



1960

c 226 Magistrates Act

Ontario

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Bibliographic Citation

Magistrates Act, SO 1966, c 226

Repository Citation

Ontario (1960) "c 226 Magistrates Act," *Ontario: Revised Statutes*: Vol. 1960: Iss. 3, Article 4.

Available at: <http://digitalcommons.osgoode.yorku.ca/rso/vol1960/iss3/4>

CHAPTER 226

The Magistrates Act

1. In this Act,

Interpre-
tation

- (a) "Inspector" means the Inspector of Legal Offices;
- (b) "magistrate" includes a deputy magistrate. 1952, c. 53, s. 1; 1959, c. 56, s. 1.

2.—(1) The Lieutenant Governor in Council may appoint magistrates. 1952, c. 53, s. 2.

Appoint-
ment

(2) A magistrate may be specially authorized by the terms of his appointment to exercise the jurisdiction conferred upon a magistrate by Part XVI of the *Criminal Code* (Canada). 1953-54, c. 51 (Can.) 1955, c. 41, s. 1.

Special
authoriza-
tion

3.—(1) Except as provided in subsection 2, magistrates shall hold office during pleasure.

Tenure of
office

(2) A magistrate who has held office for two years may be removed from office before attaining retirement age only for misbehaviour or for inability to perform his duties properly and only if,

Idem

- (a) the circumstances respecting the misbehaviour or inability are first inquired into; and
- (b) the magistrate is given reasonable notice of the time and place appointed for the inquiry and is afforded an opportunity, by himself or his counsel, of being heard and of cross-examining the witnesses and of producing evidence on his own behalf.

(3) The Lieutenant Governor in Council, for the purpose of making an inquiry under subsection 2, may appoint one or more judges of the Supreme Court to make such inquiry and to report thereon, and a judge so appointed has all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*.

Appoint-
ment of
judge to
inquireR.S.C. 1960,
c. 323

(4) Where a magistrate is removed from office under this section, the order effecting the removal and all reports, evidence and correspondence relating thereto shall be laid before the Assembly by the Attorney General within the first fifteen days of the next ensuing session. 1952, c. 53, s. 3 (1-4).

Order to
be laid
before
Assembly

- Application of subss. 2-4 (5) Subsections 2, 3 and 4 apply only to magistrates who receive an annual salary under this Act. 1957, c. 66, s. 2.
- Retirement **4.**—(1) Except as provided in subsection 2, magistrates cease to hold office upon attaining the age of seventy years.
- Idem (2) Magistrates holding office on the 1st day of July, 1941, cease to hold office upon attaining the age of seventy-five years.
- Idem (3) Notwithstanding anything in this Act or in section 24 of *The Public Service Superannuation Act*, either the provisions of this Act or of *The Public Service Act* as to retirement age, as he may elect, apply to any magistrate appointed before the 1st day of May, 1952.
- R.S.O. 1960, cc. 332, 331
- Idem (4) Notwithstanding anything in this Act or in section 24 of *The Public Service Superannuation Act*, the provisions of *The Public Service Act* as to retirement age apply to magistrates appointed on or after the 1st day of May, 1952. 1952, c. 53, s. 4.
- Re-appointment of retired magistrates **5.** A person who has ceased to hold office as a magistrate by reason of having attained retirement age may be re-appointed as a magistrate to hold office during pleasure at a salary not greater than that received immediately before retirement, but in any event he ceases to hold office upon attaining the age of seventy-five years. 1952, c. 53, s. 5.
- Oaths to be taken **6.**—(1) A magistrate before acting shall take the following oath of office:
- I, *A.B.*, of the of,
in the County (or District) of, do swear
that I will well and truly serve our Sovereign Lady Queen
Elizabeth (or the reigning Sovereign for the time being) in the
office of magistrate (or deputy magistrate, as the case may be),
and I will do right to all manner of people according to law,
without fear or favour, affection or ill will. So help me God.
A.B.
- Sworn before me, etc.
- R.S.O. 1960, c. 326 and also the oath of allegiance as required by *The Public Officers Act*.
- Filing of oaths (2) The oath of office and the oath of allegiance shall be transmitted forthwith to the Inspector and shall be filed in his office. 1952, c. 53, s. 6.
- Jurisdiction **7.** Every magistrate is a magistrate in and for the Province of Ontario. 1954, c. 48, s. 1.
- Magistrates are justices **8.** A magistrate is *ex officio* a justice of the peace. 1952, c. 53, s. 8.

9. A magistrate sitting as such or as a justice of the peace has power to do alone whatever is authorized to be done by two or more justices of the peace. 1952, c. 53, s. 9. Magistrates have powers of two justices

10.—(1) A magistrate shall not act as agent, solicitor or counsel in any proceeding before a magistrate or a justice of the peace, and no partner or clerk of a magistrate shall act as agent, solicitor or counsel in any proceeding before him. Prohibition as to practising in magistrates' courts

(2) Unless authorized by the Lieutenant Governor in Council, a magistrate shall not practice any profession or actively engage in any business, trade or occupation but shall devote his whole time to the performance of his duties as magistrate. 1952, c. 53, s. 11. Prohibition as to engaging in other occupations

11. Every judge and deputy judge of a juvenile and family court is *ex officio* a magistrate in and for the area served by his court. 1954, c. 48, s. 2. Juvenile and family court judges, magistrates

12.—(1) A magistrate shall be paid the salary fixed by the Lieutenant Governor in Council. Salaries, amounts

(2) The salaries and travelling expenses of magistrates are payable out of such sums as are appropriated therefor by the Legislature. 1952, c. 53, s. 13. how payable

13. A magistrate may use any court room or municipal hall, but not so as to interfere with its ordinary use. 1952, c. 53, s. 14. Use of court room

14. The court rooms, offices, furniture, equipment, supplies and stationery for magistrates shall be such as the Inspector thinks appropriate. 1952, c. 53, s. 15. Office supplies, etc.

15. The Inspector may authorize a magistrate to employ clerical assistance and may fix the salary. 1952, c. 53, s. 16. Clerical assistance

16. The accounts relating to the salaries and expenses of magistrates shall be audited under *The Administration of Justice Expenses Act*. 1952, c. 53, s. 17. Accounts to be audited
R.S.O. 1960, c. 5

17.—(1) Except in the case of a magistrate assigned to a city, every magistrate shall pay over the fees earned by him to the Treasurer of Ontario. Disposal of fees

(2) Every magistrate assigned to a city shall pay over the fees earned by him to the treasurer of the city. 1952, c. 53, s. 18. Idem

Deduction
for
expenses

18.—(1) Except in the case of a magistrate assigned to a city, every magistrate, from the total amount of the moneys coming into his hands that would otherwise accrue to the treasurer of a municipality, shall deduct and pay such clerical, stationery, rent and other expenses of his court and office as are approved by the Inspector, and shall pay two-fifths of the balance of such moneys to the Treasurer of Ontario. 1952, c. 53, s. 19.

Idem

(2) Where the total amount of the moneys coming into the hands of a magistrate that would except for subsection 1 accrue to the treasurer of a municipality is insufficient to pay such clerical, stationery, rent and other expenses of his court and office as are approved by the Inspector, the amount of the deficiency shall be made up from any moneys in his hands that would otherwise be payable to the Treasurer of Ontario. 1954, c. 48, s. 3.

City
magistrates

19.—(1) The Attorney General may assign one or more magistrates to a city.

Senior
magistrate,
Toronto

(2) The Attorney General may designate one of the magistrates assigned to the City of Toronto as senior magistrate for that City.

Reimburse-
ment of
Province

(3) Where a magistrate is assigned to a city, an amount equal to the amount of his salary, cost-of-living bonus, if any, superannuation credits, if any, and any other allowance that is paid in the first instance by the Province shall be paid quarterly by the city to the Treasurer of Ontario, and if the assignment is for part time only the amount to be paid under this subsection shall be fixed by the Lieutenant Governor in Council.

Accommoda-
tion, etc.

(4) Where a magistrate is assigned to a city, the city shall provide such court room, office, furniture, equipment, supplies, stationery, interpreters and clerical assistance for the magistrate as the Inspector thinks appropriate.

Super-
annuation

R.S.O. 1960,
c. 332

(5) Where a magistrate who is assigned to a city and who is not entitled to a superannuation allowance under *The Public Service Superannuation Act* attains retirement age and is retired, the city may provide for the payment to him during his lifetime of an annual sum by way of superannuation allowance. 1952, c. 53, s. 20.

Regulations

20.—(1) The Lieutenant Governor in Council may make regulations,

(a) fixing the period and manner in which the moneys coming into their hands are to be paid over by magistrates;

- (b) specifying the returns to be made by magistrates; 1952, c. 53, s. 21 (1), cls. (a, b).
- (c) providing for the safe-keeping, inspection and destruction of books, documents and papers of magistrates; 1958, c. 55, s. 1.
- (d) providing for the appointment and employment of stenographic reporters to take down evidence before magistrates, and fixing their salaries, fees, expenses and other forms of remuneration;
- (e) defining the classes of cases in which a stenographic reporter may be employed and the terms and conditions of their employment, and providing for the remuneration of stenographic reporters by the municipal corporation or by the parties to any proceeding before the magistrate as part of the costs in the case, or partly by the one method and partly by the other, and where the remuneration is made payable by the municipal corporation, providing for the allowance of a charge for stenographic reporting as part of the costs in any case in which a stenographic report of the proceedings has been taken;
- (f) prescribing the duties of the senior magistrate for the City of Toronto;
- (g) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1952, c. 53, s. 21 (1), cls. (d-g).

(2) Any such regulation may be general or particular in its application. 1952, c. 53, s. 21 (2).
