

RULE 11 – SERVICE AND DELIVERY OF DOCUMENTS

Service of statement of claim

- (1) Service of a statement of claim or any originating process is required unless the defendant or respondent enters an appearance.

How service effected

- (2) Service of a document is effected on
 - (a) an individual by leaving a copy of the document with the individual,
 - (b) a corporation by leaving a copy of the document with the president, chair, mayor or other chief officer of the corporation, or with the city or municipal clerk, or with the manager, cashier, superintendent, treasurer, secretary, clerk or agent of the corporation or of any branch or agency of the corporation in Yukon, or in the manner provided by the *Business Corporations Act* or any Act, statute or regulation relating to the service of process, and, for the purpose of serving a document upon a corporation whose chief place of business is outside Yukon, every individual who, within Yukon, transacts or carries on any of the business of, or any business for, that corporation shall be deemed its agent,
 - (c) an unincorporated association, including a trade union, by leaving a copy of the document with any officer of the association, or in the case of a trade union, with a business agent,
 - (d) a Yukon First Nation or Indian Band by leaving a copy of the document with a Chief, councillor, officer or any individual on the staff working at the administration office of the First Nation or Indian Band,
 - (e) a tribunal or board by leaving a copy of the document with the Chair or a member of the tribunal or board, or any individual on the staff at the office of the tribunal or board;
 - (f) an infant, whether residing in Yukon or not, by leaving a copy with a parent or guardian resident in Yukon, and
 - (g) an individual under legal disability by leaving a copy of the document
 - (i) with the individual with whom they reside or in whose care they are or with the individual appointed by the court to be served, and
 - (ii) with the Public Guardian and Trustee,

and in no case is it necessary to show the original document.

Date of deemed service

- (3) Where a statement of claim or any originating process has not been served on a person, but the individual files an appearance or attends at the trial or hearing, the statement of claim or any origination process shall be deemed to have been served on that person on the date the individual files or attends.

Service on Government of Yukon

- (4) A document to be served on the Government of Yukon shall be served at the Department of Justice in Whitehorse, and is sufficiently served if left during office hours with any individual on the staff of the Department of Justice, Legal Services Branch, in Whitehorse or mailed by registered mail to the Deputy Minister of Justice in Whitehorse.

Service on a party of record

- (5) Service of a document on a party of record, other than a notice of intention to withdraw in Form 15, may be made by delivering the document to an address for delivery provided under Rule 4.

How to deliver a document

- (6) A document may be delivered to an address for delivery in any of the following ways:
 - (a) if the address for delivery is the office or postal address of the lawyer of record for a party,
 - (i) by leaving the document at the office of the lawyer during normal business hours, or
 - (ii) by mailing the document by ordinary prepaid mail to the address for delivery;
 - (b) if the address for delivery includes the fax number or email address of the lawyer of record for a party, by transmitting the document to the fax number or email address of the lawyer;
 - (c) if the address for delivery of a party who acts in person is a residential address or business address,
 - (i) by leaving the document at the residential or business address with anyone who appears to be an adult person,
 - (ii) if delivery cannot be effected under subparagraph (i), by inserting the document into a mail box, mail slot or mail receptacle at the residential or business address, or

(iii) if delivery cannot be effected under subparagraph (i) or (ii), by affixing the document to a door of the residence or business;

(d) if the address for delivery of a party who acts in person is a postal address, by mailing the document by ordinary prepaid mail to the postal address;

(e) if the address for delivery of a party who acts in person includes a fax number or email address, by transmitting the document to the fax number or email address.

When delivery by mail is effective

- (7) Delivery of a document sent by ordinary prepaid mail to an address for delivery under this rule is effective on the same day of the week, in the calendar week following mailing, as the day of the week on which the document was mailed or, if that day is a Saturday or holiday, on the next day that is not a Saturday or holiday.

When delivery by fax or email is effective

- (8) Transmission of a document by fax or email to an address for delivery under this rule is effective

(a) on the day of the transmission if the document is transmitted before 4 p.m., or

(b) on the next day that is not a Saturday or holiday, if the document is transmitted after 4 p.m.

If document does not reach person

- (9) Even though a document has been delivered in accordance with this rule, an individual may show, on an application to set aside the consequences of default, on an application for an extension of time or on an application in support of a request for an adjournment, that the document

(a) did not come to the individual's notice,

(b) did come to the individual's notice at a time later than when it was delivered or effectively delivered, or

(c) was incomplete or illegible.

Proof of service or delivery

- (10) An affidavit of service in Form 7 or an affidavit of delivery in Form 8 shall state upon whom, what document, when, where, how and by whom service or delivery was effected. A copy of all documents served shall be attached as separate exhibits.

Service or delivery acknowledged by lawyer

- (11) Service or delivery of a document upon a lawyer of record, if acknowledged in writing by the lawyer, need not be verified by affidavit.

Delivery where no address for delivery given

- (12) Where the party has no address for delivery as required by these rules, a document may be delivered by mailing a copy by ordinary prepaid mail to the party's lawyer or, if the party has no lawyer, to the last known address of the party.

Service on member of Canadian Armed Forces

- (13) Where a member of the Canadian Armed Forces has been served by an officer of the Canadian Armed Forces with a document, proof of the service in the form of a certificate annexed to a copy of the document served, signed by the officer and stating his or her rank and when, where and how service was effected, may be filed as proof of service.