



COVID-19: FREQUENTLY ASKED QUESTIONS RE: MATTERS IN THE SUPREME COURT (GENERAL DIVISION)

Wednesday, April 1, 2020

The COVID-19 global pandemic has placed all of us in an unprecedented situation. Organizations and institutions around the world, including the courts, are attempting to deal with this crisis in the best and safest manner possible.

Members of the Nova Scotia Judiciary have met with public health officials, including Nova Scotia's Chief Medical Officer of Health. The Supreme Court's decision to adopt an essential services model was based on the advice of these experts.

We appreciate the difficulties such a model presents; however, the safety of those who work in and appear before the Courts must govern how we function during this crisis. We are attempting to balance the need for the Courts to remain open, with the need to ensure that the public and our staff are safe. It can be a delicate and difficult balancing act sometimes. We ask that you please keep this in mind in the weeks ahead.

This document should be read in conjunction with the various directives issued by the Supreme Court in relation to COVID-19, all of which can be found on the Courts' website at https://www.courts.ns.ca/News_of_Courts/COVID19_Preventative_Measures.htm.

This is a difficult and uncertain time for everyone. We know that many of you have questions and we have endeavoured to answer some of those below. We will update this document regularly as more questions come in.

In the meantime, we ask for your patience and cooperation as we work through these new processes.

Thank you.

Deborah K. Smith
Chief Justice of the Nova Scotia Supreme Court

Q/ Why has the Supreme Court adopted an essential services model?

The Chief Justices and the Chief Judge met with Dr. Robert Strang and representatives of the Nova Scotia Department of Justice, including Court Services staff, on March 18, 2020. During that meeting, we were advised that courthouse staffing levels had to be reduced to an absolute minimum. Staffing the front desks to accept and process court documents, as well as having judicial assistants and other staff members physically in the building to support judges and record court proceedings was putting them — and the public — at risk. With that in mind, the Court decided to adopt an essential services model, which enables the Court to continue operating with significantly reduced staff.

Q/ What does an essential services model mean?

An essential services model means that, until further notice, the Supreme Court will only be dealing with and accepting documents in relation to urgent or essential matters, as determined by a judge. For those matters that are deemed urgent or essential, judges will consider whether alternative measures, such as telephone or videoconferencing, may be used to hear those matters.

It also means that court documents related to matters not proceeding in the immediate future should not be filed until the Court has resumed normal operations. This will help reduce the number of new filings at courthouses, so staff can focus on processing documents related to the urgent and essential matters that are proceeding.

Q/ What does urgent or essential mean?

Individual judges will make their own determination of what is urgent or essential, based on the facts before them. Generally, urgent could mean an emergency or a situation that requires immediate action or attention, while essential would be defined as absolutely necessary, such as documents that need to be filed to preserve a limitation period. If you are unsure whether something might be considered urgent or essential, you should contact the Court for further directions.

Q/ Why can't the Court accept non-essential documents during the pandemic?

Documents filed with the Court must be processed. That requires staff to work in-person at the courthouses. The advice we have received from public health officials is that courthouse staffing levels should be reduced to an absolute minimum while the situation with the COVID-19 pandemic continues. Reducing the number of documents filed with the Court ensures staff can focus on processing documents related to the urgent and essential matters that are proceeding.

Q/ Can someone file court documents to preserve a limitation period?

Yes, documents that need to be filed to preserve a limitation period will be considered urgent or essential. Please indicate in your covering letter to the Court that you are filing your documents to preserve a limitation period.

Q/ How can lawyers communicate with the Court if there are urgent or essential matters to be dealt with?

Any documents related to urgent or essential matters in the Supreme Court should be submitted by email or fax, as per the Court's directive of March 26. That directive is available online at https://www.courts.ns.ca/News_of_Courts/documents/NSSC_E-Filing_NR_03_26_20.pdf. A link to the list of email addresses and fax numbers for the Supreme Courts is included in that directive. If someone does not have access to a computer or fax machine, they should call the Court for further directions.

Q/ Could the Court be hearing more matters with the help of technology?

Judges in the Supreme Court are already using telephone and videoconferencing to hear the urgent and essential matters that are proceeding. However, it may not be appropriate to use technology in all instances. Court proceedings are not like office meetings. We need to ensure we have an appropriate level of security; a proper and reliable court record, in those situations where a record is required; and a system that does not require in-person staff involvement, to help keep staffing levels at a minimum. The Court is exploring what options may exist that meet these requirements and we will keep you advised of any developments in this regard.

Q/ Can we do Date Assignment Conferences during the pandemic?

A decision has been made not to schedule any new matters until further notice, to help deal with the *Jordan* issues we are expecting once this crisis is over. For now, we need to leave trial dates open to allow some flexibility to schedule urgent criminal matters that will need to be heard once the Courts resume normal operations. Accordingly, the Court will not be proceeding with Date Assignment Conferences at this time.

Q/ When will the courts resume normal operations?

Our goal is for the Courts to return to normal operations as soon as possible. However, we are relying on the advice of public health officials on when it may be safe to do so. These preventative measures will remain in place until we are confident the health risks to those working in and appearing before the Courts is significantly reduced.

Q/ When can we expect further updates?

Further updates will be communicated publicly as new directives are finalized. All public notices from the Nova Scotia Courts will be posted on the Courts' website at https://www.courts.ns.ca/News_of_Courts/COVID19_Preventative_Measures.htm.