

Nova Scotia Civil Procedure Rules
Amendment
June 24, 2016

The following Rules and Forms are amended as follows:

1. The phrase and comma “the party expeditiously brought a proceeding asserting these rights,” are added after the comma following the word “trial” in Rule 6.02(3)(a).

2. Rule 7.12(6) is changed to read as follows:

A notice for *habeas corpus* to review detention in a provincial correctional facility or a federal penitentiary in Nova Scotia must be filed at the office of the prothonotary in the district in which the facility or penitentiary is situate, unless a judge permits otherwise.

3. The following Rule 7.12(7) is added to Rule 7.12:

A prothonotary must not refuse to file or act on a document purporting to seek review by way of *habeas corpus* unless a judge concurs in writing, but a prothonotary in one district who receives a notice for *habeas corpus* to review detention in a provincial correctional facility or a federal penitentiary located in another district in Nova Scotia may deliver the notice to the office of the prothonotary in that other district, unless a judge directs otherwise.

4. The words and comma “Rule 5.14, of” are removed from Rule 8.01(2).

5. The words of Rule 9.02(5) are replaced with the following:

A notice of discontinuance of an action, or an application, must also state that a counterclaim, crossclaim, or third party claim in a discontinued action, or a respondent’s claim in a discontinued application, is also discontinued unless the party who made the claim files a notice continuing the proceeding for the purpose of the counterclaim, crossclaim, third party claim, or respondent’s claim.

6. The word “or” is removed from each of the three places in which it appears before “third party claim” in Rule 9.03 and the comma and phrase “, or

respondent's claim" are added after "third party claim" in each of the three instances.

7. The word "or" in Rule 9.05(1) is removed and the comma and phrase ", or respondent's claim" are added after "third party claim".
8. The word "or" in Rule 9.05(4) is removed and the comma and phrase ", or respondent's claim" are added after "third party claim".
9. Rule 10.16(1) is changed to read as follows:

The privilege attached to settlement discussions applies to all written and oral communications between a party and the judge who conducts a settlement conference and between the parties themselves in connection with or at the settlement conference.

10. The following Rule 10.16(6) is added to Rule 10.16:

The prothonotary need not keep correspondence to schedule a settlement conference confidential or the fact that the conference is scheduled, unless a confidentiality order under Rule 85 – Access to Court Records provide otherwise.

11. The phrase and colon "if the moving party provides all of the following representations:" are added at the end of Rule 14.12(1), and the following are added after the colon:

- (a) the party is in compliance with Rule 15 – Disclosure of Documents and Rule 16 – Disclosure of Electronic Information;
- (b) the party believes the delivery would promote the just, speedy, and inexpensive resolution of the proceeding, including a concise statement of the grounds for the belief;
- (c) the party will pay the reasonable costs of making the delivery, unless a judge directs otherwise.

12. The words "the original" are replaced with "a certified copy of" in Rule 18.04(6) and Rule 18.06(a).
13. Rules 18.12(2)(b) and (c) are re-lettered (c) and (d) and the following Rule 18.12(2)(b) is added:

the party wishes to start a proceeding on a cause of action that appears to have merit, and discovery is needed to identify a person against whom the proceeding is to be brought;

14. The phrase “is assigned as yet” in Rule 29.01(2) is replaced with “has been assigned”.
15. The words and punctuation “Rule 5.13 of Rule 5 – Application, Rule 22.15 of Rule 22 – General Provisions for Motions, another Rule” are removed from Rule 39.02(2) and are replaced with “these Rules”.
16. The places Baddeck and Liverpool are removed from the table in Rule 49.04(2) along with the corresponding entries under “*Number of Weeks*” and “*Monday*”.
17. The words “or Guysborough” and “or Port Hood” are removed from the table in Rule 49.04(2).
18. The words “and the Municipality of East Hants” are added after “Truro” in the table in Rule 49.04(2).
19. The “Place” name “Windsor or Kentville” in the table in Rule 49.04(2) is removed and the entries for “Number of Weeks” and “Monday” are transferred to the line for Kentville.
20. The words “a certified copy of” are added before “it” in Rule 50.09.
21. The words “sought to be introduced at the trial of an action or hearing of an application in court” are added after the word “opinion” in the first line of Rule 55.01(1).
22. The words “in court” are added after “application” in Rule 55.02.
23. The words “in court” are added after “application” in the first line of Rule 55.03(3).
24. Rules 63.03(2)(b) and 63.03(2)(c) are re-lettered (c) and (d) and the following Rule 63.03(2)(b) is added to Rule 63.03(2):

the copy of the decision under appeal required in the appeal book must be a written decision issued by the trial judge, a written version of an oral decision signed by the trial judge, or a transcript of the decision certified by the trial judge to be accurate;

25. The words “seek the approval of the judge for any transcribed decision or ruling” are removed from Rule 63.05(4)(h) and replaced with “to obtain, for inclusion in the appeal book, a written copy of the decision under appeal issued by the trial judge, signed by the trial judge, or certified by the trial judge to be accurate”.
26. The words “pleadings close” in Rule 83.02(2) are replaced with “when all parties claimed against have filed a notice of defence or a demand of notice”.
27. The following Rule 83.02(3) is added to Rule 83.02:

A pleading respecting an undefended claim in an action may be amended at any time, but the party claimed against is entitled to receive notice of the amended pleading in the manner provided in Rule 31 – Notice for notice of an originating document.

28. The phrase “or an application in court” is added after “action” in Form 9.02 – Notice of Discontinuance, the word “or” is removed from the suggested wording in both places where it appears before “*third party claim*” and the comma and phrase “ , or respondent’s claim” are added in both places after “*third party claim*”.
29. The oblique line and the phrase “/*respondent’s claim*” are added after “*third party claim*” in the first suggested words of Form 9.05A – Notice of Withdrawal.
30. The words “in chambers” are removed from the first paragraph of Form 5.10 – Notice of Respondent’s Claim.
31. The following paragraph is added after the paragraph titled **Transcript** in Form 63.05:

Undertaking for Decision Approved by Trial Judge

The appellant undertakes to obtain, for inclusion in the appeal book, a copy of a written decision issued by the trial judge, a written version of an oral decision signed by the trial judge, or a transcript of the decision certified by the trial judge to be accurate.

32. Paragraph 20 is added to Form 79.17A – Execution Order as follows:

Date of Judgment

20 The judgment that this execution order enforces was issued on
 , 20 .

33. The following corrections are made to the following forms:

Form	To Be Corrected	Correction
31.05	Sworn to/Affirmed	[<i>Sworn to/Affirmed</i>]
31.05	Authority	authority
31.05	Witness	witness
31.05	Capacity	capacity
39.08	Authority	authority
39.08	Witness	witness
39.08	Capacity	capacity
61.05(b)	Authority	authority
61.05(b)	Declarant	declarant
61.05(b)	Name	name
61.05(b)	Capacity	capacity
65.05	Authority	authority
65.05	Witness	witness
65.05	Capacity	capacity

Certificate

I, Joseph P. Kennedy, Chief Justice of the Supreme Court of Nova Scotia, certify that on June 24, 2016, a majority of the judges of the court made the foregoing amendment to the *Nova Scotia Civil Procedure Rules*.

Signed June 24, 2016

Joseph P. Kennedy
Chief Justice of the Supreme
Court of Nova Scotia