



COVID-19 Guide: In-person Hearings at the Federal Court

OVERVIEW

This guide seeks to outline certain administrative measures that are being taken by the Court to ensure the safety of all individuals who participate in an in-person-hearing. It is specifically directed to the physical use of courtrooms.

For all measures that are to be taken outside of the courtroom, but within common areas of a Court facility, please refer to the guide prepared by the Courts Administrative Service, entitled [Resuming In-Person Court Operations](#). You are also invited to view the Court's [guides for virtual hearings](#). Additional restrictions may apply depending on the evolving guidance of the local or provincial public health authorities, and in situations where the Court hearing is conducted in a provincial or territorial facility.

I. CONTEXT

Notwithstanding the reopening of the Court for in-person hearings, the Court will continue to schedule all applications for judicial review as well as all general sittings to be heard by video conference (via Zoom), or exceptionally by teleconference. Subject to evolving developments, parties to these and other types of proceedings are free to request an in-person hearing¹. In some instances, a “hybrid” hearing, where the judge and one or more counsel or parties are in the hearing room, while other counsel, parties and/or witnesses participate via Zoom, may be considered.

The measures described herein constitute guiding principles that can be modified by the presiding Judge or Prothonotary. Any requests to modify these measures should be made as soon as possible prior to the hearing, and can be made by contacting the Registry.

II. GENERAL PRECAUTIONARY MEASURES

Counsel, parties, self-represented litigants, members of the public, and the media should remain mindful of the following general precautionary measures before entering the courtroom:

- Respect the 2-metre physical distancing rule;
- Throughout the day, wash your hands thoroughly in warm soapy water for at least 20 seconds, or use hand sanitizer, especially before and after eating, and after touching frequently-used items or surfaces (*e.g.* elevator buttons);

¹ See paragraphs 11.A and 11.B of the [Consolidated COVID-19 Practice Direction](#) (June 25, 2020).

- Avoid touching your eyes, nose, and mouth; and
- Sneeze or cough into a tissue, or the inside of an elbow.
- Do not attend a hearing if you are feeling unwell or have symptoms that have been linked with COVID-19.

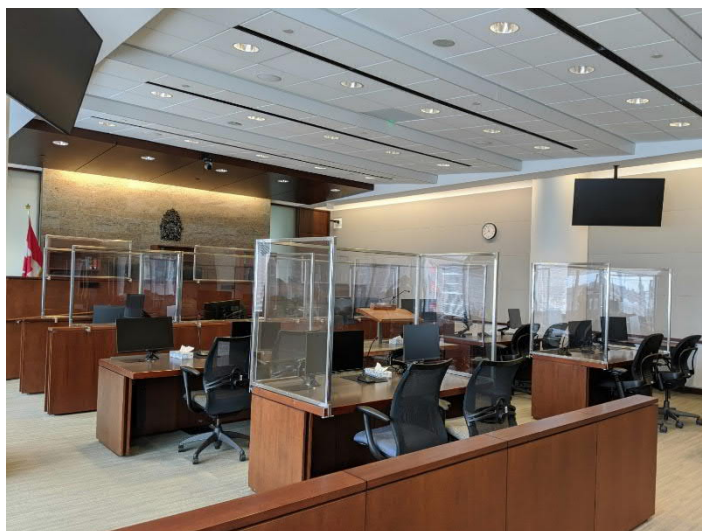
III. IN-PERSON HEARINGS

The Public Health Agency of Canada has developed a framework of control measures that can be adapted to various work environments in order to support the safe restoration of activities in response to COVID-19.² Several other guidance documents are also available (see for example, the Canadian Bar Association guidance documents for law firms).³ In addition, other Courts in Canada have adopted guidance documents for the return of in-person hearings.⁴

Physical distancing is the first and most important step. The Court has put in place several other measures where physical distancing is not possible.

Physical Distancing

- To the extent possible, the layout of each courtroom will ensure that physical distance is achieved between members of the Court, the Court Registrar, counsel, witnesses, parties, and the public.
- Where it is not possible to maintain a distance of two metres, plexiglass dividers have been installed in the least intrusive manner possible while ensuring adequate protection.
- Counsel will normally make submissions from counsel table rather than the podium.
- Access to the courtrooms by members of the public will be limited in order to respect the 2-metre distance rule.



² Office of the Commissioner for Federal Judicial Affairs Canada, “[Safe and Accessible Courts: Orienting principles for Canadian Court Operations in Response to COVID-19](#)” (July 30, 2020).

³ Canadian Bar Association, “[Returning to the Office Considerations for Law Firms](#)” (May 19, 2020).

⁴ See the Annex for a list of links.

- Overflow rooms providing videoconferencing for observers will be arranged when necessary and possible.
- At the close of the hearing, the Court Usher or Court Registrar will invite Court attendees to exit the courtroom one-by-one in a manner that respects physical distancing.
- A Court Security Officer will ensure compliance with these requirements.

Sanitizer

- Use hand sanitizer before entering the courtroom or the witness box.
- Hand sanitizer, wipes, gloves, and non-medical masks will be provided at appropriate locations in the courtroom, such as counsel table, registry desk, and witness stand to ensure they are available for use as required.

Masks

- In accordance with public health guidance that indicates face coverings are an effective method of source control, participants at a court appearance, including counsel, parties, witnesses, and members of the public, are required to wear masks or face coverings that cover their nose, mouth, and chin in the courtroom, except when giving testimony or making submissions.
- The presiding Judge or Prothonotary will wear a mask when entering and exiting the courtroom, but otherwise may decide to remove the mask.
- A limited number of exceptions apply to the mandatory face-covering rule. Specifically, individuals will not be required to wear a face covering:
 - When testifying or making submissions in court;
 - If they are under five years of age or they have an intellectual disability and cannot be persuaded to wear a face covering;
 - If they have an underlying physical or mental medical condition that inhibits the ability to wear a face covering;
 - If they are unable to place or remove a face covering without assistance;
 - If they have a medical reason for not wearing a face covering such as, but not limited to, a respiratory condition; and
 - If they require additional accommodations in accordance with the *Canadian Human Rights Act*.
- Bring your own mask to a hearing. However, if you do not have a mask, one will be provided to you.

Seating

- Where necessary, Court staff will assign seating in the gallery for members of the public and media. Take note of the seating arrangements and return to the same chair after breaks.

Articles

- Bring the least amount of articles inside the courtroom.
- Outdoor clothing (coats, jackets, scarves, etc.) will not be allowed inside the courtroom. A suitable place to store these articles will be provided outside the courtroom. Storage areas will be disinfected after each hearing.
- No bags will be allowed in the courtroom, other than (i) briefcases and documents that lawyers or litigants require, and (ii) purse-type bags containing valuables that should not be left in cubbies.
- Court attendees are encouraged to bring their own water bottles. Water pitchers and glasses will not be provided to court attendees. Disposable water bottles will be provided when possible.
- In order to facilitate the cleaning of counsel tables, the Court requests that counsel who are appearing over multiple days on a particular matter remove their materials from the courtroom each night. If this is not possible or practical (*e.g.* because of the volume of materials), counsel should pack up their materials into boxes and store them underneath the counsel table.

Communication between Counsel and Parties

- Counsel are encouraged to use electronic messaging to communicate with one another and their clients during the hearing in order to respect physical distancing. This includes laptops and cellular phones, which must nonetheless remain on silent. Counsel should seek direction from the presiding judicial officer to communicate with co-counsel or their client by text message or another method that would not normally be acceptable in court.

Document Transmission

- When possible, transfer all documents to a digital format before the hearing.
- Use hand sanitizer before and after handling documents.
- To maintain physical distancing during the transmission of exhibits or documents, please use the bin or trolley that will be provided for that purpose. Parties remitting such items will be invited to place them in the bin or trolley and return to their seat. The Usher or Court Registrar will then retrieve the court documents or other exhibits.

Disinfecting Services

- After each witness, the chair, microphone, horizontal surfaces, and plexiglass in and around the witness box will be disinfected.
- Other areas to be disinfected following each hearing (or daily if the hearing lasts more than one day) include: the judge's dais, all furniture and equipment used by the members of the Court, the Court Registrar workstation, furniture and equipment used by Registry staff, furniture and equipment used by litigants and counsel including microphones, furniture used by the public, door handles, and any electrical door opener (*i.e.* push buttons). Special attention will be given to frequently touched surfaces (*e.g.* door handles and light switches).
- If anyone shows symptoms during the hearing, appropriate steps will be taken, in line with the guidance from public health authorities (see for example, the recommendations of the Action Committee on Court Operations in Response to COVID-19).⁵

Contact Tracing

- Local public authorities use contact tracing to identify people who have been in close contact with a person whose COVID-19 test is positive. It helps limit the spread of the virus.
- Individuals who wish to attend an in-person hearing will be required to leave their contact information with Security Services as they go through security screening. This information will be placed in an envelope, marked with the date and courtroom, and sealed. The seal will be broken only if it becomes apparent or is suspected that someone with COVID-19 was present at the facility on that day. The information will be used solely to facilitate contact tracing and notification. After one full calendar month, the contents of these envelopes will be destroyed.
- As a reminder, it is of the utmost importance that any individual who has been diagnosed with COVID-19 within 14 days of using Court facilities contact the Registry, so that appropriate follow-up measures and contact tracing can be done. The name of any individual who reports that they have been diagnosed will be kept confidential.
- It is these types of measures that will help secure the safety of court users and the public as a whole.

⁵ Canadian Centre for Occupational Health and Safety, Action Committee on Court Operations in Response to COVID-19, "[Courtroom Symptom Appearance and Related Situation](#)" (October 28, 2020).

ANNEX – Guides of Various Courts Across Canada

British Columbia

British Columbia Court of Appeal	See Notice to the Public Regarding the Court of Appeal for British Columbia’s Response to COVID-19, dated August 19, 2020
British Columbia Supreme Court	See COVID-19: In Court Measures During the Pandemic, dated June 5, 2020 See also British Columbia COVID-19 Court Recovery Operations, dated July 17, 2020
Provincial Court of British Columbia	See Notice to the Profession and Public – COVID-19: Resumption of Court Operations, dated August 17, 2020 See also Notice to the Profession and Public – Resuming In-Person Proceedings During COVID-19: Health and Safety Protocols, dated July 13, 2020

Alberta

Alberta Court of Queen’s Bench	See Notice to the Profession & Public – Wearing Masks in Courthouses, dated July 6, 2020
Alberta Provincial Court	See COVID-19 Provincial Court of Alberta – Safety Measures to Expand in Person Hearings, dated June 26, 2020

Saskatchewan

Provincial Court of Saskatchewan	See Provincial Court of Saskatchewan Notice to Court Users and Public, dated May 22, 2020
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Manitoba

Manitoba Court of Appeal	See Notice RE: Resumption of In-Person Appeal Hearings and Chamber Motions, June 24, 2020
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Court of Queen’s Bench for Manitoba	See COVID-19 and Resumption of Court Hearings for the Court of Queen’s Bench Masters’ Maintenance Enforcement Hearings
Provincial Court of Manitoba	See Notice RE: COVID-19 Suspension and Re-Opening of Some Courts

Ontario

Ontario Court of Appeal	See Amended Practice Direction Regarding the Electronic Conduct of Matters During the COVID-19 Emergency, dated July 13, 2020
Ontario Superior Court of Justice; Ontario Court of Justice	See COVID-19: Recommended Precautionary Measures, Resuming Court Operations, dated August 13, 2020

Quebec

Cour d’appel du Québec	See Update – COVID-19 Pandemic, dated June 29, 2020
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New Brunswick

Court of Appeal of New Brunswick	See NBCA COVID-19 Amendments to April 6, 2020 Directive, dated June 1, 2020
Court of Queen’s Bench of New Brunswick	See COVID-19 Trial Directives, dated May 14, 2020
New Brunswick Provincial Court	See Measures Applicable to the Provincial Court of New Brunswick, dated June 1, 2020

Nova Scotia

Nova Scotia Court of Appeal	See COVID-19: Protocols for Appeal Hearings During the Pandemic, dated August 25, 2020
Supreme Court of Nova Scotia; Provincial Court of Nova Scotia	See Nova Scotia Courts COVID-19 Recovery Plan & Guidelines, dated Jun 25, 2020

Newfoundland and Labrador

Court of Appeal of Newfoundland and Labrador	See Notice to the Profession and Generic Public Expansion of Court Services , dated June 17, 2020
Supreme Court of Newfoundland and Labrador	See Notice to the Profession and General Public: Information Regarding Anticipated Attendees at the St. John's General Division , dated July 8, 2020
Provincial Court of Newfoundland and Labrador	See Media Release: What You Need to Know Before Coming to Court , dated June 27, 2020

Prince Edward Island

Prince Edward Island Court of Appeal	See COVID-19 Message from the Chief Justice , dated July 22, 2020 See also, Practice Direction 46 of the Prince Edward Island Court of Appeal and the Supreme Court of Prince Edward Island , dated March 20, 2020
Supreme Court of Prince Edward Island	See COVID-19 Message from the Chief Justice , dated July 22, 2020 See also Updated Notice to the Profession, the Public and the Media regarding Court Operations – COVID-19 , dated June 3, 2020

Nunavut

Nunavut Court of Justice	See Health and Safety Information at Nunavut Court of Justice
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Yukon

Supreme Court of Yukon; Territorial Court of Yukon	See Notice to Public and to Profession , dated June 19, 2020
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Northwest Territories

<p>Court of Appeal for the Northwest Territories;</p> <p>Supreme Court of the Northwest Territories;</p> <p>Territorial Court of the Northwest Territories</p>	<p>See COVID-19 Precautions, dated July 6, 2020</p>
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