

Provincial Court Act - Justice of the Peace

Proposed amendments will establish judicial justices of the peace.

Justices of the Peace

Due to the requirement for judicial independence, the functions of justices of the peace that are judicial in nature need to be separated from the administrative functions. Currently, this function is being carried out by Provincial Court Judges, but this is an inefficient use of Judges' time and resources, and is not viable or sustainable in the longer term.

These amendments allow for the creation of a Judicial Justice of the Peace role that can assume these judicial functions and be independent of government. The amendments also clarify the roles of the two other types of justices of the peace – staff and administration - and their different powers and jurisdictions.

Judicial Justices of the Peace (*new*)

Judicial Justices of the Peace will assume judicial functions such as warrant requests. The judicial justices of the peace will be appointed to provide 24/7 coverage with jurisdiction throughout PEI. It is expected that 3-4 individuals will need to be appointed to establish coverage across the province, and a critical available mass to meet the need.

Judicial Justices of the Peace will be independent of government. They will not be provincial employees. A committee of judges and a Law Society member will vet candidates and put their names forward for appointment as necessary. Supervision will fall to the Chief Provincial Court Judge. Remuneration will be determined in a manner similar to that for the provincial court judges. The legislative changes will clarify the scope of practice permitted by this class of justices of the peace.

Staff Justices of the Peace (*role clarified by amendments*)

Staff Justices of the Peace are appointed by the Minister of Justice and Public Safety, as long as they are employed as judicial clerks. Their duties include swearing information for criminal or provincial offences, accepting guilty pleas and imposing fines for provincial offences. The amendments to *the Act* will clarify the scope of practice permitted by this class of justices of the peace.

Administrative Justices of the Peace (*role clarified by amendments*)

Administrative Justices of the Peace are not provincial government employees. They are appointed to deal with specific matters, such as municipal employees for municipal matters, and individuals who are designated for the purpose of solemnizing marriage or issuing Emergency Protection Orders under the *Victims of Family Violence Act*. They will continue to be appointed by Lieutenant Governor in Council. Appointments for administrative justices of the peace will continue to be for a five-year term. The amendments to the *Act* will clarify the scope of practice permitted by this class of Justices of the Peace.

OTHER JURISDICTIONS

Most other jurisdictions have a category of Justices of the Peace who are independent from government to carry out judicial functions, primarily identified as presiding, sitting or judicial justices of the peace.

CONSULTATION

The key stakeholder is the Provincial Court. The Chief Judge of the Provincial Court has reviewed the proposed legislation and has offered comment, sought clarification, and suggested some changes. These changes have been incorporated to provide further clarity on the scope of jurisdiction. The Provincial Court is supportive of these amendments.

Chief Justices of the Supreme Court and of the Court of Appeal have been also advised of the plan to create Judicial Justices of the Peace.