

Nova Scotia Civil Procedure Rules
Amendment
June 23, 2017

Rule 59 – Family Division Rules is amended as follows:

1. The italicized word *Maintenance* in the definition of “*Guidelines*” in Rule 59.01 is replaced with *Support*.
2. The following definition of “spouse” is added before the definition of “support” in Rule 59.01:

“spouse” means either of two persons who

- (i) are married to each other,
 - (ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity,
 - (iii) have entered into a form of marriage with each other that is void, if either or both of them believed that the marriage was valid when entering into it,
 - (iv) are domestic partners or are former domestic partners within the meaning of Section 52 of the *Vital Statistics Act*,
 - (v) not being married to each other, cohabitated in a conjugal relationship with each other continuously for at least two years, or
 - (vi) not being married to each other, cohabitated in a conjugal relationship with each other and have a child together.
3. All of Rule 59.03 is replaced by the following two Rules:

59.03 (1) A proceeding in the Supreme Court (Family Division) must be started, dealt with and heard:
 - (a) if the proceeding is not a divorce and involves custody of a child, time or interaction with a child or parenting arrangements, in the judicial district where the child ordinarily resides;

- (b) if the proceeding involves a divorce, in the judicial district where either party resides;
- (c) if the proceeding does not involve (a) or (b), in the judicial district where the applicant resides.

(2) A judge may order that a proceeding may be started, transferred or adjourned to a court in a different judicial district if it is substantially more convenient to deal with the proceeding or part of the proceeding in that judicial district.

4. The phrase “or the *Maintenance and Custody Act*” is removed from Rule 59.06(4).

5. Rule 59.06(5) is renumbered 59.06(6) and the following Rule 59.06(5) is added to Rule 59.06:

(5) A proceeding to vary, rescind, or suspend an order made under the *Parenting Support Act*, including an order made under the *Act*’s former title, the *Maintenance and Custody Act*, is treated as an original proceeding, and is started by filing a notice of variation application.

6. The title “*Maintenance and Custody Act*” in Rules 59.09(9), 59.14(2), and 59.38(5)(d) is replaced by “*Parenting and Support Act*”.

7. All of Rule 59.20 is replaced by the following two Rules:

59.20 (1) A party who makes a claim for any of the following, must file a parenting statement with the notice by which the claim is made:

- (a) custody of a child,
- (b) parenting time with a child,
- (c) parenting arrangements for a child or about parenting of a child.

(2) A party who responds to, or contests, a claim for any of the following, must file a parenting statement no later than ten days after the day a direction to disclose is delivered to the party, unless a court officer gives directions for a different time:

- (a) custody of a child,

- (b) parenting time with a child,
- (c) parenting arrangements for a child or about parenting of a child.

8. The following Rule 59.20A is added to Rule 59 before Rule 59.21:

- 59.20A (1)** A party who makes a claim for contact time or interaction with a child must file a statement of contact time and interaction with the notice by which the claim is made.
- (2)** A party who responds to, or contests, a claim for contact time or interaction with a child must file a statement of contact time and interaction no later than ten days after the day a direction to disclose is delivered to the party, unless a court officer gives directions for a different time.

9. The table in Rule 59.22(2) is changed to read:

Claim	Statement
division of assets	by both parties - a statement of property
spousal support	by both parties - a statement of income, a statement of expenses and a statement of property, and by both parties - a statement of income, a statement of expenses and a statement of property by the party's spouse
variation of an order for spousal support	by both parties - a statement of income and a statement of expenses, and by both parties - a statement of income and a statement of expenses by the party's spouse.

10. The phrase “no more than” is added before the word “fifteen” in Rule 59.24(1).

11. The phrases “to whom a party is married, or with whom a party lives and has lived for two years or more as a common law partner,” are replaced by “who is the spouse of a party” in Rule 59.27(2)(b).
12. The phrase “including a separation agreement or minutes of settlement” in Rule 59.36(1)(d) is replaced by “including a parenting plan or separation agreement”.
13. The word and commas “ , access,” in Rule 59.36(3)(e)(iv) are replaced by “of a child, time or interaction with a child, parenting arrangements,”.
14. Rules 59.36(3)(e)(v) and (vi) are added to Rule 59.36(3) as follows:
 - (v) require the party to appear before a judge to explain the failure to comply with a court order and determine the issue including any additional order the judge deems necessary to ensure compliance, under section 41 of the *Parenting and Support Act*,
 - (vi) start contempt proceedings against the party;
15. The word and commas “ , access,” in Rule 59.38(7)(a) are replaced by “of a child, time or interaction with a child, parenting arrangements,”.
16. The words “a paternity test” in Rule 59.55 are replaced by “paternity testing”, the words and comma “ , genetic test or other test as is considered appropriate by the court” are added after “blood test” and the title “*Maintenance and Custody Act*” is replaced by “*Parenting and Support Act*”.
17. Forms 59.07, 59.08, 59.12, 59.13, 59.25, 59.26A, 59.26B, 59.35, and 59.36 are replaced by the attached.

Certificate

I, Joseph P. Kennedy, Chief Justice of the Supreme Court of Nova Scotia, certify that on June 23, 2017, a majority of the judges of the court made the foregoing amendments to *Nova Scotia Civil Procedure Rule 59 – Family Division Rules*.

Signed June 23, 2017

Joseph P. Kennedy
Chief Justice of the Supreme Court
of Nova Scotia