

# *The Court of Appeal Act*

*Repealed*

by [Chapter C-42.1 of the \*Statutes of Saskatchewan, 2000\*](#)  
(effective November 1, 2000).

*Formerly*

[Chapter C-42 of the \*Revised Statutes of Saskatchewan, 1978\*](#)  
(effective February 26, 1979) as amended by the [Revised Statutes  
of Saskatchewan, 1978 \(Supplement\), c.10](#).

## **NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

## Table of Contents

|   |  |    |   |
|---|--|----|---|
|   | SHORT TITLE  |    |   |
| 1 | Short Title  | 10 | Quorum of court   |
|   | INTERPRETATION   |    |   |
| 2 | Interpretation   | 11 | Judge of first instance not to sit in court reviewing his verdict or decision |
|   | ORGANIZATION   |    |   |
| 3 | Court continued  | 12 | Judgment given by remaining judges  |
| 4 | Oath of office   | 13 | Judge absent at delivery of judgment  |
|   | JURISDICTION   |    |   |
| 5 | Duties and powers of judges                              | 14 | Queen's Bench judges assisting in Court of Appeal                             |
| 6 | Nature and extent of jurisdiction                        |    | JUDGE IN CHAMBERS   |
| 7 | Motions against finding or verdict of judge              | 15 | Jurisdiction  |
| 8 | Court not bound by view of evidence taken by trial judge |    | REGISTRAR   |
| 9 | Sittings   | 16 | Appointment   |
|   |  | 17 | Fees and charges  |
|   |  |    | RULES OF COURT  |
|   |  | 18 | Power of judges to make rules   |
|   |  | 19 | Rules published in <i>Gazette</i>   |

## CHAPTER C-42

### An Act respecting a Court of Appeal for Saskatchewan

#### SHORT TITLE

##### Short Title

- 1 This Act may be cited as *The Court of Appeal Act*.

#### INTERPRETATION

##### Interpretation

- 2 In this Act and the rules made hereunder “**court**” means the Court of Appeal.

R.S.S. 1978, c.C-42, s.2.

#### ORGANIZATION

##### Court continued

- 3(1) There shall continue to be a court of appeal for Saskatchewan called the Court of Appeal which shall consist of a chief justice who shall be styled Chief Justice of Saskatchewan, and four other judges called judges of appeal.

- (2) The Court of Appeal shall sit at the city of Regina and the city of Saskatoon.

- (3) The Lieutenant Governor in Council may, at any time, by proclamation, increase or decrease the number of judges of the court and, in the case of a decrease, may provide for that decrease to take effect upon the occurrence of a vacancy in the court.

- (3.1) For each office of judge of the court provided for by subsection (1), there shall be the additional office of supernumerary judge of the court and each supernumerary judge shall hold himself available to perform any judicial duties that may be assigned to him from time to time by the Chief Justice of Saskatchewan.

- (4) Each of the judges shall have all the jurisdiction, both civil and criminal, possessed by the judges of any court in Saskatchewan, under any statute of Canada or of this province.

- (5) The seal of the court shall be such as shall be approved by the Lieutenant Governor in Council.

R.S.S. 1978, c.C-42, s.3; R.S.S. 1978 (Supp.),  
c.10, s.2.

**Oath of office**

4 Every judge of the court shall, before entering upon the duties of his office, take the following oath, which shall be administered by the Lieutenant Governor, the chief justice of the court or any puisne judge of the court:

I, \_\_\_\_\_, do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Chief Justice (*or* a Judge) of the Court of Appeal for Saskatchewan, and that I will duly and faithfully, and according to the best of my skill and knowledge, exercise the powers and trust reposed in me as Chief Justice (*or* a Judge) of the said court. So help me God.

R.S.S. 1978, c.C-42, s.4.

**JURISDICTION****Duties and powers of judges**

5 The Chief Justice of Saskatchewan and the other judges of appeal shall also be *ex officio* judges of the Court of Queen's Bench and shall for all purposes have all the powers, rights, privileges and immunities of judges of the Court of Queen's Bench and shall be eligible to preside over trials of criminal and civil cases in the Court of Queen's Bench and to sit in chambers as judges of that court and to hear and determine all applications that may properly be made to a judge of that court sitting in chambers.

R.S.S. 1978, c.C-42, s.5.

**Nature and extent of jurisdiction**

6 The court shall have all the jurisdiction and powers possessed by the Supreme Court of Saskatchewan *en banc* immediately prior to the first day of March, 1918, and shall have jurisdiction and power, subject to the rules of court, to hear and determine all applications for new trials, all questions or issues of law, all questions or points reserved for the opinion of the court, all appeals or motions in the nature of appeals respecting any judgment, order or decision of any judge of the Court of Queen's Bench, or respecting any judgment or decision of any judge of a court of inferior jurisdiction, sitting in court, where an appeal is given by any Act, all petitions, and all other motions, matters or things whatsoever which might lawfully be brought before any divisional court of the High Court of Justice or the Court of Appeals in England on the first day of January, 1898, where not specially changed, altered or provided for by this or any other Act of Saskatchewan.

R.S.S. 1978, c.C-42, s.6.

**Motions against finding or verdict of judge**

7 When issues of fact have been tried, or damages assessed, by a trial judge without the intervention of a jury, the party shall be entitled to move against the verdict or finding of the judge by motion for new trial or otherwise, within the same time and on the same grounds, including objections against the sufficiency of the evidence, or the view thereof taken by the judge, as allowed in cases of trial or assessment of damages by a jury.

R.S.S. 1978, c.C-42, s.7.

**Court not bound by view of evidence taken by trial judge**

8 Upon appeal from, or motion against, the order, decision, verdict or decree of a trial judge, or on the rehearing of any cause, application or matter, it shall not be obligatory on the court to grant a new trial, or to adopt the view of the evidence taken by the trial judge, but the court shall act upon its own view of what the evidence in its judgment proves, and the court may draw inferences of fact and pronounce the verdict, decision or order that, in its judgment, the judge who tried the case ought to have pronounced.

R.S.S. 1978, c.C-42, s.8.

**Sittings**

9(1) In this section “**northern centre**” means the judicial centres of Battleford, Humboldt, Kerrobert, Melfort, Prince Albert or Saskatoon or a place in Saskatchewan that is nearer to any of those judicial centres than to any other judicial centre.

(2) Sittings of the court shall be held at each of the judicial centres of Regina and Saskatoon at such times as may be fixed from time to time by the court.

(3) Subject to subsections (4) to (7), all applications and appeals to, and all motions to be heard by, the court, including appeals in criminal and summary conviction cases, shall be entered for hearing and shall be heard at a sittings of the court at the judicial centre of Regina.

(4) The court may hear at the judicial centre of Saskatoon any application or motion incidental to:

- (a) an appeal in respect of an action tried at a northern centre; or
- (b) an appeal in respect of an application or motion heard at a northern centre; or
- (c) an appeal entered for hearing at a sittings of the court at the judicial centre of Saskatoon.

(5) Where a person appeals to the court in respect of an action tried or an application or motion heard at a northern centre he may include in the notice of appeal a request that the appeal be heard at the judicial centre of Saskatoon, and upon the filing of a notice of appeal containing such a request the registrar shall enter the appeal for hearing at a sittings of the court at the judicial centre of Saskatoon, and every appeal so entered shall, subject to subsection (8), be heard at that judicial centre.

(6) Where a person appeals to the court in respect of an action tried or an application or motion heard at a northern centre and has not under section (5) included in the notice of appeal a request that the appeal be heard at the judicial centre of Saskatoon, any other party to the appeal may, within ten days after the service upon him of the notice of appeal, file with the registrar a request that the appeal be heard at the judicial centre of Saskatoon, and upon the filing of such a request the registrar shall enter the appeal for hearing at a sittings of the court at the judicial centre of Saskatoon and forthwith mail a notice of the entry to each of the other parties to the appeal, and every appeal so entered shall, subject to subsection (8), be heard at that judicial centre.

(7) Where an appeal has been entered for hearing at a sittings of the court at the judicial centre of Regina the entry shall, upon the filing with the registrar of a request signed by all parties to the appeal to have the appeal heard at a sitting of the court at the judicial centre of Saskatoon, be deemed to have been cancelled, and the appeal shall be entered for hearing and shall be heard at a sittings of the court at the judicial centre of Saskatoon.

(8) Where an appeal has been entered for hearing at a sittings of the court at the judicial centre of Saskatoon the entry shall, upon the filing with the registrar of a request signed by all parties to the appeal to have the appeal heard at a sitting of the court at the judicial centre of Regina, be deemed to have been cancelled, and the appeal shall be entered for hearing and shall be heard at a sittings of the court at the judicial centre of Regina.

(9) Subsections (4) to (7) do not apply with respect to appeals in criminal or summary conviction cases.

(10) The exercise of the powers and rights provided for in subsections (4) to (8) is subject to compliance with the rules of the court.

R.S.S. 1978, c.C-42, s.9.

**Quorum of court**

**10** Any three of the judges of the court, of whom one may be a judge of the Queen's Bench sitting under the provisions of section 14, shall constitute a quorum of the court at any sitting thereof, and every order, decree, decision or judgment of such three judges at any such sitting, or of a majority of them, shall be deemed to be the order, decree, judgment or decision of the court.

R.S.S. 1978, c.C-42, s.10.

**Judge of first instance not to sit in court reviewing his verdict or decision**

**11** On any motion, application or proceeding before the court, the judge by or before whom the verdict then in question was rendered, or by whom the judgment, order or decision then being appealed against or reviewed, was rendered or pronounced at a previous proceeding in the same cause or matter or by whom the cause or matter then being reheard was determined, shall not sit as one of the judges composing the court.

R.S.S. 1978, c.C-42, s.11.

**Judgment given by remaining judges**

**12** If, after the cause or matter in the court has been heard and stands for judgment, one of the judges by whom the said cause or matter was heard resigns his office, dies or is absent through illness or other cause, the remaining judges may give judgment as if such judge were still a judge and were present and taking part in such judgment.

R.S.S. 1978, c.C-42, s.12.

**Judge absent at delivery of judgment**

13 A judge who has heard the case, and who is absent at the delivery of judgment, may hand his opinion in writing to a judge present at the delivery of judgment, to be read or announced in open court and then to be left with the registrar or court reporter.

R.S.S. 1978, c.C-42, s.13.

**Queen's Bench judges assisting in Court of Appeal**

14 Where, through the absence, illness, death or resignation of one or more members of the court or for any other reason, one or more of the judges is or are not available, any judge or judges of the Court of Queen's Bench shall, at the request of the chief justice, or, in case of his absence or illness, at the request of any two judges of the Court of Appeal, but subject to the consent of the Chief Justice of the Court of Queen's Bench or, in case of his absence or illness, subject to the consent of the judge of the latter court who, in point of time, is senior in appointment to office, sit as a member of members of the court, and take part in the hearing and decision of any appeal or matter coming before the court, with all the power, duties and rights of a judge of the Court of Appeal.

R.S.S. 1978, c.C-42, s.14.

**JUDGE IN CHAMBERS****Jurisdiction**

15 In any cause or matter pending in the court, any application or motion incidental thereto, not involving the decision of the appeal, may be heard and disposed of by a single judge of the court sitting in chambers, but the order made by the judge in any such case may be discharged or varied by the court.

R.S.S. 1978, c.C-42, s.15.

**REGISTRAR****Appointment**

16(1) There may be a registrar and taxing officer of the Court of Appeal and also of any court presided over by a single judge of the said court and there may also be a deputy registrar and a deputy taxing officer at each judicial centre for all the purposes of this Act.

(2) Any official of the Court of Queen's Bench may be declared to be *ex officio* registrar and taxing officer of the Court of Appeal or deputy registrar and deputy taxing officer for a judicial centre.

(3) The registrar shall have such authority to exercise the jurisdiction of a judge sitting in chambers as may be conferred upon him by general rules or orders made under this Act.

R.S.S. 1978, c.C-42, s.16.

**Fees and charges**

17 The Lieutenant Governor in Council may from time to time prescribe the fees and charges payable to the registrar.

R.S.S. 1978, c.C-42, s.17.

## RULES OF COURT

**Power of judges to make rules**

18(1) The judges of the court, or a majority of them present at any meeting held for that purpose, shall have power to make rules for all or any of the following purposes, that is to say:

**As to practice**

(a) regulating the practice and procedure relating to all matters coming before the court, the duties of the officers thereof and, subject to section 17, the costs of proceedings therein;

**Vacations**

(b) fixing the vacations;

**As to registrar**

(c) empowering the registrar to do anything and transact any business specified in such rules or orders, and to exercise any authority and jurisdiction in respect thereof as in now or may be hereafter done, transacted or exercised by a judge of the court sitting in chambers in virtue of any statute or custom, or by the practice of the courts;

**As to costs**

(d) providing for and framing a tariff of fees and costs to be allowed to solicitors and counsel upon proceedings in the court;

**Generally**

(e) generally for providing for every other matter deemed expedient for better attaining the ends of justice, advancing the remedies of suitors and carrying into effect the provisions of this Act into effect or for the purpose of providing for any matters not fully or sufficiently provided for in this Act or in rules already in force.

(2) The said judges may also alter or annul any rules of the court for the time being in force, and make, from time to time, any further or additional rules for the purpose of carrying this Act into effect or for the purpose of providing for any matters not fully or sufficiently provided for in this Act or in rules already in force.

R.S.S. 1978, c.C-42, s.18.

**Rules published in *Gazette***

19 All rules made by the judges of the court under this Act shall, with as little delay as possible, be published in *The Saskatchewan Gazette*. This section does not apply to a general consolidation and revisions of the rules, but a notice of the promulgation of the consolidated and revised rules shall be published in the *Gazette* and shall state a date, subsequent to such publication, on which the rules shall come into force.

R.S.S. 1978, c.C-42, s.19.