



## Provincial Court of British Columbia

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The purpose of these Rules is to provide simple, effective and efficient management of all proceedings of a criminal nature in order to secure a just and timely determination of every case before the Court.

[CRIM 08 Criminal Caseflow Management Rules Simplified Front End Process \(2013\) Forms and Procedure](#)

### Contents



## **RULE 1 OBJECT, APPLICATION AND INTERPRETATION**

### **RULE 1 OBJECT, APPLICATION AND INTERPRETATION**

#### **Purpose of Rules**

(1) The purpose of these Rules is to provide simple, effective and efficient management of all proceedings of a criminal nature in order to secure a just and timely determination of every case before the Court.

#### **Definitions**

(2) The definitions in this subrule apply in these Rules.

"accused" includes a young person as defined in subsection 2(1) of the *Young Offenders Act*. (*accusé*)

"arraignment hearing" means an arraignment hearing under rule 8. (*audience de mise en accusation*)

*[REPEALED OIC 484/2013]*

"Court" means the Provincial Court of British Columbia. (*Court*)

"initial appearance" means the required attendance of a person in court for the first time in respect of a charge, and includes an adjournment from such appearance. (*comparution*)

*initiale*)

"judge" means a judge of the Court. (*judge*)

"proceeding" includes a trial, application, preliminary inquiry or other hearing before the Court. (*procédure*)

[REPEALED OIC 484/2013]

[REPEALED OIC 484/2013]

"trial scheduler" means a justice assigned to schedule proceedings for the Court. (*responsable du rôle*)

## **Matters not Provided for in Rules**

(3) If a matter is not provided for in these Rules, the practice is to be determined by reference to the purpose of these Rules and any practice directions issued under rule 3.

## **RULE 2 EFFECT OF NON-COMPLIANCE**

### **RULE 2 - EFFECT OF NON-COMPLIANCE**

#### **Non-compliance**

(1) A failure to comply with a rule is an irregularity and does not nullify a proceeding, a step taken or any record or order made in the proceeding.

#### **Court May Grant Relief**

(2) If there is a failure to comply with a rule, a judge may grant any relief the judge considers necessary to achieve the purpose of these Rules.

#### **Judge May Dispense with Compliance**

(3) If necessary in the interests of justice and in consideration of the purpose of these Rules, a judge may, by order and on any terms the judge considers just, dispense with or vary one or more of these Rules in a particular case.

## **RULE 3 PRACTICE DIRECTIONS OF CHIEF JUDGE**

### **RULE 3 - PRACTICE DIRECTIONS OF CHIEF JUDGE**

#### **Practice Directions**

(1) The chief judge of the Court may issue practice directions consistent with these Rules and their purpose.

[Link to Current PRACTICE DIRECTIONS](#)

## **RULE 4 NOTICE AND FILING**

### **RULE 4 - NOTICE AND FILING**

#### **Notice by Fax**

(1) If a rule requires notice to be given to the Court, prosecutor or accused's legal counsel, the requirement is satisfied if the notice is provided by fax to that recipient.

#### **Where to File Records**

(2) Subject to subrule (3), if a rule requires a record to be filed with the Court, the record shall be filed with the Court registry where the prosecution was commenced.

#### **Idem**

(3) If, as a result of an application to change the venue of a trial, the matter has been transferred for hearing to another Court registry, any record required by a rule to be filed with the Court shall be filed with that Court registry.

## **RULE 5 INITIAL APPEARANCE**

### **RULE 5 - INITIAL APPEARANCE**

## **Purpose of the Initial Appearance**

(1) Subject to subrule (5), the purpose of the initial appearance is to set a timely date for the accused's arraignment hearing.

## **If Accused not Represented by Legal Counsel**

(2) If an accused is not represented by legal counsel at the initial appearance, the justice shall

(a) determine whether or not the accused wishes to consult with or obtain legal counsel; and

(b) if so, adjourn the initial appearance for a period that is reasonable for that purpose.

## **Referral to Legal Counsel**

(3) A justice may refer an accused who is not represented by legal counsel to duty counsel or other legal counsel of the accused's choice before setting a date for the arraignment hearing.

## **Preparation for Arraignment**

*[REPEALED OIC 484/2013]*

## **Intention to Enter Guilty Plea**

(5) If the accused indicates to the justice the intention to enter a guilty plea, the justice shall record the accused's intention to plead guilty and set the matter to be heard by a judge

(a) immediately; or

(b) on another date, if the justice is satisfied upon application by the prosecutor or the accused that the interests of justice may be served and an unnecessary trial date be avoided by adjourning to such later date.

## **Referral to Judge**

(6) A justice may at any time refer a matter to a judge for directions and the judge may make any order or give any direction that the judge considers necessary to achieve the purpose of these Rules.

## **Expedited Arraignment**

(7) If an accused is to be held in custody until trial or preliminary inquiry, as the case may be, or if a judge determines that an accused requires that a time for trial be expedited, a judge may

(a) order that the matter proceed directly to an arraignment hearing on a date determined by the judge after consultation with the trial scheduler; and

(b) make any order or give any direction that the judge considers necessary to achieve the purpose of these Rules,

*[AMENDED OIC 484/2013]*

## **RULE 6 CROWN DISCLOSURE**

### **RULE 6 - CROWN DISCLOSURE**

#### **Early Disclosure**

(1) At the initial appearance or as soon as practicable after it, the prosecutor shall provide the accused or his or her legal counsel with disclosure required by law.

#### **If Disclosure Issues Arise**

(2) If at any time an issue arises concerning disclosure under this rule, any party to the proceeding may apply to a judge for directions.

#### **Further Disclosure**

(3) Nothing in this rule limits the ability

(a) of the prosecutor to provide further or better disclosure as it becomes available or as it is required by law, but such disclosure shall be made in a timely manner; or

(b) of the accused or his or her legal counsel to apply to a judge for further or better disclosure, but such applications shall be made in a timely manner.

## **RULE 7 ARRAIGNMENT REPORT**

### **RULE 7 ARRAIGNMENT REPORT**

*[REPEALED OIC 484/2013]*

## **RULE 8 ARRAIGNMENT HEARING**

### **RULE 8 - ARRAIGNMENT HEARING**

#### **Who Shall Attend**

(1) Unless a justice orders otherwise, it is a requirement of the Court in both indictable and summary conviction proceedings that the following persons attend the arraignment hearing:

- (a) the accused;
- (b) the accused's legal counsel, if any, or other legal counsel designated by the accused's legal counsel for the purpose of that hearing; and
- (c) the prosecutor.

#### **Powers of Judge**

(2) At an arraignment hearing, the judge may

- (a) call on the accused to make an election or enter a plea to the charges;
- (b) make inquiries to
  - 1. assist in making an informed and accurate estimate about the length of a trial or preliminary inquiry into the matter, or
  - 2. facilitate the trial or preliminary inquiry, or simplify or dispose of issues;
- (c) give directions to the trial scheduler about the time to be set for the trial or preliminary inquiry;
- (d) if there is no trial scheduler for that Court registry, set the time for the trial or preliminary inquiry;
- (e) make any order or give any direction that the judge considers necessary to achieve the purpose of these Rules, to facilitate the trial or preliminary inquiry or to simplify or dispose of issues;

(f) adjourn the arraignment hearing to enable compliance with any order made or direction given under paragraph (e);

(g) adjourn the arraignment hearing and refer the accused, if not represented by legal counsel, to consult with duty counsel or other legal counsel of the accused's choice; and

(h) hear one or more applications made in respect of the case, if it is convenient and practicable to the Court and all parties.

## **Idem**

(3) Nothing in this rule abrogates solicitor-client privilege and the right of the accused to remain silent.

## **Guilty Pleas**

(4) If the accused enters a guilty plea at the arraignment hearing, the presiding judge may

(a) conduct a sentence hearing at that time; or

(b) adjourn sentencing to a time that provides a just and timely disposition of the matter.

## **Idem**

(5) An accused who wishes to enter a guilty plea before the date set for the arraignment hearing may appear before a judge to do so on making the necessary arrangements with the trial scheduler in consultation with the prosecutor.

## **Setting Time for Trial or Preliminary Inquiry**

(6) If the judge presiding at the arraignment hearing refers the matter to a trial scheduler for scheduling, the trial scheduler shall

(a) set a time for the trial or preliminary inquiry, as the case may be, or for the hearing of any applications in respect of the case, in accordance with

1. the time estimate determined by the judge, and
2. any direction given by the judge.

*[REPEALED OIC 484/2013]*

(b) set a time for the accused's trial confirmation hearing, which time shall not be less than 30 days before the time set for the trial or preliminary inquiry under paragraph (a).

## **Idem**

(7) The trial scheduler may, before setting a time under subrule (6), refer any scheduling difficulties that arise to the judge who presided at the arraignment hearing, providing the judge with information about those difficulties.

## **RULE 9 TRIAL READINESS REPORT**

### **RULE 9 TRIAL READINESS REPORT**

*[REPEALED OIC 484/2013]*

## **RULE 10 TRIAL CONFIRMATION HEARING**

### **RULE 10 TRIAL CONFIRMATION HEARING**

*[REPEALED OIC 484/2013]*

## **RULE 11 ADJOURNMENT OF TRIAL OR PRELIMINARY INQUIRY**

### **RULE 11 - ADJOURNMENT OF TRIAL OR PRELIMINARY INQUIRY**

#### **Application of the Rule**

(1) This rule applies to an application for an order to adjourn a trial or preliminary inquiry, after a time for an order has been set for the proceeding but before it commences.

#### **When Application to be Made**

(2) An application for an order to adjourn a proceeding referred to in subrule (1) shall be made to a judge at the earliest opportunity after the applicant or the applicant's legal counsel becomes aware that an adjournment is necessary.



## **Notice of Application**

(3) At least two days before the application for an order to adjourn is to be heard, notice of the application for an order to adjourn in Form 5 shall be filed with the Court and a copy of the notice given to each party, unless a judge dispenses with notice.

## **RULE 12 NOTICE BY COUNSEL**

### **RULE 12 - NOTICE BY COUNSEL**

#### **Prompt Notice to the Court**

(1) Legal counsel shall promptly notify the Court of the following:

- (a) change of legal counsel for the accused;
- (b) withdrawal as legal counsel for the accused; and
- (c) if a time estimate provided to the Court, in relation to a proceeding, is inaccurate.

#### **Counsel Assuming Conduct after Arraignment Hearing**

(2) Legal counsel for the accused assuming conduct after the arraignment hearing shall promptly

- (a) file with the Court written notice of that fact and give a copy of the notice to each party; and
- (b) review the last time estimate provided to the Court in relation to the accused's trial or preliminary inquiry, as the case may be.

## **RULE 13 CONTINUATIONS**

### **RULE 13 - CONTINUATIONS**

#### **Order for Continuation within 30 Days**

(1) If necessary in the interests of justice and in consideration of the purpose of these Rules, the judge presiding at a proceeding that does not conclude within the time scheduled may

order, on any terms the judge considers just, and having first consulted with the trial scheduler, that the proceeding continue within a 30-day period or less.

## **ARRAIGNMENT AND TRIAL READINESS FORMS**

### **ARRAIGNMENT AND TRIAL READINESS FORMS**

*[REPEALED OIC 484/2013]*

[Notice of Application to Adjourn](#)

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