

NOTICE TO PROFESSION
CHANGES TO THE FAMILY LAW RULES
IN FORCE JANUARY 1, 2013

Please note that O. Reg. 388/12 and O. Reg 389/12¹ come into force on January 1, 2013. In summary, these regulations make the following changes to the Family Law Rules:

- Rules 8, 10, 13 and 14 have been amended with respect to motions and new applications that relate to family arbitrations.
- Rule 32.1 has been created to introduce a new simplified procedure that allows a party to seek enforcement of a family arbitration award.
- Rule 38 has been amended to apply to appeals of family arbitration awards.
- Rule 25.1 has been created to provide rules regarding the payment of money into and out of court in family cases.

In addition, the following court forms have been amended:

1. Form 8: Application (General)
2. Form 10: Answer

And the following new forms have been created:

1. Form 32.1: Request to Enforce a Family Arbitration Award
2. Form 32.1A: Dispute of Request to Enforce

All of these new forms have a version date of October 1, 2012. The court forms can be found at www.ontariocourtforms.on.ca.

A further explanation of the changes is set out below. Please note that this is not intended to be a substitute for reading the *Family Law Rules* and these amendments in their entirety.

Rules 8, 10, 13, 14, 17 and 32.1

- Rules 8 and 10 have been amended to specifically allow parties to seek relief relating to a family arbitration award in a family court case and to list the documents that must accompany an application or answer that contains a claim relating to a family arbitration.
- Rules 8 and 14 have been amended so that where there is already a family court case and a party is seeking to enforce a family arbitration award:

¹ O. Reg 288/12 and O. Reg 289/12 are expected to be published in the Ontario Gazette on December 15, 2012.

- The party must proceed by motion as required by the *Arbitration Act, 1991*;
 - The party must include with the motion the agreement to arbitrate, certificates of independent legal advice and the family arbitration award; and,
 - The court may make a final order on a motion under Rule 14.
- Rule 13 has been amended to create an exception to the requirements for financial statements and net family property statements where the only claims relate to family arbitrations.
 - Rule 32.1 has been created to provide a simplified process for seeking only the enforcement of the terms of a family arbitration award that do not require the parties' attendance in court.
 - Rule 38 has been amended so that the procedures that apply to appeals of Ontario Court of Justice orders also apply to appeals of family arbitration awards, with modification. Rule 38 also specifically provides for motions for leave to appeal a family arbitration award.

Rule 25.1

- O. Reg 191/95 under the *Public Guardian and Trustee Act* was amended in order to streamline the payment of money into court in family and small claims court cases. These funds will now be held by the Accountant of the Superior Court of Justice.
- Rule 25.1 sets out the procedures that must be followed in order to pay money into court in a family case and permits parties to obtain funds out of court either pursuant to a court order or on the consent of the parties. This rule contains specific requirements regarding the documentation that a party must file with the Accountant to pay funds out of court in both scenarios.

Forms

Forms 8 and 10

- These forms have been amended to allow a party to indicate on the Application (General) or Answer that they wish to make a claim relating to a family arbitration and to obtain basic information regarding any arbitration that has occurred.

Form 32.1: Request to Enforce a Family Arbitration Award

- This new form is required if a party proceeds under Rule 32.1 to seek enforcement of the terms of an arbitration award and must be accompanied by the following documents:
 - A copy of the family arbitration agreement;
 - Copies of certificates of independent legal advice; and,
 - The original award or a certified copy.
- This form must be accompanied by a Form 35.1: Affidavit in Support of Claim for Custody or Access where custody and access terms are contained in the arbitration award and are going to be enforced.

Form 32.1A: Dispute of Request to Enforce

- A party wishing to dispute a request to enforce a family arbitration award may file a Form 32.1A: Dispute of Request to Enforce. A Form 35.1: Affidavit in Support of Claim for Custody or Access is also required with this form where appropriate.

December 10, 2012