



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

SUMMARY PROCEEDINGS ACT

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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SUMMARY PROCEEDINGS ACT

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SUMMARY PROCEEDINGS ACT

CHAPTER S-9

1. Definitions

In this Act

- (a) “**administrative charge**” means the administrative charge imposed under subsection 13(1);
- (a.1) “**default fee**” means the default fee imposed under subsection 13(3);
- (a.2) “**enactment**” means an Act of the Legislature of the province or a regulation, bylaw or other instrument having the force of law made under the authority of an Act;
- (a.3) “**issuing officer**” or “**officer**” means
 - (i) a police officer as defined in the *Police Act* R.S.P.E.I. 1988, Cap. P-11.1, or
 - (ii) a person authorized by an enactment to enforce an enactment;
- (b) “**provincial court judge**” means a judge of the provincial court established under section 2 of the *Provincial Court Act* R.S.P.E.I. 1988, Cap. P-25. 1977,c.40,s.1; 2012,c.34,s.1; 2019,c.9,s.1(a).

2. Application of Act

This Act applies to all proceedings

- (a) to determine if a person has committed an offence under an enactment for which the person is liable to imprisonment, fine, penalty or other punishment; or
- (b) before a provincial court judge for an order for the payment of money or other remedy authorized by an enactment. 1977,c.40,s.2; 2019,c.9,s.2.

3. Summary proceedings

Except as otherwise provided by any Act, where imprisonment, fine, penalty or other punishment prescribed by an enactment may be enforced or recovered upon summary conviction or by summary proceedings, it shall be enforced or recovered before a provincial court judge or justice of the peace in the manner provided by this Act. 1977,c.40,s.3; 2019,c.9,s.3.

4. Procedure in *Criminal Code* applied

- (1) The provisions of the *Criminal Code* (Canada) R.S.C. 1985, Cap. C-46, including provisions relating to appeals, applicable to offences punishable on summary conviction apply with the necessary changes to proceedings to which this Act applies.

Modifications

- (2) In applying the provisions of the *Criminal Code* the following expressions therein have the following meanings:

- (a) “**Act of the Parliament of Canada**” means an enactment;
- (b) “**Attorney General**” means the Minister of Justice and Public Safety and Attorney General of this province;
- (c) “**prison**” means any place other than a penitentiary in which persons charged with or convicted of offences are kept or detained in custody;
- (d) “**prosecutor**” means a person who lays an information or makes a complaint or, where the Attorney General intervenes, means the Attorney General, and includes counsel acting on behalf of that person or the Attorney General. *1977,c.40,s.4; 1993,c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3; 2019,c.9,s.4.*

5. Punishment of offences

All offences under an enactment shall be punishable on summary conviction. *1977,c.40,s.5.*

6. Punishment where no punishment provided in enactment

Where no punishment is provided for an offence under any enactment, the punishment for that offence shall be a fine of not more than \$2000. *1977,c.40,s.6; 1994,c.58,s.1; 2001,c.54,s.1.*

6.1 Certificate of default

- (1) When the payment of a fine imposed on a person on summary conviction for an offence under an enactment is in default, the clerk of the provincial court may
 - (a) complete a certificate of default in the prescribed form respecting
 - (i) the fine, including the amount remaining unpaid, and
 - (ii) the default fee payable on the default; and
 - (b) file the certificate of default, together with a minute of judgment, in the Supreme Court.

Certificate deemed order or judgment of court

- (2) A certificate of default that is filed in the Supreme Court under subsection (1) shall be deemed to be an order or judgment of that court for the purposes of enforcement.

Satisfaction piece, issuance and filing

- (3) Where
 - (a) the fine imposed on a person on summary conviction for an offence under an enactment;
 - (b) the default fee, if any, payable on default in the payment of the fine; and
 - (c) the surcharge deemed to be imposed on the person on that conviction under the *Victims of Crime Act R.S.P.E.I. 1988, Cap. V-3.1,*

are fully paid, the clerk of the provincial court shall execute a satisfaction piece in respect of the conviction and file it with the Supreme Court.

Payment discharges execution

- (4) Repealed by *2012,c.34,s.2.*

Default in payment of fines

- (5) The payment of a fine is in default when any part of the fine is due and unpaid for thirty days or more.



Priority of fine payments

- (5.1) Where a person is in default, in whole or in part, in the payment of two or more fines, any payment made to the provincial court in respect of any such fine shall be applied by the court, subject to the *Victims of Crime Act*, according to the time that the defaults in the payment of the fines occurred, with the fines that went in default earlier being discharged in full before the fines that went into default later.

Requirement to provide information, etc.

- (6) Where an offender is in default in the payment of a fine, the clerk of the provincial court may prepare a statement of arrears and may, by notice served on the offender together with the statement of arrears, require the offender to file the following personal financial information with the clerk and to appear before the court to explain the default:
- (a) information respecting any court order or judgment that entitles the offender to receive money from another person or that requires the offender to pay money to another person;
 - (b) information respecting the offender's current employment, including the number of hours that the offender is employed weekly or monthly and the rate of remuneration;
 - (c) the monthly amount and sources of all other income received by the offender;
 - (d) the description and value of the offender's assets;
 - (e) information respecting any money that the offender expects to receive from federal, provincial and municipal governments and agencies, including the Canada Revenue Agency;
 - (f) an itemized list of the offender's monthly expenses.

Consequences of failure to comply

- (6.1) Where the offender fails to file the specified financial information or to appear as the notice requires, a provincial court judge may issue a warrant for the offender's arrest for the purposes of bringing the offender before the court.

Offender deemed able to pay

- (6.2) At the default hearing, in the absence of evidence to the contrary, the offender shall be deemed to have the ability to pay the arrears, and the statement of arrears prepared by the clerk of the provincial court and served on the offender shall be deemed to be correct.

Order of court

- (6.3) A provincial court judge may, unless satisfied that there are no arrears or that the offender is unable to pay the arrears, make one or more of the following orders with respect to the offender:
- (a) discharge the arrears by periodic payments as the court considers just;
 - (b) discharge the arrears in full by a specified date;
 - (c) subject to subsection (6.4), comply with an order under clause (a) or (b) to the extent of the offender's ability to pay;
 - (d) provide security in the form the court directs for the arrears;
 - (e) report periodically to the court, the clerk of the provincial court or a person specified in the order;
 - (f) provide to the court, the clerk of the provincial court or a person specified in the order particulars of any future change of address or employment as soon as the change occurs;

- (g) be imprisoned for not more than 60 days, unless the arrears are sooner paid;
- (h) be imprisoned for not more than 60 days on default in any payment or requirement ordered under this subsection.

No effect on arrears

- (6.4) An order under clauses (6.3)(c), (g) or (h) does not affect the accruing of arrears.

Restriction on order for imprisonment

- (6.5) A provincial court judge shall not order that an accused be imprisoned under clauses (6.3)(g) or (h) for default of payment of a fine unless satisfied that the mechanisms provided by section 6.2 are not appropriate in the circumstances.

Duration of imprisonment

- (7) Imprisonment under subsection (6.3), shall be for three days, plus one day for each \$100 or part of a day that is in default, subject to a maximum period of 60 days or half of the maximum imprisonment, if any, provided for the offence, whichever is the greater.

Effect of imprisonment

- (8) Imprisonment does not reduce the amount owing by the accused.

Fine

- (9) For the purposes of this Act, a reference to a “fine” includes the administrative charge payable by a person on conviction for the offence for which the fine is imposed. *1994,c.58,s.2; 2001,c.55,s.1; 2012,c.34,s.2; 2019,c.9,s.5.*

6.2 Notice by the sheriff

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

Request by sheriff

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

Time extension non-applicable

- (3) Subject to subsection (4), a suspension, revocation or refusal to issue, reinstate or renew a licence, permit, registration or other similar instrument made pursuant to any enactment shall remain in effect notwithstanding proof of partial or advance payment of the fine or notwithstanding an extension of time for payment allowed to that person by the court which issued the fine.



Decision ceases to be in effect, conditions

- (4) A decision to suspend, revoke or refuse to issue, reinstate or renew a licence, permit, registration or other similar instrument by reason only of a notice under subsection (2) shall cease to remain in effect if
- (a) the person who is in default of payment makes arrangements satisfactory to the sheriff or clerk for paying the fine; and
 - (b) the sheriff or clerk, as the case may be, notifies the person who has received a request under subsection (2) that the request made with respect to the person in default has been rescinded. *2001, c.55, s.1; 2019, c.9, s.6.*

7. Judicial notice

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

8. Record ceases to have effect after five years

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

9. Regulations

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

- (a) prescribing forms;
- (b) in relation to costs;
- (b.1) with respect to the remittance of the proceeds of fines to the Minister of Finance or municipality in which the offence took place, in such amounts or proportions as the expenses of administering the law is borne by each;
- (c) prescribing the functions of clerks of the provincial court; or
- (d) for any other matter necessary or advisable for the purpose of effectively carrying out the intent of this Act. *1977, c.40, s.9; 1994, c.58, s.3; 2010, c.31, s.3; 2012, c.17, s.2; 2015, c.28, s.3.*

10. Ticket summons

- (1) In addition to the procedure set out in the *Criminal Code* for laying an information and for issuing a summons, an information may be laid and a summons issued by means of a ticket in accordance with this section for an offence under any provision of an enactment designated by the regulations.

Contents of ticket

- (2) A ticket under this section shall include
- (a) the summary offence information; and
 - (b) a summons.

Regulations

- (3) The Lieutenant Governor in Council may make regulations
- (a) prescribing the form of the ticket;

- (a.1) providing for the completion and signing of tickets by electronic means;
- (a.2) with respect to the filing of tickets with the provincial court by direct electronic transmission;
- (a.3) with respect to the printing of tickets filed by direct electronic transmission;
- (b) designating offences under provisions of enactments for the purposes of this section;
- (c) authorizing the use on a ticket of any word or expression to designate an offence under any provision of an enactment;
- (d) respecting any matter that the Lieutenant Governor in Council considers necessary to provide for the use of the ticket.

Endorsement for payment of penalty out of court

- (4) Where the offence charged in the ticket is one for which the penalty may be paid out of court, the officer issuing the summons portion of the ticket may enter the amount of the penalty in the place provided for it on the ticket, and that entry constitutes the endorsement required by subsection 11(1).

Amount of penalty includes administrative charge

- (4.1) The amount of penalty entered on the summons portion of a ticket under subsection (4) shall be equal to the sum of
 - (a) the penalty prescribed for the out-of-court settlement of the offence charged in the summons; and
 - (b) the administrative charge.

Description of offence

- (5) The use on a ticket of any word or expression authorized by the regulations to designate an offence under any provision of an enactment is sufficient for all purposes to describe the offence designated by that word or expression.

Delivery of summons

- (6) Upon completing a ticket, the issuing officer shall
 - (a) ensure that his or her name is printed on the summons portion of the ticket; and
 - (b) serve the summons portion of the ticket on the person charged with the offence.

Service

- (6.1) The summons portion of a ticket shall be served on a person charged with an offence
 - (a) in the case of an individual, by delivering it personally to the individual or, if the individual cannot conveniently be found, by leaving it for the individual at his or her residence with a person on the premises who appears to be at least 18 years of age;
 - (b) in the case of a municipality, by delivering it personally to the chief administrative officer of the municipality; and
 - (c) in the case of a corporation that is not a municipality,
 - (i) by sending it by single registered mail to the registered office of the corporation, or
 - (ii) by delivering it personally to the manager, secretary or other executive officer of the corporation or the person apparently in charge of a branch office of the corporation at an address held out by the corporation to be its address.



Idem

- (7) Delivery of the summons portion of a ticket may be made on a holiday.

Proof of delivery

- (8) The issuing officer shall sign the summary offence information portion of the ticket and certify that he or she served the summons portion of the ticket to the person charged with the offence.

Effect of certificate of service

- (9) A certificate of service purporting to be signed by the issuing officer shall be received in evidence as sufficient proof of service in accordance with subsection (6.1) in the absence of evidence to the contrary.

Execution of ticket information

- (10) The summary offence information portion of a ticket issued under this section
- (a) shall be completed and signed by an informant who believes on reasonable and probable grounds that an offence has been committed; and
 - (b) shall be filed with the clerk of the provincial court.

Deemed under oath

- (10.1) A summary offence portion of a ticket issued under this section is deemed to have been made under oath or affirmation before a provincial court judge.

Informant need not issue

- (11) The informant need not be the same person as the person who issued the summons portion of the ticket.

Report of conviction

- (12) Where a justice of the peace or a provincial court judge makes a conviction on the summary offence information portion of a ticket in respect of an offence under a provision of an enactment regulating traffic, the clerk of the provincial court shall report the conviction to the Registrar of Motor Vehicles, and the report shall be deemed to be a certificate of conviction for the purposes of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, and the regulations under that Act. *1980, c.49, s.1; 2012, c.34, s.3; 2019, c.9, s.7.*

10.1 Electronic ticket

- (1) An issuing officer may complete and sign a ticket by electronic means in an electronic format and may file the ticket with the court by direct electronic transmission if the completion, signature and filing are in accordance with the regulations.

Filing of printed copy

- (2) A printed copy of a ticket filed by an issuing officer under subsection (1) is considered to have been filed as the original document if it is printed in accordance with the regulations and for the purpose of disposing of a charge under this Act. *2019, c.9, s.8*

11. Penalty payable out of court

- (1) A summons portion of a ticket may be endorsed with a notice that the person to whom the summons is directed may pay a specified penalty out of court.

Plea of guilty

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

PLEA OF GUILTY

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

.....

Signature of Accused

Proof of signature

- (3) A signature affixed to the form of plea of guilty purporting to be that of the person to whom the summons portion of a ticket is directed is proof in the absence of evidence to the contrary that it is the signature of that person.

Officer not to accept payment

- (4) The officer or other person serving a summons portion of a ticket endorsed under this section shall not receive payment of the penalty payable out of court, or any part of it.

Conviction

- (5) Upon receipt of the summons portion of a ticket with a plea of guilty signed by the person to whom the summons is directed in accordance with subsection (2), a provincial court judge or justice of the peace may convict the person to whom the summons is directed of the offence described in the summons. *1980,c.49,s.1; 2019,c.9,s.9.*

12. Failure to appear

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

- (a) where the summary offence information portion of the ticket is complete and regular on its face, enter a conviction on that information and impose the minimum penalty authorized by law for the offence or, where another penalty for that offence has been prescribed for out of court settlement, that other penalty; or
- (b) where the summary offence information portion of the ticket is not complete and regular on its face, quash the proceeding. *1994,c.58,s.4; 2019,c.9,s.10.*

13. Administrative charge

- (1) Upon conviction for an offence, a person shall pay to the clerk of the provincial court an administrative charge of \$50.

Charge payable in respect of each conviction

- (2) For greater certainty, a person is liable to pay the administrative charge imposed under subsection (1) in respect of each offence for which the person is convicted.

Default fee

- (3) Where the payment of a fine is in default, the person upon whom the fine has been imposed shall pay to the clerk of the provincial court a default fee of \$10, in addition to the fine and administrative charge payable by the person. *2012, c.34, s.4.*