



PLEASE NOTE

This document, prepared by the [Legislative Counsel Office](#), is a consolidation of this statute current to November 1, 2003. It is intended for information and reference purposes only.

For more information concerning the history of this Act, please see the [Table of Public Acts](#).

This document is *not* the official version of the statute printed pursuant to the authority of the [Queen's Printer Act](#) R.S.P.E.I. 1988, Cap. Q-1.

This Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted when determining the authoritative statement of the law.

For more information, please contact:

Island Information Service
P.O. Box 2000
Charlottetown, Prince Edward Island
Canada
C1A 7N8

Tel: (902) 368-4000

Email: island@gov.pe.ca

CHAPTER S-9

SUMMARY PROCEEDINGS ACT

- 1. In this Act** Definitions
- (a) “enactment” means an Act of the Legislature of the province or a regulation, bylaw or other instrument having the force of law made under the authority of an Act; enactment
- (b) “provincial court judge” means a judge of the provincial court established under section 2 of the *Provincial Court Act* R.S.P.E.I. 1988, Cap. P-25. 1977, c.40, s.1. provincial court judge
- 2. This Act applies to all proceedings** Application of Act
- (a) to determine if a person has committed an offence under an enactment for which he is liable to imprisonment, fine, penalty or other punishment; or
- (b) before a provincial court judge for an order for the payment of money or other remedy authorized by an enactment. 1977, c.40, s.2.
- 3. Except as otherwise provided by any Act, where imprisonment, fine, penalty or other punishment prescribed by an enactment may be enforced or recovered upon summary conviction or by summary proceedings, it shall be enforced or recovered before a provincial court judge in the manner provided by this Act. 1977, c.40, s.3.** Summary proceedings
- 4. (1)** The provisions of the *Criminal Code* (Canada) R.S.C. 1985, Cap. C-46, as amended from time to time, including provisions relating to appeals, applicable to offences punishable on summary conviction apply with the necessary changes to proceedings to which this Act applies. Procedure in *Criminal Code* applied
- (2) In applying the provisions of the *Criminal Code* the following expressions therein have the following meanings: Modifications
- (a) “Act of the Parliament of Canada” means an enactment; Act
- (b) “Attorney General” means the Attorney General of the province; Attorney General
- (c) “prison” means any place other than a penitentiary in which persons charged with or convicted of offences are kept or detained in custody; prison
- (d) “prosecutor” means a person who lays an information or makes a complaint or, where the Attorney General intervenes, means the Attorney General or his agent, and includes counsel acting on behalf of any such person or the Attorney General. 1977, c.40, s.4; 1993, c.29, s.4; 1997,c.20,s.3; 2000,c.5,s.3. prosecutor

| | |
|--|--|
| Punishment of offences | 5. All offences under an enactment shall be punishable on summary conviction. 1977, c.40, s.5. |
| Punishment where no punishment provided in enactment | 6. Where no punishment is provided for an offence under any enactment, the punishment for that offence shall be a fine of not more than \$2000. 1977, c.40, s.6; 1994, c.58, s.1; 2001, c.54, s.1. |
| Civil suit on default of fine | 6.1 (1) When the payment of a fine is in default, the clerk of the provincial court may complete a certificate of default in prescribed form as to the imposition of the fine and the amount remaining unpaid and file the certificate together with a minute of judgment in the Supreme Court and, upon filing, the certificate shall be deemed to be an order or judgment of that court for the purposes of enforcement. |
| Limitation period | (2) A certificate shall not be filed under subsection (1) more than six years after the default in respect of which it is issued. |
| Exception | (3) Subsection (2) does not apply to defaults occurring prior to the coming into force of this Act. |
| Payment discharges execution | (4) Where a certificate has been filed under subsection (1) and the fine is fully paid, the clerk shall execute a satisfaction piece and file it with the Supreme Court. |
| Default in payment of fines | (5) The payment of a fine is in default when any part of the fine is due and unpaid for thirty days or more. |
| Committal | (6) In the case of default in the payment of a fine, the provincial court judge may issue a warrant in prescribed form for the committal of the accused where the clerk files an affidavit in prescribed form stating in the opinion of the clerk that <ul style="list-style-type: none"> (a) all reasonable methods of collecting the fine have been employed; (b) payment is unlikely to be made within a reasonable time; and (c) the accused is able to pay the fine. |
| Duration of imprisonment | (7) Imprisonment under a warrant issued under subsection (6) shall be for three days, plus one day for each \$100 or part thereof that is in default, subject to a maximum period of sixty days or half of the maximum imprisonment, if any, provided for the offence, whichever is the greater. |
| Effect of imprisonment | (8) Imprisonment does not reduce the amount owing by the accused. 1994, c.58, s.2; 2001, c.55, s.1. |

6.2 (1) Where a person is in default of payment of all or any part of a fine issued pursuant to an enactment or an Act of Parliament, as amended from time to time, the sheriff or the clerk of court that issued the fine may notify the person that if the person does not, within the time specified in the notice by the sheriff or the clerk, make arrangements satisfactory to the sheriff or the clerk for paying the fine, any licence, permit, registration or other similar instrument issued pursuant to an enactment to the person named in the licence, permit, registration or other similar instrument, may be suspended or revoked or not issued, reinstated or renewed until the fine is paid in full.

Notice by the
sheriff

(2) Where a person in default of payment of a fine does not make an arrangement with the sheriff or the clerk pursuant to subsection (1), the sheriff or the clerk may request the person responsible under an enactment for issuing, reinstating, renewing or suspending the licence, permit, registration or other similar instrument, to suspend or revoke or refuse to issue, reinstate or renew the licence, permit, registration or other instrument until the fine is paid in full.

Request by sheriff

(3) Any suspension, revocation or refusal to issue, reinstate or renew a licence, permit, registration or other similar instrument made pursuant to any enactment shall remain in effect notwithstanding proof of partial or advance payment of the fine or notwithstanding an extension of time for payment allowed to that person by the court which issued the fine. s.2; 2001, c.55, s.1

Time extension
non-applicable

7. In proceedings to which this Act applies judicial notice shall be taken of the enactment creating the offence. 1977, c.40, s.7.

Judicial notice

8. Notwithstanding any other enactment, the record of a conviction for an offence under an enactment shall cease to have effect and shall not be disclosed for any purpose after five years have elapsed from the day on which the conviction was first entered by a court. 1977, c.40, s.8.

Record ceases to
have effect after
five years

9. The Lieutenant Governor in Council may make regulations in respect of proceedings to which this Act applies

Regulations

(a) prescribing forms;

(b) in relation to costs;

(b.1) with respect to the remittance of the proceeds of fines to the Provincial Treasurer or municipality in which the offence took place, in such amounts or proportions as the expenses of administering the law is borne by each;

(c) prescribing the functions of clerks of the provincial court; or

(d) for any other matter necessary or advisable for the purpose of effectively carrying out the intent of this Act. 1977, c.40, s.9; 1994, c.58, s.3.

| | |
|---|---|
| Ticket summons | 10. (1) In addition to the procedure set out in the <i>Criminal Code</i> for laying an information and for issuing a summons, an information may be laid and a summons issued by means of a ticket in accordance with this section for an offence under any provision of an enactment designated by the regulations. |
| Contents of ticket | (2) A ticket under this section shall include provision for the information, summons, report of conviction and police record. |
| Regulations | (3) The Lieutenant Governor in Council may make regulations <ul style="list-style-type: none"> (a) prescribing the form of the ticket; (b) designating offences under provisions of enactments for the purposes of this section; (c) authorizing the use on a ticket of any word or expression to designate an offence under any provision of an enactment; (d) respecting any matter that he considers necessary to provide for the use of the ticket. |
| Endorsement for payment of penalty out of court | (4) Where the offence charged in the ticket is one for which the penalty may be paid out of court, the officer issuing the summons may enter the amount of the penalty in the place provided therefor on the ticket, and that entry constitutes the endorsement required by subsection 11(1). |
| Description of offence | (5) The use on a ticket of any word or expression authorized by the regulations to designate an offence under any provision of an enactment is sufficient for all purposes to describe the offence designated by that word or expression. |
| Delivery of summons | (6) Upon completing a ticket, the issuing officer shall print his name on the summons portion and deliver the summons portion to the person charged with an offence therein, and delivery of the ticket summons in accordance with this subsection shall be deemed to be personal service. |
| <i>Idem</i> | (7) Delivery of a ticket summons may be made on a holiday. |
| Proof of delivery | (8) The issuing officer shall sign the information portion of the ticket and certify that he personally delivered the summons portion of the ticket to the person charged therein and the certification shall be in the following words: “I certify that I did personally deliver the summons portion of this ticket to the accused on the day of, 19”. |
| <i>Idem</i> | (9) A certificate of delivery purporting to be signed by the issuing officer shall be received in evidence as sufficient proof of personal service in the absence of evidence to the contrary. |

(10) Every ticket information shall be Execution of ticket information
 (a) signed by the informant and sworn to before a justice or a provincial court judge; and
 (b) deposited, together with the ticket report of conviction, with the proper provincial court judge.

(11) The ticket information need not be sworn to before the summons portion of the ticket is delivered and the informant need not be the same person as the person who issued the ticket summons. *Idem*

(12) Where a justice or provincial court judge makes a conviction on a ticket information in respect of an offence under a provision of an enactment regulating traffic, he shall complete the ticket report of conviction and forward it to the Registrar of Motor Vehicles, and it shall be deemed to be a certificate of conviction for the purposes of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5 and the regulations thereunder. 1980, c.49, s.1. Report of conviction

11. (1) There may be endorsed upon a ticket summons a notice that the person to whom the summons is directed may pay out of court a specified penalty. Penalty payable out of court

(2) Where a ticket summons is so endorsed, it shall provide for a plea of guilty in the following form: Plea of guilty

PLEA OF GUILTY

I am aware that I have a right to a hearing in respect of the offence with which I am charged, that by signing this plea of guilty I am waiving my right to a hearing and that my signature may result in a conviction against me without a hearing and may result in the recording of demerit points where applicable under the *Highway Traffic Act* or, where applicable, the cancellation, forfeiture, revocation or suspension of a license held by me under the enactment violated. I hereby plead guilty to the offence as charged.

.....
 Signature of Accused

(3) A signature affixed to the form of plea of guilty purporting to be that of the person to whom the summons is directed is *prima facie* proof that it is the signature of that person. Proof of signature

(4) The officer or other person delivering a summons endorsed under this section shall not receive payment of the penalty payable out of court, or any part thereof. Officer not to accept payment

(5) Upon receipt of the summons with a plea of guilty made thereon in accordance with subsection (2), a provincial court judge or justice may Conviction

convict the person to whom the summons is directed of the offence described in the summons. 1980, c.49, s.1.

Failure to appear

12. Where a person to whom a ticket summons has been delivered fails to appear in court as directed by the ticket summons and there has been no plea of guilty made on the ticket summons pursuant to section 11, the provincial court judge or justice shall

(a) where the information portion of the offence ticket is sworn to by the informant and is complete and regular on its face, enter a conviction on that information and impose the minimum penalty authorized by law for the offence or, where another penalty for that offence has been prescribed for out of court settlement, that other penalty; or

(b) where the information portion of the offence ticket is not complete and regular on its face, quash the proceeding. 1994, c.58, s.4.