

NOTICE

COURT OF QUEEN'S BENCH

RE: VERSION 6 OF THE MANDATORY STANDARD CLAUSES FOR FAMILY DIVISION ORDERS

The use of Standard Clauses in Family Division orders has been mandatory since 1998 [see *Court of 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 6 of the Standard Clauses for Orders in Family Proceedings was developed by a multi-disciplinary committee of the Court of Queen's Bench (Family Division), including representatives from the Judiciary, the Masters, the Family Bar, Legal Services Branch - Family Law Section and the Courts Division of Manitoba Justice.

Version 6 of the Standard Clauses reflects legislative changes that came into force since October 1, 2018. The terms used in the applicable legislative and regulatory provisions and the *Court of Queen's Bench Rules* were taken into account as clauses were drafted.

The changes include:

- additional clauses describing the nature of the proceedings;
- clauses required by/to align with amendments to the *Divorce Act* that will come into force on March 1, 2021;
- clauses relating to family law arbitrations;
- clauses relating to unique orders arising out of the Triage process;
- clauses relating to references to the Master respecting dates of cohabitation;
- changes in terminology arising out of program changes, in particular the commencement of the Family Resolution Service and the Child Support Service;
- clauses required for implementation of *The Child Support Service Act*, C.C.S.M. c. C96, the *Child Support Service Regulation*, Man. Reg. 60/2020, the related amendments to the *Child Support Guidelines Regulation*, Man. Reg. 58/98, in the *Child Support Guidelines Regulation, amendment*, Man. Reg. 61/2020, and the new, expanded Form 70W of the *Court of Queen's Bench Rules* introduced on July 1, 2020; and
- deletion of provisions that are unnecessary.

Version 6 maintains a "user friendly" approach, a comprehensive Index, detailed subject headings and the consistent drafting of clauses.

Use of Version 6 of the Standard Clauses will be required commencing on March 1, 2021.

While the use of non-standard clauses is not encouraged, it is sometimes necessary. As required by *Court of 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 6 of the Standard Clauses is available on the Manitoba Courts website at:

<http://www.manitobacourts.mb.ca/court-of-queens-bench/court-proceedings/family-law/standard-clauses-in-family-court-proceedings/>

ISSUED BY:

Original signed by
Associate Chief Justice Gwen B. Hatch

DATE: February 10, 2021

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);
- (b) *The Family Maintenance Act*;
- (c) *The Family Property Act*;
- (d) *The Law of Property Act*;
- (e) *The Court of Queen's Bench Act* or the Rules;
- (f) *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;
- (j) *The Homesteads Act*;
- (k) *The Real Property Act*;
- (l) *The Married Women's Property Act*;
- (m) *The Child Support Service Act*;
- (n) *The Arbitration Act*.

M.R. 151/2002; 104/2004; 92/2005; 93/2005; 42/2020

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