

KING’S BENCH OPERATIONS DESK DIVORCE PACKAGE CLERK REVIEW CHECKLIST

Effective: January 2025

King’s Bench Operations has developed a comprehensive Desk Divorce Package Clerk Review Checklist aimed at establishing provincial alignment and fostering transparency among all internal and external stakeholders.

This checklist will serve as a standardized guide to ensure consistent processes across all regions, reducing variability and enhancing clarity for staff, the public, legal professionals, and other stakeholders. By outlining key requirements for form submissions, it will provide clear guidance on what clerks’ review, with the goal of minimizing the number of corrections returned to parties. Should you have any questions or concerns about the contents of this checklist, please contact KBA.LeadershipTeam@just.gov.ab.ca.

Form	Clerk Review Item	Clerk Action
All	Technical Rules – Ensure the style of cause matches the Statement of Claim.	Return for Correction
All	Technical Rules – Ensure the file number and judicial centre are correct.	Return for Correction
All	Technical Rules – Ensure the address for service and contact information (including phone number and email address) are complete on all documents.	Return for Correction
All	Technical Rules / Practice Note 1 - If there are children of the marriage, the Plaintiff is required to submit their Parenting after Separation Certificate as a supporting document.	Return for Correction
All	Technical Rules / Practice Note 1 – If there are children of the marriage, the Plaintiff is required to submit the Defendant’s Parenting after Separation Certificate as a supporting document.	Return for Correction
	An exception to this rule is where a Defendant has been Noted in Default, or the Defendant is not cooperating to complete the course.	Accept and Advise Judiciary
Clearance Process	Verify on CASES that there is a CDR on the file and that it is not expired (CDR is valid for 6 years). If expired must be renewed.	Information only
Affidavit of Service	Verify that the Statement of Claim was personally served on the Defendant by an adult who cannot be the Plaintiff.	Return for Correction

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Affidavit of Service	A clear photo of the Defendant must be attached as an exhibit. If more than one person appears in the photo, an X must be clearly visible on the Defendant.	Return for Correction
Affidavit of Service	If there is a substitutional service or service ex-juris order permitting the Plaintiff to serve by email or any other means that the Justice directed in the order, copies of any orders relating to service should be included as supporting documents.	Return for Correction
Affidavit of Service	The Plaintiff/Applicant must serve upon the Defendant/Respondent to any action or application with children a “Practice Note 1- Notice of Mandatory Seminar ” in the prescribed form at the same time as the Statement of Claim or Originating document is served. This must be attached to the Affidavit of Service as Exhibit B.	Return for Correction
Affidavit of Service	The Statement of Claim must be served upon the defendant within one year from the date it was filed, as per rule 3.26 of the Alberta Rules of Court.	Return for Correction
Noting in Default	Cannot be filed until 20 days has passed after service in Alberta, 1 month after service outside Alberta or 2 months after service outside of Canada. If there has been a substitutional service order or service ex-juris order, these timelines may have been changed in the order.	Return for Correction
Demand for Notice	If the Defendant files a Demand for Notice, ensure there is not a Noting in Default or Statement of Defence filed (Internal Use - check CASES).	Information Only (clerks)
	Consent will be required on the Divorce Judgment.	Return for Correction
Statement of Defence and Counterclaim	If the Defendant files a Statement of Defence and Counterclaim, ensure there is not a Noting in Default or Demand for Notice filed (Internal Use - check CASES).	Information Only (clerks)
	Consent will be required on the Divorce Judgment. Noting in Default cannot be filed without leave of the Court.	Return for Correction
Request for Divorce	Review paragraph 2 to ensure the proper commencing document (i.e. Statement of Claim or Counterclaim) is referred to.	Return for Correction
Request for Divorce	Review paragraph 4 to ensure it properly reflects the accurate Defendant’s response.	Return for Correction

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Affidavit of Adultery	If the marriage breakdown is due to adultery, then this form is required and must be sworn by the party who committed the adultery. An exception to this is where the spouse witnessed the adultery and therefore may use the Affidavit of Applicant, paragraph 6(b).	Return for Correction
Affidavit of Applicant	Paragraph 6 (b) of the Affidavit of Applicant has the option of “other” selected. This is used to provide evidence only where the Plaintiff has witnessed the act of adultery.	Return for Correction
Affidavit of Applicant	Ensure the Affidavit has been sworn after the 1 year has expired (in cases where the breakdown of marriage is due to one year separation). Joint Divorces – the ONLY grounds for divorce are that the parties have been separated for 1 year or more.	Return for Correction
Affidavit of Applicant	Ensure the Affidavit is properly sworn, and exhibits are attached and marked correctly.	Return for Correction
Affidavit of Applicant	Review paragraph 1(a) & (b) to ensure the parties have checked off the correct box and that their email address is included.	Return for Correction
Affidavit of Applicant	Review paragraph 3 to ensure that the correct option(s) have been selected.	Return for Correction
Affidavit of Applicant	Make sure the exhibit referenced for the photo attached to the Affidavit of Service is correct.	Return for Correction
Affidavit of Applicant	Ensure the date and location of marriage is correct and match the Marriage Certificate and the Statement of Claim.	Return for Correction
Affidavit of Applicant	The names listed on the marriage certificate may differ from the style of cause, as individuals may have remarried or have other personal reasons for using a different name such as a legal name change.	Accept and Advise Judiciary
Affidavit of Applicant	Ensure the government-issued Marriage Certificate is attached (if married in Canada). If the marriage was performed outside of Canada, the marriage must be proven by detailing the circumstances in the statement provided. It is not sufficient to enter “unknown” if the information can be obtained with reasonable effort. If “unknown,” the reason should be indicated in a Supplemental Affidavit.	Return for Correction

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Affidavit of Applicant	If the breakdown of the marriage occurred because the Defendant committed physical/mental cruelty, the Affidavit of Applicant must include evidence in support of these allegations in paragraph 6(c).	Return for Correction
Affidavit of Applicant	If the Plaintiff is claiming breakdown of the marriage due to the Defendant's adultery or mental & physical cruelty, then paragraphs 8 & 9 must be checked off.	Return for Correction
Affidavit of Applicant	If a marriage is less than 6 months, evidence addressing the length of the marriage should be provided in a Supplemental Affidavit.	Accept and Advise Judiciary
Affidavit of Applicant	If there are children of the marriage, paragraph 13 must be completed. For a Joint Affidavit of Applicants, it would be paragraph 10.	Return for Correction
Affidavit of Applicant	Ensure paragraphs 14 and 15 are completed. For a Joint Affidavit of Applicants, it would be paragraph 11 and 12.	Return for Correction
Affidavit of Applicant	Children information – please ensure full name of the children, their birthdates, and who they reside with is completed.	Return for Correction
Affidavit of Applicant	If there is a previous court order, agreement, or parenting agreement relating to the child(ren) of the marriage, the most current copy should be attached as an exhibit. For Agreements, only the applicable provisions need to be attached.	Return for Correction
Affidavit of Applicant	If there are children of the marriage, paragraph 19 must be completed and match the relief sought in the Statement of Claim if the Defendant has been Noted in Default. For a Joint Affidavit of Applicants, it would be paragraph 16.	Return for Correction
Affidavit of Applicant	If there are no children of the marriage, paragraphs 14-17 can be deleted, but the numbering should not be changed. For a Joint Affidavit of Applicants, it would be paragraphs 11-14.	Return for Correction
Affidavit of Applicant	Guideline incomes must be current . This means most recent tax return or current income based on paystubs and current year estimates.	Return for Correction
Affidavit of Applicant	If there are children of the marriage, and if the parties are relying on the Child Support Guidelines, the calculation should be attached as an exhibit to the Affidavit of Applicant.	Return for Correction
Affidavit of Applicant	If the parties have shared parenting under section 9 of the guidelines, they must provide evidence pursuant to section 9(b) and 9(c) of the guidelines. This should be included in	Return for Correction

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	paragraph 17 (g)(ii) of the Affidavit of Applicant. This is especially important when there is a difference in the incomes of the parents.	
Affidavit of Applicant	Ensure the Affidavit of Applicant is not electronically signed.	Return for Correction
Divorce Judgment	Ensure the style of cause matches the Statement of Claim unless the Plaintiff/Applicant has requested an amendment in the Affidavit of Applicant.	Return for Correction
Divorce Judgment	Where the Defendant has been Noted in Default, ensure all relief sought in the Divorce Judgment was requested in both the Affidavit of Applicant and the Statement of Claim.	Return for Correction
Divorce Judgment	If the Defendant has filed a Statement of Defence, the Divorce Judgment must be consented to by the parties, if any party is an SRL, an Affidavit of Execution must be attached.	Return for Correction
Divorce Judgment	Ensure the date and place of the marriage is correct.	Return for Correction
Divorce Judgment	If there are children of the marriage, ensure the parties have completed the Divorce Judgment and Corollary Relief Order. Unless the Divorce has been severed from Corollary Relief.	Return for Correction
Divorce Judgment	Ensure that the names of the children are spelled correctly and that their birthdates are accurate.	Return for Correction
Divorce Judgment	Where there are children, ensure all applicable paragraphs are completed and that all mandatory clauses are included. Both parenting time and decision making must be addressed in the Divorce Judgment.	Return for Correction
Divorce Judgment	If there is a property claim, ensure the preamble addresses the status of the property claim. For example, if the property claim has been resolved, this can be stated in the preamble. If property has not been resolved, a severance order is required.	Return for Correction
Divorce Judgment	Ensure the appeal clause is at the end of the document.	Return for Correction
Divorce Judgment	If the parties submit a parenting plan, it must be attached to the Divorce Judgment as "Schedule A". There is no requirement for them to do so, but if they do, it must be attached	Return for Correction

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	as a schedule. If there are minutes of settlement, only the parenting plan portion needs to be attached as a schedule.	
Divorce Judgment	A Property Judgment cannot be included in the Divorce Judgment; a separate Judgment is required for property.	Return for Correction
Divorce Judgment	Mandatory clauses must be included in the Divorce Judgment. These are the MEP clause, income exchange clause, Child Support Recalculation Clause (In or Out – not both), and the clauses related to change of residence and relocation.	Return for Correction
Divorce Judgment	Ensure the Divorce Judgment is not electronically signed.	Return for Correction
Proper Forms	<p>Amendments to the Divorce Act (Canada) came into force March 1, 2021. Due to the nature of these amendments, and amendments to the Alberta Rules of Court, the new divorce forms must be used effective May 2022. Amendments to the Matrimonial Property Act which is now called the Family Property Act and the Alberta Rules of Court, came into effect on January 1, 2020.</p> <ul style="list-style-type: none"> - Separation before January 1, 2020: Use <i>Matrimonial Property Act</i> forms. - Separation on or after January 1, 2020: Use <i>Family Property Act</i> forms. 	Information only

Note: This checklist is for information only and is not required to be submitted with your submission.