

Judges Act, RSC 1985, c J-1

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Judges Act

R.S.C., 1985, c. J-1

An Act respecting judges of federal and provincial courts

Short Title

Short title

1 This Act may be cited as the *Judges Act*.

R.S., c. J-1, s. 1.

Interpretation

Definitions

2 In this Act,

age of retirement of a judge or of a prothonotary of the Federal Court means the age, fixed by law, at which the judge or prothonotary ceases to hold office; (*mise à la retraite d'office*)

attorney general of the province, except where otherwise defined, means the minister of the Crown of the province who is responsible for judicial affairs; (*procureur général de la province*)

common-law partner, in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year; (*conjoint de fait*)

Council means the Canadian Judicial Council established by [subsection 59\(1\)](#); (*Conseil*)

Supreme Court of Newfoundland and Labrador

21 The yearly salaries of the judges of the Supreme Court of Newfoundland and Labrador are as follows:

- (a) the Chief Justice of Newfoundland and Labrador, \$344,400;
- (b) the five Judges of Appeal, \$314,100 each;
- (c) the Chief Justice of the Trial Division, \$344,400; and
- (d) the 18 other judges of the Trial Division, \$314,100 each.

R.S., 1985, c. J-1, s. 21 R.S., 1985, c. 41 (1st Supp.), s. 8, c. 50 (1st Supp.), s. 4, c. 27 (2nd Supp.), s. 2, c. 39 (3rd Supp.), s. 1 1989, c. 8, s. 6 2001, c. 7, s. 13 2006, c. 11, s. 1 2012, c. 31, s. 210 2017, c. 20, s. 209.

Supreme Court of Yukon

22 (1) The yearly salaries of the judges of the Supreme Court of Yukon are as follows:

- (a) the Chief Justice, \$344,400; and
- (b) the two other judges, \$314,100 each.

Supreme Court of the Northwest Territories

(2) The yearly salaries of the judges of the Supreme Court of the Northwest Territories are as follows:

- (a) the Chief Justice, \$344,400; and
- (b) the two other judges, \$314,100 each.

Nunavut Court of Justice

(2.1) The yearly salaries of the judges of the Nunavut Court of Justice are as follows:

- (a) the Chief Justice, \$344,400; and
- (b) the four other judges, \$314,100 each.

(3) [Repealed, 2017, c. 33, s. 232]

R.S., 1985, c. J-1, s. 22 R.S., 1985, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1 1989, c. 8, s. 7 1999, c. 3, s. 72 2001, c. 7, s. 14 2002, c. 7, s. 189 2006, c. 11, s. 2 2011, c. 24, s. 170 2012, c. 31, s. 210 2017, c. 20, s. 210, c. 33, s. 232.

Rounding of amounts

23 A salary referred to in any of [sections 9 to 22](#) that is not a multiple of one hundred dollars shall be rounded down to the next lowest multiple of one hundred dollars.

R.S., 1985, c. J-1, s. 23 R.S., 1985, c. 5 (1st Supp.), s. 2, c. 11 (1st Supp.), s. 2, c. 41 (1st Supp.), s. 9, c. 50 (1st Supp.), s. 4 1989, c. 8, s. 8 1990, c. 16, s. 16, c. 17, s. 30 1992, c. 51, s. 6 2001, c. 7, s. 15.

Additional judges

24 (1) Notwithstanding [sections 12 to 22](#) but subject to subsections (3) and (4), where the number of judges of a superior court in a province has been increased by or pursuant to an Act of the legislature of the province beyond the number of judges of that court whose salaries are provided for by [sections 12 to 22](#), a salary is payable pursuant to this section to each additional judge, appointed to that court in accordance with that Act and in the manner provided by law, from the time that judge's appointment becomes effective and in the same manner and subject to the same terms and conditions as if the salary were payable under [sections 12 to 22](#).

Salaries fixed

(2) The salary of a judge appointed in the circumstances described in subsection (1) is the salary annexed, pursuant to [sections 12 to 22](#), to the office of judge to which the appointment is made.

Limit

(3) Subject to subsection (4), the number of salaries that may be paid pursuant to this section at any one time shall not be greater than

(a) 16, in the case of judges appointed to appeal courts in the provinces; and

(b) 62, in the case of judges appointed to superior courts in the provinces other than appeal courts.

(c) [Repealed, 1992, c. 51, s. 7]

Unified family courts

(4) For the purposes of assisting the establishment of unified family courts in the provinces, a further number of salaries not greater than 75 at any one time may be paid in the case of judges appointed to courts described in paragraph (3)(b)

(a) where the court has the jurisdiction of a unified family court; or

(b) where a request has been made by a provincial attorney general for the appointment to the court of judges to exercise the jurisdiction of a unified family court.

Salary deemed payable under [sections 12 to 22](#)

(5) A salary payable to a judge under this section is deemed, for all purposes of the provisions of this Act, other than this section, and of any other Act of Parliament, to be a salary payable under [sections 12 to 22](#).

Definition of appeal court

(6) In this section, **appeal court** means, in relation to each of the Provinces of Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Saskatchewan, Alberta and Newfoundland and Labrador, the Court of Appeal of the Province.

R.S., 1985, c. J-1, s. 24 R.S., 1985, c. 41 (1st Supp.), s. 10, c. 27 (2nd Supp.), [s. 3](#) 1989, c. 8, s. 9 1992, c. 51, s. 7 1996, c. 30, s. 1 1998, c. 30, s. 3 [2006, c. 11, s. 3](#) [2008, c. 26, s. 1](#) [2015, c. 3, s. 126](#) [2017, c. 20, s. 21](#) [2018, c. 12, s. 300](#).

Periodic Adjustment and Revision of Salaries

Annual adjustment of salary

25 (1) The yearly salaries referred to in [sections 9 to 22](#) apply in respect of the twelve-month period beginning on April 1, 2016.

Annual adjustment of salary

(2) The salary annexed to an office of judge referred to in [sections 9, 10 and 10.2 to 22](#) for the twelve-month period beginning on April 1, 2017, and for each subsequent twelve-month period, shall be the amount obtained by multiplying

(a) the salary annexed to that office for the twelve month period immediately preceding the twelve month period in respect of which the salary is to be determined

by

(b) the percentage that the Industrial Aggregate for the first adjustment year is of the Industrial Aggregate for the second adjustment year, or one hundred and seven per cent, whichever is less.

Meaning of certain expressions

(3) For the purposes of this section,

(a) in relation to any twelve month period in respect of which the salary is to be determined, the **first adjustment year** is the most recent twelve month period for which the Industrial Aggregate is available on the first day of the period in respect of which the salary is to be determined, and the **second adjustment year** is the twelve month period immediately preceding the first adjustment year; and

(b) the **Industrial Aggregate** for an adjustment year is the average weekly wages and salaries of the Industrial Aggregate in Canada for that year as published by Statistics Canada under the authority of the [Statistics Act](#).

R.S., 1985, c. J-1, s. 25 R.S., 1985, c. 16 (3rd Supp.), s. 2 1993, c. 13, s. 10 1994, c. 18, s. 9 1998, c. 30, s. 4 [2001, c. 7, s. 16](#) [2006, c. 11, s. 4](#) [2012, c. 31, s. 211](#) [2014, c. 39, s. 319](#) [2017, c. 20, s. 212](#).

Commission

26 (1) The Judicial Compensation and Benefits Commission is hereby established to inquire into the adequacy of the salaries and other amounts payable under this Act and into the adequacy of judges' benefits generally.

Factors to be considered

(1.1) In conducting its inquiry, the Commission shall consider

(a) the prevailing economic conditions in Canada, including the cost of living, and the overall economic and current financial position of the federal government;

(b) the role of financial security of the judiciary in ensuring judicial independence;

(c) the need to attract outstanding candidates to the judiciary; and

(d) any other objective criteria that the Commission considers relevant.

Quadrennial inquiry

(2) The Commission shall commence an inquiry on June 1, 2020, and on June 1 of every fourth year after 2020, and shall submit a report containing its recommendations to the Minister of Justice of Canada within nine months after the date of commencement.

Postponement

(3) The Commission may, with the consent of the Minister of Justice and the judiciary, postpone the date of commencement of a quadrennial inquiry.

Other reports

(4) In addition to its quadrennial inquiry, the Minister of Justice may at any time refer to the Commission for its inquiry a matter mentioned in subsection (1). The Commission shall submit to that Minister a report containing its recommendations within a period fixed by the Minister after consultation with the Commission.

Extension of time

(5) The Governor in Council may, on the request of the Commission, extend the time for submission of a report under subsection (2) or (4).

Report of Commission

(6) The Minister of Justice shall table a copy of the report in each House of Parliament on any of the first ten days on which that House is sitting after the Minister receives the report.

Referral to Committee

(6.1) A report that is tabled in each House of Parliament under subsection (6) shall, on the day it is tabled or, if the House is not sitting on that day, on the day that House next sits, be referred by that House to a committee of that House that is designated or established by that House for the purpose of considering matters relating to justice.

Report by Committee

(6.2) A committee referred to in subsection (6.1) may conduct inquiries or public hearings in respect of a report referred to it under that subsection, and if it does so, the committee shall, not later than ninety sitting days after the report is referred to it, report its findings to the House that designated or established the committee.

Definition of sitting day

(6.3) For the purpose of subsection (6.2), **sitting day** means a day on which the House of Commons or the Senate, as the case may be, sits.

Response to report

(7) The Minister of Justice shall respond to a report of the Commission within four months after receiving it. Following that response, if applicable, he or she shall, within a reasonable period, cause to be prepared and introduced a bill to implement the response.

R.S., 1985, c. J-1, s. 26 1996, c. 2, s. 1 1998, c. 30, s. 5 2001, c. 7, s. 17(F) 2012, c. 31, s. 212 2017, c. 20, s. 213.

Nomination

26.1 (1) The Judicial Compensation and Benefits Commission consists of three members appointed by the Governor in Council as follows:

- (a)** one person nominated by the judiciary;
- (b)** one person nominated by the Minister of Justice of Canada; and
- (c)** one person, who shall act as chairperson, nominated by the members who are nominated under paragraphs (a) and (b).

Tenure and removal

(2) Each member holds office during good behaviour, and may be removed for cause at any time by the Governor in Council.

Term of office

(3) The term of office for the initial members appointed to the Commission ends on August 31, 2003. The members subsequently appointed hold office for a term of four years.

Continuance of duties

(4) Where the term of a member ends, other than in the case of removal for cause, the member may carry out and complete any duties of the members in respect of a matter that was referred to the Commission under [subsection 26\(4\)](#) while he or she was a member.

Reappointment

(5) A member is eligible to be reappointed for one further term if re-nominated in accordance with subsection (1).

Absence or incapacity

(6) In the event of the absence or incapacity of a member, the Governor in Council may appoint as a substitute temporary member a person nominated in accordance with subsection (1) to hold office during the absence or incapacity.

Vacancy

(7) If the office of a member becomes vacant during the term of the member, the Governor in Council shall appoint a person nominated in accordance with subsection (1) to hold office as a member for the remainder of the term.

Quorum

(8) A quorum of the Commission consists of all three members.

Remuneration

(9) The members of the Commission and persons carrying out duties under subsection (4) shall be paid

(a) the fees fixed by the Governor in Council; and

(b) such travel and living expenses incurred in the course of their duties while away from their ordinary place of residence as are fixed by the Governor in Council.

Compensation

(10) The members of the Commission and persons carrying out duties under subsection (4) are deemed to be employed in the federal public administration for the purposes of the *Government Employees Compensation Act* and any regulations made under [section 9](#) of the *Aeronautics Act*.

1998, c. 30, s. 5 [2003, c. 22, s. 224\(E\)](#).

Definition of judiciary

26.11 In [sections 26](#) and [26.1](#), **judiciary** includes the prothonotaries of the Federal Court. [2017, c. 20, s. 214](#).

Personnel

26.2 (1) The Commission may engage the services of any persons necessary for the proper conduct of the Commission.

Presumption

(2) No person engaged under subsection (1) shall, as a result, be considered to be employed in the federal public administration.

1998, c. 30, s. 5 [2003, c. 22, s. 224\(E\)](#).

Costs payable

26.3 (1) The Commission may identify those representatives of the judiciary participating in an inquiry of the Commission to whom costs shall be paid in accordance with this section.

Entitlement to payment of costs

(2) A representative of the judiciary identified under subsection (1) who participates in an inquiry of the Commission is entitled to be paid, out of the Consolidated Revenue Fund, two thirds of the costs determined under subsection (3) in respect of his or her participation.

Determination of costs

(3) An assessment officer of the Federal Court, other than a judge or a prothonotary, shall determine the amount of costs, on a solicitor-and-client basis, in accordance with the *Federal Courts Rules*.

Application

(4) This section applies to costs incurred in relation to participation in any inquiry of the Commission conducted after September 1, 1999.

[2001, c. 7, s. 18](#) [2002, c. 8, s. 85](#) [2006, c. 11, s. 5](#) [2014, c. 39, s. 320](#).

Costs payable to representative of prothonotaries

26.4 (1) The Commission may identify one representative of the prothonotaries of the Federal Court participating in an inquiry of the Commission to whom costs shall be paid in accordance with this section.

Entitlement to payment of costs

(2) The representative identified under subsection (1) is entitled to be paid, out of the Consolidated Revenue Fund, 95% of the costs determined under subsection (3) in respect of his or her participation.

Determination of costs

(3) An assessment officer of the Federal Court, other than a judge or a prothonotary, shall determine the amount of costs, on a solicitor-and-client basis, in accordance with the *Federal Courts Rules*.

Application

(4) This section applies to costs incurred as of April 1, 2015 in relation to participation in any inquiry of the Commission.

[2014, c. 39, s. 321](#) [2017, c. 20, s. 215](#).

Allowances for Incidental, Non-accountable and Representational Expenses

Allowance for incidental expenditures actually incurred

27 (1) On and after April 1, 2000, every judge in receipt of a salary under this Act is entitled to be paid, up to a maximum of \$5,000 for each year, for reasonable incidental expenditures that the fit and proper execution of the office of judge may require, to the extent that the judge has actually incurred the expenditures and is not entitled to be reimbursed for them under any other provision of this Act.

Allowance for incidental expenditures by prothonotaries

(1.1) On and after April 1, 2016, every prothonotary in receipt of a salary under this Act is entitled to be paid, up to a maximum of \$3,000 for each year, for reasonable incidental expenditures that the fit and proper execution of the office of prothonotary may require, to the extent that the prothonotary has actually incurred the expenditures and is not entitled to be reimbursed for them under any other provision of this Act.

Additional allowance for northern judges

(2) On and after April 1, 2004, there shall be paid to each judge of the Supreme Court of Newfoundland and Labrador resident in Labrador and each judge of the Supreme Court of Yukon, the Supreme Court of the Northwest Territories and the Nunavut Court of Justice who is in receipt of a salary under this Act, in addition to the allowance provided by subsection (1), a non-accountable yearly allowance of \$12,000 as compensation for the higher cost of living in Labrador and in the territories.

Additional allowance — Federal Courts and Tax Court of Canada

(3) There shall be paid to every judge of the Federal Court of Appeal, the Federal Court and the Tax Court of Canada who is in receipt of a salary under this Act, in addition to the

allowance provided by subsection (1), a non-accountable yearly allowance of \$2,000 as compensation for special incidental expenditures inherent in the exercise of their office as judge.

(3.1) [Repealed, 2002, c. 8, s. 86]

Continuance in force of subsection (3)

(4) Subsection (3) shall continue in force for so long as [subsection 57\(2\)](#) continues in force in relation to judges of superior courts in the provinces.

Idem

(5) The additional allowances described in subsections (2) and (3) are deemed not to be travel or personal or living expense allowances expressly fixed by this Act.

Representational allowance

(6) On and after April 1, 2004, each of the following judges is entitled to be paid, as a representational allowance, reasonable travel and other expenses actually incurred by the judge or the spouse or common-law partner of the judge in discharging the special extra-judicial obligations and responsibilities that devolve on the judge, to the extent that those expenses may not be reimbursed under any other provision of this Act and their aggregate amount does not exceed in any year the maximum amount indicated below in respect of the judge:

(a) the Chief Justice of Canada, \$18,750;

(b) each puisne judge of the Supreme Court of Canada, \$10,000;

(c) the Chief Justice of the Federal Court of Appeal and each chief justice described in [sections 12 to 21](#) as the chief justice of a province, \$12,500;

(d) each other chief justice referred to in [sections 10 to 21](#), \$10,000;

(e) the Chief Justices of the Court of Appeal of Yukon, the Court of Appeal of the Northwest Territories, the Court of Appeal of Nunavut, the Supreme Court of Yukon, the Supreme Court of the Northwest Territories and the Nunavut Court of Justice, \$10,000 each;

(f) the Chief Justice of the Court Martial Appeal Court of Canada, \$10,000; and

(g) the Senior Judge of the Family Court, and each regional senior judge, of the Superior Court of Justice in and for the Province of Ontario, \$5,000.

(7) [Repealed, 2006, c. 11, s. 6]

Judge acting in place of recipient

(8) Where any justice or judge mentioned in subsection (6), other than a puisne judge of the Supreme Court of Canada, is unable to discharge the obligations and responsibilities referred to in that subsection or the office of that justice or judge is vacant, the judge who acts in the place of that justice or judge is entitled to be paid the representational allowance provided for that justice or judge.

Definition of chief justice

(9) In this section, except in paragraphs (6)(a) and (c), **chief justice** includes a senior associate chief justice and an associate chief justice.

R.S., 1985, c. J-1, s. 27 R.S., 1985, c. 50 (1st Supp.), s. 5, c. 27 (2nd Supp.), s. 4, c. 51 (4th Supp.), s. 14 1989, c. 8, s. 10 1990, c. 17, s. 31 1992, c. 51, s. 8 1993, c. 28, s. 78 1996, c. 30, s. 2 1998, c. 15, s. 29 1999, c. 3, s. 73 2000, c. 12, s. 168 2001, c. 7, s. 19 2002, c. 7, ss. 190, 277(E), c. 8, s. 86 2006, c. 11, s. 6 2012, c. 31, s. 213 2017, c. 20, s. 216, c. 33, s. 233.

Supernumerary Judges

Federal Courts and Tax Court

28 (1) If a judge of the Federal Court of Appeal, the Federal Court or the Tax Court of Canada notifies the Minister of Justice of Canada of his or her election to give up regular judicial duties and hold office only as a supernumerary judge, the judge shall hold the office of supernumerary judge of that Court from the time notice is given until he or she reaches the age of retirement, resigns or is removed from or otherwise ceases to hold office, or until the expiry of 10 years from the date of the election, whichever occurs earlier, and shall be paid the salary annexed to that office.

Restriction on election

(2) An election may be made under subsection (1) only by a judge

(a) who has continued in judicial office for at least 15 years and whose combined age and number of years in judicial office is not less than 80; or

(b) who has attained the age of 70 years and has continued in judicial office for at least 10 years.

Duties of judge

(3) A judge who has made the election referred to in subsection (1) shall hold himself or herself available to perform such special judicial duties as may be assigned to the judge

(a) by the Chief Justice of the Federal Court of Appeal, if the judge is a judge of that Court;

(b) by the Chief Justice or the Associate Chief Justice of the Federal Court, if the judge is a judge of that Court; or

(c) by the Chief Justice or the Associate Chief Justice of the Tax Court of Canada, if the judge is a judge of that Court.

Salary of supernumerary judge

(4) The salary of each supernumerary judge of the Federal Court of Appeal, the Federal Court or the Tax Court of Canada is the salary annexed to the office of a judge of that Court, other than the office of a Chief Justice or Associate Chief Justice.

R.S., 1985, c. J-1, s. 28 R.S., 1985, c. 16 (3rd Supp.), s. 3 2002, c. 8, s. 87 2006, c. 11, s. 7 2018, c. 12, s. 301.

Provincial superior courts