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Arbitration Act, 1991

ONTARIO REGULATION 134/07

FAMILY ARBITRATION

Consolidation Period: From April 30, 2008 to the [e-Laws currency date](#).

No amendments.

This is the English version of a bilingual regulation.

Interpretation

1. In this Regulation,

“mediation-arbitration agreement” means a family arbitration agreement that provides that,

(a) a mediation between the parties is to be conducted before any arbitration is conducted, and

(b) if the mediation fails, the mediator shall arbitrate the dispute and make a binding resolution of it; (“convention de médiation-arbitrage”)

“secondary arbitration” has the same meaning as in subsection 59.7 (2) of the *Family Law Act*. (“arbitrage secondaire”) O. Reg. 134/07, s. 1.

Standard provisions

2. (1) Every mediation-arbitration agreement made on or after September 1, 2007 shall contain,

(a) if made before April 30, 2008, the provisions set out in paragraphs 1, 2, 3 and 4 and subparagraphs 5 i and iii of subsection (4); or

(b) if made on or after April 30, 2008, the provisions set out in paragraphs 1, 2, 3 and 4 and subparagraphs 5 i, ii and iii of subsection (4). O. Reg. 134/07, s. 2 (1).

(2) Every secondary arbitration agreement made on or after September 1, 2007 shall contain,

(a) if made before April 30, 2008, the provisions set out in paragraphs 1, 2 and 3 and subparagraphs 5 i and iii of subsection (4); or

(b) if made on or after April 30, 2008, the provisions set out in paragraphs 1, 2 and 3 and subparagraphs 5 i, ii and iii of subsection (4). O. Reg. 134/07, s. 2 (2).

(3) Every family arbitration agreement made on or after September 1, 2007, other than a mediation-arbitration agreement or a secondary arbitration agreement, shall contain,

(a) if made before April 30, 2008, the provisions set out in paragraphs 1, 2, 3 and 4 and subparagraphs 5 i and iv of subsection (4); or

(b) if made on or after April 30, 2008, the provisions set out in paragraphs 1, 2, 3 and 4 and subparagraphs 5 i, ii and iv of subsection (4). O. Reg. 134/07, s. 2 (3).

(4) The following are the provisions referred to in subsections (1), (2) and (3):

1. The arbitration will be conducted in accordance with, (*choose either i or ii*)

i. the law of Ontario, and the law of Canada as it applies in Ontario, or

ii. the law of (*name other Canadian jurisdiction*), and the law of Canada as it applies in that jurisdiction.

2. Any award may be appealed as follows: (*choose either i or ii*)

i. A party may appeal the award in accordance with subsection 45 (1) of the *Arbitration Act, 1991*.

ii. A party may appeal the award on, (*choose one or more of the following*)

A. a question of law,

B. a question of fact, or

C. a question of mixed fact and law.

3. The arbitrator for this arbitration is (*name of arbitrator*).

4. (*For each party*): I, (*print name of party*), confirm that I have received independent legal advice and have attached to this agreement a copy of the certificate of independent legal advice that was provided to me under subsection 59.6 (2) of the *Family Law Act*.

.....

(*Signature of party*)

5. I, (*print name of arbitrator*), confirm the following matters:

i. I will treat the parties equally and fairly in the arbitration, as subsection 19 (1) of the *Arbitration Act, 1991* requires.

ii. I have received the appropriate training approved by the Attorney General.

iii. The parties were separately screened for power imbalances and domestic violence and I have considered the results of the screening and will do so throughout the arbitration, if I conduct one.

iv. The parties were separately screened for power imbalances and domestic violence by someone other than me and I have considered his or her report on the results of the screening and will do so throughout the arbitration.

.....

(Signature of arbitrator)

O. Reg. 134/07, s. 2 (4).

Qualifications of arbitrator

3. Every arbitrator who conducts a family arbitration shall have received the training approved by the Attorney General for the arbitrator or class of arbitrators, as set out on the Ministry's website. O. Reg. 134/07, s. 3.

Records of family arbitrations

4. (1) Subject to subsection (2), every arbitrator who conducts a family arbitration shall create a record of the arbitration containing the following matters:

1. The evidence presented and considered.
2. The arbitrator's notes taken during the hearing, if any.
3. A copy of,
 - i. the signed arbitration agreement,
 - ii. the certificates of independent legal advice,
 - iii. if the screening for power imbalances and domestic violence was conducted by someone other than the arbitrator, the report on the results of the screening, and
 - iv. the award and the arbitrator's written reasons for it. O. Reg. 134/07, s. 4 (1).

(2) An arbitrator who conducts one or more secondary arbitrations under a separation agreement, court order or family arbitration award, shall create a record containing the following matters:

1. A copy of the separation agreement, court order or family arbitration award.

2. For each secondary arbitration conducted by the arbitrator under the separation agreement, court order or family arbitration award,

- i. the evidence presented and considered,
- ii. the arbitrator's notes taken during the hearing, if any, and
- iii. the award and the arbitrator's written reasons for it. O. Reg. 134/07, s. 4 (2).

(3) The arbitrator shall keep the record for at least 10 years after the date of the award. O. Reg. 134/07, s. 4 (3).

Arbitrator's report

5. (1) Every arbitrator who conducts a family arbitration shall report the following information about the award to the Attorney General, in a form provided by the Ministry of the Attorney General:

1. The date and length of the hearing, if any, leading to the award.
2. The matters addressed in the arbitration and in the award.
3. Details of the following, to the extent relevant to the award:
 - i. The ages of the parties to whom the award relates, the length of their relationship, their approximate incomes and the approximate total value of each party's assets.
 - ii. The ages and genders of any children of any party to whom the award relates, and custody and access arrangements and child support awarded in respect of them.
 - iii. Spousal support awarded.
 - iv. Equalization of property awarded.
 - v. Any provisions in the award restraining contact or communication between the parties. O. Reg. 134/07, s. 5 (1).

(2) The reports required by subsection (1) shall be provided,

(a) for family arbitrations completed during the period from April 1 to September 30, on or before November 30; and

(b) for family arbitrations completed during the period from October 1 to March 31 of the following year, on or before May 31. O. Reg. 134/07, s. 5 (2).

6. Omitted (provides for coming into force of provisions of this Regulation). O. Reg. 134/07, s. 6.

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