

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

AMENDMENTS TO *THE QUEEN'S BENCH RULES*

*The Queen's Bench Rules* are amended, effective September 1, 2019, in the manner set forth below:

PART 1

**Rules**

**Part 10 amended**

**1 Rules 10-38 and 10-39 are repealed and the following substituted:**

**“Actions pursuant to *The Land Contracts (Actions) Act, 2018*  
or *The Limitation of Civil Rights Act***

**10-38** Except where inconsistent with *The Land Contracts (Actions) Act, 2018* or  
*The Limitation of Civil Rights Act*, these rules apply to proceedings pursuant to those Acts.

**“Notice of application for leave to commence an action pursuant to *The Land Contracts (Actions) Act, 2018***

**10-39(1)** A notice of application for leave to commence an action pursuant to *The Land Contracts (Actions) Act, 2018* must be in Form 10-39A.

(2) The notice of application mentioned in subsection (1) must be accompanied by an affidavit of the applicant setting out the state of the respondent's account:

(a) in Form 10-39B in the case of an action respecting a mortgage; or

(b) in Form 10-39C in the case of an action respecting an agreement for the sale of land”.

PART 2  
Forms

**Part 10 amended**

**2 Form 10-39 is repealed and the following substituted:**

**"Form 10-39A"**  
(Subrule 10-39(1))

COURT FILE NUMBER \_\_\_\_\_  
COURT OF QUEEN'S BENCH FOR SASKATCHEWAN  
JUDICIAL CENTRE \_\_\_\_\_  
APPLICANT \_\_\_\_\_  
(PROPOSED PLAINTIFF)  
RESPONDENT \_\_\_\_\_  
(PROPOSED DEFENDANT)

**NOTICE OF APPLICATION FOR LEAVE TO COMMENCE ACTION**

(Being Form A prescribed pursuant to *The Land Contracts (Actions) Regulations*)

**NOTICE TO RESPONDENT**

This application is made against you pursuant to section 6 of *The Land Contracts (Actions) Act, 2018* for leave to commence an action. You are a respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Where: \_\_\_\_\_  
Date: \_\_\_\_\_  
Time: \_\_\_\_\_

(Read the Notices at the end of this document to see what else you can do and when you must do it.)

**Remedy claimed or sought**

1. Leave to commence action for: (select applicable)

- foreclosure
- judicial sale
- cancellation of an agreement for the sale of land
- costs
- other: (describe) \_\_\_\_\_

**Grounds for making this application**

2. (select applicable grounds)

- the Respondent \_\_\_\_\_ is in default or in breach of the terms of the land contract
- according to the terms of the land contract, as a consequence of the Respondent's default or breach, the Applicant claims the remedy(ies) sought
- other grounds: (describe) \_\_\_\_\_

**Material or evidence to be relied on**

3. In support of this application, the Applicant relies on the following documents:

- (a) Copy of the mortgage or agreement for the sale of land (as appropriate);
- (b) \_\_\_\_\_ (describe document) as reasonable evidence of the value of the land;
- (c) Affidavit of \_\_\_\_\_, setting out the state of the Respondent's account;
- (d) Notice to Respondent, being Form B prescribed pursuant to section 3 of *The Land Contracts (Actions) Regulations*;
- (e) Other: \_\_\_\_\_

**Applicable Rules**

4. *The Queen's Bench Rules*, including Part 10, Division 5 – *Foreclosure and Cancellation Proceedings* (Rules 10-37 to 10-45)

**Applicable Acts and regulations**

5. *The Land Contracts (Actions) Act, 2018* (see sections 5 to 11)  
*The Land Contracts (Actions) Regulations*  
*The Limitation of Civil Rights Act* (if applicable)

DATED at \_\_\_\_\_, Saskatchewan this \_\_\_\_\_ day of

, 2

\_\_\_\_\_  
(signature)

**NOTICE**

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

**CONTACT INFORMATION AND ADDRESS FOR SERVICE**

**If prepared by a lawyer for the party:**

Name of firm: \_\_\_\_\_  
Name of lawyer in charge of file: \_\_\_\_\_  
Address of legal firm: \_\_\_\_\_  
*(set out the street address)*  
Telephone number: \_\_\_\_\_  
Fax number *(if any)*: \_\_\_\_\_  
Email address *(if any)*: \_\_\_\_\_

*or*

**If the party is self-represented:**

Name of party: \_\_\_\_\_  
Address for service: \_\_\_\_\_  
*(set out the street address)*  
Telephone number: \_\_\_\_\_  
Fax number *(if any)*: \_\_\_\_\_  
Email address *(if any)*: \_\_\_\_\_

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**NOTICE TO RESPONDENT**

(Being Form B prescribed pursuant to *The Land Contracts (Actions) Regulations*)

1. This application is the first step in the process for *(check one of the following)*:

- foreclosure or judicial sale
- cancellation of an agreement for the sale of land.

2. You may contact the following individual on behalf of the applicant before the hearing date to discuss the application and potential settlement options *(insert name and contact information of an individual employed by the applicant who has authority to deal with the file in question)*:

**Contact information:**

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Email Address: \_\_\_\_\_

3. You may appear in court in person, or a lawyer may appear on your behalf. You or your lawyer will be given an opportunity to speak in court.

4. After hearing both parties speak and considering any evidence before it, the Court may do any of the following:

- (a) adjourn the matter to a later date to allow you to make appropriate arrangements;
- (b) grant the application for leave to commence an action, which means that the applicant can begin an action against you for foreclosure or judicial sale or the cancellation of an agreement for the sale of land;
- (c) dismiss the application for leave to commence an action, which means that the applicant cannot begin an action against you, but this does not prevent the applicant from beginning this process again in the future; or
- (d) make any other order that the Court considers appropriate.

5. If you require information about this process, you can contact the Provincial Mediation Board at:

**Telephone number:** (306) 787-5408  
**Toll Free number:** 1-877-787-5408  
**Website:** <http://www.saskatchewan.ca/pmb>  
**Fax number:** (306) 787-5574  
**Toll Free Fax number:** 1-888-867-7776  
**Email Address:** [pmb@gov.sk.ca](mailto:pmb@gov.sk.ca)  
**Address:** 304 - 1855 Victoria Avenue  
Regina, SK, Canada, S4P 3T2

6. In negotiating with the applicant, either directly or indirectly, be aware that the legal costs associated with this application and any legal costs incurred up to the date that the Court grants leave to commence an action cannot be recovered by the applicant from you, if you behave reasonably in the court process.

**"Form 10-39B"**  
(Subrule 10-39(2))

COURT FILE NUMBER \_\_\_\_\_

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE \_\_\_\_\_

APPLICANT  
(PROPOSED PLAINTIFF) \_\_\_\_\_

RESPONDENT  
(PROPOSED DEFENDANT) \_\_\_\_\_

**AFFIDAVIT REGARDING STATE OF RESPONDENT'S ACCOUNT  
UNDER THE MORTGAGE**

I, \_\_\_\_\_ of \_\_\_\_\_,  
Saskatchewan

MAKE OATH AND SAY (or AFFIRM):

1. I am \_\_\_\_\_ (*applicant / employed by the applicant*) and as such have knowledge of the facts hereafter deposed to.
2. The mortgage filed with this application has not been transferred or assumed. (*If otherwise, describe the transfer or assumption.*)
3. Attached to this affidavit as exhibit A is a copy of the results of a current search at the Land Titles Registry of the land that is the subject of the mortgage, showing all registered interests in the land.
4. The mortgage provides for the payment of the balance of the principal sum of \$ \_\_\_\_\_ with interest calculated at the rate of \_\_\_\_\_ percent per \_\_\_\_\_, by payments in the amount of \$ \_\_\_\_\_ per \_\_\_\_\_.
5. The mortgage balance is/was fully due and payable on \_\_\_\_\_, 2 \_\_\_\_\_ (*date*).
6. The last payment made on this mortgage was in the amount of \$ \_\_\_\_\_ made on \_\_\_\_\_, 2 \_\_\_\_\_ (*date*).
7. The fair market value of the land is \$ \_\_\_\_\_ as disclosed in the appraisal / opinion of value filed with this application.
8. The respondent  
 occupies the land  
 does not occupy the land

AMENDMENTS TO THE QUEEN'S BENCH RULES

9. As at \_\_\_\_\_, 2\_\_\_\_\_, default has been made under the mortgage and the following are the particulars of the amounts owing:

- A. Arrears of principal \$ \_\_\_\_\_
- B. Arrears of interest \$ \_\_\_\_\_
- C. Arrears of property taxes paid by the mortgagee \$ \_\_\_\_\_
- D. Other arrears specified as follows:
  - \_\_\_\_\_ \$ \_\_\_\_\_
  - \_\_\_\_\_ \$ \_\_\_\_\_
- Total Arrears: \$ \_\_\_\_\_
- E. Mortgage balance including arrears: \$ \_\_\_\_\_

10. Property taxes are owed to the municipality in the sum of \$ \_\_\_\_\_ and have not been paid by the respondent or the applicant. (if applicable)

11. The applicant
- does not intend
  - intends

to include a claim based on the respondent's personal covenant to pay the amount owing under the mortgage, for that portion of the mortgage amount owing for which a claim is not precluded pursuant to *The Limitation of Civil Rights Act*.

12. Paragraph \_\_\_\_\_ on page \_\_\_\_\_ of the mortgage provides that the applicant is entitled to recover costs against the respondent on a solicitor/client basis in an action related to the enforcement of the terms of the mortgage.

13. The applicant
- does not intend
  - intends

to seek pre-leave costs for the following reasons:

\_\_\_\_\_

\_\_\_\_\_

SWORN (OR AFFIRMED) BEFORE ME

at \_\_\_\_\_, Saskatchewan,

this \_\_\_\_\_ day of \_\_\_\_\_,

2 \_\_\_\_\_.

\_\_\_\_\_  
Commissioner for Oaths for Saskatchewan

} \_\_\_\_\_  
(signature)



**"Form 10-39C"**  
(Subrule 10-39(2))

COURT FILE NUMBER \_\_\_\_\_

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE \_\_\_\_\_

APPLICANT  
(PROPOSED PLAINTIFF) \_\_\_\_\_

RESPONDENT  
(PROPOSED DEFENDANT) \_\_\_\_\_

**AFFIDAVIT REGARDING STATE OF RESPONDENT'S ACCOUNT  
UNDER THE AGREEMENT FOR THE SALE OF LAND**

I, \_\_\_\_\_ of \_\_\_\_\_  
Saskatchewan

MAKE OATH AND SAY (or AFFIRM):

1. I am \_\_\_\_\_ (*applicant / employed by the applicant*) and as such have knowledge of the facts hereafter deposed to.
2. The agreement for the sale of land filed with this application has not been transferred, assumed or amended. (*If otherwise, describe the transfer, assumption or amendment.*)
3. Attached to this affidavit as exhibit A is a copy of the results of a current search at the Land Titles Registry of the land that is the subject of the agreement for sale, showing all registered interests in the land.
4. The agreement for sale provides for the payment of the balance of the principal sum of \$ \_\_\_\_\_ with interest calculated at the rate of \_\_\_\_\_ percent per \_\_\_\_\_, by payments in the amount of \$ \_\_\_\_\_ per \_\_\_\_\_.
5. The agreement for sale balance is/was fully due and payable on \_\_\_\_\_, 2 (date).
6. The last payment made under the agreement for sale was in the amount of \$ \_\_\_\_\_ made on \_\_\_\_\_, 2 (date).
7. The fair market value of the land is \$ \_\_\_\_\_ as disclosed in the appraisal / opinion of value filed with this application.

8. As at \_\_\_\_\_, 2\_\_\_\_, default has been made under the agreement for sale and the following are the particulars of the amounts owing:

- A. Arrears of principal \$ \_\_\_\_\_
- B. Arrears of interest \$ \_\_\_\_\_
- C. Arrears of property taxes paid by the applicant \$ \_\_\_\_\_
- D. Other arrears specified as follows:
  - \_\_\_\_\_ \$ \_\_\_\_\_
  - \_\_\_\_\_ \$ \_\_\_\_\_
- Total Arrears: \$ \_\_\_\_\_
- E. Agreement balance including arrears: \$ \_\_\_\_\_

9. Property taxes are owed to the municipality in the sum of \$ \_\_\_\_\_ and have not been paid by the respondent or the applicant. (if applicable)

10. Paragraph \_\_\_\_\_ on page \_\_\_\_\_ of the agreement for sale provides that the applicant is entitled to recover costs against the respondent on a solicitor/client basis in an action related to the enforcement of the terms of the agreement for sale.

- 11. The respondent
  - occupies the land
  - does not occupy the land

- 12. The applicant
  - does not intend
  - intends

to seek pre-leave costs for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_

SWORN (OR AFFIRMED) BEFORE ME  
at \_\_\_\_\_, Saskatchewan,  
this \_\_\_\_\_ day of \_\_\_\_\_,  
2 \_\_\_\_\_.

\_\_\_\_\_  
Commissioner for Oaths for Saskatchewan

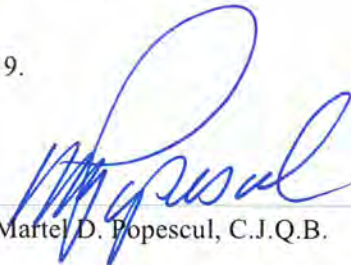


\_\_\_\_\_  
(signature)

CERTIFICATE

I, MARTEL D. POPESCU, Chief Justice of Her Majesty's Court of Queen's Bench for Saskatchewan, certify that these amendments to the rules and forms were made by a majority of judges of Her Majesty's Court of Queen's Bench for Saskatchewan pursuant to section 28 of *The Queen's Bench Act, 1998*.

Dated at Saskatoon, Saskatchewan, September 3<sup>rd</sup>, 2019.

  
Martel D. Popescu, C.J.Q.B.