

*Nova Scotia Civil Procedure Rules*

Amendment

February 25, 2011

The following Rules are amended as follows:

1. The words "1 day after affidavit is delivered, except immediately after rebuttal affidavit" in the second column at the sixth line of the chart in Rule 5.06(2) are replaced with "3 days before hearing, except 1 day for rebuttal affidavit".
2. The words "1 day after affidavit is delivered" in the third column at the sixth line of the chart in Rule 5.06(2) are replaced with "5 days before date of hearing".
3. The words "1 day after affidavit is delivered" in the third column at the seventh line of the chart in Rule 23.11(1) are replaced with "3 days before hearing, except 1 day for rebuttal affidavit".
4. The words "3 days after affidavit is delivered, except 24 hours for a rebuttal affidavit" in the fourth column at the seventh line of the chart in Rule 23.11(1) are replaced with "5 days before hearing, except 3 days for rebuttal affidavit".
5. The word "followings" is changed to "following" in Rule 18.17(6).
6. The word "on" in the phrase "on *ex parte* order" in Rule 22.11(5) is changed to "an".
7. The word "**protection**" is added before "**application**" in the subtitle before Rule 60A.40.
8. A comma is added between the words "frivolous" and "vexatious" in Rule 60B.01(7).
9. The lettering (a) through (e) in the definition of "decision" in Rule 63.01 are changed to lower case roman numbers (i) to (v), the semi-colons are changed to commas, and the period is changed to a comma.
10. The period at the end of Rule 63.08(a) is changed to a semi-colon.
11. The words "in court" are added after the first use of the word "application" in Rule 77.06(2).

12. The words and punctuation "a motion or application in chambers," are added after the phrase "Party and party costs of" and a comma is added between "review" and "or" in Rule 77.06(3).
13. The attached Practice Memorandum No. 4 - Courtroom Attire for Counsel is adopted.

### **Certificate**

I, Joseph P. Kennedy, Chief Justice of the Supreme Court of Nova Scotia, certify that on February 25, 2011 a majority of the judges of the court made the foregoing amendments to the *Nova Scotia Civil Procedure Rules* and adopted the attached Practice Memorandum.

Signed February 25, 2011

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

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**Practice Memorandum No. 4**  
**Courtroom Attire for Counsel**

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*Halifax Law Courts*

1. Robing is required at all of the following:
  - (a) an appeal, such as a summary conviction appeal, a small claims court appeal, or a FOIPOP appeal;
  - (b) a judicial review hearing;
  - (c) a civil trial;
  - (d) the hearing of an application in court;
  - (e) a criminal hearing or trial except at Crownside. (Judges will robe for Crownside.)
  
2. Robing is not required, but appropriate business attire is required, at the hearing of any of the following:
  - (a) a motion in chambers;
  - (b) a motion on appearance day;
  - (c) an application in chambers.

*Districts*

1. For civil matters, robing is required and appropriate business attire is required as at Halifax.
  
2. For criminal matters, robing is required as in paragraph 1 (e) without the exception. (Judges will robe for criminal chambers unless it involves only setting of dates or unless there is a different local practice about robing for joint criminal and civil chambers.)

*Family Division in Halifax*

1. Robing is required for the following:
  - (a) divorce trials;
  - (b) trials in which a constructive trust is sought or relief is sought on the basis of unjust enrichment or resulting trust;
  - (c) contested disposition or review hearings under the *Children and Family Services Act*.
2. Robing is not required, but appropriate business attire is required, for all other trials or hearings, including an interim or a variation application under the *Divorce Act*.
3. Counsel who appear at two hearings or trials that have different robing requirements, but that are so closely scheduled that counsel does not have time to change, may robe for both.

*Family Division in Sydney*

1. Robing is required for the following, subject to paragraph 2 (c) below:
    - (a) divorce trials;
    - (b) division of property trials under the *Matrimonial Property Act*, *Pension Benefits Act*, *Pension Benefits Division Act*, or *Teachers Pension Act*;
    - (c) hearings or trials for a constructive trust, or for remedies regarding resulting trust, unjust enrichment, or quantum meruit;
    - (d) a protection hearing, disposition hearing, or review hearing under the *Children and Family Services Act* which has been assigned a special times chambers date or a trial date;
    - (e) hearings or applications under the *Testators Family Maintenance Act*, *Maintenance Enforcement Act*, other Order Enforcement Statutes, *Interjurisdictional Support Orders Act*, *Change of Name Act*, *Partition Act*;
    - (f) trials regarding the interpretation or enforcement of a marriage contract, cohabitation agreement, separation agreement, or a paternity agreement; and;
    - (g) trials on all other matters that are provided under an enactment to be within the jurisdiction of the Family Division.
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2. Robing is not required, but appropriate business attire is required, for the following:
  - (a) interim motions or applications including applications under s. 39 of the *Children and Family Services Act*;
  - (b) variation motions;
  - (c) trials or applications referred to in paragraph 1 that have been scheduled to be heard during regular chambers.