



Practice Direction and Order (COVID-19): Update #4 (June 11, 2020)

- [1] This practice direction and the attached Order amend the following:
- [*Practice Direction and Order \(COVID-19\): Update #3 \(May 29, 2020\)*](#)
 - [*Practice Direction and Order \(COVID-19\): Update #2 \(April 29, 2020\)*](#), and
 - [*Updated Practice Direction and Order \(COVID-19\)*](#), dated April 4, 2020.
- [2] Subject to the amendments described below, the practice directions and Orders listed above remain in force. For convenience, a consolidated version of these documents will be prepared in the coming days.
- [3] The Court considers these amendments to be justified by the evolving health and safety conditions presented by the COVID-19 pandemic. Those conditions differ significantly across the country. In particular, the risks presented by COVID-19 are significantly less in Western Canada and in Atlantic Canada than they are elsewhere. Having regard to the advice of public health authorities, superior trial courts in most provinces have announced plans for a gradual expansion of their operations over the course of the next several weeks. This includes an expanded range of virtual hearings and some in-person hearings.

Western Canada and Atlantic Canada

- [4] The Court will be allowing the Suspension Period described in its May 29th practice direction to expire in the four provinces of Western Canada and the four provinces of Atlantic Canada on June 15, 2020.
- [5] To provide parties and their legal counsel with an opportunity to prepare for hearings after the expiry of the Suspension Period:
- A. The Court will not hold hearings in those provinces before Monday, July 13, 2020; and
 - B. Timelines for the filing of documents and the taking of other procedural steps in proceedings in those provinces will be extended to June 29, 2020.
 - C. For greater certainty, the provisions of this paragraph do not apply to proceedings that are, or will be, moving forward pursuant to one of the five exceptions described in paragraph 5 of the April 29th practice direction.

- [6] The Court continues to encourage parties and counsel to file their documents via the e-filing portal. For those who are unable to avail themselves of the Court's e-filing portal, paper documents may be filed at the Court's Registry counters in Western Canada and Atlantic Canada. Those counters will reopen on June 29, 2020 with reduced staff.
- [7] The lifting of the Suspension Period in these two regions is subject to the following provisos:
- A. Until further notice, the Court will continue to schedule applications for judicial review to be heard by video conference (or exceptionally by teleconference). Requests to have such applications heard in person will be considered and determined after considering recommendations by public health authorities, the availability of court staff and court officers, and any delays that may occur in reconfiguring the Court's facilities to ensure that they are safe for all participants. Such requests should be sent to HEARINGS-AUDIENCES@FCT-CF.CA 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.
 - B. The mode of hearing for other proceedings, including, motions, mediations and actions, will be determined after providing parties and their counsel with an opportunity to make representations in that regard.
 - C. Where one or more counsel or a self-represented party to a proceeding in Western Canada or Atlantic Canada is situated in Ontario, Quebec or in one of the territories, that proceeding will remain subject to the Suspension Period, as described below. Such counsel or party can request that the matter be exempted from the Suspension Period, or that the matter proceed by video conference or teleconference. Such requests should be sent to HEARINGS-AUDIENCES@FCT-CF.CA.
 - D. The measures for electronic filing and service set out in the April 4th practice direction will remain available to parties to proceedings across Canada. The Court encourages parties to avail themselves of those measures, to move their matters forward.
 - E. Proceedings that are in Case Management will continue to be subject to the discretion of the Case Management Judge.

Ontario and Quebec and the Territories

- [8] Subject to the five exceptions described in paragraph 5 of the April 29th practice direction:
- A. The Suspension Period in Ontario, Quebec and the three territories will be extended until June 29, 2020;
 - B. All hearings that had previously been scheduled to take place from July 11 to July 26, 2020 in those regions of the country are adjourned *sine die*, and all General Sittings in that period are cancelled.
- [9] Nevertheless, parties and their counsel are encouraged to avail themselves of the opportunity to move their proceedings forward electronically, and to have their matters determined by video conference, teleconference or in writing, as contemplated by Exceptions 3, 4 and 5 of the April 29th practice direction.
- [10] Subject to the same five exceptions mentioned above, and to provide parties and their legal counsel with an opportunity to prepare for hearings after the expiry of the Suspension Period:
- A. The timelines for the filing of documents and the taking of other procedural steps in Ontario, Quebec and the three territories are extended by 14 days following the end of the Suspension Period, to July 13, 2020; and
 - B. The Court will not schedule hearings to occur until July 27, 2020.
- [11] Given the extension of the Suspension Period in Ontario, Quebec and the three territories, the Court's Registry counters in those regions will remain closed until further notice.

General Sittings

- [12] General Sittings in Western and Atlantic Canada remain cancelled until July 12, 2020. General Sittings in Ontario and Quebec remain cancelled until July 26, 2020. Upon resumption of General Sittings, all motions made returnable will be heard by videoconference or teleconference until further notice. Requests to have such matters heard in person should be made by submitting a letter under Rule 35(2) of the *Federal Courts Rules* to the Registry via the Court's e-filing portal. These requests will be considered and determined after considering recommendations by public health authorities, the availability of court staff and court officers, and any delays that may occur in reconfiguring the Court's facilities to ensure that they are safe for all participants.

Fees

- [13] Pursuant to the April 4th Practice Direction and Order, court fees were waived effective April 6th, 2020. This waiver will expire across Canada on June 29th, 2020. As of June 30th, any fees payable may be paid by phone (Find a local phone number: [Telephone List](#)), using a valid VISA, MasterCard or American Express credit card. In Registry offices that have reopened, they may also be paid in person in the same manner as well as by personal check or money order (made payable to *The Receiver General of Canada*). With respect to fees relating to a proceeding against the Crown, the statutory filing fee (\$2.00) contemplated by section 48 of the *Federal Courts Act* shall be paid before the close of business on July 29, 2020 whether or not the Suspension Period has been lifted.

Ottawa, Ontario, June 11, 2020

PRESENT: The Honourable Mr. Chief Justice Paul Crampton

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

AND WHEREAS the Court issued further Orders dated April 4, 2020, April 29, 2020 and May 29, 2020 extending the Suspension Period through May 15, 2020, May 29, 2020, and June 15, 2020, respectively;

AND WHEREAS the Court has concluded that the Suspension Period should be permitted to expire on June 15, 2020 in Western Canada and in Atlantic Canada;

AND WHEREAS the Court has concluded that the Suspension Period should be further extended through June 29, 2020 in Ontario, Quebec and the three territories;

ORDER

THE COURT HEREBY ORDERS THAT:

Western Canada and Atlantic Canada

1. The Suspension Period will expire at the end of the day on June 15, 2020 in the four provinces of Western Canada and in the four provinces of Atlantic Canada.
2. Timelines for the filing of documents and the taking of other procedural steps in proceedings in those provinces are extended to June 29, 2020. For greater certainty, the provisions of this paragraph do not apply to proceedings that are, or will be, moving forward pursuant to one of the five exceptions described in paragraph 5 of the *Practice Direction and Order (COVID-19): Update #2 (April 29, 2020)*.

Ontario, Quebec and the three territories

3. Subject to the exceptions described in paragraphs 6 to 9 of the Court's Order dated April 29, 2020:

- a. The Suspension Period is further extended through June 29, 2020 in Ontario, Quebec and the three territories; and
 - b. All matters previously scheduled to be heard at a special sitting from July 11, 2020 through July 26, 2020 are adjourned *sine die*.
4. All General Sittings previously scheduled to occur in the period July 11, 2020 to July 26, 2020 are cancelled.

All Provinces and Territories

5. 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. For Western Canada and Atlantic Canada, such dates should be provided no later than June 29, 2020. For Ontario, Quebec and the territories, such dates shall be provided no earlier than June 15, 2020 and no later than the close of business on July 13, 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.
6. Except to the extent set forth above, the Orders issued by the Court on April 4, 2020 and April 29, 2020, and May 29, 2020 remain in effect.
7. The waiver of fees pursuant to paragraph 8 of the Court's Order dated April 4, 2020 will expire on June 29, 2020. With respect to fees relating to a proceeding against the Crown, the statutory filing fee (\$2.00) contemplated by section 48 of the *Federal Courts Act* shall be paid before the close of business on July 29, 2020.

Paul Crampton
Chief Justice