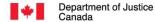




Relocation under Canada's Divorce Act

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Overview

- •Family law in Canada
- Divorce Act amendments
- Relocation Framework
- Where are we now
- •Resources





Family Law in Canada

- Canada is a federal State
- •Family law is a shared responsibility between the federal and provincial/territorial governments
- Federal government is responsible for divorce
- •Provinces and territories are responsible for unmarried spouses, or married spouses who are separated but not divorced





Divorce Act amendments

- Amendments to Divorce Act came into force on May 1, 2021
- Changes to the *Divorce Act* included:
 - Parenting language
 - Enhanced focus on best interests of the child
 - Family violence provisions
 - Relocation provisions







Overview of Relocation Framework

- The old Divorce Act was silent on relocation
- Supreme Court of Canada decision in Gordon v. Goertz [1996] 2 S.C.R.
 27 had been leading case on relocation in Canada
- The new framework for relocation under the Divorce Act.
 - Notice
 - Objection
 - · Burdens of proof
 - Exceptions



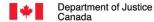




Overview of Relocation Framework (continued)

- **Notice** is 60 days in advance of proposed move and must include a proposal for modification of parenting arrangements and any other information prescribed by regulation
- **Objection** can be asserted by prescribed form **or** by court application within 30 days of receiving notice
- **Burdens of proof** establish who has the burden of demonstrating why the relocation is in the child's best interests.
- **Exception** that allows court to modify or not apply notice provisions, for example, where there is a risk of family violence







Other Elements of the relocation scheme

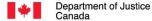
- Direction for parents and courts (forms)
- Additional best interests of child factors specific to relocation cases
- Costs related to exercise of parenting time
- •Interaction with *Divorce Act* family violence provisions
- •Interaction with 1980 and 1996 Hague Conventions





Interaction with *Divorce Act* family violence provisions

- Other family violence provisions apply:
 - Family violence as a best interests of the child factor
 - Primary consideration







Interaction with 1980 and 1996 Hague Conventions

Relocation provisions are consistent with:

- •1980 Hague Convention
- •1996 Hague Convention







Where are we now

- •Six provinces have since enacted mirroring legislation
 - Ontario
 - Saskatchewan
 - New Brunswick
 - Prince Edward Island
 - Nova Scotia
 - Manitoba







Resources

Justice Canada Public Legal Education Materials

- The Divorce Act Changes Explained
- Relocation fact sheets and forms:

Moving after separation or divorce?

Notice of Relocation Form and Objection to Relocation Form

Justice Canada Training

- 6 online courses
- Relocation under the Divorce Act Course

Other resources

- Making plans: A guide to parenting arrangements after separation or divorce
- Parenting Plan Checklist: Information to help you get started
- HELP Toolkit: Identifying and Responding to Family Violence for Family Law Legal Advisers



