

SUPREME COURT ACT

CHAPTER 397

Interpretation

1. (1) In this Act

- “action” means a proceeding commenced by writ of summons;
“court” or “court of assize” or “assize” means the Supreme Court of British Columbia;
“defendant” includes a defendant by way of counterclaim;
“judge” means a judge of the court;
“judicial district” or “district” means a judicial district defined by this Act;
“master” means a master of the court;
“order” includes a judgment and a decree;
“plaintiff” means a person who commences an action and includes a plaintiff by way of counterclaim;
“proceeding” means an action, suit, cause, matter, appeal or originating application;
“proper officer” includes a district registrar;
“registry” means the office of the Supreme Court in a judicial district;
“rules” means Rules of Court, and includes forms;
“writ of execution” includes a writ of seizure and sale, sequestration, possession, delivery and any subsequent writ that issues to give effect to these writs; and also includes a warrant or other process of execution issued out of any court in the Province having jurisdiction to grant and issue that process.
(2) The expressions “plaintiff” and “defendant” shall be mutually transposed where necessary for the proper application and construction of this Act or the rules.
(3) In this or any other Act the word “decree” includes a judgment or order.

RS1960-374-2, 1969-38-1, 1973-88-2, 1976-33-114

Supreme Court of British Columbia

- 2.** (1) The Supreme Court of British Columbia is continued under the name and style of the “Supreme Court of British Columbia”.
(2) The court shall consist of a Chief Justice, who shall be styled “Chief Justice of the Supreme Court”, and 26 puisne justices.
(3) The court shall also have for each office established under subsection (2) an additional office of supernumerary judge.
(4) The judges appointed to the offices established under subsections (2) and (3) shall be called “judges of the Supreme Court”.

RS1960-374-4,5(1), 1963-47-2, 1967-53-2, 1969-38-2,18, 1971-58-18, 1972-63-1, 1973-154-1, 1974-87-37, 1974-94-1, 1975-4-17, 1976-55-1, 1977-13-1

Powers and privileges

- 3.** The Chief Justice and judges have all the powers, rights, incidents, privileges and immunities of a judge of a superior court of record, and all other powers, rights, incidents, privileges and immunities that on March 29, 1870, were vested in the Chief Justice and puisne justices of the court; and, subject to this Act, and to the rules, the court may be held before the Chief Justice or before any one or more of the judges.

RS1960-374-5(2), 1967-49-12, 1972-63-1

Precedence

4. The Chief Justice shall have the rank and precedence set out in the *Court of Appeal Act*, and the puisne judges shall have rank and precedence immediately after the justices of appeal, and among themselves according to the seniority of their appointment

RS1960 374 6

Conferences

5. The Chief Justice may require a judge or a local judge of the court to attend a meeting, conference or seminar relating to the administration of justice

1977 31 18

Resignations and vacancies

6. The office of Chief Justice or of any judge may be vacated by resignation in writing addressed to the Governor General of Canada. The court is properly constituted notwithstanding a vacancy in the office of Chief Justice, or of a judge

RS1960 374 7

Seal

7. The court shall have a seal, bearing Her Majesty's Royal Arms and the name Supreme Court of British Columbia, and other words the Attorney General considers necessary, which shall be used by the court as occasion requires. A print of the seal stamped on a document requiring a seal of the court shall, for all purposes, be deemed an impression of the seal of the court [Note see section 17 (1)]

RS1960 374 8 1970 48 1

Jurisdiction

8. The court continues to be a court of original jurisdiction, and shall have complete cognizance of all pleas, and shall have jurisdiction in all cases, civil and criminal, arising in the Province [Note section 22 of the Divorce and Matrimonial Causes Act (U K 20 and 21 Vict , c 85) reads in part, "In all proceedings, other than proceedings to dissolve any marriage, the Court shall proceed and act and give relief on principles and rules which in the opinion of the Court are as nearly as may be conformable to the principles and rules on which the Ecclesiastical Courts have heretofore acted and given relief, but subject to the provisions herein contained and to the rules and orders under this Act " See Family Relations Act, section 5, and for rules, see Rules of Court]

RS1960 374 9

Judicial districts

9. (1) The counties as defined by the *County Boundary Act* constitute judicial districts and

- (a) the County of Victoria is a judicial district, under the name of the "Victoria Judicial District",
- (b) the County of Nanaimo is a judicial district, under the name of the "Nanaimo Judicial District",

- (c) the County of Vancouver is a judicial district, under the name of the “Vancouver Judicial District”;
- (d) the County of Westminister is a judicial district, under the name of the “Westminister Judicial District”;
- (e) the County of Yale is a judicial district, under the name of the “Yale Judicial District”;
- (f) the County of Cariboo is a judicial district, under the name of the “Cariboo Judicial District”;
- (g) the County of Kootenay is a judicial district, under the name of the “Kootenay Judicial District”;
- (h) the County of Prince Rupert is a judicial district, under the name of the “Prince Rupert Judicial District”.

(2) The judges, including the local judges of the court, shall in general discharge their duties in the judicial districts assigned to them, but nevertheless any one or more of the judges, including the local judges of the court, may sit and act at any time in any judicial district.

RS1960-374-16, 1964-56-2, 1969-38-3,18, 1974-87-37

Supervision of judges

10. The Chief Justice has general supervision of the judges.

1973-154-2

Local judges of court

11. (1) For the purposes of this section, a Country Court Judge is a judge of the court and while exercising the jurisdiction of a judge, a County Court Judge shall be called a Local Judge of the Supreme Court of British Columbia.

- (2) A local judge has the jurisdiction of the court or a judge
 - (a) notwithstanding paragraph (c), in a proceeding in the court that could have been commenced in a County Court;
 - (b) under the *Bankruptcy Act* (Canada) and the *Divorce Act* (Canada); and
 - (c) under all enactments except this Act, the *County Court Act* and
 - (i) proceedings under the
 - Accountants (Chartered) Act*
 - Arbitration Act*
 - Architects Act*
 - Assessment Act*
 - Barristers and Solicitors Act*, sections 14 and 21
 - Chiropractors Act*
 - Constitutional Question Act*
 - Dental Technicians Act*
 - Dentists Act*
 - Election Act*
 - Engineers Act*
 - Land Surveyors Act*
 - Medical Practitioners Act*
 - Municipal Act*
 - Naturopaths Act*
 - Notaries Act*

Nurses (Registered) Act
Nurses (Registered Psychiatric) Act
Optometrists Act
Pharmacists Act
Podiatrists Act
Psychologists Act
School Act
Vancouver Charter; and
(ii) trials under the
Family Compensation Act
Frustrated Contract Act
Insurance Act
Insurance (Marine) Act
Insurance (Motor Vehicle) Act
Libel and Slander Act
Occupiers Liability Act
Police Act

(3) Subject to subsection (4), a local judge does not have jurisdiction in matters relating to criminal proceedings, habeas corpus, certiorari, prohibition, mandamus or quo warranto.

(4) A local judge has the jurisdiction of the court in proceedings under the *Judicial Review Procedure Act* where an application under that Act arises out of a determination or order made on an application under the following:

Child Paternity and Support Act;
Family Relations Act;
Family and Child Service Act.

(5) A local judge has the *parens patriae* jurisdiction of the court.

(6) An order of a local judge in the purported exercise of jurisdiction granted under this section is valid until set aside by a court of competent jurisdiction.

1976-55-2; 1977-19-21; 1979-2-61.

Certain provisions not to affect local judges

12. Nothing in this Act regulating the residence of the judges, the districts and the manner of discharging duties, shall affect or limit the powers or jurisdiction of a local judge appointed under this Act in that behalf, or otherwise by the Governor General.

RS1960-374-20; 1969-38-6,18; 1974-87-37.

Court registries

13. (1) The Attorney General is responsible for, and may make regulations for, the provision, operation and maintenance of court administrative services, facilities and registries.

(2) The Attorney General may designate one or more registries established under subsection (1) as registries to be used exclusively for family matters.

(3) The Attorney General may prescribe matters that are exclusively family matters for the purposes of subsection (2) and for the purpose of excluding matters, other than family matters, from a registry designated to be used exclusively for family matters.

(4) Unless the court otherwise orders, only matters designated under subsection (3) shall be dealt with in registries designated under subsection (2).

1974-99-6; 1976-33-116.

Court administrator

14. (1) A chief administrator of court services, an administrator of court services for each registry and other persons necessary to carry out this Act and the duties assigned to a registry by the rules may be appointed under the *Public Service Act*.

(2) Subject to the direction of the Attorney General, and to the direction of the Chief Justice in matters of judicial administration, the chief administrator of court services shall direct and supervise facilities, registries and administrative services for the court.

1976-33-117.

Masters

15. (1) One or more masters of the court may be appointed under the *Public Service Act*.

(2) A master has the power and jurisdiction prescribed by any Act or the rules and may hear and determine any interlocutory application or class of interlocutory applications designated in writing by the Chief Justice.

(3) Wherever a power is given to a registrar or district registrar under an enactment that power shall be deemed to be given also to a master.

(4) A master may administer an oath.

1976-33-117.

Registrars

16. (1) A registrar for the court, one or more district registrars, deputy district registrars and persons necessary to assist the registrar or a district registrar may be appointed under the *Public Service Act*.

(2) The registrar and district registrars are responsible for carrying out the duties assigned to a registrar by the rules and under any other enactment.

(3) The registrar has general supervision of the district registrars and of the County Court registrars.

(4) The registrar may appoint a person to act temporarily as a district registrar, deputy district registrar or County Court registrar or deputy registrar.

(5) The registrar, a district registrar and a deputy district registrar are officers of the court.

1976-33-117.

Filing and issuing documents

17. (1) In each registry the seal directed by the rules shall be used and shall be stamped on every writ and other document requiring a seal, issued out of or filed in that registry. All writs and documents, and all exemplifications and copies purporting to be sealed with the seal of a registry, shall be received in evidence in the Province without further proof; and until a rule is made the existing seal of the court shall be used by each registry.

(2) The name of the registry shall be written or stamped on the face of every document issued from or filed or recorded in a registry.

(3) Where the signature of the registrar is required on a certificate relating to a matter of record in the court or registry, a notice, or a proceeding taken by consent, in default, or ex parte, the document shall be deemed to have been signed by the registrar if his name is written, printed, stamped or otherwise made apparent on it by a person appointed by the registrar to perform that function.

RS1960-374-25; 1962-61-4; 1970-48-3.

Deposit and safekeeping of records

18. (1) Until they are transferred under subsection (2), each registry shall be the proper place for the deposit and safekeeping of all records connected with any proceedings in the court commenced and pending in that registry, and for any records directed by law or the rules to be deposited in it; and the administrator of court services appointed to the registry has charge of, and is responsible for, the records deposited.

(2) The Attorney General may establish a place to be known as the court records management centre to be the proper place for the transfer to, and for the deposit and safekeeping of, records deposited under any enactment in a registry of the court.

RS1960-374-26; 1976-33-118; 1977-31-18.

Record book for debt orders

19. (1) It is the duty of every district registrar to keep a book of record, showing the date and amount of each order obtained in his judicial district, by which money for debt or costs is ordered to be paid by a person. The book shall have 2 indexes, one index containing the name of the plaintiff or the person in whose favour the order is made, and the other index giving the name of the defendant or person against whom the order is made.

(2) The book shall be kept open for search, on payment of a fee of 20¢, or the fee prescribed by the rules.

(3) On the whole or partial satisfaction or discharge of an order, the district registrar shall enter a memorandum against the record of the order wholly or partially satisfied or discharged.

RS1960-374-28; 1976-33-120.

Accountant of court

20. An accountant of the court may be appointed under the *Public Service Act*, or the duties of the accountant may be assigned by the Lieutenant Governor in Council to a public officer. The accountant shall be an officer of and attached to the court, and shall have charge of all funds paid into court.

RS1960-374-29; 1965-46-4(2).

Administering oath on discovery

21. In an examination for discovery, the oath may be administered by the district registrar, official reporter, or by an officer or clerk in the office of the district registrar authorized by order of the Lieutenant Governor in Council.

1969-38-8; 1978-11-13.

Money paid into court is revenue

22. All money paid into court shall be accounted for as part of the general revenue of the Province. [Note: see section 10 of the Bonding Act.]

RS1960-374-32.

Interest

23. The Lieutenant Governor in Council by order, may direct what money paid into court shall draw interest and at what rate.

1976-33-121.

Rules for money in court

- 24.** (1) The Lieutenant Governor in Council may make rules for
- (a) keeping of books of account for money in court, their form and the particulars to be included in them;
 - (b) procedure and forms for payment into and out of court;
 - (c) facilitating the court business and practice for the custody, care and disposal of money in court or belonging to suitors;
 - (d) investment, management, control and disposal of money in court or interest on it.

(2) An order of the court, whether pronounced before or after the making of a rule under this section, is subject to and is deemed to be amended to the extent necessary to give effect to the rule.

(3) Provision shall be made in a rule for changing the custody of money in court, under the control of officers or persons at the time the rule comes into force, following an alteration in practice.

RS1960-374-34,37; 1976-33-122.

Practitioners

25. All persons entitled to practise in the court as attorneys or solicitors shall be called and known as “solicitors of the court”.

RS1960-374-38.

Judge on circuit

26. Subject to the rules, a judge shall take circuits for the transaction of all business of the court as is practicable and in the interests of parties and the convenient administration of justice to dispose of on the circuit, and for that purpose a judge may hold sittings for taking evidence, hearing proceedings and transacting other business. A judge while so sitting constitutes a holding or sitting of the court.

RS1960-374-39; 1976-33-124.

Separate lists of jury and no jury cases

27. In case sittings for hearing proceedings that are to be heard and determined by a judge without a jury are fixed for the same time and before the same judge as the sittings for hearing proceedings that are to be tried with a jury, separate lists shall be made of the jury and no jury cases. The jury cases shall be disposed of first unless the judge directs otherwise.

RS1960-374-40, 1976-33-125.

Separate trials of civil matters

28. The sittings of the court for the trial of civil proceedings in a judicial district may be held separate and apart from the sittings for the trial of criminal proceedings, or either on the same or on a different day.

RS1960-374-41, 1976-33-126

Court may sit at any time or place

29. Subject to the rules and this Act, the court may sit and act, at any time and at any place, for the transaction of any part of its business, civil or criminal, or for the discharge of any duty.

RS1960-374-42

Courts of Assize and Nisi Prius

30. Sittings of the court for the transaction of the business of Courts of Assize and Nisi Prius, or of Oyer and Terminer and General Gaol Delivery, may be held, with or without commissions, at times and places the Lieutenant Governor in Council directs; and the courts shall be presided over by one of the judges.

RS1960-374-43

Special commission

31. (1) The Lieutenant Governor in Council may issue a special Commission of Oyer and Terminer or of General Gaol Delivery, for the trial of offenders, whenever he deems it expedient.

(2) The commission shall contain the names of the Chief Justice and the judges, and may also contain the names of any of the judges of the County Courts, and the court shall be presided over by the Chief Justice or by one of the judges, or in their absence by one of the County Court judges.

RS1960-374-44

County Court judge holding an assize may act as judge in chambers

32. A County Court judge acting as a commissioner may, in and for the judicial district or place in which he is acting and while the sittings of the court last, act as judge in chambers in all matters entered for trial at the sittings as if he were a judge of the court.

RS1960-374-45

Judge delayed

33. If the judge does not arrive at the place where court is to be held in time to open the court on the day appointed, the judge may open and hold court on any day following, and the proceedings of the court are as valid as if they had been opened and held at the appointed time.

RS1960-374-46

Sittings for civil matters

34. Subject to section 35 sittings of the court for the trial of civil proceedings shall be held at least once a year at each assize town, and at other times as the Chief Justice considers necessary, for the transaction of the court's business.

RS1960-374-47, 1974-114-16, 1976-33-127

Continuous sittings at Victoria and Vancouver

35. At Victoria and Vancouver continuous sittings of the court for the trial of civil proceedings shall be held, except during vacation and on holidays. Trials shall take place when ready for trial on notice of trial prescribed by the rules being given and entry of the trial being made as prescribed by the rules.

RS1960-374-48; 1976-33-128.

Special sittings

36. Special sittings of the court for the trial of civil proceedings may be held at a place or time fixed by the order of the court.

RS1960-374-49; 1976-33-129.

Trial and subsequent proceedings

37. All proceedings in the court and all business arising from those proceedings, if practicable and convenient, shall be heard, determined and disposed of before a single judge; and all proceedings subsequent to the hearing or trial including the final order, except as otherwise provided, and on a rehearing shall, if practicable and convenient, be before the judge before whom the trial or hearing took place.

RS1960-374-51; 1976-33-131.

Judge to make notes of evidence

38. The judge presiding at a trial shall make or have made under his supervision, full notes of the verbal testimony, exceptions and objections made at trial. The notes shall be read by the judge, or by the district registrar of the court, at the oral request of any party to the trial, at any time during the trial, or immediately after its close, in order that an error or omission found in it may be corrected or supplied.

RS1960-374-52.

Copy of notes

39. A fair copy of the notes shall be made by the district registrar of the court, and after being certified by the judge shall be filed in the proceeding, and shall, on an appeal from the judgment in the proceeding, be transmitted to the Court of Appeal as part of the record. On the appeal the notes are a true record of the evidence adduced at trial and all other proceedings.

RS1960-374-53; 1976-33-132.

Official reporter

40. Sections 38 and 39 do not apply when an official reporter is employed.

RS1960-374-54.

Power to reserve decision

41. A judge may reserve his decision.

RS1960-374-55.

Orders, when payable

42. Where an order has been obtained for a sum of money, the sum shall be payable immediately unless the court orders otherwise. The court may provide that an

order is payable by instalments or may suspend execution for the time it considers proper.

RS1960-374-57, 1976-33-134

Effect and form of orders

43. (1) Orders made by a single judge have the same force and effect and shall be deemed for all purposes to be orders of the court, and every order shall show on its face the name of the judge who made it but an order not spoken to before a judge may show on its face only that it was made before a judge if it is approved by a judge.

(2) An order may be approved by any judge.

RS1960-374-59, 1966-49-4, 1976-33-136, 1979-2-62

Registration of orders for maintenance or other periodic payment.

44. (1) An order for alimony, maintenance or periodic payment may be registered in any or all of the land title offices in the Province. Registration charges the land of the person against whom the order is made in the territorial limit of the land title office of registration, in the same manner as land is charged by registration of a judgment under section 75 of the *Court Order Enforcement Act*, to the extent of the amount directed to be paid.

(2) Registration is made by delivering to the registrar of land titles a certificate of an order under the seal of the court in which the order is entered or recovered, signed by the court or an officer empowered to grant certificates of proceedings in that court.

(3) On compliance with the requirements of the *Land Title Act* for registration of judgments, the registrar shall write or stamp on the certificate the day, hour and minute of the delivery of the certificate at his office, which shall be deemed the time of the registration of the order, and shall enter the order in the register of judgments.

(4) The court at any time may order registration to be cancelled against all or part of the land on terms for security or otherwise as may be just. [Note: see also *Family Relations Act*, sections 49 and 64. and *Land Title Act*, sections 205 to 212.]

(5) An order of the court for alimony, maintenance or periodic payments made in a matrimonial cause, with or without costs, may be enforced by the Provincial Court as if it were a maintenance order within the meaning of the *Family Relations Act*. [Note: see also *Family Relations Act*, sections 49 and 64. and *Land Title Act*, sections 205 to 212.]

RS1960-374-60, 1966-49-5, 1968-12-4, 1972-20-61(5), 64, 1975-57-49, 1976-33-137, 1978-20-12, 89, 90, 1978-25-332, 334

Court order enforcement

45. Section 76 of the *Court Order Enforcement Act* does not apply to the registration of an order for alimony, maintenance, periodic payment or costs related to it.

RS1960-374-61, 1962-61-6, 1964-56-5, 1976-33-138

Issues may be submitted to jury

46. Nothing in an Act or the rules takes away or prejudices the right of a party to an action to have the issues for trial by jury submitted and left by the judge to the jury before whom they come for trial, with a proper and complete direction to the jury on the law and the evidence applicable to the issues. The right may be enforced by appeal, under the *Court of Appeal Act*, this Act, or the rules, without exception having been

taken at trial. In the event of a new trial being granted on grounds of objection not taken at the trial, the costs of the appeal, unless the Court of Appeal orders otherwise, shall be paid by the appellant, and the costs of the abortive trial are in the discretion of the court.

RS1960-374-62.

References

47. (1) Subject to the rules and to any right to have a particular proceeding tried by a jury, the court may refer a question arising in a proceeding, other than a criminal proceeding, for inquiry or report to the Provincial Court, a district registrar, master or special referee.

(2) The report under subsection (1) may be adopted, wholly or in part, by the court, and if adopted may be enforced as an order of the court.

(3) Proceedings before the Provincial Court, a district registrar, master or referee on a reference, and the report and the powers of the court on a report shall, where applicable and as nearly as possible, conform to and be exercised in accordance with the rules.

(4) Notwithstanding that the question was not referred to the Provincial Court, this section does not preclude the court from

(a) receiving in evidence and considering a report prepared by the Provincial Court on the question; or

(b) adopting, in whole or in part, the recommendations of the Provincial Court on the question.

(5) Subsection (4) applies to the South Fraser Judicial District of the Provincial Court. *[Note: the amendments in 1974 apply only in the South Fraser Judicial District of the Provincial Court. The amendments are: references to the Provincial Court in section 47 (1) to (3); the words "where applicable and" in subsection (3); and the addition of section 47 (4). The application to South Fraser was made by proclamation published as B.C. Reg. 340/74 and is preserved by 1978-20-83 (1). The power to extend to other parts of the Province has been repealed by 1978-20-89, brought into force March 31/79 by B.C. Reg. 157/79. Subsection (3) was re-enacted in 1976.]*

RS1960-374-63; 1966-49-6; 1974-99-6; 1976-33-139; 1978-20-83(1),89,90.

Witness to be examined orally

48. Witnesses in a proceeding before the court, a district registrar, master or special referee, shall give their testimony orally on oath, and be subject to examination by counsel in the presence of the court, registrar, master or referee, unless it is otherwise ordered by the court on special grounds, or with the consent of the parties in the proceeding to which the testimony relates.

RS1960-374-64; 1976-33-140.

Continued presence not required

49. In a proceeding before a district registrar, master or special referee where the evidence is taken down by an official reporter, the registrar, master or referee shall attend and administer the necessary oath, and afterwards the taking of the testimony and the proceeding shall continue to be a judicial proceeding, notwithstanding the absence of the registrar, master or referee.

RS1960-374-65; 1976-33-141.

Act does not affect rules of evidence

50. This Act or the rules, except for the power of the court for special reasons to allow depositions or affidavits to be read, does not affect the mode of giving evidence by oral examination of witnesses in trials by jury or before a judge without a jury, the rules of evidence, or the law relating to juries.

RS1960-374-66.

Official reporters

51. (1) Official reporters to the court may be appointed under the *Public Service Act* and their remuneration may consist of salary or fees.

(2) The Lieutenant Governor in Council may, by order, make rules and regulations for the assignment of reporters to judicial districts, the reporting of proceedings, transcripts, fees for copies, salaries and generally for all matters connected with the powers and duties of appointed reporters.

RS1960-374-67.

Reporter's oath

52. Each official reporter appointed under section 51, and each deputy official reporter, is an officer of the court, and shall take and shall file a record of the taking in the court, the following oath:

I shall faithfully and accurately, and to the best of my skill and ability, report in shorthand or by stenotype or by sound recording apparatus, evidence given on examination and at a proceeding and everything said by counsel and the judge during a proceeding, in which it is my duty to act as a reporter, and I shall transcribe or have transcribed my notes, should that be required, so help me God.

RS1960-374-68.

Duties of reporters

53. An official reporter, or a person appointed a reporter to the court, is required to report accurately in shorthand, by stenotype or by sound recording apparatus, evidence given on examination and at any proceeding and everything said by counsel and the judge during a proceeding except the addresses of counsel to the judge or jury. At the request of the judge or of any counsel the reporter shall also report the addresses of counsel to the judge or jury.

RS1960-374-69; 1974-94-3; 1976-33-142.

Attorney General may direct reporter's duties

54. The Attorney General may direct which civil and criminal trials are to be attended by, and what other work is to be done by, an official reporter.

RS1960-374-70.

Reading of notes during trial

55. During a trial or hearing a reporter employed under this Act shall read his notes at the oral request made at any time during the trial or hearing by a party.

RS1960-374-71.

On appeal, notes deemed accurate

56. On an appeal, rehearing, motion for new trial or a proceeding in review of any matter that has been reported by an official reporter, regard shall be had to the

extension and transcription of the notes, certified under this Act. For the appeal, rehearing, motion or proceeding in review, the notes are deemed an accurate record of the proceeding purported to have been reported.

RS1960-374-73.

Costs of reporter

57. The costs of a reporter employed under this Act shall be paid and apportioned between the parties in the manner the court sees fit, and in default of apportionment shall be taxed to the successful party as costs in the cause.

RS1960-374-74.

Extension or shortening time

58. The court may extend or shorten the time for doing any act or taking any proceeding provided for in this Act, notwithstanding the expiration of the prescribed time.

RS1960-374-75; 1976-33-143.

Tariff of fees

59. The Lieutenant Governor in Council may make a tariff of Crown fees in the court, and generally has the power and authority exercised by the judges of the court in relation to the regulation of fees and costs in the court.

RS1960-374-76(1).

Fees are part of general revenue

60. All fees received by any court, except as provided by any other Act, shall be paid over and accounted for as part of the general revenue of the Province.

RS1960-374-77.

Petitions and applications

61. (1) Where an enactment authorizes a petition or application to the court or to a judge by a particular mode, the petition or application shall be by originating application or notice of motion as provided in the rules.

(2) Subsection (1) does not apply where a particular mode of petition or application is required by an Act of Canada.

1976-33-144.

Rules of court

62. The Lieutenant Governor in Council may, by order, make rules of court not inconsistent with this Act, to carry this Act into effect, and in particular for regulating

- (a) the sittings of the court and the vacations of the court and its offices;
- (b) the pleading, practice and procedure in the court, including all matters connected with writs, forms of proceedings, parties to proceedings, evidence, mode and place of trial and for the reporting by an official reporter of the evidence and the orders of the court;
- (c) generally, the practice or procedure of the court, the duties of the officers of the court or relating to the conduct of its business, for which provision is not expressly made by this Act;
- (d) proceedings in chambers;

- (e) anything under any Act that may be prescribed, regulated or done by the rules,
- (f) the sittings of the judges on circuit and the conduct of business on circuit

RS1960 374 79 1976 33 145

Costs not recoverable in certain cases

63. (1) In a proceeding, a plaintiff who recovers a sum in the jurisdiction conferred on the Provincial Court under the *Small Claim Act*, is not entitled to costs, other than disbursements, unless the court certifies on the record that there was sufficient reason for bringing the proceeding in the court, or unless the court, by order, allows costs

(2) Subject to subsection (1), the court may, in its discretion, award or refuse to award costs to a party in civil proceedings in the court

1969 38 14 1976 33 146

Service of process on Sunday

64. (1) A person shall not serve or execute on Sunday a writ, process, warrant or order, except in habeas corpus proceedings, a writ of attachment or a special order for the detention of a defendant

(2) Service of a writ, process, warrant or order on a Sunday is void and a person serving or executing it is as liable to the party grieved as if he had acted without a writ, process, warrant or order at all

RS1960 374 81 1976 33 147

Wigs

65. Wearing or using official wigs is prohibited in any court in the Province

RS1960 374 82

Criminal matters

66. This Act does not affect practice or procedure in criminal matters

RS1960 11 9

Vexatious proceedings

67. If, on application by any person, the court is satisfied that a person has habitually, persistently and without reasonable grounds instituted vexatious legal proceedings in the Supreme Court or in any other court against the same or different persons, the court may, after hearing that person or giving him an opportunity to be heard, order that no legal proceedings shall, without leave of the court, be instituted by him in any court

1967 53 3 1976 33 148