

UNEDITED

The Court of Appeal Act

being

Chapter 66 of *The Revised Statutes of Saskatchewan, 1953*
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY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.

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CHAPTER 66

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*.

R.S.S. 1953, c.66, s.1.

INTERPRETATION

Interpretation “court”

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

R.S.S. 1940, c.60, s.2; R.S.S. 1953, c.66, s.2.

ORGANIZATION

Constitution

3(1) There shall 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, and the said court shall sit at the city of Regina.

(2) On and after the day on which chapter 27 of the statutes of 1951 is brought into force by proclamation of the Lieutenant Governor pursuant to section 2 of the said chapter 27, subsection (1) of this section shall be read as follows:

(1) There shall be a court of appeal for Saskatchewan called the Court of Appeal consisting of four judges, one of whom shall be chief justice and shall be styled Chief Justice of Saskatchewan, and the other three judges shall be called judges of appeal. The court shall sit at the city of Regina.

(3) 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.

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

R.S.S. 1940, c.60, s.3; 1951, c.27, s.1; R.S.S.
1953, c.66, s.3.

Oath of office

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

I, _____ solemnly and sincerely promise and swear that I will duly and faithfully, and to the best of my skill and knowledge, exercise the powers and trusts reposed in me as Chief Justice (or one of the puisne judges) of the Court of Appeal for Saskatchewan. So help me God.

R.S.S. 1940, c.60, s.4; R.S.S. 1953, c.66, s.4.

JURISDICTION

Duties and power of the judges

5(1) The Chief Justice of Saskatchewan and the other the judges of appeal shall also be *ex officio* judges of the Court of Queen's Bench and shall, in addition to their duties as judges of the Court of Appeal, preside over trials of criminal cases in the Court of Queen's Bench to be tried before a judge with a jury, in the judicial districts of Regina, Moose Jaw and Saskatoon, but not elsewhere unless requested to do so by the Chief Justice of the Queen's Bench, and over the trial of election petitions, and for all purposes shall have all the powers, rights, privileges and immunities of judges of the Court of Queen's Bench.

(2) The judges of appeal shall be eligible to sit in chambers as judges of the Queen's Bench and to hear and determine all applications which may properly be made before a judge of the said court sitting in chambers.

R.S.S. 1940, c.60, s.5; R.S.S. 1953, c.66, s.5.

Nature and extent of jurisdiction

6 The court shall have all the jurisdiction and powers jurisdiction possessed by the Supreme Court of Saskatchewan en bane 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. 1940, c.60, s.6; R.S.S. 1953, c.66, 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. 1940, c.60, s.7; R.S.S. 1953, c.66, 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 which, in its judgment, the judge who tried the case ought to have pronounced.

R.S.S. 1940, c.60, s.8; R.S.S. 1953, c.66, s.8.

Sittings

9 Sittings of the court shall be held at such times as may be fixed from time to time by the court, provided that not less than four sittings shall be held in each year.

R.S.S. 1940, c.60, s.9; R.S.S. 1953, c.66, 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. 1940, c.60, s.10; R.S.S. 1953, c.66, s.10.

Judge of first instance not to sit in court reviewing his verdict of 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. 1940, c.60, s.11; R.S.S. 1953, c.66, 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 of the court and were present and taking part in such judgment.

R.S.S. 1940, c.60, s.12; R.S.S. 1953, c.66, 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. 1940, c.60, s.13; R.S.S. 1953, c.66, 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, the number of judges available is not sufficient to form a quorum, any judge of the Court of Queen's Bench may, at 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, sit as a member of the court, and take part in the hearing and decision of any appeal or matter coming before the court, with all the powers, duties and rights of a judge of the Court of Appeal.

R.S.S. 1940, c.60, s.14; R.S.S. 1953, c.66, 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. 1940, c.60, s.15; R.S.S. 1953, c.66, 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 deputy registrars in the different judicial districts 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 for a judicial district.

(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. 1940, c.60, s.16; R.S.S. 1953, c.66, 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.

1942, c.11, s.2; R.S.S. 1953, c.66, s.17.

RULES OF COURT

Power of judges to make rules

18(1) The judges of the court, or a majority of them make rules 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:

- (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;
- (b) fixing the vacations;
- (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 of the same as is 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;
- (d) providing for and framing a tariff of fees and costs to be allowed to solicitors and counsel upon proceedings in the court;

(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 and of all other Acts which may be at any time in force respecting the court.

(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. 1940, c.60, s.17; 1942, c.11, s.3; R.S.S.
1953, c.66, 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 revision 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. 1940, c.60, s.18; R.S.S. 1953, c.66, s.19.

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