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FOLA Submissions

Provincial Offences Act – Proposed Regulation on Service of Summons

Submitted to: Ministry of the Attorney General
Regulatory Registry

Submitted on: April 7, 2021

Submitted by: Nathan Baker, FOLA Vice Chair
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Introduction

The Federation of Ontario Law Associations (FOLA) appreciates the opportunity to respond to the Attorney General’s request for input and perspective on a proposed regulation to be made pursuant to the *Provincial Offences Act (POA)*, specifying additional ways to serve POA summonses.

FOLA is an organization that represents the 46 local law associations across Ontario. Together with our associate member, The Toronto Lawyers Association, FOLA represents approximately 12,000 lawyers, most of whom are in private practice in firms across the province.

General Overview

Matters proceeding under the Provincial Offences Act (POA) represent the most common interaction that the citizens of Ontario have with the justice system. POA matters are supposed to be able to proceed in an expeditious way. They are not meant to be overly-complicated. The amendments to the Act being proposed make sense. They provide an effective reflection of the use of alternative modes of service to make the system more efficient.

Issues for Consideration

FOLA wishes to raise two issues for consideration. The definition of “courier” is not set out. FOLA would suggest a definition similar to that in O.Reg 246/15 which states that it “means a courier that provides a tracking mechanism for each item it accepts for delivery so that persons sending items can check their progress;”

FOLA wishes to express its concern regarding service being deemed effected seven days after the day of mailing. With the onset of the COVID pandemic, mail and courier services have been slowed at times. Seven days is not enough. As well, many people who find themselves dealing with the justice system are of limited means and are not under any ongoing duty to advise the government if they have moved. As an alternative, service could be deemed effective upon signature acknowledging receipt or proof of delivery by the registered mail or courier carrier.

While POA matters may seem less serious because they reflect regulatory rather than criminal behaviour, the penalties are significant. Fines for POA matters regularly dwarf criminal fines. Penal consequences are not uncommon. Impacts on licensing including for driving and businesses can be felt.

It is imperative that a person know that their matter is returning to Court. In this vein, FOLA encourages the government to undertake a public engagement campaign to get the message through to Ontarians to be on the lookout for summons in the mail and by courier.

FOLA applauds the service by email amendment. The law needs to reflect the existence of modern technology and this does so in a way that is fair and balanced to the people of Ontario.



The requirement for written response respects the convenience of technology and the realities of spam filters. It is a fair and reasonable balance.

The amendment to allow service on a representative also is a great benefit. Service on a licensee of the Law Society of Ontario duly retained by an individual is significantly more convenient and avoids the risk of delay by cases where an accused does not inform their representative of receipt of certain documents in a timely manner. It provides a mechanism which is sensible for the prosecution, the defence and the accused.

FOLA looks forward to the passing of this regulation and the increased ability to continue to serve the people of Ontario which it provides.

Nathan Baker, FOLA Vice Chair