

NOTICE

COURT OF QUEEN'S BENCH OF MANITOBA

RE: AMENDMENTS TO COURT OF QUEEN'S BENCH RULES

The following amendments regarding service, proof of service and default in cases involving the Hague *Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* (the Hague Service Convention) will come into force on April 1, 2018.

The Hague Service Convention has been effect in Canada since May 1, 1989. The Convention sets out mandatory requirements for the service of judicial and extrajudicial documents between state parties. There are currently 73 contracting state parties to the Convention.

The objectives of the amendments are to clarify the Rules respecting service (including substituted service, dispensation with service and validation and proof of service) and noting default, and granting and setting aside of default judgment, in cases where service is required under the Hague Service Convention.

The Rule amendments include:

- Rule 1.03 defines the meaning of references to the "Hague Service Convention".
- New subrule 16.04(1.1) clarifies that subrule 16.04(1) (substituted service or dispensing with service) does not apply when service must be made in accordance with the Hague Service Convention.

- Rule 16.08 is amended to clarify that subrule 16.08(1) (validation of service) does not apply when service must be made in accordance with the Hague Service Convention.
- New subrule 16.09(5) provides proof of service of a document pursuant to the Hague Service Convention must be in accordance with the requirements of new subrule 17.05.2(2).
- New Rule 17.01 defines certain terms.
- Amendments to Rule 17.05 and new Rule 17.05.01 (Service outside Canada) clarify that service in a contracting state must be made in a manner provided under the Hague Service Convention where the address of the person to be served is known. Service in other situations and countries other than contracting states to the Convention must be effected in accordance with Rule 17.05.
- New Rule 17.05.2 sets out the requirements for proof of service effected outside of Manitoba. New subrule 17.05.2(2) prescribes the evidence required when service is effected outside of Canada in a contracting state, including confirmation that service has been made in accordance with the Hague Service Convention, or that one of the exceptions to service under the Convention applies.
- Amendments to Rules 19.01 and 19.04, including new subrule 19.04(1.1), and new Rule 70.12.1 clarify the application new Rule 69 respecting default judgment when a party is served in accordance with the Hague Service Convention or documents are transmitted for such service but service has not been established.
- New Rule 69 defines certain terms (new Rule 69.01) and provides for the granting of default judgment when service has been established under the Hague Service Convention (new Rule 69.02) and when service has not been established under the Convention (new Rule 69.03). It also allows a judge to set aside or vary default judgment (new Rule 69.04) and extend appeal periods (new Rule 69.05) in certain circumstances.

The full text of these Rule amendments (Manitoba Regulation No. 11/2018) can be viewed online at: <http://web2.gov.mb.ca/laws/regs/annual/2018/011.pdf>

ISSUED BY:

Original signed by

**The Honourable Justice Karen I. Simonsen
Chair, Queen's Bench Rules Committee
(Manitoba)**

DATE: February 12, 2018