**C. CHILD SUPPORT**

1. General

The court requires fulsome financial documentation to address child support in a variety of settings: motions and applications; trials; motions for judgment in uncontested matters; and, proposed consent orders presented to the court. A failure to provide timely and fulsome financial disclosure may have adverse consequences, including costs.

1. Child Support – Legislative Obligations and Duration
	1. A parent’s obligation to provide adequate financial support for a child is addressed in the legislative regime and the governing case law. In making a child support order, the court does so in accordance with the *Federal Child Support Guidelines* SOR/97-175, including the Tables (“*Guidelines*”).
	2. The court has an obligation to ensure that parents provide adequate financial support for a child. This obligation is addressed in both the *Children’s Law Act*, RSPEI 1988 Cap. C-6.1 and the *Divorce Act*, RSC 1985, Cap. 3. This obligation exists independently of the wishes of a party. For example, the court may decline to endorse a proposed consent order which does not adequately address financial support for a child.
	3. Lawyers and parents are reminded of the legislative regime which addresses the duration of a parent’s obligation to provide financial support for a child, including the definition of “child of the marriage” in s. 2(1) of the *Divorce Act*, and the age and circumstances of the child addressed in s. 58(2) of the *Children’s Law Act*.
2. Self-employed Income and Partnership Income

Lawyers and self-represented parties are reminded of the financial and income disclosure obligations set out in s. 21 of the *Guidelines*, where a party is self-employed, is a partner in a partnership, or controls a corporation.

1. Off-Table Child Support
	1. Generally, the court is obligated to order child support in accordance with Tables of the *Guidelines*. In certain circumstances, the court may order child support that is different from the amount in the Tables. For example, the court may order an off-Table amount where undue hardship has been established in accordance with the *Guidelines.*
	2. The court may also order an off-Table amount upon the consent of both spouses, provided the court is satisfied that reasonable arrangements have been made for the support of the child (see, for example, s. 15.1 (7) of the *Divorce Act).*
	3. In considering requests for an off-Table child support amount, the court requires appropriate documentation and evidence to satisfy itself that reasonable arrangements have been made for the child. This applies in the context of all requests, including proposed divorce judgments where the proceeding is uncontested.
2. Adult Child
	1. Lawyers and self-represented parties are reminded of s. 3(2) of the *Guidelines,* which addresses child support for an adult child:

*3(2) Unless otherwise provided under these Guidelines, where a child to whom a child support order relates is the age of majority or over, the amount of the child support order is*

1. *the amount determined by applying these Guidelines as if the child were under the age of majority; or*
2. *if the court considers that approach to be inappropriate, the amount that it considers appropriate, having regard to the condition, means, needs, and other circumstances of the child and the financial ability of each spouse to contribute to the support of the child.*
	1. The court therefore requires documentation and evidence regarding the circumstances of the child. This often arises where the adult child is attending post-secondary education. In such circumstances, the court generally requires evidence relating to the child’s living arrangements; whether the child is residing with a parent or not; the child’s employment and income (including during the school year and summer months); and, the child’s expenses (for example, educational expenses and living expenses).
3. Shared Parenting – Child Support
	1. Lawyers and self-represented parties are reminded that in situations of shared parenting, the court is obligated to determine child support in accordance with s. 9 of the *Guidelines:*

*9 If each spouse exercises not less than 40% of parenting time with a child over the course of a year, the amount of the child support order must be determined by taking into account*

*(a) the amounts set out in the applicable tables for each of the spouses;*

*(b) the increased costs of shared parenting time arrangements; and*

*(c) the conditions, means, needs and other circumstances of each spouse and of any child for whom support is sought.*

* 1. The court therefore considers not only the applicable Table amount, but also the two additional factors set out in s. 9(b) and (c) above.
1. Child Support – Details to Include in Originating Process

An originating process requesting relief under the *Divorce Act* or the *Children’s Law Act*is to clearly indicate if there are, or are not, children of the union. If there are children of the union, the pleading is to state the names and dates of birth of the children. If no child support is being sought for any of the children, the reason is to be stated (e.g., if the child is over the age of majority and is living independently).