



Effective Date: 2012/04/25

Number: PD - 34

Title:

Practice Direction

Masters' Jurisdiction

Summary:

PD - 14 - *Masters' Jurisdiction* dated July 1, 2010 is rescinded.

This Practice Direction has two parts. Part A of the Practice Direction sets out a direction of the Chief Justice pursuant to Section 11(7) of the *Supreme Court Act*, RSBC 1996 c. 443, as to the matters in respect of which a master is not to exercise jurisdiction. Part B of the Practice Direction sets out guidelines for the assistance of the profession and the public as to the matters in respect of which a master has jurisdiction.

PART A- Direction:

Restrictions on masters' jurisdiction

1. Section 11(7) of the *Supreme Court Act* provides:

A master has, subject to the limitations of section 96 of the *Constitution Act, 1867*, the same jurisdiction under any enactment or the Rules of Court as a judge in chambers unless, in respect of any matter, the Chief Justice has given a direction that a master is not to exercise that jurisdiction.

2. Pursuant to section 11 (7) of the *Supreme Court Act*, the Chief Justice directs that a master is not to exercise jurisdiction:

- a. to grant relief where the power to do so is conferred expressly on a judge by a statute or rule
- b. to dispose of an appeal, or an application in the nature of an appeal, on the merits
- c. to pronounce judgment by consent where any party in a proceedings is under a legal disability

- d. to grant court approval of a settlement, compromise, payment or acceptance of money into court on behalf of a person under a legal disability, or court approval of a sale of assets of a person under a legal disability
- e. in any matter relating to criminal proceedings or the liberty of the subject other than uncontested petitions under the *Patients Property Act*
- f. to make an order holding any person or entity in contempt
- g. to grant injunctive relief, other than as identified under paragraph 5 of this direction
- h. to make an order under the *Judicial Review Procedure Act* or for a prerogative writ
- i. to set aside, vary or amend an order of a judge, other than:
 - (i) to abridge or extend a time prescribed by an order, provided that the original order, if made by a judge, was one that a master would have had the jurisdiction to make, and
 - (ii) to vary the interim orders identified under paragraph 1 of this direction
- j. to grant a stay of proceedings where there is an arbitration
- k. to make a declaration under the *Survivorship and Presumption of Death Act*
- l. to remove a suspension from the practice of a profession.

Part B- Guidelines:

Matters within a master's jurisdiction:

- 3. Paragraphs 4- 7 set out guidelines as to the matters that are generally considered to fall within the jurisdiction of a master. These guidelines are for the assistance of the profession and the public and are not intended to be exhaustive.

Interlocutory Applications

- 4. Subject to constitutional limitations and to the direction set out in paragraph 2, a master has jurisdiction to hear interlocutory applications under the Rules of Court, including applications for approval of sale in foreclosure proceedings.

Interim orders in family law cases

- 5. Subject to constitutional limitations and to the direction set out in paragraph 2, a master has jurisdiction to make interim orders in family law cases, including:
 - a. interim custody, access and maintenance orders under the *Family Relations Act*
 - b. interim corollary relief under the *Divorce Act, 1985*

- c. interim restraining orders under ss. 37(a), 38(1)(a) and (b), 38(5) and 67 of the *Family Relations Act*
- d. orders for exclusive possession of the matrimonial home under s. 124 of the *Family Relations Act*
- e. variation of the interim orders described in subparagraphs a-d, whether the initial order was made by a judge or a master.

Final orders

- 6. Subject to constitutional limitations and to the direction set out in paragraph 2, a master has jurisdiction to make the following final orders:
 - a. orders by consent
 - b. orders under Supreme Court Civil Rule 22-7 and Supreme Court Family Rule 21-5
 - c. orders for summary judgment under Rule 9-6 where there is no triable issue
 - d. orders striking out pleadings under Rule 9-5(1) provided there is no determination of a question of law relating to issues in the action
 - e. orders granting judgment in default
 - f. orders under Rule 21-7(5) where no matter is contested or where there is no triable issue
 - g. orders in respect of the Administration of Estates under Rule 21-5
 - h. declaratory orders under s. 57 of the *Family Relations Act* where there is no dispute.

Enforcement of orders

- 7. Subject to constitutional limitations and to the direction set out in paragraph 2, a master has jurisdiction to enforce orders under Rule 13-4, the *Court Order Enforcement Act*, the *Family Maintenance Enforcement Act*, and any statute which requires an application to the court to enforce under the Rules of Court an order made by a statutory board, statutory decision maker or tribunal.

Robert J. Bauman
Chief Justice