

JURY ACT

CHAPTER 210

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Interpretation

1. In this Act

“court” means the Supreme Court or the County Court;

“sheriff” means any person lawfully holding the office of sheriff or lawfully performing the duties of sheriff by way of delegation, substitution, temporary appointment or otherwise;

“sittings” or “sitting” means a sitting of the court for the trial of civil or criminal cases and includes the hearing of a single trial;

“year” means the 12 months commencing on the first day of January.

1970-15-2, 1977-38-2

PART 1

Jury duty

2. A person has the right and duty to serve as a juror unless disqualified or exempted under this Act.

1977-38-3

Disqualification

3. (1) A person is disqualified from serving as a juror who is

- (a) not a Canadian citizen;
- (b) not resident in the Province;
- (c) under the age of majority;
- (d) a member or officer of the Parliament of Canada or of the Privy Council of Canada;
- (e) a member or officer of the Legislature or of the Executive Council;
- (f) a judge, justice or court referee;
- (g) an employee of the Department of Justice or of the Solicitor General of Canada;
- (h) an employee of the Ministry of the Attorney General of the Province;
- (i) a barrister or solicitor;
- (j) a court official;
- (k) a sheriff or sheriff's officer;
- (l) a peace officer;
- (m) a warden, correctional officer or person employed in a penitentiary, prison or correctional institution;
- (n) blind, deaf or has a mental or physical infirmity incompatible with the discharge of the duties of a juror;

- (o) a person convicted within the previous 5 years of an offence for which the punishment could be a fine of more than \$2,000 or imprisonment for one year or more, unless he has been pardoned; or
- (p) under a charge for an offence for which the punishment could be a fine of more than \$2,000 or imprisonment for one year or more.

(2) An officer or person regularly employed in the collection, management or accounting of revenue under the *Revenue Act*, or a person registered under the *Chiropractors Act*, *Dentists Act* or *Naturopaths Act* is exempt, if he so desires, from serving on a jury.

RS1960-54-16; RS1960-99-64; RS1960-264-19; RS1960-341-15; 1977-38-3.

Disqualification because of language difficulty

4. Where the language in which a trial is to be conducted is one that a person is unable to understand, speak or read, he is disqualified from serving as a juror in the trial.

1977-38-3.

Grounds for exemption

5. (1) A person may apply to the sheriff to be exempted from serving as a juror on the grounds that

- (a) he belongs to a religion or a religious order that makes service as a juror incompatible with the beliefs or practices of the religion or order; or
- (b) serving as a juror may cause serious hardship or loss to him or to others.

(2) On an application for exemption the sheriff may, if he is satisfied that the applicant is entitled to the exemption, exempt the applicant from serving on the jury for which he is summoned or, if the sheriff is not so satisfied, he may refuse the exemption.

(3) Where the sheriff refuses an application for exemption made under this section, the applicant may apply informally and without prior notice or proceedings to the court for exemption on the grounds on which he made the application to the sheriff and the court may exempt or refuse to exempt the applicant from serving on the jury for which he is summoned.

1977-38-3.

Exemption for person 65 years of age or over

6. A person over the age of 65 years, on application to the sheriff, shall be exempted from serving as a juror.

1977-38-3.

Selection procedure

7. The sheriff, having regard for the principle in section 2, may determine the procedures he considers appropriate for the selection of jurors.

1977-38-3.

PART 2

Jurisdiction of sheriff

8. A sheriff whose jurisdiction extends over a portion only of a county has, for this Act, jurisdiction over the whole county.

1970-15-8.

Selection of jurors

9. (1) Where the Lieutenant Governor in Council has, by order, fixed times and places for sittings for the hearing of criminal trials with a jury, the sheriff, on receipt of a certified copy of the order shall, not less than 15 days before the commencement of the sitting referred to in the order, empanel a sufficient number of jurors for the cases that may be heard during the sitting.

(2) Notwithstanding subsection (1), a single jury panel of sufficient numbers may be established to serve a single sitting of a court or 2 or more simultaneous sittings of that court and, in addition, may serve sittings in both the Supreme Court and County Court that are occurring simultaneously.

(3) A jury selected for a trial shall, for the duration of that trial, be subject to the direction of the presiding judge.

(4) In addition to the sittings referred to in subsection (1), a judge may fix a date for a criminal trial to be heard before a court composed of a judge and jury and the sheriff shall, on the request of the registrar, empanel a sufficient number of jurors.

1970-15-9; 1977-38-4.

Summoning of jurors

10. (1) The sheriff, at least 15 days before the day on which the juror is required to attend, shall summon the juror by delivering to him, or, in case of his absence from his usual residence or place of business, by leaving for him with some person there residing or employed who appears to be at least of the age of 16 years, or, in any case, by mailing by registered mail addressed to the last known address of the juror a notice in writing signed by the sheriff containing the particulars of the time and date of the sitting at which the juror is required to attend.

(2) Where it appears that a person empanelled to serve on the jury is dead or has moved out of the county or is disqualified, the sheriff may add an additional name to the panel.

(3) Where it appears that a person empanelled to serve on a jury is absent or cannot be served within the time set out in subsection (1), the sheriff may, at any time prior to the sittings, empanel an additional person and serve him in the manner provided in subsection (1).

(4) At any time before or during a sitting the sheriff may, if he considers it necessary, apply to the court for an order directing the sheriff or any other officer of the court to return an additional number of jurors on giving notice that the court directs.

1970-15-10; 1971-28-3,4,5; 1977-38-5.

Procedure at sitting

11. (1) The sheriff may report to the court the names of jurors served who fail to attend.

(2) Where an insufficient number of persons empanelled are in attendance at the sittings, the sheriff may summon the number of persons, whether qualified or not, necessary to complete the number of persons required.

(3) The sheriff may at any time, in writing or otherwise, summon a person under subsection (2).

1970-15-12; 1977-38-7.

Juror exempted from jury service for 2 years

12. No person shall be required to serve on a jury for 2 years next after his having served as a juror on a trial.

1970-15-13; 1977-38-8.

PART 3**Nothing to affect right of trial by jury**

13. Nothing in this Act takes away or prejudices any right of a party to an action to have the action tried by a judge of the court and a jury, provided that the fees for a jury are paid in accordance with this Act.

1970-15-14; 1971-28-6.

Jury for civil trial or by order

14. Where a jury is required in a civil trial, the jury shall be summoned as provided in this Part.

1970-15-15.

Payments to be made by party requiring jury

15. The party requiring a jury shall, before he is entitled to have the jury summoned, pay to the sheriff a sum sufficient for payment of the jury and jury process, together with any additional fees prescribed by this Act or the Rules of Court for expenses of a jury and attendance of the sheriff or sheriff's officers; and before the opening of court on each day of the trial, after the first day, the party shall pay to the sheriff the further sum sufficient for payment of the jury fee and the additional fees referred to above for payment of the jury and the sums shall be considered as costs in the cause, unless otherwise ordered by the jury.

1970-15-16; 1977-38-9.

Qualification and summoning of jurors

16. (1) The party requiring a jury shall leave, at the office of the sheriff, not less than 30 days' notice of the day, time and place fixed for the trial and the sheriff shall empanel a sufficient number of jurors as are needed to be summoned to attend the court at a day, time and place fixed for the trial and the court shall administer, to those of them empanelled to try any cause, an oath to give a true verdict according to the evidence.

(2) The sheriff, at least 15 days before the day on which the juror is required to attend, shall summon the juror by delivering to him, or, in case of his absence from his usual residence or place of business, by leaving for him with some person there residing or employed who appears to be at least of the age of 16 years, or, in any case, by mailing by registered mail addressed to the last known address of the juror, a notice in writing signed by the sheriff containing the particulars of the time and date of the trial at which the juror is required to attend.

(3) Where the sheriff is unable to summon all of the jurors selected for service or where any of the persons summoned fail to attend at the time and place for which they are summoned, the sheriff shall report the fact to the judge who may order the sheriff or other proper official to summon the number of persons, whether qualified jurors or not,

necessary to make the number of persons required to serve on the jury; and those persons may, if necessary, be summoned by word of mouth or in writing at any time.

1970-15-17; 1971-28-7; 1977-38-10.

Payment of jury fees in civil cases

17. (1) The fees to jurors in civil cases shall be paid out of the sums deposited with the sheriff for jury fees by the party requesting the jury.

(2) If there is a deficiency, the sheriff shall notify the presiding judge of the court who may make an order he considers just.

1970-15-18.

Number of jurymen and challenges

18. Eight jurymen shall be sworn to give their verdict in the proceeding which is brought before them in the court and each of the parties is entitled to challenge for cause any of the jurors, and each party, the plaintiff or plaintiffs on one side, and the defendant or defendants on the other, is entitled to challenge peremptorily not more than 4 jurors.

1970-15-19; 1972-30-1.

Verdict of 75% of jurors may be received

19. (1) On a trial, if a jury does not reach a unanimous verdict within a period of 3 hours from the time it retired to consider its verdict, the judge of the court may receive the verdict of 75% of those jurors.

(2) A verdict under subsection (1) is as binding in all respects and has the same force and effect as if it had been the unanimous verdict of the full jury; but nothing in this section applies to any prosecution, suit or other proceeding in respect of any offence or for the recovery of any penalties or forfeitures by or on behalf of the Crown.

1970-15-20; 1976-2-23.

Special jury abolished

20. Special juries for the trial of civil matters are abolished and every trial of a civil matter requiring a jury shall be tried by a jury empanelled under this Act.

1970-15-21.

Omissions to observe directions not to vitiate verdict

21. No omission to observe the directions contained in this Part respecting the qualifications and selection of jurors is a ground for impeaching the verdict or judgment rendered in any civil cause.

1970-15-22.

PART 4

Jurors' fees

22. (1) A person sitting as a juror at a trial is entitled to receive as provided in this section

- (a) necessary and reasonable travelling and lodging expenses; and
- (b) the sum of \$20 a day for other expenses incidental to the discharge of his duties as a juror during each day of absence from his place of residence that the attendance at a sitting or trial actually requires.

(2) Where a juror sits at a trial that is not completed within 10 days, he is entitled to receive the sum of \$30 a day for each day in excess of 10 days.

(3) A person serving on a jury panel but not selected to sit as a juror is entitled to receive

(a) necessary and reasonable travelling and lodging expenses; and

(b) \$10 for each day that he is required to attend at a sitting.

(4) Unless otherwise ordered by the Attorney General, the travelling and lodging expenses referred to in subsections (1) and (3) shall be ascertained and approved by the sheriff who summoned the juror and, when required by the sheriff, by the declaration of the juror himself, and every juror who makes a false declaration respecting his travelling and lodging expenses shall, in addition to any other penalty, forfeit his right to receive any payment under this section.

1970-15-23, 1972-30-2, 1977-38-11

Sheriff to make pay list for jurors

23. A sheriff shall make a pay list for the jurors summoned to attend a sitting or a trial in the form prescribed by the Attorney General.

1970-15-24

Registrar to pay jurors

24. The pay list indicating the number of days of attendance of each juror, checked and certified by the sheriff, is sufficient authority to pay each juror the sum to which he is entitled as certified by the list.

1970-15-25

Roll call of jurors

25. The clerk of the court shall, at the opening of a sitting and on each occasion thereafter that the panel is required by the court to attend and before any other business is proceeded with, call over the names of the jurors so that the sheriff or his officer may ascertain those who are present or absent.

1971-28-8

Jurors not attending to be fined

26. A juror not appearing when called is not entitled to any fee or expenses for the day or part of the day in which he is absent; and every juror, for each absence of a day or part of a day, is liable to a fine as may be imposed by the court.

1970-15-27

Discharge or death of juror

27. (1) Where before or during a trial a court considers that a juror should not, because of illness or other reasonable cause, act or continue to act, the court may discharge the juror.

(2) Where during a trial a juror dies or is discharged, the jury is, unless the court otherwise directs and as long as the number of jurors is not less than 6, properly constituted for all purposes of the trial and the trial shall proceed and a verdict may be given.

1976-2-23

Only authorized fees allowed

28. No juror is entitled to any fee or allowance other than is provided under this Act.

1970-15-29

Certificate of attendance

29. On application by a juror who has attended and served on a panel, the sheriff shall deliver to the juror a certificate testifying to his attendance and service on the panel.

1970-15-30

Form of affirmation for certain persons

30. Any person allowed by law to affirm or declare instead of swearing an oath in civil causes who is summoned as a juror in a court shall, instead of being sworn in the usual form, be permitted to make his solemn affirmation or declaration in accordance with the *Evidence Act* and then he may serve as a juror as if he had been sworn, and in any record or proceeding relating to the case it may be stated that the juror was sworn, affirmed or made his declaration.

1970-15-31

Sheriff indemnified for returning unqualified persons named in list of jurors

31. Every sheriff to whom the return of jurors is by this Act committed is hereby indemnified for empanelling and returning a person as a juror named in or taken from the list of jurors for the year in which he has been summoned, although the person may not have been qualified or liable to serve as a juror for that year.

1970-15-32

Regulations

32. The Lieutenant Governor in Council may make regulations.

1970-15-33

[*Note: see also draft uniform Jury Act to be found as stated in the Guide Notes in the beginning of this volume.*]