

NOVA SCOTIA COURT OF APPEAL

Amendments to Civil Procedure Rule 90

September 30, 2024

1. **Rule 90.09** is amended by adding immediately after Rule 90.09(3):

“ (4) An appeal from an interim or costs order made under the *Divorce Act* requires leave to appeal and must be filed as a notice of application for leave to appeal and notice of appeal (interlocutory) in accordance with Rules 90.09 or 90.10, although the deadline to start the appeal is governed by the *Divorce Act* as set out in Rule 90.13(3).”

2. **Rule 90.13(3)** is amended by replacing the chart with:

<i>Kind of Order</i>	<i>Number of Days After</i>
under <i>Divorce Act</i> , including an interim or costs order	30 days, within the meaning of <i>Divorce Act</i>
under <i>Workers' Compensation Act</i>	30 days, within the meaning of Rule 94
interlocutory or costs only order of judge or court	10 days, within the meaning of Rule 94
other order of judge or court	25 days, within the meaning of Rule 94
order of tribunal	25 days, within the meaning of Rule 94

3. **Rule 90.19(4)** is amended to read:

“(4) The notice of motion for leave to intervene must be filed either before the motion for date and directions or, with leave of a judge, thereafter.”

4. **Rule 90.25(2)** is amended to replace the wording preceding the table with:

“(2) The motion to set the time and date and for directions must be scheduled by the appellant and heard no more than the number of days in the following table after filing the kind of notice of appeal stated in the table:”

5. **Rule 90.29** is amended by adding after Rule 90.29(5):

“(6) A party may request that a transcript of the proceedings be prepared by a transcriptionist outside of Nova Scotia. Upon being satisfied that the proposed transcriptionist holds a certification in a Canadian jurisdiction equivalent to a certified court transcriber or court reporter, the Registrar may grant permission for their preparation of the transcript.”

6. **Rule 90.35** is amended by adding, immediately after Rule 90.35(5):

“(6) The Registrar may, upon a motion or request made in writing by a party, extend a deadline for filing that was previously ordered or directed by a judge provided that:

- (a) all other parties entitled to notice consent to the extension, and
- (b) the extended deadline does not fall within 30 calendar days of the appeal hearing.”

7. **Rule 90.36(3)** is amended to read:

“(3) A person who intends to make a motion to the Court of Appeal must first make a motion for a date and directions to a judge in accordance with Rule 90.25. At the hearing of the motion for date and directions, the judge may, respecting the motion to the Court, assign dates for the filing of affidavits, written submissions, providing confirmation of whether cross-examination on affidavits will be sought and such further direction as may be required.”

8. **Rule 90.37** is amended by adding immediately after Rule 90.37(6):

“ (6.1) A party who intends to cross-examine an affiant must, no later than one clear day before the hearing, notify in writing each other party and the Registrar of their intent to do so.”

9. **Rule 90.38(4)** is amended by adding “by correspondence” after “notice of motion”.

10. **Rule 90.38(10)** is amended by replacing “leave to appeal” by “leave to review”.

11. **Rule 90.41** is amended by replacing Rule 90.41(2) with:

“ (2) A judge of the Court of Appeal on motion of a party to an appeal may:

- (a) grant an interim stay on such terms as may be just, until the completion of the hearing of the motion for a stay;
- (b) upon completion of the hearing of a motion for a stay, order stayed the execution and enforcement of any judgment appealed from or grant such other relief against such a judgment or order, on such terms as may be just, pending the disposition of the appeal.”

12. **Rule 90.41(2)** is amended by adding, immediately after Rule 90.41(2):

“ (2A) If a date and time for the appeal hearing has not yet been set, a party making a motion for stay of execution pending appeal must also make a motion for date and directions in accordance with Rule 90.25, to be heard at the same time as the motion for stay of execution pending appeal, unless a judge orders otherwise.”

13. **Rule 90.50A** is added immediately after Rule 90.50:

“Certified copy of Order

90.50A(1) The Registrar may provide a certified copy, in electronic format, of an order issued by a judge or the court.

(2) A party may request the Registrar to provide a paper copy of an order.”

14. **Form 90.26 – Certificate of Readiness** – is amended by deleting the words “(to be faxed or sent to the Registrar no less than five days prior to the Chambers application for setting dates for the hearing of the appeal.)” that appear immediately under the title “Certificate of Readiness”.

Michael J. Wood, C.J.N.S.

Joel E. Fichaud, J.A.

David P.S. Farrar, J.A.

Peter M.S. Bryson, J.A.

J.E. (Ted) Scanlan, J.A.

Cindy A. Bourgeois, J.A.

Elizabeth Van den Eynden, J.A.

Anne S. Derrick, J.A.

Carole A. Beaton, J.A.

Robin C. Gogan, J.A.