



NOTICE TO THE PARTIES AND THE PROFESSION

TO: Parties and the Profession

FROM: The Honourable Marc Noël,
Chief Justice of the Federal Court of Appeal

DATE: June 11, 2020

SUBJECT: Gradual phase-out of Suspension Period: COVID-19

[1] By [Notice to the Parties and the Profession dated March 19, 2020](#), the Federal Court of Appeal suspended the running of time under the *Federal Courts Rules*, orders and directions to respect government regulations and orders concerning the COVID-19 pandemic. The Suspension Period set out in that notice was further extended on [April 2, 2020](#), [May 12, 2020](#) and [May 28, 2020](#).

[2] The public health situation has now improved in many regions. Some authorities are relaxing their regulations and orders. Accordingly, it is now appropriate that the Suspension Period be lifted over certain files and these files be allowed to progress.

A. The default position

[3] Subject to any further Notice, the Suspension Period applies to and is extended indefinitely for all files commenced in this Court before or after the date on which this Notice is issued, except for Selected Files and files already released from the Suspension Period.

B. Gradual relaxation of the default position

(1) Selected Files and Selected Files List

[4] The Suspension Period will be lifted for certain selected files (“Selected Files”). On Monday, June 22, 2020, a list of Selected Files (“Selected Files List”) will be posted on the Court’s website. New Selected Files will be added to the list every subsequent Monday.

[5] The Selected Files List will show the Monday on which the file appeared on the Selected Files List (“Selection Date”). The Suspension Period for a Selected File will end on the first Monday after the Selection Date.

[6] The Court will designate a file as a Selected File primarily on the basis of its age. It may also have regard to the factors under paragraph [7].

(2) Motions to be designated or de-designated as a Selected File

[7] A party may bring a motion under Rule 369: (a) for a Selected File to be deselected and made subject to a Suspension Period; or (b) a file subject to a Suspension Period to be made a Selected File. The motion may be made by informal letter sent to the Registry by email at FCARegistry-CAFGreffe@cas-satj.gc.ca. The Court will consider: (a) the age of the file; (b) the health and regulatory situation existing in the region where the files are being prosecuted; (c) the availability and capacity of court staff; (d) the urgency of the file; and (e) any other considerations under Rule 3.

[8] The public health situation is ever changing. A worsening of that situation or a change in the Court's resource limitations may cause it, on its own motion, to deselect files on the Selected Files List.

[9] In the case of deselection under paragraphs [7] and [8], the file will no longer be a Selected File. The Suspension Period will be restored for that file from the date of deselection. The Selected Files List will note the fact of deselection and the date of deselection of any file that is no longer a Selected File.

(3) Selected Files: the computation of time and other procedural matters

[10] For Selected Files, time will begin to run under the *Federal Courts Rules*, orders and directions from the Monday following the file's appearance on the Selected Files List. For the purposes of computing time, the Monday on which the Suspension Period ends will not be counted.

[11] Except as provided in this Notice, Rules 6 to 8 governing the computation of time and extensions of time shall apply to Selected Files. In paragraphs [4], [5] and [10] of this Notice, if the Monday is a "holiday" within the meaning of the *Federal Courts Rules*, the next day, Tuesday, shall be the relevant day.

[12] In Selected Files, all documents, with the exception of appeal books and application records, may be filed by email sent to FCARegistry-CAFGreffe@cas-satj.gc.ca. Parties filing via email documents other than appeal books and application records will be exempted from the filing of paper copies.

[13] Appeal books and application records shall be filed in paper form in conformity with the applicable Rules. Parties wishing to file these documents only or partly in electronic format may bring a motion under Rule 369. The motion may be made by informal letter sent to the Registry by email at FCARegistry-CAFGreffe@cas-satj.gc.ca.

[14] In Selected Files, the requirement to file proof of service is reinstated as of the Selection Date. For any past filings, if proof of service was not filed, it shall be filed within thirty days of the Selected File's appearance on the Selected Files List.

[15] Requirements and recommendations for the preparation of electronically filed court documents will soon be added to the Court's homepage under the heading "What's new". Parties are encouraged to review and obey those instructions. Electronic filings should be sent to FCARegistry-CAFGreffe@cas-satj.gc.ca while questions may be addressed to the Registry by [phone](#) or email at Information@fca-caf.gc.ca.

[16] In Selected Files in which a Requisition for Hearing had been filed prior to the Suspension Period, parties must, within fourteen days after their file has been included in the Selected Files List, provide the Judicial Administrator with their mutual dates of non-availability up to December 18, 2020 by letter sent to FCARegistry-CAFGreffe@cas-satj.gc.ca.

C. Hearings

[17] Until public health advice in a particular jurisdiction allows in-person hearings, the Court will continue to hear proceedings remotely, by online video-conference, teleconference or in writing. Parties may communicate their preference in the Requisition for Hearing or in correspondence addressed to the Judicial Administrator if a Requisition has already been filed.

D. Registry Operations

[18] Measures are underway to gradually increase the onsite presence of Registry personnel as of Monday, June 29, 2020, to the extent allowed by public health authorities. Onsite staffing levels will continue to be reduced for some time. Parties are thus encouraged to continue to communicate with the Registry via [email](#) and [telephone](#), to file electronically and to limit in-person attendance at the Registry to the extent possible.

E. Miscellaneous

[19] This Notice supersedes any previous Notices to the contrary.

[20] Any filing fees shall be payable as normal as of June 29, 2020. Unless varied by this Notice or future Notices, the *Federal Courts Rules* shall apply as normal.

[21] Parties are encouraged to regularly consult the Court's website (www.fca-caf.gc.ca) for updates and for information regarding changes in the scope of the Court's operations. It is also possible to receive news about changes to court process and procedure by following the Court on Twitter (@FedCourtApp_en or @CourAppFed_fr).

" Marc Noël "

Chief Justice,
Federal Court of Appeal