



PLEASE NOTE

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

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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.

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CHAPTER S-10

SUPREME COURT ACT

1. In this Act	Interpretation
(a) “court” means the Supreme Court of Prince Edward Island;	court
(b) “defendant” means a person against whom a proceeding is commenced;	defendant
(c) “hearing” includes a trial;	hearing
(d) “judge” means a judge of the court;	judge
(e) “order” includes a judgment or decree;	order
(f) “plaintiff” means a person who commences a proceeding;	plaintiff
(g) “prescribed” means prescribed by the Rules;	prescribed
(h) “proceeding” means any application, action, suit, cause or matter, including a proceeding formerly commenced by a writ of summons, third party notice, counterclaim, petition, originating summons, originating motion or in any other manner;	proceeding
(h.1) “Registrar” includes a deputy registrar or official examiner;	Registrar
(i) “Rules” means the Civil Procedure Rules;	Rules
(j) “sitting” means a sitting of the court for trials held by a judge with a jury or trials held by a judge without a jury. 1987,c.66,s.1; 1989,c.7,s.1.	sitting

PART I SUPREME COURT OF PRINCE EDWARD ISLAND ORGANIZATION

2. (1) The Supreme Court of Prince Edward Island as constituted before this Act shall continue as a superior court of record having civil and criminal jurisdiction, with all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Prince Edward Island.	Supreme Court
(2) The Supreme Court shall consist of two divisions, the Appeal Division and the Trial Division. 1987,c.66,s.2.	Branches
3. (1) The Appeal Division shall consist of the Chief Justice of Prince Edward Island, who shall be the chief justice of the Appeal Division, and at least two other judges.	Appeal Division

Absence of Chief Justice	(2) Where the Chief Justice of Prince Edward Island is absent or is for any reason unable to act or if such office is vacant, his functions shall be exercised and performed by the next senior judge of the Appeal Division who is present and able to act.
Registrar	(3) Repealed by 1989,c.7,s.2. 1987,c.66,s.3;1988,c.64,s.1;1989,c.7,s.2.
Trial Division	4. (1) The Trial Division shall consist of the Chief Justice of the Trial Division, and at least three other judges.
Composition of Trial Division	(2) The Trial Division shall be composed of four sections, namely, the Estates Section, the Family Section, the Small Claims Section and the General Section.
Absence of Chief Justice	(3) Where the Chief Justice of the Trial Division is absent or is for any reason unable to act or if such office is vacant, his functions shall be exercised and performed by the next senior judge of the Trial Division who is present and able to act. 1987,c.66,s.4.
Additional judges	5. (1) For each of the offices of Chief Justice of Prince Edward Island and Chief Justice of the Trial Division, there shall be such additional offices of judges of the Supreme Court as are, from time to time required, to be held by the Chief Justice of Prince Edward Island and the Chief Justice of the Trial Division where they have, or either of them has, elected under the <i>Judges Act</i> (Canada) R.S.C. 1985, Chap. J-1 to perform only the duties of a judge of the Supreme Court.
Supernumerary judges	(2) For each office of judge of the Supreme Court, there shall be the additional office of supernumerary judge held by a judge of the Supreme Court who has elected under the <i>Judges Act</i> (Canada) to hold office only as a supernumerary judge of the Supreme Court. 1987,c.66,s.5.
Rank and precedence	6. (1) The judges of the Supreme Court have rank and precedence as follows: <ul style="list-style-type: none"> (a) the Chief Justice of Prince Edward Island; (b) the Chief Justice of the Trial Division; (c) the other judges of the Supreme Court, according to seniority of appointment, except that supernumerary judges have rank and precedence after other judges and, among themselves, according to seniority of appointment as a judge.
Jurisdiction of judges	(2) A judge appointed to the Supreme Court, whether the Appeal Division or the Trial Division, is a judge of the Supreme Court and, except as otherwise provided, all judges of the Supreme Court have equal jurisdiction, power and authority. 1987,c.66,s.6.
Assignment of judges	7. (1) The Chief Justice of Prince Edward Island, with the concurrence of the Chief Justice of the Trial Division may assign a judge of the Appeal Division to perform the work of a judge of the Trial Division.

(2) The Chief Justice of Prince Edward Island, with the concurrence of the Chief Justice of the Trial Division may assign a judge of the Trial Division to sit as a member of the Appeal Division. 1987,c.66,s.7. *Idem*

8. A council of the judges of the Supreme Court may be held on the call of the Chief Justice of Prince Edward Island or the Chief Justice of the Trial Division, for the purpose of considering this Act, the Rules or any other matter relating to the administration of justice. 1987,c.66,s.8. Council of judges

9. All proceedings in the court shall be distributed between the Appeal Division and the Trial Division in the manner provided by this Act and shall be governed by the Rules. 1987,c.66,s.9. Proceedings in Appeal and Trial Divisions

10. (1) A reference in any enactment to the Supreme Court *in banco* or a judge thereof or to the Appeal Division of the court or a judge thereof is, whether expressed in those terms or not, a reference to the Appeal Division of the court or a judge thereof. Reference to Supreme Court *in banco*

(2) A reference in any enactment to the court or a judge thereof is a reference to the Trial Division of the court or a judge thereof. Reference to Supreme Court

(3) A reference in any enactment to the Chief Justice that relates to the functions assigned by this Act to the Trial Division is a reference to the Chief Justice of the Trial Division, but in any other case a reference to the Chief Justice is a reference to the Chief Justice of Prince Edward Island. 1987,c.66,s.10. Reference to Chief Justice

JURISDICTION

11. (1) The jurisdiction of the court shall be exercised in the manner provided in this Act and the Rules and, where no special provisions are contained in this Act or the Rules, it shall be exercised in accordance with the practice and procedure followed by the court before the coming into force of this Act. Exercise of jurisdiction, general

(2) The Appeal Division shall exercise all the jurisdiction, powers and authority heretofore belonging to or exercised by the court *in banco* and the judges of the Appeal Division shall exercise all the jurisdiction, powers and authority heretofore belonging to or exercised by a judge of the Supreme Court in relation to the Supreme Court *in banco*. Jurisdiction of Appeal Division, general

(3) The Trial Division shall exercise all the jurisdiction, powers and authority of the court not assigned to the Appeal Division by this or any other Act and the judges of the Trial Division shall exercise all the existing jurisdiction, powers and authority of the court not assigned to the judges of the Appeal Division by this or any other Act. Jurisdiction of Trial Division, general

(4) A judge may issue a subpoena in aid of an inferior court or tribunal. 1987,c.66,s.11; 1991,c.42,s.4. Power to issue subpoena

Trial Division jurisdiction	12. (1) Unless otherwise provided, proceedings in the Supreme Court shall be in the Trial Division.
Appeal to Trial Division	(2) An appeal lies to a judge of the Trial Division from <ul style="list-style-type: none"> (a) an order of the prothonotary; (b) a certificate of assessment of costs issued in a proceeding in the court. 1987,c.66,s.12; 1991,c.42,s.4; 1996,c.43,s.1.
Composition of court, Trial Division	13. (1) Unless otherwise provided by an Act or the Rules, every proceeding in the Trial Division shall be heard and determined by one judge of the court.
Reference to Appeal Division	(2) A judge sitting in the Trial Division shall decide all questions coming properly before him, but may reserve any proceeding or any questions in any proceeding for consideration of the Appeal Division.
Sittings and assignments	(3) The Chief Justice of the Trial Division has general supervision and direction over the sittings of the Trial Division and the assignment of the judicial duties of the Trial Division. 1987,c.66,s.13.
Sittings	14. The court has power to sit and act at any time and in any place for the transaction of the business of the court. 1994,c.48,s.18.
Estates Section, jurisdiction	15. (1) The Estates Section shall exercise the jurisdiction vested in it by the <i>Probate Act</i> R.S.P.E.I. 1988, Cap. P-21.
Family Section, jurisdiction	(2) The Family Section shall exercise jurisdiction in respect of the following matters: <ul style="list-style-type: none"> (a) formation of marriage; (b) dissolution of marriage; (c) judicial separation and separation orders; (d) actions and causes concerning matrimonial property including injunctions, partition and settlements; (e) restitution of conjugal rights; (f) jactitation of marriage; (g) declarations of status including validity of marriage, legitimacy and legitimation; (h) maintenance (interspousal) including protection orders; (i) maintenance of children including affiliation proceedings and agreements; (j) enforcement of support and maintenance orders including reciprocal enforcement of these orders; (k) property rights, support obligations and other family matters under any Act; (l) custody and access; (m) adoption; (n) proceedings under any statute of the province relating to non-support, school attendance and children in need of protection;

(o) interspousal and familial torts,
 but, notwithstanding the enumeration of clauses (a) to (o) the Chief Justice of the Trial Division may by order vest such additional jurisdiction in the Family Section as he may consider necessary, either in a particular case or on a continuing basis, to enable the Family Section to effectively carry out its jurisdiction under clauses (a) to (o).

(3) The Small Claims Section shall exercise jurisdiction in respect of the following matters: Small Claims Section, jurisdiction

- (a) in all personal actions of debt, covenant, assumpsit, and tort, where the debt or damages claimed do not exceed the prescribed sum;
- (b) in actions of replevin where the value of the property sought to be replevied does not exceed the prescribed sum;
- (c) in any action for the recovery of the amount due upon a money bond where the real debt does not exceed the prescribed sum, notwithstanding that the amount of the penalty may exceed that sum;
- (d) in any action on a bond the value of which does not exceed the prescribed sum given to the sheriff or otherwise in any proceeding in the court, whatever may be the penalty;
- (e) in any action on a bond given to secure the payment of money payable by instalments, although the amount remaining unpaid at the time of action brought exceeds the prescribed sum, if the amount of the instalments due does not exceed that sum,

but,

- (f) where in any action the debt or demand claimed consists of a balance not exceeding the prescribed sum, after an admitted set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff, the Small Claims Section has jurisdiction to try the action;
- (g) if the plaintiff's claim is above the amount of the prescribed sum, the plaintiff may abandon the excess of the claim over that amount and may recover judgment for the amount within the limit of the prescribed sum, and the judgment is in full discharge of all demands in respect of the claim, and entry of the judgment shall be made accordingly;
- (h) the issues of fact or the assessment or inquiry of damages in every action in the Small Claims Section shall be tried, heard and determined, and judgment given by a judge without a jury.

(4) The General Section shall exercise jurisdiction in respect of all matters within the jurisdiction of the Trial Division not referred to in subsections (1), (2) and (3). General Section, jurisdiction

(5) For the purpose of subsection (3) the prescribed sum is such sum as may be prescribed by the Attorney General, after consultation with the Rules Committee, in a notice published in the Gazette. Prescribed sum

Leave to transfer	(6) All matters over which the Small Claims Section has jurisdiction under subsection (3) shall not be heard outside the Small Claims Section except by leave of a judge of the Trial Division.
Assignment of judges	(7) The Chief Justice of the Trial Division may assign one or more judges to ordinarily preside and exercise the jurisdiction of any section, but notwithstanding that a judge has been assigned to ordinarily preside over a section, any other judge may exercise the jurisdiction of that section.
Registrars	(8) Repealed by 1989,c.7,s.3.
Transfer of proceeding	(9) A judge before whom a proceeding is brought may, when it appears to him that the proceeding is one which ought to be heard and determined in a section of the court other than the one in which it was brought, order that the proceeding be heard and determined by the proper section, and the proceeding shall be heard and determined accordingly.
Hearing	(10) A proceeding transferred under subsection (9) may be heard by the judge who transferred the proceeding, or such other judge as the transferring judge or the Chief Justice of the Trial Division may consider advisable; the judge hearing the proceeding may make such orders as to pleadings and evidence as he may consider advisable for the proper determination of the proceeding. 1987,c.66,s.15; 1989,c.7,s.3; 1993,c.29,s.4; 2000,c.5,s.3.
Small claims, summary hearings	15.1 (1) The court exercising small claims jurisdiction shall hear and determine in a summary way all questions of law and fact and may make such order as the court considers just and agreeable to good conscience.
Evidence, small claims	(2) Subject to subsections (4) and (5), the court exercising small claims jurisdiction may admit as evidence at a hearing and act upon any oral testimony and any document or other evidence so long as the evidence is relevant to the subject matter of the proceeding, but the court may exclude anything unduly repetitious.
<i>Idem</i>	(3) Subsection (2) applies whether or not the evidence is given or proven under oath or affirmation or admissible as evidence in any other court.
<i>Idem</i>	(4) Nothing is admissible in evidence at a hearing <ul style="list-style-type: none"> (a) that would be inadmissible by reason of any privilege under the law of evidence; or (b) that is inadmissible by any Act.
Conflicts	(5) Nothing in subsection (2) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding.

(6) A copy of a document or any other thing may be admitted as evidence at a hearing if the presiding judge is satisfied as to its authenticity. 1995,c.32,s.12; 1997,c.20,s.3. Copies

16. (1) Subject to section 55, an appeal lies to the Appeal Division from an order of a judge of the Trial Division. Appeal Division jurisdiction, specific

(2) An application or motion in the Appeal Division, except an application or motion for leave to appeal or such other application or motions is specified in the Rules, shall be heard and determined by one judge, but Application or motion in Appeal Division

(a) the judge may refer the application or motion to a panel of the Appeal Division;

(b) where the application or motion is heard by one judge, a panel of the Appeal Division may, on application, set aside or vary the decision of the judge.

(3) The Chief Justice of Prince Edward Island has general supervision and direction over the sittings of the Appeal Division and the assignment of the judicial duties of the Appeal Division. 1987,c.66,s.16; 1994,c.48,s.18. Sittings and assignments

17. (1) Unless otherwise provided by an Act or the Rules, every proceeding in the Appeal Division shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges. Composition of court, Appeal Division

(2) Where the Chief Justice of Prince Edward Island is not on a panel of the Appeal Division, the senior judge on the panel from the Appeal Division shall preside. 1987,c.66,s.17. Presiding judge

18. (1) The Lieutenant Governor in Council may refer any question to the Appeal Division for hearing and consideration. Reference to Appeal Division

(2) The Appeal Division shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons therefor, and any judge who differs from the opinion may in like manner certify his opinion and reasons. Opinion of court

(3) On the hearing of the question, the Attorney General of Prince Edward Island is entitled to make submissions to the court. Submissions by Attorney General

(4) Where a question relates to the constitutional validity or constitutional applicability of an Act of the Parliament of Canada or the Legislature, or of a regulation or bylaw made thereunder, the Attorney General of Canada shall be notified and is entitled to make submissions to the court. Notification of Attorney General of Canada

- Notice (5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court.
- Appointment of counsel (6) Where any interest affected is not represented by counsel, the court may request the Attorney General to appoint counsel to argue on behalf of the interest, and the reasonable expenses thereof shall be paid out of the Operating Fund.
- Appeal (7) The opinion of the court upon a question is deemed a judgment of the court, and an appeal shall lie therefrom as from a judgment in an action. 1987,c.66,s.18; 1997,c.20,s.3.

JUDGES AND OFFICERS

- Oath of office **19.** Every judge or officer of the Supreme Court of Prince Edward Island, before entering on the duties of office, shall take and sign the following oath or affirmation:

I solemnly swear (affirm) that I will faithfully, and to the best of my skill and knowledge, execute the duties of
So help me God. (Omit this line in an affirmation.) 1987,c.66,s.19.
- Prothonotary **20.** (1) The office of Prothonotary is continued.
- Qualifications (2) No person shall be appointed as Prothonotary unless he has been a member of the bar of a province for at least five years.
- Corporation sole (3) The Prothonotary is a corporation sole, under the name “Prothonotary of the Supreme Court of Prince Edward Island”, and has perpetual succession and the power to hold any lands and tenements and to grant and convey the same, and all other powers of a corporation necessary to enable him to carry out the purposes and directions of the Acts and the court.
- Appointment (4) The Prothonotary shall be appointed under the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8 but only after consultation with the Chief Justice of Prince Edward Island and the Chief Justice of the Trial Division.
- Jurisdiction (5) The Prothonotary shall perform all such duties as may be imposed upon him under an Act or by a direction of the court, or as may be prescribed by the Rules and, without limiting the generality thereof, the Prothonotary, subject to the direction of the court, has power
 - (a) to act as examiner in the court;
 - (b) to tax costs respecting proceedings in the court;
 - (c) to register orders for the sale, leasing or mortgaging of any lands in administration, partition, infant or mental incompetency proceedings;

(d) to execute conveyances, transfers or mortgages ordered by the court;

(e) to sell mortgaged premises under order of the court;

(f) to inquire into the merits of an application to the court for an order for the sale or other disposition of the real or personal property seized, possessed or otherwise held by or for a minor or mentally incompetent person;

(g) to issue a subpoena in aid of an inferior court or tribunal.

(6) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may, in the absence of the Prothonotary by reason of sickness or any other cause, appoint an interim Prothonotary to carry out the functions of the Prothonotary.

Interim appointment

(7) Any person appointed under subsection (6) shall have the qualifications set out in subsection (2).

Qualifications

(8) All moneys, securities, effects and real or personal property vested in or held by the Prothonotary shall be deemed to be vested in him in trust for Her Majesty, but may, nevertheless, be paid out, sold, disposed of, assigned, conveyed or dealt with in accordance with any Act or with any judgment or order of the court, or order of the Lieutenant Governor in Council. 1987,c.66,s.20; 1989,c.7,s.4; 1991,c.42,s.4; 1993,c.29,s.4; 2000,c.5,s.3.

Security held by Prothonotary

20.1 (1) The Lieutenant Governor in Council, after consultation with the Chief Justice of Prince Edward Island and the Chief Justice of the Trial Division, shall appoint a Registrar of the Supreme Court of Prince Edward Island.

Registrar

(2) The Registrar shall perform all such duties as may be imposed under an Act, by direction of the court or as may be prescribed by the Rules.

Functions

(3) The Registrar shall keep proper accounts of the cash deposits and investments and other effects being held or administered by the court and the Auditor General shall conduct an annual audit of the accounts.

Accounts

(4) Money paid into the Supreme Court shall be paid to the Registrar. 1989,c.7,s.5; 1991,c.41,s.1.

Money paid into court

20.2 (1) The Lieutenant Governor in Council, after consultation with the Chief Justice of Prince Edward Island and the Chief Justice of the Trial Division, shall appoint deputy registrars.

Deputy registrars

(2) There shall be a deputy registrar for each section of the Trial Division and a deputy registrar for the Appeal Division who may be also a deputy registrar of one of the sections of the Trial Division. 1989,c.7,s.4; 1997,c.20,s.3.

Idem

Finance committee	21. (1) The finance committee is continued and shall be composed of three members appointed by the Lieutenant Governor in Council.
Management of court funds	(2) The finance committee has the control and management of money in the court, the investment of the money and the securities in which it is invested.
Interest	(3) The finance committee may provide for the payment of interest upon any money paid into court and may fix the rate of interest so paid, which rate shall be published monthly in the Gazette.
Reserve fund	(4) The finance committee may establish such reserve funds as it considers expedient in the management of money in court.
<i>Idem</i>	(5) Money paid into court shall be invested in the name of the Registrar.
Investment of court funds	(6) Any money that is available for investment shall be invested in investments authorized for trustee investment under section 2 of the <i>Trustee Act</i> R.S.P.E.I. 1988, Cap. T-8.
Securities	(7) All mortgages and other securities taken under an order or judgment of the court and all bonds and other investments required by the practice of the court for the purpose of security, except security for costs, shall be taken in the name of the Registrar and shall be deposited in his office, unless otherwise ordered.
Employment of trust company	(8) The finance committee may employ a trust company to make the investments of money paid into court or as custodian of the securities representing investments of the money, on such terms and conditions as are agreed. 1987,c.66,s.21; 1989,c.7,s.6.
Audit	22. (1) The Auditor General shall conduct an audit of the accounts and financial transactions of the Prothonotary and the Registrar.
Powers of Auditor General	(2) For the purposes of an audit under subsection (1), the Auditor General has and may exercise all the relevant powers conferred upon him by the <i>Audit Act</i> R.S.P.E.I. 1988, Cap. A-24.
Investments, examination of	(3) The Chief Justice of the Trial Division or the Attorney General may instruct the Auditor General to examine the security and value of any deposit or investment representing a portion of the fund, and the Auditor General shall thereupon conduct the examination. 1987,c.66,s.22; 1989,c.7,s.7; 1993,c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3.
Official Guardian	23. (1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint an Official Guardian.
Qualifications	(2) No person shall be appointed Official Guardian unless he has been a member of the bar of a province for at least five years.

- (3) The Official Guardian shall act as litigation guardian of minors and other persons where required by an Act or the Rules. Duties
- (4) The same costs as are payable to litigation guardians are payable to the Official Guardian and costs recovered by the Official Guardian shall be paid into the Operating Fund. Costs
- (5) The Official Guardian shall not be required to give security for costs in any proceeding. Security for costs
- (6) Where the Official Guardian acts on behalf of any person, the Official Guardian may transfer any assets to the Public Trustee or request the Public Trustee to handle any financial transactions on behalf of that person and such matters shall be subject to audit by the Auditor General. Transfer of assets or functions to Public Trustee
- (7) Money received by the Official Guardian on behalf of a person for whom he acts shall, unless the court orders otherwise, be paid into court to the credit of the person entitled. Payment into court
- (8) Where the amount payable into court under subsection (7) is to be ascertained by the deduction of unassessed costs from a fund, the Official Guardian may require the costs to be assessed forthwith. Assessment of costs
- (9) The Auditor General shall examine and report on the accounts and financial transactions of the Official Guardian. 1987,c.66,s.23; 1993,c.29,s.4; 1994, c.52, s.79 *{eff.}* July 14/94; 1997, c.20, s.3; 1997, c.20, s.3; 2000,c.5,s.3. Audit

PART II CIVIL PROCEDURE RULES

- 24.** (1) The Rules Committee is continued and shall be composed of Rules Committee
- (a) the Chief Justice of Prince Edward Island;
 - (b) the Chief Justice of the Trial Division;
 - (c) two other judges to be appointed by the Chief Justice of Prince Edward Island;
 - (d) the Attorney General or such law officer of the Crown as he may appoint; and
 - (e) two members in good standing of the Law Society of Prince Edward Island to be appointed by the Council of the Law Society of Prince Edward Island;
 - (f) a person appointed by the Chief Justice of Prince Edward Island to act as secretary to the Rules Committee.
- (2) The Chief Justice of Prince Edward Island shall be the chairman of the Rules Committee, but, in his absence or at his request, the Chief Justice of the Trial Division may act as chairman. Chairman
- (3) Repealed by 2001,c.18,s.1. Secretary

Tenure of office	(4) A member of the Rules Committee appointed under clause (1)(c) or (e) shall hold office for a period of three years and is eligible for reappointment.
Vacancies	(5) In case of the resignation, death or inability to act of any member appointed under clause (1)(c) or (e), the Chief Justice of Prince Edward Island, or the Council of the Law Society of Prince Edward Island, as the case may be, may appoint another member similarly qualified to hold office for the unexpired portion of the term of the member who has resigned, or dies, or is unable to act.
Quorum	(6) A majority of the members of the Rules Committee constitute a quorum.
Meetings	(7) The Rules Committee shall hold meetings at such time and place as the chairman may direct.
<i>Idem</i>	(8) The chairman may at any time and upon written request of any two members shall direct the secretary to call a meeting of the Rules Committee at such time and place as the chairman may determine. 1987,c.66,s.24; 1993,c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3, 2001,c.18,s.1.
Rules of Civil Procedure	<p>25. (1) Subject to the approval of the Lieutenant Governor in Council, the Rules Committee may at any time make rules of court in relation to the practice and procedure of the court and may make rules, even though they alter or conform to the substantive law, in relation to</p> <ul style="list-style-type: none"> (a) conduct of the proceedings in the courts; (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties; (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Prince Edward Island; (d) disposition of proceedings without a hearing and the effect thereof; (e) authorizing the Appeal Division to determine in the first instance a special case arising in a proceeding commenced in the Trial Division; (f) pleadings; (g) discovery and other forms of disclosure before hearing, including the scope thereof and the admissibility and use of such discovery and disclosure in a proceeding; (h) examination of witnesses in or out of court; (i) jurisdiction of the Prothonotary or deputy prothonotary, including the conferral of any jurisdiction of the Supreme Court, including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;

- (j) jurisdiction and duties of officers and hours of business for court offices;
- (k) applications, including the hearing of applications in the absence of the public and prohibiting a party from making applications without leave;
- (l) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (m) interpleader;
- (n) preparation for trial and offers to settle and their legal consequences;
- (o) the mode and conduct of trials;
- (p) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (q) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (r) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (s) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (t) enforcement of orders and process or obligations under the Rules;
- (u) the time for and procedure on appeals and stays pending appeal;
- (v) payment into and out of court;
- (w) ordering a party to undergo a physical or mental examination by a medical practitioner;
- (x) any matter that is referred to in an Act as provided for by rules of court.

(2) Rules of court shall regulate all matters to which they extend and shall be published in the Gazette or in such other manner as the Lieutenant Governor in Council may determine. Publication

(3) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. 1987,c.66,s.25. Supplementary rules

PART III COURT ADMINISTRATION

26. The Attorney General shall superintend all matters connected with the administration of the court, other than matters that are assigned by law to the judiciary. 1987,c.66,s.26; 1993,c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3. Minister, administrative responsibility

27. (1) There shall be provided by the Attorney General such staff and facilities for each division of the court as the Minister considers necessary for the administration of the court. Court staff and facilities

<i>Idem</i>	(2) Court administrators, court reporters, interpreters, translators and such other employees as are necessary for the administration of the court may be appointed under the Civil Service Act.
Direction of court staff	(3) In matters that are assigned by law to the judiciary, court clerks, court reporters, interpreters, translators, registrars, the prothonotary and other court staff shall act at the direction of the Chief Justice of the Division in which they work, except in situations where the Chief Justice of Prince Edward Island assigns the direction to some other person.
<i>Idem</i>	(4) Court personnel referred to in subsection (3) who are assigned to and present in a courtroom shall act at the direction of the presiding judge or Prothonotary while the court is in session.
Temporary appointments	(5) Without prejudice to subsection (2), where in the opinion of a judge the circumstances so require for the proper administration of the court, the judge may by order direct the appointment of a court reporter, interpreter, translator or other court official on a temporary basis.
Administration of oaths	(6) Every court reporter or court clerk has, for the purposes of any matter before him or her, power to administer oaths and affirmations. 1987,c.66,s.27; 1992, c.65, s.8 <i>{eff.}</i> Aug. 1/92; 1993,c.29,s.4; 1995,c.32,s.12; 1997,c.20,s.3; 2000,c.5,s.3.

PART IV COURT PROCEEDINGS - CIVIL

Application of Part	28. (1) This Part applies to civil proceedings in the court.
Criminal proceedings	(2) Section 41 (constitutional questions) and section 48 (giving decisions), and section 56 (judges sitting on appeal) also apply to proceedings under the <i>Criminal Code</i> (Canada) R.S.C. 1985, Chap. C-46, except insofar as they are inconsistent with that Act.
Provincial offences	(3) Section 41 (constitutional questions) also applies to proceedings under the <i>Summary Proceedings Act</i> R.S.P.E.I. 1988, Cap. S-9. 1987,c.66,s.28.

COMMON LAW AND EQUITY

Rules of law and equity	29. (1) The court shall administer concurrently all rules of equity and the common law.
Rules of equity to prevail	(2) Where a rule of equity conflicts with a rule of common law, the rule of equity prevails. 1987,c.66,s.29.
Declaratory orders	30. The court may make binding declarations of right whether or not any consequential relief is or could be claimed. 1987,c.66,s.30.

- 31.** The court may grant relief against penalties and forfeitures, on such terms as to compensation or otherwise as are considered just. 1987,c.66,s.31. Relief against penalties
- 32.** The court has jurisdiction to grant injunctions or order specific performance and may award damages in addition to, or in substitution for, the injunction or specific performance. 1987,c.66,s.32. Damages in lieu of injunction or specific performance
- 33.** The court may by order vest in any person an interest in real or personal property that the court has authority to order be disposed of, encumbered or conveyed. 1987,c.66,s.33. Vesting order

INTERLOCUTORY ORDERS

- 34.** (1) In the court an interlocutory injunction or mandatory order may be granted or a receiver or receiver and manager may be appointed by an interlocutory order, where it appears to a judge to be just or convenient to do so. Injunctions and receivers
- (2) An order granted under subsection (1) may include such terms as are considered just. 1987,c.66,s.34. Terms
- 35.** (1) In this section, “labour dispute” means a dispute or difference concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee. “labour dispute” defined
- (2) Subject to subsection (8), no injunction to restrain a person from any act in connection with a labour dispute shall be granted without notice. Notice
- (3) In an application for an injunction to restrain a person from any act in connection with a labour dispute, the court must be satisfied that reasonable efforts to obtain police assistance, protection and action to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with lawful entry upon or exit from the premises in question, or breach of the peace have been unsuccessful. Steps before injunction proceeding
- (4) Subject to subsection (8), evidence in support of an application for an injunction to restrain a person from any act in connection with a labour dispute shall be provided by way of affidavits confined to statement of facts within the knowledge of the deponent, but any party may by notice to the party filing such affidavit require the attendance of the deponent to be cross-examined at the hearing. Evidence

- Interim injunction (5) An interim injunction to restrain a person from any act in connection with a labour dispute may be granted for a period of not longer than four days.
- Notice (6) Subject to subsection (8), at least two days notice of the application for an interim injunction to restrain a person from any act in connection with a labour dispute shall be given to the responding party and to any other person affected thereby but not named in the application.
- Idem* (7) Notice required by subsection (6) to persons other than the responding party may be given
 (a) where such persons are members of a labour organization, by personal service upon an officer or agent of the labour organization; and
 (b) where such persons are not members of a labour organization by posting the notice in a conspicuous place at the location of the activity sought to be restrained where it can be read by any persons affected,
 and service and posting under this subsection shall be deemed to be sufficient notice to all such persons.
- Interim injunction without notice (8) Where notice as required by subsection (6) is not given, the court may grant an interim injunction where
 (a) the case is otherwise a proper one for the granting of an interim injunction;
 (b) notice as required by subsection (6) could not be given because the delay necessary to do so would result in irreparable damage or injury, a breach of the peace or an interruption in an essential public service;
 (c) reasonable notification, by telephone or otherwise, has been given to the persons to be affected or where any of such persons are members of a labour organization, to an officer of that labour organization or to a person authorized to accept service of process on behalf of that labour organization or trade union, or where it is shown that such notice could not have been given; and
 (d) proof of all material facts for the purposes of clauses (a), (b) and (c) is established by oral evidence.
- Misrepresentation or contempt of court (9) The misrepresentation of any fact or the withholding of any qualifying relevant matter, directly or indirectly provided by or on behalf of the applicant for an injunction under this section, constitutes a contempt of court. 1987,c.66,s.35.
- Certificate of pending litigation **36.** (1) The commencement of a proceeding in which an interest in land is in question is not notice of the proceeding to a person who is not a party until a certificate of pending litigation is issued by the court and the certificate is registered in the proper land registry office under subsection (2).

- (2) Where a certificate of pending litigation is issued under subsection (1) it may be registered under the *Registry Act* R.S.P.E.I. 1988, Cap. R-10. Registration
- (3) Subsections (1) and (2) do not apply to a proceeding for foreclosure or sale on a registered mortgage or to enforce a lien under the *Mechanics' Lien Act* R.S.P.E.I. 1988, Cap. M-4. Exception
- (4) A party who registers a certificate under subsection (2) without a reasonable claim to an interest in the land is liable for any damages sustained by any person as a result of its registration. Liability where no reasonable claim
- (5) The liability for damages under subsection (4) and the amount thereof may be determined in the proceeding in respect of which the certificate was registered or in a separate proceeding. Recovery of damages
- (6) The court may make an order discharging a certificate Order discharging certificate
- (a) where the party at whose instance it was issued
- (i) claims a sum of money in place of or as an alternative to the interest in the land claimed,
- (ii) does not have a reasonable claim to the interest in the land claimed, or
- (iii) does not prosecute the proceeding with reasonable diligence;
- (b) where the interests of the party at whose instance it was issued can be adequately protected by another form of security; or
- (c) on any other ground that is considered just, and the court may, in making the order, impose such terms as to the giving of security or otherwise as the court considers just.
- (7) Where a certificate is discharged, any person may deal with the land as fully as if the certificate had not been registered. 1987,c.66,s.36. Effect
- 37.** (1) In an action in which the recovery of possession of personal property is claimed and it is alleged that the property Interim order for recovery of personal property
- (a) was unlawfully taken from the possession of the plaintiff; or
- (b) is unlawfully detained by the defendant,
- the court, on application, may make an interim order for recovery of possession of the property.
- (2) A person who obtains possession of personal property by obtaining or setting aside an interim order under subsection (1) is liable for any loss suffered by the person ultimately found to be entitled to possession of the property. 1987,c.66,s.37. Damages
- 38.** (1) In this section, “health practitioner” means a person licensed to practise medicine or dentistry in Prince Edward Island or any other jurisdiction, a psychologist registered under the *Psychologists Act* R.S.P.E.I. 1988, Cap. P-27.1 or a person certified or registered as a psychologist by another jurisdiction. “health practitioner” defined

Order for physical or mental examination	(2) Where the physical or mental condition of a party to a proceeding is in question, the court, on application, may order the party to undergo a physical or mental examination by one or more health practitioners.
<i>Idem</i>	(3) Where the question of a party's physical or mental condition is first raised by another party, an order under this section shall not be made unless the allegation is relevant to a material issue in the proceeding, and there is good reason to believe that there is substance to the allegation.
Further examinations	(4) The court may, on application, order further physical or mental examinations.
Examiner may ask questions	(5) Where an order is made under this section, the party examined shall answer the questions of the examining health practitioner relevant to the examination and the answers given are admissible in evidence. 1987,c.66,s.38; 1992,c.65,s.8 <i>{eff.}</i> Aug.1/92.
Stay of proceedings	39. A court, on its own initiative or on a motion made by any person, whether or not a party, may stay any proceedings in the court on such terms as are considered just. 1987,c.66,s.39; 1999,c.16,s.1.

PROCEDURAL MATTERS

Jury trials	40. Repealed by 1992,c.37,s.40 <i>{eff.}</i> 1/92.
Constitutional questions	41. (1) Where the constitutional validity or constitutional applicability of an Act of the Parliament of Canada or the Legislature or of a regulation or bylaw made thereunder is in question, the Act, regulation or bylaw shall not be adjudged to be invalid or inapplicable unless notice has been served on the Attorney General of Canada and the Attorney General of Prince Edward Island.
Notice of appeal	(2) Where the Attorney General of Canada and the Attorney General of Prince Edward Island are entitled to notice under subsection (1), they are entitled to notice of any appeal in respect of the constitutional question.
Right of Attorneys General, to be heard	(3) Where the Attorney General of Canada or the Attorney General of Prince Edward Island is entitled to notice under this section, he is entitled to adduce evidence and make submissions to the court in respect of the constitutional question.
<i>Idem</i> , to appeal	(4) Where the Attorney General of Canada or the Attorney General of Prince Edward Island makes submissions under subsection (3), he shall be deemed to be a party to the proceedings for the purpose of any appeal in respect of the constitutional question. 1987,c.66,s.41.
Agreement preventing third party claims	42. Rules permitting a defendant to make a third party claim or counterclaim apply notwithstanding any agreement that provides that no

action may be brought until after judgment against the defendant. 1987,c.66,s.42.

43. Where a party applies to change the place of hearing in a proceeding, an agreement as to the place of hearing is not binding, but may be taken into account. 1987,c.66,s.43. Agreement as to place of hearing

44. In a proceeding where damages are claimed for personal injuries, the court may, with the consent of all affected parties, Periodic payment and review of damages

(a) order the defendant to pay all or part of the award for damages periodically on such terms as the court considers just;

(b) order that the award for damages be subject to future review and revision in such circumstances and on such terms as the court considers just. 1987,c.66,s.44.

45. (1) Where damages are to be assessed in respect of Assessment of damages

(a) a continuing cause of action;

(b) repeated breaches of a recurring obligation; or

(c) intermittent breaches of a continuing obligation,

the damages, including damages for breaches occurring after the commencement of the proceeding, shall be assessed down to the time of the assessment. 1987,c.66,s.45.

(2) In an action for damages for personal injury, the court may give guidance to the jury on the amount of damages and the parties may make submissions to the jury on the amount of damages. Guidance to jury, amount of damages

(3) On an appeal from an award for damages for personal injury, the court may, if it considers it just, substitute its own assessment of the damages. 1995,c.32,s.12. Appeal, damages for personal injuries

46. (1) Subject to subsections (3) and (4), where a person obtains an order to enforce an obligation in a foreign currency, the order shall require payment of an amount in Canadian currency sufficient to purchase the amount of the obligation in the foreign currency at a chartered bank in Prince Edward Island at the close of business on the first day on which the bank quotes a Canadian dollar rate for purchase of the foreign currency before the day payment of the obligation is received by the creditor. Foreign money obligations

(2) Where more than one payment is made under an order referred to in subsection (1), the rate of conversion shall be the rate determined as provided in subsection (1) for each payment. Multiple payments

(3) Subject to subsection (4), where, in a proceeding to enforce an obligation in a foreign currency, the court is satisfied that conversion of the amount of the obligation to Canadian currency as provided in subsection (1) would be inequitable to any party, the order may require payment of an amount in Canadian currency sufficient to purchase the Discretion of court

amount of the obligation in the foreign currency at a chartered bank in Prince Edward Island on such other day as the court considers equitable in the circumstances.

Other obligations that include conversion

(4) Where an obligation enforceable in Prince Edward Island provides for a manner of conversion to Canadian currency of an amount in a foreign currency, the court shall give effect to the manner of conversion in the obligation.

Enforcement by seizure or garnishment

(5) Where a writ of seizure and sale or notice of garnishment is issued under an order to enforce an obligation in a foreign currency, the day the sheriff, bailiff or clerk of the court receives money under the writ or notice shall be deemed, for the purposes of this section and any obligation referred to in subsection (4), to be the day payment is received by the creditor. 1987,c.66,s.46.

Actions for accounting

47. (1) Where an action for an accounting could have been brought against a person, the action may be brought against his personal representative.

Idem

(2) An action for an accounting may be brought by a joint tenant or tenant in common, or his personal representative, against a co-tenant for receiving more than the co-tenant's just share. 1987,c.66,s.47.

Judges, decision after retirement, etc.

48. (1) A judge may, within ninety days after

- (a) reaching retirement age;
- (b) resigning; or
- (c) being appointed to another court,

give a decision or participate in the giving of a decision in any matter previously tried or heard before the judge.

Inability to give a decision, panel of judges

(2) Where a judge has commenced a hearing of a matter together with other judges and the judge

- (a) dies before the decision is given;
- (b) is for any reason unable to participate in the giving of the decision of the court; or
- (c) does not participate in the giving of the decision under subsection (1),

the remaining judges may complete the hearing and give the decision of the court, but, if the remaining judges are equally divided, a party may make an application to the Chief Justice for an order that the matter be reheard.

Judge, sitting alone

(3) Where a judge has commenced hearing a matter sitting alone and,

- (a) dies without giving a decision;
- (b) is for any reason unable to make a decision; or
- (c) does not give a decision under subsection (2),

a party may make a motion to the Chief Justice for an order that the matter be reheard.

(4) Where a judge has heard a matter and fails to give a decision within six months of the completion of the hearing, the Chief Justice may extend the time in which the decision may be given and, if necessary, relieve the judge of his other duties until the decision is given.

Failure to give a decision

(5) Where time has been extended under subsection (4) but the judge fails to give the decision within that time, unless the Chief Justice grants a further extension

Continued failure

(a) the Chief Justice shall report the failure and the surrounding circumstances to the Canadian Judicial Council; and

(b) a party may make an application to the Chief Justice for an order that the matter be reheard.

(6) Where an order is made under subsection (2), (3) or (5) for the rehearing of a matter, the Chief Justice may

Rehearing

(a) dispose of the costs of the original hearing or refer the question of those costs to the judge or judges presiding at the hearing;

(b) direct that the rehearing be conducted on the transcript of evidence taken at the original hearing, subject to the discretion of the court at the rehearing to recall a witness or require further evidence; and

(c) give such other directions as are considered just. 1987,c.66,s.48.

INTEREST AND COSTS

49. (1) In this section and in sections 50 and 51

Interpretation

(a) “bank rate” means the bank rate established by the Bank of Canada as the minimum rate at which the Bank of Canada makes short-term advances to the banks listed in Schedule I to the *Bank Act* (Canada);

bank rate

(b) “date of the order” means the date the order is made, notwithstanding that the order is not entered or enforceable on that date, or that the order is varied on appeal, and in the case of an order directing a reference, the date the report on the reference is confirmed;

date of the order

(c) “post-judgment interest rate” means the bank rate at the end of the first day of the last month of the quarter preceding the quarter in which the date of the order falls, rounded to the next higher whole number where the bank rate includes a fraction, plus 1 per cent;

post-judgment interest rate

(d) “prejudgment interest rate” means the bank rate at the end of the first day of the last month of the quarter preceding the quarter in

prejudgment interest rate

which the proceeding was commenced, rounded to the nearest tenth of a percentage point;

quarter

(e) “quarter” means the three month period ending with March 31, June 30, September 30 or December 31.

Calculation and publication of interest rate

(2) After the first day of the last month of each quarter, the Registrar of the court shall forthwith

(a) determine the pre-judgment and post-judgment interest rate for the next quarter; and

(b) publish in the Gazette a table showing the rate determined under clause (a) for the next quarter and for all the previous quarters during the preceding ten years. 1987,c.66,s.49; 1989,c.7,s.8; 1995,c.32,s.12.

Pre-judgment interest

50. (1) A person who is entitled to an order for the payment of money is entitled to claim and have included in the order an award of interest thereon at the pre-judgment interest rate, calculated from the date the cause of action arose to the date of the order.

Exception for non-pecuniary loss on personal injury

(2) Notwithstanding subsection (1), the rate of interest on damages for non-pecuniary loss in an action for personal injury shall be the discount rate determined by the Rules.

Special damages

(3) If the order includes an amount for past pecuniary loss, the interest calculated under subsection (1), shall be calculated on the total past pecuniary loss at the end of each six-month period and at the date of the order.

Exclusion

(4) Interest shall not be awarded under subsection (1)

(a) on exemplary or punitive damages;

(b) on interest accruing under this section;

(c) on an award of costs in the proceeding;

(d) on that part of the order that represents pecuniary loss arising after the date of the order and that is identified by a finding of the court;

(e) with respect to the amount of any advance payment that has been made towards settlement of the claim, for the period after the advance payment has been made;

(f) where the order is made on consent, except by consent of the debtor; or

(g) where interest is payable by a right other than under this section.

Application

(5) Where a proceeding is commenced before this section comes into force, this section does not apply, and section 33 of the *Judicature Act* R.S.P.E.I. 1974, Cap. J-3 continues to apply notwithstanding the repeal of that Act.

- (6) Where a judgment is obtained by default, the Prothonotary may exercise the functions of the court under this section. Default judgment
- (7) For the purposes of enforcing a judgment, interest awarded under this section shall be deemed to be included in the judgment. Interest deemed part of judgment
1987,c.66,s.50; 1989,c.7,s.9; 1995,c.32,s.12.
- 51.** (1) Money owing under an order, including costs to be assessed or costs fixed by the court, bears interest at the post-judgment interest rate, calculated from the date of the order. Post-judgment interest
- (2) Where an order provides for periodic payments, each payment in default shall bear interest only from the date of default. Interest on periodic payments
- (3) Where an order is based on an order given outside Prince Edward Island or an order outside Prince Edward Island is filed with the court in Prince Edward Island for the purpose of enforcement, money owing under the order bears interest at the rate, if any, applicable to the order given outside Prince Edward Island by the law of the place where it was given. Interest on order originating outside province
- (4) Where costs are assessed without an order, the costs bear interest at the post-judgment interest rate in the same manner as if an order were made for the payment of costs on the date the person to whom the costs are payable became entitled to the costs. Costs assessed without order
- (5) Interest shall not be awarded under this section where interest is payable by a right other than under this section but where post-judgment interest is so payable the rate shall not exceed the post-judgment interest rate. Other provision for interest
- (6) Where an order for the payment of money is made before this section comes into force, this section does not apply and section 35 of the *Judicature Act* continues to apply notwithstanding the repeal of that Act. 1987,c.66,s.51; 1991,c.42,s.4. Application
- 52.** (1) The court may, where it considers it just to do so, in respect of the whole or any part of the amount on which interest is payable under section 50 or 51, Direction of the court
- (a) disallow interest under either section;
- (b) allow interest at a rate higher or lower than that provided in either section;
- (c) allow interest for a period other than that provided in either section.
- (2) For the purpose of subsection (1), the court shall take into account Idem
- (a) changes in the market interest rate;
- (b) the circumstances of the case;
- (c) the fact that an advance payment was made;

- (d) the circumstances of medical disclosure by the plaintiff;
- (e) the amount claimed and the amount recovered in the proceeding;
- (f) the conduct of any party that tended to shorten or to lengthen unnecessarily the duration of the proceeding; and
- (g) any other relevant consideration. 1995,c.32,s.12.

Costs	53. (1) Subject to the express provisions of any statute, the costs of and incidental to all proceedings authorized to be taken in court or before a judge are in the discretion of the court or judge, and the court or judge has full power to determine by whom and by what extent the costs shall be paid.
Trustees, etc.	(2) Nothing herein deprives a trustee, mortgagee or other person of any right to costs out of a particular estate or fund.
Jury trials	(3) Repealed by 1992,c.37,s.40.
Crown costs	(4) In a proceeding to which Her Majesty is a party, costs awarded to Her Majesty shall not be disallowed or reduced on assessment merely because they relate to a barrister or solicitor who is a salaried officer of the Crown, and costs recovered on behalf of Her Majesty shall be paid into the Operating Fund. 1987,c.66,s.53; 1992,c.37,s.40 <i>{eff.}</i> Oct. 1/92; 1995,c.32,s.12; 1997,c.20,s.3.

APPEALS

Judge not to hear appeal from own decision	54. A judge shall not sit as a member of a court hearing an appeal from his own decision or any matter that may be referred back to him for hearing. 1987,c.66,s.54.
Leave to appeal required	55. No appeal lies to the Appeal Division without leave of the Appeal Division <ul style="list-style-type: none"> (a) from an order made with the consent of the parties; (a.1) repealed by 1996,c.43,s.2; (b) where the appeal is only as to costs that are in the discretion of the judge who made the order for costs, on the ground that the discretion was wrongly exercised. 1987,c.66,s.55; 1991,c.41,s.2; 1996,c.43,s.2.
Powers on appeal	56. (1) Unless otherwise provided, the court or judge to which an appeal is taken may <ul style="list-style-type: none"> (a) make any order or decision that ought to or could have been made by the court or tribunal appealed from; (b) order a new trial; (c) make any other order or decision that is considered just.
Interim orders	(2) On application, the court or judge to which an appeal is taken may make any interim order that is considered just to prevent prejudice to a party pending the appeal.

(3) On application, the court or judge to which an appeal is taken may, in a proper case, quash the appeal. Power to quash

(4) Unless otherwise provided, the court or judge to which an appeal is taken may, in a proper case, Determination of fact

(a) draw inferences of fact from the evidence, except that no inference shall be drawn that is inconsistent with a finding that has not been set aside;

(b) receive further evidence by affidavit, transcript of oral examination, oral examination before the court or in such other manner as the court directs; and

(c) direct a reference or the trial of an issue, to enable the court or judge to determine the appeal.

(5) The powers conferred by this section may be exercised notwithstanding that the appeal is as to part only of an order or decision, and may be exercised in favour of a party even though the party did not appeal. Scope of decisions

(6) The court to which an appeal is taken shall not direct a new trial unless some substantial wrong or miscarriage of justice has occurred. New trial

(7) Where some substantial wrong or miscarriage of justice has occurred but it affects only part of an order or decision or some of the parties, a new trial may be ordered in respect of only that part or those parties. 1987,c.66,s.56. *Idem*

PUBLIC ACCESS

57. (1) Except where otherwise enacted and subject to subsection (2) and the Rules, all court hearings shall be open to the public. Public hearings

(2) The court may order the public to be excluded from a hearing where the possibility of serious harm or injustice to any person justifies a departure from the general principle that court hearings should be open to the public. Exception

(3) Where a proceeding is heard in the absence of the public, disclosure of information relating to the proceeding is not contempt of court unless the court expressly prohibited the disclosure of the information. 1987,c.66,s.57. Disclosure of information

58. (1) On payment of the prescribed fee, a person is entitled to see any document filed in a civil proceeding in a court, unless an Act or an order of the court provides otherwise. Documents public

(2) For purpose of confidentiality, a judge may order that any document filed in a civil proceeding be sealed and not form part of the public record. 1987,c.66,s.58. Sealing documents

MISCELLANEOUS

Multiplicity of proceedings	59. As far as possible, multiplicity of legal proceedings shall be avoided. 1987,c.66,s.59.
Joint liability not affected by judgment or release	60. (1) Where two or more persons are jointly liable in respect of the same cause of action, a judgment against or release of one of them does not preclude judgment against any other in the same or a separate proceeding.
Two proceedings in respect of same damage	(2) Where a person who has suffered damage brings two or more proceedings in respect of the damage, the person is not entitled to costs in any of the proceedings, except the first proceeding in which judgment is obtained, unless the court is of the opinion that there were reasonable grounds for bringing more than one proceeding. 1987,c.66,s.60.
Vexatious proceedings	61. (1) Where a judge of the Supreme Court is satisfied, on application, that a person has persistently and without reasonable grounds (a) instituted vexatious proceedings in any court; or (b) conducted a proceeding in any court in a vexatious manner, the judge may order that (c) no further proceeding be instituted by the person in any court; or (d) a proceeding previously instituted by the person in any court not be continued, except by leave of a judge of the Supreme Court.
Attorney General	(2) An application under subsection (1) shall be made only on notice to the Attorney General, and the Attorney General is entitled to be heard on the application.
Application for leave to proceed	(3) Where a person against whom an order under subsection (1) has been made seeks leave to institute or continue a proceeding, he shall do so by way of an application in the Supreme Court.
Leave to proceed	(4) Where an application for leave is made under subsection (3), (a) leave shall be granted only if the court is satisfied that the proceeding sought to be instituted or continued is not an abuse of process and that there are reasonable grounds for the proceeding; (b) the person making the application for leave may seek the rescission of the order made under subsection (1) but may not seek any other relief on the application; (c) the court may rescind the order made under subsection (1); (d) the Attorney General is entitled to be heard on the application; and (e) no appeal lies from refusal to grant relief to the applicant.
Abuse of process	(5) Nothing in this section limits the authority of a court to stay or dismiss a proceeding as an abuse of process or on any other ground. 1987,c.66,s.61.

- 62.** A person is not liable for any act done in good faith in accordance with an order or process of the court. 1987,c.66,s.62. Protection for acting under court order
- 63.** (1) A bond or recognizance arising out of a civil proceeding may be enforced in the same manner as an order for the payment of money by leave of a judge on application by the Attorney General or any other person entitled to enforcement. Enforcement of bonds and recognizances
- (2) A fine for contempt of court may be enforced by the Attorney General in the same manner as an order for the payment of money or in any other manner permitted by law. Enforcement of fines for contempt
- (3) The sheriff to whom an execution order obtained under subsections (1) and (2) is directed shall proceed immediately to carry out the order without a direction to enforce. 1987,c.66,s.63 Enforcement by sheriff
- 64.** Where a person who is ordinarily resident in a foreign country is entitled to money or property that is in the hands of a court or an executor or administrator, and if the foreign country has a consul in Canada who is authorized to act as the person's official representative, the money or property may be paid or delivered to the consul. 1987,c.66,s.64. Consul as official representative
- 65.** The court shall have such seals as are approved by the Lieutenant Governor in Council and the seals shall be impressed on such documents as the Rules may direct. 1987,c.66,s.65. Seal of court
- 66.** (1) The Honourable Charles St. Clair Trainor Judges' Library Trust shall continue in operation as established by the Judicature Act. Judge's library
- (2) The Chief Justice of Prince Edward Island, the Chief Justice of the Trial Division and the other judges of the Supreme Court shall continue to be the trustees of the trust. Trustees
- (3) The powers of the trustees are Powers of trustees
- (a) to acquire books and materials by gift, purchase or otherwise and hold them for the purpose of the trust;
 - (b) to accept and hold funds for the purpose of the trust;
 - (c) to make regulations governing the maintenance, operation and use of the judges' library. 1987,c.66,s.66.