

RULE 50 – CHAMBERS

Applications to be heard in chambers

- (1) All petitions and, unless made in the course of trial, all applications, shall be heard and disposed of by the court in chambers.

Particular applications to be heard in chambers

- (2) Without limiting the generality of subrule (1), the following matters shall be heard and disposed of by the court in chambers:
 - (a) appeals from and applications to confirm, vary or set aside orders, reports, certificates or recommendations of a special referee, clerk or other officer of the court;
 - (b) actions or issues in actions that have been ordered to be proceeded with by affidavit or on documents before the court, and stated cases and hearings on a point of law;
 - (c) applications for judgment under Rules 17, 18, 19, and 31;
 - (d) applications to vary or set aside a judgment;
 - (e) matters which, being otherwise proceeded with by action, are ordered to be disposed of in chambers.

Definition of "application"

- (3) In this rule, "application" includes all proceedings that may be heard and disposed of in chambers.

Failure of party to attend

- (4) If a party to an application fails to attend, whether on the return of the application or at the time appointed for the consideration of the matter, the court may proceed if, considering the nature of the case, it thinks it expedient to do so, and may require evidence of service it thinks necessary.

Reconsideration of proceeding

- (5) If the court has proceeded under subrule (4), the proceeding shall not be reconsidered unless the court is satisfied that the party failing to attend was not guilty of wilful delay or default.

Adjourned hearing of application

- (6) If an application is not disposed of on the return date, the parties shall attend from time to time without further notice at such time as may be appointed.

Chambers list

- (7) Each application to be spoken to, when set down for hearing, must be entered in the registry in a list kept for that purpose.
- (8) The dates, times and procedures for regular chambers shall be set out in a Practice Direction.

Evidence on an application

- (9) On an application, evidence shall be given by affidavit, but the court may
 - (a) order the attendance for cross-examination of a deponent, either before the court or before another person as the court directs,
 - (b) order the examination of a party or witness, either before the court or before another person as the court directs,
 - (c) give directions required for the discovery, inspection or production of a document or copy thereof,
 - (d) order an inquiry, assessment or accounting under Rule 32, and
 - (e) permit other forms of evidence to be adduced.

Hearing of application in public

- (10) Except in cases of urgency, an application shall be heard in a place open to the public when the application is made, unless the court, in matters relating to children or in the case of a particular application, directs that for special reasons the application ought to be dealt with in private.

Adjournment of application returnable on a holiday

- (11) Where an application has been made returnable on a day on which the court does not hold chambers, the application will stand adjourned without order to the next day on which the court holds chambers.

Power of the court

- (12) On an application the court may
 - (a) grant or refuse the relief claimed in whole or in part, or dispose of any question arising on the application,
 - (b) adjourn the application from time to time, either to a particular date or generally, and when the application is adjourned generally, a party may set it down by requisition on 2 days' notice, not counting Saturday or holidays, for further hearing,

(c) obtain the assistance of one or more experts, in which case Rule 33 applies, and

(d) order a trial of the proceeding, either generally or on an issue, and order pleadings to be filed, and may give directions for the conduct of the trial and of pre-trial proceedings, and for the disposition of the application.

Powers of court if notice not given

(13) If it appears to the court that a petition or application ought to have been but was not served on or delivered to a person, the court may

(a) dismiss the application or dismiss it only against that person,

(b) adjourn the application and direct that service or delivery be effected, or that notice be given in some alternate manner, to that person, or

(c) direct that any order made, together with any other documents the court may order, be served on or delivered to that person.

Orders without notice

(14) If the nature of the application or the circumstances render service of a petition or application impracticable or unnecessary, or in case of urgency, the court may make an order without notice.

Service of orders required

(15) If an order is made without notice by reason of urgency, a copy of the order and the documents filed in support must be served by the party obtaining the order on each person who is affected by the order.

Setting aside orders made without notice

(16) On the application of a person affected by an order made without notice, the court may vary or set aside the order.

Adjournment

(17) The hearing of an application may from time to time be adjourned by the trial coordinator or the clerk.

Notes of proceedings

(18) The clerk shall attend at and keep notes of all proceedings in chambers with a short statement of the questions or points decided or orders made at every hearing.