



Department of Justice
Canada

Ministère de la Justice
Canada

Canada

Judges Act (R.S., 1985, c. J-1)

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Act current to December 29th, 2008

Attention: See coming into force provision and notes, where applicable.

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Judges Act

J-1

An Act respecting judges of federal and provincial courts

SHORT TITLE

Short title

1. This Act may be cited as the *Judges Act*.

R.S., c. J-1, s. 1.

INTERPRETATION

Definitions

2. In this Act,

"age of retirement"
« *mise à la retraite d'office* »

"age of retirement" of a judge means the age, fixed by law, at which the judge ceases to hold office;

"attorney general of the province"
« *procureur général de la province* »

"attorney general of the province" , except where otherwise defined, means the minister of the Crown of the province who is responsible for judicial affairs;

"common-law partner"
« *conjoint de fait* »

"common-law partner" , in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year;

"Council"
« *Conseil* »

"Council" means the Canadian Judicial Council established by subsection 59(1);

"county"
« *comté* »

"county" includes district;

"judge"
« *juge* »

"judge" includes a chief justice, senior associate chief justice, associate chief justice, supernumerary judge, senior judge and regional senior judge;

"survivor"
«*survivant*»

"survivor" , in relation to a judge, means a person who was married to the judge at the time of the judge's death or who establishes that he or she was cohabiting with the judge in a conjugal relationship at the time of the judge's death and had so cohabited for a period of at least one year.

R.S., 1985, c. J-1, s. 2; 1990, c. 17, s. 27; 1992, c. 51, s. 2; 2000, c. 12, s. 159; 2002, c. 8, s. 82(E).

PART I

JUDGES

ELIGIBILITY

Eligibility for appointment

3. No person is eligible to be appointed a judge of a superior court in any province unless, in addition to any other requirements prescribed by law, that person

(a) is a barrister or advocate of at least ten years standing at the bar of any province; or

(b) has, for an aggregate of at least ten years,

(i) been a barrister or advocate at the bar of any province, and

(ii) after becoming a barrister or advocate at the bar of any province, exercised powers and performed duties and functions of a judicial nature on a full-time basis in respect of a position held pursuant to a law of Canada or a province.

R.S., 1985, c. J-1, s. 3; 1992, c. 51, s. 3; 1996, c. 22, s. 2.

4. to 6. [Repealed, 1990, c. 17, s. 28]

7. [Repealed, 1992, c. 51, s. 4]

AGE OF RETIREMENT

Retirement age

8. (1) A judge of the Supreme Court of British Columbia who held the office of a judge of the County Courts of British Columbia on March 1, 1987 and on June 30, 1990 may retire at the age of seventy years.

Retirement age

(2) A judge of the Superior Court of Justice in and for the Province of Ontario who held the office of a judge of the District Court of Ontario on March 1, 1987 and on August 31, 1990 may retire at the age of seventy years.

Idem

(3) A judge of the Supreme Court of Nova Scotia who held the office of a judge of the County Court of Nova Scotia on March 1, 1987 and on the coming into force of this subsection may retire at the age of seventy years.

R.S., 1985, c. J-1, s. 8; R.S., 1985, c. 16 (3rd Supp.), s. 1; 1992, c. 51, s. 4; 1998, c. 30, s. 1.

SALARIES

Supreme Court of Canada

9. The yearly salaries of the judges of the Supreme Court of Canada are as follows:

- (a) the Chief Justice of Canada, \$298,500; and
- (b) the eight puisne judges, \$276,400 each.

R.S., 1985, c. J-1, s. 9; R.S., 1985, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 2001, c. 7, s. 1; 2006, c. 11, s. 1.

Federal Courts

10. The yearly salaries of the judges of the Federal Courts are as follows:

- (a) the Chief Justice of the Federal Court of Appeal, \$254,600;
- (b) the other judges of the Federal Court of Appeal, \$232,300 each;
- (c) the Chief Justice of the Federal Court, \$254,600; and
- (d) the other judges of the Federal Court, \$232,300 each.

R.S., 1985, c. J-1, s. 10; R.S., 1985, c. 41 (1st Supp.), s. 1, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 2001, c. 7, s. 2; 2002, c. 8, s. 83; 2006, c. 11, s. 1.

Tax Court of Canada

11. The yearly salaries of the judges of the Tax Court of Canada are as follows:

- (a) the Chief Justice, \$254,600;
- (b) the Associate Chief Justice, \$254,600; and
- (c) the other judges, \$232,300 each.

R.S., 1985, c. J-1, s. 11; R.S., 1985, c. 11 (1st Supp.), s. 2, c. 51 (4th Supp.), s. 13; 2001, c. 7, s. 3; 2002, c. 8, s. 84(E); 2006, c. 11, s. 1.

Court of Appeal for Ontario and Superior Court of Justice

12. The yearly salaries of the judges of the Court of Appeal for Ontario and of the Superior Court of Justice in and for the Province of Ontario are as follows:

- (a) the Chief Justice and the Associate Chief Justice of Ontario, \$254,600 each;
- (b) the 14 Justices of Appeal, \$232,300 each;
- (c) the Chief Justice and the Associate Chief Justice of the Superior Court of Justice, \$254,600 each; and
- (d) the 192 other judges of the Superior Court of Justice, \$232,300 each.

R.S., 1985, c. J-1, s. 12; R.S., 1985, c. 41 (1st Supp.), s. 2, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 1990, c. 17, s. 29; 1998, c. 30, s. 2; 2001, c. 7, s. 4; 2006, c. 11, s. 1.

Court of Appeal and Superior Court of Quebec

13. The yearly salaries of the judges of the Court of Appeal and of the Superior Court in and for the Province of Quebec are as follows:

- (a) the Chief Justice of Quebec, \$254,600;
- (b) the 18 puisne judges of the Court of Appeal, \$232,300 each;
- (c) the Chief Justice, the Senior Associate Chief Justice and the Associate Chief Justice of the Superior Court, \$254,600 each; and
- (d) the 140 puisne judges of the Superior Court, \$232,300 each.

R.S., 1985, c. J-1, s. 13; R.S., 1985, c. 41 (1st Supp.), s. 3, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 1989, c. 8, s. 1; 2001, c. 7, s. 5; 2006, c. 11, s. 1.

Court of Appeal and Supreme Court of Nova Scotia

14. The yearly salaries of the judges of the Nova Scotia Court of Appeal and the Supreme Court of Nova Scotia are as follows:

- (a) the Chief Justice of Nova Scotia, \$254,600;
- (b) the seven other judges of the Court of Appeal, \$232,300 each;
- (c) the Chief Justice and the Associate Chief Justice of the Supreme Court, \$254,600 each; and
- (d) the 23 other judges of the Supreme Court, \$232,300 each.

R.S., 1985, c. J-1, s. 14; R.S., 1985, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 1989, c. 8, s. 2; 1992, c. 51, s. 5; 2001, c. 7, s. 6; 2006, c. 11, s. 1.

Court of Appeal and Court of Queen's Bench of New Brunswick

15. The yearly salaries of the judges of the Court of Appeal of New Brunswick and of the Court of Queen's Bench of New Brunswick are as follows:

- (a) the Chief Justice of New Brunswick, \$254,600;
- (b) the five other judges of the Court of Appeal, \$232,300 each;
- (c) the Chief Justice of the Court of Queen's Bench, \$254,600; and
- (d) the 21 other judges of the Court of Queen's Bench, \$232,300 each.

R.S., 1985, c. J-1, s. 15; R.S., 1985, c. 41 (1st Supp.), s. 4, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 2001, c. 7, s. 7; 2006, c. 11, s. 1.

Court of Appeal and Court of Queen's Bench for Manitoba

16. The yearly salaries of the judges of the Court of Appeal for Manitoba and of Her Majesty's Court of Queen's Bench for Manitoba are as follows:

- (a) the Chief Justice of Manitoba, \$254,600;
- (b) the six Judges of Appeal, \$232,300 each;
- (c) the Chief Justice, the Senior Associate Chief Justice and the Associate Chief Justice of the Court of Queen's Bench, \$254,600 each; and
- (d) the 30 puisne judges of the Court of Queen's Bench, \$232,300 each.

R.S., 1985, c. J-1, s. 16; R.S., 1985, c. 41 (1st Supp.), s. 5, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 1989, c. 8, s. 3; 2001, c. 7, s. 8; 2006, c. 11, s. 1.

Court of Appeal and Supreme Court of British Columbia

17. The yearly salaries of the judges of the Court of Appeal for British Columbia and of the Supreme Court of British Columbia are as follows:

- (a) the Chief Justice of British Columbia, \$254,600;
- (b) the 12 Justices of Appeal, \$232,300 each;
- (c) the Chief Justice and the Associate Chief Justice of the Supreme Court, \$254,600 each; and
- (d) the 81 other judges of the Supreme Court, \$232,300 each.

R.S., 1985, c. J-1, s. 17; R.S., 1985, c. 41 (1st Supp.), s. 6, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 1989, c. 8, s. 4; 1990, c. 16, s. 15; 2001, c. 7, s. 9; 2006, c. 11, s. 1.

Supreme Court of Prince Edward Island

18. The yearly salaries of the judges of the Supreme Court of Prince Edward Island are as follows:

- (a) the Chief Justice of Prince Edward Island, \$254,600;
- (b) the two other judges of the Appeal Division, \$232,300 each;
- (c) the Chief Justice of the Trial Division, \$254,600; and
- (d) the three other judges of the Trial Division, \$232,300 each.

R.S., 1985, c. J-1, s. 18; R.S., 1985, c. 50 (1st Supp.), s. 4, c. 27 (2nd Supp.), s. 1, c. 39 (3rd Supp.), s. 1; 2001, c. 7, s. 10; 2006, c. 11, s. 1.

Court of Appeal and Court of Queen's Bench for Saskatchewan

19. The yearly salaries of the judges of the Court of Appeal for Saskatchewan and of Her Majesty's Court of Queen's Bench for Saskatchewan are as follows:

- (a) the Chief Justice of Saskatchewan \$254,600;
- (b) the six Judges of Appeal, \$232,300 each;
- (c) the Chief Justice of the Court of Queen's Bench, \$254,600; and
- (d) the 29 other judges of the Court of Queen's Bench, \$232,300 each.

R.S., 1985, c. J-1, s. 19; R.S., 1985, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 2001, c. 7, s. 11; 2006, c. 11, s. 1.

Court of Appeal and Court of Queen's Bench of Alberta

20. The yearly salaries of the judges of the Court of Appeal of Alberta and of the Court of Queen's Bench of Alberta are as follows:

- (a) the Chief Justice of Alberta, \$254,600;
- (b) the 10 Justices of Appeal, \$232,300 each;

(c) the Chief Justice and the Associate Chief Justice of the Court of Queen's Bench, \$254,600 each; and

(d) the 55 other Justices of the Court of Queen's Bench, \$232,300 each.

R.S., 1985, c. J-1, s. 20; R.S., 1985, c. 41 (1st Supp.), s. 7, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 1989, c. 8, s. 5; 2001, c. 7, s. 12; 2006, c. 11, s. 1.

Supreme Court of Newfoundland and Labrador

21. The yearly salaries of the judges of the Supreme Court of Newfoundland and Labrador are as follows:

(a) the Chief Justice of Newfoundland and Labrador, \$254,600;

(b) the five Judges of Appeal, \$232,300 each;

(c) the Chief Justice of the Trial Division, \$254,600; and

(d) the 18 other judges of the Trial Division, \$232,300 each.

R.S., 1985, c. J-1, s. 21; R.S., 1985, c. 41 (1st Supp.), s. 8, c. 50 (1st Supp.), s. 4, c. 27 (2nd Supp.), s. 2, c. 39 (3rd Supp.), s. 1; 1989, c. 8, s. 6; 2001, c. 7, s. 13; 2006, c. 11, s. 1.

Supreme Court of Yukon

22. (1) The yearly salaries of the judges of the Supreme Court of Yukon are as follows:

(a) the senior judge, \$254,600; and

(b) the other judge, \$232,300.

Supreme Court of the Northwest Territories

(2) The yearly salaries of the judges of the Supreme Court of the Northwest Territories are as follows:

(a) the senior judge, \$254,600; and

(b) the two other judges, \$232,300 each.

Nunavut Court of Justice

(2.1) The yearly salaries of the judges of the Nunavut Court of Justice are as follows:

(a) the senior judge, \$254,600; and

(b) the two other judges, \$232,300 each.

Definition of "senior judge"

(3) In this section, "senior judge" means the judge with the earlier date of appointment to the court in question or, in the case of more than one judge appointed on the same day, the judge that the Governor in Council may designate as the senior judge.

R.S., 1985, c. J-1, s. 22; R.S., 1985, c. 50 (1st Supp.), s. 4, c. 39 (3rd Supp.), s. 1; 1989, c. 8, s. 7; 1999, c. 3, s. 72; 2001, c. 7, s. 14; 2002, c. 7, s. 189; 2006, c. 11, s. 2.

Rounding of amounts

23. A salary referred to in any of sections 9 to 22 that is not a multiple of one hundred dollars shall be rounded down to the next lowest multiple of one hundred dollars.

R.S., 1985, c. J-1, s. 23; R.S., 1985, c. 5 (1st Supp.), s. 2, c. 11 (1st Supp.), s. 2, c. 41 (1st Supp.), s. 9, c. 50 (1st Supp.), s. 4; 1989, c. 8, s. 8; 1990, c. 16, s. 16, c. 17, s. 30; 1992, c. 51, s. 6; 2001, c. 7, s. 15.

Additional judges

24. (1) Notwithstanding sections 12 to 22 but subject to subsections (3) and (4), where the number of judges of a superior court in a province has been increased by or pursuant to an Act of the legislature of the province beyond the number of judges of that court whose salaries are provided for by sections 12 to 22, a salary is payable pursuant to this section to each additional judge, appointed to that court in accordance with that Act and in the manner provided by law, from the time that judge's appointment becomes effective and in the same manner and subject to the same terms and conditions as if the salary were payable under sections 12 to 22.

Salaries fixed

(2) The salary of a judge appointed in the circumstances described in subsection (1) is the salary annexed, pursuant to sections 12 to 22, to the office of judge to which the appointment is made.

Limit

(3) Subject to subsection (4), the number of salaries that may be paid pursuant to this section at any one time shall not be greater than

- (a) thirteen, in the case of judges appointed to appeal courts in the provinces; and
- (b) fifty, in the case of judges appointed to superior courts in the provinces other than appeal courts.
- (c) [Repealed, 1992, c. 51, s. 7]

Unified family courts

(4) For the purposes of assisting the establishment of unified family courts in the provinces, a further number of salaries not greater than thirty-six at any one time may be paid in the case of judges appointed to courts described in paragraph (3)(b)

- (a) where the court has the jurisdiction of a unified family court; or
- (b) where a request has been made by a provincial attorney general for the appointment to the court of judges to exercise the jurisdiction of a unified family court.

Salary deemed payable under sections 12 to 22

(5) A salary payable to a judge under this section is deemed, for all purposes of the provisions of this Act, other than this section, and of any other Act of Parliament, to be a salary payable under sections 12 to 22.

Definition of "appeal court"

(6) In this section, "appeal court" means

- (a) in relation to each of the Provinces of Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Saskatchewan, Alberta and Newfoundland and Labrador, the Court of Appeal of the Province; and
- (b) in relation to the Province of Prince Edward Island, the Appeal Division of the Supreme Court.

R.S., 1985, c. J-1, s. 24; R.S., 1985, c. 41 (1st Supp.), s. 10, c. 27 (2nd Supp.), s. 3; 1989, c. 8, s. 9; 1992, c. 51, s. 7; 1996, c. 30, s. 1; 1998, c. 30, s. 3; 2006, c. 11, s. 3; 2008, c. 26, s. 1.

PERIODIC ADJUSTMENT AND REVISION OF SALARIES

Annual adjustment of salary

25. (1) The yearly salaries referred to in sections 9 to 22 apply in respect of the twelve month period

commencing April 1, 2004.

Annual adjustment of salary

(2) The salary annexed to an office of judge in sections 9 to 22 for the twelve month period commencing April 1, 2005, and for each subsequent twelve month period, shall be the amount obtained by multiplying

(a) the salary annexed to that office for the twelve month period immediately preceding the twelve month period in respect of which the salary is to be determined

by

(b) the percentage that the Industrial Aggregate for the first adjustment year is of the Industrial Aggregate for the second adjustment year, or one hundred and seven per cent, whichever is less.

Meaning of certain expressions

(3) For the purposes of this section,

(a) in relation to any twelve month period in respect of which the salary is to be determined, the "first adjustment year" is the most recent twelve month period for which the Industrial Aggregate is available on the first day of the period in respect of which the salary is to be determined, and the "second adjustment year" is the twelve month period immediately preceding the first adjustment year; and

(b) the "Industrial Aggregate" for an adjustment year is the average weekly wages and salaries of the Industrial Aggregate in Canada for that year as published by Statistics Canada under the authority of the *Statistics Act*.

R.S., 1985, c. J-1, s. 25; R.S., 1985, c. 16 (3rd Supp.), s. 2; 1993, c. 13, s. 10; 1994, c. 18, s. 9; 1998, c. 30, s. 4; 2001, c. 7, s. 16; 2006, c. 11, s. 4.

Commission

26. (1) The Judicial Compensation and Benefits Commission is hereby established to inquire into the adequacy of the salaries and other amounts payable under this Act and into the adequacy of judges' benefits generally.

Factors to be considered

(1.1) In conducting its inquiry, the Commission shall consider

(a) the prevailing economic conditions in Canada, including the cost of living, and the overall economic and current financial position of the federal government;

(b) the role of financial security of the judiciary in ensuring judicial independence;

(c) the need to attract outstanding candidates to the judiciary; and

(d) any other objective criteria that the Commission considers relevant.

Quadrennial inquiry

(2) The Commission shall commence an inquiry on September 1, 1999, and on September 1 of every fourth year after 1999, and shall submit a report containing its recommendations to the Minister of Justice of Canada within nine months after the date of commencement.

Postponement

(3) The Commission may, with the consent of the Minister of Justice and the judiciary, postpone the date of commencement of a quadrennial inquiry.

Other reports

(4) In addition to its quadrennial inquiry, the Minister of Justice may at any time refer to the Commission for

its inquiry a matter mentioned in subsection (1). The Commission shall submit to that Minister a report containing its recommendations within a period fixed by the Minister after consultation with the Commission.

Extension of time

(5) The Governor in Council may, on the request of the Commission, extend the time for submission of a report under subsection (2) or (4).

Report of Commission

(6) The Minister of Justice shall table a copy of the report in each House of Parliament on any of the first ten days on which that House is sitting after the Minister receives the report.

Referral to Committee

(6.1) A report that is tabled in each House of Parliament under subsection (6) shall, on the day it is tabled or, if the House is not sitting on that day, on the day that House next sits, be referred by that House to a committee of that House that is designated or established by that House for the purpose of considering matters relating to justice.

Report by Committee

(6.2) A committee referred to in subsection (6.1) may conduct inquiries or public hearings in respect of a report referred to it under that subsection, and if it does so, the committee shall, not later than ninety sitting days after the report is referred to it, report its findings to the House that designated or established the committee.

Definition of "sitting day"

(6.3) For the purpose of subsection (6.2), "sitting day" means a day on which the House of Commons or the Senate, as the case may be, sits.

Response to report

(7) The Minister of Justice shall respond to a report of the Commission within six months after receiving it.
R.S., 1985, c. J-1, s. 26; 1996, c. 2, s. 1; 1998, c. 30, s. 5; 2001, c. 7, s. 17(F).

Nomination

26.1 (1) The Judicial Compensation and Benefits Commission consists of three members appointed by the Governor in Council as follows:

- (a) one person nominated by the judiciary;
- (b) one person nominated by the Minister of Justice of Canada; and
- (c) one person, who shall act as chairperson, nominated by the members who are nominated under paragraphs (a) and (b).

Tenure and removal

(2) Each member holds office during good behaviour, and may be removed for cause at any time by the Governor in Council.

Term of office

(3) The term of office for the initial members appointed to the Commission ends on August 31, 2003. The members subsequently appointed hold office for a term of four years.

Continuance of duties

(4) Where the term of a member ends, other than in the case of removal for cause, the member may carry out and complete any duties of the members in respect of a matter that was referred to the Commission under subsection 26(4) while he or she was a member.

Reappointment

(5) A member is eligible to be reappointed for one further term if re-nominated in accordance with subsection (1).

Absence or incapacity

(6) In the event of the absence or incapacity of a member, the Governor in Council may appoint as a substitute temporary member a person nominated in accordance with subsection (1) to hold office during the absence or incapacity.

Vacancy

(7) If the office of a member becomes vacant during the term of the member, the Governor in Council shall appoint a person nominated in accordance with subsection (1) to hold office as a member for the remainder of the term.

Quorum

(8) A quorum of the Commission consists of all three members.

Remuneration

(9) The members of the Commission and persons carrying out duties under subsection (4) shall be paid

(a) the fees fixed by the Governor in Council; and

(b) such travel and living expenses incurred in the course of their duties while away from their ordinary place of residence as are fixed by the Governor in Council.

Compensation

(10) The members of the Commission and persons carrying out duties under subsection (4) are deemed to be employed in the federal public administration for the purposes of the *Government Employees Compensation Act* and any regulations made under section 9 of the *Aeronautics Act*.

1998, c. 30, s. 5; 2003, c. 22, s. 224(E).

Personnel

26.2 (1) The Commission may engage the services of any persons necessary for the proper conduct of the Commission.

Presumption

(2) No person engaged under subsection (1) shall, as a result, be considered to be employed in the federal public administration.

1998, c. 30, s. 5; 2003, c. 22, s. 224(E).

Costs payable

26.3 (1) The Commission may identify those representatives of the judiciary participating in an inquiry of the Commission to whom costs shall be paid in accordance with this section.

Entitlement to payment of costs

(2) A representative of the judiciary identified under subsection (1) who participates in an inquiry of the Commission is entitled to be paid, out of the Consolidated Revenue Fund, two thirds of the costs determined under subsection (3) in respect of his or her participation.

Determination of costs

(3) A prothonotary of the Federal Court shall determine the amount of costs, on a solicitor-and-client basis, as if the assessment of costs were an assessment of costs under subsection 413(1) of the *Federal Court Rules, 1998*, with any modifications that the circumstances require.

Application

(4) This section applies to costs incurred in relation to participation in any inquiry of the Commission conducted after September 1, 1999.

2001, c. 7, s. 18; 2002, c. 8, s. 85; 2006, c. 11, s. 5.

ALLOWANCES FOR INCIDENTAL, NON-ACCOUNTABLE AND REPRESENTATIONAL EXPENSES

Allowance for incidental expenditures actually incurred

27. (1) On and after April 1, 2000, every judge in receipt of a salary under this Act is entitled to be paid, up to a maximum of \$5,000 for each year, for reasonable incidental expenditures that the fit and proper execution of the office of judge may require, to the extent that the judge has actually incurred the expenditures and is not entitled to be reimbursed for them under any other provision of this Act.

Additional allowance for northern judges

(2) On and after April 1, 2004, there shall be paid to each judge of the Supreme Court of Newfoundland and Labrador resident in Labrador and each judge of the Supreme Court of Yukon, the Supreme Court of the Northwest Territories and the Nunavut Court of Justice who is in receipt of a salary under this Act, in addition to the allowance provided by subsection (1), a non-accountable yearly allowance of \$12,000 as compensation for the higher cost of living in Labrador and in the territories.

Additional allowance — Federal Courts and Tax Court of Canada

(3) There shall be paid to every judge of the Federal Court of Appeal, the Federal Court and the Tax Court of Canada who is in receipt of a salary under this Act, in addition to the allowance provided by subsection (1), a non-accountable yearly allowance of \$2,000 as compensation for special incidental expenditures inherent in the exercise of their office as judge.

(3.1) [Repealed, 2002, c. 8, s. 86]

Continuance in force of subsection (3)

(4) Subsection (3) shall continue in force for so long as subsection 57(2) continues in force in relation to judges of superior courts in the provinces.

Idem

(5) The additional allowances described in subsections (2) and (3) are deemed not to be travel or personal or living expense allowances expressly fixed by this Act.

Representational allowance

(6) On and after April 1, 2004, each of the following judges is entitled to be paid, as a representational allowance, reasonable travel and other expenses actually incurred by the judge or the spouse or common-law partner of the judge in discharging the special extra-judicial obligations and responsibilities that devolve on the judge, to the extent that those expenses may not be reimbursed under any other provision of this Act and their aggregate amount does not exceed in any year the maximum amount indicated below in respect of the judge:

(a) the Chief Justice of Canada, \$18,750;

(b) each puisne judge of the Supreme Court of Canada, \$10,000;

(c) the Chief Justice of the Federal Court of Appeal and each chief justice described in sections 12 to 21 as the chief justice of a province, \$12,500;

(d) each other chief justice referred to in sections 10 to 21, \$10,000;

(e) the Chief Justices of the Court of Appeal of Yukon, the Court of Appeal of the Northwest Territories and the Court of Appeal of Nunavut, and the senior judges of the Supreme Court of Yukon, the Supreme Court of the Northwest Territories and the Nunavut Court of Justice, \$10,000 each;

(f) the Chief Justice of the Court Martial Appeal Court of Canada, \$10,000; and

(g) each regional senior judge of the Superior Court of Justice in and for the Province of Ontario, \$5,000.

(7) [Repealed, 2006, c. 11, s. 6]

Judge acting in place of recipient

(8) Where any justice or judge mentioned in subsection (6), other than a puisne judge of the Supreme Court of Canada, is unable to discharge the obligations and responsibilities referred to in that subsection or the office of that justice or judge is vacant, the judge who acts in the place of that justice or judge is entitled to be paid the representational allowance provided for that justice or judge.

Definitions

(9) In this section,

"chief judge" [Repealed, 2002, c. 8, s. 86]

"chief justice"
«*juge en chef*»

"chief justice" , except in paragraphs (6)(a) and (c), includes a senior associate chief justice and an associate chief justice;

"senior county court judge" [Repealed, 1990, c. 17, s. 31]

"senior judge"
«*juge principal*»

"senior judge" of the Supreme Court of Yukon, of the Supreme Court of the Northwest Territories or of the Nunavut Court of Justice means the judge with the earlier date of appointment to the court in question or, in the case of more than one judge appointed on the same day, means the judge that the Governor in Council may designate as the senior judge.

R.S., 1985, c. J-1, s. 27; R.S., 1985, c. 50 (1st Supp.), s. 5, c. 27 (2nd Supp.), s. 4, c. 51 (4th Supp.), s. 14; 1989, c. 8, s. 10; 1990, c. 17, s. 31; 1992, c. 51, s. 8; 1993, c. 28, s. 78; 1996, c. 30, s. 2; 1998, c. 15, s. 29; 1999, c. 3, s. 73; 2000, c. 12, s. 168; 2001, c. 7, s. 19; 2002, c. 7, ss. 190, 277(E), c. 8, s. 86; 2006, c. 11, s. 6.

SUPERNUMERARY JUDGES

Federal Courts and Tax Court

28. (1) If a judge of the Federal Court of Appeal, the Federal Court or the Tax Court of Canada notifies the Minister of Justice of Canada of his or her election to give up regular judicial duties and hold office only as a supernumerary judge, the judge shall hold the office of supernumerary judge of that Court from the time notice is given until he or she reaches the age of retirement, resigns or is removed from or otherwise ceases to hold office, or until the expiry of 10 years from the date of the election, whichever occurs earlier, and shall be paid the salary annexed to that office.

Restriction on election

(2) An election may be made under subsection (1) only by a judge

(a) who has continued in judicial office for at least 15 years and whose combined age and number of years in judicial office is not less than 80; or

(b) who has attained the age of 70 years and has continued in judicial office for at least 10 years.

Duties of judge

(3) A judge who has made the election referred to in subsection (1) shall hold himself or herself available to perform such special judicial duties as may be assigned to the judge

(a) by the Chief Justice of the Federal Court of Appeal, if the judge is a member of the Federal Court of Appeal;

(b) by the Chief Justice of the Federal Court, if the judge is a member of the Federal Court; or

(c) by the Chief Justice or the Associate Chief Justice of the Tax Court of Canada, if the judge is a judge of that Court.

Salary of supernumerary judge

(4) The salary of each supernumerary judge of the Federal Court of Appeal, the Federal Court or the Tax Court of Canada is the salary annexed to the office of a judge of that Court, other than the office of a Chief Justice or Associate Chief Justice.

R.S., 1985, c. J-1, s. 28; R.S., 1985, c. 16 (3rd Supp.), s. 3; 2002, c. 8, s. 87; 2006, c. 11, s. 7.

Provincial superior courts

29. (1) If the legislature of a province has enacted legislation establishing for each office of judge of a superior court of the province the additional office of supernumerary judge of the court, and a judge of that court notifies the Minister of Justice of Canada and the attorney general of the province of the judge's election to give up regular judicial duties and hold office only as a supernumerary judge, the judge shall hold the office of supernumerary judge from the time notice is given until he or she reaches the age of retirement, resigns or is removed from or otherwise ceases to hold office, or until the expiry of 10 years from the date of the election, whichever occurs earlier, and shall be paid the salary annexed to that office.

Conditions

(2) An election under subsection (1) may only be made by a judge

(a) who has continued in judicial office for at least 15 years and whose combined age and number of years in judicial office is not less than 80; or

(b) who has attained the age of 70 years and has continued in judicial office for at least 10 years.

Duties of judge

(3) A judge who has made the election referred to in subsection (1) shall hold himself or herself available to perform such special judicial duties as may be assigned to the judge

(a) by the chief justice, senior associate chief justice or associate chief justice, as the case may be, of the court of which the judge is a member or, where that court is constituted with divisions, of the division of which the judge is a member; or

(b) in the case of a supernumerary judge of the Supreme Court of Yukon, of the Supreme Court of the Northwest Territories or of the Nunavut Court of Justice, by the senior judge of that Court.

Salary of supernumerary judge

(4) The salary of each supernumerary judge of a superior court is the salary annexed to the office of a judge of that court other than a chief justice, senior associate chief justice or associate chief justice.

Reference to attorney general of a province

(5) In this section, a reference to the attorney general of a province shall be construed in relation to Yukon, the Northwest Territories and Nunavut as a reference to the Commissioner of that territory.

Definition of "senior judge"

(6) In this section, "senior judge" of the Supreme Court of Yukon, of the Supreme Court of the Northwest Territories or of the Nunavut Court of Justice means the judge with the earlier date of appointment to the court in question or, in the case of more than one judge appointed on the same day, means the judge that the Governor in Council may designate as the senior judge.

R.S., 1985, c. J-1, s. 29; 1993, c. 28, s. 78; 1999, c. 3, s. 74; 2002, c. 7, s. 191, c. 8, s. 88(E); 2006, c. 11, s. 8.

30. [Repealed, 1992, c. 51, s. 9]

CHIEF JUSTICE CONTINUING AS JUDGE

Election of Chief or Associate Chief to change to duties of judge only

31. (1) If the Chief Justice of the Federal Court of Appeal, the Chief Justice of the Federal Court or the Chief Justice or Associate Chief Justice of the Tax Court of Canada notifies the Minister of Justice of Canada of his or her election to cease to perform the duties of that office and to perform only the duties of a judge, he or she shall, after giving that notice, hold only the office of a judge of the Federal Court of Appeal, the Federal Court or the Tax Court of Canada, as the case may be, and shall be paid the salary annexed to the office of a judge of that Court, until he or she reaches the age of retirement, resigns or is removed from or otherwise ceases to hold office.

Restriction on election

(2) The Chief Justice of the Federal Court of Appeal, the Chief Justice of the Federal Court or the Chief Justice or Associate Chief Justice of the Tax Court of Canada may make the election referred to in subsection (1) only if he or she has continued in the office for at least five years or has continued in the office and another office referred to in this subsection for a total of at least five years.

Duties of judge

(3) The Chief Justice of the Federal Court of Appeal, the Chief Justice of the Federal Court or the Chief Justice or Associate Chief Justice of the Tax Court of Canada who has made the election referred to in subsection (1) shall perform all of the judicial duties normally performed by a judge of that Court.

Salary of judge

(4) The salary of the Chief Justice of the Federal Court of Appeal, the Chief Justice of the Federal Court or the Chief Justice or Associate Chief Justice of the Tax Court of Canada who has made the election referred to in subsection (1) is the salary annexed to the office of judge (other than the Chief Justice) of the Federal Court of Appeal, judge (other than the Chief Justice) of the Federal Court or judge (other than the Chief Justice or the Associate Chief Justice) of the Tax Court of Canada, as the case may be.

R.S., 1985, c. J-1, s. 31; 2002, c. 8, s. 90.

Election to cease to perform duties of chief justice of provincial superior court

32. (1) Where the legislature of a province has enacted legislation establishing for each office of chief justice of a superior court of the province such additional offices of judge of that court as are required for the purposes of this section, and a chief justice of that court has notified the Minister of Justice of Canada and the attorney general of the province of his or her election to cease to perform the duties of chief justice and to perform only the duties of a judge, the chief justice shall thereupon hold only the office of a judge, other than a chief justice, of that court and shall be paid the salary annexed to the office of a judge, other than a chief justice, of that court until he or she reaches the age of retirement, resigns or is removed from or otherwise ceases to hold office.

Restriction on election

(2) A chief justice of a superior court of a province may make the election referred to in subsection (1) only if the chief justice has continued in the office of chief justice, senior associate chief justice or associate chief justice of a superior court of the province or a division thereof, or in two or more such offices, for at least five years.

Duties of judge

(3) A chief justice of a superior court of a province who has made the election referred to in subsection (1) shall perform all of the judicial duties normally performed by a judge, other than the chief justice, of that court.

Salary of judge

(4) The salary of each chief justice of a superior court of a province who has made the election referred to in subsection (1) is the salary annexed to the office of a judge of that court, other than a chief justice.

Definition of "chief justice" and "chief justice of a superior court of a province"

(5) In this section, “chief justice” or “chief justice of a superior court of a province” means a chief justice, senior associate chief justice or associate chief justice of such a court or, where the court is constituted with divisions, of a division thereof.

(6) [Repealed, 1992, c. 51, s. 10]

R.S., 1985, c. J-1, s. 32; 1992, c. 51, s. 10; 2002, c. 8, s. 91(E).

EARLY NOTICE

Deemed election and notice

33. (1) Where a judge gives notice to the Minister of Justice of Canada and, where appropriate, to the attorney general of the province concerned of the judge’s election as provided in section 28, 29, 31 or 32 to be effective on a future day specified in the notice, being a day on which the judge will be eligible to so elect, the judge shall, effective on that day, be deemed to have elected and given notice thereof on that day pursuant to section 28, 29, 31 or 32, as the case may be.

Reference to attorney general of a province

(2) In this section, a reference to the attorney general of a province shall be construed in relation to Yukon, the Northwest Territories and Nunavut as a reference to the Commissioner of that territory.

R.S., 1985, c. J-1, s. 33; 1992, c. 51, s. 11; 1993, c. 28, s. 78; 2002, c. 7, s. 192.

TRAVEL AND OTHER ALLOWANCES

Superior courts

34. (1) Subject to this section and sections 36 to 39, a judge of a superior court who, for the purposes of performing any function or duty in that capacity, attends at any place other than that at which or in the immediate vicinity of which the judge is by law obliged to reside is entitled to be paid, as a travel allowance, moving or transportation expenses and the reasonable travel and other expenses incurred by the judge in so attending.

Where no allowance

(2) No judge is entitled to be paid a travel allowance for attending at or in the immediate vicinity of the place where the judge resides.

R.S., 1985, c. J-1, s. 34; 1992, c. 51, s. 12; 2002, c. 8, s. 92.

35. [Repealed, 1992, c. 51, s. 13]

Certain superior courts, where no allowance

36. (1) No travel allowance shall be paid

(a) to a judge of the Nova Scotia Court of Appeal or of the Supreme Court of Nova Scotia for attending at the judicial centre at which or in the immediate vicinity of which the judge maintains his or her principal office;

(b) to a judge of the Supreme Court of Prince Edward Island for attending at the city of Charlottetown; or

(c) to a judge of the Court of Appeal for British Columbia for attending at either of the cities of Victoria or Vancouver, unless the judge resides at the other of those cities or in the immediate vicinity thereof.

Where place of residence approved by order in council

(2) Nothing in subsection (1) affects the right of a judge to be paid a travel allowance under subsection 34(1) if the judge resides at a place approved by the Governor in Council.

R.S., 1985, c. J-1, s. 36; 1992, c. 51, s. 14.

Judges of Supreme Court of Nova Scotia

37. A judge of the Supreme Court of Nova Scotia who, for the purposes of performing any function or duty in that capacity, attends at any judicial centre within the judicial district for which the judge is designated as a resident judge, other than the judicial centre at which or in the immediate vicinity of which the judge resides or maintains his or her principal office, is entitled to be paid, as a travel allowance, moving or transportation expenses and the reasonable travel and other expenses incurred by the judge in so attending.

R.S., 1985, c. J-1, s. 37; 1992, c. 51, s. 15.

Judges of the Superior Court of Justice of Ontario

38. A judge of the Superior Court of Justice in and for the Province of Ontario who, for the purpose of performing any function or duty in that capacity, attends at any judicial centre within the region for which the judge was appointed or assigned, other than the judicial centre at which or in the immediate vicinity of which the judge resides, is entitled to be paid, as a travel allowance, moving or transportation expenses and the reasonable travel and other expenses incurred by the judge in so attending.

R.S., 1985, c. J-1, s. 38; R.S., 1985, c. 11 (1st Supp.), s. 2; 1990, c. 17, s. 33; 1998, c. 30, s. 6.

Certificate of judge

39. Every application for payment of a travel allowance shall be accompanied by a certificate of the judge applying for it showing the number of days for which a travel allowance is claimed and the amount of the actual expenses incurred.

R.S., c. J-1, s. 21.

Removal allowance

40. (1) A removal allowance shall be paid to

(a) a person who is appointed a judge of a superior court and who, for the purposes of assuming the functions and duties of that office, is required to move from his or her place of residence to a place outside the immediate vicinity of the place where the person resided at the time of the appointment;

(b) a judge of a superior court who, during tenure and for the purposes of performing the functions and duties of that office, is required to change the place of residence of the judge to a place other than that at which or in the immediate vicinity of which the judge was required to reside immediately before being required to change the place of residence of that judge;

(c) a judge of the Supreme Court of Yukon, the Supreme Court of the Northwest Territories or the Nunavut Court of Justice who moves to a place of residence in one of the ten provinces or in another territory during the period of two years

(i) beginning two years before the judge's date of eligibility to retire, or

(ii) if no removal allowance is paid in respect of a move made during the period described in subparagraph (i), beginning on the judge's date of retirement or resignation from office;

(d) a survivor or child, as defined in subsection 47(1), of a judge of the Supreme Court of Yukon, the Supreme Court of the Northwest Territories or the Nunavut Court of Justice who dies while holding office as such, where the survivor or child lives with the judge at the time of the judge's death and, within two years after the death, moves to a place of residence in one of the ten provinces or to another territory;

(e) a judge of the Supreme Court of Canada, the Federal Court of Appeal, the Federal Court or the Tax Court of Canada who moves to a place of residence in Canada outside the area within which the judge was required to reside by the Act establishing that Court, during the period of two years

(i) beginning two years before the judge's date of eligibility to retire, or

(ii) if no removal allowance is paid in respect of a move made during the period described in subparagraph (i), beginning on the judge's date of retirement or resignation from office; and

(f) a survivor or child, as defined in subsection 47(1), of a judge of the Supreme Court of Canada, the

Federal Court of Appeal, the Federal Court or the Tax Court of Canada who dies while holding office as such, if the survivor or child lives with the judge at the time of the judge's death and, within two years after the death, moves to a place of residence in Canada outside the area within which the judge was required to reside by the Act establishing that Court.

Limitation

(1.1) Paragraphs (1)(c) and (d) apply only in respect of a judge who resided in one of the ten provinces or in another territory at the time of appointment to the Supreme Court of Yukon, the Supreme Court of the Northwest Territories or the Nunavut Court of Justice, as the case may be.

Limitation

(1.2) Paragraphs (1)(e) and (f) apply only in respect of a judge who, at the time of appointment to the Supreme Court of Canada, the Federal Court of Appeal, the Federal Court or the Tax Court of Canada, as the case may be, resided outside the area within which the judge was required to reside by the Act establishing that Court.

Idem

(2) A removal allowance referred to in subsection (1) shall be paid for moving and other expenses of such kinds as are prescribed by or under the authority of the Governor in Council and on such terms and conditions as are so prescribed.

Expenses of spouse or common-law partner

(2.1) Where a removal allowance is payable to a judge of the Supreme Court of Canada, the Federal Court of Appeal, the Federal Court or the Tax Court of Canada under paragraph (1)(a), an employment assistance allowance shall be paid to the judge's spouse or common-law partner up to a maximum of \$5,000 for expenses actually incurred by the spouse or common-law partner in pursuing employment in the judge's new place of residence.

R.S., 1985, c. J-1, s. 40; R.S., 1985, c. 50 (1st Supp.), s. 6; 1989, c. 8, s. 11; 1992, c. 51, s. 16; 1999, c. 3, s. 75; 2000, c. 12, s. 160; 2002, c. 7, s. 193, c. 8, s. 93; 2006, c. 11, s. 9.

Meeting, conference and seminar expenses

41. (1) A judge of a superior court who attends a meeting, conference or seminar that is held for a purpose relating to the administration of justice and that the judge in the capacity of a judge is required by law to attend, or who, with the approval of the chief justice of that court, attends any such meeting, conference or seminar that the judge in that capacity is expressly authorized by law to attend, is entitled to be paid, as a conference allowance, reasonable travel and other expenses actually incurred by the judge in so attending.

Expenses for other meetings, conferences or seminars

(2) Subject to subsection (3), a judge of a superior court who, with the approval of the chief justice of that court,

(a) attends a meeting, conference or seminar that the judge in the capacity of a judge is not expressly authorized by law or is not required by law to attend but that is certified by the chief justice to be a meeting, conference or seminar having as its object or as one of its objects the promotion of efficiency or uniformity in the superior courts, or the improvement of the quality of judicial service in those courts, or

(b) in lieu of attending a meeting, conference or seminar referred to in paragraph (a) that is certified as provided in that paragraph, acquires written or recorded materials distributed for the purpose of, or written or recorded proceedings of, any such meeting, conference or seminar,

is entitled to be paid, as a conference allowance, reasonable travel and other expenses actually incurred by the judge in so attending or the cost of acquiring the materials or proceedings, as the case may be.

Limitation

(3) Where the aggregate amount of conference allowances that have been paid under subsection (2) in any year

(a) to the judges of the Supreme Court of Canada exceeds the product obtained by multiplying the number of judges of that Court by one thousand dollars, or

(b) to the judges of any other particular superior court exceeds the greater of \$5,000 and the product obtained by multiplying the number of judges of that court by \$500,

no additional amount may be paid under that subsection in that year as a conference allowance to any judge of that court except with the approval of the Minister of Justice of Canada.

Definitions

(4) For the purposes of this section, "chief justice"
«*juge en chef*»

"chief justice" of any court of which a particular judge is a member means the chief justice or other person recognized by law as having rank or status senior to all other members of, or having the supervision of, that court, but if that court is constituted with divisions, then it means the person having that rank or status in relation to all other members of the division of which the particular judge is a member;

"superior court"
«*juridiction supérieure*»

"superior court", in the case of a superior court constituted with divisions, means a division thereof.

R.S., 1985, c. J-1, s. 41; R.S., 1985, c. 50 (1st Supp.), s. 7; 1992, c. 51, s. 17; 2002, c. 8, s. 94.

SPECIAL RETIREMENT PROVISION — SUPREME COURT OF CANADA JUDGES

Retired judge may continue to hold office

41.1 (1) A judge of the Supreme Court of Canada who has retired may, with the approval of the Chief Justice of Canada, continue to participate in judgments in which he or she participated before retiring, for a period not greater than six months after the date of the retirement.

Salary, etc.

(2) A retired judge participating in judgments shall receive

(a) the salary annexed to the office during that period less any amount otherwise payable to him or her under this Act in respect of the period, other than those amounts described in paragraphs (b) and (c);

(b) an amount that bears the same ratio to the allowance for incidental expenditures actually incurred referred to in subsection 27(1) that the number of months in the period bears to twelve; and

(c) the representational allowance referred to in subsection 27(6) for the period, as though the appropriate maximum referred to in that subsection were an amount that bears the same ratio to that allowance that the number of months in the period bears to twelve.

No extra remuneration

(3) Section 57 applies with respect to a judge to whom this section applies.

2001, c. 7, s. 20; 2006, c. 11, s. 10.

BENEFITS

Life insurance

41.2 (1) The Treasury Board shall establish, or enter into a contract to acquire, an insurance program for judges covering the following, on terms and conditions similar to those contained in the Public Service Management Insurance Plan and the public service management insurance directives that apply to executives:

- (a) basic life insurance;
- (b) supplementary life insurance;
- (c) post-retirement life insurance;
- (d) dependants' insurance; and
- (e) accidental death and dismemberment insurance.

Administration

- (2) The Treasury Board may
 - (a) set terms and conditions in respect of the program, including those respecting premiums or contributions payable, benefits, and management and control of the program;
 - (b) make contributions and pay premiums or benefits, as required, out of the Consolidated Revenue Fund; and
 - (c) undertake and do all things it considers appropriate for the purpose of administering or supervising the program.

Non-application of certain regulations

(3) A contract entered into under this section is not subject to any regulation with respect to contracts made by the Treasury Board under the *Financial Administration Act*.

Compulsory participation

- (4) Participation in basic life insurance under paragraph (1)(a) is compulsory for all judges.

Transitional

(5) A judge who holds office on the day on which this section comes into force may, despite subsection (4), elect, at any time within ninety days after that day,

- (a) to participate in basic life insurance under paragraph (1)(a) but have his or her coverage under it limited to 100 per cent of salary at the time of his or her death; or
- (b) not to participate in basic life insurance.

Transitional

(6) Subject to subsection (7), on the coming into force of this section, judges shall no longer be eligible for coverage under any other life insurance program established by the Treasury Board.

Supplementary life insurance

(7) Those judges covered by supplementary life insurance on the coming into force of this section may have their coverage continued under the insurance program for judges, unless they have made an election under paragraph (5)(b).

2001, c. 7, s. 20.

Health and dental care benefits

41.3 (1) Judges shall be eligible to participate in the Public Service Health Care Plan and the Public Service Dental Care Plan established by the Treasury Board, on the same terms and conditions as apply to employees in the executive group.

Health and dental care benefits for retired judges

(2) Judges who are in receipt of an annuity under this Act shall be eligible to participate in the Public Service Health Care Plan and the Pensioners' Dental Services Plan established by the Treasury Board, on the same terms and conditions as apply to pensioners.

Administration

(3) Subject to subsections (1) and (2), the Treasury Board may

(a) set any terms and conditions in respect of those plans, including those respecting premiums or contributions payable, benefits, and management and control of the plans;

(b) make contributions and pay premiums or benefits, as required, out of the Consolidated Revenue Fund; and

(c) undertake and do all things it considers appropriate for the purpose of administering or supervising the plans.

2001, c. 7, s. 20.

Accidental death in the exercise of duties

41.4 (1) Compensation, within the meaning of the *Government Employees Compensation Act*, shall be paid to the dependants of a judge whose death results from an accident arising out of or in the performance of judicial duties, on the same basis as that paid to dependants eligible for compensation under that Act.

Flying accidents causing death

(2) Regulations made under section 9 of the *Aeronautics Act* apply with respect to a judge whose death results from an accident arising out of or in the performance of judicial duties.

Death resulting from act of violence

(3) Compensation shall be paid to the survivors of a judge whose death results from an act of violence unlawfully committed by another person or persons that occurs while the judge is performing judicial duties, on the same basis as that paid to the survivors of employees slain on duty within the meaning of the Public Service Income Benefit Plan for Survivors of Employees Slain on Duty, with any modifications that the circumstances require.

Application

(4) Subsections (1) to (3) apply to deaths that occur on or after April 1, 2000.

2001, c. 7, s. 20.

Delegation

41.5 (1) The Treasury Board may authorize the President or Secretary of the Treasury Board to exercise and perform, in such manner and subject to such terms and conditions as the Treasury Board directs, any of the powers and functions of the Treasury Board under sections 41.2 and 41.3 and may, from time to time as it sees fit, revise or rescind and reinstate the authority so granted.

Subdelegation

(2) The President or Secretary of the Treasury Board may, subject to and in accordance with the authorization, authorize one or more persons under his or her jurisdiction or any other person to exercise or perform any of those powers or functions.

2001, c. 7, s. 20.

ANNUITIES GRANTED TO JUDGES

Grant of annuities

42. (1) The Governor in Council shall grant to

(a) a judge who has continued in judicial office for at least fifteen years, whose combined age and number of years in judicial office is not less than eighty and who resigns from office,

(b) a judge who has continued in judicial office for at least fifteen years and resigns his or her office, if in the opinion of the Governor in Council the resignation is conducive to the better administration of justice or is in the national interest,

(c) a judge who has become afflicted with a permanent infirmity disabling him or her from the due execution of the office of judge and resigns his or her office or by reason of that infirmity is removed from office,

(d) a judge who has attained the age of retirement and has held judicial office for at least ten years, or

(e) a judge of the Supreme Court of Canada who has continued in judicial office on that Court for at least 10 years and resigns from office,

an annuity equal to two-thirds of the salary annexed to the office held by the judge at the time of his or her resignation, removal or attaining the age of retirement, as the case may be.

Prorated annuity

(2) Where a judge who has attained the age of retirement has held judicial office for less than ten years, the Governor in Council shall grant to that judge an annuity that bears the same ratio to the annuity described in subsection (1) as the number of years the judge has held judicial office, to the nearest one-tenth of a year, bears to ten years.

Duration of annuities

(3) An annuity granted to a judge under this section shall commence on the day of his or her resignation, removal or attaining the age of retirement and shall continue during the life of the judge.

Definition of "judicial office"

(4) In this section, "judicial office" means the office of a judge of a superior or county court.

R.S., 1985, c. J-1, s. 42; 1998, c. 30, s. 7; 2002, c. 8, ss. 95, 111(E); 2006, c. 11, s. 11.

Annuity payable to supernumerary judge

43. (1) If a supernumerary judge, before becoming a supernumerary judge, held the office of chief justice, senior associate chief justice or associate chief justice, the annuity payable to the judge under section 42 is an annuity equal to two thirds of the salary annexed, at the time of his or her resignation, removal or attaining the age of retirement, to the office previously held by him or her of chief justice, senior associate chief justice or associate chief justice.

Annuity payable to judge who elected under section 31 or 32

(2) If the Chief Justice of the Federal Court of Appeal or of the Federal Court or the Chief Justice or Associate Chief Justice of the Tax Court of Canada, in accordance with section 31, or a chief justice of a superior court of a province, in accordance with section 32, has elected to cease to perform his or her duties as such and to perform only the duties of a judge, the annuity payable to him or her under section 42 is an annuity equal to two thirds of the salary annexed, at the time of his or her resignation, removal or attaining the age of retirement, to the office held by him or her immediately before his or her election.

Definition of "chief justice" and "chief justice of a superior court of a province"

(3) In subsection (2), "chief justice" or "chief justice of a superior court of a province" means a chief justice, senior associate chief justice or associate chief justice of that court, or, where that court is constituted with divisions, of a division thereof.

(4) [Repealed, 1992, c. 51, s. 19]

R.S., 1985, c. J-1, s. 43; 1992, c. 51, s. 19; 2002, c. 8, s. 96.

PRORATED ANNUITIES — EARLY RETIREMENT

Fifty-five years of age and ten years in office

43.1 (1) The Governor in Council shall grant to a judge who has attained the age of fifty-five years, who has continued in judicial office for at least ten years and who elects early retirement, at the option of the judge, an immediate annuity or a deferred annuity, calculated in accordance with this section.

Calculation of amount of deferred annuity

(2) The amount of the deferred annuity shall be two thirds of the amount of the salary annexed to the judge's office at the time of the election multiplied by a fraction of which

(a) the numerator is the number of years, to the nearest one tenth of a year, during which the judge has continued in judicial office, and

(b) the denominator is the number of years, to the nearest one tenth of a year, during which the judge would have been required to continue in judicial office in order to be eligible to be granted an annuity under paragraph 42(1)(a) or (d).

Immediate annuity

(3) If a judge exercises the option to receive an immediate annuity, the amount of that annuity is equal to the amount of the deferred annuity, reduced by the product obtained by multiplying

(a) five per cent of the amount of the deferred annuity

by

(b) the difference between sixty and his or her age in years, to the nearest one-tenth of a year, at the time he or she exercises the option.

Second exercise of option

(4) A judge whose option was to receive a deferred annuity may, between the date of that option and the date on which the deferred annuity would be payable, opt for an immediate annuity. The Governor in Council shall, in that case, grant an immediate annuity to the judge from the date of the second option.

Survivor's annuity

(5) On the death of a judge who has been granted an immediate annuity or a deferred annuity under subsection (1) or (4), the annuity granted to a survivor under subsection 44(2) shall be determined as if the judge were in receipt of a deferred annuity.

Definitions

(6) The definitions in this subsection apply in this section. "deferred annuity"
«*pension différée*»

"deferred annuity" means an annuity that becomes payable to a judge at the time that he or she reaches sixty years of age and that continues to be paid during the life of the judge.

"immediate annuity"
«*pension immédiate*»

"immediate annuity" means an annuity that becomes payable to a judge at the time that he or she exercises an option to receive the annuity and that continues to be paid during the life of the judge.

2001, c. 7, s. 21; 2006, c. 11, s. 12.

ANNUITIES GRANTED TO SURVIVORS

Annuity to surviving spouse

44. (1) Subject to this section, if, after July 10, 1955, a judge of a superior court died or dies while holding office, the Governor in Council shall grant to the survivor of the judge an annuity equal to one third of

(a) the salary of the judge at the date of the death of the judge, or

(b) the salary annexed, at the date of death, to the office previously held by the judge of chief justice, senior associate chief justice or associate chief justice, if either subsection 43(1) or (2) would have applied to the judge if he or she had resigned, been removed or attained the age of retirement, on the day of death,

commencing on July 18, 1983 or immediately after the death of the judge, whichever is later, and continuing thenceforth during the life of the survivor.

Where judge receiving annuity

(2) Subject to this section, where a judge who, before, on or after July 11, 1955, was granted a pension or annuity under this Act or any other Act of Parliament providing for the grant of pensions or annuities to judges died or dies after July 10, 1955, the Governor in Council shall grant to the survivor of the judge

(a) an annuity equal to one half of the pension or annuity granted to the judge, commencing on July 18, 1983 or immediately after the death of the judge, whichever is later, and continuing during the life of the survivor; or

(b) if a division of the judge's annuity benefits has been made under section 52.14, an annuity equal to one half of the annuity that would have been granted to the judge had the annuity benefits not been divided, commencing immediately after the death of the judge and continuing during the life of the survivor.

(3) [Repealed, 2001, c. 7, s. 22]

Limitation on annuity to survivor

(4) No annuity shall be granted under this section to the survivor of a judge if the survivor became the spouse or began to cohabit with the judge in a conjugal relationship after the judge ceased to hold office.

(5) and (6) [Repealed, R.S., 1985, c. 39 (3rd Supp.), s. 2]

R.S., 1985, c. J-1, s. 44; R.S., 1985, c. 39 (3rd Supp.), s. 2; 1992, c. 51, s. 20; 1996, c. 30, s. 3; 2000, c. 12, ss. 162, 169; 2001, c. 7, s. 22; 2002, c. 8, s. 97; 2006, c. 11, s. 13.

Election for enhanced annuity to survivor

44.01 (1) Subject to the regulations, a judge may elect to have the annuity to be granted to his or her survivor increased so that it is calculated as if the reference to "one-half" in subsection 44(2) were read as a reference to "sixty per cent" or "seventy-five per cent".

Reduction of annuity

(2) If a judge makes the election, the amount of the annuity granted to the judge shall be reduced in accordance with the regulations as of the date the election takes effect, but the combined actuarial present value of the reduced annuity and the annuity that would be granted to the survivor may not be less than the combined actuarial present value of the annuity granted to the judge and the annuity that would be granted to the survivor, immediately before the reduction is made.

Election to take effect at time of retirement

(3) Subject to subsection (6), an election under this section takes effect on the date that the judge ceases to hold office.

Death within one year after election

(4) Despite anything in this section, when a judge dies within one year after the election takes effect, the annuity payable to the survivor remains that payable under subsection 44(2) and the amount representing the reduction that was made in the amount of the judge's annuity under subsection (2) shall be repaid to the judge's estate or succession, together with interest at the rate prescribed under the *Income Tax Act* for amounts payable by the Minister of National Revenue as refunds of overpayments of tax under that Act.

Regulations

(5) The Governor in Council may make regulations respecting

(a) the time, manner and circumstances in which an election is made, is deemed to have been made or is deemed not to have been made, is revoked or is deemed to have been revoked, or ceases to have effect, and the retroactive application of that making, revocation or cessation;

(b) the reduction to be made in the amount of a judge's annuity when the election is made;

(c) the calculation of the amount of the annuity to be paid to the judge and the survivor under subsection (2);

(d) the time, manner and circumstances in which a reduction of a judge's annuity may be returned and interest may be paid; and

(e) any other matter that the Governor in Council considers necessary for carrying out the purposes and provisions of this section.

Transitional

(6) A judge who is in receipt of an annuity on the day on which this section comes into force may make his or her election in accordance with the regulations, and the election takes effect on the day this section comes into force.

Limitation on annuity to survivor

(7) Despite anything in this section, no election may be made under this section for the benefit of a spouse or common-law partner of a judge unless that person was the spouse or common-law partner at the date the judge ceased to hold office.

2001, c. 7, s. 23.

Annuity to be prorated between the two survivors

44.1 (1) Notwithstanding section 44, if there are two persons who are entitled to an annuity under that section, each survivor shall receive a share of the annuity prorated in accordance with subsection (2) for his or her life.

Determination of prorated share

(2) The prorated share of each survivor is equal to the product obtained by multiplying the annuity by a fraction of which the numerator is the number of years that the survivor cohabited with the judge, whether before or after his or her appointment as a judge, and the denominator is the total obtained by adding the number of years that each of the survivors so cohabited with the judge.

Years

(3) In determining a number of years for the purpose of subsection (2), a part of a year shall be counted as a full year if the part is six or more months and shall be ignored if it is less.

Waiver

(4) A survivor is not entitled to receive an annuity under section 44 or this section if the survivor has waived his or her entitlement to the annuity under an agreement entered into in accordance with applicable provincial law.

2000, c. 12, s. 163.

Election for former judges

44.2 (1) Subject to the regulations, a judge to whom an annuity has been granted may elect to reduce his or her annuity so that an annuity may be paid to a person who, at the time of the election, is the spouse or common-law partner of the judge but to whom an annuity under section 44 may not be granted.

Reduction of annuity

(2) If a judge makes the election, the amount of the annuity granted to the judge shall be reduced in accordance with the regulations, but the combined actuarial present value of the reduced annuity and the annuity that would be granted to the spouse or common-law partner under subsection (3) may not be less than the actuarial present value of the annuity granted to the judge immediately before the reduction is made.

Payment to person in respect of whom election is made

(3) When the judge dies, the Governor in Council shall grant to a spouse or common-law partner in respect of whom an election was made an annuity in an amount determined in accordance with the election, subsection (2) and the regulations.

Death within one year after election

(3.1) Despite anything in this section, when a judge dies within one year after making the election, the election is deemed not to have been made and the amount representing the reduction that was made in the amount of the judge's annuity under subsection (2) shall be repaid to the judge's estate or succession, together with interest at the rate prescribed under the *Income Tax Act* for amounts payable by the Minister of National Revenue as refunds of overpayments of tax under that Act.

Regulations

(4) The Governor in Council may make regulations respecting

(a) the time, manner and circumstances in which an election is made, is deemed to have been made or is deemed not to have been made, is revoked or is deemed to have been revoked, or ceases to have effect, and the retroactive application of that making, revocation or cessation;

(b) the reduction to be made in the amount of a judge's annuity when an election is made;

(c) the amount of the annuity to be paid under subsection (3);

(d) the time, manner and circumstances in which a reduction of a judge's annuity may be returned and interest may be paid; and

(e) any other matter that the Governor in Council considers necessary for carrying out the purposes and provisions of this section.

2000, c. 12, s. 163; 2001, c. 7, s. 24.

45. and 46. [Repealed, 1992, c. 51, s. 21]

LUMP SUM PAYMENT

Lump sum payment

46.1 Where a judge dies while holding office, a lump sum equal to one sixth of the yearly salary of the judge at the time of death shall be paid to the survivor of the judge or, if there are two survivors, to the survivor who was cohabiting with the judge at the time of death, and if there is no survivor, to the estate or succession of the judge.

1989, c. 8, s. 12; 2000, c. 12, s. 164.

ANNUITIES GRANTED TO SURVIVING CHILDREN

Definition of "child"

47. (1) For the purposes of this section and sections 48 and 49, "child" means a child of a judge, including a child adopted legally or in fact, who

(a) is less than eighteen years of age; or

(b) is eighteen or more years of age but less than twenty-five years of age and is in full-time attendance at a school or university, having been in such attendance substantially without interruption since the child of the judge reached eighteen years of age or the judge died, whichever occurred later.

Regulations respecting school attendance

(2) The Governor in Council may make regulations

(a) defining, for the purposes of this Act, the expression "full-time attendance at a school or university" as applied to a child of a judge; and

(b) specifying, for the purposes of this Act, the circumstances under which attendance at a school or university shall be determined to be substantially without interruption.

Annuity to surviving children

(3) If a judge of a superior or county court dies while holding office, or a judge who was granted an annuity after October 5, 1971 dies, an annuity shall be granted to each surviving child of that judge as provided in subsections (4) to (6).

Annuity for children where survivor

(4) The Governor in Council shall grant to each child of a judge described in subsection (3)

(a) if the judge leaves a survivor, an annuity equal to one-fifth of the annuity that is provided for a survivor under subsection 44(1) or (2); and

(b) if there is no survivor or the survivor dies, an annuity equal to two-fifths of the annuity that is provided for a survivor under subsection 44(1) or (2).

Maximum of annuities to children

(5) The total amount of the annuities paid under subsection (4) shall not exceed four-fifths, in the case described in paragraph (4)(a), and eight-fifths, in the case described in paragraph (4)(b), of the annuity that is provided for a survivor under subsection 44(1) or (2).

(6) [Repealed, 2000, c. 12, s. 165]

R.S., 1985, c. J-1, s. 47; R.S., 1985, c. 39 (3rd Supp.), s. 3; 1998, c. 30, s. 8(F); 2000, c. 12, s. 165; 2002, c. 8, s. 98.

Apportionment of annuities among surviving children

48. (1) Where, in computing the annuities to be paid under subsection 47(3) to the children of a judge referred to in that subsection, it is determined that there are more than four children of the judge to whom an annuity shall be granted, the total amount of the annuities granted shall be apportioned among the children in such shares as the Minister of Justice deems just and proper under the circumstances.

Children's annuities, to whom paid

(2) Where a child of a judge is granted an annuity under this Act, payment thereof shall, if the child is less than eighteen years of age, be made to the person having the custody and control of the child or, where there is no person having the custody and control of the child, to such person as the Minister of Justice may direct and, for the purposes of this subsection, the survivor of the judge, except where the child is living apart from the survivor, shall be presumed, in the absence of evidence to the contrary, to be the person having the custody and control of the child.

R.S., 1985, c. J-1, s. 48; 2000, c. 12, s. 166.

REGULATIONS CONCERNING INHERITANCE TAXES

Payment of certain taxes out of C.R.F.

49. The Governor in Council may make regulations providing for the payment out of the Consolidated

Revenue Fund, on the grant of an annuity under this Act to the survivor or children of a judge or a retired judge, of the whole or any part of such portion of any estate, legacy, succession or inheritance duties or taxes that are payable by the survivor or children with respect to the annuity, as is determined in accordance with the regulations to be attributable to that annuity, and prescribing the amount by which and the manner in which any such annuity in any such case shall be reduced.

R.S., 1985, c. J-1, s. 49; 2000, c. 12, s. 169.

JUDGES' CONTRIBUTIONS TOWARD ANNUITIES

Judges appointed before February 17, 1975

50. (1) Every judge appointed before February 17, 1975 to hold office as a judge of a superior or county court shall, by reservation from the judge's salary under this Act, contribute to the Consolidated Revenue Fund one and one-half per cent of that salary.

Judges appointed after February 16, 1975

(2) Every judge appointed after February 16, 1975 to whom subsection (1) does not apply, shall, by reservation from the judge's salary under this Act, contribute

(a) to the Consolidated Revenue Fund an amount equal to six per cent of that salary; and

(b) to the Supplementary Retirement Benefits Account established in the accounts of Canada pursuant to the *Supplementary Retirement Benefits Act*,

(i) prior to 1977, an amount equal to one-half of one per cent of that salary, and

(ii) commencing with the month of January 1977, an amount equal to one per cent of that salary.

Adjustment of contributions

(2.1) A supernumerary judge, a judge who continues in judicial office after having been in judicial office for at least 15 years and whose combined age and number of years in judicial office is not less than 80, a judge of the Supreme Court of Canada who has continued in judicial office on that Court for at least 10 years, or a judge referred to in section 41.1 is not required to contribute under subsections (1) and (2) but is required to contribute, by reservation from salary, to the Supplementary Retirement Benefits Account at a rate of one per cent of his or her salary.

Interest

(2.2) Interest is payable on all contributions refunded as a result of the application of subsection (2.1) at the rate prescribed under the *Income Tax Act* for amounts payable by the Minister of National Revenue as refunds of overpayments of tax under that Act.

Income Tax Act

(3) For the purposes of the *Income Tax Act*, the amounts contributed by a judge pursuant to subsection (1), (2) or (2.1) are deemed to be contributed to or under a registered pension plan.

Amounts to be credited to S.R.B. Account

(4) Where any amount is paid into the Supplementary Retirement Benefits Account pursuant to paragraph (2)(b), an amount equal to the amount so paid shall be credited to that Account.

R.S., 1985, c. J-1, s. 50; 1992, c. 51, s. 23; 1999, c. 31, s. 240; 2001, c. 7, s. 25; 2002, c. 8, s. 99; 2006, c. 11, s. 14.

Return of contributions where no annuity

51. (1) If a judge has ceased to hold office otherwise than by reason of death and, at the time he or she ceased to hold office, no annuity under this Act was granted or could be granted to that judge, there shall thereupon be paid to the judge, in respect of his or her having ceased to hold that office, an amount equal to the total contributions made by him or her under subsection 50(1) or paragraph 50(2)(a), together with interest, if any, calculated pursuant to subsection (4).

Idem, where annuity

(2) Where a judge to whom subsection 50(1) applies has ceased to hold office otherwise than by reason of death and that judge is granted an annuity under this Act, if,

(a) at the time the judge ceased to hold office, there is no person to whom an annuity under this Act could be granted in respect of the judge on his or her death, or

(b) at any time after the judge ceased to hold office but before his or her death, all persons to whom an annuity under this Act could be granted in respect of the judge on his or her death have died or ceased to be eligible to be granted such an annuity,

there shall thereupon be paid to the judge in respect of his or her having ceased to hold that office an amount equal to the total contributions made by the judge under subsection 50(1), together with interest, if any, calculated pursuant to subsection (4).

Death benefit

(3) Where, on or at any time after the death of a judge who died while holding office, or the death of a judge who died after ceasing to hold office but to whom no amount has been paid under subsection (1) or (2), there is no person or there is no longer any person to whom an annuity under this Act may be paid in respect of the judge, any amount by which

(a) the total contributions made by the judge under subsection 50(1) or paragraph 50(2)(a), together with interest, if any, calculated pursuant to subsection (4),

exceeds

(b) the total amount, if any, paid to or in respect of the judge as annuity payments under this Act,

shall thereupon be paid as a death benefit to the estate of the judge or, if less than one thousand dollars, as the Minister of Justice may direct.

Interest on payments and amounts of contributions

(4) Where an amount becomes payable under subsection (1), (2) or (3) in respect of contributions made by a judge under subsection 50(1) or paragraph 50(2)(a), the Minister of Justice shall

(a) determine the total amount of contributions that have been made under that provision by the judge in respect of each year, in this subsection called a "contribution year", in which contributions were made by the judge; and

(b) calculate interest on the amount determined under paragraph (a) in respect of each contribution year, compounded annually,

(i) in respect of each contribution year before 1997,

(A) at the rate of four per cent from December 31 of the contribution year to December 31, 1996, and

(B) at the rate prescribed under the *Income Tax Act* for amounts payable by the Minister of National Revenue as refunds of overpayments of tax under that Act in effect from time to time, from December 31, 1996 to December 31 of the year immediately before the year in which the amount in respect of contributions made by the judge becomes payable, and

(ii) in respect of the 1997 contribution year and each contribution year after 1997, at the rate mentioned in clause (i)(B) from December 31 of the contribution year to December 31 of the year immediately before the year in which the amount in respect of contributions made by the judge becomes payable.

R.S., 1985, c. J-1, s. 51; 1998, c. 30, s. 9; 2002, c. 8, ss. 100(E), 111(E).

DIVERSION UNDER FINANCIAL SUPPORT ORDER

Diversion of payments to satisfy financial support order

52. (1) Where any court in Canada of competent jurisdiction has made an order requiring a recipient of an annuity or other amount payable under section 42, 43, 44, 44.1 or 44.2, or under subsection 51(1) to pay financial support, amounts so payable to the recipient are subject to being diverted to the person named in the order in accordance with Part II of the *Garnishment, Attachment and Pension Diversion Act*.

Payment deemed to be to former judge

(2) For the purposes of this Part, any payment made pursuant to subsection (1) shall be deemed to have been made to the former judge in respect of whom the payment was made.

R.S., 1985, c. J-1, s. 52; 2000, c. 12, s. 167.

DIVISION OF JUDGE'S ANNUITY BENEFITS ON CONJUGAL BREAKDOWN

Definitions

52.1 The following definitions apply in this section and in sections 52.11 to 52.22.

"agreement"

«*accord*»

"agreement" means an agreement referred to in subparagraph 52.11(2)(b)(ii).

"annuity"

«*pension*»

"annuity" means an annuity payable under section 42, 43 or 43.1.

"annuity benefit"

«*prestation de pension*»

"annuity benefit" means an annuity or a return of contributions payable under section 51, and includes amounts payable to a judge under the *Supplementary Retirement Benefits Act*.

"application"

«*demande*»

"application" means an application made under subsection 52.11(1).

"court order"

«*ordonnance*»

"court order" means an order referred to in paragraph 52.11(2)(a) or subparagraph 52.11(2)(b)(i).

"interested party"

«*intéressé*»

"interested party", in relation to an application for division of a judge's annuity benefits, means the judge or the spouse, former spouse or former common-law partner with whom those benefits would be divided under the application.

"judge"

«*juge*»

"judge" includes a former judge who has been granted an annuity.

"Minister"

«*ministre*»

"Minister" means the Minister of Justice of Canada.

"prescribed" «*Version anglaise seulement*»

"prescribed" means prescribed by regulation.

"spouse"
« époux »

"spouse" , in relation to a judge, includes a person who is a party to a void marriage with the judge.

2006, c. 11, s. 15.

Application for division

52.11 (1) A judge or a spouse, former spouse or former common-law partner of a judge may, in the circumstances described in subsection (2), apply in accordance with the regulations for the division of the judge's annuity benefits between the judge and the spouse, former spouse or former common-law partner.

When application may be made

(2) An application may be made under the following circumstances:

(a) where a court of competent jurisdiction in Canada, in proceedings in relation to divorce, annulment of marriage or separation, has made an order that provides for the annuity benefits to be divided between the interested parties; or

(b) where the interested parties have been living separate and apart for a period of one year or more and, either before or after they began to live separate and apart,

(i) a court of competent jurisdiction in Canada has made an order that provides for the annuity benefits to be divided between them, or

(ii) the interested parties have entered into a written agreement that provides for the annuity benefits to be divided between them.

Notice to interested parties

(3) The Minister shall send to each interested party in accordance with the regulations a notice of the receipt of an application.

2006, c. 11, s. 15.

Objections by interested parties

52.12 (1) An interested party who objects to the division of annuity benefits on any of the grounds described in subsection (2) may submit a notice of objection in writing in accordance with the regulations within 90 days after the day on which notice of the receipt of the application is sent to the interested party under subsection 52.11(3).

Grounds for objection

(2) The grounds for objection are as follows:

(a) the court order or agreement on which the application is based has been varied or is of no force or effect;

(b) the terms of the court order or agreement have been or are being satisfied by other means; or

(c) proceedings have been commenced in a court of competent jurisdiction in Canada to appeal or review the court order or challenge the terms of the agreement.

Documentary evidence

(3) An interested party who submits a notice of objection shall include with that notice documentary evidence to establish the grounds for objection.

2006, c. 11, s. 15.

Approval of division

52.13 (1) Subject to subsections (2) and (3), the Minister shall, as soon as is practicable after the Minister is satisfied that an application meets the requirements of this Act, approve the division of annuity benefits in respect of which the application is made.

When decision to be deferred

(2) When an interested party submits a notice of objection in accordance with section 52.12, the Minister shall

(a) if the objection is made on the grounds referred to in paragraph 52.12(2)(a) or (b), defer a decision on the application until the Minister is able to ascertain to his or her satisfaction whether those grounds have been established; and

(b) if the objection is made on the grounds referred to in paragraph 52.12(2)(c), defer a decision on the application until the final disposition of the proceedings on which those grounds are based.

Refusal of division

(3) The Minister shall refuse to approve the division of annuity benefits if

(a) the application is withdrawn in accordance with the regulations;

(b) a notice of objection has been submitted on grounds referred to in paragraph 52.12(2)(a) or (b) and the Minister is satisfied that those grounds have been established and constitute sufficient reason to refuse the division;

(c) a notice of objection has been submitted on grounds referred to in paragraph 52.12(2)(c) and the court order or agreement is of no force or effect as a result of the proceedings referred to in that paragraph;

(d) the period of cohabitation of the judge and the spouse, former spouse or former common-law partner cannot be determined under subsection 52.14(6); or

(e) the Minister is satisfied, based on evidence submitted by any person, that it would not be just to approve the division.

Exception

(4) Notwithstanding subsection (3), the Minister may approve the division of annuity benefits on the basis of an order of a court issued pursuant to any proceedings referred to in paragraph 52.12(2)(c).

Transitional

(5) The Minister may approve the division of the annuity benefits even though the court order or agreement on which the application is based was made or entered into before the day on which subsection 52.11(1) comes into force.

2006, c. 11, s. 15.

Division of annuity benefits

52.14 (1) Subject to subsections (3) and (3.1), where the Minister approves the division of the annuity benefits of a judge, the spouse, former spouse or former common-law partner shall be accorded a share of the annuity benefits consisting of

(a) an amount representing 50% of a proportion, determined in accordance with subsection (2), of the value of the annuity that is attributed, in accordance with the regulations, to the period subject to division; or

(b) if the terms of the court order or agreement on which the application for division is based provide for the payment to the spouse, former spouse or former common-law partner of a share of annuity benefits that is less than the amount determined under paragraph (a), that lesser share.

Proportion of annuity value

(2) The proportion of the value of an annuity referred to in paragraph (1)(a) is

(a) subject to paragraph (b), the period subject to division divided by the judge's number of years of service until the judge's actual date of retirement or, in the case of a judge who has not yet retired, until the judge's expected date of retirement determined in accordance with the regulations; or

(b) in the case of a judge who had resigned or been removed from office by reason of an infirmity, the quotient obtained by dividing

(i) the period, measured to the nearest one tenth of a year, from the beginning of the period subject to division to the earlier of the end of the period of cohabitation and the judge's expected date of retirement if the infirmity had not occurred, determined in accordance with the regulations,

by

(ii) the judge's number of years of service up to the judge's expected date of retirement if the infirmity had not occurred, determined in accordance with the regulations.

Return of contributions

(3) Subject to subsections (3.1) and (4), where the Minister approves the division of the annuity benefits of a judge who was not eligible to be granted an annuity at the end of the period subject to division, the spouse, former spouse or former common-law partner shall be accorded a share of the annuity benefits consisting of

(a) an amount equal to 50% of the contributions made by the judge under section 50 during the period subject to division plus 50% of any interest payable on those contributions; or

(b) if the terms of the court order or agreement on which the application for division is based provide for the payment to the spouse, former spouse or former common-law partner of a share of annuity benefits that is less than the amount determined under paragraph (a), that lesser share.

Return of contributions — infirm annuitant

(3.1) Subject to subsection (4), where the Minister approves the division of the annuity benefits of a judge who had been granted an annuity by reason of an infirmity but was not otherwise eligible to be granted an annuity at the end of the period subject to division, the spouse, former spouse or former common-law partner shall be accorded a share of the annuity benefits consisting of

(a) an amount equal to 50% of the contributions that would have been made during the period described by subparagraph (2)(b)(i) if the judge had continued in office, plus 50% of any interest payable on those contributions; or

(b) if the terms of the court order or agreement on which the application for division is based provide for the payment to the spouse, former spouse or former common-law partner of a share of annuity benefits that is less than the amount determined under paragraph (a), that lesser share.

Election by spouse

(4) A judge's spouse, former spouse or former common-law partner who is entitled to be accorded a share of the judge's annuity benefits under subsection (3) or (3.1) may elect in the manner prescribed by the regulations, in lieu of receiving that share, to receive — at the time the judge becomes eligible to be granted an annuity, or at the time the judge would have become eligible to be granted an annuity had the judge not resigned or been removed from office by reason of an infirmity — a share of the annuity benefits for which the judge is or would have been eligible, determined as provided in subsection (1).

Death or resignation of judge

(5) Where an election has been made under subsection (4) and, before becoming eligible to be granted an annuity, the judge dies, resigns, is removed from office or otherwise ceases to hold office, the spouse, former spouse or former common-law partner shall instead be paid immediately the portion of the judge's contributions to which the spouse was otherwise entitled under subsection (3) or (3.1).

Determination of periods of division and cohabitation

(6) For the purposes of this section and sections 52.15 and 52.16,

(a) a period subject to division is the portion of a period of cohabitation during which a judge held office under this Act, measured in years to the nearest one tenth of a year; and

(b) a period of cohabitation is the period during which interested parties cohabited, as specified by the court order or agreement on which an application for division is based or, if none is specified, as determined in accordance with the regulations on the basis of evidence submitted by either or both of the interested parties.

Death of spouse, former spouse or former common-law partner

(7) A share of annuity benefits that cannot be accorded under subsection (1) by reason only of the death of the spouse, former spouse or former common-law partner shall be paid to that person's estate or succession.

Adjustment of accrued benefits

(8) Where the Minister approves the division of a judge's annuity benefits, the annuity benefits payable to the judge under this Act shall be adjusted in accordance with the regulations.

Notice of division

(9) The Minister shall send a notice of the division of annuity benefits in the prescribed manner to each interested party.

2006, c. 11, s. 15.

Transfer and payment of share

52.15 (1) The spouse's, former spouse's or former common-law partner's share of a judge's annuity benefits shall be accorded by

(a) the transfer of the specified portion of that share to a retirement savings plan established for the spouse, former spouse or former common-law partner that is of the prescribed kind for the purposes of section 26 of the *Pension Benefits Standards Act, 1985*; and

(b) the payment of the remainder of that share, if any, to the spouse, former spouse or former common-law partner.

Calculation of specified portion

(2) For the purpose of paragraph (1)(a), the specified portion of a spouse's, former spouse's or former common-law partner's share of a judge's annuity benefits is

(a) if that share consists of a portion of the judge's contributions, that portion; or

(b) in any other case, the amount determined by the formula

$$(A \times B \times C) / D$$

where

A is the share of the annuity benefits,

B is the period subject to division,

C is the defined benefit limit, within the meaning of regulations made under the *Income Tax Act*, for the calendar year in which the share is accorded, and

D is the portion of the annuity that is attributed, in accordance with the regulations, to the period subject to division.

Tax treatment

(3) For the purposes of the *Income Tax Act*, an amount transferred to a retirement savings plan in accordance with paragraph (1)(a) is deemed to be an amount transferred from a registered pension plan in accordance with subsection 147.3(5) of that Act.

2006, c. 11, s. 15.

Further divisions precluded

52.16 Where a division of annuity benefits is made in respect of a period subject to division under section 52.14, no further divisions may be made under that section in respect of that period.

2006, c. 11, s. 15.

Amounts transferred in error

52.17 Where the amount transferred or paid in respect of a spouse, former spouse or former common-law partner, or paid to the estate or succession of a deceased spouse, former spouse or former common-law partner, under section 52.14 or 52.15 exceeds the amount that the spouse, former spouse or former common-law partner was entitled to have transferred or paid or the estate or succession was entitled to be paid, the amount in excess constitutes a debt due to Her Majesty in right of Canada by that spouse, former spouse or former common-law partner or that estate or succession.

2006, c. 11, s. 15.

Amounts paid before adjustment

52.18 Where an adjustment is made under subsection 52.14(8) and an amount is or has been paid to a judge that exceeds the amount to which the judge is or would have been entitled under this Act after the effective date of that adjustment, the amount in excess constitutes a debt due to Her Majesty in right of Canada by the judge and may be recovered at any time by set-off against any annuity benefit that is payable to the judge under this Act, without prejudice to any other recourse available to Her Majesty in right of Canada with respect to its recovery.

2006, c. 11, s. 15.

Void transactions

52.19 (1) Amounts that a spouse, former spouse or former common-law partner is or may become entitled to under section 52.14 are not capable of being assigned, charged, anticipated or given as security, and any transaction that purports to assign, charge, anticipate or give as security any such amount is void.

Exemption from attachment, etc.

(2) Amounts that a spouse, former spouse or former common-law partner is or may become entitled to under section 52.14 are exempt from attachment, seizure and execution, either at law or in equity.

2006, c. 11, s. 15.

Access of spouse, etc. to division of benefits

52.2 Notwithstanding any other provision of this Act, a court of competent jurisdiction may order, for any period that the court determines, that no action be taken by the Minister under this Act that may prejudice the ability of the spouse, common-law partner, former spouse or former common-law partner to make an application or obtain the division of the judge's annuity benefits under this Act.

2006, c. 11, s. 15.

Information for spouse, etc. re benefits

52.21 Subject to the regulations, the Minister shall, at the request of a spouse, common-law partner, former spouse or former common-law partner of a judge, provide that person with information prescribed by the regulations concerning the benefits that are or may become payable to or in respect of that judge under this Act.

2006, c. 11, s. 15.

Regulations

52.22 The Governor in Council may make regulations

- (a) respecting the manner of making an application, the information that is to be provided in it and the documents that are to accompany it;
- (b) prescribing the circumstances in which interested parties are deemed to have been living separate and apart for the purposes of paragraph 52.11(2)(b);
- (c) prescribing circumstances in which a person may make an application or object to an application on behalf of another person, or may act on behalf of another person in proceeding with an application made by that other person;
- (d) prescribing circumstances in which, the manner in which and the conditions under which the personal representative or the liquidator of the succession of a deceased judge or of a deceased spouse, former spouse or former common-law partner of a judge may make or object to an application or may proceed with an application that was made by or on behalf of the judge, spouse, former spouse or former common-law partner;
- (e) when regulations are made under paragraph (c) or (d), respecting the manner in which and the extent to which any provision of this Act applies to a person referred to in that paragraph or in the circumstances prescribed by those regulations, and adapting any provision of this Act to those persons or circumstances;
- (f) prescribing circumstances in which, the manner in which and the conditions under which a spouse, former spouse or former common-law partner of a judge may make an application after the death of the judge;
- (g) respecting the notice of receipt of applications to be given to interested parties under subsection 52.11(3);
- (h) respecting the withdrawal of applications;
- (i) respecting the manner of submitting notices of objection under subsection 52.12(1);
- (j) for determining the value of an annuity to be attributed to a period subject to division, for the purposes of subsection 52.14(1);
- (k) for determining the expected date of retirement of a judge, for the purposes of subsections 52.14(2) and (3.1);
- (l) respecting the actuarial assumptions on which the determinations made under paragraphs (j) and (k) are to be based;
- (m) prescribing the manner in which a judge's spouse, former spouse or former common-law partner may make an election under subsection 52.14(4), and respecting the notification of a judge of such an election;
- (n) prescribing, for the purposes of paragraph 52.14(6)(b), the manner of determining the period during which interested parties cohabited;
- (o) respecting the adjustment of the annuity benefits payable to a judge under subsection 52.14(8), including the determination of the effective date of the adjustment;
- (p) generally respecting the division of the annuity benefits of a judge who resigns or is removed from office by reason of an infirmity;
- (q) respecting the manner in which and the extent to which any provision of this Act applies, notwithstanding the other provisions of this Act, to a judge, to a spouse, former spouse, common-law partner or former

common-law partner of a judge or to any other person when annuity benefits are divided under section 52.14, and adapting any provision of this Act to those persons;

(r) for determining the portion of an annuity to be attributed to a period subject to division, for the purposes of subsection 52.15(2);

(s) for the purposes of section 52.21, respecting the manner in which a request for information is to be made by a spouse, former spouse, common-law partner or former common-law partner of a judge, prescribing the information that is to be provided to that person concerning the benefits that are or may become payable to or in respect of the judge and specifying circumstances in which a request may be refused;

(t) prescribing remedial action that may be taken in prescribed circumstances in response to administrative error or the provision of erroneous information;

(u) prescribing any matter or thing that may be prescribed under sections 52.1 to 52.21; and

(v) generally for carrying out the purposes and provisions of sections 52.1 to 52.21 and this section.

2006, c. 11, s. 15.

PAYMENT OF SALARIES, ALLOWANCES, ANNUITIES AND OTHER AMOUNTS

Amounts payable out of C.R.F.

53. (1) The salaries, allowances and annuities payable under this Act and the amounts payable under sections 46.1, 51 and 52.15 shall be paid out of the Consolidated Revenue Fund.

Prorating

(2) For any period less than a year, the salaries and annuities payable under this Act shall be paid pro rata.

Monthly instalments

(3) The salaries and annuities payable under this Act shall be paid by monthly instalments.

First payment

(4) The first payment of salary of any judge shall be made pro rata on the first day of the month that occurs next after the appointment of the judge.

Legal representatives

(5) If a judge resigns the office of judge or dies, the judge or his or her legal representatives are entitled to receive such proportionate part of the judge's salary as has accrued during the time that the judge executed the office since the last payment.

R.S., 1985, c. J-1, s. 53; 1989, c. 8, s. 13; 2002, c. 8, s. 111(E); 2006, c. 11, s. 16.

ABSENCE FROM JUDICIAL DUTIES

Leave of absence

54. (1) No judge of a superior court shall be granted leave of absence from his or her judicial duties for a period

(a) of six months or less, except with the approval of the chief justice or senior judge of the superior court; or

(b) of more than six months, except with the approval of the Governor in Council.

Notification of leave by chief justice, etc.

(1.1) Whenever a leave of absence is granted under paragraph (1)(a), the chief justice or senior judge of the

superior court shall, without delay, notify the Minister of Justice of Canada and, in the case of provincial or territorial courts, the minister of justice or the attorney general of the province or territory.

Notification of leave by Minister of Justice of Canada

(1.2) Whenever a leave of absence is granted under paragraph (1)(b), the Minister of Justice of Canada shall, without delay, notify the chief justice or senior judge of the superior court and, in the case of provincial or territorial courts, the minister of justice or the attorney general of the province or territory.

Report by chief justice, etc., of absence

(2) If it appears to the chief justice or senior judge of a superior court that a judge of the court is absent from the judge's judicial duties without the approval required by subsection (1), the chief justice or senior judge, as the case may be, shall report the absence to the Minister of Justice of Canada.

Absentee judge to report

(3) Whenever a judge of a superior court is absent from the judge's judicial duties for a period of more than 30 days, the judge shall report the absence and the reasons for it to the Minister of Justice of Canada.

Definition of "senior judge"

(4) In this section, "senior judge", in respect of the Supreme Court of Yukon, the Supreme Court of the Northwest Territories or the Nunavut Court of Justice, means the judge with the earliest date of appointment to the Court in question or, in the case of more than one judge appointed on the same day, means the judge that the Governor in Council may designate as the senior judge.

R.S., 1985, c. J-1, s. 54; 1992, c. 51, s. 24; 1996, c. 30, s. 4; 1999, c. 3, s. 76; 2002, c. 7, s. 194, c. 8, s. 101.

EXTRA-JUDICIAL EMPLOYMENT

Judicial duties exclusively

55. No judge shall, either directly or indirectly, for himself or herself or others, engage in any occupation or business other than his or her judicial duties, but every judge shall devote himself or herself exclusively to those judicial duties.

R.S., 1985, c. J-1, s. 55; 2002, c. 8, s. 102(E).

Acting as commissioner, etc.

56. (1) No judge shall act as commissioner, arbitrator, adjudicator, referee, conciliator or mediator on any commission or on any inquiry or other proceeding unless

(a) in the case of any matter within the legislative authority of Parliament, the judge is by an Act of Parliament expressly authorized so to act or the judge is thereunto appointed or so authorized by the Governor in Council; or

(b) in the case of any matter within the legislative authority of the legislature of a province, the judge is by an Act of the legislature of the province expressly authorized so to act or the judge is thereunto appointed or so authorized by the lieutenant governor in council of the province.

Acting as statutory assessor or arbitrator

(2) Subsection (1) does not apply to judges acting as arbitrators or assessors of compensation or damages under any public Act, whether of general or local application, of Canada or of a province, whereby a judge is required or authorized without authority from the Governor in Council or lieutenant governor in council to assess or ascertain compensation or damages.

R.S., 1985, c. J-1, s. 56; 1996, c. 10, s. 233.

Authorization

56.1 (1) Notwithstanding section 55, Madam Justice Louise Arbour of the Ontario Court of Appeal is

authorized to take a leave from her judicial duties to serve as Prosecutor of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia and of the International Tribunal for Rwanda.

Expenses

(2) Madam Justice Louise Arbour may receive moving or transportation expenses and reasonable travel and other expenses, in connection with her service as Prosecutor, from the United Nations.

Leave without pay

(3) Madam Justice Louise Arbour may elect to take a leave of absence without pay for the purpose described in subsection (1), in which case she is not entitled to receive any salary or allowances under this Act for the duration of the leave, but may receive remuneration from the United Nations for her service as Prosecutor.

Ceasing contributions

(4) If Madam Justice Louise Arbour elects to take a leave of absence without pay under subsection (3), she shall not continue the contributions required by section 50 for the duration of the leave and that section does not apply to her for the duration of the leave, which duration shall not be counted as time during which she held judicial office for the purposes of sections 28, 29 and 42.

Deemed salary in event of death

(5) For the purposes of subsections 44(1) and (2), section 46.1 and subsection 47(3), if Madam Justice Louise Arbour dies while on a leave of absence without pay, she is deemed to be in receipt at the time of death of the salary that she would have been receiving if she had not been absent on leave without pay.

1996, c. 30, s. 5.

EXTRA REMUNERATION

No extra remuneration

57. (1) Except as provided in subsection (3), no judge shall accept any salary, fee, remuneration or other emolument or any expenses or allowances for acting in any capacity described in subsection 56(1) or as administrator or deputy of the Governor General or for performing any duty or service, whether judicial or executive, that the judge may be required to perform for or on behalf of the Government of Canada or the government of a province.

Exception

(2) The right of a judge to receive remuneration under any Act of the legislature of a province, other than for acting in any capacity described in subsection 56(1), is not affected by subsection (1), but no judge is entitled to receive remuneration under any such Act or Acts in an aggregate amount exceeding \$3,000 per annum.

Expenses excepted

(3) In the cases described in subsection (1), a judge may receive his or her moving or transportation expenses and the reasonable travel and other expenses incurred by him or her away from his or her ordinary place of residence while acting in any such capacity or in the performance of any such duty or service, in the same amount and under the same conditions as if the judge were performing a function or duty as such judge, if those expenses are paid in respect of any matter within the legislative authority of Parliament, by the Government of Canada, and in respect of any matter within the legislative authority of the legislature of a province, by the government of the province.

R.S., 1985, c. J-1, s. 57; 2002, c. 8, s. 103(E).

PART II

CANADIAN JUDICIAL COUNCIL

INTERPRETATION

Definition of "Minister"

58. In this Part, "Minister" means the Minister of Justice of Canada.

CONSTITUTION OF THE COUNCIL

Council established

59. (1) There is hereby established a Council, to be known as the Canadian Judicial Council, consisting of

(a) the Chief Justice of Canada, who shall be the chairman of the Council;

(b) the chief justice and any senior associate chief justice and associate chief justice of each superior court or branch or division thereof;

(c) the senior judges, as defined in subsection 22(3), of the Supreme Court of Yukon, the Supreme Court of the Northwest Territories and the Nunavut Court of Justice; and

(d) the Chief Justice of the Court Martial Appeal Court of Canada.

(e) [Repealed, 2002, c. 8, s. 104]

(2) and (3) [Repealed, 1999, c. 3, s. 77]

Substitute member

(4) Each member of the Council may appoint a judge of that member's court to be a substitute member of the Council and the substitute member shall act as a member of the Council during any period in which he or she is appointed to act, but the Chief Justice of Canada may, in lieu of appointing a member of the Supreme Court of Canada, appoint any former member of that Court to be a substitute member of the Council.

R.S., 1985, c. J-1, s. 59; 1992, c. 51, s. 25; 1996, c. 30, s. 6; 1999, c. 3, s. 77; 2002, c. 7, s. 195, c. 8, s. 104.

Objects of Council

60. (1) The objects of the Council are to promote efficiency and uniformity, and to improve the quality of judicial service, in superior courts.

Powers of Council

(2) In furtherance of its objects, the Council may

(a) establish conferences of chief justices and associate chief justices;

(b) establish seminars for the continuing education of judges;

(c) make the inquiries and the investigation of complaints or allegations described in section 63; and

(d) make the inquiries described in section 69.

R.S., 1985, c. J-1, s. 60; 1992, c. 51, s. 26; 2002, c. 8, s. 105.

Meetings of Council

61. (1) The Council shall meet at least once a year.

Work of Council

(2) Subject to this Act, the work of the Council shall be carried on in such manner as the Council may direct.

By-laws

(3) The Council may make by-laws

(a) respecting the calling of meetings of the Council;

(b) respecting the conduct of business at meetings of the Council, including the fixing of quorums for such meetings, the establishment of committees of the Council and the delegation of duties to any such committees; and

(c) respecting the conduct of inquiries and investigations described in section 63.

R.S., c. J-1, s. 30; R.S., c. 16(2nd Supp.), s. 10; 1976-77, c. 25, s. 15.

Employment of counsel and assistants

62. The Council may engage the services of such persons as it deems necessary for carrying out its objects and duties, and also the services of counsel to aid and assist the Council in the conduct of any inquiry or investigation described in section 63.

R.S., c. 16(2nd Supp.), s. 10; 1976-77, c. 25, ss. 15, 16; 1980-81-82-83, c. 157, s. 16.

INQUIRIES CONCERNING JUDGES

Inquiries

63. (1) The Council shall, at the request of the Minister or the attorney general of a province, commence an inquiry as to whether a judge of a superior court should be removed from office for any of the reasons set out in paragraphs 65(2)(a) to (d).

Investigations

(2) The Council may investigate any complaint or allegation made in respect of a judge of a superior court.

Inquiry Committee

(3) The Council may, for the purpose of conducting an inquiry or investigation under this section, designate one or more of its members who, together with such members, if any, of the bar of a province, having at least ten years standing, as may be designated by the Minister, shall constitute an Inquiry Committee.

Powers of Council or Inquiry Committee

(4) The Council or an Inquiry Committee in making an inquiry or investigation under this section shall be deemed to be a superior court and shall have

(a) power to summon before it any person or witness and to require him or her to give evidence on oath, orally or in writing or on solemn affirmation if the person or witness is entitled to affirm in civil matters, and to produce such documents and evidence as it deems requisite to the full investigation of the matter into which it is inquiring; and

(b) the same power to enforce the attendance of any person or witness and to compel the person or witness to give evidence as is vested in any superior court of the province in which the inquiry or investigation is being conducted.

Prohibition of information relating to inquiry, etc.

(5) The Council may prohibit the publication of any information or documents placed before it in connection with, or arising out of, an inquiry or investigation under this section when it is of the opinion that the publication is not in the public interest.

Inquiries may be public or private

(6) An inquiry or investigation under this section may be held in public or in private, unless the Minister requires that it be held in public.

R.S., 1985, c. J-1, s. 63; 1992, c. 51, s. 27; 2002, c. 8, s. 106.

Notice of hearing

64. A judge in respect of whom an inquiry or investigation under section 63 is to be made shall be given reasonable notice of the subject-matter of the inquiry or investigation and of the time and place of any hearing thereof and shall be afforded an opportunity, in person or by counsel, of being heard at the hearing, of cross-examining witnesses and of adducing evidence on his or her own behalf.

R.S., 1985, c. J-1, s. 64; 2002, c. 8, s. 111(E).

REPORT AND RECOMMENDATIONS

Report of Council

65. (1) After an inquiry or investigation under section 63 has been completed, the Council shall report its conclusions and submit the record of the inquiry or investigation to the Minister.

Recommendation to Minister

(2) Where, in the opinion of the Council, the judge in respect of whom an inquiry or investigation has been made has become incapacitated or disabled from the due execution of the office of judge by reason of

(a) age or infirmity,

(b) having been guilty of misconduct,

(c) having failed in the due execution of that office, or

(d) having been placed, by his or her conduct or otherwise, in a position incompatible with the due execution of that office,

the Council, in its report to the Minister under subsection (1), may recommend that the judge be removed from office.

R.S., 1985, c. J-1, s. 65; R.S., 1985, c. 27 (2nd Supp.), s. 5; 2002, c. 8, s. 111(E).

EFFECT OF INQUIRY

66.

(1) [Repealed, R.S., 1985, c. 27 (2nd Supp.), s. 6]

Leave of absence with salary

(2) The Governor in Council may grant leave of absence to any judge found, pursuant to subsection 65(2), to be incapacitated or disabled, for such period as the Governor in Council, in view of all the circumstances of the case, may consider just or appropriate, and if leave of absence is granted the salary of the judge shall continue to be paid during the period of leave of absence so granted.

Annuity to judge who resigns

(3) The Governor in Council may grant to any judge found to be incapacitated or disabled, if the judge resigns, the annuity that the Governor in Council might have granted the judge if the judge had resigned at the time when the finding was made by the Governor in Council.

R.S., 1985, c. J-1, s. 66; R.S., 1985, c. 27 (2nd Supp.), s. 6.

67. [Repealed, R.S., 1985, c. 16 (3rd Supp.), s. 5]

68. [Repealed, R.S., 1985, c. 16 (3rd Supp.), s. 6]

INQUIRIES CONCERNING OTHER PERSONS

Further inquiries

69. (1) The Council shall, at the request of the Minister, commence an inquiry to establish whether a person appointed pursuant to an enactment of Parliament to hold office during good behaviour other than

(a) a judge of a superior court, or

(b) a person to whom section 48 of the *Parliament of Canada Act* applies,

should be removed from office for any of the reasons set out in paragraphs 65(2)(a) to (d).

Applicable provisions

(2) Subsections 63(3) to (6), sections 64 and 65 and subsection 66(2) apply, with such modifications as the circumstances require, to inquiries under this section.

Removal from office

(3) The Governor in Council may, on the recommendation of the Minister, after receipt of a report described in subsection 65(1) in relation to an inquiry under this section in connection with a person who may be removed from office by the Governor in Council other than on an address of the Senate or House of Commons or on a joint address of the Senate and House of Commons, by order, remove the person from office.

R.S., 1985, c. J-1, s. 69; 1992, c. 1, s. 144(F), c. 51, s. 28; 1993, c. 34, s. 89; 2002, c. 8, s. 107.

REPORT TO PARLIAMENT

Orders and reports to be laid before Parliament

70. Any order of the Governor in Council made pursuant to subsection 69(3) and all reports and evidence relating thereto shall be laid before Parliament within fifteen days after that order is made or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that either House of Parliament is sitting.

1974-75-76, c. 48, s. 18; 1976-77, c. 25, s. 15.

REMOVAL BY PARLIAMENT OR GOVERNOR IN COUNCIL

Powers, rights or duties not affected

71. Nothing in, or done or omitted to be done under the authority of, any of sections 63 to 70 affects any power, right or duty of the House of Commons, the Senate or the Governor in Council in relation to the removal from office of a judge or any other person in relation to whom an inquiry may be conducted under any of those sections.

1974-75-76, c. 48, s. 18; 1976-77, c. 25, s. 15.

PART III

ADMINISTRATION OF FEDERAL JUDICIAL AFFAIRS

INTERPRETATION

Definitions

72. In this Part,

"Commissioner"

« *commissaire* »

"Commissioner" means the Commissioner for Federal Judicial Affairs referred to in section 73;

"Minister"
«*ministre*»

"Minister" means the Minister of Justice of Canada.

COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS

Commissioner for Federal Judicial Affairs

73. There shall be an officer, called the Commissioner for Federal Judicial Affairs, who shall have the rank and status of a deputy head of a department and who shall be appointed by the Governor in Council after consultation by the Minister with the Council or such committee thereof as is named for the purpose by the Council.

1976-77, c. 25, s. 17.

Duties and functions of Commissioner

74. (1) It shall be the duty and function of the Commissioner, under the Minister, to

(a) act as the deputy of the Minister in performing all such duties and functions in relation to the administration of Part I as fall, by law, within the responsibility of the Minister;

(b) prepare budgetary submissions for the requirements of the Council;

(c) be responsible for any other administrative arrangements that are necessary to ensure that all reasonable requirements, including those for premises, equipment and other supplies and services and for officers, clerks and employees of the Council for the carrying out of its operations, are provided for in accordance with law; and

(d) do such other things as the Minister may require in connection with any matter or matters falling, by law, within the Minister's responsibilities for the proper functioning of the judicial system in Canada.

Interpretation of subsection (1)

(2) It is hereby declared for greater certainty that such of the duties and functions of the Minister as are, by paragraphs (1)(a) to (d), subject to be performed by the Commissioner do not form part of the duties and functions assigned to the Minister by the *Department of Justice Act*.

R.S., 1985, c. J-1, s. 74; 2002, c. 8, s. 108.

REGISTRAR OF THE SUPREME COURT OF CANADA

Duties and functions

75. (1) The duties and functions described in paragraphs 74(1)(a) to (c) shall, in relation to the Supreme Court of Canada and the judges thereof, be carried out by the Registrar of the Court, who may, for that purpose, utilize the services of other persons on the staff of the Court.

Registrar deemed deputy head

(2) The Registrar of the Supreme Court of Canada shall, for the purposes of the *Public Service Employment Act* and other Acts of Parliament and for purposes relating to the duties and functions of the Registrar under this section, be deemed to be the deputy head of the portion of the federal public administration appointed under subsection 12(2) of the *Supreme Court Act*.

R.S., 1985, c. J-1, s. 75; 2003, c. 22, s. 224(E).

76. [Repealed, 2002, c. 8, s. 109]

COMMISSIONER'S STAFF

Appointment

77. The officers, clerks and employees who are required by the Commissioner to carry out the Commissioner's duties and functions under section 74 shall be appointed under the *Public Service Employment Act*.

R.S., 1985, c. J-1, s. 77; 2002, c. 8, s. 110.

Commissioner is deputy head

78. The Commissioner and the officers, clerks and employees appointed under section 77 shall be a portion of the federal public administration that is separate from the Department of Justice and of which the Commissioner shall be the deputy head.

R.S., 1985, c. J-1, s. 78; 2002, c. 8, s. 110; 2003, c. 22, s. 224(E).

AMENDMENTS NOT IN FORCE

-- **R.S., 1985, c. 5 (1st Supp.), s. 1, as amended by R.S., 1985, c. 41 (1st Supp.), s. 14:**

1. Paragraph 21(d) of the *Judges Act* is amended by striking out the word "six" where it appears therein and substituting therefor the word "seventeen".

-- **1992, c. 51, s. 2(1):**

2. (1) The definition "county" in section 2 of the *Judges Act* is repealed.

-- **1992, c. 51, s. 18:**

18. Subsection 42(4) of the said Act is repealed and the following substituted therefor:

Definition of "judicial office"

(4) In this section, "judicial office" means the office of a judge of a superior court or of the Tax Court of Canada.-- **1992, c. 51, s. 22:**

22. Subsection 47(3) of the said Act is repealed and the following substituted therefor:

Annuity to surviving children

(3) Where, after October 5, 1971, a judge of a superior court or of the Tax Court of Canada dies while holding office, or a judge who was granted an annuity after October 5, 1971 dies, an annuity shall be granted to each surviving child of that judge as provided in subsections (4) to (6).-- **2002, c. 8, s. 95(3):**

1998, c. 30, s. 7

95. (3) Subsection 42(4) of the Act, as enacted by section 18 of the *Nova Scotia Courts Amendment Act, 1992*, chapter 51 of the Statutes of Canada, 1992, is replaced by the following:

Definition of "judicial office"

(4) In this section, "judicial office" means the office of a judge of a superior court.-- **2002, c. 8, s. 98 (2):**

98. (2) Subsection 47(3) of the Act, as enacted by section 22 of the *Nova Scotia Courts Amendment Act, 1992*, chapter 51 of the Statutes of Canada, 1992, is replaced by the following:

Annuity to surviving children

(3) If a judge of a superior court dies while holding office, or a judge who was granted an annuity after October 5, 1971 dies, an annuity shall be granted to each surviving child of that judge as provided in subsections (4) to (6).

RELATED PROVISIONS

-- **R.S., 1985, c. 50 (1st Supp.), s. 4(2):**

(2) For the twelve month period commencing April 1, 1986 and for each twelve month period thereafter,

(a) section 25 of the *Judges Act* does not apply in respect of judges of county and district courts;

(b) the salary annexed to the office of Chief Judge and Associate Chief Judge of a county or district court shall be \$5,000 lower than the salary annexed to the office of Chief Justice and Associate Chief Justice of the superior court of a province; and

(c) the salary annexed to the office of judge of a county or district court, other than Chief Judge and Associate Chief Judge, shall be \$5,000 lower than the salary annexed to the office of judge of the superior court of a province, other than a Chief Justice or Associate Chief Justice.

-- **R.S., 1985, c. 50 (1st Supp.), s. 5(3):**

Application

(3) Subsections (1) and (2) apply in respect of the year commencing April 1, 1985 and subsequent years.

-- **R.S., 1985, c. 50 (1st Supp.), s. 7(2):**

Application

(2) Subsection (1) applies in respect of the year commencing April 1, 1985 and subsequent years.

-- **R.S., 1985, c. 50 (1st Supp.), ss. 8(1) and (2):**

Where person ceased to hold office between April 1, 1985 and date of Royal Assent to this Act

8. (1) For greater certainty, where a person ceased to hold office as lieutenant governor or as judge in the period commencing on April 1, 1985 and ending on the day preceding the day on which this Act is assented to,

(a) that person shall be paid the retroactive salary increment resulting from section 3 or 4 in respect of the period commencing on April 1, 1985 and ending on the day on which the person ceased to hold office;

(b) in the case of a lieutenant governor, any retroactive salary increment paid to the lieutenant governor pursuant to paragraph (a) shall, for the purposes of subsection 3(2) of the *Lieutenant Governors Superannuation Act*, be deemed to have been received by that person during the person's term of office; and

(c) in the case of a judge, any annuity granted to or in respect of that judge is increased, as of the day it was granted, to reflect the higher salary annexed to the office held by the judge on the day on which the judge ceased to hold office.

Where person deceased

(2) Where a person to whom a retroactive salary increment or a retroactive pension or annuity increment would be payable as a result of subsection (1) is deceased, that retroactive increment shall be paid as a death benefit to that person's estate or, if less than one thousand dollars, as may be directed by the Secretary of State of Canada (in the case of a lieutenant governor) or the Minister of Justice (in the case of a judge).

-- **R.S., 1985, c. 27 (2nd Supp.), ss. 12 and 13:**

Transitional: other references to P.E.I. Court

12. (1) A reference in any Act, other than in the provisions amended by the schedule to this Act, or in any document, instrument, regulation, proclamation or order in council, to the Supreme Court of Prince Edward

Island shall be construed, as regards any transaction, matter or thing subsequent to the coming into force of this section, to be a reference to the Supreme Court of Prince Edward Island, Appeal Division, or the Supreme Court of Prince Edward Island, Trial Division, as the case may require.

Transitional: other references to Newfoundland Court

(2) A reference in any Act, other than in the provisions amended by the schedule to this Act, or in any document, instrument, regulation, proclamation or order in council, to the District Court of Newfoundland shall be construed, as regards any transaction, matter or thing subsequent to the coming into force of this section, to be a reference to the Trial Division of the Supreme Court of Newfoundland.

-- R.S., 1985, c. 27 (2nd Supp.), ss. 12 and 13:

Transitional: salary for P.E.I. Court

13. (1) Subject to subsection (2), the salaries of the judges of the Appeal Division and Trial Division of the Supreme Court of Prince Edward Island are, on the coming into force of this section, the same as the salary annexed to the office of judge of the Supreme Court of Prince Edward Island, other than the Chief Justice thereof, immediately before this section comes into force.

Idem

(2) The salaries of the Chief Justice of Prince Edward Island and the Chief Justice of the Trial Division of the Supreme Court of Prince Edward Island are, on the coming into force of this section, the same as the salary annexed to the office of Chief Justice of the Supreme Court of Prince Edward Island immediately before this section comes into force.

Transitional: salary

(3) Notwithstanding any other provision of this Act or the *Judges Act*, the person holding the office of Chief Judge of the District Court of Newfoundland immediately before the coming into force of section 2 of this Act shall continue to be paid the salary then annexed to that office until such time as the salary annexed to the office of judge of the Trial Division of the Supreme Court of Newfoundland exceeds that salary, at which time that person shall be paid the salary annexed to the office of judge of the Trial Division of the Supreme Court of Newfoundland.

-- R.S., 1985, c. 39 (3rd Supp.), s. 1(2):

(2) The salary annexed to the office of a judge referred to in subsection (1) shall not be adjusted in accordance with section 25 of the said Act for the twelve month periods commencing April 1, 1986, April 1, 1987 and April 1, 1988.

-- R.S., 1985, c. 39 (3rd Supp.), s. 2(2):

Transitional

(2) Where, before the coming into force of this Act, payment of an annuity to the spouse or surviving spouse of a judge was suspended or ceased, on remarriage of the spouse or surviving spouse, pursuant to section 44 of the said Act, as that provision read from time to time, or any provision similar to that provision contained in any Act mentioned in subsection 44(2) of the said Act, payment of the annuity to the spouse or surviving spouse shall, subject to the said Act, be resumed on and with effect from the coming into force of this Act.

-- R.S., 1985, c. 39 (3rd Supp.), s. 3(2):

Transitional

(2) Where, before the coming into force of this Act, payment of an annuity to a child of a judge ceased, on marriage of the child, pursuant to paragraph 47(1)(b) of the said Act, payment of the annuity to the child shall, subject to the said Act, be resumed on and with effect from the coming into force of this Act.

-- 1989, c. 8, s. 14:

Coming into force

14. (1) Subsections 27(1) and (2) of the said Act, as enacted by section 10 of this Act, are applicable to the year commencing on April 1, 1989 and to subsequent years and, for greater certainty, apply to a judge therein described who ceased to hold office during the period commencing on that day and ending on the day preceding the day on which this Act is assented to.

Idem

(2) Paragraphs 40(1)(e) and (f) and subsection 40(1.2) of the said Act, as enacted by section 11 of this Act, shall be deemed to have come into force on April 1, 1988 and, for greater certainty, apply to a judge therein described who ceased to hold office during the period commencing on that day and ending on the day preceding the day on which this Act is assented to.

-- 1990, c. 16, s. 24(1):

Transitional: proceedings

24. (1) Every proceeding commenced before the coming into force of this subsection and in respect of which any provision amended by this Act applies shall be taken up and continued under and in conformity with that amended provision without any further formality.

-- 1990, c. 16, s. 25:

Salary of Associate Chief Justice

25. (1) The salary of the Associate Chief Justice of the Supreme Court of British Columbia is, on the coming into force of this subsection, the same as the salary annexed to the office of the Chief Justice of that Court.

Transitional: salary

(2) Notwithstanding the *Judges Act*, the person who holds the office of Chief Judge of the County Courts of British Columbia immediately before the coming into force of subsection 15(2) shall continue to be paid the salary then annexed to that office until such time as the salary annexed to the office of judge of the Supreme Court of British Columbia exceeds that salary, at which time that person shall be paid the salary annexed to the last-mentioned office.

-- 1990, c. 17, s. 45(1):

Transitional: proceedings

45. (1) Every proceeding commenced before the coming into force of this subsection and in respect of which any provision amended by this Act applies shall be taken up and continued under and in conformity with that amended provision without any further formality.

-- 1990, c. 17, s. 46:

Transitional: salary

46. (1) Notwithstanding the *Judges Act*, a person who holds the office of Chief Judge or Associate Chief Judge of the District Court of Ontario immediately before the coming into force of section 30 shall continue to be paid the salary then annexed to that office until such time as the salary annexed to the office of judge of the Ontario Court (General Division) exceeds that salary, at which time that person shall be paid the salary annexed to the last-mentioned office.

Transitional: annuity

(2) Notwithstanding the *Judges Act*, the Chief Judge and the Associate Chief Judge of the District Court of Ontario shall, on the coming into force of this subsection, be deemed to have made an election in accordance with section 32 of that Act for the purposes of subsection 43(2) of that Act, and if, at the time of their resignation, removal or attaining the age of retirement, they were holding office as judge of the Ontario Court (General Division), the annuity payable to them under section 42 of that Act shall be an annuity equal to two thirds of the

salary annexed to the office of chief judge of a county court or, if there is no such office at that time, two thirds of the result obtained by subtracting five thousand dollars from the salary annexed at that time to the office of Chief Justice of the Ontario Court.

-- 1992, c. 51, s. 67(1):

Transitional: proceedings

67. (1) Every proceeding commenced before the coming into force of this subsection and in respect of which any provision amended by this Act applies shall be taken up and continued under and in conformity with that amended provision without any further formality.

-- 1992, c. 51, s. 68:

Transitional: salary

68. (1) Notwithstanding the *Judges Act*, a person who holds the office of Chief Judge of the County Court of Nova Scotia immediately before the coming into force of section 6 shall continue to be paid the salary then annexed to that office until the salary annexed to the office of judge of the Supreme Court of Nova Scotia exceeds that salary, at which time that person shall be paid the salary annexed to the last-mentioned office.

Transitional: annuity

(2) Notwithstanding the *Judges Act*, the Chief Judge of the County Court of Nova Scotia shall, on the coming into force of this subsection, be deemed to have made an election in accordance with section 32 of that Act for the purposes of subsection 43(2) of that Act, and if, at the time of resignation, removal or attaining the age of retirement, is holding office as a puisne judge of the Supreme Court of Nova Scotia or the Nova Scotia Court of Appeal, the annuity payable under section 42 of that Act shall be an annuity equal to two thirds of the result obtained by subtracting five thousand dollars from the salary annexed at that time to the office of Chief Justice of the Supreme Court of Nova Scotia.

Idem

(3) Where, before the coming into force of this subsection, an annuity has been granted to or in respect of a judge of a county or district court of any province pursuant to sections 42, 43, 44 and 47 of the *Judges Act*, payment of that annuity shall continue in accordance with those sections, as they read immediately before the coming into force of this subsection.

-- 1996, c. 2, s. 1(2):

Application

(2) For greater certainty, subsection 26(2) of the Act, as enacted by subsection (1), applies with respect to the report to be submitted by the commissioners appointed effective September 30, 1995.

-- 1996, c. 30, s. 7:

Application of subsections 27(2) and (3) of the *Judges Act*

7. For greater certainty, payments of allowances made before the coming into force of this Act to judges of the Supreme Court of the Yukon Territory and the Supreme Court of the Northwest Territories under subsection 27(2) of the *Judges Act* and to judges of the Federal Court under subsection 27(3) of that Act, as those subsections read immediately before the coming into force of this Act, are authorized.

-- 2002, c. 8, ss. 185(11), (12):

Interpretation

(11) For the purposes of subsections 31(1) and (2) of the *Judges Act*, as enacted by subsection 90(1) of this Act, any period during which a person holds the office of Chief Justice or Associate Chief Justice of the Federal Court of Canada is deemed to be a period during which he or she holds the office of Chief Justice of the Federal Court of Appeal or the Federal Court.

-- 2002, c. 8, ss. 185(11), (12):

For greater certainty

(12) For greater certainty, for the purposes of sections 31, 43 and 44 of the English version of the *Judges Act*, "Chief Justice" and "Associate Chief Justice" include "Chief Judge" and "Associate Chief Judge", respectively.

-- 2006, c. 11, s. 36:

Section 44.2 of the *Judges Act*

36. Section 44.2 of the *Judges Act*, as enacted by section 163 of the *Modernization of Benefits and Obligations Act*, chapter 12 of the Statutes of Canada, 2000, and replaced by section 24 of *An Act to amend the Judges Act and to amend another Act in consequence*, chapter 7 of the Statutes of Canada, 2001, and the *Optional Survivor Annuity Regulations*, made by Order in Council P.C. 2001-1362 on August 1, 2001 and registered as SOR/2001-283, are deemed to have come into force on August 1, 2001.

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[Important Notices](#)