

The Provincial Court Act

Repealed

by Chapter P-30.11 of *The Statutes of Saskatchewan, 1998*
(effective June 11, 1998).

Formerly

Chapter P-30.1 of *The Revised Statutes of Saskatchewan, 1978 (Supplement)*, as amended by the *Statutes of Saskatchewan*, 1979-80, c.90; 1980-81, c.73; 1982-83, c.9, 1983, c.11; 1983-84, c.54; 1984-85-86, c.2 and 101; 1988-89, c.49; 1990-91, c.S-63.1, 11, 26 and 35; 1993, c.60; 1994, c.19; 1995, c.28; 1996, c.15; and 1998, c.P-30.11.

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.

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CHAPTER P-30.1

An Act respecting the Establishment of a Provincial Court for Saskatchewan

SHORT TITLE

Short title

1 This Act may be cited as *The Provincial Court Act*.

INTERPRETATION

Interpretation

2 In this Act:

(a) **“chief judge”** means the chief judge of the court appointed pursuant to section 10;

(a.1) **Repealed.** 1994, c.16, s.3.

(b) **“court”** means the Provincial Court of Saskatchewan established pursuant to section 3;

(c) **“judge”** means a judge appointed pursuant to this Act and includes the chief judge and an associate chief judge;

(d) **“Judicial Council”** means the Judicial Council established pursuant to section 15.

(e) **“minister”** means the member of the Executive Council to whom for the time being the administration of this Act is assigned.

R.S.S. 1978 (Supp.), c.P-30.1, s.2; 1982-83, c.9,
s.3; 1988-89, c.49, s.3; 1993 c.60, s.3; 1994, c.16,
s.3.

PART I

Provincial Court

Repealed. 1998, c.P-30.11, s.66.

PART II
Superannuation of Judges
 INTERPRETATION

Interpretation of Part

26 In this Part:

- (a) **“child”** includes a step-child;
- (b) **“fund”** means the Judges of the Provincial Court Superannuation Fund continued pursuant to section 27;
- (c) **“judge”** does not include a person appointed pursuant to subsection 6(4);
- (d) **“spouse”** means:
 - (i) a person who is married to a judge or former judge; or
 - (ii) if a judge or former judge is not married, a person with whom the judge or former judge is cohabiting as a spouse at the relevant time and who has been cohabiting continuously with the judge or former judge as his or her spouse for at least one year prior to the relevant time.

1993, c.60, s.7.

27 to 32 Repealed. 1998, c.P-30.11, s.66.

PAYMENT OF PENSIONS

Pension at age 65

33(1) Subject to subsection (3) and section 35, a judge who is 65 years of age or more on the day he or she ceases to be a judge is entitled to receive a pension for life, calculated in accordance with subsection (2), commencing on the first day of the month following the day he or she ceases to be a judge.

(2) The pension payable to a judge pursuant to this section is an annual amount P calculated in accordance with the following formula:

$$P = .03 \times (S \times Y)$$

where:

S is the average annual salary received by the judge during:

the judge's three years of highest salary; or

where the judge has less than three years of service, the judge's total years of service; and

Y is the lesser of:

the judge's total number of years of contributory service; or

23 years.

(3) A judge who made an election to receive the annuity benefits to which he or she was entitled pursuant to *The Magistrates' Courts Act* is entitled to receive an annuity pursuant to that Act as it existed on September 30, 1978.

1993, c.60, s.7.

Deferred pension

34(1) A judge may elect to receive a pension commencing not later than the first day of the month following the month in which the judge attains the age of 65 years where he or she:

- (a) is less than 65 years of age on the day he or she ceases to be a judge; and
- (b) has served continuously as a judge for at least two years.

(2) A judge who makes an election pursuant to subsection (1) is entitled to receive a pension calculated in accordance with section 33, 36 or 37, as the case may be.

1993, c.60, s.7.

Reduction of pension

35(1) A pension payable to a judge pursuant to this Act is to be reduced by an amount R calculated in accordance with the following formula:

$$R = .007 \times (S \times Y)$$

where:

S is the lesser of:

the annual salary being paid to the judge on the day before the day the judge ceases to be a judge; and

the judge's yearly maximum pensionable earnings for the purposes of the *Canada Pension Plan* on the last day of the month preceding the day the judge ceases to be a judge;

Y is the judge's years of service between January 1, 1976 and December 31, 1986.

(2) The reduction mentioned in subsection (1) is to commence:

- (a) for a judge who commences to receive a pension on or before attaining the age of 65 years, on the day on which the judge attains the age of 65 years;
- (b) for a judge who commences to receive a pension after attaining the age of 65 years, on the day on which the judge begins to receive the pension.

(3) Notwithstanding any other provision of this Act or any other Act or law, where, on the day before this section comes into force, a judge was entitled to receive a pension pursuant to this Act or an annuity pursuant to *The Magistrates' Courts Act* and was in receipt of a pension or an annuity, the amount of the pension or annuity the judge was receiving:

- (a) is deemed to be the amount the judge was entitled to receive in accordance with the provisions of this Act as they existed on the day before this section comes into force; and
- (b) is to continue to be paid to the judge, without reduction.

1993, c.60, s.7.

EARLY RETIREMENT

Early retirement

36(1) This section applies to a judge who is entitled to receive a pension pursuant to this Act.

(2) Subject to section 35, on retirement a judge is entitled to a pension for life calculated in accordance with subsections (3) and (4) where:

- (a) the judge is 55 years of age or more; and
- (b) the sum of the judge's age in years and years of service equals 80 or more.

(3) Subject to subsection (4), the pension provided pursuant to subsection (2) is an annual amount P calculated in accordance with the following formula:

$$P = .03 \times (S \times Y)$$

where:

S is the average annual salary received by the judge during the judge's three years of highest salary; and

Y is the lesser of:

- the judge's total number of years of contributory service; or
- 23 1/3 years.

(4) A pension calculated pursuant to subsection (3) shall be reduced by 5% for each year that the age of the judge is less than 60.

1993, c.60, s.7.

Magistrates' early retirement

37(1) In this section "**normal date of retirement**" means:

- (a) where the judge has served continuously as a judge for less than 25 years, the first day of the month following the day on which he or she attains the age of 70 years; or
- (b) where the judge has served continuously as a judge for 25 years or more, the first day of the month following the day on which he or she attains the age of 65 years.

(2) This section applies to a judge who made an election to receive the annuity benefits to which he or she was entitled pursuant to *The Magistrates' Courts Act*.

(3) On retirement a judge is entitled to annuity benefits pursuant to *The Magistrates' Courts Act* calculated in accordance with subsection (4) where the judge:

- (a) is 55 years of age or more; and
- (b) has served as a judge for at least 10 years.

(4) The annuity mentioned in subsection (3) is:

(a) in the case of a judge described in clause (1)(a), an annual amount P calculated in accordance with the following formula:

$$P = S \times \frac{Y}{T} \times F$$

where:

S is one half of the annual salary being paid to the judge on the day before the day the judge ceases to be a judge;

Y is the number of years the judge served as a judge;

T is total number of years the judge would have served had he or she not retired until the normal date of retirement; and

F is the factor calculated by linear interpolation from Table 2 corresponding to the number of years, calculated to the nearest month, remaining to the normal date of retirement; and

(b) in the case of a judge described in clause (1)(b), an annual amount P calculated in accordance with the following formula:

$$P = S \times F$$

where:

S is one half of the annual salary being paid to the judge on the day before the day the judge ceases to be a judge; and

F is the factor calculated by linear interpolation from Table 3 corresponding to the number of years, calculated to the nearest month, remaining to the normal date of retirement.

1993, c.60, s.7.

Certain pension

38(1) Notwithstanding section 33 but subject to section 35, a judge is entitled to a pension for life in an annual amount equal to 70% of the average annual salary received by the judge during the judge's three years of highest salary where the judge:

- (a) was 50 years of age or less on the day of his or her appointment;
- (b) in the opinion of the Judicial Council, was engaged in the actual practice of law for 10 years prior to the day of his or her appointment;
- (c) on the day of his or her appointment, was a member in good standing of the bar of one of the provinces of Canada and had been a member for at least 10 years before the day of his or her appointment;
- (d) on or after attaining the age of 65 years, resigns or retires from office; and
- (e) immediately prior to the day on which he or she resigns or retires, has served continuously for at least 15 years as a judge.

(2) Subsection (1) applies only to judges appointed after September 30, 1978 and before December 13, 1985.

1993, c.60, s.7.

39 Repealed. 1998, c.P-30.11, s.66.

PAYMENTS ON DEATH

Pension to spouse

40(1) Where a judge dies while holding office leaving a spouse, the spouse shall be paid during the spouse's lifetime a pension of 35% of the average annual salary received by the judge during:

- (a) the judge's three years of highest salary; or
 - (b) where the judge has less than three years of service, the judge's total years of service.
- (2) Where a judge dies while holding office leaving a spouse, the spouse shall be paid a lump sum payment equal to one-sixth of the judge's annual salary.
- (3) Where a former judge dies leaving a spouse and is in receipt of a pension or is entitled to a pension pursuant to this Act, the spouse shall be paid during the spouse's lifetime 60% of the pension that the judge was receiving or would have been entitled to receive.
- (4) A pension payable pursuant to subsection (1) or (3) commences on the first day of the month following the month in which the death of the judge occurs.

1993, c.60, s.7.

Pension to children

41(1) Where a judge mentioned in section 40 dies leaving no spouse or a spouse who subsequently dies, 30% of the pension that would have been payable to a spouse in accordance with section 40 shall be paid to each child of the judge, but the total amount payable to all children shall not exceed 120% of that amount and shall be divided equally among them.

(2) A pension payable to the child of a judge pursuant to this section shall be paid to the child until the child attains the age of 18 years and for a further period of up to five years if, during that period, he or she remains in full-time attendance at a secondary or post-secondary institution.

1993, c.60, s.7.

Lump sum payment on death

42 Where a judge dies leaving no spouse or children, the judge's contributions, together with accrued interest compounded annually at the rate prescribed pursuant to section 30 of *The Pension Benefits Act, 1992*, shall be paid to the judge's named beneficiary, or to the judge's estate if no beneficiary is named.

1993, c.60, s.7.

43 to 47 Repealed. 1998, c.P-30.11, s.66.

48 Repealed. 1993, c.60, s.7.

49 Repealed. 1993, c.60, s.7.

PART III
Repeal and Transitional

R.S.S. c.M-1 repealed

50 *The Magistrates' Courts Act* is repealed.

R.S.S. 1978 (Supp.), c.P-30.1, s.50.

R.S.S. c.P-32 repealed

51 *The Provincial Magistrates Act* is repealed.

R.S.S. 1978 (Supp.), c.P-30.1, s.51.

Transitional; payment of certain annuities, etc., continued

52 Annuities and supplementary allowances being paid under *The Magistrates' Courts Act* on the day before the day on which this section comes into force shall be paid out of the fund in the same amounts as they were being paid on that day, and, notwithstanding the repeal by this Act of sections 29 to 32 and 34 and 35 of *The Magistrates' Courts Act*, those sections shall continue to apply to the payment of those annuities and supplementary allowances.

R.S.S. 1978 (Supp.), c.P-30.1, s.52.

53 Repealed. 1998, c.P-30.11, s.66.

54 Repealed. 1998, c.P-30.11, s.66.

TABLE 1

Repealed. 1993, c.60, s.9.

TABLE 2

[Clause 37(4)(a)]

<i>Time (in years) remaining to normal date of retirement</i>	<i>Factor</i>
15	.303
14	.324
13	.346
12	.371
11	.398
10	.428
9	.461
8	.498
7	.538
6	.583
5	.633
4	.689
3	.752
2	.824
1	.906
0	1.000

1984-85-86, c.101, s.14; 1993 c.60, s.10.

TABLE 3
[Clause 37(4)(b)]

<i>Time (in years) remaining to normal date of retirement</i>	<i>Factor</i>
10	.453
9	.486
8	.523
7	.564
6	.608
5	.657
4	.712
3	.772
2	.839
1	.915
0	1.000

1984-85-86, c.101, s.14; 1993, c.60, s.11.

Editorial Appendix

Sections 5 to 9 of *The Provincial Court Amendment Act, 1994*, being chapter 19 of the *Statutes of Saskatchewan, 1994* provide as follows:

GENERAL

Interpretation

5 In this section and in sections 6 to 8:

(a) **“agreement”** means any agreement, contract or understanding, including any amendment to any agreement, contract or understanding, entered into, arrived at or concluded before the date this Act is assented to between:

(i) the Government of Saskatchewan, any present or former member of the Executive Council or any present or former officer or employee of the Government of Saskatchewan; and

(ii) the judges of the Provincial Court of Saskatchewan, whether represented by the Saskatchewan Provincial Court Judges’ Association or in any other manner;

and includes any enticement, inducement, offer, promise or representation made by the Government of Saskatchewan, any present or former member of the Executive Council or any present or former officer or employee of the Government of Saskatchewan to the judges of the Provincial Court of Saskatchewan, whether represented by the Saskatchewan Provincial Court Judges’ Association or in any other manner;

(b) **“cause of action”** means any cause of action or right to relief, including, without restricting the generality of the foregoing, any right to obtain damages, compensation or other pecuniary relief, or non-pecuniary relief, or any other remedy or order of any kind or nature, whether arising out of or imposed by law, equity, statute or otherwise;

(c) **“Provincial Court Commission”** means the Provincial Court Commission established pursuant to section 5.1 of *The Provincial Court Act*;

(d) **“section 5.1 of *The Provincial Court Act*”** means section 5.1 of *The Provincial Court Act*, as enacted by *The Provincial Court Amendment Act, 1993*, as that section existed before the date this Act is assented to.

Commission disestablished

6(1) The Provincial Court Commission is disestablished and the members of the Provincial Court Commission cease to hold office.

(2) Any report or recommendation made by the Provincial Court Commission prior to the date that this Act is assented to is deemed to be void from the date the report or recommendation was made and neither the Lieutenant Governor in Council nor any member of the Executive Council is required to take any action or do anything as a result of any report or recommendation.

Agreements void

7 Notwithstanding any provision of any agreement or any Act or law, all agreements are deemed to be void from the date the agreements were made.

Limitation on actions

8(1) No action or proceeding lies or shall be instituted or continued against or with respect to the Government of Saskatchewan, any present or former member of the Executive Council or any present or former officer or employee of the Government of Saskatchewan based on any cause of action arising out of, resulting from, relating to or incidental to:

(a) the enactment or application of all or any provision of this Act or section 5.1 of *The Provincial Court Act*;

(b) anything done pursuant to or in connection with this Act or section 5.1 of *The Provincial Court Act*;

(c) any agreement; or

(d) any report or recommendation of the Provincial Court Commission.

(2) Every cause of action against the Government of Saskatchewan or any other person mentioned in subsection (1) arising out of, resulting from, relating to or incidental to the enactment or application of all or any provision of this Act or section 5.1 of *The Provincial Court Act* or anything done pursuant to or in connection with this Act or section 5.1 of *The Provincial Court Act* or arising out of, resulting from, relating to or incidental to any agreement or any report or recommendation of the Provincial Court Commission is extinguished.

(3) Without limiting the generality of subsections 8(1) and (2), none of the enactment or application of this Act or section 5.1 of *The Provincial Court Act* or anything done pursuant to or in connection with this Act or section 5.1 of *The Provincial Court Act* or anything arising out of, resulting from, relating to or incidental to the foregoing:

- (a) constitute the repudiation or frustration of, a breach of or a default under any agreement; or
- (b) give rise to any right or remedy pursuant to any agreement, pursuant to any report or recommendation of the Provincial Court Commission or pursuant to any Act or law.