



# THE NEWFOUNDLAND AND LABRADOR GAZETTE

## PART I

PUBLISHED BY AUTHORITY

Vol. 81

ST. JOHN'S, FRIDAY, JUNE 30, 2006

No. 26

### URBAN AND RURAL PLANNING ACT

#### NOTICE OF REGISTRATION TOWN OF BAY ROBERTS MUNICIPAL PLAN AMENDMENT No. 1, 2005, and DEVELOPMENT REGULATIONS AMENDMENT No. 1, 2005

Take notice that the Town of Bay Roberts Municipal Plan Amendment No. 1, 2005, and Development Regulations Amendment No. 1, 2005 adopted on the 11<sup>th</sup> day of October, 2005 and approved on the 9<sup>th</sup> day of June, 2006, has been registered by the Minister of Municipal and Provincial Affairs.

In general terms, the purpose of the Municipal Plan Amendment No.1, 2005 is to redefine the intent of the Open Area Districts policy as it relates to development of trails and accessory buildings; develop a new Heritage Conservation District policy section; and redesignate land located off Mad Rock Road from Conservation to Residential.

In general terms, the purpose of the Development Regulations Amendment No.1, 2005 is to add a new land use zoning table called Heritage/Conservation and shall include development conditions for within this land use

zone; and rezone lands located off Mad Rock Road from Conservation to Residential 2

The Town of Bay Roberts Municipal Plan Amendment No. 1, 2005, and Development Regulations Amendment No. 1, 2005, comes into effect on the day that this notice is published in *The Newfoundland and Labrador Gazette*. Anyone who wishes to inspect a copy of the Town of Bay Roberts Municipal Plan Amendment No. 1, 2005, and Development Regulations Amendment No. 1, 2005, may do so at the Town Office, Bay Roberts, during normal working hours.

TOWN OF BAY ROBERTS  
Ms. Shirley Hawe, Town Clerk

June 30

### LANDS ACT

#### NOTICE OF INTENT

#### LANDS ACT, Chapter 36, S.N. 1991

Notice is hereby given that Darrell Henneberry and Judy Skinner of Channel-Port-aux-Basques, intends to apply to the Department of Environment and Conservation, two months from the publication of this Notice, to acquire title, pursuant to Section 7(2)(d) of the said Act, to that

piece of Crown Land situated within fifteen (15) metres of a small pond in the Town of Channel-Port aux Basques, in the Electoral District of Burgeo and LaPoile, for the purpose of residential and more particularly described as follows:

*Bounded on the North by land of  
Darrell Henneberry and Judy Skinner  
for a distance of 12 m;  
Bounded on the Southeast by a Crown Land Reservation  
for a distance of 8 m;  
Bounded on the Southwest by a Crown Land Reservation  
for a distance of 8 m;  
and containing an area of  
approximately 42 square metres.*

Any person wishing to object to the application must file the objection, in writing, within one month from the publication of this notice, with reasons for it, to the Minister of Environment and Conservation, c/o the nearest Regional Lands Office.

For further information regarding the proposed application, please contact Marks & Parsons, attn: Kelvin L. Parsons, Q.C., Telephone (709) 695-7341.

June 30

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**TRUSTEE ACT**  
**ESTATE NOTICE**

**IN THE MATTER OF the Estate and Effects of the late  
Eugene May of Midland, in the Province of Ontario,  
Labourer, Deceased**

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of Eugene May, the aforesaid deceased, who died at Midland in the Province of Ontario on or about the 31<sup>st</sup> day of December, 2004, are hereby requested to send particulars thereof in writing, duly attested, to the undersigned Solicitor for the Administrator of the Estate on or before the 3<sup>rd</sup> day of July, 2006 after which date the Administrator will proceed to distribute the said Estate having regard only to the claims of which he shall then have had notice.

DATED at the Town of Gander, Newfoundland and Labrador, this 12<sup>th</sup> day of June, 2006.

BONNELL LAW  
Solicitor for the Administrator  
PER: R. Archibald Bonnell

ADDRESS FOR SERVICE:  
P. O. Box 563  
218 Airport Boulevard  
Gander, NL  
A1V 2E1

June 23 & 30

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**ESTATE NOTICE**

**IN THE MATTER OF the Estate and Effects of the late  
Hardy P. Taylor, of Lewisporte, in the Province of**

**Newfoundland and Labrador, Businessman, Retired,  
Deceased.**

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of Hardy P. Taylor, the aforesaid deceased, who died at Lewisporte in the Province of Newfoundland and Labrador on or about the 18<sup>th</sup> day of May, 2006, are hereby requested to send particulars thereof in writing, duly attested, to the undersigned Solicitor for the Administrator of the Estate on or before the 3<sup>rd</sup> day of July, 2006 after which date the Administrator will proceed to distribute the said Estate having regard only to the claims of which she shall then have had notice.

DATED at the Town of Gander, Newfoundland and Labrador, this 12<sup>th</sup> day of June, 2006.

BONNELL LAW  
Solicitor for the Administrator  
PER: R. Archibald Bonnell

ADDRESS FOR SERVICE:  
P. O. Box 563  
218 Airport Boulevard  
Gander, NL  
A1V 2E1

June 23 & 30

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**ESTATE NOTICE**

**IN THE MATTER OF the Estate and Effects of the late  
H. Rose Young of Twillingate, in the Province of  
Newfoundland and Labrador, Medical Assistant,  
Retired, Deceased.**

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of H. Rose Young, the aforesaid deceased, who died at Botwood in the Province of Newfoundland and Labrador on or about the 15<sup>th</sup> day of December, 2005, are hereby requested to send particulars thereof in writing, duly attested, to the undersigned Solicitor for the Administrator of the Estate on or before the 3<sup>rd</sup> day of July, 2006 after which date the Administrator will proceed to distribute the said Estate having regard only to the claims of which she shall then have had notice.

DATED at the Town of Gander, Newfoundland and Labrador, this 12<sup>th</sup> day of June, 2006.

BONNELL LAW  
Solicitor for the Administrator  
PER: R. Archibald Bonnell

ADDRESS FOR SERVICE:  
P. O. Box 563  
218 Airport Boulevard  
Gander, NL  
A1V 2E1

June 23 & 30

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**ESTATE NOTICE**

**IN THE MATTER OF the Estate of Augustus Lilly, late of the City of St. John's, in the Province of Newfoundland and Labrador, Company Director, deceased, and**

**IN THE MATTER OF the Estate of Jane Lilly, late of the City of St. John's in the Province of Newfoundland and Labrador, Gentlewoman, deceased, and**

**IN THE MATTER OF A. Lilly & Co., Limited, formerly located at 56-58 Bond Street, St. John's, NL, Company No. 2837, dissolved on 13 September 2005.**

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estates of Augustus Lilly or Jane Lilly, the aforesaid deceased, who died at St. John's in the Province Newfoundland and Labrador on 10 January 2004 and 19 January 2004, respectively, and also all persons claiming to be creditors of or who have any claims or demands upon or affecting A. Lilly & Co., Limited, Company No. 2837, dissolved on 13 September 2005, are hereby requested to send particulars of the same in writing, duly attested to the undersigned solicitors for the Executors of the Estate of Augustus Lilly and for the Administrator of the Estate of Jane Lilly on or before the 31<sup>st</sup> day of July, A.D. 2006, after which date the said Executors and Administrator will proceed to distribute the said Estates having regard only to the claims of which they shall then have had notice.

DATED at St. John's in the Province of Newfoundland and Labrador this 23<sup>rd</sup> day of June, A.D. 2006.

STEWART McKELVEY STIRLING SCALES  
Solicitors for the Executors of the Estate of Augustus Lilly  
Solicitors for the Administrator of the Estate of Jane Lilly  
Per: Augustus G. Lilly, Q.C.

ADDRESS FOR SERVICE:  
1100-100 New Gower Street  
P.O. Box 5038  
St. John's, NL A1C 5V3

June 30

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**ESTATE NOTICE**

**IN THE MATTER OF the Estate and Effects of the late Dorothy Udell of Carbonear, in the Province of Newfoundland and Labrador, Retired, businesswoman, deceased.**

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of Dorothy Udell, late of Carbonear, in the Province of Newfoundland and Labrador, retired business woman, who died at Carbonear on or about the 27<sup>th</sup> day of February, 2006, are hereby requested to send particulars thereof in writing, duly attested, to the undersigned Solicitors for the

Executor of the Last Will and Testament of the said deceased on or before the 27<sup>th</sup> day of July, 2006, after which date the said Executor will proceed to distribute the said Estate and Effects having regard only to the claims of which it shall then have had notice.

DATED at St. John's, in the Province of Newfoundland and Labrador, this 21<sup>st</sup> day of June, 2006.

CURTIS, DAWE  
Solicitors for the Executor  
PER: Sheilagh M. Murphy

ADDRESS FOR SERVICE:  
P. O. Box 337  
11<sup>th</sup> Floor, Fortis Building  
139 Water Street  
St. John's, NL A1C 5J9

June 30

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**ESTATE NOTICE**

**IN THE MATTER OF the Estate of the late David Joseph Hearn, of Petty Harbour, in the Province of Newfoundland and Labrador, fisherman, deceased,**

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of the late David Joseph Hearn of Petty Harbour in the Province of Newfoundland and Labrador, fisherman, deceased, who died at Petty Harbour, aforesaid, on or about the 2<sup>nd</sup> day of February, 2006, are hereby requested to forward particulars thereof in writing, duly attested, to the undersigned, Solicitor for the Executor of the Estate of the said deceased, on or before the 24<sup>th</sup> day of July, 2006, after which date the Executor will proceed to distribute the Estate having regard only to the claims of which they shall then have had notice.

DATED at St. John's, this 19<sup>th</sup> day of June, 2006.

MCINNES COOPER  
Solicitor for the Estate of  
David Joseph Hearn  
PER: Michael J. Crosbie

ADDRESS FOR SERVICE:  
5<sup>th</sup> Floor, Baine Johnston Centre  
10 Fort William Place  
P. O. Box 5939  
St. John's, NL  
A1C 5X4

June 30

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**QUIETING OF TITLES ACT**

**2006 04 T 0252  
IN THE SUPREME COURT OF  
NEWFOUNDLAND AND LABRADOR  
TRIAL DIVISION**

**IN THE MATTER OF that piece or parcel of land  
situate and being at Bailey's Point, in the Town of  
Glenburnie-Birchy Head-Shoal Cove, in the Province of  
Newfoundland and Labrador**

**AND**

**IN THE MATTER OF the Application of David  
Middleton for a Certificate of Title of the said piece or  
parcel of land pursuant to the *Quieting of Titles Act*,  
RSNL, 1990 cQ-3, as amended**

**NOTICE**

NOTICE IS HEREBY given to all persons that David and Teresa Middleton, as owners, have applied to the Supreme Court of Newfoundland and Labrador, Trial Division, at Corner Brook, Newfoundland and Labrador, to have investigated the title to ALL THAT piece or parcel of land situate and being at Bailey's Point, in the Town of Glenburnie-Birchy Head-Shoal Cove, in the Province of Newfoundland and Labrador, and further bounded and described as set forth in the Schedule "A" attached hereto; and for a Declaration that the said owners are the absolute owners thereof and the said owners have been ordered to publish a notice of the Application as required by the above named Act.

All persons having title adverse to the said title claimed by the said owners shall file with the Deputy Registrar of the Supreme Court of Newfoundland and Labrador, Trial Division, at Corner Brook, Newfoundland and Labrador, particulars of such adverse claim and serve same together with an Affidavit verifying the same to the undersigned solicitor for the owners on or before the 31<sup>st</sup> day of July, 2006, after which date no party having any claim shall be permitted to file the same or be heard except by leave of the Court and subject to such terms and conditions as the Court may deem just.

All such adverse claims shall then be investigated in such manner as the Court may direct.

DATED at the City of Corner Brook, in the Province of Newfoundland and Labrador, this 20<sup>th</sup> day of June, 2006.

POOLE ALTHOUSE  
Solicitors for the Owners  
PER: J. Annette Bennett

ADDRESS FOR SERVICE:  
49-51 Park Street  
P. O. Box 812  
Corner Brook, NL  
A2H 6H7

June 30

**SCHEDULE 'A'**

All that piece or parcel of land situate and being at Shoal Brook, Bonne Bay in the Electoral District of Humber Valley abutted and bounded as follows that is to say;

Beginning at a point being the northwestern corner of within described lot and found by running North fifty one degrees fifty minutes nineteen seconds West, a distance of thirty decimal three four zero meters from Control Monument Number 86G7005;

Thence running by land granted by Crown to Northwest Trading Company and Registered in volume 29, Folio 18 in the Registry of Crown Grants, North eighty one degrees twenty five minutes forty one seconds east, a distance of thirty three decimal two six four meters;

Thence running along the shoreline reservation, 10 meters wide, on the waters of Bonne Bay to a point being distant sixty-three decimal four five six meters as measured one a bearing of South sixteen degrees forty seven minutes twenty two seconds West;

Thence running along the reservation, 10 meters wide, on the northern side of Curnells Brook south eighty one degrees thirty two minutes forty seconds West, a distance of eighteen decimal zero four eight meters;

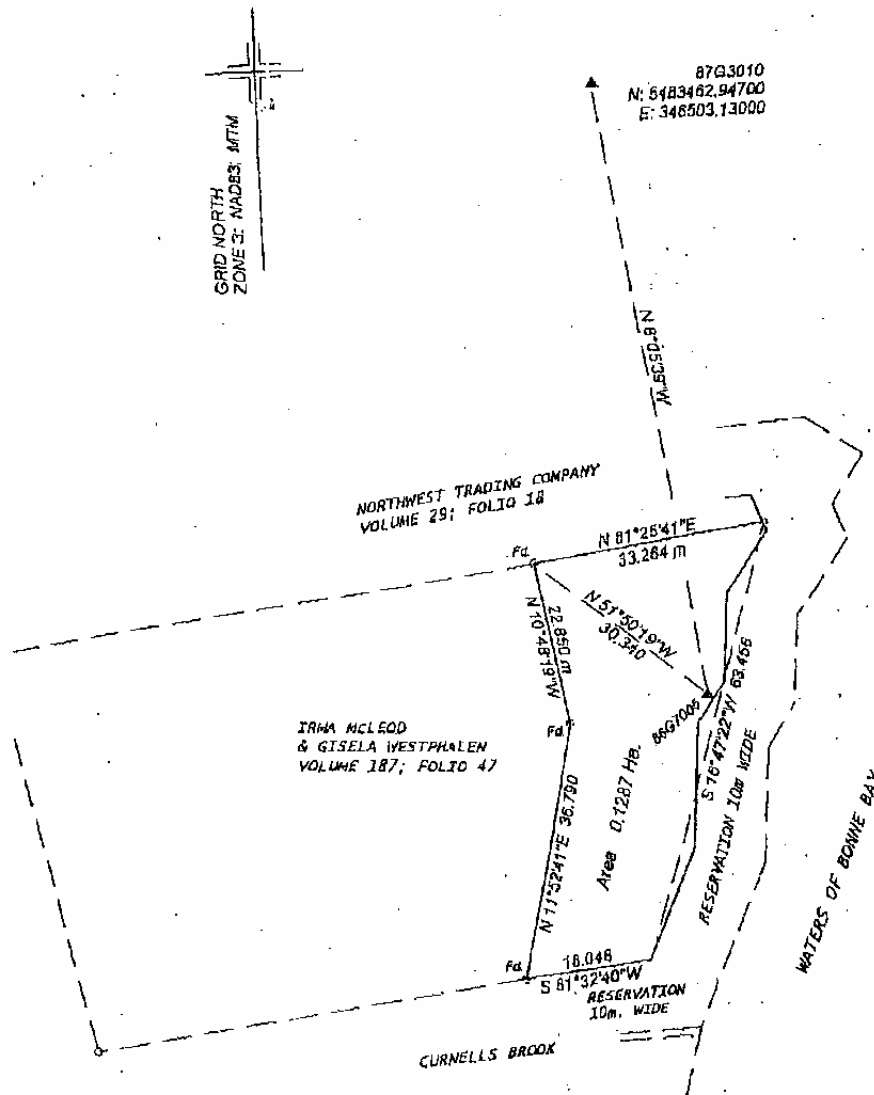
Thence running by land Granted by Crown to Irma McLeod and Gisela Westphalen and Registered in Volume 187, Folio 47 in the Registry of Crown Grants North eleven degrees fifty two minutes forty one seconds East, a distance of thirty six decimal seven nine zero meters;

And thence North ten degrees forty eight minutes nineteen seconds West, a distance of twenty two decimal eight five zero meters, more or less, to the POINT OF BEGINNING;

The above described parcel of land contains an area of 0.1287 hectare, more or less.

All bearings being referred to the meridian of 58 degrees 30 minutes west longitude of the Three Degree Transverse Mercator Projection. NAD83

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COORDINATES FOR 88G7005  
N: 5482438.51300  
E: 346649.05500

o IRON BAR  
▲ CONTROL MONUMENT  
Fd. FOUND  
ALL DISTANCES HORIZONTAL GROUND  
LAND CLEARED

APPLICATION NO. W-124514



SCALE 1: 750

SURVEYED BY GERARD BUTLER N.S.  
DATE OCTOBER 26, 2001  
DRG. NO. 04-46801



# THE NEWFOUNDLAND AND LABRADOR GAZETTE

## PART II

### SUBORDINATE LEGISLATION FILED UNDER THE STATUTES AND SUBORDINATE LEGISLATION ACT

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No. 26

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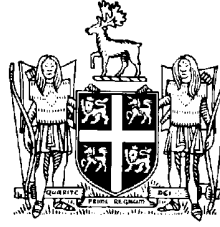
## NEWFOUNDLAND AND LABRADOR

### REGULATIONS

NLR 50/06

NLR 51/06

NLR 52/06



## NEWFOUNDLAND AND LABRADOR REGULATION 50/06

*Income and Employment Support Regulations*  
(Amendment)  
under the  
*Income and Employment Support Act*  
(O.C. 2006-255)

(Filed June 30, 2006)

Under the authority of section 52 of the *Income and Employment Support Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, June 30, 2006

Robert C. Thompson  
Clerk of the Executive Council

### REGULATIONS

#### *Analysis*

- |                             |                 |
|-----------------------------|-----------------|
| 1. S.8 Amdt.<br>Definitions | 2. Commencement |
|-----------------------------|-----------------|

NLR 144/04  
as amended

**1. Paragraph 8(a) of the *Income and Employment Support Regulations* is amended by striking out the word "or" at the end of subparagraph (vi), striking out the semicolon at the end of subparagraph (vii) and substituting a comma and the word "or" and by adding immediately subparagraph (vii) the following:**

(viii) a payment received under the Universal Child Care Benefit program of the Government of Canada;

*Income and Employment Support Regulations  
(Amendment)*

50/06

Commencement

**2. These regulations come into force on July 1, 2006.**

**©Earl G. Tucker, Queen's Printer**



## NEWFOUNDLAND AND LABRADOR REGULATION 51/06

*Income and Employment Support Regulations*  
(Amendment)  
under the  
*Income and Employment Support Act*  
(O.C. 2006-273)

(Filed June 30, 2006)

Under the authority of section 52 of the *Income and Employment Support Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, June 30, 2006.

Robert C. Thompson  
Clerk of the Executive Council

### REGULATIONS

#### *Analysis*

- |   |  |
|---|--|
| 1. S.2 Amdt.<br>Definitions   | 6. S.14 R&S<br>Maximum monthly income<br>support-board and lodging         |
| 2. S.5 Amdt.<br>Information which may be<br>required to assess or review<br>eligibility | 7. S.15 Amdt.<br>Income support for persons<br>30 years of age and younger |
| 3. S.7 Amdt.<br>Responsibilities of applicant<br>or recipient                           | 8. S.16 Amdt.<br>Rent or mortgage  |
| 4. S.8 Amdt.<br>Definitions   | 9. S.19 Amdt.<br>Other income support                                      |
| 5. S.13 Amdt.<br>Maintaining a residence  | 10. S.21 Amdt.<br>Special needs-furniture                                  |

- |  |   |
|--|---|
| 11. S.22 Amdt.<br>Special needs - eye examinations               | 18. S.38 Amdt.<br>Employment development support  |
| 12. S.23 Amdt.<br>Special needs - eye glasses                    | 19. S.39 Amdt.<br>Placement and support allowance |
| 13. S.24 Amdt.<br>Special needs - dentures                       | 20. S.40 Amdt.<br>Sort term training              |
| 14. S.27 Amdt.<br>Where death is involved                        | 21. S.41 Amdt.<br>Work supports                   |
| 15. S.28 Amdt.<br>Emergencies, disasters and other circumstances | 22. S.42 Amdt.<br>Assessment and counselling      |
| 16. S.30 Amdt.<br>Employment support                             | 23. S.45 Amdt.<br>Conjugal relationship           |
| 17. S.37 Amdt.<br>Wage subsidy programs                          | 24. Commencement                                  |

NLR 144/04  
as amended

**1. Section 2 of the *Income and Employment Support Regulations* is amended by adding immediately after paragraph (c) the following:**

- (c.1) "dependent" means a dependent of an applicant or recipient who is a child under the age of 18 years or a dependent student;

**2. Paragraph 5(1)(d) of the regulations is repealed and the following substituted:**

- (d) proof of the identity of all adults and dependents residing in the home and their relationship to the applicant or recipient;

**3. (1) Paragraph 7(1)(d) of the regulations is repealed and the following substituted:**

- (d) change in the circumstances of any dependents;

**(2) Paragraph 7(1)(f) of the regulations is repealed and the following substituted:**

- (f) absence from the province of the applicant, recipient or his or her dependents;

**4. (1) Subparagraph 8(a)(i) of the regulations is amended by deleting the words "child or dependent student".**

**(2) Subparagraph 8(a)(v) of the regulations is repealed and the following substituted:**

(v) one or more of the following sources:

- (A) payments for children in care,
- (B) special child welfare allowances,
- (C) child welfare allowances,
- (D) payments for alternate family care,
- (E) payments under a Youth Services Agreement,
- (F) government funded disability related supports,
- (G) payments received from the Voluntary Student Work and Services Program,
- (H) earnings of dependents, or
- (I) payments received from the Newfoundland and Labrador Housing Corporation Educational Incentive Allowance;

**(3) Subparagraph 8(c)(i) of the regulations is amended by deleting the words "child or dependent student".**

**5. Subsection 13(1) of the regulations is repealed and the following substituted:**

Maintaining a  
residence

**13. (1)** The monthly amount of income support for an applicant or recipient who is renting or owns a residence is up to

1 adult	without dependent children	\$450
1 adult	without dependent children but with one dependent student	638
1 adult	without dependent children but with two dependent students	727 plus 101 for each additional dependent student

1 adult	with dependent children	584
1 adult	with dependent children and one dependent student	626
1 adult	with dependent children but with two dependent students	727 plus 101 for each additional dependent student
2 adults	without dependent children	638
2 adults	without dependent children but with one dependent student	727 plus 101 for each additional dependent student
2 adults	with dependent children	626
2 adults	with dependent children and one dependent student	727 plus 101 for each additional dependent student

**6. Section 14 of the regulations are repealed and the following substituted:**

Maximum monthly  
income support-  
board and lodging

**14. (1) The monthly amount of income support for an applicant or recipient who is boarding with a non-relative is**

1 adult	without dependent children	\$450
1 adult	without dependent children but with one dependent student	638
1 adult	without dependent children and two dependent students	727 plus 101 for each additional dependent student
1 adult	with dependent children	584
1 adult	with dependent children and one dependent student	626
1 adult	with dependent children and two dependent students	727 plus 101 for each additional dependent student
2 adults	without dependent children	638
2 adults	without dependent children and one dependent student	727 plus 101 for each additional dependent student

2 adults	with dependent children	626
2 adults	with dependent children with one dependent student	727 plus 101 for each additional dependent student

(2) The monthly amount of income support for board and lodging for an applicant or recipient who is boarding with a relative is

1 adult	without dependent children	\$273
1 adult	without dependent children but with one dependent student	541
1 adult	with dependent children	481
1 adult	with dependent children and one dependent student	626 plus 101 for each additional dependent student
2 adults	without dependent children	541
2 adults	without dependent children but with one dependent student	727 plus 101 for each additional dependent student
2 adults	with dependent children	626
2 adults	with dependent children and one dependent student	727 plus 101 for each additional dependent student

**7. (1) Subsection 15(1) of the regulations is amended by deleting the amount "\$207" and substituting the amount "\$217".**

**(2) Subsection 15(2) of the regulations is amended**

**(a) in paragraph (a), by deleting the amount "\$98" and substituting the amount "\$103"; and**

**(b) in paragraph (b), by deleting the amount "\$142" and substituting the amount "\$149".**

**(3) Subsection 15(3) of the regulations is repealed and the following substituted:**

(3) Notwithstanding subsection 14(1) and paragraph 2(b), the monthly amount of income support for a single person under age 30 who, as determined by an officer, has barriers or impairments which limit that person's pursuit of employment or training is \$427.

**8. (1) Paragraph 16(3)(a) of the regulations is amended by deleting the phrase "children or dependent students" and substituting the word "dependents".**

**(2) Subparagraph 16(3)(b)(ii) of the regulations is amended by deleting the phrase "dependent children or dependent students" and substituting the word "dependents".**

**(3) Subsection 16(4) of the regulations is amended by deleting the amount "\$61" and substituting the amount "\$100".**

**9. (1) Paragraph 19(1)(h) of the regulations is amended by deleting the phrase "child or dependent student".**

**(2) Paragraph 19(1)(i) of the regulations is repealed and the following substituted:**

- (i) an amount of \$89 for each recipient or dependent receiving income support who is legally blind as certified by the Canadian National Institute for the Blind or an approved professional;

**(3) Paragraph 19(1)(j) of the regulations is repealed and the following substituted:**

- (j) an amount of \$45 for each recipient or dependent with diabetes receiving income support where that person's diabetes has been certified by an approved professional;

**(4) Subsection 19(1) of the regulations is amended by deleting the word "and" at the end of paragraph (l), by deleting the period at the end of paragraph (m) and substituting a semi-colon and by adding immediately after that the following:**

- (n) for a recipient with a dependent who begins employment, a payment of \$250 once in a 12 month period; and

- (o) for a recipient without a spouse, co-habiting partner or dependent who begins employment, \$125 once in a 12 month period.

**10. Paragraphs 21(1)(b), (c) and (d) are amended by deleting the word "children" wherever it appears and substituting the word "dependents".**

**11. Subsection 22(3) of the regulations is amended by deleting the word "children" and substituting the word "dependents".**

**12. Subsection 23(3) of the regulations is repealed and the following substituted:**

(3) Dependents may be covered for eyeglasses once every 12 months if there is a verified change in the dependent's prescription.

**13. Section 24 of the regulations is amended by deleting the phrase "dependent children or dependent students" and substituting the word "dependents".**

**14. (1) Subsection 27(1) of the regulations is repealed and the following substituted:**

Where death is involved

**27. (1)** An officer may grant to the relative of a deceased person or the representative of a deceased person an amount for the burial of the deceased not exceeding

- (a) for an adult or dependent 12 years of age or older, an amount of \$2,229;
- (b) for a dependent under 12 years of age, an amount of \$1,302;
- (c) for a still-born child, an amount of \$744;
- (d) for an adult or a dependent 12 years of age or older for a traditional funeral with casket, cremation and burial, an amount of \$2,338;
- (e) for a dependent under 12 years of age for a traditional funeral with casket, cremation and burial, an amount of \$1,532;

- (f) for an adult or a dependent for a traditional funeral with no casket, but with cremation and burial, an amount of \$2,025.

**(2) Paragraphs 27(2)(a) and (b) of the regulations are repealed and the following is substituted:**

- (a) an amount not exceeding \$195 with respect to clothing for the burial of a deceased person where no appropriate clothing is available;
- (b) a distance charge of \$0.95 a kilometre, where the body of a deceased person is being transported, for each kilometre in excess of 8 kilometres;

**15. Subsection 28(3) of the regulations is amended by deleting the phrase "children or dependent students" and substituting the word "dependents".**

**16. Section 30 of the regulations is amended by renumbering it as subsection 30(1) and by adding immediately after that subsection the following:**

(2) Eligibility for employment support under sections in this Part which consider income support status may be extended to

- (a) a person who meets the eligibility criteria for income support prescribed by the Act and the regulations but who may not be receiving income support;
- (b) a former recipient of income support who has an employment plan with the department; or
- (c) a person applying for employment support who is a dependent of
  - (i) a recipient of income support; or
  - (ii) a person referred to in paragraph (a) or (b).

**17. (1) Subsection 37(1) of the regulations is repealed and the following substituted:**

Wage subsidy  
programs

**37.** (1) Under the authority of section 8 of the Act, the minister or an officer designated by the minister may enter into agreements with for profit or not for profit employers on wage subsidy programs.

**(2) Subsection 37(2) of the regulations is repealed and the following substituted:**

(2) Employment support under this section shall be determined by negotiation between the employer and the minister or an officer designated by the minister.

**(3) Subsection 37(6) of the regulations is repealed and the following substituted:**

(6) In exceptional circumstances, the minister or an officer designated by the minister may vary or suspend

(a) the terms and conditions of a wage subsidy agreement; or

(b) the prohibitions contained in subparagraph (4)(e)(ii) or (iii).

**(4) Section 37 of the regulations is amended by adding immediately after subsection (6) the following:**

(7) Notwithstanding the requirement contained in subparagraph (4)(e)(i), eligibility under this section may be extended to an applicant or recipient who meets the criteria prescribed in subsection 30(2).

**18. (1) Subsection 38(3) of the regulations is amended by adding immediately after the word "minister" the phrase "or an officer designated by the minister".**

**(2) Subsection 38(4) of the regulations is amended by adding immediately after the word "minister" the phrase "or an officer designated by the minister".**

**(3) Section 38 of the regulations is amended by adding immediately after subsection (4) the following:**

(5) Notwithstanding the requirement contained in paragraph (2)(a), eligibility under this section may be extended to an applicant or recipient who meets the criteria prescribed in subsection 30(2).

**19. Section 39 of the regulations is amended by adding immediately after subsection (3) the following:**

(4) Eligibility under this section may be extended to an applicant or recipient who meets the requirements of this section and who

(a) is receiving income support; or

(b) meets the criteria prescribed in subsection 30(2).

**20. (1) Subsection 40(3) of the regulations is repealed and the following is substituted:**

(3) Notwithstanding subsection (1), the minister or an officer designated by the minister may dispense with the requirement contained in that subsection.

**(2) Subsection 40(4) of the regulations is amended by deleting the reference "subsection (2)" and by substituting the reference "subsection (1)".**

**(3) Section 40 of the regulations is amended by adding immediately after subsection (5) the following:**

(6) Eligibility under this section may be extended to an applicant or recipient who meets the requirements of this section and who

(a) is receiving income support; or

(b) meets the criteria prescribed in subsection 30(2).

**21. Section 41 of the regulations is amended by adding immediately after subsection (2) the following:**

(3) Eligibility under this section may be extended to an applicant or recipient who meets the requirements of this section and who

(a) is receiving income support; or

(b) meets the criteria prescribed in subsection 30(2).

**22. Section 42 of the regulations is amended by renumbering it as subsection 42(1) and by adding immediately after that subsection the following:**

(2) Eligibility under this section may be extended to an applicant or recipient who meets the requirements of this section and who

(a) is receiving income support; or

(b) meets the criteria prescribed in subsection 30(2).

**23. Paragraph 45(1)(b) of the regulations is repealed and the following substituted:**

(b) the parental connections of the 2 people based on the evidence of shared dependents or whether they share parental roles; or

Commencement

**24. These regulations shall come into force on July 1, 2006.**

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## NEWFOUNDLAND AND LABRADOR REGULATION 52/06

*Provincial Court Family Violence Protection Rules*  
under the  
*Provincial Court Act, 1991*  
(O.C. 2006-261)

*(Filed June 30, 2006)*

Under the authority of section 29.1 of the *Provincial Court Act, 1991*, the Lieutenant-Governor in Council makes the following rules.

Dated at St. John's, June 30, 2006.

Robert C. Thompson  
Clerk of the Executive Council

### **RULES**

#### *Analysis*

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Short title

**1.** These rules may be cited as the *Provincial Court Family Violence Protection Rules*.

Interpretation

**2.** (1) In these rules, unless the context otherwise requires,

- (a) "Act" means the *Family Violence Protection Act*;
- (b) "applicant" means a person described in paragraph 4(a) who applies for or has obtained an emergency protection order;
- (c) "child" means a child as defined under paragraph 2(b) of the Act;
- (d) "court" means the Provincial Court of Newfoundland and Labrador or a judge of the Provincial Court whether sitting in court or in chambers;
- (e) "court centre" means an office of the court and includes the following locations as amended from time to time:
  - (i) St. John's,
  - (ii) Placentia,
  - (iii) Harbour Grace,
  - (iv) Clarenville,
  - (v) Grand Bank,
  - (vi) Gander,
  - (vii) Grand Falls-Windsor,
  - (viii) Corner Brook,
  - (ix) Stephenville,

- (x) Wabush,
  - (xi) Happy Valley-Goose Bay,
  - (f) "designated person" means a person designated by regulations made under paragraph 20(b) of the Act;
  - (g) "emergency protection order" means an emergency protection order granted under section 5 of the Act in accordance with these rules;
  - (h) "family violence" means an act or omission described in subsection 3(1) of the Act;
  - (i) "hearing" means the hearing of an application;
  - (j) "judge" means a Provincial Court judge appointed under the *Provincial Court Act, 1991* and includes the chief judge;
  - (k) "lawyer" means a member in good standing of the Law Society of Newfoundland and Labrador who is entitled to appear and represent a party in the court under the *Law Society Act*;
  - (l) "on-call judge" means a judge of the court who is designated by the chief judge to perform judicial duties outside the regular working hours of the court for a particular period of time;
  - (m) "order" means an order, decision or judgment of the court;
  - (n) "police officer" means a police officer as defined under paragraph 2(i) of the Act; and
  - (o) "respondent" means a person against whom an emergency protection order is sought or made.
- (2) For the purposes of these rules,
- (a) a reference to "in the prescribed form" means a form as prescribed by practice memorandum of the court; and

- (b) a reference to "in writing" includes a form of telecommunication that produces a writing.

Oath or affirmation

**3.** (1) Where these rules require that a person provide a sworn statement or give evidence under oath, the person making the statement or providing the evidence may satisfy the requirement by making a solemn affirmation in accordance with section 3 of the *Oaths Act* and a statement made or evidence given under solemn affirmation shall have the same effect as if made or given under oath.

(2) For purposes of these rules, where an application is made by a police officer by facsimile telecommunication, an oath or solemn affirmation may be administered by telephone.

Who may make application

**4.** An application for an emergency protection order may be made

(a) by an applicant who is

(i) a person who resides with or has resided with the respondent in a conjugal relationship, whether within or outside marriage, or

(ii) a person who is, together with the respondent, a parent of one or more children, regardless of their marital status or whether they have lived together; or

(b) on behalf of an applicant described in paragraph (a), by

(i) a designated person, or

(ii) by a police officer or lawyer, with the consent of an applicant.

How application is made

**5.** (1) An applicant referred to in paragraph 4(a) may only make an application for an emergency protection order in person and during the regular working hours of the court, from Monday to Friday, excluding statutory holidays.

(2) A person referred to in paragraph 4(b) may make an application for an emergency protection order on behalf of an applicant in person or by facsimile telecommunication during the regular working hours of the court, from Monday to Friday, excluding statutory holidays.

(3) An application for an emergency protection order may be made

- (a) on Saturday or Sunday;
- (b) on a statutory holiday; or
- (c) at any time other than during the regular working hours of the court,

but only by a police officer and only by facsimile telecommunication to the on-call judge and the police officer shall first contact the on-call judge by telephone to confirm his or her availability.

(4) Where an applicant is not present when an application is made under subsection (2) or (3), the person making the application shall provide the applicant with a copy of the application and supporting documentation as soon as practicable after the application is filed.

Filing of application

**6.** (1) An application for an emergency protection order that is made under subsection 5(1) or 5(2) may be made to and heard by a judge at the court centre

- (a) closest to where the applicant normally resides; or
- (b) closest to where the applicant is at the time the application is made.

(2) Where an application for an emergency protection order referred to in subsection (1) is made in person by an applicant or a lawyer, police officer or designated person on behalf of an applicant to a court centre other than the court centre closest to where the applicant normally resides, the member of court staff who receives the application shall cause a copy of the application and supporting documentation to be forwarded to the clerk of the court in the court centre closest to where the applicant normally resides as soon as practicable.

(3) Where an application is made by facsimile telecommunication under section 5(2) or 5(3)

- (a) the person making the application shall cause the original signed application and supporting documentation to be forwarded to the clerk of the court in the court centre closest to

where the applicant normally resides as soon as practicable;  
and

- (b) the original signed application shall be clearly marked on its face "Sent by telephone facsimile transmission" giving the date and the time of the transmission.

(4) An application for an emergency protection order that is made by facsimile telecommunication to an on-call judge under subsection 5(3) shall be considered to be filed in the court centre closest to where the applicant normally resides when the on-call judge receives the facsimile telecommunication.

(5) The filed facsimile telecommunication of an application shall have the same effect as the original of the application.

Application without  
notice

**7.** An application for an emergency protection order may be made without notice to another person.

Form and substance  
of an application

**8.** (1) An application for an emergency protection order shall be in writing in the prescribed form and shall contain the following information:

- (a) the name and address of the applicant and for this purpose, the address may be an address designated by the applicant for purposes of service that is other than his or her residential address;
- (b) the name and last known address of the respondent;
- (c) the name and date of birth of any child who ordinarily or periodically resides with the applicant;
- (d) a statement that the applicant requests an emergency protection order under section 5 of the Act;
- (e) where the application is made on behalf of the applicant by a lawyer or police officer, the applicant's consent to the application, and
- (f) where the application is made on behalf of the applicant by a lawyer, police officer or designated person, the name, profession and business or employment address of the person mak-

ing the application on behalf of the applicant and any other information necessary to identify or contact him or her.

(2) An application for an emergency protection order shall be accompanied by a sworn statement in writing that establishes

- (a) the nature of the applicant's relationship to the respondent;
- (b) the particulars of the acts or omissions constituting family violence, including any prior acts or omissions constituting family violence;
- (c) a summary of all proceedings and orders between the applicant and respondent, including where appropriate, a summary of all proceedings and orders between the applicant and respondent affecting or in relation to a child or children of the applicant and the respondent;
- (d) whether the applicant has made any previous application for an emergency protection order and the date when the application was made;
- (e) the applicant's belief that family violence is likely to continue or resume and the basis for that belief; and
- (f) the applicant's fear for his or her safety and, where appropriate, the safety of a child and the basis for that belief.

(3) In addition to the matters referred to in subsections (1) and (2), where an application for an emergency protection order is made by facsimile telecommunication, the application shall include a cover page in the prescribed form setting out

- (a) the sender's name, address and telephone facsimile number;
- (b) the date and time of transmission;
- (c) the names of the applicant and respondent in the proceeding and the file number, where one is known;
- (d) the total number of pages transmitted, including the cover page;

- (e) the telephone facsimile number from which the document is transmitted; and
- (f) the name and telephone number of a person to contact in the event of transmission problems.

## Preliminary matters

**9.** At the hearing of an application for an emergency protection order a judge, before considering the allegations of the applicant and the evidence in support of the allegations, shall satisfy himself or herself

- (a) that the applicant is a person who may apply for an emergency protection order under paragraph 4(a);
- (b) where the application is made on behalf of an applicant, that the application has been made
  - (i) by a designated person, or
  - (ii) by a police officer or lawyer, with the consent of the applicant; and
- (c) that the application is made in writing in the prescribed form and in accordance with the requirements of these rules.

## Hearing of application

**10. (1)** Where a judge is satisfied that the requirements of section 9 have been met, the judge shall hear and consider the documentation submitted by the applicant and may decide the application for an emergency protection order without notice to another person.

(2) Where the judge hearing the application for an emergency protection order considers it necessary, he or she may, on terms that he or she considers appropriate,

- (a) receive evidence in the form of an amendment or supplement to the sworn statement referred to in subsection 8(2);
- (b) order that notice of the application be served upon a person in the manner directed by the judge;
- (c) where an application has been made by facsimile telecommunication, adjourn the hearing to a time and place where the judge may receive oral evidence; and

(d) conduct the hearing in any manner that the judge considers appropriate and that is not inconsistent with the Act or these rules.

(3) When hearing an application for an emergency protection order, a judge shall ensure that

(a) all evidence in support of the application is given under oath; and

(b) a record is made of all evidence received or adduced in support of the application and for this purpose, the record may be created in writing or by tape recording.

(4) Where a judge begins to hear an application for an emergency protection order and is unable to continue the hearing for any reason, another judge may

(a) continue hearing the application where the record of evidence before the previous judge created under paragraph (3)(b) is available for review by the judge; or

(b) continue hearing the application as if no evidence had been taken where the record of evidence under paragraph (3)(b) is not available for review by the judge.

When decision to be made

**11.** (1) An application for an emergency protection order shall be heard and decided in a summary way and without delay and in any event within 24 hours of the filing of the application.

(2) Notwithstanding subsection (1), where as a result of factors beyond the control of the judge hearing the application, it is impossible to decide the application within 24 hours of its filing, an order granting or denying the application shall be made as soon as practicable and in such a case, the order shall be as valid as if it had been made in accordance with subsection (1).

When order is to be denied

**12.** Where a judge hearing an application for an emergency protection order is not satisfied, based upon the application and supporting documentation and taking into account the factors referred to in subsection 5(2) of the Act that

(a) family violence has occurred; or

- (b) by reason of seriousness or urgency an emergency protection order should be made without delay to ensure the immediate protection of the applicant who is at risk of harm or the property that is at risk of damage,

the application shall be denied.

When order is to be made

**13.** Where a judge hearing an application is satisfied on the balance of probabilities, based on the application and supporting documentation and taking into account the factors referred to in subsection 5(2) of the Act, that

- (a) family violence has occurred; and
- (b) by reason of seriousness or urgency the emergency protection order should be made without delay to ensure the immediate protection of the applicant who is at risk of harm or the property that is at risk of damage

an emergency protection order shall be made.

Filing of order

**14.** Upon deciding an application for an emergency protection order, the judge shall cause his or her order granting or denying the application and all associated records, including his or her notes, to be filed

- (a) in the court centre in which the application for the emergency protection order was filed; or
- (b) where the application was made to a court centre other than one closest to where the applicant normally resides, the court centre closest to where the applicant normally resides.

Form and content of order

**15.** (1) An emergency protection order shall be in the prescribed form and shall include one or more of the provisions set out in section 6 of the Act.

(2) In addition to the provisions referred to in subsection (1), an emergency protection order shall

- (a) advise the respondent of his or her right to apply to the court under subsection 10(1) of the Act to set aside the order and the time limit for doing so;

(b) contain information respecting the right of each of the applicant and the respondent to apply to the court under subsection 12(1) of the Act to vary or terminate the order; and

(d) contain general information respecting the penalties in the event of non-compliance with the order.

(3) An order based on a facsimile telecommunication application has the same effect as an order based on an application made in person.

Delivery of order

**16.** (1) Where an emergency protection order is made, for the purpose of service upon the respondent in accordance with paragraph 17(b), the judge making the emergency protection order shall provide a copy of the order together with a copy of the application and the record of evidence to a police officer either by personal delivery or by facsimile telecommunication to the police detachment closest to the last known address of the respondent.

(2) A copy of an order transmitted by facsimile telecommunication under subsection (1) has the same effect as the original of the order made by the judge.

Service of order

**17.** Upon receipt of the copy of the order and documentation transmitted under subsection 16(1), the police officer shall

(a) provide one copy of the emergency protection order to the applicant; and

(b) personally serve one copy of the order, the application and the record of evidence forthwith on the respondent named in the emergency protection order and provide proof of service satisfactory to the court.

Substituted service

**18.** (1) Where a judge is satisfied that a police officer, after making every reasonable effort, has been unable to effect personal service on the respondent in accordance with paragraph 17(b) within 48 hours after receiving a copy of the emergency protection order, the judge may, on application, make an order for substituted service in any manner the court may direct.

(2) An application for substituted service under subsection (1) may be made in person or by facsimile telecommunication and shall

- (a) be in the prescribed form;
- (b) be supported by evidence setting out why personal service is impracticable;
- (c) propose a method of service that is likely to bring notice of the order to the respondent; and
- (d) where made by facsimile telecommunication, include a cover page in the prescribed form.

(3) Upon making an order for substituted service, the judge shall

- (a) cause the order and the application to be filed in the court centre where the emergency protection order is filed; and
- (b) transmit a copy of the order to the police officer who made the application either by personal delivery or by facsimile telecommunication.

(4) A copy of an order for substituted service transmitted by facsimile telecommunication under subsection (3) has the same effect as the original of the order made by the judge.

(5) A person who provides a copy of the emergency protection order and associated documentation to a respondent by substituted service shall provide proof of service satisfactory to the court in the prescribed form.

(6) Service of an emergency protection order in accordance with the order for substituted service shall be considered to be personal service on the respondent.

Dispensing with  
service

**19.** (1) Where a judge is satisfied, on the application of a police officer under subsection 8(3) of the Act, that service of the emergency protection order cannot be effected by personal service under paragraph 17(b) or by substituted service under section 18, the judge may make an order dispensing with service.

(2) An application referred to in subsection (1) may be made in person or by facsimile telecommunication and shall be

- (a) in the prescribed form;

- (b) supported by evidence setting out the police officer's attempts at personal service and substituted service; and
- (c) where made by facsimile telecommunication, include a cover page in the prescribed form.

(3) Upon making an order dispensing with service, the judge

(a) shall cause the order and the application to be filed in the court centre where the emergency protection order is filed; and

(b) transmit a copy of the order to the police officer who made the application either by personal delivery or by facsimile telecommunication.

(4) A copy of an order dispensing with service that is transmitted by facsimile telecommunication under subsection (3) has the same effect as the original of the order made by the judge.

Application to set aside order

**20.** (1) A respondent named in an emergency protection order may apply under section 10 of the Act for an order to set aside an emergency protection order.

(2) An application referred to in subsection (1) shall be made by the respondent not more than 10 days after he or she is served with or has received notice of the emergency protection order.

Application to vary or terminate order

**21.** (1) A respondent or an applicant named in an emergency protection order may apply under section 12 of the Act for an order to vary or terminate the emergency protection order or a provision of the emergency protection order.

(2) An application referred to in subsection (1) may be made at any time prior to the expiration of the emergency protection order.

Application procedures generally

**22.** (1) An application to set aside an emergency protection order or to vary or terminate an emergency protection order or a provision of an emergency protection order may be made from Monday to Friday, excluding statutory holidays, during the regular working hours of the court.

(2) An application referred to in subsection (1) may be made in person or by facsimile telecommunication at the court centre where the emergency protection order is filed.

(3) An application referred to in subsection (1) shall

- (a) be in the prescribed form;
- (b) set out in sufficient detail the basis of the claim and the relief requested; and
- (c) be supported by a sworn statement.

(4) Where an application referred to in subsection (1) is made by facsimile telecommunication,

- (a) the application shall include a cover page in the prescribed form;
- (b) the application shall be considered to be filed when the facsimile transmission is received by the court and the filed facsimile shall be considered to have the same effect as the original;
- (c) the person making the application shall cause the original signed application and supporting documents to be forwarded to the clerk of the court in the court centre where the application is filed as soon as practicable; and
- (d) the original signed application shall be clearly marked on its face "Sent by telephone facsimile transmission", giving the date and time of the transmission.

Reply

**23.** (1) Where the other party to an application referred to in subsection 22(1) opposes the application, that party may file a reply at least 2 days before the date of the hearing of the application.

(2) A reply may be filed in person or by facsimile telecommunication and where filed by facsimile telecommunication, the requirements of subsection 22(4) shall apply with the necessary changes.

(3) A reply referred to in subsection (1) shall be

- (a) in the prescribed form; and
- (b) supported by a sworn statement.

Application abandoned or withdrawn

**24.** (1) A person making an application referred to in subsection 22(1) may abandon the application by filing a notice of abandonment in the prescribed form and serving a copy of the notice upon the other party to the application in accordance with section 25.

(2) A notice of abandonment may be filed in person or by facsimile telecommunication and where filed by facsimile telecommunication, the requirements of subsection 22(4) shall apply with the necessary changes.

(3) A person making an application referred to in subsection 22(1) who fails to appear at the hearing of the application shall be considered to have abandoned the application, unless the court orders otherwise.

Service of application, reply and notice

**25.** (1) Service of an application referred to in subsection 22(1), a reply under subsection 23(1) or a notice of abandonment under subsection 24(1) shall be by personal service by one of the following methods:

- (a) personal service on the person at the address designated for purposes of service set out in the application for the emergency protection order; or
- (b) service of a copy of the application, reply or notice on an adult person who
  - (i) resides with the person to be served,
  - (ii) is a family member of the person to be served, or
  - (iii) is able to bring the application or reply to the attention of the person to be served,

together with a notice stating that the copy of the application or reply is to be provided to the person to be served.

(2) Where the emergency protection order which is the subject of an application under subsection 22(1), a reply under subsection 23(1) or a notice of abandonment under subsection 24(1) contains a provision

- (a) restraining the respondent from directly or indirectly communicating with the applicant; or
- (b) restraining the respondent from attending at or near or entering any place that is attended regularly by the applicant, including a residence, property, business, school or place of employment,

the person making the application, reply or notice shall cause the documents to be served to be forwarded to a police officer who shall undertake service by one of the methods described in subsection (1).

When service must  
be made

**26.** (1) An application referred to in subsection 22(1) shall be served on the other party to the proceeding at least 5 days before the date set down for the hearing of the application.

(2) A reply under subsection 23(1) shall be served on the other party to the proceeding at least one day before the date set down for the hearing of the application.

Hearing of an  
application to set  
aside, vary or  
terminate

**27.** (1) An application referred to in subsection 22(1) shall be heard by the court in the court centre in which the emergency protection order is filed, unless the court orders otherwise.

(2) Evidence on a hearing of an application referred to in subsection 22(1) may be given

- (a) by a statement under oath or solemn affirmation;
- (b) by a statement of facts agreed upon in writing by the parties;  
or
- (c) with the leave of the court, by a witness in person,

and in addition to the evidence that may be adduced by either party, the court may consider the evidence that was before the judge that issued the emergency protection order in the form in which it was recorded.

(3) Where a party fails to attend the hearing of an application after being served with notice of the application, the court may proceed in that party's absence.

Service of order to  
set aside, vary or  
terminate

**28.** (1) The court may set aside an emergency protection order or vary or terminate an emergency protection order or a provision of an emergency protection order in accordance with the Act on such terms as it thinks just.

(2) Where an emergency protection order is set aside under section 10 of the Act or where an emergency protection order or a provision of an emergency protection order is varied or terminated under section 12 of the Act, the order setting aside the emergency protection order or varying or terminating the emergency protection order or a provision of an emergency protection order shall be filed in the court centre where the original emergency protection order is filed.

(3) Upon making an order to set aside an emergency protection order or to vary or terminate an emergency protection order or a provision of an emergency protection order, the judge shall provide a copy of the order to a police officer by personal delivery or by facsimile telecommunication to the police detachment in the court centre in which the application to set aside or vary or terminate was made and the police officer shall forthwith serve the order on the applicant and respondent in the manner ordered by the court.

(4) A police officer may apply for an order for substituted service or an order dispensing with service of an order to set aside, vary or terminate an emergency protection order and the requirements of section 18 or 19, as the case may be, shall apply to the application with the necessary changes.

(5) A copy of an order referred to in subsection (3), an order for substituted service or an order dispensing with service that is transmitted by facsimile telecommunication shall have the same effect as the original of the order made by the judge.

Service generally

**29.** For the purposes of these regulations, service of a document may be proved by

- (a) an affidavit stating by whom the document was served, the day of the week, the time of day and the date on which it was served, where it was served and how it was served; or

(b) by the sworn or affirmed oral evidence of the person who served the document.

Commencement

**30. These regulations shall come into force on July 1, 2006.**

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