



CANADA
PRIVY COUNCIL • CONSEIL PRIVÉ

P.C. 2010-965
August 4, 2010

Whereas, pursuant to paragraph 46(4)(a) of the *Federal Courts Act*, a copy of the proposed *Rules Amending the Federal Courts Rules (Procedural Amendments)*, substantially in the annexed form, was published in the *Canada Gazette*, Part I, on June 13, 2009 and interested persons were invited to make representations with respect to the proposed Rules;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to section 46 of the *Federal Courts Act*, hereby approves the annexed *Rules Amending the Federal Courts Rules (Procedural Amendments)*, made by the rules committee of the Federal Court of Appeal and the Federal Court.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

CLERK OF THE PRIVY COUNCIL—LE GREFFIER DU CONSEIL PRIVÉ

RULES AMENDING THE FEDERAL COURTS RULES (PROCEDURAL
AMENDMENTS)

AMENDMENTS

1. Rule 127 of the *Federal Courts Rules*¹ is replaced by the following:

Service of
originating
documents

127. (1) An originating document that has been issued, other than in an appeal from the Federal Court to the Federal Court of Appeal or an *ex parte* application under rule 327, shall be served personally.

Exception

(2) A party who has already participated in the proceeding need not be personally served.

Service of
notice of
appeal on the
Crown

(3) Despite subsections (1) and (2), in the case of an appeal from Federal Court to the Federal Court of Appeal, if the Crown, the Attorney General of Canada or any other minister of the Crown is a respondent, the notice of appeal shall be served personally on them in accordance with rule 133.

2. Subsection 161(3) of the Rules is replaced by the following:

Notice of
report

(3) On the filing of a referee's report, the Administrator shall send without delay a copy of it to all parties

(a) by registered mail;

(b) by electronic means, including facsimile and electronic mail; or

(c) by any other means, as directed by the Chief Justice, likely to bring the report to the attention of the party.

Proof of
receipt

(4) If a report is transmitted by electronic means, the Administrator shall confirm receipt by the party and place proof of that receipt on the Court file.

3. Rules 306 and 307 of the Rules are replaced by the following:

Applicant's
affidavits

306. Within 30 days after issuance of a notice of application, an applicant shall serve its supporting affidavits and documentary exhibits and file proof of service. The affidavits and exhibits are deemed to be filed when the proof of service is filed in the Registry.

Respondent's
affidavits

307. Within 30 days after service of the applicant's affidavits, a respondent shall serve its supporting affidavits and documentary exhibits and shall file proof of service. The affidavits and exhibits are deemed to be filed when the proof of service is filed in the Registry.

4. Rule 309 of the Rules is amended by adding the following after subsection (2):

¹ SOR/98-106; SOR/2004-283



Retention of original affidavits

(3) If an original affidavit is not filed as part of an applicant's record, it shall be retained by the applicant for one year after the expiry of all appeal periods.

5. Rule 310 of the Rules is amended by adding the following after subsection (2):

Retention of original affidavits

(3) If an original affidavit is not filed as part of a respondent's record, it shall be retained by the respondent for one year after the expiry of all appeal periods.

6. Rule 395 of the Rules is replaced by the following:

Copies to be sent

395. (1) Subject to subsection 36(3), the Administrator shall send without delay a copy of every order made and of any reasons given other than in open court to all parties

(a) by registered mail;

(b) by electronic means, including facsimile and electronic mail; or

(c) by any other means, as directed by the Chief Justice, likely to bring the order and any reasons to the attention of the party.

Proof of receipt

(2) If an order and any reasons are transmitted by electronic means, the Administrator shall confirm receipt by the party and place proof of that receipt on the Court file.

COMING INTO FORCE

7. These Rules come into force on the day on which they are registered.

