

The Queen's Bench Act, 1998

being

Chapter Q-1.01 of the *Statutes of Saskatchewan, 1998* (effective July 1, 1999) as amended by the *Statutes of Saskatchewan*, 2000, c.70; 2001, c.9, c.35 and c.51; 2002, c.I-10.03 and c.9; 2004, c.16, c.25 and c.66; 2006, c.31; 2009, c.26 and c.6; 2010, c.10, c.28 and c.29; 2012, c.C-43.101 and c.29; 2014, c.11 and c.26; 2015, c.9 and c.25; 2016, c.S-50.12 and c.26; 2018, c.18 and, c.43; 2020, c.2; 2021, c. 7 and c.16; and 2022, c.25 and c.32.

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 Q-1.01

An Act respecting the Court of Queen's Bench

NOTE: This Act was Schedule A of *The Queen's Bench Revision Act*, being chapter Q-1.1 of the *Statutes of Saskatchewan, 1998*. That Act was assented to on June 11, 1998. (See Chapter Q-1.1, s.7)

PART I Preliminary Matters

Short title

1 This Act may be cited as *The Queen's Bench Act, 1998*.

Interpretation

2 In this Act:

“**action**” means:

- (a) a civil proceeding commenced by statement of claim or in any other manner authorized or required by this Act or the rules of court; or
- (b) any other original proceeding between a plaintiff and a defendant; (*«action»*)

“**associate chief justice**” means the Associate Chief Justice of the Queen's Bench mentioned in subsection 4(1); (*«juge en chef adjoint»*);

“**chief justice**” means the Chief Justice of the Queen's Bench mentioned in subsection 4(1); (*«juge en chef»*)

“**court**” means Her Majesty's Court of Queen's Bench for Saskatchewan continued pursuant to section 3; (*«Cour»*)

“**defendant**” means a person who is served, or is entitled to be served, with a statement of claim or other process; (*«défendeur»*)

“**family law proceeding**” means an action or matter, whether based on statute law, common law or the inherent jurisdiction of the court, pursuant to or with respect to:

- (a) Part XII of this Act;
- (b) *The Adoption Act, 1998*;
- (c) *The Child and Family Services Act*;
- (d) *The Children's Law Act, 2020*;
- (e) *The Dependents' Relief Act, 1996*;
- (f) the *Divorce Act* (Canada);
- (g) *The Enforcement of Maintenance Orders Act, 1997*;
- (h) *The Family Maintenance Act, 1997*;
- (i) *The Homesteads Act, 1989*;

- (i.1) *The Inter-jurisdictional Support Orders Act*;
- (j) *The International Child Abduction Act, 1996*;
- (k) *The Marriage Act, 2021*;
- (l) *The Family Property Act*;
- (m) *The Parents' Maintenance Act*;
- (n) **Repealed.** 2002, c.I-10.03, s.49.
- (o) *The Victims of Interpersonal Violence Act*;
- (p) any other Act that confers jurisdiction on the Family Law Division;
- (q) annulments;
- (r) the custody or guardianship of, or access to, a child;
- (s) the determination of parentage or other family relationships;
- (t) the division of property between spouses, former spouses or persons who have lived together as spouses;
- (u) judicial separations;
- (v) the maintenance of a spouse, child or other person;
- (w) any other proceeding heard in the Family Law Division; (*«instance en matière familiale»*)

“judge” means a judge of the court, and includes a supernumerary judge; (*«juge»*)

“judgment” includes decree; (*«jugement»*)

“judicial centre” means a judicial centre continued or established pursuant to section 21; (*«centre judiciaire»*)

“local registrar” means a local registrar of the court appointed pursuant to section 3 of *The Court Officials Act, 2012*, and includes a deputy local registrar; (*«registraire local»*)

“matter” means every proceeding in the court that is not an action; (*«affaire»*)

“party” includes every person who is served, or entitled to be served, with notice of any action or matter, even if the person is not named in the record; (*«partie»*)

“petitioner” means a person who makes an application to the court, by petition, motion or summons, otherwise than as against a defendant; (*«requérant»*)

“plaintiff” means a person who asks relief, otherwise than by way of counterclaim as a defendant or by way of a third party claim, against any other person by any form of proceeding; (*«demandeur»*)

“**pleading**” includes a petition, a summons and the statement in writing of:

- (a) the claim or demand of:
 - (i) a plaintiff against a defendant;
 - (ii) a defendant against a third party;
 - (iii) a third party against a subsequent party; or
 - (iv) a subsequent party against any other subsequent party;
- (b) a defence or counterclaim of a defendant, third party or subsequent party to a claim or demand mentioned in clause (a);
- (c) a reply to a defence or counterclaim mentioned in clause (b); and
- (d) a rejoinder to a reply mentioned in clause (c); (*«plaidoirie»*)

“**Provincial Court**” means the Provincial Court of Saskatchewan; (*«Cour provinciale»*)

“**public guardian and trustee**” means the public guardian and trustee as defined in *The Public Guardian and Trustee Act*; (*«tuteur et curateur public»*)

“**registrar**” means the Registrar of the Court of Queen’s Bench appointed pursuant to section 3 of *The Court Officials Act, 2012*; (*«registraire»*)

“**rules of court**” means the rules of court made pursuant to section 28, and includes rules of court made by the judges of the court pursuant to any other Act; (*«règles de procédure»*)

“**sheriff**” means a sheriff, a deputy sheriff or a sheriff’s bailiff appointed pursuant to section 3 of *The Court Officials Act, 2012*; (*«shérif»*)

“**will**” includes:

- (a) a testament;
- (b) a codicil;
- (c) an appointment by will or by writing in the nature of a will in the exercise of a power; and
- (d) any other testamentary disposition. (*«testament»*)

1998, c.Q-1.01, s.2; 2001, c.51, s.11; 2002, c.I-10.03, s.49; 2004, c.66, s.7; 2012, c.C-43.101, s.31 and c.29, s.3; 2015, c.25, s.2; 2020, c.2, s.91; 2021, c.16, s.11-4; 2022, c.32, s.3.

PART II The Court and Judges

Continuation of court

3(1) Her Majesty’s Court of Queen’s Bench for Saskatchewan is continued as the superior court of record in and for Saskatchewan that has civil and criminal jurisdiction.

cQ-1.01**QUEEN'S BENCH, 1998**

(2) During the reign of a queen, the court shall be called Her Majesty's Court of Queen's Bench for Saskatchewan and, during the reign of a king, the court shall be called His Majesty's Court of King's Bench for Saskatchewan.

(3) In all documents and proceedings in the court, the court is sufficiently designated by the words "In the Queen's Bench" or "In the King's Bench".

(4) The Lieutenant Governor in Council may determine the seal to be used in the court.

1998, c.Q-1.01, s.3.

Judges

4(1) The court consists of:

- (a) a chief justice, who is styled the Chief Justice of the Queen's Bench;
- (b) an associate chief justice, who is styled the Associate Chief Justice of the Queen's Bench; and
- (c) 36 other judges.

(2) The Lieutenant Governor may, by proclamation, increase or decrease the number of judges and, in the case of a decrease, may provide for the decrease to take effect when a vacancy occurs in the court.

(3) For each office of judge provided for by subsection (1) or by proclamation pursuant to subsection (2), there shall be the additional office of supernumerary judge.

(4) Each supernumerary judge shall hold himself or herself available to perform any judicial duties that may be assigned to him or her by the chief justice.

1998, c.Q-1.01, s.4; 2012, c.29, s.4; 2016, c26, s.3;
2022, c.32, s.4.

Duties

4.1(1) The associate chief justice shall carry out the administrative duties assigned to him or her by the chief justice.

(2) If the chief justice is absent or unable to act, the powers and duties of the chief justice shall devolve on the associate chief justice, or, in the absence or inability to act of the associate chief justice, on a judge designated by the chief justice.

2012, c.29, s.5.

Oath of office

5 Before entering on the duties of office, a judge shall take the following oath, administered by the Lieutenant Governor, the chief justice or another judge:

I, _____, do swear (*or solemnly affirm*) that I will well and truly serve our Sovereign Lady the Queen in the office of Chief Justice (*or a Judge*) of Her Majesty's Court of Queen's Bench for Saskatchewan, and that I will duly and faithfully, and according to the best of my skill and knowledge, exercise the powers and trusts reposed in me as Chief Justice (*or a Judge*) of that court. (So help me God).

1998, c.Q-1.01, s.5.

Residence of judges

6(1) Each judge shall reside at any judicial centre or other place in Saskatchewan that the chief justice directs.

(2) A judge, on taking up residence in accordance with a direction made pursuant to subsection (1), shall not be required to make a change of residence unless the judge consents to the change.

2022, c 32, s.5.

Family Law Division

7(1) The division of the court called the Family Law Division is continued.

(2) Family law proceedings brought in the court are to be brought in the Family Law Division.

(3) Subject to subsection (4), the chief justice shall assign 10 judges to act as judges of the Family Law Division.

(4) In a proclamation pursuant to subsection 4(2) increasing or decreasing the number of judges, the Lieutenant Governor may provide for an increase or decrease in the number of judges to be assigned to the Family Law Division.

(5) The chief justice may assign a judge of the Family Law Division to hear actions or matters outside the Family Law Division, but only if the assignment does not prevent that judge from spending the substantial majority of the judge's time hearing actions or matters in the Family Law Division.

(6) In addition to the judges assigned to the Family Law Division pursuant to subsection (3), the chief justice may, from time to time, assign any other judge to act as a judge of the Family Law Division.

1998, c.Q-1.01, s.7; 2022, c 32, s.6.

Judges justices of peace, etc., by virtue of office

8 Each judge is, by virtue of his or her office, a coroner, a justice of the peace and a judge of the Provincial Court, and is deemed to have been appointed to each of those offices.

1998, c.Q-1.01, s.8.

PART III

Jurisdiction and Powers

Jurisdiction of the court

9(1) The court has original jurisdiction throughout Saskatchewan, with full power and authority to consider, hear, try and determine actions and matters.

(2) Subject to this Act and the rules of court, the court may be held before one or more judges.

(3) Judges have jurisdiction throughout Saskatchewan.

(4) Every judge has jurisdiction to hear and determine any action or matter in the court, including actions or matters in the Family Law Division.

(5) On the direction of the Lieutenant Governor in a particular case, the court may exercise the jurisdiction and powers of the Lieutenant Governor as a visitor.

1998, c.Q-1.01, s.9.

Powers of judge in chambers sitting in court

10(1) If a judge sitting in chambers announces that he or she is sitting in court, the judge has all the powers, authorities, rights, privileges, immunities and incidents of the court.

(2) Any judgment, decision, determination, rule, order or decree made by a judge while sitting as described in subsection (1) with respect to any issue lawfully brought before the judge is subject to appeal to the Court of Appeal.

1998, c.Q-1.01, s.10.

Declaratory judgments and orders

11 A judge may make binding declarations of right whether or not any consequential relief is or can be claimed, and no action or matter is open to objection on the ground that a mere declaratory judgment or order is sought.

1998, c.Q-1.01, s.11.

Power to make vesting orders

12(1) Where the court has the authority to order the execution of a deed, conveyance, transfer or assignment of real or personal property, the court may by order vest that real or personal property in any person or persons, in any manner and for any property that would be done by a deed, conveyance, transfer or assignment if executed.

(2) An order mentioned in subsection (1) has the same effect as if the interest in the property had been conveyed by deed, conveyance, transfer or assignment of the same interest to the person in whom the interest is ordered to be vested.

1998, c.Q-1.01, s.12.

Power to relieve against penalties, forfeitures

13 The court may grant relief against penalties and forfeitures and, in granting that relief, may impose any terms with respect to costs, expenses, damages, compensation and any other issues that the court considers appropriate.

1998, c.Q-1.01, s.13.

PART IV

Sittings and Business of the Court

Distribution of business

14 The chief justice shall co-ordinate and apportion the business of the court and assign the judges to hold court and chambers at any times and places that the chief justice considers appropriate.

1998, c.Q-1.01, s.14.

Meetings of judges

15 At least twice in each year, on a day and at a place fixed by the chief justice, the judges shall meet to consider any issue affecting the performance of their judicial duties.

1998, c.Q-1.01, s.15.

Time and place of sittings

16 Subject to the rules of court, a judge may sit and act at any time and at any place in Saskatchewan:

- (a) to transact the business of the court; or
- (b) to discharge any duty that is required, by any statute or otherwise, to be discharged.

1998, c.Q-1.01, s.16.

Adjournments of sittings

17 If a sitting of the court cannot be held on the appointed day by reason of the unavoidable absence of a judge or the inability of a judge to be present, the local registrar shall:

- (a) adjourn the court to a time to be fixed by the judge or the chief justice; and
- (b) make an entry in the court file of the adjournment and the cause of the adjournment.

1998, c.Q-1.01, s.17.

Determination by single judge

18 To the extent that is practicable and convenient:

- (a) every action or matter in the court shall be heard, determined and disposed of before a single judge; and
- (b) all proceedings in an action or matter that are subsequent to a hearing or trial, down to and including the final judgment or order, shall be heard, determined and disposed of before the judge before whom the trial or hearing took place.

1998, c.Q-1.01, s.18.

19 Repealed. 2012, c.C-43.101, s.31.

Sittings *en banc*

20(1) The court shall sit *en banc* for the purpose of hearing any applications and disposing of any matters that may properly come or be brought before the court when called together by the chief justice.

(2) For the purpose of sitting *en banc*, the court is constituted by three or more judges.

1998, c.Q-1.01, s.20.

PART V
Judicial Centres and Venue

Judicial centres

21(1) Judicial centres established pursuant to a former *Queen's Bench Act* or *King's Bench Act* that exist on the day before the coming into force of this Act are continued.

(2) For the purposes of this Act:

- (a) new judicial centres may be established by regulation; and
- (b) judicial centres may be disestablished by regulation.

1998, c.Q-1.01, s.21.

Venue of actions

22(1) Subject to this section, all actions shall be commenced and, unless ordered otherwise, tried at the judicial centre nearest to the place where:

- (a) the cause of action arose;
- (b) the defendant or one of several defendants resides when the action is commenced; or
- (c) the defendant or one of several defendants carries on business when the action is commenced.

(2) Where the parties have agreed in writing to venue, the plaintiff may commence the action at the judicial centre specified in the agreement as long as that judicial centre has not been disestablished and, where the place specified in the agreement as the venue for the action was a judicial district, it is deemed to be the judicial centre of the same name.

(3) Except where the parties have agreed in writing to venue, an action may be commenced at any judicial centre, but unless an action is commenced at one of the judicial centres mentioned in subsection (1), a defendant may request a transfer of the action in accordance with subsection (4) or (5).

(4) If there is only one defendant, the defendant may, at any time after entering a defence and before the action is set down for trial, file with the local registrar at the judicial centre where the action was commenced a notice requesting a transfer of the action to a judicial centre mentioned in subsection (1) that is specified in the notice.

(5) If there are two or more defendants, any defendant may, at any time after entering a defence and before the action is set down for trial, file with the local registrar at the judicial centre where the action was commenced:

- (a) a notice requesting a transfer of the action to the judicial centre nearest to the place where the cause of action arose; or
- (b) with the concurrence of all other defendants, a notice requesting a transfer of the action to a judicial centre mentioned in subsection (1) that is specified in the notice.

- (6) On receipt of a notice requesting the transfer of an action:
- (a) the local registrar shall immediately forward to the local registrar at the judicial centre specified in the notice all documents in the action and transfer all matters in the action to that judicial centre; and
 - (b) unless otherwise ordered, the action shall be continued at the judicial centre specified in the notice as if it had been commenced there.
- (7) Notwithstanding subsections (3) to (6), no family law proceeding shall be transferred from the judicial centre at which the action was commenced without the consent of the parties or an order of a judge.
- (8) Notwithstanding any agreement to the contrary or any provision in a mortgage of land or in an agreement for the sale of land, all actions for foreclosure or sale under a mortgage, or for enforcement of the vendor's lien, specific performance, termination, cancellation or rescission of a contract respecting land, shall be commenced and, unless otherwise ordered, continued and tried at the judicial centre nearest to which the land or any part of it lies.
- (9) A judge may order the transfer of any action to any judicial centre.

1998, c.Q-1.01, s.22.

Determination of nearest judicial centre

- 23(1)** In this section, "**land, place or thing**" includes any part of any land, place or thing.
- (2) Where, for the purposes of any Act, regulation or rule of court, it is necessary to determine which judicial centre is nearest to any land, place or thing, the distance is to be measured in accordance with this section.
- (3) Where the land, place or thing is in surveyed territory and the land, the land comprising the place or the land on which the thing is situated consists of less than a section, the distance from that land, place or thing is to be measured:
- (a) along a line at right angles to the nearest boundary of the section in which it is situated; and
 - (b) from the intersection of the line measured pursuant to clause (a) and the nearest boundary of the section in which the land, place or thing is situated, in accordance with clauses (4)(a) and (b).
- (4) Where the land consists of a section or more, the distance is to be measured:
- (a) along the surveyed section lines:
 - (i) disregarding all road allowances;
 - (ii) when measuring along section lines running north and south, disregarding any jog on a correction line resulting from the convergence of the lines bounding townships on the east and west; and
 - (iii) assuming that all sections are one mile square; and
 - (b) to the nearest corner of the quarter section of land on which the office of the local registrar for the judicial centre is situated.

(5) Where the land, place or thing is in unsurveyed territory or where it is impossible to make a measurement in accordance with subsection (3) or (4) for lack of surveyed section lines on any portion of the distance between the land, place or thing and the judicial centre in question, the distance is to be measured from the land, place or thing along a straight line to the nearest corner of the quarter section of land on which the office of the local registrar for the judicial centre is situated.

(6) For the purposes of subsections (3) to (5), the offices of the local registrars for the several judicial centres are deemed to be situated on the quarter sections of land designated in the regulations.

1998, c.Q-1.01, s.23.

Transfer – action, etc., commenced at wrong judicial centre

24 Where an action or matter has been commenced at the wrong judicial centre:

- (a) a judge may order the record to be transferred to the proper judicial centre on any terms as to costs or otherwise that the judge considers appropriate; and
- (b) if an order is made pursuant to clause (a):
 - (i) the local registrar at the wrong judicial centre shall transmit to the local registrar at the proper judicial centre all documents in the action or matter; and
 - (ii) the action or matter shall be continued or dealt with as if it had been commenced at the proper judicial centre.

1998, c.Q-1.01, s.24.

Transfer – application made to wrong judge

25 Where an application has been made to the wrong judge:

- (a) the judge to whom the application has been made may order the record to be transferred to the proper judge on any terms as to costs or otherwise that the judge considers appropriate; and
- (b) if an order is made pursuant to clause (a):
 - (i) the judge to whom the application was made shall transmit to the proper judge all documents relating to the application; and
 - (ii) the application shall be continued or dealt with as if it had been made to the proper judge.

1998, c.Q-1.01, s.25.

Deemed jurisdiction in certain cases

26 Notwithstanding anything in this or any other Act or in any regulation or rule of court, where an action or matter has been commenced at the wrong judicial centre or an application has been made to the wrong judge as *persona designata* or otherwise, and no objection has been taken by anyone on that ground or the judge has found against such an objection:

- (a) a judge who proceeds to try the action, dispose of the matter or hear the application is deemed to have jurisdiction; and
- (b) the judgment or findings of a judge described in clause (a) have the same effect as if the action or matter had been commenced at the proper judicial centre or the application had been made to the proper judge.

1998, c.Q-1.01, s.26.

PART VI Procedure

Procedure generally

27(1) Procedure in the court is to be in accordance with this Act and the rules of court.

(2) Where, in a particular case, a procedure is not expressly provided for by this Act or the rules of court, the procedure to be followed is the procedure for a similar circumstance or the procedure that a judge, on an application made with or without notice, directs.

1998, c.Q-1.01, s.27; 2018, c43, s.15.

Rules of court

28(1) The judges may make rules of court:

- (a) regulating the sittings of the court;
- (b) regulating procedure and pleadings in the court;
- (c) regulating the vacations of the court;
- (d) respecting the payment, transfer or deposit into or out of court of any money or property or the dealing with that money or property;
- (e) prescribing a tariff of fees and allowances payable:
 - (i) for services by lawyers in all actions and matters in the court; and
 - (ii) for preliminary services by lawyers relating to proceedings subsequently taken in the court;

- (f) subject to the regulations, prescribing a tariff of fees and expenses payable to witnesses;
 - (g) subject to the regulations, prescribing a tariff of fees, expenses and allowances provided for pursuant to this Act and the rules of court;
 - (h) respecting the hearing of appeals from judges of the Provincial Court and regulating all matters relating to procedure on those appeals;
 - (i) prescribing a table that, in the absence of evidence to the contrary, may be used to establish the life expectancy of an individual or the joint life expectancy of more than one individual;
 - (j) prescribing the rate of interest that, in the absence of evidence to the contrary, may be used in determining the capitalized value of an award with respect to future damages;
 - (k) prescribing a table that, in the absence of evidence to the contrary, may be used to determine the value of a dollar at the rate of interest prescribed pursuant to clause (j);
 - (l) respecting the admissibility of evidence;
 - (m) enabling an action or matter to be continued or commenced against, or continued or commenced by, the estate of a deceased person where no grant of probate or administration has been made;
 - (n) in relation to any actions or matters, respecting:
 - (i) procedure in the court;
 - (ii) the duties of officers of the court; and
 - (iii) the cost of proceedings in the court;
 - (o) generally regulating:
 - (i) anything not sufficiently provided for in this Act; and
 - (ii) any other thing that the judges consider expedient for better attaining the ends of justice, advancing the remedies of parties and carrying into effect this Act and the provisions of other Acts respecting the court.
- (2) Where an Act contains provisions respecting procedure in the court, the judges may make rules of court to modify those provisions to any extent that the judges consider necessary to adapt those provisions to the court, unless this power is expressly excluded by the Act.
- (3) All rules of court must be published in the Gazette with as little delay as possible.

(4) Subsection (3) does not apply to a general consolidation and revision of the rules of court, but a notice of the promulgation of the consolidated and revised rules must be published in the Gazette and must state a date, subsequent to that publication, on which the rules come into force.

1998, c.Q-1.01, s.28.

Not admissible as evidence

28.1 Except with the written consent of all parties to an action who participated in a settlement pre-trial conference conducted by a judge, the following are not admissible as evidence in any civil, administrative, regulatory or summary conviction proceeding:

- (a) evidence directly arising from anything said in the course of the settlement pre-trial conference;
- (b) anything said in the course of the settlement pre-trial conference;
- (c) any oral or written admission or communication made in the course of the settlement pre-trial conference.

2002, c.9, s.2; 2006, c.31, s.2.

Multiplicity of proceedings avoided

29(1) The court shall grant to the parties to an action or matter all remedies to which the parties appear to be entitled with respect to any legal or equitable claims that they have properly brought forward so that:

- (a) all issues in controversy between the parties are determined as completely and finally as possible; and
- (b) a multiplicity of legal proceedings concerning the issues is avoided.

(2) Relief pursuant to subsection (1) may be granted either absolutely or on any terms and conditions that a judge considers appropriate.

1998, c.Q-1.01, s.29.

30 Repealed. 2004, c.16, s.7.

Counterclaim

31 A judge may grant to a defendant all relief against a plaintiff or petitioner that the defendant has claimed by his or her pleading and that the judge might grant in an action or matter commenced for that purpose by the same defendant against the same plaintiff or petitioner.

1998, c.Q-1.01, s.31.

Third parties

32(1) In this section, “**third party**” means a person, whether already a party to an action or matter or not, who has been served, pursuant to the rules of court or an order of the court, with notice in writing of a defendant’s claim against the person for relief relating to the original subject of an action or matter.

(2) A judge may grant to a defendant all relief relating to the original subject of an action or matter and claimed by the defendant against a third party that the court might grant in an action or matter commenced for that purpose by the same defendant against the same third party.

(3) A third party is deemed to be a party to the action or matter, with the same rights with respect to his or her defence against the claim as if the third party had been sued in the ordinary way by the defendant.

1998, c.Q-1.01, s.32.

Appointment of representative in action or matter

33(1) Where it appears that a deceased person who was interested in the issues in question in an action or matter has no personal representative, a judge may, on any notice that the judge considers appropriate:

(a) proceed in the absence of any person representing the deceased person’s estate; or

(b) appoint a person to represent the estate for the purposes of the action or matter.

(2) A judge may act pursuant to subsection (1) notwithstanding that:

(a) the estate may have a substantial interest in the issues in question;

(b) there may be active duties to be performed by the person appointed pursuant to clause (1)(b);

(c) the person appointed pursuant to clause (1)(b) may represent interests adverse to the plaintiff; or

(d) a claim has been made for administration of the estate of the deceased person.

(3) An order made pursuant to subsection (1) and any orders made as a consequence of an order pursuant to subsection (1) bind the estate of the deceased person in the same manner as if a duly appointed personal representative of that person had been a party to the action or matter.

(4) Without limiting the generality of subsections (1) to (3), a judge may exercise the powers set out in subsection (1):

(a) in all actions or matters:

(i) to enforce the payment of money secured by a mortgage of land;

(ii) to enforce the covenants, agreements, stipulations or conditions contained in a mortgage of land;

- (iii) for the sale of mortgaged land;
- (iv) to foreclose any estate, interest or claim in or on mortgaged land; or
- (v) to redeem or discharge land from a mortgage; and
- (b) in all actions or matters brought by a vendor:
 - (i) to enforce the covenants, agreements, stipulations or conditions contained in an agreement for the sale of land; or
 - (ii) to put an end to or rescind or cancel an agreement for the sale of land.

1998, c.Q-1.01, s.33.

Appointment of lawyer in protection hearing

33.1(1) In this section, “**child**” and “**protection hearing**” have the same meaning as in section 2 of *The Child and Family Services Act*.

(2) Notwithstanding any of the court’s other powers, if an application for a protection hearing is made, the court may direct that the child be represented by a lawyer if the court is satisfied that the interests or views of the child would not otherwise be adequately represented.

(3) If the court directs that a child be represented by a lawyer pursuant to subsection (2), the court shall refer the child to the public guardian and trustee in accordance with section 6.3 of *The Public Guardian and Trustee Act*, and the public guardian and trustee shall appoint a lawyer to represent the child.

(4) In making a direction pursuant to subsection (2), the court shall consider all relevant factors, including:

- (a) any difference between the interests or views of the child and the interests or views of the parties to the protection hearing;
- (b) the nature of the protection hearing, including the seriousness and complexity of the issues;
- (c) the ability of the child to express his or her interests or views; and
- (d) the views of the child regarding representation.

(5) Notwithstanding that a child is represented by a lawyer, the child is not a party to the protection hearing.

2014, c.26, s.2.

Court-appointed lawyer – notice required

33.2 Subject to section 33.1, the court shall not appoint a lawyer to represent a person in any legal matter unless the court is satisfied that the application and notice requirements of Part III.1 of *The Constitutional Questions Act, 2012* have been met.

2016, c.26, s.4.

Trial with assessors

34(1) In any action or matter, a judge may call in the aid of one or more specially qualified assessors if the judge thinks it expedient to do so, and try and hear the action or matter wholly or partially with their assistance.

(2) The judge shall determine the remuneration, if any, to be paid to an assessor, and may direct payment of the remuneration by any party.

1998, c.Q-1.01, s.34.

Appraisal reports

35(1) In this section, “**appraisal report**” means a written report that contains a description, assessment or valuation of real or personal property and may contain pictures, photographs or diagrams and statements of fact or opinion.

(2) An appraisal report is admissible in evidence in any action in which its admission is permitted by the rules of court, without proof of the signature or qualifications of the person making the report.

(3) Where a party intends to submit an appraisal report in evidence, the party shall, within the time prescribed by the rules of court, provide to the other parties to the action a copy of the appraisal report and a summary of the qualifications of the person who makes the report.

(4) The qualifications of a person who makes an appraisal report are relevant only to the weight to be attached to the report.

(5) Another party to the action may require that the person who makes an appraisal report be called for the purpose of cross-examination.

(6) Where a person has been required to give evidence orally, and the judge is of the opinion that the evidence could have been produced as effectively by way of an appraisal report, the judge may order the party that required the attendance of that person to pay any costs that the judge considers appropriate.

1998, c.Q-1.01, s.35.

Examination of party by medical practitioner

36(1) In an action brought to recover damages or other compensation with respect to bodily injuries sustained by any person, a judge may order the injured person to be examined by one or more duly qualified medical practitioners who are not being called by a party as witnesses at the trial of the action.

(2) An examination pursuant to subsection (1) is to be as complete as the medical practitioners consider necessary to ascertain the extent of the injuries alleged to have been sustained by the person being examined, the cause of the injuries and the probable duration of the injuries.

(3) A person being examined pursuant to subsection (1) shall answer all proper questions posed by the medical practitioners.

(4) The medical practitioners shall make a full report of the examination, file a copy of the report in court and deliver copies to the parties or their lawyers.

- (5) One medical adviser for each party may be present during the examination.
- (6) No examination shall be made until due notice of it has been given to the parties or their lawyers.
- (7) The party who asks for the examination shall bear the costs of the examination, in the first instance, insofar as the costs of the medical practitioners are concerned, but the trial judge may treat those costs as costs in the cause.
- (8) On an application without notice, a judge may order that a medical practitioner who makes an examination pursuant to this section be called as a witness at the trial, and a witness called pursuant to that order:
 - (a) is subject to cross-examination by any party; and
 - (b) is deemed not to be a witness of any party.
- (9) Failure without excuse to submit to examination at the times and places appointed by the medical practitioners is a ground for a stay of proceedings in the action or for a dismissal of the action in the discretion of the judge.

1998, c.Q-1.01, s.36; 2018, c.43, s.15.

Stay of proceedings

- 37(1)** Nothing in this Act prevents a judge from directing a stay of proceedings in any action or matter before the court if the judge considers it appropriate.
- (2) Any person, whether a party or not to an action or matter, may apply to the court for a stay of proceedings, either generally or to the extent that may be necessary for the purposes of justice, if the person may be entitled to enforce a judgment, rule or order, and the proceedings in the action or matter or a part of the proceedings may have been taken contrary to that judgment, rule or order.
- (3) On an application pursuant to subsection (2), a judge shall make any order that the judge considers appropriate.

1998, c.Q-1.01, s.37.

No appeal of certain judgments without leave

- 38** Except with leave of the judge giving the judgment or making the order, the following judgments and orders are not subject to appeal:
 - (a) judgments given or orders made by a judge with the consent of the parties;
 - (b) subject to the rules of court, judgments given or orders made by a judge as to costs only that, by law, are left to the discretion of the judge.

1998, c.Q-1.01, s.38.

New trials

- 39** Where a new trial is ordered on an appeal, the judge who made the original judgment, order or decision shall not preside at the new trial.

1998, c.Q-1.01, s.39.

Small claims action no bar

40 A claim brought pursuant to *The Small Claims Act, 2016*, whether or not it results in a judgment, is not a bar to an action against the same defendant on a separate claim or issue arising out of the same cause of action.

2016, cS-50.12, s.59.

Service any day of week

41 Notwithstanding any other Act or law, service of any document pursuant to any Act, law or rule of court may be effected on any day of the week.

1998, c.Q-1.01, s.41.

Fee waivers

41.1 Any fee payable pursuant to this Act or the rules of court is subject to *The Fee Waiver Act*.

2015, c.9, s.3.

PART VII Mediation

Mediation re non-family law proceedings

42(1) In this section, “**manager**” means the manager of mediation services appointed pursuant to section 14.1 of *The Justice and Attorney General Act*.

(1.1) Subject to subsections (1.2), (1.3), (1.4) and (7), after the close of pleadings in a contested action or matter that is not a family law proceeding, the local registrar shall arrange for a mediation session, and the parties shall attend the mediation session before taking any further step in the action or matter.

(1.2) On application by a party to an action or matter, the court may:

- (a) exempt the parties from the requirement to attend a mediation session; or
- (b) postpone the requirement to attend a mediation session until a later step in the action or matter on any terms that the court considers appropriate.

(1.3) At the request of a party to an action or matter, the manager may postpone the requirement to attend a mediation session, on any terms the manager considers appropriate, until:

- (a) each party has served the other parties with a statement as to documents;
or
- (b) a later step in the action or matter.

(1.4) At the request of a party to an action or matter, the manager may exempt the parties from the requirement to attend a mediation session.

- (1.5) Unless excused by the manager, the parties shall appear in person at the first mediation session and at any subsequent mediation session.
- (2) After a mediation session:
- (a) the parties may continue with the mediation; or
 - (b) any party may discontinue the mediation and continue with the action or matter.
- (3) If a party fails to comply with this section, the manager:
- (a) may file a certificate of non-compliance with the court; and
 - (b) at the request of another party, shall file a certificate of non-compliance with the court.
- (4) After a mediation session, the manager shall file a certificate of compliance with the court.
- (5) If a certificate of non-compliance is filed, a judge, on application:
- (a) may:
 - (i) order the party who did not attend the mediation session to attend, and adjourn the application; or
 - (ii) strike out the pleadings or other documents of the party who did not attend unless the party satisfies the judge that:
 - (A) he or she has a reasonable excuse for not attending; and
 - (B) it would be inequitable to strike out the party's pleadings or documents; and
 - (b) may order the party who did not attend the mediation session to pay the costs of any other party.
- (5.1) A judge may, at any time, order that further mediation occur, on any terms the judge considers appropriate.
- (6) Subject to an order to the contrary, nothing in this section prevents a party from applying to the court for interim relief.
- (7) This section applies only:
- (a) at any judicial centres designated in the regulations; and
 - (b) to actions or matters in which pleadings are closed at a judicial centre after it is designated pursuant to clause (a).

cQ-1.01

QUEEN'S BENCH, 1998

Evidence not admissible

43 Except with the written consent of the mediator and all parties to the proceeding in which the mediator acted, the following types of evidence are not admissible in any civil, administrative, regulatory or summary conviction proceeding:

- (a) evidence directly arising from anything said in the course of mediation;
- (b) evidence of anything said in the course of mediation;
- (c) evidence of an admission or communication made in the course of mediation.

2006, c.31, s.2.

Mediator not liable

44 No action lies or shall be commenced against a mediator for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by the mediator in:

- (a) the carrying out or supposed carrying out of any duty imposed or the exercise or supposed exercise of any power conferred by this Act; or
- (b) the carrying out or supposed carrying out of any order made pursuant to this Act.

1998, c.Q-1.01, s.44.

Family dispute resolution

44.01(1) In this section:

“family dispute resolution” means a process used by parties to an application to which this section applies to attempt to resolve one or more of the disputed issues, and includes:

- (a) the services of any of the following persons:
 - (i) a family mediator;
 - (ii) a family arbitrator as defined in section 2 of *The Arbitration Act, 1992*;
 - (iii) a parenting coordinator as defined in section 30 of *The Children's Law Act, 2020*;
- (b) other collaborative law services; and
- (c) any other process or service prescribed in the regulations; (« *processus de résolution des conflits familiaux* »)

“family mediator” means a person who is recognized by the minister as meeting the requirements prescribed in the regulations for family mediators; (« *médiateur familial* »)

“minister” means the member of the Executive Council to whom for the time being the administration of this Act is assigned. (« *ministre* »)

- (2) This section applies to an application made pursuant to:
- (a) Part 2 or 5 of *The Children's Law Act, 2020*, other than a hearing pursuant to section 21 of that Act;
 - (b) *The Family Maintenance Act, 1997*;
 - (c) *The Family Property Act*; or
 - (d) the *Divorce Act* (Canada).
- (3) Subject to subsections (6) to (8), if the parties to an application to which this section applies have not already done so, after the close of pleadings the parties must:
- (a) participate in family dispute resolution; and
 - (b) file with the court a certificate of participation in family dispute resolution, in the form prescribed in the regulations.
- (4) Subject to subsection (6), a party who fails to participate in family dispute resolution is prohibited from:
- (a) taking any further step in the proceeding; and
 - (b) filing with the court any further application for relief.
- (5) If a party fails to participate in family dispute resolution, the court, on application, may:
- (a) strike out the party's pleadings or other documents;
 - (b) refuse to allow the party to make submissions on an application or at trial;
 - (c) order the party to participate in family dispute resolution; or
 - (d) order costs or any other relief.
- (6) On an application made with or without notice, the court, or any other person or class of persons prescribed in the regulations, may exempt a party from the requirement to participate in family dispute resolution pursuant to this section if:
- (a) there is a restraining order between the parties;
 - (b) a child of the parties has been kidnapped or abducted by one of the parties;
 - (c) there is a history of interpersonal violence between the parties;
 - (d) the party provides proof of attempts to engage the other party in family dispute resolution; or
 - (e) in the opinion of the person hearing the application, there are extraordinary circumstances.
- (7) If, on an application pursuant to subsection (6), a person other than the court exempts a party from the requirement to participate in family dispute resolution pursuant to this section:
- (a) that person shall complete an exemption certificate in the form prescribed in the regulations; and

- (b) the party who has been granted the exemption shall file the exemption certificate with the court.
- (8) This section applies only:
- (a) at a judicial centre designated in the regulations; and
- (b) to actions or matters in which pleadings are closed at a judicial centre after it is designated pursuant to clause (a).

2018, c 18, s.5; 2020, c 2, s.91.

PART VII.1 Parenting Education

Parenting education required

44.1(1) In this section:

“designated judicial centre” means a judicial centre designated in the regulations for the purposes of this section; (« *centre judiciaire désigné* »)

“family law proceeding” means a family law proceeding in which custody, access or child support is in issue, other than a proceeding pursuant to *The Inter-jurisdictional Support Orders Act*; (« *instance en matière familiale* »)

“parenting education program” means a parenting education program established pursuant to the regulations for the purposes of this section; (« *cours sur l'art d'être parent* »)

“party” does not include the Minister of Social Services, the public guardian and trustee or any other public official acting in an official capacity with respect to a child who is the subject of a family law proceeding. (« *partie* »)

- (2) This section applies to all family law proceedings that:
- (a) are commenced in a designated judicial centre after its date of designation; or
- (b) are the subject of an order made pursuant to subsection (5) or (6).
- (3) Each party to a family law proceeding described in clause (2)(a) must attend a parenting education program unless:
- (a) the party files with the court:
- (i) a certificate of attendance as proof, in the absence of evidence to the contrary, that the party has attended a parenting education program within the preceding two years; or
- (ii) a document meeting any requirements set out in the regulations as proof, in the absence of evidence to the contrary, that the party has attended an equivalent program within the preceding two years;

- (b) the party obtains an exemption pursuant to subsection (9); or
 - (c) both parties certify in writing that they have entered into a written agreement settling all issues between them respecting custody, access and child support.
- (4) A party who commences a family law proceeding described in clause (2)(a) must serve the respondent with a notice of the requirement to attend a parenting education program together with the document commencing the family law proceeding.
- (5) Where a family law proceeding is commenced in a judicial centre that is not a designated judicial centre, the court may order one or both of the parties to attend a parenting education program within any time that the court may specify.
- (6) Where, at the time a family law proceeding is commenced in a judicial centre, the judicial centre is not a designated judicial centre but later becomes a designated judicial centre before the family law proceeding is concluded, the court may order one or both of the parties to attend a parenting education program within any time that the court may specify.
- (7) A party who is required to attend a parenting education program pursuant to this section must file a certificate of attendance with the court before taking any further step in the family law proceeding.
- (8) Where a party fails to attend a parenting education program when required to do so pursuant to this section, the court may, on application:
- (a) strike out the party's pleadings or other documents;
 - (b) refuse to allow the party to make submissions on an application or at trial; or
 - (c) order the party to attend a parenting education program within any time that the court may specify and adjourn the application.
- (9) On an application without notice, the court may exempt a party from the requirement to attend a parenting education program pursuant to this section, or postpone the requirement for a party to attend a parenting education program, if:
- (a) the party is seeking interim custody incidental to an application without notice for a restraining order where there has been domestic violence;
 - (b) a child of the party has been kidnapped or abducted; or
 - (c) in the opinion of the court, there are extraordinary circumstances.
- (10) On an application without notice, the court may postpone the requirement to attend a parenting education program pursuant to this section if one of the parties has made a unilateral change in a custody or access arrangement.

PART VIII
Particular Proceedings

Actions restraining obscene publications

45(1) An action may be brought by or on behalf of the Attorney General for an injunction or mandamus restraining the publication of any newspaper, publication, pamphlet, magazine, periodical or other printed material, or of any similar material in an electronic medium, that publishes, continuously or repeatedly, writings or articles that are obscene, immoral, or otherwise injurious to public morals.

(2) An action may be brought against anyone who prints, publishes or distributes any publication described in subsection (1).

(3) In an action pursuant to subsection (1), the judge may grant an interlocutory injunction or mandamus on any material that the judge considers appropriate.

1998, c.Q-1.01, s.45.

Certificate of pending litigation

46(1) Commencing an action or matter in which any title to or interest in land is brought in question is not deemed to be notice of the action or matter to any person who is not a party to it until an interest based on a certificate of pending litigation, accompanied by a certificate of pending litigation signed by the local registrar, is registered in the Land Titles Registry.

(2) A certificate of pending litigation must:

- (a) certify that some title or interest in land is called in question by an action or matter pending in the court; and
- (b) describe the land and the parties to the action or matter.

(3) Subsection (1) does not apply to:

- (a) an action or matter for foreclosure or sale on a registered mortgage; or
- (b) an action or matter for cancellation or sale on an agreement for the sale of land of which the plaintiff is the registered owner.

1998, c.Q-1.01, s.46; 2000, c.70, s.20.

Vacating certificate of pending litigation

47(1) A judge may make an order vacating a certificate of pending litigation:

- (a) where the plaintiff or other party at whose instance the certificate was issued does not proceed with the action or matter in good faith;
- (b) where the plaintiff's claim is not solely to recover land or an interest in land, but to recover money or money's worth:
 - (i) that is chargeable on or payable out of land or some interest in land; or
 - (ii) for the payment of which the plaintiff claims that the land or the interest in land ought to be subjected;

- (c) where the plaintiff claims land or an interest in land and, in the alternative, damages or compensation in money or money's worth; or
 - (d) on any other ground that the judge considers appropriate.
- (2) An order pursuant to clause (1)(b) or (c) may be made subject to any terms as to giving security or otherwise that the judge considers appropriate.
- (3) On an application pursuant to this section, the judge may order any party to the application to pay the costs of any other party, or may make any other order with respect to costs that the judge considers appropriate.
- (4) An interest based on a certificate of pending litigation may be discharged by submitting an application for discharge to the Land Titles Registry, accompanied by an order vacating a certificate of pending litigation, on or after the fourteenth day from the date of the order, unless the order is meanwhile reversed or an order is made postponing or forbidding the registration of the order.
- (5) Where a certificate of pending litigation is vacated:
- (a) any person may deal with the land as fully as if the certificate had not been registered;
 - (b) no purchaser or mortgagee is required to inquire as to the allegations in the action or matter; and
 - (c) the rights of a purchaser or mortgagee are not affected by his or her awareness of allegations in the action or matter.

1998, c.Q-1.01, s.47; 2000, c.70, s.21.

Disputed assignment of debt or other chose in action

48 Where the debtor, trustee or other person liable with respect to a debt or chose in action that has been assigned has notice that the assignment is disputed by the assignor or anyone claiming under the assignor or has notice of any other opposing or conflicting claims to the debt or chose in action, the debtor, trustee or other person may:

- (a) call on the persons disputing the assignment or making claim to the debt or chose in action to interplead with respect to those issues; or
- (b) pay the amount owed pursuant to the debt or chose in action into court in accordance with *The Trustee Act, 2009*.

1998, c.Q-1.01, s.48; 2009, c.6, s.4.

Relief against forfeiture – breach of certain leases

49(1) A judge may grant relief against forfeiture, on any terms that the judge considers appropriate, for breach of a covenant or condition in a lease to insure against loss or damage by fire, where:

- (a) no loss or damage by fire has happened;
- (b) in the opinion of the judge, the breach was committed through accident or mistake or otherwise without fraud or gross negligence; and
- (c) there is insurance in effect at the time of the application to the court in conformity with the covenant to insure.

- (2) Where relief against forfeiture is granted, the judge shall direct that a record of the relief granted be made by endorsement on the lease or otherwise.
- (3) This section applies to:
- (a) leases for a term of years absolute or determinable on a life or otherwise; and
 - (b) leases for the life of the lessee or the life of any other person.

1998, c.Q-1.01, s.49.

Negligence of fellow employees no defence

50 In an action against an employer, or the successor or legal representative of an employer, for damages for the injury or death of an employee of that employer, it is not a good defence that the injury or death resulted from the negligence of an employee engaged in a common employment with the injured employee, notwithstanding any agreement to the contrary.

1998, c.Q-1.01, s.50.

Injunction in labour dispute

51(1) In this section, "**labour dispute**" means any dispute or difference between an employer and one or more employees, or between an employer and a union within the meaning of *The Saskatchewan Employment Act*, as to:

- (a) matters or things affecting or relating to work done or to be done by the employee, employees or union; or
 - (b) the privileges, rights, duties or conditions of employment of the employee, employees or union.
- (2) No injunction to restrain any person from doing any act in connection with any labour dispute shall be made without notice.
- (3) A copy of an affidavit intended to be used in support of an application for an interim injunction to restrain any person from doing any act in connection with any labour dispute must be served with the injunction application.
- (4) An affidavit mentioned in subsection (3) must be confined to facts that the deponent is able to prove from his or her own knowledge.
- (5) If members of a union within the meaning of *The Saskatchewan Employment Act* are the defendants or intended defendants:
- (a) the injunction application may be served on the president, vice-president, secretary, treasurer, secretary-treasurer or any other officer, or the financial secretary or business agent, of the union if the person is resident in Saskatchewan; or
 - (b) if no person mentioned in clause (a) is resident in Saskatchewan, the injunction application may be served on any employee of the defendant or intended defendant who is a shop steward, agent or other representative of the union, regardless of the name or title by which the person is known.

(6) If, on an application without notice, it appears that prompt service of the injunction application cannot be effected on any of the persons mentioned in subsection (5), the judge may make an order for substituted service of the injunction application by advertisement or other means that will in all reasonable probability ensure that the injunction application will be brought to the attention of the defendants or intended defendants.

(7) Nothing in this section authorizes an action or matter against a union or permits a union to be made a party to an action or matter in any court.

2018, c 43, s.15.

PART IX Certain Laws Declared

Rules of law apply in all courts

51.1 The rules of law enacted and declared by this Act are part of the law of Saskatchewan and must be applied in all courts of Saskatchewan, so far as the matters to which the rules relate are cognizable by those courts.

2010, c.28, s.3.

Reception of laws of England

51.2 The laws of England relating to matters within the legislative jurisdiction of the province, as those laws existed on July 15, 1870, are in force in the province to the extent that those laws are applicable to the province, except as those laws may have been changed or altered by:

- (a) an Act;
- (b) an Ordinance of the Northwest Territories enacted before the *Saskatchewan Act* came into force;
- (c) an Act of the Parliament of Canada enacted before the *Saskatchewan Act* came into force; or
- (d) an Act of the Parliament of the United Kingdom applicable to the province and enacted before the *Statute of Westminster, 1931* came into force.

2010, c.28, s.3.

Rules of equity prevail

52(1) The court shall administer concurrently all rules of equity and the common law.

(2) Where a rule of equity conflicts with a rule of common law, the rule of equity prevails.

1998, c.Q-1.01, s.52.

Minors

53 The rules of equity prevail in all questions relating to the custody and education of minors.

1998, c.Q-1.01, s.53.

Stipulations in contracts as to time, etc.

54 Stipulations in contracts as to time or otherwise that, according to rules of equity, are not deemed to be, or to have become, of the essence of those contracts are to be construed and have effect at law in accordance with the same rules.

1998, c.Q-1.01, s.54.

Equitable defence

55 The rules of equity may be relied on by way of defence.

1998, c.Q-1.01, s.55.

Equitable waste

56 An estate for life without impeachment of waste does not confer on the tenant for life any legal right to commit equitable waste unless an intention to confer that right expressly appears by the instrument creating the estate.

1998, c.Q-1.01, s.56.

Merger

57 Where the beneficial interest in an estate would not be deemed to be merged or extinguished in equity, there shall not be any merger of the estate by operation of law only.

1998, c.Q-1.01, s.57.

Cause of action estoppel

58 A cause of action estoppel does not arise in an action for debt or damage where the issue or the relief claimed is clearly severable from the issue or the relief claimed in a previous action against the same defendant, notwithstanding that the issue or relief claimed arises from the same cause of action.

1998, c.Q-1.01, s.58.

Restitution

59(1) Subject to subsection (2), no decision with respect to restitution in the trial of an offence affects an action brought against the offender to recover damages suffered in the commission of the offence or as a result of the commission of the offence.

(2) In assessing the quantum of damages in an action mentioned in subsection (1), a judge may take into account the amount ordered to be paid by an offender pursuant to a restitution order.

1998, c.Q-1.01, s.59.

60 Repealed. 2004, c.16, s.7.**Relief of mortgagor in default**

61 Where default is made in the payment of money due under a mortgage or in the observance of a covenant contained in a mortgage and, under the terms of the mortgage, the payment of other portions of the principal money is accelerated by reason of the default and those portions become due and payable:

- (a) the mortgagor may, notwithstanding any provision of the mortgage to the contrary and at any time before sale or before the grant of a final order of foreclosure, perform the covenant or pay the arrears that are in default, with costs to be taxed; and
- (b) on performing a covenant or paying arrears pursuant to clause (a), the mortgagor is relieved from immediate payment of the portion of the money secured by the mortgage that has not become payable by lapse of time.

1998, c.Q-1.01, s.61.

Relief of purchaser in default

62 Where default is made in the payment of money due under an agreement for sale of land or in the observance of a covenant contained in an agreement for sale of land and, under the terms of the agreement, the payment of other portions of the purchase money is accelerated by reason of the default and those portions become due and payable:

- (a) the purchaser may, notwithstanding any provision of the agreement to the contrary, and at any time before final judgment in an action brought to enforce the rights of the vendor, perform the covenant or pay the arrears that are in default, with costs to be taxed; and
- (b) on performing a covenant or paying arrears pursuant to clause (a), the purchaser is relieved from immediate payment of the portion of the purchase money that has not become payable by lapse of time.

1998, c.Q-1.01, s.62.

Remedies of mortgagors of land

63(1) Where a mortgagee of land has not given notice of his or her intention to take possession of the land or to enter into the receipt of the rents and profits of the land, a mortgagor who is entitled for the time being to possession of the land or to receipt of the rents and profits of the land may do either or both of the following:

- (a) sue for possession of the land;
- (b) sue or distrain:
 - (i) for the recovery of the rents or profits; or
 - (ii) to prevent or recover damages with respect to any trespass or other wrong relative to the land.

(2) A mortgagor who sues or distrains pursuant to subsection (1) may sue or distrain in his or her own name only unless the cause of action arises on a lease or other contract made by the mortgagor jointly with another person and, in that case, the mortgagor may sue or distrain jointly with that other person.

1998, c.Q-1.01, s.63.

Part performance, where satisfaction

64 Part performance of an obligation, either before or after breach of the obligation, extinguishes the obligation, even if there is no new consideration, where the part performance is:

- (a) expressly accepted by the creditor in satisfaction of the obligation; or
- (b) rendered pursuant to an agreement for satisfaction of the obligation.

1998, c.Q-1.01, s.64.

Interlocutory mandamus, injunction or appointment of receiver

65(1) A judge may, on an interlocutory application, grant a mandamus or an injunction or appoint a receiver where it appears to the judge to be appropriate or convenient that the order should be made.

(2) An order pursuant to subsection (1) may be made unconditionally or on any terms and conditions that the judge considers appropriate.

(3) If an injunction is sought, whether before, at or after the hearing of an action or matter, to prevent any threatened or apprehended waste or trespass, a judge may grant the injunction:

- (a) whether the person against whom the injunction is sought:
 - (i) is or is not in possession under any claim of title or otherwise; or
 - (ii) if not in possession, does or does not claim a right to do the act sought to be restrained under any colour of title; and
- (b) whether the estates claimed by any of the parties are legal or equitable.

1998, c.Q-1.01, s.65.

Damages in addition to or instead of injunction or specific performance

66(1) On an application for an injunction against a breach of a covenant or an agreement or against the commission or continuance of a wrongful act or an application for the specific performance of a covenant or an agreement, a judge may:

- (a) award damages to the injured party, either in addition to or in substitution for the injunction or specific performance; or
- (b) grant any other relief that the judge considers appropriate.

(2) Damages awarded pursuant to clause (1)(a) may be ascertained in any manner that the judge may direct.

1998, c.Q-1.01, s.66.

Orders of court as against purchasers

67 An order pursuant to any statutory or other authority shall not be invalidated as against a purchaser, whether with or without notice, on the ground of want of jurisdiction or want of any concurrence, consent, notice or service.

1998, c. Q-1.01, s.67.

Wages of minors

68 Minors may sue for wages as if they were of full age.

1998, c.Q-1.01, s.68.

Effect of giving time, dealing with security

69(1) Giving time to a principal debtor, or dealing with or altering the security held by the principal creditor, does not of itself discharge a surety or guarantor.

(2) A surety or guarantor is entitled to set up the giving of time or the dealing with or altering of the security as a defence, but this defence shall be allowed only to the extent that it is shown that the surety or guarantor has been prejudiced by the giving of time or the dealing with or altering of the security.

1998, c.Q-1.01, s.69.

Order for sale of real property

70(1) In an action or matter relating to real property, if it appears necessary or expedient that the real property or any part of the real property should be sold:

(a) a judge may order the real property or part of the real property to be sold; and

(b) any party bound by the order who is in possession of the real property or in receipt of the rents and profits of the real property shall deliver up that possession or receipt to the purchaser or to any other person directed by the order.

(2) When a judge makes an order pursuant to clause (1)(a), the following persons are deemed to be trustees within the meaning of *The Trustee Act, 2009*:

(a) any person entitled to or in possession of the real property, or any heir, executor or administrator of that person; and

(b) any party to the action or any other person who is otherwise bound by the order.

1998, c.Q-1.01, s.70; 2010, c.28, s.4.

Order re conveyance of real property

70.1 If a judge makes an order for the specific performance of a contract with respect to real property, or for the partition or sale in lieu of partition, or exchange of real property, or generally for the conveyance of real property, the judge may do one or more of the following:

(a) deem any party to the action to be a trustee of the real property within the meaning of *The Trustee Act, 2009*;

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(b) declare that the interest in the real property of any person who is an heir to a person mentioned in clause (a) is the interest of a person who, on the coming into existence of his or her interest, would be a trustee of the real property within the meaning of *The Trustee Act, 2009*;

(c) make an order vesting the real property:

(i) in any of the persons mentioned in clause (a); or

(ii) in any of the persons mentioned in clause (b) as if they had been trustees.

2010, c.28, s.5.

Rules as to perpetuities and accumulations not applicable to employee benefit trusts

71 The rules of law and statutory enactments relating to perpetuities and to accumulations do not apply and are deemed never to have applied to the property held in trust with respect to a plan, trust or fund established for the purpose of providing pensions, retirement allowances or annuities or sickness, death or other benefits to employees or to their surviving spouses, dependants or other beneficiaries.

1998, c.Q-1.01, s.71.

Appointment of beneficiaries under employee benefit plans

72(1) In this section:

“**employee**” means an employee or former employee who is participating in a plan; (*«employé»*)

“**employer**” includes the trustee under a plan; (*«employeur»*)

“**plan**” means an employee pension, retirement, welfare or profit-sharing fund or plan. (*«régime»*)

(2) Where, in accordance with the terms of a plan, an employee designates a person to receive a benefit payable pursuant to the plan in the event of the employee's death:

(a) the employer is discharged on paying the amount of the benefit to the designated person; and

(b) on the death of the employee, the designated person may enforce payment of the benefit, but the employer is entitled to set up any defence that the employer could have set up against the employee or the employee's personal representatives.

(3) An employee may alter or revoke a designation made under a plan in the manner set out in the plan.

(4) This section does not apply to a designation of a beneficiary to which *The Insurance Act* applies.

1998, c.Q-1.01, s.72; 2022, c32, s.8.

Designation of beneficiaries under tax-free savings account

72.1(1) In this section:

“**holder**” means an individual who is the holder, as that term is defined in section 146.2 of the *Income Tax Act* (Canada), of a tax-free savings account; (*«titulaire»*)

“**issuer**” means an issuer as that term is defined in section 146.2 of the *Income Tax Act* (Canada); (*«émetteur»*)

“**tax-free savings account**” means a tax-free savings account within the meaning of section 146.2 of the *Income Tax Act* (Canada). (*«compte d'épargne libre d'impôt»*)

(2) If, in accordance with the terms of the tax-free savings account, the holder designates a beneficiary of the holder's tax-free savings account in the event of the holder's death:

(a) the issuer is discharged on paying or transferring the amount in the account to the designated person; and

(b) on the death of the holder, the designated person may enforce payment of the amount payable, but the issuer is entitled to set up any defence that it could have set up against the holder or the holder's personal representatives.

(3) A holder may alter or revoke a designation made under a tax-free savings account in the manner set out in the tax-free savings account.

(4) This section does not apply to a designation of a beneficiary to which *The Insurance Act* applies.

2009, c.26, s.2; 2010, c.29, s.2; 2022, c32, s.9.

Appointment of beneficiaries under retirement savings plans

73(1) In this section:

“**depository**” means:

(a) a person, as defined in the *Income Tax Act* (Canada), who is, or is eligible to become, a member of the Canadian Payments Association; or

(b) a credit union, as defined in the *Income Tax Act* (Canada), that is a shareholder or member of a body corporate that is a “central” for the purposes of the *Canadian Payments Association Act* (Canada);

that receives payment at a branch or office in Canada as a deposit for the purposes of a retirement savings plan; (*«dépositaire»*)

“**investment corporation**” means a corporation that is approved by the Governor in Council for the purposes of section 146 of the *Income Tax Act* (Canada) and that issues investment contracts as described in that section; (*«corporation de placement»*)

“**planholder**” means an individual who has entered into a retirement savings plan with a trustee, an investment corporation or a depository; (*«titulaire»*)

“**retirement savings plan**” means a retirement savings plan as defined in the *Income Tax Act* (Canada); (*«régime d'épargne-retraite»*)

“**trustee**” means a corporation that is a trustee under a retirement savings plan. (*«fiduciaire»*)

(2) Where, in accordance with the terms of a retirement savings plan, a planholder designates a person to receive a benefit payable under the retirement savings plan in the event of the planholder's death:

(a) the trustee, investment corporation or depository that is a party to the retirement savings plan is discharged on paying the amount of the benefit to the designated person; and

(b) on the death of the planholder, the designated person may enforce payment of the benefit, but the trustee, investment corporation or depository that is a party to the retirement savings plan is entitled to set up any defence that the trustee, investment corporation or depository could have set up against the planholder or the planholder's personal representatives.

(3) A planholder may alter or revoke a designation made under a retirement savings plan in the manner set out in the retirement savings plan.

(4) This section does not apply to a designation of a beneficiary to which *The Insurance Act* applies.

1998, c.Q-1.01, s.73; 2022, c32, s.10.

Appointment of beneficiaries under income-averaging annuity contracts

74(1) In this section:

“**contract holder**” means an individual who has entered into an income-averaging annuity contract with a trustee; (*«titulaire»*)

“**income-averaging annuity contract**” means an income-averaging annuity contract as defined in the *Income Tax Act* (Canada); (*«contrat de rente à versements invariables»*)

“**trustee**” means a corporation that is a trustee under an income-averaging annuity contract. (*«fiduciaire»*)

(2) Where, in accordance with the terms of an income-averaging annuity contract, the contract holder designates a person to receive a benefit payable under the income-averaging annuity contract in the event of the contract holder's death:

(a) the trustee is discharged on paying the amount of the benefit to the designated person; and

- (b) on the death of the contract holder, the designated person may enforce payment of the benefit, but the trustee is entitled to set up any defence that it could have set up against the contract holder or the contract holder's personal representatives.
- (3) A contract holder may alter or revoke a designation made under an income-averaging annuity contract in the manner set out in the income-averaging annuity contract.
- (4) This section does not apply to a designation of a beneficiary to which *The Insurance Act* applies.

1998, c.Q-1.01, s.74; 2022, c32, s.11.

Appointment of beneficiaries under retirement income funds

75(1) In this section:

“carrier” means a carrier as defined in section 146.3 of the *Income Tax Act* (Canada); («*émetteur*»)

“contract holder” means an individual who has entered into a contract for a retirement income fund with a carrier; («*titulaire*»)

“retirement income fund” means an arrangement between a carrier and a contract holder that is defined to be a retirement income fund by the *Income Tax Act* (Canada). («*fonds de revenu de retraite*»)

- (2) Where, in accordance with the terms of a contract for a retirement income fund, a contract holder designates a person to receive payments under the retirement income fund in the event of the contract holder's death:
- (a) the carrier is discharged on paying to the designated person the amount of the payments; and
- (b) on the death of the contract holder, the designated person may enforce payment of the amount payable, but the carrier is entitled to set up any defence that the carrier could have set up against the contract holder or the contract holder's personal representatives.
- (3) A contract holder may alter or revoke a designation made under a contract for a retirement income fund in the manner set out in the contract for the retirement income fund.
- (4) This section does not apply to a designation of a beneficiary to which *The Insurance Act* applies.

1998, c.Q-1.01, s.75; 2022, c32, s.12.

Designation of beneficiary by property attorney or property guardian

75.1(1) In this section:

“administrator” means:

- (a) an employer as defined in section 72;
- (b) an issuer as defined in section 72.1;
- (c) a trustee, investment corporation or depositary as defined in section 73;
- (d) a trustee as defined in section 74; or
- (e) a carrier as defined in section 75; (« *administrateur* »)

“capacity” means the ability:

- (a) to understand information relevant to making a decision; and
- (b) to appreciate the reasonably foreseeable consequences of making or not making a decision; (« *capacité* »)

“individual” means an individual who is or who is eligible to be:

- (a) an employee as defined in section 72;
- (b) a holder as defined in section 72.1;
- (c) a planholder as defined in section 73; or
- (d) a contract holder as defined in section 74 or 75; (« *particulier* »)

“property attorney” means a property attorney appointed pursuant to *The Powers of Attorney Act, 2002*; (« *fondé de pouvoir concernant les biens* »)

“property guardian” means:

- (a) a property decision-maker appointed pursuant to *The Adult Guardianship and Co-decision-making Act*;
- (b) the public guardian and trustee acting as a property guardian, temporary property guardian, property co-decision-maker or property attorney of an individual pursuant to *The Public Guardian and Trustee Act*; or
- (c) the Minister of Indigenous Services Canada or a person appointed by the Minister of Indigenous Services Canada pursuant to subsection 51(2) of the *Indian Act* (Canada). (« *tuteur aux biens* »)

(2) Subject to subsection (6), a property attorney or property guardian who has authority to act and make decisions respecting the property or financial matters of an individual may, for the purposes of section 72, 72.1, 73, 74 or 75, on behalf of the individual:

- (a) make a designation of beneficiary by instrument if:
 - (i) the instrument is renewing, replacing or converting the original instrument that was made by the individual while the individual had capacity;

- (ii) the instrument is a similar instrument to the original instrument; and
 - (iii) the beneficiary is the same beneficiary that was designated by the individual in the original instrument;
 - (b) make a new designation of beneficiary by new instrument if:
 - (i) the new instrument is not renewing, replacing or converting a similar instrument that was made by the individual while the individual had capacity; and
 - (ii) the beneficiary named in the new designation is the individual's estate; or
 - (c) make, change or revoke a designation of beneficiary if the designation, change or revocation of beneficiary is approved by the court.
- (3) On an application to the court pursuant to clause (2)(c), the court shall consider whether the proposed designation, change or revocation of beneficiary is in the best interests of the individual and the individual's estate.
- (4) A designation, change or revocation of beneficiary made in accordance with this section is deemed to have been made by the individual for the purposes of section 72, 72.1, 73, 74 or 75, as the case may be.
- (5) If a beneficiary is designated pursuant to this section for the purposes of section 72, 72.1, 73, 74 or 75 in the event of the individual's death:
- (a) the administrator is discharged on paying or transferring the benefit payable under the plan, tax-free savings account, retirement savings plan, income-averaging annuity contract or retirement income fund, as the case may be, to the beneficiary designated pursuant to this section; and
 - (b) on the death of the individual, the beneficiary designated pursuant to this section may enforce payment of the benefit payable under the plan, tax-free savings account, retirement savings plan, income-averaging annuity contract or retirement income fund, as the case may be, but the administrator is entitled to set up any defence that the administrator could have set up against the individual or the individual's personal representatives.
- (6) This section does not apply to the following instruments:
- (a) a will;
 - (b) a trust created by a will;
 - (c) a designation of a beneficiary to which *The Insurance Act* applies;
 - (d) any other instrument prescribed in the regulations.

Designation of beneficiary in electronic form

75.2 Subject to the regulations, a designation, change or revocation of beneficiary made pursuant to section 72, 72.1, 73, 74, 75 or 75.1 may be provided electronically in accordance with *The Electronic Information and Documents Act, 2000*.

2022, c.32, s.13.

Receivership of property

76 Section 64, subsections 65(2) and (3) and section 66 of *The Personal Property Security Act, 1993* apply, with any necessary modification, to:

- (a) a receiver or receiver-manager appointed pursuant to clause 18-4(3)(b) of *The Business Corporations Act, 2021* or clause 18-4(3)(b) of *The Non-profit Corporations Act, 2022*; or
- (b) a receivership of property that is collateral under a security agreement, charge or mortgage to which *The Personal Property Security Act, 1993* does not otherwise apply.

1998, c.Q-1.01, s.76; 2021, c.7, s.5; 2022, c.25, s.22-8.

Interest on judgments

77 Unless otherwise ordered, a verdict or judgment bears interest from the time the verdict is rendered or judgment is given, notwithstanding that entry of the judgment is suspended by any proceeding in the action, including an appeal.

1998, c.Q-1.01, s.77.

Interest in certain cases

78(1) This section applies only with respect to a cause of action arising before January 1, 1986.

- (2) Interest is payable in all cases in which it is now payable by law, or in which it has been usual for a jury to allow it.
- (3) On the trial of an issue or on an assessment of damages, interest may be allowed on a debt or sum certain that is payable by virtue of a written instrument at a time certain, from the time when the debt or sum became payable.
- (4) If a debt or sum described in subsection (3) is payable otherwise than by virtue of a written instrument at a time certain, interest may be allowed from the time when a demand for payment was made in writing, informing the debtor that interest would be claimed from the date of the demand.
- (5) In actions for the conversion of goods or for *trespass de bonis asportatis*, the jury may give interest in the nature of damages over and above the value of the goods at the time of the conversion or seizure and, in actions on policies of insurance, may give interest over and above the money recoverable on the policies.

1998, c.Q-1.01, s.78.

Tender of amends – torts

79 A person who has committed a tort giving a cause of action for the recovery of damages to the person wronged may tender amends at any time before an action is commenced, and the tender has the same effect as a tender in an action for the recovery of a debt.

1998, c.Q-1.01, s.79.

Breach of promise to marry abolished

79.1 The cause of action for breach of promise to marry, arising under the common law, is abolished.

2010, c.28, c.6.

PART X**Directions for Payment of Money Recoverable under Judgment****Interpretation of Part**

80 In this Part, “**judgment**” means a judgment in an action for the recovery of money, but does not include:

- (a) a judgment for the recovery of money payable under a mortgage of land or an agreement for sale of land;
- (b) a judgment awarding alimony or for the payment of maintenance by one spouse to his or her spouse or former spouse, as the case may be;
- (c) a judgment for the payment of maintenance for a child of the debtor; or
- (d) a judgment for the recovery of money payable under a separation agreement.

1998, c.Q-1.01, s.80.

Application for directions for payment

81(1) Where judgment is pronounced at trial, the judgment debtor or creditor may request the judge to make an order giving directions for payment of the amount recoverable under the judgment at any times and in any amounts that the judge considers appropriate.

(2) Where a judgment is entered, the judgment debtor or creditor may apply at any time for an order giving directions for payment of the amount recoverable under the judgment at any times and in any amounts that the judge considers appropriate:

- (a) to the trial judge; or
- (b) to any judge if the trial judge is not available, if there was no trial or if the judgment was first given by an appellate court.

- (3) Unless otherwise ordered, notice of an application pursuant to subsection (2) may be served on the lawyer for the judgment debtor or creditor if the lawyer is named on the record.
- (4) On hearing a request pursuant to subsection (1) or an application pursuant to subsection (2), the judge may make an order:
- (a) giving directions for payment by the judgment debtor of the amount recoverable under the judgment at any times and in any amounts that the judge considers appropriate; and
 - (b) subject to subsection (5), giving any further directions that the judge considers necessary with respect to enforcement of the judgment by seizure or sale of the exigible property of the judgment debtor.
- (5) Notwithstanding subsection (4) or section 88, the judgment creditor may register the judgment:
- (a) as provided by *The Enforcement of Money Judgments Act*; and
 - (b) as an interest creating an enforcement charge as provided by sections 171 and 173 of *The Land Titles Act, 2000*.
- (6) Subject to subsection (5) and section 82, if enforcement of the judgment is affected by directions given pursuant to subsection (4) or pursuant to section 88, a sheriff shall not seize or sell exigible property of the defendant except as provided in those directions.

1998, c.Q-1.01, s.81; 2000, c.70, s.22; 2010, c.10, s.6.

Directions re seized goods

82 Where goods have been seized in the enforcement of a judgment pursuant to *The Enforcement of Money Judgments Act* and the judge subsequently gives directions respecting payment of the amount recoverable pursuant to the judgment, the judge may also direct that any or all of the goods seized be released from seizure subject to any conditions that the judge considers appropriate.

1998, c. Q-1.01, s.82; 2010, c.10, s.6.

Directions re perishable goods

83 On application by a judgment debtor or judgment creditor or on the request of the sheriff, a judge may, at any time, give directions to the sheriff as to the sale of any perishable goods seized or that may be seized by the sheriff and as to the disposal of the proceeds of sale.

1998, c.Q-1.01, s.83.

Application not a bar to appeal

84 An application pursuant to section 81 for an order giving directions for payment of the amount recoverable pursuant to a judgment does not preclude an appeal from the judgment.

1998, c.Q-1.01, s.84.

Copy of directions to sheriff

85 Where execution proceedings are affected by an order pursuant to section 81, 82 or 83, the party who obtained the order shall deliver a copy of the order to the sheriff.

1998, c.Q-1.01, s.85.

Proceedings on default in payment

86 The judgment creditor may proceed as if no order had been made if:

- (a) the judgment debtor fails to make any payment directed by the judge; and
- (b) the judgment creditor has not received notice from the judgment debtor of the judgment debtor's intention to make an application pursuant to subsection 88(1) before the failure to pay or within five days after the failure to pay.

1998, c.Q-1.01, s.86.

Costs

87 On a hearing pursuant to section 81, 82 or 83, the judge may order taxation of the judgment creditor's costs relating to the hearing or fix a lump sum to cover those costs, and the costs as taxed or fixed may be added to the judgment.

1998, c.Q-1.01, s.87.

Power to vary or rescind orders

88(1) An order giving directions pursuant to section 81, 82 or 83 may be varied from time to time or rescinded by the judge who made it or by any other judge, on application by the judgment debtor or judgment creditor.

(2) No application shall be made pursuant to subsection (1) unless 15 days' notice has been given.

1998, c.Q-1.01, s.88.

Judgment creditor or debtor deceased or bankrupt

89(1) Where service of a notice on a judgment creditor or judgment debtor is required:

- (a) if the judgment creditor or judgment debtor has died, the notice must be served on his or her personal representative; and
- (b) if the judgment creditor or judgment debtor is bankrupt, the notice must be served on the trustee in bankruptcy.

(2) If there is no personal representative, subsection 33(1) applies.

1998, c.Q-1.01, s.89.

PART X.1

Enforcement of Award made pursuant to a Trade Agreement**Interpretation of Part****89.1** In this Part:

“award” means an award or order for costs, or for a monetary penalty, made by a presiding body pursuant to a trade agreement; (« *sentence* »)

“certified copy” means a copy of an award certified to be a true copy by the official or body designated in the regulations as responsible for administering a trade agreement; (« *copie conforme* »)

“presiding body” means an entity mentioned in a trade agreement with the authority to make an award; (« *organe décisionnel* »)

“trade agreement” means a trade agreement designated in the regulations. (« *accord commercial* »)

2016, c26, s.6.

Filing of award

89.2(1) If an award is made against any person, the person entitled to the award may file a certified copy of that award with the court if the trade agreement permits the award to be enforced in the same manner as an order made by the court.

(2) Subsection (1) applies to an award made before, on or after the coming into force of this section.

2016, c26, s.6.

Enforcement of award as judgment or order

89.3 On the filing of an award in accordance with section 89.2, the award is enforceable as if it were a judgment or order of the court.

2010, c.28, s.7.

PART XI

Family Law Division**Jurisdiction of Family Law Division**

90 The Family Law Division shall hear and determine family law proceedings and, in exercising jurisdiction respecting a family law proceeding, a judge:

- (a) has all the powers and duties of the court and a judge of the court; and
- (b) may exercise the jurisdiction vested in the Provincial Court or a judge of the Provincial Court.

1998, c.Q-1.01, s.90.

Transfer of action or matter

91(1) A judge, on application or on the judge's own motion, may order that an action or matter in the Family Law Division be dealt with by the court outside the Family Law Division, or transferred to the Provincial Court if it also has jurisdiction in the action or matter, where:

- (a) in the opinion of the judge, it is more convenient for the action or matter to be dealt with by the court outside the Family Law Division or by the Provincial Court; or
 - (b) the action or matter is not a family law proceeding.
- (2) A judge, on application or on the judge's own motion, may order that an action or matter in the court be dealt with in the Family Law Division where:
- (a) in the opinion of the judge, it is more convenient for the action or matter to be dealt with in the Family Law Division; or
 - (b) the action or matter is a family law proceeding.
- (3) The Provincial Court or a judge of the Provincial Court may order, on application or on the motion of a judge of the Provincial Court, that an action or matter in which the Family Law Division also has jurisdiction be transferred to the Family Law Division where the judge or court considers that it is more convenient for the action or matter to be dealt with in the Family Law Division.
- (4) A judge or court making an order pursuant to this section may give any directions for the transfer and make any order as to costs that the judge or court considers appropriate.

1998, c.Q-1.01, s.91.

Designation of jurisdiction

92(1) In this section and in sections 93 and 94, "**Act**" means:

- (a) *The Child and Family Services Act*;
 - (b) *The Enforcement of Maintenance Orders Act, 1997*;
 - (c) *The Family Maintenance Act, 1997*; or
 - (d) any other Act designated in the regulations.
- (2) Notwithstanding any provision of an Act to the contrary:
- (a) where a place or area is designated in the regulations as a place or area in which the Family Law Division has exclusive jurisdiction pursuant to an Act, a proceeding pursuant to an Act in the place or area must be brought in the Family Law Division; and
 - (b) where a place or area is designated in the regulations as a place or area in which the Family Law Division has concurrent jurisdiction with the Provincial Court pursuant to an Act, a proceeding pursuant to an Act in the place or area may be brought in the Family Law Division or in the Provincial Court.

(3) Where a proceeding pursuant to an Act is brought in the Provincial Court before a designation mentioned in clause (2)(a) is made, the Provincial Court retains jurisdiction pursuant to the Act for the purpose of continuing to hear and determine that proceeding.

1998, c.Q-1.01, s.92.

Transfer of proceedings

93(1) Where a proceeding pursuant to an Act is commenced in the Provincial Court in a place or area mentioned in clause 92(2)(a) before the place or area is designated, a party may request that the proceeding be transferred to the Family Law Division at the nearest judicial centre by filing a notice requesting the transfer with the clerk of the court at the court location where the proceeding is pending.

(2) On receipt of a notice requesting a transfer, the clerk shall immediately forward the file in the proceeding and all of its contents to the local registrar at the nearest judicial centre and, unless otherwise ordered, the proceeding shall be continued at the judicial centre specified in the notice as if it had been commenced there.

(3) Any order made by the Provincial Court in a proceeding transferred pursuant to this section may be enforced, varied, discharged or otherwise dealt with by the Family Law Division.

1998, c.Q-1.01, s.93.

Transfer to or from Provincial Court

94(1) A proceeding pursuant to an Act that is commenced in the Provincial Court in a place or area mentioned in clause 92(2)(b) may be transferred, on application to the Family Law Division, or with the consent of the parties, to the Family Law Division at the judicial centre specified in the order or to which the parties consent.

(2) A proceeding pursuant to an Act that is commenced in the Family Law Division in a place or area mentioned in clause 92(2)(b) may be transferred, on application to the Family Law Division, or with the consent of the parties, to the Provincial Court at the court location specified in the order or to which the parties consent.

(3) Any order made in a proceeding transferred pursuant to this section may be enforced, varied, discharged or otherwise dealt with by the court to which the proceeding is transferred.

1998, c.Q-1.01, s.94.

Consolidation of proceedings

95(1) A judge may direct that a family law proceeding be consolidated or heard together with an action or matter that is not a family law proceeding.

(2) In the directions, the judge shall indicate whether the action or matter is to be dealt with by the court in or outside of the Family Law Division.

1998, c.Q-1.01, s.95.

Counselling and other services

96(1) On application or on the judge's own motion, a judge may adjourn a family law proceeding where the judge considers that any party to the proceeding or any child affected by the proceeding would benefit from counselling, mediation or professional services.

(2) Where a family law proceeding is adjourned pursuant to subsection (1), the judge may order a party to pay all or any portion of the fees and expenses specified in the order for any of the services.

1998, c.Q-1.01, s.96.

Custody, access reports

97(1) On application or on the judge's own motion, a judge may adjourn a family law proceeding and order the preparation of a report for the assistance of the court respecting the custody of, access to or welfare of children.

(2) On an application without notice, a judge may order that a person who prepares a report for the assistance of the court be called as a witness, and a witness called pursuant to that order:

(a) is subject to cross-examination by any party; and

(b) is deemed not to be a witness of any party.

(3) No action lies or shall be commenced against a person who prepares a report or who is required by the court to make recommendations respecting the custody of, access to or welfare of children for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done by that person in the carrying out or supposed carrying out of that duty.

(4) A judge may specify in an order made pursuant to subsection (1) the amount of any charge for the report that each party is required to pay.

1998, c.Q-1.01, s.97; 2018, c.43, s.15.

Informality of proceedings

98 A judge, having due regard for the proper administration of justice, shall conduct all family law proceedings as informally as the circumstances of the case permit, and no decision, order or other action of a judge shall be quashed or set aside because of informality.

1998, c.Q-1.01, s.98.

Private hearings

99 Any family law proceeding may be heard in private at the discretion of the judge.

1998, c.Q-1.01, s.99.

Restraining orders

100 On application, a judge may:

- (a) make an order restraining a person from molesting, annoying, harassing, communicating with or otherwise interfering with the applicant or a child in the lawful care or custody of the applicant; and
- (b) require the respondent to enter into any recognizance, with or without sureties, or post any bond that the judge considers appropriate.

1998, c.Q-1.01, s.100.

Appeal

101(1) Where an appeal is taken against any decision, order, judgment or other determination of the Family Law Division, the appellant shall appeal the decision, order, judgment or other determination to the Court of Appeal notwithstanding any provision of the Act pursuant to which the appeal is being taken.

(2) Where an order is made by the Provincial Court in a proceeding that is subsequently transferred to the Family Law Division:

- (a) any appeal from that order is to be taken to the Family Law Division; and
- (b) the right to appeal, and any procedure relating to the appeal, continue to exist as they existed on the day before the proceeding was transferred.

1998, c.Q-1.01, s.101.

PART XII

Particular Family Law Proceedings

Grounds for judicial separation

102 The court may grant a judgment of judicial separation to a spouse if:

- (a) the spouses have lived separate and apart for at least one year immediately preceding the granting of the judgment and were living separate and apart at the commencement of the action; or
- (b) the spouse against whom the action is brought has, since their marriage:
 - (i) committed adultery; or
 - (ii) treated the other spouse with physical or mental cruelty that renders intolerable the continued cohabitation of the spouses.

1998, c.Q-1.01, s.102.

Jurisdiction for judicial separation

103 The court has jurisdiction to hear an action for judicial separation if either spouse has been ordinarily resident in Saskatchewan for at least one year immediately preceding the commencement of the action.

1998, c.Q-1.01, s.103.

Grounds for refusing judicial separation

104(1) In this section, “**collusion**” means an agreement or conspiracy, to which a plaintiff in an action for judicial separation is either directly or indirectly a party, for the purpose of subverting the administration of justice, and includes any agreement, understanding or arrangement to fabricate or suppress evidence or to deceive the court, but does not include an agreement to the extent that it provides for separation between the parties, financial support, division of property or the custody of a child of the marriage.

(2) No judgment of judicial separation shall be granted where the judge is satisfied that there has been collusion in relation to the action for judicial separation.

(3) Where a judgment of judicial separation is sought in circumstances described in clause 102(b), no judgment of judicial separation shall be granted where the judge is satisfied that the plaintiff has been an accessory to, has connived at or has condoned the conduct of the respondent unless, in the opinion of the judge, the public interest would be better served by granting the judgment of judicial separation.

1998, c.Q-1.01, s.104.

Disposition of property of marriage settlement

105 Where a spouse obtains a judgment for divorce or a decree of nullity of marriage, a judge may make any order that the judge considers appropriate with respect to the application, either for the benefit of the children of the marriage or of the parties to the marriage or both, of property comprised in any ante-nuptial or post-nuptial settlement made on the parties to the marriage.

1998, c.Q-1.01, s.105.

Settlement of property of spouse

106 Where a spouse obtains a judgment of judicial separation or a judgment for divorce, a judge may order any settlement that the judge considers appropriate of any property to which the other spouse may be entitled in possession or reversion for the benefit of either spouse, the children of the marriage or any of them.

1998, c.Q-1.01, s.106.

Injunction re disposal of property

107 In an action on the covenant for payment contained in a separation agreement, a judge may issue an order restraining the defendant from disposing of or encumbering his or her real or personal property pending the final disposition of that action, except an interest that the defendant's spouse may subsequently acquire in the property pursuant to a judgment of the court.

1998, c.Q-1.01, s.107.

Allowing intervention on terms

108 A judge may allow a person to intervene in an action, on any terms that the judge considers appropriate, where:

- (a) the person is charged with adultery with any party to the action; or
- (b) the judge considers, in the interest of any person not already a party to the action, that the person should be made a party to the action.

1998, c.Q-1.01, s.108.

PART XIII
Miscellaneous

Regulations

109(1) 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) establishing or disestablishing judicial centres;
- (c) ordering the transmittal of any records, documents or materials from one judicial centre to another;
- (d) making any provision of a substantive or procedural nature that the Lieutenant Governor in Council considers necessary:
 - (i) to protect any interests affected by the operation of a regulation made pursuant to clause (b) or (c); or
 - (ii) to facilitate the implementation of a regulation made pursuant to clause (b) or (c);
- (e) prescribing the fees and charges payable to the registrar, sheriffs, local registrars and other officers of the court;
- (f) prescribing a tariff of fees and expenses for witnesses attending criminal trials;
- (g) exempting any category of actions or matters, by subject-matter or any other criterion that the Lieutenant Governor in Council considers appropriate, from the application of section 42;
- (h) authorizing a judge in a particular action or matter to exempt the parties from the application of section 42 or to postpone the application of any provision of section 42;
- (i) designating the judicial centres at which section 42 applies;
- (j) defining the close of pleadings for the purposes of section 42;
- (k) respecting procedures for mediation;

- (l) for the purposes of section 44.01:
 - (i) defining the close of pleadings for the purposes of clause 44.01(8)(b);
 - (ii) designating the judicial centres at which the section applies;
 - (iii) with respect to family mediators, prescribing the training, experience and other qualifications a person must have, and the requirements a person must meet, to be qualified as a family mediator;
 - (iv) prescribing processes or services to be included in family dispute resolution;
 - (v) prescribing the form of the certificate of participation in family dispute resolution;
 - (vi) prescribing persons or classes of persons who may, on an application made pursuant to subsection 44.01(6), exempt a party from the requirement to participate in family dispute resolution, and prescribing the form of the exemption certificate to be completed pursuant to subsection 44.01(7) if an exemption is granted;
- (m) for the purposes of section 44.1:
 - (i) designating the judicial centres at which the section applies;
 - (ii) exempting any category of family law proceedings from the application of the section;
 - (iii) establishing and governing parenting education programs;
 - (iv) governing evidence of completion of a program equivalent to a parenting education program;
 - (v) prescribing any forms that may be required;
- (n) exempting any other category of instruments from the application of section 75.1;
- (o) exempting any category of beneficiary designations from the application of section 75.2;
- (p) designating an official or a body responsible for administering a trade agreement for the purposes of the definition of 'certified copy' in section 89.1;
- (q) designating trade agreements for the purposes of section 89.1;
- (r) designating Acts for the purposes of subsection 92(1);
- (s) designating places or areas in which the Family Law Division has exclusive jurisdiction pursuant to an Act as defined in subsection 92(1);
- (t) designating places or areas in which the Family Law Division has concurrent jurisdiction with the Provincial Court pursuant to an Act as defined in subsection 92(1);

- (u) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
 - (v) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.
- (2) Regulations made pursuant to clause (1)(f) supersede any rules of court that are inconsistent with the regulations.

2022, c 32, s.14.