

**FAMILY CROWN SERVICES OPERATIONAL MANUAL**

REQUESTS FOR ORDERS UNDER THE DIVORCE ACT	New	Office of the Attorney General / Family Crown Services	Policy 31
Policy Title	New or Amended	Division / Branch / Section	Policy #

SLT		June 1, 2022	June 1, 2025
Approved by	This policy was approved on:	This version takes effect on:	This policy will be reviewed by:

**REQUESTS FOR ORDERS UNDER THE *DIVORCE ACT***

**1.1 Introduction**

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Section 19 of the *Divorce Act*, R.S.C. 1985, c.3 (2<sup>nd</sup> Supp.) provides the authority for the Attorney General to process extra-provincial requests to obtain, vary, rescind or suspend orders made pursuant to section 18 of the *Divorce Act*. Pursuant to section 18 of the *Divorce Act*, the Attorney General has mandated Family Crown Counsel to act as his agent and designate in matters under sections 18 and 19 of the *Divorce Act*.

**1.2 Role of Family Crown Counsel**

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Family Crown Counsel is the agent and designate of the Attorney General and has no relationship with the parties to the application.

**1.3 Responsibilities of Family Crown Counsel**

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Family Crown Counsel is authorized to:

- draft and sign the Notice of Motion required to accompany an extra-provincial request for an order under the *Divorce Act*. In doing so, Family Crown Counsel shall clearly indicate that he/she is signing as agent for the Attorney General;
- file the Notice of Motion supported by the documentation provided by the extra-provincial jurisdiction;
- attend the court hearing. Family Crown Counsel shall clearly state on the record that he / she appears as agent of the Attorney General and that he / she does not represent any of the parties to the proceeding;
- facilitate the hearing by ensuring that all pertinent information is adduced into evidence. Family Crown Counsel may cross-examine witnesses if pertinent information has not been presented;

- respond to procedural questions from the presiding justice; and
- draft and file the confirmation order following the court hearing.

#### **1.4 Areas outside the mandate of Family Crown Counsel**

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Family Crown Counsel shall not:

- communicate with the originating jurisdiction;
- provide legal advice / opinions to any of the parties to the proceeding;
- arrange videoconferences or teleconferences. This is the responsibility of Court Services;
- take directions from any party to the proceeding;
- represent any of the parties at the hearing;
- negotiate a possible resolution of the motion with the parties to the proceeding;
- serve documents on the respondent. Please note that under the *Divorce Act*, it is the responsibility of the court to serve the respondent;
- remit documents to the Attorney General in the extra-provincial jurisdiction. Please note that under the *Divorce Act*, it is the responsibility of the court to remit documents.
- send any order to the parties or to the Attorney General in the extra-provincial jurisdiction. Please note that under the *Divorce Act*, it is the responsibility of the court to send orders by certified mail; and
- initiate or be otherwise involved in any appeal.

#### **1.5 Related documents**

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Policy 3 - Organization and mandate  
Policy 8 - Litigating interjurisdictional legislation  
*Divorce Act*, R.S.C. 1985, c.3 (2<sup>nd</sup> Supp.)