

RULE 24 – AMENDMENT

When amendment may be made

- (1) A party may amend an originating process or pleading issued or filed by the party at any time with leave of the court, and, subject to Rules 15(5) and 31(5):
 - (a) without leave of the court, at any time up to 90 days before trial or hearing; and
 - (b) at any time with the written consent of all the parties.

How amendment made

- (2) An amendment to an originating process or pleading issued or filed by a party must be in the following form, unless otherwise ordered by the court:
 - (a) the amendment must be a new document, identified as an amended document, in which any additions to the wording of the original document have been underlined, and any deletions to the original have been identified by a line drawn through the deleted wording, in such a way as to leave that portion legible;
 - (b) the document must bear the date of the original document and the date of the amendment;
 - (c) subsequent amendments must identify all additions or deletions that have been made to the original document. Each amendment must be identified by underlining or striking out, as set out above, using a different colour for each subsequent amendment. The date of each amendment must be clearly indicated. This should be done by relating the colour of the line used to the date of the amendment; and
 - (d) each amendment must also indicate by what authority the amendment is made.
- (2.1) The court may order that a final clean copy be placed in the Trial Record or on the court file.

Service of amended pleading

- (3) Unless the court otherwise orders, service on a party of an amended originating process or pleading shall be required if the original has been served on that party and no appearance has been entered or, in the case of a third party notice, no statement of defence has been filed.

Amendment at trial

- (4) Unless the court otherwise orders, where an amendment is granted during a trial or hearing, an order need not be taken out and the amended document need not be filed, delivered or served.

Service or delivery of amended document

- (5) Unless the court otherwise orders, where a party amends a document under subrule (1), the party shall deliver copies of the amended document to all the parties of record within 7 days after its amendment and, where service is required under subrule (3), the party shall serve copies on the persons required to be served as soon as reasonably possible and before taking any further step in the proceeding.

Time for appearance to amended originating process

- (6) Where a party is served with an amended originating process under subrule (3), the party has the same period of time for entering an appearance as that to which the party was entitled with respect to the original document.

Amendment consequent upon amendment

- (7) Where an amended originating process is served on or delivered to an opposing party:
 - (a) the opposing party, if the party has already delivered a statement of defence, may amend that statement of defence, but only with respect to any matter raised by the amendments to the originating process; and
 - (b) the period for filing and delivering a statement of defence or amended statement of defence is 14 days after the amended pleading is delivered to the party.

Failure to deliver Amended Statement of Defence

- (8) Where a party does not deliver an amended statement of defence as provided in subrule (7), the party shall be deemed to rely upon their original statement of defence.