

Family Court Act

CHAPTER 159

OF THE

REVISED STATUTES, 1989

amended 1992, c. 16, ss. 13(1), (3)-(5), 14, 15; 1994-95, c. 7, ss. 23, 150; 1994-95, c. 6, s. 62; 1996, c. 23, s. 9; 2000, c. 28, ss. 17, 18

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An Act to Provide for the Family Court

Short title

1 This Act may be cited as the *Family Court Act*. R.S., c. 159, s. 1.

Interpretation

2 In this Act, "Minister" means the Minister of Community Services. R.S., c. 159, s. 2.

Administration

3 This Act shall be administered by the Minister. R.S., c. 159, s. 3.

Family Court for the Province of Nova Scotia

4 There is hereby established for the Province a court of record to be known as the Family Court for the Province of Nova Scotia and the judges thereof are judges for the whole Province. R.S., c. 159, s. 4.

Judges

5 (1) The Governor in Council may appoint one or more judges of the Family Court.

(2) No person shall be appointed as a judge of the Family Court unless he is a barrister of the Supreme Court of at least five years standing.

(3) The Governor in Council may designate a judge of the Family Court as Chief Judge of the Family Court who shall hold the office of Chief Judge for such term as the Governor in Council may determine.

(3A) The Chief Judge is responsible for the administration of the judicial functions of the Family Court, including, without limiting the generality of the foregoing, the scheduling of the sittings of the Family Court and the assignment of judicial duties.

(3B) The Governor in Council may appoint, on the recommendation of the Minister, an Associate Chief Judge who shall hold the office of Associate Chief Judge for such term as the Governor in Council may determine.

(3C) The Associate Chief Judge has and shall exercise such powers and shall perform such duties as are assigned to the Associate Chief Judge by the Chief Judge.

(4) The Governor in Council may fix and determine the salary or rate of remuneration of a judge of the Family Court and of the Chief Judge.

(5) With respect to matters assigned to the Family Court pursuant to Section 7, a judge of the Court shall have and may exercise the jurisdiction, powers and authority of a judge of the provincial court.

(6) The Chief Judge shall have the powers and perform the duties prescribed in the regulations.

(7) The Chief Judge may suspend a judge of the Family Court upon such terms and conditions as the Chief Judge may determine where the Chief Judge believes immediate action is necessary.

(8) Within ten days of suspending a judge of the Family Court, the Chief Judge shall request the Judicial Council to investigate the circumstances giving rise to the suspension and to take the appropriate action.

(9) The Minister may designate a judge of the Family Court to act in the place of the Chief Judge for all purposes during the illness, absence or inability to act of the Chief Judge and the Associate Chief Judge.

(9A) The Minister may designate a judge to act in the place of the Associate Chief Judge for all purposes during the illness, absence or inability to act of the Associate Chief Judge or while the Associate Chief Judge is acting in the place of the Chief Judge.

(9B) Except where otherwise provided, all judges of the Family Court have in all respects equal power, authority and jurisdiction.

(10) Before entering on the duties of office, a judge of the Family Court shall take an oath in Form 1 in the Schedule to this Act and the Chief Judge shall take an oath in Form 2 in the Schedule.

(11) The oath shall be taken before a judge of the Court of Appeal, a judge of the Supreme Court or the Chief Judge of the Family Court.

(12) The judge of the Family Court or the Chief Judge shall cause the oath to be transmitted to the Minister forthwith after it is taken.

(13) Subject to subsection (14), a judge of the Family Court shall hold office during good behaviour.

(14) *repealed 2000, c. 28, s. 17.*

R.S., c. 159, s. 5; 1992, c. 16, s. 13; 2000, c. 28, s. 17.

Appointment of retired judges

5A (1) Where it appears to the Chief Judge of the Family Court that it is in the public interest, the Chief Judge may, in accordance with regulations made pursuant to subsection (4), appoint retired judges of the Family Court to act as judges of the Family Court.

(2) Upon appointment, a judge appointed pursuant to subsection (1) has all the power, authority and jurisdiction necessary to carry out the duties assigned to that judge.

(3) A judge appointed pursuant to subsection (1) is not an employee within the meaning of the *Public Service Superannuation Act*.

(4) The Governor in Council, on the recommendation of the Minister, may make regulations determining the terms and conditions of the appointment of judges pursuant to subsection (1).

(5) The exercise by the Governor in Council of the authority contained in subsection (4) shall be regulations within the meaning of the *Regulations Act*. 1992, c. 16, s. 14.

Immunity from liability

5B A judge of the Family Court has the same immunity from liability as a judge of the Supreme Court. 1992, c. 16, s. 14.

Family Court jurisdiction

6 The Family Court has jurisdiction over matters conferred on it pursuant to this Act or any enactment. R.S., c. 159, s. 6.

Jurisdiction

7 (1) For the purpose of subsection (2) and clause (c) of subsection (3), "child" means a person under the age of majority.

(2) For the purpose of clause (c) of subsection (3), "husband and wife" includes a man and woman who, although not married to each other, have lived together as husband and wife for a period of not less than one year and "parent and child" includes such a man or woman and their child.

(3) Notwithstanding any other Act, the Governor in Council may by order confer on the Family Court exclusive original jurisdiction or concurrent or general jurisdiction over any or all charges, offences and matters arising from any one or more of the following Acts or subjects:

(a) the *Labour Standards Code* in so far as it relates to a prosecution for an offence respecting the employment of children;

(b) Sections 172, 215 and 740 of the *Criminal Code* (Canada);

(c) Sections 266, 810 and 811 of the *Criminal Code* (Canada), where the parties are husband and wife or parent and child;

(d) such other Acts or matters as the Governor in Council may from time to time deem appropriate. R.S., c. 159, s. 7.

Reservation of judgment

8 Upon the hearing of any proceeding, the presiding judge of the Family Court may, of his own motion or by consent of the parties, reserve judgment until a future day, not later than six months from the day of reserving judgment. R.S., c. 159, s. 8.

Duties of officers

9 (1) *repealed 1996, c. 23, s. 9.*

(2) It shall be the duty of peace officers to serve any process issued out of the Family Court, to execute any order issued by any judge of the Court, to convey a young offender to such place or places as may be directed in such orders and to assist the Court and the officers of the Court in carrying out the *Young Offenders Act* (Canada) and any other matters or enactment for which the Court is responsible.

(3) *repealed 1996, c. 23, s. 9.*

R.S., c. 159, s. 9; 1996, c. 23, s. 9.

Procedure and publicity

10 (1) In relation to charges, offences or matters arising from an Act of the Province, where no other procedure is prescribed in the Act, the *Summary Proceedings Act* shall apply.

(2) A judge of the Family Court shall as far as possible guard against any publicity in proceedings in the Court.

(3) The place in which proceedings in the Family Court take place shall not be deemed to be a public court and no person shall be permitted to be present other than the officers of the Court, the parties, their counsel, witnesses and such other persons as the presiding judge of the Court may require or permit to be present. R.S., c. 159, s. 10.

Family Court Rules Committee

11 (1) The Minister may establish a Family Court Rules Committee which shall be composed of such members as are appointed by the Minister who shall designate one of the members as chairman.

(2) The Family Court Rules Committee may make rules

(a) regulating the pleadings, practice and procedure of the Family Court;

(b) adopting rules of the Supreme Court, with such changes as are advisable, in relation to remedies in proceedings in the Family Court;

(c) respecting costs in respect of proceedings in the Family Court;

(d) providing for service out of the jurisdiction;

(e) regulating the form and execution of any process of the Court;

(f) prescribing and regulating the proceedings under any enactment that confers jurisdiction upon the Family Court or a judge thereof.

(3) Where provisions in respect of practice or procedure are contained in any Act, rules may be made adding to or modifying such provisions to an extent that is considered necessary for the equitable dispatch of the business of the Family Court unless that power is expressly excluded. R.S., c. 159, s. 11.

Approval and publication of rules

12 The rules made by the Family Court Rules Committee pursuant to Section 11 shall be of no force and effect unless they are approved by the Governor in Council upon the

recommendation of the Minister and published in the Royal Gazette and shall be effective of and from the date of such publication. R.S., c. 159, s. 12.

Awarding of costs

13 The Family Court is hereby granted the authority to award costs in any matter or proceeding in which it has jurisdiction and its authority to award costs is not limited by reason of the fact that the enactment governing the proceeding does not grant to the Court authority to award costs. R.S., c. 159, s. 13.

Regulations

14 (1) The Governor in Council may make regulations for the better carrying out of the purposes and provisions of this Act.

(2) *repealed 1992, c. 16, s. 15.*

(3) The exercise by the Governor in Council of the authority contained in this Section shall be regulations within the meaning of the *Regulations Act*. R.S., c. 159, s. 14; 1992, c. 16, s. 15.

Sittings of Court

15 (1) The Minister may by order provide for night sittings of the Family Court established under this Act and may direct a judge of the Court to hold sittings of the Court at such times and places as specified in the order.

(2) The Minister may make general regulations respecting the holding of night sittings of the Family Court. R.S., c. 159, s. 15.

16 *repealed 1994-95, c. 7, s. 23.*

Expenses of Court

17 Expenses of the Family Court that are approved by the Minister shall be paid out of the Consolidated Fund. R.S., c. 159, s. 17.

18 *repealed 1994-95, c. 6, s. 62.*

19 *repealed 1994-95, c. 6, s. 62.*

20 *repealed 2000, c. 28, s. 18.*

21 *repealed 2000, c. 28, s. 18.*

SCHEDULE

FORM 1

I, *A.B.*, of in the County of and Province of Nova Scotia, make oath and say that I will well and truly serve our Sovereign Lady the Queen in the office of judge of the Family Court, and I will do right to all manner of people after the laws of the Province, without fear, favour, affection or ill will.

Sworn at,

in the County of

and Province of Nova Scotia,

this day of,

19., before me

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FORM 2

I, *A.B.*, of, in the County of and Province of Nova Scotia, make oath and say that I will well and truly serve our Sovereign Lady the Queen in the office of Chief Judge of the Family Court, and I will do right to all manner of people after the laws of the Province, without fear, favour, affection or ill will.

Sworn at,

in the County of

and Province of Nova Scotia,

this day of,

19., before me

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R.S., c. 159, Sch.