



HOUSE USE ONLY

CHAIR:

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1st SESSION, 67th GENERAL ASSEMBLY
Province of Prince Edward Island
3 CHARLES III, 2024

(Bill No. 73)

An Act to Amend the Judicature Act

Hon. Bloyce Thompson
Minister of Justice and Public Safety and Attorney General

GOVERNMENT BILL

Andrea MacRae
Acting King's Printer
Charlottetown, Prince Edward Island

**For House
Use Only**

**Prince Edward Island
Legislative Assembly**

AMENDMENTS

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BILL NUMBER: 73

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TITLE: An Act to Amend the Judicature Act

#	SECTION	AMENDMENT	DATE

NOTED:

CERTIFIED CORRECT:

COMMITTEE CLERK

CHAIR, IN COMMITTEE



AN ACT TO AMEND THE JUDICATURE ACT

BILL NO. 73

2024

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. **The *Judicature Act* R.S.P.E.I. 1988, Cap. J-2.1, is amended by the addition of the following heading before section 1:**

PART 1 - INTERPRETATION

2. **Section 1 of the Act is amended**

- (a) **by the addition of the following after clause (i):**

- (i.1) **“Minister”** means the Minister of Justice and Public Safety and Attorney General;

- (b) **by the repeal of clause (j) and the substitution of the following:**

- (j) **“officer of the court”** or **“officer of the Court of Appeal and the Supreme Court”** means

- (i) the Prothonotary,
 - (ii) the Deputy Prothonotary,
 - (iii) the Registrar, and
 - (iv) the Deputy Registrar;

- (c) **by the repeal of clause (p) and the substitution of the following:**

- (p) **“Prothonotary”** means the Prothonotary of the Court of Appeal and the Supreme Court appointed, or deemed to be appointed, under subsection 27(2), and includes a Deputy Prothonotary appointed under subsection 27(3);

- (d) **by the repeal of clause (r) and the substitution of the following:**

- (r) **“rules”** or **“Rules of Civil Procedure”** means, unless the context indicates otherwise, the rules of court made by the Rules Committee under subsection 35(1);

(e) in clause (u), by the deletion of the word “thereof” and the substitution of the words “of the court”.

3. The heading immediately before section 2 of the Act is repealed.
4. The heading immediately before section 3 of the Act is repealed and the following substituted:

PART 2 – COURT OF APPEAL

5. (1) Subsection 7(2) of the Act is amended by the deletion of the words “therefor, and any judge who differs from the opinion may in like manner certify his or her” and the substitution of the words “for it, and any judge who differs from the opinion may in the same manner certify the judge’s own”.
- (2) Subsection 7(3) of the Act is amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.
- (3) Subsection 7(4) of the Act is amended by the deletion of the word “thereunder” and the substitution of the words “under them”.
- (4) Subsection 7(6) of the Act is amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island to appoint legal counsel to argue on behalf of the person or class interested, and the reasonable expenses thereof” and the substitution of the words “to appoint legal counsel to argue on behalf of the person or class interested, and the reasonable expenses of legal counsel”.
- (5) Subsection 7(7) of the Act is amended by the deletion of the word “therefrom” and the substitution of the words “from it”.
6. The heading immediately before section 8 of the Act is repealed and the following substituted:

PART 3 – SUPREME COURT

7. (1) Subsection 11(1) of the Act is amended by the deletion of the word “rules” and the substitution of the words “Rules of Civil Procedure”.
- (2) Subsection 11(2) of the Act is amended by the deletion of the words “him or her” and the substitution of the words “the judge”.
8. Subsection 14(2) of the Act is amended by the deletion of the words “he or she” and the substitution of the words “the Chief Justice”.
9. Subsection 16(2) of the Act is amended by the deletion of the words “he or she” and the substitution of the words “the judge”.

- 10. The heading immediately before section 18 of the Act is repealed and the following substituted:**

PART 4 – PROCEDURE, POWERS AND APPEALS

- 11. (1) Subsection 18(1) of the Act is amended by the deletion of the word “rules” wherever it occurs and the substitution of the words “Rules of Civil Procedure”.**
- (2) Subsection 18(2) of the Act is amended by the deletion of the word “rules” and the substitution of the words “Rules of Civil Procedure”.**
- 12. (1) Subsection 21(1) of the Act is amended by the deletion of the words “his or her own order or on any matter that may be referred back to him or her” and the substitution of the words “the judge’s own order or on any matter that may be referred back to the judge”.**
- (2) Subsection 21(2) of the Act is amended by the deletion of the word “rules” and the substitution of the words “Rules of Civil Procedure”.**
- 13. The heading immediately before section 22 of the Act is repealed and the following substituted:**

PART 5 – JUDGES

- 14. The heading immediately before section 27 of the Act is repealed and the following substituted:**

PART 6 – OFFICERS OF THE COURTS

- 15. (1) Subsection 27(1) of the Act is repealed and the following substituted:**
- 27. Prothonotary as corporation sole**
- (1) The Prothonotary is continued as a corporation sole, under the name “Prothonotary of the Court of Appeal and the Supreme Court”, and has**
- (a) perpetual succession;**
 - (b) the power to hold any lands and tenements and to grant and convey them; and**
 - (c) all other powers of a corporation necessary to enable the Prothonotary to carry out the purposes of this Act and the directions of the courts.**
- (2) Subsection 27(2) of the Act is amended by the deletion of the words “has been a member in good standing of the Law Society of Prince Edward Island for at least five years” and the substitution of the words “has at least five years’ experience in the practice of law in a Canadian jurisdiction”.**

(3) Subsections 27(3) and (4) of the Act are repealed and the following substituted:

Deputy Prothonotary

- (3) The Lieutenant Governor in Council, in consultation with the Chief Justice of Prince Edward Island and the Chief Justice of the Supreme Court, may appoint as a Deputy Prothonotary a person who has at least five years' experience in the practise of law in a Canadian jurisdiction.

Powers and functions

- (4) A person appointed pursuant to subsection (3) may, subject to the direction of the Prothonotary, exercise the powers and carry out the functions of the Prothonotary.
- (4) **Subsection 27(5) of the Act is amended by the deletion of the words “him or her under an Act or by a direction of the Court of Appeal or the Supreme Court, or as may be prescribed by the rules” and the substitution of the words “the Prothonotary under an Act or by a direction of the Court of Appeal or the Supreme Court, or as may be prescribed by the Rules of Civil Procedure”.**
- (5) **Subsection 27(6) of the Act is amended by the deletion of the words “interim Prothonotary” and the substitution of the words “Deputy Prothonotary”.**
- (6) **Subsection 27(7) of the Act is amended**
- (a) **in clause (b), by the deletion of the words “taxing costs” and the substitution of the words “assessing costs”; and**
 - (b) **in clause (h), by the deletion of the word “rules” and the substitution of the words “Rules of Civil Procedure”.**
- (7) **Subsection 27(8) of the Act is amended by the deletion of the words “him or her” and the substitution of the words “the Prothonotary”.**

- 16. (1) Subsection 28(1) of the Act is amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.**

- (2) **Subsection 28(2) of the Act is amended by the deletion of the word “rules” and the substitution of the words “Rules of Civil Procedure”.**

17. Subsection 29(1) of the Act is repealed and the following substituted:

29. Deputy registrars

- (1) The Minister, in consultation with the Chief Justice of Prince Edward Island and the Chief Justice of the Supreme Court, shall appoint deputy registrars.

- 18. (1) Subsection 30(1) of the Act is amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.**

- (2) **Subsection 30(7) of the Act is amended by the deletion of the words “his or her” and the substitution of the words “the Registrar’s”.**

- 19. Subsection 31(3) of the Act is amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island may instruct the Auditor General to examine the security and value of any deposit or investment representing a portion of money paid into court, and the Auditor General shall thereupon” and the substitution of the words “may instruct the Auditor General to examine the security and value of any deposit or investment representing a portion of money paid into court, and the Auditor General shall, on that instruction,”.**
- 20. (1) Subsections 33(1) and (3) of the Act are amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.**
- (2) Subsection 33(5) of the Act is amended by the deletion of the word “rules” and the substitution of the words “Rules of Civil Procedure”.**
- 21. (1) Subsections 33.1(1) and (3) of the Act are amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.**
- (2) Subsections 33.1(14) and (15) of the Act are amended by the deletion of the words “his or her own initiative” and the substitution of the words “the Children’s Lawyer’s own initiative”.**
- 22. The heading immediately before section 34 of the Act is repealed and the following substituted:**

PART 7 – RULES OF COURT

- 23. (1) Clause 34(1)(f) of the Act is amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.**
- (2) Subsection 34(3) of the Act is amended by the deletion of the words “his or her” wherever they occur and the substitution of the words “the Chief Justice’s”.**
- (3) Subsection 34(5) of the Act is amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.**
- 24. Subsection 35(1) of the Act is amended**
- (a) in clause (a), by the deletion of the word “thereto” and the substitution of the words “to them”;**
- (b) in clause (e), by the deletion of the word “thereof” and the substitution of the words “of the disposition”; and**
- (c) in clause (j), by the deletion of the words “interim Prothonotary” and the substitution of the words “Deputy Prothonotary”.**

25. The heading immediately before section 36 of the Act is repealed and the following substituted:

PART 8 – ADMINISTRATION OF THE COURTS

26. Section 36 of the Act is amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.
27. Subsections 37(1) to (4) of the Act are amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.
28. (1) Subsection 38(1) of the Act is amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.
- (2) Subsection 38(3) of the Act is amended by the addition of the words “the Deputy Prothonotary,” after the words “the Prothonotary,”.
- (3) Subsection 38(6) of the Act is amended by the deletion of the words “he or she” and the substitution of the words “that person”.
29. The heading immediately before section 39 of the Act is repealed and the following substituted:

PART 9 – COMMON LAW AND EQUITY

30. The heading immediately before section 44 of the Act is repealed and the following substituted:

PART 10 – POWERS OF THE COURT ON SPECIFIC MATTERS

31. The heading immediately before section 46 of the Act is repealed.
32. Subsection 46(5) of the Act is amended by the deletion of the word “thereof” and the substitution of the words “of damages”.
33. The heading immediately before section 47 of the Act is repealed.
34. The heading immediately before section 48 of the Act is repealed.
35. Subsection 48(1) of the Act is amended
- (a) by the deletion of the words “or dentistry”; and

- (b) by the deletion of the words “the *Psychologists Act* R.S.P.E.I. 1988, Cap. P-27.1” and the substitution of the words “the *Psychologists Act* R.S.P.E.I. 1988, Cap. P-27.2”.

36. The heading immediately before section 49 of the Act is repealed and the following substituted:

PART 11 – CONSTITUTIONAL QUESTIONS

37. (1) Subsection 49(1) of the Act is amended

- (a) by the deletion of the word “thereunder” and the substitution of the words “under it”; and
- (b) by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.

- (2) Subsections 49(2), (3) and (4) of the Act are amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.

38. The heading immediately before section 50 of the Act is repealed and the following substituted:

PART 12 – CRIMINAL, QUASI-CRIMINAL PROCEEDINGS

39. The heading immediately before section 51 of the Act is repealed and the following substituted:

PART 13 – CHANGE OF VENUE

40. The heading immediately before section 52 of the Act is repealed and the following substituted:

PART 14 – DAMAGES

41. The heading immediately before section 54 of the Act is repealed and the following substituted:

PART 15 – FOREIGN CURRENCY

42. (1) Subsection 55(1) of the Act is amended by the deletion of the words “his or her” and the substitution of the words “the person’s”.

- (2) **Subsection 55(2) of the Act is amended by the deletion of the words “his or her” and the substitution of the words “that person’s”.**
43. **The heading immediately before section 56 of the Act is repealed and the following substituted:**

PART 16 – INTEREST AND COSTS

44. (1) **Subsection 57(1) of the Act is amended by the deletion of the word “thereon” and the substitution of the words “on it”.**
- (2) **Subsection 57(2) of the Act is amended by the deletion of the word “rules” and the substitution of the words “Rules of Civil Procedure”.**
45. **Subsection 60(2) of the Act is amended by the deletion of the word “herein” and the substitution of the words “in this section”.**
46. **The heading immediately before section 61 of the Act is repealed and the following substituted:**

PART 17 – PUBLIC ACCESS

47. **The heading immediately before section 63 of the Act is repealed and the following substituted:**

PART 18 – MISCELLANEOUS

48. **Clause 65(3)(d) of the Act is amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.**
49. **Subsections 66(1) and (2) of the Act are amended by the deletion of the words “of Justice and Public Safety and Attorney General of Prince Edward Island”.**
50. **Subsection 68(2) of the Act is repealed and the following substituted:**

Debtor, etc., may call upon persons making claims to interplead

- (2) In case of an assignment of a debt or other chose in action, if the debtor, trustee, or other person liable in respect to such debt or chose in action has had notice that the assignment is disputed by the assignor or anyone claiming under the assignor, or of any other opposing or conflicting claims to the debt or chose in action, the debtor, trustee or other person may, if the debtor, trustee or other person thinks fit,
- (a) call upon the several persons making such a claim to interplead concerning the debt or chose in action; or

- (b) pay the amount of the claim into the court upon obtaining a judge's order to abide the determination of the court in respect of the claim.
- 51. Sections 69 and 70 of the Act are amended by the deletion of the word “rules” and the substitution of the words “Rules of Civil Procedure”.**
- 52. The heading immediately before section 71 of the Act is repealed and the following substituted:**

PART 19 – TRANSITIONAL PROVISIONS

EXPLANATORY NOTES

SECTION 1 amends the *Judicature Act* R.S.P.E.I. 1988, Cap. J-2.1, to add a numbered part heading before section 1. Numbered part headings are an aid to users and will be added throughout the Act.

SECTION 2 amends section 1 of the Act to add a definition of “Minister”, and to add the Deputy Prothonotary to the definition of “officer of the court” and the name “Rules of Civil Procedure” to the definition of “rules”.

SECTION 3 repeals an unnecessary heading before section 2 of the Act.

SECTION 4 repeals the former heading and substitutes the heading “Part 2 – Court of Appeal” before section 3 of the Act.

SECTION 5 amends section 7 of the Act to update and clarify the wording and to use the defined term “Minister” throughout the section.

SECTION 6 repeals the former heading and substitutes the heading “Part 3 – Supreme Court” before section 8 of the Act.

SECTION 7 amends subsection 11(1) of the Act to refer to the Rules of Civil Procedure and subsection 11(2) of the Act to eliminate gendered wording.

SECTION 8 amends subsection 14(2) of the Act to eliminate gendered wording.

SECTION 9 amends subsection 16(2) of the Act to eliminate gendered wording.

SECTION 10 repeals the former heading and substitutes the heading “Part 4 - Procedure, Powers and Appeals” before section 18 of the Act.

SECTION 11 amends subsections 18(1) and (2) to refer to the Rules of Civil Procedure.

SECTION 12 amends subsection 21(1) of the Act to eliminate gendered wording and subsection 21(2) of the Act to refer to the Rules of Civil Procedure.

SECTION 13 repeals the former heading and substitutes the heading “Part 5 - Judges” before section 22 of the Act.

SECTION 14 repeals the former heading and substitutes the heading “Part 6 – Officers of the Courts” before section 27 of the Act.

SECTION 15 repeals subsection 27(1) of the Act and substitutes a new subsection 27(1) to clarify the powers of the Prothonotary and update the wording generally. The section also repeals subsections 27(3) and (4) of the Act and substitutes new subsections (3) and (4) to authorize the appointment of a Deputy Prothonotary and set out that person’s powers and functions. Subsections 27(5), (6) and (8) are amended to update the wording and eliminate gendered wording, clause 27(7)(b) is amended to clarify the wording and clause 27(7)(h) is amended to refer to the Rules of Civil Procedure.

SECTION 16 amends subsection 28(1) of the Act to use the defined term “Minister” and subsection 28(2) of the Act to refer to the Rules of Civil Procedure.

SECTION 17 repeals subsection 29(1) of the Act and substitutes a new subsection 29(1) to update the wording.

SECTION 18 amends subsection 30(1) of the Act to use the defined term “Minister” and subsection 30(7) of the Act to eliminate gendered wording.

SECTION 19 amends subsection 31(3) of the Act to use the defined term “Minister” and update the wording.

SECTION 20 amends subsections 33(1) and (3) of the Act to use the defined term “Minister” and subsection 33(5) of the Act to refer to the Rules of Civil Procedure.

SECTION 21 amends subsections 33.1(1) and (3) of the Act to use the defined term “Minister” and subsections 33.1(14) and (15) of the Act to eliminate gendered wording.

SECTION 22 repeals the former heading and substitutes the heading “Part 7 – Rules of Court” before section 34 of the Act.

SECTION 23 amends clause 34(1)(f) and subsection 34(5) of the Act to use the defined term “Minister” and subsection 34(3) of the Act to eliminate gendered wording.

SECTION 24 amends subsection 35(1) of the Act to update the wording and to change a reference to the “interim Prothonotary” to the “Deputy Prothonotary”.

SECTION 25 repeals the former heading and substitutes the heading “Part 8 – Administration of the Courts” before section 36 of the Act.

SECTION 26 amends section 36 of the Act to use the defined term “Minister”.

SECTION 27 amends subsections 37(1) to (4) of the Act to use the defined term “Minister”.

SECTION 28 amends subsection 38(1) of the Act to use the defined term “Minister”, subsection 38(3) of the Act to add a reference to the Deputy Prothonotary and subsection 38(6) of the Act to eliminate gendered wording.

SECTION 29 repeals the former heading and substitutes the heading “Part 9 – Common Law and Equity” before section 39 of the Act.

SECTION 30 repeals the former heading and substitutes the heading “Part 10 - Powers of the Court on Specific Matters” before section 44 of the Act.

SECTION 31 repeals the heading immediately before section 46 of the Act.

SECTION 32 amends subsection 46(5) of the Act to update the wording.

SECTION 33 repeals the heading immediately before section 47 of the Act.

SECTION 34 repeals the heading immediately before section 48 of the Act.

SECTION 35 amends subsection 48(1) of the Act to remove an unnecessary reference to the practise of dentistry and to update the citation of the *Psychologists Act*.

SECTION 36 repeals the former heading and substitutes the heading “Part 11 – Constitutional Questions” before section 49 of the Act.

SECTION 37 amends subsection 49(1) of the Act to update the wording and subsections 49(1) to (4) of the Act to use the defined term “Minister”.

SECTION 38 repeals the former heading and substitutes the heading “Part 12 – Criminal, Quasi-Criminal Proceedings” before section 50 of the Act.

SECTION 39 repeals the former heading and substitutes the heading “Part 13 – Change of Venue” before section 51 of the Act.

SECTION 40 repeals the former heading and substitutes the heading “Part 14 – Damages” before section 52 of the Act.

SECTION 41 repeals the former heading and substitutes the heading “Part 15 – Foreign Currency” before section 54 of the Act.

SECTION 42 amends subsections 55(1) and (2) of the Act to eliminate gendered wording.

SECTION 43 repeals the former heading and substitutes the new heading “Part 16 – Interest and Costs” before section 56 of the Act.

SECTION 44 amends subsection 57(1) of the Act to update the wording and subsection 57(2) of the Act to refer to the Rules of Civil Procedure.

SECTION 45 amends subsection 60(2) of the Act to update the wording.

SECTION 46 repeals the former heading and substitutes the new heading “Part 17 – Public Access” before section 61 of the Act.

SECTION 47 repeals the former heading and substitutes the new heading “Part 18 – Miscellaneous” before section 63 of the Act.

SECTION 48 amends clause 65(3)(d) of the Act to use the defined term “Minister”.

SECTION 49 amends subsections 66(1) and (2) of the Act to use the defined term “Minister”.

SECTION 50 repeals subsection 68(2) of the Act and substitutes a new subsection 68(2) to update and clarify the wording.

SECTION 51 amends sections 69 and 70 of the Act to refer to the “Rules of Civil Procedure”.

SECTION 52 repeals the former heading and substitutes the new heading “Part 19 – Transitional Provisions” before section 71 of the Act.

(Bill No. 73)

An Act to Amend the Judicature Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	November 5, 2024
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Dr. Wassim Salamoun, Lieutenant Governor

Honourable Darlene Compton, Speaker

Joseph Jeffrey, Clerk

Hon. Bloyce Thompson
Minister of Justice and Public Safety and Attorney General

GOVERNMENT BILL

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