

Summary of the Alberta Rules of Court Amendment Regulation

The new *Rules* which came into effect on November 1, 2010 did not contain new rules governing appellate practice. The *Alberta Rules of Court Amendment Regulation* (AR 41/2014) amends the rules governing appellate practice. Some highlights of the changes are as follows:

Structure of the New Rules. The new appellate rules are found in Part 14 of the *Rules*. The assumption is that the general rules apply to appeals, unless there is another specific provision: see rule 14.2. For example, Part 11 on service, and rule 13.5 on extending time periods would apply to appeals, although the tests for extending time found in the case law will remain.

Time to Appeal. The time to appeal will no longer run “20 days from service of the judgment”. Appeals must be launched within one month of the date the decision is made: see rule 14.8(2)(a)(iii). This amendment makes the Alberta rules consistent with federal practice (e.g., in the *Divorce Act, Bankruptcy and Insolvency Act, Supreme Court Act, and Criminal Code*), and will reduce appellate delay.

Transitional Rule. Because of the change in the deadline for filing an appeal, there will be a four month transitional period: see rule 15.16(2).

Permission to Appeal. The presumption is that there is a right to appeal all trial decisions: see rule 14.4(1). The exceptional cases where permission to appeal (formally called “leave to appeal”) will be required are listed: see rule 14.5. The two anomalous situations where leave to appeal was required from the Court of Queen’s Bench (consent orders and costs orders) have been changed so that permission will now be required from the Court of Appeal: see rule 14.5(1)(d) and (e).

Types of Appeal. There are two types of appeals: standard appeals and fast track appeals: see rule 14.13. What are now called fast track appeals were previously called “Part J appeals” (which were provided for in the Consolidated Practice Direction). They are appeals of decisions that do not finally determine a matter, and some are listed in the rules: see rule 14.14.

Applications. Division 4 of the *Rules* considers the two types of applications: those to a single judge (see rules 14.37 and 14.40), and those to a panel of the Court of Appeal (see rules 14.38 and 14.42). Ten days notice will be required for single judge applications (see rule 14.40(2)), and 20 days for applications to a panel (see rule 14.42(2)). Division 4, sub-division 3, contains special rules for some particular types of applications.

Consolidated Practice Direction. Almost all of the provisions previously contained in the Consolidated Practice Direction have now been incorporated directly into the *Rules*. A new Consolidated Practice will be issued and will deal primarily with administrative issues.