



**Effective Date:** 2010/07/01

**Number:** FPD - 7

**Title:**

## **Practice Direction**

### **Standard Directions for Appeals from Provincial Court - *Family Relations Act***

#### **Summary:**

Section 16 of the *Family Relations Act* provides for an appeal to this court from an order of the Provincial Court. The Supreme Court Family Rules apply to such an appeal to the extent that they are consistent with section 16. Supreme Court Family Rule 18-3 provides that a notice of appeal must include the standard set of directions in the form directed by the Chief Justice governing the conduct of the appeal.

These are the standard directions governing the conduct of an appeal under Section 16 of the *Family Relations Act*.

#### **Direction:**

##### **Documents to be filed and served**

1. A Notice of Appeal in Form F80, with a copy of these standards directions attached, must be filed within 40 days after the order of the Provincial Court is made.
2. If an application for the extension of time to file an appeal is made under section 16(7) of the *Family Relations Act*:
  - a. a Supreme Court file must be opened, and
  - b. notice of the application must be given to all parties in the proceeding in which the order of the Provincial Court was made.
3. After filing the Notice of Appeal, the appellant must:
  - a. personally serve the Notice of Appeal on all parties to the proceedings in which the order of the Provincial Court was made, unless a judge of the Supreme Court orders otherwise
  - b. order and pay for a copy of the transcript of:

- i. oral evidence given at the hearing in the Provincial Court, and
  - ii. reasons for judgment of the Provincial Court
- c. file a copy of the Notice of Appeal in the registry of the Provincial Court at the location where the order was made.
4. If a party to the proceeding in which the order of the Provincial Court was made wishes to oppose the appeal and to receive a notice of the hearing date, he or she must :
  - a. file a Notice of Interest in Form F77 within 7 days after service of the Notice of Appeal
  - b. promptly serve, by ordinary service, a copy of the filed Notice of Interest on the appellant.
5. Within 30 days after filing the Notice of Appeal, the appellant must:
  - a. file an affidavit of service indicating that:
    - i. the Notice of Appeal has been served on the respondent(s)
    - ii. the required transcript has been ordered.
  - b. request a date for hearing of the Appeal from the Registrar
  - c. file a Notice of hearing of Appeal in Form F81
  - d. serve, by ordinary service, the Notice of Hearing on any person who has filed a Notice of Interest.
6. If the appellant has not filed the affidavit required under paragraph 5a) within 30 days of filing the Notice of Appeal, the appellant must apply to the court for an order extending the time for filing the affidavit. No date for hearing of the appeal may be set or any further step in the appeal may be taken until the order is granted extending the time for filing the affidavit. Once the affidavit is filed, the appellant may request a date for the hearing of the appeal from the Registrar and may proceed as set out in subparagraphs 5(c) and 5(d).
7. Within 45 days after filing the Notice of Appeal or such longer period as may be ordered by the court as provided for in paragraph 6, the appellant must:
  - a. file the original transcript with the court
  - b. serve, by ordinary service, a copy of the transcript on any person who has filed a Notice of Interest
  - c. file a written outline as described in paragraph 8.
8. The written outline must set out:
  - a. the grounds of appeal

- b. the relief sought
  - c. the factual and legal basis on which the relief is sought (including a list of any authorities to be relied upon).
9. The written outline must be served, by ordinary service, on any person who has filed a Notice of Interest, not less than 21 clear days, before the date set for hearing the appeal.
  10. A person who has filed a Notice of Interest must file and serve on the appellant by ordinary service not less than 14 clear days before the date set for hearing of the appeal, a response setting out the factual and legal basis upon which the appeal is opposed.
  11. Any reply prepared by the appellant must be filed and served on a person who has filed a response under paragraph 10, at least 3 clear days before the date set for the hearing of the appeal

**New evidence**

12. No new evidence may be adduced at the hearing of the appeal without leave of the court.

**Robert J. Bauman**  
**Chief Justice**