

NOTICE

COURT OF KING'S BENCH

RE: VERSION 7 OF THE MANDATORY STANDARD CLAUSES FOR ORDERS IN FAMILY PROCEEDINGS (FAMILY DIVISION ORDERS)

The use of Standard Clauses in certain Family Division orders has been mandatory since 1998 (see King's Bench Rules 70.31(11), (12) and (13) attached to this Notice). 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, agencies and others dealing with the order.

Version 7 of the Standard Clauses for Orders in Family Proceedings (Standard Clauses) was developed by a multi-disciplinary Committee of the Court of King's Bench (Family Division), including representatives from the Judiciary, the Associate Judges, the Family Bar and the Family Law Section, Legal Services Division, Manitoba Justice.

Version 7 of the Standard Clauses reflects legislative changes that have come into force since March 1, 2021, when Version 6 came into effect. The terms used in the applicable legislative and regulatory provisions and King's Bench Rules were taken into account as clauses were drafted.

Two important explanatory documents to assist counsel and others preparing orders are included in Version 7 of the Standard Clauses. The first, entitled *Introduction – Overview of Legislative Changes*, provides a non-exhaustive list of the major legislative changes considered by the Standard Clause Committee and the dates those changes came into effect. The second, entitled *Orders involving the Hague Service Convention*, contains helpful information respecting procedures and clauses for orders where the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters* applies to service of documents in international cases.

The changes in Version 7 include:

- a) amendments to parenting time and contact provisions given the changes to *The Family Law Act*, C.C.S.M. c. F20;
- b) amendments to the clauses respecting determination of parentage and addressing situations where children are conceived through reproductive technology;
- c) amendments to the clauses respecting division of provincially-regulated pensions to reflect changes to *The Pension Benefits Act*, C.C.S.M. c. P32, and the *Pension Benefits Regulation*, M.R. 39/2010 (contained in *The*

Pension Benefits Amendment Act, S.M. 2021, c.14 and the *Pension Benefits Regulation, amendment*, M.R. 63/2021), that came into effect on October 1, 2021 and impacted parties separating on or after that day;

- d) amendments relating to changes in terminology as a result of the passing of Her Majesty Queen Elizabeth II on September 8, 2022;
- e) clauses relating to the repeal and replacement of *The Family Maintenance Act*, R.S.M. 1987, c. F20, with *The Family Law Act*, and, with respect to maintenance enforcement provisions, *The Family Support Enforcement Act*, C.C.S.M. c. F26, that came into effect on July 1, 2023, together with the *Family Law Regulation*, M.R. 50/2023, and the *Manitoba Child Support Guidelines Regulation*, M.R. 52/203 (that replaced the former *Child Support Guidelines Regulation*, M.R. 58/98);
- f) amendments to *The Domestic Violence and Stalking Act*, C.C.S.M. c. D93, and the *Domestic Violence and Stalking Regulation*, M.R. 117/99 (contained in *The Domestic Violence and Stalking Amendment Act*, S.M. 2023, c.13 and the *Domestic Violence and Stalking Regulation, amendment*, M.R. 91/2023), that came into force on August 1, 2023;
- g) amendments to *The Court of King's Bench Act*, C.C.S.M. c. C280, and other Acts (contained in *An Act Respecting the Title "Associate Judge" (Various Acts Amended)*, S.M. 2023, c. 34) that came into force on September 27, 2023, and the related amendments to the *Court of King's Bench Rules*, M.R. 553/88; and
- h) amendments/additions to footnotes and headings to provide additional direction and assistance, and deletion of unnecessary clauses.

New or expanded clauses for the preamble and body of orders in family proceedings in Version 7 include:

- a) removal of judgments from title;
- b) mediation;
- c) family reports;
- d) travel provisions;
- e) relocation/change of residence;
- f) limited retainers of legal counsel;
- g) release of address information pursuant to *The Child Custody Enforcement Act*, C.C.S.M. c. C360, or *The Family Law Act*;

- h) establishment or confirmation of service and/or noting default in cases involving the *Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*; and
- i) concurrently pronounced orders setting aside Protection Orders made pursuant to *The Domestic Violence and Stalking Act* and restricting contact and communication pursuant to *The Family Law Act*.

Use of Version 7 of the Standard Clauses will be required commencing on October 1, 2024. Many of the clauses will also be appropriate and useful for Orders pronounced before that date.

While use of non-standard clauses is not encouraged, it is sometimes necessary. As required by King’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 7 of the Standard Clauses is available on the Manitoba Courts Website at:

<https://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 Hatch”

**The Honourable Associate Chief Justice Gwen B. Hatch
Court of King’s Bench (Manitoba)**

DATE: September 9, 2024

KING'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 Law Act*;
- (b.1) *The Family Support Enforcement Act*;
- (c) *The Family Property Act*;
- (d) *The Law of Property Act*;
- (e) *The Court of King's Bench Act* or the Rules;
- (f) *The Inter-jurisdictional Support Orders Act*;
- (f.1) *The International Child Support and Family Maintenance (Hague Convention) 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; 39/2023; 4/2024

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