

SUPREME COURT FAMILY RULES

DESK ORDERS: PROCESS AND PROCEDURE

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I. GENERAL PROVISIONS

- 1-1(1) An “**undefended family law case**” is a family law case in which:
1. the case is a joint family law case and no Notice of Withdrawal has been filed;
 2. no Response to Family Claim has been filed;
 3. a filed Response to Family Claim has been withdrawn, struck or discontinued or dismissed;
 4. a Counterclaim has been filed and the Notice of Family Claim has been withdrawn, struck or discontinued or dismissed; or,
 5. all matters except for the divorce have been settled.

15-1(3), 15-1(4) Orders must be **approved in writing** by all parties or their counsel unless signed by the judge or master making the order or otherwise ordered.

15-1(11) Consent orders **must not be entered** unless the order has been *signed by counsel* or an *unrepresented party* has given oral or written consent to the order.

22-2(9) Requests to registrars are to be made by Requisition in FORM F17 unless otherwise provided.

22-7(2) Masters have the powers and jurisdiction of a registrar.

NOTE: Under Rule 22-7(7) a registrar may refer a matter to a judge or master for determination and the judge or master may determine the matter or return it to the registrar with directions.

21-2(2) The court may *shorten* or *extend any time period*, including on an application brought after the expiry of the time period.

NOTE: Special instructions for urgent applications are set out at Rule 10-9(1) to (5).

21-2(1) Where a *time period* is for **less than 7 days**, *holidays* are not counted.

NOTE: “Holiday” is defined by the *Interpretation Act*.

II. PROCEDURAL MATTERS ACCOMPLISHED BY REQUISITION

- 20-5(3) **Indigent status** may be obtained by filing
1. a Requisition in FORM F17;
 2. a *draft order* in FORM F85; and,
 3. proof of *receipt of social assistance* OR an *affidavit* in FORM F86.
- 6-6(1)(e)(ii) **Ordinary service** may be proved by filing:
1. a Requisition in FORM F17; and,
 2. *written acknowledgement* of receipt.
- 7-2(2) **Settlement conferences** may be scheduled where the parties *jointly request* the conference by filing a Requisition in FORM F17.
- 22-6(5) Permission for an **application to be heard by telephone** may be obtained by filing
1. a Requisition in FORM F17; and,
 2. a *letter* setting out the reasons why the relief is sought.
- 14-3(7) Permission for a party to **attend a trial management conference by telephone** may be obtained by filing:
1. a Requisition in FORM F17; and,
 2. a *letter* setting out the reasons why the relief is sought.

III. PROCEDURAL ORDERS OBTAINED BY REQUISITION

- 7-1(5) Relief from the **requirement to schedule a JCC** may be had by filing:
1. a Requisition in FORM F17; and,
 2. a *letter* setting out the reasons why the relief is sought.
- 10-6(20) Where an *applicant* fails to **set an application for hearing** after being requested to do so, an *application respondent* may **apply for directions** by filing a Requisition in FORM F17 on *two days' notice* to the applicant.
- 17-1(17) Where an *petitioner* fails to **set a petition for hearing** after being requested to do so, a *petition respondent* may **apply for directions** by filing a Requisition in FORM F17 on *two days' notice* to the applicant.
- 10-9(2) Applications for *leave* to bring an application on **short notice** may be made by filing a Requisition in FORM F17.
- NOTE:** The application for leave and the underlying application may be brought **without notice** to the application respondent. [10-9(2), 10-9(6)]
- 9-7(17) Applications for an *order* to **conduct a deposition to preserve testimony** may be brought by Requisition in FORM F29

IV. OBTAINING INTERIM ORDERS AND VARIATION ORDERS BY REQUISITION

10-5(1), 10-7(1) Applications for **consent orders** may be made by filing:

1. a Requisition in FORM F29;
2. a *draft order* in FORM F33; and,
3. *evidence of consent* under Rule 15-1(11)

NOTE: FORM F29 – but not this rule – requires that evidence in support of the application be filed with the requisition. Rule 10-7(2) requires the registrar to either enter the proposed order or forward the application to a judge or master if satisfied that “the materials appropriate to the application have been filed.”

NOTE: Consent orders may also be obtained on oral application in chambers. [10-5(1)(b)]

10-5(1), 10-8(1) Applications for orders **where notice is not required** may be made by filing:

1. a Requisition in FORM F29;
2. a *draft order* in FORM F34; and,
3. *evidence* in support of the application.

NOTE: Rule 10-8(2) requires the registrar to forward the application to a judge or master if satisfied that “the materials appropriate to the application have been filed.”

NOTE: Without notice orders may also be obtained on oral application in chambers. [10-5(1)(c)]

V. OBTAINING FINAL ORDERS BY REQUISITION

10-1(2), 10-10(1) **Final judgment** in an undefended family law case may be obtained by *desk order* or at *trial*.

NOTE: “Trial” does not include *summary trial*. [11-3(2)]

10-10(2) Applications by **desk order** are made by filing:

1. a Requisition in FORM F35;
2. a *draft order*;
3. proof *that the case qualifies* as an “undefended family law case;”
4. a registrar’s Certificate of Pleadings in FORM F36; and,
5. proof of *service*.

NOTE: Where there are **children of the marriage** a Child Support Affidavit in FORM F37 must also be filed. [10-10(2)(f)]

NOTE: Where a **divorce is sought** an affidavit in FORM F38 must also be filed. [10-10(2)(g), 10-10(4)]

10-10(3) *Proof of service* of the pleading in which the claim for divorce was made is **unnecessary** where a Response to Family Claim or Response to Counterclaim had been filed.

10-10(5) Even though satisfied that the desk order application is appropriate, the court may direct:

1. the attendance of counsel or the applicant; or,
2. that further evidence be presented.