter that was fully heard by that judge, that person may, within 3 months after ceasing to hold office, give judgment in that matter as if that person were still a judge of the Court, and that judgment has the same effect as though given by a judge of the Court.

2001 c24 s3

Retirement age

9.22(1) Subject to Part 6 of the *Judicature Act*, every judge must retire on attaining the age of 70 years.

(2) Subject to Part 6 of the *Judicature Act*, no judge may be removed from office before attaining retirement age.

RSA 2000 c16(Supp) s6

Continuation in office

9.23(1) Notwithstanding section 9.22(1), a judge may, in accordance with this section, be approved to continue in office as a judge.

(2) Where a judge, other than a judge referred to in subsection (3), has attained the age of 70 years, the Chief Judge may approve that person to continue in office as a judge for a term of one year.

(3) Where a judge who is the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge has attained the age of 70 years, the Judicial Council may approve that person to continue in office as a judge for a term of one year.

(4) Where a judge has been approved to continue in office as a judge under this section,

- (a)** in the case of a judge, other than a judge referred to in clause (b), the Chief Judge may approve that person to continue in office as a judge for a term of one year, and
- (b)** in the case of a judge who is the Chief Judge, the Deputy Chief Judge or an Assistant Chief Judge, the Judicial Council may approve that person to continue in office as a judge for a term of one year.

(5) The Chief Judge or the Judicial Council may approve a person to continue in office as a judge under this section if

- (a) the Chief Judge or the Judicial Council, as the case may be, determines that approving that person to continue in office will enhance the efficient and effective administration of the Court, and
- (b) the approval is given in accordance with and subject to the criteria established by the Chief Judge and approved by the Judicial Council.

(6), (6.1) Repealed 2017 c22 s42.

(7) A judge shall only be approved to continue in office under this section if

- (a) repealed 2017 c22 s42,
- (b) the judge has consented to continue in office,
- (c) the judge is not nor has been a supernumerary judge, and
- (d) the judge has not attained the age of 75 years.

(8) A judge who has been approved to continue in office under this section may, subject to subsection (7), be approved to continue in office under subsection (4) for further terms of one year.

(9) Notwithstanding anything in this section, if a judge who is approved to continue in office under this section attains the age of 75 years at any time during the judge's term, that judge's term expires when that judge attains that age.

(9.1) If a judge is approved to continue in office under this section, the Chief Judge or the Judicial Council, as the case may be, shall notify the person designated by the Minister of Justice and Solicitor General no later than 20 days before the effective date of the approval in the form approved by the Minister.

(10) Subject to Part 6 of the *Judicature Act*, no judge approved to continue in office under this section may be removed from office before the expiry of that judge's term.

(11) A judge who, on the coming into force of this subsection, is serving a term of office after having been reappointed under subsection (2), (3) or (4), as they read at any time before the coming into force of this subsection, is deemed, on the coming into force of this subsection, to have been approved to continue in office for the same term.

2001 c24 s4;2008 c32 s1;2014 c13 s10;2017 c22 s42

Part-time judge

9.24(1) Notwithstanding section 9.22(1), a judge may, in accordance with this section, continue in office as a part-time judge.

(2) Where a judge

- (a) has attained the age of 60 years,
- (b) has completed 10 years of service as a judge, and
- (c) states in writing to the Chief Judge that the judge is prepared to retire as a full-time judge in order to continue in office as a part-time judge,

the Chief Judge may approve that person to continue in office as a part-time judge on that person's retirement as a full-time judge if the Chief Judge determines that approving that person to continue in office will enhance the efficient and effective administration of the Court.

(3) Where a judge

- (a) is approaching the age of 70 years but has not attained age 70, and
- (b) states in writing to the Chief Judge that the judge is prepared to retire at age 70 as a full-time judge in order to continue in office as a part-time judge,

the Chief Judge may approve that person to continue in office as a part-time judge on that person's retirement as a full-time judge if the conditions in subsection (5) are met.

(3.1) Where a judge

- (a) has been approved to continue in office as a full-time judge pursuant to section 9.23, and
- (b) states in writing to the Chief Judge that the judge is prepared to retire as a full-time judge in order to continue in office as a part-time judge,

the Chief Judge may approve that judge to continue in office as a part-time judge on the judge's retirement as a full-time judge if the conditions in subsection (5) are met.

(4) Where a judge

- (a) is a part-time judge and the judge's term is about to expire, and
- (b) states in writing to the Chief Judge that the judge is prepared to continue in office as a part-time judge,

the Chief Judge may approve that person to continue in office for one year as a part-time judge if the conditions in subsection (5) are met.

(5) A The Chief Judge may approve a person to continue in office as a judge under subsection (3), (3.1) or (4) if

- (a) the Chief Judge determines that approving that person to continue in office under subsection (3), (3.1) or (4) will enhance the efficient and effective administration of the Court, and
- (b) the approval is given in accordance with and subject to the criteria established by the Chief Judge and approved by the Judicial Council.

(6), (6.1) Repealed 2017 c22 s42.

(7) A judge shall only be approved to continue in office as a part-time judge if

- (a) the judge has consented to continue in office as a part-time judge,
- (b) the judge is not nor has been appointed as a supernumerary judge, and
- (c) the judge has not attained the age of 75 years.

(8) The term for which a part-time judge is approved to continue in office under this section is as follows:

- (a) if the judge is approved to continue in office under subsection (2), the term commences on the date the judge is approved to continue in office as a part-time judge and expires on the commencement of the judge's 70th birthday;
- (b) if the judge is approved to continue in office under subsection (3), the term is one year commencing on the judge's 70th birthday;
- (b.1) if the judge is approved to continue in office under subsection (3.1), the term commences on the date the judge

is approved to continue in office as a part-time judge and expires on the commencement of the judge's next birthday;

- (c) if the judge is approved to continue in office under subsection (4), the term is one year commencing on the expiry of the previous term.

(9) A part-time judge must serve the equivalent of 6 months of full-time service during the year.

(10) Part-time judges shall, in addition to any pension benefits, be paid an annual salary of up to 50% of the annual salary of a full-time judge, but the total annual salary and pension benefits payable to a part-time judge cannot exceed the annual salary of a full-time judge.

(11) Notwithstanding anything in this section, the term of a part-time judge expires when the judge attains the age of 75 years.

(11.1) If a judge is approved to continue in office under this section, the Chief Judge shall notify the person designated by the Minister of Justice and Solicitor General no later than 20 days before the effective date of the approval in the form approved by the Minister.

(12) Subject to Part 6 of the *Judicature Act*, no part-time judge approved to continue in office under this section may be removed from office before the expiry of that judge's term.

(13) A judge who, on the coming into force of this subsection, is serving a term of office after having been appointed or reappointed under subsection (2), (3), (3.1) or (4), as they read at any time before the coming into force of this subsection, is deemed, on the coming into force of this subsection, to have been approved to continue in office for the same term.

2005 c15 s3;2007 c9 s2;2007 c36 s3;2008 c32 s1;
2011 c20 s11;2014 c13 s10;2017 c22 s42

Supernumerary judge

9.3(1) Where

- (a) a judge retires,
- (b) the term of office of a judge approved to continue in office under section 9.23 expires, or
- (c) the term of office of a judge approved to continue in office under section 9.24 expires,

that person may elect to become a supernumerary judge.

- (2) A judge who is retired from office under Part 6 of the *Judicature Act* is not entitled to elect to become a supernumerary judge.
- (3) The Chief Judge may approve a person to continue in office as a supernumerary judge if the person has made an election under subsection (1).
- (4) The term for which a judge may be approved to continue in office as a supernumerary judge is 2 years, but the Chief Judge may renew the appointment for further periods of 2 years.
- (5) Section 9.22 does not apply to a supernumerary judge.
- (5.1) If a judge is approved to continue in office under this section, the Chief Judge shall notify the person designated by the Minister of Justice and Solicitor General no later than 20 days before the effective date of the approval in the form approved by the Minister.
- (6) Subject to Part 6 of the *Judicature Act*, no judge approved to continue as a supernumerary judge under this section may be removed from office before the expiry of that judge's term.
- (7) A judge who, on the coming into force of this subsection, is serving a term of office after having been appointed under subsection (3), as it read at any time before the coming into force of this subsection, is deemed, on the coming into force of this subsection, to have been approved to continue in office for the same term.

RSA 2000 c16(Supp) s6;2001 c24 s5;2005 c15 s4;
2008 c32 s1;2013 c10 s34;2017 c22 s42

Resignation

9.31 A judge may at any time resign from being a judge by giving a written notice signed by that judge that includes the effective date of the resignation and delivering that notice to the Minister of Justice and Solicitor General.

RSA 2000 c16(Supp) s6;2013 c10 s34

Confidentiality of selection process

9.32 Records containing information arising during the process for the selection of judges are confidential and notwithstanding the *Freedom of Information and Protection of Privacy Act* are not subject to that Act.

RSA 2000 c16(Supp) s6

Complaints

9.4 A complaint about the competence, conduct, misbehaviour or neglect of duty of a judge or the inability of a judge to perform

duties is to be dealt with in accordance with Part 6 of the *Judicature Act*.

RSA 2000 c16(Supp) s6

Restriction on other employment

9.41 Unless otherwise authorized by the Lieutenant Governor in Council, a judge who is employed as a full-time or part-time judge shall not carry on or practise any other business, profession, trade or occupation.

RSA 2000 c16(Supp) s6;2005 c15 s5

Judge's residence

9.42(1) The Minister of Justice and Solicitor General or a person authorized by that Minister may, on the appointment of a judge, designate the place at which the judge is to reside.

(2) Where a designation is made under subsection (1), any subsequent change in designation may only be made by the Judicial Council at the request of the Chief Judge and only if, in the opinion of the Judicial Council, the change in residence is required for the better administration of the Court.

(3) Nothing in this section affects a judge's jurisdiction throughout Alberta.

RSA 2000 c16(Supp) s6;2013 c10 s34

Conflict of interest

9.5 A judge does not have jurisdiction to hear any matter in which the judge has or has had an interest.

RSA 2000 c16(Supp) s6

Action for damages

9.51(1) No action may be brought against a judge for any act done or omitted to be done in the execution of the judge's duty or for any act done in a matter in which the judge has exceeded the judge's jurisdiction unless it is proved that the judge acted maliciously and without reasonable and probable cause.

(2) No action for the recovery of damages lies against a judge in respect of an order or warrant made or sentence imposed, whether before or after the coming into force of this Act, by a judge while acting in the place of any other judge who has then ceased for any reason to be a judge, if the order, warrant or sentence could have been lawfully made or imposed by the judge by whom the conviction was made.

(3) No action for the recovery of damages lies against a judge in respect of an order or warrant made or sentence imposed, whether before or after the coming into force of this Act, against, on or in

respect of a person who had been previously convicted by another judge but had not been sentenced by that other judge, if the order, warrant or sentence could have been lawfully made or imposed by the judge by whom the conviction was made.

(4) No action for the recovery of damages lies against any person in respect of an act or thing done or omitted to be done at any time, whether before or after the coming into force of this Act, in the execution of an order, warrant or sentence to which subsection (1), (2) or (3) relates, or purporting to be done in compliance with or incidental to an order, warrant or sentence.

(5) The Minister of Justice and Solicitor General may make a payment for damages or costs, including lawyer's charges incurred by the judge in respect of an act, omission or matter described in subsection (1), (2) or (3).

RSA 2000 c16(Supp) s6;2009 c43 s146;2013 c10 s34

Regulations

9.52(1) The Lieutenant Governor in Council shall make regulations

- (a) governing the salaries to be paid to judges;
- (b) governing the amount to be paid to judges sitting part time;
- (c) prescribing fees to be paid for each proceeding or specified service;
- (d) providing for the benefits to which judges are entitled, including
 - (i) personal expense allowances and services;
 - (ii) travel and moving allowances;
 - (iii) leaves of absence and vacations;
 - (iv) sick leave credits and payment in respect of those credits;
 - (v) benefits under one or more pension plans for specified judges and other individuals deriving benefit entitlements through them;
- (e) respecting the terms and conditions of appointment of supernumerary judges;
- (f) without limiting anything in clause (d), providing for the continuation or establishment of

(i) one or more pension plans, including a supplemental retirement plan that may or may not be registrable under the *Income Tax Act* (Canada), and

(ii) one or more pension funds,

including the making of any provisions in respect of those plans or funds that are made, or that are similar to or that correspond to provisions made, by or under, or that could be made under, the *Public Sector Pension Plans Act* with respect to any pension plan or pension fund continued or established by that Act;

(g) providing for the transfer or other disposition of those benefits to which persons appointed as judges under the *Provincial Court Judges Act* or this Act were entitled under the *Public Service Act* and the regulations under that Act or the Public Service Pension Plan, the Public Service Management (Closed Membership) Pension Plan or the Management Employees Pension Plan at the time of their appointment under the *Provincial Court Judges Act* or under this Act.

(2) A regulation made under subsection (1) shall, if so provided in the regulation, be effective from a date prior to the making of the regulation.

RSA 2000 c16(Supp) s6;2005 c15 s6

Previous appointments

9.53 Every person who, immediately prior to the coming into force of this Part, was a judge under the *Provincial Court Judges Act*, and whose appointment is in full force and effect on the coming into force of this Part is deemed to have been appointed a judge under this Act.

RSA 2000 c16(Supp) s6

Part 1.2 General Judicial Matters

Jurisdiction

9.6(1) The Court has, subject to this Act, the following jurisdiction:

(a) for the purposes of Part 4,

(i) to hear and adjudicate on any claim or counterclaim

(A) for debt, whether payable in money or otherwise, if the amount claimed or counterclaimed, as the case

may be, exclusive of interest payable under an Act or by agreement on the amount claimed, does not exceed the amount prescribed by the regulations,

- (A.1) for unjust enrichment, including a claim or counterclaim for the recovery of the value of services provided or goods supplied, if the amount claimed or counterclaimed, as the case may be, does not exceed the amount prescribed by the regulations,
- (B) for damages, including damages for breach of contract, if the amount claimed or counterclaimed, as the case may be, exclusive of interest payable under an Act or by agreement on the amount claimed, does not exceed the amount prescribed by the regulations,
- (C) for a determination of the title to and the right of possession of personal property, and for the delivery of personal property if the value of the personal property does not exceed the amount prescribed by the regulations, and
- (D) for specific performance or rescission of a contract if the value of the rights in issue does not exceed the amount prescribed by the regulations;

(ii) to grant an equitable remedy in respect of a claim or counterclaim referred to in subclause (i);

(b) where provided for or directed under any enactment, and subject to that enactment, to hear and adjudicate on any matter, provide any relief, carry out any duty or perform any function assigned to the Court under that enactment or in respect of which the Court is empowered to undertake or provide under that enactment;

(c) for the purposes of the *Mobile Home Sites Tenancies Act* and the *Residential Tenancies Act*, without limiting the jurisdiction of the Court provided for under those Acts, to grant

(i) an order terminating a tenancy;

(ii) an order for the recovery of possession of premises;

(iii) an order to vacate premises.

(2) The Court does not have jurisdiction to hear and adjudicate on a claim or counterclaim

- (a) in which the title to land is brought into question,
- (b) in which the validity of any devise, bequest or limitation is disputed,
- (c) for malicious prosecution, false imprisonment, defamation, criminal conversation or breach of promise of marriage,
- (d) against a judge, justice of the peace or peace officer for anything done by that person while executing the duties of that office, or
- (e) by a local authority or school board for the recovery of taxes, other than taxes imposed in respect of the occupancy of or an interest in land that is itself exempt from taxation.

(3) Where an amount is prescribed by the regulations for the purposes of subsection (1), that amount applies with respect

- (a) to civil claims filed, or
- (b) subject to clause (a), to matters that arose,

after the prescribed amount came into effect.

(4) If the claim of a plaintiff or the counterclaim of a defendant exceeds the amount prescribed for the purposes of subsection (1), the plaintiff or the defendant, as the case may be, may abandon that part of the claim or counterclaim that is in excess by filing a notice to that effect with the Court.

(5) Subject to section 56(4), where a notice is filed under subsection (4), the person forfeits the excess and is not entitled to recover it in the Provincial Court or in any other court.

RSA 2000 c16(Supp) s6;2008 c32 s1;2015 c12 s6

Litigation representative

9.601 In any proceeding in which a minor is or may be interested, an individual may be appointed as the minor's litigation representative in accordance with the *Alberta Rules of Court* (AR 124/2010).

2008 c32 s1;2011 c14 s23;

Contempt

9.61(1) For the purposes of enforcing compliance or the continuing of compliance, as the case may be, with an order of the Court, a judge may, on application or on the judge's own initiative, declare that a person is in civil contempt of the Court if that person fails, without adequate excuse, to obey an order of a judge or an order of a justice of the peace.

(2) Where a judge is satisfied that there are reasonable and probable grounds for believing that a person may be in civil contempt of the Court, the judge may order

- (a) the person to appear before a judge, or
- (b) a peace officer to take the person into custody and bring that person before a judge,

to show cause why the person should not be held in civil contempt of the Court.

(3) Every person in civil contempt of the Court is liable to any one or more of the following:

- (a) imprisonment until the person has purged the contempt;
- (b) imprisonment for not more than 2 years;
- (c) a fine not exceeding \$25 000 and in default of paying the fine to imprisonment for not more than 2 years.

(4) The judge who imposed a sanction on a person whom the judge declared to be in civil contempt may waive the sanction in whole or in part or suspend any imprisonment where the judge is satisfied that the person has purged that person's contempt.

(5) This section does not apply

- (a) to an order for the payment of money, or
- (b) to an order made under the *Criminal Code* (Canada).

(6) Section 36 does not apply to proceedings under this section.

RSA 2000 c16(Supp) s6;2011 c20 s8

Adjournment

9.62 The Court may at any time in any proceeding before the Court and on any conditions that the Court considers proper grant adjournments.

RSA 2000 c16(Supp) s6

Notice of application

9.63 Unless otherwise directed by the Court or otherwise provided for under an enactment, an application shall not be made to the Court except on at least 7 days' notice to the respondent to the application or, in the case of an application on the Court's own motion, the parties to the proceedings.

RSA 2000 c16(Supp) s6

Exhibits

9.7(1) Where exhibits are in the possession or under the control of the Court and the party on whose behalf the exhibits were put into evidence has not made an application to the Court for the return of the exhibits

- (a) within 6 months from the conclusion of the proceeding in respect of which the exhibits were put into evidence, or
- (b) in the case of an appeal from the judgment or direction of the Court, within 6 months from the conclusion of the appeal,

a clerk may notify that party that unless within 3 months from a date specified in the notice that party applies to the clerk for the return of the exhibits the clerk may destroy or otherwise dispose of the exhibits.

(2) If a party who was given a notice by a clerk under subsection (1) does not apply for the return of the exhibits within the time period specified in the notice, the clerk may destroy or otherwise dispose of the exhibits.

(3) Notwithstanding subsection (1) or (2), where

- (a) requested to do so by a party to the proceedings, the clerk may retain possession or control of the exhibits for a further period of time that appears appropriate to the clerk, or as otherwise directed by the Court, or
- (b) directed to do so by the Court, the clerk shall retain possession or control of the exhibits as directed by the Court.

(4) Notwithstanding subsections (1), (2) and (3), the clerk may, unless otherwise directed by the Court, at any time after

- (a) the expiration of the appeal period, or
- (b) the disposition of the appeal,

as the case may be, return the exhibits to the party on whose behalf the exhibits were put into evidence at the proceeding before the Court.

(5) Notwithstanding anything in this section, a clerk at any time may, where permitted by the Court and subject to any directions by the Court, return or otherwise dispose of any exhibit that is in the possession or control of the Court.

- (6) This section,
- (a) in respect of proceedings before the Court that are governed under another enactment, applies subject to any provisions of that enactment respecting exhibits, and
 - (b) does not apply in respect of proceedings under the *Criminal Code* (Canada).

RSA 2000 c16(Supp) s6

Certificate of judgment, etc.

9.71(1) If a judgment is entered or given under Part 4, the party in whose favour the judgment is made is, unless otherwise provided for by the regulations or directed by the Court, responsible for

- (a) preparing a certificate of judgment that accurately reflects the Court's judgment,
- (b) filing a copy of the certificate of judgment with the Court, and
- (c) sending a copy of the filed certificate of judgment to the other parties to the action.

(2) If an order is made by the Court under this Act or any other enactment, the party in whose favour the order is made is, unless otherwise provided for by the regulations or directed by the Court, responsible for

- (a) preparing the order,
- (a.1) filing a copy of the order with the Court, and
- (b) sending a copy of the filed order to the other party to the proceeding.

(3) Notwithstanding subsections (1) and (2), a clerk

- (a) may, where the clerk considers it appropriate to do so in the circumstances, or
- (b) shall, where directed to do so by the Court,

prepare a certificate of judgment or order referred to in subsection (1) or (2) and send the certificate of judgment or order to the parties to the proceedings.

(4) A copy of the certificate or the order referred to in subsection (1) or (2), at any time after it is filed with the Court or otherwise acknowledged by a clerk as being the judgment or order made by

the Court, is admissible in evidence as proof, in the absence of evidence to the contrary, of its contents in any court dealing with a subsequent proceeding without proof of the signature or official character of the person appearing to have signed the certificate or order.

(5) A certificate of judgment, or an order of the Court under which money is payable, may be filed in the Court of Queen's Bench and on its being filed,

- (a) the judgment for which the certificate of judgment was prepared or the order, as the case may be, becomes a judgment or order of the Court of Queen's Bench, and
- (b) writ proceedings may be taken pursuant to the *Civil Enforcement Act*.

RSA 2000 c16(Supp) s6;2001 c24 s6

9.8 Repealed 2015 c12 s6.

Fees

9.9 A clerk shall not file or issue a document in respect of proceedings in the Court until the prescribed fee payable in respect of the filing or issuance has been paid.

RSA 2000 c16(Supp) s6

Part 2 Young Persons Matters

Definitions

10 In this Part,

- (a) "child in need of protective services" means a child in need of intervention under the *Child, Youth and Family Enhancement Act*;
- (b) "young person" has the same meaning as in the *Youth Justice Act* or the *Youth Criminal Justice Act (Canada)*, as the case may be.

RSA 2000 cP-31 s10;2003 c16 s117;2003 c41 s4(28)

Powers of Court

11 The Court is a youth justice court within the meaning of and for the purposes of the *Youth Justice Act* and the *Youth Criminal Justice Act (Canada)*, and has all the powers vested in a youth justice court under those Acts.

RSA 2000 cP-31 s11;2003 c41 s4(28)

Judges

12 Each judge of the Court of Queen's Bench is by virtue of the judge's office a judge of The Provincial Court of Alberta for the purpose of hearing matters that come under the *Youth Justice Act* and the *Youth Criminal Justice Act* (Canada).

RSA 2000 cP-31 s12;2003 c41 s4(28)

Complaints

13(1) A complaint under this Part may be sworn before any justice of the peace and any justice of the peace may adjourn any matter from time to time until the matter can be heard by the Court.

(2) A justice of the peace may exercise all duties conferred or imposed on a justice of the peace with respect to judicial interim release by or under any Act of the Legislature or the Parliament of Canada.

RSA 1980 cP-20 s25;1983 c93 s2

Neglected children

14 In the case of a child in need of protective services, a clerk shall

- (a) prepare and keep the reports and information that the Minister responsible for the *Child, Youth and Family Enhancement Act* requires, and
- (b) forward the reports and information at the times and on the forms that the Minister responsible for the *Child, Youth and Family Enhancement Act* requires.

RSA 2000 cP-31 s14;2003 c16 s117

Part 3 Repealed 2003 cF-4.5 s122.

Part 4 Civil Claims

Definitions

22 In this Part,

- (a) "Court" includes a justice of the peace;
- (b), (c) repealed 2015 c12 s6;
- (c.1) "mediation" means mediation referred to in section 65;
- (d) repealed 2015 c12 s6;
- (d.1) "pre-trial conference" means a pre-trial conference referred to in section 64;

(d.2), (e) repealed 2015 c12 s6.

RSA 2000 cP-31 s22;RSA 2000 c16(Supp) s8;
2011 c20 s8;2015 c12 s6;2016 c18 s15

23, 24 Repealed RSA 2000 c16(Supp) s9.

Practice and procedure for claims, hearings and enforcement of an order or judgment

24.1(1) The practice and procedure to be followed in making or defending a claim or counterclaim or in enforcing an order or judgment of the Court are as set out in this Part and in the regulations.

(2) The Court may, subject to the regulations, determine and provide direction to the parties regarding the practice and procedure to be followed before and at a hearing or a pre-trial conference.

(3) Subject to the regulations, the Court may adjourn a hearing or stay an action on any terms or conditions that the Court considers appropriate.

2015 c12 s6

Default judgment, failure to appear, setting aside of judgment or dismissal

24.2(1) Where a defendant has failed to defend a claim or counterclaim within the time allowed, judgment may be entered against the defendant in accordance with the procedures set out in the regulations.

(2) If a plaintiff or defendant fails to appear on the date set for a hearing or a pre-trial conference, the Court may take the steps set out in this Act and the regulations.

(3) Subject to the regulations, the Court may, on any terms or conditions it considers appropriate, set aside or vary a judgment entered or dismissal made under or in accordance with this section and the regulations referred to in this section.

2015 c12 s6

25 to 35 Repealed 2015 c12 s6.

Taking of evidence

36(1) For the purposes of a hearing, the Court

- (a) is not bound by the laws of evidence applicable to judicial proceedings, and

(b) may admit any oral or written evidence that it, in its discretion, considers proper, whether admissible in a court of law or not.

(2) Nothing is admissible in evidence at a hearing

(a) that would be inadmissible by reason of any privilege under the law of evidence, or

(b) that is inadmissible by any Act.

1989 c18 s4

Hearing procedures

36.1(1) The Court may direct the procedures to be followed in a hearing for the purposes of ensuring an expeditious and inexpensive resolution of a matter, including, without limitation, directions

(a) respecting the amount of hearing time,

(b) respecting the number of witnesses,

(c) respecting the amount and type of testimony and evidence, and

(d) confining the parties to the particulars set out in the pleadings.

(2) The Court may receive evidence in a manner the Court considers appropriate for the amount of the claim or counterclaim, the complexity of the issues raised in the claim or counterclaim and the purposes of ensuring an expeditious and inexpensive resolution of the matter.

2015 c12 s6

Recording of evidence

37(1) A complete record of the evidence of a hearing shall be taken

(a) by an official court reporter appointed pursuant to the *Recording of Evidence Act*, or

(b) by means of a sound-recording machine as provided under the *Recording of Evidence Act*.

(2) If for any reason the evidence given at a hearing cannot be taken in accordance with subsection (1), the Court shall

(a) cause a summary of the evidence of a witness to be taken in a manner determined by the Court,

- (b) read to the witness the summary taken of the witness's evidence, and
- (c) certify on the summary that it is a summary of the evidence given by that witness at the hearing.

(2.1) Unless otherwise ordered by the Court, this section does not apply to a pre-trial conference or a binding judicial dispute resolution proceeding.

(3) Repealed 2015 c12 s6.

RSA 2000 cP-31 s37;2006 c4 s3;2009 c53 s146;2015 c12 s6

Costs of action

37.1 Subject to the regulations, the Court may at any time and on any conditions that the Court considers appropriate award costs in respect of any matter coming under this Part.

2015 c12 s6

38 Repealed 2015 c12 s6.

39 Repealed 2008 c32 s1.

40 to 44 Repealed 2015 c12 s6.

Stay of judgment

44.1 The Court may stay a judgment entered or given under this Part subject to any terms or conditions that the Court considers appropriate.

RSA 2000 c16(Supp) s19

Payment hearings, etc.

44.2 Where a person owes money under a judgment or an order of the Court, the Court may, subject to the regulations,

- (a) conduct a payment hearing for the purposes of determining that person's ability to pay the money owing under the judgment or order, and
- (b) if the Court considers it appropriate to do so, establish a schedule or other method under which the amount owing is to be paid.

RSA 2000 c16(Supp) s19

45 Repealed RSA 2000 c16(Supp) s20.

Time of appeal

46(1) Any party may appeal a decision of the Provincial Court to the Court of Queen's Bench,

- (a) within 30 days after the judgment is given, by
 - (i) filing in the Provincial Court a notice of appeal setting out the grounds of appeal, and
 - (ii) serving the notice of appeal on
 - (A) the respondent, and
 - (B) any other person that the Court of Queen's Bench directs,

and

- (b) by filing in the Court of Queen's Bench not later than 7 days after the last day for service of the notice of appeal on those parties served pursuant to clause (a)
 - (i) a copy of the notice of appeal referred to in clause (a)(ii),
 - (ii) an affidavit of service of the notice of appeal, and
 - (iii) a copy of the receipt evidencing that the appellant has ordered and paid for the transcript of the evidence heard before the judge of the Provincial Court.

(2) The Court of Queen's Bench may, on application made before or after the expiration of the periods fixed by subsection (1)(a) and (b), by order fix a further period, not exceeding 30 days from the date of the order, within which the service and filing referred to in subsection (1)(a) and (b) may be effected.

(3) The appellant shall file with the Court of Queen's Bench, and serve copies on those parties served pursuant to subsection (1)(a)(ii), a transcript of the evidence heard before the judge of the Provincial Court within 3 months of the date that the notice of appeal is filed in the Court of Queen's Bench, unless an order has been made by a judge of the Court of Queen's Bench prior to the expiration of the 3-month period extending the time for filing the transcript.

(4) Where a judge of the Court of Queen's Bench is satisfied that a transcript cannot be provided for the appeal, the judge may, on application by the appellant,

- (a) order that the matter be returned to the Provincial Court for a new hearing, or
 - (b) make any other order that the judge considers appropriate.
- RSA 2000 cP-31 s46;RSA 2000 c16(Supp) s21;
2008 c32 s1;2015 c12 s6

Transfer of action

47 When a notice of appeal is filed with a clerk of the Provincial Court, the clerk shall forward to a clerk of the Court of Queen's Bench any money paid into the Provincial Court, other than court fees, and all other documents and exhibits in the possession of the Provincial Court that pertain to the matter being appealed.

RSA 1980 cP-20 s59;1989 c18 s4

Failure to comply

48(1) If an appellant fails to comply with the requirements of section 46, the appeal shall be dismissed by the Court of Queen's Bench.

(2) If an appeal is dismissed under subsection (1), the Court of Queen's Bench may make any order as to costs that it considers proper.

RSA 1980 cP-20 s60;1989 c18 s4

Stay of proceedings

49 On section 46(1)(a) and (b) being complied with, an appeal operates as a stay of proceedings under the judgment being appealed, subject to the order of the Court of Queen's Bench.

RSA 1980 cP-20 s61;1989 c18 s4

Hearing at regular sitting

50 On sections 46 and 47 being complied with, the Court of Queen's Bench shall set down the appeal for hearing at a regular sitting.

RSA 1980 cP-20 s62;1989 c18 s4

Appeal on the record

51 An appeal is to be heard as an appeal on the record unless, on application by a party, the Court of Queen's Bench orders the appeal to be heard as a trial de novo.

RSA 1980 cP-20 s63;1989 c18 s4

Adjournment and costs of appeal

52 The Court of Queen's Bench may adjourn an appeal from time to time as circumstances require and may make any order that it considers proper in respect of costs.

RSA 1980 cP-20 s64;1989 c18 s4

Hearing of appeal

53(1) The Court of Queen's Bench shall

- (a) hear and determine an appeal,
- (b) give its judgment, and
- (c) make an order awarding costs, if any, to the parties, including costs of all proceedings previous to the appeal.

(1.1) Unless section 46(4) applies, the Court of Queen's Bench may not refer the matter back to the Provincial Court for the purposes of conducting a new trial.

(2) The decision of the Court of Queen's Bench is final and cannot be further appealed.

RSA 2000 cP-31 s53;2011 c20 s11

Failure to appear

54(1) Notwithstanding section 53, if the appellant fails to appear on the date set for the hearing of the appeal, the Court of Queen's Bench may dismiss the appeal.

(2) If an appeal is dismissed under subsection (1), the Court of Queen's Bench may make any order as to costs that it considers proper.

1996 c28 s37

Entry of judgment

55 A party to an appeal may have the judgment entered as a judgment of the Court of Queen's Bench and execution and garnishee summons may be issued on it in accordance with the procedure of the Court of Queen's Bench.

RSA 1980 cP-20 s66;1989 c18 s4

Transfer into Court of Queen's Bench

56(1) If at any time a claim, counterclaim or defence involves a matter that is beyond the jurisdiction of the Court, the Court may order that the matter be transferred to the Court of Queen's Bench.

(2) When an order is made under subsection (1), a clerk of the Provincial Court shall forward to a clerk of the Court of Queen's Bench the record of any evidence in the form in which it was taken, any money paid into the Provincial Court, other than court fees, and all other documents and exhibits in the possession of the Provincial Court pertaining to the matter.

(3) When a matter is transferred into the Court of Queen's Bench, the Court of Queen's Bench may, on any conditions it considers proper,

(a) continue the matter to completion, or

(b) order the matter to be recommenced.

(4) If a matter is transferred into the Court of Queen's Bench and a party had abandoned a portion of the party's claim or counterclaim under section 9.6(4), that party may, subject to any conditions that the Court of Queen's Bench considers proper, withdraw the abandonment of that portion of the claim or counterclaim and proceed on the entire claim or counterclaim, as the case may be.

RSA 2000 cP-31 s56;RSA 2000 c16(Supp) s22

Transfer into Provincial Court

57(1) On application by a party to the clerk, with the consent of the other parties, before the hearing commences, an action in the Court of Queen's Bench in which the claim is within the jurisdiction of the Provincial Court may be transferred into the Provincial Court by the clerk of the Court of Queen's Bench at the judicial centre where the action was commenced.

(2) An action transferred into the Court under subsection (1) continues as if it had been commenced in that Court.

RSA 2000 cP-31 s57;2009 c53 s146

58, 59 Repealed RSA 2000 c16(Supp) s23.

60 Repealed 2001 c24 s8.

Refusal to file documents

61(1) The Court may, if it considers it proper to do so, order a clerk not to accept a particular document for filing.

(2) An order made under subsection (1) does not prejudice the right of a person to proceed in any other manner permitted by law.

RSA 2000 cP-31 s61;2015 c12 s6

Representation of party

62(1) A person is entitled to be represented by

(a) a barrister and solicitor, or

(b) an agent

in respect of any proceedings under this Part.

(2) Subsection (1)(b) does not apply to proceedings that take place in the Court of Queen's Bench.

RSA 1980 cP-20 s71;1989 c18 s4

Effect of informality

63 No proceeding is invalid for informality if there has been substantial compliance with the requirements of this Part and the regulations.

RSA 2000 cP-31 s63;2015 c12 s6

Pre-trial conference

64(1) In any action under this Part, the Court may direct the parties or their lawyers or agents, as the case may be, to appear before the Court for a pre-trial conference to consider one or more of the following:

- (a) the possibility of settling the claim, counterclaim or other matter, as the case may be, by agreement;
- (b) the simplification of the issues;
- (c) the necessity or desirability of amendments to pleadings;
- (d) the possibility of obtaining any admission that will facilitate the trial;
- (e) any other matters that may aid in the disposition of the action.

(2) During or at the conclusion of a pre-trial conference or otherwise in respect of a pre-trial conference, the Court may make an order doing one or more of the following:

- (a) giving directions with respect to matters raised or otherwise considered during the pre-trial conference;
- (b) setting out the results of the pre-trial conference;
- (c) amending pleadings;
- (d) striking out pleadings and entering judgment by reason of the failure of a party to attend a pre-trial conference;
- (d.1) striking out or amending a claim, dispute note or counterclaim by reason that the claim, dispute note or counterclaim
 - (i) discloses no cause of action or defence,
 - (ii) is scandalous, frivolous or vexatious,
 - (iii) may prejudice, embarrass or delay the fair trial of the action, or

- (iv) is otherwise an abuse of process of the Court;
 - (e) giving such further directions as the Court considers appropriate in the circumstances with respect to the trial of the action;
 - (f) varying or setting aside an order made under this subsection.
- (3) An order, when entered, shall control the subsequent course of the action unless modified at the trial of the action to prevent injustice.
- (4) The judge who conducts a pre-trial conference in an action shall not, except where all the parties to the action give their consent for the judge to do so, conduct the trial of the action.

RSA 2000 c16(Supp) s24;2008 c32 s1

Binding judicial dispute resolution proceeding

64.1(1) The Court may, in its sole discretion, with the written agreement of all parties, conduct a binding judicial dispute resolution proceeding.

(2) The practice and procedure for a binding judicial dispute resolution proceeding shall be as set out in the regulations.

(3) If the action is not settled by the parties at the binding judicial dispute resolution proceeding, the judge may give a judgment in the action despite the judge's participation in settlement discussions in respect of the action.

(4) A judgment given at a binding judicial dispute resolution proceeding is final and binding and, despite section 46, is not subject to appeal.

2015 c12 s6

Mediation

65 At any time after a dispute note is filed, the Court, or a person authorized by the Court to do so, may refer the action for mediation.

RSA 2000 c16(Supp) s24

Action in abeyance

66 Except as otherwise directed by the Court, if a pre-trial conference or mediation is to be conducted in respect of an action, that action shall not be set down for trial or otherwise continued until the conclusion of the pre-trial conference or the mediation, as the case may be.

RSA 2000 c16(Supp) s24

Privilege

67(1) Any settlement discussions in respect of an action that take place during a pre-trial conference, binding judicial dispute resolution proceeding or mediation are privileged and are not admissible in any action under this Part or in any other civil action.

(2) Neither a judge who conducts a pre-trial conference or binding judicial dispute resolution proceeding nor a mediator who conducts a mediation is compellable to give evidence in any court or in any proceedings of a judicial nature concerning any proceeding, discussion or matter that takes place during or with respect to the pre-trial conference, binding judicial dispute resolution proceeding or mediation.

(3) Subsection (1) does not apply

- (a) to any order made under section 64;
- (b) to any written agreement arising from a pre-trial conference, binding judicial dispute resolution proceeding or mediation;
- (b.1) to any judgment resulting from a binding judicial dispute resolution proceeding;
- (c) to the admission in evidence of factual evidence relating to the claim or counterclaim that would otherwise be admissible except for the operation of subsection (1);
- (d) to any facts that are relevant to the issue of the validity or enforceability of an agreement arising from a pre-trial conference, binding judicial dispute resolution proceeding or mediation.

(4) Subsection (2) does not apply where a judge or a mediator is required by law to disclose those discussions if the disclosure is to the person who under that law is entitled to receive the disclosure.

(5) The *Freedom of Information and Protection of Privacy Act* does not apply to any document, information or record arising during or as a result of a pre-trial conference, binding judicial dispute resolution proceeding or mediation.

RSA 2000 c16(Supp) s24;2015 c12 s6

Immunities

68 No action may be brought against a mediator who conducts a mediation for any act done or omitted to be done in the execution of the mediator's duty or for any act done in respect of that mediation unless it is proved that the mediator acted maliciously and without reasonable and probable cause.

RSA 2000 c16(Supp) s24

(NOTE: For transitional provisions that may affect the application of this Act, see RSA 2000 c16(Supp) s25.)



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