

## NOTICE

### COURT OF QUEEN'S BENCH

#### RE: VERSION 5 OF THE MANDATORY STANDARD CLAUSES FOR FAMILY DIVISION ORDERS

The use of Standard Clauses in certain Family Division orders has been mandatory since 1998 [see Queen's Bench Rules 70.31(11), (12) and (13) attached]. Standard Clauses reflect the intent of a judge's decision in a consistent way and make the terms of orders more readily understood by parties and agencies dealing with the order.

Version 5 of the Standard Clauses was developed after years of work by a multi-disciplinary Committee of the Court of Queen's Bench (Family Division), including representatives from the Judiciary, the Masters, the private Bar and the Family Law Section and Courts Division of Manitoba Justice.

Version 5 of the Standard Clauses reflects legislative changes that have come into force since the release of Version 4 of the Standard Clauses and contains many other changes to clause wording and footnotes. The terms used in the applicable legislative and regulatory provisions and Rules were taken into account as clauses were drafted.

The changes also include:

- clauses for use in a number of new areas, including certain types of substituted service, summary judgment, *Homestead Act* rights and motions opposing confirmation of Master's *Family Property Act* reports, to name a few;
- reduced duplication of a number of provisions, while maintaining a "user friendly" approach and ensuring consistent drafting of clauses; and
- deletion of various unnecessary or duplicated provisions.

**Use of Version 5 of the Standard Clauses will be required commencing on October 1, 2018.** While use of non-standard clauses is not encouraged, it is sometimes necessary. As required by Queen's Bench Rule 70.31(13), if an order contains a non-standard clause, the wording of the order must conform as much as possible to the closest applicable standard clause and be accompanied by an Explanatory Note (Form 70V).

Version 5 of the Standard Clauses is currently available as follows:

**1. MANITOBA COURTS WEBSITE (for electronic viewing, printing or download):**

[Standard Clauses in Family Court Proceedings](#)

**2. E-MAIL:**

If one does not have Internet access, a request can be made to [FJRCInquiry@gov.mb.ca](mailto:FJRCInquiry@gov.mb.ca). The requester must specify the language and format preferred from the list below.

**Languages:** English  
French  
**Formats:** Word document  
PDF

**3. HARDCOPY:**

If one does not have Internet or e-mail access, a request for a hardcopy can be made to the Family Justice Resource Centre by phone at 204-945-2313 or 1-844-808-2313 (toll-free).

**ISSUED BY:**

*Original signed by* \_\_\_\_\_

**The Honourable Madam Justice M. Rivoalen  
Associate Chief Justice (Family Division)  
(Manitoba)**

**DATE: September 4, 2018**

## **QUEEN'S BENCH RULES RELEVANT TO MANDATORY USE OF STANDARD CLAUSES**

### **Standard clauses required for orders in certain Acts and in the Rules**

70.31(11) Subject to subrules (12) and (13), where an order is pronounced under one of the following enactments standard clauses shall be used in the preamble and body of the order:

- (a) the *Divorce Act* (Canada), other than a recalculated child support order;
- (b) *The Family Maintenance Act*, other than a recalculated child support order;
- (c) *The Family Property Act*;
- (d) *The Law of Property Act*;
- (e) *The Court of Queen's Bench Act* or the Rules;
- (f) *The Reciprocal Enforcement of Maintenance Orders Act* or *The Inter-jurisdictional Support Orders Act*;
- (g) Part VII of *The Child and Family Services Act* (private guardianship of the person and access);
- (h) *The Child Custody Enforcement Act*;
- (i) *The Domestic Violence and Stalking Act*, except a protection order pronounced under that Act.

M.R. 151/2002; 104/2004; 92/2005; 93/2005

### **Standard clauses required in preamble**

70.31(12) The preamble of an order referred to in subrule (11) shall use standard clauses, unless the order is pronounced under an Act which requires that the preamble be in a different form.

M.R. 151/2002

### **Exceptions to standard clauses**

70.31(13) A proposed order which contains non-standard wording but under subrule (11) requires standard clauses may be accepted by the registrar if

- (a) no standard clauses are appropriate;
- (b) the wording of the order conforms as much as possible to the closest applicable standard clause; and
- (c) an explanatory note (Form 70V) is filed with the proposed order setting out the reasons for using the non-standard wording.

M.R. 151/2002