

Form 81H

RESPONSE TO MOTION TO CHANGE

COURT OF KING'S BENCH OF NEW BRUNSWICK
FAMILY DIVISION
JUDICIAL DISTRICT OF _____

BETWEEN: _____

Court File Number

_____ APPLICANT
and
_____ RESPONDENT

RESPONSE TO MOTION TO CHANGE (FORM 81H)

Applicant

Address for service: *(street and number), (city/town/village), (province/state), (postal code)*

E-mail address *(if any)*: _____

Telephone numbers:

Work: _____ ext: _____

Home: _____

Fax number *(if any)*: _____

Solicitor for applicant

Name of solicitor for applicant: _____

Name of solicitor's firm *(if applicable)*: _____

Address for service: *(street and number), (city/town/village), (province), (postal code)*

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E-mail address (*if any*): _____

Telephone number: _____ ext: _____

Fax number (*if any*): _____

Respondent

Address for service: (*street and number*), (*city/town/village*), (*province/state*), (*country*), (*postal code*)

E-mail address (*if any*): _____

Telephone numbers

Work: _____ ext: _____

Home: _____

Fax number (*if any*): _____

Solicitor for respondent

Name of solicitor for respondent: _____

Name of solicitor's firm (*if applicable*): _____

Address for service: (*street and number*), (*city/town/village*), (*province*), (*postal code*)

E-mail address (*if any*): _____

Telephone number: _____ ext: _____

Fax number (*if any*): _____

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① NOTE: THIS FORM IS USED FOR THE FOLLOWING KINDS OF SUPPORT:

- (a) CHILD SUPPORT UNDER THE *DIVORCE ACT* OR THE *FAMILY LAW ACT*;
- (b) SPOUSAL SUPPORT UNDER THE *DIVORCE ACT*; AND
- (c) SUPPORT UNDER THE *FAMILY LAW ACT* FOR A DEPENDANT WHO IS NOT A CHILD.

DECLARATION OF THE PARTY RESPONDING TO THE MOTION

For proceedings under the *Family Law Act*

I certify that I am aware of my duties under section 5 of the *Family Law Act*.

For proceedings under the *Divorce Act*

I certify that I am aware of my duties under sections 7.1 to 7.5 of the *Divorce Act*.

DATED at _____ this _____ day of _____, 20____.

Signature of party responding to the motion

SOLICITOR'S CERTIFICATE

My name is _____
and I am the solicitor for the party responding to the motion.

I certify that I have complied with the requirements of

- section 6 of the *Family Law Act*.
- section 7.7 of the *Divorce Act*.

DATED at _____ this _____ day of _____, 20____.

Signature of Solicitor

PART 1 – GENERAL INFORMATION

My name is (*full legal name*) _____

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I live in: (street and number), (city/town/village), (province/state), (country), (postal code)

⚠ and I make oath (or solemnly affirm) that the following is true:

1. I am the applicant respondent
2. I am the support recipient support payer
3. I agree with the information set out in sections 1 to 8 of the Change Information Form (Form 81G), dated (month day, year) _____.
 I agree with the information set out in sections 1 to 8 of the Change Information Form (Form 81G), dated (month day, year) _____, EXCEPT as follows: (Give details of the information with which you do not agree and attach any documents that support your position.)

-
4. I agree with the claims made by (name of person bringing the motion to change)

in sections _____ of the Motion to Change (Form 81F), dated (month day, year)

- I disagree with the claims made by (name of person bringing the motion to change)

in sections _____ of the Motion to Change (Form 81F), dated (month day, year)

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5. I request that the motion to change (*except for the parts with which I agree*) be dismissed with costs.

CLAIM BY PARTY RESPONDING TO THE MOTION

- i** Complete only if you are requesting the court to change the existing order or support agreement.

6. I am requesting the court to make a change of my own, the details of which are set out below:

PARENTING TIME/DECISION-MAKING RESPONSIBILITY

- i** Complete only if you are requesting a change to a parenting order.

7. I request that *(name(s) of party(ies))*

have parenting time and decision-making responsibility allocated under a parenting order with respect to the following child(ren):

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- 8. I request that (name(s) of party(ies))**

have parenting time allocated under a parenting order with respect to the following child(ren):

OR

(continued on next page)

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9. I request that *(name(s) of party(ies))*

have shared parenting time and shared decision-making responsibility allocated under a parenting order with respect to the following child(ren):

Name of Child	Birth Date	Shared Parenting Time/
	(month day, year)	Decision-Making Arrangements

- 10.** I request the following living / parenting time arrangements for the child(ren): *(name(s) and birth date(s) of child(ren))*

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11. The order I am requesting the court to make is in the best interests of the child(ren) for the following reasons:
(Give details.)
-

Other Court Proceedings

12. If you are applying for a parenting order, a contact order, or an order for child support, spousal support or support for a dependent who is not a child, you will need to tell the court about:
- any criminal or child protection cases or orders that involve you or the other party to the proceeding, or
 - any restraining or protection orders or applications against one of you.

The judge will use this information to help ensure that any orders made in this court proceeding do not conflict with other orders or proceedings.

The following are all other court proceedings involving one or both parties to this proceeding or any of the children: *(Give the name of the court, the court file number, the kind of order the court was asked to make and what order, if any, the court made. If the proceeding is not yet completed, give its current status.)*

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CHILD SUPPORT UNDER THE *DIVORCE ACT OR THE FAMILY LAW ACT*

1 Complete this portion only if you are requesting a change in child support.

13. I am asking to change the child support in the agreement/order because:

- The agreement/order was made before the applicable Child Support Guidelines came into effect.
 The following change in circumstances has taken place: *(Give details of change in circumstances.)*
-

- The parties agree to the termination of the support agreement/order, dated *(month day, year)* _____, for the following child(ren): *(name(s) and birth date(s) of child(ren))*
-

as of *(date)* *(month day, year)* _____.

- Other: *(Give details.)*
-

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14. I request that the child support be changed as follows:

The agreement/order for child support, dated *(month day, year)* _____, be terminated for the following child(ren): *(name(s) and birth date(s) of child(ren))*

effective on *(date) (month day, year)* _____.

Based on the payer's annual income of \$ _____, *(name of party)*

pay child support to *(name of party)*

in the amount of \$ _____ per month for the following child(ren): *(name(s) and birth date(s) of child(ren))*

with payments to begin on *(date) (month day, year)* _____.

This amount is the table amount listed in the Child Support Guidelines.

This amount is different from the table amount listed in the Child Support Guidelines. *(If this box is checked, you must complete section 15.)*

(continued on next page)

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Starting on (date) (month day, year) _____, (name of party)

pay to *(name of party)*

the amount of \$ _____ for the following special or extraordinary expenses:

Other: *(Give details.)*

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15. I am requesting that child support be changed to an amount that is different from the table amount listed in the Child Support Guidelines. The reason(s) for my request is/are that:
- The parties agree to a different amount. I have attached a separate sheet to this form that explains why this is an appropriate amount of child support.
 - The parties have shared parenting time with respect to the child(ren). (*The payer has a child not less than 40% of the time.*)
 - I have attached a separate sheet to this form that compares the table amounts from the Child Support Guidelines for each of the parties and shows the increased cost of the shared parenting time arrangements, as well as the financial circumstances of each party and of each child for whom support is claimed.
 - The parties agree to this arrangement and I have attached a separate sheet to this form that explains why this is an appropriate amount of child support.
 - Each party has a majority of the parenting time with respect to one or more of the children. (*Each party has a child more than 60% of the time.*) I have attached a separate sheet to this form that calculates the difference between the amount that each party would otherwise pay to the other under the Child Support Guidelines.
 - A child is 19 or more years old and I have attached to this form a separate sheet that calculates the amount of support for this child.
 - A child contributes to his/her own support and I have attached to this form a separate sheet that shows the amount of the child's own income and/or assets.
 - The payer's annual income is over \$150,000 and I have attached to this form a separate sheet that calculates the amount of support that I want to be included in an order.
 - Under the agreement/order, (*name(s) of child(ren)*)

is/are the subject of special provisions that I have detailed on a separate sheet that I have attached this form.

- The payer stands in the place of a parent to (*name(s) of child(ren)*)

and I have attached to this form a separate sheet that gives the details of another parent's duty to pay support for this/these child(ren), as well as the details of the calculation of the amount of support requested.

- The amount listed in the Child Support Guidelines would cause undue hardship to me or to the child(ren) for whom support is claimed. I have attached to this form a separate sheet that compares the standards of living of the parties and calculates the amount of support that should be paid.

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16. I request that the outstanding child support owed be paid as follows:

The child support owed to *(name of recipient)*

be fixed at \$ _____ as of *(date) (month day, year)* _____.

(Name of payer)

pay to *(name of recipient)*

the amount of \$ _____ per month, with payments to begin on *(date) (month day, year)* _____ until the full amount owing is paid.

SPOUSAL SUPPORT UNDER THE DIVORCE ACT

i Complete only if you are asking for a change in spousal support.

17. I am requesting a change to the spousal support in the agreement/order because:

The following change in circumstances has taken place: *(Give details of change in circumstances.)*

Spousal support should no longer be paid as of *(date) (month day, year)* _____ for the following reasons: *(Give details.)*

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- The parties consent to the termination of the agreement/order, dated *(month day, year)* _____, as of *(date) (month day, year)* _____.
- Other : *(Specify)*
-

18. I request that the spousal support be changed as follows:

- The agreement/order, dated *(month day, year)* _____, be terminated effective on *(date) (month day, year)* _____.
- (Name of party)*
-

pay to *(name of party)*

the amount of \$ _____ per month, effective on *(date) (month day, year)* _____.

- Other: *(Give details of the order you are requesting the court to make.)*
-

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19. I request that the outstanding spousal support owed be paid as follows:

The spousal support owed to *(name of recipient)*

be fixed at \$_____ as of *(date) (month day, year)* _____.

(Name of payer)

pay to *(name of recipient)*

the amount of \$_____ per month, with payments to begin on *(date) (month day, year)* _____ until the full amount owing is paid.

SUPPORT UNDER THE FAMILY LAW ACT FOR A DEPENDANT WHO IS NOT A CHILD

① Complete only if you are asking for a change in support.

20. I am requesting a change to the support for a dependant in the agreement/order because:

The following change in circumstances has taken place: *(Give details of change in circumstances.)*

The support should no longer be paid as of *(date) (month day, year)* _____ for the following reasons: *(Give details.)*

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- The parties consent to the termination of the agreement/order, dated *(month day, year)* _____, as of *(date)* *(month day, year)* _____.
- Other: *(Specify)*
-

21. I request that the support for a defendant be changed as follows:

- The agreement/order, dated *(month day, year)* _____, be terminated effective on *(date)* *(month day, year)* _____.
- (Name of party)*
-

pay to *(name of party)*

the amount of \$ _____ per month, effective on *(date)* *(month day, year)* _____.

- Other: *(Give details of the order you are requesting the court to make.)*

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22. I request that the outstanding support owed to a dependant be paid as follows:

The support owed to *(name of recipient)*

be fixed at \$ _____ as of *(date) (month day, year)* _____.

(Name of payer)

pay to *(name of recipient)*

the amount of \$ _____ per month, with payments to begin on *(date) (month day, year)* _____ until the full amount owing is paid.

OTHER

1 Complete if applicable.

23. I ask that the terms of the order of

judge of The Court of King's Bench of New Brunswick, dated *(month day, year)* _____, for *(give details.)*

be changed as follows: *(Give details of the order you are requesting the court to make.)*

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24. I request the court to make the order set out in section 23 for the following reasons:

25. I request the court to make the following additional order:

26. I request the court to make the order set out in section 25 for the following reasons:

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SWORN TO (or SOLEMNLY AFFIRMED))

before me at _____)

in the Province, State or Country of _____)

_____)

this _____ day of _____, 20 _____.)

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Signature of Applicant or Respondent

A Commissioner of Oaths or _____)

A Notary Public (*if outside New Brunswick*) _____)

PART 2 - INFORMATION FROM SUPPORT PAYER

**⚠ DO NOT COMPLETE THIS PART IF THE PARTIES ARE ONLY CONSENTING
TO TERMINATE A SUPPORT OBLIGATION OR IF THE MOTION TO CHANGE
DOES NOT INCLUDE A CLAIM TO CHANGE CHILD SUPPORT**

My name is (full legal name): _____

I live in: (street and number), (city/town/village), (province/state), (country), (postal code)

and I make oath (or solemnly affirm) that the following is true:

27. I am the support payer in this proceeding.

28. I have attached  the following financial information about myself:

- (a) a copy of every personal income tax return that I filed with the Canada Revenue Agency for the 3 most recent taxation years;
- (b) a copy of every notice of assessment and re-assessment from the Canada Revenue Agency of those returns; and
- (c) (*applies only if you are an employee*) proof of this year's earnings from my employer as required by clause 21(1)(c) of the Child Support Guidelines.
 (*applies only if you are self-employed, or you are a partner in a partnership or you control a corporation or are a beneficiary under a trust*) the documents listed in one or more of clauses 21(1) (d), (e), (f) and (g) of the Child Support Guidelines.

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29. My total income:

- will be \$_____ for this year;
 was \$_____ for last year; and
 was \$_____ for the year before that.

30. On the basis of my annual income, the table amount from the Child Support Guidelines for (*number of children*) _____ child(ren) is \$_____ per month.

31. My financial statement:

- is attached. 
 is not attached.

SWORN TO (or SOLEMNLY AFFIRMED))

before me at _____)
in the Province, State or Country of _____)
_____)
this _____ day of _____, 20_____.)

A Commissioner of Oaths or)
A Notary Public (*if outside New Brunswick*))

Signature of Applicant or Respondent

PART 3 - INFORMATION FROM SUPPORT RECIPIENT

**⚠ DO NOT COMPLETE THIS PART IF THE PARTIES ARE ONLY CONSENTING
TO TERMINATE A SUPPORT OBLIGATION OR IF THE MOTION TO
CHANGE DOES NOT INCLUDE A CLAIM TO CHANGE CHILD SUPPORT**

My name is (*full legal name*): _____

I live: (*city/town/village*), (*province/state*), (*country*), (*postal code*)

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and I make oath (or solemnly affirm) that the following is true:

32. I am the support recipient in this case.

i Fill in sections 33 and 34 only if:

- *the change that you are requesting is for an amount that is different from the Child Support Guidelines;*
- *the change that you are requesting relates to a child:*
 - *over the age of 19 years,*
 - *for whom the payer stands in the place of a parent, or*
 - *with respect to whom the payer exercises not less than 40% of parenting time over the course of the year;*
- *where there are two or more children, each party exercises the majority of parenting time with one or more children;*
- *the payer's annual income as determined under the guidelines is more than \$150,000;*
- *either party claims that an order according to the guidelines would result in undue hardship; or*
- *there is a claim for special or extraordinary expenses.*

33. I have attached  the following financial information about myself:

- (a) a copy of every personal income tax return that I filed with the Canada Revenue Agency for the 3 most recent taxation years;
- (b) a copy of every notice of assessment and re-assessment from the Canada Revenue Agency of those returns; and
- (c) (applies only if you are an employee) proof of this year's earnings from my employer as required by clause 21(1)(c) of the Child Support Guidelines.
 (applies only if you are self-employed, or you are a partner in a partnership or you control a corporation or are a beneficiary under a trust) the documents listed in one or more of clauses 21(1) (d), (e), (f) and (g) of the Child Support Guidelines.

34. My total income

- will be \$_____ for this year;
 was \$_____ for last year; and
 was \$_____ for the year before that.

35. My financial statement

- is attached. 
 is not attached.

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SWORN TO (or SOLEMNLY AFFIRMED))

before me at _____)

in the Province, State or Country of _____)

_____)

this _____ day of _____, 20 _____.)

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Signature of Applicant or Respondent