

MEMORANDUM

TO: Bar and Legal Associations

FROM: Chief Justice Geoffrey B. Morawetz

DATE: May 30, 2023

RE: Superior Court of Justice Consolidated Provincial Practice Directions & the Toronto Commercial List Practice Direction Update

The Ontario Superior Court of Justice will be releasing updated Consolidated Provincial Practice Directions for each area of the Court's responsibility— Civil, Family, Criminal, and Divisional – and the Toronto Commercial List Practice Direction.

As a result of major changes in court operations during the pandemic, many provisions in the Court's Consolidated Provincial Practice Directions ("CPPD") have become outdated, while current directions are provided in the Provincial Notice to the Profession, Parties, Public and the Media ("Provincial Notice") and regional notices.

The Office of the Chief Justice has revised all of the provincial practice directions. and integrated relevant portions of the pre-existing practice directions with content from the pandemic-era notices. As of **June 15, 2023**, updated, stand-alone practice directions for each of the following practice areas will be posted on a reorganized SCJ website: criminal, family, civil, commercial and Divisional Court. It will not be necessary to cross-reference other practice directions with provincial application.

Outdated practice directions and notices will be archived. As a result, the profession, parties, public and the media will be able to identify current practice directions with provincial application in one, accessible location for each area of the Court's responsibility. The profession, parties, public and the media will still be required to refer to Regional Notices & Practice Directions where applicable.

The Civil, Family, Criminal Provincial Consolidated Practice Directions, the Toronto Commercial List practice direction, and the Consolidated Divisional Court Practice Direction will come into effect on **June 15, 2023** and be posted on the website. Filing through the JSO Portal and other filing directions as set out in the Consolidated Divisional Court Practice Direction is effective immediately.

Also on June 15, 2023, the pandemic-era Consolidated Notice to the Profession Regarding the Small Claims Court will be archived. Its contents will be simplified and integrated into a reorganized Small Claims Court section of the SCJ website.

We are attaching the following updated practice directions in advance of the June 15th release date so you have an opportunity to review them:

Annex 1: Consolidated Provincial Practice Directions for Criminal Proceedings

Annex 2: Consolidated Provincial Practice Directions for Family Proceedings

Annex 3: Consolidated Provincial Practice Directions for Civil Proceedings

Annex 4: Consolidated Practice Directions for Divisional Court Proceedings

Annex 5: Toronto Commercial List Practice Directions

Although much of the content will be familiar, we would like to draw your attention to the substantive changes found in each of the updated practice directions.

Please note that highlighted parts of the CPPDs are not currently hyperlinked. They will be hyperlinked to the applicable section on the Court's website once published there.

Substantive changes to practice-area content are set out below.

1. Consolidated Provincial Practice Directions for Criminal Proceedings

- timelines required for filing and uploading to CaseLines
- electronic service, remote commissioning and administering oaths
- electronic books of authorities and factums and requirements for hyperlinking to caselaw and material
- Updating content regarding the use of electronic devices in the courtroom
- "Virtual Hearing Etiquette to improve quality of court recording and transcript" as distributed by Court Services Division

2. Consolidated Provincial Practice Directions for Family Proceedings

- Part I, B of the current CPPD, regarding Often Cited Family Cases has been updated, (direction about hyperlinking cases directly into the factum is found at Part I, F)
- the steps to be taken after a Dispute Resolution Conference were amended
- clarification that the accessibility coordinator is available to assist with filings or with CaseLines for litigants with accessibility needs. (Part I, A 2 and Part I, B 4);

- a section entitled Limited Filing by Email to clarify the current policy with regards to family filings. (Part I, A);
- clarification in the sections outlining Restrictions on Filing materials for conferences and motions that certain documents (financial statements, NFPs and litigation expert reports) are not included in the page restrictions by moving them up to the existing list; (Part I, E1 and F2);
- a Privacy section (Part I, J) to reflect a change in the family law rules, and increased attention to the protection of sensitive information contained in family law files, particularly children’s information.
- clarification of the section on factums and books of authorities (Part I, section F d).

3. Consolidated Provincial Practice Directions for Civil Proceedings

- Adding content on electronic books of authorities and factums and requirements for hyperlinking to caselaw and material
- CaseLines-related changes provide the following:
 - Specified that the Participant Information Form must be uploaded at least one day before the hearing. (See paragraph 59(h).)
 - Added required sequence for documents to appear in CaseLines in civil matters. (See paragraph 59(i).)
 - Added suggestion to use a numerical prefix (e.g. “1-Factum, 5-Abbreviated Book of Authorities”) to ensure documents stay in the correct order. (See the end of paragraph 59.)
 - Added requirement that parties be prepared to use CaseLines bundles, CaseLines-generated page numbers and the “Direct Others to Page” function. and to advise the court of the CaseLines page numbers when referring to documents. (See paragraph 60.)
 - Added note that parties are responsible to ensure uploaded documents comply with the Rules of Civil Procedure and are properly before the Court. Parties may only depart from the rules with leave. (See paragraph 61.)

4. Consolidated Practice Direction for Divisional Court Proceedings

Below is a summary of proposed changes to Divisional Court practice direction that are not currently reflected in the Notice to the Profession – Divisional Court.

- Divisional Court filings must be submitted to the court using the Justice Services Online Portal (Part I, section C).
- A new form called Divisional Court Intake Information Form (Annex 4) is required to be filed together with notices of appeal, application and motion. This form is required for judicial triage and case management (Part I, section A).

- Within two weeks after an application or appeal is commenced, or a motion is filed, parties are required to send the court an email containing a draft schedule for the exchange of court documents, the proposed length of hearing, and any other preliminary issues. These emails, received by the Regional Centre for the Divisional Court, will be forwarded to the appropriate Divisional Court administrative judge (Part I, section F).

5. Toronto Commercial List Practice Direction

- Clarifying that short matters, including scheduling appointments, case conferences, and matters scheduled for under 90 min., will continue to be conducted via Zoom, while longer matters will proceed in-person.
- Clarifying the Court's expectation concerning the materials used on Commercial List matters, including that counsel may file a brief, reply factum.
- Clarifying that the Court schedules matters based on the parties' time estimates, and that the failure to adhere to the time allotted for a matter may, in the discretion of the presiding judge, result in the adjournment of all or part of the matter.

Geoffrey B. Morawetz,