



THE NUNAVUT COURT OF JUSTICE

PRACTICE DIRECTIVE #36

THE BAIL ESTREATMENT PROCESS

Where a judge or justice of the peace determines that an accused has breached his or her recognizance of bail, the justice or judge shall date and sign the Certificate of Default with particulars of the breach being noted on the reverse side of the Recognizance.

The Clerk of the Court shall provide Crown Counsel with a certified copy of the recognizance with the completed Certificate of Default. Crown counsel may commence a bail estreatment application by filing with the appropriate Court an Application for Bail Estreatment in Form 36A.

Upon an Application for Bail Estreatment being filed with the Court, the Clerk shall issue a Notice of Hearing in Form 36B. The Crown shall serve all Respondents with the Notice of Hearing and the Application for Bail Estreatment. A Respondent is entitled to 7 clear days notice of this application. If the application is returnable in a community other than the Respondent's community of residence, the Respondent(s) shall also be served with a Notice to Appear by Telephone in accordance with Practice Directive #4.

If the Respondent(s) fails to appear at the time and date set for hearing, the Court may proceed to determine the merits of the proposed estreatment application in the absence of the Respondent(s).

If the Court determines that all or part of the money pledged by the Recognizance is to be estreated, the Clerk of the Court shall issue a Judgment in Form 36C against each defaulting party in such amount as is stipulated by the Court.

Where the money subject to estreatment is on deposit with the Court, the Sheriff shall release the money subject to estreatment to General Revenue upon receipt of a certified copy of the Judgment in Form 36C.

If the estreated funds are not on deposit with the Court, the Sheriff shall take such steps as may be appropriate through civil process to recover the estreated money from the Judgment debtor(s). The particulars of the Judgment shall be entered and recorded against each and every Judgment Debtor by the Sheriff in a General Registry Certificate. A writ of execution shall issue against each Judgment Debtor for the amount of monies recorded in the Judgment.

Issued this 16th day of March, 2010 by the Judges of the Nunavut Court of Justice.

Mr. Justice R. Kilpatrick
Mr. Justice E. Johnson
Mr. Justice N. Sharkey
Madam Justice S. Cooper