

## JURY ACT

### R.S.Y. 2002, c. 129

*Amended by: S.Y. 2005, c. 11; S.Y. 2009, c. 3, s. 54*

#### SECTION 1

##### *Interpretation*

1 In this Act,

"action" has the same meaning as in the Judicature Act; " action "

"clerk" means the clerk of the Supreme Court; " greffier "

"Yukon First Nation" has the same meaning as in An Act Approving Yukon Land Claims Final Agreements. " première nation du Yukon "

*S.Y. 1998, c.14, s.2; R.S., c.97, s.1.*

#### SECTION 2

##### *Right to jury in civil matters*

2(1) If, in any action for libel, slander, false imprisonment, malicious prosecution, seduction, or breach of promise of marriage, or in any action founded on a tort or contract in which the amount claimed exceeds \$1000, or in any action for the recovery of real property, either party to the action applies to the Supreme Court, not less than 90 days before the time set for the trial of the action before a jury, the action shall, subject to subsection (2) and to section 3, be tried before a jury, but in no other case shall an action be tried before a jury.

(2) If, in any action of a class specified in subsection (1), application is made for the trial of that action before a jury and it is the opinion of a judge, at any time, 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.

*R.S., c.97, s.2; S.Y. 2005, c. 11, ss. 2, 3, and 4, effective December 19, 2005 (R.A.).*

### SECTION 3

#### *Jury costs*

3(1) If, 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 security for payment of the cost of the jury.

(2) 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 them in accordance with subsection (1), and is entitled to have returned to them any amount by which the amount of the security so deposited exceeds the cost of the jury.

(3) If the party making the application obtains judgment in their favour, they shall, unless the judge otherwise orders, be allowed and may tax against the unsuccessful party to the action the cost of the jury.

(4) In this section, "cost of the jury" means

(a) the total cost of the jury for the sittings of the Supreme 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 therewith, as certified by the sheriff; 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 Supreme Court, a portion of the total cost specified in paragraph (a), that portion to be determined at the conclusion of the sittings in accordance with the Rules of Court, or, if there are no such rules applicable, in accordance with an order to be made by the presiding judge.

*R.S., c.97, s.3; S.Y. 2005, c. 11, s. 5, effective December 19, 2005 (R.A.).*

### SECTION 4

#### *Persons qualified to serve as jurors*

4 Subject to this Act, every person who

(a) has reached the age of majority;

(b) is a Canadian citizen; and

(c) is able to speak and understand whichever of the English language or the French language the trial is being conducted in is qualified to serve as a juror in any action or proceeding that may be tried by a jury in the Yukon.

*S.Y. 1991, c.10, s.2; R.S., c.97, s.4; S.Y. 2005, c. 11, s. 6, effective December 19, 2005 (R.A.).*

## SECTION 5

5 The following persons are disqualified from service as jurors

- (a) persons who have been convicted of an offence against an Act of Parliament for which a term of imprisonment exceeding 12 months could have been imposed and who have not been pardoned by the government of Canada for this offence;
- (b) persons who have serious physical or mental disabilities that would seriously impair their ability to discharge the duties of jurors;
- (c) members of the Queen's Privy Council for Canada or of the Senate or House of Commons of Canada;
- (d) the Commissioner and members of the Legislative Assembly;
- (e) a chief of a Yukon First Nation;
- (f) members of the Royal Canadian Mounted Police;
- (g) judges of any court of record, justices of the peace and coroners;
- (h) practising lawyers;
- (i) officers of the Supreme Court, including sheriff's officers and bailiffs;

(j) employees in the Department of Justice of the Yukon public service who are employed in the Supreme and Territorial Court registries, or in the Corrections Branch;

(k) employees in the Yukon public service classified as probation officers or social workers; and

(l) employees in the public service of Canada employed in the Department of Justice of Canada or the Correctional Service of Canada.

*R.S.Y. 2002, c. 129 s. 5; S.Y. 2005, c. 11, s. 7, effective December 19, 2005 (R.A.); S.Y. 2009, c. 3, s. 54, effective January 11, 2010 (O.I.C. 2009/248).*

## SECTION 6

6(1) In this section, 'exempt' means that a person may not be compelled to serve as a juror but he or she may do so if he or she desires.

(2) The following persons are exempt from service as jurors

(a) clerics of any denomination;

(b) salaried firefighters and active members of the fire brigade of a municipality;

(c) postmasters;

(d) commissioned and non-commissioned members of the regular naval, army, or air forces of Her Majesty in right of Canada;

(e) physicians, surgeons, dental surgeons, and pharmacists in active practice;

(f) nurses in active practice;

(g) persons actually engaged in the operation of

- (i) railway trains and steamships,
- (ii) plants producing electricity for public consumption, and
- (iii) water distribution systems distributing water for public consumption;

(h) persons who have served as jurors within the past two years; and

(i) persons over the age of 65 years.

*S.Y. 2005 c. 12, s. 11, effective December 19, 2005 (R.A.).*

#### SECTION 7

7(1) A person may apply to the sheriff to be excused from serving as a juror on the grounds that

- (a) the person belongs to a religion or a religious order that makes service as a juror incompatible with the beliefs or practices of the religion or order; or
- (b) serving as a juror may cause serious hardship or loss to the person or to others.

(2) On an application to be excused, the sheriff may, if satisfied that the applicant is entitled to be excused, excuse the applicant from serving on the jury for which he or she was summoned or, if not so satisfied, may refuse to excuse the applicant.

(3) If the sheriff refuses an application to be excused made under this section, the applicant may apply informally and without prior notice of the proceedings to the judge to be excused on the same grounds on which he or she had made the application to the sheriff and the judge may excuse or refuse to excuse the applicant from serving on the jury for which they are summoned.

*S.Y. 1998, c.14, s.4; R.S., c.97, s.6; S.Y. 2005, c. 11, s. 8, effective December 19, 2005 (R.A.).*

#### SECTION 8

*Discrimination against jurors*

8(1) An employer must allow an employee sufficient leave of absence from their employment, with or without pay, to serve as a juror if that employee is summoned or selected for jury duty.

(2) An employer may require that the employee's leave of absence for jury duty be without pay, but the employer must not discriminate in any other way against the employee in connection with the employee's wages or other conditions of employment because of the fact that the employee has been summoned or selected to serve as a juror.

(3) An employer who fails to comply with subsection (1) or (2) is liable to the employee for any loss of wages occasioned by the failure. The lost wages may be recovered as wages under the Employment Standards Act.

(4) An employer or agent of an employer who

(a) threatens to cause or causes an employee loss of position, seniority, or employment; or

(b) threatens to impose or imposes any financial or other penalty, otherwise than as permitted by subsection (2),

because of the employee's response to a summons or selection for jury duty is guilty of an offence punishable on summary conviction and liable to a fine of up to \$2,500 or to imprisonment for up to three months or to both.

(5) In this section, "conditions of employment", "employee", "employer", and "wages" have the same meaning as in the Employment Standards Act.

*S.Y. 1998, c.14, s.5.*

## SECTION 9

### *Jury list*

9(1) On being notified that a jury trial shall take place, the sheriff shall compile a preliminary list of persons who are qualified to serve as jurors and who are not, to the sheriff's knowledge, exempt from service

(2) The list shall contain, if possible, not less than 75 names, and shall give the addresses of the persons whose names are listed.

*S.Y. 1991, c.10, s.4; R.S., c.97, s.8; S.Y. 2005, c. 11, ss. 9 and 10, effective December 19, 2005 (R.A.).*

## SECTION 10

### *Information to assist compilation of list*

10(1) For the purpose of compiling the list referred to in section 9, the sheriff shall be given access to

(a) the voters lists and other public documents under the control of any officer of a municipality; and

(b) records in the custody or under the control of a department or public officer of the Government of the Yukon,

for information about the name and address and eligibility for service as jurors.

(2) The officer or department from whom the sheriff requests information under subsection (1) shall supply the information to the sheriff, or allow the sheriff to extract the information, within 7 days of receiving the sheriff's request for it.

*S.Y. 2001, c.20, s.2; S.Y. 2005, c. 11, s. 11, effective December 19, 2005 (R.A.).*

## SECTION 11

### *Certification of lists*

11 As soon as possible after compiling a preliminary list, the sheriff shall certify the preliminary list and shall forward it to the senior judge.

*R.S., c.97, s.10; S.Y. 2005, c. 11, s. 12, effective December 19, 2005 (R.A.).*

## SECTION 12

### *Supplementary lists*

12(1) If, after the preliminary list has been forwarded to the senior judge and the senior judge considers it necessary for any reason to have a supplementary list prepared, the senior judge may order the sheriff to prepare, certify, and return to the judge a supplementary list. The order shall state the time within which the return is to be made, and may contain any other directions the senior judge considers necessary.

(2) On receipt by the sheriff of the order referred to in subsection (1) the sheriff shall proceed according to the tenor thereof.

(3) Each supplementary list shall be marked "supplementary list".

*R.S., c.97, s.11; S.Y. 2005, c. 11, s. 13, effective December 19, 2005 (R.A.).*

### SECTION 13

*Repealed*

13(1) REPEALED: S.Y. 2005, c. 11, s. 15, effective December 19, 2005 (R.A.).

*R.S., c.97, s.12; S.Y. 2005, c. 11, s. 15, effective December 19, 2005 (R.A.).*

### SECTION 14

*Proceedings after selection of panel*

14 The senior judge may remove from the preliminary list the names of any persons who, in the judge's opinion, would suffer undue hardship or serious inconvenience were they to be called on to serve as jurors, and immediately thereafter shall certify the list and shall then immediately issue to the sheriff a direction requiring the sheriff to summon the persons named on this final list to attend the Supreme Court at the time and place set for the commencement of the sittings, and shall deliver it to the sheriff at least 60 days before the time so set.

*R.S., c.97, s.13; S.Y. 2005, c. 11, s. 16, effective December 19, 2005 (R.A.).*

### SECTION 15

*Summoning of jurors*

15(1) On receipt of the direction referred to in section 14, the sheriff shall summon each person named on the panel list by

(a) serving the person or leaving with a responsible member of the person's household a summons in the prescribed form; or

(b) causing to be delivered by registered mail addressed to the person's last known address a summons in the prescribed form.

(2) The sheriff is not guilty of a breach of duty only because of failure to summon any persons whose name appears on the panel list if the failure to summon the person is due to a cause over which the sheriff has no control.

*S.Y. 1993, c.13, s.3; S.Y. 2005, c. 11, ss. 17 and 18, effective December 19, 2005 (R.A.).*

### SECTION 16

*Return by sheriff*



16 The sheriff shall, on or before the commencement of the trial in the Supreme Court, deliver to the senior judge the direction referred to in section 15, together with a return showing the sheriff's action thereon and listing the names of persons who have applied unsuccessfully to the sheriff to be excused from serving on the jury.

*R.S., c.97, s.15; S.Y. 2005, c. 11, s. 19, effective December 19, 2005 (R.A.).*

## SECTION 17

*Selection of jurors from the panel*

17 The sheriff shall write the name and number on the final list of each person who has been summoned by the sheriff and who is not excused from serving as a juror on a separate card or piece of paper, each of which shall be of uniform size, and shall place the cards in a suitable container and deliver it to the clerk.

*R.S., c.97, s.16; S.Y. 2005, c. 11, s. 20, effective December 19, 2005 (R.A.).*

## SECTION 18

*Selection of individual jurors*

18(1) Immediately before the commencement of each trial for which a jury is required, the clerk shall, in open court, cause the container to be shaken and the cards or pieces of paper therein thoroughly mixed, and shall then draw out the cards or pieces of paper one at a time, shaking the container after each drawing, and shall continue to draw out those cards or pieces of paper so long as it is necessary to do so in order to obtain a complete jury.

(2) The cards selected bearing the names of persons subsequently sworn as jurors shall be kept apart until the verdict is given or the jury is dismissed or discharged and shall then be returned to the container, unless no other action or proceeding remains to be tried by a jury at the sittings of the Supreme Court.

*R.S., c.97, s.17.*

## SECTION 19

*Challenge in civil matters*

19(1) A party to a civil action may, at any time before a person whose name has been selected pursuant to section 18 is sworn, challenge that person for cause.

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

(3) Each party may exercise not more than three peremptory challenges which, when exercised, may not be withdrawn.

*R.S., c.97, s.18; S.Y. 2005, c. 11, s. 21, effective December 19, 2005 (R.A.).*

#### **SECTION 20**

*Swearing of jurors*

20 If a person whose name is selected pursuant to section 18 is not challenged or is challenged but the challenge is disallowed, as the case may be, the clerk shall swear that person and when sworn that person shall be a juror for the trial of the action.

*R.S., c.97, s.19.*

#### **SECTION 21**

*Repealed*

21(1) REPEALED: S.Y. 2005, c. 11, s. 22, effective December 19, 2005 (R.A.).

*S.Y. 1993, c.13, s.4 and 5; 2005, c. 11, s. 22, effective December 19, 2005 (R.A.).*

#### **SECTION 22**

*Deficiency in number of jurors*

22 If at the trial of any action the number of jurors in attendance is less than the number required, or if 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 any other qualified persons that are needed and can be found and to add their names to the panel.

*R.S., c.97, s.21.*

#### **SECTION 23**

*Jurors not needed*

23 If at any time during the sittings of the Supreme 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.

*R.S., c.97, s.22.*

#### **SECTION 24**

*Inspection by jury*

24 If, 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 the view by the jury, on any terms as to costs as to the judge seems just, and the order so made shall contain directions to the sheriff as to how and the persons by whom the place or property in question shall be shown to the jury, and shall contain any other direction to the sheriff that the judge sees fit to make.

*R.S., c.97, s.23.*

**SECTION 25**

*Verdict*

25(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.

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

*R.S., c.97, s.24.*

**SECTION 26**

*Special verdict*

26 Subject to subsection 6(1) of the Defamation Act, in the absence of any direction by the judge the jury may return a general or special verdict, but shall return a special verdict if the judge so directs and shall not return a general verdict if the judge directs them not to do so; the judge may direct the jury to answer any questions of fact submitted by the judge, in which case the jury shall answer any such questions and the answers thereto shall constitute a special verdict.

*R.S., c.97, s.25.*

**SECTION 27**

*Impeaching verdict*

27 Subject to section 19, failure to observe any direction in this Act respecting the qualification, exception, or excusal of jurors, the compilation and preparations of lists for the purpose of this Act, the form of those lists, or any other requirements with respect thereto, the summoning of jurors or

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

*R.S., c.97, s.26.*

## SECTION 28

### *Attendance of jurors*

28 If during the trial of an action a juror becomes ill or dies, the judge may direct that the trial shall proceed without the member and the verdict of the remaining five jurors, if unanimous, shall be valid.

*R.S., c.97, s.27; S.Y. 2005, c. 11, s. 23, effective December 19, 2005 (R.A.).*

## SECTION 29

### *Necessities of jury*

29(1) No jury shall be kept without food, drink or other reasonable comfort while it is considering its verdict.

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

*R.S., c.97, s.28.*

## SECTION 30

### *Failure to obey summons*

30 If a person who is summoned to appear for service as a juror fails to obey the summons or fails to answer to their name when called by the clerk, the judge may impose a fine not less than \$25 and not exceeding \$200.

*R.S., c.97, s.29.*

## SECTION 31

### *Breach of secrecy by juror*

31 Every person who, having been a member of a jury that has rendered its verdict or been discharged, discloses or discusses in any manner the nature or content of any discussions of the jury

on which he or she served is guilty of an offence and is liable on summary conviction to a fine not exceeding \$2000 or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

*R.S., c.97, s.30; S.Y. 2005, c. 11, s. 24, effective December 19, 2005 (R.A.).*

## **SECTION 32**

### *Regulations*

32(1) The Commissioner in Executive Council may make regulations respecting the fees and allowances payable to jurors, and in the absence of those regulations the fees and allowances payable are those specified in the Rules of Court.

(2) The Commissioner in Executive Council may make regulations prescribing forms to be used for the purposes of this Act.

*R.S., c.97, s.31.*