

The Court Jurisdiction and Proceedings Transfer Act

being

Chapter C-41.1 of the *Statutes of Saskatchewan, 1997* (effective March 1, 2004) as amended by the *Statutes of Saskatchewan, 2009, c.4*; and *2023, c.28*.

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 C-41.1

An Act respecting Court Jurisdiction and the Transfer of Court Proceedings

PART I

Short Title and Interpretation

Short title

1 This Act may be cited as *The Court Jurisdiction and Proceedings Transfer Act*.

Interpretation

2 In this Act:

“**plaintiff**” means a person who commences a proceeding, and includes a plaintiff by way of counterclaim; (*«demandeur»*)

“**proceeding**” includes an action, suit, cause, matter or originating application; (*«instance»*)

“**state**” means:

(a) Canada or a province or territory of Canada; and

(b) a foreign country or a subdivision of a foreign country; (*«État»*)

“**subject-matter competence**” means the aspects of a court’s jurisdiction that depend on factors other than those pertaining to the court’s territorial competence; (*«compétence matérielle»*)

“**territorial competence**” means the aspects of a court’s jurisdiction that depend on a connection between:

(a) the territory or legal system of the state in which the court is established; and

(b) a party to a proceeding in the court or the facts on which the proceeding is based. (*«compétence territoriale»*)

1997, c.C-41.1, s.2.

PART II

Territorial Competence of Courts of Saskatchewan

Application of Part

3(1) In this Part, “**court**” means a court of Saskatchewan.

(2) The territorial competence of a court is to be determined solely by reference to this Part.

1997, c.C-41.1, s.3.

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Proceedings against persons

4 A court has territorial competence in a proceeding that is brought against a person only if:

- (a) that person is the plaintiff in another proceeding in the court to which the proceeding in question is a counterclaim;
- (b) during the course of the proceeding, that person submits to the court's jurisdiction;
- (c) there is an agreement between the plaintiff and that person to the effect that the court has jurisdiction in the proceeding;
- (d) that person is ordinarily resident in Saskatchewan at the time of the commencement of the proceeding; or
- (e) there is a real and substantial connection between Saskatchewan and the facts on which the proceeding against that person is based.

1997, c.C-41.1, s.4.

Proceedings against vessels

5 A court has territorial competence in a proceeding that is brought against a vessel if the vessel is in Saskatchewan.

1997, c.C-41.1, s.5.

Ordinary residence – corporations

6 A corporation is ordinarily resident in Saskatchewan for the purposes of this Part only if:

- (a) it has or is required by law to have a registered office in Saskatchewan;
- (b) pursuant to law, it:
 - (i) has registered an address in Saskatchewan at which process may be served generally; or
 - (ii) has nominated an agent in Saskatchewan on whom process may be served generally;
- (c) it has a place of business in Saskatchewan or a location in Saskatchewan for the purposes of conducting its activities; or
- (d) its central management is exercised in Saskatchewan.

1997, c.C-41.1, s.6.

Ordinary residence – partnerships

7 A partnership is ordinarily resident in Saskatchewan, for the purposes of this Part, only if:

- (a) a partner is ordinarily resident in Saskatchewan; or
- (b) the partnership has a place of business in Saskatchewan.

1997, c.C-41.1, s.7.

Ordinary residence – unincorporated associations

8 An unincorporated association is ordinarily resident in Saskatchewan for the purposes of this Part only if:

- (a) an officer of the association is ordinarily resident in Saskatchewan; or
- (b) the association has a location in Saskatchewan for the purposes of conducting its activities.

1997, c.C-41.1, s.8.

Real and substantial connection

9 Without limiting the right of the plaintiff to prove other circumstances that constitute a real and substantial connection between Saskatchewan and the facts on which a proceeding is based, a real and substantial connection between Saskatchewan and those facts is presumed to exist if the proceeding:

- (a) is brought to enforce, assert, declare or determine proprietary or possessory rights or a security interest in immovable or movable property in Saskatchewan;
- (b) concerns the administration of the estate of a deceased person in relation to:
 - (i) immovable property, in Saskatchewan, of the deceased person; or
 - (ii) movable property, anywhere, of the deceased person if at the time of death he or she was ordinarily resident in Saskatchewan;
- (c) is brought to interpret, rectify, set aside or enforce any deed, will, contract or other instrument in relation to:
 - (i) immovable property in Saskatchewan; or
 - (ii) movable property anywhere of a deceased person who at the time of death was ordinarily resident in Saskatchewan;
- (d) is brought against a trustee in relation to the carrying out of a trust in any of the following circumstances:
 - (i) the trust assets include immovable or movable property in Saskatchewan and the relief claimed is only as to that property;
 - (ii) that trustee is ordinarily resident in Saskatchewan;
 - (iii) the administration of the trust is principally carried on in Saskatchewan;
 - (iv) by the express terms of a trust document, the trust is governed by the law of Saskatchewan;
- (e) concerns contractual obligations and:
 - (i) the contractual obligations were to be performed, to a substantial extent, in Saskatchewan;
 - (ii) the contract was made in Saskatchewan;
 - (iii) by its express terms, the contract is governed by the law of Saskatchewan; or

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- (iv) the contract:
 - (A) is for the purchase of property, services or both, for use other than in the course of the purchaser's trade or profession; and
 - (B) resulted from a solicitation of business in Saskatchewan by or on behalf of the seller;
- (f) concerns restitutionary obligations that, to a substantial extent, arose in Saskatchewan;
- (g) is brought for a tort committed in Saskatchewan;
- (h) concerns a business carried on in Saskatchewan;
- (i) is a claim for an injunction ordering a party to do or refrain from doing anything:
 - (i) in Saskatchewan; or
 - (ii) in relation to immovable or movable property in Saskatchewan;
- (j) is for a determination of the personal status or capacity of a person who is ordinarily resident in Saskatchewan;
- (k) is for enforcement of a judgment of a court made in or outside Saskatchewan or an arbitral award made in or outside Saskatchewan; or
- (l) is for the recovery of taxes or other indebtedness and is brought by the Crown in right of Saskatchewan or by a local authority of Saskatchewan.

1997, c.C-41.1, s.9.

Discretion as to the exercise of territorial competence

10(1) After considering the interests of the parties to a proceeding and the ends of justice, a court may decline to exercise its territorial competence in the proceeding on the ground that a court of another state is a more appropriate forum in which to try the proceeding.

(2) A court, in deciding the question of whether it or a court outside Saskatchewan is the more appropriate forum in which to try a proceeding, shall consider the circumstances relevant to the proceeding, including:

- (a) the comparative convenience and expense for the parties to the proceeding and for their witnesses, in litigating in the court or in any alternative forum;
- (b) the law to be applied to issues in the proceeding;
- (c) the desirability of avoiding multiplicity of legal proceedings;
- (d) the desirability of avoiding conflicting decisions in different courts;
- (e) the enforcement of an eventual judgment; and
- (f) the fair and efficient working of the Canadian legal system as a whole.

1997, c.C-41.1, s.10.

Conflicts or inconsistencies with other Acts

11 If there is a conflict or inconsistency between this Part and another Act of Saskatchewan or of Canada, that other Act prevails if it expressly or implicitly:

- (a) confers jurisdiction or territorial competence on a court; or
- (b) denies jurisdiction or territorial competence to a court.

1997, c.C-41.1, s.11.

PART III
Transfer of Proceeding

General provisions applicable to transfers

12(1) The Court of King's Bench, in accordance with this Part, may:

- (a) transfer a proceeding to a court outside Saskatchewan; or
 - (b) accept a transfer of a proceeding from a court outside Saskatchewan.
- (2) A power given pursuant to this Part to the Court of King's Bench to transfer a proceeding to a court outside Saskatchewan includes the power to transfer part of the proceeding to that court.
- (3) A power given pursuant to this Part to the Court of King's Bench to accept a proceeding from a court outside Saskatchewan includes the power to accept part of the proceeding from that court.
- (4) If anything relating to a transfer of a proceeding is or ought to be done in the Court of King's Bench or in another court of Saskatchewan on appeal from the Court of King's Bench, the transfer is governed by the provisions of this Part.
- (5) If anything relating to a transfer of a proceeding is or ought to be done in a court outside Saskatchewan, the Court of King's Bench, despite any differences between this Part and the rules applicable in the court outside Saskatchewan, may transfer or accept a transfer of the proceeding if the Court of King's Bench considers that the differences do not:
- (a) impair the effectiveness of the transfer; or
 - (b) inhibit the fair and proper conduct of the proceeding.

1997, c.C-41.1, s.12; 2023, c28, s.17-13.

Grounds for an order transferring a proceeding

13(1) The Court of King's Bench may, by order, request a court outside Saskatchewan to accept a transfer of a proceeding in which the Court of King's Bench has both territorial and subject-matter competence if the Court of King's Bench is satisfied that:

- (a) the receiving court has subject-matter competence in the proceeding; and
- (b) pursuant to section 10, the receiving court is a more appropriate forum for the proceeding than the Court of King's Bench.

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(2) The Court of King's Bench may, by order, request a court outside Saskatchewan to accept a transfer of a proceeding in which the Court of King's Bench lacks territorial or subject-matter competence if the Court of King's Bench is satisfied that the receiving court has both territorial and subject-matter competence in the proceeding.

(3) In deciding whether a court outside Saskatchewan has territorial or subject-matter competence in a proceeding, the Court of King's Bench shall apply the laws of the state in which the court outside Saskatchewan is established.

1997, c.C-41.1, s.13; 2023, c28, s.17-13.

Provisions relating to the transfer order

14(1) In an order requesting a court outside Saskatchewan to accept a transfer of a proceeding, the Court of King's Bench shall state the reasons for the request.

(2) The order may:

- (a) be made on application of a party to the proceeding;
- (b) impose conditions precedent to the transfer;
- (c) contain terms concerning the further conduct of the proceeding; and
- (d) provide for the return of the proceeding to the Court of King's Bench on the occurrence of specified events.

(3) On its own motion, or if asked by the receiving court, the Court of King's Bench, on or after making an order requesting a court outside Saskatchewan to accept a transfer of a proceeding, may:

- (a) send to the receiving court relevant portions of the record to aid that court in deciding whether to accept the transfer or to supplement material previously sent by the Court of King's Bench to the receiving court in support of the order; or
- (b) by order, rescind or modify one or more terms of the order requesting acceptance of the transfer.

1997, c.C-41.1, s.14; 2023, c28, s.17-13.

Court's discretion to accept or refuse a transfer

15(1) After the filing of a request made by a court outside Saskatchewan to transfer to the Court of King's Bench a proceeding brought against a person in the transferring court, the Court of King's Bench may, by order:

- (a) accept the transfer, subject to subsection (4), if both of the following requirements are fulfilled:
 - (i) either the Court of King's Bench or the transferring court has territorial competence in the proceeding;
 - (ii) the Court of King's Bench has subject-matter competence in the proceeding; or
- (b) refuse to accept the transfer for any reason that the Court of King's Bench considers just, regardless of the fulfilment of the requirements of clause (a).

- (2) The Court of King's Bench must give reasons for an order pursuant to clause (1)(b) refusing to accept the transfer of a proceeding.
- (3) Any party to the proceeding brought in the transferring court may apply to the Court of King's Bench for an order accepting or refusing the transfer to the Court of King's Bench of the proceeding.
- (4) The Court of King's Bench may not make an order accepting the transfer of a proceeding if a condition precedent to the transfer imposed by the transferring court has not been fulfilled.

1997, c.C-41.1, s.15; 2023, c28, s.17-13.

Effect of transfers to or from Court

16 A transfer of a proceeding to or from the Court of King's Bench takes effect for all purposes of the law of Saskatchewan when an order made by the receiving court accepting the transfer is filed in the transferring court.

1997, c.C-41.1, s.16; 2023, c28, s.17-13.

Transfers to courts outside Saskatchewan

17(1) On a transfer of a proceeding from the Court of King's Bench taking effect:

- (a) the Court of King's Bench shall send relevant portions of the record, if not sent previously, to the receiving court; and
 - (b) subject to subsections (2) and (3), the proceeding continues in the receiving court.
- (2) After the transfer of a proceeding from the Court of King's Bench takes effect, the Court of King's Bench may make an order with respect to a procedure that was pending in the proceeding at the time of the transfer only if:
- (a) it is unreasonable or impractical for a party to apply to the receiving court for the order; and
 - (b) the order is necessary for the fair and proper conduct of the proceeding in the receiving court.
- (3) After the transfer of a proceeding from the Court of King's Bench takes effect, the Court of King's Bench may discharge or amend an order made in the proceeding before the transfer took effect only if the receiving court lacks territorial competence to discharge or amend the order.

1997, c.C-41.1, s.17; 2023, c28, s.17-13.

Transfers to Court of King's Bench

18(1) On a transfer of a proceeding to the Court of King's Bench taking effect, the proceeding continues in the Court of King's Bench.

(2) A procedure completed in a proceeding in the transferring court before transfer of the proceeding to the Court of King's Bench has the same effect in the Court of King's Bench as in the transferring court, unless the Court of King's Bench otherwise orders.

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- (3) If a procedure is pending in a proceeding at the time the transfer of the proceeding to the Court of King's Bench takes effect, the procedure must be completed in the Court of King's Bench in accordance with the rules of the transferring court, measuring applicable time limits as if the procedure had been initiated 10 days after the transfer took effect, unless the Court of King's Bench otherwise orders.
- (4) After the transfer of a proceeding to the Court of King's Bench takes effect, the Court of King's Bench may discharge or amend an order made in the proceeding by the transferring court.
- (5) An order of the transferring court that is in force at the time the transfer of a proceeding to the Court of King's Bench takes effect remains in force after the transfer until discharged or amended by:
- (a) the transferring court, if the Court of King's Bench lacks territorial competence to discharge or amend the order; or
 - (b) the Court of King's Bench, in any other case.

1997, c.C-41.1, s.18; 2023, c28, s.17-13.

Return of a proceeding after transfer

19(1) After the transfer of a proceeding to the Court of King's Bench takes effect, the Court of King's Bench must order the return of the proceeding to the court from which the proceeding was received if:

- (a) the terms of the transfer provide for the return;
 - (b) both the Court of King's Bench and the court from which the proceeding was received lack territorial competence in the proceeding; or
 - (c) the Court of King's Bench lacks subject-matter competence in the proceeding.
- (2) If a court to which the Court of King's Bench has transferred a proceeding orders that the proceeding be returned to the Court of King's Bench in any of the circumstances mentioned in clause (1)(a), (b) or (c), or in similar circumstances, the Court of King's Bench shall accept the return.
- (3) When a return order is filed in the Court of King's Bench, the returned proceeding continues in the Court of King's Bench.

1997, c.C-41.1, s.19; 2023, c28, s.17-13.

Appeals

20(1) After the transfer of a proceeding to the Court of King's Bench takes effect, an order of the transferring court, except the order requesting the transfer, may be appealed in Saskatchewan as if the order had been made by the Court of King's Bench.

(2) A decision of a court outside Saskatchewan to accept the transfer of a proceeding from the Court of King's Bench may not be appealed in Saskatchewan.

(3) If, at the time that the transfer of a proceeding from the Court of King's Bench takes effect, an appeal is pending in Saskatchewan from an order of the Court of King's Bench, the court in which the appeal is pending may conclude the appeal only if:

- (a) it is unreasonable or impractical for the appeal to be recommenced in the state of the receiving court; and
- (b) a resolution of the appeal is necessary for the fair and proper conduct of the continued proceeding in the receiving court.

1997, c.C-41.1, s.20; 2023, c28, s.17-13.

Departure from a term of transfer

21 After the transfer of a proceeding to the Court of King's Bench takes effect, the Court of King's Bench may depart from terms specified by the transferring court in the transfer order if it is just and reasonable to do so.

1997, c.C-41.1, s.21; 2023, c28, s.17-13.

Limitations and time periods

22(1) In a proceeding transferred to the Court of King's Bench from a court outside Saskatchewan, and notwithstanding any enactment imposing a limitation period, the Court of King's Bench shall not hold a claim barred because of a limitation period if:

- (a) the claim would not be barred pursuant to the limitation rule that would be applied by the transferring court; and
- (b) at the time the transfer took effect, the transferring court had both territorial and subject-matter competence in the proceeding.

(2) After the transfer of a proceeding to the Court of King's Bench takes effect, the Court of King's Bench shall treat a procedure commenced on a certain date in a proceeding in the transferring court as if the procedure had been commenced in the Court of King's Bench on the same date.

1997, c.C-41.1, s.22; 2023, c28, s.17-13.

Rules of court

23 Rules of court may be made for regulating practice and procedure, including costs, with respect to proceedings pursuant to this Act.

1997, c.C-41.1, s.23.

PART IV
Application and Coming Into Force

Application

24 This Act applies only to proceedings commenced after the coming into force of this Act.

1997, c.C-41.1, s.24.

Coming into force

25 This Act comes into force on proclamation.

1997, c.C-41.1, s.25.