

GOVERNMENT OF BRITISH COLUMBIA

POSITION DESCRIPTION

POSITION: Master, Supreme Court of British Columbia

BRANCH: Superior Courts – Judicial

PROGRAM: Master, Supreme Court of British Columbia – Judicial

SUMMARY:

1. A Master of the Supreme Court, subject to the limitations of Section 96 of the Constitution Act, 1867 has the same jurisdiction under any enactment or the Rules of Court as a Judge of the Court sitting in Chambers unless, in respect of any matter, the Chief Justice has given a direction that a Master shall not exercise that jurisdiction.
2. This position involves responsibility for judicial, quasi-judicial and judicial administration matters; liaison with court administrators, members of the Bar and public; and procedural direction to Court registry staff.
3. A Master presides at and determines judicial hearings in Chambers relating to interlocutory and interim applications made in a proceeding in the court.
4. A Master presides at Trial Management, Case Planning, and Judicial Case Conferences.
5. A Master has all the jurisdiction of a Registrar of the Court, and in addition to his or her primary function can also preside at and conduct registrars hearings, inquiries, accountings, assessments, review of costs, and other matters imposed by statute or the Rules of Court upon a Registrar of the Court, or referred by a Judge or other Master of the Court.
6. A Master sits as a Registrar in Bankruptcy.

PROFESSIONAL QUALIFICATIONS:

A Master must hold a degree in law from a recognized University and have practised as a barrister and solicitor for at least ten years, preferably in general practice with emphasis on civil or family matters and litigation, or have other legal or judicial experience to the satisfaction of the Attorney General and the Chief Justice of the Supreme Court.

ORGANIZATION STRUCTURE AND ACCOUNTABILITY:

A Master is appointed by the Lieutenant-Governor in Council on the recommendation of the Attorney General after consultation with the Chief Justice. The Master reports to the Chief Justice who has general supervision and direction over the sittings of the Masters and the assignment of their judicial duties.

A decision of a Master in the exercise of his or her primary function may be subject to appeal either to a Judge of the Court or the Court of Appeal.

A report by a Master upon a reference made by a Judge or Master to a Master or a Registrar may be subject to confirmation by a Judge.

A decision made by a Master when exercising his or her primary function is subject to appeal on the grounds of error of law or fact, or on grounds of mixed law and fact. Reports by a Master made on reference directed by a Judge or Master of the Court may be confirmed or varied on grounds of both fact or law, or misinterpretation of principle, as the Court determines.

The judicial and quasi-judicial matters dealt with and heard or determined by a Master involve important legal principles and in many cases very large sums of money. There is no monetary limit to the jurisdiction of a Master.

SPECIAL SKILLS:

A Master must have a good knowledge of the Supreme Court Civil Rules and the Supreme Court Family Rules (Rules) and the practices and procedures of the Court, and should have particular skill and interest in the following areas:

(a) Managing Expectations

A Master must manage a busy chambers and the expectations of the members of the bar and self-represented litigants in a fair, firm and balanced way, taking into account access to justice concerns.

(b) Chambers Practice

A Master must have good knowledge of the Rules, procedures and practice in chambers, and of the applicable law and statutes, including but not restricted to all interim applications such as adding parties, amendments to pleadings, service and substituted service of process, extension and abridgement of time, consolidation of proceedings, appointment of representatives and guardians ad litem, renewals of originating process, ex parte orders and setting aside ex parte orders, orders that a solicitor has ceased to act, granting default judgments, further and better particulars, third party proceedings, all discovery procedures including discovery of documents, examinations for discovery, pre-trial examinations of witnesses, interrogatories, depositions, independent medical examinations and inspections of property, admissions, orders for special cases or that a point of law be set down for hearing, changes in venue and adjournments of trials or hearings, enforcement of judgments, sales by the court, replevin, appointment of receivers, foreclosure procedures, transfer of proceedings from one registry to another. The Master must be able to give in a timely way cogent oral or written reasons for any decision made by him or her in chambers.

(c) Family Law

In addition to the application of the above chambers practice skills in family law, the Master must have good knowledge of the Divorce Act, and its predecessors, and the Family Law Act (and its predecessor the Family Relations Act), and the law relating to custody of children, support and maintenance of a spouse and/or children, and the ability to hear applications and pronounce interim orders for custody of children, access to children, support and maintenance of a spouse and/or children, the possession and preservation of family property, exclusive possession of a family

residence and other property, and any other interlocutory or interim applications in family law proceedings.

(d) Administration of Estates

A Master has power to make all orders in non-contentious estate matters including orders for the grant of common probate, letters of administration, letters of administration with will annexed, and ancillary grants, and resealing. The Master must have good knowledge of probate practice and procedures and a sound knowledge of the Wills, Estates and Succession Act (and its predecessor the Estate Administration Act) and related statutes together with the applicable law relating to the validity of wills and the administration of estates, caveats, citations, renunciations, and generally all matters relating to the succession to property on death.

(e) Foreclosures

A Master must have a broad knowledge of the law of mortgages and the sale and purchase of land, company law especially with respect to debentures and priorities, sale of land by court order before and after order nisi, redemption, priority of securities, extensions of redemption periods, and registration and cancellation of lis pendens, combined with an extensive and detailed knowledge of the proper practices and procedures relating to foreclosure.

(f) Bankruptcy

A Master must be qualified to accept an appointment under the federal Bankruptcy and Insolvency Act as a Registrar in Bankruptcy. This will entail a broad knowledge of the Act and the Bankruptcy Rules, and the practices and procedures in filing for and completing a bankruptcy.

(g) General Practice

A Master must have a broad general knowledge of trial practice and procedure and of statute and common law, and must have an extensive knowledge of the Rules of Court and of the Statutory law relating to the performance of the functions of the Master including, but not restricted to, the Adoption Act, Builders Lien Act,

Commercial Tenancy Act, Company Act, Condominium Act, Constitution Act, Court Order Enforcement Act, Court Order Interest Act, Creditor Assistance Act, Debtor Assistance Act, Wills, Estates and Succession Act, Estate of Missing Persons Act, Evidence Act, Family Law Act, Family Relations Act, Infants Act, Interpretation Act, Legal Profession Act, Limitation Act, Patients Property Act, Probate Recognition Act, Repairers Lien Act, Residential Tenancy Act, Supreme Court Act, Survivorship and Presumption of Death Act, Trustee Act, Wills Act, Wills Variation Act, Woodworker Lien Act.

(h) Registrars Practice

A Master has all the jurisdiction of a Registrar of the Court and must have a good knowledge of the duties of a Registrar and the statutes and law relating to those duties including the assessment of a bill of costs, including special costs, and the review of a solicitor's bill under the Legal Profession Act. A Master should have a good knowledge of and experience in the field of disbursements and out-of-pocket expenses incurred by a solicitor with the ability to quickly identify such expenses as are proper and necessary and should be allowed. A Master must also be able to conduct an inquiry referred to a Registrar by the Court for the recommendation of the Registrar as to an order for permanent support or maintenance of a spouse and/or children, or to report and make recommendations as to any other matter referred to a Registrar by the Court. A Master must be capable of presiding at an accounting ordered by the Court as to the accounts of an executor or administrator in an estate, or with respect to the balance owing under a mortgage or other security.

ADDITIONAL APPOINTMENTS AND POWERS:

- (a) A Master will preside over Trial Management, Case Planning, and Judicial Case Conferences.

- (b) The Master has the powers of a Registrar of the Court, and may, from time to time, be required to assist a District Registrar or to perform the functions of a District Registrar.
- (c) A Master is an examiner by definition under Supreme Court Civil Rule 13-3 (5) and has the power to conduct the examination of a judgment debtor pursuant to a subpoena. The examination is conducted viva voce under oath and the examiner considers the income and property of the debtor, the obligations he or she owes to other creditors and to his or her family, and in general the means and ability of the debtor to pay a judgment debt. The examiner may refuse to make any order, or may order the debtor to pay the judgment debt in one lump sum or by periodic payments. It is an important function because an order for payment made by an examiner blocks any other enforcement process by the creditor until default is made under the order. The examiner must capably and carefully consider his or her decision as default by the debtor in making any payment could result in the imprisonment of the debtor for contempt.

INTERCHANGEABILITY:

A Master has province-wide jurisdiction and is expected to travel to and sit at any location to which he or she is assigned by rota, or at the request of the Chief Justice.

TEACHING DUTIES

A Master is expected to share in the training of court registry staff at various locations in the Province; to assist in the development of internal and external courses deemed necessary to keep the participants up-to-date on developments in the law and practice; and to promote uniform delivery of judicial services throughout the Province.

CONCLUSION

A Master must demonstrate and exercise all of the qualities expected of a Judge of the Court. These include, amongst others:

- (1) Expertise in the substantive area of the law being dealt with;
- (2) Expertise in the procedural rules and the rules of evidence;
- (3) Independence and impartiality;
- (4) Discretion and courtesy during hearings and in their public and private lives;
and
- (5) Maintenance of respect for the litigants, for the Court, and for the law.

These qualities are necessary to carry out effectively the judicial duties of the Master and to maintain the respect of the public for the Courts and the law administered by the Courts. The conduct of chambers by a Master is identical to that of a Judge. Evidence taken may be by affidavit or by oral examination under oath. A Master may rule on the admissibility of evidence and make findings of facts that are in dispute between the parties, and then apply the law to those facts. The amounts of money involved and the importance of the issues to the parties are unlimited.