

Rules of the Supreme Court of Newfoundland, 1986

COURT OF APPEAL PRACTICE NOTE

CAPN No. 2001-02

DATE ISSUED:

RULES AFFECTED: 57.18, 57.24 and 57.30

EFFECTIVE DATE: May 18, 2001

The following Practice Note was filed with the Registrar, as Secretary of the Rules Committee of the Court of Appeal, and is published pursuant to Rule 57.31(3) of the Rules of the Supreme Court, 1986.

**Days for Hearing Applications
and
Setting Dates for Hearing of Appeals**

Purpose

In order to reduce the delay between perfection of an appeal and hearing, that necessarily results when appeals are set down only on one day of each month, the Court proposes to designate at least two days in each month of the court year when applications to set hearing dates may be heard. As well, there does not appear to be any need for, or benefit from, having different days for different kinds of applications. Applications to set hearing dates for appeals can conveniently be heard on the days designated for applications generally.

As the great majority of holidays are taken on Monday, it would seem most appropriate to designate another day of the week. Because of the weekend break, it would be more convenient, should an application extend beyond one day, or should there be any need for immediate follow-up, to have applications on a day

other than Friday. On the whole, it is believed that Tuesday would be the day most convenient for the Court and for practitioners, for the hearing of applications. Accordingly, it is proposed that every second Tuesday during the normal court sitting times specified in Rule 57.24 be designated as applications day. This practice will commence in the month of September, 2001, and will continue thereafter unless and until it is changed by the issuance of a further practice note or amendment to the Rules.

This Practice Note will also formalize the Court's long standing practice of designating a specific two weeks out of each month to be the period during which appeals will be heard and give further directions with respect to practices to be followed when setting hearing dates for appeals.

Practice Note

- (1) Rule 57.18 should be carefully followed in order to provide for hearing of appeals in a manner that is expeditious and fair to all parties, and reasonably accommodating to the judges who will be hearing the appeal. Achieving this objective will require full adherence to all of the requirements of Rule 57.18 and in particular Rules 57.18(4) and (5).**
- (2) The Court will, prior to April 30th in each year, prepare and issue a sitting schedule which shall designate applications days, hearing days and public holidays for the next ensuing court year commencing on the first Monday in September following Labour Day and ending on the Friday in June nearest the 30th day of the next ensuing June.**
- (3) The days in each month for the hearing of all applications, including applications to set hearing dates for appeals, shall be**
 - (a) every second Tuesday beginning with the second Tuesday in September following Labour Day to the Tuesday in December nearest the 15th day of December, and**

- (b) every second Tuesday beginning with the Tuesday in January nearest the 10th day of January and the Tuesday in June nearest the 30th day of June,**

unless any such Tuesday is a public holiday, in which case the next ensuing regular court day will be the designated applications day.

- (4) The sitting schedule to be issued prior to April 30th in each year will designate the court days, in two consecutive full weeks of each month, as dates for the hearing of appeals, which weeks will be arranged so as to cause the least conflict with holidays and holiday periods, while leaving approximately equal intervals between most periods designated for hearing appeals.**
- (5) Unless circumstances reasonably require otherwise, and prior leave of the Chief Justice is obtained,**
 - (a) all applications will be set down for hearing on a designated applications day;**
 - (b) applications to set dates for hearing of appeals will be heard first, generally in the order in which the same have been filed in the Registry, and applications respecting other matters will be heard immediately thereafter, in the order in which the same have been filed, unless the Chief Justice otherwise directs;**
 - (c) all materials to be filed in an appeal must be filed at least two weeks prior to the date set for hearing the appeal;**
 - (d) appeals will not be set down for hearing outside designated hearing days;**
 - (e) appeals will not be set down for hearing on any date that is later than the hearing days scheduled for the second month following the month in which the application for a day is being heard, and**

- (f) **appeals will not be set down for hearing on a Tuesday that is also an applications day.**
- (6) **Where circumstances reasonably require that an application, including an application to set a date for the hearing of an appeal, be heard between the Tuesday in June nearest the 30th day of June and the second Tuesday in September following Labour Day, the application will be heard on a date to be set by the Chief Justice, or in the absence of the Chief Justice by the duty judge.**

Authorized by:

Clyde K. Wells
Chief Justice of Newfoundland
Court of Appeal
Supreme Court of Newfoundland

Barry R. Sparkes, B.C.L.
Registrar of the Supreme Court
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