

2008 Bill 14

First Session, 27th Legislature, 57 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 14

COURT OF QUEEN'S BENCH AMENDMENT ACT, 2008

MINISTER OF JUSTICE AND ATTORNEY GENERAL

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 14

2008

COURT OF QUEEN'S BENCH AMENDMENT ACT, 2008

(Assented to _____, 2008)

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

Amends RSA 2000 cC-31

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

2 Section 1 is amended

(a) by renumbering clause (a) as clause (a.2) and adding the following before clause (a.2):

(a) "Associate Chief Justice" means the Associate Chief Justice of the Court of Queen's Bench of Alberta;

(a.1) "Chief Justice", except in sections 5 and 25(1)(a), means the Chief Justice of the Court of Queen's Bench of Alberta;

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

(b.1) "Judicial Council" means the Judicial Council established under Part 6 of the *Judicature Act*;

(b.2) "master in chambers" means a master in chambers appointed or reappointed under this Act and includes an ad hoc master in chambers;

Explanatory Notes

- 1** Amends chapter C-31 of the Revised Statutes of Alberta 2000.
- 2** Adds definitions.

3 Section 3 is amended by adding the following after subsection (4):

(5) Notwithstanding subsection (1), there is an additional office of judge of the Court that an Associate Chief Justice who has resigned the office of Associate Chief Justice may elect to hold on compliance with, and on meeting the qualifications under, the *Judges Act* (Canada).

4 Section 4(2) is amended by striking out “Justice of the Court” and substituting “Justice”.

5 Section 5 is amended by striking out “or the Chief Justice of the Court of Queen’s Bench of Alberta” and substituting “, the Chief Justice of the Court of Queen’s Bench of Alberta or the Associate Chief Justice”.

6 Section 6(1) and (2) are amended by striking out “of the Court”.

3 Section 3 presently reads:

3(1) The Court consists of

- (a) the chief judge, who shall be called the Chief Justice of the Court of Queen's Bench of Alberta,*
- (b) the associate chief judge, who shall be called the Associate Chief Justice of the Court of Queen's Bench of Alberta,*
- (c) 61 other judges, who shall be called justices of the Court of Queen's Bench of Alberta, and*
- (d) the supernumerary judges of the Court.*

(2) The Lieutenant Governor in Council may by order increase the number of judges of the Court.

(3) Notwithstanding subsection (1), each judge of the Court of Appeal of Alberta is by virtue of that office a judge of the Court of Queen's Bench.

(4) Notwithstanding subsection (1), there is an additional office of judge of the Court that a Chief Justice who has resigned the office of Chief Justice may elect to hold on compliance with, and on meeting the qualifications under, the Judges Act (Canada).

4 Section 4(2) presently reads:

(2) If the Chief Justice or Associate Chief Justice of the Court makes an election under subsection (1), that Justice shall hold only the office of supernumerary judge of the Court.

5 Section 5 presently reads:

5 Each judge and master in chambers, before entering on the duties of that office, shall take the oath prescribed by the Oaths of Office Act before the Lieutenant Governor, the Chief Justice of Alberta or the Chief Justice of the Court of Queen's Bench of Alberta.

6 Section 6 presently reads in part:

7 Section 8(3) is repealed.

8 The following is added after section 8:

Retirement age

8.1(1) A master in chambers shall retire on attaining the age of 70 years.

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

Reappointment of masters in chambers

8.2(1) Notwithstanding section 8.1(1), a master in chambers may, in accordance with this section, be reappointed as a master in chambers.

(2) Where a master in chambers is approaching the age of 70 years, the Chief Justice may request that the Lieutenant Governor in Council reappoint that person as a master in chambers for a term of one year.

(3) Where a master in chambers has been reappointed as a master in chambers under this section, the Chief Justice may request that the Lieutenant Governor in Council reappoint that person as a master in chambers for a further term of one year.

(4) The Chief Justice may request the reappointment of a person as a master in chambers under this section if

6(1) The Chief Justice of the Court shall reside at or in the neighbourhood of Edmonton or Calgary.

(2) Before entering on the duties of office, each judge other than the Chief Justice of the Court shall reside at or in the neighbourhood of a city approved in writing by the Minister and may subsequently with the approval in writing of the Minister change the judge's place of residence so as to reside at or in the neighbourhood of another city.

7 Section 8(3) presently reads:

(3) Subject to being retired or removed from office under Part 6 of the Judicature Act, a master in chambers must retire on attaining the age of 70 years.

8 New provisions respecting retirement, reappointment, ad hoc appointment and resignation.

- (a) the Chief Justice 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 Justice and approved by the Judicial Council.

(5) Where the Chief Justice requests that the Lieutenant Governor in Council reappoint a master in chambers for a term of one year, the Lieutenant Governor in Council shall, subject to subsection (6), reappoint that master in chambers for a term of one year.

(6) A reappointment of a master in chambers under this section may be made only if

- (a) a request for the reappointment has been made under subsection (2) or (3),
- (b) the master in chambers in respect of whom the request has been made has consented to the reappointment,
- (c) the master in chambers is not nor has been an ad hoc master in chambers, and
- (d) the master in chambers has not attained the age of 75 years.

(7) A master in chambers who has been reappointed under this section may, subject to subsection (6), be reappointed under subsection (5) for further terms of one year.

(8) Notwithstanding anything in this section, if a master in chambers who is reappointed under this section attains the age of 75 years at any time during the master's term, that master's term expires when that master in chambers attains that age.

Appointment of ad hoc master in chambers

8.3(1) Where

- (a) a master in chambers retires or resigns, or

- (b) the term of office of a master in chambers reappointed under section 8.2 expires,

that person may elect to become an ad hoc master in chambers.

(2) A master in chambers who is retired from office under Part 6 of the *Judicature Act* is not entitled to elect to become an ad hoc master in chambers.

(3) The Lieutenant Governor in Council, on the recommendation of the Chief Justice, may appoint a person as an ad hoc master in chambers if the person has made an election under subsection (1).

(4) The term of appointment as an ad hoc master in chambers is 2 years, but the Minister shall renew the appointment for further periods of 2 years on the recommendation of the Chief Justice.

(5) Section 8.1 does not apply to an ad hoc master in chambers.

Resignation

8.4 A master in chambers may at any time resign from being a master in chambers by giving a written notice signed by that master in chambers that includes the effective date of the resignation and delivering that notice to the Minister.

9 The following is added after section 10:

Inability of master in chambers to complete proceedings

10.1 If a proceeding has commenced and the presiding master in chambers is unable for any reason to complete the proceedings, any master in chambers requested by the Chief Justice to act may

- (a) continue the proceedings to completion from where the proceedings were left off, or
- (b) recommence the proceedings if in the opinion of the master in chambers that is required to ensure justice.

Judgment by former master in chambers

10.2 If a master in chambers ceases to hold office without giving a judgment or making an order in any matter that was

9 New provisions respecting inability of master to complete proceedings, judgments by former masters.

fully heard by that master in chambers, that person may, within 3 months after ceasing to hold office, give judgment or make an order in that matter as if that person were still a master in chambers, and that judgment or order has the same effect as though given by a master in chambers.

10 The following is added after section 14:

Confidentiality of selection process

14.1 Records containing information arising from the process for the selection of masters in chambers are confidential and notwithstanding the *Freedom of Information and Protection of Privacy Act* are not subject to that Act.

11 The section immediately following section 17 is renumbered as section 18.

12 Section 24(1) is amended by striking out “Justice of the Court” and substituting “Justice”.

10 New provision respecting confidentiality of selection process.

11 The section immediately following section 17 presently reads:

16(1) An officer of the Court, for the purpose of matters directed by the Court to be taken before the officer, has power to administer oaths, take affidavits and statutory declarations, receive affirmations and examine parties and witnesses, as the Court may direct.

(2) An officer of the Court, at the direction of the Court, may assist the Court with respect to the management of matters before the Court and the business of the Court.

12 Section 24(1) presently reads:

24(1) A council comprised of the judges shall, at least once in every year on a day fixed by the Chief Justice of the Court and of which the Chief Justice shall give notice to the judges, assemble for the purpose of

(a) considering

(i) the operation of this Act and the rules made under this Act, and

(ii) the working of, and the arrangements governing the performance of duties by, the officers of the Court,

and

13 Section 25(1) is amended

- (a) in clause (a) by adding “of Alberta” after “by the Chief Justice”;
- (b) by repealing clause (b) and substituting the following:
 - (b) the Chief Justice or a judge of the Court of Queen’s Bench of Alberta designated by the Chief Justice;

14 The *Judicature Act* is amended by repealing section 30(f) and substituting the following:

- (f) “master” means a master in chambers as defined in the *Court of Queen’s Bench Act*;

- (b) *inquiring into and examining any defects that appear to exist in the procedure of any court or other authority.*

13 Section 25(1) presently reads:

25(1) There shall be a Rules of Court Committee consisting of the following members:

- (a) *the Chief Justice of Alberta or a judge of the Court of Appeal designated by the Chief Justice;*
- (b) *the Chief Justice of the Court of Queen's Bench or a judge of the Court of Queen's Bench designated by the Chief Justice;*
- (c) *the chief judge of The Provincial Court of Alberta or a judge of the Provincial Court designated by the chief judge;*
- (d) *2 persons who are members of the Law Society of Alberta appointed by the Minister from among those recommended by the Benchers of the Law Society of Alberta;*
- (e) *one person appointed by the Minister.*

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

