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Subordinate Legislation



THE NEWFOUNDLAND GAZETTE

PART I

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ST. JOHN'S, FRIDAY, MAY 18, 2001

No. 20

URBAN AND RURAL PLANNING ACT

NOTICE OF REGISTRATION TOWN OF PILLEY'S ISLAND DEVELOPMENT REGULATIONS AMENDMENT NO. 1, 2001

TAKE NOTICE that the Town of Pilley's Island Development Regulations Amendment No. 1, 2001, adopted by Council on the 9th day of April, 2001, has been registered by the Minister of Municipal and Provincial Affairs.

In general terms, the purpose of the Development Regulations Amendment No. 1, 2001 is to permit seasonal residential development in Load a bats Cove.

The Pilley's Island Development Regulations Amendment No. 1, 2001 comes into effect on the day that this notice is published in *The Newfoundland Gazette*. Anyone who wishes to inspect a copy of the Pilley's Island Development Regulations No. 1, 2001 may do so at the Town Office, Pilley's Island during normal working hours.

TOWN OF PILLEY'S ISLAND
Per: Betty Traverse
Town Clerk

May 18

MOTOR CARRIER ACT

IN THE MATTER OF THE MOTOR CARRIER ACT,
CHAPTER M-19, R.S.N. 1990
AND

IN THE MATTER OF THE APPLICATION FOR A
MOTOR CARRIER CERTIFICATE

NOTICE OF APPLICATION

TAKE NOTICE that Fewer's Ambulance Service Limited of P. O. Box 591, Clarenville, NF, A0E 1J0, has applied to the Board of Commissioners of Public Utilities under the provisions of the Motor Carrier Act, Chapter M-19, R.S.N. 1990, for the issuance of a Certificate as a motor carrier to provide the following service:

TO READ:

*IRREGULAR ROUTE SPECIALTY AMBULANCE
SERVICE for the transportation of persons requiring
medical attention or under medical care upon the request
of a medical doctor or registered nurse from:*

Any point located on the Trans Canada Highway bounded in the west by Charlottetown – including the community of Charlottetown and bounded in the east at the junction of the Trans Canada Highway with Highway Route Nos. 201 and 203, including that portion of Route No. 201 from the junction with the Trans Canada Highway and Route No. 203 to, and including, Chance Cove. All points located on, or accessed by, Highway Route Nos. 203 A, 204, 205, 211, 232, 233, 234, and 239, in their entirety. Any point located on Highway Route No. 230, from its junction with the Trans Canada Highway to a point located midway between Champney's – inclusive of Champney's and Melrose – exclusive of Melrose. Any point located on Highway Route No. 235, from the community of Southern Bay to a point located midway between Plate Cove East – inclusive of Plate Cove East and the access road to Tickle Cove, Red Cliff and Open Hall, and King's Cove – exclusive of King's Cove. Any point located on Highway Route No. 231, from its junction with Highway Route No. 230 A to, and including, Elliott's Cove. Any point located on Highway Route No. 210 commencing at a point midway between the junctions of Highway Route Nos. 211 and 212 – inclusive of Route No. 211, but excluding Route No. 212, and terminating at a point at the intersection of Highway No. 210 and the Trans Canada Highway. Any point located on the access road to, and including,

Terrenceville, off Highway Route No. 211. Any point located on the access road to, and including, Aspey Brook and Snook's Harbour, off Highway Route No. 231. Any point located on Highway Route No. 236, commencing at a point located midway between the intersection of Highway Route 235 and Highway Route 236, exclusive of the intersection, and terminating at a point located at the intersection of Highway Route No. 236 with Route No. 230, and more specifically including the following communities: Northern Bight, North West Brook, Queen's Cove, Long Beach, Island Cove (South West Arm), Hodge's Cove, Caplin Cove, Little Heart's Ease, Butter Cove, Gooseberry Cove, Southport (Random Sound), Hillview, Hatchet Cove, St. Jones Within, Deep Bight, Adeytown, Clarenville, Shoal Harbour, Milton, Georges Brook, Harcourt, Gin Cove, Monroe, Waterville, Clifton, Burgoynes Cove, Thorburn Lake, Port Blandford, Charlottetown, Red Cliff, Open Hall, Tickle Cove, Plate Cove, Plate Cove East and West, English Harbour East, Grand Le Pierre, Terrenceville, Davis Cove, Monkstown, Southern Bay, Princeton, Summerville, New Bonaventure, Old Bonaventure, Trouty, Dunfield, Trinity, Goose Cove, Lockston, Port Rexton, Trinity East, Champney's, English Harbour, Bunyans Cove, Musgravetown, Bloomfield, Cannings Cove, Lethbridge, Brooklyn, Portland, Jamestown, Winter Brook, Charleston, Sweet Bay, Swift Current, Garden Cove, North Harbour, Chance Cove, Rantem, Little Harbour, Southern Harbour, Arnold's Cove, Come By Chance, Sunnyside, Glenview, Goobies, Snook's Harbour, Aspey Brook, and Elliott's Cove to any hospital, nursing home, first aid station or home for senior citizens and upon the specific request of a medical doctor, registered nurse or a police officer between any two points within the province of Newfoundland.

The Board, having reviewed the application, has granted provisional approval and shall issue said Certificate, unless a person who objects to the application files with the Board a notice of objection to the application together with a written statement setting out in full the reasons why the application should be denied and relevant documentary evidence. The objector must also serve on the applicant a copy of the notice of objection, the statement of reasons and the relevant documentary evidence filed with the Board by personal service or by prepaid, registered mail, at the address shown on the application, and proof of service must be supplied to the Board.

The evidence to be submitted must be received by the Board within twenty days of the date of the publication of this notice, at the office of the Board at Suite East 210, Prince Charles Building, Torbay Road, NF or by mail to P. O. Box 21040, St. John's, NF A1A 5B2.

Dated at St. John's, NF this 4th Day of May, 2001

ROBERT FEWER
Signature of Applicant

CURTIS, DAWE
Per: Paul R. Stokes
Solicitor for Applicant

May 18

IN THE MATTER OF THE MOTOR CARRIER ACT,
CHAPTER M-19, R.S.N. 1990
AND
IN THE MATTER OF THE APPLICATION FOR A
MOTOR CARRIER CERTIFICATE

NOTICE OF APPLICATION

TAKE NOTICE that Emergency Medical Services NF Limited of P. O. Box 591, Clarenville, NF A0E 1J0 has applied to the Board of Commissioners of Public Utilities under the provisions of the Motor Carrier Act, Chapter M-19, R.S.N. 1990, for the issuance of a Certificate as a motor carrier to provide the following service:

TO READ:

*IRREGULAR ROUTE SPECIALTY AMBULANCE
SERVICE for the transportation of persons requiring
medical attention or under medical care upon the request
of a medical doctor or a registered nurse from:*

Any point located on Highway Route No. 230 commencing at a point located midway between the exit to Champney's - exclusive of Champney's, and Melrose - inclusive of Melrose, and terminating at Cape Bonavista - inclusive of Bonavista and Cape Bonavista. Any point located on Highway Route No. 235 commencing at a point located at Bonavista and terminating at a point located midway between King's Cove - inclusive of King's Cove, and Plate Cove East - exclusive of Plate Cove East, including the access road to Tickle Cove, Red Cliff and Open Hall. Any point located on Highway Route No. 236 commencing at a point midway between the intersections of Highway Route No. 236 and Highway Route No. 230 and terminating at a point located at the intersection of Route No. 236 and Route No. 235, including all areas accessed by that portion of Route No. 236 identified above. All Points located on and accessed by Highway No. Route 237. All Points located on and accessed by Highway Route No. 238. More specifically, the service shall include the following communities located on the Bonavista Peninsula: King's Cove, Duntara, Keels, Broad Cove, Stock Cove, Knight's Cove, Amherst Cove, Upper and Lower Amherst Cove, Melrose, Port Union, Catalina, Little Catalina, Bonavista, Cape Bonavista, Lance Cove, Spillar's Cove, Elliston, Elliston Point, Paradise, Birchy Cove, and Newman's Cove to any hospital, nursing home, first aid station or home for senior citizens and upon the specific request of a medical doctor, registered nurse or a police officer between any two points within the province of Newfoundland.

The Board, having reviewed the application, has granted provisional approval and shall issue said Certificate, unless a person who objects to the application files with the Board a

notice of objection to the application together with a written statement setting out in full the reasons why the application should be denied and relevant documentary evidence. The objector must also serve on the applicant a copy of the notice of objection, the statement of reasons and the relevant documentary evidence filed with the Board by personal service or by prepaid, registered mail, at the address shown on the application, and proof of service must be supplied to the Board.

The evidence to be submitted must be received by the Board within twenty days of the date of the publication of this notice, at the office of the Board at Suite East 210, Prince Charles Building, Torbay Road, NF or by mail to P. O. Box 21040, St. John's, NF A1A 5B2.

Dated at St. John's, Newfoundland, this 4th Day of May, 2001.

PAMELA FEWER
Signature of Applicant

CURTIS, DAWE
Per: Paul R. Stokes
Solicitor for Applicant

May 18

CHANGE OF NAME ACT

C-8 RSN 1990

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be made to the Minister of Government Services and Lands for a change of name, pursuant to the provisions of the *Change of Name Act*, by me:-

BETTY LOU MARSHALL

of 5 Kielly's Hill, Carbonear, A0A 1T0, in the Province of Newfoundland, as follows:

To change my minor unmarried child's name from

RAYMOND LLOYD BRANTON
to
RAYMOND LLOYD MARSHALL

DATED this 7th day of May, 2001.

BETTY LOU MARSHALL
(Signature of Applicant)

May 18

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be made to the Minister of Government Services and Lands for a change of name, pursuant to the provisions of the *Change of Name Act*, by me:-

FENG MEI HE

of 108 Whiteway Street, St. John's, A1B 1K7, in the Province of Newfoundland, as follows:

To change my name from

FENG MEI HE
to
MAY FENG HO

DATED this 30th day of April, 2001.

FENG HE
(Signature of Applicant)

May 18

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be made to the Minister of Government Services and Lands for a change of name, pursuant to the provisions of the *Change of Name Act*, by me:-

ADAMAS PHOENIX NAHASH

of Box 651, Stockleys Hill, South Side, Twillingate, A0G 4M0, in the Province of Newfoundland, as follows:

To change my name from

ADAMAS PHOENIX NAHASH
to
TERRY FRANK HOLLETT

DATED this 1th day of May, 2001.

ADAMAS P. NAHASH
(Signature of Applicant)

May 18

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be made to the Minister of Government Services and Lands for a change of name, pursuant to the provisions of the *Change of Name Act*, by me:-

KAREN BUTTON

of 40 Duntara Crescent, St. John's, A1E 5Z1, in the Province of Newfoundland, as follows:

To change my minor unmarried child's name from

HOLLY LAUREN RAQUEL BENNETT
to
HOLLY LORNE RAQUEL BUTTON

DATED this 8th day of May, 2001.

KAREN BUTTON
(Signature of Applicant)

of 7 Sheppard Street, Grand Falls-Windsor, A2A 2S1, in the
Province of Newfoundland, as follows:

May 18

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be
made to the Minister of Government Services and Lands for
a change of name, pursuant to the provisions of the *Change
of Name Act*, by me:-

CYNTHIA RUBY WILLIS

of Box 6148, Manuels, c/o 8 Lions Club Housing, Upper
Gullies, A1W 1K5, in the Province of Newfoundland, as
follows:

To change my minor unmarried child's name from
SHANIA JUANITA JOHANNA WILLIS-DICKS

to

SHANIA JUANITA JOHANNA WILLIS

DATED this 7th day of May, 2001.

CYNTHIA WILLIS
(Signature of Applicant)

To change my name from

BESSIE JANE PEYTON

to

BETTY JANE CRITCH

DATED this 7th day of May, 2001.

BETTY KEATS
(Signature of Applicant)

May 18

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be
made to the Minister of Government Services and Lands for
a change of name, pursuant to the provisions of the *Change
of Name Act*, by me:-

JUANITA LOUISE STAMP

of P. O. Box 469, Pouch Cove, A0A 3L0, in the Province of
Newfoundland, as follows:

To change my minor unmarried child's name from

JAIME PATTIE GODFREY

to

JAIME PATTIE STAMP

DATED this 9th day of May, 2001.

JUANITA STAMP
(Signature of Applicant)

May 18

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be
made to the Minister of Government Services and Lands for
a change of name, pursuant to the provisions of the *Change
of Name Act*, by me:-

MICHELLE KEELS

of P. O. Box 550, Bell Island, A0A 4H0, in the Province of
Newfoundland, as follows:

To change my minor unmarried child's name from

TERRY LEE ARTHUR KEELS

to

TERRY LEE ARTHUR HUNT

DATED this 8th day of May, 2001.

MICHELLE KEELS
(Signature of Applicant)

May 18

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be
made to the Minister of Government Services and Lands for
a change of name, pursuant to the provisions of the *Change
of Name Act*, by me:-

RENEE MICHELE TIZZARD

of 46 Salerno Place, Torbay, NF, A1K 1A6, in the
Province of Newfoundland, as follows:

To change my minor unmarried child's name
from

CHAD PIERRE AMESTOY

to

CHAD PIERRE TIZZARD

DATED this 10th day of May, 2001.

RENEE TIZZARD
(Signature of Applicant)

May 18

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be
made to the Minister of Government Services and Lands for
a change of name, pursuant to the provisions of the *Change
of Name Act*, by me:-

BETTY JANE KEATS (nee BESSIE JANE PEYTON)

May 18

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be made to the Minister of Government Services and Lands for a change of name, pursuant to the provisions of the *Change of Name Act*, by me:-

MARY TEMPLE

of 267 Main Street, P. O. Box 114, Long Cove, Trinity Bay, in the Province of Newfoundland, as follows:

To change my minor unmarried child's name from

DAVID JOHN FAHEY

to

DAVID JOHN TEMPLE

DATED this 8th day of May, 2001.

MARY TEMPLE
(Signature of Applicant)

May 18

**NOTICE OF APPLICATION
FOR CHANGE OF NAME**

NOTICE is hereby given that an application will be made to the Minister of Government Services and Lands for a change of name, pursuant to the provisions of the *Change of Name Act*, by me:-

PAULA SHARRON

of Box 1483, Botwood, A0H 1E0, in the Province of Newfoundland, as follows:

To change my minor unmarried child's name from

KAYLA SHIRLEEN DEBORAH PEYTON

to

KAYLA SHIRLEEN DEBORAH SHARRON

CRYSTAL MARIE FAULKNER

to

CRYSTAL MARIE SHARRON

DATED this 4th day of May, 2001.

PAULA SHARRON
(Signature of Applicant)

May 18

JUDICATURE ACT

Rules of the Supreme Court of Newfoundland, 1986

PRACTICE NOTE

P.N. (TD) No. 2001-01

DATE ISSUED: May 10, 2001

RULES AFFECTED: N/A

EFFECTIVE DATE: Upon publication

PREVIOUS PRACTICE NOTES REVISED: N/A

The following Practice Note was filed with the Registrar, as Secretary of the Rules Committee of the Trial Division and of the Unified Family Court, and is published pursuant to rule 4.04 of the *Rules of the Supreme Court, 1986*:

**STYLE OF ADDRESS OF JUSTICES OF THE SUPREME COURT OF NEWFOUNDLAND,
TRIAL DIVISION AND UNIFIED FAMILY COURT**

Background

1. As has been the case with federally appointed judges in many of the courts of the country, the justices of the Supreme Court of Newfoundland, Trial Division, and Unified Family Court, have been considering the desirability of providing for a change in the style of address of justices.
2. While acknowledging the historical basis for the current practice of using "My Lord" and "My Lady" or "Your Lordship" and "Your Ladyship", and its value in maintaining appropriate decorum in court, the majority of justices would, nevertheless, prefer to be addressed as "Justice" or "Mr. Justice" or "Madam Justice" or "Chief Justice", as the particular circumstance may require.

Practice Note

3. Justices of the Supreme Court of Newfoundland, Trial Division, and Unified Family Court, may, in the future, be addressed as “Justice” or “Mr. Justice” or “Madam Justice” or “Chief Justice” as the case may be.
4. The former practice of using “My Lord” and “My Lady” or “Your Lordship” and “Your Ladyship” may still be followed by those counsel, parties or witnesses who prefer to do so. However, the former practice ought not to be used in circumstances where the Justice is not acting in an official capacity.

AUTHORIZED BY:

J. Derek Green
CHIEF JUSTICE OF THE SUPREME COURT
OF NEWFOUNDLAND, TRIAL DIVISION

Barry R. Sparkes, B.C.L.
REGISTRAR OF THE SUPREME COURT
Secretary, Rules Committee

May 18

Rules of the Supreme Court of Newfoundland, 1986**PRACTICE NOTE****P.N. (TD) No. 2001-02**

DATE ISSUED: May 10, 2001
RULES AFFECTED: 56.21; 56.22
EFFECTIVE DATE: Upon publication
PREVIOUS PRACTICE NOTES REVISED: N/A

The following Practice Note was filed with the Registrar, as Secretary of the Rules Committee of the Trial Division, and is published pursuant to rule 4.04 of the *Rules of the Supreme Court, 1986*:

DISPENSING WITH ADMINISTRATION BONDS**Background**

1. Section 120 of the *Judicature Act* provides that Letters of Administration shall not be granted until “security” is given by the person seeking the appointment as administrator, “unless the court otherwise orders”.
2. Rule 56.14(2) requires that applications for Letters of Administration d.b.n. and Letters of Administration c.t.a., d.b.n. be “similar in form” to the original application; accordingly, security is also required in respect of such applications.
3. The “security” to be furnished in satisfaction of this obligation normally takes the form of the execution and delivery of a personal bond by the applicant, supported by two sureties, in Form 56.21A or 56.21B. Rule 56.21(2) provides, however, that in lieu of a personal bond, the Court may accept the bond of an insurer licenced under the *Corporations Guarantees Act* to undertake guarantee insurance.
4. Subsection 120(2) of the *Judicature Act* provides that where the Registrar or a trust company authorized to do business in the province is the applicant for administration, no security is required.
5. The purposes of requiring an administration bond are twofold: (i) to act as a deterrent, by the imposition of a penalty by means of forfeiture of the bond, against the administrator failing to perform his or her lawful duties; and (ii) to provide a fund for compensation for creditors and beneficiaries in the event of a defalcation or devastavit by the administrator.

6. There will be circumstances under which requiring the furnishing of an administration bond will not be necessary to advance the purposes for which a bond would normally be required. In such circumstances the Court will be justified in dispensing with the requirement of a bond in exercise of its statutory power to “otherwise order”.
7. Inasmuch as protection of estate creditors and beneficiaries is the underlying rationale for requiring security, an application to dispense with an administration bond must be grounded in the submission that creditors and beneficiaries will not be put at risk if security is not provided.
8. Rule 56.22 requires, as a minimum, that an application must be accompanied by an affidavit either by the applying administrator or “by some person having personal knowledge of the affairs of the deceased, stating either (i) so far as can be ascertained there are no debts for which the estate is or may be liable; or (ii) adequate provision has been made for the payment of any unpaid debts. The affidavit must also set out the deponent’s sources of information and the inquiries which have been made to ascertain the facts.
9. Other circumstances may require different or additional affidavit evidence before the Court will be satisfied that the risk to creditors and beneficiaries does not require security.
10. An application to dispense with security must be included in the petition for administration. It must substantially address the rationale for dispensation with security as it applies to the specifics of the case.
11. Frequently, applications to dispense with security have consisted of nothing more than a request that Letters of Administration be granted “without bond”, leaving it to the judge to devine why the rationale for requiring security does not apply. On other occasions, all that is provided is the written consent of beneficiaries or persons with an equal entitlement to a grant who are resident in the jurisdiction. On still other occasions the rationale given is simply that administration of the estate is required to facilitate a conveyance or a confirmation of a conveyance (often for a nominal amount) of property comprising the bulk or all of the estate assets to a third party or a beneficiary without explaining what impact that transaction would have on estate creditors or remaining beneficiaries.
12. In light of apparent confusion on the part of practitioners as to what is required to justify the dispensing with security, it is appropriate to issue this Practice Note clarifying the types of circumstances under which security will not be required and the type of information that should be provided to the Court in support of such an application.

Practice Note

13. The Court will normally require an applicant for Letters of Administration to furnish security with the application. The burden is on the applicant to satisfy the Court that it should “otherwise order”.
14. Before the Court will order that security on an application for Letters of Administration be dispensed with, it must be satisfied that there will be no risk, or a minimal acceptable level of risk, to estate creditors and beneficiaries in the event of improper estate administration or the commission of devastavit by the administrator.
15. Examples of circumstances where the Court would likely be so satisfied include:
 - a) as to the risk to estate creditors, where
 - i) there are no creditors of the estate;
 - ii) because of the effluxion of time since the death of the deceased, claims against the estate would be statute-barred and there are no proceedings pending against the estate;
 - iii) other arrangements have been made to ensure that creditors will be paid;
 - iv) the applicant is a “professional administrator”, such as a trust company or other credit-worthy financial institution whose business it is to administer estates; or
 - v) the estate is insolvent or contains no identifiable assets and administration is being sought for some collateral purpose such as to execute a deed of confirmation to rectify a title defect in a real estate transaction;

and

- b) as to the risk to estate beneficiaries, where:
- i) all beneficiaries are in existence and of the age of majority and, whether resident within or without the jurisdiction, consent to the grant without security;
 - ii) there is only one beneficiary and that person is applying for administration;
 - iii) some beneficiaries are not yet in existence or a class of beneficiaries contains members not yet born, and the applicant for administration is a “professional administrator”; or
 - iv) the estate is insolvent or contains no identifiable assets and administration is being sought for some collateral purpose such as to execute a deed of confirmation to rectify a little defect in a real estate transaction.
16. Inability to obtain sureties or inability to afford the cost of providing a commercial bond is not a sufficient justification for dispensing with security. In such circumstances, the appointment of the Registrar may be considered as an alternative.
17. An application to dispense with security must be supported by an explanation in the application as to why, supported by affidavit evidence (indicating the source of the information and the extent of the inquiries made) from which a reasonable inference can be drawn that, in all the circumstances, there is no, or only a minimal acceptable, risk to creditors and beneficiaries if no security is granted. Broad conclusory statements seeking to bring the case within one or more of the categories listed above, or in some analogous category, will in themselves not be sufficient; the information provided and the nature of the inquiries made must be such as to provide the Court with a basis for reaching a conclusion, on the evidence, as to the degree of risk involved.

AUTHORIZED BY:

J. Derek Green
CHIEF JUSTICE OF THE SUPREME COURT
OF NEWFOUNDLAND, TRIAL DIVISION

Barry R. Sparkes, B.C.L.
REGISTRAR OF THE SUPREME COURT
Secretary, Rules Committee

May 18

Rules of the Supreme Court of Newfoundland, 1986

COURT OF APPEAL PRACTICE NOTE

CAPN No. 2001-01

DATE ISSUED:

RULES AFFECTED: N/A

EFFECTIVE DATE: Upon publication

The following Practice Note was filed with the Registrar, as Secretary of the Rules Committee of the Court of Appeal, and is published pursuant to Rule 57.31(3) of the *Rules of the Supreme Court, 1986*.

**STYLE OF ADDRESS OF JUSTICES OF THE SUPREME COURT OF NEWFOUNDLAND
COURT OF APPEAL**

Purpose

As has been the case with federally appointed judges in many of the courts of the country, the justices of the Court of Appeal of the Supreme Court of Newfoundland have been considering the desirability of providing for a change in the style of address of justices. While acknowledging the historical basis for the current practice of using “My Lord” and “My Lady” or “Your Lordship”

and “Your Ladyship”, and its value in maintaining appropriate decorum in court, the majority of justices would, nevertheless, prefer to be addressed as “Justice” or “Mr. Justice” or “Madam Justice” or “Chief Justice”, as the particular circumstance may require.

Practice Note

Justices of the Court of Appeal of the Supreme Court of Newfoundland may, in the future, be addressed as “Justice” or “Mr. Justice” or “Madam Justice” or “Chief Justice” as the case may be, although the former practice may still be followed by those counsel, parties or witnesses who prefer to do so. However, the former practice ought not to be used in circumstances where the Justice is not acting in an official capacity.

Authorized by:

Clyde K. Wells
CHIEF JUSTICE OF NEWFOUNDLAND
Court of Appeal
Supreme Court of Newfoundland

Barry R. Sparkes, B.C.L.
REGISTRAR OF THE SUPREME COURT
Secretary, Rules Committee of the
Court of Appeal

May 18

Rules of the Supreme Court of Newfoundland, 1986

COURT OF APPEAL PRACTICE NOTE

CAPN No. 2001-02

DATE ISSUED:

RULES AFFECTED: 57.18, 57.24 and 57.30

EFFECTIVE DATE: Upon publication

The following Practice Note was filed with the Registrar, as Secretary of the Rules Committee of the Court of Appeal, and is published pursuant to Rule 57.31(3) of the Rules of the Supreme Court, 1986.

**DAYS FOR HEARING APPLICATIONS
AND
SETTING DATES FOR HEARING OF APPEALS**

Purpose

In order to reduce the delay between perfection of an appeal and hearing, that necessarily results when appeals are set down only on one day of each month, the Court proposes to designate at least two days in each month of the court year when applications to set hearing dates may be heard. As well, there does not appear to be any need for, or benefit from, having different days for different kinds of applications. Applications to set hearing dates for appeals can conveniently be heard on the days designated for applications generally.

As the great majority of holidays are taken on Monday, it would seem most appropriate to designate another day of the week. Because of the weekend break, it would be more convenient, should an application extend beyond one day, or should there be any need for immediate follow-up, to have applications on a day other than Friday. On the whole, it is believed that Tuesday would be the day most convenient for the Court and for practitioners, for the hearing of applications. Accordingly, it is proposed that every second Tuesday during the normal court sitting times specified in Rule 57.24 be designated as applications day. This practice will commence in the month of September, 2001, and will continue thereafter unless and until it is changed by the issuance of a further practice note or amendment to the Rules.

This Practice Note will also formalize the Court's long standing practice of designating a specific two weeks out of each month to be the period during which appeals will be heard and give further directions with respect to practices to be followed when setting hearing dates for appeals.

Practice Note

- (1) Rule 57.18 should be carefully followed in order to provide for hearing of appeals in a manner that is expeditious and fair to all parties, and reasonably accommodating to the judges who will be hearing the appeal. Achieving this objective will require full adherence to all of the requirements of Rule 57.18 and in particular Rules 57.18(4) and (5).
- (2) The Court will, prior to April 30th in each year, prepare and issue a sitting schedule which shall designate applications days, hearing days and public holidays for the next ensuing court year commencing on the first Monday in September following Labour Day and ending on the Friday in June nearest the 30th day of the next ensuing June.
- (3) The days in each month for the hearing of all applications, including applications to set hearing dates for appeals, shall be
 - (a) every second Tuesday beginning with the second Tuesday in September following Labour Day to the Tuesday in December nearest the 15th day of December, and
 - (b) every second Tuesday beginning with the Tuesday in January nearest the 10th day of January and the Tuesday in June nearest the 30th day of June,unless any such Tuesday is a public holiday, in which case the next ensuing regular court day will be the designated applications day.
- (4) The sitting schedule to be issued prior to April 30th in each year will designate the court days, in two consecutive full weeks of each month, as dates for the hearing of appeals, which weeks will be arranged so as to cause the least conflict with holidays and holiday periods, while leaving approximately equal intervals between most periods designated for hearing appeals.
- (5) Unless circumstances reasonably require otherwise, and prior leave of the Chief Justice is obtained,
 - (a) all applications will be set down for hearing on a designated applications day;
 - (b) applications to set dates for hearing of appeals will be heard first, generally in the order in which the same have been filed in the Registry, and applications respecting other matters will be heard immediately thereafter, in the order in which the same have been filed, unless the Chief Justice otherwise directs;
 - (c) all materials to be filed in an appeal must be filed at least two weeks prior to the date set for hearing the appeal;
 - (d) appeals will not be set down for hearing outside designated hearing days;
 - (e) appeals will not be set down for hearing on any date that is later than the hearing days scheduled for the second month following the month in which the application for a day is being heard, and
 - (f) appeals will not be set down for hearing on a Tuesday that is also an applications day.
- (6) Where circumstances reasonably require that an application, including an application to set a date for the hearing of an appeal, be heard between the Tuesday in June nearest the 30th day of June and the second Tuesday in September following Labour Day, the application will be heard on a date to be set by the Chief Justice, or in the absence of the Chief Justice by the duty judge.

Authorized by:

Clyde K. Wells
CHIEF JUSTICE OF NEWFOUNDLAND
Court of Appeal
Supreme Court of Newfoundland

Barry R. Sparkes, B.C.L.
REGISTRAR OF THE SUPREME COURT
Secretary, Rules Committee of the
Court of Appeal

May 18

**COURT OF APPEAL SITTING SCHEDULE
2001-2002**

2001

SEPTEMBER						
S	M	T	W	T	F	S
						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						

OCTOBER						
S	M	T	W	T	F	S
	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			

NOVEMBER						
S	M	T	W	T	F	S
				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	

DECEMBER						
S	M	T	W	T	F	S
						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					

	APPLICATION DAYS
	HEARING DAYS
	HOLIDAYS

2002

JANUARY						
S	M	T	W	T	F	S
			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		

FEBRUARY						
S	M	T	W	T	F	S
					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		

MARCH						
S	M	T	W	T	F	S
					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						

APRIL						
S	M	T	W	T	F	S
	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						
S	M	T	W	T	F	S
			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	

JUNE						
S	M	T	W	T	F	S
						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						

NOTES:

(1) UNLESS CIRCUMSTANCES REASONABLY REQUIRE OTHERWISE, AND THE PRIOR APPROVAL OF THE CHIEF JUSTICE IS OBTAINED:

- (a) all materials to be filed in an appeal must be filed at least two weeks prior to the date set for hearing the appeal;
- (b) appeals will not be set down for hearing outside designated hearing days;
- (c) appeals will not be set down for hearing on any date that is later than the hearing days scheduled for the second month following the month in which the application for a day is being heard, and
- (d) appeals will not be set down for hearing on a Tuesday that is also an applications day.

(2) WHERE CIRCUMSTANCES REASONABLY REQUIRE, APPLICATION DAYS MAY ALSO BE HEARING DAYS.



THE NEWFOUNDLAND GAZETTE

PART II

SUBORDINATE LEGISLATION FILED UNDER THE STATUTES AND SUBORDINATE LEGISLATION ACT

Vol. 76

ST. JOHN'S, FRIDAY, MAY 20, 2001

No. 20

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