

1998 BILL 25

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Second Session, 24th Legislature, 47 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 25

**JUSTICE STATUTES AMENDMENT ACT, 1998**

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THE MINISTER OF JUSTICE AND ATTORNEY GENERAL

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First Reading .....  
Second Reading .....  
Committee of the Whole .....  
Third Reading .....  
Royal Assent .....

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## BILL 25

1998

### JUSTICE STATUTES AMENDMENT ACT, 1998

(Assented to \_\_\_\_\_, 1998)

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

#### Court of Queen's Bench Act

Amends RSA  
1980 cC-29

**1(1) The *Court of Queen's Bench Act* is amended by this section.**

**(2) Section 8 is repealed and the following is substituted:**

Appointment  
of masters in  
chambers

**8(1)** The Lieutenant Governor in Council may appoint officers of the Court called masters in chambers.

**(2)** The Lieutenant Governor in Council

(a) may make regulations respecting conflicts of interest and a code of ethics for masters in chambers;

(b) shall make regulations respecting the remuneration and benefits to be paid to masters in chambers.

**(3)** Subject to being retired or removed from office under Part 6.1 of the *Judicature Act*, a master in chambers must retire on attaining the age of 70 years.

**(3) Section 14.1 is amended**

**(a) in subsection (1) by striking out** “may be made to the Chief Justice of the Court” **and substituting** “shall be made to the judicial council established for judges under Part 6.1 of the *Judicature Act* and shall be dealt with in accordance with that Part”;

**(b) by repealing subsections (2) to (8).**

## Explanatory Notes

### Court of Queen's Bench Act

1(1) Amends chapter C-29 of the Revised Statutes of Alberta 1980.

(2) Section 8 presently reads:

*8 The Lieutenant Governor in Council may appoint officers of the Court called masters in chambers as he considers necessary.*

(3) Section 14.1 presently reads:

*14.1(1) A complaint about a master in chambers respecting the master's*

*(a) competence,*

*(b) conduct or misbehaviour,*

*(c) neglect of duty, or*



*(d) inability to perform his duty*

*may be made to the Chief Justice of the Court.*

*(2) The Chief Justice shall review any matter regarding the conduct of a master in chambers that comes to the attention of the Chief Justice, whether a complaint is made or not, and may do one or more of the following:*

*(a) determine that no further action need be taken;*

*(b) reprimand the master in chambers;*

*(c) take corrective measures;*

*(d) refer the matter to the Judicial Council established under the Provincial Court Judges Act.*

*(3) The Judicial Council shall*

*(a) receive complaints about a master in chambers respecting the master's*

*(i) competence,*

*(ii) conduct or misbehaviour,*

*(iii) neglect of duty, or*

*(iv) inability to perform his duty,*

*and*

*(b) take any action to investigate complaints that it considers advisable and make recommendations to the Minister of Justice and Attorney General.*

*(4) The Judicial Council may refer any complaint to the Chief Justice or to a committee of the Judicial Council for inquiry and report to the Judicial Council.*

*(5) The Judicial Council, a committee of it or the Chief Justice, in conducting an inquiry under this section, has all the powers, privileges and immunities of a commissioner under the Public Inquiries Act.*

*(6) An inquiry under this section shall be held in private and the results of the inquiry shall not be made public.*

*(7) If an inquiry is conducted under this section, the master in chambers whose conduct, competence or ability is the subject of the inquiry shall be given*

*(a) reasonable notice of the time and place of the inquiry and the matter to be investigated, and*

*(b) the opportunity, by himself or his counsel, to be heard and to cross-examine witnesses and adduce evidence.*

**(4) Section 18(1) is amended by striking out “and” at the end of clause (a) and repealing clause (b).**

**(5) Section 20 is repealed and the following is substituted:**

Court sittings                    **20** The Court may designate the sittings of the Court.

**Judicature Act**

Amends RSA                    **2(1) The *Judicature Act* is amended by this section.**  
1980 cJ-1

**(2) The following is added after Part 6:**

**PART 6.1**

**COMPLAINTS AGAINST PROVINCIAL COURT JUDGES,  
MASTERS AND JUSTICES OF THE PEACE**

Definitions                    **32.1** In this Part,

- (a) “appropriate judicial council” means, as the context requires, the judicial council for judges, masters or justices of the peace established under section 32.2(1);
- (b) “complaint” means a complaint under section 11 of the *Provincial Court Judges Act*, section 14.1 of the

*(8) If the Judicial Council recommends the removal or retirement of a master in chambers from office, the Lieutenant Governor in Council may make an order of removal or retirement.*

(4) Section 18(1) presently reads:

*18(1) The Lieutenant Governor in Council by regulation*

*(a) may make rules governing*

*(i) the 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 and expenses payable to witnesses and interpreters,*

*and*

*(b) may, on the recommendation of the Minister of Justice and Attorney General made after consultation with the Chief Justice of the Court, prescribe the times and places for sittings of the Court.*

(5) Section 20 presently reads:

*20 In addition to the regular sittings of the Court fixed pursuant to section 18(b), the Chief Justice of the Court may, at the times and places he appoints for the purpose, fix additional sittings to be held as required for the dispatch of the business of the Court.*

### **Judicature Act**

2(1) Amends chapter J-1 of the Revised Statutes of Alberta 1980.

(2) Adds Parts 6.1 and 6.2: Complaints against Provincial Court Judges, Masters and Justices of the Peace and Compensation commissions.

*Court of Queen's Bench Act* or section 5.1 of the *Justice of the Peace Act*;

- (c) "judge" means a judge as defined in the *Provincial Court Judges Act*;
- (d) "judicial inquiry" means a judicial inquiry conducted under section 32.4;
- (e) "justice of the peace" means a justice of the peace designated as a sitting justice of the peace or presiding justice of the peace under section 2.1 of the *Justice of the Peace Act*;
- (f) "master" means a master in chambers appointed under section 8 of 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.

Judicial  
councils

**32.2(1)** A judicial council is established for each of the following:

- (a) judges;
- (b) masters;
- (c) justices of the peace.

(2) The judicial councils established under subsection (1) consist of the persons appointed in accordance with the regulations.

(3) The Judicial Council established under the *Provincial Court Judges Act* is continued under this Part as the judicial council for judges referred to in subsection (1)(a).

(4) Every person who, immediately prior to the coming into force of this section, was the chair or a member of the Judicial Council under the *Provincial Court Judges Act*, and whose designation or appointment is in effect on the coming into force of this section, is deemed to have been designated chair, appointed a member or both, as the case may be, of the judicial council for judges until such time as reappointments are made under the regulations.

Receipt of  
complaint

**32.3(1)** The appropriate judicial council shall receive and informally inquire into a complaint in the first instance and may





- (a) through one or more of its members, resolve the matter with the consent of the complainant and of the respondent,
- (b) refer the complaint for a judicial inquiry, or
- (c) dismiss the complaint where it is frivolous or vexatious or is not a matter in respect of which a complaint may be made.

(2) The proceedings of the judicial council under this section are not public.

(3) Where the judicial council finds that a complaint is frivolous or vexatious or is not a matter in respect of which a complaint may be made, the judicial council shall in writing advise the complainant as to why it reached that conclusion.

Judicial  
inquiries

**32.4(1)** Where a complaint is referred for a judicial inquiry, the Lieutenant Governor in 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.

Inquiry in  
private

**32.5(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.



Report of  
recommend-  
ations

**32.6(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 or not 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, master or justice of the peace, 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, master or justice of the peace, 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 appropriate judicial council, the Minister, the respondent and the complainant.

Sanctions

**32.7(1)** On receipt of a report of the judicial inquiry board, the appropriate 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 32.6(2) that it considers appropriate, except a sanction referred to in section 32.6(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 32.6(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.

Costs **32.8** 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.

Decisions final **32.9** 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.

Order to retire or remove **32.91** If a sanction under section 32.6(2)(g) or (h) is recommended by the judicial council, the Lieutenant Governor in Council may make an order to remove or retire, as the case may be, the respondent from office, and to revoke the appointment.

Regulations **32.92** The Lieutenant Governor in Council may make regulations

- (a) respecting the establishment of judicial councils;
- (b) respecting appointments to the judicial councils;
- (c) respecting the powers and duties of the judicial councils;
- (d) respecting the procedures of the judicial councils.



## PART 6.2

### COMPENSATION COMMISSIONS

Compensation  
commissions

**32.93(1)** One or more commissions shall be established in accordance with the regulations under subsection (2) to review the remuneration and benefits to be paid to judges, masters and justices of the peace as defined in Part 6.1 and to make recommendations with respect to any changes in remuneration and benefits.

**(2)** The Lieutenant Governor in Council, on the recommendation of the Minister, 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.

### Justice of the Peace Act

Amends RSA  
1980 cJ-3

**3(1)** The *Justice of the Peace Act* is amended by this section.

**(2)** Section 1 is repealed and the following is substituted:

Definitions

**1** In this Act,

- (a) "Chief Judge" means the Chief Judge of the Provincial Court of Alberta;



### **Justice of the Peace Act**

**3(1)** Amends chapter J-3 of the Revised Statutes of Alberta 1980.

(2) Section 1 presently reads:

*1 The Lieutenant Governor in Council may appoint justices of the peace who shall have jurisdiction as justices of the peace throughout Alberta.*

- (b) “judicial council” means the judicial council established for judges under Part 6.1 of the *Judicature Act*;
- (c) “nominating committee” means a nominating committee established under the regulations;
- (d) “non-presiding justice of the peace” means a justice of the peace who is appointed by the Minister under section 2.2(1);
- (e) “presiding justice of the peace” means a justice of the peace who is designated as a presiding justice of the peace under section 2.1(2);
- (f) “sitting justice of the peace” means a justice of the peace who is designated as a sitting justice of the peace under section 2.1(2).

Jurisdiction

**1.1** A justice of the peace has jurisdiction throughout Alberta.

**(3) The following is added after section 2:**

Appointment of sitting and presiding justices of the peace

**2.1(1)** The Lieutenant Governor in Council may appoint a person as a justice of the peace to exercise the authority of a sitting justice of the peace or a presiding justice of the peace if, in accordance with the regulations, a nominating committee has determined that the person is qualified.

(2) An order under subsection (1) shall designate the person appointed as a sitting justice of the peace or as a presiding justice of the peace and shall designate whether the appointment is full-time or part-time.

(3) Subject to subsection (4), a designation under subsection (2) may not be changed except with the consent of the nominating committee and the justice of the peace.

(4) A person whose appointment has been designated as a full-time justice of the peace may apply, in accordance with the regulations, to have the appointment designated as a part-time justice of the peace.

(5) The following are not eligible to be appointed or to remain as justices of the peace appointed under this section:

- (a) an employee of the government of Canada or Alberta or of a municipality or Metis settlement;
- (b) a person employed

(3) Terms of appointments of justices of the peace.

- (i) to serve or execute civil process, including a sheriff or a bailiff,
- (ii) to preserve and maintain the public peace, including a member of any law enforcement agency,
- (iii) to prosecute an offence under any federal or provincial statute or regulation or municipal bylaw,
- (iv) to issue any offence notice, or
- (v) to work in a penitentiary or in a correctional institution as defined in the *Corrections Act*, including a warden or a guard;
- (c) a councillor of a municipality;
- (d) a councillor of a Metis settlement or a member of the Metis Settlements General Council;
- (e) a Member of the Legislative Assembly;
- (f) a person who is 70 years of age or older.

(6) The appointment of a justice of the peace under this section terminates if the person becomes ineligible under subsection (5).

(7) A person whose appointment as a justice of the peace under this section has expired or terminated may not be employed by the Government of Alberta or be appointed to a Provincial agency as defined in the *Financial Administration Act* until at least the amount of time prescribed by the regulations has elapsed since the date of the expiry or termination.

Appointment  
of non-  
presiding  
justices of the  
peace

**2.2(1)** The Minister may appoint a person as a justice of the peace designated as a non-presiding justice of the peace.

(2) A justice of the peace who is designated as a non-presiding justice of the peace is appointed as a justice of the peace solely for the purpose of performing the following:

- (a) administering oaths or affirmations or taking declarations;
- (b) processing judicial interim release orders;



Powers and  
duties

- (c) adjourning cases where a judge of the Provincial Court or a sitting justice of the peace is not present;
- (d) receiving informations under Acts of the Legislature or of the Parliament of Canada or any regulations made under them.

**2.3(1)** Subject to subsection (2), a justice of the peace designated as a presiding justice of the peace or a sitting justice of the peace is appointed as a justice of the peace for the purpose of exercising the powers and performing the duties that are conferred or imposed on a justice of the peace by

- (a) an Act of the Legislature or any regulations made under it, or
- (b) an Act of the Parliament of Canada or any regulations made under it.

**(2)** Notwithstanding that an Act or regulation referred to in subsection (1) provides that any power or duty must be exercised by 2 or more justices of the peace, the following may be exercised by any one sitting justice of the peace or presiding justice of the peace:

- (a) receiving an information or complaint or receiving an information or complaint from another justice of the peace and granting a summons or warrant thereon;
- (b) issuing a summons or warrant to compel the attendance of any witnesses for either party;
- (c) doing all other acts and matters necessary preliminary to the hearing.

**(3)** A justice of the peace who has been designated as a sitting justice of the peace may

- (a) subject to subsection (4), preside at the trial of an offence under an Act of the Legislature or of the Parliament of Canada or any regulations made under it, and
- (b) conduct a hearing or settlement conference or hear an application under Part 4 of the *Provincial Court Act*.



Term of  
appointments

(4) A sitting justice of the peace may preside only at the trial of an offence referred to in subsection (3)(a) that is prescribed in the regulations.

(5) Nothing in this section shall be taken to confer on any justice of the peace, other than one who is also a judge of the Provincial Court acting in that capacity, the power to hold a preliminary inquiry under the *Criminal Code* (Canada).

(6) Every justice of the peace is by virtue of the office a commissioner for taking affidavits and declarations and for administering oaths and affirmations.

**2.4(1)** Subject to section 2.1(6), a sitting justice of the peace or presiding justice of the peace holds office for 10 years and may be removed from office only in accordance with Part 6.1 of the *Judicature Act*.

(2) An appointment referred to in subsection (1) may not be renewed.

(3) A non-presiding justice of the peace holds office at the pleasure of the Minister.

(4) The Minister may make regulations respecting conflicts of interest and a code of ethics for justices of the peace.

(5) Subject to subsection (7), the Minister may designate a person who was a justice of the peace on the day before the coming into force of this section as

(a) a sitting justice of the peace,

(b) a presiding justice of the peace, or

(c) a non-presiding justice of the peace.

(6) In a designation under subsection (5), the Minister may also designate whether a person designated as a sitting justice of the peace or presiding justice of the peace is full-time or part-time.

(7) A designation under subsection (5) of a person as a sitting justice of the peace or presiding justice of the peace may be made only if, in accordance with the regulations, a nominating committee has determined the person to be qualified.

(8) A person appointed as a justice of the peace before the coming into force of this section who is not designated





under subsection (5) may not exercise any authority or receive any remuneration as a justice of the peace after this section comes into force.

**(9)** Section 2.1(3) to (7) apply to a sitting justice of the peace or presiding justice of the peace designated under subsection (5) as if the justice of the peace were appointed under section 2.1(1).

**(4) Section 4 is repealed and the following is substituted:**

Supervision  
and duties

**4** The Chief Judge of the Provincial Court

- (a) shall supervise and assign duties to sitting justices of the peace and presiding justices of the peace, and
- (b) may delegate the supervision and assignment of duties referred to in clause (a) to a judge or a supernumerary judge of the Provincial Court.

**(5) Sections 5, 5.01, 5.1, 5.2 and 6 are repealed and the following is substituted:**

(4) Section 4 presently reads:

*4(1) The Lieutenant Governor in Council may designate a justice of the peace as a sitting justice of the peace.*

*(1.1) In the absence of any provision to the contrary in any relevant Act and subject to the regulations made under this Act, a complaint or information may be heard, tried and determined by one sitting justice of the peace.*

*(1.2) A sitting justice of the peace may conduct a hearing or settlement conference or hear an application under Part 4 of the Provincial Court Act.*

*(2) Nothing in this Act shall be taken to confer on any justice of the peace, other than one who is also a provincial judge acting in that capacity, the power to hold a preliminary inquiry under the Criminal Code (Canada).*

*(3) Any one justice of the peace may*

*(a) receive an information or complaint and grant a summons or warrant thereon or on an information or complaint received by any other justice,*

*(b) issue his summons or warrant to compel the attendance of any witnesses for either party, and*

*(c) do all other acts and matters necessary preliminary to the hearing,*

*notwithstanding that the applicable Act provides that the information or complaint be heard and determined by 2 or more justices of the peace.*

*(4) Every justice of the peace is by virtue of his office a commissioner for taking affidavits, declarations and affirmations and for administering oaths.*

(5) Sections 5, 5.01, 5.1, 5.2 and 6 presently read:

*5 The appointment of a justice of the peace terminates when he attains the age of 70 years.*

Complaints

**5.1(1)** This section applies only to justices of the peace appointed under section 2.1 or designated under section 2.4(5)(a) or (b).

(2) A complaint about the competence, conduct, misbehaviour or neglect of duty of a justice of the peace or the inability of a justice of the peace to perform duties may be made to the judicial council and shall be dealt with in accordance with Part 6.1 of the *Judicature Act*.

**(6) Section 7 is amended**

**(a) in subsection (1)**

**(i) by repealing clauses (b) and (c);**

**(ii) by repealing clause (f) and substituting the following:**

(f) respecting a duty roster for justices of the peace;

(f.1) respecting the establishment of a nominating committee;

(f.2) respecting the qualifications of a person to be designated as a sitting justice of the peace, presiding justice of the peace or non-presiding justice of the peace;

(f.3) respecting the application of a sitting justice of the peace and presiding justice of the peace for a change in designation from full-time to part-time;

(f.4) respecting fees to be paid to non-presiding justices of the peace;

*5.01(1) Notwithstanding section 5, the appointment of a justice of the peace terminates if the justice of the peace becomes a councillor as defined in the Municipal Government Act.*

*(2) If a justice of the peace is a councillor on the date this section comes into force, subsection (1) does not have the effect of terminating his appointment during his current term of office as councillor.*

*5.1(1) The Lieutenant Governor in Council shall, subject to the regulations, establish a Justices of the Peace Review Council.*

*(2) The Justices of the Peace Review Council shall*

*(a) review complaints respecting the lack of competence of, conduct or misbehaviour of, or neglect of duty by, justices of the peace or the inability of justices of the peace to perform their duties, and*

*(b) make recommendations to the Lieutenant Governor in Council in respect of matters reviewed under clause (a).*

*5.2 Notwithstanding section 5, the appointment of a justice of the peace may be terminated by the Lieutenant Governor in Council on the recommendation of the Justices of the Peace Review Council.*

*6 A justice of the peace may at any time resign his position in writing signed by him and delivered to the Chief Judge of the Provincial Court.*

(6) Section 7 presently reads:

*7(1) The Lieutenant Governor in Council may make regulations*

*(a) governing the process under which a person may be selected to be appointed as a justice of the peace;*

*(b) governing appointments to the Justices of the Peace Review Council;*

*(c) governing the procedure to be followed by the Justices of the Peace Review Council in the carrying out of its duties;*

*(d) prescribing the statutes, the regulations and the by-laws of municipalities or any provision of them in respect of which a sitting justice of the peace may hear, try and determine a complaint or information;*

*(e) prescribing duties that shall not be assigned to justices of the peace;*

*(f) fixing and governing the fees, allowances and salaries to be paid to justices of the peace or any class of justices of the peace who carry out their duties on a full-time or part-time basis;*

(f.5) prescribing the period of time for the purposes of section 2.1(7);

**(iii) by repealing clauses (h) and (i);**

**(b) by repealing subsection (2) and substituting the following:**

(2) The Lieutenant Governor in Council shall make regulations

(a) respecting the remuneration to be paid to sitting justices of the peace and presiding justices of the peace;

(b) respecting the remuneration to be paid to sitting justices of the peace and presiding justices of the peace who sit part time;

(c) providing for and governing the benefits to which sitting justices of the peace and presiding justices of the peace are entitled.

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

### **Provincial Court Judges Act**

Amends SA  
1981 cP-20.1

**4(1) The *Provincial Court Judges Act* is amended by this section.**

**(2) Section 1 is amended by repealing clause (b) and substituting the following:**

(b) “judicial council” means the judicial council established for judges under Part 6.1 of the *Judicature Act*;

**(3) Section 2 is amended by adding the following after subsection (5):**

(5.1) The Court may designate the sittings of the Court.

- (g) *prescribing fees to be paid for each proceeding or specified service;*
- (h) *providing for and governing the benefits to which justices of the peace 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 payments in respect of those credits;*
  - (v) *pension benefits for justices of the peace and their spouses or survivors;*
- (i) *providing for the transfer or other disposition of benefits referred to in clause (h) to which persons appointed as justices of the peace under 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 this Act;*
- (j) *requiring and governing the making of returns and reports by justices of the peace;*
- (k) *governing the remission of fines, penalties, forfeitures or other sums of money;*
- (l) *respecting any matter necessary and advisable to carry out effectively the intent and purposes of this Act.*

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

### **Provincial Court Judges Act**

4(1) Amends chapter P-20.1 of the Statutes of Alberta, 1981.

(2) Section 1(b) presently reads:

*1 In this Act,*

*(b) "Judicial Council" means the Judicial Council for the Judges of the Provincial Court;*

(3) Court sittings.

Appointment  
of super-  
numerary  
judge

**(4) Section 7 is repealed and the following is substituted:**

**7(1)** A judge who retires may elect to become a supernumerary judge.

**(2)** A judge who is retired from office under Part 6.1 of the *Judicature Act* is not entitled to elect to become a supernumerary judge.

**(3)** The Lieutenant Governor in Council, on the recommendation of the chief judge, may appoint a person as a supernumerary judge if the person has made an election under subsection (1).

**(4)** The term of appointment as a supernumerary judge is 2 years, but the Minister of Justice and Attorney General shall renew the appointment for further periods of 2 years on the recommendation of the chief judge.

**(5)** Section 6 does not apply to a supernumerary judge.

**(5) Sections 9 and 10 are repealed.**



(4) Section 7 presently reads:

*7(1) The Lieutenant Governor in Council on the recommendation of the Minister of Justice and Attorney General may appoint, for a term of up to 2 years, a person as a supernumerary judge on terms and conditions agreed on by the person and chief judge and approved by the Minister of Justice and Attorney General.*

*(2) Unless the Lieutenant Governor in Council provides otherwise, no person other than a person who has attained the age of 60 years and has served as a judge for at least 10 years may be appointed as a supernumerary judge.*

*(3) Section 6 does not apply to a supernumerary judge.*

(5) Sections 9 and 10 presently read:

*9 The chief judge shall review any matter regarding the conduct of a judge that comes to his attention, whether a complaint is made or not, and may do 1 or more of the following:*

*(a) determine that no further action need be taken;*

*(b) reprimand the judge;*

*(c) take corrective measures;*

*(d) refer the matter to the Judicial Council.*

*10(1) The Judicial Council for the Judges of the Provincial Court shall consist of*

*(a) the Chief Justice of Alberta or a judge of the Court of Appeal designated by him,*

*(b) the Chief Justice of the Court of Queen's Bench or a judge of the Court of Queen's Bench designated by him,*

*(c) the chief judge of the Provincial Court of Alberta or a judge of that court designated by him,*

*(d) the President of The Law Society of Alberta or a Bencher designated by him, and*

**(6) Section 11 is repealed and the following is substituted:**

Complaints

**11** A complaint about the competence, conduct, misbehaviour or neglect of duty of a judge or the inability of a judge to perform duties may be made to the judicial council and shall be dealt with in accordance with Part 6.1 of the *Judicature Act*.

- (e) *not more than 2 other persons appointed by the Minister of Justice and Attorney General.*
  - (2) *The Minister of Justice and Attorney General shall designate 1 member of the Judicial Council to be chairman.*
  - (3) *The Judicial Council may make rules of procedure governing the calling of its meetings and the conduct of business at its meetings.*
  - (4) *Four members of the Judicial Council constitute a quorum.*
- (6) Section 11 presently reads:

*11(1) The Judicial Council shall*

- (a) *consider proposed appointments of persons as judges and report its recommendations to the Minister of Justice and Attorney General,*
  - (b) *receive complaints respecting the lack of competence of, conduct or misbehaviour of, or neglect of duty by, judges or the inability of judges to perform their duties, and*
  - (c) *take any action to investigate complaints that it considers advisable and make recommendations to the Minister of Justice and Attorney General.*
- (2) *The Judicial Council may refer any complaint to the chief judge of the Court or to a committee of the Judicial Council for inquiry and report to the Judicial Council.*
- (3) *The Judicial Council, a committee of it or the chief judge, in conducting an inquiry under this section, has all the powers, privileges and immunities of a commissioner under the Public Inquiries Act.*
- (4) *An inquiry under this section shall be held in private and the results of the inquiry shall not be made public.*
- (5) *If an inquiry is conducted under this section, the judge, whose conduct, competence or ability is the subject of the inquiry, shall be given*
- (a) *reasonable notice of the time and place of the inquiry and the matter to be investigated, and*
  - (b) *the opportunity, by himself or his counsel, to be heard and to cross-examine witnesses and adduce evidence.*
- (6) *If the Judicial Council recommends the removal or retirement of a judge from office, the Lieutenant Governor in Council may make an order of removal or retirement.*
- (7) *The chief judge of the Provincial Court or the judge designated by him to be a member of the Judicial Council shall not investigate or inquire into any complaint in respect of which he is the subject.*

**(7) Section 13(1) is repealed and the following is substituted:**

Judge's  
residence

**13(1)** The Minister of Justice and Attorney General or a person authorized by the Minister may, on the appointment of a judge, designate the place at which the judge is to reside, but any subsequent change in designation requires the consent of the judge.

**(8) Section 15 is repealed.**

**(9) Section 17(1) is amended**

**(a) by striking out “may” and substituting “shall”;**

**(b) by adding the following after clause (d):**

(d.1) respecting the terms and conditions of appointment of supernumerary judges;

**(10) The following is added after section 17:**

(7) Section 13(1) presently reads:

*13(1) The Minister of Justice and Attorney General or a person authorized by him may*

- (a) designate the place at which a judge shall have his residence;*
- (b) designate the day or days on which the Court shall hold sittings.*

(8) Section 15 presently reads:

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

(9) Section 17(1) presently reads:

*17(1) The Lieutenant Governor in Council may make regulations*

- (a) fixing the salaries to be paid to judges;*
- (b) fixing 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 payments in respect of those credits;*
  - (v) pension benefits for judges and their spouses or survivors;*
- (e) providing for the transfer or other disposition of those benefits to which persons appointed as judges under 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 Act or under this Act.*

(10) Compensation commission.

Compensation  
commission

**17.1** As soon as possible after the coming into force of this section, a review of the remuneration and benefits of judges shall be conducted in accordance with an agreement entered into between the Minister, the chief judge and the Alberta Provincial Judges' Association.

### **Consequential Amendments**

**5** The *Conflicts of Interest Act* is amended in Schedule 3 by striking out “Judicial Council for the Judges of the Provincial Court” and substituting “Judicial council established under Part 6.1 of the *Judicature Act*”.

**6** The *Court of Appeal Act* is amended

(a) in section 15 by striking out “and” at the end of clause (a) and repealing clause (b);

(b) by repealing section 16 and substituting the following:

Court sittings

**16** The Court may designate the sittings of the Court.

**7** The *Financial Administration Act* is amended in section 81.1(9) by adding the following after clause (i):

(j) a judicial council established under Part 6.1 of the *Judicature Act*.

**8** The *Freedom of Information and Protection of Privacy Act* is amended

(a) in section 4(1)(a) and (2) by adding “or a presiding justice of the peace under the *Justice of the Peace Act*” after “sitting justice of the peace”;

(b) by repealing section 4(2)(d) and substituting the following:

(d) any record of a judicial council established under Part 6.1 of the *Judicature Act*.

**9** The *Government Organization Act* is amended in Schedule 9 by repealing section 2(j)(vii) and substituting the following:

### **Consequential Amendments**

**5** Amends SA 1991 cC-22.1.

**6** Amends RSA 1980 cC-28.

**7** Amends RSA 1980 cF-9.

**8** Amends SA 1994 cF-18.5.

**9** Amends SA 1994 cG-8.5.

(vii) the regulation of the work of official court reporters;

**10 The *Provincial Court Act* is amended**

**(a) in section 1 by adding the following before clause (d):**

(c.1) “presiding justice of the peace” means a justice of the peace designated by the Lieutenant Governor in Council as a presiding justice of the peace under the *Justice of the Peace Act*;

**(b) in section 19 by adding “, the presiding justices of the peace” after “judges”;**

**(c) by repealing section 21(1)(f).**

**Coming into Force**

**11 This Act, except section 4(10), comes into force on Proclamation.**



**10** Amends RSA 1980 cP-20.

**Coming into Force**

**11** Coming into force.