

**RULES OF THE PROVINCIAL COURT OF NEWFOUNDLAND AND LABRADOR  
IN CRIMINAL PROCEEDINGS, 2004**

**PRACTICE NOTE – DIRECTION**

**P.N. (PC) No. 2014-02**

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The following Practice Note was filed with the Director of Corporate Services and is published consistent with rule 7.01 of the Rules of the Provincial Court of Newfoundland and Labrador in Criminal Proceedings, 2004.

**CONSENT APPLICATIONS FOR POSTPONEMENT OF PROCEEDINGS**

**Background**

The procedure known as Consent Postponements in Chambers was designed and implemented to direct an administrative scheduling function to the Court Utilization Manager (CU Manager) in chambers rather than a judge in open court. St. John's Provincial Court began this procedure in April 2011 and to date almost one thousand consent postponement applications have been dealt with by the CU Manager.

A review of the consent postponement statistics tracked a number of people through the system. From this group, it was determined that an inordinate amount of court time was reserved and never used. In many cases it was quite apparent that the procedure was not being used as it should. The vague criteria for the applications and the practices being followed called for a review.

**Current Practice**

Lawyers email or call to request a meeting with the CU Manager to set a new date for trial or hearing. At times they appear without notice. If a meeting is prearranged, the CU Manager determined the age of the case and the number of trial dates which had been scheduled. If the age is beyond current benchmarks or there are issues that should be addressed on the record, the application is referred to a judge sitting in court. Determining the age and status of cases is quite time consuming. Counsel often appeared without the single page, simplified form completed, did not have the correct information or had not ensured that client or witness is

available for the next trial date. This resulted in further delays and cases that needed to be rescheduled again. Since January of 2014 over 25% of postponements were requested four days or less before the day of trial. The current flexibility of the court schedule combined with the minimal effort required in the consent postponement procedure created additional appearances, reduced time to disposition, lacked transparency and left courtrooms underutilized.

### New Practice

Circumscribed criteria must now be put in place to refine the use of these applications and to curtail the incidents of cases being rescheduled unnecessarily. The new Computer Automated Scheduling System (CASS) will enable these changes to be implemented immediately.

A revised Form of Application can be obtained on the Provincial Court's website at [www.court.nl.ca](http://www.court.nl.ca), under "E-Services & Forms" or at the Criminal Division counter. Once the Application has been filed with the Criminal Division an initial assessment will determine the stream into which the application will proceed. If it is determined the matter should be heard by a judge, the application will be set to an available court time. If it is determined the matter should be dealt with by the CU Manager it will be set within a few days and will appear on the docket. The CU Manager would then have time to review the file before meeting with counsel. This would enable better case management.

Authorized by:



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