

# *Nova Scotia Civil Procedure Rules*

## Amendment

February 27, 2009

The following Rules are amended as follows:

1. In Rule 5.07(5)(c), the phrase “an affidavit on the motion for directions” is replaced with “a notice of contest”.
2. In Rule 23.01(1), the word “of” is inserted between the words “hearing” and “an application”.
3. In Rule 23.14(1)(a), the phrase “and Rules 23.03(1)(f) and (g) do not apply” is added before the semicolon.
4. The words before the colon in Rule 35.12(2) are replaced with “A judge may make an order to foreclose interests of a subsequent encumbrancer who is not a party, and the order must contain the following terms unless the judge directs otherwise”.
5. The phrase “who seeks the foreclosure” is added after “party” in Rule 35.12(2)(a).
6. The commas in Rule 38.07(5) are removed.
7. In Rule 52.04(1), the word “more” is replaced with “less”.
8. The words of Rule 55.13(2)(b) are replaced with “the party is notified, before the finish date, that another party requires the expert to be called for cross-examination”.
9. In Rule 55.13(4), the phrase “whose qualifications are admitted” is replaced with “the admissibility of whose opinion is contested”, and the phrase “for the purpose of obtaining a ruling on admissibility” is added after the phrase “prove the report through the expert”.
10. In Rule 72.10(1), the word “plaintiff” is replaced with “mortgagee”.

11. The text of Rule 79.08(3) is replaced with the following:

Unless a judge orders otherwise, fifteen percent of a judgment debtor's gross wages are payable to the sheriff under an execution order, the rest of the judgment debtor's wages are exempt from execution, and nothing is payable that reduces the judgment debtor's net wages, after deduction of amounts required by law to be deducted, below the applicable of the following minimums:

- (a) \$450 a week for a judgment debtor who supports a dependant, as defined in the *Income Tax Act* (Canada);
- (b) \$330 a week for any other judgment debtor.

12. The text of Rule 79.08(5) is replaced with the following:

A deposit-taking corporation must not pay to the sheriff any part of a balance owing to a judgment debtor that, to the knowledge of a person in charge of the account, came from either of the following sources at any time, and the deposit-taking corporation remains liable to the judgment debtor for an amount paid in violation of this Rule:

- (a) a portion of wages that are exempt under Rule 79.08(3);
- (b) income, such as income assistance or a Canada Pension Plan payment, that is exempt from execution under legislation.

13. In Rule 82.09(1) the words after "in the upper right corner" are replaced with the following:

the registry code under Rule 32 - Place of Proceeding, followed by the abbreviation "No.", followed by a blank for the prothonotary to assign a proceeding number.

14. The misspelled last word in Rule 95.02(2)(e) is replaced with "ineligibility".
15. In the paragraph entitled "Deadline for defending the action" in Form 4.02A, the definite article is inserted before "following".
16. In the paragraph entitled "Defending the action" in Form 4.03A, the definite article is inserted before "following".
17. In the paragraph entitled "you may participate" in Form 5.03 and Form 5.07, the phrase "before the day of the hearing" is replaced with "after this notice is

delivered to you or you are otherwise notified of the application”.

18. The word “Issued” is added before the place for a date at the end of Form 78.05.
19. In paragraph 3 of Form 79.17A, the word “creditor” is deleted and, in its place, the word “debtor” is inserted.
20. The first sentence, including the chart, in paragraph 11 of Form 79.17A and the paragraph titled “Exempt wages” in Form 79.19 is replaced with the following:

All but fifteen percent of the judgment debtor’s gross wages are exempt from this execution order. Also, nothing may be paid under this order that reduces the judgment debtor’s wages, net of all statutory deductions, below \$450 a week for a judgment debtor who supports a dependant on \$330 a week for any other judgment debtor.

### **Certificate**

I, Joseph P. Kennedy, Chief Justice of the Supreme Court of Nova Scotia, certify that on February 27, 2009 a majority of the judges of the court made the foregoing amendment to the *Nova Scotia Civil Procedure Rules*.

Signed February 27, 2009.

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Joseph P. Kennedy  
Chief Justice of the Supreme Court  
of Nova Scotia