

The Jury Act, 1998

being

Chapter J-4.2 of the *Statutes of Saskatchewan, 1998* (effective January 21, 2000) as amended by the *Statutes of Saskatchewan*, 2005, c.18; and 2007, c.L-11.3; 2012, c.C-43.101; 2018, c.43; and 2020, c.26.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER J-4.2

An Act respecting Jurors and Juries

PART I

Short Title, Interpretation and Application of Act

Short title

1 This Act may be cited as *The Jury Act, 1998*.

Definitions

2 In this Act:

“**Application for Relief from Jury Service**” means an Application for Relief from Jury Service in the form required by the Inspector of Court Offices; (« *demande de dispense des fonctions de juré* »)

“**court**” means the Court of Queen’s Bench; (« *tribunal* »)

“**geographical area**” means, subject to the regulations, the geographical area from which persons are to be selected as prospective jurors for the purposes of a proceeding, as that area is determined by the Inspector of Court Offices; (« *territoire* »)

“**Inspector of Court Offices**” means the Inspector of Court Offices appointed pursuant to *The Court Officials Act, 2012*; (« *inspecteur des greffes* »)

“**judge**” means a judge of the court; (« *juge* »)

“**Juror Summons and Information Return**” means a Juror Summons and Information Return in the form required by the Inspector of Court Offices; (« *convocation de juré et déclaration du candidat-juré* »)

“**local registrar**” means a local registrar of the court; (« *registraire local* »)

“**prescribed**” means prescribed in the regulations; (« *réglementaire* »)

“**Reply to Application for Relief from Jury Service**” means a Reply to Application for Relief from Jury Service in the form required by the Inspector of Court Offices; (« *réponse à la demande de dispense des fonctions de juré* »)

“**sheriff**” means a sheriff appointed by the Inspector of Court Offices pursuant to *The Court Officials Act, 2012*. (« *shérif* »).

2020, c 26, s.2.

Application of Act

3(1) Subject to subsection (2) and notwithstanding any other Act, this Act applies in all circumstances to the selection and summoning of jurors in civil and criminal cases.

(2) This Act does not apply to a trial held in accordance with *The Legislative Assembly Act, 2007*.

1998, c.J-4.2, s.3; 2005, c.18, s.2; 2007, c.L-11.3, s.97; 2018, c 43, s.11.

Application in criminal cases

4 This Act applies to the trial of criminal cases by juries, except where it is inconsistent with the *Criminal Code* or with any other Act of the Parliament of Canada respecting criminal procedure.

1998, c.J-4.2, s.4.

PART II**Selection and Summoning of Jurors****Qualifications of jurors**

5 Every resident of Saskatchewan who is a Canadian citizen and who is 18 years of age or older is qualified to serve as a juror.

2020, c 26, s.5.

Exclusions

6 The following persons are excluded from serving as jurors:

- (a) members of the Privy Council, the Senate and the House of Commons of Canada;
- (b) members and officers of the Legislative Assembly;
- (c) persons who are or who have been:
 - (i) judges;
 - (ii) lawyers, whether or not in actual practice;
 - (iii) members of any police service; or
 - (iv) justices of the peace;
- (d) other persons who are engaged in the administration of justice, including:
 - (i) officials or employees of the Ministry of Justice; and
 - (ii) officials or employees of the Department of Justice (Canada) or the Department of the Solicitor General (Canada);
- (e) spouses of persons mentioned in clauses (a) to (d);
- (f) chiefs and council members of Indian bands;
- (g) reeves, councillors and mayors;
- (h) members of:
 - (i) boards of education as defined in *The Education Act, 1995*; or
 - (ii) the conseil scolaire as defined in *The Education Act, 1995*;
- (i) persons who are or who have been coroners;
- (j) persons who are exempt from jury service pursuant to section 268 of the *National Defence Act* (Canada);

- (k) persons who are legally confined in an institution;
- (l) persons who have been convicted of an offence for which they were sentenced to a term of imprisonment of 2 years or more and for which no pardon or record suspension is in effect;
- (m) persons with respect to whom a certificate of incapacity has been issued;
- (n) persons who are unable to understand the language in which the trial is to be conducted.

2020, c 26, s.5.

Selection of prospective jurors

7(1) In this section, “**register**” means the register maintained for the purposes of subsection 11(1) of *The Saskatchewan Medical Care Insurance Act*.

(2) At least 8 weeks before the opening of the court sitting for which a jury is to be summoned:

- (a) the sheriff shall determine the number of persons that are required as prospective jurors for the next sitting of the court in the geographical area; and
- (b) the Inspector of Court Offices shall requisition from the person in charge of the register the number of names and addresses of persons residing in the geographical area that the sheriff has determined is required pursuant to clause (a).

(3) Notwithstanding any other Act, on receipt of a requisition from the Inspector of Court Offices pursuant to clause (2)(b), the person in charge of the register shall:

- (a) randomly select the requisitioned number of names and addresses of persons residing in the geographical area; and
- (b) forward those names and addresses to the Inspector of Court Offices.

(4) No information from the register other than the requisitioned names and addresses is to be forwarded to the Inspector of Court Offices.

(5) On receipt of the names and addresses pursuant to subsection (3) by the Inspector of Court Offices, the sheriff shall serve each person named at the address indicated with the following documents:

- (a) a Juror Summons and Information Return;
- (b) an Application for Relief from Jury Service.

2020, c 26, s.5.

Trial not in English

8 Notwithstanding section 7, if a trial is to be held in a language other than English, the sheriff may obtain the names and addresses of prospective jurors from any prescribed sources.

2020, c 26, s.5.

Obligations of person served

9 Every person who is served with a Juror Summons and Information Return in accordance with subsection 7(5) shall:

- (a) accurately and truthfully complete the document; and
- (b) mail or deliver a copy of the completed document, in paper or electronic form, to the sheriff:
 - (i) within 5 days after receiving the document; or
 - (ii) within any other time that the sheriff may direct.

2020, c 26, s.5.

Relief from jury service

10(1) In this section, “**business day**” means a day other than a Saturday, Sunday or holiday.

(2) A person who is summoned to serve as a juror and who wishes to seek relief from jury service must submit an Application for Relief from Jury Service, in paper or electronic form, to the sheriff at least 3 business days before the opening of the court sitting for which the person is summoned.

(3) On an application made pursuant to subsection (2), the sheriff shall relieve the person from jury service before the opening of the court sitting for which the person is summoned if the sheriff is satisfied that the person:

- (a) is one whose attendance would result in serious hardship or loss to that person, to others or to the general public;
- (b) is suffering from a mental or physical illness that is likely to persist and to render the person incapable of serving as a juror at the court sitting for which the person is summoned;
- (c) is a practising member of a religion or religious order whose beliefs are incompatible with service as a juror;
- (d) is 65 years of age or older;
- (e) has served as a juror in the preceding 2 years;
- (f) is incapable of discharging the duties of a juror; or
- (g) is a person mentioned in section 6.

(4) A person who is summoned to serve as a juror may apply to a judge for relief from jury service if:

- (a) on an application made pursuant to subsection (2), the sheriff refuses to grant the application for relief from jury service; or
- (b) the person is seeking relief from jury service less than 3 business days before the opening of the court sitting for which the person is summoned.

(5) On an application made pursuant to clause (4)(a) or (b), the judge shall relieve the person from jury service before the opening of the court sitting for which the person is summoned if the judge is satisfied that one of the conditions mentioned in clauses (3)(a) to (g) exists with respect to that person.

(6) No appeal lies from a judge's refusal of an application made pursuant to clause (4)(a) or (b).

(7) The sheriff or the judge may require any evidence that the sheriff or the judge considers appropriate to support an application made pursuant to this section.

(8) An application made pursuant to this section may be made by or on behalf of the person who is summoned to serve as a juror.

(9) On the day of jury selection, every person who has been summoned to serve as a juror for that court sitting and who has not been granted relief from jury service must attend court at the date and time indicated on the Juror Summons and Information Return.

2020, c 26, s.5.

Reply to application for relief from jury service

11(1) On receipt by the sheriff of an Application for Relief from Jury Service pursuant to subsection 10(2), the sheriff shall:

- (a) process the application; and
- (b) send a Reply to Application for Relief from Jury Service to the applicant at the indicated address.

(2) If the applicant submits an Application for Relief from Jury Service to the sheriff in electronic form and provides an electronic return address, the sheriff may send the Reply to Application for Relief from Jury Service to the applicant in electronic form at the indicated electronic return address.

2020, c 26, s.5.

Jury list

12(1) Before the opening of the court sitting for which a jury is summoned, the sheriff shall:

- (a) prepare a jury list showing the following:
 - (i) the name, address and juror number of each person to whom a Juror Summons and Information Return was sent;

- (ii) the date of birth of each person who provided that information on the Juror Summons and Information Return;
 - (iii) the disposition of each Juror Summons and Information Return; and
 - (b) file the jury list with the local registrar.
- (2) Subject to subsection (3) or any order of the court, no person shall obtain or make a copy of a jury list prepared and filed in accordance with subsection (1).
- (3) The local registrar may provide a copy of the jury list prepared and filed in accordance with subsection (1) to a party to a proceeding on the jury list who files a request with the local registrar.
- (4) A party who receives a copy of the jury list pursuant to subsection (3) shall comply with any term or condition that the court may impose on the party with respect to the use of the jury list.

2020, c 26, s.5.

Documents available for inspection

- 13(1) Before the opening of the court sitting for which a jury is summoned, the sheriff shall make the following completed documents available for inspection by any party to a proceeding on the jury list who files a request with the local registrar:
- (a) every Juror Summons and Information Return;
 - (b) every Application for Relief from Jury Service;
 - (c) every Reply to Application for Relief from Jury Service.
- (2) Subject to subsection (3) or any order of the court, no person shall obtain or make a copy of the documents mentioned in subsection (1).
- (3) A party to a proceeding on the jury list who files a request with the local registrar may examine the documents mentioned in subsection (1).
- (4) A party who is authorized to examine the documents mentioned in subsection (1) shall comply with any term or condition that the court may impose on the party with respect to the use of those documents.

2020, c 26, s.5.

Amounts payable

- 14(1) Each juror is entitled to a fee in the prescribed amount.
- (2) Jurors and prospective jurors are entitled to reimbursement for prescribed expenses in the prescribed amounts.
- (3) Except where otherwise provided in this Act, the Ministry of Justice shall pay the fees and expenses of jurors and prospective jurors.

2020, c 26, s.5.

PART III
Juries in Civil Proceedings

Application of Part

15 This Part applies to juries in civil proceedings.

1998, c.J-4.2, s.15.

Jury in civil proceedings

16 In civil proceedings:

- (a) a jury consists of six jurors;
- (b) any five jurors may return a verdict or answer a question put to the jury by the judge; and
- (c) a verdict or answer given by five jurors has the same effect as a verdict or answer given by six jurors.

1998, c.J-4.2, s.16.

Alternate juror

17(1) If the judge presiding at the trial considers it advisable in the interests of justice to have an alternate juror, the judge shall so order before the registrar begins to empanel the jury pursuant to Part IV.

(2) If the judge presiding at the trial considers it advisable in the interests of justice, before the registrar begins to empanel the jury pursuant to Part IV the judge may order that 7 jurors instead of 6 be sworn in in accordance with that Part.

(3) An alternate juror shall:

- (a) attend at the commencement of the presentation of the evidence on the merits; and
- (b) replace any absent juror if there is not a full jury present.

(4) An alternate juror who is not required as a substitute juror shall be excused.

(5) If one juror dies or, in the opinion of the judge presiding at the trial, becomes unable to continue to serve as a juror for any reason, the judge may direct that:

- (a) the trial shall proceed without that juror; or
- (b) the alternate juror, if any, shall replace that juror.

(6) If a trial proceeds in accordance with clause (5)(a) without an alternate juror, a verdict may be given by the remaining jurors if they are unanimous.

2020, c.26, s.6.

Right to jury

18(1) Any party may demand a jury in accordance with *The Queen's Bench Rules* in an action:

- (a) for libel, slander, malicious arrest, malicious prosecution or false imprisonment; or
- (b) where the amount claimed exceeds \$10,000.

(2) The party demanding a jury:

- (a) shall deposit with the local registrar in advance of the trial any sum that the local registrar considers sufficient for the fees and expenses of the jury for the estimated length of the trial; and
- (b) subject to subsection (3), is responsible for the full cost of the jury and is not entitled to recover any part of the cost of the jury from the opposing party in the event of success at trial.

(3) The judge presiding at the trial may make any order as between the parties regarding the cost of the jury that the judge considers appropriate where a party is successful in an action:

- (a) for libel, slander, malicious arrest, malicious prosecution or false imprisonment; or
- (b) with respect to personal injury or death where the amount claimed exceeds \$10,000.

1998, c.J-4.2, s.18.

Judge may direct trial by jury

19(1) Notwithstanding section 18, a judge, on application by a party to an action, may order that the action be tried by a jury where:

- (a) the ends of justice will be best served if findings of fact are made by representatives of the community; or
- (b) the outcome of the litigation is likely to affect a significant number of persons who are not party to the proceedings.

(2) Where an order is made pursuant to subsection (1), the judge may order that:

- (a) no deposit for the fees and expenses of the jury is required; and
- (b) no order as to the costs of the jury is to be made at trial.

(3) Where no order is made pursuant to subsection (2), section 18 applies with respect to the cost of the jury.

1998, c.J-4.2, s.19.

Other cases

20 Where the cost of a jury is not otherwise provided for in this Act, the judge presiding at the trial may make any order as between the parties with respect to that cost that the judge considers appropriate.

1998, c.J-4.2, s.20.

Cost of jury is debt due

21 Any amount by which the actual fees and expenses of the jury exceed the amount deposited with the local registrar pursuant to clause 18(2)(a) is a debt due and owing to the Crown in right of Saskatchewan and is recoverable, by action in a court of competent jurisdiction, from the party responsible for the fees and expenses of the jury.

1998, c.J-4.2, s.21.

Special or general verdict

22(1) Subject to subsection (2), a jury may give a special or a general verdict.

(2) A jury shall give a special verdict if directed to do so by a judge.

(3) This section does not apply to an action for libel.

1998, c.J-4.2, s.22.

Question of fact

23(1) A judge may direct a jury to answer a question of fact instead of giving a special or a general verdict.

(2) Where a judge directs a jury to answer a question of fact pursuant to subsection (1):

(a) the jury shall answer the question;

(b) the question and the answer constitute a special verdict; and

(c) the judge may direct judgment to be entered on the answer to the question.

(3) This section does not apply to an action for libel, slander, malicious arrest, malicious prosecution or false imprisonment.

1998, c.J-4.2, s.23.

PART IV

Empanelling the Jury at Trial

Empanelling the jury at trial

24(1) The sheriff shall:

(a) put on a separate card or paper the name, address and juror number of each qualified person summoned to attend as juror who has not been excluded or relieved from jury service;

(b) place the cards or papers prepared in accordance with clause (a) in a container provided for that purpose; and

(c) deliver the container described in clause (b) to the local registrar.

(2) If a jury is required for a trial or for the assessment of damages, the local registrar shall, in open court:

- (a) shake the container provided pursuant to clause (1)(c) so as to ensure that the cards or papers are mixed;
 - (b) draw cards or papers from the container, shaking the container after drawing each card or paper, until a sufficient number of jurors have been drawn who are:
 - (i) present; and
 - (ii) not subject to a successful challenge;
 - (c) swear in the jurors selected pursuant to clause (b) as the jury to try the issue or assess the damages; and
 - (d) return to the container provided pursuant to clause (1)(c) the cards or papers drawn of those persons not sworn in as jurors.
- (3) A judge may preside at the selection of a jury for a civil proceeding, whether or not the judge conducts the trial.
- (4) The jury, once selected and sworn in pursuant to subsection (2), is the jury to try the issue or assess the damages.

2020, c 26, s.9.

Jurors may be called more than once

25(1) The cards or papers of the jurors selected pursuant to subsection 24(2) are to be kept apart by themselves until the jury:

- (a) has given a verdict and the verdict has been recorded; or
 - (b) has been discharged by consent of the parties or by leave of the court.
- (2) After the jury has given a verdict and the verdict has been recorded, or after the jury has been discharged by consent of the parties or by leave of the court, the cards or papers are to be returned to the container kept by the local registrar:
- (a) to be mixed with the other cards or papers in the container; and
 - (b) to be subject to a possible further selection pursuant to subsection 24(2) until no further matters requiring the services of a jury remain to be heard at that sitting of the court.
- (3) Notwithstanding subsections (1) and (2), if a jury is selected for a civil proceeding and the jurors have been selected and sworn:
- (a) the sheriff shall return the cards or papers of the selected jurors to the container; and
 - (b) those persons again become part of the jury panel.
- (4) With the approval of the presiding judge, the sheriff may return the cards or papers of the selected jurors to the container, and those jurors may be sworn as often as occasion arises and an issue remains to be tried before a jury.

(5) With the consent of counsel for the parties and the presiding judge, all juries required for civil trials during a jury sitting may be selected at the commencement of the first civil or criminal trial for the sitting.

2020, c 26, s.9.

Electronic selection procedures

25.1(1) Notwithstanding any other provision of this Act but subject to the regulations made for the purposes of this section and any order of the court, the sheriff and the local registrar may use any electronic or other automated procedure to select juries for proceedings that will result in the random selection of jurors as is required by sections 24 and 25.

(2) The provisions of this Act and the regulations apply, with any necessary modification, if an electronic or other automated procedure is used pursuant to subsection (1) to select juries for proceedings.

2020, c 26, s.9.

Information to be destroyed

26 The cards or papers deposited in the container pursuant to subsection 24(1), or any equivalent electronic information prepared for the purposes of section 25.1, may be destroyed by the local registrar 30 days after the expiry of the applicable appeal period.

2020, c 26, s.9.

Peremptory challenges

27 Every party to a civil proceeding has the right to exercise four peremptory challenges.

2020, c 26, s.10.

Challenges for cause

28(1) Every party to a proceeding has the right to exercise any number of challenges for cause.

(2) No challenge for cause is allowed unless the person challenged is:

- (a) not qualified to serve as a juror pursuant to section 5;
- (b) excluded from serving as a juror pursuant to section 6;
- (c) incapable of discharging the duties of a juror; or
- (d) biased, or appears to be biased, as between the parties to the proceeding.

(3) The trial judge shall try the issue raised by a challenge for cause.

(4) If, in trying the issue pursuant to subsection (3), the trial judge finds that cause has been established, the person challenged is not permitted to serve as a juror in that proceeding.

2020, c 26, s.11.

Insufficient number of jurors

29 If the full number of jurors required for a trial cannot be provided pursuant to subsection 24(2), the judge may instruct the sheriff to return a sufficient number of persons who are not disqualified or excluded from serving as jurors:

- (a) from those persons present in court; or
- (b) if there is an insufficient number of persons present in court, from the applicable geographical area.

2020, c 26, s.11.

Jurors to be present unless excused

30(1) Persons required to attend at court for the purpose of jury duty and who are sitting as jurors shall continue to attend at court until discharged from attendance by the presiding judge.

(2) The presiding judge may, at any time:

- (a) excuse any or all of the jurors from attendance during any part of the sitting; and
- (b) discharge any or all of the jurors.

2020, c 26, s.11.

Use of existing jury

31 Notwithstanding section 24, if no objection is made by a party, the presiding judge may try an issue or assess damages with a jury previously drawn to try an issue or assess damages, without the cards or papers of those persons being redrawn in accordance with this Part.

2020, c 26, s.11.

Addition of new juror

32 Notwithstanding section 24, if both parties consent or if a juror may be justly challenged or excused, the presiding judge may:

- (a) order a juror to withdraw or retire;
- (b) cause another card or paper to be drawn in accordance with this Part; and
- (c) try the issue or assess the damages with the remaining members of the original jury and the new juror.

2020, c 26, s.11.

When jury kept together

33(1) If the jury is not permitted to separate in the course of a trial, the sheriff shall provide any lodgings and refreshments for the jury that the sheriff considers necessary.

(2) The party required to deposit jury fees shall pay the cost, as certified by the sheriff, of providing the lodgings and refreshments mentioned in subsection (1).

2020, c 26, s.11.

Omission not ground for impeaching verdict

34 No omission to observe the directions contained in this Act respecting the qualification, exclusion or selection of jurors is a ground for impeaching the verdict or judgment rendered in any civil proceeding, unless the omission has resulted in a substantial miscarriage of justice.

2020, c 26, s.11.

PART V

Offences

Offence

35 A person is guilty of an offence and liable on summary conviction to a fine of not more than \$1,000 if that person:

- (a) is required to complete and return a Juror Summons and Information Return and, without reasonable excuse, fails to do so;
- (b) without reasonable excuse, gives false or misleading information in a Juror Summons and Information Return or in an Application for Relief from Jury Service;
- (c) is summoned as a juror and, without reasonable excuse, fails to:
 - (i) obey the summons; or
 - (ii) answer when called by the local registrar; or
- (d) contravenes any other provision of this Act.

2020, c 26, s.12.

Employer offence

36(1) No employer shall dismiss a person from employment by reason only of that person being summoned for jury service or being required to serve on a jury.

(2) If an employer contravenes subsection (1), sections 2-1, 2-97 and 2-98 of *The Saskatchewan Employment Act* apply, with any necessary modification.

1998, c.J-4.2, s.36; 2018, c 43, s.11.

PART VI General

Service of documents

37(1) Any document required by this Act or the regulations to be served is, unless otherwise provided for, to be served personally or mailed to the last known address of the person being served.

(2) A document served by mail is deemed to have been received on the seventh day following the day of its mailing, unless the person to whom it was addressed establishes that, through no fault of that person, he or she did not receive the document or received it at a later date.

1998, c.J-4.2, s.37.

Forms

37.1 The Inspector of Court Offices shall establish the forms to be used for the purposes of this Act and the regulations.

2020, c 26, s.14.

Regulations

38(1) Subject to subsection (2), the Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) governing the method for determining geographical areas;
- (c) prescribing the sources that the sheriff may use to obtain the names and addresses of prospective jurors if a trial is to be held in a language other than English;
- (d) prescribing the fees and expenses payable to jurors and prospective jurors;
- (e) prescribing the procedures and requirements to be followed by the sheriff and the local registrar respecting the electronic selection of juries pursuant to section 25.1;
- (f) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations;
- (g) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

(2) The Lieutenant Governor in Council shall not make regulations pursuant to this section with respect to the obtaining of names and addresses pursuant to subsections 7(2) to (4).

2020, c 26, s.15.

JURY, 1998

c. J-4.2**Crown bound****39** The Crown is bound by this Act.

1998, c.J-4.2, s.39.

PART VII**Repeal and Coming into Force****S.S. 1980-81, c.J-4.1 repealed****40** *The Jury Act, 1981* is repealed.

1998, c.J-4.2, s.40.

Coming into force**41** This Act comes into force on proclamation.

1998, c.J-4.2, s.41.

