

**Family Law Arbitration Rules of Procedure
for Alberta and British Columbia:
Pick List**

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December 2018

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INTRODUCTION

One of the most important benefits of arbitration is that the parties to a family law dispute are able to design the arbitration process to suit their issues, their needs and their finances. While litigation processes provide a one-size-fits-all service, almost every aspect of the arbitration process can be tailored to the circumstances of the people involved in a dispute, allowing them to create a process that is properly proportionate to the complexity, importance and value of the issues.

The following are the procedural elements that the parties to an arbitration can change to suit their circumstances. They cover most aspects of the arbitration process, including exchanging documents and information, deciding how evidence will be presented and the basis on which a party can appeal the arbitrator's award. Use this list before the pre-arbitration conference to decide which elements are important, which can be abbreviated and which are entirely unnecessary. Remember that the longer an arbitration takes, the more money it will cost to complete.

THE LIST

1. Choice of process

We will attempt to reach a resolution of our dispute through mediation before moving to resolve our dispute through arbitration, and would like the arbitrator to:

Conduct the mediation in an evaluative manner.

or

Conduct the mediation in a strictly neutral manner, without providing an opinion of the merits of our respective cases or the likelihood of our respective success.

2. Exchanging and producing information before the hearing

We will exchange the following information about our income:

Part 1 (Income) of the Financial Statement.

Our personal income tax returns, complete with all schedules and attachments, and notices of assessment for the last _____ tax years, plus the most recent statements of our income from all sources.

The corporate income tax returns, complete with all schedules and attachments, notices of assessment and financial statements for all of our businesses and companies for the last _____ fiscal years, as well as:

Statements breaking down all money paid or benefits provided by our businesses and companies to people with whom we do not deal at arm's length.

Statements breaking down all money paid or benefits provided to ourselves from our businesses and companies.

Statements breaking down the income of our spouses or partners for the last _____ tax years.

We will exchange the following information about our expenses:

Part 2 (Expenses) of the Financial Statement.

Statements breaking down our average monthly living expenses.

Statements breaking down the special and/or extraordinary expenses of the children.

We will exchange the following information about our property:

Part 3 (Assets) of the Financial Statement.

Statements breaking down the fair market value of all real property, personal property, businesses, companies, savings, investments and pensions we each owned at:

The date we began to live together.

The date of our marriage.

The date of our separation.

The date which is two months before the date of the arbitration hearing.

Tax assessments for _____

Valuations or appraisals of _____

We will exchange the following information about our debts:

Part 4 (Liabilities) of the Financial Statement.

Statements breaking down the mortgages, debts, loans, judgments and other actual or potential liabilities encumbering all real property, personal property, businesses, companies, savings, investments and pensions we each owned at:

The date we began to live together.

The date of our marriage.

The date of our separation.

The date which is two months before the date of the arbitration hearing.

We will exchange Demands for Disclosure.

We will exchange Lists of Documents describing the documents in our possession or control relating to:

All of the matters at issue in this arbitration.

or

The children and their past and future parenting arrangements.

Support and the children's special and/or extraordinary expenses.

The division of property and debt.

We will consent to documents relating to the matters at issue being released to the other party by _____, who are third-parties not involved in this arbitration.

We will exchange Interrogatories listing the questions we would like the other party to answer, and the number of questions we can ask each other is:

Unlimited.

or

Limited to no more than _____ questions.

We will each be questioned before the hearing, and the length of the questioning will be:

Unlimited.

or

Limited to no more than _____ hours.

3. Experts

We will each be able to hire our own expert to prepare an opinion on:

Any of the matters at issue in this arbitration.

or

The children and their past and future parenting arrangements.

The calculation of income, support and the children's special and/or extraordinary expenses.

The division of property and debt, including the division of pensions and tax issues relating to the division of property.

We will each be entitled to hire a rebuttal expert to reply to the opinions of the other party's expert.

We will jointly hire an expert to prepare an opinion on:

All of the matters at issue in this arbitration.

or

The children and their past and future parenting arrangements.

The calculation of income, support and the children's special and/or extraordinary expenses.

The division of property and debt, including the division of pensions and tax issues relating to the division of property.

We agree that the arbitrator may hire experts to provide opinion evidence as the arbitrator may deem necessary in consultation with ourselves.

4. Hearing from the children

We will obtain a views of the child report that:

Is evaluative and will be prepared by a mental health professional.

or

Is non-evaluative and may be prepared by a legal or mental health professional.

And the report will:

Address the child's general views about the child's past and future parenting arrangements.

or

Be limited to addressing _____

We will obtain a parent assessment from a mental health professional that:

Addresses the future parenting arrangements that are in the best interest of the child.

or

Addresses the future parenting arrangements that are in the best interest of the child as well as _____

or

Is limited to addressing _____

We agree that the arbitrator will interview the child about the child's general views about the child's past and future parenting arrangements.

We will retain a lawyer to separately represent the interests of our child, and the lawyer will:

Act on the child's instructions.

or

Act on the lawyer's view of the child's best interests.

or

Act on the child's instructions and make submissions on the lawyer's view of the child's best interests.

5. Applications before the hearing

- Before the hearing begins, either of us may apply for:
 - Interim awards relating to the matters at issue in this arbitration.
 - Orders and directions on procedural matters.

6. Preparing for the hearing

- We will work together to prepare an Agreed Statement of Facts before the date of the hearing.
- We will exchange will-say statements for all witnesses who will be presenting oral evidence at least two weeks before the hearing.
- We will exchange Books of Authority at least two weeks before the hearing.
- We will exchange our written arguments before the date of the hearing.

7. The hearing

- We agree that we will not have an oral hearing and that the arbitrator will decide our dispute on the basis of:
 - Written arguments.
 - The written statements of ourselves and our witnesses.
- We agree to have an oral hearing.
 - The oral hearing will be held:
 - In person at _____
 - or*
 - By teleconference.
 - or*
 - By videoconference.
 - We agree that people other than the parties, the parties' lawyers and the arbitrator may attend the hearing.
 - We will provide our opening arguments:
 - In writing.

- Orally.
- We may each present the evidence of ourselves and:
 - An unlimited number of witnesses.
 - or*
 - No more than _____ witnesses.
- The evidence of the witnesses we present will consist of:
 - The written statements of all witnesses.
 - The direct examination of all witnesses.
- Evidence provided by direct examination will:
 - Be limited to _____ minutes per witness.
 - or*
 - Be limited to _____ minutes per witness, except for the examinations of the parties.
- The other party will be entitled to cross-examine:
 - All witnesses.
 - or*
 - Only the parties and witnesses who provided evidence through written statements.
 - or*
 - Only the parties.

And the cross-examination of witnesses will:

- Be limited to _____ minutes per witness.
- or*
- Be limited to _____ minutes per witness, except for the cross-examinations of the parties.

We will provide our closing arguments:

In writing.

Orally.

8. After the hearing

We agree that the arbitrator's award will be limited to an oral award and will provide only summary reasons for the arbitrator's decision.

We agree that the arbitrator's award will be in writing and will:

Be limited to summary reasons for the arbitrator's decision.

or

Provide full reasons for the arbitrator's decision.

We agree that the arbitrator's written award may be appealed to the court:

On questions of law.

On questions of fact.