

RULE 47 – APPLICATIONS

How an application must be brought

- (1) If an application in a proceeding is authorized to be made to the court, it must be made by Notice of Application in Form 52.
- (1.1) A notice of application shall contain a concise statement of the facts that support the relief claimed, as well as reasons for the relief.

An application by consent or if notice not required

- (2) An application referred to in Rule 43(10), (11), (12) or (13) may be made in accordance with that rule.

Notice of application

- (3) Subject to subrule (2), a party wishing to bring an application must serve or deliver a notice of application at or before the time at which the notice of hearing is filed under Rule 48.

More than one matter may be included

- (4) A party may include, in one application, claims for relief in respect of more than one matter.

Service or delivery

- (5) Unless these rules provide otherwise, the applicant must deliver to each party of record and must serve on each other person, other than a party, who may be affected by the order sought:
 - (a) a copy of the notice of application;
 - (b) a copy of each affidavit in support of the application that has not already been filed and served; and
 - (c) any notice that the applicant is required to give under Rule 19(8).

Response

- (6) Subject to subrule (11), a party or person who receives documents under subrule (5) and who wishes to receive notice of the time and date of the hearing of the application or who wishes to respond to it must deliver to the applicant, and to every other party of record one copy, of:
 - (a) a Response in Form 11;

(b) each affidavit that has not already been filed and served on which the respondent intends to rely; and

(c) any notice that that person is required to give under Rule 19(8),

on or before the 8th day after the date on which the notice of application was served or delivered.

(6.1) A response shall contain a concise statement of the facts and reasons for opposing the application.

Reply by applicant

(7) An applicant who wishes to respond to any document provided under subrule (6) must, no later than the date on which the Notice of Hearing is delivered to the respondent in accordance with Rule 48, deliver any affidavits in reply to each person who delivered a response under subrule (6).

No additional affidavits

(8) Unless all parties of record consent or the court otherwise orders, a party or person must not deliver any affidavits additional to those delivered under subrules (5), (6) and (7).

Place of hearing of application

(9) The application shall be heard at Whitehorse, unless otherwise ordered.

Appearance at hearing

(10) A party or person may appear in person, or by telephone or videoconference with leave of the court or by consent of the parties.

Application for directions

(11) A party or person may apply for directions for an application at an Appearance Day or a case management conference.

(12) When counsel wish to refer to the transcript of an examination for discovery or interrogatories in an application, the Notice of Application must include notice that the material will be referred to. The particulars including page and line numbers and/or question numbers must be referenced in the Notice of Application. A copy of the relevant pages must be filed.