

TAB 19

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Important Information

(Includes details about the availability of printed and electronic versions of the Statutes.)

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Main Site

How current is this statute?

Responsible Department

RSNL1990 CHAPTER J-4

JUDICATURE ACT

Amended:

1991 c39; 1993 c41; 1993 c53 s17; 1995 c6; 1996 cJ-1.1 s194;
1997 c43 s1; 1998 c6 s16; 1999 c37; 2001 cN-3.1 s2; 2001 c42 s24; 2004 c36 s20; 2006 c40 s21;
2008 c28; 2009 c16; 2010 c29;
2011 cA-4.01 s37; 2013 c16; [2016 c37](#) (not in force-not included)

CHAPTER J-4

**AN ACT RESPECTING THE SUPREME COURT AND PROCEDURE IN
THAT COURT**

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Short title

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

1986 c42 s1

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Definitions

2. In this Act

- (a) "affidavit" includes a solemn declaration, or statutory declaration, and an agreed statement of facts;
- (b) [Rep. by 2013 c16 s1]
- (b.1) "Chief Executive Officer" means the Chief Executive Officer appointed under section 59.1;
- (c) "court" means,
 - (i) in the Court of Appeal, the court or a judge or the judges of the court, whether sitting in court or chambers, and
 - (ii) in the Trial Division, the court or a judge or the judges of the court, whether sitting in court or chambers;
- (d) "court of appeal" means the appeal division of the Supreme Court of Newfoundland and Labrador ;
- (e) "decision" means the reasons given by the court for its judgment or other order;
- (f) "defendant" means a person served with an originating document, or served with notice of or entitled to attend a proceeding but does not include a respondent;
- (g) "judge" means a judge of the Court of Appeal or the Trial Division as the circumstances may require and includes a judge sitting in chambers;
- (h) "judicial centre" means a judicial centre of the Trial Division continued under this Act;

Jurisdiction generally

6. For the hearing and determination of a proceeding within its jurisdiction, and the amendment, execution and enforcement of an order, and for the purpose of every other authority expressly or implicitly given to the Court of Appeal, by this Act or another Act of the Legislature or the Parliament of Canada, the Court of Appeal has the power, authority and jurisdiction vested in the Court of Appeal of the Supreme Court of Newfoundland and Labrador as it existed before September 2, 1986.

1986 c42 s6; [2001 cN-3.1 s2](#)

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Quorum

7. (1) Three of the judges of the Court of Appeal constitute a quorum of the court for the purpose of hearing an appeal at a sitting of the court.

(2) The decision of the majority of the Court of Appeal sitting as a quorum is the order of the court.

(3) The death, withdrawal, resignation, removal or inability to act of a judge after the beginning of a hearing shall not affect the jurisdiction of the court if the appeal or application is finally disposed of by not fewer than 2 judges, in which case their decision shall have the same effect as if made by the whole court.

(4) It is not necessary for all the judges who have heard the argument in a case to be present in order to constitute the court for making the decision in that case; and where a judge who has heard the argument is not present at the time when the decision is delivered, the decision may be announced or read by 1 of the other judges, and shall have the same effect as if the judge were present.

1986 c42 s7

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Judge ceases to hold office

8. Notwithstanding section 7, where the argument in a proceeding has been heard before a judge as 1 of a panel of judges and the judge is appointed to another court or for another reason ceases to hold office, that judge may within 6 months of ceasing to hold office make a decision or an order in that proceeding.

1986 c42 s8

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Transfer of judge

9. Where a judge of the Court of Appeal is unable to sit or take part in consequence of section 11, or from illness or other reason, or in case of a vacancy in the court, the Chief Justice of the Trial Division shall upon the request of the Chief Justice of Newfoundland and Labrador appoint a judge of the Trial Division to sit and act in the place of the other judge, or in the place of a judge whose office has become vacant, and it is the duty of a judge so appointed to attend and, while so sitting and acting, that judge has all the jurisdiction, power and authority of a judge of the Court of Appeal.

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Single judge

10. In a proceeding pending in the Court of Appeal, an application incidental to it, not including the final determination of the appeal, may be heard and disposed of by a single judge of the court.

1986 c42 s10

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Ineligibility of judge

11. A judge is ineligible to sit on the hearing of an appeal from a decision or order made by that judge.

1986 c42 s11

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Title of documents

12. All documents, affidavits, notices and other papers and documents issued out of, or used in, the Court of Appeal are to be entitled "In the Supreme Court of Newfoundland and Labrador, Court of Appeal".

1986 c42 s12; [2001 cN-3.1 s2](#)

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Reference

13. The Lieutenant-Governor in Council may refer a matter to the Court of Appeal and upon the reference the Court of Appeal shall hear and determine that matter.

1986 c42 s13

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Certification of opinion

14. (1) The Court of Appeal shall certify its opinion on a reference to the Lieutenant-Governor in Council together with its decision.

(2) The decision given under subsection (1) shall be given in the same manner as if it were an order of the court given in an ordinary proceeding.

(3) A judge who differs from the decision of the majority on a reference shall also certify his or her decision.

(4) The decision of the Court of Appeal on a reference is considered to be an order of the Court of Appeal and an appeal lies from a decision on a reference as from a judgment in a proceeding.

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Notice to Attorneys General

15. Where a reference relates to the constitutionality of an Act or a provision of an Act, the Attorney General of Canada and the Attorney General of each province shall be notified of the hearing in order that they may be heard.

1986 c42 s15

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Reference under agreement

16. (1) Where a reference relates to matters arising under an agreement entered into between the Government of Canada and the government of the province that provides for a reference to the Court of Appeal, the Attorney General of Canada and the Attorney General of another province that has entered into a similar agreement may appear before the Court of Appeal and be heard as a party to the hearing of the reference.

(2) The form, terms and other matters relating to a reference under subsection (1) shall be as set out in the agreement, and in the absence of such provision shall be as the parties to the agreement agree.

(3) If the parties have not provided for the form, terms and other matters relating to the reference, or have not agreed to them, they shall be determined by the Chief Justice of Newfoundland and Labrador, or in the absence or a vacancy in that position, by the senior judge of the Court of Appeal.

1986 c42 s16; [2001 cN-3.1 s2](#)

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Notice to interested persons

17. The Court of Appeal may direct that a person interested, or a person representing a class that is interested, shall be notified of a reference and upon the notification the person shall be heard on the hearing of the reference.

1986 c42 s17

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Appointment of counsel

18. Where a person or class of persons affected by a reference are not represented by counsel, the court may appoint counsel to represent the person or class and the reasonable expenses occasioned shall be paid by the Minister of Finance out of the Consolidated Revenue Fund.

1986 c42 s18

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Evidence

19. The Court of Appeal may have the evidence taken that it requires upon a matter raised in a reference if provision is made in the reference for the taking of the evidence.

1986 c42 s19

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Procedure

20. The Court of Appeal may determine the procedure in a reference but in the absence of a determination the procedure shall be governed by the rules of procedure of the Supreme Court of Canada upon references to that court.

1986 c42 s20

PART II THE TRIAL DIVISION

Division 1 General Provisions

[2009 c16 s1](#)

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Trial Division

20.1 (1) The Trial Division as it existed prior to the commencement of this section and the Unified Family Court, continued under the *Unified Family Court Act* as a division of the Supreme Court of Newfoundland and Labrador, are continued as a division of the Supreme Court of Newfoundland and Labrador to be known as the Supreme Court of Newfoundland and Labrador, Trial Division.

(2) The Trial Division referred to in subsection (1) has all the inherent powers of a superior court at common law.

[2009 c16 s2](#)

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Trial Division

21. (1) The Trial Division consists of 21 judges, one of whom shall be a chief justice, who shall be called the Chief Justice of the Trial Division, and 20 other judges who shall be called judges of the Trial Division.

(2) The Trial Division shall be composed of 2 divisions called the General Division and the Family Division.

(3) A judge who is not assigned to the Family Division under subsection 43.6(1) shall be considered to be assigned to the General Division.

(4) The Chief Justice of the Trial Division may hear and determine proceedings brought in the General Division and the Family Division and for that purpose the chief justice is a judge of the General Division and the Family Division.