

Human Resources Legislative Update

Rules of Civil Procedure Amended to Provide for Virtual Proceedings and Electronic Processes

Date: December 2, 2020

The Ontario government has filed regulatory amendments to the [Rules of Civil Procedure](#) (Rules) which come into effect on January 1, 2021. Many of the amendments update the Rules to provide for virtual proceedings and electronic processes.

[Ontario Regulation 689/20](#) amends numerous provisions of the Rules relating to hearings by videoconference, electronic certified copies, electronic signatures, electronic issuing of decisions, and more. Some of the changes include but are not limited to:

- The rules relating to “Method of Attendance at Hearings, etc.” are no longer restricted to prescribed proceedings only. Among other things, a party may now specify how they wish to proceed (in-person, by teleconference or videoconference). If there is no objection, the matter will proceed in that format. If there is an objection, the objection is to be dealt with by case conference (telephone conference only). This rule does not apply to proceedings before the Court of Appeal. These changes apply, with modifications, to mandatory mediations and oral examinations for discovery.
- The rule relating to References under the *Solicitors Act* is revoked, with transitional provisions.
- There is clarification of certain document standards that must be met for electronically filed documents.
- A new rule permits documents required to be signed by a court, a registrar, a judge or an officer under to be signed with an electronic signature.
- A court registrar may now certify copies of court documents in electronic format; where a person is required to provide a paper certified copy to another person, a printed version of the electronic certified copy is sufficient.
- Electronic issuing of documents may now be done by the registrar dating, by signing and sealing with an electronic version of the seal of the court a copy of the document in electronic format; or by use of the software authorized by the Ministry of the Attorney General for the purpose.
- There is a new rule for CaseLines, the software authorized by the Ministry of the Attorney General. This rule does not apply to proceedings before the Court of Appeal.
- New rules for email of documents and communications by the registrar have been added.
- Rule 16, “Service of Documents” is amended by adding a provision that service of a document “by courier in accordance with these rules is effective on the second day

following the day the courier was given the document, or, if the second day is a holiday, on the next day that is not a holiday.”

- Rule 20.05 “Where Trial is Necessary” is amended to permit a court to order that any oral examination of a person or witness proceed by video conference.
- Rule 50.05, Attendance at Pre-Trial Conferences, is amended to require the lawyers for the parties to appear at a pre-trial conference, and unless ordered otherwise by the court, the parties shall also participate. The provision permitting attendance by telephone and video conferences, if personal attendance would require undue amounts of travel time or expense, has been revoked.
- Rule 50.13, Attendance at Case Conferences, is amended to require the lawyers for the parties to appear at a case conference, and unless ordered otherwise by the court, the parties shall also participate. The provision permitting attendance by telephone and video conferences, if personal attendance would require undue amounts of travel time or expense, has been revoked.
- In assessing costs to be awarded, courts may now consider “whether a party unreasonably objected to proceeding by telephone conference or video conference under rule 1.08.”
- Amendments have been made to the rules relating to endorsement for court orders if separate documents are required.
- Amendments have been made to the rules relating to the preparation, issuing and entering of orders. Some of these changes are to take into account the electronic issuing of orders and saving electronic copies of the orders, among other things.

In addition to the changes above, [O. Reg. 690/20](#) amends the Rules with respect to certain provisions relating to wills and estates.