

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 357

, Approved and Ordered June 27, 2022



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective October 3, 2022,

- (a) the Supreme Court Civil Rules, B.C. Reg. 168/2009, are amended as set out in the attached Schedule 1, and
- (b) the Supreme Court Family Rules, B.C. Reg. 169/2009, are amended as set out in the attached Schedule 2.



Attorney General and Minister Responsible for Housing



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: Court Rules Act, R.S.B.C. 1996, c. 80, s. 1

Other: O.C.s 302/2009; 303/2009

R10578218

SCHEDULE 1

1 *Rule 1-1 (1) of the Supreme Court Civil Rules, B.C. Reg. 168/2009, is amended by repealing the definition of “witness list” and substituting the following:*

“**witness list**” means a list setting out the name and address of each witness whom a party may call at trial; .

2 *Rule 7-4 is repealed.*

3 *Rule 11-1 (1) is amended by striking out “or” at the end of paragraph (a) and by adding the following paragraph:*

(a.1) a petition proceeding, except as provided in Rule 16-1, or .

4 *Rule 12-5 (28) is amended by striking out “a witness list” and substituting “the witness list set out in a party’s trial brief”.*

5 *Rule 13-1 (1) (b) is amended by striking out “subrule (2)” and substituting “subrules (1.3) and (2)”.*

6 *Rule 13-1 is amended by adding the following subrules:*

Service of order drawn up by party and signing instructions

(1.1) If an order of the court must be approved in writing by a party of record or their lawyer, the party who draws up the order must serve the order on the party of record along with signing instructions in Form 33.1.

Time limit for approving or objecting to order drawn up by party

(1.2) A party who is served with an order under subrule (1.1) or the party’s lawyer must, within 14 days after being served,

(a) if the party or lawyer approves the terms of the order, sign the order and return it to the party who drew up the order, or

(b) if the party or lawyer disagrees with the accuracy of the terms of the order, deliver to the party who drew up the order a written objection that sets out in detail the reasons why the terms of the order are not accurate.

Approval not required after non-compliance

(1.3) If a party who is served with an order under subrule (1.1) or the party’s lawyer does not return the approved order or deliver a written objection within the time limit set out in subrule (1.2), the order need not be approved by that party or that party’s lawyer.

Entry of order after non-compliance

(1.4) The registrar may enter an order that has not been approved by a party of record or their lawyer if the party who drew up the order files

(a) proof of service on the party of record of the order and the signing instructions referred to in subrule (1.1),

- (b) proof that the party who was served with the order or that party's lawyer did not return the approved order, or deliver a written objection, within the time limit set out in subrule (1.2), and
- (c) a requisition in Form 17 requesting entry of the order.

7 Rule 13-1 (12) is repealed and the following substituted:

Appointment to settle

- (12) A party may file an appointment in Form 49 to settle an order and must, at least one day before the time fixed by the appointment, serve on all parties whose approval of the order is required under subrule (1) the following documents:
 - (a) a copy of the filed appointment;
 - (b) the draft order;
 - (c) any written objections to the draft order that have been delivered to the party.

8 Rule 16-1 is amended by adding the following subrules:

Expert opinion evidence

- (6.1) Unless the court otherwise orders, a party of record may tender a report setting out the opinion of an expert if
 - (a) the report conforms with Rule 11-6 (1), or
 - (b) the court orders that the report is admissible even though it does not conform with Rule 11-6 (1).

Service of expert reports

- (6.2) Unless the court otherwise orders, expert reports must be served as follows:
 - (a) a petitioner must, at the same time that a copy of the filed petition is served on a person under subrule (3), serve on the person a copy of each expert report in support along with written notice that the expert report is being served under this rule;
 - (b) a petition respondent must, within 42 days after being served with a copy of the filed petition under subrule (3), serve on the petitioner and every other party of record a copy of each expert report of the petition respondent along with written notice that the expert report is being served under this rule;
 - (c) a party must, within 49 days after being served with an expert report under paragraph (b), serve on every other party of record a copy of the serving party's responding expert reports, if any, along with written notice that the expert reports are being served under this rule.

Application of Rule 11-6

- (6.3) Rule 11-6 (2) applies to a petition proceeding.

9 Form 15 in Appendix A is amended by adding the following section:

- 3 The means by which I identified the person served is [*Check whichever one of the following boxes is correct and complete the required information.*]

- I know the person served because[set out the means of knowledge]..... .
- the person I served produced the following identification containing a photograph that was a true likeness of the person I served:[specify form of identification produced – e.g., “B.C. Drivers Licence No. XXX”]....., bearing the name of
- by the following other means:[describe other means by which the person was identified (e.g., the person I served acknowledged that they were ..[name of person served])]..... .

10 Form 21 in Appendix A is amended in the heading to section 6 by striking out “(RULE 7-4 OF THE SUPREME COURT CIVIL RULES)”.

11 The following form is added to Appendix A:

FORM 33.1 (RULE 13-1 (1.1))

Court File No.:

Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

ORDER SIGNING INSTRUCTIONS

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Notice to:

You are requested to sign the attached draft order made by
Judge/Master..... on

I have drafted the order consistent with the terms prescribed by the judge/master as stated on the court record.

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- I have attached the clerk’s notes relating to the order of the judge/master
- I have not attached the clerk’s notes relating to the order of the judge/master for the following reason(s):[briefly state the reasons].....

You are requested to return the signed order within 14 days of receipt. Signing the order does not preclude your right to appeal.

If you disagree with the accuracy of the terms in the order you are required to deliver your written objections to me within 14 days of receiving the order.

I will consider your objections and if we are unable to agree on the terms to be included in the order an appointment to settle the order may be filed in accordance with Rule 13-1 (12).

If the signed order is not returned to me, or written objection(s) to any of the terms are not delivered to me, within 14 days of receipt, the order may be submitted for entry in accordance with Rule 13-1 (1.4).

Date Sent:[dd/mmm/yyyy].....

12 Form 118 in Appendix A is amended

(a) **by striking out** “<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/court-forms/sup-civil-forms>” **and substituting** “www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/submit-court-documents-forms/fax-filing/how-to-fax-file”, **and**

(b) **by striking out** “www.ag.gov.bc.ca/courts/fax/index.htm” **and substituting** “www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/submit-court-documents-forms/fax-filing/how-to-fax-file”.

SCHEDULE 2

1 Rule 14-7 (28) of the Supreme Court Family Rules, B.C. Reg. 169/2009, is amended by striking out “the trial brief” and substituting “a party’s trial brief”.

2 Rule 15-1 (1) (d.2) is repealed and the following substituted:

(d.2) if the order terminates a protection order under section 187 of the *Family Law Act*, in Form F54.1; .

3 Rule 15-1 is amended by adding the following subrules:

What happens if protection order is made

(2.1) If the court makes a protection order under section 183 of the *Family Law Act*, the registrar must, as soon as possible,

- (a) provide a copy to the protection order registry,
- (b) arrange service on, or provide a copy to, the party against whom the protection order is made, as follows:
 - (i) if that party is present when the order is made, provide the party with the protection order;
 - (ii) if that party is not present when the order is made, arrange for the personal service of the protection order on that party within British Columbia;
 - (iii) if the registry is unable to arrange service under subparagraph (ii) or that party is evading service, notify the person who applied for the order of that fact and that the person is now responsible for service, and
- (c) provide a copy to the person who applied for the order.

Information for service

(2.2) If a party against whom a protection order is made is not present when the order is made, the party who applied for the order must provide the registry with information

about the location of the party against whom the order is made for the purposes of the registry arranging service under subrule (2.1) (b) (ii).

Court to make new protection order

- (2.3) If the court changes a term or condition of an existing protection order, including by extending the term of the protection order, the court must terminate the existing protection order and make a new protection order.

What happens if protection order is terminated

- (2.4) If the court terminates a protection order, the registrar must, as soon as possible, provide a copy of the termination order to the protection order registry and to all parties.

4 *Rule 15-1 (3) (b) is amended by striking out “subrule (4)” and substituting “subrules (3.3) and (4)”.*

5 *Rule 15-1 is amended by adding the following subrules:*

Service of order drawn up by party and signing instructions

- (3.1) If an order of the court must be approved in writing by a party or the party’s lawyer, the party who draws up the order must serve the order on that party along with signing instructions in Form F32.1.

Time limit for approving or objecting to order drawn up by party

- (3.2) A party who is served with an order under subrule (3.1) or the party’s lawyer must, within 14 days after being served,
- (a) if the party or lawyer approves the terms of the order, sign the order and return it to the party who drew up the order, or
 - (b) if the party or lawyer disagrees with the accuracy of the terms of the order, deliver to the party who drew up the order a written objection that sets out in detail the reasons why the terms of the order are not accurate.

Approval not required after non-compliance

- (3.3) If a party who is served with an order under subrule (3.1) or the party’s lawyer does not return the approved order or deliver a written objection within the time limit set out in subrule (3.2), the order need not be approved by that party or that party’s lawyer.

Entry of order after non-compliance

- (3.4) The registrar may enter an order that has not been approved by a party or the party’s lawyer if the party who drew up the order files
- (a) proof of service on the party of the order and the signing instructions referred to in subrule (3.1),
 - (b) proof that the party who was served with the order or that party’s lawyer did not return the approved order, or deliver a written objection, within the time limit set out in subrule (3.2), and
 - (c) a requisition in Form F17 requesting entry of the order.

6 Rule 15-1 (13) is repealed and the following substituted:

Appointment to settle

- (13) A party may file an appointment in Form F55 to settle an order and must, at least one day before the time fixed by the appointment, serve on all parties whose approval of the order is required under subrule (3) the following documents:
- (a) a copy of the filed appointment;
 - (b) the draft order;
 - (c) any written objections to the draft order that have been delivered to the party.

7 Rule 17-1 is amended by adding the following subrules:

Expert opinion evidence

- (6.1) Unless the court otherwise orders, a party may tender a report setting out the opinion of an expert if
- (a) the report conforms with Rule 13-6 (1), or
 - (b) the court orders that the report is admissible even though it does not conform with Rule 13-6 (1).

Service of expert reports

- (6.2) Unless the court otherwise orders, expert reports must be served as follows:
- (a) a petitioner must, at the same time that a copy of the filed petition is served on a person under subrule (3), serve on the person a copy of each expert report in support along with written notice that the expert report is being served under this rule;
 - (b) a petition respondent must, within 42 days after being served with a copy of the filed petition under subrule (3), serve on the petitioner and every other party a copy of each expert report of the petition respondent along with written notice that the expert report is being served under this rule;
 - (c) a party must, within 49 days after being served with an expert report under paragraph (b), serve on every other party a copy of the serving party's responding expert reports, if any, along with written notice that the expert reports are being served under this rule.

Application of Rule 13-6

- (6.3) Rule 13-6 (2) applies to a petition proceeding.

8 Rule 17-1 (7) is amended by striking out “(3), (5) and (6)” and substituting “(3), (4) and (6)”.

9 The following form is added to Appendix A:

FORM F32.1 (RULE 15-1 (3.1))

Court File No.:

In the Supreme Court of British Columbia

Claimant:

Respondent:

ORDER SIGNING INSTRUCTIONS

[Rule 21-1 of the Supreme Court Family Rules applies to all forms.]

Notice to:

You are requested to sign the attached draft order made by

Judge/Master on

I have drafted the order consistent with the terms prescribed by the judge/master as stated on the court record.

[Check whichever one of the immediately following 2 boxes is correct and provide any required information.]

- I have attached the clerk’s notes relating to the order of the judge/master
- I have not attached the clerk’s notes relating to the order of the judge/master for the following reason(s):*[briefly state the reasons]*.....

You are requested to return the signed order within 14 days of receipt. Signing the order does not preclude your right to appeal.

If you disagree with the accuracy of the terms in the order you are required to deliver your written objections to me within 14 days of receiving the order.

I will consider your objections and if we are unable to agree on terms to be included in the order an appointment to settle the order may be filed in accordance with Rule 15-1 (13).

If the signed order is not returned to me, or written objection(s) to any of the terms are not delivered to me, within 14 days of receipt, the order may be submitted for entry in accordance with Rule 15-1 (3.4).

Date Sent:*[dd/mmm/yyyy]*.....

10 Form F37 in Appendix A is amended

(a) by striking out the following:

[Provide the information required under the child support guidelines (the “Guidelines”) by selecting and, if applicable, completing each of sections 4a, 4b and 4c that relates to that information, and remove each of sections 4a, 4b and 4c that does not relate to information required under the Guidelines so that that section does not appear in the form when the form is filed. If none of sections 4a, 4b and 4c is required under the Guidelines, remove sections 4a, 4b and 4c so that they do not appear in the form when the form is filed and instead add a section 4d as follows: Section 4 is omitted as inapplicable.]

and substituting the following:

[Provide the information required under the child support guidelines (the “Guidelines”) by selecting and completing one or more of sections 4a, 4b and 4c that relate to that information and removing any sections

that do not relate to information required under the Guidelines so that that/those section(s) do not appear in the form when the form is filed.],

(b) in section 4c by adding “and provide explanation if the agreed amount is not in line with the Guidelines” after “this affidavit”, and

(c) in items 4 (b) and 5 of the Supplementary Child Support Fact Sheet E – Undue Hardship by striking out “to support himself or herself” and substituting “to be self-supporting”.

11 Form F54 in Appendix A is amended by striking out “if no expiry date is ordered” and substituting “unless the court otherwise orders”.

12 Form F54.1 in Appendix A is repealed and the following substituted:

FORM F54.1 (RULE 15-1 (1))

Court File No.:

Court Registry:

In the Supreme Court of British Columbia

Claimant:

Respondent:

ORDER TERMINATING A PROTECTION ORDER

[Rule 21-1 of the Supreme Court Family Rules applies to all forms.]

BEFORE } THE HONOURABLE JUSTICE }
 } or }[dd/mmm/yyyy].....
 } MASTER }

Name of applicant:

Persons appearing:

Lawyer:

.....

Lawyer:

THIS COURT ORDERS, under section 187 of the Family Law Act, that the order dated[dd/mmm/yyyy].....made by [name of justice or master who made the order being terminated] is terminated on[dd/mmm/yyyy].....

By the Court.

.....

Registrar

Note: This order will be sent to the Protection Order Registry to advise them to remove the terminated order from their registry.

13 Form F95 in Appendix A is amended

- (a) by striking out** “<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/court-forms/sup-family-forms>” **and substituting** “www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/submit-court-documents-forms/fax-filing/how-to-fax-file”, **and**
- (b) by striking out** “www.ag.gov.bc.ca/courts/fax/index.htm” **and substituting** “www2.gov.bc.ca/gov/content/justice/courthouse-services/documents-forms-records/submit-court-documents-forms/fax-filing”.