

**Practice Direction (COVID-19): Update #7 (January 18, 2021)**

[paragraph numbering corrected]

The Court's facilities in Ontario and Quebec are being closed until further notice. The Court will continue to conduct its regular operations in those provinces by video conference, teleconference and in writing. In the rest of Canada, the Court's operations will continue as they have been over the last several months, except that drop boxes have been deployed at Registry counters for the filing of paper documents. The Court is also announcing new requirements for the formatting of electronic documents.

- [1] Given the public health measures recently announced in Ontario and Quebec, the Court's facilities in those provinces have been closed to the public until further notice. Persons who are unable to file documents electronically, as described below, may make special arrangements to drop off documents by contacting the Registry at the appropriate number below:
- Toronto: 416-973-3356
 - Ottawa: 613-992-4238
 - Montreal: 514-283-4820
 - Quebec City: 418-648-4920
- [2] The Court will continue to conduct its regular operations in Ontario and Quebec remotely, as explained below. Elsewhere in Canada, the Court's operations will continue as they have been for the last several months, as also explained below. However, to reduce the risks of COVID-19 transmission, Registry counters will no longer accept documents "over the counter" until further notice. Drop boxes have been deployed for that purpose. Nothing in this practice direction is intended to change the existing practice with respect to the designated (national security) proceedings Registry.
- [3] The Court will continue to closely monitor the evolving situation across the country and will provide further updates when appropriate.

In-person Hearings

- [4] The Court will cease holding in-person hearings in Ontario and Quebec until February 12, 2021. Exceptions may be made in exceptional circumstances (to be determined on a case-by-case basis) and for the Court's designated (national security) proceedings.
- [5] The Court will continue to be prepared to hold in-person hearings in other provinces upon request. In deciding whether to do so, it will consider any submissions that may be made

by the parties, the latest recommendations by local public health authorities and the availability of the Court's judicial officers and staff.

- [6] Subject to paragraphs 4 and 5 above, the Court will continue to schedule all *applications for judicial review* as well as *all general sittings* to be heard by video conference (or exceptionally by teleconference).
- [7] For general sittings, requests for an in-person hearing should be made by submitting a letter under Rule 35(2) of the *Federal Courts Rules* to the Registry: see e-mail addresses in [Appendix](#). For applications for judicial review scheduled as a special sitting, the requests should be sent by e-mail to the Registry within 14 days of the date of the scheduling Order or Direction. In-person hearings may be scheduled to take place at a later date than the initially scheduled video conference hearing.

Proceedings by Video Conference, Teleconference and in Writing

- [8] Video conference hearings will continue to be conducted over Zoom. The Court's approach to such hearings is explained [here](#).
- [9] The Court will require electronic copies of all documents that are required for any telephone or video conference hearing, or for the adjudication of any matter in writing. When electronic documents are filed, parties will be exempted from the requirement to file paper copies of those documents. An exception to the requirement to file documents electronically may be made where a party is unable to file documents in that manner. Where documents have previously been filed in paper only, electronic copies of those documents may be required to be filed at least 10 days prior to the hearing.

Electronic Filing

- [10] Electronic documents should be filed by e-mail (maximum attachment size of 18 MB)¹ at one of the addresses set forth in the [Appendix](#). Parties are also encouraged to file large documents via SharePoint – where they wish to do so, they shall contact the Registry. For more information regarding electronic filing, please consult the Federal Court's [Notice to the Profession](#) and [Annex](#) thereto.

- A. **Page numbering and pinpoints**: Electronic files should display page numbers on each page in the file, consecutively numbered. Pinpoint references to those page numbers shall be provided when referring to such materials in written submissions.

¹ **Note:** The maximum e-mail size is 25 MB. However, attachment of a PDF document to an e-mail increases the effective size of the PDF document by approximately 30 %. Larger PDF documents (i.e., over 18 MB) must be split into smaller parts before sending. Please consult sections 3.2.1.1 and 6.8 of the E-filing Guide for information on reducing the size of PDF documents: <https://www.fct-cf.gc.ca/content/assets/pdf/base/E-filing-Guide-May-7-2020-Final-EN.pdf>

- B. Bookmarks: Bookmarks shall be included in all electronic files that contain more than one document. Each such document, and each appendix, exhibit or schedule shall be separately bookmarked.
- C. Optical Character Recognition (OCR): Before filing electronic documents that include scanned content or images, parties shall process the document with an OCR application – this allows other parties and the Court to search the document using key word searches. If possible, documents should be converted directly from digital format to PDF, rather than being printed and then scanned to PDF. However, if a document is scanned, the OCR process should be completed before submitting the document to the Court.
- D. Confidential Documents: Confidential materials filed pursuant to a confidentiality order or direction should be filed in a manner that preserves the confidentiality of the document. One acceptable procedure is to submit a password-protected PDF or a secure electronic file transfer to the appropriate e-mail address set forth in the [Appendix](#), and provide the password or instructions to the Registry by email or telephone as appropriate. Such documents must be clearly identified as confidential and broken down into documents not exceeding 18 MB, or by such other means as may be directed by the Court. Paper copies of confidential documents may be filed at the Registry.
- E. Inability to Submit Documents Electronically: Persons in Ontario and Quebec who are unable to submit electronic documents are referred to paragraph 1 above. Persons elsewhere in Canada may submit hard copies of documents at drop boxes that have been placed at each of the Court’s facilities (see paragraph 2 above).

Service of Documents between Parties

[11] A party may serve a document electronically pursuant to the following [Federal Courts Rules](#): Rules 139(1)(e), 141, 143, and 146(1) and forms 141A (Notice of Consent to Electronic Service), 141B (Withdrawal of Consent to Electronic Service), and form 146A (Affidavit of Service).

- A. Deemed consent: Parties shall provide an electronic address on each document filed with the Court. Exceptions will be made for self-represented parties who do not have access to the necessary technology to receive / send documents electronically. If a party has provided an electronic address on a document filed in Court, or if counsel for a party has an electronic address publicly listed by the counsel’s law society, that party shall be deemed, until further notice, to have consented pursuant to Rule 141 to electronic service of documents at that electronic address. Pursuant to Rule 148, on informal request by a party who did not have notice of a served document or did not obtain notice of it at the time of service, the Court may set aside the consequences of default or grant an extension of time or an adjournment.

- B. Originating documents: Personal service of an originating document filed electronically by a party other than the Crown in proceedings brought under the *Immigration and Refugee Protection Act* or the *Citizenship Act* shall be effected by the Registry on the Crown, the Attorney General of Canada or any other Minister of the Crown in accordance with the practice under Rule 133 of the *Federal Courts Rules*. Service effected in this fashion will relieve an applicant from the requirement to effect personal service.
- C. Until further notice, the Registry may issue an originating document electronically. This shall be deemed to meet the requirements for issuance under the *Rules*.
- D. Where service of a document that is required to be served personally cannot practicably be effected, parties may apply informally by letter (sent electronically) for an order for substituted service (Rule 136) or to validate service (Rule 147).

Safeguards at the Court's facilities

- [12] The Courts Administration Service has posted guides on its website to inform the public regarding the special health and safety measures that have been, or shall be, taken within the Court's facilities: one dealing with [general matters](#) and another on [security screening](#).
- [13] The special measures applicable within the courtroom are available [here](#).

Public and Media Access to Documents and Hearings

- [14] Members of the media and general public seeking access to documents on the Court record may request electronic copies of non-confidential documents. Requests for documents may be made at the following e-mail address: FC_Reception_CF@cas-satj.gc.ca. However, due to limited staff on-site, only the following may be available:
 - A. documents that have been submitted to the Court electronically by the parties, and
 - B. documents that have previously been scanned to the record by the Registry.
- [15] Members of the public, including the media, may consult the Calendar of Hearings on the Court's website (<https://www.fct-cf.gc.ca/en/court-files-and-decisions/hearings-calendar>) to find out which matters are to be heard. Where the matter proceeds remotely, arrangements may be made to allow for attendance of members of the public and the media provided that an advance notice of two business days is given. Such notice must be provided by email to HEARINGS-AUDIENCES@FCT-CF.CA.
- [16] Parties are encouraged to follow the Court on Twitter (@FedCourt_CAN_en) and to regularly visit the Court's website (www.fct-cf.gc.ca) for updates and for information regarding changes in the scope of the Court's operations.

Fees

- [17] Any fees payable shall be paid by phone using a valid VISA, MasterCard or American Express credit card: Find a local phone number - [Telephone List](#). An exception will be made for self-represented litigants who do not have a credit card. In such circumstances, any applicable fees may be paid after registry operations return to normal. In the meantime, the Registry will accept the documents for filing.

Gowning

- [18] The requirement to gown for an appearance in Federal Court is suspended for all hearings that proceed by video conference. Counsel and parties are expected to dress in appropriate business attire. Judges and prothonotaries will similarly dress in business attire. Gowning for in-person hearings remains subject to the [February 6, 2017 Notice](#).

Commissioning of Affidavits

- [19] As with the first wave of the COVID-19 pandemic, the Court will make special accommodation for the commissioning of affidavits in circumstances where it is not possible or is medically unsafe for the deponent to physically attend before a commissioner. Examples might include deponents who are required to self-quarantine, others who are unable to leave their residences, and those who are not permitted to receive visitors. Many provinces and Superior Courts have adopted and published accommodations and mechanisms for remote commissioning, swearing or affirming affidavits to be used in proceedings during the pandemic.
- [20] Pursuant to s. 53(2) of the *Federal Courts Act*, and subject always to the discretion of the Court to apply the best evidence requirements, affidavits sworn or affirmed remotely using modes deemed acceptable in any Superior Court of any province will be accepted for filing until further notice. For greater certainty, all affidavits must be sworn or affirmed. A scanned version of an affidavit may be accepted for filing, provided that the original version is filed with the Court if specifically ordered or directed by the Court.

Flexibility

- [21] The Court is committed to being as flexible as reasonably possible in assisting the public to deal with this situation and the consequences that it may be having for their professional and personal lives.
- [22] This practice direction supersedes all prior COVID-19 practice directions.

APPENDIX

Parties can file documents by e-mail* by writing to the local Registry office:

- Vancouver and Yukon: VAN_reception@fct-cf.ca
- Calgary: CAL_reception@fct-cf.ca
- Edmonton and Northwest Territories: EDM_reception@fct-cf.ca
- Winnipeg, Regina and Saskatoon: WPG_reception@fct-cf.ca
- Toronto: TOR_reception@fct-cf.ca
- Ottawa: fc_reception_cf@cas-satj.gc.ca
- Montreal and Nunavut: MTL_reception@fct-cf.ca
- Quebec: QUE_reception@fct-cf.ca
- Halifax: HFX_reception@fct-cf.ca
- Charlottetown: CHA_reception@fct-cf.ca
- Fredericton: FRE_reception@fct-cf.ca
- Newfoundland and Labrador: STJ_reception@fct-cf.ca

* **Note:** The maximum e-mail size is 25 MB. However, attachment of a PDF document to an e-mail increases the effective size of the PDF document by approximately 30 %. Larger PDF documents (i.e., over 18 MB) must be split into smaller parts before sending. Please consult sections 3.2.1.1 and 6.8 of the E-filing Guide for information on reducing the size of PDF documents: <https://www.fct-cf.gc.ca/content/assets/pdf/base/E-filing-Guide-May-7-2020-Final-EN.pdf>