

Justices of the Peace Act

CHAPTER 244 OF THE REVISED STATUTES, 1989

as amended by

1992, c. 16, ss. 71-76; 2000, c. 28, ss. 56-64;
2002, c. 10, ss. 7-9; 2007, c. 18; 2013, c. 39, ss. 1-3



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**An Act Respecting
Justices of the Peace**

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(The table of contents is not part of the statute)

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Short title

1 This Act may be cited as the *Justices of the Peace Act*. R.S., c. 244, s. 1.

Interpretation

2 In this Act,

(a) “administrative justice of the peace” means an individual appointed as an administrative justice of the peace pursuant to this Act;

(aa) “Association” means the Nova Scotia Presiding Justices of the Peace Association;

- (ab) “commission” means a commission established pursuant to this Act;
- (b) “justice of the peace” means an administrative justice of the peace, a presiding justice of the peace or a staff justice of the peace;
- (c) “Minister” means the Minister of Justice;
- (d) “presiding justice of the peace” means an individual appointed as a presiding justice of the peace pursuant to this Act;
- (e) “staff justice of the peace” means an individual appointed as a staff justice of the peace pursuant to this Act;
- (f) “tribunal” means a tribunal established pursuant to Section 21A of the *Provincial Court Act*. 2000, c. 28, s. 56; 2013, c. 39, s. 1.

Presiding justice of the peace

3 (1) The Governor in Council, on the recommendation of the Minister, may appoint an individual as a presiding justice of the peace.

(2) An appointment made pursuant to subsection (1) may be on a full-time or part-time basis.

(3) A presiding justice of the peace holds office during good behaviour until age seventy unless the justice is removed from office by the Governor in Council as provided in Section 8A. 2000, c. 28, s. 56; 2007, c. 18, s. 1.

Staff justice of the peace

3A (1) The Minister may appoint an employee of the Department of Justice as a staff justice of the peace to perform such duties as are prescribed in the regulations.

(2) The appointment of a staff justice of the peace expires upon the earlier of termination of their employment with the Department of Justice or upon the appointment being revoked by the Minister. 2000, c. 28, s. 56.

Administrative justice of the peace

3B (1) The Minister may appoint an individual as an administrative justice of the peace to perform such duties as are prescribed in the regulations.

(2) An administrative justice of the peace holds office for the term prescribed in the regulations. 2000, c. 28, s. 56.

Immunity

4 A justice of the peace has the same immunity from liability as a judge of the Supreme Court. 1992, c. 16, s. 72.

5 *repealed 1992, c. 16, s. 72.*

Oath of office

6 (1) A person appointed to be a justice of the peace may take an oath of office in Form A in the Schedule before a judge of the Court of Appeal, a judge of the Supreme Court, a judge of the Family Court or a judge of the provincial court.

(2) A justice of the peace forthwith after the taking of the oath of office pursuant to subsection (1) shall transmit the oath to the Attorney General. R.S., c. 244, s. 6; 1992, c. 16, s. 73; 2000, c. 28, s. 57.

Powers, privileges, immunities

7 (1) Every person so appointed and sworn shall be invested with all the rights, powers, privileges, immunities and advantages heretofore had, held, exercised and enjoyed by any justice of the peace appointed before the tenth day of April, 1880, in this Province, and shall be entitled to the rights, privileges, immunities and advantages given, granted and extended before that date to any justice of the peace, as well by any statute in force in this Province or otherwise.

(2) Notwithstanding subsection (1) but subject to any other enactment, a justice of the peace, when exercising powers and performing functions pursuant to an enactment, shall do so in accordance with the regulations and the directions of the Chief Judge of the Provincial Court or the Chief Judge of the Family Court or the Chief Justice of the Supreme Court, as the case may be. R.S., c. 244, s. 7; 1992, c. 16, s. 74; 2000, c. 28, s. 58.

Resignation

8 (1) A justice of the peace may resign from office by delivering a signed letter of resignation to the Attorney General.

(2) The resignation takes effect on the day the letter is delivered to the Attorney General or, where the letter specifies a later day, on that day. 2000, c. 28, s. 59.

Removal from office

8A (1) A presiding justice of the peace may only be removed from office before the expiration of that justice's term by order of the Governor in Council.

- (2)** The order referred to in subsection (1) may be made only if
- (a)** a complaint regarding the presiding justice of the peace has been made to the Chief Judge of the Provincial Court, the Chief Justice of the Supreme Court or the Chief Judge of the Family Court; and
 - (b)** the removal is recommended by the Chief Judge of the Provincial Court, the Chief Justice of the Supreme Court or the Chief Judge of the Family Court, as the case may be, following an inquiry

held pursuant to Section 11 on the ground that the presiding justice of the peace has become incapacitated or disabled from the due execution of the justice's office by reason of

- (i) infirmity,
- (ii) conduct that is incompatible with the execution of the duties of the justice's office, or
- (iii) having failed to perform the duties of the justice's office as assigned.

(3) The order referred to in subsection (2) shall be laid before the House of Assembly if it is sitting or, if not, within fifteen days after the commencement of the next sitting. 2000, c. 28, s. 59.

Supervision by Chief Judge of Provincial Court

9 (1) Except as provided in Section 10 or 10A, the Chief Judge of the Provincial Court has the general supervision and direction over all presiding justices of the peace and, without limiting the generality of the foregoing, the Chief Judge may

- (a) establish duty rosters for presiding justices of the peace;
- (b) supervise the sittings of presiding justices of the peace;
- (c) give direction to presiding justices of the peace in the performance of their duties; and
- (d) issue directions to presiding justices of the peace on law and procedure.

(2) A presiding justice of the peace shall follow the directions of the Chief Judge unless determined otherwise by a court of competent jurisdiction.

(3) *repealed 2000, c. 28, s. 60.*

(4) Notwithstanding subsection (1), the Chief Judge may delegate to one or more judges of the Provincial Court the general supervision and direction over presiding justices of the peace. 1992, c. 16, s. 75; 2000, c. 28, s. 60; 2002, c. 10, s. 7.

Supervision by Chief Judge of Family Court

10 (1) The Chief Judge of the Family Court has the general supervision and direction over all presiding justices of the peace who perform duties and functions relating to the Family Court and, without limiting the generality of the foregoing, the Chief Judge may

- (a) establish duty rosters for presiding justices of the peace;
- (b) supervise the sittings of presiding justices of the peace;

(c) give direction to presiding justices of the peace in the performance of their duties; and

(d) issue directions to presiding justices of the peace on law and procedure.

(2) A presiding justice of the peace shall follow the directions of the Chief Judge unless determined otherwise by a court of competent jurisdiction.

(3) *repealed 2000, c. 28, s. 61.*

(4) Notwithstanding subsection (1), the Chief Judge may delegate to one or more judges of the Family Court the general supervision and direction over presiding justices of the peace. 1992, c. 16, s. 75; 2000, c. 28, s. 61; 2002, c. 10, s. 8.

Supervision by Chief Justice of Supreme Court

10A (1) The Chief Justice of the Supreme Court of Nova Scotia has the general supervision and direction over all presiding justices of the peace who perform duties and functions relating to the Supreme Court and, without limiting the generality of the foregoing, the Chief Justice may

(a) establish duty rosters for presiding justices of the peace;

(b) supervise the sittings of presiding justices of the peace;

(c) give direction to presiding justices of the peace in the performance of their duties;

(d) issue directions to presiding justices of the peace on law and procedure.

(2) A presiding justice of the peace shall follow the directions of the Chief Justice unless determined otherwise by a court of competent jurisdiction.

(3) Notwithstanding subsection (1), the Chief Justice may delegate to one or more judges of the Supreme Court of Nova Scotia the general supervision and direction over presiding justices of the peace. 2000, c. 28, s. 62.

Discipline of presiding justices of peace

11 (1) The Chief Judge of the Provincial Court, the Chief Justice of the Supreme Court of Nova Scotia or the Chief Judge of the Family Court, as the case may be, is responsible for the discipline of presiding justices of the peace who are under their supervision and direction.

(2) Where a question arises relating to the discipline of a presiding justice of the peace, the Chief Judge or Chief Justice, as the case may be, may appoint a committee of judges and presiding justices of the peace to inquire into the matter and make a recommendation to the Chief Judge or Chief Justice, as the case may be, on what action, if any, should be taken.

- (3) The Chief Judge or Chief Justice, as the case may be, may
- (a) recommend to the Governor in Council that the appointment of a presiding justice of the peace be revoked; or
 - (b) suspend or restrict the powers and duties of a presiding justice of the peace notwithstanding the terms of appointment of the presiding justice of the peace.

(4) The Chief Judge or Chief Justice, as the case may be, or a member of a committee appointed pursuant to subsection (2) are immune from civil action for anything done in good faith pursuant to this Section. 1992, c. 16, s. 75; 2000, c. 28, s. 63; 2002, c. 10, s. 9.

Commission

11A (1) There shall be a commission to determine the hourly rate to be paid to presiding justices of the peace.

(2) The person selected as chair of the tribunal in accordance with subsection 21A(3) of the *Provincial Court Act* is the commission.

(3) Where the chair of the tribunal is unable or unwilling to be the first commission, the Dean of the Schulich School of Law at Dalhousie University shall appoint the first commission.

(4) The commission is entitled to remuneration and reimbursement for reasonable expenses as determined by the Minister. 2013, c. 39, s. 2.

Commission report

11B (1) The commission shall inquire into and prepare a report containing recommendations with respect to

- (a) the hourly rate to be paid to presiding justices of the peace; and
- (b) the annual adjustments to the hourly rate in respect of cost-of-living increases.

(2) The hourly rate referred to in subsection (1) must be a percentage of the *per diem* payment made to judges not receiving salaries as recommended by the tribunal pursuant to clause 21E(1)(b) of the *Provincial Court Act*.

(3) A presiding justice of the peace is not entitled to any benefits.

(4) When making recommendations pursuant to this Section, the commission shall take into consideration the following:

- (a) the constitutional law of Canada;
- (b) the need to maintain the independence of the presiding justices of the peace;

- (c) the need to attract excellent candidates for appointment as presiding justices of the peace;
- (d) the unique nature of the role of presiding justices of the peace;
- (e) the manner in which the hourly rate paid to presiding justices of the peace in the Province compares to the hourly rates paid to presiding justices of the peace in other jurisdictions in Canada, having regard to the differences amongst those jurisdictions;
- (f) the provision of a fair and reasonable hourly rate for presiding justices of the peace in light of prevailing economic conditions in the Province and the overall state of the Provincial economy;
- (g) the adequacy of the hourly rate for presiding justices of the peace having regard to the cost of living and the growth or decline in real *per capita* income in the Province;
- (h) the relevant submissions made to the commission;
- (i) the nature of the jurisdiction and responsibility of the presiding justices of the peace;
- (j) public sector compensation trends;
- (k) the financial policies and priorities of the Province;
- (l) the part-time nature of the employment of presiding justices of the peace;
- (m) other such factors as the commission considers relevant to the matters in issue. 2013, c. 39, s. 2.

Term of office of commission

11C (1) The first commission holds office until January 14, 2016.

(2) Each subsequent commission holds office for a term of three years commencing on January 15th following the day the previous commission ceases to hold office. 2013, c. 39, s. 2.

Powers of commission

11D The commission has all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act*. 2013, c. 39, s. 2.

Determination of procedure

11E (1) Subject to this Section, the commission may determine its own procedures, including procedures for the making of submissions to the commission.

(2) The commission shall consider all written materials transmitted by the tribunal pursuant to subsection 21GA of the *Provincial Court Act*.

(3) The commission shall provide copies of all materials referred to in subsection (2) to the Association and the Minister.

(4) The commission shall consider any written submissions from the Association and the Minister.

(5) The commission may submit written questions to the Association and to the Minister after the commission has reviewed written submissions referred to in subsection (4).

(6) The commission may, where it considers it necessary to complete its report, convene a hearing to receive oral submissions from the Association and the Minister. 2013, c. 39, s. 2.

No standing before tribunal

11F Notwithstanding subsection 21D(1) of the *Provincial Court Act*, the Association and any presiding justice of the peace do not have standing to make submissions to a tribunal established pursuant to Section 21A of the *Provincial Court Act* on matters referred to in clause 21E of the *Provincial Court Act*. 2013, c. 39, s. 2.

Periods to be covered

11G The report of the first commission must contain recommendations covering the period from April 1, 2014 to March 31, 2020, inclusive, and the report of each subsequent commission must cover each subsequent six-year period. 2013, c. 39, s. 2.

Deadline for reports

11H (1) The report of the first commission must be submitted to the Minister on or before December 1, 2014.

(2) The report of the second commission must be submitted to the Minister on or before December 1, 2019.

(3) The report of subsequent commissions must be submitted to the Minister on or before the first day of December of every sixth year thereafter. 2013, c. 39, s. 2.

Introduction of legislation

11I (1) Where recommendations of the commission require legislation for implementation, the Minister shall, within one year of the report of the commission, introduce in the House of Assembly the necessary legislation to implement the recommendations.

(2) Recommendations made in the report of a commission, other than those that require legislation, take effect on the first day of April in the year

immediately following the year in which the commission is required to submit its report. 2013, c. 39, s. 2.

Duties of Governor in Council

11J Upon receipt of the report of the commission, the Minister shall forward the report to the Governor in Council and, subject to Section 11I, the Governor in Council shall cause the recommendations contained in the report with respect to the matters referred to in subsection 11B(1) to be implemented and the recommendations have the same force and effect as if enacted by the Legislature and are in substitution for the provisions of this Act or any regulations made pursuant to this Act relating to those matters. 2013, c. 39, s. 2.

Review of proposed legislation

11K (1) Where the Minister proposes to introduce legislation that deals with matters referred to in subsection 11B(1) other than that required to implement the recommendations of the commission, the Minister shall forward the proposed legislation to the commission for review and comment.

(2) The commission shall provide the Minister with its comments within 30 days, unless the Minister specifies a longer period of time for review and comment by the commission. 2013, c. 39, s. 2.

Request for change to report

11L (1) The Minister or the Association may, within 15 days of the receipt of the commission's report, request the commission amend, alter or vary its report if the Minister or the Association is of the view that the commission failed to deal with a matter arising from an inquiry or that the commission made an error that is apparent on the face of the report.

(2) Where the commission amends, alters or varies its report pursuant to subsection (1), the commission shall, within 15 days, deliver to the Minister and the Association the amended, altered or varied report.

(3) The amendments, alternations or variations in the report referred to in subsection (2) must only deal with matters referred to the commission pursuant to subsection (1).

(4) The decision of the commission pursuant to this Section is final and binding on the Minister and the Association. 2013, c. 39, s. 2.

Regulations

- 12 (1)** The Governor in Council may make regulations
- (a)** governing the process under which a person may be appointed a justice of the peace;
 - (b)** establishing categories or classes of justices of the peace;

- (c) fixing the powers, duties and functions associated with the categories or classes of justices of the peace;
- (d) prescribing powers, duties and functions which a justice of the peace cannot perform, notwithstanding any enactment;
- (e) *repealed 2013, c. 39, s. 3.*
- (f) prescribing the fees to be paid to a justice of the peace for a proceeding or service;
- (g) requiring and governing the making of returns and reports by a justice of the peace;
- (h) respecting the remission of fees, fines and other money paid to a justice of the peace;
- (i) respecting the discipline procedure;
- (j) defining any word used but not defined in this Act;
- (k) to carry out effectively the intent and purpose of this Act.

(2) A regulation made pursuant to subsection (1) may be specific or general in nature and, without limiting the generality of the foregoing, may be specific to a part of the Province, to a class or category of justices of the peace, or to justices of the peace who are employed in the public service.

(3) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. 1992, c. 16, s. 75; 2013, c. 39, s. 3.

SCHEDULE

Form A

(Section 6)

OATH OF OFFICE

I, A.B., of, in the County of, make oath and say, that I will well and truly serve our Sovereign Lady the Queen in the office of justice of the peace, and I will do right to all manner of people after the law of this Province without fear, favour, affection or ill-will.

Sworn to at,
 in the County of,
 this day of
 19., before me.

.....

Form B repealed 1992, c. 16, s. 76.

R.S., c. 244, Sch.; 1992, c. 16, s. 76.
