



1950

c 219 Magistrates Act

Ontario

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CHAPTER 219

The Magistrates Act

1. In this Act,

Interpre-
tation.

- (a) "county" includes united counties and provisional county;
- (b) "Inspector" means Inspector of Legal Offices and includes any assistant inspector of legal offices;
- (c) "magistrate" includes a deputy magistrate and a police magistrate and deputy police magistrate within the meaning of the *Criminal Code* (Canada). R.S.O. 1937, c. 133, s. 1.

R.S.C.
1927, c. 36.

2.—(1) The Lieutenant-Governor in Council may appoint magistrates and deputy magistrates. R.S.O. 1937, c. 133, s. 2 (1); 1941, c. 28, s. 1 (1).

Appoint-
ment.

(2) Where the council of a city having a population of not less than 100,000 by resolution declares that it is desirable that a woman should be appointed a magistrate or deputy magistrate for the city, the Lieutenant-Governor in Council may appoint a woman to be a magistrate or deputy magistrate accordingly and where there are more magistrates than one for the city the appointment may be in addition to any magistrate then in office or to fill an existing vacancy among the magistrates. R.S.O. 1937, c. 133, s. 2 (2).

Appoint-
ment of
female
magistrates.

3. Every magistrate and deputy magistrate shall cease to hold office upon attaining the age of 70 years, provided that every magistrate and deputy magistrate holding office on the 1st day of July, 1941, shall cease to hold office upon attaining the age of 75 years. 1941, c. 28, s. 2 *part*.

Retirement.

4.—(1) Every deputy magistrate shall hold office during pleasure.

Tenure of
office of
deputy
magistrates.

(2) Every magistrate shall hold office for two years after his appointment and thenceforth may be removed from office by the Lieutenant-Governor in Council for misbehaviour, or for incapacity or inability to perform his duties properly on account of old age, ill health or any other cause if,

Tenure of
office of
magistrates.

- (a) the circumstances respecting the misbehaviour, incompetency or inability are first inquired into; and

- (b) such 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 thereat and of cross-examining the witnesses and adducing evidence on his own behalf.

Order to be laid before Assembly.

(3) If a magistrate is removed from office for any of such reasons, the Order in Council providing for the removal, and all reports, evidence and correspondence relating thereto shall be laid before the Assembly within the first 15 days of the next ensuing session.

Appointment of judge to inquire.

(4) The Lieutenant-Governor in Council may, for the purpose of making inquiry into the circumstances respecting misbehaviour, inability or incapacity of a magistrate, appoint one or more of the judges of the Supreme Court to make such inquiry and to report thereon, and any judge or judges so appointed shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*, 1941, c. 28, s. 2 *part*.

Rev. Stat., c. 308.

Appointment where over 70.

5.—(1) Where a person has ceased to hold office as a magistrate or deputy magistrate by reason of having attained the age of 70 years, the Lieutenant-Governor in Council may, notwithstanding anything in this Act, appoint him as a magistrate or deputy magistrate to hold office during pleasure at a salary or other remuneration not greater than that received immediately prior to retirement. 1941, c. 28, s. 4, *part*; 1950, c. 41, s. 2.

Powers.

(2) Every person appointed as a magistrate or deputy magistrate under this section shall have all the powers of a magistrate.

Retirement at 75.

(3) Any person appointed as a magistrate or deputy magistrate under this section shall in any event cease to hold office upon attaining the age of 75 years. 1941, c. 28, s. 4, *part*.

Super-annuation.

Rev. Stat., c. 317.

6. Where a magistrate whose salary is paid by a named city and who is not entitled to any superannuation allowance under *The Public Service Act* attains the age of 70 years, or in the case of a magistrate holding office on the 1st day of July, 1941, the age of 75 years, the council of the city may by by-law provide for the payment to such magistrate during his lifetime, of an annual sum by way of superannuation allowance. R.S.O. 1937, c. 133, s. 13; 1941, c. 28, s. 3.

Designation.

7.—(1) On the recommendation of the Attorney-General, the Lieutenant-Governor in Council may designate and define

any number of magisterial districts. R.S.O. 1937, c. 133, s. 3.

(2) The Attorney-General may designate any magistrate as ^{Senior} senior magistrate for a magisterial district. R.S.O. 1937, c. 133, s. 4.

8.—(1) Every magistrate shall have jurisdiction to act at ^{Jurisdiction.} any place within Ontario, but the Order in Council appointing a magistrate may assign the magistrate to any magisterial district or part thereof. R.S.O. 1937, c. 133, s. 5.

(2) Notwithstanding the provisions of the Order in Council ^{Territorial} appointing a magistrate, the Attorney-General may, from ^{direction} time to time, direct any magistrate to act in any magisterial ^{to act.} district or part thereof. R.S.O. 1937, c. 133, s. 6.

9.—(1) Every magistrate before acting shall take the follow- ^{Oaths to} ing oath of office: ^{be taken by} ^{magistrate}

I *A.B.* of the..... of..... in the County
(or District) of....., do
swear that I will well and truly serve our Sovereign Lord King
George (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.
Sworn, etc. *A.B.*

and also the oath of allegiance as required by *The Public* ^{Rev. Stat.,} ^{c. 311.} *Officers Act.*

(2) The oath of office and oath of allegiance shall forthwith ^{Oaths to be} be delivered to the Inspector and shall be filed in his office. ^{filed with} ^{Inspector.} R.S.O. 1937, c. 133, s. 7.

10.—(1) Every magistrate shall be *ex officio* a justice of the ^{Magistrates} peace. ^{are justices} ^{of the peace.}

(2) A magistrate sitting as such or as a justice of the peace, ^{Powers of} shall have power to do alone whatever is authorized to be done ^{magistrate.} by two or more justices of the peace. R.S.O. 1937, c. 133, s. 8.

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

(2) Unless otherwise provided by Order in Council, a ^{Not to} magistrate shall not practise any profession or actively engage ^{engage in} in any business, trade or occupation, but shall devote his whole ^{any other} time to the performance of his duties as magistrate. R.S.O. ^{occupation} 1937, c. 133, s. 9. ^{without} ^{permission.}

Returns. **12.** Every magistrate shall make such returns to the Inspector, the clerk of the peace and other municipal or provincial officers as the regulations may direct. R.S.O. 1937, c. 133, s. 10.

Judges of juvenile courts to be magistrates. **13.** Every judge and deputy judge of a juvenile court shall be *ex officio* a magistrate, but shall only act as such when directed by the Attorney-General. R.S.O. 1937, c. 133, s. 11.

Salaries. **14.**—(1) Every magistrate shall be paid such salary as may be fixed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 133, s. 14 (1); 1939, c. 47, s. 18.

Payment monthly. (2) The salary of every magistrate shall be paid monthly and shall be apportionable to the date of death of the magistrate, or of his vacating his office. R.S.O. 1937, c. 133, s. 14 (2).

Salaries and travelling expenses, how payable. **15.**—(1) The salary and travelling expenses of every magistrate shall be payable out of such sums as may be appropriated by the Legislature for the payment of salaries of magistrates, provided that the Lieutenant-Governor in Council may by the order appointing any magistrate, direct that in lieu thereof the salary of the magistrate shall be paid by any city to which the magistrate is assigned. R.S.O. 1937, c. 133, s. 15 (1).

Payment of expenses. (2) Except in the case of a magistrate whose salary is directed to be paid by a city, every magistrate shall, from the total amount of the moneys coming into his hands in fines and fees which would otherwise accrue to the treasurer of a municipality, 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. 1938, c. 19, s. 2.

Power to hold court in cities or towns, etc. **16.** A magistrate may sit or hold his court in any city, town or village, and in such other places as may be necessary. R.S.O. 1937, c. 133, s. 16.

Use of courtroom. **17.** A magistrate shall have the right to use any courtroom or town hall, but not so as to interfere with the ordinary use of the courtroom or town hall for other courts or other purposes for which the same is maintained. R.S.O. 1937, c. 133, s. 17, *amended*.

In provisional judicial districts. **18.** In provisional judicial districts the Lieutenant-Governor in Council may authorize the purchase, erection or rental of a suitable building or part of a building for the office of the magistrate. R.S.O. 1937, c. 133, s. 18 (2).

19. The forms and stationery used by magistrates shall be as prescribed by the Inspector. R.S.O. 1937, c. 133, s. 19. Forms and stationery.

20. Notwithstanding anything in this Act, the Lieutenant-Governor in Council may direct that any city to which a magistrate is assigned shall provide a suitable office, furniture, equipment, stationery, clerical assistance and other accommodation for the magistrate in accordance with the regulations. R.S.O. 1937, c. 133, s. 20. Exceptions as to cities providing forms, etc.

21. All accounts relating to salaries and expenses shall be audited as provided in *The Administration of Justice Expenses Act*. R.S.O. 1937, c. 133, s. 21. Audit of accounts. Rev. Stat., c. 5.

22.—(1) Notwithstanding anything in this Act, the Lieutenant-Governor in Council may appoint four magistrates for the City of Toronto, and when deemed necessary, additional magistrates. R.S.O. 1937, c. 133, s. 22. Magistrates, Toronto.

(2) One of the magistrates for the City of Toronto may be designated senior magistrate. R.S.O. 1937, c. 133, s. 23. Senior magistrate, Toronto.

23.—(1) The board of commissioners of police of any city having a population of not less than 50,000 may appoint one or more official interpreters to act in all cases coming before any magistrate of the city in which the services of an interpreter may be required, and any such interpreter may be paid such salary or other remuneration as may be fixed by the board, and such salary or remuneration shall be paid by the board out of moneys which shall be appropriated for that purpose by the council of the city. Appointment of interpreters in cities.

(2) Any magistrate may employ an interpreter in any case in which the services of an interpreter may be required. R.S.O. 1937, c. 133, s. 12. Employment of interpreters.

24.—(1) The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) fixing the period and manner in which fines and fees payable to the Treasurer of Ontario or any municipality entitled to any fines under this or any other Act, shall be paid over by magistrates;
- (b) providing for the inspection of the books, accounts and offices of magistrates;
- (c) defining the powers and duties of the Inspector;
- (d) providing for the appointment or employment of stenographic reporters to take down evidence before magistrates;

- (e) defining the classes of cases in which stenographic reporters may be employed and the terms and conditions of such employment;
- (f) fixing the fees and remuneration of stenographic reporters;
- (g) providing for the remuneration of a stenographic reporter 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 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;
- (h) prescribing the returns to be made by magistrates;
- (i) providing for the appointment of clerical and other assistants of a magistrate and prescribing the duties and fixing the salary or other remuneration of such assistants;
- (j) prescribing the equipment, arrangement and furnishings of magistrates' offices, or any office connected with the administration of justice by magistrates;
- (k) prescribing the powers, duties and office hours of magistrates;
- (l) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Regulations,
general or
particular.

Rev. Stat.,
c. 379.

(2) Any such regulation may be general or particular in its application and may provide for the imposing of penalties for a breach of the regulations and the recovery of such penalties under *The Summary Convictions Act*, or in such other manner as the Lieutenant-Governor in Council may prescribe. R.S.O. 1937, c. 133, s. 24.
