

# ***Part 19 - Transition***

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## **Rule 92 - Transition**

### **Effective date of these Rules and definition**

- 92.01 (1)** These Rules take effect on June 30, 2010 for a family proceeding and on January 1, 2009 for all other proceedings, except as provided in this Rule 92.
- (2) In this Rule, "family proceeding" means a proceeding started under Part 13 - Family Proceedings.

### **Application to outstanding proceedings**

- 92.02 (1)** Unless this Rule provides or a judge orders otherwise these Rules apply to all steps taken after the following dates in the following kinds of proceedings:
- (a) June 30, 2010 in a family proceeding started before that day;
- (b) January 1, 2009 in an action started before that day.
- (2) The *Nova Scotia Civil Procedure Rules* (1972) apply to all other proceedings started before January 1, 2009 unless a judge orders otherwise.

### **Document and step in action preserved**

- 92.03** On a motion, in a trial or hearing, and in connection with any other step taken after June 30, 2010 in a family proceeding started before that day, or after January 1, 2009 in an action started before that day, both of the following apply:
- (a) each notice, pleading, affidavit, order, and other document filed in the action under the *Nova Scotia Civil Procedure Rules* (1972) must be treated, as nearly as possible, as if it conformed with these Rules;
- (b) each step taken in the family proceeding, or action, and completed before June 29, 2010 in the family proceeding, or January 1, 2009 in the action, must be treated, as nearly as possible, as a step taken under these Rules.

### **Outstanding interlocutory steps**

**92.04** Each of the following steps that is outstanding in a family proceeding on June 30, 2010, or in an action on January 1, 2009, must be completed under the *Nova Scotia Civil Procedure Rules* (1972), unless the parties agree or a judge orders otherwise:

- (a) answers to a demand for particulars delivered before the date;
- (b) an interlocutory or interim application;
- (c) the disclosure of documents and electronic information in an action in which a party has served a list of documents before the date;
- (d) an examination for discovery agreed to, or for which a notice of examination is issued, before the date;
- (e) answers to interrogatories delivered before the date;
- (f) a reference made before the date;
- (g) the assignment of trial dates, delivery of an expert's report, and discovery in a divorce proceeding in which a party files a request for trial date and certificate of readiness before the date, and in an action in which a party files a notice of trial before the date;
- (h) default judgment, including for foreclosure, sale, and possession, on a claim made in an action started before that date;
- (i) all steps in an undefended or uncontested divorce proceeding.

### **Notice in an outstanding action**

**92.05 (1)** The *Nova Scotia Civil Procedure Rules* (1972), rather than Rule 31 - Notice, apply to both of the following in a family proceeding started before June 30, 2010, or an action started before January 1, 2009:

- (a) giving notice of the action to a person after the date;
  - (b) a motion for a default judgment made after the date.
- (2)** An address for service given before June 30, 2010 in a family proceeding, or January 1, 2009 in any other proceeding, is treated as a designated address under these Rules.

- (3) A party to a family proceeding started before June 30, 2010, or an action started before January 1, 2009, who has not stated an address for service, or who has ceased to be assured of receiving a document delivered to the address for service, must designate an address for delivery.

**Actions under \$100,000**

**92.06** Rule 57 - Action for Damages Under \$100,000 does not apply to an action started before January 1, 2009, but a motion may be made under Rule 58 - Action for Claim Valued Under \$100,000.

**Registry number on headings**

**92.07** The prothonotary at Halifax may direct that the registry number in the heading of each proceeding be changed to show the new registry codes in Rule 32 - Place of Proceeding.

**Directions to apply present or former Rules**

- 92.08 (1)** A judge who presides at a trial or hearing of a family proceeding started before June 30, 2010 may direct which of these Rules and which of the Rules in the *Nova Scotia Civil Procedure Rules* (1972) apply to the trial or hearing.
- (2) A judge who is satisfied that the application of this Rule 92 to a family proceeding started before June 30, 2010, or any other proceeding started before January 1, 2009, causes one party to gain an unfair advantage over another party may order either of the following:
- (a) these Rules apply to the proceeding, or a part of the proceeding, despite Rules 92.02(2), 92.04, and 92.05(1);
  - (b) the *Nova Scotia Civil Procedure Rules* (1972) apply to the proceeding, or a part of the proceeding, despite Rule 92.02(1).