



SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

NOTICE TO THE PROFESSION AND GENERAL PUBLIC: UPCOMING RULE AMENDMENTS

The Rules Committee of the Supreme Court has recently approved amendments to the *Rules of the Supreme Court, 1986*. These amendments were published in the [Newfoundland and Labrador Gazette on June 3, 2022](#), and will come into force on July 4, 2022.

SUMMARY OF AMENDMENTS

Rule 4.02(1) – Requirement for Original Signatures

Rule 4.02(1) was amended to provide that original signatures on documents filed with the Supreme Court must be in blue ink.

Rule 18A.03(3) – Making a Case Management Order on Judge’s Own Motion

Rule 18A.03(3) was amended to delete the words “after hearing from the parties”. This amendment permits a judge to solicit the views of the parties in determining whether to issue a case management order on the judge’s own motion, but no longer requires the judge to hear from the parties before doing so.

Rules 29.08(1)(b), 29.08(2)(b), 39A.03(1) and 40.10 – Filing Extra Copy of Briefs

Rules 29.08(1)(b), 29.08(2)(b), 39A.03(1) and 40.10 were amended to provide that parties must file an extra copy of their briefs to be used on applications, pre-trial conferences and trials. The extra copy is intended for use by the judge presiding at the application, pre-trial conference or trial, as the case may be.

Rule 39A.06 – Pre-Trial Judge not Precluded from being Trial Judge

Rule 39A.06 was amended to remove the restriction on the pre-trial judge acting as the trial judge for the sole reason that the judge acted as the pre-trial judge. A pre-trial judge might still be disqualified from sitting as the trial judge (for example, where there is a reasonable apprehension of bias), but the pre-trial judge will no longer be automatically precluded from sitting as the trial judge.

Rule 39B.03(3) – Return or Disposal of Settlement Conference Materials

Rule 39B.03(3) was amended to provide that a judge may *either* return settlement conference materials to the parties *or* ensure that they are appropriately disposed of.

Rule 55.17(4) – Disposal of Contingency Fee Agreements Filed with the Court

Rule 55.17(4) was amended to provide that the Registrar may dispose of contingency fee agreements that had been filed with the Court pursuant to the former rule 55.71(3). That rule was repealed in December 2012.

The Registrar must, before disposing of these agreements, comply with any process established by the Chief Justice. This may include the provision of notice or other requirements.

Rules F4.02 and F5.04 – Process for Summarily Granting Leave to Proceed with an Application

Rules F4.02 and F5.04 were amended to provide a process for summarily seeking the permission of a judge to proceed with a family law application or application for variation, where leave is required by statute (for example, to make an application for a contact order, pursuant to s. 16.5(3) of the *Divorce Act*).

Rules F4.07 and F5.05 – Providing Respondent’s Contact Information

Rules F4.07 and F5.05 were amended to require that applicants provide the respondent’s contact information in their Originating Application or Originating Application to Vary. Where an applicant is unable to obtain this information despite making reasonable attempts to do so, the applicant can seek a procedural order granting them permission to file the Originating Application or Originating Application to Vary without including this information.

Rule F6.06(1)(b) – Clarifying when Notice of Default may Issue

Rule F6.06(1)(b) was amended to delete the requirement that the Response needs to be, not just filed, but filed and served in order to prevent the issuance of a Notice of Default. Now, an applicant will not be able to require a Registry Clerk to issue a Notice of Default where the respondent has filed but not yet served a Response.

Rule F16.02(1) – Interim Application for a Procedural Order to Dispense with Requirement to Provide Respondent’s Contact Information

Rule F16.02(1) was amended to permit an Applicant to bring an interim application for a procedural order without notice to dispense with the requirement that the Applicant provide the respondent’s contact information in the Originating Application or Originating Application for Variation (as the case may be) where they have made reasonable attempts to obtain it and have been unable to do so.

New Rule F25A – Discontinuance and Withdrawal (Family Law Proceedings)

The amendment adds a new Rule F25A, which governs discontinuance of proceedings and withdrawal of claims in family law proceedings.

Revisions to Family Law Forms

The following forms were amended: F4.03A; F4.04A; F5.05A; F5.06A; F6.02A; F11.02B; F14.04A; F16.03A; F18.03A; F23.01A; F23.02A; F23.05A; F25.03A; F26.02A; F34.02A; F34.02B; F35.03A; and F38.06A.

Most of the amendments made to the forms were simply correcting typographical errors or formatting inconsistencies. Notable amendments to the forms include the following:

- Party’s Certificate – Forms F4.03A, F4.04A, F5.05A, F5.06A, and F6.02A were amended to include a “Party’s Certificate”, which must be completed by a party where either of the parties is applying for relief under the *Divorce Act*. The party completing the certificate must certify that they are aware of the duties listed in ss. 7.1 to 7.5 of the *Divorce Act*.
- Lawyer’s Certificate – Forms F5.05A and F5.06A were amended to include a “Lawyer’s Certificate”, which must be completed by the lawyer for filing party where either party is applying for relief under the *Divorce Act*. The lawyer for the filing party must certify that they have complied with s. 7.7 of the *Divorce Act*.

FURTHER INFORMATION

If you have any questions regarding these recent amendments, please direct them to the Supreme Court’s inquiries email address: inquiries@supreme.court.nl.ca.

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Chief Justice