CRIMINAL PROCEEDINGS RULES OF THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR

The Supreme Court of Newfoundland and Labrador, pursuant to subsection 482(1) of the *Criminal Code*, hereby makes rules 1 to 9 and 11 to 20 of the annexed *Criminal Proceedings Rules of the Supreme Court of Newfoundland and Labrador*, effective March 18, 2025.

The Supreme Court of Newfoundland and Labrador, pursuant to subsection 482.1(1) of the *Criminal Code*, hereby makes rule 10 of the annexed *Criminal Proceedings Rules of the Supreme Court of Newfoundland and Labrador*, effective March 18, 2025.

Raymond P. Whalen
Chief Justice

RULE 1 – Definitions, Application and Interpretation

1.01 Short Title

These Rules may be cited as the *Criminal Proceedings Rules of the Supreme Court of Newfoundland and Labrador*.

1.02 Definitions

In these Rules,

(a) *application* means a proceeding commenced by notice of application whether described in the enabling legislation or another authority as an application or a motion;

(b) *applicant* means the party who files an application;

(c) *Attorney General* means the Attorney General of Canada or the Attorney General of Newfoundland and Labrador, as the case may be, and includes counsel acting for the Attorney General;

(d) *Charter* means the *Canadian Charter of Rights and Freedoms*;

(e) *Chief Justice* means the Chief Justice of the Supreme Court of Newfoundland and Labrador;

(f) *Code* means the *Criminal Code*;

(g) *conference* means a resolution conference, a pretrial conference or a case management conference unless otherwise indicated;

(h) *counsel* means a barrister and solicitor, including an agent of that person, who is representing an accused and any other person who has standing in the proceeding;

(i) *court* means the General Division of the Supreme Court of Newfoundland and Labrador and includes a judge;

(j) *High Sheriff* means the person so appointed under the *Sheriff's Act, 1991*;

(k) *judge* means a judge of the court unless otherwise specified;

(l) *judicial centre* means, except as may be otherwise provided by order of the Lieutenant-Governor in Council, each of the following locations:

(i) Corner Brook;

(ii) Gander;

(iii) Grand Bank;

(iv) Grand Falls-Windsor;

(v) Happy Valley/Goose Bay; and

(vi) St. John's;

(m) *legal aid* means professional services provided under the *Legal Aid Act*;

(n) *Legal Aid Commission* means the Newfoundland and Labrador Legal Aid Commission established by the *Legal Aid Act*;

(o) *party* means

(i) the accused, if the accused is not represented by counsel;

(ii) counsel for the accused, if the accused is represented by counsel;

(iii) the prosecutor; and

(iv) any other party who has standing in the proceeding,

as the circumstances may require;

(p) *proceeding* means a prosecution, hearing or action instituted in relation to a matter of a criminal nature or an application or proceeding arising from or incidental to any such prosecution, proceeding, hearing or action;

(q) *prosecutor* means an agent who appears on behalf of the Attorney General;

(r) *Provincial Court* means the Provincial Court of Newfoundland and Labrador constituted by the *Provincial Court Act, 1991*;

(s) *Registrar* means the person designated as Registrar of the Supreme Court by the Chief Executive Officer of the Supreme Court of Newfoundland and Labrador in consultation with the Chief Justice;

(t) *registry clerk* means a clerk, officer, or employee of the court assigned by the Chief Executive Officer of the Supreme Court of Newfoundland and Labrador to carry out the administrative responsibilities set out in these Rules.

(u) *respondent* means a party against whom an application has been made; and

1.03 Application of these Rules

(1) These Rules apply to all criminal proceedings within the jurisdiction of the court, other than appeals

(2) Unless otherwise indicated, where an accused is not represented by counsel but acts in person, anything that these Rules require counsel to do shall be done by the accused and anything that these Rules permit counsel to do may be done by the accused.

(3) The forms that accompany these Rules shall be used where applicable and with such modifications as the circumstances require.

(4) When part of a form that accompanies these Rules is left blank or is omitted by a party, it shall be presumed that the part that is left blank or omitted is not applicable to the proceeding.

(5) Where the procedure set out in these Rules is inconsistent with the procedure required by the Code, the procedure in the Code prevails.

1.04 Practice Directive

(1) The Chief Justice may, from time to time, issue practice directives consistent with these Rules.

(2) Practice directives, and any revisions thereof, shall be signed by the Registrar.

1.05 Interpretation

These Rules shall be liberally construed to secure simplicity in procedure, fairness in administration, and the elimination of unjustifiable expense and delay while preserving the right of the accused to a fair and timely trial.

1.06 Computation of Time

Where not otherwise specified in the Code or in these Rules, a reference to time in these Rules shall be computed in accordance with the court's civil rules.

1.07 Time Periods

(1) A judge may, in the interests of justice and on such terms as he or she thinks just, extend or abridge the period within which a person is required or authorized by these Rules, or by any order of a judge, to do or abstain from doing any act in a proceeding.

(2) A judge may extend any period referred to in subrule (1) even if the application for extension is not made until after the expiration of the period.

1.08 Failure to Comply with the Rules

(1) A failure to comply with these Rules or a practice directive is an irregularity and does not render a proceeding or a step, document or order in a proceeding a nullity, and a judge may

(a) grant all necessary amendments or other relief on such terms as will secure the just determination of the real matters in dispute; or

(b) only where and as necessary in the interests of justice, set aside a proceeding or a step, document or order in a proceeding in whole or in part.

(2) A judge may, only where and as necessary in the interests of justice, dispense with compliance with any rule or practice directive at any time.

RULE 2 – Commencement of Proceedings

2.01 Commencement of Proceedings

(1) Unless otherwise ordered, criminal proceedings shall be commenced in the judicial centre nearest the place where the cause of the proceeding arose.

(2) A proceeding shall be commenced by the filing of an indictment by the Attorney General in accordance with the Code.

(3) Upon receipt of an indictment initially filed with the court, a registry clerk shall insert on the originating document a file number and the date of filing.

(4) All documents subsequently filed with the court or delivered in the proceeding shall:

(a) bear the same file number as the indictment;

(b) include the letters “CR” after the file number; and

(c) unless otherwise ordered, be filed in the same judicial centre as the indictment.

2.02 Pleadings

(1) All pleadings filed with the court in relation to a proceeding shall use the same heading that appears on the indictment to which the proceeding relates.

(2) Notwithstanding subrule (1), if:

(a) an indictment charges more than one accused; and

(b) there is a disposition so that some but not all of the accused no longer require a trial,

the names of those accused who no longer require a trial shall be removed from the heading thereafter and the indictment shall be amended accordingly pursuant to section 601 of the Code.

(3) In an application made in relation to a proceeding:

(a) the heading shall be in accordance with subrules (1) and (2);

(b) the party who is bringing the application shall be noted as the "Applicant"; and

(c) the party who is responding to the application shall be noted as the "Respondent".

RULE 3 – Transferring Proceedings to Another Province

3.01 Definitions

In this Rule,

(a) *original jurisdiction* means the judicial centre in Newfoundland and Labrador in which the case was originally commenced or later transferred; and

(b) *receiving jurisdiction* means the jurisdiction in another province to which a case is transferred.

3.02 Consent to Transfer

If the parties consent to the transfer of a case from the original jurisdiction to another province pursuant to subsection 478(3) of the Code, they shall file with the court a completed Consent to Transfer form in CR Form 3.02.

3.03 On Receipt of a Consent to Transfer

(1) If a completed CR Form 3.02 is filed with the court, the Registrar shall immediately send the following documents to the receiving jurisdiction:

(a) a certified copy of the indictment;

(b) a certified copy of the completed Consent to Transfer form; and

(c) any other relevant document.

(2) Immediately after sending the documents set out in subrule (1), the Registrar shall remove the case from the docket.

3.04 Re-Filing the Indictment in the Original Jurisdiction

(1) Where the matter is not disposed of in the receiving jurisdiction and the prosecutor wishes to re-file the indictment in the original jurisdiction, the prosecutor shall file with the court and serve on every other party a Notice of Re-Filing Original Indictment in CR Form 3.04.

(2) The parties shall appear for directions at the first sitting of arraignment court which occurs more than 21 days after the filing of CR Form 3.04.

(3) The Notice of Re-Filing Original Indictment must be served on the accused and his or her counsel at least 21 days prior to the sitting of arraignment court noted on the form.

RULE 4 – Transcripts

4.01 Where Transcript not Required

If the parties agree that a transcript of the preliminary inquiry is not required, or that only part is required, the parties shall immediately notify the Provincial Court by filing a completed CR Form 4.01 with that court.

4.02 Expedited Transcript

In special circumstances, a judge may make an order on application of a party requiring the preparation of a transcript of a preliminary inquiry on an urgent and expedited basis and may set a deadline for filing the transcript with the court.

RULE 5 – Designation of Counsel

5.01 Designation of Counsel

(1) If counsel intends to appear on behalf of an accused at any hearing or appearance pursuant to section 650.01 of the Code, he or she shall file with the court a Designation of Counsel form in CR Form 5.01.

(2) Designation of Counsel forms shall be filed separately from all other documents and shall not be attached in any way to any other document.

RULE 6 – Arraignment Court

6.01 Arraignment Court Generally

(1) There shall be a sitting of the court in every judicial centre which shall be designated as arraignment court.

(2) Arraignment court shall be convened at least once monthly in the judicial centre of St. John’s except during the months of July and August.

(3) In all judicial centres other than St. John's, arraignment court shall be held on an as-needed basis.

(4) A party may request to appear at any sitting of arraignment court by filing a completed CR Form 6.01 with the court and serving a copy of that form on the other parties at least three clear days prior to the day that the parties are to appear in arraignment court.

(5) Unless a completed Designation of Counsel form under rule 5.01 has been filed, the accused shall, except as may be otherwise permitted by the Code or ordered by a judge, appear in person in arraignment court.

6.02 First Appearance at Arraignment Court

(1) The accused shall make his or her first appearance in arraignment court in relation to a charge on the first sitting of arraignment court which occurs at least 10 days following the day the indictment was filed with the court.

(2) At the first appearance of the accused in arraignment court, the judge shall:

(a) consider whether a resolution conference is appropriate and, if so:

(i) set a date; and

(ii) where appropriate and counsel for the accused consents, make an order requiring the accused to attend the resolution conference;

(b) set a date for a pre-trial conference and order that the parties appear at the first sitting of arraignment court which is scheduled to occur at least 14 days following the date set for the pre-trial conference, unless the matter is ordered to be subject to case management;

(c) if appropriate, order the matter to be subject to case management pursuant to rules 10.02 to 10.04;

(d) if appropriate, set a date for trial; and

(e) make any other order the judge considers necessary and appropriate having regard to all the circumstances.

(3) The judge may set deadlines for the filing of materials to be used during any hearing or conference that are different from those set out in these Rules.

6.03 Subsequent Appearances at Arraignment Court

Following the first appearance in arraignment court, the parties shall appear in arraignment court as may be directed by a judge or pursuant to a Request to Appear at Arraignment Court under subrule 6.01(4).

6.04 Procedure at Arraignment Court

At arraignment court, the judge may:

(a) set hearing dates for applications which have been filed with the court;

(b) set dates for resolution conferences and pre-trial conferences;

(c) set deadlines for filing documents for use during any hearing or conference;

(d) order that the proceeding be subject to case management;

(e) set a date for trial;

(f) hear short applications that are not required to be heard by the trial judge;

(g) set a date for a sentencing hearing;

(h) grant leave to file a pre-trial application;

(i) set a further date for the accused to appear in arraignment court;

(j) take a plea; and

(k) make any other order the judge considers necessary and appropriate having regard to all the circumstances.

6.05 Role of the Legal Aid Commission

(1) On publication of the arraignment court list, a registry clerk shall provide a copy of that list to the provincial director's office of the Legal Aid Commission or such other person as may be designated from time to time by that office.

(2) The Legal Aid Commission shall cause a representative to appear at each regularly scheduled arraignment court sitting in the judicial centre of St. John's.

(3) The Registrar may request a representative of the Legal Aid Commission to appear at any sitting of arraignment court.

(4) Provided that solicitor-client privilege has been waived with respect to issues of representation, the representative of the Legal Aid Commission under subrules (2) and (3) shall appear in arraignment court to:

(a) address questions from the judge relating to legal representation of an accused by the Legal Aid Commission, including the status of any legal aid application made by any accused on the arraignment court docket for that day; and

(b) take legal aid applications from, and provide information regarding legal aid to, any accused who may be unrepresented.

(5) The judge may require an accused who claims to have applied for and/or been granted legal aid to provide all necessary documentation supporting the status of that application.

RULE 7 – Conferences Generally

7.01 Purpose and Application

(1) This Rule applies to resolution conferences, pretrial conferences and case management conferences, the purposes of which are set out in rules 8.01, 9.01 and 10.01 respectively.

(2) Conferences under these Rules provide an opportunity for full and free discussion between the parties without prejudice to the rights of the parties in any proceedings which take place thereafter.

7.02 General

Nothing in these Rules shall preclude a judge from conducting other informal conferences prior to trial in addition to the mandatory conferences provided for in subsection 625.1(2) of the Code.

7.03 Attendance

(1) Unless otherwise ordered, conferences shall be attended by:

(a) counsel who will represent the accused at trial, or the accused if he or she is not represented by counsel; and

(b) the prosecutor who will appear at trial, or a senior prosecutor in charge of prosecutions.

(2) The prosecutor and counsel attending a conference shall:

(a) have carriage and authority of the case;

(b) be fully prepared;

(c) be fully acquainted with the factual and legal issues likely to arise at the conference; and

(d) have adequate instructions to discuss the resolution of and, to the extent reasonably possible, make decisions that bind the party relating to all issues that are likely to arise at the conference and, in the case of counsel for the accused, access to the accused in order to confirm instructions or receive additional instructions.

7.04 Documents

(1) Parties shall outline their positions in the documents required by these Rules and shall not indicate “will advise”, “not as yet” or phrases of similar effect.

(2) If any party changes any position taken and recorded in any materials pursuant to these Rules, the party shall provide written notice of the change to the other parties and to the court immediately.

(3) Subrule (2) also applies to changes in position when

(a) the accused changes counsel;

(b) the accused, who had been self-represented, retains counsel; or

(c) the accused, who had been represented by counsel, ceases to be represented by counsel.

(4) Materials to be used during a conference shall be delivered to the court in a sealed envelope on which the following is printed:

(a) the court file number;

(b) the title of the proceeding;

(c) the name of the party filing the document;

(d) the date of the conference; and

(e) the type of conference for which the materials are filed (“resolution conference”, “pre-trial conference” or “case management conference” as the case may be).

(5) Subject to subrules 7.04(6) and 9.04(8), unless the parties consent or a judge otherwise orders, materials delivered to the court for use during a conference pursuant to these Rules shall not be placed in the court file of the proceeding to which they relate and shall not be disclosed to any trial judge who may thereafter try the case.

(6) Material which is part of a final disposition of a portion of the case may be presented and referred to in open court in relation to the disposition of that portion of the proceeding.

(7) At the end of the conference, any materials which are not ordered to be placed in the court file or disclosed to the trial judge shall be returned to the parties and the judge shall make a note in the court file accordingly.

7.05 Location and Procedure

(1) Unless otherwise ordered, conferences shall be held in the judicial centre in which the indictment was filed.

(2) Unless otherwise ordered, conferences shall be held in the absence of the public.

(3) A conference held under subrule (2) shall be recorded and the recording thereof shall remain sealed unless a judge orders otherwise.

7.06 Specific Inquiries to be Made

Judges presiding over conferences shall inquire into and discuss any matter that may promote a fair and expeditious hearing or disposition of the charges contained in the indictment.

7.07 Compellability of a Judge

A judge who presided over a conference shall not be a compellable witness regarding any aspect of the conference.

7.08 Remote Conferencing

(1) A judge may, if requested by one or more of the parties, direct that a conference be held wholly or partly by telephone conference call, video conference or any other form of electronic communication acceptable to the judge.

(2) Where there is a request to conduct a conference by telephone conference call, video conference or any other form of electronic communication, the judge may direct a party to make the necessary arrangements on such terms as are just and to give notice of those arrangements to all other parties and to the court.

RULE 8 – Resolution Conferences

8.01 Purpose of Resolution Conferences

(1) A resolution conference is a meeting of the parties to fully and freely discuss, with judicial assistance, the possibility of the resolution of a case or one or more issues of fact or law and to expedite plea agreements.

(2) All discussions at a resolution conference shall remain confidential and without prejudice and shall not be referred to in subsequent applications or at the trial, except as ordered by a judge.

8.02 Time for Conducting Resolution Conferences

(1) Unless otherwise ordered, a resolution conference ordered pursuant to rule 6.02(2) shall be held within 60 days following the day the indictment was filed with the court.

(2) Once the resolution conference has commenced, any party may withdraw at any time whereupon the resolution conference shall be terminated.

8.03 Scheduling Resolution Conferences

(1) The date and time for the resolution conference shall be set by a judge at arraignment court.

(2) The judge at arraignment court shall consider whether a resolution conference is appropriate and accordingly either:

(a) set a date and time for a resolution conference; or

(b) dispense with the requirement to hold a resolution conference.

(3) A joint request for a particular judge to preside over the resolution conference may be made to a registry clerk and, if practicable, that judge will be assigned.

8.04 Documents to be Filed before Resolution Conferences

(1) The prosecutor shall serve on the accused and file with the court at least seven days prior to the date of the resolution conference:

(a) a concise statement of facts which the prosecutor reasonably believes the Crown is able to prove;

(b) a list of mitigating and aggravating facts that remain in issue;

(c) a list of issues to be discussed at the resolution conference;

(d) the criminal record of the accused, if any;

(e) a copy of any expert reports that will be relied on by the prosecutor as part of its case or, if the reports are not then available, a statement of the experts consulted and an indication of the nature of the opinion that will or may be given; and

(f) the position of the prosecutor with respect to disposition.

(2) Each counsel shall serve on the prosecutor and, unless otherwise ordered, on every other accused and file with the court at least three days prior to the date of the resolution conference:

(a) a concise statement of any facts which the accused is, for the purpose of discussion at the resolution conference, prepared to acknowledge;

(b) a list of any additional issues for discussion at the resolution conference that are not included in the prosecutor's list; and

(c) a copy of any expert reports that may be relied on by the accused or, if the reports are not then available, a statement of the experts consulted and an indication of the nature of the opinion that will or may be given.

(3) At the same time the party files his or her materials under subrules (1) or (2), a party may also file with the court a legal brief containing a concise analysis of the law in support of that party's position.

(4) Unless otherwise ordered, an accused who is not represented by counsel is not required to file the materials set out in subrule (2).

8.05 Procedure at Resolution Conferences

At the resolution conference, the parties shall be prepared to discuss with each other, with the assistance and guidance of the presiding judge:

(a) the nature of the key factual and legal issues in the case and the points of difference between the parties on those issues;

(b) the strengths and weaknesses of the respective cases of the parties;

(c) ways of resolving the differences between the parties; and

(d) whether case management is required under rule 10.03 or the parties consent to case management.

8.06 Role of the Judge

(1) The resolution conference judge shall inquire into and discuss:

(a) the prosecutor's position on sentencing before trial and after trial in the event of conviction, including the counts upon which pleas of guilty would be sought, any corollary orders sought upon conviction, and whether further proceedings would be taken upon conviction of any *serious personal injury offence* as defined in section 752 of the Code; and

(b) the position of counsel for each accused on sentence,

(i) if the accused were to instruct counsel that he or she wished to plead guilty before trial; and

(ii) where guilt was proven after trial.

(2) If requested by all parties and he or she considers it appropriate, the resolution conference judge may comment on the strengths and weaknesses of the parties' respective case and make suggestions for resolution.

(3) The parties may discuss and attempt to reach an agreement on the range of sentence or a joint submission on a particular sentence in the event that an accused indicates that he or she is prepared to plead guilty to an offence.

(4) If requested by all parties and he or she considers it appropriate, the resolution conference judge may comment on the appropriateness of any proposed sentence based upon the circumstances disclosed at the resolution conference.

(5) The resolution conference judge may meet with the prosecutor and one or more accused in the absence of other accused if the judge is of the view that such a procedure may advance a possible resolution in respect of some but not all accused.

8.07 Procedure at the End of the Resolution Conference

(1) If, at the end of the resolution conference, the accused intends to enter a plea of guilty, the resolution conference judge and the parties may proceed immediately to a hearing for the purposes of entering a guilty plea and making submissions on sentence if:

(a) the judge thinks it would be appropriate to proceed immediately to a sentencing hearing;

(b) the parties consent to proceeding immediately to a sentencing hearing;

(c) there is a courtroom available;

(d) there is court staff available;

(e) the judge is satisfied that the requirements of the Code with respect to the notification of victims and the submission of victim impact statements have been met; and

(f) the judge is satisfied that the requirements set out in subsection 606(1.1) of the Code have been met.

(2) If, at the end of the resolution conference, the accused intends to enter a plea of guilty but

(a) the judge does not think it would be appropriate to proceed immediately to a sentencing hearing;

(b) the parties do not consent to proceeding immediately to a sentencing hearing;

(c) a courtroom is not available; or

(d) there is no court staff available

the judge shall indicate in an order following the resolution conference

(e) that a sentencing hearing is required;

(f) that the parties shall appear at the next sitting of arraignment court;

(g) whether the parties consent to the resolution conference judge conducting the sentencing hearing; and

(h) whether there are any scheduling issues.

(3) The judge at a sentencing hearing is not bound by any agreement between the prosecutor and the accused with respect to sentence.

(4) If, at the end of the resolution conference, subrules (1) and (2) do not apply, the judge may order one or more of the following:

(a) a further resolution conference;

(b) the hearing of an application;

(c) the parties to attend the next sitting of arraignment court; or

(d) the assignment of the proceeding to case management.

(5) On receipt of an order following a resolution conference under subrule (2) or clause (4)(c), a registry clerk shall place the matter on the next arraignment court list.

8.08 Summary of Issues Resolved

(1) At the conclusion of the resolution conference, all of the issues resolved at the resolution conference shall be:

(a) summarized in writing by the judge;

(b) acknowledged by the parties;

(c) placed in a sealed envelope; and

(d) placed in the court file.

(2) The envelope shall remain sealed unless a judge orders otherwise.

8.09 Resolution Conference Judge shall not be the Trial Judge

In the event that the resolution conference does not lead to a complete resolution of the case, the judge presiding over the resolution conference shall not preside as the trial judge but may preside as the pre-trial conference judge, if the judge deems it appropriate and the parties consent.

RULE 9 – Pre-Trial Conferences

9.01 Purpose of Pre-Trial Conferences

(1) A pre-trial conference is a meeting of the parties to expedite trials and to fully and freely discuss the proceeding with judicial assistance and, where appropriate, the judge may:

(a) in consultation with the appropriate registry clerk, establish or revise any schedule for pre-trial applications, trial or other proceedings;

(b) secure the parties' agreement or give directions about the order in which applications shall be heard;

(c) secure the parties' agreement or give directions about the manner in which evidence will be presented on applications;

(d) secure the parties' agreement or give directions regarding the appearance of witnesses by video conference;

(e) secure the parties' agreement or give directions regarding expert witnesses meeting on a without prejudice basis to determine those matters on which they agree and do not agree;

(f) secure the parties' agreement or give directions about the manner in which decisions made by a judge other than the trial judge on applications are to be incorporated into the record or other proceedings;

(g) secure the parties' agreement or give directions about the materials to be filed in support of and in response to any applications;

(h) establish a schedule for the service and filing of any materials required for applications;

(i) secure the parties' agreement to or give directions about admissions of fact or other agreements about issues of fact and the attendance of witnesses on issues not in dispute;

(j) require the prosecutor to provide a list of the names of the persons who will or may be called as witnesses for the prosecution;

(k) secure the parties' agreement or give directions about interpreters or equipment required in the proceedings and make arrangements through a registry clerk to ensure such requirements are met;

(l) secure the parties' agreement to or give directions about the manner in which evidence may be presented at trial to assist its comprehension by jurors;

(m) determine whether jury selection will involve challenge for cause and if so, endeavour to establish the questions to be asked on such procedure;

(n) attempt to resolve by agreement any outstanding issues respecting disclosure; and

(o) determine whether case management is required under rule 10.03 or the parties consent to case management.

(2) All discussions at a pre-trial conference are without prejudice and shall not be referred to in subsequent applications or at the trial, except as ordered to be disclosed by a judge.

9.02 Pre-Trial Conference held within 90 days

(1) In any matter not ordered to be subject to case management, a pre-trial conference shall be held within 90 days of the day on which the indictment was filed with the court, unless a judge orders otherwise.

(2) For greater certainty, subrule (1) shall not be read to limit the number of pre-trial conferences which may be held in a proceeding.

9.03 Scheduling Pre-Trial Conferences

(1) Subject to subrule (2), the judge in arraignment court shall set a date for a pre-trial conference in accordance with rule 9.02.

(2) If a date for a pre-trial conference is set before the proceeding is ordered to be subject to case management, a pre-trial conference scheduled under subrule (1) shall be converted to a case management conference and shall be governed by rule 10.

(3) A date for a subsequent pre-trial conference may be set by a judge in arraignment court or by a registry clerk following an informal request to the Registry.

9.04 Documents to be Filed before Pre-Trial Conferences

(1) The prosecutor and counsel for the accused shall jointly prepare a Pre-Trial Report in CR Form 9.04 in accordance with this rule.

(2) Where there are co-accused, the prosecutor may prepare a separate Pre-Trial Report with counsel for each co-accused.

(3) The prosecutor shall complete the applicable sections of the Pre-Trial Report and serve it on the accused or his or her counsel, as the case may be, at least seven days prior to the pre-trial conference.

(4) Counsel for the accused shall complete the applicable sections of the Pre-Trial Report delivered by the prosecutor and serve the completed report on the prosecutor and any other accused and shall file it with the court at least three days prior to the pre-trial conference.

(5) Where the parties are unable to agree on the contents of the Pre-Trial Report, they shall outline the points of difference between them in the report and nevertheless sign and file it.

(6) Where a pre-trial conference is enlarged or rescheduled after the filing of a Pre-Trial Report, the parties must prepare a new Pre-Trial Report in accordance with this rule or certify to the Court that there is no change to the information or positions as set out in a previously filed Report.

(7) Unless otherwise ordered, an accused who is not represented by counsel is not required to complete the applicable sections of the Pre-Trial Report and in such a case, the prosecutor shall file the partially completed Pre- Trial Report with the court at least three days prior to the pre-trial conference.

(8) Notwithstanding rule 7.04(5), at the end of the pretrial conference, the Pre-Trial Report shall be placed in the court file in a sealed envelope and access to the report shall be restricted to parties and those judges dealing with the matter.

9.05 Procedure at Pre-Trial Conferences

(1) A judge who presides at a pre-trial conference may, at his or her discretion, grant leave to a party to file an application and direct that an anticipated application be heard prior to the date fixed for trial, at such time and date as the judge deems fit or at such other time and date as may be convenient.

(2) The judge who presides at a pre-trial conference may make such other orders as the judge considers necessary and appropriate in order to promote a fair, just and expeditious pre-trial conference and trial having regard to all the circumstances.

(3) At the end of the pre-trial conference, the judge who presides at the pre-trial conference shall endorse on a copy of the indictment the date upon which the pre-trial conference was held.

9.06 Report of Pre-Trial Conference

(1) After the pre-trial conference, the presiding judge shall prepare and file a report outlining any agreement reached during the conference and provide a copy of the report to the prosecutor and the accused.

(2) Before the report in subrule (1) is filed, it shall be sealed in an envelope and access to the report shall be restricted to parties and those judges dealing with the matter.

9.07 Pre-Trial Conference Judge may be the Trial Judge

The pre-trial conference judge is not precluded from being the trial judge in the proceeding by virtue of being the pre-trial conference judge.

9.08 Location of Trial

(1) Unless a judge orders otherwise, the trial of a proceeding shall be held in the judicial centre where the indictment was filed.

(2) Nothing in these Rules precludes the hearing of

(a) the trial of a proceeding;

(b) an application in relation to a proceeding; or

(c) an application for review of a detention order under Rule 14, in any location outside a judicial centre.

RULE 10 – Case Management

10.01 Purpose

The purpose of case management is to provide a level of management and direction for selected proceedings with respect to pre-trial procedures and preparation for trial that is more organized, coordinated and focused than what would be normally applicable to cases proceeding from indictment to trial.

10.02 Order for Case Management

A judge, on application or on his or her own motion, may make a case management order in any case if the judge is of the view that the case would benefit from case management.

10.03 When Mandatory

Unless otherwise ordered, a case shall be case managed if:

(a) there are multiple accused and multiple counsel involved;

(b) an accused is charged with more than six offences;

(c) the trial is anticipated to take more than 5 days to try;

(d) an accused is charged with an offence under sections 235, 236 or 239 of the Code;

(e) an accused is charged with an offence under sections 151, 152, 153, 153.1, 155 271, 272, or 273 of the Code;

(f) the case will likely be tried by a jury;

(g) an accused is charged with conspiracy to commit an offence under sections 5, 6 or 7 of the *Controlled Drugs and Substances Act* (Canada);

(h) the case may require the coordination of the hearing of a number of pre-trial applications;

(i) the number of exhibits likely requires pre-trial organization and management;

(j) an accused is not represented by counsel; or

(k) the number of expert witnesses at trial is likely to exceed six.

10.04 Factors to be Considered

In considering whether the case should be assigned to case management under rule 10.02, all the relevant circumstances of the case shall be taken into account, including, but not limited to:

(a) the purpose of case management;

(b) the complexity of the proceeding, including the issues of fact and law involved in any pre-trial applications;

(c) the number of parties involved in the proceeding;

(d) the number of proceedings involving the same or related parties;

(e) the nature and extent of intervention by the case management judge that the proceeding is likely to require;

(f) the time reasonably required for any pre-trial applications;

(g) the time reasonably required for completion of the proceeding; and

(h) the number of witnesses likely to testify in the proceeding.

10.05 First Case Management Conference

(1) On receipt of an order that the case shall be case managed, a registry clerk shall:

(a) request the Chief Justice to assign a case management judge; and

(b) schedule a case management conference, where one has not been scheduled in accordance with rule 9.03(2).

(2) The parties shall prepare a Pre-Trial Report in CR Form 9.04 before the first case management conference and rule 9.04 applies to the case management conference with any necessary modifications.

10.06 Case Management Generally

(1) Except in special circumstances, the designation of a case management judge shall be made in rotation from a roster of judges maintained for the purpose by the Chief Justice.

(2) All subsequent applications and other steps taken in the proceeding shall be brought to the attention of the case management judge.

(3) All subsequent documents in a proceeding in respect of which a case management order has been made shall include the words immediately below the title of proceeding “A CASE-MANAGED PROCEEDING BEFORE JUSTICE” followed by the name of the case management judge assigned to that proceeding.

(4) At any time following the appointment of a case management judge, the Chief Justice may substitute another judge for the case management judge.

10.07 Subsequent Case Management Conferences

(1) The case management judge may schedule and convene a case management conference from time to time, on his or her own initiative or at the request of a party, to ensure efficient case management and the orderly and expeditious conduct of the proceeding.

(2) Requests by a party for a case management conference shall be in writing and must indicate the issues to be discussed during the case management conference.

(3) The case management judge may direct that parties prepare a Pre-Trial Report in CR Form 9.04 before any case management conference and, where the case management judge so orders, rule 9.04 applies to the case management conference with any necessary modifications.

10.08 Attendance at Case Management Conferences

The case management judge may require that an accused who is represented by counsel be present or available for consultation at the case management conference.

10.09 General Nature of the Case Management Conference

(1) At a case management conference, the case management judge may:

(a) in consultation with the appropriate registry clerk, establish or revise any schedule for pre-trial applications, trial or other proceedings;

(b) secure the parties' agreement or give directions about the order in which applications shall be heard;

(c) secure the parties' agreement or give directions about the manner in which evidence will be presented on applications;

(d) secure the parties' agreement or give directions regarding the appearance of witnesses by video conference;

(e) secure the parties' agreement or give directions regarding expert witnesses meeting on a without prejudice basis to determine those matters on which they agree and do not agree;

(f) secure the parties' agreement or give directions about the manner in which decisions made by a judge other than the trial judge on applications are to be incorporated into the record or other proceedings;

(g) secure the parties' agreement or give directions about the materials to be filed in support of and in response to any applications;

(h) establish a schedule for the service and filing of any materials required for applications;

(i) secure the parties' agreement to or give directions about admissions of fact or other agreements about issues of fact and the attendance of witnesses on issues not in dispute;

(j) require the prosecutor to provide a list of the names of the persons who will or may be called as witnesses for the prosecution;

(k) secure the parties' agreement or give directions about interpreters or equipment required in the proceedings and make arrangements through a registry clerk to ensure such requirements are met;

(l) secure the parties' agreement to or give directions about the manner in which evidence may be presented at trial to assist its comprehension by jurors;

(m) determine whether jury selection will involve challenge for cause and if so, endeavour to establish the questions to be asked on such procedure;

(n) attempt to resolve by agreement any outstanding issues respecting disclosure; and

(o) identify contested issues of fact and law and explore methods to resolve them.

(2) Any directions given by the case management judge at a case management conference are subject to revision by the judge presiding in the proceeding.

10.10 Applications

(1) If the trial judge is to hear an application submitted on behalf of a party in a case managed proceeding, a registry clerk shall bring the application to the attention of the trial judge, obtain an appropriate date from that judge for the hearing of that application and notify the parties of that date.

(2) If subrule (1) does not apply, the registry clerk shall bring to the attention of the case management judge designated under this Rule any application submitted on behalf of a party, obtain an appropriate date from that judge for the hearing of that application and notify the parties of that date.

(3) Rule 11 respecting applications, with any necessary modifications, shall apply to applications brought in any proceeding which is subject to case management.

(4) Where necessary, a case management judge may convert a case management conference into a hearing.

10.11 Case Management Judge may be the Trial Judge

The case management judge is not precluded from being the trial judge in the proceeding by virtue of being the case management judge.

RULE 11 – Applications Generally

11.01 Application of this Rule

(1) This Rule applies to all applications initiated by notice of application, including those applications set out in Rules 12 to 19, except where these Rules provide otherwise or as ordered by a judge.

(2) Unless otherwise ordered, an accused who is not represented by counsel is not required to file any of the documents required by Rules 11 to 19.

11.02 Commencement of Application

(1) Applications shall be initiated by a Notice of Application in CR Form 11.02.

(2) The trial judge may dispense with the requirement to file a Notice of Application when an application is brought during the course of the trial.

11.03 Time for Filing Pre-Trial Applications

Unless otherwise specified by the Code, no pretrial applications in relation to an indictment in respect of which there has been a pre-trial conference may be filed with the court without leave.

11.04 Obtaining Leave to File a Pre-Trial Application

(1) Leave to file a pre-trial application may be requested in arraignment court or by way of separate application to a judge.

(2) Leave may be requested orally without filing a Notice of Application.

(3) A judge may order that a Notice of Application to request leave and supporting material be filed with the court before determining whether to grant leave.

(4) If leave is granted to file an application, the judge may also order:

(a) the date by which the application and supporting materials shall be filed;

(b) the dates by which the parties shall file additional materials and briefs;

(c) the date for the hearing of the application; and

(d) such consequential directions as may be appropriate.

11.05 Contents of the Notice of Application

(1) The Notice of Application shall set out the following:

(a) the place, date and time of the hearing or the place, date and time of the sitting of arraignment court at which the date for the hearing of the application will be set;

(b) an estimate of the time required for the hearing of the application;

(c) a statement whether the accused is in custody and, if so, whether he or she wishes to be in court for the hearing of the application;

(d) the present status of the proceedings against the accused, including the date of any conferences;

(e) the precise relief sought;

(f) the grounds for the relief sought, including a reference to any statutory provision or rule on which the applicant relies; and

(g) where an order is required abridging or extending the time for service or filing of the Notice of Application or supporting documentary, affidavit and other material intended to be used at the hearing of the application, a statement to that effect.

(2) The documentary, affidavit and other material intended to be used at the hearing of the application shall be attached to the Notice of Application.

(3) Each Notice of Application, affidavit, memorandum, brief or other document filed with the court on or after the date the application is filed which relates to that application shall have include immediately below the title of proceeding or at some convenient place, if there is no title of proceeding on the document, the following text box:

SUMMARY OF CURRENT DOCUMENT

Court File Number(s):	
Date of Filing of Document:	
Name of Filing Party or Person:	
Application to which Document being filed relates:	[e.g. Application of Accused for order ruling evidence as inadmissible]
Statement of purpose in filing:	[e.g. to support/oppose application]
Court Sub-File Number, if any	

11.06 Service and Filing of Materials

(1) Unless otherwise specified by the Code or these Rules, or a judge otherwise directs, a Notice of Application, including all documentary, affidavit and other material intended to be used at the hearing of the application, together with proof

of service, shall be served on all parties in accordance with the court's civil rules and filed with the court not less than 21 days before the hearing date.

(2) Where there is uncertainty whether anyone not a party to an application should be served, the applicant may apply *ex parte* to a judge for an order for directions.

(3) Unless otherwise ordered, a Notice of Application and all supporting documentary, affidavit and other material intended to be used at the hearing of the application shall be filed and the application shall be heard at the judicial centre where the trial is to be held.

11.07 Getting a Hearing Date for Pre-Trial Applications

(1) A hearing date for a pre-trial application may be set by either a registry clerk or a judge in arraignment court.

(2) If an application is first returnable to a sitting of arraignment court, the presiding arraignment court judge may hear the matter or set appropriate dates for a hearing and give all consequential directions with respect to, among other things, the dates for filing of materials and briefs prior to the hearing and the manner of conducting the hearing.

(3) Where a date for a pre-trial application is set under this rule and the application will be heard by the trial judge, the Chief Justice shall designate the judge.

11.08 Materials to be Filed

Unless otherwise ordered, the following deadlines shall apply:

(a) not more than seven days following service of the Notice of Application and the applicant's documentary, affidavit and other material intended to be used at the hearing of the application, the respondent shall serve and file with the court, together with proof of service, all supporting documentary, affidavit and other material intended to be used at the hearing of the application;

(b) not more than seven days following service of the respondent's documentary, affidavit and other material, the applicant shall serve and file with the court, together with proof of service, the cases, statutory provisions and any other authorities the applicant intends to rely on at the hearing; and

(c) not more than four days following service of the applicant's cases, statutory provisions and any other authorities, the respondent shall file with the court, together with proof of service, the cases, statutory provisions and any other authorities the respondent intends to rely on at the hearing.

11.09 Affidavit Evidence

(1) Evidence on an application may be given by affidavit unless the Code or other applicable statute provides or a judge orders otherwise.

(2) Subject to subrule (3), a deponent may state in an affidavit only facts that are within the personal knowledge of the deponent or other evidence that the deponent would be permitted to testify to as a witness in court.

(3) An affidavit may contain statements of the deponent's information and belief with respect to facts that are not contentious if the source of the information and the fact of belief are specified in the affidavit.

11.10 Oral Evidence

A witness may be examined or cross-examined on the hearing of an application with leave of the presiding judge.

11.11 Written Argument

The judge may, on such terms as he or she considers just, direct that argument on an application be presented in writing rather than by personal appearance of the parties.

11.12 Consent in Writing

(1) The respondent may consent in writing to the relief sought in an application and a judge, satisfied that the relief sought by the applicant should be granted, may grant the application without the attendance of the parties.

(2) The applicant must file with the court a draft order and the respondent's consent before the application will be considered by a judge under subrule (1).

11.13 Applications by Telephone or Video Conference

(1) With consent of all parties or with leave of a judge, an application or one or more parties or witnesses to an application may be heard by telephone conference call or by video conference or any other form of electronic communication acceptable to the court.

(2) Leave of a judge under subrule (1):

(a) does not require the filing of an application; and

(b) shall be requested in writing.

(3) Where there is a request for telephone conferencing or video conferencing, the consent or request for leave must be filed no less than seven days prior to the start of the hearing.

(4) A registry clerk shall make the arrangements necessary for an application to be heard by telephone conference call or video conference under this rule on receipt of:

(a) a request from one of the parties where all the parties consent; and

(b) an order of a judge where leave is required.

(5) An application may be heard by video conference by a judge in another judicial centre.

(6) Unless otherwise ordered, an application that is determined under this rule is deemed to have been heard and determined at the judicial centre where the indictment was filed.

11.14 Abandonment

(1) An applicant who wishes to abandon his or her application shall serve on the other party and file with the court, together with proof of service, a Notice of Abandonment as follows:

(a) if the application was filed on behalf of His Majesty the King, the Notice of Abandonment shall be in CR Form 11.14A and shall be signed by the prosecutor; or

(b) if the application was filed by or on behalf of the accused, the Notice of Abandonment shall be in CR Form 11.14B and shall be either,

(i) signed by the accused and accompanied by an affidavit of execution verifying the signature of the accused or witnessed by an officer of the institution in which the applicant is confined, or

(ii) signed by counsel for the accused and state that he or she has explained the consequences of abandonment to the accused and has been specifically instructed by the accused to abandon the application.

(2) On the filing of a Notice of Abandonment, a registry clerk shall note the application dismissed as abandoned without the attendance of the parties.

(3) An applicant who fails to appear, either in person or by a solicitor, at the hearing of an application may be deemed to have wholly abandoned the application.

RULE 12 - Applications for Removal as Solicitor of Record

12.01 Application

This Rule applies to applications by:

(a) counsel for an accused to withdraw as solicitor of record; and

(b) the prosecutor to have the solicitor of record for an accused removed as solicitor of record.

12.02 To Whom the Application is Made

Applications under this Rule shall be made as soon as is reasonably practicable to ensure that no adjournment of the proceedings will be required.

12.03 Service

The Notice of Application and the supporting documentary, affidavit and other material intended to be used at the hearing of the application required by Rules 11 and 12.06 shall be served on:

(a) the accused;

(b) the prosecutor where the application is made by counsel for an accused to withdraw as solicitor of record;

(c) counsel for the accused where the application is made by the prosecutor to have counsel for the accused removed as solicitor of record; and

(d) the Legal Aid Commission where the application requests that the Legal Aid Commission represent the accused.

12.04 Role of the Legal Aid Commission

(1) If the Legal Aid Commission has been served with an application under clause 12.03(d), it shall cause a representative of the Legal Aid Commission to appear at the hearing of the application who is able to:

(a) advise the judge as to:

(i) whether the accused has applied for legal aid and if so, the status of that application;

(ii) the role that the Legal Aid Commission could or should play in relation to the accused thereafter;

(iii) whether there are any reasons why a staff solicitor of the Legal Aid Commission could not be appointed to represent the accused and the limitations on such representation;

(iv) whether counsel engaged by the Legal Aid Commission could be made available to represent the accused without conflict of interest; and

(v) what period of time may be required for counsel to become familiar with the case; and

(b) if an application has not been made to the Legal Aid Commission, take an application for legal aid from the accused immediately following the hearing.

(2) The information set out in clause (1)(a) may be set out in an affidavit filed with the court which is sworn by an officer of the Legal Aid Commission.

12.05 Appearance at the Registrar's Request

The Registrar may request that a representative of the Legal Aid Commission appear at the hearing of any application under this Rule.

12.06 Materials for Use on Application

(1) A Notice of Application under this Rule shall be accompanied by an affidavit by or on behalf of the applicant, detailing:

(a) particulars of the charge in respect of which the application is made, including a statement of the date upon which trial proceedings are scheduled to commence and their anticipated length;

(b) where the application is made by the solicitor of record for an accused or on behalf of an accused, the material facts relating to the application including, without disclosing any solicitor client communication in respect of which solicitor client privilege has not been waived, a statement of the reasons why the order sought should be given;

(c) where the application is made by or on behalf of the prosecutor, the material facts relating to the application including a statement of the reasons why the order sought should be given;

(d) a statement whether a delay or an adjournment of trial proceedings is likely or will be required to enable the accused to retain and instruct a new solicitor of record to proceed to trial and, if so, the anticipated length of the delay or adjournment; and

(e) where applicable, a statement of the identity of the new solicitor of record and his or her undertaking to proceed to trial or other disposition on the date specified under clause (1)(d).

(2) Where the accused, counsel for the accused and the prosecutor consent, the judge may dispense with the requirement of an affidavit under subrule (1).

12.07 Alternative Application

An application under Rule 13 may be heard as an alternative application immediately following a disposition under this Rule.

RULE 13 – Applications to Appoint Counsel

13.01 Application

This Rule applies to all applications for an order appointing counsel for an accused.

13.02 Service

(1) A Notice of Application for an order appointing counsel for an accused, together with all supporting documentary, affidavit and other material intended to be used at the hearing of the application, shall be served on

(a) the Attorney General for the province;

(b) the prosecutor;

(c) any co-accused; and

(d) the Legal Aid Commission.

(2) The parties listed in subrule (1) shall be entitled to be heard on the application.

13.03 Materials for Use on Application

(1) The Notice of Application under this Rule shall be accompanied by an affidavit by or on behalf of the accused, detailing:

(a) the efforts made by the accused to retain counsel;

(b) the reasons why the accused has been unable to retain counsel;

(c) whether an application has been made to the Legal Aid Commission for legal assistance and, if so, the status of that application;

(d) whether the accused was formerly represented by counsel and when that representation ceased;

(e) the name of any counsel who has indicated a willingness to represent the accused in the event an order for counsel is made, and the terms on which he or she is prepared to provide such representation; and

(f) such other information as may be relevant to the application.

(2) The accused shall also file with the court an affidavit by any counsel referred to in clause (1)(e) which confirms his or her willingness to act and the terms on which he or she is prepared to act.

13.04 Role of the Legal Aid Commission

(1) The Legal Aid Commission shall cause a representative of the Legal Aid Commission to appear at the hearing of an application under this Rule who is able to:

(a) advise the judge as to:

(i) whether the accused has applied for legal aid and the status of that application;

(ii) the role that the Legal Aid Commission could or should play in relation to the accused thereafter;

(iii) whether there are any reasons why a staff solicitor of the Legal Aid Commission could not be appointed to represent the accused and the limitations on such representation;

(iv) whether one or more solicitors of the Legal Aid Commission are available and capable of representing the accused and the names of such persons;

(v) what period of time may be required for counsel to become familiar with the case; and

(vi) such other information as may be relevant to the proper representation of the accused; and

(b) if an application has not been made to the Legal Aid Commission, take an application for legal aid from the accused immediately following the hearing.

(2) The information set out in clause (1)(a) may be set out in an affidavit filed with the court which is sworn by an officer of the Legal Aid Commission.

(3) For the purposes of clause (1)(a), the accused shall be deemed by his or her application to waive solicitor-client privilege with respect to all matters, including financial matters, that relate to his or her ability to retain counsel.

(4) Following the hearing of the application, the information provided by the Legal Aid Commission shall be sealed and shall not be disclosed to the trial judge, who shall not be the same judge who hears the application.

13.05 Order

(1) An order appointing counsel for an accused shall include the following:

(a) the name of counsel so appointed;

(b) any limitations on the scope of the appointment;

(c) the terms upon which the appointment is made; and

(d) a requirement that bills of account submitted by the counsel shall, at the option of the Attorney General, be taxed.

(2) An order made under this Rule may, for cause, be modified or revoked by a judge upon application by the accused, counsel who has been appointed under this Rule or the Attorney General.

RULE 14 – Applications for Judicial Interim Release and Review

14.01 Fundamental Principle

To the extent that available judicial resources permit, priority shall be given to the scheduling of applications for judicial interim release when setting the court docket.

14.02 Application

(1) This Rule applies to applications

(a) by an accused under subsections 520(1), 520(8) and 522(1) of the Code;

(b) by the prosecutor under subsections 521(1) and (9) of the Code; and,

(c) by an accused or the prosecutor at any time prior to the trial, under subparagraph 523(2)(c)(ii) or subsection 523(3) of the Code.

(2) Except for the requirements set out in rules 14.04 and 14.05, this Rule applies to proceedings for a review of detention under section 525 of the Code with such modifications as are set out in this Rule and the circumstances require.

14.03 Hearings under Section 525 of the Code

(1) Where an accused is brought before the court pursuant to section 525 of the Code, the judge:

(a) shall determine the issue of judicial interim release in an expeditious manner; and

(b) may inquire into the circumstances of the custody of the accused.

(2) Before or during the hearing under subrule (1), the judge may provide directions for expediting any proceedings in respect of the accused and for the filing of material in support of, or in opposition to, the application.

14.04 Contents of Notice

(1) Where the Notice of Application states that the accused is to be present at the hearing of the application, counsel for the accused shall comply with section 527 of the Code.

(2) Where an application involves a review of a detention order previously made by a Provincial Court judge, the application shall set out:

(a) any error in fact or law allegedly made by the Provincial Court judge;

(b) the change in circumstances, if any, that has occurred since the decision being reviewed; and

(c) such other facts, if any, that are being relied on in support of any submission that a different result ought to have been reached by the Provincial Court judge.

14.05 Materials for Use on Application

(1) The Notice of Application shall be accompanied by:

(a) where the applicant is the accused, the affidavit of the applicant containing the information required under subrule (2);

(b) where the applicant is the accused and it is practicable to do so, the affidavit of any current or prospective employer who proposes to employ the accused upon release;

(c) where the applicant is the accused and it is practicable to do so, the affidavit of any person who proposes to serve as a surety for the accused, disclosing his or her willingness to serve as a surety and the amount for which he or she is prepared to be held liable;

(d) where the applicant seeks to review a previous order, a transcript of:

(i) the proceedings of the judicial interim release hearing under section 515 or 522 of the Code, as the case may be; and

(ii) any previous review proceedings taken before a judge,

unless the judge specifically dispenses with this requirement; and

(e) a legible copy of any exhibits, capable of reproduction, which were filed in the original judicial interim release hearing and in any previous review proceedings including a copy of the accused's criminal record, if any.

(2) The affidavit of the applicant required by clause (1)(a) shall disclose:

(a) the particulars of the charge on which release is sought and any other charge outstanding against the applicant, together with the date or dates scheduled for trial, preliminary inquiry and any other proceeding in respect of such charges;

(b) the ordinary residence of the applicant and the address where the applicant proposes to reside if released;

(c) the applicant's employment, if any, when he or she was arrested and where the applicant expects to be employed upon release;

(d) the form of order upon which the applicant proposes that release be granted; and

(e) where the applicant proposes that release be granted by giving an undertaking with conditions or upon entering into a recognizance with sureties, deposit or conditions, where practicable:

(i) the terms and conditions of the order sought, including the amount of any recognizance or deposit;

(ii) the names of any proposed surety;

(iii) the amount for which each proposed surety is prepared to be held liable; and

(iv) with respect to each proposed surety, a declaration that the accused or his counsel has complied with any practice note in force regarding sureties.

(3) Where a transcript of a previous review proceeding is not available, the applicant's affidavit shall contain a summary of the material evidence given at the previous proceeding.

(4) Where the applicant is the prosecutor or where, as respondent, the prosecutor intends to:

(a) assert that the detention of the accused is necessary; and

(b) rely on material other than required to be filed under subrule (1),

the prosecutor may file an affidavit setting out the facts upon which reliance is placed, including the matters referred to in paragraph 518(1)(c) of the Code.

14.06 No Brief Required

No brief is required for the purposes of applications under this Rule.

14.07 Service

The Notice of Application and all supporting documentary, affidavit and other material intended to be used at the hearing of the application along with any response shall be served on the parties and filed with the court, together with proof of service, at least two clear days prior to the date fixed for the hearing of the application, unless under subsection 520(2) of the Code, the prosecutor otherwise consents.

RULE 15 – Applications Raising Constitutional Issues

15.01 When this Rule Applies

Other than an application to exclude evidence, this Rule applies to an application in a criminal proceeding:

(a) to declare that an enactment of the Parliament of Canada, in whole or in part, is unconstitutional and of no force and effect;

(b) to declare that a rule or principle of law applicable to a criminal proceeding, in whole or in part, whether on account of subsection 8(2) or (3) of the Code or otherwise is unconstitutional and of no force and effect; or

(c) to stay proceedings, in whole or in part, on an indictment against an accused in whole or in part or for any other remedy under subsection 24(1) of the Charter or subsection 52(1) of the *Constitution Act, 1982*.

15.02 Time for Application

An application referred to in rule 15.01 shall be made to:

(a) the trial judge, where one has been designated; or

(b) any judge before the commencement of trial, where the trial judge has not been designated.

15.03 Application

The application shall be brought by Notice of Application in accordance with Rule 11 and, in addition, shall include a concise statement of the constitutional issues

to be raised, a statement of the constitutional principles to be argued and a reference to any statutory provision or rule on which the applicant relies.

15.04 Service and Notice

(1) Service of the Notice of Application and all supporting documentary, affidavit and other material intended to be used at the hearing of the application shall be made on:

(a) the regional office of the Attorney General of Canada;

(b) the prosecutor having carriage of the proceeding; and

(c) such other person and on such terms as a judge may order.

(2) Where applicable, the applicant shall comply with the notice requirements of section 57 of the *Judicature Act*.

15.05 Materials for Use on Application

(1) A Notice of Application brought under this Rule shall be accompanied by:

(a) a copy of the indictment to which the constitutional issue raised in the Notice of Application relates;

(b) a transcript of any previous proceeding that is material to a determination of the constitutional issue raised in the Notice of Application;

(c) an affidavit of or on behalf of the applicant deposing the matters set out in subrule (2); and

(d) a copy of any other material that may be necessary for the hearing and determination of the constitutional issue raised in the Notice of Application.

(2) The affidavit of or on behalf of the applicant shall include:

(a) a description of the deponent's status and the basis of his or her knowledge of the matters deposed;

(b) a statement of the particulars of the charge to which the application relates including, where the application alleges a breach of paragraph 11(b) of the Charter, a full statement of the history of the proceedings against the applicant before the date scheduled for trial; and

(c) a statement of all facts material to a just determination of the constitutional issue that are not disclosed in any other material filed in support of the application.

15.06 Brief

Each party appearing on the hearing shall file with the court and serve on every other party a brief containing:

(a) a succinct outline of the argument the party intends to make;

(b) a concise statement of the principles of law on which the party relies; and

(c) copies of relevant cases, statutory provisions and other authorities.

15.07 Intervenors

(1) Any person interested in a proceeding between other parties may, by leave of the judge presiding over that proceeding or by order of a judge, intervene in the proceeding on such terms and conditions and with such rights and privileges as the judge may determine.

(2) Unless otherwise ordered, where an intervenor seeks to rely on material other than that filed by the applicant, respondent or any other person granted leave to intervene, the intervenor shall serve on every party and other intervenor and file with the court, together with proof of service, all supporting documentary, affidavit and other material intended to be used at the hearing of the application no later than seven days before the date of the hearing of the application.

(3) The brief of an intervenor under rule 15.06 shall be served and filed with the court, together with proof of service, not less than three days before the hearing.

RULE 16 – Re-Elections

16.01 Manner of Re-Election

(1) Where an accused wishes to change his or her election as to the mode of trial, the accused shall give notice of his or her intention to the court and the prosecutor at the earliest possible opportunity by serving and filing with the court, together with proof of service, a completed Notice of Re-Election in CR Form 16.01.

(2) A Notice of Re-Election shall be personally signed by the accused and shall contain, where required, the written consent of the prosecutor.

16.02 Re-Election to Provincial Court

Where an accused has filed a Notice of Re-Election in accordance with this Rule, and the mode of trial reelected is by a Provincial Court judge, a registry clerk shall:

(a) send to the Provincial Court the materials specified in paragraph 561(3)(b) of the Code;

(b) remove the case from the docket of the court; and

(c) where the mode of trial before re-election was trial by judge and jury, notify the High Sheriff in writing that no jury selection will be required.

16.03 Re-Election to Trial by Judge Alone

Where an accused has filed a Notice of Re-Election in accordance with this Rule and the mode of trial reelected is by judge alone, a registry clerk shall:

(a) endorse the change in mode of trial on the indictment; and

(b) notify the High Sheriff in writing that no jury selection will be required.

16.04 Re-Election to Trial by Judge and Jury

Where an accused has filed a Notice of Re-Election in accordance with this Rule and the mode of trial reelected is by judge and jury, or the Attorney General requires pursuant to section 568 of the Code that the accused be tried by a judge and jury, a registry clerk shall:

(a) endorse the change in mode of trial on the indictment;

(b) place the matter on the next arraignment court list in order to address:

(i) the scheduling or re-scheduling of the trial;

(ii) issues respecting jury selection including the possibility of any challenge for cause; and

(iii) any orders regarding the summoning of jurors for selection;

(c) notify the parties of the appearance in arraignment court set under clause (b); and

(d) notify the High Sheriff in writing that jury selection will be required.

16.05 Appearance by Accused on Re-Election

(1) Notwithstanding anything in this Rule, a judge may require an accused who has indicated an intention to re-elect the mode of trial to appear in person to make his or her re-election.

(2) Where an accused appears in person to make a reelection, the presiding judge

(a) may make inquiries of the accused to satisfy the judge that the accused understands the implications of the re-election and has been fully advised concerning the re-election; and

(b) shall put the accused formally to his or her reelection in the following words or in words to like effect:

> "You have given notice of your wish to re-elect the mode of your trial. You now have the option to do so. How do you wish to re-elect?"

RULE 17 – Challenges for Cause

17.01 Challenge for General Lack of Impartiality

(1) Where an accused is aware of circumstances which might reasonably give rise to an application pursuant to paragraph 638(1)(b) of the Code to challenge for cause every member of a jury panel on the basis of a general lack of impartiality, the accused shall:

(a) give informal notice to the prosecutor as soon as reasonably practicable of those circumstances; and

(b) raise the issue at the pre-hearing conference held pursuant to section 625.1 of the Code, propose the questions to be put to each juror, and attempt to reach agreement with the prosecutor on the necessity and details of a challenge for cause procedure, including questions to be posed to prospective jurors.

(2) Where at or before the pre-hearing conference the accused and the prosecutor reach agreement on the necessity for, and the details of, a challenge for cause procedure, the pre-hearing conference judge may make an order to that effect directing the High Sheriff to summon sufficient panels of jurors to accommodate the challenge for cause.

(3) Where mby the time of the pre-hearing conference the accused and the prosecutor have been unable to agree on the necessity for, or the details of, a challenge for cause procedure:

(a) the pre-hearing conference judge shall set a time, not later than 30 days following the date of the pre-hearing conference, for the filing of an application pursuant to paragraph 638(1)(b) of the Code to determine the challenge for cause issue and may set deadlines for the filing of other materials by the parties; and

(b) the accused shall serve and file with the court, together with proof of service, a Notice of Application in CR Form 11.02 in accordance with the schedule so established.

17.02 Application

(1) An application to challenge every member of a jury panel on the basis of a general lack of impartiality pursuant to paragraph 638(1)(b) of the Code shall include:

(a) an affidavit by or on behalf of the applicant setting out the particulars of the grounds for the challenge; and

(b) the proposed questions to be put to each prospective juror.

(2) The application shall be heard by the trial judge who may hold the hearing prior to the jury panel being summoned.

(3) Where an application is filed under this Rule, the Chief Justice shall designate a judge to be the trial judge.

17.03 Questions

If the application is granted, the judge shall by order specify the form and content of each question to be put to each prospective juror.

17.04 Leave to File Application to Challenge for Cause

(1) A judge may grant leave to file an application pertaining to challenge for cause in accordance with this Rule where a proper explanation for not having made an earlier application is given and good reason is shown that the fair trial of the accused requires consideration of such an application.

(2) Where leave is granted, the judge may:

(a) set the time for filing and service of the application;

(b) set deadlines for the filing by the parties of other materials in relation to the application; and

(c) give directions respecting the timing of summoning prospective jurors and the scheduling of the trial.

RULE 18 – Applications for Certiorari, Habeas Corpus, Mandamus and Prohibition

18.01 Authority and Official Version

Applications for certiorari, habeas corpus, mandamus and prohibition are governed by the *Supreme Court of Newfoundland, Trial Division Rules for Orders in the Nature of Certiorari, Habeas Corpus, Mandamus and Prohibition*, SI/2000-33.

18.02 Notice of Application for an Order in the Nature of Certiorari

A notice of Application for an Order in the Nature of Certiorari shall be in CR Form 18.02.

18.03 Return of Documents

The return of the record under s. 10 of the *Supreme Court of Newfoundland and Labrador, Trial Division Rules for Orders in the Nature of Certiorari, Habeas Corpus, Mandamus and Prohibition* shall be accompanied by CR Form 18.03.

18.04 *Habeas Corpus* Order

An order for *habeas corpus* may be issued in CR Form 18.04.

RULE 19 – Applications for the Reduction in the Number of Years Imprisonment Without Eligibility for Parole

19.01 Authority and Official Version

Applications for the reduction in the number of years imprisonment without eligibility for parole are governed by the *Newfoundland Rules Respecting Reduction in the Number of Years of Imprisonment without Eligibility for Parole*, SOR/89-297.

19.02 Applications

An application under this Rule shall be in CR Form 19.02A.

RULE 20 – Coming into Force

20.01 Date of Coming into Force

These Rules shall come into force on March 18, 2025.