

ALBERTA REGULATION 149/2005**Family Law Act****PROVINCIAL COURT PROCEDURES
(FAMILY LAW) REGULATION***Table of Contents*

- 1 Application
- 2 Initiating a claim
- 3 Service of claim documents
- 4 Respondent's response
- 5 Service of response documents
- 6 Response to respondent's request for additional order
- 7 Failure of respondent to comply with Regulation
- 8 Hearing
- 9 Appeal
- 10 Costs of action
- 11 Duty of lawyer
- 12 Address for service
- 13 Manner of service
- 14 Disclosure of financial information
- 15 Coming into force

Application

1(1) In this Regulation,

- (a) "Act" means the *Family Law Act*;
- (b) "Court" means the Provincial Court;
- (c) "file" means to file with the clerk of the Provincial Court.

(2) For the purposes of the Act and the regulations made under the Act, "party" means, in respect of an application under the Act, any one or more of the following:

- (a) a person named as an applicant or a respondent in the application;
- (b) a person identified in any enactment as a party to the application;
- (c) a public official, including the Director acting under Part 5 of the *Income and Employment Supports Act*, who pursuant to any enactment has the right to commence, defend, intervene in or take any step in respect of the application and exercises that right;

(d) a person added as a party by the court hearing the application.

(3) A reference to the appropriate form in this Regulation is a reference to the form established by the Minister in accordance with the *Family Law Act General Regulation* made pursuant to the Act.

(4) Where the Minister has not established the form of statement or reply statement referred to in this Regulation,

- (a) the party required to file that statement or reply statement must instead swear and file an affidavit containing the evidence to support that party's application or response, as the case may be, and
- (b) a blank reply statement need not be served.

Initiating a claim

2(1) The applicant for an order described in Parts 1 to 4 of the Act must file a claim in the appropriate form that sets out the order being applied for.

(2) The applicant may ask the Court to grant more than one order, using only one claim form.

(3) The applicant must also swear and file a statement in the appropriate form for each of the orders applied for.

(4) The applicant may also swear and file a supplementary affidavit.

Service of claim documents

3(1) The applicant must serve each person named in the claim as a respondent, and each person who is required by the Act to be served, with

- (a) a copy of the documents filed under section 2,
- (b) a blank response in the appropriate form, and
- (c) a blank reply statement in the appropriate form for each of the orders applied for.

(2) The documents referred to in subsection (1) must be served

- (a) personally, and
- (b) at least 10 days before the date set out in the claim or within any other period the Court considers appropriate.

(3) When computing time for the purposes of this section, weekends and holidays are not to be included in the calculation.

Respondent's response

4(1) A respondent who wishes to respond to the applicant's claim must file the form referred to in section 3(1)(b) and must swear and file the reply statement referred to in section 3(1)(c).

(2) The respondent may, in the response, ask the Court to grant one or more additional orders and, in that event, the respondent must swear and file a statement in the appropriate form for each additional order requested.

(3) The respondent may also swear and file a supplementary affidavit.

Service of response documents

5(1) The respondent must serve the applicant and any other party with

- (a) a copy of the documents filed under section 4, and
- (b) where the respondent has asked the Court to grant one or more additional orders, a blank reply statement in the appropriate form for each of the additional orders requested in the respondent's response.

(2) The documents referred to in subsection (1) must be served at least 5 days before the date set out in the claim or within any other period the Court considers appropriate.

(3) When computing time for the purposes of this section, weekends and holidays are not to be included in the calculation.

Response to respondent's request for additional order

6(1) Any party who wishes to respond to the respondent's request that the Court grant one or more additional orders must swear and file the reply statement referred to in section 5(1)(b).

(2) Any party who completes a reply statement under subsection (1) must serve the respondent and any other party with a copy of the reply statement at least 24 hours before the date set out in the claim.

Failure of respondent to comply with Regulation

7 Where a respondent attends at the Court for the hearing but has not completed, filed and served the documents required by this Regulation, the Court may proceed to determine all matters before it.

Hearing

8(1) The Court may hear all or any part of a matter by way of telecommunication.

(2) An oath may be administered by telecommunication.

Appeal

9(1) Subject to subsection (2), a party may appeal to the Court of Queen's Bench any decision of the Court.

(2) A party must apply to the Provincial Court for leave to appeal under subsection (1) where the decision to be appealed

- (a) is a consent order or judgment, or
- (b) is an order or judgment that relates only to costs.

Costs of action

10(1) Subject to subsection (2) and any other enactment, the Court may at any time in any proceeding before it, on any conditions it considers appropriate, award costs in respect of any matter under the Act.

(2) The Court may not award costs under subsection (1) against a director under the *Child, Youth and Family Enhancement Act*.

Duty of lawyer

11(1) Every lawyer who acts on behalf of a party in a proceeding under the Act must file a certificate in the appropriate form in accordance with section 5 of the Act.

(2) Subsection (1) does not apply where the lawyer is legal counsel for a director under an enactment.

Address for service

12(1) For the purposes of this Regulation, the address for service is,

- (a) for the applicant, the address provided in the claim filed under section 2 or as otherwise provided to the Court and all other parties in writing or on the record during a court appearance,
- (b) for the respondent, the address provided in the response filed under section 4 or as otherwise provided to the Court and all other parties in writing or on the record during a court appearance, and
- (c) for any other party, the address provided by the party to the Court and all other parties in writing or on the record during a court appearance.

(2) Where any party is represented by a lawyer, that party's address for service is the lawyer's address, as provided in the certificate referred to in section 11 or as otherwise provided in writing.

Manner of service

13(1) Personal service is effected on an individual by leaving with the individual a copy of the document to be served.

(2) Personal service of a document is not required where the person to be served, by that person's lawyer, accepts service.

(3) All documents except those listed in section 3(1) may be served

- (a) by means of a telecopier on the lawyer for the person to be served if the lawyer has provided a telecopier number in the certificate referred to in section 11 or otherwise in writing,
- (b) by prepaid registered mail to the address for service,
- (c) by leaving the document at the address for service, or
- (d) as directed by the Court.

Disclosure of financial information

14(1) Where a written request for financial information has been made under section 65(1) or (4) of the Act, that information shall be provided

- (a) within 30 days after the request is received where the party receiving the request resides in Canada or the United States, or
- (b) within 60 days after the request is received where the party receiving the request resides outside Canada and the United States.

(2) A request for financial information in the appropriate form is a written request for financial information for the purposes of section 65(1) and (4) of the Act.

Coming into force

15 This Regulation comes into force on the date the *Family Law Act* is proclaimed in force.

ALBERTA REGULATION 150/2005**Family Law Act****Provincial Court Act****INTAKE AND CASEFLOW
MANAGEMENT REGULATION***Table of Contents*

1	Definitions
2	Starting an application
3	Scheduling a caseflow conference
4	Caseflow conference may precede respondent's response
5	Attendance at caseflow conference
6	Service on and attendance of director
7	Non attendance by applicant or respondent
8	Caseflow conference
9	Adjournments
10	Scheduling of judicial dispute resolution conferences
11	Tracking applications
12	Collection and disclosure of information
13	Exemption
14	Forms
15	Impartiality
16	Non confidentiality
17	Applicable districts and facilities
18	Repeal
19	Coming into force

Definitions

1 In this Regulation,

- (a) “application” means an application to the Court
- (i) for an order under the *Family Law Act* respecting parenting, guardianship, contact with a child or enforcement of time with a child, or
- (ii) under the *Extra-provincial Enforcement of Custody Orders Act* respecting the enforcement or variation of a custody order or the making of a custody order;

- (b) “caseflow conference” means a conference that has been scheduled between a caseflow coordinator and the applicant and the respondent, and their legal counsel, if any, to explore settlement options, facilitate settlement and facilitate the applicant’s and respondent’s access to the Court;
- (c) “caseflow coordinator” means a coordinator of the Court’s intake and caseflow management program;
- (d) “Court” means the Provincial Court;
- (e) “director” means a person designated as a director under the *Child, Youth and Family Enhancement Act*;
- (f) “intake counsellor” means an employee of the Government of Alberta who is a family court counsellor.

Starting an application

2(1) Before filing an application with the clerk of the Court, an applicant who is not represented by legal counsel must consult with an intake counsellor about options and possible referrals.

(2) Before filing an application with the clerk of the Court, legal counsel for the applicant must inform the applicant of the option to schedule a caseflow conference.

(3) A respondent who wishes to respond to an application may consult with an intake counsellor about options and possible referrals.

Scheduling a caseflow conference

3(1) On filing an application, the clerk of the Court must schedule a caseflow conference to occur prior to a Court hearing

- (a) in each case where the applicant is not represented by legal counsel, and
- (b) where the applicant is represented by legal counsel, if the applicant requests it.

(2) A caseflow coordinator may waive the requirement to schedule a caseflow conference if, in the opinion of the caseflow coordinator, it is appropriate for the application to proceed directly to a Court hearing.

(3) Where the clerk has scheduled a caseflow conference, the applicant must serve a notice of the date, time and location of the caseflow conference on the same persons who are to be served with the application to which the caseflow conference relates in the same manner as that application is to be served.

Caseflow conference may precede respondent's response

4 The caseflow conference may proceed before the respondent has filed and served a response to the application pursuant to the *Provincial Court Procedures (Family Law) Regulation*.

Attendance at caseflow conference

5(1) The applicant and the respondent must attend the caseflow conference and may attend with or without legal counsel.

(2) Any other person served under section 3(3) may attend the caseflow conference or portions that are relevant to that person.

(3) In addition to the persons served under section 3(3), the following may attend the caseflow conference:

- (a) legal counsel;
- (b) intake counsellor;
- (c) any other person at the discretion of the caseflow coordinator.

Service on and attendance of director

6(1) Where the application relates to a child who is in the custody or comes under the custody of a director, the applicant must serve the director with notice of the date, time and location of the caseflow conference.

(2) A director served under subsection (1) is not required to attend the caseflow conference but may make submissions in writing or otherwise to the caseflow coordinator.

Non-attendance by applicant or respondent

7(1) Where a caseflow conference has been scheduled and the applicant does not attend, the caseflow coordinator must notify the clerk of the Court that the applicant did not attend and the application may be recorded as having been abandoned.

(2) Where a caseflow conference has been scheduled and a respondent who has been served under section 3(3) does not attend,

- (a) the caseflow coordinator
 - (i) must notify the clerk of the Court that the respondent did not attend,
 - (ii) must inform the clerk of the Court whether the respondent indicated in writing agreement or disagreement with the order or orders applied for, and

- (iii) may arrange for the preparation of a form of order for the Court's consideration or arrange for the applicant to proceed directly to a Court hearing without further notice to the respondent,

and

- (b) the Court may make an order without further notice to the respondent.

Caseflow conference

8(1) When a caseflow conference proceeds with the applicant and respondent in attendance, the caseflow coordinator must offer to assist them to explore options and review documentation required for the application to proceed and inform them of the process to be followed.

(2) Where the issues are resolved, the caseflow coordinator may arrange for the preparation of a form of consent order and forward it to the Court for its decision.

(3) Where the issues are not resolved, the caseflow coordinator

- (a) may, with the consent of the applicant and respondent, refer them to mediation, to an intake counsellor or to other agencies, as appropriate, or
- (b) may assist the applicant and respondent to consider their options, including judicial dispute resolution and a Court hearing.

(4) Where the issues are not resolved and the applicant and respondent do not agree on subsequent proceedings, the caseflow coordinator shall refer them to a Court hearing.

Adjournments

9(1) Where a caseflow conference has been scheduled, the caseflow coordinator may adjourn it to another time and place or indefinitely.

(2) The caseflow coordinator may request that the clerk of the Court adjourn a hearing to another time and place or indefinitely

- (a) if the applicant consents to the adjournment and the respondent has not been served with notice of the Court hearing, or
- (b) if the respondent has been served with notice of the Court hearing, and the applicant and the respondent consent to the adjournment.

Scheduling of judicial dispute resolution conferences

10 The caseflow coordinator may schedule a judicial dispute resolution conference when the caseflow coordinator considers it appropriate and if the applicant and the respondent consent.

Tracking applications

11 The caseflow coordinator must monitor the progress of an application through the proceedings referred to in this Regulation.

Collection and disclosure of information

12(1) The caseflow coordinator may collect the following information for the purpose of evaluation respecting this Regulation:

- (a) demographic information contained in the application or in a court document relating to the application;
- (b) contact information for the applicant and the respondent and their legal counsel, if any.

(2) Information collected under this section may be disclosed in a summary or statistical form.

Exemption

13(1) Notwithstanding anything in this Regulation, the applicant or the respondent may apply to the Court, on giving at least 2 days' notice to the other party, for an order exempting the applicant or respondent from the requirement to comply with all or part of this Regulation, and the Court may exempt the applicant or respondent if the Court considers that there is good and sufficient reason to do so.

(2) The Court may waive the requirement to give at least 2 days' notice.

Forms

14 All documents filed under this Regulation must be in a form satisfactory to the Court.

Impartiality

15(1) A caseflow coordinator must act impartially.

(2) Neither the applicant nor the respondent may call the caseflow coordinator as a witness to testify on that person's behalf in any proceedings before the Court respecting the caseflow conference.

Non-confidentiality

16 A caseflow conference is not confidential.

Applicable districts and facilities

17 This Regulation applies in respect of a judicial district or a Court facility only if the chief judge of the Court has designated that district or facility for the purposes of this Regulation.

Repeal

18 The *Intake and Caseflow Management Rules* (AR 163/2001) are repealed.

Coming into force

19 This Regulation comes into force on the date the *Family Law Act* is proclaimed in force.