

# *The Jury Act*

*being*

Chapter 66 of *The Revised Statutes of Saskatchewan, 1940*  
(effective February 1, 1941).

FOR HISTORICAL REFERENCE ONLY

**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		ATTENDANCE AND ORGANIZATION OF JURIES
1	Short title	23	Service once a year
	INTERPRETATION	24	Names of summoned persons on separate cards
2	Interpretation	25	Cards drawn
	QUALIFICATION	26	Ballots apart till verdict given or jury discharged
3	Qualification of jurors	27	Peremptory challenge
	EXEMPTIONS AND DISQUALIFICATIONS		TALES
4	Exemptions	28	Talesmen may be summoned
5	Disqualification		FEEES OF JURORS
	PREPARATION OF JURY LIST	29	Attendance fee
6	Preparation of lists	30	When fee not paid
7	Sheriffs to have access to assessment rolls, etc.		GENERAL PROVISIONS
8	Sheriff to return lists	31	Irregularities not to vitiate verdict
9	Remuneration of sheriff for lists	32	Illness of juror; effect on trial and verdict
10	Power of judge to order supplementary lists	33	Jury not to be without food
11	Sheriff to proceed according to order		QUALIFICATION AND SUMMONING JURY IN
12	Form and return of supplementary lists		CRIMINAL ACTIONS
	COST OF JURY	34	Application of certain provisions to criminal cases
13	Cost deposited in court		SCHEDULE
14	Apportionment of costs		
	COMPOSITION OF THE JURY		
15	Jury of six persons		
	SELECTION OF PANEL AND SUMMONING OF JURORS		
16	Method of selecting a panel		
17	Local registrar to issue precept to sheriff to summon jury		
18	Summoning of jury		
19	Return of precept		
20	Judge's order dispensing with attendance		
	FINES FOR NON-ATTENDANCE		
21	Omission to obey summons		
22	Enforcement of penalty		

## CHAPTER 66

### An Act respecting Jurors and Juries

#### SHORT TITLE

##### Short title

- 1 This Act may be cited as *The Jury Act*.

R.S.S. 1930, c.54, s.1; R.S.S. 1940, c.66, s.1.

#### INTERPRETATION

##### Interpretation

- 2 In this Act, unless the context otherwise requires, the expression:

##### “Court”

1. “**Court**” means the Court of King’s Bench for Saskatchewan;

##### “Judge”

2. “**Judge**” means a judge of the said court.

R.S.S. 1930, c.54, s.2; R.S.S. 1940, c.66, s.2.

#### QUALIFICATION

##### Qualification of jurors

- 3 Subject to the provisions of sections 4 and 5, every male inhabitant of Saskatchewan between the ages of twenty-one and sixty years, being a natural born or naturalized subject of His Majesty, shall be liable to serve as a juror in all civil and criminal cases tried by jury.

R.S.S. 1930, c.54, s.3; R.S.S. 1940, c.66, s.3.

#### EXEMPTIONS AND DISQUALIFICATIONS

##### Exemptions

- 4 The following persons shall be exempt from being returned and from serving as jurors:

1. Members of the Privy Council or of the Senate or House of Commons of Canada;
2. Members of the Legislative Assembly and officers thereof;
3. Salaried officials and employees of the Governments of Canada and Saskatchewan;
4. Licensed ferrymen and mail carriers;
5. Police magistrates, justices of the peace and coroners;

6. Officers of any court of justice, whether of general or local jurisdiction, actually exercising the duties of their office, including every sheriff's officer, constable or bailiff;
7. Members of the Royal Canadian Mounted Police;
8. Professors, masters or teachers of universities, colleges or schools when engaged as such;
9. Salaried firemen in the employ of a city or town;
10. All persons actually employed in the running of railway trains;
11. Telegraph and telephone operators in actual employment as such;
12. Managers, cashiers and clerks in actual employment in chartered banks;
13. The clergy of all denominations;
14. Physicians, surgeons and druggists who are duly qualified to practise and are in actual practice;
15. Practising barristers and solicitors;
16. Members in good standing of the Institute of Chartered Accountants in Saskatchewan;
17. Undertakers;
18. Millers in actual employment;
19. Persons who are affected with blindness, deafness or other mental or physical infirmity incompatible with the discharge of the duties of a juror.

R.S.S. 1930, c.54, s.4; R.S.S. 1940, c.66, s.4.

#### **Disqualification**

**5** No person shall be qualified to serve as juror who has been convicted of any criminal offence for which he was sentenced to death or to a term of imprisonment with hard labour.

R.S.S. 1930, c.54, s.5; R.S.S. 1940, c.66, s.5.

### PREPARATION OF JURY LIST

#### **Preparation of lists**

**6(1)** The sheriff of each judicial district shall, prior to the first day of May in each year, compile a separate list for each of the places fixed for the sittings of the court in his judicial district, which shall contain the names of not less than one hundred and fifty persons who are liable to serve as jurors and who reside within a radius of twenty miles of such place. Such lists shall be in form A.

**(2)** The sheriff may in his discretion include in the jury list the names and other particulars (form A) of persons liable to serve as jurors who reside outside of such twenty mile radius and in any part of the judicial district.

R.S.S. 1930, c.54, s.6; R.S.S. 1940, c.66, s.6.

**Sheriffs to have access to assessment rolls, etc.**

7 In compiling the list the sheriff shall have access to the assessment rolls and all other public papers under the control of the proper officer of each city, town, village, local improvement district and rural municipality situated within or partly within the judicial district.

R.S.S. 1930, c.54, s.7; R.S.S. 1940, c.66, s.7.

**Sheriff to return lists**

8 On or as soon as possible after the first day of May in each year, the sheriff of each judicial district shall return the list properly certified to the local registrar of the court.

R.S.S. 1930, c.54, s.8; R.S.S. 1940, c.66, s.8.

**Remuneration of sheriff for lists**

9 The sheriff shall be allowed such remuneration for compiling and certifying the list as the Lieutenant Governor in Council may decide.

R.S.S. 1930, c.54, s.9; R.S.S. 1940, c.66, s.9.

**Power of judge to order supplementary lists**

10 If a judge of the Court of King's Bench considers it necessary at any time that a supplementary jury list should be prepared, certified and returned by the sheriff of any judicial district, he may make an order directed to the sheriff to that effect. Such order shall state the time within which the return shall be made and may contain such other directions as the judge deems proper.

R.S.S. 1930, c.54, s.10; R.S.S. 1940, c.66, s.10.

**Sheriff to proceed according to order**

11 Upon such order being made the sheriff shall proceed according to the tenor thereof.

R.S.S. 1930, c.54, s.11; R.S.S. 1940, c.66, s.11.

**Form and return of supplementary lists**

12 A supplementary list may be in form A and marked "Supplementary list", and shall be certified and returned to the local registrar of the court.

R.S.S. 1930, c.54, s.12; R.S.S. 1940, c.66, s.12.

## COST OF JURY

**Cost deposited in court**

13(1) In all actions triable by jury and in which a jury has been demanded as provided by *The King's Bench Act*, the party demanding the jury shall advance and deposit with the local registrar such sum as the local registrar considers sufficient for payment of the jurors' fees and the expenses of summoning them.

(2) Where the action is directed by a judge in chambers or the judge at the trial to be tried by a jury as provided by *The King's Bench Act* the said sum shall be advanced and deposited by the party or parties to be named by the judge.

(3) If the party making the deposit obtains a judgment in such action, the sum actually paid out for fees and expenses shall, unless the judge otherwise orders, be allowed and taxed against the unsuccessful party to the action.

R.S.S. 1930, c.54, s.13; 1940, c.27, s.1; R.S.S. 1940, c.66, s.13.

**Apportionment of costs**

**14** Where, for any sittings of the court, a jury is required in more than one case, whether civil or criminal, the cost incidental to the summoning of the panel, the jurors' fees and all other lawful expenses in connection therewith shall at the end of the sittings be apportioned between the parties, or between the Crown and the parties, and paid as directed by rules of court, or, if there are no such rules applicable thereto, then as directed by the presiding judge.

R.S.S. 1930, c.54, s.14; R.S.S. 1940, c.66, s.14.

## COMPOSITION OF THE JURY

**Jury of six persons**

**15(1)** Every jury for the trial of a civil action in the jury of Court of King's Bench or surrogate courts shall consist of six persons, five of whom may return a verdict.

(2) A verdict returned by five jurors under the provisions of this section shall have the same effect as a verdict returned by six.

1934-35, c.22, s.2; R.S.S. 1940, c.66, s.15.

## SELECTION OF PANEL AND SUMMONING OF JURORS

**Method of selecting a panel**

**16(1)** Whenever a jury is required it shall be the duty of the local registrar, a reasonable time before the sittings of the court for which the jury is required, to present to the judge of the district court of the judicial district in which the jury is to sit the last list of jurors compiled and returned to him by the sheriff for the place at which the sittings of court are to be held.

(2) Upon presentation of the list to the judge, he shall select therefrom such names, not less than twenty-four nor more than forty-eight, as in his opinion are necessary to be summoned.

R.S.S: 1930, c.54, s.16; R.S.S. 1940, c.66, s.16.

**Local registrar to issue precept to sheriff to summon jury**

**17** As soon as the panel is selected the local registrar shall, the deposit hereinbefore mentioned having been paid to him, issue to the sheriff a precept (form B) commanding the sheriff to summon the persons so selected to attend court at the time and place fixed for the sittings and shall deliver the same to the sheriff at least fifteen clear days before the time fixed for holding the same.

R.S.S. 1930, c.54, s.17; R.S.S. 1940, c.66, s.17.

**Summoning of jury**

**18** Upon receipt of the precept the sheriff shall summon the persons named therein by delivering to each person or leaving with a grown up member of his household, a reasonable time before the date of the sittings, a written or printed summons (form C).

R.S.S. 1930, c.54, s.18; R.S.S. 1940, c.66, s.18.

**Return of precept**

**19** The sheriff, on or before the opening of the court for which the jury has been summoned, shall deliver to the local registrar the precept with a return showing his action thereon.

R.S.S. 1930, c.54, s.19; R.S.S. 1940, c.66, s.19.

**Judge's order dispensing with attendance**

**20(1)** Any person summoned by the sheriff may apply to the judge of the district court of the judicial district in which the jury is to sit, sitting in chambers, to be relieved from attendance at court on the ground that he is incapacitated by illness or has been called away on important business or that attendance would cause him serious loss, or for any other reason which the judge deems sufficient; and the judge may, in a summary manner and upon such evidence as to him seems requisite, deal with, the matter, and, if it appears to him to be in the interests of justice, may make an order dispensing with the attendance of the applicant at the sittings of the court.

(2) If it appears to the judge that the sheriff has been unable to effect service of the summons upon one or more of the jurors named in the precept, and that thereby the number of jurors summoned is less than the number considered requisite, or if, by reason of jurors being excused by orders under subsection (1), the number of jurors available is less than the number considered requisite, then, in either case, the judge may select a supplementary list which shall have the same effect as the original list, and the local registrar and sheriff shall proceed accordingly.

(3) No application shall be made under subsection (1) later than the fifth day before the day fixed for the sittings of the court.

R.S.S. 1930, c.54, s.20; R.S.S. 1940, c.66, s.20.

**FINES FOR NON-ATTENDANCE****Omission to obey summons**

**21** Every person summoned to serve as a juror who fails to obey the summons served on him, or to answer to his name when called by the local registrar, shall be liable to a fine not exceeding \$50 which may be immediately imposed by the court.

R.S.S. 1930, c.54, s.21; R.S.S. 1940, c.66, s.21.

**Enforcement of penalty**

**22** All fines for non-attendance of jurors shall, if not paid forthwith, be levied, together with the sheriff's costs and expenses as authorized for the execution of civil process, by warrant of distress issued by the local registrar, sealed with the seal of the court and directed to the sheriff, and by sale of goods of the party fined, as provided for executing writs of execution, and, in default of sufficient goods and chattels, such person may be imprisoned for a term not exceeding thirty days.

R.S.S. 1930, c.54, s.22; R.S.S. 1940, c.66, s.22.

## ATTENDANCE AND ORGANIZATION OF JURIES

**Service once a year**

**23** No person shall be obliged to serve as a juror at more than one sittings of the court during the twelve months commencing on the first day of May in any year.

R.S.S. 1930, c.54, s.23; R.S.S. 1940, c.66, s.23.

**Names of summoned persons on separate cards**

**24** The name of every person included in the precept to the sheriff and summoned by him, with his residence and occupation, shall be by the sheriff written distinctly upon a piece of card or paper three inches in length by one and one-half inches in width, and the pieces of card or paper so written upon shall be placed in a box to be by him returned to the local registrar with the return of the precept.

R.S.S. 1930, c.54, s.24; R.S.S. 1940, c.66, s.24.

**Cards drawn**

**25(1)** When any action for which a jury is required is brought on to be tried, the local registrar shall in open court cause the cards or papers to be shaken in the box so as to mix the names therein, and then draw out the cards or papers one after another, shaking the box after each card or paper is drawn until a complete jury is empanelled, who, after all peremptory challenges and challenges for cause allowed, appear as fair and indifferent and who, upon being sworn, shall be the jury to try the issues in the action.

(2) In an action against a city or town no person shall be subject to challenge by reason only of the fact that he pays taxes to the city or town.

R.S.S. 1930, c.54, s.25; 1934-35, c.22, s.3; R.S.S. 1940, c.66, s.25.

**Ballots apart till verdict given or jury discharged**

**26** The cards or papers bearing the names of the men drawn and sworn shall be kept apart by themselves until the jury have given in their verdict and the same has been recorded, or until the jury have been, by consent of the parties or by leave of the court, discharged; and shall then be returned to the box, there to be kept with the other cards or papers remaining at the time undrawn, and so *toties quoties* as long as any issue remains to be tried.

R.S.S. 1930, c.54, s.26; R.S.S. 1940, c.66, s.26.

**Peremptory challenge**

**27** Each party to the action shall have and may exercise the right to four peremptory challenges.

R.S.S. 1930, c.54, s.27; R.S.S. 1940, c.66, s.27.

## TALES

**Talesmen may be summoned**

**28** If the number of jurors in attendance is insufficient, or is so reduced by challenges for cause as to be insufficient, to constitute the jury, a *tales de circumstantibus* may, at the instance of either party, be ordered, summoned and returned immediately for service.

R.S.S. 1930, c.54, s.28; R.S.S. 1940, c.66, s.28.

## FEES OF JURORS

**Attendance fee**

**29** The fees for travel and attendance of jurors shall be as fixed under the authority of section 64 of *The King's Bench Act*.

R.S.S. 1930, c.54, s.29; R.S.S. 1940, c.66, s.29.

**When fee not paid**

**30** No juror shall be paid for any day on which he does not answer when the jurors' names are called in open court unless the presiding judge otherwise orders, nor for any day on which he does not attend by reason of his having been excused from attendance.

R.S.S. 1930, c.54, s.30; R.S.S. 1940, c.66, s.30.

## GENERAL PROVISIONS

**Irregularities not to vitiate verdict**

**31** No omission to observe the directions in this Act contained, or any of them, as respects the qualification, exemption or disqualification of jurors, or the preparation or compilation of the list of jurors by the sheriff or the local registrar, or the form of the lists or other requirements in respect to the lists, or the summoning of the jurors or the selection or formation of the panel, shall be a ground for impeaching the verdict in an action.

R.S.S. 1930, c.54, s.31; R.S.S. 1940, c.66, s.31.

**Illness of juror; effect on trial and verdict**

**32** If a juror, after he is sworn in a civil action, become ill the presiding judge may in his discretion direct the trial to proceed without him, and the verdict of the remaining jurors if unanimous shall be valid.

R.S.S. 1930, c.54, s.32; 1934-35, c.22, s.4; R.S.S. 1940, c.66, s.32.

**Jury not to be without food**

**33(1)** No jury shall be kept without meat, drink or any other reasonable comfort while it is considering its verdict.

(2) If during the trial of an action the jury are not allowed to separate, the sheriff may provide such lodgings and refreshment as he deems necessary for them, and the cost thereof certified by him shall, upon demand, be paid in the first instance by the party or parties required to deposit jury fees, and the amount so actually paid shall, if the party paying the same obtains judgment and unless the judge otherwise orders, be taxed and allowed against the unsuccessful party to the action.

R.S.S. 1930, c.54, s.33; R.S.S. 1940, c.66, s.33.

QUALIFICATION AND SUMMONING JURY IN CRIMINAL ACTIONS

**Application of certain provisions to criminal cases**

**34** All the provisions of this Act regarding the qualification, exemption and disqualification of jurors, the provisions regarding the preparation of jury lists, selection of the panel, summoning of jurors, fines for non-attendance and fees to jurors and all other provisions of this Act, where not inconsistent with the provisions of the *Criminal Code* or with any other statute of Canada respecting criminal procedure, and as far as the Legislature of this province has authority to enact, shall apply to juries for the trial of criminal cases.

R.S.S. 1930, c.54, s.34; R.S.S. 1940, c.66, s.34.

\_\_\_\_\_  
 SCHEDULE  
 \_\_\_\_\_

FORM A

(Sections 6 and 12)

FORM OF LIST OF JURORS TO BE COMPILED BY SHERIFFS

In the Court of King's Bench for Saskatchewan, Judicial District of \_\_\_\_\_

List of persons liable to serve as jurors for the twelve months commencing May 1, 19\_\_\_\_\_, for sittings of the court at \_\_\_\_\_

Name in full	P. O. address	Residence Sec. T. R.	Occupation	Approximate length of residence in Canada	Total amount of assessment

I hereby certify that the foregoing list contains the names of the persons selected by me as being liable for jury service for sittings of the court at \_\_\_\_\_ for the twelve months commencing May 1, 19\_\_\_\_\_.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

.....  
*Sheriff of the Judicial District*  
 of \_\_\_\_\_

FORM B  
(Section 17)

PRECEPT TO BE ISSUED TO SHERIFF TO SUMMON JURY PANEL

In the Court of King's Bench for Saskatchewan, Judicial District of \_\_\_\_\_

*The Jury Act*

GEORGE THE SIXTH, by the Grace of God, of Great Britain, Ireland, and the British Dominions beyond the Seas, KING, Defender of the Faith, Emperor of India:

To the Sheriff of the Judicial District of \_\_\_\_\_ GREETING:

You are hereby required to summon the persons named in the annexed list to attend as jurors for the sittings of the above court to be held at \_\_\_\_\_ in the said Judicial District commencing at the hour of ten o'clock in the forenoon of \_\_\_\_\_ day the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and at such time and place to return this summons with your doings thereunder indorsed thereon.

Given under my hand and the seal of the said court at \_\_\_\_\_ in the Judicial District of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

.....  
*Local Registrar of the Court of King's Bench for Saskatchewan, Judicial District of \_\_\_\_\_*

*Names of Jurors on Panel to be Summoned*

Name in full	P.O. address	Residence Sec. T. R.	Occupation

JURORS AND JURIES

FORM C  
(Section 18)

SUMMONS TO JURORS

Sheriff's Office  
.....19\_\_\_\_  
(Place and Date)

Sir:

You are hereby required to attend His Majesty's Court of King's Bench for Saskatchewan at \_\_\_\_\_ in the Judicial District of \_\_\_\_\_ on \_\_\_\_\_ day the \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_\_\_, at the hour of ten o'clock in the forenoon and following days as a juror.

Any application for exemption from service may be made to the Judge of the District Court of the Judicial District in which the jury is to sit, sitting in chambers, not later than the fifth day before the day fixed for the sittings of the court, or in court upon oath or affidavit on the first day of the sittings.

Fine for non-attendance per day as the court directs.

.....  
*Sheriff of the Judicial District*  
of \_\_\_\_\_

To \_\_\_\_\_  
of \_\_\_\_\_

FOR HISTORICAL REFERENCE ONLY