CHAPTER 8

Court of Appeals

ARTICLE I

Composition, Organization, and Employees

**SECTION 14‑8‑10.** Court of Appeals created; number of judges.

 There is hereby created the Court of Appeals (the Court), which shall be a part of the unified judicial system. The Court shall consist of a Chief Judge and eight associate judges.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985; 1995 Act No. 145, Part II, Section 85B, eff June 29, 1995.

**SECTION 14‑8‑20.** Election of members of the court; terms of office.

 (a) The members of the Court shall be elected by joint public vote of the General Assembly for a term of six years and until their successors are elected and qualify; provided, however, that of those judges initially elected, the Chief Judge (Seat 5) and the judge elected to Seat 6 shall be elected for terms of six years each, the judges elected to Seats 3 and 4 shall be elected for terms of four years each, and the judges elected to Seats 1 and 2 shall be elected for terms of two years each. The terms of office of the judges of the Court shall begin on July 1, 1985. Prior to such date, the General Assembly shall have authority to take such measures as necessary to secure accommodations, personnel, supplies, and equipment and such other matters as may be necessary to effect full implementation of the Court for operation by such date.

 (b) Each seat on the Court shall be numbered. Candidates shall be required to file for a specific seat. Seat five shall be designated as the office of Chief Judge and shall be a separate and distinct office for the purpose of an election.

 (c) In any contested election, the vote of each member of the General Assembly present and voting shall be recorded; provided, that the provisions of Chapter 19 of Title 2 shall be followed in the course of electing the members of the Court.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1979 Act No. 194 Part III Section 5, apparently effective Aug. 8, 1979; 1980 Act No. 517 Part II, Section 16C, eff June 10, 1980; 1983 Act No. 89 Section 1, eff June 2, 1983: 1983 Act No. 90 Section 1, eff July 1, 1985.

**SECTION 14‑8‑30.** Qualifications for office.

 No person shall be eligible for the office of Chief Judge or associate judge of the Court who does not at the time of his election or appointment meet the qualifications for justices and judges as set forth in Article V of the Constitution of this State.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

**SECTION 14‑8‑40.** Oath of office.

 The judges of the Court shall qualify within twelve months after the date of their election by taking the constitutional oath or the office shall be declared vacant by the Governor. The oath shall be administered by a justice of the Supreme Court, a judge of the Court of Appeals, or by a circuit court judge.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

**SECTION 14‑8‑50.** Salary; prohibition on holding other offices.

 The Chief Judge and the associate judges shall receive such annual salary as may be provided by the General Assembly. They shall not be allowed any fees or perquisites of office, nor shall they hold any other office of honor, trust, or profit.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

**SECTION 14‑8‑60.** Vacancies.

 All vacancies in the Court shall be filled in the manner of original election; provided, that if the unexpired term does not exceed one year such vacancy may be filled by executive appointment. When a vacancy is filled, the judge selected shall hold office only for the unexpired term of his predecessor.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

**SECTION 14‑8‑70.** Presiding in certain cases prohibited.

 In addition to the prohibitions of Section 14‑1‑130, no judge shall sit in any case in which he may be interested or in which he may have been counsel or has presided in any inferior court.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

**SECTION 14‑8‑80.** Court to sit in panels or as a whole; administration by Chief Justice; assignment of members to panels; distribution of cases; quorum; concurrence required for reversals.

 (a) The Court shall sit in three panels of three judges each. However, nothing in this section may be construed to prevent the Court from sitting as a whole.

 (b) The Chief Judge is responsible for the administration of the Court, subject to the provisions of Article V, Section 4 of the Constitution of this State. The Chief Judge shall assign the members of the panels and shall systematically rotate and interchange the members of the panels in accordance with rules promulgated by the Supreme Court. The Chief Judge shall preside over the panel of which he is a member and in his absence the judge senior in service and present shall preside. The judge senior in service and present on the other panel shall preside over the other panel. For the five associate judges whose terms begin on July 1, 1985, the determination of their length of service shall be based on their order of election, with the associate judge who is elected first being the associate judge senior in service; provided, however, that seniority among the judges on an interim Court of Appeals shall continue on the permanent Court of Appeals established by the provisions of this chapter and service on that Court shall be included in determining the length of service on the Court herein established.

 (c) Cases must be distributed between the three panels by the Chief Judge in accordance with rules promulgated by the Supreme Court; however, the Chief Judge may transfer cases from one panel to the other in order to maintain approximately equal caseloads for the three panels.

 (d) On a panel, three judges shall constitute a quorum, and the concurrence of a majority of the judges is necessary for the reversal of the judgment below.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985; 1995 Act No. 145, Part II, Section 85C, eff June 29, 1995.

**SECTION 14‑8‑90.** When the Court may sit en banc.

 (a) The Court may sit en banc to hear cases upon:

 (1) petition by a party filed in accordance with rules promulgated by the Supreme Court if the petition is granted by six judges of the Court; or

 (2) its own motion agreed to by six judges of the Court.

 (b) When the Court sits en banc, six of the judges constitute a quorum and a concurrence of six of the judges is necessary for a reversal of the judgment below. The Chief Judge shall preside, and in his absence the judge senior in service and present shall preside.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1985 Act No. 105, Section 1, approved by the Governor on May 21, 1985, and eff after July 1, 1985; 1995 Act No. 145, Part II, Section 85D, eff June 29, 1995.

Editor’s Note

1985 Act No. 105, Section 3, provides as follows:

“Notwithstanding the provisions of Act 90 of 1983 which provide for the manner in which Sections 14‑8‑90 and 14‑8‑250 of the 1976 Code shall read effective July 1, 1985, these sections, as amended by the provisions of Sections 1 and 2 of this act respectively, shall continue to read in the manner provided herein after July 1, 1985.”

**SECTION 14‑8‑100.** Reporting of opinions and decisions by Supreme Court reporter; appointment of assistant reporter.

 The Supreme Court reporter shall report the opinions and decisions of the Court of Appeals in all respects as he is now or hereafter may be required by law to report the decisions and opinions of the Supreme Court. An assistant reporter for the Court of Appeals may be appointed by the judges of such Court to aid the reporter in his duties.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

Editor’s Note

Provisions of this section concerning the reporting of opinions were formerly contained in Section 14‑8‑130.

**SECTION 14‑8‑110.** Duties of Clerk of Supreme Court; appointment of clerk of Court of Appeals to aid clerk of Supreme Court.

 The Clerk of the Supreme Court, in a manner prescribed by the Supreme Court, shall be responsible for the custody and keeping of the record of the Court. A clerk of the Court of Appeals shall be appointed by the judges of the Court to aid the Clerk of the Supreme Court in the performance of these duties.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

Editor’s Note

Provisions of this section concerning the appointment of the Clerk of the Court were formerly contained in Section 14‑8‑140.

**SECTION 14‑8‑120.** Editing, publishing, and distributing of opinions and decisions.

 Editing, publishing, and distributing of the opinions and decisions of the Court shall be done in accordance with the procedures followed by the Supreme Court with respect to the editing, publishing, and distributing of its opinions and decisions.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1979 Act No. 194 Part III Section 5, apparently effective Aug. 8, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act 90 Section 2, eff July 1, 1985.

**SECTION 14‑8‑130.** Sheriff to serve and execute order or process.

 The Court of Appeals may require the sheriff of each county to whom any order or process issuing from such court may be directed to serve and execute such order or process and shall have the same power to enforce such service and execution and punish default thereon as is vested in circuit courts on processes issuing therefrom.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

Editor’s Note

Provisions concerning the reporting of opinions formerly contained in Section 14‑8‑130, see Section 14‑8‑100.

ARTICLE III

Jurisdiction, Duties and Procedure

**SECTION 14‑8‑200.** Jurisdiction of Court; limitations.

 (a) Except as limited by subsection (b) and Section 14‑8‑260, the court has jurisdiction over any case in which an appeal is taken from an order, judgment, or decree of the circuit court, family court, a final decision of an agency, a final decision of an administrative law judge, or the final decision of the Workers’ Compensation Commission. This jurisdiction is appellate only, and the court shall apply the same scope of review that the Supreme Court would apply in a similar case. The court has the same authority to issue writs of supersedeas, grant stays, and grant petitions for bail as the Supreme Court would have in a similar case. The court, to the extent the Supreme Court may by rule provide for it to do so, has jurisdiction to entertain petitions for writs of certiorari in post‑conviction relief matters pursuant to Section 17‑27‑100.

 (b) Jurisdiction of the court does not extend to appeals of the following, the appeal from which lies of right directly to the Supreme Court:

 (1) a final judgment from the circuit court which includes a sentence of death;

 (2) a final decision of the Public Service Commission setting public utility rates pursuant to Title 58;

 (3) a final judgment involving a challenge on state or federal grounds, to the constitutionality of a state law or county or municipal ordinance where the principal issue is one of the constitutionality of the law or ordinance; however, in a case where the Supreme Court finds that the constitutional question raised is not a significant one, the Supreme Court may transfer the case to the court for final judgment;

 (4) a final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the State, its agencies, political subdivisions, public service districts, counties, and municipalities, or any other indebtedness authorized by Article X of the Constitution of this State;

 (5) a final judgment from the circuit court pertaining to elections and election procedure;

 (6) an order limiting an investigation by a state grand jury pursuant to Section 14‑7‑1630; and

 (7) an order of the family court relating to an abortion by a minor pursuant to Section 44‑41‑33.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1979 Act No. 194 Part III Section 5, apparently effective Aug. 8, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985; 1999 Act No. 55, Section 14, eff June 1, 1999; 2006 Act No. 387, Section 15, eff July 1, 2006; 2007 Act No. 111, Pt I, Section 2, eff July 1, 2007, applicable to injuries that occur on or after that date.

Editor’s Note

2006 Act No. 387, Section 53, provides as follows:

“This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling.”

2006 Act No. 387, Section 57, provides as follows:

“This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review.”

**SECTION 14‑8‑210.** Review by Supreme Court.

 (a) The decisions of a panel of the court and of the court sitting en banc shall be final and not subject to further appeal, except by petition for review or by other exercise of discretionary review by the Supreme Court.

 (b) In any case pending before the court of appeals, the Supreme Court may in its discretion, on motion of any party to the case, on request by the court of appeals, or on its own motion, certify the case for review by the Supreme Court before it has been determined by the court of appeals. Certification is appropriate where the case involves an issue of significant public interest or a legal principle of major importance, or in other cases the court considers appropriate. The effect of the certification shall be to transfer jurisdiction over the case to the Supreme Court for all purposes.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985; 1999 Act No. 55, Section 15, eff June 1, 1999.

**SECTION 14‑8‑220.** Power of Court and judges to administer oaths and writs; appeal.

 The Court and each of the judges thereof shall have the same power at chambers or in open court to administer oaths, and to issue such remedial writs as are necessary to give effect to its jurisdiction. An appeal shall be allowed from decision of any one judge to a panel of the Court.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1979 Act No. 194 Part III Section 5, apparently effective Aug. 8, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

**SECTION 14‑8‑230.** Rules governing administration.

 The Supreme Court shall promulgate rules governing the administration of the Court.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

**SECTION 14‑8‑240.** Records.

 The Court shall be a court of record, and the records thereof shall at all times be subject to public inspection.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985.

**SECTION 14‑8‑250.** Points necessary to decision of appeal and fairly arising upon record, with reason for Court’s decision, to be preserved in writing.

 In every decision rendered by the Court, every point distinctly stated in the case which is necessary to the decision of the appeal and fairly arising upon the record of the Court must be stated in writing and must, with the reason for the Court’s decision, be preserved in the record of the case; provided, that the Court need not address a point which is manifestly without merit.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1985 Act No. 105, Section 2 approved by the Governor on May 21, 1985, and eff after July 1, 1985.

Editor’s Note

1985 Act No. 105, Section 3, provides as follows:

Notwithstanding the provisions of Act 90 of 1983 which provide for the manner in which Sections 14‑8‑90 and 14‑8‑250 of the 1976 Code shall read effective July 1, 1985, these sections, as amended by the provisions of Sections 1 and 2 of this act respectively, shall continue to read in the manner provided herein after July 1, 1985.”

**SECTION 14‑8‑260.** Notice of intent to appeal; determination of cases assigned to Court of Appeals.

 In all cases within the jurisdiction of the court as provided in this chapter, the notice of appeal must be filed with the court of appeals in the manner provided by the South Carolina Appellate Court Rules. In the event the court of appeals determines that a notice of appeal involves a matter over which it lacks jurisdiction pursuant to Section 14‑8‑200(b), it shall issue an order transferring the case to the Supreme Court. In the event the Supreme Court determines that a notice of appeal should have been filed with the court of appeals, it shall issue an order transferring the case to the court of appeals.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90 Section 2, eff July 1, 1985; 1999 Act No. 55, Section 16, eff June 1, 1999.

**SECTION 14‑8‑270.** Appeal from interlocutory orders involving injunctions.

 In case of an appeal from an interlocutory order or decree in the Court of General Sessions, granting, continuing, modifying, or refusing an injunction, the proceedings in other respects in the court below shall not be stayed during the pendency of such appeal unless otherwise ordered by the court below.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979.

**SECTION 14‑8‑280.** Certification of issues of fact to lower courts; appointment of referees.

 Whenever in the course of any action or proceeding in the Court arising in the exercise of the original jurisdiction conferred by law upon the court, an issue of fact shall arise upon the pleadings or when an issue of fact shall arise upon a traverse to return in mandamus, prohibition or certiorari, or whenever the determination of any question of fact shall be necessary to the exercise of the jurisdiction conferred upon the Court of Appeals, the court may frame an issue therein and certify such issue to the circuit court for the county in which the cause originated or in case of original jurisdiction to the circuit court of the county in which the cause of action has arisen. The Court shall also have the same powers as are now possessed by the circuit courts of the State for the appointment of referees to take testimony and report thereon, under such instructions as may be prescribed by the court, in any cases arising in the Court where issues of fact shall arise.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979.

**SECTION 14‑8‑290.** Powers of judge at chambers.

 Each of the judges of the Court shall have the same power at chambers to administer oaths, issue writs of habeas corpus, mandamus, quo warranto, certiorari and prohibition and interlocutory writs or orders of injunction as when in open court. An appeal shall be allowed from the decision of any such judge of the Court.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979.

ARTICLE V

Terms, Order and Place of Hearings

**SECTION 14‑8‑400.** Terms of Court; order of docketing.

 Subject to the supervision of the Chief Justice of the Supreme Court, the Chief Judge shall set the terms of court of the Court of Appeals, and the Supreme Court shall by rule prescribe and provide the order in which cases shall be docketed and heard.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90, Section 2, eff July 1, 1985.

**SECTION 14‑8‑410.** Where Court may sit.

 The Court shall sit and maintain its principal offices in the City of Columbia; however, any hearing panel of the Court may hold court in any county in South Carolina for the purpose of hearing oral arguments and motions pending in cases before such court.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1983 Act No. 89 Section 1, eff June 2, 1983; 1983 Act No. 90, Section 2, eff July 1, 1985.

**SECTION 14‑8‑420.** Cases not heard in period allotted.

 If the case on the calendar and set for hearing cannot be heard in the period allotted, the Court shall continue it to be heard after the regular call of the cases for that session or continue them until the next stated term.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1979 Act No. 194 Part III Section 5, apparently effective Aug. 8, 1979.

**SECTION 14‑8‑430.** Supreme Court to promulgate rules.

 Pursuant to the provisions of Sections 14‑3‑940 and 14‑3‑950, the Supreme Court may establish and promulgate such rules as may be necessary to carry into effect the provisions of this article and to facilitate the work of the Court of Appeals.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979.

**SECTION 14‑8‑450.** Court not limited to places designated by law for holding court.

 The Court may be held in other buildings than those designated by law as places for holding courts and at a different place, at the same city, from that at which it is appointed to be held. Any one or more of the judges may adjourn the court with the like affect as if all were present.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979.

ARTICLE VII

Reports

**SECTION 14‑8‑500.** Publication and distribution of opinions and decisions.

 Editing, publishing and distribution of the opinions and decisions of the Court shall be done in accordance with the procedures followed by the Supreme Court with respect to the editing, publishing and distribution of its opinions and decisions.

HISTORY: 1979 Act No. 164 Part IV‑A Section 1, eff July 1, 1979; 1979 Act No. 194 Part III Section 5, apparently effective Aug. 8, 1979.

**SECTION 14‑8‑550.** Court of Appeals to be part of unified judicial system.

 The Court herein established shall be a part of the unified judicial system and the provisions of this chapter shall be construed in a manner consistent therewith.

HISTORY: 1979 Act No. 194 Part III Section 5, apparently effective Aug. 8, 1979.