

**MEMORANDUM OF UNDERSTANDING  
RESPECTING COURTS ADMINISTRATION**

**BETWEEN**

**The Minister of Justice of New Brunswick**

**AND**

**The Chief Justice of New Brunswick**

**AND**

**The Chief Justice of the Court of King's Bench of New Brunswick**

**AND**

**The Chief Judge of the Provincial Court of New Brunswick**

**1. PURPOSE**

- 1.1 This Memorandum of Understanding (MOU) describes the roles and responsibilities of the Minister and the Chiefs in the administration of the Courts in New Brunswick.
- 1.2 This MOU represents a commitment by the Minister and the Chiefs to collaborate in the administration of the Courts in New Brunswick.

**2. DEFINITIONS**

- 2.1 The following definitions apply to this MOU:
  - (a) **Chief** means the Chief Justice of New Brunswick, the Chief Justice of the Court of King's Bench or the Chief Judge of the Provincial Court, as the subject or context requires, and includes anyone designated by law to act on that person's behalf; (*juge en chef*)
  - (b) **Chiefs**, referred to collectively, means the Chief Justice of New Brunswick, the Chief Justice of the Court of King's Bench and the Chief Judge of the Provincial Court and includes anyone designated by law to act on behalf of any of these persons; (*juges en chef*)

- (c) **Court** means the Court of Appeal, the Court of King’s Bench or the Provincial Court, as the subject or context requires; (*Cour*)
- (d) **court administration** means the management and direction of matters necessary for the operation of any of the Courts or other matters assigned to the Minister by law and specifically excludes judicial administration; (*administration des tribunaux judiciaires*)
- (e) **court administration record** means any record that contains information relating to court administration and includes the information itself, but does not include a court record or a judicial information record; (*dossier d’administration des tribunaux judiciaires*)
- (f) **Court of Appeal** means The Court of Appeal of New Brunswick, as continued under subsection 2(1) of the *Judicature Act*, R.S.N.B. 1973, c. J-2, and amendments thereto (the *Judicature Act*), and includes a judge thereof; (*Cour d’appel*)
- (g) **Court of King’s Bench** means The Court of King’s Bench of New Brunswick, as continued under subsection 2(1) of the *Judicature Act* and as its name is to be read and construed by application of section 37(a) of the *Interpretation Act*, R.S.N.B. 1973, c. I-13, and amendments thereto, and includes a judge of that Court; (*Cour du Banc du Roi*)
- (h) **court record** means any record that contains information relating to proceedings before a Court and includes the information itself. For greater certainty, a court record includes information relating to individual cases and court dockets, but does not include a court administration record or a judicial information record; (*dossier judiciaire*)
- (i) **Courts**, referred to collectively, means the Court of Appeal, the Court of King’s Bench and the Provincial Court; (*Cours*)
- (j) **Court Services** means the Court Services Branch of the Justice Services Section in the Department’s Justice and Legal Services Division; (*services aux tribunaux*)
- (k) **Department** means the department of the Government of New Brunswick called the Department of Justice, whether known by that name or by any other, over which the Minister of Justice presides; (*Ministère*)
- (l) **enabling legislation** means, as applicable, the *Judicature Act*, the *Provincial Court Act*, R.S.N.B. 1973, c. P-21, and amendments thereto (the *Provincial Court Act*), or any other Act of the Legislative Assembly of New Brunswick or Parliament of Canada

that enables a Court to exercise its powers or grants jurisdiction to a Court; (*loi habilitante*)

- (m) **judicial administration** means the management and direction of matters related to judicial functions and includes, without being limited to, matters connected to the preparation, management and adjudication of proceedings in a Court, and all other matters assigned to the judiciary by law or through this MOU. For greater certainty, judicial administration does not include court administration; (*administration judiciaire*)
- (n) **judicial independence**, with respect to the Courts, means the independence of each of the Courts as reflected in its institutional and administrative relationships to the executive and legislative branches of government and includes the judicial independence of individual judges, Justices or other officers of the Courts who exercise a judicial function; (*indépendance judiciaire*)
- (o) **judicial information** means information in any form, the release of which would infringe upon judicial independence, and includes information relating to the judiciary (similar to what would be considered a personnel record) or to policies and programs of the judiciary; information relating to the exercise of a judicial function; and notes, communications and draft documents made by, or for, the judiciary. For greater certainty, judicial information includes any information referred to in section 4 of the *Right to Information and Protection of Privacy Act*, S.N.B. 2009, c. R-10.6, and amendments thereto (the *Right to Information and Protection of Privacy Act*); (*information judiciaire*)
- (p) **judicial information record** means any record that contains judicial information and includes the information itself. For greater certainty, a judicial information record includes any record, information or document referred to in section 4 of the *Right to Information and Protection of Privacy Act*; (*dossier d'information judiciaire*)
- (q) **Minister** means the Minister of Justice of New Brunswick and any successor of the Minister presiding over in the Department of Justice portfolio; (*ministre*)
- (r) **Provincial Court** means the Provincial Court of New Brunswick, as referred to in the *Provincial Court Act*; (*Cour provinciale*)
- (s) **record** has the same meaning as in section 1 of the *Right to Information and Protection of Privacy Act*. (*document*)

### **3. ACKNOWLEDGEMENTS**

3.1 The Minister and the Chiefs acknowledge the following:

3.1.1 They share responsibility for the administration of justice in New Brunswick, with each playing a vital role in the administration of the Courts.

3.1.2 The Courts and the judiciary are an independent branch of government, and the constitutional principle of judicial independence must be respected to maintain the rule of law and ensure public confidence in the administration of justice.

3.1.3 Judicial independence includes the institutional independence of the Courts with respect to matters of administration bearing directly on the exercise of their judicial function, and judicial control over such matters as the assignment of judges is an essential or minimum requirement for institutional independence.

3.1.4 The Chiefs are responsible for efficient and effective judicial administration, and each of the Courts must be given sufficient resources to allow it

3.1.4.1 to carry out its functions under the *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, reprinted in R.S.C. 1985, Appendix II, No. 5 (the *Constitution Act, 1867*), and its enabling legislation; and

3.1.4.2 to meet its linguistic obligations under the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 (the *Constitution Act, 1982*), and the *Official Languages Act*, S.N.B. 2002, S.N.B. 2002, c. O-0.5, and amendments thereto (the *Official Languages Act*).

3.1.5 The Minister is accountable to the Legislative Assembly of New Brunswick for the expenditure of public resources required for the administration of justice, specifically those resources that are used to operate each of the Courts.

### **4. CONSTITUTIONAL AND LEGISLATIVE AUTHORITY AND OBLIGATIONS**

4.1 The provisions of the Constitution of Canada and the Acts of the Parliament of Canada or the Legislature of New Brunswick, as they are amended from time to time, that establish the constitutional and legislative authority and obligations of the Minister, the Chiefs and the Courts are set out in Appendix A to this MOU. This MOU in no way affects the authority and obligations of any of its parties or the Courts under these provisions or any other applicable law. In the event of conflict between the provisions of this MOU and any applicable law, the applicable law takes precedence.

## 5. COMMITMENTS

- 5.1 The Minister and the Chiefs are committed to developing and maintaining an accessible, modern and effective justice system in New Brunswick.
- 5.2 The Minister and the Chiefs are committed to pursuing the administration of the Courts collaboratively to ensure that resources are used as efficiently and effectively as possible.

## 6. ADMINISTRATION OF THE COURTS

### 6.1 The Role of the Minister

- 6.1.1 The Minister's responsibility to manage and direct court administration, as Minister or on behalf of the Department, includes, without being limited to, the following specific areas:
  - 6.1.1.1 promoting fair, accessible and timely access to justice;
  - 6.1.1.2 reporting to the Legislative Assembly of New Brunswick regarding the financial and operational performance of the Courts;
  - 6.1.1.3 appointing in a timely manner a Chief Judge, an Associate Chief Judge and other judges to the Provincial Court, and any quasi-judicial officers, including case management masters, small claims adjudicators and emergency adjudicative officers;
  - 6.1.1.4 ensuring the adequacy, safety, security and staffing of "court areas," within the meaning of the *Court Security Act*, R.S.N.B. 2014, c. 104, and amendments thereto (the *Court Security Act*), conducting threat and risk assessments as required and undertaking emergency planning on matters that impact the administration of justice, particularly with respect to courthouses;
  - 6.1.1.5 providing modern and accessible programs, services and legislative, regulatory and administrative frameworks in support of the Courts to ensure timely access to justice;
  - 6.1.1.6 providing sufficient financial, human resources, information technology and other administrative and corporate services to the Courts;

- 6.1.1.7 providing sufficient financing in support of the continuing education requirements identified by the Chief Judge of the Provincial Court for judges of that Court;
- 6.1.1.8 assigning work to employees in matters related exclusively to court administration and managing their performance in relation to these matters;
- 6.1.1.9 ensuring that the Chiefs are informed of financial or administrative Department or Government of New Brunswick policies that apply to the operations of the Courts;
- 6.1.1.10 providing a timely response to requests from the Chiefs, especially in situations where the consent of the Minister is required;
- 6.1.1.11 housing and supporting the Courts' website as required;
- 6.1.1.12 storing, maintaining and archiving court information in compliance with the Department's record management policies, where applicable;
- 6.1.1.13 upon request, providing access to, or releasing, court records in accordance with this MOU and applicable legislation, court-ordered bans or restrictions on access to, or the release of, this information, policies of the Department and practice directives of the Courts;
- 6.1.1.14 providing regular or ad hoc statistical information in relation to court administration in accordance with this MOU;
- 6.1.1.15 providing a permanent office for each full-time judge and, if possible, for each supernumerary judge assigned to a court facility and maintaining a list of available spaces; and
- 6.1.1.16 providing additional temporary or shared offices, as needed, to accommodate travelling and supernumerary judges.

## 6.2 The Role of the Chiefs

- 6.2.1 In addition to their powers and duties as judges in individual judicial matters, the Chiefs are responsible for managing and directing judicial administration for their respective Courts, including, without being limited to, in the following specific areas:

- 6.2.1.1 exercising their powers as judges, whether established by common law or otherwise, or preserved by the *Court Security Act*, to control court proceedings and persons charged with carrying out their orders;
- 6.2.1.2 directing sittings and assigning judicial duties pursuant to the *Judicature Act* or the *Provincial Court Act*, as the case may be;
- 6.2.1.3 assigning individual chambers for judges;
- 6.2.1.4 determining the nature and scope of the representation by judges on judicial or government committees, working groups or initiatives;
- 6.2.1.5 ensuring that judges receive appropriate continuing education training;
- 6.2.1.6 promoting open access to all levels of court;
- 6.2.1.7 advising the Minister in a timely manner of any operational or support service issues requiring action by the Minister;
- 6.2.1.8 developing and updating the Courts' website and its content; and
- 6.2.1.9 assigning work to employees in matters related exclusively to judicial administration and supervising their work in relation to these matters.

### 6.3 The Role of the Chief Justice of New Brunswick

- 6.3.1 In addition to the powers and duties of a Chief and judge, the Chief Justice of New Brunswick has powers and duties including, without being limited to, in the following specific areas:
  - 6.3.1.1 determining the general policy of the Court of Appeal and the Court of King's Bench in judicial matters pursuant to subsection 12(1) of the *Judicature Act*;
  - 6.3.1.2 exercising the powers and duties conferred upon the Chief Justice of New Brunswick by subsection 12(2) or any other relevant provision of the *Judicature Act*;
  - 6.3.1.3 overseeing judicial administration in New Brunswick as the head of the judicial branch of government in that province;
  - 6.3.1.4 exercising the powers and duties conferred upon a federally appointed chief justice or judge under the *Judges Act*, R.C.S. 1985, c. J-1, and

amendments thereto (the *Judges Act*), including as a member of the Canadian Judicial Council (CJC);

- 6.3.1.5 exercising any other powers and duties conferred upon the Chief Justice of New Brunswick at common law or by a statute, including the *Judicature Act*, the *Provincial Court Act*, the *Queen’s Counsel and Precedence Act*, R.S.N.B. 2012, c. 113, and amendments thereto, and the *Order of New Brunswick Act*, R.S.N.B. 2011, c. 199, and amendments thereto (the *Order of New Brunswick Act*); and
- 6.3.1.6 approving requests for leave and conference attendance from judges of the Court of Appeal, and the expenditures they incur in the execution of their office.

#### 6.4 The Role of the Chief Justice of the Court of King’s Bench

- 6.4.1 In addition to the powers and duties of a Chief and judge, the Chief Justice of the Court of King’s Bench has powers and duties for that Court including, without being limited to, in the following specific areas:
  - 6.4.1.1 exercising the powers and duties conferred upon that Chief by subsection 12(2), section 12.1 or any other relevant provision of the *Judicature Act*;
  - 6.4.1.2 exercising the powers and duties conferred upon a federally appointed chief justice or judge under the *Judges Act*, including as a member of the CJC;
  - 6.4.1.3 exercising any other powers and duties conferred upon that Chief at common law or by a statute, including the *Order of New Brunswick Act*; and
  - 6.4.1.4 approving requests for leave and conference attendance from judges of the Court, and the expenditures they incur in the execution of their office.

#### 6.5 The Role of the Chief Judge of the Provincial Court

- 6.5.1 In addition to the powers and duties of a Chief and judge, the Chief Judge of the Provincial Court has powers and duties for that Court including, without being limited to, in the following specific areas:



- 6.5.1.1 exercising the powers and duties conferred upon that Chief under the *Provincial Court Act*, including, without being limited to, the duty to supervise judges of the Court in the performance of their duties and the power to deal with any matter respecting a judge's misconduct, neglect of duty or inability to perform her or his duties;
- 6.5.1.2 providing the Minister with timely notice of any vacancy on the Court, including the reasons the vacancy is to be filled;
- 6.5.1.3 consulting members of the Court on the appointment of a new Chief Judge or Associate Chief Judge and providing the Minister with a list of recommended names;
- 6.5.1.4 providing advice to the Department on continuing education requirements for judges and financial requirements for the operation of the office of the Chief Judge; and
- 6.5.1.5 approving travel expenses and leave requests submitted by judges of the Court.

## **7. COLLABORATION AND CONSULTATION**

### **7.1 General Acknowledgement**

- 7.1.1 Given the division of the roles and responsibilities described in part 6 of this MOU, the Minister and the Chiefs agree that their collaboration and consultation on significant matters of court administration and justice system reforms affecting the Courts are necessary to promote an accessible, modern and effective justice system.
- 7.1.2 The Minister and the Chiefs acknowledge the need for timely collaboration and consultation among them regarding any program, policy, or legislative changes, including knowledge of any federal legislative changes (once federal approval to share the information has been granted), or initiatives that may affect the judiciary and court administration.

### **7.2 Courts Executive Committee**

- 7.2.1 There is continued a consultative body called the Courts Executive Committee to permit the Chiefs, the Minister and senior officials of the Department to consult on matters involving the administration of justice in New Brunswick.

- 7.2.2 The Courts Executive Committee consists of the Minister and the Chiefs as its Executive Members. The Deputy Minister of Justice and the Senior Assistant Deputy Minister of the Department's Justice Services Division are also members.
- 7.2.3 The Courts Executive Committee meets quarterly at a date and time to be set by the Chief Justice of New Brunswick in consultation with other members. Special meetings may be held at the request of any of the members with agreement of the Executive Members.
- 7.2.4 Seven days prior to the meeting, the Chief Justice of New Brunswick will set and circulate an agenda with selected items submitted by members. Agenda items may be added at the meeting with the consensus of the members.
- 7.2.5 The Chief Justice of New Brunswick or, in her or his absence, the Chief Justice of the Court of King's Bench, presides over meetings.
- 7.2.6 The Chief Justice of the Court of King's Bench may designate the Associate Chief Justice of that Court, should one be appointed, and the Chief Judge of the Provincial Court may designate the Associate Chief Judge of that Court to attend a meeting as an additional member or, in her or his absence, as an Executive Member.
- 7.2.7 The Minister and the Chiefs will make every effort to achieve consensus on decisions. If consensus is not achieved, the following protocol applies:
  - 7.2.7.1 on matters involving only the Court of Appeal, the agreement of the Chief Justice of New Brunswick and the Minister is sufficient;
  - 7.2.7.2 on matters involving only the Court of King's Bench, the agreement of the Chief Justice of New Brunswick, the Chief Justice of the Court of King's Bench and the Minister is sufficient; and
  - 7.2.7.3 on matters involving only the Provincial Court, the agreement of the Chief Justice of New Brunswick, the Chief Judge of that Court and the Minister is sufficient.
- 7.3 Nothing herein derogates from, or is intended to replace, the duty of the Chief Justice of New Brunswick under subsection 12(1) of the *Judicature Act* to determine the general policy of the Court of Appeal and the Court of King's Bench in judicial matters.

## **8. OPERATION AND STAFFING OF COURT FACILITIES**

- 8.1 The Minister and the Department are responsible for providing the employees required to operate the number of active courtrooms available in the province. If a temporary change in that number becomes necessary, the Chief whose Court will be impacted by the change must be notified. Proposed permanent changes will be discussed at the next quarterly meeting of the Courts Executive Committee at the latest.
- 8.2 When a Chief identifies a need for a court facility to operate additional courtrooms, that Chief must notify the Executive Director of Court Services at the earliest possible opportunity. The Executive Director will inform the Chief whether the request can be accommodated in a timely manner.
- 8.3 The Chiefs agree to cooperate with the Department in the allocation of courtrooms based on the caseload and schedules of the Courts to ensure the most efficient use of court facilities. Courtrooms are a shared resource and will not be permanently assigned for the exclusive use of any single judge or Court, except for the main Court of Appeal courtroom.

## **9. HUMAN RESOURCES**

- 9.1 All employees of the Courts are provincial public servants who are employed under the *Civil Service Act*, S.N.B. 1984, c. C-5.1, and amendments thereto, and their employment is governed by applicable legislation and Government of New Brunswick policies, collective agreements, and conditions of employment.
- 9.2 Before eliminating an existing position that directly serves a Court or a Chief, the Department must consult the appropriate Chief about the need to eliminate that position. Before creating a position or filling an existing position that directly serves a Court or a Chief, the Department must consult the appropriate Chief about the needs of that Court in determining the essential qualifications and asset qualifications, linguistic or otherwise, for the position. Appendix B, as may be amended from time to time, contains the list of specific positions that fall under this requirement.
- 9.3 In a competitive process for such position, the Senior Assistant Deputy Minister of the Department's Justice and Legal Services Division or her or his delegate must share the results of the "A" eligibility list with the appropriate Chief and solicit comments from the Chief on each of the "A" candidates before an appointment is made to the position.
- 9.4 In filling such position, the Department does not appoint a candidate who, in the opinion of the appropriate Chief, is unsuitable for the position and it gives serious consideration to any candidate who is preferred by that Chief.

- 9.5 When reviewing the performance of a Court employee, the Executive Director of Court Services, or her or his delegate, solicits feedback from the appropriate Chief and, if applicable, the other judges whom the employee directly serves. The feedback received is one of the components taken into consideration when finalizing the employee's annual performance review.

## **10. INFORMATION TECHNOLOGY**

- 10.1 The Minister and the Chiefs acknowledge the need to maintain a modern and efficient technological environment for the administration of justice in the province, with comprehensive security and privacy specifications.
- 10.2 As part of the Minister's commitment to provide sufficient information technology and other administrative and corporate resources to the Courts, the Minister agrees to provide the Courts with the necessary technology and technological training to ensure the modernization of their facilities and registries in keeping with the standards in place in other Canadian courts.
- 10.3 The Minister agrees to consult with the Chiefs on the development or use of information technology relating to court administration towards the Courts' increased autonomy over their information technology infrastructure.

## **11. ACCESS TO AND RELEASE OF RECORDS**

- 11.1 The Minister acknowledges the importance of the open court principle. Requests for access to court records will be addressed in accordance with this MOU and any applicable legislation, court-ordered bans or restrictions on access to, or the release of, this information, and any policies of the Department and practice directives that apply the Courts.
- 11.2 The Minister intends to proactively share statistical information related to court administration in accordance with this MOU.
- 11.3 The Minister may not release, or provide access to, judicial information or a judicial information record to any person or organization, including any person or organization within the Department or the Government of New Brunswick, without prior written approval from the Chief of the Court to which the information relates.
- 11.4 Before publishing statistical information relating to court administration, or otherwise releasing this information to the public, the Minister will meaningfully consult with the Chief of the Court to which the information relates.

## **12. PUBLIC INFORMATION, OUTREACH AND OPENNESS**

- 12.1 The Minister and the Chiefs are committed to increasing the level of public understanding of the role played by the Courts and the judiciary in New Brunswick's justice system. In working toward this goal, where appropriate, the Minister and the Chiefs will promote ongoing dialogue among the judiciary, Department officials, the legal community, the public and the media on matters relating exclusively to court administration.

## **13. ENFORCEABILITY**

- 13.1 This MOU is not a legally enforceable contract, nor is it a justiciable document. It does not create, purport to create, or detract from, any current or future law or legal rights or responsibilities of the Minister and the Chiefs. Nothing in this MOU obliges the Minister and the Chiefs to act in a manner that is inconsistent with the relevant legislation, regulations, policies or other authorities.

## **14. EFFECTIVE DATE, AMENDMENT AND TERMINATION**

- 14.1 This MOU is effective on the date of its signature by the Minister and the Chiefs and replaces any previous version in effect at the time this MOU is signed.
- 14.2 Upon the appointment of a new Minister or a new Chief of a Court, this MOU remains in effect.
- 14.3 Upon the appointment of a new Department official, or the change in title of a Department official, whose title or function is mentioned in this MOU, this MOU remains in effect, with the necessary modifications.
- 14.4 This MOU is subject to amendment by agreement of all parties, in writing, at any time.
- 14.5 The Minister or a Chief may terminate her or his participation in this MOU by giving 90 days' written notice to the other parties.
- 14.6 This MOU remains in effect for those parties who have not given notice of termination.
- 14.7 The Minister and the Chiefs, or their respective designates, must, on an ongoing basis, make every effort to address concerns raised by any of them regarding the contents of this MOU.

14.8 The Minister and the Chiefs must meet at least annually to review this MOU and may do so at a quarterly meeting of the Courts Executive Committee.

**15. PUBLIC AVAILABILITY**

15.1 The Minister must ensure that this MOU is published on the Department's website in both official languages of New Brunswick. The Chiefs must ensure that this MOU is published on the Courts' website in both these languages.

THIS MEMORANDUM OF UNDERSTANDING is effective this 4th day of December, 2023.

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The Honourable Hugh J.A. Flemming, K.C.  
Minister of Justice of New Brunswick

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The Honourable J.C. Marc Richard  
Chief Justice of New Brunswick

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The Honourable Tracey K. DeWare  
Chief Justice of the Court of King's Bench of New Brunswick

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The Honourable Marco R. Cloutier  
Chief Judge of the Provincial Court of New Brunswick

## Appendix A

### CONSTITUTIONAL AND LEGISLATIVE AUTHORITY AND OBLIGATIONS

#### 1. Constitutional Principles

- 1.1 Subsection 92(14) of the *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, reprinted in R.S.C. 1985, Appendix II, No. 5 (the *Constitution Act, 1867*), provides that provinces have exclusive legislative powers over the administration of justice in the provinces, including the constitution, maintenance and organization of provincial courts, of both civil and criminal jurisdictions, including procedure in civil matters in those courts.
- 1.2 The Supreme Court of Canada has recognized section 11(d) of the *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 (the *Constitution Act, 1982*), the preamble to the *Constitution Act, 1867* and section 96 of the *Constitution Act, 1867* as affirming the principle of judicial independence in Canada.
- 1.3 Section 16 of the *Constitution Act, 1982* provides that English and French are the official languages of Canada and New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the governments of Canada and New Brunswick.
- 1.4 Subsection 19(2) of the *Constitution Act, 1982* provides that any person may use either English or French in, or in any pleading in or process issuing from, any court of New Brunswick, including the Courts.

#### 2. The *Judicature Act*

- 2.1 Subsection 2(1) of the *Judicature Act*, R.S.N.B. 1973, c. J-2, and amendments thereto (the *Judicature Act*), provides for the continuation of the Court of Appeal and the Court of King's Bench as courts of record.
- 2.2 Subsection 12(1) of the *Judicature Act* provides that “[t]he Chief Justice of New Brunswick shall determine the general policy of the Court of Appeal and the Court of [King’s] Bench in judicial matters.”
- 2.3 Under subsection 12(2) of the *Judicature Act*, the Chief Justice of New Brunswick and the Chief Justice of the Court of King's Bench must, for their respective Courts, coordinate and apportion the work of the judges, who must comply with this assignment of work.

- 2.4 Section 12.01 of the *Judicature Act* provides that the Chief Justice of the Court of King's Bench is responsible for the administration of the judicial responsibilities of that Court in relation to the judiciary and has, among other powers and duties, the duty to direct and supervise the assignment of judicial duties to individual judges and the power to designate where a judge is to hold sittings and establish and maintain an office.

### **3. The Judges Act**

- 3.1 The Chief Justice of New Brunswick and the Chief Justice of the Court of King's Bench are judges, as defined in the *Judges Act*, R.C.S. 1985, c. J-1, and amendments thereto (the *Judges Act*), and, as such, they devote themselves to their judicial duties under section 55 of the *Judges Act*.
- 3.2 In addition to their judicial duties, the Chief Justice of New Brunswick and the Chief Justice of the Court of King's Bench, as federally appointed chief justices, are members of the Canadian Judicial Council (CJC), which is established under subsection 59(1) of the *Judges Act*.
- 3.3 As members of the CJC, the Chief Justice of New Brunswick and the Chief Justice of the Court of King's Bench are engaged in the furtherance of the CJC's objectives, which are set out in subsection 60(1) of the *Judges Act*, to promote efficiency and uniformity, and to improve the quality of judicial service, in their respective Courts.

### **4. The Provincial Court Act**

- 4.1 Section 2 of the *Provincial Court Act*, R.S.N.B. 1973, c. P-21, and amendments thereto (the *Provincial Court Act*), provides for the appointment of judges to the Provincial Court of New Brunswick and, among them, of a Chief Judge and an Associate Chief Judge for renewable terms of seven years.
- 4.2 Under section 10 of the *Provincial Court Act*, the Chief Judge of the Provincial Court must supervise the judges of that Court in the performance of their duties and has powers and duties including those to designate where a judge is to hold sittings and establish and maintain an office.
- 4.3 Should one be appointed, the Associate Chief Judge of the Provincial Court has the duties that are set out in section 10.1 of the *Provincial Court Act*.
- 4.4 The *Provincial Court Act* empowers the Chief Judge of the Provincial Court to deal with any matter respecting a judge's misconduct, neglect of duty or inability to perform her or his duties.



- 4.5 Subsection 10(3) of the *Provincial Court Act* empowers the Chief Justice of New Brunswick to compel the production of medical proof of the physical fitness or mental fitness, or both, of the Chief Judge or Associate Chief Judge, as the case may be.

**5. The Court Security Act**

- 5.1 Under section 9 of the *Court Security Act*, R.S.N.B. 2014, c. 104, and amendments thereto (the *Court Security Act*), court security officers have the powers, authority, privileges, rights and immunities of a peace officer, as defined in section 2 of the *Criminal Code*, R.S.C. 1985, c. C-46, in court areas.
- 5.2 Despite section 9, section 8 of the *Court Security Act* preserves the power of a judge, established by common law or otherwise, to control court proceedings and persons charged with carrying out the orders of the judge.

**6. The Official Languages Act**

- 6.1 The *Official Languages Act*, S.N.B. 2002, c. O-0.5, and amendments thereto (the *Official Languages Act*), imposes obligations for the administration of justice in New Brunswick.
- 6.2 Under section 16 of the *Official Languages Act*, English and French are the official languages of the Courts.
- 6.3 Sections 17 and 18 guarantee that all persons have the right to use the official language of their choice in any matter before the Courts, including all proceedings, or in any pleading or process issuing from a Court, and that no one may be placed at a disadvantage by reason of that choice.
- 6.4 Under subsection 24(1) of the *Official Languages Act*, final decisions, orders and judgments, including any reasons and summaries, of the Court of King's Bench and the Provincial Court must be published in English and in French if they determine a question of law of interest or importance to the general public, or the proceedings leading to their issuance were conducted in whole or in part in both official languages.
- 6.5 Under section 25 of the *Official Languages Act*, the Court of Appeal must publish all its decisions, orders and judgments, including any reasons and summaries, in English and in French.

**7. The *Right to Information and Protection of Privacy Act***

7.1 Under sections 3.1 and 4(a) and (c) of the *Right to Information and Protection of Privacy Act*, S.N.B. 2009, c. R-10.6, and amendments thereto, that Act applies to all records in the custody, or under the control, of a public body except, as is relevant to the Courts, to

7.1.1 information in a court record, a record of a judge, a judicial administration record or a record relating to support services provided to a judge or to a court official; and

7.1.2 a note made by or for, or a communication or draft decision of, a person who is acting in a judicial or quasi-judicial capacity.

## **Appendix B**

### **Positions identified as direct support to the Judiciary:**

- 2 x Executive Assistants to the Court of Appeal
- 1 x Executive Assistant to the Chief Justice of the Court of King's Bench
- 1 x Executive Assistant to the Chief Judge of the Provincial Court
- 1 x Legal Officer to the Court of Appeal
- 2 x Articling Students for the Court of Appeal