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SUPREME COURT OF PRINCE EDWARD ISLAND
PRACTICE DIRECTIONS

Practice Directions have been issued by the Chief Justices of the Supreme Court and Court of Appeal since the adoption of Rules of Court on January 1, 1977. These have been intended to help guide procedure for the Bench and Bar. Revisions of the Practice Directions were first made by Chief Justice Nicholson in 1985, and have been revised by the Chief Justices and updated as needed over the years.

In 2013, Chief Justice Jenkins and the Court of Appeal issued *Practice Direction regarding Civil Appeals in the Court of Appeal*, which consolidated all directions into a single document, providing guidance and direction for practice and procedure in the Court of Appeal.

In 2025, Chief Justice Clements issued a consolidation of Practice Directions for the Supreme Court, divided into ten parts, by subject matter. The purpose of this revision is to provide comprehensive procedural guidance to lawyers and self-represented parties in an accessible format. All former Practice Notes of the Supreme Court are to be discarded.

Accordingly, each court has Practice Directions to guide their procedure. Further, there are several Practice Directions which are adopted jointly by the Supreme Court and the Court of Appeal.

Dated September 1, 2025.

The Hon. James G. Gormley
Chief Justice of Prince Edward Island

The Hon. Tracey L. Clements
Chief Justice of the Supreme Court of Prince Edward Island

PART I – COURT PROCEDURE AND DECORUM

A. OPENING AND CLOSING HEARINGS

At the appointed time, the presiding clerk of the court checks the courtroom to ensure that the parties and/or lawyers are in their places and ready to proceed. The clerk then advises the presiding judge, and after having done so, enters the courtroom immediately ahead of the judge and says – "ORDER - ALL RISE IF ABLE TO DO SO".

The judge and the clerk then take their respective places. While everyone is standing the clerk will formally announce the opening of court**.**

1. Opening

   To open the court, the clerk announces one of the following statements, as applicable:

   "His Majesty's Supreme Court for the Province of Prince Edward Island

   (i) for the trial of civil cases with/without jury;

   (ii) for the trial of criminal cases with/without jury;

   (iii) for the hearing of summary conviction appeals;

   (iv) for the trial of small claims cases; or

   (v) for the hearing of motions and applications;

   is now open and all persons having anything to do thereat may attend and they shall be heard. GOD SAVE THE KING. (Chief) Justice _____ presiding."

2. After the Opening by the Clerk

   After the opening by the clerk, the following procedure will be followed:

   (i) The judge bows to lawyers and lawyers bow;

(ii) The clerk states, “Please be seated” and everyone then sits;

(iii) The clerk calls the matter to be heard and announces the lawyers, if applicable, and the parties; and

(iv) The presiding judge then commences the proceeding.

3. Recess

When the court takes a recess, the clerk announces, “THE COURT IS NOW IN RECESS”. The judge then retires, and everyone remains seated. When the judge re-enters the courtroom, everyone remains seated except the clerk, who shall rise and call “ORDER” as the judge enters. After the judge resumes sitting, the clerk announces “THIS COURT IS NOW IN SESSION”.

4. Adjournment

a. At the conclusion of the matter, and at the end of the day, the clerk announces, “ALL RISE IF ABLE TO DO SO”.

b. If the matter has concluded, the clerk announces, “HIS MAJESTY’S SUPREME COURT NOW STANDS ADJOURNED”.

c. If the matter is to be continued on another day, the clerk announces, “THIS CASE NOW STANDS ADJOURNED UNTIL (give the date and time)”.

d. The judge then bows, lawyers bow and the judge retires. Everyone remains in their place until the judge has left the courtroom, unless the judge specifically directs otherwise.

B. ATTIRE AND DECORUM

1. Court Dress (including virtual appearances)

    a. Lawyers are to wear court attire (waistcoat, tabs, and robes) for all court appearances, except matters in uncontested chambers, pre-motion conferences, pre-trial conferences, settlement conferences, child protection pre-application conferences, or as otherwise directed by the court.

    b. This Practice Direction applies for virtual appearances, unless leave of the court is granted.

    c. In some circumstances, traditional court attire may not be practical and in such circumstances, modifications may be made. Two circumstances where traditional court attire may not be practical are addressed below:

        (i) Lawyers who are pregnant are free to modify their traditional court attire as they see fit, including dispensing with a waistcoat and tabs.

        (ii) Lawyers who use mobility aids, or who require other accommodation or supports are free to modify their traditional court attire as they see fit, including dispensing with the robe.

    d. Robes are to be worn only in a courtroom and courthouse.

    e. Professional attire is to be worn with robes. On occasions when robes are not required, lawyers are to wear professional attire, including in judges' chambers.

2. Addressing Lawyers

    When addressing the court, lawyers may refer to opposing lawyers as "my friend", or where an opposing lawyer is King's Counsel, as "my learned friend".

3. Presence at Counsel Table

    a. Counsel tables are provided for lawyers and self-represented parties. Any other individuals, including peace officers, and clients, are to be seated in the area provided for the general public.

    b. Leave of the court is required to have any person other than the lawyer or self-represented party at counsel table. The person seeking leave is to identify the other person, and provide the reason why they wish to have the person seated at counsel table.

    c. Leave of the court is not required for clients to sit at counsel table during pre-motion conferences, settlement conferences, pre-trial conferences, or child protection pre-application conferences.

4. Communication and Objections During a Hearing

    a. During a hearing, opposing lawyers and self-represented parties are to address the court, not one another. If circumstances require direct communication, a recess may be requested.

    b. When making an objection, a lawyer, or a self-represented party, stands, if able, and states "(Chief) Justice _____, I object to my (learned) friend's question on the ground that it is. . ." stating the reason for the objection.

5. Location of Lawyers and Self-Represented Parties

    a. The court's transcription equipment is set up to capture the speech of the lawyer or self-represented party at the podium situated at counsel table. Therefore, lawyers and self-represented parties are to stay at the podium, behind counsel table, or in any other appointed place throughout the proceedings. This includes when examining or cross-examining a witness, and when making submissions.

    b. If a lawyer or self-represented party wants to approach a witness or the clerk, leave of the presiding judge is required.

6. Honorifics for Addressing Judges

   a. In court and other professional settings, a judge may be addressed or referred to as "(Chief) Justice_____" or as "My Lord" or "My Lady".

   b. In correspondence with a (Chief) Justice, the correspondence may be addressed as:

      The Honourable [Name]
      (Chief) Justice
      Supreme Court of Prince Edward Island

   c. A letter to a (Chief) Justice may open:

      Dear (Chief) Justice [Name]

   d. In non-court settings, justices may be addressed simply as Chief, Justice, or Judge, or such other address as suggested by the justice.

C. DOCUMENTS AND EXHIBITS

1. Exhibits and other Documents

   Lawyers and self-represented parties are to ensure that they bring to court the required number of copies of any document or exhibit. Generally, the lawyer or self-represented party should have the original exhibit, a working copy for the judge, and a copy for all opposing lawyers or self-represented parties.

2. Joint Book of Exhibits

   a. Lawyers and self-represented parties are strongly encouraged to communicate and collaborate in advance of the proceeding for the purpose of creating a joint book of exhibits. This increases trial efficiency and access to justice.

   b. Where lawyers and self-represented parties are unable to reach agreement on *all* documents, a joint book of exhibits should nevertheless be prepared in relation to the documents for which there is agreement.

   c. The ultimate admissibility of any document remains the decision of the presiding judge.

3. Court Lettered Exhibits

   Occasionally, the court may mark a document as a court lettered exhibit. Court lettered exhibits are not evidence, but rather assist in creating a record (for example, in a jury trial, the random list of prospective jurors, or the juror questionnaire).

D. RESOLUTION OF MATTERS BEFORE A HEARING

1. Notice to the court

   In order to maximize judicial resources, improve the administration of justice and increase access to justice, where any matter resolves in advance of a scheduled hearing date, the trial coordinator is to be advised at the earliest opportunity.

2. All Matters

   This direction applies to all matters, including pre-motion conferences, pre-trial conferences, settlement conferences, child protection pre-application conferences, motions, applications, petitions, trials, and summary conviction appeals.

E. REQUEST FOR EMERGENCY HEARING

1. Request to the Court

   Generally, all matters are to proceed in accordance with applicable legislation, the *Rules of Civil Procedure*, and the Practice Directions. Occasionally, and in exceptional circumstances, a party may request the court to hear a matter on an emergency basis.

2. Detailed Information Required

   In order for the court to consider whether it is appropriate to authorize an emergency hearing, the party requesting the hearing is to provide detailed information to the trial coordinator on the areas requested to be addressed by the court.

F. IDENTIFICATION OF PRONOUNS AND TITLES BY COURT PARTICIPANTS

(Joint Practice Direction of the Court of Appeal and Supreme Court)

1. Overview

The Court of Appeal and Supreme Court welcome parties, lawyers and other participants to advise the courts of their pronouns and titles. In doing so, the courts seek to foster an inclusive environment for proceedings in which all gender identities are recognized and respected. This will also help the courts to avoid misgendering or otherwise misidentifying parties, lawyers and other participants in proceedings and in written decisions.

Examples of pronouns include, but are not limited to: she/her; he/him; and they/them.

Examples of titles include, but are not limited to: Ms.; Mrs.; Mr.; and Mx. (pronounced "mix").

2. Advising the Court

a. Parties, lawyers and other participants may provide their pronouns and titles in advance of their proceedings by contacting the Registrar in writing, including by email. They are also welcome to advise the court clerk of their pronouns and titles prior to the start of a proceeding.

b. Lawyers and self-represented parties may also advise the court of the pronouns and titles of other participants attending the proceedings in relation to their matter, such as clients, support persons and witnesses.

c. Informing the court of pronouns and titles is a matter of choice. There is no obligation to do so.

G. OATHS AND AFFIRMATIONS
(Joint Practice Direction of the Court of Appeal and Supreme Court)

1. Oath or Affirmation

    a. To swear an oath is to give a religious promise to tell the truth. To give a solemn affirmation is to give a non-religious promise to tell the truth.

    b. The court offers witnesses a choice whether to swear an oath or to give a solemn affirmation. The clerk of the court proceeding asks the witness if they prefer to swear an oath, or to give a solemn affirmation.

    c. The preference to swear an oath or to give a solemn affirmation should be consistent with the individual's beliefs to bind their conscience, in accordance with the *Evidence Act,* RSPEI 1988, Cap. E-11.

2. Eagle Feather

    During a court ceremony held on September 22, 2023, the three courts of Prince Edward Island, the Prince Edward Island Court of Appeal, the Supreme Court of Prince Edward Island, and the Prince Edward Island Provincial Court, were presented with Eagle Feathers, to be used as a symbol which binds the conscience of its user.

3. Other Holy Book or Religious Symbol

    If a witness' preference is to swear an oath on the Eagle Feather, or a Holy Book other than the Christian Bible, either the trial coordinator's office (Supreme Court) or the clerk (Court of Appeal) is to be advised in advance of the hearing. Further direction will be provided by the court.

H. ADDITIONAL REQUESTS RELATED TO A HEARING

1. Virtual Appearance or other Accommodation

   a. If a lawyer or self-represented party is seeking an accommodation in advance of a proceeding, such as, for example, relating to mobility or hearing challenges, they should contact the trial coordinator in a timely manner, so that appropriate direction may be provided by the court.

   b. Requests to appear at a hearing virtually, either by Zoom or by telephone, are to be made to the trial coordinator well in advance of the hearing, and the court will provide direction.

   c. On occasions where parties attend a hearing virtually, lawyers and self-represented parties are reminded that they remain bound by these Practice Directions, including those relating to the use of electronic devices. In particular, recording of a hearing or other proceeding, including case management calls, is prohibited.

2. Use of Interpreter

   In some circumstances, a party may identify a need for a language interpreter during a hearing. Where a lawyer or self-represented party views that interpreter services are required, they should contact the trial coordinator in a timely manner, so that appropriate direction may be provided by the court.

I. RESTRAINTS

1. Some individuals who attend court (including for criminal, civil, family or child protection matters), may be in custody at a correctional facility. Directions regarding any physical restraints on these individuals, while in a courtroom, are to be determined by the court or presiding judge.

2. Unless the presiding judge specifically directs otherwise, individuals who are in custody at a correctional facility shall remain in restraints until the court proceeding commences. Once the proceeding commences, any directions regarding restraints shall be addressed by the presiding judge.

3. Any requests related to restraints shall be made to the trial coordinator's office, in advance of the court proceeding, and the court will provide further direction.

J. COURT ORDERS

1. General

    a. Lawyers and self-represented parties are reminded of the importance of orders being provided to the presiding judge on a timely basis. Unless the court directs otherwise, orders shall be provided to the presiding judge within 30 days of the court's decision.

    b. Unless the court specifically directs otherwise, the lawyer for the successful party, or the successful self-represented party, is to draft an appropriate order and provide it to the opposing lawyer or self-represented party. If there is agreement on the form of the order, the order is to be provided to the presiding judge for their consideration.

    c. If there is disagreement on the form of the order, the party who prepared the order is to provide the proposed order to the presiding judge (via the clerk), with a cover letter copied to the opposing lawyer/party. The opposing lawyer/party may then provide their position on the proposed order (likewise via the clerk). The judge will determine the form and content of the order, or otherwise provide further direction.

    d. Unless the court directs otherwise, there shall be no further steps in a proceeding until all previous orders have been filed.

    e. Unless the court directs otherwise, before submitting an order signed by the parties consenting to the form of the order, it is advisable to provide a draft of the order to the presiding judge (via the court clerk).

2. Form of Order

    a. All orders should generally contain the following:

        (i) The court file number at the top right of the order;

        (ii) The name and section of the court at the top center;

(iii) The name of the presiding judge on the top left;

(iv) The date of the decision on the top right, across from the name of the judge;

(v) The style of cause (name of the parties and whether they are the applicant, plaintiff, etc.);

(vi) The title of the order, eg. order, consent order, interim order, variation order, etc.

(vii) Recitals, which should identify the type of hearing and reference, at a minimum:

1. the relief sought;
2. the affidavit and/or *viva voce* evidence, and who provided it;
3. the statutes or *Rules of Civil Procedure* relied on; and
4. whether oral submissions were made.

(viii) The terms of the order of the presiding judge, in numbered paragraphs;

(ix) Below the terms of the order, at right, the signature line for the presiding judge;

(x) Below the terms of the order, at left, the date of the presiding judge's signature, which may differ from the date of the order;

(xi) If applicable, below the signature line of the judge, a "Consented to as to form and content" or "Consented to as to Form" provision, to be signed by the lawyer(s) or self-represented party(ies);

(xii) Page numbers; and

(xiii) Back page ("backer"), including style of cause, and the name and contact information of the lawyer or self-represented party preparing the order.

b. Lawyers and self-represented parties should avoid including a page in an order which contains only the signature(s).

3. Sample Template

A sample template for a court order is attached as Schedule "A".

SCHEDULE "A" TO COURT ORDERS PRACTICE DIRECTION

Template of Court Order

COURT FILE NO. _____

SUPREME COURT OF PRINCE EDWARD ISLAND
(_____ SECTION)

BEFORE THE HONOURABLE (CHIEF) JUSTICE _____ DATE_____

BETWEEN:

_____

APPLICANT(S) or PLAINTIFF(S) or PETITIONER(S)
(whichever is applicable)

AND:

_____

RESPONDENT(S) or DEFENDANT(S)
(whichever is applicable)

ORDER

THIS MOTION/HEARING/APPLICATION was heard this day at …..

WHEREAS ……
AND WHEREAS ….

AND UPON review of (the affidavit(s) and/or *viva voce* evidence of …)…
AND UPON consideration of (applicable statute and *Rule*)…
AND UPON the submissions of …

THIS COURT ORDERS … (numbered paragraphs follow)

DATE: _____ _____
C.J. or J.
(whichever is applicable)

CONSENTED TO AS TO FORM (or FORM AND CONTENT)
this day of , 20__.

_____
Lawyer for Applicant/Plaintiff/Petitioner/Respondent/Defendant (whichever applies)

PART II – ACCESS TO COURT/COURT RECORDS AND USE OF ELECTRONIC DEVICES

A. COURT GUIDE

Comprehensive direction on access to the court and court records is addressed in the Supreme Court's *Access to Court Records Guide* posted to the court's website at *www.courts.pe.ca*.

B. NOTICE TO MEDIA RE: DISCRETIONARY PUBLICATION, SEALING ORDER, RESTRICTED ACCESS ORDER, OR CONFIDENTIALITY ORDER

1. In *Dagenais v CBC*, [1994] 3 S.C.R. 835 the Supreme Court of Canada held that when a party seeks a discretionary publication ban, the media are entitled to reasonable notice of the application/motion and the opportunity to make representations before a decision on whether to issue a ban is made. In addition, parties occasionally request that the court issue a sealing order, restricted access order or confidentiality order in relation to all or portions of a court file.

2. For uniformity of practice, the following procedure is to be followed when a party makes an application/motion seeking a discretionary publication ban, sealing order, restricted access order or confidentiality order:

    a. Any media entity who wishes to receive notice of the application/motion is required to advise the trial coordinator of the court, on an annual basis, of their contact information. Notice shall be provided by the court via email unless another method is specifically requested by the media entity and approved by the court.

    b. The party seeking the discretionary publication ban, sealing order, restricted access order or confidentiality order shall contact the trial coordinator of the court, who will advise the party of the list of media entities that have requested notice.

    c. All media entities that have provided their contact information to the court in advance will be given notice of the party's application/motion for a discretionary publication ban, sealing order, restricted access order or confidentiality order.

    d. Each media entity will be given the same notice of the application/motion as prescribed to be given to a respondent (opposing party or parties) under the *Rules of Civil Procedure*. The notice from the court will include:

        (i) details of the order sought;

(ii) the time and place of the hearing;
(iii) the text of any interim orders which may have been granted; and
(iv) contact information of the lawyer for the party seeking the order. If the party seeking the order is not represented by a lawyer, the notice will provide the contact information of the party.

e. The presiding judge has discretion to determine the issue of standing of any media entity requesting to make representations on the application/motion.

3. The court may dispense with compliance with this Practice Direction in appropriate circumstances, including in recognition of the settlement privilege exception to the open court principle, as set out in *Sable Offshore Energy Inc. v Ameron International Corp.*, 2013 SCC 37.

original September 22, 2005; amended July 27, 2021, April 1, 2022

C. USE OF ELECTRONIC DEVICES IN COURTROOMS

1. Discretion of Presiding Judge

This Practice Direction is meant to provide general guidance on the use of electronic devices in courtrooms; however, the presence and use of electronic devices are ultimately at the discretion of the presiding judge.

2. Definitions

The following definitions apply:

a. A "courtroom" is a room in which a hearing takes place before a judicial officer, and includes virtual court proceedings and court proceedings conducted by telephone conference.

b. A "judicial officer" is a Justice of the Supreme Court, a Registrar, the Prothonotary, or the Deputy Prothonotary.

c. An "electronic device" is any device capable of transmitting and/or recording data, audio or video, including smartphones, cellular phones, computers, laptops, tablets, notebooks, personal digital assistants, pagers, video or still cameras, audio recorders or any other device which produces, records or transmits texts, audio, video, or still photographs.

3. Publication Bans, Sealing Orders, Restrictions on Publication

Nothing in this Practice Direction alters the effect of a discretionary publication ban, sealing order, restricted access order or confidentiality order, nor does it alter any publication ban or related order or other restriction imposed by statute or the court. Anyone using an electronic device to transmit information from the courtroom, in accordance with this Practice Direction, must comply with any such restrictions.

4. Permitted Uses of Electronic Devices in Courtrooms

    a. All court participants are encouraged to consult the court's *Access to Court Records Guide* (the "*Guide*"), available on the court's website at *www.courts.pe.ca*, and other Practice Directions regarding the use of electronic devices in courtrooms.

    b. Individuals may use electronic devices in silent mode and in a discreet and unobtrusive manner, unless the presiding judge orders otherwise.

    c. Members of the media who have given a written undertaking to the court, in the form attached as Schedule "A", may use electronic devices to transmit information, or to audio record a proceeding, but only for the purpose of verifying their notes and not for rebroadcast or any other purpose.

    d. On occasions where a person seeks to use an electronic device, including a cellular phone, for any purpose other than a purpose specifically authorized in the *Guide*, or this Practice Direction, leave of the court is to be sought.

5. Use of Cellular Phones by Lawyers or Self-Represented Parties in Courtrooms

    a. During a proceeding, lawyers and self-represented parties may use their cellular phones only for purposes that are consistent with the court process, such as to check calendars for an upcoming hearing.

    b. If a lawyer or self-represented party wishes to use their cellular phone for another purpose, they are to seek leave of the presiding judge, or request a recess.

6. Restrictions on the Use of Electronic Devices in Courtrooms

    An electronic device may not be used in a courtroom:

    a. in a manner which interferes with the court sound system or

other technology;

b. in a manner which interferes with courtroom decorum, is inconsistent with the court functions, or otherwise impedes the administration of justice;

c. in a manner which generates sound or requires speaking into the device;

d. to take a photograph or video, or to record or digitally transcribe the proceedings except as permitted by this Practice Direction; or

e. to send publicly accessible live communication of any information that is subject to a publication ban or a witness exclusion order.

7. Media in the Courthouse

The following rules apply to media activity in the courthouse, including media filming, picture taking and interviewing:

a. Obstructing or hindering the free movement of persons in public areas, including by stopping in front of them or by blocking their passage, is prohibited.

b. Pursuing individuals with cameras or microphones is prohibited.

c. Requesting an interview from a person is permitted, except while that person is in the courtroom or exiting the courtroom.

d. Filming, picture taking, or interviewing in the general vicinity of courtrooms or near entrance and exit doors is prohibited.

e. Filming, picture taking, and interviewing are permitted only within designated areas in the public section of the courthouse. Designated areas for picture taking are:

(i) ground level in the public area, and second level in the public foyer, subject to (d.) above.

(ii) Designated areas for interviews are rooms or spaces authorized by the Court Services Manager or her designate, including the ground level jury room when unoccupied.

f. Where the person consents to give an interview, the member of the media and such person must move to the designated area.

g. Safety instructions, security zones and cautious use of the stairs must always be respected.

h. Any person may contact the court security to have the rules enforced.

8. Sanctions

A person using an electronic device in a manner prohibited by this Practice Direction may be subject to one or more of the following sanctions:

a. a direction to turn off the electronic device;

b. a direction to leave the courtroom;

c. citation and prosecution for contempt of court;

d. prosecution for any violation of a publication ban, sealing order, or other restriction on publication, if applicable; or

e. any other order of the court.

9. WI-FI Network

Lawyers, law clerks, self-represented parties, members of the media, law enforcement officers, and such other person as may be permitted by the court, may use the court's WI-FI network by obtaining a password from the Registrar, for a period of up to five days. To attend hearings exceeding five days, such person will be required to obtain a new password when the first password expires.

Disclaimer: The court's WI-FI network only provides connectivity. The court is not responsible for the availability, performance, or security of the WI-FI network, or for any device using a network. The owner of any electronic device is solely responsible for their own technical support.

SCHEDULE "A" TO USE OF ELECTRONIC DEVICES IN COURTROOMS PRACTICE DIRECTION

Media Undertaking for the use of Electronic Devices in Courtrooms of the Supreme Court of Prince Edward Island

I, _____, of _____, Province of _____, of _____ (name of media organization) do hereby undertake to follow the requirements of the Supreme Court's Practice Direction: *Use of Electronic Devices in Courtrooms*, including the restrictions on use of electronic devices.

I understand that if I use an electronic device in a manner prohibited by the court's Practice Directions, I may be subject to any of the sanctions set out in the Practice Directions.

I understand that I may use an electronic device to transmit information, or to audio record a proceeding for the sole purpose of verifying my notes and not for rebroadcast or any other purpose.

I agree to use my electronic device in the courtroom in silent mode and in a discreet and unobtrusive manner, unless the presiding judge orders otherwise.

I agree to follow any publication ban, sealing order, restricted access order, confidentiality order, or any other restriction imposed by statute or court order that limits the publication of information.

Finally, I understand that the presiding Justice of the Supreme Court has the ultimate decision-making authority about what, if any, use can be made of electronic devices in a courtroom.

Dated this _____ day of _____, 20_____.

_____
Signature

Note: It is the responsibility of the member of the media to advise the court, and Sheriff Services, in advance of each hearing that they wish to use an electronic device in the courtroom.

D. AUDIO RECORDINGS AND TRANSCRIPTS

1. Audio Recordings

    a. Requests for a CD/USB of a hearing are governed by the court's *Access to Court Records Guide* available on the court's website at *www.courts.pe.ca.*

    b. The copy of the audio recording provided by the court does not include the court clerk's internal notations (often referred to as "tags"), unless leave of the court is obtained.

2. Transcripts

    a. Pursuant to *Rule* 61, on an appeal from a decision of the Supreme Court, it is generally the appellant's responsibility to request, and provide, a transcript. Exceptions to this are:

        (i) Criminal appeals under *Rule* 82; and

        (ii) Where the decision appealed from is an oral decision, with no written reasons available. In such circumstances, the Supreme Court may prepare a transcript of the decision; however, the party is responsible for providing a transcript of the evidence.

    b. Other circumstances where the Supreme Court may prepare a transcript include:

        (i) Where the court has imposed a penitentiary sentence, but has not provided written reasons;

        (ii) Where a hearing is held under the *Interjurisdictional Support Orders Act*, RSPEI 1988, Cap. I-4.2;

        (iii) Where required by statute;

(iv) When requested or ordered by the presiding judge; or

(v) Such further circumstances as ordered by the court.

c. Lawyers and self-represented litigants are reminded of s. 58 of the *Evidence Act*, RSPEI 1988, Cap. E-11, where a transcript of an audio recording is to be used on an appeal. If a dispute arises between the parties relating to the transcript, the parties should immediately inform the court so that direction may be provided.

E. RELEASE OF COURT DOCKET AND COURT DECISIONS

1. Court Docket

    a. General information regarding the Supreme Court docket is posted in a monthly court docket, on the court's website at *www.courts.pe.ca*. The docket is generally posted near the end of the preceding month.

    b. The scheduled docket is subject to change, as matters sometimes are added or adjourned prior to the proceeding taking place. However, up-to-date daily dockets are available by requesting a copy on the same day, from the Commissionaire at the front desk of the Supreme Court. The daily docket indicates the time and location of the proceeding.

2. Court Decisions

    It is preferable for parties to be made aware of the court's written decision from their lawyer (where they are represented) or from the court (where they are self-represented). Therefore, the process outlined below is generally followed for written decisions of the court:

    a. When a written decision is ready for release, the court clerk informs the lawyer or self-represented party that a copy of the decision is available for pickup or for delivery by email.

    b. Lawyers may release a copy of the decision to their clients immediately. However, the court strongly encourages the lawyers and self-represented parties not to post, publish or distribute the decision for a period of 24 hours. This allows the parties an opportunity to review the decision and potentially obtain legal advice.

    c. Generally, 24 hours after the court clerk has informed the lawyer or self-represented party that the decision is available, the court provides the decision to various case reporting services, which are accessible to the public.

PART III – FILING OF DOCUMENTS AND AUTHORITIES

The Supreme Court of Prince Edward Island is a court of record. The *Rules of Civil Procedure* set out the requirements for filing documents, as supplemented by Practice Directions. There are two methods available for the filing of documents: providing a hard copy in person or by mail; or electronic, where authorized. Documents must be appropriately filed with the Registrar's office. Forwarding documents to a clerk or trial coordinator does not constitute filing with the Registrar's office. The Practice Directions below address the following: general filing guidance; electronic filing; calculation of time; non-compliance; filing USBs in court; large language models of artificial intelligence; and, authorities.

A. GENERAL FILING GUIDANCE

1. Number of Copies

Lawyers and self-represented parties are to file the correct number of copies of all documents. The court generally requires an original for the court file, a copy for the party filing, and sufficient copies for all other parties.

2. Front Sheets

Any memorandum, factum, record, appeal book, or other document requiring a front sheet shall emphasize (in **bold**) on the front sheet the name and contact information of the party filing the document.

3. Affidavits

a. Lawyers and self-represented parties should avoid including a page in an affidavit which contains only the signature(s).

b. When filing an affidavit that has an exhibit attached, the exhibit stamp is to be on the exhibit (not on a separate piece of paper attached to the exhibit), unless it is not feasible or appropriate to include the stamp on the exhibit.

4. Delivery of Documents

From time to time the presiding judge is not aware of documents that have been filed with the Registrar's office until the hearing has begun. This may occur when there has been an adjournment to allow time to file Briefs, with a return day being set, or in matters that are being brought quickly before the court.

In these circumstances, it is the responsibility of the lawyer or self-represented party who is filing the documents to instruct the deputy registrar that the documents should be delivered immediately to the judge hearing the matter.

5. Page Numbering

Rules 37.07(7) and 38.10(2) address page numbering for motion records and application records. Lawyers and self-represented litigants may consecutively number the pages of each separate document (for example, the notice of motion, factum, and affidavit). Where a lawyer or self-represented party files an affidavit that is not part of an application or motion record, the affidavit is to include page numbers.

B. ELECTRONIC FILING

1. Electronic Filing of Court Documents

   a. This Practice Direction is an update to the electronic filing Practice Direction which originated on March 20, 2020 at the outset of the COVID-19 pandemic.

   b. This Practice Direction applies to the filing of documents which are:

      (i) not voluminous (less than 25 pages, single-sided); and
      (ii) not required to be bound and tabbed.

   c. A document, including an originating process, may be filed by way of an email containing a PDF attachment of the document to be filed, or by facsimile, in accordance with this Practice Direction.

   d. Documents may be filed by facsimile at (902) 368-0266 or by email directed to *scfiling@courts.pe.ca* with a completed Request to File Electronically/By Facsimile Form (attached as Schedule "A") requesting the filing of a document. The lawyer/party filing the document shall undertake on the form to ensure that the required filing fees (where applicable) are sent to the court immediately.

   e. Upon receipt of the required form and document, and provided that the document complies with all other requirements for filing in the ordinary course, the document shall be issued, if necessary, and filed by the court. The document shall be filed as if it were received in person with the exception that it shall be endorsed with the following: "This document has been filed electronically (or by facsimile as the case may be) in accordance with the Practice Direction for the Electronic Filing of Court Documents." The court shall confirm to the party attempting to file the document whether or not the document has been accepted for filing and, if accepted, the date on which it was

filed. Accordingly, lawyers/parties are to provide contact information where they may be reached by phone or email.

f. Where a signature is required on the originating process, the lawyer or self-represented party shall provide a scan of their original signature.

g. A party who files a document electronically will be provided with either a physical copy or an electronic copy of the filed document, and must indicate their choice on the Form when the document is filed.

2. Service of Documents

Only one copy of documents will be returned to the party filing the document and that party may serve a photocopy, or printed copy, of the filed document on the opposing party(ies).

3. Date of Filing

Documents received during regular filing hours of the court will be processed and filed, if appropriate, as of the date of receipt. Any documents received outside of filing hours will be processed, and filed, if appropriate, on the next business day.

4. Retention of Originals

a. Original copies of all facsimile/electronically filed documents are to be retained by the lawyer or self-represented party submitting them, in an unaltered condition, until the matter is completed and any appeal period has expired.

b. The court may require original documents to be produced in the future, and parties are to bring originals to the court proceeding to which they relate.

The Request to File Electronically or by Facsimile Form is attached as Schedule "A".

SCHEDULE "A" TO ELECTRONIC FILING PRACTICE DIRECTION

Court No. _____

SUPREME COURT OF PRINCE EDWARD ISLAND
(_____ SECTION)

BETWEEN: _____
PLAINTIFF/PETITIONER/APPLICANT

AND: _____
DEFENDANT/RESPONDENT

REQUEST TO FILE ELECTRONICALLY OR BY FACSIMILE

The_____ (party filing document) hereby requests that the Registrar accept the attached document for filing:

_____ electronically _____ by facsimile

Particulars of the document are as follows:
Document name or Form #:_____
# of pages (not including this form): _____

A filed copy of the documents to be returned:
_____ by email
_____ by courthouse mail
_____ by mail

Where filing fees apply, I, the lawyer or party signing this request, undertake to immediately:
_____ send an email transfer to pay any required filing fees; or
_____ mail or deliver a cheque or money order to the court.

Dated this _____ day of _____, 20____.

_____
_____
_____
(Name, address, telephone number and email address of lawyer or party)

FOR REGISTRY OFFICE ONLY

Date received _____ Date filed _____
dd/mm/yy dd/mm/yy

Fee: _____ yes _____ no

Completed by:_____

C. CALCULATION OF TIME

1. Overview

Documents must be served, filed, or delivered within the time periods prescribed in the *Rules of Civil Procedure*. It is important to know when your documents are due. *Rule* 3.01 explains how time is calculated under the *Rules. Rule* 3.02 explains the court's general powers to extend or abridge time periods, and *Rule* 1.03 defines what is considered a holiday for the calculation of time. Below are some specific examples demonstrating how time is calculated according to the *Rules*.

2. "At Least" or "Not Less Than" (*Rule* 3.01(1)(a))

a. Where there is a reference to "at least" or "not less than" a number of days, the first and last day are excluded in the calculation of time.

b. For a moving party to serve and file a motion record for a motion hearing scheduled on Friday, May 23rd, 2025, *Rule* 37.07(6) states that the motion record shall be served at least 10 days before the hearing. As indicated in the sample calendar below, the motion record must be served and filed by Monday, May 12th, 2025.

May 2025						
M	T	W	Th	F	Sat	Sun
			1	2	3	4
5	6	7	8	9	10	11
(12)	13	14	15	16	17	18
19	20	21	22	(23)	24	25
26	27	28	29	30	31	

Note: In the above calendar, squared dates denote clear days and circled dates denote days that are not counted in the calculation of time.

3. Seven Days or Less (*Rule* 3.01(1)(c))

   a. Where a period of 7 days or less is prescribed, holidays shall not be counted.

   b. A responding party to a motion that is scheduled for Friday, May 23rd, 2025, must serve and file a responding party's motion record. *Rule* 37.07(8) states that the motion record must be served and filed at least four days before the hearing date. As indicated in the sample calendar below, the motion record must be served and filed by Thursday, May 15th, 2025.

May 2025						
M	T	W	Th	F	Sat	Sun
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	(15)	[16]	(17)	(18)
(19)	[20]	[21]	[22]	(23)	24	25
26	27	28	29	30	31	

Note: In the above calendar, squared dates denote clear days and circled dates denote days that are not counted in the calculation of time. Monday May 19th, is excluded as it is Victoria Day. May 17th and 18th are excluded as holidays include weekends.

4. Deadline falls on a holiday (*Rule* 3.01(1)(d)), and is not expressed as "at least" or "not less than" or "clear days"

   a. Where a deadline ends on a holiday, the deadline is extended to the next day that is not a holiday.

   b. Where a statement of claim is served on an opposing party on Monday, April 28th, 2025 in Prince Edward Island, pursuant to *Rule* 18.01, the opposing party has 20 days to deliver a statement of defence. Since there is no reference to "at least" or "not less than" or "clear days", *Rule* 3.01(1)(b) states the first day is excluded from the calculation.

As indicated in the sample calendar below, the 20th day is on Sunday, May 18th 2025. The next day is Victoria Day. As both are holidays, the deadline for delivering the statement of defence is Tuesday, May 20th, 2025.

April 2025						
M	T	W	Th	F	Sat	Sun
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
(28)	29	30				

May 2025						
M	T	W	Th	F	Sat	Sun
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Note: In the above calendars, circled dates denote days that are not counted in the calculation of time, squared dates are counted in the calculation of time, and triangled dates represent days where the deadline falls on a holiday. Monday May 19th, is excluded as it is Victoria Day. May 18th is excluded as holidays include weekends.

D. NON-COMPLIANCE

On occasion, a party presents a document for filing which is, on its face, not compliant with the *Rules of Civil Procedure*. The deputy registrar may refuse the document, or, accept the document but stamp it (a red stamp) as non-compliant. Ultimately, the court, and usually the assigned hearing judge, will determine whether the document is authorized for filing.

E. FILING OF USBs

Occasionally, a party may file, as part of their materials, a USB. The USB shall only include non-documentary materials such as video or audio. Where a party files a USB, the following process applies, unless the court directs otherwise:

a. The USB is to be accompanied by a covering letter which identifies the materials contained on the USB. The cover letter is to include the following: the title of proceedings, a list of the files contained on the USB, the court file number, and the lawyer name(s) and/or self-represented party name(s). If possible, a label should be placed on the USB, referencing the short style of cause and the court file number.

b. The cover letter is to be copied to the other party(ies), and filed with proof of service, in accordance with the *Rules of Civil Procedure*. Proof of service should reference both the letter and the USB.

c. The USB is to contain only the files indicated in the cover letter.

d. This Practice Direction applies, with necessary modifications, to other devices similar to a USB which are used for the same purpose.

F. LARGE LANGUAGE MODELS OF ARTIFICIAL INTELLIGENCE (Joint Practice Direction of Court of Appeal and Supreme Court)

"Large language model" (LLM) refers to a type of artificial intelligence (AI) system capable of processing and generating human-like text. Concerns have been raised about the potential fabrication of legal authorities by LLMs. To protect the integrity of legal proceedings, this Practice Direction addresses the use of LLMs in submissions to the court.

a. The PEI Court of Appeal and Supreme Court of PEI urge lawyers and all litigants to exercise caution when referencing legal authorities or analysis derived from LLMs in their court submissions.

b. For all references to case law, statutes or commentary in submissions to the courts, parties should rely exclusively on authoritative sources.

c. Any AI-generated submissions must be verified by cross-referencing with reliable legal databases and ensuring that all citations hold up to scrutiny.

d. The courts recognize that emerging technologies bring both opportunities and challenges. Ongoing discussion and collaboration will be necessary to navigate these changes.

G. AUTHORITIES

1. Case Authorities

a. Parties may, in their discretion, limit the photocopying of unduly long cases to the headnote and the specific passage or passages upon which they rely. This should be made clear on the portions of the case being filed, with a notation indicating the pages of the case not being filed.

b. In citing cases:

(i) the neutral citation should be utilized where applicable e.g. *Smith v. Brown*, 2010 PESC 123.

(ii) in the event that there is a parallel reported citation, the neutral citation should be first, followed by the parallel citation. e.g. *Smith v. Brown*, 2010 PESC 123, [2000]...Nfld & P.E.I.R. xx,.

c. Cases taken from an electronic database which contain paragraph numbers may be filed.

d. Cases taken from an electronic database which does not contain paragraph numbers or the Law Report page number should only be filed if there is no other option available.

2. Highlighting

The authorities cited and relied upon in motions, applications, trials and appeals are to have the relevant portion emphasized by highlighting in yellow colour.

3. Joint Authorities

a. Parties are encouraged to file a joint book of authorities where possible. Alternatively, if a party has already filed a specific authority and an opposing party wishes to rely on the same authority, they may do so, and reference the opposing party's book of authorities.

b. When a case is referenced in a party's factum, the actual case included in the memorandum of authorities is to be from the same reporting service cited in the factum. For example, if a party references *R. v Oakes*, [1986] 1 S.C.R. 103 in their factum, this Supreme Court Reports copy of the case should be in the party's memorandum of authorities, and not, for example, the CanLII copy, cited as *R. v Oakes*, 1986 CanLII 46 (SCC).

4. Filing of Statutes, Regulations, or *Rules*

Where a statute, regulation or *Rule* is being relied upon, it is not necessary to file the complete statute, regulation or *Rule*. It is sufficient to file only those sections being relied on.

5. Common List of Authorities

a. In an effort to decrease the frequency in which well-known cases are filed, the court has consulted with the bar and has created a list of common authorities by subject area. It is not necessary to file any case identified in the list of common authorities.

b. The Schedules attached set out a list of common authorities which are subject-based. When referring to a case included in any of the attached schedules, reference need only be made to the paragraph and page number of the case. These Schedules may be periodically updated.

SCHEDULE "A" TO COMMON LIST OF AUTHORITIES PRACTICE DIRECTION: ADMINISTRATIVE LAW

1. *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817
2. *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65
3. *Dunsmuir v. New Brunswick*, 2008 SCC 9
4. *Housen v. Nikolaisen*, 2002 SCC 33

SCHEDULE "B" TO COMMON LIST OF AUTHORITIES PRACTICE DIRECTION: CIVIL LAW

1. Summary Judgment
   Hryniak v. Mauldin, 2014 SCC 17

2. Costs
   a. *Jay v DHL,* 2009 PECA 11
   b. *MacPherson v. Ellis,* 2005 PESCAD 19
   c. *Oliver v. Severance*, 2007 PESCAD 21

3. Experts
   a. *R. v. Abbey,* 2017 ONCA 640
   b. *R. v. Mohan*, 1994 2 S.C.R 9
   c. *White Burgess Langille Inman v. Abbott and Haliburton Co.,* 2015 SCC 23

SCHEDULE "C" TO COMMON LIST OF AUTHORITIES PRACTICE DIRECTION: CRIMINAL LAW

1. *R. v. Anthony-Cook*, [2016] 2 S.C.R. 204
2. *R. v. B. (K.G.)*, [1993] 1 S.C.R. 740
3. *R. v. Barton*, 2019 SCC 33
4. *R. v. Collins*, [1987] 1 S.C.R. 265
5. *R. v. Corbett*, [1988] 1 S.C.R. 670
6. *R. v. Friesen*, [2020] 1 S.C.R. 424
7. *R. v. Gagnon*, [2006] 1 S.C.R. 621
8. *R. v. Gladue*, [1999] 1 S.C.R. 688
9. *R. v. Goldfinch*, 2019 SCC 353
10. *R. v. Grant*, [2009] 2 S.C.R. 353
11. *R. v. Handy*, [2002] 2 S.C.R. 908
12. *R. v. J.J.*, 2022 SCC 28
13. *R. v. Jordan,* [2016] 1 S.C.R. 908
14. *R. v. Khan*, [1990] 2 S.C.R. 531
15. *R. v. Khelawon*, [2006] 2 S.C.R. 787
16. *R. v. Kienapple*, [1975] 1 S.C.R 729
17. *R. v. Lacasse*, [2015] 3 S.C.R. 1089
18. *R. v. M. (R.E.),* [2008] 3 S.C.R. 3
19. *R. v. Oakes*, [1986] 1 S.C.R 103
20. *R. v. O'Connor*, [1995] 4 S.C.R. 411
21. *R.* v. *Proulx,* [2000] 1 S.C.R. 61
22. *R. v. R.V.,* 2019 SCC 41
23. *R. v. Seaboyer*; *R. v. Gayme,* [1991] 2 S.C.R. 577
24. *R. v. Sheppard*, [2002] 1 S.C.R. 869
25. *R. v. Stinchcombe*, [1991] 3 S.C.R. 326
26. *R. v. Villaroman*, [2016] 1 S.C.R. 1000
27. *R. v. W.D.,* [1991] 1 S.C.R. 742
28. *R. v. W.R.,* [1992] 2 S.C.R. 122
29. *R. v. Yebes*, [1987] 2 S.C.R. 168
30. *Vetrovec v. The Queen*, [1982] 1 S.C.R. 811

SCHEDULE "D" TO COMMON LIST OF AUTHORITIES PRACTICE DIRECTION:
FAMILY LAW

1. Parenting
    a. *AR v. DR*, 2018 PESC 37
    b. *Barendregt v. Grebliunas*, 2022 SCC 22
    c. *Chartier v. Chartier*, 1999 1 S.C.R 242

2. Child support
    a. *C.A.M. v. J.C.*, 2021 PESC 41
    b. *Colucci v. Colucci*, 2021 SCC 24
    c. *Contino v. Leonelli-Contino*, 2005 SCC 63
    d. *DBS v. SRG*, 2006 SCC 37
    e. *JDM v. KDM*, 2015 PECA 16
    f. *Michel v. Graydon*, 2020 SCC 24
    g. *Miller v. White*, 2022 PESC 4

3. Spousal Support
    a. *Bracklow v. Bracklow*, [1999] 1 S.C.R. 420
    b. *CED v. CJD*, 2021 PECA 2
    c. *F. (L.C.) v. B. (W.P.),* 2023 PECA 9
    d. *Miller v. White*, 2022 PESC 4
    e. *Moge v. Moge*, [1992] 3 S.C.R. 813

4. Property
    a. *McAndrew v. Rooney-McAndrew*, 2003 PESCAD 25
    b. *Miller v. White*, 2022 PESC 4
    c. *TLJ v. DDJ*, 2019 PESC 29
    d. *Weeks v. Weeks*, 2005 PESCAD 6

5. Trust Doctrines
    a. *Enman v. Enman*, 2000 PESCTD 37
    b. *Kerr v. Baranow*, 2011 SCC 10

6. Experts
    a. *DCP v. MM and DC*, 2022 PESC 31
    b. *R. v. Mohan*, 1994 2 S.C.R 9

SCHEDULE "D" TO COMMON LIST OF AUTHORITIES PRACTICE DIRECTION:
FAMILY LAW (Continued)

7. Domestic Contracts
   Anderson v. Anderson, 2023 SCC 13

8. Child Protection
   a. *B.J.T. v. J.D.,* 2022 SCC 24
   b. *CR v. Nova Scotia (Community Service),* 2019 NSCA 89
   c. *DCP v. ADD, JD, and BJT,* 2020 PESC 9
   d. *DCP v. AP and JWB,* 2020 PESC 4
   e. *DCP v. CEH, DG and PG*, 2025 PECA 4
   f. *DCP v. CS, JK et al*, 2023 PESC 6
   g. *DCP v. C.S., J.K., E.N., and D.M.,* 2025 PESC 15
   h. *DCP v. HC and LB,* 2021 PESC 45
   i. *DCP v. JM and JM,* 2022 PESC 3
   j. *DCP v. MM and DC,* 2022 PESC 31
   k. *DCP v. VM and JM,* 2014 PESC 1
   l. *DCW (PEI) v. AH and JD*, 2009 PECA 19
   m. *Kanthasamy v. Canada (Minister of Citizenship and Immigration*), [2015] 3 S.C.R 909
   n. *R. v. Gladstone*, [1996] 2 S.C.R 723

PART IV – CASE MANAGEMENT AND PRE-TRIAL CONFERENCES

A. CASE MANAGEMENT

1. Discretion of the Court

In an effort to maximize judicial resources, promote access to justice, and assist parties in moving matters along, the court engages in active and robust case management. However, case management is not a replacement for timely, robust and fulsome communication between the parties. There is a demand for judicial resources in a multitude of areas, only one of which is case management. The court has the discretion to decline requests for case management, for example where the parties have not sufficiently communicated in an effort to resolve issues; where a party is seeking a "pre-determination" of a contested issue; or, for any other reason as determined by the court.

2. Procedure

a. In the court's discretion, case management may occur in any matter, including family, criminal, civil, small claims and estates matters. Case management may be held for matters that are on track for a motion, application or trial.

b. Most case management occurs by telephone but, depending on the circumstances and the direction of the court, may proceed in other forums, including virtually or in person.

c. Depending on the circumstances, case management may be facilitated by the case management coordinator or other such designated person, or by a judge.

d. Discussion points are wide-ranging but often include the parties articulating the issues for determination; outstanding steps required, including estimated timeline for completion; disclosure issues; procedural issues; and whether examinations on affidavits will be proceeding outside of

court, or whether a party will be seeking leave to examine within the hearing.

e. The court may establish a timeline for the parties or direct the parties to participate in further case management. The court may also authorize a motion, application, settlement conference, trial readiness pre-trial conference or trial. The expectation is that the timetable and action items established in case management will be adhered to and complied with. Achieving the benefits of case management requires commitment to the process, including in particular to the timetable set out.

B. SETTLEMENT CONFERENCES, PRE-TRIAL CONFERENCES AND TRIAL READINESS PRE-TRIAL CONFERENCES

1. General

a. In an effort to maximize judicial resources, promote access to justice, and assist parties in either resolving a matter or ensuring the matter is ready for trial, the court facilitates pre-trial conferences (including trial readiness pre-trial conferences) and settlement conferences.

b. In order to ensure the efficiency and effectiveness of these conferences, it is critical that:

(i) lawyers communicate with one another in advance of the conference with a view to determining areas of agreement and outstanding issues;
(ii) parties and lawyers are prepared;
(iii) lawyers attending the conference have a strong working knowledge of the matter and the issues; and
(iv) materials are filed in compliance with the *Rules of Civil Procedure*.

c. The applicable memorandum is to be clearly identified on the covering page.

d. Each memorandum is placed in a sealed envelope for the judge presiding at the conference.

e. All relevant materials are to be attached to the applicable memorandum, including for example medical reports, reports of experts, and extracts from transcripts.

f. In the normal course, all materials filed for such conferences remain sealed and are not provided to the trial judge.

g. The expectation is that the timetable and action items established at the conference will be adhered to and complied with.

2. Trial Readiness Pre -Trial Conferences

For trial readiness pre-trial conferences, lawyers and self-represented parties are to file a trial readiness pre-trial conference memorandum (available on the court's website at *www.courts.pe.ca*, to be served and filed in accordance with the timelines set out in the *Rules of Civil Procedure* for pre-trial conferences and settlement conferences.

PART V – GENERAL DIRECTIONS: MOTIONS AND APPLICATIONS

Lawyers and self-represented parties in family law matters should also consult the Practice Directions relating to Family Law Matters and Divorce Proceedings, for further direction.

1. Contested and Uncontested Matters

    a. Contested chambers motions and applications are heard in Charlottetown and Summerside (Slemon Park) courthouses on dates and times as determined by the court.

    b. All motions and applications are treated as contested unless the *Rules of Civil Procedure* or applicable statutes direct otherwise, or the court directs otherwise.

    c. The court may also specifically designate matters which may proceed on an uncontested basis.

2. Scheduling

    a. Generally, a motion or application is scheduled once the party requests a hearing date from the court. For many reasons, including the administration of justice, some matters may be scheduled by a deputy registrar whereas other matters require scheduling by the trial coordinator.

    b. Before filing documents, the moving party is to contact the deputy registrar to obtain a date and time for the hearing of the motion or application. If required, the deputy registrar may direct the moving party to contact the trial coordinator. For various matters, case management may be required before a hearing is authorized.

3. Summary Judgment

   a. As contemplated in the *Rules,* prior to a summary judgment motion being set down for a hearing, the parties have a conference call or meeting with a judge. This is often referred to as a "triage" call or meeting.

   b. Unless the court orders otherwise, a triage call or meeting shall not be held until such time as the moving party serves and files, at a minimum, the notice of motion. The notice of motion shall refer to the date of the motion as a "date to be fixed".

   c. The triage judge shall canvas with the lawyers or self-represented parties various matters including steps required, filing timelines and estimates of the amount of time needed for the motion.

   d. Once the judge has authorized the scheduling of the summary judgment motion, the trial coordinator may proceed with scheduling.

4. Contempt

   a. Lawyers and self-represented parties are reminded that contempt is available in the context of an order requiring a person to do an act, or to abstain from doing an act, other than the payment of money (*Rule* 60.12(1)).

   b. The standard of proof required is proof beyond a reasonable doubt. The responding party is afforded the rights an accused would be afforded in a criminal matter, including the right to remain silent.

   c. Subject to the discretion of the hearing judge, contempt motions generally proceed in stages (citation stage, liability stage, and penalty stage, if applicable).

5. Authorized Hearing Time

   a. In order to maximize court and judicial resources, and promote access to justice, every effort is to be made to conclude a hearing within the time that has been authorized by the court.

   b. Frequently, the time authorized for a hearing will be determined through the case management, pre-motion, pre-trial, or summary judgment triage regime. However, where a lawyer or self-represented party is seeking narrow relief and the hearing is anticipated to be relatively brief, the lawyer or self-represented party may contact the trial coordinator, estimate the time required for the hearing, and provide any additional information as requested by the trial coordinator.

6. Leave Required for Cross-Examination

   a. Leave from the court is generally required for a lawyer or self-represented party to cross-examine a witness during the hearing of a motion or an application.

   b. Subject to the discretion of the presiding judge, leave is generally not required to cross-examine a witness on their affidavit where parenting time, decision-making responsibility, child support or spousal support are at issue.

PART VI – FAMILY LAW MATTERS AND DIVORCE PROCEEDINGS

A. PRE-MOTION CONFERENCES

1. Overview

    a. Generally, where a party seeks interim relief in divorce actions (*Rule* 70) or family proceedings (*Rule* 71), a hearing shall not be scheduled until the parties proceed through the pre-motion conference regime and the pre-motion conference judge authorizes the scheduling of the hearing. This direction also applies to matters originating with the Child Support Services Office.

    b. Pre-motion conferences provide a forum in which issues are identified and resolution is explored prior to a contested hearing. The expectation is that lawyers and self-represented parties communicate with one another in advance of the pre-motion conference with a view to determining areas of agreement and outstanding issues.

    c. The emphasis will generally be child centered, not on other disputes between the parents.

2. Booking Motion/Application and Filing Documents

    a. All contested motions and applications in the Family Section shall be preceded by a pre-motion conference, unless the court specifically waives the requirement of a pre-motion conference.

    b. When the moving party contacts the trial coordinator or deputy registrar to advise of their intention to make a motion or application, they will be given a date and time for a pre-motion conference.

    c. Non-compliance with the directions and timelines set out in the *Rules of Civil Procedure* may result in the pre-motion conference being adjourned or rescheduled.

3. Affidavits

To reduce costs and to not further intensify the dispute, affidavits on motions/applications in family matters are not to be filed and served until after the pre-motion conference, and after the pre-motion conference judge has authorized a hearing. For the same reasons, pre-motion conference memorandums should not contain lengthy paragraphs similar to what might be included in an affidavit.

4. Financial Information

a. Lawyers and self-represented parties are reminded of the financial and income disclosure obligations, including for those individuals who are self-employed, or a partner in a partnership, as set out in s. 21 of the *Federal Child Support Guidelines,* SOR/97-175.

b. Ideally, parties should attach to the pre-motion conference memorandum (Form 70 BB) income documentation for the previous three years. However, at a minimum, parties are required to attach to the pre-motion conference memorandum, their most recent income tax return with schedules; most recent notice of assessment or reassessment; and, proof of current income (such as pay stub with year to date income; statement of employment insurance benefits; statement of other benefits; and, documentation of self-employment income or partnership income).

c. The court will generally not accept for filing a pre-motion conference memorandum that is not accompanied by these documents. Requests for exemptions may be made to the Registrar.

5. Notice to Director of Child Protection

The *Rules* require that notice be given to the Director of Child Protection

when a parenting order or contact order is claimed. Notice to the Director of Child Protection is to be provided on a timely basis, to ensure a response from the Director prior to the scheduling of a pre-motion conference. Unless otherwise ordered by the court, a pre-motion conference shall not proceed until any applicable report of the Director has been served on the parties and filed.

6. Results of Pre-motion Conference

    a. The pre-motion conference judge shall determine future steps, including what issues, if any, are authorized for an interim hearing, or an application, and what issues, if any, are for trial. Generally, the pre-motion conference judge will prepare a pre-motion conference report, which is provided to the lawyers and self-represented parties, and filed.

    b. Statements of the parties made at a pre-motion conference are confidential to the parties and their lawyers and shall not be disclosed to the hearing judge.

7. Additional Pre-Motion Conference

Occasionally, a lawyer or self-represented party requests the court schedule a continuation of a pre-motion conference or a subsequent pre-motion conference. In such circumstances, the party making the request is to provide details as requested by the trial coordinator, and the court will generally require the following:

    a. the court file number and full names of the parties;

    b. the names and ages of children who may be subject to the proceeding;

    c. if the Office of the Children's Lawyer is involved, the name of the lawyer;

    d. the names of the lawyers of record;

e. the date of the last pre-motion conference held;

f. the name of the judge who presided over the last pre-motion conference;

g. if the matter is currently in case management, the name of the case management judge, date of the last case management call, and whether the case management judge has authorized a further pre-motion conference;

h. if there is an existing court order involving the parties, the date of the most recent order;

i. the relief that is requested in the underlying motion or application;

j. the issues the party wants to address at the pre-motion conference;

k. what efforts the parties/lawyers have pursued to try and reach agreement on the issues, before requesting a further pre-motion conference; and

l. whether the Director of Child Protection has intervened.

Once such a request is received and the above information is provided, the court will provide direction.

B. MOTIONS AND APPLICATIONS

For further guidance on motions and applications generally, parties should also consult Part V, the "General Directions: Motions and Applications" Practice Direction.

1. Originating Processes and Interim Relief

    a. Lawyers and self-represented parties are reminded that the originating process for the commencement of a divorce action is a petition, and interim relief is to be sought via a notice of motion.

    b. Lawyers and self-represented parties are also reminded of the following:

        (i) The originating process for relief under the *Family Law Act,* RSPEI 1988 Cap. FF-2.1, or the *Children's Law Act*, RSPEI 1988 Cap. C-6.1 is generally a statement of claim, and interim relief is to be sought via a notice of motion.

        (ii) A notice of application is not to be used where interim relief is sought under the *Family Law Act* or the *Children's Law Act*. Rather, the appropriate approach is to issue a statement of claim and notice of motion.

    c. Where an application is initiated under the *Family Law Act* or the *Children's Law Act,* the parties are still subject to the pre-motion conference regime.

    d. The court recognizes that the Child Support Services Office (CSSO) frequently issues a notice of application. These applications are subject to the pre-motion conference regime. Further, the court will exercise its discretion in considering such applications, and provide such direction as is necessary and appropriate.

2. Designation of Address for Service

The *Rules* require service and filing of a designation of address for service for all originating processes, and pleadings responding to an originating process. In circumstances where a party views it is not appropriate for the opposing party to have their contact information, a request may be made to the Registrar to waive the requirement.

3. No Property Matters

With the exception of motions for exclusive possession of the family home, matters related to property in family matters are generally not dealt with by an interim motion under either *Rule* 70.15 or *Rule* 71.08.

4. Restrictions on Affidavits

To eliminate the filing of unfocused affidavits, and unnecessarily voluminous attachments, affidavits are to comply with the following:

a. Generally, each party is restricted to one primary affidavit in support of their position on the motion, which shall not exceed 10 pages.

b. Any reply affidavit shall not exceed 5 pages.

c. Exhibits to a party's affidavit shall be limited to only the necessary and relevant evidence and are not to exceed 10 pages in total. Litigants are not to include voluminous texts, emails and/or social media postings. Instead, only the relevant and necessary excerpts from these communications are to be attached as exhibits.

d. Leave is required to file affidavits or exhibits beyond the page limits described above. Leave will only be granted in exceptional circumstances. Requests for leave are to be made in writing, by letter to the Registrar. Leave may also be sought from the presiding judge at the pre-motion conference.

e. These page limits do not apply to motions or applications in Director of Child Protection matters.

5. Cross-Examination

Subject to the direction of the presiding judge, leave is generally not required to cross-examine a witness on their affidavit where parenting time, decision-making responsibility, child support, or spousal support are at issue.

6. Factum Required

Unless the court directs otherwise, a factum is required for both motions and applications in the Family Section. Failure to file a factum (and memorandum of authorities) may result in the matter being adjourned.

7. Motions By Responding Party

a. If a responding party to a motion merely wishes to oppose the relief sought by the moving party, it is not necessary for the responding party to file a further motion.

b. Pursuant to *Rules* 70.15(9) and 71.08, if the responding party to a motion seeks relief outside the subject matter of the relief sought by the moving party, a further motion is generally required. The additional motion shall have the same court file number as the moving party's original motion.

c. Depending on a multitude of factors, including the subject matter of the relief sought in the new motion, and the timing of the filing of the new motion, the court will either direct that the new motion be heard on the same date as the original motion, or a different date. The court may direct case management to address this issue.

C. CHILD SUPPORT

1. General

The court requires fulsome financial documentation to address child support in a variety of settings: motions and applications; trials; motions for judgment in uncontested matters; and, proposed consent orders presented to the court. A failure to provide timely and fulsome financial disclosure may have adverse consequences, including costs.

2. Child Support – Legislative Obligations and Duration

a. A parent's obligation to provide adequate financial support for a child is addressed in the legislative regime and the governing case law. In making a child support order, the court does so in accordance with the *Federal Child Support Guidelines* SOR/97-175, including the Tables ("*Guidelines*").

b. The court has an obligation to ensure that parents provide adequate financial support for a child. This obligation is addressed in both the *Children's Law Act*, RSPEI 1988 Cap. C-6.1 and the *Divorce Act*, RSC 1985, Cap. 3. This obligation exists independently of the wishes of a party. For example, the court may decline to endorse a proposed consent order which does not adequately address financial support for a child.

c. Lawyers and parents are reminded of the legislative regime which addresses the duration of a parent's obligation to provide financial support for a child, including the definition of "child of the marriage" in s. 2(1) of the *Divorce Act*, and the age and circumstances of the child addressed in s. 58(2) of the *Children's Law Act*.

3. Self-employed Income and Partnership Income

Lawyers and self-represented parties are reminded of the financial and income disclosure obligations set out in s. 21 of the *Guidelines*, where a

party is self-employed, is a partner in a partnership, or controls a corporation.

4. Off-Table Child Support

   a. Generally, the court is obligated to order child support in accordance with Tables of the *Guidelines*. In certain circumstances, the court may order child support that is different from the amount in the Tables. For example, the court may order an off-Table amount where undue hardship has been established in accordance with the *Guidelines.*

   b. The court may also order an off-Table amount upon the consent of both spouses, provided the court is satisfied that reasonable arrangements have been made for the support of the child (see, for example, s. 15.1 (7) of the *Divorce Act).*

   c. In considering requests for an off-Table child support amount, the court requires appropriate documentation and evidence to satisfy itself that reasonable arrangements have been made for the child. This applies in the context of all requests, including proposed divorce judgments where the proceeding is uncontested.

5. Adult Child

   a. Lawyers and self-represented parties are reminded of s. 3(2) of the *Guidelines,* which addresses child support for an adult child:

      3(2) Unless otherwise provided under these Guidelines, where a child to whom a child support order relates is the age of majority or over, the amount of the child support order is

         (a) the amount determined by applying these Guidelines as if the child were under the age of majority; or

(b) if the court considers that approach to be inappropriate, the amount that it considers appropriate, having regard to the condition, means, needs, and other circumstances of the child and the financial ability of each spouse to contribute to the support of the child.

b. The court therefore requires documentation and evidence regarding the circumstances of the child. This often arises where the adult child is attending post-secondary education. In such circumstances, the court generally requires evidence relating to the child's living arrangements; whether the child is residing with a parent or not; the child's employment and income (including during the school year and summer months); and, the child's expenses (for example, educational expenses and living expenses).

6. Shared Parenting – Child Support

a. Lawyers and self-represented parties are reminded that in situations of shared parenting, the court is obligated to determine child support in accordance with s. 9 of the *Guidelines:*

9 If each spouse exercises not less than 40% of parenting time with a child over the course of a year, the amount of the child support order must be determined by taking into account

(a) the amounts set out in the applicable tables for each of the spouses;

(b) the increased costs of shared parenting time arrangements; and

(c) the conditions, means, needs and other circumstances of each spouse and of any child for whom support is sought.

b. The court therefore considers not only the applicable Table amount, but also the two additional factors set out in s. 9(b) and (c) above.

7. Child Support – Details to Include in Originating Process

An originating process requesting relief under the *Divorce Act* or the *Children's Law Act* is to clearly indicate if there are, or are not, children of the union. If there are children of the union, the pleading is to state the names and dates of birth of the children. If no child support is being sought for any of the children, the reason is to be stated (e.g., if the child is over the age of majority and is living independently).

D. UNCONTESTED DIVORCES

1. General

    a. Lawyers and self-represented parties are reminded of the requirements in *Rule* 70.19 of the *Rules of Civil Procedure*, which addresses motions for judgment where a divorce proceeding is not contested.

    b. Provided the court is satisfied the requirements in the legislative regime, and the *Rules*, have been complied with, the court may decline to require a hearing.

2. Certificates

    a. If the certificate of marriage filed in support of the motion is not signed by the Director of Vital Statistics for Prince Edward Island, the petitioner's affidavit must refer to the certificate by title, date and place, name and office of issue, and state that it contains the correct particulars.

    b. The original marriage certificate, or a notarized copy of the original marriage certificate, must be filed with the court. If there are children of the marriage, a birth certificate for each child, or notarized copies of birth certificates, must also be filed.

    c. If the certificate of marriage filed in support of the motion, or the birth certificates of any children of the marriage, are in a language other than English or French, the certificate(s) must be translated by a certified translator into either English or French. The original certificate (or a notarized copy), as well as the certified translated copy of the certificate, must be filed.

3. Children

    The affidavit in support of the motion is to clearly indicate if there are, or are not, children of the union. If there are children of the union, the affidavit is to state the names and dates of birth of the children and

indicate whether each child remains a "child of the marriage" as defined in s. 2(1) of the *Divorce Act,* RSC 1985, Cap. 3.

4. Division of Property/Equalization

    a. Lawyers and self-represented parties are reminded that if the parties have reached a suitable division of property, either by formal or informal agreement, or if there is to be no division of property, *Rule* 70.19(5)(i) provides the petitioner's affidavit must state that they do not wish to claim division at this time and that they understand they may be barred from doing so later.

    b. Any settlement of division of property shall be referred to in the petitioner's affidavit and any such agreement shall be filed with the court (for example, a separation agreement or memorandum of settlement).

    c. Where a petitioner claims an equalization of net family property, and the respondent does not file an Answer, the petitioner may request that the respondent be noted in default. A hearing will generally be required in order to seek an order for equalization. In such a case the petitioner may request a date for a motion. Notwithstanding the default, the court may in its discretion require notice of the motion be provided to the respondent.

    d. The petitioner is to provide detailed proof of the value of the family property, including for example, appraisals of real property, valuation of pensions, etc. An exact proposed equalization should be sought, with supporting evidence. A Statement of Property Form 70 I(D) is to be filed.

5. Divorce Judgment

    a. All requested terms (i.e. relief sought) in proposed judgments must be consistent with the relief sought in the divorce petition. Therefore, the petitioner is to cross-check the proposed judgment with the petition for accuracy.

b. Divorce judgments are not to contain clauses which purport to oust or restrict the court's jurisdiction to review or vary spousal or child support provisions in the future.

c. Lawyers and self-represented parties are reminded that the court is required to follow the governing statutes in terms of subject matter to be included in a divorce judgment. Therefore, unenforceable excerpts from a separation agreement or memorandum of settlement are not to be included in a divorce judgment.

d. If the parties reach a settlement at any stage in a proceeding and plan to file a Consent Divorce Judgment, supporting documents must be filed with the Consent Divorce Judgment. The supporting documents include a Notice of Motion for Judgment, the petitioner's affidavit (or respondent's affidavit as the case may be), and the Registrar's Certificate, unless the court directs otherwise.

e. A divorce judgment will not be issued unless birth certificates for all dependent children of the marriage are filed. This is so the deputy registrar can ensure that the names and birth dates of the children on the divorce judgment are the same as on the birth certificate.

E. OFFICE OF THE CHILDREN'S LAWYER (OCL)

1. Overview

   a. Section 33.1 of the *Judicature Act*, RSPEI 1988, Cap. J-2.1, provides that the Minister of Justice and Public Safety and Attorney General of Prince Edward Island may appoint one or more qualified persons as a Children's Lawyer.

   b. Pursuant to s. 33.1(4) of the *Judicature Act,* at the request of a court, a Children's Lawyer may act as the legal representative of a minor in or in respect of a proceeding. Pursuant to s. 33.1(7), a Children's Lawyer may carry out certain functions in a proceeding under the *Divorce Act,* RSC 1985, Cap. 3. or the *Children's Law Act,* RSPEI 1988 Cap. C-6.1*,* in which a question concerning parenting time, decision-making responsibility or contact in respect of a child, or the child's support or education, is before the court. The legislation provides that in such proceedings, a Children's Lawyer may, in respect of certain matters, conduct an inquiry, act as legal counsel or litigation guardian on behalf of the child and make recommendations to the court.

2. Notice and Filings

   a. Where a Children's Lawyer, at the request of a court, acts as the legal representative of a minor pursuant to s. 33.1(4) of the *Judicature Act,* or acts as legal counsel or litigation guardian on behalf of the child pursuant to s. 33.1(7)(b), the Children's Lawyer shall serve on the parties to the proceeding and file with the court, with proof of service, the following documents:

      (i) notice that the Children's Lawyer will be acting; and
      (ii) Designation of Address for Service (Form 16A.1).

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   b. Upon the Children's Lawyer filing the notice and Designation of Address for Service, the parties shall serve the Children's Lawyer with every document in the proceeding that pertains to parenting time, decision-making responsibility, contact with a child or the child's support or education.

c. Upon the Children's Lawyer filing the notice and Designation of Address for Service, the Children's Lawyer shall be provided notice of hearing dates, including pre-motion conferences, pre-trial conferences and settlement conferences.

d. The directions in this Practice Direction apply, with necessary modifications, where the Children's Lawyer initiates a proceeding on the child's behalf under the *Children's Law Act,* pursuant to s. 33.1(15) of the *Judicature Act*.

3. Director of Child Protection

a. Upon the Children's Lawyer filing the notice and Designation of Address for Service, the Director of Child Protection (the "Director") shall serve the Children's Lawyer with every document that the Director serves on the parties.

b. In a proceeding in which the Director has filed a notice of intention to investigate and report, and the Children's Lawyer has filed a notice and Designation of Address for Service, where the Children's Lawyer subsequently serves a notice of motion that relates to a parenting order or contact order, the Children's Lawyer shall serve the notice of motion on the Director within the time prescribed for service on the parties. The Children's Lawyer shall also serve the Director with such other documents as directed by the court.

4. Removal as Children's Lawyer

In circumstances where the Children's Lawyer wishes to be removed as lawyer for the child, the Children's Lawyer shall make a motion to the court under *Rule* 15.05 of the *Rules of Civil Procedure*, requesting to be removed.

F. DIRECTOR OF CHILD PROTECTION

1. Scheduling

    a. Lawyers and self-represented parties are reminded of the timelines set out in the *Child, Youth and Family Services Act,* RSPEI 1988 Cap. C-6.01. Given these timelines, when dates are offered by the court for child protection hearings and pre-application conferences, lawyers and self-represented parties are expected to make every possible effort to be available for the offered dates.

    b. The court reserves a standing weekly time slot for child protection matters, both in Charlottetown and Summerside (Slemon Park). As the allotted time is brief, an adjournment may be necessary in circumstances where more time is required.

2. Pre-Application Conference

    a. Where the court authorizes a pre-application conference, the parties are to file a pre-application conference memorandum, available on the court's website at *www.courts.pe.ca*.

    b. The pre-application conference memorandum is to be filed, with proof of service, at least seven days before the date set for the pre-application conference.

    c. Where the Director of Child Protection (the "Director") seeks a permanent order, the court, on its own initiative, generally schedules a pre-application conference. Lawyers and self-represented parties are expected to be in a position to address hearing-related matters, including those matters set out in the pre-application conference memorandum form.

    d. If a party views a pre-application conference would be worthwhile even where the Director is not seeking permanent relief, the party may make the request to the trial coordinator and the court will provide direction.

e. On occasion, the parties may also be interested in the court facilitating a resolution conference, with a view to resolving the matter in the absence of a contested hearing. Requests for a resolution conference may be made to the trial coordinator.

G. INTERJURISDICTIONAL SUPPORT ORDERS REGIME (ISO REGIME)

1. The interjurisdictional support orders regime ("ISO") is addressed in the *Interjurisdictional Support Orders Act*, RSPEI 1988, Cap. I-4.2. The *Act* sets out the process to be followed where one party resides in Prince Edward Island and the other party does not. Further procedural and substantive guidance on ISO applications can be found in the *Divorce Act*, RSC 1985, Cap. 3, and the *Rules of Civil Procedure*.

2. This regime only applies to jurisdictions in which Prince Edward Island has a reciprocal enforcement agreement.

3. Where the party seeking an order resides in Prince Edward Island, the party completes the required ISO forms, provides them to the designated authority under the *Interjurisdictional Support Orders Act***,** namely the Director of Maintenance Enforcement (the "Director") and the forms are then forwarded to the designated authority in the jurisdiction where the other party (the respondent) resides. The court hearing is then held in the jurisdiction where the respondent lives. Further direction may be provided from that jurisdiction.

4. Where the party seeking an order (the applicant) does not live in Prince Edward Island, but the respondent does, the applicant completes the required ISO forms in their jurisdiction. The forms are then provided to the designated authority in the other jurisdiction which sends them to the Director.

5. The Director, or its counsel, files these documents with the court. The Director, or its counsel, obtains a hearing date, and Notice of Hearing from the court. The Director, or its counsel, then serves various documents on the respondent, such as the applicant's application; the applicant's affidavit; the Notice of Hearing, which includes the date and time of the Prince Edward Island court hearing; and, additional ISO forms to be completed by the respondent. The Director, or its counsel, also serves the Notice of Hearing on the applicant.

6. The respondent is to complete, serve and file the documents prior to the scheduled hearing. The respondent is required to attend the court hearing,

and if the respondent fails to do so, the court may grant relief, even in the absence of the respondent.

7. The respondent may be cross-examined at the hearing.

8. Particularly given the potential for cross-examination on the applicant's affidavit, it is generally necessary for the applicant to participate in the ISO hearing. However, it is generally not necessary to participate in person as the court usually accommodates requests for virtual attendances.

9. ISO hearings generally proceed in two stages: Stage 1 and Stage 2.

10. At the initial Stage 1 hearing, the focus is on clarifying the relief sought; ensuring appropriate information and documentation has been served and filed; and, establishing timelines for the serving and filing of any additional documentation. The focus is usually on comprehensive, and up-to-date, financial and income documentation. If the court is satisfied it has sufficient documentation to determine the application at the Stage 1 hearing, it may proceed directly to a Stage 2 hearing at that time.

11. The Stage 2 hearing is the substantive ISO hearing where the evidence is put before the court, and the parties make submissions on the relief sought.

12. Legal counsel for the Director participates in the ISO regime, including the actual hearing(s), as a friend of the court.

13. Counsel for the Director facilitates the initial exchange, service and filing of documentation, and often assists in the articulation of the issues and highlights of the law. If directed by the court, the Director, or its counsel, will facilitate drafting any resulting order and the exchange, service and filing of any further documentation.

14. Additional information on the interjurisdictional support orders regime may be obtained from the Child Support Services Office or the Office of the Director of Maintenance Enforcement.

H. HAGUE CONVENTION

Hague Convention Protocol

PROCEDURAL PROTOCOL FOR THE HANDLING OF RETURN APPLICATIONS UNDER THE 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Supreme Court of Prince Edward Island

1. Preamble

   a. The *1980 Hague Convention on the Civil Aspects of International Child Abduction ("the 1980 Hague Convention"*) has the force of law in Prince Edward Island pursuant to s-s. 70(2), Part 7 of the *Children's Law Act*, RSPEI, c. C-6-1.

   b. Article 1 of the *1980 Hague Convention* provides the following objectives:

      (i) to secure the prompt return of children wrongfully removed to or retained in any contracting state; and

      (ii) to ensure that rights of custody and of access under the law of one contracting state are effectively respected in the other contracting states.

   c. Article 11 of the *1980 Hague Convention* provides in part as follows:

      The judicial or administrative authorities of contracting states shall act expeditiously in proceedings for the return of children.

   d. The Minister of Justice and Public Safety and Attorney General fulfills the responsibilities of Central Authority of Prince Edward Island ("the Central Authority") pursuant to the *1980 Hague Convention* for Prince Edward Island.

   e. To ensure that an application for return pursuant to the *1980 Hague Convention* ("Return Application") is dealt with

expeditiously, a procedural protocol, below, has been developed by the Supreme Court of Prince Edward Island ("the Court").

2. Procedural Protocol

a. The Chief Justice of the Court shall appoint a Contact Judge for any proceedings which take place pursuant to the *1980 Hague Convention*.

b. The Central Authority shall advise the Contact Judge when it becomes aware of an intent to initiate proceedings in Prince Edward Island for the return of a child.

c. Article 29 of the *1980 Hague Convention* allows persons to bring Return Applications directly rather than through the Central Authority; however the Central Authority is to be notified of all applications.

d. Article 16 of the *1980 Hague Convention* provides that where a court has notice of the alleged wrongful removal or retention of a child, the court shall not deal with the merits of rights of custody until a Return Application has been determined.

e. Alternatively, notice as contemplated under Article 16 of the *1980 Hague Convention* may also be provided by the Central Authority by filing a Requisition notifying the court of the case. The filing of a Requisition giving notice under Article 16 shall be sufficient to open a court file when no file exists.

f. The Return Application will be commenced in the court as a Notice of Application (Form 14E) and the existing *Rules of Civil Procedure* with respect to notice, service and procedure will apply.

(i) When the Return Application is filed, the court, the Contact Judge or a designate, as the case may be, will undertake the following:

1. establish appropriate timelines for the filing and service of further materials; and

2. set the Application down for a hearing.

(ii) Any party, including a left-behind parent, may appear by way of telephone conference or video conference including Zoom, Microsoft Teams, Skype, or a similar platform, where appropriate and where facilities are available.

g. An Article 16 Notice filed by the Central Authority or a Notice of Application filed by a left-behind parent shall act as a stay of any proceedings regarding the child in the Supreme Court of Prince Edward Island (Family Section).

h. At such time as an Article 16 Notice or a Notice of Application is filed, the Registrar shall:

(i) Perform a search for any existing custody, access/contact, or other file involving the child named;

(ii) If a file referred to in paragraph 13a. exists, assign the same file number to the Article 16 Notice or Notice of Application and notify the Central Authority of the existing file;

(iii) If a file referred to in paragraph 13a. does not exist, assign a file number to the Article 16 Notice or Originating Application;

(iv) Provide a copy of the Article 16 Notice or Originating Application to the Contact Judge;

(v) In the case of a Notice of Application, provide a filed copy to the Central Authority.

i. No case management will be required for a Return Application pursuant to the *1980 Hague Convention*.

PART VII – ESTATES AND TRUSTS

1. General

    a. Once a grant of probate or administration is issued by the court, s. 47 of the *Probate Act,* RSPEI 1988, Cap. P-21, requires that notice of the granting be published in the Royal Gazette. Unless the court directs otherwise, the notice shall be advertised in the Royal Gazette for four consecutive weeks.

    b. Following the grant of probate or administration, parties are to use the style of cause in the original Grant for all subsequent documents filed.

2. Inventory and Valuation of Assets

    a. In estimating the value of an asset that is not already assessed for tax purposes or other market valuation, the court requires an estimate that is reasonable. However, it is not necessary to have a valuation done by an appraiser unless the asset is of unusual or unique value.

    b. An inventory which includes real estate should indicate the location of the land, the amount of the land (i.e. house and lot, or __ acres) and the property identification number.

    c. When filing amended documents, including an inventory, amendments are to be underlined.

    d. On occasion, the court is requested to issue a grant of probate or administration in the absence of a comprehensive inventory (as the grant or administration may be required in order to facilitate a comprehensive inventory). In appropriate circumstances, the court may issue a grant of probate or administration with conditions, to facilitate the completion of a comprehensive inventory. Such conditions may include that a proper and comprehensive inventory be provided within a specified time period. The expectation is that these time limits

are to be strictly adhered to, unless the court has granted leave for adjusted timelines.

3. Dispensing with Requirement for Bond and/or Sureties in Administrations

The *Probate Act* contemplates dispensing with the requirement of a bond or sureties in estates that are to be administered, "upon application made by or on behalf of the applicant". The decision whether to dispense of the requirement of a bond or sureties is an exercise of the court's discretion, determined by the facts and circumstances put before the court. Subject to other direction of the court, requests to dispense with a bond or sureties may be made in correspondence to the court, and sufficient details must be set out for the court to consider the request.

4. Passing Of Accounts

a. Pursuant to s. 54(2)(a) the *Probate Act*, a Citation for the passing of accounts must be posted in three public locations as the court directs. Subject to other directions from the court, the Citation should generally be posted at the following three locations:

(i) The courthouse in the County in which the deceased resided.
(ii) A bank or credit union within 50km of where the deceased resided; and
(iii) A pharmacy or gas station within 50km of where the deceased resided.

The court may also approve other locations. If an alternate location is requested, the representative of the estate or their lawyer may contact the deputy registrar with the proposed location, and the court will provide further direction.

b. Before a hearing for the final passing of accounts is authorized, the moving party shall advise the trial coordinator or the deputy registrar of the estimated duration of the hearing being

requested.

c. If the moving party is aware that the passing of accounts may be contested, the moving party shall advise the trial coordinator. The court may require case management to address hearing-related matters, including estimated duration of the hearing.

d. When filing the Executor's/Administrator's Final Accounts, Forms 65WW (Petition to Pass Accounts, etc.), 65XX (Affidavit Verifying Accounts) and 65AAA (Inventory on Passing Accounts) are required to be filed. Form 65X (Notice of Having Interest) may also be required, if not already filed.

e. The Executor/Administrator is not entitled to commission unless court approval is obtained pursuant to s. 11 of the *Probate Act*. Before requesting such approval, a Statement of Receipts and Disbursements and acknowledgment of receipt by the heirs, must be filed.

5. Trustee Fees for the Care and Management of Trusts

a. Lawyers and self-represented parties are reminded that s. 31 of the *Trustee Act*, RSPEI 1988, Cap. T-8, provides that "trustees. . . are entitled to such fair and reasonable compensation for their care, pains and trouble, and their time expended in and about the trust estate, and in such proportion where there is more than one trustee, as is determined by the Court."

b. Where a trustee's remuneration was not established by the agreement setting up the trust, it is necessary to apply to the court, on an annual basis, to have a trustee's remuneration decided.

PART VIII – CRIMINAL

A. GENERAL PROCEDURE

1. Overview

    a. While this Practice Direction covers a number of general areas applicable to criminal matters, lawyers and self-represented parties are reminded that other Practice Directions also apply where appropriate (for example, Practice Directions related to court procedure and decorum, and related to documents and authorities).

    b. In the absence of stand-alone Criminal Section rules of procedure in this province, directions and timelines set by the court, including through the criminal pre-trial conference regime and at arraignments, are intended to facilitate the orderly and timely consideration – and determination – of criminal matters.

    c. Unless the court directs otherwise, or unless specifically directed by the *Criminal Code*, the timelines set out below apply.

    d. Non-compliance with the directions and timelines set by the court, and in particular late filings, impacts scheduling, judicial resources, the administration of justice and access to justice. In situations where the directions and timelines set by the court are not complied with, consequences may follow, including potential adjournments.

    e. Lawyers, and self-represented parties, are reminded that forwarding or providing a document to a clerk or trial coordinator does not constitute filing with the Registrar.

2. Service and Filing - Applications

    a. *Rule* 38 of the *Rules of Civil Procedure* requires that a notice of application be issued by the court, as it is an originating process. However, for Criminal Section matters, the indictment is the

originating process. Therefore, notices of application in the Criminal Section are not to be issued; rather, they are to be served, and then filed with the court, with proof of service.

b. The materials in support of the application are to be served and filed no later than 14 days before the scheduled date of the application. The materials of the responding party are to be served and filed no later than seven days before the scheduled date of the application.

3. Service and Filing - Sentencing

a. Generally, for sentencing hearings, the expectation is that written submissions shall be served and filed. The Crown's written submissions are to be served and filed no later than 14 days before the scheduled date of the sentencing hearing. The responding materials of the accused, or defence counsel if applicable, are to be served and filed no later than seven days before the scheduled date of the sentencing hearing.

b. Where lawyers intend to make a joint submission on sentence, the court should be advised no later than one week in advance of the scheduled sentencing hearing. Written submissions and case law on the joint submission should be filed no later than one week before the scheduled sentencing hearing.

c. Where there is an intention to call a witness to give expert opinion evidence at a sentencing hearing, timely notice is to be provided to the trial coordinator, and the court may provide direction.

B. ARRAIGNMENTS

1. General

    a. Generally, arraignments in the Supreme Court are held on a monthly basis in both Charlottetown and Summerside (Slemon Park), on days designated by the court.

    b. In advance of the scheduled arraignment date, the court communicates and advises the Crown and defence counsel, or an accused individual if they are self-represented, of the matters scheduled for arraignments.

2. Virtual Appearances

    a. In appropriate circumstances, lawyers may participate virtually. Lawyers are to advise the court in advance of requests to participate virtually.

    b. Lawyers joining virtually are to connect via the link provided by the court. Lawyers are to have capability for video participation (not only audio participation). If lawyers request to join by audio only, leave of the court is required.

    c. Lawyers are to wear court attire (waistcoat, tabs and robes) for arraignments, whether participating in person or virtually, unless leave of the court is obtained.

    d. Requests for an accused, who is in custody, to participate virtually, are to be made on a timely basis in order that appropriate arrangements may be made by the court and correctional centre.

3. Guilty Pleas

a. Lawyers and self-represented parties are reminded that offers of guilty pleas are generally not taken at arraignments, unless leave of the court is obtained in advance.

b. If the intention is for an accused person to plead guilty, the court is to be advised on a timely basis in advance and the court will make efforts to secure a non-arraignment date and time for the offer of the guilty plea.

C. PRE-TRIAL CONFERENCES AND RESOLUTION CONFERENCES

1. General

Lawyers participating in a pre-trial or resolution conference, as the case may be, are expected to attend with a strong working knowledge of their matter.

2. Pre-Trial Conferences

a. Generally, all criminal matters proceed through the criminal pre-trial conference process. Pre-trial conferences often proceed by telephone, or virtually, but may also proceed in person. The forum in which the pre-trial conference proceeds is at the direction of the court.

b. The court, in conjunction with representation from the Crown and the defence bar, has created a pre-trial conference report applicable for judge alone trials, and a pre-trial conference report applicable for judge and jury trials. The updated forms are on the court's website at *www.courts.pe.ca*. They are also available by contacting the trial coordinator or such other designated individual.

c. Where an accused is represented, both the Crown and defence counsel are to serve and file the completed pre-trial conference report seven days prior to the scheduled pre-trial conference. In order to optimize the time and value of the pre-trial conference, both the Crown and defence are requested to fulsomely address the required areas in the pre-trial conference reports. Guidance is provided on the forms in relation to some areas that are not required to be addressed.

d. Unless the court specifically requests otherwise, a self-represented accused person is not to complete the pre-trial conference report.

3. Resolution Conferences

   a. A joint request may also be made to the court for the scheduling of a resolution conference. Resolution conferences provide an opportunity to obtain judicial input and assist in efforts at resolution.

   b. Further details are set out in the respective pre-trial conference forms.

D. DETENTION REVIEW HEARINGS (s. 525 of the *Criminal Code of Canada*)

1. General

   a. Lawyers, self-represented parties and the Provincial Correctional Centre are reminded of s. 525 of the *Criminal Code of Canada* (the "*Code*"). Section 525(1) of the *Code* provides that the person "having the custody of an accused" is obligated to apply to a judge to fix a date for a hearing to determine whether or not the accused should be released from custody, if the trial has not commenced within 90 days of the circumstances listed in s. 525(1) of the *Code*. Section 525(1) of the *Code* provides the person having custody of an accused is obligated to make this application immediately after the expiry of those 90 days. However, s. 525(1.1) of the *Code* contemplates the accused waiving the accused's right to a hearing. Further direction regarding detention review hearings is set out in s. 525 of the *Code*.

   b. The court, in conjunction with representation from Community and Correctional Services and the bar, has created a number of forms to facilitate compliance with s. 525 of the *Code*.

   c. The detention review forms are available on the court's website at *www.courts.pe.ca*, and the forms may also be requested from the trial coordinator, or other designated person.

2. Procedure

   a. First, the Provincial Correctional Centre, having the custody of an accused, is required to advise the court of any accused person for which s. 525 applies, namely:

      525 (1) … if the trial has not commenced within 90 days from
      (a) the day in which the accused was taken before a justice under section 503; or

(b) in the case where an order that the accused be detained in custody has been made under section 521, paragraph 523.1(3)(b)(ii) or section 524, or a decision has been made with respect to a review under section 520, the later of the day on which the accused was taken into custody under that order and the day of the decision.

b. The Provincial Correctional Centre completes and provides to the court Form 1 – Application for Detention Review. The application for detention review is to include a copy of the documentation regarding the accused's initial remand and any subsequent documentation addressing the accused's remand status.

c. Upon receipt of the application for detention review, the court communicates with the Crown, defence counsel, and the Provincial Correctional Centre and provides Form 2 – Detention Review Waiver Form. The accused (or defence counsel on behalf of the accused) indicates on the waiver form whether the accused does, or does not, oppose the accused's continued detention. When the accused is self-represented, the Provincial Correctional Centre facilitates having the accused complete Form 2.

d. If an accused opposes the accused's continued detention, the court then requests a transcript of the show cause hearing be prepared by the Provincial Court, if one was held under s. 515 of the *Code*. Upon receipt of the transcript, the court schedules the s. 525 hearing. If there is no transcript (for example if the accused is on remand by consent) the court proceeds with scheduling the s. 525 hearing.

e. The court then completes and provides Form 3 – Notice of Detention Review Hearing and provides the notice to the Crown, defence counsel (if applicable) and the Provincial Correctional Centre, and the Provincial Correctional Centre provides the completed Form 3 to the accused.

f. Finally, the Crown is obligated to complete and provide Form 4 – Detention Review Information, which is to be provided to defence counsel (if applicable), or the accused if they are self-represented (via the Provincial Correctional Centre). The completed Form 4 is to be filed with the court at least four days prior to the scheduled s. 525 hearing.

E. INTRODUCING EVIDENCE CONTAINING HIGH POTENCY NARCOTICS OR OTHER HAZARDOUS SUBSTANCES
(Joint Practice Direction of the Court of Appeal, Supreme Court, and Provincial Court)

1. Purpose

    a. To set out the procedure for introducing evidence that contains or may contain high potency narcotics, including fentanyl and carfentanil;

    b. To set out the procedure for reducing or eliminating the hazards of exposure to drugs, chemicals or bodily fluids when handling crime scene exhibits (including seized items, i.e. firearms, documents, currency, equipment, bags, boxes, etc.) and when handling cross-contaminated evidence in storage with hazardous drugs, chemicals or biologicals.

2. Application

    This Practice Direction applies to all courts and courthouses in the Province of Prince Edward Island, including Provincial Court, Supreme Court, and Court of Appeal.

3. Directions

    a. In the event that high potency narcotic exhibits or other hazardous substance exhibits are required to be introduced in a court proceeding, the party seeking such introduction shall endeavour to do so by admission, statement of fact, photographs and certificate of analysis.

    b. No high potency narcotic exhibits or hazardous substance exhibits shall be introduced without first obtaining the leave of the court. Leave shall be obtained prior to the high potency narcotics or hazardous substances being brought to the courthouse.

c. In the event the presiding judge grants leave and admits high potency narcotic exhibits or hazardous substance exhibits into evidence, the high potency narcotic exhibits or hazardous substance exhibits shall be brought to the courthouse double bagged, sealed and clearly labelled in accordance with any policies established by the court services manager in consultation with the Chief Justices and Chief Judge, and as amended from time to time to ensure the safety of all court participants. Prior to any such exhibits being brought to the courthouse, the exhibit handler must confirm with the presiding judge that he or she has inspected the proposed exhibits to ensure that they are properly and securely packaged before bringing them to the courthouse to ensure there is no accidental exposure (for example that drugs are double bagged, and no staples were used to attach the Certificate(s) of Analyst to the exhibit bag(s)).

d. Only a trained and equipped police exhibit handler and trained and equipped court personnel shall be permitted to handle the high potency narcotic exhibits or hazardous substance exhibits.

e. The court clerk will immediately notify the court manager in the event that the high potency narcotic exhibits or hazardous substance exhibits are admitted into evidence.

effective March 31, 2018

PART IX – COSTS

A. GENERAL

Lawyers and parties are reminded of the broad discretion the court has in relation to costs, as set out in the *Judicature Act*, RSPEI 1988, Cap. J-2.1:

> 1. *In this Act*
> *(o) "proceeding" means any application, action, suit, cause or matter, including a proceeding formerly commenced by a writ of summons, third party notice, counterclaim, petition, originating summons, originating motion or in any other manner;*
> *....*
> *60. (1) Unless otherwise provided by any Act, the costs of and incidental to a proceeding authorized to be taken in a court are in the discretion of the court, and the court may determine by whom and to what extent the costs shall be paid.*

B. COSTS GUIDE
(Joint Practice Direction of the Court of Appeal and Supreme Court)

The purpose of this Costs Guide is to provide guidance to the profession in matters involved in fixing costs of proceedings and steps in proceedings by courts (judges) under the *Rules of Civil Procedure*.

Costs of proceedings is governed by s. 60(1) of the *Judicature Act* and *Rule* 57 of the *Rules of Civil Procedure.* The *Judicature Act* states:

> *60. Costs*
>
> *(1) Unless otherwise provided by any Act, the costs of and incidental to a proceeding authorized to be taken in a court are in the discretion of the court, and the court may determine by whom and to what extent the costs shall be paid.*

The *Rules of Civil Procedure* sets out general principles applicable to all proceedings:

> *INTERPRETATION*
>
> *General Principle*
>
> *1.04 (1) These rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits.*
>
> *Proportionality*
>
> *(2) In applying these rules, the court shall make orders and give directions that are proportionate to the importance and complexity of the issues, and to the amount involved, in the proceeding.*

Rule 57 sets out specific directions for fixing costs of proceedings by a court or judge:

- Rule 57.01(1) provides direction for the court (judge) in making decisions at two stages:

1) exercising discretion under s.60 of the *Judicature Act* whether to award costs in the proceeding; and

2) fixing the amount of costs.

- When the court exercises its discretion to award costs, the usual practice is for the court to fix the amount of costs (*Rule* 57.01(3)) and *Rule* 57.03(1)(a)). In an exceptional case, the court may refer costs for assessment by the Prothonotary under *Rule* 58 (*Rule* 57.02).

- Before fixing costs, the court gives lawyers and parties opportunity to make submissions that address the *Rule* 57.01 "*Factors of Discretion*" as applicable by filing a Submission on Costs (*Rule* 57.01(5)), either before or after a hearing.

- When fixing costs, the court (judge) considers the governing provisions of the *Judicature Act, Rules of Civil Procedure,* including all 57.01 "*Factors in Discretion*" and submissions made in accordance with *Rule* 57 and the Costs Guide.

- The court (judge) employs a summary process for fixing costs. The judge devises and adopts the simplest, least expensive and most expeditious process, after receiving oral submissions, or written submissions without attendance of the parties (*Rule* 57.01(7)).

- Fixing of costs by a court under *Rule* 57 is different and distinct from assessment of costs by the Prothonotary under *Rule* 58.

Guidance on Costs Submissions:

- The Submission on Costs should be brief and should consider any *Rule* 57.01(1) factors which apply.

- The purpose of maximum rates: A court fixing costs will usually consider the value of time reasonably expended on the proceeding. The judge will normally view the listed hourly rates as maximum rates, in the context of

considering the "*Factors in Discretion*" in *Rule* 57.01(1).

- The maximum rate for each category of lawyer experience is intended to apply only to (i) complicated matters, and (ii) a lawyer more experienced in the kind of proceeding in issue. Lawyers should utilize rates within these categories that are appropriate to the proceeding or step in the proceeding after due consideration of all the "*Factors in Discretion.*" A court has discretion to exceed the suggested maximum rate in exceptional circumstances as is just.

Rate Table

Lawyer years of experience	**Maximum hourly rate**	
	Partial indemnity	*Substantial indemnity*
Articled clerk	$70	$105
Lawyer – less than 5 years	$120	$180
Lawyer 5^{+} -- less than 10 years	$160	$240
Lawyer 10^{+} -- less than 20 years	$190	$285
Lawyer 20^{+} years	$220	$330

- A court may allow costs of a proceeding for all steps, attendances and documents reasonably required to carry out or respond to the proceeding or step in the proceeding for which costs are awarded and are being fixed.

- Where an articled clerk has provided services of a kind permitted by the Law Society, a court may allow costs for those services.

- A court may determine disbursements based on the *Rule* 57 Tariff and/or reasonableness.

This Costs Guide was authorized by the Chief Justices and endorsed by the judges of the Supreme Court and Court of Appeal. It was approved by the Rules Committee on November 7, 2022, and was effective on September 1, 2023.

PART X – QUIETING OF TITLES

1. General

   a. An application under the *Quieting of Titles Act*, RSPEI 1988, Cap. Q-2, generally proceeds in two stages: order for publication or other notice as directed by the court; and, consideration of the substantive of relief sought.

   b. The application should be supported by all of the documents required under s. 5 of the *Act* and should include both the civic address and the property identification number.

   c. Copies of deeds that are filed to support a petition to quiet title must be legible. If the photocopy of the deed is not legible, then it is incumbent upon the applicant to have a typed copy of the deed made and certified.

2. Abstract of Title

   The abstract of title should be in the general form set out below.

   Conveyances

Jane Brown	Document #7403
To	Liber 110, Folio 242
Harry Black	Dated: October 26, 1998
	Registered: October 27, 1998
	Locus (*where the conveyance relates only to the land subject to the application)*
Harry Black	Document #8842
To	Liber 110, Folio 248
Susan White	Dated: November 2, 1998
	Registered: November 4, 1998
	Land including locus (*where the conveyance includes the land subject to the application, as well as other land*)

Mortgages

Susan White	Document #3333
To	Liber 346, Folio 720
Bank of Montreal	Dated: November 2, 1998
	Registered: November 5, 1998

3. Publication

   a. If the judge is satisfied that the evidence produced is sufficient to support a certificate of title, the judge may issue an order under s. 11(1) of the *Act* for publication of a notice of the application in the Royal Gazette and generally at least one newspaper, depending on the circumstances.

   b. For publication, the applicant should always include both the civic address and the parcel number for the property. In the majority of cases, it is unnecessary to have the full description of the property published. The applicant should make every effort to use the shortest description possible, while still accurately identifying the property. A sample of the publication notice is set out below:

4. Form of Notice

   The form of notice under the *Quieting Titles Act* is set out below:

   TAKE NOTICE that Jane Doe claims to be the absolute owner, in fee simple, of the lands hereinafter described;

   AND TAKE NOTICE that an application has been made to the Supreme Court of the Province of Prince Edward Island by/on behalf of Jane Doe to have the title judicially investigated and the validity thereof ascertained of certain lands located at _____, Lot ____, _____ County, Prince Edward Island, being the lands and premises more particularly known as provincial parcel number _____;

Any person claiming adverse title or interest in the said lands is to file notice of same with the Prothonotary of the Supreme Court in the Law Courts, 42 Water Street, Charlottetown, Queens County, Prince Edward Island, on or before the _____ day of _____, 20____;

AND FURTHER TAKE NOTICE that if no claim to the said lands adverse to that of Jane Doe is filed on or before the ____ day of _____, 20____, a Certificate of Title certifying that Jane Doe is the owner in fee simple of the said lands may be granted pursuant to the provisions of the *Quieting Titles Act*, RSPEI 1988, c. Q-2.

DATED AT Charlottetown, Prince Edward Island, this ____ day of _____, 20____.

Name, address and telephone number
of the Petitioner, or Petitioner's lawyer
(as the case may be)

5. Next Steps

    a. If an adverse claim is filed, the matter will be set down for a hearing, at which time the applicant will be required to prove their claim. In advance of scheduling the hearing, the court may schedule case management to address hearing-related matters.

    b. If an adverse claim is not filed, the applicant may seek direction from the court regarding next steps, including whether a hearing is required.