



HINTS & TIPS FROM *the* PROTHONOTARY

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SUPREME COURT - CIVIL PROCEDURE RULE AMENDMENTS

The judges of the Supreme Court approved amendments to the *Civil Procedure Rules* on December 13, 2024, which took effect on January 29, 2025 (the date they were published in the Royal Gazette).

These amendments are considered 'housekeeping amendments' as they are not hugely substantive but rather aim to clean up certain Rules to account for legislative changes, or to tighten up or clarify processes.

The amendments can be reviewed on the amendments section of Courts' *Civil Procedure Rule* website [here](#). At the time of posting these Hints & Tips, they have not yet been incorporated into the official consolidated version of the Rules on the Courts of Nova Scotia website.

Here is a summary of the amendments from the Prothonotary's perspective:

1) Rule 71.05 – ACDMA

Rule 71.05(3) has been removed entirely. It said the following: An application for an order

under the *Adult Capacity and Decision-making Act* (ACDMA) must also be supported by affidavits of two medical practitioners giving evidence of the present state of health of the person alleged to be incapable of managing their affairs.

That Rule was a holdover of the old *Incompetent Persons Act* and had not been removed when the legislation was repealed and the ACDMA came into force. The ACDMA has its own requirements setting out the supporting evidence required. This Rule change does not alter any of the requirements in the ACDMA.

2) Rule 18.10(2) – Discovery subpoena on application

A new subrule has been added to the Rule on obtaining a discovery subpoena in an application. A party must obtain an order from a judge permitting a subpoena to be issued in an application; Rule 18.10(2) states what the judge may order. New subrule 18.10(2)(b) has been added to indicate that a judge may include in the order “a timeline for delivery of notice to the witness of the day the discovery is to be held”.

3) Rule 36.07(3) – Timing of Filing the Litigation Guardian’s Statement

Wording has been added to the existing Rule 36.07(3) to clarify that the litigation guardian’s statement must be filed at the same time the notice of action is filed, unless otherwise ordered by a judge.

4) Rule 79.05(5) & 79.22(4) – Extending an expired execution order

The Rules around renewal and expiry of execution orders have been clarified. Previously, parties would apply for a fresh execution order if they had not made a motion to extend the existing execution order before it expired. Now, new subrule 79.22(4) specifically allows a judge to extend an expired execution order. The party must make a motion to a judge for this relief, and it may be done *ex parte*.

This change helps streamline the enforcement process, reduces mandatory costs associated with obtaining a fresh execution order, and reduces unnecessary administrative work on the Sheriffs’ side.

5) Rule 78.08 – Amending / Correcting Orders

A new rule has been added to the ‘slip’ rule on amending or correcting an existing order. New subrule 78.08(2) requires that the motion to amend an order must be brought before the judge who granted the order, unless a judge directs otherwise.

6) Rule 77 – Tariffs C & E

The language in Tariffs C and E has been updated to reflect that this applies to applications and motions. This change reflects what has been happening in practice.

7) Practice Memorandum No. 4 – Courtroom Attire

Wording has been added to this Practice Memorandum to clarify that robing is required at the hearing of a contested application in an estate matter.

BOTH COURTS

Free Legal Clinic at the Law Courts

The Law Courts in Halifax continues to be home to the Free Legal Clinic. The Clinic is located on the 2nd floor of the Law Courts, and is held every Thursday from 9 am to 1 pm in two simultaneous 1 hour sessions held by volunteer lawyers.

If you are interested in providing pro bono legal services for the Free Legal Clinic in Halifax, please contact the Executive Office of the Nova Scotia Judiciary at 902-424-6840. The Free Legal Clinic is currently in need of volunteer lawyers.

The Clinic is intended for self-represented litigants with limited to little experience in the court system. The Clinic provides service for civil matters at the Supreme Court (General Division) and at Court of Appeal, including family law appeals but excluding child protection appeals. It will not provide service on any criminal matters in either court.

If you have any litigants in mind that you believe might benefit from this service, kindly refer them to the Court Administration office at the Law Courts. Litigants may initiate the sign up process by telephone at 424-6840 or by email at HFXfreelegalclinic@ns.courts.ca . For more information, go to the Courts website:

<https://courts.ns.ca/resources/public/free-legal-clinics>.

Liaison Committees

Both the Court of Appeal and the Supreme Court have Liaison Committees that are composed of members of both the Bar and Bench. These Committees sit approximately twice a year. Counsel are reminded that they are invited to bring forward items they would like raised at Liaison Committee meetings to Bar members of the relevant committees. Current information on committee membership may be obtained from the Nova Scotia Barristers' Society.