

International Comparative Legal Guides

Family Law 2027

A practical cross-border resource to inform legal minds

Ninth Edition

Contributing Editor:

Marcus Dearle

Miles Preston



iclg

Expert Analysis Chapter

1

Nuptial Agreements and Negligence: Protecting Your Practice – A Practical Guide for Family Law Practitioners in England & Wales and Hong Kong
Marcus Dearle, Miles Preston

Q&A Chapters

Argentina

Micaela Cagnoli & Herberto Antonio Robinson,
McEWAN

17

Armenia

Sofya Kharatyan, Concern Dialog

Belgium

Larissa De Wulf & Carolyn Vanthienen, Tiberghien

33

Canada

Max Blitt KC, Spier Harben Barristers & Solicitors

Israel

Jay Hait, Hait Family Law

45

Italy

Maria Ludovica (Vicky) de' Sanna,
BSVA Studio Legale Associato

Japan

Eriko Matsuno, Tokyo J Law Office

63

Mexico

Alfonso Sepúlveda Garcia & Habib Díaz Noriega,
SEPLAW | Sepúlveda y Díaz Noriega, S.C.

Poland

Katarzyna Lewicka-Krzyszutowczyk,
L. Zielonka i Wspólnicy

80

Romania

Christiana Mondea,
Moga & Mondea – Attorneys at Law

Serbia

Predrag Popović, Popović Legal

97

Sweden

Lina Kittl & Ibige Dahlberg Kang,
Lebenberg Advokatbyrå AB

Switzerland

Josef Alkatout, Alkatout Legal

111

Tunisia

Dr. Brahim Latrech, Dr. Brahim LATRECH Law Office

United Arab Emirates

Awatif Al Khouri, Awatif Mohammad Shoqi
Advocates & Legal Consultancy

125

USA – California

Steven K. Yoda, Walzer Melcher & Yoda LLP

USA – Florida

Evan R. Marks & Carolyn W. West,
Marks & West, P.A.

139

USA – New York

Gretchen Beall Schumann, Schumann Law LLC

Canada

Spier Harben Barristers & Solicitors



Max Blitt KC

1.1 What are the grounds of jurisdiction for divorce proceedings? For example, residence, nationality, domicile, etc.?

The ground of jurisdiction for divorce proceedings in Canada is residence.

1.2 What are the grounds for a divorce? For example, is there a required period of separation; can the parties have an uncontested divorce?

The grounds for divorce in Canada are one year separation, adultery and cruelty.

1.3 In the case of an uncontested divorce, do the parties need to attend court and is it possible to have a "private" divorce, i.e. without any court involvement?

Parties do not need to attend court if the divorce is uncontested, but there must be court involvement.

1.4 What is the procedure and timescale for a divorce?

Divorce is commenced by a statement of claim. If uncontested, the timescale is four to six months to complete.

1.5 Can a divorce be finalised without resolving other associated matters? For example, children and finances.

If no children are involved, yes. But if there are children entitled to support, the court must make sure they are provided for before finalising the divorce.

1.6 Are foreign divorces recognised in your jurisdiction? If so, what are the procedural requirements, if any?

To be recognised, the foreign divorce must not violate Canadian Public Policy and must have met the requirements of the foreign jurisdiction.

1.7 Does your jurisdiction allow separation or nullity proceedings?

Yes, Canada allows separation and nullity proceedings.

1.8 Can divorce proceedings be stayed if there are proceedings in another country?

Yes, but this is dependent on *forum conveniens* rules.

2.1 What financial orders can the court make on divorce?

The court can make child and spousal support orders.

2.2 Do matrimonial regimes exist and do they need to be addressed by the court on divorce? Is there a default matrimonial regime?

Matrimonial or family property proceedings are combined with divorce proceedings but can be commenced on their own.

2.3 How does the court decide what financial orders to make? What factors are taken into account?

Child support is based upon whether the child meets the definition under federal or provincial legislation, and the Child Support Guidelines apply. Spousal support is based upon proving entitlement and, once that is established, on ability to pay, and on non-binding federal spousal support guidelines.

2.4 Is the position different between capital and maintenance orders? If so, how?

Maintenance orders relate to child and spousal support. Capital orders relate to property and are governed by different legislation.

2.5 If a couple agrees on financial matters, do they need to have a court order and attend court?

No, they can simply enter into a Settlement Agreement that meets the requirements of independent legal advice and proper and full disclosure.

2.6 How long can spousal maintenance orders last and are such orders commonplace?

Spousal maintenance orders for short-term marriages last a finite period of time, while long-term marriages can have indefinite support. Such orders are common.

2.7 Is the concept of matrimonial property recognised in your jurisdiction?

Yes, the concept of matrimonial property is recognised in Canada.

2.8 Do the courts treat foreign nationals differently on divorce? If so, what are the rules on applicable law? Can the court make orders applying foreign law rather than the law of the jurisdiction?

That would depend upon the foreign nationals. In some parts of Canada, the *Mehr* is recognised as a Marriage Contract. Otherwise, all individuals would be treated equally. In a Hague Child Abduction case, the court will look to the foreign law of the habitual residence of the child in determining whether the left behind parent had custodial rights.

2.9 How is the matrimonial home treated on divorce?

Unless the home was owned before marriage by one spouse, in which case its value at that time would be exempt, the general rule would be that it would be divided equally.

2.10 Is the concept of "trusts" recognised in your jurisdiction? If so, how?

Yes. They can be used in estate planning and in matrimonial property planning.

2.11 Can financial claims be made following a foreign divorce in your jurisdiction? If so, what are the grounds?

If the foreign divorce is in a reciprocating jurisdiction, yes. Otherwise, it would depend on conflict of laws rules.

2.12 What methods of dispute resolution are available to resolve financial settlement on divorce, e.g. court, mediation, arbitration?

We have judicial mediation, court mediation, private mediation, and arbitration.

3.1 Are marital agreements (pre- and post-marriage) enforceable? Is the position the same if the agreement is a foreign agreement?

Yes. A foreign agreement, to be enforceable in one of our provinces, would have to meet the legal requirements of that jurisdiction.

3.2 What are the procedural requirements for a marital agreement to be enforceable on divorce?

Marital agreements do not require a divorce to be enforceable, but must meet the provincial legal requirements of where the agreement is drawn.

3.3 Can marital agreements cover a spouse's financial claims on divorce, e.g. for maintenance or compensation, or are they limited to the election of the matrimonial property regime? Can they deal with financial claims regarding children, e.g. child maintenance?

Marital agreements can deal with all of the above.

4.1 Do cohabitants, who do not have children, have financial claims if the couple separate? What are the grounds to make a financial claim?

Yes, if they have been cohabiting for three years in a marriage-like relationship.

4.2 What financial orders can a cohabitant obtain?

A cohabitant may obtain the same orders as a married individual.

4.3 Is there a formal partnership status for cohabitants (for example, civil partnerships, PACS)?

Cohabitants are referred to as Adult Interdependent Partners (AIPs).

4.4 Are same-sex couples permitted to marry or enter other formal relationships in your jurisdiction?

Yes, same-sex couples are permitted to marry in Canada.

5.1 What financial claims are available to parents on behalf of children within or outside of marriage?

Child support claims are available.

5.2 How is child maintenance calculated and is it administered by the court or an agency?

Child maintenance is determined by referring to the Federal and Provincial Child Support Guidelines. The court ultimately administers.

5.3 For how long is a parent required to pay child maintenance or provide financial support for their children? For example, can a child seek maintenance during university?

Generally, to age 18, but if the child is dependent due to health

or post-secondary reasons, support continues past 18 and can include a first and possibly second degree.

5.4 Can capital or property orders be made to or for the benefit of a child?

If the child is under 18, or over 18 but incapacitated in some manner, the court on the death of a parent can make a capital order.

5.5 Can a child or adult make a financial claim directly against their parents? If so, what factors will the court take into account?

Yes, the same factors are taken into account as if the parent were applying on behalf of the child.

6.1 Explain what rights of custody both parents have in your jurisdiction whether (a) married, or (b) unmarried.

Married parents have equal rights to custody of their child. In the case of unmarried parents, the father must meet the requirements of the Family Law Act, which involve being named as the father on the birth certificate, and living with the mother for a specific period of time during the pregnancy. He would then apply to the court to be named a guardian.

6.2 At what age are children considered adults by the court?

Children are considered adults by the court at age 18.

6.3 What is the duration of children orders (up to the age of 16 or 18 or otherwise)?

Children orders last up to the age of 18, but longer if the child is still a dependent due to health or education.

6.4 What orders can the court make in relation to children? Does the court automatically make orders in relation to child arrangements in the event of divorce?

Custody (now called parenting) and child support. The court does not automatically make orders for children on divorce if there is a lower court decision that has dealt properly with custody and child support.

6.5 What factors does the court consider when making orders in relation to children?

The court considers the best interests of the child.

6.6 Without court orders, what can parents do unilaterally? For example, can they take a child abroad?

Taking children abroad requires a court order or the agreement of the other parent. Parents can make basic day-to-day

decisions for the child but major decisions such as schooling, residence, etc. must be joint.

6.7 Is there a presumption of an equal division of time between separating or divorcing parents?

No. It would depend upon what is in the child's best interests.

6.8 Are unmarried parents treated in the same way as married parents when the court makes orders on separation or divorce?

Yes, unmarried parents are treated in the same way as married parents when the court makes orders on separation or divorce.

6.9 Is a welfare report prepared by an independent professional or is the decision taken by the judge alone? If so, does the child meet the judge?

It would depend upon the directions of the court. Judges rarely meet children.

6.10 Is there separate representation for children in your jurisdiction and, if so, who would represent them, e.g. a lawyer?

It would generally be a lawyer appointed for the child.

6.11 Do any other adults have a say in relation to the arrangements for the children, e.g. step-parents or grandparents or siblings? What methods of dispute resolution are available to resolve disputes relating to children?

Generally, the parents have a say, but the court could involve other family members. For dispute resolution, we have judicial mediation, private mediation, parenting coordination, and arbitration.

7.1 Can the custodial parent move to another state/country without the other parent's consent?

No, it would require a court order or agreement between the parties.

7.2 Can the custodial parent move to another part of the state/country without the other parent's consent?

Please see question 7.1 above.

7.3 If the court is making a decision on relocation of a child abroad, what factors are taken into account?

Under our new Divorce Act (now five-and-a-half years old), the court looks at over a dozen factors such as domestic violence, reason for the move, support in the new location, impact of the move on the relationship with the left-behind parent and so on. But, overall, a best interests analysis is used.

7.4 If the court is making a decision on a child moving to a different part of the state/country, what factors are taken into account?

Please see question 7.3 above.

7.5 In practice, how rare is it for the custodial parent to be allowed to relocate internationally/interstate?

It is not rare at all. There have been approx. 150 cases in Canada that have allowed relocation in the past five-and-a-half years out of the over 300 reported cases.

7.6 How does your jurisdiction deal with abduction cases? For example, is your jurisdiction a party to the Hague Convention?

Our courts are very responsive to child abduction cases, and Canada has been a Hague Convention signatory since 1980.

8.1 In your view, what are the significant developments in family law in your jurisdiction in the last two years and anticipated in the next year?

The Supreme Court of Canada has just recently created the new tort of intimate party coercive control. Criminal legislation is also before our parliament dealing with this aspect of intimate partner violence.

8.2 To what extent and how has the court process and other dispute resolution methods for family law been adapted in your jurisdiction in light of the COVID-19 pandemic – e.g. virtual hearings, remote access, paperless processes? Are any of these changes likely to remain now the COVID-19 crisis has passed?

Remote hearings are common, and our courts have adopted electronic filing or paperless processes. These are now permanent products of the COVID-19 pandemic.

8.3 What are some of the areas of family law that you think should be considered in your jurisdiction, i.e. what laws or practices should be reformed?

The speed by which litigants can access our higher courts in the area of family law should be considered. We have adopted a Family Focused Protocol since January 2, 2026, and it remains to be seen whether this new process will improve access to justice for family litigants.



Max Blitt KC was admitted to the Alberta Bar in 1975 and is currently an associate of the law firm of Spier Harben. He practises primarily in Family Law, Real Estate, Wills and Estates. Max has also had extensive experience dealing with the Hague Convention on the Civil Aspects of International Child Abductions. He has personally been involved in assisting clients and legal counsel to recover children that have been abducted by parents and relatives to other Provinces in Canada, the United States, Poland, France, Germany, Latvia, Estonia, Bulgaria, Mexico, Brazil, Sweden, Italy, South Africa, Lebanon, Jordan, Israel, Türkiye, Japan, Australia, Bangladesh, Ecuador, Guatemala, Hungary, Bermuda, Indonesia, South Korea, Cayman Islands, China, Georgia (country) and the United Kingdom. Max also works with counsel in foreign countries in dealing with support and property issues. Max is a member of Canada Family Mediation, the Association of Family and Conciliation Courts (International), the Alberta Civil Trial Lawyers Association (former), the American Bar Association, the Law Society of England and Wales (former) and the International Academy of Family Lawyers. He is a Court-Appointed Dispute Resolution Officer with the Court of Queen's Bench of Alberta (now the Court of King's Bench of Alberta) (2006 to present), a past Negotiations/ Advocacy Assessment Instructor for the Canadian Centre for Professional Legal Education 2008–2020 (Bar Admission Course) and was appointed Queen's Counsel (now King's Counsel) in December 2013. Max has taken the International Cross Border Mediation training through UC Hastings Law San Francisco. Max has spoken to search agencies, law enforcement, lawyers, government representatives, and Judges at conferences throughout the world in addition to being qualified as an Expert in International Family Law. Max's interests include martial arts (former Karate/Kung Fu Instructor), skiing, bicycling, physical fitness, reading, and travel.

Spier Harben Barristers & Solicitors
1400, 707 – 7th Avenue SW
Calgary, Alberta T2P 3H6
Canada

Tel: +1 403 699 1257
Email: mblitt@spierharben.com
LinkedIn: www.linkedin.com/in/max-blitt-bb794418

Spier Harben was created through the merger of two law firms in 1994. The firm has been recognised globally as a provider of services in the areas of international and domestic family law, child welfare, divorce, asset division, commercial transactions, international child abduction

cases, personal injury, wills and estates. The firm at one time included four King's Counsel, two of whom have retired. The firm also provides mediation and arbitration services.



The **International Comparative Legal Guides** (ICLG) series brings key cross-border insights to legal practitioners worldwide, covering 59 practice areas.

Family Law 2027 features one expert analysis chapter and 18 Q&A jurisdiction chapters covering key issues, including:

- Grounds for Divorce, Grounds of Jurisdiction and Timescale of Proceedings
- Financial Settlements, Maintenance Orders, Matrimonial Regimes and Trusts
- Marital Agreements Both Pre- and Post-Marriage
- Cohabitation and the Unmarried Family
- Child Maintenance
- Children – Parental Responsibility and Custody
- Children – International Aspects