

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*; and *2018, c.43*.

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*.

Interpretation

2 In this Act:

“**Application for Relief from Jury Service**” means an Application for Relief from Jury Service in the form prescribed in the regulations; (*«demande de dispense des fonctions de juré»*)

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

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

“**Juror Information Return and Summons**” means a Juror Information Return and Summons in the form prescribed in the regulations; (*«rapport - avis de sélection de juré et assignation»*)

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

“**Reply to Application for Relief from Jury Service**” means a Reply to Application for Relief from Jury Service in the form prescribed in the regulations. (*«réponse à la demande de dispense des fonctions de juré»*)

1998, c.J-4.2, 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 has reached the age of 18 years is qualified to serve as a juror.

1998, c.J-4.2, s.5.

Exclusions

6 The following persons are excluded from service 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) reeves, councillors and mayors;
- (d) 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*;
- (e) persons who are or who have been:
 - (i) judges;
 - (ii) lawyers, whether or not in actual practice;
 - (iii) members of any police service;
 - (iv) justices of the peace; or
 - (v) coroners;
- (f) persons who are engaged in the administration of justice including, without limiting the generality of the foregoing:
 - (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);
- (g) spouses of persons mentioned in clauses (a) to (f);
- (h) persons who are legally confined in an institution;
- (i) persons who are certified incompetent;
- (j) persons who are unable to understand the language in which the trial is to be conducted.

1998, c.J-4.2, s.6; 2018, c.43, s.11.

Selection of prospective jurors

7(1) In this section, “Inspector of Court Offices” means the Inspector of Court Offices appointed pursuant to *The Court Officials Act, 2012*.

- (2) The Inspector of Court Offices shall requisition from time to time from the person in charge of the register maintained for the purposes of subsection 11(1) of *The Saskatchewan Medical Care Insurance Act*, the number of names and addresses that the Inspector of Court Offices anticipates will be required by sheriffs in the province pursuant to subsection (5).
- (3) Notwithstanding any other Act, on receipt of a requisition from the Inspector of Court Offices pursuant to subsection (2), the person in charge of the register described in subsection (2) shall randomly select and forward to the Inspector of Court Offices the requisitioned number of names and addresses.
- (4) No information from the register other than the requisitioned names and addresses is to be forwarded to the Inspector of Court Offices.
- (5) Eight weeks before the opening of a jury sitting, each sheriff shall inform the Inspector of Court Offices of the number of persons who are required as prospective jurors for the next sitting of the court from the geographical area of the sheriff, as that area is determined by the Inspector of Court Offices.
- (6) On receipt of the information mentioned in subsection (5), the Inspector of Court Offices shall:
- (a) randomly select the number of names and addresses from the names and addresses provided pursuant to subsection (3); and
 - (b) forward to the sheriff the number of names and addresses that the sheriff requires.
- (7) Immediately on receipt of the names and addresses pursuant to subsection (6), the sheriff shall serve each person named at the address indicated with the following:
- (a) a Juror Information Return and Summons, in duplicate;
 - (b) an Application for Relief from Jury Service, in duplicate; and
 - (c) an envelope addressed to the sheriff, with postage prepaid.

2012, c.C-43.101, s.29.

Trial not in English

8 Notwithstanding section 7, where 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 sources that are prescribed in the regulations.

1998, c.J-4.2, s.8.

Obligation of person served

9 Every person who is served with a Juror Information Return and Summons in accordance with subsection 7(7) shall accurately and truthfully complete it and mail or deliver one copy of the completed document to the sheriff of the judicial centre from which it was served:

- (a) within five days after receiving the document; or
- (b) within any other time that the sheriff may direct.

1998, c.J-4.2, s.9.

Relief from jury service

10(1) A person who is summoned to serve as a juror and who wishes to seek relief from jury service shall apply to be relieved from jury service by submitting to the sheriff, at the judicial centre nearest to which the jury is to sit, an Application for Relief from Jury Service at least 10 days before the opening of the court for which the person is summoned.

(2) Where a person applies in accordance with subsection (1), the sheriff shall relieve the person from jury service for the court sitting for which the person was summoned if the sheriff is satisfied that the person:

- (a) is one whose attendance would result in serious hardship, loss or inconvenience to that person, to others or to the general public;
- (b) is suffering from an illness that is likely to persist and to render the person incapable of serving as a juror at the sitting of the court 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) has reached the age of 65 years;
- (e) has served as a juror in the preceding two years;
- (f) is incapable of discharging the duties of a juror; or
- (g) is one of the persons mentioned in section 6.

(3) Where the sheriff refuses to grant an application for relief from jury service, the person summoned may apply to a judge for relief from jury service.

(4) Where a person applies to a judge for relief from jury service pursuant to subsection (3), the judge shall relieve the person from jury service for the court sitting for which he or she was summoned where the judge is satisfied that one of the conditions described in clauses (2)(a) to (g) exists with respect to that person.

(5) Where a person who is summoned to serve as a juror wishes to seek relief from jury service after the expiration of the tenth day before the opening of the court for which the person is summoned, he or she shall apply to a judge to be relieved from jury service.

- (6) On an application made pursuant to subsection (5), the judge shall relieve the person from service as a juror for the court sitting for which he or she was summoned where the judge is satisfied that one of the conditions described in clauses (2)(a) to (g) exists with respect to that person.
- (7) No appeal lies from a judge's refusal of an application made pursuant to subsection (3) or (5).
- (8) The sheriff or the judge may require any evidence that he or she considers appropriate to support an application made pursuant to this section.
- (9) An application made pursuant to this section may be made by or on behalf of the person summoned as a juror.

1998, c.J-4.2, s.10.

Reply to application for relief from jury service

11 Where an Application for Relief from Jury Service is received by the sheriff pursuant to section 10, the sheriff shall process it and immediately send a Reply to Application for Relief from Jury Service to the applicant at the indicated address.

1998, c.J-4.2, s.11.

Jury list

12(1) The sheriff shall, before the opening of court:

- (a) prepare a jury list showing:
- (i) the names of the persons to whom a Juror Information Return and Summons was sent; and
 - (ii) the disposition of each Juror Information Return and Summons; and
- (b) file the jury list with the local registrar.

(2) The jury list filed in accordance with clause (1)(b) is a matter of public record.

1998, c.J-4.2, s.12.

Documents available for inspection

13(1) The sheriff shall file in his or her office, before the opening of court, each completed:

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

(2) Any party to a case on the jury list or that party's counsel may examine the documents filed pursuant to subsection (1) in the sheriff's office.

1998, c.J-4.2, s.13.

Payment of jurors

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

1998, c.J-4.2, s.14; 2018, c.43, s.11.

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.

Illness of juror

- 17 Where 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:
- (a) the judge may direct the trial to proceed without that juror; and
- (b) a verdict may be given by the remaining jurors if they are unanimous.

1998, c.J-4.2, s.17.

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, place of residence, and number on the panel 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) Where 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 name, until the names of a sufficient number of jurors have been drawn who are:
 - (i) present; and
 - (ii) not subject to a successful challenge;
 - (c) note the names of the jurors selected pursuant to clause (b) in the local registrar's minute book;
 - (d) swear in the jurors selected pursuant to clause (b) as the jury to try the issue or assess the damages; and
 - (e) return to the container provided pursuant to clause (1)(c) the cards or papers drawn that bear the names 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.

1998, c.J-4.2, s.24.

Jurors may be called more than once

- 25(1)** The cards or papers bearing the names 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 to be mixed with the other cards or papers in the container and 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), where a jury is selected for a civil proceeding and the jurors have been selected and sworn, the sheriff shall return the cards or papers containing the jurors' names to the container and the names shall become part of the panel again.

(4) The sheriff may, with the approval of the presiding judge, return the names of the jurors chosen 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.

1998, c.J-4.2, s.25.

Cards or papers to be destroyed

26 The cards or papers deposited in the container pursuant to subsection 24(1) may be destroyed by the local registrar 30 days after the close of the jury sittings.

1998, c.J-4.2, s.26.

Peremptory challenges

27 Each party to an action has the right to exercise four peremptory challenges.

1998, c.J-4.2, s.27.

Challenges for cause

28(1) Each party to an action 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 action.

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

(4) Where, 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 cause.

1998, c.J-4.2, s.28.

Insufficient number of jurors

29 Where 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) where there is an insufficient number of persons present in court, from the geographical area of the sheriff, as that area is determined pursuant to subsection 7(5).

1998, c.J-4.2, s.29.

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.

1998, c.J-4.2, s.30.

Use of existing jury

31 Notwithstanding section 24, where 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 containing their names being returned to the container and redrawn.

1998, c.J-4.2, s.31.

Addition of new juror

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

- (a) order a juror to withdraw or retire;
- (b) cause another name to be drawn from the container in accordance with section 24; and
- (c) try the issue or assess the damages with the remaining members of the original jury and the new juror.

1998, c.J-4.2, s.32.

Where jury kept together

33(1) Where 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).

1998, c.J-4.2, s.33.

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 cause, unless the omission has resulted in a substantial miscarriage of justice.

1998, c.J-4.2, s.34.

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 where that person:

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

1998, c.J-4.2, s.35.

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.

Regulations

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

- (a) prescribing the forms that are required pursuant to this Act;
- (b) prescribing the sources that the sheriff may use to obtain the names and addresses of prospective jurors where a trial is to be held in a language other than English;
- (c) prescribing the fees and expenses payable to jurors;
- (d) prescribing any other matter or thing that is authorized or required by this Act to be prescribed in the regulations.

(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).

1998, c.J-4.2, s.38.

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.

