PART 15: FAMILY LAW PROCEEDINGS

What this Part is about: This Part applies to family law proceedings, which include proceedings under *The Adoption Act, 1998, The Child and Family Services Act, The Children's Law Act, 2020, The Dependants' Relief Act, 1996, the Divorce Act (Canada), The Enforcement of Maintenance Orders Act, 1997, The Family Maintenance Act, 1997, The Family Property Act, The Homesteads Act, 1989, The Inter-jurisdictional Support Orders Act, The International Child Abduction Act, 1996, The Marriage Act, 1995, The Victims of Interpersonal Violence Act,* certain provisions of *The King's Bench Act*, and any other Act that confers jurisdiction on the Family Law Division.

This Part also applies to annulments; parenting of, guardianship of, or contact with, a child; the determination of parentage or other family relationships; the division of property between spouses, former spouses or persons who have lived together as spouses; judicial separations; the maintenance of a spouse, child or other person; and any other proceeding heard in the Family Law Division.

Unless a different procedure is specified in this Part, the other Parts of the Rules also apply to family law proceedings.

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PART 15: FAMILY LAW PROCEEDINGS

DIVISION 1
Preliminary Matters

Subdivision 1
Definitions

Definitions for Part

15-1 In this Part:

"corollary relief proceeding" means a corollary relief proceeding as defined in section 2 of the *Divorce Act*; (« *instance en mesures accessoires* »)

"*Divorce Act*" means the *Divorce Act* (Canada); (« *Loi sur le divorce* »)

"divorce proceeding" means a divorce proceeding as defined in section 2 of the *Divorce Act*; (« *instance en divorce* »)

"document commencing a family law proceeding" means:

(a) a petition;

(b) a counter-petition that raises relief not raised in the petition;

(c) an application for corollary relief pursuant to rule 15-24; or

(d) an application for variation of a final order pursuant to rule 15-26; (« *document introductif d'instance en matière familiale* »)

"family law proceeding" means a family law proceeding as defined in section 1-2 of *The King's Bench Act*; (« *instance en matière familiale* »)

"financial statement" means a financial statement in the Form prescribed in rule 15-47; (« *état financier* »)

"guidelines" means the *Federal Child Support Guidelines* established pursuant to section 26.1 of the *Divorce Act* and adopted by *The Family Maintenance Act, 1997*; (« *lignes directrices* »)

"parenting assessment" means the preparation of a report for the assistance of the Court respecting the parenting of children, and includes a voice of the child (VOC) report; (« *évaluation de parentage* »)

"property claim" means a claim pursuant or with respect to:

(a) *The Family Property Act*; or

(b) the division of property between spouses, former spouses or persons who have lived together as spouses; (« *revendication de biens* »)

"property statement" means a property statement in the Form prescribed in rule 15 49; (« *état des biens* »)

"support" includes maintenance; (« *aliments* »)

"trial" includes a hearing; (« *procès* »)

"vary" or **"variation"** includes rescind and suspend, or rescission and suspension. (« *modifier* » ou « *modification* »)

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Subdivision 2
Application and Foundational Rules

Application of Part

15-2(1) This Part applies to family law proceedings.

(2) Unless provided otherwise by enactment or by the rules in this Part, the general procedure and practice of the Court must be adopted and applied, with any necessary modification, in a family law proceeding.

(3) The Court, having due regard for the proper administration of justice, shall conduct all family law proceedings as informally as the circumstances of the case permit.

(4) Subject to the Court's supervision, a party may modify a Form prescribed by this Part as the circumstances of the family law proceeding may require.

(5) This Part applies to family law proceedings commenced before, on or after the day on which this Part takes effect.

Foundational rules

15-3(1) In addition to the foundational rules in rule 1-3, the objectives and foundations set out in this rule apply to all family law proceedings pursuant to this Part.

(2) The objectives of this Part are:

(a) to help parties justly resolve the legal issues in a family law proceeding:

(i) taking into account the impact that the conduct of the family law proceeding may have on a child; and

(ii) minimizing conflict and promoting cooperation between the parties; and

(b) to secure the just, speedy and cost-effective determination of a family law proceeding on its merits.

(3) Securing the just, speedy and cost-effective determination of a family law proceeding on its merits includes, so far as is practicable, conducting the family law proceeding in ways that are proportionate to:

(a) the interests of any child affected;

(b) the importance of the issues in dispute; and

(c) the complexity of the family law proceeding.

Subdivision 3
Confidentiality

Private hearings

15-4 Any family law proceeding may be heard in private at the discretion of the Court.

Access to Court records

15-5(1) Subject to subrule (3), no person other than a party, a party's lawyer or a person authorized by a party or by a party's lawyer may have access to:

(a) the Court record, including documents, exhibits and transcripts, respecting a family law proceeding; or

(b) a support or separation agreement filed in the Court.

(2) Before granting a person authorized by a party or by a party's lawyer access to the Court record or to an agreement filed in the Court, the local registrar may require that person to sign an undertaking to keep the information obtained from the Court record or the agreement in confidence.

(3) Any other person seeking access to the Court record or to an agreement filed in the Court shall without notice make an application to the Court, and the Court may:

(a) grant or refuse access to the Court record or agreement, subject to any enactment allowing or restricting access; or

(b) require that:

(i) the parties to the family law proceeding be given notice of the application; and

(ii) a hearing be held to determine whether access to the Court record or agreement shall be granted or refused.

(4) Any person seeking a copy of the recording of a family law proceeding must follow the procedures set out in rule 9-34.

Confidentiality

15-6(1) Any person who has access to documents, evidence or information obtained pursuant to the financial disclosure provisions of this Part or obtained pursuant to discovery or from the Court record:

(a) must keep the documents and evidence, and any information obtained from them or from the Court record, in confidence; and

(b) may only use the documents, evidence and information for the purposes of the family law proceeding in which the document, evidence or information was obtained or to which the Court record relates.

(2) Subrule (1) does not apply if:

(a) the person who disclosed the document or gave the evidence consents;

(b) the document or evidence is used to impeach the testimony of a witness in another proceeding; or

(c) the document or evidence is used in a later proceeding between the same parties or their successors, if the proceeding in which the document or evidence was obtained was withdrawn or dismissed.

(3) Notwithstanding subrule (1), the Court may, on application, give a person permission to disclose or use documents or evidence, or information obtained from them or from the Court record, if the interests of justice outweigh any harm that would result:

(a) to the person who provided the documents or evidence; or

(b) to the parties to the family law proceeding.

(4) Use of documents or evidence, or of information obtained from them or from the Court record, in a manner contrary to this rule is contempt of Court, unless an order has been obtained pursuant to subrule (3).

Subdivision 4
Service

Service

15-7(1) Subject to the other provisions of this rule, Part 12 applies to service of documents and to proof of service of documents in a family law proceeding.

(2) Service of a document commencing a family law proceeding must be effected by personal service on the party being served.

(3) Personal service of a document commencing a family law proceeding must be effected by a person other than the petitioner or the respondent, as the case may be.

(4) Any document other than a document commencing a family law proceeding may be served by an alternative mode in accordance with rule 12-4.

(5) If service has been effected by an alternative mode in accordance with rule 12-4:

(a) the Court may direct further or other service; and

(b) unless the Court orders otherwise, no remedy is to be granted unless the Court is satisfied that the person required to be served received the document.

(6) For the purposes of clause (5)(b), it is not necessary to satisfy the Court that the person received the document if the document has been mailed to an address for service provided by that person.

(7) If a minor is a party to a family law proceeding, the minor may be served as if of the age of majority.

Proof of service

15-8(1) Proof of service may be made:

(a) in Form 15-8A if personal service is effected; or

(b) in Form 15-8B if service is effected by an alternative mode in accordance with rule 12-4.

(2) Every affidavit of service of a petition must, as far as is possible, state the postal address of the person served.

(3) If the person effecting service is unable of the person's own knowledge to state a postal address of the person served, a statement in the affidavit of service as to the belief of the person effecting service respecting the postal address and the grounds of that belief may be admitted.

(4) Unless the document served is a document commencing a family law proceeding, an acknowledgment of service in Form 12-3, signed by the person to be served and returned to the party effecting service, may be filed as proof of service.

Time for service

15-9 A petition must be served:

(a) within 6 months after the date of its issue; or

(b) within any further time that the Court may allow on an application without notice made before or after the expiration of the time for service.

DIVISION 2
Commencing and Defending a Family Law Proceeding

Subdivision 1
General

Parties

15-10(1) Subject to subrule (3) and to subrule 15-100(2):

(a) the party commencing a family law proceeding, other than by counter-petition, shall be called the petitioner; and

(b) the opposite party shall be called the respondent, including when the respondent commences a family law proceeding by counter-petition.

(2) Unless otherwise ordered, the document commencing a family law proceeding must be signed by the party filing it.

(3) Unless provided otherwise by enactment, by the rules in this Part or by order of the Court, the description of the parties in the style of cause:

(a) must remain the same in any subsequent pleadings, on an application within the family law proceeding or on an application for variation of a final order; and

(b) must not be amended or added to because of any other pleadings or applications that may be filed.

(4) A person alleged to have committed adultery with a party must not be named in the petition or any other document, unless the Court orders otherwise on an application that may be made without notice.

(5) The Court at any time may:

(a) order that a person who may have an interest in the matters in issue be served with notice of the family law proceeding with or without adding that person as a party;

(b) give directions respecting the manner of service on that person and the conduct of the family law proceeding; and

(c) add a party on application in accordance with these rules or in accordance with any enactment.

(6) A minor may commence, continue or defend a family law proceeding as if of the age of majority.

Venue, transfer of family law proceedings

15-11(1) A party may commence a family law proceeding at any judicial centre.

(2) Notwithstanding subrule (1), a party shall commence a corollary relief proceeding or a variation proceeding:

(a) at the judicial centre where the divorce or the order sought to be varied was granted; or

(b) at any judicial centre:

(i) with leave of the Court; or

(ii) if the divorce or the order sought to be varied was not granted in Saskatchewan.

(3) The Court may direct that a family law proceeding be transferred to any other judicial centre:

(a) with the consent of the parties;

(b) by reason of the balance of convenience, including the convenience of witnesses; or

(c) for the purpose of being heard with another proceeding before the Court.

(4) Except by consent of the parties or leave of the Court, an application to transfer a family law proceeding must not be brought before the pleadings are considered to be closed in accordance with rule 15-13.

(5) If an order directing the transfer of a family law proceeding is consented to by the parties, the local registrar may:

(a) issue the order without referring it to a judge; or

(b) refer the order to a judge.

Pleadings regarding children

15-12(1) If the petitioner or the respondent, or both, have a child or children, the document commencing a family law proceeding must:

(a) set out the name and birth date of every child of the petitioner or the respondent in the care of either party and whether or not any remedy is claimed with respect to that child; or

(b) include a statement that there are no children of the parties who are in the care of either party.

(2) If the petitioner or the respondent, or both, assert a claim for child support, the document commencing a family law proceeding must include the following:

(a) whether child support is sought in accordance with the table amount determined pursuant to the guidelines;

(b) whether the party claims:

(i) there is a child who is the age of majority or older;

(ii) the income of the payor is greater than $150,000;

(iii) the payor stands in the place of a parent for a child;

(iv) there is split parenting time with respect to one or more children; or

(v) there is shared parenting time with respect to a child;

(c) whether a claim for undue hardship is being advanced;

(d) whether special or extraordinary expenses are sought, the child to whom the expenses relate and the particulars of the expenses and the amount claimed.

Close of pleadings

15-13(1) For a family law proceeding commenced by petition, the pleadings are considered to be closed when the earlier of the following occurs:

(a) a reply is served and filed by a petitioner or a respondent, as the case may be;

(b) the time for serving and filing a reply has expired.

(2) For a family law proceeding not commenced by petition, the pleadings are considered to be closed when the earlier of the following occurs:

(a) an answer or response is served and filed;

(b) the time for serving and filing an answer or response has expired.

Mandatory family dispute resolution

15-14(1) When required by *The King's Bench Act* and the regulations made pursuant to that Act, and unless the Court orders otherwise, on the close of pleadings, the parties must:

(a) comply with the family dispute resolution provisions of *The King's Bench Act* and the regulations made pursuant to that Act; and

(b) file:

(i) a signed certificate of participation in family dispute resolution; or

(ii) an exemption certificate signed by a person authorized by *The King's Bench Act* and the regulations to exempt a party from the requirement to participate in family dispute resolution.

(2) If no exemption or other order is obtained:

(a) a party who fails to comply with this rule and the requirements of *The King's Bench Act* and the regulations made pursuant to that Act with respect to family dispute resolution is prohibited from:

(i) taking any further step in the family law proceeding; and

(ii) filing any further application for relief; and

(b) the Court, on application, may:

(i) strike out the party's pleadings or other documents;

(ii) refuse to allow the party to make submissions on an application or at trial;

(iii) order the party to participate in family dispute resolution; or

(iv) order costs or any other relief.

Information Note

Section 7-4 of *The King's Bench Act* defines "family dispute resolution".

Section 3-4 of *The King's Bench Regulations* defines the close of pleadings and prescribes the form to be used for the certificate of participation in family dispute resolution.

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Mandatory parenting education program

15-15(1) Each party to a family law proceeding involving child support or parenting must attend a parenting education program as defined in section 8-1 of *The King's Bench Act* unless:

(a) the Court has otherwise ordered; or

(b) both parties certify to the Court, in writing, that they have entered into a written agreement settling all issues between them respecting child support and parenting.

(2) A party who is required to attend a parenting education program pursuant to this rule and section 8.1 of *The King's Bench Act* must, before taking any further step in the family law proceeding, file a certificate of attendance with the Court that certifies that the party has attended a parenting education program within the preceding 2 years.

(3) If a party fails to attend a parenting education program as required, the Court may, on application:

(a) strike out the party's pleadings or other documents;

(b) refuse to allow the party to make submissions on an application or at trial; or

(c) order the party to attend a parenting education program within any time that the Court may specify and adjourn the application.

Information Note

Subsections 8-1(9) and (10) of *The King's Bench Act* identify circumstances in which the Court may, on application without notice:

(a) exempt a party from the requirement to attend a parenting education program; or

(b) postpone the requirement to attend a parenting education program.

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Subdivision 2
Petitions

Petition

15-16(1) Unless provided otherwise by enactment or by the rules in this Part, every family law proceeding pursuant to this Part must be commenced by the issue of a petition in Form 15-16.

(2) The petition:

(a) must be signed by the petitioner;

(b) must be signed and sealed by the local registrar; and

(c) on being signed and sealed, is deemed to be issued.

(3) The petition must bear the date on which it was issued.

(4) The original petition must be filed with the local registrar at the time of issuing.

(5) In a divorce proceeding, the petition must contain a statement by the petitioner certifying that the petitioner is aware of the petitioner's duties pursuant to sections 7.1 to 7.5 of the *Divorce Act*.

(6) If the petitioner is represented by a lawyer, there must be endorsed on a petition commencing:

(a) a divorce proceeding, a statement signed by the lawyer certifying that the lawyer has complied with section 7.7 of the *Divorce Act*;

(b) a proceeding pursuant to *The Children's Law Act, 2020*, a statement signed by the lawyer certifying that the lawyer has complied with subsection 20(1) of that Act;

(c) a proceeding pursuant to *The Family Maintenance Act, 1997*, a statement signed by the lawyer certifying that the lawyer has complied with subsection 16(1) of that Act;

(d) a proceeding pursuant to *The Family Property Act*, a statement signed by the lawyer certifying that the lawyer has complied with subsection 44.1(1) of that Act.

Joining a claim with other claims in a petition

15-17(1) A claim for a remedy pursuant to this Part, including a claim pursuant to the *Divorce Act*, may be joined with a claim for any other remedy that may be sought pursuant to this Part whether as an additional remedy or in the alternative.

(2) On application, the Court may direct that a claim that, on its own, would not be the subject matter of a family law proceeding may be continued in a family law proceeding if the claim is related to or connected with any remedy sought in that proceeding.

(3) Unless the Court determines otherwise, a petition has the effect of raising all issues concerning or in any way relating to the matters for which a remedy is specifically sought notwithstanding that an issue is not specifically referred to in the petition, and the Court may make any judgment or order that the justice of the case may require.

Proof of marriage

15-18(1) If a family law proceeding is for divorce, judicial separation or nullity of marriage, the petitioner must file with the petition:

(a) a certificate of marriage; or

(b) a certificate of registration of marriage.

(2) Notwithstanding subrule (1), if a remedy is urgently required, the Court, on an application without notice, may permit a petition to be issued without filing a certificate of marriage or a certificate of registration of marriage if the petitioner files an undertaking to file that certificate within a period specified by the Court.

(3) If it is impossible or impractical to obtain a certificate of marriage or a certificate of registration of marriage, the petitioner may apply without notice for an order dispensing with production of that certificate.

Answer

15-19(1) Unless the Court orders otherwise, a respondent who wishes to oppose a claim made in the petition shall serve and file an answer in Form 15-19A:

(a) within 30 days after service of the petition in Canada or in the United States of America; or

(b) within 60 days after service of the petition outside Canada or the United States of America.

(2) Notwithstanding subrule (1), an answer may be served and filed at any time before the family law proceeding is noted for default.

(3) The answer must be signed by the respondent.

(4) In a divorce proceeding, the answer must contain a statement by the respondent certifying that the respondent is aware of the respondent's duties pursuant to sections 7.1 to 7.5 of the *Divorce Act*.

(5) If the respondent is represented by a lawyer, there must be endorsed on the answer opposing:

(a) a divorce proceeding, a statement signed by the lawyer certifying that the lawyer has complied with section 7.7 of the *Divorce Act*;

(b) a proceeding pursuant to *The Children's Law Act, 2020*, a statement signed by the lawyer certifying that the lawyer has complied with subsection 20(1) of that Act;

(c) a proceeding pursuant to *The Family Maintenance Act, 1997*, a statement signed by the lawyer certifying that the lawyer has complied with subsection 16(1) of that Act;

(d) a proceeding pursuant to *The Family Property Act*, a statement signed by the lawyer certifying that the lawyer has complied with subsection 44.1(1) of that Act.

(6) A respondent who intends to oppose the family law proceeding may serve and file a notice of intent to answer in Form 15-19B within the time prescribed for service of the answer.

(7) On serving and filing a notice of intent to answer, the respondent is entitled to an additional 10 days from the time for serving and filing set out in subrule (1) within which to serve and file an answer.

Counter-petition

15-20(1) A respondent who claims any remedy against the petitioner, other than dismissal of the proceeding, with or without costs, shall claim that remedy by serving and filing a counter-petition.

(2) An answer and counter-petition must be:

(a) in one document in Form 15-20; and

(b) signed by the respondent.

(3) A respondent may commence a counter-petition by serving an answer and counter-petition on the petitioner and filing it in the Court within the time prescribed for service of an answer.

(4) Except as modified in this rule, the rules of this Part relating to a petition apply to a counter-petition.

Demand for notice

15-21(1) A respondent who does not oppose the claims made in the petition may serve and file a demand for notice in Form 15-21.

(2) The petitioner may proceed against a respondent who has served and filed a demand for notice as if that respondent had failed to serve and file an answer, but shall serve on that respondent notice of all subsequent pleadings and proceedings.

Reply

15-22(1) If allegations in the answer or in the answer and counter-petition require further pleading, the petitioner shall serve and file a reply in Form 15-22 within 10 days after service of the answer or the answer and counter-petition, as the case may be.

(2) In the case of a counter-petition, the reply constitutes the answer to the counter-petition.

Noting for default

15-23(1) If a respondent fails to serve and file an answer within the prescribed period, the petitioner may, on filing proof of service of the petition, require the local registrar to note the default of that respondent.

(2) After default has been noted, the respondent shall not serve and file an answer without:

(a) the consent of the petitioner; or

(b) leave of the Court.

Subdivision 3
Corollary Relief Proceedings – Divorce Act

Application for corollary relief

15-24(1) A former spouse who wishes to commence a corollary relief proceeding shall do so by serving and filing an application for corollary relief in Form 15-24.

(2) If both former spouses jointly commence a corollary relief proceeding:

(a) the application shall be signed by both of them;

(b) the application need not be served on either party; and

(c) the judgment granting the divorce shall be exhibited to their joint affidavit.

(3) An application for corollary relief must:

(a) be signed by the applicant; and

(b) contain a statement by the applicant certifying that the applicant is aware of the applicant's duties pursuant to sections 7.1 to 7.5 of the *Divorce Act*.

(4) If the applicant under an application for corollary relief is represented by a lawyer, there must be endorsed on the application a statement signed by the lawyer certifying that the lawyer has complied with section 7.7 of the *Divorce Act*.

(5) There shall be not less than 45 days and not more than 90 days between the service of an application for corollary relief and the return date set out in the application.

(6) Evidence filed in support of an application for corollary relief must:

(a) comply with rule 15-83 in the case of an application for a parenting order;

(b) comply with rule 15-84 in the case of an application for a spousal support order; and

(c) comply with rule 15-85 in the case of an application for a child support order.

(7) Every affidavit filed in support of an application for corollary relief must be served with the application.

Answer

15-25(1) A party who wishes to oppose an application for corollary relief shall serve and file an answer in Form 15-25 setting out the reasons for opposing the application.

(2) An answer in response to an application for corollary relief must contain a statement by the respondent certifying that the respondent is aware of the respondent's duties pursuant to sections 7.1 to 7.5 of the *Divorce Act*.

(3) If the respondent is represented by a lawyer, there must be endorsed on the answer a statement signed by the lawyer certifying that the lawyer has complied with section 7.7 of the *Divorce Act*.

(4) An answer in response to an application for corollary relief must be served and filed at least 14 days before the date set for hearing the application.

(5) Every affidavit filed in response to an application for corollary relief must be served with the answer.

Information Note

An application for corollary relief pursuant to the *Divorce Act* to obtain a support order against a former spouse may be made pursuant to section 15.1 (child support) or section 15.2 (spousal support) of that Act. If the application for corollary relief is to obtain a support order against a former spouse who resides outside Saskatchewan but within Canada, regard should be had to section 18.1 of the *Divorce Act* whereby the application for corollary relief may be submitted to the designated authority for Saskatchewan in accordance with subsection 18.1(3) of that Act. If the application is made pursuant to section 18.1 of the *Divorce Act*, the designated authority for Saskatchewan will send the application to the designated authority for the province or territory where the former spouse resides to coordinate service of the application on the former spouse, and the application will be determined by the court there.

Subdivision 4
Applications for Variation of Final Orders

Application for variation

15-26(1) A person who wishes to commence an application for variation of a final parenting order, contact order or support order shall do so by serving and filing an application for variation of a final order in Form 15-26.

(2) An application for variation must be signed by the applicant.

(3) If the application made pursuant to subrule (1) seeks to vary a final order made pursuant to the *Divorce Act*, the application must contain a statement by the applicant certifying that the applicant is aware of the applicant's duties pursuant to sections 7.1 to 7.5 of the *Divorce Act*.

(4) If the applicant under an application for variation of a final order is represented by a lawyer, there must be endorsed on the application commencing:

(a) a divorce proceeding, a statement signed by the lawyer certifying that the lawyer has complied with section 7.7 of the *Divorce Act*;

(b) a proceeding pursuant to *The Children's Law Act, 2020*, a statement signed by the lawyer certifying that the lawyer has complied with subsection 20(1) of that Act;

(c) a proceeding pursuant to *The Family Maintenance Act, 1997*, a statement signed by the lawyer certifying that the lawyer has complied with subsection 16(1) of that Act.

(5) There shall be not less than 45 days and not more than 90 days between the service of an application for variation of a final order and the return date set out in the application.

Affidavit in support

15-27 An affidavit in support of an application for variation of a final parenting order, contact order or support order must set out, if applicable:

(a) the place where the parties and the children ordinarily reside;

(b) the name and birth date of every child of each of the parties in the care of either party;

(c) whether a party has married or begun living with another person;

(d) details of current parenting arrangements;

(e) details of current support arrangements, including details of any unpaid support;

(f) details of the current financial circumstances of the parties, with a financial statement in Form 15-47, when required by Division 4 of this Part, completed by the party applying for variation;

(g) details of the variation asked for and of the changed circumstances that are grounds for a variation of the final order;

(h) details of any efforts made to mediate or settle the issues and of any parenting assessment;

(i) on an application for variation of a final support order, whether the support was assigned and any details of the assignment known to the party asking for the variation; and

(j) any other supporting affidavit material or other evidence that may be necessary or relevant.

Copies of documents required

15-28(1) A certified copy of each of the following must be filed in support of an application for variation of a final parenting order, contact order or support order:

(a) any existing order that deals with parenting or support;

(b) if the order sought to be varied was granted in a divorce proceeding by a court outside Saskatchewan, the original pleadings.

(2) A copy of any existing agreement that deals with parenting or support must be exhibited to the affidavit in support of an application for variation of a final order.

(3) For the purposes of this rule, a document that has previously been filed with the Court need not be filed or exhibited to the affidavit in support of the application if the affidavit:

(a) identifies the document;

(b) states that the document is on the Court file; and

(c) states the date on which the order was made or the document was filed.

Answer

15-29(1) A party who wishes to oppose an application for variation of a final parenting order, contact order or support order shall serve and file an answer in Form 15-29 setting out the reasons for opposing the application.

(2) An answer in response to an application for variation of a final parenting order, contact order or support order made pursuant to the *Divorce Act* must contain a statement by the respondent certifying that the respondent is aware of the respondent's duties pursuant to sections 7.1 to 7.5 of the *Divorce Act*.

(3) If the respondent under an application for variation of a final order is represented by a lawyer, there must be endorsed on the answer if the application is:

(a) a divorce proceeding, a statement signed by the lawyer certifying that the lawyer has complied with section 7.7 of the *Divorce Act*;

(b) a proceeding pursuant to *The Children's Law Act, 2020*, a statement signed by the lawyer certifying that the lawyer has complied with subsection 20(1) of that Act;

(c) a proceeding pursuant to *The Family Maintenance Act, 1997*, a statement signed by the lawyer certifying that the lawyer has complied with subsection 16(1) of that Act.

(4) An answer in response to an application for variation of a final order must be served and filed at least 14 days before the date set for hearing the application.

(5) An affidavit filed in response to an application for variation of a final order must be served with the answer.

Information Note

If an application is made in Saskatchewan pursuant to clause 17(1)(a) of the *Divorce Act* to vary a final order of support and the respondent to the application habitually resides outside Saskatchewan but within Canada, pursuant to section 18.2 of the *Divorce Act* the respondent may, within 40 days after being served with the application, file a request in Form 15-110 requesting that the application be converted to an application pursuant to subsection 18.1(3) of the *Divorce Act*. If the application is converted to an application pursuant to section 18.1 of the *Divorce Act*, the Court will send the application to the designated authority for the province or territory where the respondent resides, to be determined by the court there.

Local registrar to forward order – *Divorce Act*

15-30 If the Court varies a corollary relief order made pursuant to the *Divorce Act* by a court outside Saskatchewan, the local registrar shall forward a certified copy of the variation order to:

(a) the court that made the original order; and

(b) any other court that has varied the original order.

DIVISION 3
Applications to the Court in Family Law Proceedings

Subdivision 1
Applications Generally

Applications generally

15-31 This Division:

(a) applies to every application filed in the Court in the course of a family law proceeding with respect to which a commencement document has been filed, unless a rule or an enactment provides otherwise or unless the Court orders or permits otherwise; and

(b) does not apply to matters in which the application is a document commencing a family law proceeding.

Subdivision 2
Applications with Notice

Applications with notice

15-32(1) All applications must be by notice of application (family law proceeding) in Form 15-32 except where otherwise specifically provided.

(2) If pursuant to any enactment an application may be made to the Court or to a judge, the application must be by notice of application (family law proceeding) in Form 15-32 unless the enactment or these rules provide otherwise.

(3) In all applications, any pleading on file in the office of the local registrar may be used and taken as evidence of the pleading, unless proven otherwise.

(4) Subject to the other rules of this Part, every notice of application must, at a minimum, set out all of the following:

(a) the precise relief or remedy sought;

(b) the grounds to be argued, including a reference to any section of an enactment or rule to be relied on;

(c) a list of the documentary evidence to be used at the hearing of the application.

(5) Except where otherwise specifically provided, a notice of application (family law proceeding), supporting affidavits and draft order must be served on each of the other parties, and filed, at least 14 days before the date set for hearing the application.

Subdivision 3
Applications without Notice

Applications without notice

15-33(1) If an enactment or these rules provide that an application may be made without notice, or if the Court is satisfied that a delay caused by proceeding in the ordinary way would be contrary to the interests of justice or would result in serious mischief, the Court may make an order without notice on any terms it considers appropriate, and subject to any undertaking that the Court considers just.

(2) Any party affected by an order mentioned in subrule (1) may move to set it aside or to vary it.

Procedure on applications without notice

15-34(1) Every application without notice (family law proceeding) must be in Form 15-34 that sets out all of the following:

(a) the special provision authorizing the application to be made without notice;

(b) the precise relief or remedy sought;

(c) a statement that either:

(i) sets out that none of the opposite parties is, to the knowledge of the applicant, represented by a lawyer; or

(ii) if any of the opposite parties is, to the knowledge of the applicant, represented by a lawyer, sets out the name of the lawyer representing the opposite party;

(d) citations of all the following authorities relied on:

(i) the short titles, chapter numbers and section numbers of enactments;

(ii) rule numbers;

(iii) complete citations of cases with designation of relevant passages.

(2) The applicant must file, together with the application without notice, a draft order setting out the precise relief or remedy sought.

Information Note

Many judges, in exercising their discretion respecting applications without notice, will require some form of notice be given to the opposite party or, if represented, to the opposite party's lawyer.

Subdivision 4
Appearance Day Notices

When appearance day application is appropriate

15-35 A party may make an appearance day application if the only remedy being sought is to require another party to comply with these rules respecting the conduct of a proceeding.

Appearance day notice

15-36(1) A party may make an appearance day application by serving and filing an appearance day notice (family law proceeding).

(2) Unless the Court permits otherwise, an appearance day notice must:

(a) be in Form 15-36;

(b) briefly describe the proposed order or direction sought and the reason for the application;

(c) refer to any provision of an enactment or rule relied on;

(d) contain a representation that the application can be heard and determined in less than 30 minutes;

(e) be signed by the applicant or the applicant's lawyer; and

(f) be accompanied by a draft order setting out the precise relief or remedy sought.

(3) An appearance day notice, supporting affidavits and draft order must be served on each of the other parties, and filed, at least 14 days before the date set for hearing the application.

How appearance day application is to be dealt with

15-37(1) Appearance day applications will be scheduled to commence 30 minutes before the time chambers is scheduled to commence and shall be heard by telephone.

(2) The parties to an appearance day application must be available by telephone when the appearance day application is scheduled to commence and remain available until the application is heard.

Evidence

15-38(1) A party may make representations to the judge on the appearance day of a fact that could not reasonably be contested.

(2) Representations may be made in the appearance day notice and expanded on in oral submissions to the judge when the application is heard.

(3) The judge may act on the representations.

Disposition of appearance day application

15-39 After the hearing of an appearance day application, the judge may:

(a) if satisfied that there is no relevant fact that may reasonably be contested, make any order that the circumstances require; or

(b) if not satisfied that it is appropriate to deal with the application pursuant to this subdivision, order that the application be heard in general chambers, in which case the general application rules apply.

Subdivision 5
Applications for Procedural Matters

Applications for procedural matters

15-40(1) Applications made for purely procedural matters must be in Form 15-40.

(2) The party bringing an application pursuant to this rule shall serve with the application:

(a) a copy of each affidavit on which the party intends to rely at the hearing; and

(b) a draft order setting out the precise relief or remedy sought.

(3) An application for a procedural matter, supporting affidavits and draft order must be served on each of the other parties, and filed, at least 3 days before the date set for hearing the application.

Subdivision 6
Applications for Substantive Interim Relief

Application for substantive interim relief

15-41(1) An application for substantive interim relief must be in Form 15-41.

(2) The party bringing an application pursuant to this rule shall serve with the application:

(a) a copy of each affidavit on which the party intends to rely at the hearing; and

(b) a draft order setting out the precise relief or remedy sought.

(3) Subject to an order granted pursuant to subrule (6) abridging the time for service, an application for substantive interim relief, supporting affidavits and draft order must be served on each of the other parties, and filed, at least 14 days before the date set for hearing the application.

(4) Notwithstanding subrule (3):

(a) if the application claims interim spousal support, there must be at least 37 days between the date of service of the document commencing a family law proceeding and the date set for hearing the application; or

(b) if the application claims interim child support, there must be at least 37 days between the date set for hearing the application and:

(i) the date on which written notice was given pursuant to subsection 25(1) of the guidelines; or

(ii) the date of service of the document commencing a family law proceeding.

(5) If all parties consent to an earlier date for hearing the application, the application may be heard on the earlier date.

(6) An application without notice for leave to abridge the time for service of an application for substantive interim relief must be brought before service of the application for substantive interim relief, and any order that is obtained must be served with the application for substantive interim relief.

(7) A party who wishes to oppose a claim made in the application shall:

(a) serve a copy of each affidavit on which that party intends to rely at the hearing on every other party to the application; and

(b) file the affidavits, with proof of service, at least 7 days before the date set for hearing the application.

(8) The party bringing the application may then serve an affidavit replying only to any new matters raised by the opposite party, and shall file the affidavit, with proof of service, at least 2 clear days before the date set for hearing the application.

(9) No additional affidavits may be relied on without leave of the Court.

(10) An affidavit filed in contravention of this rule may be struck and costs awarded against the party filing it.

(11) If any new matters are raised by the party bringing the application in the affidavit in reply without the leave of the Court:

(a) those matters may be disregarded; and

(b) costs may be awarded against the party filing the affidavit.

(12) If there is or may be a dispute as to the facts on the hearing of an application, a judge may, before or on the hearing:

(a) order that the application be heard on oral evidence, either alone or with any other form of evidence; and

(b) give directions relating to pre-hearing procedure and the conduct of the proceeding.

Subdivision 7
Applications for Judgment in Uncontested Matters

Application for judgment in uncontested matter

15-42(1) An application for judgment in an uncontested family law proceeding or in an uncontested divorce proceeding must be:

(a) in Form 15-76A when permitted by these rules to be made without notice; and

(b) in Form 15-76B when the application is to be made with notice.

(2) Division 6, Subdivision 1 of this Part applies to all applications in uncontested family law proceedings and uncontested divorce proceedings.

Subdivision 8
Applications for Summary Judgment

Application for summary judgment

15-43(1) An application for summary judgment in a family law proceeding must be in Form 15-43.

(2) Division 6, Subdivision 2 of this Part applies to all applications for summary judgments in family law proceedings.

Subdivision 9
Applications for Variation of Interim Orders

Application for variation of interim order

15-44(1) An application for the variation of an interim order must be in Form 15-44.

(2) Subrules 15-41(2) to (12) apply, with any necessary modification, to this rule.

Subdivision 10
Applications for which no Document Commencing a Family Law Proceeding is Required

Application for which no document commencing a family law proceeding is required

15-45(1) If a person seeks an order from the Court in a family law proceeding in which no document commencing a family law proceeding has been filed or is required, the person shall serve on all interested parties and file with the Court, with proof of service, a notice of application (family law proceeding) in Form 15-32 setting out the precise relief or remedy sought.

(2) Applications that may be made pursuant to subrule (1) include, but are not restricted to, the following:

(a) applications for directions;

(b) applications for declaratory orders;

(c) applications pursuant to *The International Child Abduction Act, 1996* (Division 12 of this Part).

Subdivision 11
Affidavits in Support of Applications

Affidavit evidence

15-46(1) An affidavit must be confined to the statement of facts within the personal knowledge of the person signing the affidavit, except where this rule provides otherwise.

(2) An affidavit must not contain:

(a) argument;

(b) speculation;

(c) opinion;

(d) any matter that is scandalous;

(e) any matter that is irrelevant, that may delay the trial or make it difficult to have a fair trial, or that is unnecessary or an abuse of the Court process.

(3) An affidavit may, in special circumstances, contain information that the person learned from someone else if:

(a) the application on which the affidavit will be used is for an interim order, or for a matter that will not determine the final outcome of the family law proceeding except as permitted by subrule 15-89(4); and

(b) the source of the information is identified by name, the affidavit states that the person signing it believes the information is true and the circumstances that justify the use of information learned from someone else are stated.

(4) If an affidavit does not comply with this rule, the Court may, on its own motion or on the application of a party:

(a) strike out all or part of that affidavit; and

(b) award costs against the party filing the affidavit or that party's lawyer.

(5) If an affidavit or part of an affidavit has been struck pursuant to this rule, an opposing party who has filed an affidavit in response to the offending material may be awarded double costs of filing that affidavit.

(6) Part 13, Division 4, Subdivision 2 applies, with any necessary modification, to this rule.

DIVISION 4
Financial Disclosure

Subdivision 1
Financial Statements

Support claim - when financial statement required

15-47(1) Subject to the exceptions set out in rule 15-48, if a document commencing a family law proceeding contains a claim for child support or spousal support, or for variation of child support or spousal support, the petitioner shall serve and file a financial statement in Form 15-47 with the document commencing a family law proceeding.

(2) The party against whom a claim for support or for variation of support is made shall serve and file a financial statement in Form 15-47 with the answer.

(3) If a document commencing a family law proceeding does not contain a claim for support or for variation of support but the respondent claims support or a variation of support by way of counter-petition, the respondent shall serve and file a financial statement in Form 15-47 with the answer and counter-petition.

(4) The party against whom an answer and counter-petition is made pursuant to subrule (3) shall serve and file a financial statement in Form 15-47:

(a) with the reply; or

(b) if no reply is filed, within 10 days after being served with the answer and counter-petition.

(5) When a party is required pursuant to this Division to serve and file a financial statement, the party shall attach to the financial statement the income information required by the guidelines.

(6) The Court on application without notice may permit an application for an interim remedy to be brought before a financial statement is filed if:

(a) the remedy is urgently required; and

(b) the Court receives from the party bringing the application for an interim remedy an undertaking to serve and file the required financial statement within a time specified by the Court.

(7) Unless the Court orders otherwise, a local registrar shall not accept any of the following documents for filing without a financial statement if these rules require the document to be filed with a financial statement:

(a) a document commencing a family law proceeding;

(b) an answer;

(c) an answer and counter-petition;

(d) a reply.

(8) The Court on application without notice may permit the issuing or filing of a document mentioned in subrule (7) without the filing of a financial statement if:

(a) the filing of the document mentioned in subrule (7) is urgently required; and

(b) the Court receives from the party bringing the application without notice an undertaking to serve and file the required financial statement within a time specified by the Court.

Support claim - when financial statement not required

15-48(1) In the case of a claim for spousal support, a financial statement does not need to be served or filed if the parties have:

(a) agreed on the remedy to be granted; and

(b) filed a waiver of financial statements in Form 15-48A.

(2) In the case of a claim for child support or for variation of child support, a financial statement does not need to be served or filed if the parties have filed the following with the Court:

(a) an agreement as to child support in Form 15-48B:

(i) endorsed by each party either by the party's lawyer, or personally with an affidavit of execution;

(ii) agreeing on the amount to be paid for child support; and

(iii) agreeing on the annual income of each party who would be required to provide income information under the guidelines;

(b) as attachments to the agreement mentioned in clause (a), but subject to clause (c):

(i) a copy of the most recent personal income tax return filed by the payor, together with a copy of the payor's most recent income tax notice of assessment or reassessment; and

(ii) a copy of the most recent personal income tax return filed by the recipient, together with a copy of the recipient's most recent income tax notice of assessment or reassessment, if:

(A) there is to be shared or split parenting time;

(B) special or extraordinary expenses are to be shared; or

(C) the amount of child support agreed to differs from the table amount set out in the guidelines;

(c) if any of the documents mentioned in clause (b) are not available, an affidavit explaining why the documents are not available and providing evidence to satisfy the Court that:

(i) the amount of income of the payor or the recipient, as the case may be, is reasonable; and

(ii) the amount of child support agreed to by the parties is reasonable.

(3) If the only financial claim made by a party is for child support in the table amount under the guidelines, a financial statement does not need to be served or filed by the party making the claim.

Information Note

On an application for divorce, if there are children of the marriage, the Court has a duty pursuant to clause 11(1)(b) of the *Divorce Act* to satisfy itself that reasonable arrangements have been made for the support of each child of the marriage. Rules 15-85 and 15-101 identify the basic financial information that the Court will require to satisfy the reasonable arrangements requirement. However, on occasion, the Court may require additional financial information to be filed.

Subdivision 2
Property Statements

Property claim – when property statement required

15-49(1) Subject to the exceptions set out in rule 15-50, if a document commencing a family law proceeding contains a property claim, the petitioner shall serve and file a property statement in Form 15-49 with the document commencing a family law proceeding.

(2) The party against whom a property claim is made shall serve and file a property statement in Form 15-49 with the answer.

(3) If a document commencing a family law proceeding does not contain a property claim but the respondent makes a property claim by way of counter-petition, the respondent shall serve and file a property statement in Form 15-49 with the answer and counter-petition.

(4) The party against whom an answer and counter-petition is made pursuant to subrule (3) shall serve and file a property statement in Form 15-49:

(a) with the reply; or

(b) if no reply is filed, within 10 days after being served with the answer and counter-petition.

(5) The Court on application without notice may permit an application for an interim remedy to be brought before a property statement is filed if:

(a) the remedy is urgently required; and

(b) the Court receives from the party bringing the application for an interim remedy an undertaking to serve and file the required property statement within a time specified by the Court.

(6) Unless the Court orders otherwise, a local registrar shall not accept any of the following documents for filing without a property statement if these rules require the document to be filed with a property statement:

(a) a document commencing a family law proceeding;

(b) an answer;

(c) an answer and counter-petition;

(d) a reply.

(7) The Court on application without notice may permit the issuing or filing of a document mentioned in subrule (6) without the filing of a property statement if:

(a) the filing of the document mentioned in subrule (6) is urgently required; and

(b) the Court receives from the party bringing the application without notice an undertaking to serve and file the required property statement within a time specified by the Court.

Property claim – when property statement not required

15-50 In the case of a property claim, a property statement does not need to be served or filed if the parties have:

(a) agreed on the remedy to be granted; and

(b) filed a waiver of property statements in Form 15-50.

Subdivision 3
Notice to File a Financial Statement

Support claim – income information required

15-51(1) If a petition, answer and counter-petition or other document commencing a family law proceeding contains a claim for support or for variation of support:

(a) the party making the claim shall serve and file, with the document asserting the claim:

(i) a notice in Form 15-51 to file a financial statement; and

(ii) if the income information of the party making the claim is required by the guidelines, the party's financial statement in Form 15-47, together with the income information required by the guidelines;

(b) the party against whom the claim is made shall serve and file, with the document in response to the claim, a notice in Form 15-51 to file a financial statement if:

(i) that response raises an issue that requires the party making the claim to file income information pursuant to the guidelines; and

(ii) the party making the claim has not previously served and filed a financial statement in Form 15-47, together with the income information required by the guidelines.

(2) A party served with a notice in Form 15-51 to file a financial statement shall serve and file the party's financial statement in Form 15-47, together with the income information required by the guidelines, within:

(a) 30 days after service if the party resides in Canada or the United States of America; or

(b) 60 days after service if the party resides outside Canada or the United States of America.

Subdivision 4
Notice to Disclose

Notice to disclose

15-52(1) In a family law proceeding, if financial statements or property statements are required pursuant to this Division, a party may serve a notice to disclose in Form 15-52:

(a) once without leave; and

(b) at any other time with leave of the Court or written consent of the opposite party.

(2) Information requested in a notice to disclose must be limited to existing documents in the control of the opposite party.

(3) On being served with a notice to disclose, the opposite party shall serve the information requested within 30 days after service of that notice.

(4) If the opposite party objects to disclosing any of the information requested in a notice to disclose, that party shall:

(a) make the objection in writing, setting out the reason for the objection; and

(b) serve the objection, together with the information which that party does not object to disclosing, within the time for service set out in subrule (3).

Subdivision 5
Notice to Reply to Written Questions

Notice to reply to written questions

15-53(1) In a family law proceeding, if financial statements or property statements are required pursuant to this Division, a party may serve a notice to reply to written questions in Form 15-53, setting out a maximum of 25 singular questions relating to financial or property information:

(a) once without leave; and

(b) at any other time with leave of the Court or written consent of the opposite party.

(2) On being served with a notice to reply to written questions, the opposite party shall answer the questions in the form of an affidavit served within 30 days after service of that notice.

(3) If the opposite party objects to answering a question asked in a notice to reply to written questions, that party shall:

(a) make the objection in writing, setting out the reason for the objection; and

(b) serve the objection, together with the affidavit answering those questions which that party does not object to answering, within the time for service set out in subrule (2).

(4) Without leave of the Court, no question asked in a notice to reply to written questions shall touch on the parenting of a child.

Subdivision 6
Questioning

Questioning

15-54(1) If applicable, but subject to subrule (2), Part 5, Division 2, Subdivision 3 respecting questions to discover documents and information relevant to any matter in issue applies to family law proceedings pursuant to this Part.

(2) Only with leave of the Court shall a party be questioned in accordance with this rule on matters touching on the parenting of a child.

Subdivision 7
General

Correcting information

15-55(1) If, during the course of a family law proceeding, a party discovers that information in the party's financial statement or property statement, or in a response the party gave to a notice to file income information, a notice to disclose or a notice to reply to written questions, or in any affidavit was incorrect or incomplete when made, or that there has been a material change in the information provided, the party shall immediately serve on every other party to the claim:

(a) the correct information or a new statement containing the correct information; and

(b) any documents substantiating the information.

(2) The correct information or a new statement containing the correct information is only to be filed with the Court if the original document requiring correction is on the Court file.

Updating financial statements and property statements

15-56 Each party shall update the information in any financial statement or property statement that is more than 60 days old by serving and filing a new financial statement or property statement, or an affidavit stating that the information in the last statement has not changed and is still true:

(a) at least 7 days before a hearing of an application or before a trial;

(b) at least 10 days before a pre-trial conference; or

(c) at least 15 days before a binding pre-trial conference.

Application for directions

15-57(1) If the response to a notice to disclose or to a notice to reply to written questions is not satisfactory, the party seeking disclosure may apply to the Court for an order directing further or better disclosure.

(2) If an objection has been made pursuant to rule 15-52 or 15-53, either party may apply to the Court to decide the validity of that objection.

Disclosure by non-parties

15-58(1) If the Court determines that section 9 or 10 of the guidelines applies to an application for child support, the Court, on application by a party, may make an order directing a person who resides with the opposite party to serve and file a financial statement, with Schedule 1 of the financial statement completed, if:

(a) the person has a legal duty to support the opposite party or the opposite party has a legal duty to support the person;

(b) the person shares living expenses with the opposite party or the opposite party otherwise receives an economic benefit as a result of living with the person; or

(c) the person has a child whom the person or the opposite party has a legal duty to support.

(2) The party bringing an application pursuant to subrule (1) shall:

(a) serve the application, and a copy of each affidavit on which the party intends to rely at the hearing, on:

(i) the opposite party; and

(ii) the person against whom the order is sought; and

(b) file the application and supporting affidavits, with proof of service, at least 14 days before the date set for hearing the application.

(3) For the purposes of subrule (1), the income tax information attached to the person's financial statement need only be for the most recent taxation year, unless the Court orders otherwise.

(4) If a party to a family law proceeding fails to make satisfactory disclosure after having been served with an order to serve and file a financial statement together with the income information required by the guidelines, an order to serve and file a property statement, an order to respond to a notice to disclose, an order to respond to a notice to reply to written questions, or any other order to respond that may have been issued by the Court, the Court, on application by the other party, may make an order:

(a) directing a person, including a corporation or government institution, to provide information in the person's custody or control that may be relevant to the issues before the Court; and

(b) giving any directions that may be appropriate.

(5) The party bringing an application pursuant to subrule (4) shall:

(a) serve the application, and a copy of each affidavit on which the party intends to rely at the hearing, on:

(i) the opposite party; and

(ii) the person against whom the order is sought; and

(b) file the application and supporting affidavits, with proof of service, at least 14 days before the date set for hearing the application.

(6) The party bringing an application pursuant to subrule (1) or (4) shall satisfy the Court that:

(a) the party has been unable to obtain the information by more informal methods;

(b) it would be unfair to require the party to proceed to trial without the information; and

(c) the disclosure requested:

(i) will not unduly delay the progress of the family law proceeding;

(ii) will not entail unreasonable expense for any person;

(iii) will not result in unfairness to the person against whom the order is sought; and

(iv) is not otherwise prohibited by law.

(7) The opposite party and the other person served with an application pursuant to subrule (1) or (4) shall each serve and file any response affidavit at least 7 days before the date set for hearing the application, setting out:

(a) any objection to providing the information sought;

(b) a list of the information that the opposite party or other person, as the case may be, is willing to provide, including a reasonable time line as to when the information will be provided; and

(c) any further and other evidence of the opposite party or other person, as the case may be, that may be necessary or relevant.

(8) The costs of providing the information requested and the costs of an application pursuant to this rule are in the discretion of the Court, and the Court may order that the costs be paid in favour of or against:

(a) either of the parties to the family law proceeding; or

(b) the other person ordered to provide the information.

Order where failure to disclose

15-59(1) If a party to a family law proceeding fails to serve and file a financial statement, together with the income information required by the guidelines, after having been served with a notice to file a financial statement, or fails to serve and file a property statement, or fails to serve a response to a notice to disclose or a notice to reply to written questions, as required by this Division, the Court, on application by the other party, may make an order:

(a) if child support is in issue, drawing an adverse inference against that party and imputing income to that party in the amount that the Court considers appropriate;

(b) directing payment of support in the amount that the Court considers appropriate;

(c) directing that, within the time specified, the party:

(i) serve and file a financial statement, together with the income information required by the guidelines;

(ii) serve and file a property statement;

(iii) serve the financial or property information requested in a notice to disclose; or

(iv) serve the answers requested in a notice to reply to written questions;

(d) granting any other remedy requested; or

(e) awarding costs, including costs up to an amount that fully compensates the other party for all costs incurred in the proceedings.

(2) If, on a notice to file a financial statement, a notice to disclose or a notice to reply to written questions, the party bringing the application is also seeking an immediate order pursuant to subrule (1) if the opposite party fails to respond to the application, the party's application must include an application for an order pursuant to subrule (1).

(3) If a party does not obey an order made pursuant to this Division, the Court may:

(a) dismiss that party's family law proceeding or answer;

(b) strike out any document filed by that party;

(c) make a contempt order against that party;

(d) order that any information that should have appeared on a financial statement or property statement may not be used by that party on the application or at trial; or

(e) make any other order that the Court considers appropriate.

DIVISION 5
Pre-Trial Conferences, Parenting Assessments and Mediation

Subdivision 1
Expedited Pre-Trial Conferences and Parenting Assessments

Expedited pre-trial conferences and parenting assessments

15-60(1) On an application by a party or on the judge's own initiative, a judge may adjourn a family law proceeding and:

(a) order a parenting assessment; or

(b) direct the issue to an expedited pre-trial conference.

(2) The expedited pre-trial conference must be scheduled within 30 days after the date of the order authorizing it and must be for the sole purpose of determining if a parenting assessment is warranted.

(3) Unless the Court orders otherwise, pre-trial briefs are not required for an expedited pre-trial conference pursuant to this rule.

(4) If a judge directs the issue of a parenting assessment to an expedited pre-trial conference, the judge presiding over the expedited pre-trial conference may order a parenting assessment.

(5) An order directing a parenting assessment may include the amount of any charge for the report that each party is required to pay.

(6) Immediately on its issue, the local registrar shall send the order for a parenting assessment, accompanied by parenting assessment instructions prepared by the judge presiding over the expedited pre-trial conference, to the person ordered to prepare the report.

(7) On an application without notice or on the judge's own initiative, the judge may order that a person who prepares a parenting assessment be called as a witness, and the petitioner shall arrange for the attendance of the witness.

(8) A witness ordered to be called pursuant to subrule (7) is:

(a) subject to cross-examination by any party; and

(b) deemed not to be a witness of any party.

Subdivision 2
Pre-Trial Conferences

Obtaining a date for pre-trial conference

15-61(1) On the close of the pleadings, the parties may request a pre-trial conference by filing with the local registrar a joint request in Form 15-61 that:

(a) contains a certificate of readiness;

(b) confirms that efforts at settlement have been made;

(c) sets out the estimated time required for the pre-trial conference and the trial; and

(d) estimates the number of witnesses to be called at the trial.

(2) If one of the parties neglects or refuses to join in a joint request, the party wishing to obtain a pre-trial conference may obtain from the local registrar a date for a pre-trial conference by filing:

(a) the information described in subrule (1) other than a joint request; and

(b) a certificate confirming that the opposite party was requested to execute a joint request but failed to do so within 20 days without stating any reason.

(3) If one of the parties refuses to join in a joint request, the party wishing to obtain a pre-trial conference may apply for an order scheduling a pre-trial conference date.

(4) The Court may fix the amount of the costs of an application made pursuant to subrule (3) and may order the unsuccessful party to the application to immediately pay those costs.

(5) The party obtaining a date for a pre-trial conference pursuant to subrule (3) shall immediately notify all other parties of the date, and, unless the Court orders otherwise, the pre-trial conference must proceed on that date.

(6) A trial judge or a chambers judge may, on the judge's own initiative, order a pre-trial conference to be held respecting any family law proceeding coming before the judge.

(7) The local registrar shall schedule a pre-trial conference date to ensure optimum use of court time, but shall endeavour to suit the convenience of the parties.

(8) The parties shall accept the date scheduled pursuant to subrule (7).

(9) If a pre-trial conference date has been scheduled, the party who commenced the family law proceeding shall immediately pay the required fee for setting down.

Purpose of pre-trial conference

15-62(1) The parties shall make a genuine attempt to settle the family law proceeding before a pre-trial conference.

(2) A pre-trial conference is not to replace normal negotiations between the parties.

(3) The goals of a pre-trial conference are:

(a) to allow the parties to participate in the problem-solving process;

(b) to allow the parties to receive the view of a judge as to the issues, both facts and law, in dispute, as far as the material before the judge allows;

(c) to allow settlement options to be presented that would not necessarily be available at trial;

(d) to seek settlement of the dispute so as to improve the efficiency of the court system and to save time and costs for all parties and witnesses.

(4) A pre-trial conference must be for the purpose of attempting to settle the family law proceeding, and if that is not possible, to consider:

(a) the identification and simplification of the issues;

(b) the necessity or desirability of amendments to the pleadings;

(c) the possibility of obtaining admissions that will facilitate the trial;

(d) whether all necessary steps have been taken in preparation for trial;

(e) the possibility of settlement of specific issues;

(f) the identification of an agreement on valuations of property;

(g) any other matters that may aid in the disposition of the family law proceeding;

(h) the actual trial time required; and

(i) the date for trial.

Pre-trial briefs

15-63(1) The parties shall file and exchange pre-trial briefs not later than 10 days before the date scheduled for pre-trial conference.

(2) Pre-trial briefs that are filed late or that are clearly inadequate may result in the pre-trial brief being struck and the pre-trial conference being adjourned, with an assessment of costs against the offending party or lawyer.

(3) Each pre-trial brief:

(a) must clearly state on the first page the name of the party on whose behalf it is filed;

(b) must include a concise summary of the evidence expected to be adduced;

(c) must include a concise statement of the issues in dispute and the law relating to those issues, together with a List of Authorities prepared in accordance with rule 13-38.1;

(d) must, if the division of family property is in issue, include a property schedule identifying:

(i) each item of family property available for division between the parties;

(ii) the value of each item of family property and the date of that value, if not the date of application;

(iii) the value of any exemption being claimed with respect to any item of family property;

(iv) the debts and liabilities of the parties and the value of each debt or liability to be taken into consideration in the division of family property;

(v) the distribution proposed for each item of family property, including exemptions and liabilities of each party and their allocation in the division of family property;

(vi) if applicable, any income tax consequences or other anticipated disposition costs associated with the proposed distribution of family property; and

(vii) the source from which the indicated value is derived if the value of an item of family property, an exemption claimed or a debt or liability to be allocated is not agreed to, and including copies of any statements and any appraisal reports that support the indicated value;

(e) must, if the parenting of children is in issue, include a proposed parenting plan, together with a proposal for decision-making responsibility with respect to the children;

(f) subject to subrule (5), must be accompanied by all documents, or legible copies of documents, intended to be used at trial that may be of assistance to the pre-trial judge in achieving the purposes of a pre-trial conference, including expert reports; and

(g) must be accompanied by a proposal for settlement of the issues involved in the family law proceeding, which may include admissions for the purpose of the pre-trial conference or other statements relating to the issues that the party may choose not to have available to the trial judge.

(4) All documents and copies filed pursuant to subrule (3) must, at the request of the party producing them, be returned to that party at the conclusion of the pre-trial conference.

(5) If the parties agree in writing that a productive pre-trial conference is possible without expert reports and that these reports are not critical to a valuation or other issue, the parties shall file the written agreement, and not the reports, with the pre-trial brief.

(6) If the family law proceeding is to go to trial after the conclusion of the pre-trial conference, the pre-trial briefs shall be returned to the parties, including any proposals submitted pursuant to clause (3)(g).

Information Note

Pursuant to rule 5-40, expert reports must be served 60 days before the date scheduled for the pre-trial conference, unless there is a written agreement.

Pursuant to rule 5-46, appraisal reports intended to be submitted in evidence must be served on every other party not less than 30 days before the date scheduled for a pre-trial conference.

Pursuant to rule 5-47, medical reports intended to be used at trial must be served on every other party not less than 30 days before the date scheduled for a pre-trial conference, unless there is a written agreement.

Participants

15-64(1) Unless the Court orders otherwise, every party shall appear with the party's lawyer, if any, at all pre-trial conferences.

(2) If a party is represented by a lawyer and wishes to dispense with the appearance of the party, the lawyer shall send a written request, with reasons, to the local registrar.

(3) The local registrar shall present the request mentioned in subrule (2) to the pre-trial judge, who may:

(a) refuse or grant the request without hearing from all parties to the family law proceeding;

(b) grant the request with conditions, including a requirement that the party must be available by conference telephone or immediately available for telephone communication; or

(c) order the request to proceed by way of application.

(4) Unless the Court orders otherwise, the lawyer representing a party at the pre-trial conference must be the lawyer who will be representing that party at the trial.

(5) A pre-trial judge may at any time request that any other person whose attendance may be of assistance be present at the pre-trial conference.

Use of transcript of questioning or affidavit in answer to written questions

15-65 The transcript of questioning pursuant to rule 15-54 and the affidavit in answer to written questions pursuant to rule 15-53:

(a) must be available for the use of the pre-trial judge; and

(b) at the conclusion of the pre-trial conference, must be resealed until trial.

Adjournment of pre-trial conference

15-66 A pre-trial conference may be adjourned from time to time at the discretion of the pre-trial judge.

Documents resulting from pre-trial conference

15-67(1) The only documents, if any, resulting from a pre-trial conference are to be:

(a) an agreement prepared by the parties and any other document necessary to implement the agreement;

(b) a consent order or consent judgment;

(c) an order for a parenting assessment, accompanied by parenting assessment instructions prepared by the judge presiding over the pre-trial conference, to the person ordered to prepare the report;

(d) an order for costs; and

(e) if the matter is to proceed to trial, the pre-trial conference report form that includes:

(i) matters agreed on by the parties;

(ii) issues of fact and law in dispute;

(iii) whether required documents were filed;

(iv) whether there have been or will be any pre-trial applications relevant to the trial;

(v) the estimated number of witnesses, including expert witnesses;

(vi) the estimated length of trial; and

(vii) whether summaries, books of exhibits or books of authorities will be provided by the parties to the trial judge.

(2) In the absence of an order pursuant to clause (1)(d), costs must be costs in the cause.

Confidentiality and use of information

15-68(1) A pre-trial conference is a confidential process intended to facilitate the resolution of a claim, or if that is not possible, to manage the action until trial.

(2) Unless the parties otherwise agree in writing, statements made or documents generated for or in the pre-trial conference with a view to resolving the dispute:

(a) are privileged and are made without prejudice;

(b) must be treated by the parties and participants in the process as confidential and may only be used for the purpose of the pre-trial conference; and

(c) may not be referred to, presented as evidence or relied on, and are not admissible in subsequent applications or proceedings in the action or in any other action, or in proceedings of a judicial or quasi-judicial nature.

(3) Subrule (2) does not apply to the documents referred to in rule 15-67.

Trial date

15-69 If the matter is to proceed to trial, the pre-trial judge shall direct the local registrar to schedule a date for trial.

Trial judge

15-70(1) A pre-trial judge shall not preside at the trial unless all parties and the judge consent in writing.

(2) This rule does not prevent or disqualify the trial judge from holding trial meetings subsequent to the pre-trial conference and before or during the trial, to consider any matter that may assist in the just, most expeditious or least expensive disposition of the family law proceeding.

Subdivision 3
Binding Pre-trial Conference

Definition

15-71 In this subdivision, **"binding pre-trial conference"** means a pre-trial conference in which, if settlement fails, the presiding judge may make a binding decision in accordance with the terms of the written agreement signed by the parties to the action and executed in accordance with rule 4-21.4.

Application of Part 4, Division 3, Subdivision 3

15-72 Part 4, Division 3, Subdivision 3 respecting binding pre-trial conferences applies, with any necessary modification, to family law proceedings.

Subdivision 4
Mediation

Application to appoint family mediator

15-73(1) An application to appoint a family mediator must be made by notice of application (family law proceeding) in Form 15-32.

(2) The notice of application must set forth the name and address of a proposed family mediator.

(3) The affidavit filed in support of the application must include:

(a) the addresses and telephone numbers of the parties and the family mediator;

(b) details of the family mediator's experience and qualifications, or the family mediator's curriculum vitae, exhibited to the affidavit;

(c) a copy of the family mediator's form of agreement, exhibited to the affidavit;

(d) details of the fees and expenses to be charged by the family mediator, unless this information is contained in the mediation agreement; and

(e) the consent of the family mediator to act, exhibited to the affidavit.

(4) If the other party opposes the appointment, that party shall:

(a) submit the name of an alternative to the proposed family mediator; and

(b) file an affidavit containing the information prescribed by subrule (3).

(5) An order appointing a family mediator must include:

(a) a requirement that the parties attend the initial mediation session at a date to be set by the family mediator;

(b) the amount of the family mediator's fees and expenses that each party is required to pay;

(c) a requirement that a fixed portion of the family mediator's fees be paid by a date to be set by the family mediator;

(d) a requirement that the family mediator report on the outcome of the mediation to the Court, in writing, by the date specified pursuant to clause (e);

(e) the date to which the application is to be adjourned, not to exceed 45 days other than in exceptional circumstances; and

(f) the names, addresses and telephone numbers of the parties, the family mediator and the lawyer for each party.

(6) Immediately on its issue, the local registrar shall send a copy of a mediation order to the family mediator.

(7) The report of the family mediator must set out:

(a) whether an agreement was reached;

(b) why mediation did not commence, if that is the case; or

(c) whether mediation should continue.

(8) All communications in the course of mediation are privileged and must not be admitted as evidence in any proceeding, except with the written consent of:

(a) all parties to the family law proceeding in which the family mediator was appointed; and

(b) the family mediator.

DIVISION 6
Resolving Claims Without a Full Trial

Subdivision 1
Uncontested Family Law Proceedings

Information Note

This subdivision sets out rules for applying for judgment in uncontested family law proceedings. Parties may apply for judgment, on an uncontested basis, claiming one or more remedies (divorce, parenting, child support, spousal support, property division, judicial separation or nullity of marriage) if:

(a) those claims have been set out in the document commencing a family law proceeding (see Rules 15-1 and 15-17 and Division 2, Subdivision 2 of this Part for information on preparing a document commencing a family law proceeding); and

(b) the documents, affidavit materials and other evidence filed in support of the application for judgment contain the information identified in the corresponding rules in this subdivision for those remedies.

Definition

15-74 For the purposes of this subdivision, **"uncontested family law proceeding"** includes an uncontested divorce proceeding and means a family law proceeding in which:

(a) the respondent has failed to serve and file an answer and the matter has been noted for default in accordance with rule 15-23;

(b) the answer or answer and counter-petition has been withdrawn or struck out; or

(c) the parties to the proceeding have endorsed their consent on the draft judgment or order, either:

(i) personally, with an affidavit of execution; or

(ii) by their lawyers.

Application of subdivision

15-75 This subdivision applies to all uncontested family law proceedings.

Form of application

15-76(1) Subject to subrule (2), an application for judgment in an uncontested family law proceeding or in an uncontested divorce proceeding is to be made without notice in Form 15-76A.

(2) The petitioner must serve and file an application for judgment in Form 15-76B if:

(a) the respondent has served and filed a demand for notice in accordance with rule 15-21; or

(b) the Court orders the application for judgment to be made with notice.

(3) An application for judgment in Form 15-76B, together with the documents, supporting affidavit materials and other evidence required to be filed pursuant to this subdivision, must be served and filed at least 14 days before the date set for hearing the application.

Affidavit in support

15-77 Unless the Court orders otherwise, in an uncontested family law proceeding, any information or evidence required to enable the Court to perform its duties, and the evidence required to prove the claim, must be presented by affidavit.

Application for judgment

15-78 In an uncontested family law proceeding, the following documents and other evidence must be filed with an application for judgment made without notice in Form 15-76A, or served and filed with an application for judgment made with notice in Form 15-76B:

(a) evidence to satisfy the Court that the respondent personally received a copy of the petition or evidence that the petition was served in accordance with an order of the Court;

(b) an affidavit of petitioner in Form 15-78 that sets forth:

(i) particulars of the grounds on which the claim is based and evidence to support the claim;

(ii) confirmation that all the facts and information contained in the petition continue to remain true and accurate, with corrections or subsequent changes noted; and

(iii) if costs are claimed, particulars of the amount and basis for the claim;

(c) any other supporting affidavit material or other evidence that may be required in the family law proceeding;

(d) a draft judgment in Form 15-102, modified for the precise relief or remedy sought on an uncontested basis;

(e) if child support is sought, a separate draft child support order, which must include the particulars required by subrule 15-97(4);

(f) 4 envelopes, approximately 4 inches by 9 inches:

(i) unless the Court orders otherwise, 2 of which are addressed to the respondent at the address given in the affidavit of service of the petition, or any other address that may satisfy the Court that a copy of the judgment will reach the respondent; and

(ii) 2 of which are addressed to the petitioner at the address for service provided by the petitioner.

Oral evidence

15-79 The Court may order that the supporting affidavit material or other evidence in an uncontested family law proceeding be presented orally at a hearing.

Judgment

15-80 In an uncontested family law proceeding, the judge may:

(a) grant a judgment without an appearance by any party or the lawyer for any party; or

(b) direct that any party or the lawyer for any party appear or that oral evidence be presented at a hearing.

Costs

15-81 The costs of an application for judgment in an uncontested family law proceeding are to be assessed as an application without notice, unless otherwise ordered by the Court.

Uncontested divorce judgment

15-82(1) If a petitioner applies for a divorce judgment in an uncontested family law proceeding, in addition to the documents, supporting affidavit materials and other evidence required to be filed pursuant to rule 15-78 and Division 10 of this Part, the petitioner shall file the following:

(a) an affidavit of petitioner in Form 15-78 that sets forth the following, in addition to the matters mentioned in clause 15-78(b):

(i) if no certificate of marriage or certificate of registration of marriage has been filed, sufficient particulars to prove the marriage;

(ii) evidence to satisfy the Court that there is no possibility of reconciliation of the spouses;

(iii) evidence to satisfy the Court that there has been no collusion;

(iv) the information about arrangements for the support of any children of the marriage required by the *Divorce Act*;

(v) the income and financial information required by the rules in this Part;

(vi) if a divorce is sought on the basis of separation, evidence that the spouses have lived separate and apart for at least 1 year immediately preceding the determination of the divorce proceeding and were living separate and apart at the commencement of the proceeding;

(vii) if a divorce is sought on the basis of adultery:

(A) evidence that there has been no condonation or connivance on the part of the petitioner with respect to the act or conduct complained of; and

(B) either:

(I) an affidavit of the respondent admitting adultery, in Form 15-82, with sufficient particulars to prove the adultery; or

(II) any other evidence that may satisfy the Court that the respondent has committed adultery;

(viii) if a divorce is sought on the basis of cruelty:

(A) evidence that there has been no condonation or connivance on the part of the petitioner with respect to the act or conduct complained of; and

(B) evidence that the conduct of the respondent has rendered continued cohabitation intolerable;

(ix) if no address for service of the respondent has been provided by the respondent or given in the affidavit of service, evidence to satisfy the Court of the present address of the respondent or evidence to satisfy the Court that service of the judgment on the respondent should be dispensed with;

(x) any other information necessary for the Court to grant the divorce;

(b) a draft certificate of divorce in Form 15-103 completed to the extent possible;

(c) any other document, supporting affidavit material or other evidence that may be necessary or relevant.

(2) If a petitioner does not apply for a divorce judgment in an uncontested family law proceeding based on separation, the respondent may apply for divorce judgment by serving and filing the following:

(a) an application for judgment in Form 15-76B requesting that the proceeding be determined on the basis of affidavit evidence;

(b) an affidavit of respondent in Form 15-78 that sets forth the matters mentioned in:

(i) clause (1)(a) of this rule; and

(ii) clause 15-78(b);

(c) any other document, supporting affidavit material or other evidence required pursuant to rule 15-78 and Division 10 of this Part or that may otherwise be required in the proceeding.

Uncontested parenting order

15-83 If a petitioner applies for a parenting order in an uncontested family law proceeding pursuant to the *Divorce Act* or *The Children's Law Act, 2020*, in addition to the documents, supporting affidavit materials and other evidence required to be filed pursuant to rule 15-78, the petitioner shall file the following:

(a) an affidavit of petitioner in Form 15-78 that sets forth the following, in addition to the matters mentioned in clause 15-78(b):

(i) if the petitioner is not a parent, evidence to satisfy the Court that the petitioner has a sufficient interest;

(ii) evidence of the following:

(A) the child's needs, given the child's age and stage of development, such as the child's need for stability;

(B) the nature and strength of the child's relationship with each parent, each of the child's siblings and grandparents and any other person who plays an important role in the child's life;

(C) each parent's willingness to support the development and maintenance of the child's relationship with the other parent;

(D) the history of care of the child;

(E) the child's views and preferences, by giving due weight to the child's age and maturity, unless they cannot be ascertained;

(F) the child's cultural, linguistic, religious and spiritual upbringing and heritage, including Indigenous upbringing and heritage;

(G) any plans for the child's care;

(H) the ability and willingness of each person with respect to whom the parenting order would apply to care for and meet the needs of the child;

(I) the ability and willingness of each person with respect to whom the parenting order would apply to communicate and cooperate, in particular with one another, on matters affecting the child;

(J) any family violence and its impact on, among other things:

(I) the ability and willingness of any person who engaged in the family violence to care for and meet the needs of the child; and

(II) the appropriateness of making a parenting order that would require persons with respect to whom the parenting order would apply to cooperate on issues affecting the child;

(K) any civil or criminal proceeding, order, condition or measure that is relevant to the safety, security and well-being of the child;

(iii) if the petition is for the appointment of a guardian of the property of a child, evidence of the ability of the proposed guardian to manage that property, the merits of the plan indicated by the proposed guardian for the care and management of the property, the personal relationship between the proposed guardian and the child, the wishes of the parents of the child and the views, if any, of the Public Guardian and Trustee;

(iv) the existence of any written agreements, parenting plans, deeds, wills or previous court orders applicable to the order sought, with copies exhibited;

(b) if the petition is for the appointment of a guardian of the property of a child who is 12 years of age or older, the consent of the child;

(c) any other document, supporting affidavit material or other evidence that may be necessary or relevant.

Uncontested spousal support order

15-84 If a petitioner applies for a spousal support order in an uncontested family law proceeding pursuant to the *Divorce Act* or *The Family Maintenance Act, 1997*, in addition to the documents, supporting affidavit materials and other evidence required to be filed pursuant to rule 15-78, the petitioner shall file the following:

(a) an affidavit of petitioner in Form 15-78 that sets forth, in addition to the matters mentioned in clause 15-78(b), evidence of the condition, means, needs and other circumstances of each spouse, including:

(i) the age and the physical and mental health of the spouses;

(ii) the length of time the spouses cohabited and the measures available for the dependent spouse to become financially independent and the length of time and cost involved to enable the dependent spouse to take those measures;

(iii) the legal obligation of either spouse to provide maintenance for any other person;

(iv) the income and financial information required by the rules in this Part; and

(v) the existence of any written agreement or previous Court order applicable to the order sought, with a copy exhibited;

(b) any other document, supporting affidavit material or other evidence that may be necessary or relevant.

Uncontested child support order

15-85 If a petitioner applies for a child support order in an uncontested family law proceeding pursuant to the *Divorce Act* or *The Family Maintenance Act, 1997*, in addition to the documents, supporting affidavit materials and other evidence required to be filed pursuant to rule 15-78, the petitioner shall file an affidavit of petitioner in Form 15-78 that sets forth, in addition to the matters mentioned in clause 15-78(b):

(a) all income information of the parties required by the guidelines; or

(b) the following:

(i) an agreement as to child support in Form 15-48B:

(A) endorsed by each party either by the party's lawyer, or personally with an affidavit of execution;

(B) agreeing on the amount to be paid for child support; and

(C) agreeing on the annual income of each party who would be required to provide income information under the guidelines;

(ii) as attachments to the agreement mentioned in subclause (i), but subject to subclause (iii):

(A) a copy of the most recent personal income tax return filed by the payor, together with a copy of the payor's most recent income tax notice of assessment or reassessment; and

(B) a copy of the most recent personal income tax return filed by the recipient, together with a copy of the recipient's most recent income tax notice of assessment or reassessment, if:

(I) there is to be shared or split parenting time;

(II) special or extraordinary expenses are to be shared; or

(III) the amount of child support agreed to differs from the table amount set out in the guidelines;

(iii) if any of the documents mentioned in subclause (ii) are not available, an affidavit explaining why the documents are not available and providing evidence to satisfy the Court that:

(A) the amount of income of the payor or the recipient, as the case may be, is reasonable; and

(B) the amount of child support agreed to by the parties is reasonable.

Information Note

On an application for divorce, if there are children of the marriage, the Court has a duty pursuant to clause 11(1)(b) of the *Divorce Act* to satisfy itself that reasonable arrangements have been made for the support of each child of the marriage. Rules 15-85 and 15-101 identify the basic financial information that the Court will require to satisfy the reasonable arrangements requirement. However, on occasion, the Court may require additional financial information to be filed.

Uncontested property judgment

15-86 If a petitioner applies for a judgment in an uncontested family law proceeding pursuant to *The Family Property Act*, in addition to the documents, supporting affidavit materials and other evidence required to be filed pursuant to rule 15-78, the petitioner shall file the following:

(a) an affidavit of petitioner in Form 15-78 that sets forth, in addition to the matters mentioned in clause 15-78(b), a property schedule identifying:

(i) each item of family property available for division between the parties;

(ii) the value of each item of family property and the date of that value, if not the date of application;

(iii) the value of any exemption being claimed with respect to any item of family property;

(iv) the debts and liabilities of the parties and the value of each debt or liability to be taken into consideration in the division of family property;

(v) the distribution proposed for each item of family property, including exemptions and liabilities of each party and their allocation in the division of family property;

(vi) if applicable, any income tax consequences or other anticipated disposition costs associated with the proposed distribution of family property; and

(vii) the source from which the indicated value is derived if the value of an item of family property, an exemption claimed or a debt or liability to be allocated is not agreed to, and including copies of any statements and any appraisal reports that support the indicated value;

(b) any other document, supporting affidavit material or other evidence that may be necessary or relevant.

Judicial separation or nullity of marriage

15-87 If a petitioner applies for judgment in an uncontested family law proceeding for judicial separation or nullity of marriage, in addition to the documents, supporting affidavit materials and other evidence required to be filed pursuant to rule 15-78, the petitioner shall file the following:

(a) an affidavit of petitioner in Form 15-78 that sets forth the following, in addition to the matters mentioned in clause 15-78(b):

(i) if no certificate of marriage or certificate of registration of marriage has been filed, sufficient particulars to prove the marriage;

(ii) if the petition is for judicial separation, evidence that:

(A) there has not been collusion, condonation or connivance within the meaning of section 14-3 of *The King's Bench Act*; and

(B) either spouse has been ordinarily resident in Saskatchewan for at least 1 year immediately preceding the commencement of the action;

(iii) if the petition is for nullity of marriage, evidence that there has been no collusion or connivance between the parties within the meaning of section 11 of the *Divorce Act*;

(b) any other document, supporting affidavit material or other evidence that may be necessary or relevant.

Amended. Gaz. 13 Oct. 2023.

Subdivision 2
Summary Judgment Proceedings

Information Note

A party applying for summary judgment pursuant to this subdivision must be aware that this subdivision does not apply to an uncontested proceeding. Summary judgment applications are, by definition, contested proceedings.

Application for summary judgment in a contested matter

15-88 A party may apply, with supporting affidavit material or other evidence, for summary judgment on all or some of the issues raised in the family law proceeding at any time after the close of the pleadings but before the time and place for trial have been set.

Evidence

15-89(1) Rules 15-82 to 15-87 relating to evidence required for judgments pursuant to the *Divorce Act*, *The Children's Law Act, 2020*, *The Family Maintenance Act, 1997* and *The Family Property Act*, and for judicial separation or nullity of marriage, in uncontested family law proceedings and uncontested divorce proceedings apply with equal force to the provisions of this subdivision and summary judgment proceedings.

(2) A response to an application for summary judgment must not rely solely on the allegations or denials in the respondent's pleadings, but must set out, in affidavit material or other evidence, specific facts showing that there is a genuine issue that requires a trial.

(3) The Court may draw an adverse inference from the failure of a party to cross-examine on an affidavit or to file responding or rebuttal evidence.

(4) An affidavit for use on an application for summary judgment may be made on information and belief as provided in rule 13-30, but, on the hearing of the application, the Court may draw an adverse inference from the failure of a party to provide the evidence of any person having personal knowledge of contested facts.

Briefs required

15-90(1) On an application for summary judgment, each party shall serve on each of the other parties to the application and file a brief consisting of a concise argument stating the facts and law relied on by the party.

(2) The applicant's brief must be served and filed at least 10 days before the hearing.

(3) The respondent's brief must be served and filed at least 5 days before the hearing.

(4) If the applicant wishes to reply to any new matters raised in the respondent's brief, the applicant must serve and file a reply brief at least 3 days before the hearing.

New. Gaz. 23 Sep. 2022.

Disposition of application

15-91(1) The Court may grant summary judgment if:

(a) the Court is satisfied that there is no genuine issue requiring a trial with respect to the outstanding issues raised in the pleadings; or

(b) the parties agree to have all or part of the claim determined by summary judgment and the Court is satisfied that it is appropriate to grant summary judgment.

(2) In determining pursuant to clause (1)(a) whether there is a genuine issue requiring a trial, the Court:

(a) shall consider the evidence submitted by the parties; and

(b) may exercise any of the following powers for the purpose, unless it is in the interest of justice for those powers to be exercised only at a trial:

(i) weighing the evidence;

(ii) evaluating the credibility of a deponent;

(iii) drawing any reasonable inference from the evidence.

(3) For the purposes of exercising any of the powers set out in subrule (2), a judge may order that oral evidence be presented by one or more parties, with or without time limits on its presentation.

(4) If the Court is satisfied that the only genuine issue is a question of law, the Court may determine the question and grant judgment accordingly.

(5) If the Court is satisfied that the only genuine issue is the amount to which the applicant is entitled, the Court may order a trial of that issue or grant judgment with a reference or an accounting to determine the amount.

(6) If the Court is satisfied there are one or more genuine issues requiring a trial, the Court may nevertheless grant summary judgment with respect to any matters or issues the Court decides can and should be decided without further evidence.

(7) If an application for summary judgment is dismissed, in whole or in part, a judge may order the action, or the issues in the action not disposed of by summary judgment, to proceed to a pre-trial conference in the ordinary way.

(8) If an application for summary judgment is dismissed, the applicant may not make a further application pursuant to rule 15-88 without leave of the Court.

Directions and terms

15-92(1) If an application for summary judgment is dismissed, in whole or in part, and the action is ordered to proceed to trial, in whole or in part, a judge may give any directions or impose any terms that the judge considers just, including an order:

(a) specifying what facts are not in dispute;

(b) defining the issues to be tried;

(c) establishing a time line for pre-trial procedures;

(d) regulating disclosure or production of documents or other evidence;

(e) permitting evidence on the application for summary judgment to stand as evidence at trial;

(f) specifying that the evidence of a witness be given in whole or in part by affidavit;

(g) specifying that any experts engaged by or on behalf of the parties in relation to the action meet on a without prejudice basis in order to identify the issues on which the experts agree and the issues on which they do not agree, to attempt to clarify and resolve any issues that are the subject of disagreement and to prepare a joint statement setting out the areas of agreement and any areas of disagreement and the reasons for them if, in the opinion of the Court:

(i) the cost or time savings or other benefits that may be achieved from the meeting are proportionate to the amounts at stake and the importance of the issues involved in the case; and

(ii) either:

(A) there is a reasonable prospect for agreement on some or all of the issues; or

(B) the rationale for opposing expert opinions is unknown and clarification on areas of disagreement would assist the parties or the Court;

(h) respecting the preservation of property owned by either party; and

(i) directing security for costs.

(2) At the trial, any facts specified pursuant to clause (1)(a) are deemed to be established unless the trial judge orders otherwise to prevent injustice.

(3) In deciding whether to make an order pursuant to clause (1)(f), the fact that an adverse party may reasonably require the attendance of the deponent at trial for cross-examination is a relevant consideration.

(4) If an order is made pursuant to clause (1)(g), each party shall pay that party's own costs.

(5) If a party fails to comply with an order pursuant to clause (1)(i) for security for costs, the Court on application of the opposite party may dismiss the action, strike out the answer or make any other order that the Court considers just.

(6) If, on an application pursuant to subrule (5), the answer is struck out, the respondent is deemed to be noted for default.

Stay of enforcement

15-93 If it appears that the enforcement of a summary judgment ought to be stayed pending the determination of any other issue raised in the matter, the Court may make that order on those terms that the Court considers just.

Proceedings after summary judgment against a party

15-94 A petitioner or a respondent who obtains summary judgment may proceed against the same party for any other remedy.

DIVISION 7
Trials

Evidence at trial

15-95(1) The Court may try an issue on oral or affidavit evidence or otherwise as the judge conducting the trial may direct.

(2) The Court may admit a document purporting to be proof of marriage in a foreign jurisdiction as proof of the marriage, in the absence of evidence to the contrary.

(3) No party to a family law proceeding shall refuse to answer a question tending to show that the party has committed adultery if the adultery has been pleaded and is relevant to the proceeding.

(4) Each financial statement, property statement and response to a notice to answer written questions may be used by the other party as though it were a transcript of questioning, and all or any part of the statement or response may be admitted in evidence, saving all just exceptions.

(5) Reports ordered by the Court and contained on the Court file are evidence at trial, unless the trial judge orders otherwise.

(6) Subject to subrule (5), at trial, a party wanting to rely on any document contained on the Court file must seek to have the document admitted as evidence.

DIVISION 8
Costs

Costs

15-96(1) Costs are in the discretion of the Court and, except as modified by this rule, the following provisions apply to the costs of a family law proceeding:

(a) Part 4, Division 4;

(b) Part 11.

(2) Subject to subrule (3), there is a presumption that a successful party is entitled to the costs of a family law proceeding or a step in a family law proceeding.

(3) A successful party who has behaved unreasonably or has acted in bad faith during a family law proceeding may be:

(a) deprived of all or part of the party's own costs; or

(b) ordered to pay all or part of the unsuccessful party's costs.

(4) In deciding whether a party has behaved reasonably or unreasonably or in bad faith, the Court may examine:

(a) the party's behaviour in relation to the nature, importance and urgency of the issues from the time they arose;

(b) any conduct of the party that tended to lengthen unnecessarily the duration of the family law proceeding;

(c) whether any step in the family law proceeding was improper, vexatious or unnecessary;

(d) the party's denial or refusal to admit anything that should have been admitted;

(e) whether the party made an offer to settle;

(f) the reasonableness of any offer to settle the party made; and

(g) any offer to settle that the party withdrew or failed to accept.

(5) If success in a family law proceeding or a step in a family law proceeding is divided, the Court may apportion costs as appropriate.

(6) The Court may order costs against a party if the party:

(a) fails to appear at a step in the family law proceeding;

(b) appears but is not properly prepared to deal with the issues at that step; or

(c) appears but has failed to make the disclosure required before that step.

(7) After each step in the family law proceeding, the judge who dealt with that step may, in a summary manner:

(a) decide who, if anyone, is entitled to costs;

(b) set the amount of costs; and

(c) specify a date by which payment must be made.

(8) Offers to settle referred to in this rule do not include offers made during a pre-trial conference but do include:

(a) offers made before the commencement of a family law proceeding; and

(b) offers made pursuant to Part 4, Division 5.

DIVISION 9
Judgments and Orders

Judgments and orders

15-97(1) Subject to subrule (4), if a petitioner claims a remedy pursuant to more than one enactment, one judgment must be issued with respect to all remedies.

(2) If a remedy is granted on a claim made pursuant to a Saskatchewan or a federal enactment, that enactment must be referred to in the judgment.

(3) Every judgment and order must set out in the heading whether it is an interim or a final judgment or order.

(4) Every order for child support must be in the form of a separate order and must include the following particulars:

(a) the name of the Saskatchewan or the federal enactment pursuant to which the order is made;

(b) the name and birth date of each child to whom the order relates;

(c) the income of any party whose income is used to determine the amount of the child support order;

(d) if the amount of child support is determined pursuant to the applicable table of the guidelines, the amount determined pursuant to that table for the number of children to whom the order relates;

(e) for a child who is 18 years of age or older, the amount determined pursuant to clause 3(2)(b) of the guidelines, if applicable;

(f) the particulars of any expense described in subsection 7(1) of the guidelines, the child to whom the expense relates, and the amount of the expense or, if that amount cannot be determined, the proportion to be paid in relation to the expense;

(g) the date on which the first payment is payable and the date of the month or other time period on which all subsequent payments are to be made.

(5) Subject to subrule (6), every order for child support made pursuant to the *Divorce Act* or *The Family Maintenance Act, 1997* must include the following clause:

> The amount of child support or maintenance for a child that is payable under this order may be recalculated by the Saskatchewan Child Support Recalculation Service if eligible for recalculation and if the recalculation service determines that recalculation is permissible and appropriate pursuant to *The Family Maintenance Act, 1997* and the regulations. Either party may apply to the recalculation service at:
>
> Saskatchewan Child Support Recalculation Service
> Room 323, 3085 Albert Street
> Regina, SK
>
> If the payor fails to comply with the income disclosure requirements of the recalculation service, the payor's income may be deemed to have increased as set out in section 21.33 of *The Family Maintenance Regulations, 1998*.

(6) If the Court determines that a recalculation of the amount of child support payable under a child support order would be inappropriate, the child support order must include the following clause:

> The amount of child support in this order shall not be recalculated by the Saskatchewan Child Support Recalculation Service.

(7) An application for a judgment or order to be made by consent must be accompanied by:

(a) the consent of the lawyer of each party who is represented by a lawyer; and

(b) unless otherwise ordered by the Court, the written consent, together with an affidavit of execution of that consent, of each party who is not represented by a lawyer.

DIVISION 10
Divorce Proceedings

Application of Division

15-98 This Division applies to contested and uncontested divorce proceedings.

Written notification from central registry required

15-99 The Court shall not grant a divorce judgment:

(a) until a written notification issued from the central registry of divorce proceedings pursuant to the *Central Registry of Divorce Proceedings Regulations* made pursuant to the *Divorce Act* has been filed indicating that no other divorce proceedings are pending; or

(b) unless the Court is satisfied that there is no prior pending divorce proceeding.

Joint divorce proceeding

15-100(1) A divorce proceeding may be commenced jointly by the spouses if the facts establishing the breakdown of the marriage and the remedy claimed are not in dispute.

(2) If a divorce proceeding has been commenced jointly, the spouses shall be called co-petitioners, and the petition:

(a) must be in Form 15-100A;

(b) must be signed by the co-petitioners;

(c) must be signed and sealed by the local registrar following the signatures of the co-petitioners;

(d) need not be served on either of the co-petitioners; and

(e) need not be noted for default.

(3) A spouse who wishes to withdraw from a joint petition for divorce shall:

(a) serve and file a notice of withdrawal of joint petition in Form 15-100B; and

(b) if that spouse wishes to oppose the claim for divorce or other remedy claimed, or wishes to claim any other remedy, serve and file an answer or an answer and counter-petition at the time of serving and filing the notice of withdrawal of joint petition.

(4) If co-petitioners apply for judgment in a divorce proceeding, they shall file, and the local registrar shall place before the Court, the documents, supporting affidavit materials and other evidence required to be filed pursuant to rule 15-82, with any necessary modification.

(5) Without limiting the generality of subrule (4), if co-petitioners apply for judgment in a divorce proceeding, each co-petitioner shall file an affidavit of petitioner in Form 15-78.

Financial information if children, but no child support claimed

15-101 In a divorce proceeding in which there are children but no claim is made for child support, the parties shall produce at trial or shall exhibit to an affidavit filed in support of an application:

(a) all income information of the parties required by the guidelines; or

(b) the following:

(i) an agreement as to child support in Form 15-48B:

(A) endorsed by each party either by the party's lawyer, or personally with an affidavit of execution;

(B) agreeing on the amount to be paid for child support; and

(C) agreeing on the annual income of each party who would be required to provide income information under the guidelines;

(ii) as attachments to the agreement mentioned in subclause (i), but subject to subclause (iii):

(A) a copy of the most recent personal income tax return filed by the payor, together with a copy of the payor's most recent income tax notice of assessment or reassessment; and

(B) a copy of the most recent personal income tax return filed by the recipient, together with a copy of the recipient's most recent income tax notice of assessment or reassessment, if:

(I) there is to be shared or split parenting time;

(II) special or extraordinary expenses are to be shared; or

(III) the amount of child support agreed to differs from the table amount set out in the guidelines;

(iii) if any of the documents mentioned in subclause (ii) are not available, an affidavit explaining why the documents are not available and providing evidence to satisfy the Court that:

(A) the amount of income of the payor or the recipient, as the case may be, is reasonable; and

(B) the amount of child support agreed to by the parties is reasonable.

Information Note

On an application for divorce, if there are children of the marriage, the Court has a duty pursuant to clause 11(1)(b) of the *Divorce Act* to satisfy itself that reasonable arrangements have been made for the support of each child of the marriage. Rules 15-85 and 15-101 identify the basic financial information that the Court will require to satisfy the reasonable arrangements requirement. However, on occasion, the Court may require additional financial information to be filed.

Divorce judgment

15-102(1) A divorce judgment must be in Form 15-102.

(2) If a claim for divorce is made together with one or more other claims, the Court may:

(a) grant a divorce and direct that a divorce judgment alone be entered; and

(b) either:

(i) adjourn the hearing of the other claims; or

(ii) give judgment on the other claims.

(3) Unless the Court orders otherwise, in an uncontested divorce proceeding, the local registrar shall immediately forward to each of the parties, by ordinary mail, a copy of the judgment for divorce and for any other relief granted by the Court.

Certificate of divorce

15-103(1) A certificate of divorce, stating that a divorce dissolved the marriage of the parties as of a specified date, must be in Form 15-103.

(2) The local registrar shall issue a certificate of divorce, on request of either party, on or after the day on which the judgment granting the divorce takes effect, if:

(a) the local registrar is satisfied that no appeal, or application to extend time to appeal, has been instituted within that time or, if instituted, that it has been abandoned or dismissed; or

(b) the spouses have signed and filed with the local registrar an undertaking that no appeal from the judgment will be taken, or if any appeal has been taken, that it has been abandoned.

(3) In an uncontested divorce proceeding, the local registrar shall complete the certificate of divorce and mail a copy to each of the parties immediately on the divorce judgment taking effect.

Registration of order

15-104(1) If a parenting order, support order, variation order, interim parenting order or interim support order has been made in another province or territory of Canada pursuant to the *Divorce Act*, the registration of that order pursuant to subsection 20(3) of the *Divorce Act* must be effected by filing a certified copy of the order with the Court, at any judicial centre, with a written request that the order be registered.

(2) On receipt of a certified copy of an order pursuant to subrule (1), the local registrar shall:

(a) enter particulars of the order in the usual manner; and

(b) endorse on the order the following certificate:

This order has been registered in the _____
(*name of court*)

at the Judicial Centre of _____,

Saskatchewan, this _____ day of _____ , 2 _____,

pursuant to section 20 of the *Divorce Act* (Canada).

(3) On application, the Court may set aside the registration of a support order, or an extraprovincial order or a foreign order as defined in section 16 of *The Inter-jurisdictional Support Orders Act*, on the basis that the order:

(a) was obtained by fraud or error; or

(b) is not a support order.

Transfer of divorce proceeding

15-105(1) If a divorce proceeding is transferred pursuant to section 6 of the *Divorce Act* to the Court from a court outside Saskatchewan, the transfer must be effected by filing certified copies of all pleadings and orders made in the proceeding.

(2) On the filing of the materials mentioned in subrule (1), the divorce proceeding must then be carried forward as if it had been commenced pursuant to these rules.

Notice of appeal

15-106 The appellant shall file a copy of the notice of appeal from a judgment granting a divorce, or a copy of an order extending the time for appeal, with the local registrar in the office in which the judgment granting the divorce was entered.

Local registrar to forward forms

15-107 The local registrar in the office in which the divorce proceeding was commenced shall:

(a) complete the forms required by the *Central Registry of Divorce Proceedings Regulations* pursuant to the *Divorce Act*; and

(b) forward the forms to the central registry of divorce proceedings in Ottawa as required by those regulations.

DIVISION 11
Inter-jurisdictional Support Orders

Application of Division

15-108(1) This Division applies to family law proceedings pursuant to:

(a) *The Inter-jurisdictional Support Orders Act*;

(b) sections 18 to 19.1 of the *Divorce Act*.

(2) In this Division, **"provisional order"** means:

(a) a provisional order as defined in section 2 of *The Inter-jurisdictional Support Orders Act*; or

(b) in the case of a proceeding brought pursuant to the *Divorce Act*, a provisional order within the meaning of subsection 19(14) of the *Divorce Act*.

(3) Subject to subrule (2), for the purposes of this Division, the terms used in this Division have the same meanings as in *The Inter-jurisdictional Support Orders Act* and the *Divorce Act*.

Registration of extraprovincial orders

15-109(1) On receipt of a certified copy of an order made by a court outside Saskatchewan, together with a written request to register the order in Saskatchewan pursuant to *The Inter-jurisdictional Support Orders Act* or pursuant to section 19.1 of the *Divorce Act*, the local registrar shall:

(a) enter particulars of the order in the usual manner; and

(b) endorse on the order the following certificate:

This order has been registered in the _____
(*name of court*)

at the Judicial Centre of _____,

Saskatchewan, this _____ day of _____ , 2 _____,

pursuant to [*choose one*: section 17 of *The Inter-jurisdictional Support Orders Act or* section 19.1 of the *Divorce Act* (Canada)].

(2) If a party who receives notice of a registration pursuant to section 17 of *The Inter-jurisdictional Support Orders Act* or section 19.1 of the *Divorce Act* wishes to dispute the registration, the party shall serve and file a notice of application in Form 15-109 within 30 days after receiving notice of the registration.

Outgoing applications – *Divorce Act* – request for conversion

15-110(1) A respondent who:

(a) is a former spouse within the meaning of the *Divorce Act*;

(b) resides outside Saskatchewan but within Canada; and

(c) has been served with an application pursuant to the *Divorce Act* for child support or for variation of child support;

may, within 40 days after being served with the application mentioned in clause (c), file with the Court a request in Form 15-110 to convert the application to an inter-jurisdictional application pursuant to section 18.1 of the *Divorce Act*.

(2) If the respondent files a request for conversion in accordance with subrule (1) and the Court determines that the application mentioned in clause (1)(c) should be converted to an inter-jurisdictional application pursuant to section 18.1 of the *Divorce Act*, the local registrar shall provide copies of the following to the designated authority for Saskatchewan:

(a) the application mentioned in clause (1)(c), together with all supporting materials filed, including any financial statement filed;

(b) any support order to be varied;

(c) the respondent's request for conversion;

(d) the court order granting the respondent's request for conversion.

(3) If the Court, on its own motion, determines that an application mentioned in clause (1)(c) should be converted to an inter-jurisdictional application pursuant to section 18.1 of the *Divorce Act*, the local registrar shall provide a copy of the court order:

(a) to both parties; and

(b) to the designated authority for Saskatchewan.

(4) If the respondent files a request for conversion in accordance with subrule (1) and the Court determines that the application mentioned in clause (1)(c) should not be converted to an inter-jurisdictional application pursuant to section 18.1 of the *Divorce Act*, the local registrar shall provide to the respondent a copy of the court order denying the request.

Outgoing applications – provisional orders

15-111(1) If a requesting province or territory requires a provisional order of support or a provisional order of variation of support, an applicant who commences an application for a provisional order for support, or for a provisional order of variation of support, shall do so by filing the documents required by:

(a) these rules for support or for variation of support;

(b) section 7 or 27 of *The Inter-jurisdictional Support Orders Act*; or

(c) section 19 of the *Divorce Act*.

(2) An application made pursuant to this rule shall be made without notice.

(3) An application for a provisional order of support, or for a provisional order of variation of support, must be accompanied by a statement giving any available information respecting the identification, location, income and assets of the other party.

(4) The local registrar shall endorse a certificate at the end of a provisional order of support, or a provisional order of variation of support, stating the order is made provisionally and has no legal effect until confirmed.

(5) If the Court makes a provisional order of support, or a provisional order of variation of support, pursuant to *The Inter-jurisdictional Support Orders Act* or the *Divorce Act*, the local registrar, the applicant or the applicant's lawyer shall send to the designated authority for Saskatchewan:

(a) the documents filed in accordance with subrules (1) and (3);

(b) a certified, sworn or affirmed document setting out or summarizing the evidence given to the Court;

(c) 3 certified copies of the provisional order of support or the provisional order of variation of support; and

(d) a copy of the enactments pursuant to which the alleged support obligation arises.

(6) If a court outside Saskatchewan remits any matter back to the Court for further evidence:

(a) the designated authority for Saskatchewan shall give to the applicant a notice of taking of further evidence in Form 15-111; and

(b) the matter may be brought before any judge of the Court.

(7) If the Court receives further evidence pursuant to this rule, the local registrar shall forward to the court outside Saskatchewan that remitted the matter back:

(a) a certified, sworn or affirmed document setting out or summarizing the evidence; and

(b) any recommendations that the Court considers appropriate.

Incoming applications – *Divorce Act*

15-112(1) If the designated authority for Saskatchewan receives a request from a designated authority for another province or territory of Canada to convert an application for variation of a support order brought pursuant to clause 17(1)(a) of the *Divorce Act* to an inter-jurisdictional application pursuant to section 18.1 of that Act, the designated authority for Saskatchewan shall forward to the Court any documents received from the designated authority on behalf of the applicant.

(2) The designated authority for Saskatchewan shall serve the respondent and the designated authority for the sending province or territory with notice of the hearing in the manner determined by the designated authority for Saskatchewan.

(3) The application shall include a copy of the divorce judgment and any and all corollary relief orders made.

(4) The local registrar shall forward a copy of the decision to the designated authority for Saskatchewan.

(5) An order for support or for variation of support shall:

(a) be prepared by the designated authority for Saskatchewan; and

(b) include the particulars required by subrule 15-97(4) if the order is for child support or for variation of child support.

(6) As soon as is practicable, the designated authority for Saskatchewan shall provide a copy of the issued order to:

(a) the respondent; and

(b) the designated authority for the province or territory in which the applicant resides.

DIVISION 12
The International Child Abduction Act, 1996

Definitions for Division

15-113 In this Division:

"Act" means *The International Child Abduction Act, 1996*; (« *Loi* »)

"applicant" includes any person, institution or other body claiming that a child has been removed or retained in breach of custody rights; (« *requérant* »)

"Central Authority" means a Central Authority designated pursuant to article 6 of the convention; (« *Autorité centrale* »)

"contracting state" means a state signatory to the convention; (« *État contractant* »)

"convention" means the Convention on the Civil Aspects of International Child Abduction, a copy of which is set out in the Schedule to the Act. (« *convention* »)

Application of Division

15-114(1) This Division applies to family law proceedings pursuant to the Act and the convention.

(2) Unless provided otherwise by the Act or the convention or by the rules in this Division, the provisions of this Part and the general procedure and practice of the Court must be adopted and applied, with any necessary modification, in a family law proceeding pursuant to this Division.

Application for relief

15-115 An applicant who wishes to apply for relief pursuant to the Act shall do so by notice of application (family law proceeding) in Form 15-32.

Affidavit in support

15-116 An affidavit in support of an application made pursuant to this Division must set out:

(a) information concerning the identity of the applicant, the child and the person or persons alleged to have removed or retained the child;

(b) the date of birth of the child;

(c) evidence of where the child was habitually resident before coming to Saskatchewan;

(d) the circumstances under which the child came to be in Saskatchewan;

(e) the grounds on which the applicant's claim for return of the child is based, including the circumstances of the alleged wrongful removal or retention of the child; and

(f) all available information relating to the whereabouts of the child and the identity of the person in whose care the child is presumed to be.

Evidence

15-117 The following must also be filed in support of an application made pursuant to this Division:

(a) a certified copy of any relevant judicial decision or agreement pertaining to parenting of the child;

(b) when any person is arguing that the law of another jurisdiction applies or is relevant to the application, an affidavit of law from the Central Authority or other person approved by the Court;

(c) any other relevant fact or document.

Service of application

15-118(1) A party bringing an application pursuant to this Division shall serve the application and supporting documents on:

(a) the person in Saskatchewan who has the child; and

(b) the Central Authority for Saskatchewan.

(2) Service must be effected in accordance with the provisions of this Part relating to the service of a notice of application commencing a family law proceeding claiming a substantive remedy, except that the party shall file the application and supporting material, with proof of service, at least 7 days before the date set for hearing the application.

Applications to be dealt with expeditiously

15-119 An application pursuant to this Division must be dealt with expeditiously and, except in extraordinary circumstances, a decision must be rendered within 6 weeks after the commencement of an application.

Powers of presiding judge

15-120 If the presiding judge considers it necessary, the presiding judge may:

(a) establish timelines for the filing and service of materials and set a date for the hearing of an application pursuant to this Division;

(b) permit any party to an application pursuant to this Division to appear by way of telephone or video conference where appropriate;

(c) adjourn the proceeding and order a voice of the child (VOC) report;

(d) initiate direct communication with either or both the Central Authority and a judge of the contracting state where the child habitually resides, subject to the following:

(i) the communication is to be limited to logistical issues and the exchange of information;

(ii) the parties to the application shall be entitled to be present during the communication and to participate as directed by the judge;

(iii) a record of the communication shall be kept by the local registrar;

(iv) the record of communication is to be confirmed in writing by both judges or by the judge and the individual representing the Central Authority of the contracting state.

Costs

15-121(1) Costs are in the discretion of the Court, and except as modified by this rule, the following provisions apply, with any necessary modification, to the costs of an application pursuant to this Division:

(a) Part 4, Division 4;

(b) Part 11;

(c) rule 15-96.

(2) The Court may order costs including, but not limited to:

(a) costs incurred for legal representation;

(b) costs incurred to locate the child; and

(c) costs associated with the return of the child.

DIVISION 13
Child and Family Services Proceedings

Information Note

The Court of King's Bench has concurrent jurisdiction with the Provincial Court in child and family services proceedings, except in the judicial centres of Prince Albert, Saskatoon and Regina where the Court of King's Bench, Family Law Division has exclusive jurisdiction over child and family services proceedings.

The procedures and forms used in child and family services proceedings are set out in *The Child and Family Services Act* and *The Child and Family Services Regulations*. If a child and family services proceeding involves an Indigenous child, *An Act respecting First Nations, Inuit and Métis children, youth and families* (Canada) should also be consulted.

The Court has published two practice directives:

(a) Family Practice Directive #4, which identifies additional forms to be used in child and family services proceedings; and

(b) Family Practice Directive #5, which sets out the process in a summary hearing.

Amended. Gaz. 13 Oct. 2023.

Definitions for Division

15-122 In this Division:

"Act" means *The Child and Family Services Act*; (« *Loi* »)

"applicant" means a person who applies for an order under the Act, including the following, as defined in the Act:

(a) the minister:

(b) the ministry or any officer, employee or agent of the ministry;

(c) a director;

(d) a peace officer;

(e) an agency or any officer or employee of an agency; (« *requérant* »)

"federal Act" means *An Act respecting First Nations, Inuit and Métis children, youth and families* (Canada); (« *Loi fédérale* »)

"regulations" means *The Child and Family Services Regulations*. (« *règlement* »)

Application of Division

15-123(1) This Division applies to child and family services proceedings brought pursuant to the Act and the regulations in the Court of King's Bench.

(2) Child and family services proceedings are governed by the Act, the regulations, the federal Act, applicable Family Practice Directives and the rules in this Division.

(3) Unless provided otherwise by the Act, the regulations, the federal Act, a Family Practice Directive or the rules in this Division, the general procedure and practice of the Court may be adopted and applied, with any necessary modification, in child and family services proceedings.

Amended. Gaz. 13 Oct. 2023.

Disclosure and confidentiality

15-124(1) Proceedings under the Act and the regulations are subject to the disclosure and confidentiality provisions of section 74 of the Act.

(2) Subject to subrules (3) and (4), the disclosure of information provisions of Part 5 of these rules do not apply to child and family services proceedings.

(3) Before granting a party access to the Court record in a child and family services proceeding under rule 15-5, the local registrar may require the party to sign an undertaking acknowledging that the party is aware of the confidentiality provisions of section 74 of the Act.

(4) The confidentiality provisions of rule 15-6 apply to child and family services proceedings, with any necessary modification, having regard to the confidentiality provisions set out in section 74 of the Act.

Application for relief

15-125(1) Division 2 of this Part does not apply to child and family services proceedings under the Act and the regulations.

(2) Proceedings under the Act and the regulations, including for a warrant for access to a child, a protective intervention order, a protection hearing, or for an order to vary or terminate an order granted under section 37 of the Act, shall be commenced in accordance with the Act and the regulations, having regard to the federal Act.

(3) In addition to the forms prescribed by the regulations for commencing a child and family services proceeding, the applicant shall complete and file the forms required by the Family Practice Directives.

Opposing a child and family services proceeding

15-126(1) A parent or other person served with notice of a child and family services proceeding, including an application for a warrant for access to a child, a protective intervention order, a protection hearing, or for an order to vary or terminate an order granted under section 37 of the Act, may oppose the relief sought by making oral or written submissions to the Court.

(2) The opposition of a parent or other person served with notice of a child and family services proceeding to the relief sought shall be endorsed on the Court record by the Court.

Evidence

15-127(1) In accordance with sections 28 to 32 of the Act, the Court may admit evidence, including hearsay evidence, by affidavit or any other means authorized by these rules for the taking of evidence.

(2) The following provisions do not apply to affidavits filed in child and family services proceedings:

(a) rules 6-9 and 6-12;

(b) Part 13, Division 4, Subdivision 2;

(c) rule 15-46.

(3) Except as otherwise provided in this Division, the Act or the regulations, affidavits filed in child and family services proceedings must comply with rule 15-128.

Amended. Gaz. 23 Sep. 2022.

Affidavit in support

15-128 An affidavit in support of an application for a warrant for access to a child, a protective intervention order, a protection hearing, or for an order to vary or terminate an order granted under section 37 of the Act must set out:

(a) the grounds on which the applicant's claim for relief is based, including the alleged circumstances for which the applicant has reasonable or probable grounds to believe that the child may be in need of protection;

(b) information as to the best interests of the child, having regard to section 4 of the Act and section 9 of the federal Act;

(c) if the application concerns an Indigenous child, information as to the best interests of the child having regard to section 10 of the federal Act; and

(d) any other relevant fact, document or other information that the applicant deems appropriate having regard to the relief sought.

Notice

15-129 Notice of proceedings under the Act and the regulations, including for a warrant for access to a child, a protective intervention order, a protection hearing, or for an order to vary or terminate an order granted under section 37 of the Act, shall be given in accordance with section 77 of the Act, with proof of service in accordance with section 12 of the regulations.

Application for substituted service or to dispense with service

15-130 On an application for a protection hearing, an application pursuant to subsection 77(7) of the Act to direct substituted or other service on a person, or to dispense with service on a person, may be made without notice in Form 15-34 supported by an affidavit setting out the circumstances for which the order is sought.

Request for status as a person of sufficient interest

15-131(1) On an application for a protection hearing, an oral or written request may be made to the Court for an order designating a person of sufficient interest to the child in accordance with section 23 of the Act.

(2) If a request is made pursuant to subrule (1), the Court may give further and other directions with respect to the request, including that an application be brought on notice to:

(a) each parent of the child; and

(b) the ministry.

Referral for appointment of a lawyer for child

15-132 On an application for a protection hearing, the Court may, on its own initiative or on a request being made by a person, direct a referral to the Public Guardian and Trustee for the appointment of a lawyer for the child, in accordance with section 6.3 of *The Public Guardian and Trustee Act*.

Summary hearing

15-133(1) On an application for a protection hearing, the Court, with the consent of the parties, may direct the application to a summary hearing in accordance with Family Practice Directive No. 5 if the order sought is:

(a) an order placing a child with a parent under supervision pursuant to section 37 of the Act; or

(b) an order temporarily placing a child in the care of the minister for a period of 6 months or less pursuant to section 37 of the Act.

(2) If the parties do not consent to the matter mentioned in subrule (1) proceeding to a summary hearing, the Court may direct the matter to a pre-trial conference.

(3) The following provisions do not apply to summary hearings under this rule:

(a) Part 7, Division 2;

(b) Division 6, Subdivision 2 of this Part.

Pre-trial conferences in child and family services proceedings

15-134(1) Division 5, Subdivision 2 of this Part applies to pre-trial conferences in child and family services proceedings, with the following modifications:

(a) on the oral or written request of the parties, and if the Court is satisfied that the matter is ready to proceed, the Court may direct a pre-trial conference in a child and family services proceeding;

(b) the pre-trial conference in a child and family services proceeding shall be set by a judge in chambers in consultation with the parties and on dates and times fixed by the Court;

(c) before the pre-trial conference, the parties shall exchange and file their pre-trial briefs prepared in accordance with Family Practice Directive No. 4.

(2) Rules 4-21.1 to 4-21.92 do not apply to child and family services proceedings.

Orders

15-135 If the Court grants an order in a child and family services proceeding, unless the Court otherwise directs, it is the applicant's responsibility:

(a) to prepare the order, having regard to the form of orders set out in the regulations; and

(b) to have the order signed and entered by the Court.

Appeal from Provincial Court

15-136 An appeal pursuant to section 63 of the Act from an order made by the Provincial Court shall be brought in accordance with Part 14 of these rules, with any necessary modification required by the Act, the regulations or the federal Act.

Costs

15-137(1) Subject to the Act, the regulations and the federal Act, costs are in the discretion of the Court.

(2) The following provisions apply, with any necessary modification, to the costs of an application pursuant to this Division:

(a) Part 4, Division 4;

(b) Part 11;

(c) rule 15-96.

DIVISION 14
The Enforcement of Maintenance Orders Act, 1997

Enforcement of judgments and orders

15-138(1) A judgment or order for support or maintenance granted in a family law proceeding may be enforced in accordance with *The Enforcement of Maintenance Orders Act, 1997*.

(2) If a receiver is appointed pursuant to *The Enforcement of Maintenance Orders Act, 1997*, the terms and conditions of the appointment must be set out in the order appointing the receiver.

(3) A warrant of committal for contempt of Court pursuant to *The Enforcement of Maintenance Orders Act, 1997* may be in Form 15-138.