

## PRACTICE NOTE

The *Criminal Code of Canada* provides for 2 basic ways, with the consent of the prosecutor and the accused, to vary judicial interim release documents issued pursuant to sections 499, 503 or 515.

Under section 515.1 an undertaking or recognizance can be varied by filing with the court a written consent of the prosecutor.

Under subsection 523(2)(c)(iii) any order for release or detention may be varied by vacating the existing order and replacing it with another. This procedure would require both the consent of the prosecutor and the accused, and that cause be shown.

Present application of the *Rules of Court in Criminal Proceedings* requires that variation of an order under either of those provisions can only be accomplished by filing a formal written application pursuant to Rule 6 and obtaining a judicial order.

On reconsideration of those *Criminal Code* provisions it is clear that a variation under section 515.1 does not require a judicial order and may be processed by the filing of proper documentation in the Registry.

Commencing immediately our practice will be changed to reflect this interpretation.

Changes sought by way of section 523(2) will continue to require a formal application and inclusion in the docket for judicial consideration.

All requests for variation will be processed in accordance with instructional procedures contained in Policy # CO 9-0 of the Court's *Policy and Procedure Manual*.

DATED at St. John's, this 11<sup>th</sup> day of March, 2008.



M.R. Reid  
CHIEF JUDGE