

Summary of the Alberta Rules of Court Amendment Regulation

Summary of the amendments included in the Alberta Rules of Court Amendment Regulation (AR 128/2015), which became effective on August 21, 2015, are the following provisions:

- Rule 1.5 [*Rule contravention, non-compliance and irregularities*] is amended to change the requirement to comply “with these rules” to a requirement to comply “with any procedural requirement” as procedural requirements exist in addition to the Rules of Court.
- Rule 3.36 [*Judgment in default of defence and noting in default*] is amended to add in missing wording in (1)(b). It will now read that the clerk must enter a note to the effect that the defendant has not filed a statement of defence “or demand for notice”.
- Rule 4.19 [*Documents resulting from judicial dispute resolution*] is amended to allow a transcript of the proceedings made in open court to record the outcome of the judicial dispute resolution process.
- Rule 4.20 [*Confidentiality and use of information*] is amended to allow documents generated for or in the judicial dispute resolution process to prove the fact that a settlement was reached or the terms of the settlement.
- Rule 8.8 [*Notice to attend as witness at trial*] is amended to change when the names of witnesses must be exchanged. The plaintiff must provide a list of witnesses’ names to the court one month before the trial date. Every other party must provide a list of witnesses’ names to the Court 20 days before the trial date.

Flowing from this, Form 37 is also amended by striking out the requirement to list the names of witnesses, but still requires the total number of witnesses to be provided.

- Rule 9.21 [*Application for new judgment or order*] is amended to remove the requirement that the application must require that the judgment debtor show cause why a new judgment or order should not be granted. The Rule now states that the Court may grant the new judgment or order if the judgment debtor does not appear and show cause why the order should be denied.
- Rule 10.7 [*Contingency fee agreement requirements*] is amended to clarify the disclosure requirements in contingency fee agreements, including the clarification that contingency fees are not allowed on disbursements.
- Rule 10.14 [*Client-obtained appointment: Lawyer’s responsibility*] is amended to add a requirement that if a lawyer is served with a notice of an appointment for a review of the lawyer’s charges, in addition to the requirement to provide a copy of the account and any retainer agreement, a lawyer must provide a copy of the time records upon which the account is based, if any.
- Rule 12.46 [*Provisional order to vary a support order under Divorce Act (Canada)*] and Rule 12.47 [*Confirmation Hearing*] are corrected to require the court clerk to forward the order to the Minister of Justice and Solicitor General of Alberta (rather than the Attorney General for Canada).

- Rule 14.8 [*Filing a notice of appeal*] and Rule 14.44 [*Application for permission to appeal*] are amended by removing the requirement for the application to be “returnable” within the time periods specified. Applications must simply be filed and served within the appropriate time periods.
- Rule 14.14(3)(a) [*Fast track appeals*] is amended to correct the reference to “third party notice” to “third party claim”.
- Form FL-2 [*Statement of claim for division of matrimonial property*] and Form FL-3 [*Statement of claim for divorce and division of matrimonial property*] are amended by adding an additional box to indicate that a statement of claim for divorce has been issued (as allowed under the *Matrimonial Property Act*).
- Form FL-23 [*Affidavit of applicant*] and FL-24 [*Affidavit of applicants (joint)*] are amended by adding wording to indicate that each party has had independent legal advice respecting an agreement to waive spousal support and, where appropriate, a place to indicate that no application for spousal support is being made at the present time.
- Form FL-25 [*Divorce judgment (without oral evidence)*] and Form FL-26 [*Divorce judgment and corollary relief order (without oral evidence)*] are amended to provide a place to identify the location of adjudication, rather than the location of hearing or trial.
- Form FL-27 [*Corollary relief order*] is amended by providing a new clause that must be included in every child support order. This requirement is further to recent changes to the *Family Law Act* relating to the Alberta Child Support Recalculation Program. The clause will either allow for recalculation (with implications for failure to comply with income disclosure requirements) or indicate that the order shall not be recalculated.