

**In the Provincial Court of Alberta  
Judicial District of Red Deer**

**Notice to Profession and Public**

**EFFECTIVE JUNE 1, 2018**

**APPLICATIONS UNDER THE *FAMILY LAW ACT*:**

1. All parents or guardians seeking orders concerning children must take the Parenting After Separation seminar within **three months** of filing an application. A certificate of completion **must** be filed with the Court. Failure to file the certificate shall result in the application of the offending party being held in abeyance until such time as the certificate is filed.
2. The Applicant must file a Claim (FL-10). The Applicant may ask the Court to grant more than one type of Order. The Applicant shall file supporting statements (FL-34 to FL53 where applicable) or an affidavit, or both.
3. The Applicant shall serve the Respondent(s) with the application and supporting material in accordance with the provisions of the Provincial Court Procedures Regulation (hereinafter referred to as the Regulation).
4. The Respondent may file a form FL-11 in response to the Applicant's claim(s) and provide evidence in support of the response by filing one or more reply statements (FL-57 to FL-75 where applicable) or an affidavit, or both.
5. The Respondent may include a request that the Court grant one or more additional orders (Cross Application) and, in that event, shall provide evidence by filing one or more statements (FL-34 to FL-53) or an affidavit, or both. The Respondent must clearly indicate in the title of the document that there is a cross-application.
6. The Applicant or other party served with a Cross Application may file one or more reply statements (FL 57 to FL-75) or one affidavit, or both. The affidavit may be both a reply to the Respondent's response on the initial application and a response to the Respondent/Cross-Applicant's cross-application. The reply portion of the affidavit shall be limited to evidence that explains, refutes, or contradicts any new evidence raised.
7. The Respondent may then file one final affidavit in reply to the Applicant/Cross-Respondent's response on the cross-application, with the same limitations set out in paragraph 6.

8. If a party wishes to rely on new relevant evidence that was not available at the filing of the application or cross-application, the party must file an affidavit titled "Update Affidavit" or an Update Statement in Form FL-79 containing the new evidence.
9. All statements or affidavits to be filed must be confined to a statement of facts within the personal knowledge of the person swearing the statement/affidavit or any other evidence that could be given by that person at trial.
10. Except with leave of the Court, the affidavit filings by each party are limited to the following:

**Application with no Cross-application**

Party	Document	Page limits (excluding exhibits)
Applicant	One (1) Applicant's affidavit	8 pages
Respondent	One (1) Respondent's affidavit	8 pages
Applicant	One (1) Reply affidavit	5 pages
Applicant and Respondent	One (1) Update affidavit each (new relevant evidence only)	3 pages

**Application with a Cross-application**

Party	Document	Page limits (excluding exhibits)
Applicant	One (1) Applicant's affidavit	8 pages
Respondent/Cross- Applicant	One (1) Respondent/Cross-Applicant's affidavit	8 pages
Applicant/Cross- Respondent	One (1) Applicant's Reply/Cross-Respondent's response affidavit	5 pages
Respondent/Cross- Applicant	One (1) Cross-Applicant's Reply affidavit	5 pages
Applicant and Respondent	One (1) Update affidavit each (new relevant evidence only)	3 pages

11. Affidavits must meet the following requirements:
  - a. 8½" by 11" paper with one inch margins;
  - b. 12-point font, Arial (or equivalent);

- c. 1.5 line spacing;
  - d. single-sided; and
  - e. handwritten affidavits must be legible.
12. Exhibits appended to affidavits and attachments appended to statements must abide by the following:
- a. they must be relevant, material, and not repetitive of materials already on the Court file;
  - b. except with leave of the Court, they must not exceed 40 pages, consecutively numbered;
  - c. they must be preceded by a table of contents identifying each exhibit by its page number;
  - d. relevant passages of exhibits must be highlighted; and,
  - e. the original copy of an affidavit with exhibits should have the exhibits separated by tabs.
13. Other affidavits in the same or other action(s) must not be appended as exhibits.
14. Exhibits must be supportive only and cannot provide further narrative or be used to extend affidavit page limits. The Court may award costs against a party who includes non-relevant and extraneous documents as exhibits.
15. Electronic exhibits (CDs, DVDs, flash drives, etc.) must not be included in an affidavit, except with leave of the Court.
16. The Clerk of the Court may refuse to file any affidavit not in compliance with this Notice.
17. A party seeking leave of the Court to file an affidavit not in compliance with this Notice must bring an application in family docket court upon notice to the other party.
18. If a party does not comply with this Notice, the presiding Judge may refuse to hear the application, refuse to consider the material filed in breach of this Notice, or award costs against the offending party.

**REQUEST FOR FINANCIAL INFORMATION:**

19. Effective May 1, 2018, Section 21 of the Alberta Child Support Guidelines will be strictly enforced by the Court. To ensure continued access to justice for litigants, a grace period will be observed until August 1, 2018, before the requirement for compliance is more strictly enforced.

20. Effective May 1, 2018, a party who is applying for a child support order (including an application to vary child support) and whose income information is necessary to determine the amount of the order (shared or split parenting and where s. 7 claims are being made) must include with the application, the financial information set out in section 21 of the Alberta Child Support Guidelines. Use of prepared forms that will be available through the Court Clerks effective June 1, 2018 will aid in achieving consistency for the filing process.
21. Likewise, a party who is served with an application for child support and whose income information is necessary to determine the amount of the order, must, within 30 days after the application is served if the party resides in Canada or the United States, or within 60 days if the party resides elsewhere, provide the court and the other party with the financial information set out in section 21 of the Alberta Child Support Guidelines.
22. An applicant in an application for child support will not be permitted to file a claim and supporting statement or Affidavit unless the applicant has provided the information required by s. 21 of the Guidelines.
23. A respondent to an application for child support will not be permitted to file a responding statement or affidavit or reply to the application unless the respondent has provided the information required by s. 21 of the Guidelines.
24. A Request for Financial Information is not required to trigger the above obligations.
25. If a party fails to comply with s. 21 of the Guidelines, the application for support will proceed and income will be imputed to that party pursuant to section 19(1)(f) of the Alberta Child Support Guidelines. That party will not be able to vary the child support until disclosure pursuant to s. 21 of the Guidelines has been provided. That party will also be subject to an order for costs for failure to disclose and may be prohibited from filing any other applications until their disclosure is provided.
26. In rare exceptions, leave of the court can be sought to file an application or response without the required financial information having been provided.
27. This procedure will not apply to an application for a stay of enforcement regarding child support arrears.

#### **TRIALS:**

28. Effective immediately, Practice Note #3 shall be strictly enforced by the Court.
29. All Counsel and Self Represented Litigants are specifically reminded of their obligations pursuant to the Practice Note as it relates to Documents, Trial Binders and Agreed Statement of Facts.

## SECTION 7 ORDERS AND ENFORCEMENT:

30. In May of 2016, in response to the Court's decision in *Fraser v Airhart*, 2016 ABQB 136, the Maintenance Enforcement Program (MEP) issued a new policy for the enforcement of section 7 expenses under the *Child Support Guidelines*.
31. In *Fraser v Airhart*, none of the child support orders at issue authorized specific s. 7 expenses and they referred only to proportionate sharing. While noting that judges and lawyers must be clear in drafting s. 7 orders, MEP was found to have over-reached in deciding what expenses would be payable from a table of allowable expenses.
32. Under the new policy, MEP will continue to collect section 7 expenses where the court order or agreement provides that:

A party is to pay a fixed dollar amount for section 7 expenses (e.g. order states "...must pay \$50 per month for section 7 expenses.");

Parties are to pay a percentage or proportionate share of expenses and the order clearly specifies what expense are payable (e.g. order states "...must pay 50% of expenses for daycare, piano lessons, and orthodontic treatment.")

If the court order or agreement requires the parties to pay a percentage or proportionate share of expenses for a child but does not specifically state what expenses are to be shared, MEP will not be able to enforce this term.

33. The new MEP policy is consistent with s. 13 (e) of the *Guidelines*, which provides that a child support order must include the following information:

(e) the particulars of any expense described in subsection 7(1), the child to whom the expense relates, and the amount of the expense or, where that amount cannot be determined, the proportion to be paid in relation to the expense . . .

34. MEP will no longer enforce s. 7 orders that do not comply with section 13(e) of the *Guidelines*.
35. All s. 7 orders granted by the Court, including consent orders, are impacted. Effective immediately, all s. 7 orders should comply with s. 13 (e) of the *Alberta Child Support Guidelines*.
36. The Court will strictly enforce these requirements.

## MATTERS ADJOURNED ON A SINE DIE BASIS:

37. An application that is adjourned on a sine die (without a new date) basis will remain open for a period of one year from the date that the matter was so adjourned. Any interim order remaining in effect after the expiration of this one year period shall become a final order and the file will be closed. Any applications brought after the expiration of one year will require the filing of a new claim.

**CONSENT ADJOURNMENTS OF APPLICATIONS, JDR'S OR TRIALS:**

38. Where the parties to an action wish to adjourn an application, JDR or trial by consent:
- a. Where all parties are represented by legal counsel, one letter signed by all counsel, may be faxed to the Clerk of the Court and the matter will be adjourned in accordance with the letter subject to the provisions relating to matters being adjourned on a sine die basis;
  - b. Where one or more of the parties are not represented by counsel:
    - i. one letter drafted by any counsel on the file and signed by all counsel or self represented individual, may be faxed to the Clerk of the Court and the matter will be adjourned in accordance with the letter subject to the provisions relating to matters being adjourned on a sine die basis; or
    - ii. one letter (in a form provided by the Clerk of the Court) signed by all self represented individuals may be faxed to or filed with the Clerk of the Court and the matter will be adjourned in accordance with the letter subject to the provisions relating to matters being adjourned on a sine die basis.

Dated this 10<sup>th</sup> day of May, 2018.

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Hon. Assistant Chief Judge J.A. Hunter