

RULE 1 – INTRODUCTION AND DEFINITIONS

Citation

- (1) These rules are made under section 38 of the *Judicature Act*, effective September 15, 2008, and may be cited as the Rules of Court.
- (2) A group of rules having the same unbracketed numeral may be cited as “Rule” followed by the numeral, for example, “Rule 1” means Rule 1(1) to 1(20), inclusive.
- (3) A rule or part of a rule may be cited as “Rule” followed by the number, subrule, paragraph or clause of the rule cited, for example, “Rule 15(5)(a)(i)” means clause (i) of paragraph (a) of subrule (5) of Rule 15.

Application

- (4) These rules govern every proceeding in the Supreme Court except where an *Act*, statute or regulation otherwise provides.

Practice Directions

- (5) The court may make practice directions to assist in the interpretation of these rules and to provide directions which shall have the same force as these rules.

Object of rules

- (6) The object of these rules is to secure the just, speedy and inexpensive determination of every proceeding on its merits and to ensure that the amount of time and process involved in resolving the proceeding, and the expenses incurred by the parties in resolving the proceeding, are proportionate to the court’s assessment of
 - (a) the dollar amount involved in the proceeding,
 - (b) the importance of the issues in dispute to the jurisprudence of Yukon and to the public interest, and
 - (c) the complexity of the proceeding.

Mandatory Case Management

- (7) A case management conference shall be scheduled no later than 60 days from the filing of a statement of claim or petition, except for family law proceedings, estate matters, collections, foreclosures and adoptions.

Case Management

- (8) The court must further the object of these rules by actively managing proceedings, and, for that purpose, may do any or all of the following:
- (a) encourage the parties to co-operate with each other in the conduct of the proceeding;
 - (b) identify the issues at an early stage;
 - (c) decide promptly which issues need full investigation and trial and which may be disposed of summarily under these rules;
 - (d) decide the order in which issues are to be resolved;
 - (e) encourage the parties to use alternative dispute resolution procedures the court considers appropriate, and facilitate the use of those procedures;
 - (f) help the parties to settle the whole or part of the proceeding by using judicial settlement conferences;
 - (g) set realistic timetables or otherwise control the progress of the proceeding;
 - (h) consider whether the likely benefits of taking a particular step justify the cost of taking it;
 - (i) deal with as many aspects of the proceeding on the same occasion as is reasonably practicable;
 - (j) make use of technology, including telephone conferencing and video conferencing;
 - (k) give directions to ensure that the proceeding proceeds quickly and efficiently; and
 - (l) make any other orders and give any other directions the court considers appropriate.

Delay of Proceeding

- (9) In a proceeding where judgment has not been obtained and the proceeding has not been settled or set down for trial or hearing, excluding applications, within one year from the date of filing the statement of claim or petition, a judge may require the parties or their lawyers to appear on an Appearance Day to explain the delay. At the Appearance Day, the judge may:
- (a) dismiss the proceeding;
 - (b) award costs;

(c) make any case management order under Rule 36(6).

Appearance Day

- (10) There shall be an Appearance Day at which time the trial coordinator, on the direction of a judge, lawyer or a party, may bring forward a proceeding to address the status of the proceeding and its progress as provided for in a practice direction.

Interpretation

- (11) Except where a contrary intention appears, the *Interpretation Act* applies to these rules.

Titles and headings

- (12) The titles and headings of these rules are for convenience only and are not intended as a guide to construction.

Definitions

- (13) In these rules, unless the context otherwise requires:

“action” means a proceeding commenced by statement of claim and includes a lawsuit;

“clerk” includes a deputy clerk;

“court” means the Supreme Court of Yukon;

“defendant” includes a defendant by way of counterclaim;

“document” includes any originating process, document or form;

“family law proceeding” includes a proceeding in which relief is claimed under the *Family Property and Support Act*, the *Children’s Act* or the *Divorce Act* (Canada), and includes a proceeding for nullity;

“file” means to file in the registry;

“judgment creditor” means a person entitled to enforce an order of the court, whether for payment of money or otherwise;

“judgment debtor” means a person against whom an order may be enforced, whether for payment of money or otherwise;

“lawyer” means a barrister or solicitor;

“order” includes a judgment and a decree;

“originating application” means a proceeding commenced by petition or requisition;

“originating process” means a statement of claim, counterclaim, petition, third party notice or any document which commences a proceeding or adds a new party to a proceeding;

“party of record” means a person who has

(a) commenced a proceeding,

(b) filed an appearance or a pleading, or

(c) been added as a third party under the *Insurance Act* ;

“petitioner” means a person who commences a proceeding by petition;

“plaintiff” means a person who commences an action and includes a plaintiff by way of counterclaim;

“pleading” includes an originating process, statement of defence, reply, counterclaim, statement of defence to counterclaim, third party notice and statement of defence to third party notice;

“proceeding” includes an action, suit, cause, matter, appeal or originating application;

“Public Guardian and Trustee” means the Public Guardian and Trustee appointed under s.2 of the *Public Guardian and Trustee Act*, which is Schedule C to the *Decision Making, Support and Protection to Adults Act*;

“receiver” includes a receiver-manager;

“registry” means the office of the court;

“relief” includes remedy;

“respondent” includes a person entitled to notice of a petition;

“special referee” means any person appointed by the court under these rules or under an *Act*, statute or regulation to hold an assessment, inquiry or accounting;

“writ of execution” includes a writ for seizure and sale, for possession or delivery, for rents and profits and any subsequent writ that issues to give effect to these writs, and also includes a warrant or other process of execution issued out of any court in Yukon having jurisdiction to grant and issue that process.

Waiver of rule

- (14) On application, on its own motion, or if all parties to a proceeding agree, the court may order that any provision of these rules does not apply to the proceeding.

Orders on terms and conditions

- (15) When making an order under these rules the court may impose terms and conditions and give directions as it thinks just.

Petitions and applications

- (16) Where an *Act*, statute or regulation authorizes an application to the court or to a judge of the court, and, whether or not the *Act*, statute or regulation provides for the mode of application, the application shall be
 - (a) by petition under Rule 10, or
 - (b) by application under Rule 47,with such modifications as the *Act*, statute or regulation may require.

Statute or regulation of Canada

- (17) Subrule (16) does not apply where a particular mode of application is required by a statute or regulation of Canada.

Transition

- (18) Unless the court otherwise orders, all proceedings, whenever commenced, shall be governed by these rules.

Directions

- (19) An application for directions may be made under these rules.

Fees

- (20) Fees payable to the Territorial Treasurer and witness fees are set out in Appendix C.