

2007 Bill 28

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 28

PROVINCIAL COURT AMENDMENT ACT, 2007

THE MINISTER OF JUSTICE AND ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 28

2007

PROVINCIAL COURT AMENDMENT ACT, 2007

(Assented to _____, 2007)

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 9.24 is amended

(a) by adding the following after subsection (3):

(3.1) Where a judge

- (a) has been reappointed 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 be appointed as a part-time judge,

the Chief Judge may request that the Lieutenant Governor in Council appoint that judge as a part-time judge on the judge's retirement as a full-time judge if the conditions in subsection (5) are met.

(b) in subsection (5)

- (i) by striking out “(3) or (4)” and substituting “(3), (3.1) or (4)”;**

Explanatory Notes

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

2 Section 9.24 presently reads:

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

- (ii) in clause (a) by adding “or (3.1)” after “(3)”;
- (c) in subsection (6) by adding “, (3.1)” after “(3)”;
- (d) in subsection (8) by adding the following after clause (b):

 - (b.1) if the request for appointment is made under subsection (3.1),

 - (i) unless subclause (ii) applies, the term commences on the judge’s birthday following the date of retirement and expires one year from that date, or
 - (ii) where the appointment is made after the judge’s birthday but on or before the mid-point of the term of the judge’s current appointment under section 9.23, the term commences on the 183rd day after the judge’s birthday and expires on the commencement of the judge’s next birthday;
- (e) by repealing subsection (9) and substituting the following:

 - (9) A part-time judge must serve

 - (a) the equivalent of 6 months of full-time service during the year, or
 - (b) in the case of an appointment referred to in subsection (8)(b.1)(ii), the equivalent of 3 months of full-time service.

- (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.

RECORD OF DEBATE

Stage	Date	Member	From	To
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