

Nova Scotia Civil Procedure Rules
Amendment (Rule 7)
May 26, 2022

The following Rules and Forms are amended as follows:

1. The phrase “may require” in Rule 7.12(1) is replaced with “whose liberty is being deprived may request”.
2. The word “detention” after the phrase “review the legality of the” in Rule 7.12(1) is replaced with “deprivation of liberty”.
3. The word “detention” is replaced with “deprivation of liberty” in the following Rules: 7.12(3), 7.12(4)(f), 7.14, 7.16, and 7.17(1)(a).
4. The word “detention” is replaced with “a deprivation of liberty” in the following Rules: 7.12(6) and 7.12(7).
5. Rule 7.12(4)(d) is deleted and Rule 7.12(4)(e) to (g) are re-lettered (d) to (f).
6. Rule 7.12(4)(b) to (f) are re-lettered (c) to (g) and Rule 7.12(4)(b) is added:

(b) a description of how the applicant’s liberty is being deprived;
7. Rule 7.12(4)(c) is replaced with the following:

(c) the name of the official that notified the applicant of the deprivation of liberty;
8. The following new Rule 7.12A is added after Rule 7.12:

7.12A Notice of contest

- (1) Upon receipt of a notice of *habeas corpus* related to a facility, the Attorney General of Nova Scotia and/or the Attorney General of Canada, must, as soon as practicable but no later than two days after receipt, file on behalf of the identified correctional facility a notice of contest:
 - (a) designating the name and job title of the respondents’ document manager and primary witness;

- (b) identifying the name of the individual that notified the applicant of the deprivation of liberty;
- (c) identifying the date and time that the deprivation of liberty began;
- (d) stating the reason provided to the applicant for the deprivation of liberty;
- (e) indicating whether the deprivation of liberty continues or if there have been any changes to the conditions of the deprivation of liberty and the nature of those changes;
- (f) indicating whether there is any present plan for future changes to the conditions of the deprivation of liberty, and the nature of those changes;
- (g) indicating whether there has been any internal appeal or grievance of the deprivation of liberty and if so the status of the appeal or grievance;
- (h) providing a summary of why the deprivation of liberty is lawful and reasonable;
- (i) attaching copies of all relevant documents relating to the deprivation of liberty in the custody, possession or control of the respondents.

(2) A notice of contest may be in Form 7.12A.

- 9. The phrase “time and date and a place” in Rule 7.13(2)(a) is replaced with “time , date, place, and means”.
- 10. The phrase “in person, by video, or by telephone,” is added after the word “judge” in Rule 7.13(2)(b).
- 11. The phrase “time, date, and place” in Rule 7.13(2)(d) is replaced with “time, date, place, and means”.
- 12. The title to Rule 7.14 is changed to “**Directions to determine legality of deprivation of liberty**”.
- 13. In Rule 7.14 the phrase “giving directions as a result of an order for *habeas corpus*” is removed.

14. The word “detention” in Rule 7.14(a) is replaced with “deprivation of liberty and whether the hearing shall be held in person, by video conference, by telephone or by some combination of these means”.
15. After the word “hearing” in Rule 7.14(b) the phrase “in person, by video conference or by telephone” is added.
16. Form 7.12 “Notice for *Habeas Corpus*” is replaced with the attached Form 7.12.
17. The attached new Form 7.12A is added “Notice of Contest (*Habeas Corpus*)”.

Certificate

I, Deborah K. Smith, Chief Justice of the Supreme Court of Nova Scotia, certify that on May 26, 2022 a majority of the judges of the court made the foregoing amendments to the *Nova Scotia Civil Procedure Rules*.

Signed June 27, 2022

**Original Signed by
Deborah K. Smith, C.J.**

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

Form 7.12

20

No.

Supreme Court of Nova Scotia

Between:

Name:

Applicant

and

Select:

Attorney General of Nova Scotia

and/or

Attorney General of Canada

Respondent(s)

Notice for *Habeas Corpus*

Habeas Corpus is available to challenge an unlawful deprivation of liberty. A deprivation of liberty can include an initial deprivation of liberty, a substantial change in conditions amounting to a further deprivation of liberty, or a continuation of the deprivation of liberty.

To be successful, you, the applicant for *habeas corpus*, must satisfy the following criteria. First, you must establish that you have been deprived of liberty. Once a deprivation of liberty is proven, you must raise a legitimate ground upon which to question its legality.

Complete the following information in as much detail as possible. Use additional blank pages if necessary. You will be asked to affirm under oath the truth of the contents of this form by the court.

What is the name and location of the facility at which you are detained?

[example: "Central Nova Scotia Correctional Facility, Dartmouth"; "Springhill Institution, Springhill"]:

What is the name of the official that notified you of the deprivation of liberty?

What date and time did your deprivation of liberty start?

What reason were you given as to why your liberty is being deprived?

Does your deprivation of liberty continue today?

YES NO

If yes, has there been any change to the terms of your deprivation of liberty between the start and the present time?

YES NO

If yes, what are those changes?

Were you given reasons as to why you continue to have your liberty deprived?

YES NO

If yes, when, how and by whom were those reasons communicated to you?

What were those reasons?

Have you been informed of any present plan for future changes to the conditions of your deprivation of liberty?

YES NO

If yes, what are those future changes and when are they scheduled to take effect?

Have you been provided with any documents that relate to the deprivation of liberty?

YES NO

If yes, when, how and by whom were those documents provided to you?

What were those documents?

Have you filed any internal grievance or appeal in respect of the deprivation of liberty?

- YES NO

If yes, what is the status of the internal appeal or grievance?

Please provide any additional reasons for your application that have not been considered by the questions above:

Grounds for review

Why do you say that the deprivation of liberty is unlawful?

- The decision did not conform with the requirements of the governing legislation or regulations.

In what way?

- The decision was unreasonable because it was made without evidence, or the evidence was unreliable or irrelevant or cannot support the decision.

Explain why?

- The decision was procedurally unfair.

Why?

- Is there any other reason that the deprivation of liberty is unlawful?

Explain.

Remedy sought

What remedy are you seeking / what do you want the court to do?

Notice to facility and Attorney General

At the time of submitting this notice with the Court, you must provide the complete notice to the warden or superintendent of the facility. You hereby confirm that this completed notice was provided on the date below.

Contacting applicant

The prothonotary (court officer) has contact information for you. The authority or persons depriving the applicant's liberty may be contacted at the place of detention, and through other addresses, telephone numbers, fax numbers, email addresses given to the prothonotary.

Signature

Signed

, 20

Signature of applicant
Print name:

[or]

Signature of counsel
[name] as counsel
for applicant [name]

[or]

Signature of agent approved by judge
[name] as approved agent for [name]

Prothonotary's certificate

I certify that this notice for *habeas corpus* was filed with the court on , 20 .

Prothonotary

Supreme Court of Nova Scotia

Between:

Name:

Applicant

and

Select:

Attorney General of Nova Scotia

and/or

Attorney General of Canada

Respondent(s)

Notice of Contest (*Habeas Corpus*)

[This Notice is required to be filed by the Respondents as soon as practicable but no later than two days after receipt of the filed Notice of Habeas Corpus]

The Respondents contest the applicant's Notice of *Habeas Corpus* and claim of entitlement to relief.

The Respondents designate the following person as their document manager and primary witness for the purpose of any hearing:

Name:

Job Title:

The Respondents answer the questions in the application as follows *[the primary witness for the Respondents will be asked to affirm under oath the truth of the answers]* :

Was the applicant's liberty deprived?

YES

NO

What is the name of the official that notified the applicant of their deprivation of liberty?

What date and time did the deprivation of liberty start?

What reason was given to the applicant for their deprivation of liberty?

When, how and by whom were those reasons communicated?

Does the deprivation of liberty continue?

YES NO

If yes, has there been any change to the terms of deprivation of liberty between its commencement and the present time?

YES NO

If yes, what are those changes?

If yes, was the applicant given reasons as to why the deprivation of liberty changed?

YES NO

If yes, when, how and by whom were those reasons communicated?

What were those reasons?

Is there any plan for future changes to the terms of the deprivation of liberty?

YES NO

If yes, what are those future changes and when are they scheduled to take effect?

Has the applicant been provided with any documents that relate to the deprivation of liberty?

YES NO

If yes, when, how and by whom were those documents provided?

What were those documents?

Has there been any internal appeal or grievance filed in respect of the deprivation of liberty?

YES NO

If yes, what is the status of the internal appeal or grievance?

The Respondent(s) say(s) that the applicant's deprivation of liberty is lawful, reasonable and that the applicant was afforded a fair procedural process for the following reasons:

1

2

3

The Respondent(s) attach(es) a copy of all relevant documents relating to the detention of the applicant in their custody possession and control.

Signature

Signed

, 20

Counsel for Respondent(s)