



## COURT OF APPEAL

The British Columbia Court of Appeal will soon repeal and replace its Practice Directives and Practice Notes with a new and clearer format. Along with this repeal and replacement are a number of minor changes, which are summarized below. The new Practice Directives and Practice Notes come into force on **September 19<sup>th</sup>, 2011.**

In their prior form, Practice Directives and Practice Notes were signed by the Chief Justice or Registrar with no indication of whether they pertained to criminal, civil or both civil and criminal matters. Other than their reproduction on the Court's website under the "criminal" or "civil" heading, publishers and counsel may have been uncertain whether a directive or note was created pursuant to powers under the *Court of Appeal Rules* or the *Court of Appeal Criminal Appeal Rules*. For instance, certain directives, such as "Five Justice Divisions," were styled only as civil directives when they were clearly applicable to both civil and criminal proceedings.

Depending on what type of proceeding they apply to, Practice Directives are now divided into three categories: "Civil," "Criminal" and "Civil & Criminal." As all Practice Notes are presently applicable to all proceedings, they are styled as "Civil & Criminal" Practice Notes. To reduce confusion as future Practice Directives and Practice Notes are repealed and replaced, they should be organized alphabetically and not be numbered. Counsel should refer to them by title and cite them pursuant to the instructions on the face of each.

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### ***Former Practice Notes Become Civil & Criminal Practice Notes, with the following changes:***

- *Adjournment of Appeals*
  - used to be just a civil Practice Note
  - updated to reflect requirements under s. 25 of the *Court of Appeal Act*
- *Court Sittings in Kamloops, Kelowna and Prince George*
  - used to be just a civil Practice Note
  - minor changes to language
- *Digital Recording Policy in the Court of Appeal*
  - used to be duplicate civil & criminal Practice Notes
  - updated URLs and substitution of "Court Technology Office" for "Tape Management"
- *Filing Written Argument in Court of Appeal Chambers*
  - new Practice Note introduced during this consolidation
- *Frequently Cited Authorities*
  - used to be duplicate civil & criminal Practice Notes

- modified title
- *Obtaining Oral Reasons for Judgment*
  - relatively new Practice Note effective 4 April 2011
  - no other changes
- *Preferred Filing Registry*
  - used to be duplicate civil & criminal Practice Notes
  - minor changes to language
- *Release of Court of Appeal Reserve Reasons for Judgment by E-Mail*
  - used to be duplicate civil & criminal Practice Notes
  - updated e-mail addresses and URLs

***Former Practice Directives that Become Civil & Criminal Practice Directives with the following changes:***

- *Chambers Applications by Telephone or Videoconference*
  - combined civil practice directive titled *Chambers Application by Telephone* and civil and criminal Practice Notes titled *Request for Telephone/Videoconference Hearing – Court of Appeal Chambers (Civil and Criminal Matters)* into a single practice directive
  - removed references to s. 26 and r. 44 which were civil only
- *Citation of Authorities*
  - used to be duplicate civil & criminal Practice Directives
  - updated to include a note about citation of Practice Directives and Practice Notes and removed periods after citations
- *Condensed Books*
  - used to be just a civil Practice Directive
  - minor changes (ie. “division” for “panel” etc.) and changes to language to reflect applicability to both civil and criminal proceedings
- *Court of Appeal Practice Directives*
  - used to be both a civil and criminal Practice Directive, although it appeared as a notation on the website only
  - Minor changes to language
- *Filing Electronic Factums and Statements*
  - used to be duplicate civil & criminal Practice Directives
  - changes to title and body to include “statements” and updating of hyperlinks
- *Five Justice Divisions*

- used to be just a civil Practice Directive
- added two month timeline for five justice division request and substituted “division” for “panel”
- *Guidelines for Protecting Privacy Interests in Reasons for Judgment*
  - used to be just a civil Practice Directive
  - expired hyperlinks removed and paragraph numbers added. Minor changes to language
- *Oral Reasons for Judgment*
  - used to be just a civil Practice Directive
  - title altered from “Supreme Court Oral Reasons for Judgment” because unrecorded oral decisions may arise from Provincial Court or tribunals
- *Supplementary Arguments*
  - used to be just a civil Practice Directive
  - minor changes to language
- *Use of Facsimile in the Court of Appeal*
  - used to be just a civil Practice Directive
  - minor changes to language, substituted term “out of town” for “outside of the Lower Mainland”

### **Civil Practice Directives that Remain Civil Practice Directives**

- *Commencing An Appeal When Uncertain if Leave to Appeal is Required*
  - combined and abridged “explanatory note” which is often overlooked and repetitive of Practice Directive and *Court of Appeal Rules*. Altered title from “Leave to Appeal”
- *Factum Format*
  - no changes
- *Expediting Interlocutory Appeals*
  - added direction to contact court scheduler to obtain hearing dates to be discussed at hearing of leave to appeal application
- *Family Law Appeals*
  - no changes
- *Hague Convention Appeals*
  - no changes
- *Order Made When Extension of Time Refused*
  - no changes

- *Joint Appeal Books and Transcript Extracts*
  - added language to allow for the filing of transcript extract books
- *Judicial Settlement Conferences*
  - form “B” was renamed from “Pre-Hearing Conference Settlement Form” to “Settlement Conference Consent Order.” Old title was in error.
  - updated language to reflect the program’s status as no longer a pilot
- *Transcript Extracts*
  - no changes

### **Criminal Practice Directives that Remain Criminal Practice Directives**

- *Access to Criminal Appeal Files*
  - no changes
- *Applications for a Court-Appointed Lawyer Under Section 684 of the CC*
  - no changes
- *Factums in Criminal Appeals*
  - no changes
- *Ineffective Assistance of Trial Counsel*
  - no changes
- *Mental Disorder Appeals*
  - no changes
- *Pilot Project Regarding Criminal Conviction/Acquittal Appeals*
  - minor changes to language
- *Sentence Appeals*
  - no changes