

**NOVA SCOTIA COURT OF APPEAL**  
**EXTENSION OF TIME TO START AN APPEAL**

1. When you are outside the time frames for starting an appeal as set out at Civil Procedure Rule 90.13 or 91.05, you may file a Notice of Motion to Extend the Time to File a Notice of Appeal.
2. Read the attached Notice of Motion carefully and retype the Notice of Motion with your own information.
3. You must file an Affidavit in support of your motion to extend the time and you must attach as an Exhibit to your Affidavit a DRAFT Notice of Appeal that you propose to file with the court, if you are granted an extension of time to file the Notice of Appeal.
4. Your Affidavit must set out the evidence you wish to put before the judge in support of your motion. In particular, you will want to show the following: that you had a real intention to appeal when the right to appeal existed; that you have a reasonable excuse for the delay in filing your appeal; and that there are compelling or exceptional circumstances that warrant an extension of time.
5. Your Affidavit must be signed and sworn or affirmed before a Commissioner of Oaths or Notary Public.
6. You should know that the judge may order that you be cross-examined under oath on the contents of our affidavit.
7. Civil Procedure Rule 90.37 applies to a motion heard before a Chambers judge of the Court of Appeal. Review the rule on the courts website at: [www.courts.ns.ca](http://www.courts.ns.ca)
8. This motion is heard in regular Chambers on a Thursday at 10:00 a.m.
9. Your Notice of Motion and your supporting Affidavit must be filed with the court and must be served on the Respondents no later than four (4) days before the date of the hearing of the motion.
10. You must file an original and as many copies as there are Respondents. The court filing fee is on the court website under Costs & Fees. Copies will be returned to you for service on the Respondents.
11. You are required to file an Affidavit of Service to establish that these documents were provided to the Respondents within the required time frames.
12. Remember all time is calculated in accordance with Civil Procedure Rule 94 -

this means you do not count the date you file your Notice of Motion and you do not count the day the motion is heard. You count the days in between and you omit any Saturday or Sunday or day when the Prothonotary's office is closed.

13. Please remember this information sheet provides general information only. It may not tell you all you need to know. It does not explain the law. You should speak to a lawyer for legal advice about your situation.
  
14. For more information:  
Registrar, Nova Scotia Court of  
Appeal 1815 Upper Water Street  
Halifax, NS  
Telephone: 424-8962  
Fax: 424-0524

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