

CONSOLIDATION OF JURY ACT

R.S.N.W.T. 1988,c.J-2

(Current to: May 1, 2013)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

R.S.N.W.T. 1988,c.5(Supp.)

In force September 1, 1989: SI-034-89

R.S.N.W.T. 1988,c.63(Supp.)

R.S.N.W.T. 1988,c.125(Supp.)

S.N.W.T. 1995,c.29

In force September 22, 1996, except s.5,6,8

Note: s.5,6,8 repealed by S.N.W.T. 1999,c.6,s.5: SI-019-96.

S.N.W.T. 1997,c.3

S.N.W.T. 1998,c.24

S.N.W.T. 1999,c.6

In force March 31, 1999

AS AMENDED BY STATUTES ENACTED UNDER SECTION 76.05 OF NUNAVUT ACT:

S.N.W.T. 1998,c.34

In force April 1, 1999

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2002,c.17,s.274

s.274 in force September 8, 2003: SI-005-2003

S.Nu. 2008,c.19,s.5

s.5 in force September 18, 2008

S.Nu. 2011,c.10,s.20

s.20 in force March 10, 2011

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

Territorial Printer
Legislation Division
Department of Justice
Government of Nunavut
P.O. Box 1000, Station 550
Iqaluit, NU X0A 0H0

Tel.: (867) 975-6305
Fax: (867) 975-6189
Email: Territorial.Printer@gov.nu.ca

GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

TABLE OF CONTENTS

INTERPRETATION

Definitions 1

RIGHT TO JURY IN CIVIL MATTERS

Right to jury 2 (1)
 Dispensing with jury (2)

JURY COSTS

Definition of "cost of the jury" 3 (1)
 Security for jury costs (2)
 Payment of costs (3)
 Taxation of costs (4)

PERSONS QUALIFIED TO SERVE AS JURORS

Persons qualified as jurors 4
 Repealed 4.1
 Persons not qualified as jurors 5
 Persons exempt from service as jurors 6
 Right and duty 6.1
 Persons excused from service as jurors 7

COMPILATION OF JURY LIST

Selection of jurors and jury list 8 (1)
 Access to lists and rolls (2)
 Repealed 9
 Repealed 10
 Repealed 11

SELECTION OF JURY PANEL

Notice to Sheriff from clerk 12 (1)
 Jury panel selection (2)
 Repealed 13
 Repealed 14
 Repealed 15
 Summons 16 (1)
 Service of summons (2)
 Failure to cause service of summons (3)

Persons may apply to be excused	17	(1)
Sheriff may excuse		(2)

SELECTION OF JURORS FROM THE PANEL

Selection of jurors	18	
Repealed	19	
Challenges for cause	20	(1)
<i>Idem</i>		(2)
Peremptory challenges		(3)
Swearing of jurors	21	

GENERAL

Excusing jurors	22	
Adding jurors to panel	23	
Discharging jurors	24	
Inspection by jury	25	(1)
Order		(2)
Verdict	26	(1)
Answer to question		(2)
Special verdict	27	
Impeaching verdict	28	
Illness of juror	29	
Necessaries of jury	30	(1)
Food and lodging costs		(2)
Offence	31	(1)
Exception		(2)
Breach of secrecy by juror	32	
Fees and allowances	33	

REGULATIONS

Regulations	34	
-------------	----	--

JURY ACT

INTERPRETATION

Definitions

1. In this Act,

"action" means a civil proceeding as defined in the *Judicature Act*; (*action*)

"Clerk" means the Clerk of the Nunavut Court of Justice appointed under the *Judicature Act*; (*greffier*)

"Court" means the Nunavut Court of Justice; (*tribunal*)

"judge" means a judge of the Court; (*juge*)

"Sheriff" means the Sheriff appointed under the *Judicature Act*. (*shérif*)
S.N.W.T. 1998,c.34,Sch.C,s.16(2); S.Nu. 2008,c.19,s.5(2).

RIGHT TO JURY IN CIVIL MATTERS

Right to jury

2. (1) Where, in any action

- (a) of libel, slander, false imprisonment, malicious prosecution or breach of promise of marriage,
- (b) founded on a tort or contract in which the amount claimed exceeds \$1,000, or
- (c) for the recovery of real property,

either party to the action applies to the Court, not less than two weeks before the time fixed for the trial of the action before a jury, the action shall, subject to subsection (2) and section 3, be tried before a jury, but in no other case shall an action be tried before a jury.

Dispensing with jury

(2) Where, in any action of a class specified in subsection (1), application is made for the trial of that action before a jury and it appears to a judge, either before or after the commencement of the trial, that the trial will involve any prolonged examination of documents or accounts or any scientific investigation that, in the opinion of the judge, cannot conveniently be made by a jury, the judge may direct that the action be tried without a jury or that the jury be dismissed, in which case the action shall be tried or the trial continued, as the case may be, without a jury.

JURY COSTS

Definition of "cost of the jury"

- 3.** (1) In this section, "cost of the jury" means
- (a) the total cost of the jury for the sittings of the Court at which the action is tried, including the cost of summoning the panel, jurors' fees and allowances, and all other lawful expenses in connection with that, as certified by the Clerk; or
 - (b) in any case where a jury is used for the trial of more than one action or proceeding at the same sittings of the Court, a portion of the total cost specified in paragraph (a), which shall be determined at the conclusion of the sittings in accordance with the Rules of the Nunavut Court of Justice, or, if there are no such rules applicable, in accordance with an order to be made by the presiding judge.

Security for jury costs

(2) Where, in accordance with subsection 2(1), application is made for the trial of an action before a jury, the party making the application shall deposit with the Clerk a sum by way of security for payment of the cost of the jury that to the Clerk appears sufficient under the circumstances.

Payment of costs

(3) On the conclusion of the sittings at which the action is tried, the party making the application shall pay to the Clerk any amount by which the cost of the jury exceeds the amount of the security deposited by the party in accordance with subsection (2), and is entitled to have returned to him or her any amount by which the amount of the security deposited exceeds the cost of the jury.

Taxation of costs

(4) If the party making the application obtains judgment in his or her favour, the party shall, unless the judge otherwise orders, be allowed to and may tax against the unsuccessful party to the action the cost of the jury. S.Nu. 2008,c.19,s.5(3).

PERSONS QUALIFIED TO SERVE AS JURORS

Persons qualified as jurors

- 4.** Subject to this Act, every person who
- (a) has attained the age of 18 years,
 - (b) is a Canadian citizen or permanent resident of Canada, and
 - (c) is able to speak and understand an Official Language,
- is qualified to serve as a juror in any action or proceeding that may be tried by a jury in Nunavut. R.S.N.W.T. 1988,c.125(Supp.),s.2; S.N.W.T. 1995,c.29,s.2; S.Nu. 2008,c.19,s.5(3).

4.1. Repealed, R.S.N.W.T. 1988,c.125(Supp.),s.2.

Persons not qualified as jurors

- 5.** No person is qualified to serve as a juror who
- (a) has been convicted of an offence for which he or she was sentenced to a term of imprisonment exceeding one year, not having been subsequently granted a free pardon; or
 - (b) possesses any physical or mental disability that is incompatible with the discharge of the duties of a juror.

Persons exempt from service as jurors

- 6.** The following persons are exempt from service as jurors:
- (a) members of the Queen's Privy Council for Canada or of the Senate or House of Commons of Canada;
 - (b) the Commissioner and members of the Legislative Assembly;
 - (c) members of the Royal Canadian Mounted Police;
 - (d) judges of any court of record, justices of the peace and coroners;
 - (e) practising barristers and solicitors;
 - (f) members of the clergy of any denomination;
 - (g) salaried fire-fighters and active members of the fire brigade of a municipality;
 - (h) officers of the Court, including Sheriff's officers, constables and bailiffs;
 - (h.1) election officers during the period between the day an election writ is issued and election day;
 - (i) officers appointed to enforce municipal by-laws;
 - (j) officers and members of the Canadian Armed Forces;
 - (k) physicians, surgeons, dental surgeons and pharmaceutical chemists in active practice;
 - (l) nurses, nurse practitioners, licensed practical nurses and midwives in active practice;
 - (m) persons whose duties relate to the custody and confinement of prisoners;
 - (n) employees of the Department of Justice of the Government of Nunavut;
 - (o) employees of the Department of Justice of the Government of Canada.
- R.S.N.W.T. 1988,c.63(Supp.),s.2; S.N.W.T. 1995,c.29,s.3;
S.N.W.T. 1998,c.34,Sch.C,s.16(3); S.Nu. 2002,c.17,s.274;
S.Nu. 2008,c.19,s.5(3); S.Nu. 2011,c.10,s.20(2),(3).

Right and duty

- 6.1.** Every person has the right and duty to serve as a juror unless disqualified or exempted under this Act. S.N.W.T. 1995,c.29,s.4.

Persons excused from service as jurors

7. No person is required to serve as a juror more than once in any two-year period unless the service of that person as a juror is necessary by reason of there being an insufficient number of persons qualified to serve as jurors within a distance of 30 km from the place of trial.

COMPILATION OF JURY LIST

Selection of jurors and jury list

8. (1) The Sheriff shall select persons who are apparently qualified to serve as jurors and compile a jury list in accordance with the regulations.

Access to lists and rolls

(2) The Sheriff shall have access to the lists and rolls identified in the regulations to enable compilation of the jury list. R.S.N.W.T. 1988,c.63(Supp.),s.3; S.N.W.T. 1999,c.6,s.6(2).

9. Repealed, R.S.N.W.T. 1988,c.63(Supp.),s.4.

10. Repealed, R.S.N.W.T. 1988,c.63(Supp.),s.4.

11. Repealed, R.S.N.W.T. 1988,c.63(Supp.),s.4.

SELECTION OF JURY PANEL

Notice to Sheriff from clerk

12. (1) On receipt of a notice that a jury will be required for the sittings of the Court, the Clerk shall, within a reasonable time before the day fixed for the commencement of the sittings, notify the Sheriff in writing of the place, the date and the time at which a jury panel shall be required to attend, whether the trial will be conducted in English or French and any other relevant information and shall issue to the Sheriff a written order in the prescribed form.

Jury panel selection

(2) On receipt of the written order, the Sheriff shall select a jury panel in accordance with the regulations and certify the regularity of the selection process. R.S.N.W.T. 1988,c.63(Supp.),s.5; S.Nu. 2008,c.19,s.5(3); S.Nu. 2011,c.10,s.20(5)(a).

13. Repealed, R.S.N.W.T. 1988,c.63(Supp.),s.6.

14. Repealed, R.S.N.W.T. 1988,c.63(Supp.),s.6.

15. Repealed, S.N.W.T. 1999,c.6,s.6(3).

Summons

16. (1) The Sheriff shall summon each person on the jury panel in accordance with the regulations.

Service of summons

(2) The Sheriff shall, in accordance with the regulations, cause a summons to be served on a person on the jury panel by

- (a) personal service;
- (b) having the summons left with a responsible member of the household of the person named in the summons; or
- (c) mail.

Failure to cause service of summons

(3) The Sheriff is not guilty of a breach of duty by reason only that he or she fails to cause a person whose name appears on the jury panel to be served with a summons, if the failure to cause that person to be served is due to a circumstance over which the Sheriff has no control. R.S.N.W.T. 1988,c.63(Supp.),s.7; S.N.W.T. 1995,c.29,s.7; S.N.W.T. 1997,c.3,s.3(3); S.N.W.T. 1999,c.6,s.6(4).

Person may apply to be excused

17. (1) At any time before the time indicated for appearance on the summons, any person summoned for service as a juror may apply orally or in writing to the Sheriff to be excused from service as a juror.

Sheriff may excuse

(2) At any time before the time indicated for appearance on the summons, the Sheriff may excuse from service as a juror any person who the Sheriff is satisfied has good reason to be excused. R.S.N.W.T. 1988,c.63(Supp.),s.8.

SELECTION OF JURORS FROM THE PANEL

Selection of jurors

18. Persons on the jury panel shall be selected to serve as jurors in accordance with the regulations. S.N.W.T. 1999,c.6,s.6(5).

19. Repealed, S.N.W.T. 1999,c.6,s.6(5).

Challenges for cause

20. (1) A party to a civil action may, at any time before a person who is selected to serve as a juror is sworn, challenge that person for cause.

Idem

(2) Where a challenge is exercised pursuant to subsection (1), the judge may, in the discretion of the judge, allow the challenge or direct that the person challenged be sworn.

Peremptory challenges

(3) Each side prosecuting or defending an action may exercise not more than three peremptory challenges that, when exercised, may not be withdrawn.

S.N.W.T. 1999,c.6,s.6(6).

Swearing of jurors

21. Where a person who is selected to serve as a juror is not challenged or is challenged but the challenge is disallowed, the Clerk shall swear that person and when sworn that person shall be a juror for the trial of the action. S.N.W.T. 1999,c.6,s.6(7).

GENERAL

Excusing jurors

22. The judge may for a good cause excuse from service as a juror any person who has been summoned but has not been sworn.

Adding jurors to panel

23. Where at the trial of any action the number of jurors in attendance

- (a) is less than the number required, or
- (b) is so reduced for any reason that a full jury cannot be sworn,

the judge may, on application by any party to the action, direct the Sheriff to summon such other qualified persons as are needed and can be found and to add their names to the panel.

Discharging jurors

24. If at any time during the sittings of the Court it appears to the judge that the services of any person as a juror will not be needed, the judge may order that person to be discharged.

Inspection by jury

25. (1) Where, during the trial of an action before a jury, it appears to the judge that a view by the jury of any place or any real or personal property in question is necessary or desirable in order that the jury may better understand the evidence, the judge may, at any time before a verdict is returned, order such view by the jury, on terms as to costs that to the judge seem just.

Order

- (2) An order made under subsection (1) must contain
 - (a) directions to the Sheriff as to the manner in which and the persons by whom the place or property in question shall be shown to the jury; and
 - (b) any other direction to the Sheriff that the judge sees fit to make.

Verdict

26. (1) The jury for the trial of an action shall consist of six persons, any five of whom may return a verdict or answer questions submitted to them by the judge.

Answer to question

(2) Where more than one question is submitted to the jury in an action, it is not necessary for the same five jurors to agree on each answer.

Special verdict

27. Subject to section 6 of the *Defamation Act*, in the absence of any direction by the judge, the jury may return a general or special verdict but the jury

- (a) shall return a special verdict if the judge directs the jury to do so, and
- (b) shall not return a general verdict if the judge directs the jury not to do so,

and the judge may direct the jury to answer any questions of fact submitted by the judge, in which case the jury shall answer the questions and the answers constitute a special verdict.

Impeaching verdict

28. Subject to section 20, failure to observe any direction in this Act or the regulations respecting

- (a) the qualification, exemption or excusing of jurors,
- (b) the compilation and preparation of lists for the purpose of this Act, the form of those lists or any other requirements with respect to those lists,
- (c) the summoning of jurors, or
- (d) the selection or formation of the panel,

is not a ground for impeaching the verdict or answers given by a jury in any action.

S.N.W.T. 1999,c.6,s.6(8).

Illness of juror

29. If during the trial of an action a member of the jury becomes ill, the judge may, in the discretion of the judge, direct that the trial proceed without the juror and the verdict of the remaining five jurors, if unanimous, is valid.

Necessaries of jury

30. (1) No jury shall be kept without food, drink or other reasonable comfort while it is considering its verdict.

Food and lodging costs

(2) Where, during the trial of an action, the judge directs that the jury shall not be allowed to separate, the Sheriff shall provide the food and lodgings that the Sheriff considers proper and the cost of the food and lodgings, as certified by the Sheriff, shall be included as part of the costs of the jury.

Offence

31. (1) Every person who fails to obey a summons served under this Act or who fails to answer to his or her name when called by the Clerk is guilty of an offence and is liable on summary conviction to a fine of not less than \$25 and not exceeding \$200.

Exception

- (2) No person is guilty of an offence under subsection (1) unless that person has
- (a) acknowledged service of the summons where the summons was left with a member of the person's household or was served by mail; or
 - (b) been personally served with the summons.
- S.N.W.T. 1995,c.29,s.9; S.N.W.T. 1997,c.3,s.3(6).

Breach of secrecy by juror

32. Every person shall, in respect of the trial of any action or proceeding in which he or she serves or has served as a juror, well and truly keep secret the Queen's counsel, his or her own and that of the other jurors, and every juror who divulges any such secret is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 or to imprisonment for a term not exceeding two months or to both.

Fees and allowances

33. The fees and allowances payable to jurors are those specified in the Rules of the Nunavut Court of Justice in the absence of prescribed fees and allowances.
S.Nu. 2008,c.19,s.5(3).

REGULATIONS

Regulations

34. The Commissioner, on the recommendation of the Minister, may make regulations

- (a) respecting the fees and allowances payable to jurors;
- (b) respecting the selection of persons who are apparently qualified to serve as jurors and for the compilation of a jury list;
- (c) identifying the lists and rolls that the Sheriff shall have access to under subsection 8(2);
- (d) respecting the selection of a jury panel;
- (e) respecting the selection of persons to serve as jurors from the jury panel;
- (f) respecting the contents of forms required under this Act;
- (g) prescribing the form of the written order referred to in subsection 12(1);
- (h) respecting the form and content of the summons to a person on the jury panel;
- (i) respecting the manner of effecting service of a summons on a person on the jury panel; and

- (j) respecting any other matter that the Commissioner, on the recommendation of the Minister, considers necessary for carrying out the purposes of this Act.

R.S.N.W.T. 1988,c.63(Supp.),s.9; S.N.W.T. 1995,c.29,s.10;

S.N.W.T. 1999,c.6,s.6(9); S.Nu. 2011,c.10,s.20(4),(5)(b).