

SERVICE OF DOCUMENTS IN THE COURT OF KING'S BENCH

This guide provides legal information on the proper service of court documents in regard to actions or proceedings in The Court of King's Bench. While the guide is intended to provide correct information, it is not the law, and no Judge of the Court is bound by any statement contained in this guide.

This guide provides legal information in answer to the following questions:

- **Where can I find the rules for serving documents?**
- **What is an Acknowledgment of Service?**
- **If an Acknowledgment of Service is not signed and returned, how can I prove service?**
- **Must a person be served with an original document?**
- **When is personal service of a document required?**
- **Who may personally serve documents?**
- **How is personal service made on an individual?**
- **How is personal service made on a person who is not an individual?**
- **What is an "Address for Service"?**
- **When may a document be served by registered mail?**
- **When and how can a document be served by fax?**
- **When and how can a document be served by e-mail or electronic transmission?**
- **When can an Acknowledgment of Service be used to prove service?**
- **What can be done if a person is avoiding service?**
- **What can be done if a person is not properly served but they actually received the document?**
- **Can documents be served outside of Saskatchewan?**
- **Can documents be served outside of Canada?**

Service requirements can be complex. The requirements for serving a document in a Court of King's Bench (KB) action depend upon the type of document that is being served and the legal status of the person being served (e.g. individual, corporation, etc.). This guide describes the basic service requirements set out in the KB Rules of Court and may not always apply in cases where the service procedures are governed by an Act or regulation. Court staff do not provide legal advice, and it is recommended that a lawyer be consulted to determine how service requirements may apply in a particular case.

Where can I find the rules for serving documents?

Part 12 of The Court of King's Bench Rules of Court set out the processes and procedures that apply to proceedings in the Court including rules related to the service of court documents. The Rules of Court and Forms are available for download at no charge from the Publication Saskatchewan.

The Rules of Court can be found on this webpage:

<https://pubsaskdev.blob.core.windows.net/pubsask-prod/81637/25KBRules-Parts1-18.pdf>

The forms in an MS Word format, can be found on this webpage:

<https://publications.saskatchewan.ca/#/categories/5343>

What is an Acknowledgement of Service?

An Acknowledgment of Service (KB Form #12-3) is a form the party who is served may sign and complete to acknowledge service of the document. An Acknowledgement of Service form must be served with the document being served. When the party served completes and returns the signed Acknowledgment of Service, that Acknowledgment may be filed as proper proof of service of the document, notwithstanding that the service was not technically valid.

When a lawyer signs an Acknowledgment of Service on behalf of a client, the acknowledgment should state that the lawyer represents the person and accepts service on their behalf.

If an Acknowledgment of Service is not signed and returned, how can I prove service?

If an acknowledgment of service is not available, service can be proved by an Affidavit of Service in KB Form #12-15. The portions of the form that do not apply and the instructions in italics should be deleted.

If the document is served by the Sheriff, the Sheriff may complete a certificate of service, which will be accepted as proof of service.

Must a person be served with an original document?

No. Service of a true copy of a document is proper service of that document. Service of original documents is only required in the case of subpoenas and warrants.

When is personal service of a document required?

Personal service of a document is always required unless there is a specific Act, regulation, court order or rule that allows service by some other means.

Commencing documents, such as Statement of Claim, Petition or Originating Notice, must always be served personally.

Who may personally serve documents?

A Petitioner in an action for divorce may NOT serve the Respondent with the petition.

Other than that exception, any adult competent person may serve documents, including a party to the action, unless there is a court order restricting their contact with the person to be served. Process servers can be hired to effect service; a list of process services can usually be located in the yellow pages. For a fee, King's Bench Sheriffs and Deputy Sheriff's will also serve documents.

How is personal service made on an individual?

Personal service is performed by leaving a copy of the document with the person to be served. Generally, this involves placing the document in the hands of that person. However, if the person refuses to take the document into their hands, personal service may be performed if the person is made aware that a document is being served on him or her and they have the opportunity to retrieve the document. For example, telling the person that they are being served with a statement of claim and dropping the document at their feet would suffice.

Leaving a copy of the document in a person's mailbox or leaving a copy with another person on their behalf is not good personal service. However, a lawyer may accept service on behalf of their client provided that they acknowledge that they are accepting service on behalf of their client.

If the person is a minor or dependent adult, the document must be served on both them and their parent or legal guardian.

How is personal service made on a person who is not an individual?

In the case of a municipality, service may be made by personally serving the mayor, reeve, clerk or secretary of the municipal corporation or their respective deputies.

In the case of a corporation, service may be made in accordance with the provisions of service contained in the Act or enactment under which that corporation was registered or created. For example, in the case of corporations incorporated under *The Business Corporation Act*, of Saskatchewan, service may be made on the corporation by one of the following methods:

- by leaving the document at, or mailing it by registered mail or certified mail addressed to, the registered office of the corporation;
- by personally serving any director, officer, receiver-manager or liquidator of the corporation; or
- by leaving the document at the office of, by mailing it by registered mail or certified mail addressed to or by personally serving any attorney of the corporation appointed.

The registered office of the corporation and its officers and attorney can be identified by a search of the corporate record at Information Services Corporation (ISC) at www.isc.ca

In the case of an unincorporated business, the individual owner of that business must be served. To determine if a business is or is not incorporated, or who the owner of an unincorporated business may be, the business name can be searched through Information Services Corporation at www.isc.ca.

In the case of the provincial government, service is made in accordance with section 15 of the *Proceedings against the Crown Act*, which states:

15 A document to be served on the Crown shall be served by leaving a copy with the Attorney General, the Deputy Attorney General or any barrister and solicitor employed in the Department of Justice and designated by the Attorney General for the purpose of this section.

In the case of the federal government, service is made in accordance with section 23 of the *Crown Liability and Proceedings Act*, RSC 1985 c C-50 [Act], which states:

23.(1) Proceedings against the Crown may be taken in the name of the Attorney General of Canada or, in the case of an agency of the Crown against which proceedings are by an Act of Parliament authorized to be taken in the name of the agency, in the name of that agency.

(2) Where proceedings are taken against the Crown, the document originating the proceedings shall be served on the Crown by serving it on the Deputy Attorney General of Canada or the chief executive officer of the agency in whose name the proceedings are taken, as the case may be.

What is an Address for Service?

Every person who issues or files a document with the Court of King's Bench must include an Address for Service in Canada. The Address for service must include a street address or other proper place in Canada where documents may be delivered as well as a phone number. Self-represented litigants whose address for service is outside Saskatchewan and all lawyers must also provide an email address. If available a cell number should also be included. The person filing the document may also choose to include a fax number if it wishes to be served with documents by fax.

Once a party files an Address for Service then court documents may be served upon them at that address in person or by registered mail. If they have included a fax number or e-mail address in their address for service, then documents may be served upon them by fax or e-mail but subject to certain rules requiring acknowledgment of receipt.

When may a document be served by registered mail?

Unless a particular Act allows for a document to be served by registered mail, then a document may only be served by registered mail if the person to be served has filed an

Address for Service in that court action, and only at the address set out in the address for service.

A document served by registered mail is deemed to have been served on the 7th day after the date of mailing.

When and how can a document be served by fax?

A document may only be served by fax if a fax number is included in an Address for Service filed with the Court by the party to be served.

If a document is to be served at the fax number provided in the Address for service, the document must be accompanied by a cover page that sets out all the information described in KB Rule 12-4(6).

When and how can a document be served by e-mail or other electronic transmission?

A document may only be served by e-mail or other electronic transmission if an e-mail or electronic transmission address is included in the Address for Service filed with the Court by the party to be served.

If a document is served by electronic transmission at the address provided in the Address for service, the electronic transmission must set out all the information described in KB Rule 12-4(7).

In any event, service by e-mail or electronic transmission is only valid if there is an acknowledgment of receipt.

What can be done if a person is avoiding service?

If a person is avoiding service, you may bring an application without notice pursuant to KB Rule #12-10 to the court for an order for substituted service to allow the person to be served by some other means. (See Application without Notice Guide)

What can be done if a person is improperly served but they actually received the document?

The court has the discretion to validate an irregular service. An application to validate service may be made to the court pursuant to KBR 12-1.

Can documents be served outside of Saskatchewan?

Documents can be served outside of Saskatchewan, but the rules of service in the province or country where the service is made apply.

Can documents be served outside of Canada?

Canada is a signatory to The Hague Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters. To arrange for service abroad, please complete KB Forms # 12-12A; 12-12B and 12-12C. Depending on the jurisdiction, you may be required to translate the document into the official language of the jurisdiction where the documents are to be served and pay a service fee.

Forms

A MSWord version of the Court forms can be downloaded at no charge from Publication Saskatchewan at: <https://publications.saskatchewan.ca/#/categories/5343>

Form 12-3

(Subrule 12-3(1))

ACKNOWLEDGEMENT OF SERVICE

You are asked to fill out and sign this form without delay, and to mail it in the accompanying postage prepaid envelope addressed to *(name of party or lawyer effecting service)* or to return it by fax to *(name and fax number of party or lawyer effecting service)*. If you do not return this signed and completed Acknowledgement of Service without delay, you may not receive notice of any further proceedings, or any documents may be personally served on you, and you will be required to pay the costs of service.

I acknowledge service on me of a copy of the following document(s) *(list documents by title and date)*: _____

I am:

(select one)

- ☐ a party in this action.
- ☐ authorized to accept service on behalf of _____ *(name of party)*,
being a _____ *(e.g. lawyer, officer of corporation, power of attorney)*.

(signature)

(date of service)

My name is: _____
(full legal name)

The address for service of _____ *(name of party acknowledging service)*
is *(address in Canada where Court documents may be mailed or left)*:

My telephone number is: _____

My fax number is *(optional)*: _____

My e-mail address is *(see Notice)*: _____

NOTICE

(1) You must include an address in Canada where documents may be mailed to or left for you if you wish to receive notice of subsequent proceedings in this matter. Your address for service must include an e-mail address if you are represented by a lawyer or if your address for service is located outside Saskatchewan. Otherwise, including an e-mail address is optional. It is also optional to include a fax number.

(2) When an e-mail address or a fax number is included in your address for service, documents may be served on you by e-mail or fax.

(3) The address, fax number or e-mail address that you give on this form will be used to serve you with documents until you serve on the other parties and file with the court written notice of a new address for service.

(If this form is to be signed by a lawyer or authorized person on behalf of a corporation, unincorporated entity, minor, or dependent adult, it must be adapted accordingly.)

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): _____

E-mail address: _____

or

If the party is self-represented:

Name of party: _____

Address for service: _____
(set out the street address)

Telephone number: _____

Fax number (if any): _____

E-mail address (see Notice): _____

Form 12-15
(Rule 12-15(2))

COURT FILE NUMBER _____
COURT OF KING'S BENCH FOR SASKATCHEWAN
JUDICIAL CENTRE _____
PLAINTIFF(S) _____
DEFENDANT(S) _____

AFFIDAVIT OF SERVICE

I, _____, of _____,
(name) *(address)*

MAKE OATH AND SAY (or AFFIRM):

Service on party personally

1 On _____, at _____, I served _____
(date) *(time)* *(identify person served)*
with the _____ attached as Exhibit "A"
(identify document served by name and date)

or

an original or true copy of which was filed in court on _____
(date)

(select the appropriate clause)

☐ by leaving a copy with her (or him) at _____.
(address where service was made)

☐ where the rules provide for service on a corporation, etc. by leaving a copy of the document with another person, substitute:

by leaving a copy with _____
(identify person by name and title)

at _____.
(address where service was made)

2 I was able to identify the person by means of _____.
(state the means by which the person's identity was ascertained)

Service by leaving at the address for service

1 On _____, at _____, I served _____
(date) *(time)* *(identify person served)*

(if lawyer add: the lawyer for the _____)
(identify party)

with the _____ attached as Exhibit "A"
(identify document served by name and date)

or

an original or true copy of which was filed in court on _____.
(date)

(select the appropriate clause)

☐ by leaving a copy with: _____.
(name of party or lawyer served)
at the address for service: _____.
(address)

☐ by leaving a copy with an adult person _____.
(insert name if known)
who was present at the address for service: _____.
(address)

(Add 2. I ascertained that the person was an adult person who was an employee (or agent or representative or household member) of _____.
(identify person served)

by (insert the grounds for believing that the person documents were left with, appeared to be an adult person who was an employee, agent, representative or household member of the person to be served):

_____)

☐ *(if lawyer served)* by leaving a copy with: _____.
(name of employee)
an employee at the lawyer's office, at: _____.
(address)

☐ by leaving a copy in a mail receptacle at the address for service

(address)
no adult person being present at that address to receive the document (if a business address, continue during regular office hours).

If applicable add:

2 Before serving the documents in this way, I made an unsuccessful attempt to serve

_____ at the same address on _____.
(identify person) *(date)*

☐ by sending a copy with _____, a courier,
(name of courier service)
for delivery to the address for service, _____.
(address)

(Add: 2. Attached as Exhibit "B" is a copy of the courier's receipt bearing a signature that

purports to be the signature of _____.
(identify person)

And dated _____.
(date)

Or, where no courier's receipt bearing signature and date:

2. In the normal course of business, a document sent by this courier would be delivered on

_____ at _____.
(date) *(time)*

(Note: this paragraph should only be used where delivery is made by a courier service. If the courier is an adult person other than a person operating or employed by a courier service, the person delivering the document should take the affidavit.)

Service by mail

1 On _____, at _____, I served _____
(date) (time) (identify person served)

(if lawyer add: the lawyer for the _____)
(identify party)

with the _____ attached as Exhibit "A"
(identify document served by name and date)

or

an original or true copy of which was filed in court on _____
(date)

By sending a copy by ordinary mail (or by registered mail) to:

(full mailing address)

The address for service provided by _____
(identify party or person)

If no address has been provided substitute:

the last known address of _____
(identify party or person)

(If served at an address other than the address for service, provide basis for belief that the address served at is the party's address:

_____)

If served by registered mail add:

2 On _____, I received the post office confirmation of delivery to the
(date)
addressee, attached as Exhibit "B", showing confirmation of a signature purporting to be the
signature of _____ and dated _____.
(identify person) (insert date)

Service by fax or electronic transmission

1 On _____, at _____, I served _____
(date) (time) (identify person served)

(if lawyer add: the lawyer for the _____)
(identify party)

with the _____ attached as Exhibit "A"
(identify document served by name and date)

or

an original or true copy of which was filed in court on _____
(date)

by sending a copy by fax (or electronic transmission) to: _____
(fax number or electronic transmission address)

to _____
(name of party or lawyer)

2 Attached as Exhibit “B” is the confirmation of fax transmission (or a hard copy of the electronically transmitted acknowledgment of receipt), received by me on _____.
(date)

SWORN (OR AFFIRMED) BEFORE ME
at _____, Saskatchewan,
this _____ day of _____, 20____.

(signature)

Commissioner for Oaths for Saskatchewan