

NOTICE

MANITOBA COURT OF APPEAL

RE: FURTHER EVIDENCE RULE

As of January 1, 2023, amendments to Rule 21 of the *Court of Appeal Rules*, which governs motions to introduce further evidence on appeals, will be proclaimed into force.

The amendments to the Rules will provide a more structured procedure for bringing new evidence motions. They will also address challenges parties face when the entirety of an appeal relies on the introduction of further evidence or when allegations of ineffective assistance of counsel are raised as a ground of appeal, which frequently involve motions to introduce further evidence.

Of particular interest to litigants, the amendments will address, among other things, the following:

- New timelines for filing and serving the motion and affidavit(s);
- Requirements relating to the examination or cross-examination of the deponent of an affidavit filed in relation to the motion to introduce further evidence;
- A requirement that arguments on the motion be set out in each party's factum;
- The prospect for judges to review any affidavit, transcript of evidence or other document filed in relation to the motion in advance of the hearing of the appeal;
- The confidentiality and storage of documents filed in support of the motion, and access by non-parties to filed materials;
- The handling and disposition of filed materials once a decision has been made on the admissibility of the proposed further evidence.

The amendments also provide for the extension or abridgment of timelines at the discretion of the Registrar. This may be of particular interest to parties involved in further evidence motions initiated before the rule change comes into force.

The full text of the amendments, Manitoba Regulation 141/2022 can be located at https://web2.gov.mb.ca/laws/regs/index_annual.php.

ISSUED BY:

"Original signed by Justice Cameron"

The Honourable Diana Cameron
Senior Judge of the Court of Appeal

DATE: December 14, 2022