

Part 19 - Transition

Rule 92 - Transition

Effective date of these Rules

92.01 These Rules take effect on January 1, 2009 except as provided in this Rule.

Application to outstanding proceedings

92.02 (1) These Rules apply to all steps taken after January 1, 2009 in an action started before January 1, 2009, unless this Rule 92 provides or a judge orders otherwise.

(2) The *Nova Scotia Civil Procedure Rules* (1972) continue to apply to each of the following kinds of proceedings:

- (a)** an action or other proceeding in the Family Division;
- (b)** a family proceeding outside the Family Division;
- (c)** all other proceedings, except an action, started before January 1, 2009, unless a judge orders otherwise.

Document and step in action preserved

92.03 On a motion, in a trial, or in connection with any other step taken after December 31, 2008 in an action started before January 1, 2009 both of the following apply:

- (a)** each notice, pleading, affidavit, order, and other document filed in the action under the *Nova Scotia Civil Procedure Rules* (1972) must be treated, as nearly as possible, as if it conformed with these Rules;
- (b)** each step taken in the action and completed before January 1, 2009 must be treated, as nearly as possible, as a step taken under these Rules.

Outstanding interlocutory steps

92.04 Each of the following steps that is outstanding in an action on January 1, 2009 must be completed under the *Nova Scotia Civil Procedure Rules (1972)*, unless the parties agree or a judge orders otherwise:

- (a) answers to a demand for particulars delivered before that date;
- (b) an interlocutory application;
- (c) in an action in which any party has served a list of documents before that date, the disclosure of documents and electronic information;
- (d) an examination for discovery agreed to, or for which a notice of examination is issued, before that date;
- (e) answers to interrogatories delivered before that date;
- (f) a reference made before that date;
- (g) in an action in which a party files a notice of trial before that date, the assignment of trial dates, delivery of an expert's report, and discovery;
- (h) default judgment, including for foreclosure, sale, and possession, on a claim made in an action started before that date.

Notice in an outstanding action

92.05 (1) The *Nova Scotia Civil Procedure Rules (1972)*, rather than Rule 31 - Notice, apply to both of the following in actions started before January 1, 2009:

- (a) giving notice of the action to a person after January 1, 2009;
 - (b) a motion for a default judgment made after January 1, 2009.
- (2)** An address for service given before January 1, 2009 is treated as a designated address under these Rules.
- (3)** A party to an action started before January 1, 2009 who has not stated an address for service, or who has ceased to be assured of receiving a document delivered to the address for service, must designate an address for delivery.

Actions under \$100,000

92.06 Rule 57 - Action for Damages Under \$100,000 does not apply to an action started before January 1, 2009, but a motion may be made under Rule 58 - Action for Claim Valued Under \$100,000.

Registry number on headings

92.07 The prothonotary at Halifax may direct that the registry number in the heading of each proceeding be changed to show the new registry codes in Rule 32 - Place of Proceeding.

Directions to apply present or former Rules

92.08 (1) A judge who presides at a trial started before January 1, 2009 may direct which of these Rules and which of the Rules in the *Nova Scotia Civil Procedure Rules* (1972) apply to the trial.

(2) A judge who is satisfied that the application of this Rule 92 to a proceeding started before January 1, 2009 causes one party to gain an unfair advantage over another party may order either of the following:

- (a) these Rules apply to the proceeding, or a part of the proceeding, despite Rules 92.02(2), 92.04, and 92.05(1);
- (b) the *Nova Scotia Civil Procedure Rules* (1972) apply to the proceeding or a part of the proceeding despite Rule 92.02(1).