

TO APPLY TO CHANGE OR CANCEL AN ORDER

RULE 2(2)

It is appropriate to apply to change or cancel an order only if the circumstances have changed since the order was made. If you disagree with the order but the circumstances have **not** changed, the appeal process should be followed instead.

Step 1

COMPLETE the APPLICATION. You may use a typewriter or print clearly and firmly. If you accessed this form from the Ministry of Attorney General website, you may also complete it at the computer and then print it. You may also need to **COMPLETE** a **FINANCIAL STATEMENT**. To find out, see the instructions on the front of the Financial Statement form.

MAKE 3 PHOTOCOPIES of the ORDER you want to be changed or cancelled, the **FINANCIAL STATEMENT** (if any) and any other attached documents.



Step 2

FILE the APPLICATION and the ORDER (and the **FINANCIAL STATEMENT**, if any) and any attached documents by taking or mailing them to the court registry. You must file them at the registry in which the order is located, unless a judge has granted permission for you to file them at another registry. Make sure you file 3 copies of each document, as well as the originals. The staff will apply the registry stamp to each document and assign a file number. They will return the copies you need for your records and to serve the other party. There is no filing fee in Provincial Family Court.

INTERIM ORDERS

If your application can not be heard by the court for some time and your circumstances require an order to be made sooner (for example, if you have evidence that the respondent intends to take the children out of the province), you can ask for an interim (temporary) order. Ask registry staff about this when you file your application. You must be prepared to give the judge evidence that the circumstances require it.



Step 3

MAKE ARRANGEMENTS TO SERVE the other party with a copy of the application, your financial statement (if any) and any accompanying documents. The purpose of service is to be sure the other party knows what you are asking for.

These documents must be served on the other party in person, by any person at least 19 years of age other than yourself. The court registry will give you a blank copy of a reply form, and if your claim is to vary a maintenance order, a blank copy of a financial statement. These must be attached to the copy of the application when it is served on the respondent, as they are for the respondent to complete. Ask the registry if you need more information about serving the documents.

Step 4

WAIT AT LEAST 30 DAYS after the respondent has been served with your documents, **THEN ASK THE REGISTRY** whether the respondent has filed a reply. If the reply has been filed, the registry will set a date and time for a first appearance hearing. They will send you a copy of the reply within 21 days of receiving it, and a notice of hearing advising you of the date and time of the hearing, once the hearing is scheduled. You will probably receive the reply before you receive the notice of hearing.

If the respondent does not file a reply within 30 days, the first appearance hearing will be scheduled after you file an affidavit of personal service (printed on the back of the 'proof of service' copy of the application) and you request the registry to schedule the hearing.



Step 5

CONFERENCES AND TRIAL In some cases, the trial will be scheduled next, but in most cases (other than those that only involve claims for maintenance) the judge may order a family case conference and/or a trial preparation conference to be held first. These are informal proceedings held before a judge, who may make many of the same types of orders as can be made at a trial.

A **family case conference** attempts to narrow and clarify the issues to be tried, and to explore whether options such as mediation are appropriate for the case. In some cases, the parties may agree to a consent order, so the case never goes to trial.

A **trial preparation conference** ensures that the parties are ready to present their cases at trial, and identifies how long the trial will take and how many witnesses will be called.

A **trial** is a formal and structured hearing where a judge makes decisions about any issues that the parties still do not agree upon. It is held in a courtroom, and the parties must make their arguments and present their evidence in a certain order. You may wish to attend another family court trial as a spectator, to get an idea of what happens in the courtroom, before your case goes to trial.

COURT FILE NO.

Copy the court file number, FMEP case number (if any) and court location from the order.



CASE NAME:

The name of the case does not change. Copy it exactly as it appears on the order you want changed or cancelled.



FILED BY:

You must be sure that the address for service you give is correct because this is where notices or information will be sent to you. If your address changes at any time, you must file a NOTICE OF CHANGE OF ADDRESS form with the registry and serve a copy on the other party. **IMPORTANT NOTE:** *If you do not want the other party to know your residential address, advise the court registry in writing and provide another address at which you can receive information and notices. Failure to accept service at address provided could result in a final order being made in your absence.*



NOTICE TO: _____

Provide the name, address and telephone number of the other party. You may also include the fax number, if you know it.



DIRECTOR OF MAINTENANCE ENFORCEMENT OR MINISTER UNDER THE EMPLOYMENT AND ASSISTANCE ACT AND THE EMPLOYMENT AND ASSISTANCE FOR PERSONS WITH DISABILITIES ACT: _____

If your application relates to a maintenance order and that order is:

- enrolled with the Director under the Family Maintenance Enforcement Program (FMEP) and/or
- assigned to the Minister under the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*.

then you must check the applicable box and serve a copy of this application on the Director or on the Minister, as applicable. _____



WHAT CHANGES TO THE ORDER ARE YOU ASKING FOR?

Please describe. Attach additional sheet if you require more space to describe the changes requested, and why they are needed.



HOW HAVE CIRCUMSTANCES CHANGED?

Briefly describe how circumstances have changes since the original order was made. You will have an opportunity to present the fact when you application is heard in court.

Examples of changes of circumstances are:

- reduction in your income or substantial increase in the other party's income
- loss of employment
- changes in childre's needs
- introduction of the Child Support Guidelines since the order was made.



SIGN your name and state today's date.

State name of lawyer, if any.

APPLICATION TO CHANGE OR CANCEL AN ORDER

In the Provincial Court of British Columbia

COURT FILE NO.:
FMEP NO.:
COURT LOCATION:

Case name as it appears on the order.

In the case between:

NAME _____

And:

NAME _____

Your current address for service.

Filed by:

NAME _____

DATE OF BIRTH _____

APPLICANT

ADDRESS FOR SERVICE _____

CITY _____

PROVINCE _____

POSTAL CODE _____

PHONE _____

FAX _____

Other party's address for service.

Notice to:

NAME _____

DATE OF BIRTH _____

RESPONDENT

ADDRESS FOR SERVICE _____

CITY _____

PROVINCE _____

POSTAL CODE _____

PHONE _____

FAX _____

And to:

- Director of Maintenance Enforcement Minister under the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*

Check box(es) if order affects FMEP or is assigned to FMP.

IMPORTANT NOTE TO APPLICANT AND RESPONDENT

If this claim involves an order for maintenance, you may be required to file financial information with your reply.

If you do not, the court may attribute income to you and set the amount of maintenance to be paid.

What changes to the order are you asking for?
Please describe.

- I ask that the attached order* dated _____ be cancelled.
OR,
 I ask that the attached order* dated _____ be changed to the following:
OR,
 I ask that the arrears of maintenance be cancelled or reduced as follows:

Attach additional sheet if you require more space to describe the changes requested, and why they are needed.

How have circumstances changed since the order was made?
Please describe.

Since the order dated _____ was made, circumstances have changed as follows:

Notice to respondent: If you fail to file a reply within 30 days of being served with this application, you will not receive notice of any part of the proceedings and the court may make an order against you.

Sign your name and state today's date.

Dated _____

Signature of applicant or applicant's lawyer

State name of lawyer, if any.

Name of applicant's lawyer

****"Order" includes a written agreement filed under the *Family Relations Act*. (sec. 121).**

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In the Provincial Court of British Columbia

COURT FILE NO.:
FMEP NO.:
COURT LOCATION:

Case name

In the case between:

NAME _____

And:

NAME _____

Other party's address for service.

Filed by:

NAME _____

DATE OF BIRTH _____

APPLICANT

ADDRESS FOR SERVICE _____

CITY _____

PROVINCE _____

POSTAL CODE _____

PHONE _____

FAX _____

Notice to:

NAME _____

DATE OF BIRTH _____

RESPONDENT

ADDRESS FOR SERVICE _____

CITY _____

PROVINCE _____

POSTAL CODE _____

PHONE _____

FAX _____

And to:

Director of Maintenance Enforcement

Minister under the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*

IMPORTANT NOTE TO APPLICANT AND RESPONDENT

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What is the other party asking for in this application?

I ask that the attached order* dated _____ be cancelled.

OR,

I ask that the attached order* dated _____ be changed to the following:

OR,

I ask that the arrears of maintenance be cancelled or reduced as follows:

Why the other party believes the order should be cancelled or changed.

Since the order dated _____ was made, circumstances have changed as follows:

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Dated _____

Signature of applicant or applicant's lawyer

Name of applicant's lawyer

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FMEP NO.:
COURT LOCATION:

Case name as it appears on the order.

In the case between:

NAME _____

And:

NAME _____

Other party's address for service.

Filed by:

NAME _____

DATE OF BIRTH _____

APPLICANT

ADDRESS FOR SERVICE _____

CITY _____

PROVINCE _____

POSTAL CODE _____

PHONE _____

FAX _____

Notice to:

NAME _____

DATE OF BIRTH _____

RESPONDENT

ADDRESS FOR SERVICE _____

CITY _____

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In the Provincial Court of British Columbia

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FMEP NO.:
COURT LOCATION:

Case name as it appears on the order.

In the case between:

NAME _____

And:

NAME _____

Your current address for service.

Filed by:

NAME _____ DATE OF BIRTH _____ **APPLICANT**

ADDRESS FOR SERVICE _____ CITY _____

PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

Other party's address for service.

Notice to:

NAME _____ DATE OF BIRTH _____ **RESPONDENT**

ADDRESS FOR SERVICE _____ CITY _____

PROVINCE _____ POSTAL CODE _____ PHONE _____ FAX _____

And to:

Director of Maintenance Enforcement Minister under the *Employment and Assistance Act* and the *Employment and Assistance for Persons with Disabilities Act*

Check box(es) if order affects FMEP or is assigned to FMP.

IMPORTANT NOTE TO APPLICANT AND RESPONDENT

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Dated _____

Signature of applicant or applicant's lawyer

State name of lawyer, if any.

Name of applicant's lawyer

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