

## BILL 25

2005

### PROVINCIAL COURT AMENDMENT ACT, 2005

(Assented to \_\_\_\_\_, 2005)

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

#### Amends RSA 2000 cP-31

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

**2 Section 1(b) is amended**

(a) by adding “or reappointed” after “appointed”;

(b) by adding “, part-time judge” after “Assistant Chief Judge”.

**3 The following is added after section 9.23:**

#### **Reappointment of part-time judges**

**9.24(1)** Notwithstanding section 9.22, a judge may, in  
accordance with this section, be appointed 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 be appointed as a part-time judge,

the Chief Judge may request that the Lieutenant Governor in Council appoint that person as a part-time judge on that person's retirement as a full-time judge if the Chief Judge determines that the appointment 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 be appointed as a part-time judge,

the Chief Judge may request that the Lieutenant Governor in Council appoint that person as a part-time judge on that person'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 appointment is about to expire, and
- (b) states in writing to the Chief Judge that the judge is prepared to be reappointed as a part-time judge,

the Chief Judge may request that the Lieutenant Governor in Council reappoint that person for one year as a part-time judge if the conditions in subsection (5) are met.

**(5) A request under subsection (3) or (4) may be made if**

- (a) the Chief Judge determines that the appointment under subsection (3) or reappointment under subsection (4) 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 a request is made under subsection (2), (3) or (4), the Lieutenant Governor in Council shall, subject to subsection (7), appoint or reappoint the judge as a part-time judge for a term set out in subsection (8).

(7) An appointment or reappointment of a judge as a part-time judge shall be made only if

- (a) the judge has consented to the appointment or reappointment,
- (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 appointed or reappointed under this section is as follows:

- (a) if the request for appointment is made under subsection (2), the term commences on the judge's birthday following the date of retirement and expires on the commencement of the judge's 70th birthday;
- (b) if the request for appointment is made under subsection (3), the term commences on the date the judge attains the age of 70 years and expires one year from that date;
- (c) if the request for reappointment is made under subsection (4), the term commences on the date of the expiry of the previous appointment and expires one year from that date.

(9) In each year of a part-time judge's term, the judge must serve two 3-month periods sitting on a full-time basis.

(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 appointment of a part-time judge expires when the judge attains the age of 75 years.

**4 Section 9.3(1) is amended by striking out “or” at the end of clause (a), adding “or” at the end of clause (b) and adding the following after clause (b):**

(c) the term of office of a judge appointed or reappointed under section 9.24 expires,

**5 Section 9.41 is amended by adding “or part-time” after “full-time”.**

**6 Section 9.52(1)(a) and (b) are amended by striking out “fixing” and substituting “governing”.**

**7 The *Judicature Act* is amended in section 41.1(1)(a) by adding the following after subclause (i.1):**

(i.2) in the case of a judge, by the Chief Judge that relates to a request for appointment or reappointment of the judge as a part-time judge made pursuant to section 9.24 of the *Provincial Court Act*;

**8 This Act comes into force on Proclamation.**

### Explanatory Notes

1 Amends chapter P-31 of the Revised Statutes of Alberta 2000.

**2** Section 1(b) presently reads:

*1 In this Act,*

- (b) “judge” means a judge of the Provincial Court appointed under this Act and includes a Chief Judge, Deputy Chief Judge, Assistant Chief Judge and supernumerary judge;*

**3** New section added to enable full-time retiring judges to be reappointed as part-time judges.

**4** Section 9.3(1) presently reads:

*9.3(1) Where*

- (a) a judge retires, or*
- (b) the term of office of a judge reappointed under section 9.23 expires,*

*that person may elect to become a supernumerary judge.*

**5** Section 9.41 presently reads:

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

**6** Section 9.52(1)(b) presently reads:

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

*(a) fixing the salaries to be paid to judges;*

*(b) fixing the amount to be paid to judges sitting part time;*

**7** Amends chapter J-2 of the Revised Statutes of Alberta 2000.

**8** Coming into force.