

2001 BILL 27

First Session, 25th Legislature, 50 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 27

PROVINCIAL COURT AMENDMENT ACT, 2001

THE MINISTER OF JUSTICE AND ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 27

2001

PROVINCIAL COURT AMENDMENT ACT, 2001

(Assented to _____, 2001)

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

Amends RSA
1980 cP-20

1 The *Provincial Court Act* is amended by this Act.

2 The following is added after section 18:

Sending of
documents by
a clerk

18.1 Where a clerk is required or permitted to send a document, notice or other thing under this Act, the clerk may send it by ordinary or registered mail.

3 The following is added after section 21.21:

Judgment by
former judge

21.211 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.

4 The following after section 21.22:

Reappoint-
ment of judges

21.23(1) Notwithstanding section 21.22, a judge may, in accordance with this section, be reappointed 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 request that the Lieutenant Governor in Council reappoint that person as a judge for a term of one year.

Explanatory Notes

- 1** Amends chapter P-20 of the Revised Statutes of Alberta 1980.
- 2** Sending documents by a clerk.
- 3** Allows a judge to complete a judgment after ceasing to hold office.
- 4** Reappointment of judges.

(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 request that the Lieutenant Governor in Council reappoint that person as a judge for a term of one year.

(4) Where a judge has been reappointed 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 request that the Lieutenant Governor in Council reappoint that person 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 request that the Lieutenant Governor in Council reappoint that person as a judge for a term of one year.

(5) The request of the Chief Judge or the Judicial Council for the reappointment of a person as judge under this section may be made if

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

(6) Where the Chief Judge or the Judicial Council, as the case may be, requests that the Lieutenant Governor in Council reappoint a judge for a term of one year, the Lieutenant Governor in Council shall, subject to subsection (7), reappoint that judge for a term of one year.

(7) A reappointment of a judge under this section shall be made only if

- (a) a request for the reappointment has been made under subsection (2), (3) or (4),
- (b) the judge in respect of whom the request has been made has consented to the reappointment,

(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 reappointed under this section may, subject to subsection (7), be reappointed under subsection (6) for further terms of one year.

(9) Notwithstanding anything in this section, if a judge who is reappointed 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.

5 Section 21.3(1) is repealed and the following is substituted:

Appointment
of super-
numerary
judge

21.3(1) Where

(a) a judge retires, or

(b) the term of office of a judge reappointed under section 21.23 expires,

that person may elect to become a supernumerary judge.

6 Section 21.71 is amended

(a) in subsection (1)(c) by adding "filed" after "of the".

(b) in subsection (2)

(i) by striking out "and" at the end of clause (a) and by adding the following after clause (a):

(a.1) filing a copy of the order with the Court, and

(ii) by striking out clause (b) and substituting the following:

(b) sending a copy of the filed order to the other party to the proceeding.

(c) in subsection (3) by striking out "or furnish, as the case may be,".

5 Section 21.3(1) presently reads:

21.3(1) A judge who retires may elect to become a supernumerary judge.

6 Section 21.71(1), (2) and (3) presently read:

21.71(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 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, and

7 Section 44(1)(c) is amended by adding “in the case of service on a corporation by registered mail,” **before** “by an affidavit”.

8 Section 72 is repealed.

9 The *Judicature Act* is amended in section 32.911(1)(a) by adding the following after subclause (i):

(i.1) in the case of a judge, by the Chief Judge that relates to a request for reappointment of the judge made pursuant to section 21.23(2) or (4)(a) of the *Provincial Court Act*;

(b) furnishing the order to the other party to the proceeding or as directed by the Court.

(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 or furnish, as the case may be, the certificate of judgment or order to the parties to the proceedings.

7 Section 44(1)(c) presently reads:

44(1) For the purposes of this Part, service of a document may be proved

(c) by an affidavit of service proving the mailing by registered mail and exhibiting the receipt provided by the post office showing that the document was sent by registered mail, or

8 Section 72 presently reads:

72 Where a clerk is required to send a document, notice or other thing under this Part, it may be sent by ordinary or registered mail.

9 Section 32.911(1)(a) of the Judicature Act presently reads:

32.911(1) In this section,

(a) "administrative decision" means a decision made,

(i) in the case of a judge, by a supervisory judge that relates to administrative or supervisory matters in respect of the judge, including any decision made pursuant to section 21.1(5) or (6) or 21.42 of the Provincial Court Act;

(ii) in the case of a justice of the peace, by a supervisory judge that relates to administrative or supervisory matters in respect of the justice of the peace, including any decision made pursuant to section 4 of the Justice of the Peace Act;