

## **NOVA SCOTIA COURT OF APPEAL**

### **How to complete the forms for a bail motion pending the hearing of your criminal appeal.**

This guide provides general information only. It may not tell you all you need to know. It does not explain the law. You should speak to a lawyer for legal advice about your situation.

You may request bail pending the hearing of your appeal before the Nova Scotia Court of Appeal, where you are appealing from **sentence only** (Civil Procedure Rule 91.24(1)).

Attached to this guide are the following documents:

- Notice of Motion
- Supporting Affidavit

### **What you must do in advance of making your motion**

- You must have filed a Notice of Appeal with the Nova Scotia Court of Appeal.

### **What is the basis for your motion?**

At the very least you must set out the following information in your Affidavit in support of your bail motion:

- Why you believe you should be released on bail pending the hearing of your appeal;
- The conditions under which you proposed to be released on bail pending the hearing of your appeal;

### **What do you need to set out in your Affidavit on the motion to be released?**

You must review Civil Procedure Rule 91.24(2). The items you must address in your Affidavit are:

- details of the conviction;
- details of any ground of appeal omitted from the notice of appeal you wish to argue;
- the appellant's age, status as a single person or partner or spouse, places of residence in the 3 years before the conviction, employment before conviction, prospects for employment if released, including place or prospective employment if released, and any criminal record;
- the unnecessary hardship of being detained in custody, if the appeal is of sentence only;
- the amount of money or the value of other security the appellant proposes; and
- the names of sureties and the amount for which each is liable, if sureties are proposed and arrangements have been made with them.

## Steps

Follow these steps to file your motion for a bail:

1. Read the attached forms and this information sheet and try to understand how to make the bail motion.
2. Complete and file with the court the Notice of Motion. The Notice of Motion is a fill in the blank form. It must also be served on the other parties.

Your motion will be heard in Court of Appeal Chambers which is held on Thursdays at 10:00 am. You must attend this Chambers hearing. You must choose the Thursday you wish to have your motion heard that allows 4 days notice (not counting weekends or holidays) for both the court and the other parties involved to receive your documentation. For example your motion and supporting Affidavit would have to be filed with the Registrar of the Court of Appeal and received by the other parties to the application no later than 4:30 pm on a Thursday for the following Thursday. In this example the 4 days are the Friday, Monday, Tuesday and Wednesday.

3. Complete and file with the court your supporting Affidavit at the same time as you file your Notice of Motion. The Affidavit must also be served on the other parties with the Notice of Motion. The attached Affidavit form is **NOT** a fill in the blank form. You must use your own sheet of paper and style it in the format provided. You must attach as exhibits to your Affidavit any documents to which you refer in your Affidavit.

Your Affidavit must be sworn before a Commissioner of Oaths or a lawyer. You must provide as much detail as possible in the Affidavit and include the information requested in the above section entitled: **What is the basis for your motion?**

4. You must also, at the same time as you file your Notice of Motion and Affidavit, file with the Registrar of the court and the Crown the sentencing remarks of the judge (sentencing decision), a copy of the submissions made at the sentencing hearing, a copy of the pre-sentence report, a copy of the appellant's criminal record, if any, and a proposed form of Bail Order.