



Practice Direction and Order (COVID-19): Update #2 (April 29, 2020)

[1] This Practice Direction and Order amends the Court’s *Updated Practice Direction and Order (COVID-19)*, dated April 4, 2020 (the “**April 4th Practice Direction and Order**”). Subject to the amendments described below, the April 4th Practice Direction and Order remains in force.

[2] Having regard to developments over the course of the last several weeks, the Court is extending the Suspension Period. The Court is also expanding the range of matters that it is prepared to adjudicate by teleconference, video conference, or in writing during the Suspension Period.

[3] Subject to the exceptions described in paragraph 5 below, the previously announced Suspension Period is extended until May 29, 2020.

[4] Subject to those same exceptions, the following measures will be implemented to allow parties and their legal counsel to ramp up before normal operations resume:

- A. The Court will not hold hearings until June 29, 2020.
- B. Timelines for the filing of documents and the taking of other procedural steps will be extended by 14 days following the end of the Suspension Period, to June 12, 2020. Accordingly, if a party had three days prior to March 16th to take a step, the party will have those same three days plus an additional 14 days after May 29, 2020 to take that step. In this example, the new deadline to file would be June 15, 2020. The timelines for taking subsequent steps would be similarly extended.

[5] All hearings¹ that had previously been scheduled to take place between May 16, 2020 and June 28, 2020 are adjourned *sine die* and all General Sittings in that period are cancelled.

Exception 1: Urgent or exceptional matters: See the April 4th Practice Direction and Order.

Exception 2: Case management hearings: The Court’s Case Management Judges will continue to manage cases, and issue orders and directions, when the Court considers it appropriate to do so. When the Court decides to move forward in this regard, the provisions set forth in the attached Order will apply. For greater certainty, the 14-day period described in paragraph 4 above does not apply to files that are case managed by the Court’s prothonotaries.

¹ This includes hearings that were scheduled to proceed by way of a telephone conference, unless specific arrangements have been made with the Court, as described below.

Exception 3: By request of a party: The Court will endeavour to accommodate any requests for a hearing by telephone or video conference during the Suspension Period. These requests will be assessed on a case-by-case basis and subject to the requirements set forth in the attached Order.

Exception 4: At the Court's initiative: The Court has identified a substantial number of matters that are ready to proceed, or are close to being ready to proceed, subject to ensuring that the documentation required for the hearing is available to the parties and the Court, either in paper or electronically. It will begin reaching out to parties to discuss scheduling those matters, as well as any additional matters that evolve into this category, by video conference or teleconference.

Exception 5: Adjudication in writing: During the Suspension Period, the Court will continue to adjudicate motions in writing made pursuant to Rule 369, applications for Leave to apply for judicial review, and any other matters that the Court is requested to determine in writing, subject to the requirements set forth in the attached Order. The Court encourages parties to consent to proceed in writing with respect to any matter that would have normally be determined in person, by teleconference or videoconference, by sending a request to the Registry using the Court's [E-filing portal](#).

[6] **Consent:** *The consent of all parties is not a pre-condition to the Exceptions above*, except for requests to proceed in writing with respect to (i) a matter that had previously been scheduled to be heard in person, by teleconference or by video conference, and (ii) a matter that had not previously been scheduled, but would ordinarily be adjudicated other than in writing. For all other matters, when one or more of the parties does not consent to advancing, the Court will consider all of the circumstances, including whether there is a true impediment to proceeding by video conference or teleconference, before making a decision as to whether, when and how to proceed.

[7] **Rescheduling:** The rescheduling of matters will take place in the manner described in the April 4th Practice Direction and Order, subject to (i) the amended dates set forth in the Order that is issued jointly with this Practice Direction, and (ii) the Court determining the manner in which the hearing will be held (i.e., in person, by video conference or by teleconference), having regard to all of the circumstances, including the nature of ongoing restrictions in place in the area in question and any representations made by the parties in this regard. Parties will be given a minimum of two weeks' notice, unless the parties consent to an earlier hearing, or the Court determines that the matter needs to be heard on an urgent basis.

[8] **Video conference hearings:** For the time being, video conference hearings will be conducted over Zoom. The Court's approach to such hearings will be explained in a separate document that will be posted on its website and brought to the attention of the bar, the media and the general public. That document will also address the manner in which the Court will work with parties to share electronic versions of documents, to ensure that all parties and the Court have them for hearings taking place by video conference and teleconference.

Ottawa, Ontario, April 29, 2020.

PRESENT: The Honourable Mr. Chief Justice Paul Crampton

WHEREAS the Court issued an Order dated March 17, 2020 establishing an initial Suspension Period from that date through April 17, 2020;

AND WHEREAS the Court issued a further Order dated April 4, 2020 extending the Suspension Period through May 15, 2020;

AND WHEREAS the Court has concluded that the Suspension Period should be further extended through May 29, 2020;

ORDER

THE COURT HEREBY ORDERS THAT:

1. Subject to the exceptions described in paragraphs 6 to 9 below, the Suspension Period is further extended up to and including May 29, 2020.
2. For the duration of the Suspension Period plus 14 days, the running of all timelines under the following instruments is suspended and any fees payable on filing or issuance under item 1 of Tariff A of the *Federal Courts Rules*, or under *Rule 23 of the Federal Courts Citizenship and Refugee Protection Rules*, are waived:
 - Orders and Directions of the Court made prior to March 16, 2020;
 - the *Federal Courts Rules*;
 - the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*;
 - subsection 18.1(2) of the *Federal Courts Act*;
 - subsection 72(2) of the *Immigration and Refugee Protection Act*; and
 - subsection 22.1(2) of the *Citizenship Act*.
3. For greater certainty, the additional 14-day period described above does not apply to proceedings that are case managed by the Court's prothonotaries.
4. Subject to paragraphs 6 to 9 below, all matters previously scheduled to be heard at a special sitting between May 16, 2020 and June 28, 2020 are adjourned *sine die*.

5. All General Sittings previously scheduled to occur in the period May 16, 2020 through June 28, 2020 are cancelled. Parties are responsible for contacting the Court to request that their matters be placed upon a General Sittings list once the Suspension Period is lifted and General Sittings have resumed.
6. Previously scheduled and new matters that the Court considers to be “urgent” or “exceptional” in nature shall be heard by telephone or video conference, unless the Court determines that an in-person hearing is required.
7. The Court’s Case Management Judges will continue to manage cases and issue orders or directions as they consider appropriate. When the Court decides to move forward in this regard, the following provisions shall apply:
 - a. All documents required for a matter to be determined shall be filed electronically, as described in the *Updated Practice Direction (COVID-19)* issued on April 4, 2020, under the heading *Service and Filing of Documents*, or as otherwise directed by the Case Management Judge;
 - b. Such documents shall be made available to all parties in electronic format; and
 - c. Subject to the exercise of discretion by the Case Management Judge, any matters requiring resolution or adjudication shall be determined in writing, by telephone conference or by video conference.
8. Requests for hearings by video conference and teleconference will be assessed on a case by case basis and subject to the following requirements:
 - a. A joint schedule of availability shall be provided; and
 - b. All documents required for the hearing shall be filed electronically, as described at paragraph 7(a) above. Such documents shall be made available to the other party or parties in electronic format. Where paper documents have previously been filed, the party who requested the hearing shall provide electronic versions of those documents to the Court and to all other parties, unless the Court instructs otherwise.
9. During the Suspension Period, the Court will continue to adjudicate matters to be decided based on the written representations of the parties, provided that all documents required for the matter to be determined have been or will be filed electronically, as described in paragraph 7(a) above. However, requests to adjudicate matters based on the written representations of the parties shall be on consent where the request is made with respect to (i) a matter that had previously been scheduled to be heard in person, by teleconference or by video conference, or (ii) a matter that had not previously been scheduled, but would ordinarily be adjudicated other than in writing.
10. Where a hearing has been adjourned as a result of an Order establishing or extending the Suspension Period, parties shall provide the Judicial Administrator with their mutual dates of non-availability up to December 18, 2020. Such dates of non-availability shall

be provided no earlier than May 15, 2020 and no later than the close of business on June 12, 2020. Such dates shall be communicated to the Court by email to HEARINGS-AUDIENCES@FCT-CF.CA. Where a matter has previously been placed in case management, such correspondence shall be addressed to the attention of the Case Management Judge.

11. Except to the extent set forth above, the Order issued by the Court on April 4, 2020 remains in effect. For greater certainty, paragraphs 3-5 of that Order are replaced by paragraphs 6-8 of this Order.

Paul Crampton
Chief Justice