



Province of Alberta

# **MAINTENANCE ENFORCEMENT ACT**

Revised Statutes of Alberta 2000  
Chapter M-1

Current as of January 1, 2017

Office Consolidation

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### Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

### Regulations

The following is a list of the regulations made under the *Maintenance Enforcement Act* that are filed as Alberta Regulations under the Regulations Act

	<b>Alta. Reg.</b>	<i>Amendments</i>
<b>Maintenance Enforcement Act</b>		
Interjurisdictional Support Orders.....	4/2003 .....	164/2010, 81/2016
Maintenance Enforcement.....	2/86 .....	151/89, 348/94, 71/95, 29/2000, 90/2000, 251/2001, 4/2003, 32/2004, 194/2004, 8/2005, 212/2005, 241/2008, 324/2009, 164/2010, 227/2011, 15/2015, 112/2017
<i>NOTE: AR 112/2017 comes into force on August 1, 2017</i>		

# **MAINTENANCE ENFORCEMENT ACT**

## **Chapter M-1**

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HER MAJESTY, by and with the advice and consent of the  
Legislative Assembly of Alberta, enacts as follows:

#### **Interpretation**

**1(1)** In this Act,

- (a) “creditor” means a person entitled under a maintenance order to receive money for maintenance on the person’s own behalf or on behalf of another person;
- (b) “debtor” means a person required under a maintenance order to pay money for maintenance;

- (c) “Director” means the Director of Maintenance Enforcement appointed under section 4;
  - (d) “maintenance” means maintenance, support or alimony and includes
    - (i) an amount payable periodically, whether annually or otherwise and whether for an indefinite or limited period or until the happening of a specified event,
    - (ii) a lump sum,
    - (iii) expenses in respect of prenatal care and the birth of a child,
    - (iv) an amount payable under a Queen’s Bench protection order under the *Protection Against Family Violence Act*,
    - (v) a charge on property or otherwise as security for the payment of maintenance, or
    - (vi) interest or the payment of legal fees or other expenses arising in relation to maintenance;
  - (e) “maintenance order” means an order or interim order of a court in Alberta, a Queen’s Bench protection order under the *Protection Against Family Violence Act* or an order, other than a provisional order that has not been confirmed, registered under the *Reciprocal Enforcement of Maintenance Orders Act* or the *Interjurisdictional Support Orders Act* that has a provision requiring the payment of maintenance;
  - (f) “support deduction notice” means a support deduction notice issued by the Director under section 17.
- (2) An agreement entered into under any of the following provisions is deemed to be a maintenance order under this Act:
- (a) Part 5 of the *Income and Employment Supports Act*;
  - (b) section 6 of the *Parentage and Maintenance Act*, RSA 2000 cP-1;
  - (c) section 27 of the *Income Support Recovery Act*, RSA 2000 cI-1.
- (3) A maintenance agreement entered into under the *Child, Youth and Family Enhancement Act* is deemed to be a maintenance order under this Act.

RSA 2000 cM-1 s1;2002 cI-3.5 s49;2003 c16 s117;2004 c18 s2

**Maintenance order**

**2(1)** Only that part of a maintenance order that relates to the payment or security of payment of maintenance may be enforced under this Act.

**(2)** Arrears of maintenance payable under a maintenance order may be enforced under this Act whether the arrears accrued

(a) before or after the maintenance order is filed with the Director, or

(b) before or after the coming into force of this Act.

1985 cM-0.5 s2

**Binds the Crown**

**3** This Act binds the Crown in right of Alberta.

1985 cM-0.5 s3

**Director of Maintenance Enforcement**

**4(1)** The Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act shall appoint a person as the Director of Maintenance Enforcement for the purposes of this Act.

**(2)** The Director may delegate any power, duty or function conferred or imposed on the Director under this Act, including the power to delegate or subdelegate, to any person for any purpose.

1985 cM-0.5 s4;1994 cG-8.5 s89

**Enforcement by Director**

**5(1)** Subject to subsection (2), if the Director considers it practicable to do so, the Director shall enforce a maintenance order that is filed with the Director in the manner the Director considers appropriate and the Director, for that purpose, may commence and conduct a proceeding in the name of the Director as if the Director were a creditor under the maintenance order.

**(2)** The Director may refuse to enforce more than 3 years of the arrears of maintenance payable under a maintenance order.

**(3)** The period of 3 years under subsection (2) begins 3 years before the date on which the Director initiates the current proceedings to enforce the payment of maintenance under the maintenance order.

1985 cM-0.5 s5

**Protection of Director and staff**

**5.1** No action lies against the Director or a person acting for or under the direction of the Director for anything done or omitted to be done in good faith in the exercise or performance or the

intended exercise or performance of a power, duty or function under this Act.

2004 c18 s3

#### **Filing of orders**

**6(1)** If a debtor defaults in the payment of maintenance under a maintenance order entered into, made by a court in Alberta or registered under the *Reciprocal Enforcement of Maintenance Orders Act* before January 1, 1987,

- (a) a creditor under the order, or
- (b) the Minister responsible for the *Income and Employment Supports Act* in respect of a creditor under the order who is eligible for or has received assistance as defined in Part 5 of that Act,
- (c) repealed 2003 cI-0.5 s57,

may file the order with the Director.

**(2)** A maintenance order may be filed with the Director under subsection (1) whether

- (a) the order is made, entered into or registered before or after the coming into force of this Act, or
- (b) the default occurs before or after the coming into force of this Act.

RSA 2000 cM-1 s6;2003 cI-0.5 s57

#### **Orders made after December 31, 1986**

**7(1)** Unless the creditor files with the court and the Director a notice in writing stating that the creditor does not wish to have the maintenance order enforced by the Director, every maintenance order made by a court in Alberta after December 31, 1986 shall

- (a) state in the order that the amounts owing under the order shall be paid to the creditor through the Director unless the order is withdrawn from the office of the Director, and
- (b) be filed with the Director by the clerk of the court that made the order, forthwith after it is filed with the clerk.

**(2)** Unless the creditor files with the Court of Queen's Bench and the Director a notice in writing stating that the creditor does not wish to have the maintenance order enforced by the Director, every maintenance order made by a court outside Alberta that is registered with the Court of Queen's Bench under the *Reciprocal Enforcement of Maintenance Orders Act* after December 31, 1986 or under the *Interjurisdictional Support Orders Act* shall be filed

by the clerk of the Court of Queen's Bench with the Director forthwith after it is registered.

**(3)** A maintenance order made or entered into after December 31, 1986 that is not filed with the Director by the clerk of the court under subsection (1) or (2) may be filed at any time with the Director by

- (a) a creditor under the order, or
- (b) the Minister responsible for the *Income and Employment Supports Act* in respect of a creditor under the order who is eligible for or has received assistance as defined in Part 5 of that Act.
- (c) repealed 2003 cI-0.5 s57.

**(4)** Subsection (1) does not apply to a maintenance order made under the *Child, Youth and Family Enhancement Act*.

RSA 2000 cM-1 s7;2002 cI-3.5 s49;2003 cI-0.5 s57;  
2003 c16 s117

#### **Change in care and control**

**7.1(1)** Where a maintenance order provides that a payment for the support of a child shall be made to any person who assumes the care and control of the child notwithstanding that the person is not a party to the order, the person who assumes the care and control of the child shall notify the Director by registered mail of the change in care and control.

**(2)** On being notified of a change in the care and control of a child referred to in subsection (1) and on confirming the location of the child, the Director shall direct the payment of money received by the Director in respect of the maintenance order to the person having the care and control of the child, and the person is deemed to be a creditor under this Act.

2003 cF-4.5 s119

#### **Debtor may file order**

**8** Notwithstanding sections 6 and 7, a debtor under a maintenance order may file the order with the Director.

1999 c25 s2

#### **Withdrawal of filing**

**9(1)** Subject to section 10(3), a creditor may withdraw a maintenance order filed by the creditor with the Director by filing with the Director at any time a notice in writing stating that the creditor does not wish to have the maintenance order enforced by the Director.



(1.1) Subject to section 10(3), a debtor may withdraw a maintenance order filed by the debtor with the Director by filing with the Director at any time a notice in writing stating that the debtor does not wish to have the maintenance order enforced by the Director.

(2) Subject to the regulations, a maintenance order that has been withdrawn may be refiled with the Director.

RSA 2000 cM-1 s9;2001 c23 s8

#### Notice by Director

**10(1)** The Director shall give notice of the filing or withdrawal of a maintenance order to all the parties to the order.

(2) The Minister responsible for the *Income and Employment Supports Act* may notify the Director that the Crown in right of Alberta has the rights of the creditor under Part 5 of the *Income and Employment Supports Act*.

(3) If the Director has received notice under subsection (2), or if the Minister responsible for the *Income and Employment Supports Act* filed the maintenance order with the Director, the maintenance order shall not be withdrawn under section 9 without the consent of the Minister responsible for the *Income and Employment Supports Act*.

(4) Notice under this section may be effected by mail.

(5) The validity of proceedings under this Act is not affected by the inability of the Director, after reasonable effort, to give notice to a party under subsection (1).

RSA 2000 cM-1 s10;2003 c1-0.5 s57

#### Agreements

**10.1(1)** Where persons who are eligible to be parties to a maintenance order enter into an agreement that contains provisions providing for the payment of maintenance, either party, or the Director on behalf of either party, may file that agreement with the Court of Queen's Bench.

(2) On

- (a) an agreement being filed with the Court under subsection (1), and
- (b) the party filing the agreement giving notice of the filing to the other party and the Director, or if the Director filed the agreement on behalf of one of the parties, the Director giving notice to the other party,

that agreement, subject to the regulations and during the time that the agreement remains filed with the Court, may be enforced and dealt with under this Act with respect to maintenance in the same manner as if the agreement were a maintenance order.

(3) Within 30 days from the day that a party to the agreement is notified under subsection (2)(b) of the filing of the agreement, either party may apply to the Court to have the filing set aside.

(4) On an application under subsection (3), the Court may set aside the filing of an agreement if the Court considers it appropriate to do so in the circumstances.

(4.1) Repealed 2004 c18 s4.

(5) A maintenance order may not be varied by an agreement to which this section applies.

(6) An agreement to which this section applies may be varied by a maintenance order.

(7) Subject to the regulations, an agreement to which this section applies may be varied by a new agreement to which this section applies.

(8) This section applies only to agreements entered into on or after a day specified in the regulations that meet the requirements of the regulations.

(9) This section does not apply to agreements entered into under Part 5 of the *Income and Employment Supports Act* or under the *Parentage and Maintenance Act*, RSA 2000 cP-1, or the *Income Support Recovery Act*, RSA 2000 cI-1.

(10) An agreement to which this section applies may not vary an agreement entered into under Part 5 of the *Income and Employment Supports Act* or under the *Parentage and Maintenance Act*, RSA 2000 cP-1, or the *Income Support Recovery Act*, RSA 2000 cI-1, and an agreement under Part 5 of the *Income and Employment Supports Act* or under the *Parentage and Maintenance Act*, RSA 2000 cP-1, or the *Income Support Recovery Act*, RSA 2000 cI-1 prevails over any term of an agreement under this section with which it conflicts.

RSA 2000 c17(Supp) s2;2001 c23 s8;2004 c18 s4;  
2006 c6 s2

#### **Provincial Court jurisdiction preserved**

**10.2(1)** The filing of a maintenance agreement with the Court of Queen's Bench pursuant to section 10.1 does not affect the rights of the parties to the agreement to apply to the Provincial Court for a maintenance order.

(2) The filing with the Court of Queen's Bench by the Director of a maintenance order granted by the Provincial Court does not affect the rights of the parties to the maintenance order to apply to the Provincial Court for a variation of that order.

2004 c18 s5

**Enforcement by Director exclusive**

**11(1)** No person other than the Director shall take proceedings to enforce a maintenance order during the time it is filed with the Director.

(2) Subject to subsection (1), nothing in this Act prohibits the Director or a creditor from taking proceedings pursuant to another Act to enforce a maintenance order.

1985 cM-0.5 s10

**Variable maintenance order**

**11.1(1)** In this section, "variable maintenance order" means a maintenance order filed with the Director that specifies different amounts payable by the debtor each month or other period set out in the order depending on differing circumstances set out in the order.

(2) A debtor under a variable maintenance order shall, at the times and in the form and manner required by the Director, provide the information to the Director that in the opinion of the Director is necessary to verify the amounts payable under the order from time to time.

(3) If a debtor fails to provide information to the Director in accordance with subsection (2), the Director may charge and collect each month or other period set out in the variable maintenance order the highest amount payable by the debtor under the variable maintenance order until the debtor provides the information to the Director.

(4) No amount that is charged and collected by the Director under subsection (3) is recoverable by the debtor, and no action lies against the Director or the creditor in respect of that amount.

2004 c18 s6

**Access to information**

**12(1)** In this section,

- (a) "funds" means funds as defined in the regulations;
- (b) "Provincial agency" means a Provincial agency as defined in the *Financial Administration Act*;

- (c) “statutory agent” means a person that is designated or established as an agent of the Crown in right of Alberta by or under an enactment of Alberta.

(2) Notwithstanding any other Act, the Crown in right of Alberta, a Provincial agency and a statutory agent shall provide to the Director, on request, for the purpose of enforcing a maintenance order under this Act, the following information that is shown on a record in the possession or control of the Crown in right of Alberta, the Provincial agency or the statutory agent:

- (a) the social insurance number or any similar identification number issued by a jurisdiction other than Canada, residential address, residential telephone number, employment telephone number, cellular telephone number and e-mail address of the debtor;
- (b) the name, address, telephone number and e-mail address of the debtor’s employer;
- (c) any financial information concerning the debtor.

(3) Notwithstanding any other Act but subject to the regulations,

- (a) the Crown in right of Alberta, and
- (b) any
  - (i) Provincial agency,
  - (ii) statutory agent, or
  - (iii) other entity

designated in the regulations

shall, before paying out funds or approving the paying out of funds to or on behalf of an individual or to an agent of an individual, provide the Director with the name of the individual and any other information described in the regulations about the individual and hold those funds or withhold the approval of those funds, as the case may be, for a period of not less than 3 business days unless the Director notifies the Crown in right of Alberta, the Provincial agency, the statutory agent or the other entity, as the case may be, that the funds may be released before that time.

RSA 2000 cM-1 s12;2001 c23 s8;2002 cl-3.5 s49;2004 c18 s7

#### **Provision of information to Director**

**13(1)** In this section,

- (a) “business organization” means

- (i) a bank, credit union, loan corporation, trust corporation, insurance corporation or Alberta Treasury Branches;
  - (ii) a utility;
  - (iii) a municipality;
  - (iv) a professional or occupational association or organization;
  - (v) a non-profit association or organization;
  - (vi) a business whose primary activities include payday loans and other forms of cheque cashing;
  - (vii) any employers or former employers of debtors;
  - (viii) any organization of employees
    - (A) that has as one of its objects the regulation of relations between employers and employees, and
    - (B) that carries out functions for the purpose of facilitating the employment of those employees;
  - (ix) any other business, corporation, association or organization specified in the regulations as a business organization for the purpose of this clause;
- (b) “utility” means a corporation or other entity authorized to supply or distribute electrical energy, signals for communication systems, telephone, gas, water or any other services prescribed or otherwise described in the regulations to the public or a consumer in Alberta.

**(2)** On the request of the Director, for the purpose of enforcing a maintenance order under this Act, a business organization shall, if the business organization has the information, provide to the Director the following:

- (a) the social insurance number or any similar identification number issued by a jurisdiction other than Canada, residential address, residential telephone number, employment telephone number, cellular telephone number and e-mail address of the debtor;
- (b) the name, address, telephone number and e-mail address of the debtor’s employer;
- (c) any financial information concerning the debtor.

(3) If in the opinion of the Director a person other than a business organization has information relating to the debtor's location, employment or financial affairs, the Director may apply to the Court of Queen's Bench for an order directing that person to provide to the Director the information specified in the order.

(4) An application under subsection (3) may be made ex parte or on any notice that the Court considers appropriate in the circumstances.

RSA 2000 cM-1 s13;2004 c18 s8;2009 c53 s105;2010 c16 s3

### **Designated offices**

**13.1(1)** Alberta Treasury Branches and every credit union that carries on business in Alberta shall designate an office in Alberta for service of support deduction notices and requests for information under section 13.

(2) Service of a support deduction notice or a request for information under section 13 on an office designated under subsection (1) constitutes service on every branch of Alberta Treasury Branches or a credit union, as the case may be.

(3) The designation of an office under subsection (1) must be made on or before the later of

- (a) the last day of the 3-month period beginning on the day that this section comes into force, and
- (b) the last day of the 3-month period beginning on the day on which Alberta Treasury Branches or the credit union begins to carry on business in Alberta.

(4) Alberta Treasury Branches and every credit union that designates an office under subsection (1) shall advise the Director by notice in writing, delivered by registered mail, of the name and address of the designated office.

(5) Notice to the Director under subsection (4) must be provided within 10 days after the designation is made.

(6) If Alberta Treasury Branches or a credit union intends to change the office that it has designated under subsection (1), it shall, at least 30 days before the change is made, provide notice of the name and address of the new office to the Director in the manner provided for under subsection (4).

(7) If Alberta Treasury Branches or a credit union fails to comply with this section, the Director may serve a support deduction notice or a request for information under section 13 on any branch of Alberta Treasury Branches or the credit union and that service is effective on every branch of Alberta Treasury Branches or the

credit union, as the case may be, as if service of the support deduction notice or request for information had been made on a designated office.

2004 c18 s9

#### Locating of debtor

**14** The Director may employ any method that the Director considers appropriate to advertise for information as to, or otherwise make inquiries in order to determine, the whereabouts, assets, employment and financial circumstances of a debtor.

RSA 2000 cM-1 s14;2004 c18 s10

#### Locating creditor

**14.1** The Director may, in writing, request any one or more of the following to provide in writing any information in its possession or control respecting the whereabouts of a creditor:

- (a) the Government;
- (b) a Provincial agency or statutory agent as defined in section 12(1);
- (c) a business organization as defined in section 13(1)(a).

2010 c16 s3

#### Providing information

**15(1)** Information received by the Director under this Act may be used only for the purpose of enforcing a maintenance order and is otherwise confidential.

**(2)** Notwithstanding subsection (1), the Director must provide information received by the Director under this Act to the Ombudsman for the purpose of an investigation conducted under the *Ombudsman Act*.

**(3)** Notwithstanding subsection (1), the Director may, subject to the regulations,

- (a) provide information about a debtor or creditor that is in the records of the Director
  - (i) to a person in a position similar to that of the Director in a reciprocating jurisdiction under the *Interjurisdictional Support Orders Act*, or
  - (ii) to a court or a person engaged in the administration of
    - (A) the Interjurisdictional Support Orders Act, or

- (B) legislation similar to the Interjurisdictional Support Orders Act in a reciprocating jurisdiction under the Interjurisdictional Support Orders Act

for the purpose of facilitating the service of an application under the *Interjurisdictional Support Orders Act* or an application under the *Divorce Act* to vary a support order;

- (b) in a case where a reciprocating jurisdiction under the *Interjurisdictional Support Orders Act* is enforcing a maintenance order at the request of the Director on behalf of a creditor residing in Alberta, advise the creditor of the name of that jurisdiction;
- (c) in a case where the Director is enforcing a maintenance order at the request of a reciprocating jurisdiction under the *Interjurisdictional Support Orders Act*, advise the debtor of the name of that jurisdiction;
- (d) if a debtor is in arrears in the payment of maintenance under a maintenance order filed with the Director, provide that information and any other ancillary information
- (i) to any person or organization that provides credit ratings in respect of persons, and
  - (ii) to any professional or occupational association or organization of which the debtor may be a member;
- (e) provide information received by the Director under this Act to any person who may have an interest in the financial affairs of the debtor and to any other person specified by the regulations;
- (e.1) if the Director considers it appropriate to do so, provide information respecting a debtor or creditor that is in the records of the Director, or information respecting a maintenance order filed with the Director in respect of a debtor or creditor, to the child support recalculation program under the *Family Law Act* for the purposes of that program;
- (f) if the Director considers it appropriate to do so, provide to any law enforcement agency in Canada any information received by the Director under this Act to assist in an investigation
- (i) undertaken with a view to a law enforcement proceeding, or



- (ii) from which a law enforcement proceeding is likely to result;
- (g) if the Director considers it appropriate to do so, provide personal information to any person where the individual the information is about has identified the information and has consented to the disclosure;
- (h) provide the necessary information to a debtor or a creditor about transactions to an account;
- (i) if the Director considers it appropriate to do so, provide information to the surviving spouse or adult interdependent partner or relative of a deceased creditor or debtor;
- (j) if the Director believes, on reasonable grounds, that the disclosure will avert or minimize an imminent danger to the health or safety of any person.

RSA 2000 cM-1 s15;2001 c23 s8;2004 c18 s11;  
2008 c15 s5;2010 c16 s3;2013 cC-12.5 s16

#### **Enforcement**

**16(1)** The Director or a creditor may file with the Court of Queen's Bench a maintenance order that is not otherwise filed with the Court and, on being filed, the parts of the maintenance order that relate to maintenance are deemed to be a judgment of the Court of Queen's Bench.

**(2)** If a maintenance order filed under subsection (1) was made by the Provincial Court, the Court of Queen's Bench may from time to time vary the order either by altering the times of payment or by increasing or decreasing the amount, or may temporarily suspend the order as to the whole or any part of the money so ordered to be paid and may again revive the order wholly or in part, as the Court of Queen's Bench considers appropriate.

1985 cM-0.5 s12

#### **Support deduction notice**

**17(1)** At the request of a debtor or where a debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, the Director may issue a support deduction notice.

**(2)** Notwithstanding any other Act, service in accordance with the regulations of a support deduction notice on the person required to pay under the support deduction notice binds, in accordance with the regulations and without further service,

- (a) all money owing or payable on the date of service to the debtor or an agent of the debtor by the person required to pay,
- (b) all money that becomes owing or payable from time to time after the date of service to the debtor or an agent of the debtor by the person required to pay, and
- (c) the portion of jointly owed money that is deemed under subsection (3) to be owned by the debtor.

**(3)** If a person required to pay under a support deduction notice owes money jointly to a debtor and one or more other persons, for the purposes of this Act it is deemed that the money is divided into as many equal portions as there are persons who are owed the money jointly and that the debtor is the unconditional and sole owner of one portion of the money.

**(4)** The Director and the debtor and any person who is owed money jointly with the debtor may, in accordance with the regulations, apply to the Court of Queen's Bench

- (a) for an order that the debtor is entitled to a smaller or greater portion of the money, and
- (b) for appropriate relief.

**(5)** Notice of an application under subsection (4) must be served,

- (a) if the applicant is the debtor or a person who is owed money jointly with the debtor, on all the other persons who are owed the money jointly, the creditor and the Director, or
- (b) if the applicant is the Director, on all the persons who are owed money jointly.

**(6)** A support deduction notice remains in effect without further service until

- (a) the date shown on the support deduction notice,
- (b) notice terminating the support deduction notice is given by the Director in accordance with the regulations, or
- (c) the Court of Queen's Bench orders otherwise,

whichever occurs first.

**(7)** The person required to pay under a support deduction notice shall pay the money as it becomes payable to the Director in accordance with the notice.

(8) Payment by a person to the Director in accordance with a support deduction notice served on that person discharges the obligation of that person to the debtor or an agent of the debtor to the extent of the payment.

(9) If a person fails to pay in accordance with a support deduction notice served on that person or fails to respond to the support deduction notice in accordance with the regulations,

- (a) the Court of Queen's Bench may order payment by that person of the amount unpaid,
- (b) the order of the Court under clause (a) may be enforced in any manner that an order of the Court may be enforced, and
- (c) the Court shall award costs of the order and its enforcement against that person.

(10) A notice of continuing attachment issued by the Director before the coming into force of this section is deemed to be a support deduction notice for the purposes of this Act.

RSA 2000 cM-1 s17;2004 c18 s12;2009 c53 s105

#### **Support deduction notice re retirement savings entitlement**

**17.1(1)** In this section,

- (a) "financial institution" means the financial institution that administers the retirement savings vehicle in question;
- (b) "LIF" means a retirement income arrangement, known as a life income fund, that is a RRIF that will not commence before the person entitled to it attains the age of 50 years;
- (c) "LIRA" means a locked-in retirement account as defined in the *Employment Pension Plans Act*;
- (d) repealed 2012 cE-8.1 s160;
- (e) "retirement income arrangement" means a retirement income arrangement as defined in the *Employment Pension Plans Act*;
- (f) "retirement savings vehicle" means a LIF or LIRA;
- (g) "RRIF" means a retirement income fund within the meaning of the *Income Tax Act* (Canada) that is registered under the *Income Tax Act* (Canada).

(2) Notwithstanding any other law, the Director may enforce a maintenance order by serving the financial institution with a

support deduction notice in respect of the debtor's entitlement under a retirement savings vehicle.

**(2.1)** The amount required to be paid in accordance with a support deduction notice referred to in subsection (2) is net of

- (a) the contractual payment that may be payable to the financial institution as a result of the institution's compliance with the support deduction notice, and
- (b) the tax that the financial institution is required to withhold on account of the debtor's income tax liability in order to comply with the institution's legal obligations in that regard.

**(2.2)** For the purposes of section 17(2)(a), on service of a support deduction notice the aggregate of the following is deemed to be owing and payable to the debtor or an agent of the debtor by a financial institution in respect of a debtor's entitlement in relation to a retirement savings vehicle:

- (a) the amount required to be paid in accordance with the support deduction notice;
- (b) the tax the financial institution is required to withhold on account of the debtor's income tax liability in order to comply with the institution's legal obligations in respect of the amount referred to in clause (a);
- (c) the contractual payment payable to the financial institution as a result of the institution's compliance with the support deduction notice.

**(3)** Except as otherwise provided in the regulations, the provisions of this Act and the regulations relating to support deduction notices apply to a support deduction notice under this section.

2004 c18 s12;2006 c6 s3;2012 cE-8.1 s160

### **Support deduction notice issued by another jurisdiction**

**18(1)** Subject to the regulations, if

- (a) there is filed with the Director
  - (i) an order or other document that in the opinion of the Director is similar in nature to a maintenance order under this Act and under which a person is required to make a payment that is similar in nature to maintenance under this Act, and
  - (ii) a document that in the opinion of the Director is similar in nature to a support deduction notice under

this Act relating to the property or funds of that person,

- (b) in the opinion of the Director, the order or other document referred to in clause (a)(i) and the document referred to in clause (a)(ii) are made, granted or otherwise issued by a competent authority in a jurisdiction outside Alberta, and
- (c) the debtor is not in Alberta but has or is purported to have property or funds located in Alberta,

the Director may serve the document referred to in clause (a)(ii) on a person in Alberta for the purpose of attaching that property or those funds.

(2) A document served under subsection (1) may be served in the same manner as a support deduction notice under this Act may be served.

(3) For the purposes of this Act, once a document referred to in subsection (1)(a)(ii) is served, it has the same force and effect and may be dealt with in the same manner as a support deduction notice under this Act.

RSA 2000 cM-1 s18;2004 c18 s12

#### **Order for payment**

**19(1)** When a debtor is in receipt of or is entitled to receive a salary, wages or other remuneration from an employer or any other person engaging the services of the debtor, on application by the creditor, the Court of Queen's Bench may make an order directing the payment to a clerk of the Court at a place specified in the order of that part of the salary, wages or other remuneration specified in the order.

(2) The part of the salary, wages or other remuneration specified in an order made under subsection (1) may include an amount to be applied to reduce arrears of maintenance payable under the maintenance order.

(3) An order made under subsection (1) shall be directed to the debtor and the employer or other person and shall be expressed to continue for the time the Court of Queen's Bench fixes or until the Court orders otherwise.

(4) An order made under subsection (1) shall be served on the employer or other person and when served binds that part of the salary, wages or other remuneration specified in the order.

(5) On being served with an order made under subsection (1), the employer or other person shall

- (a) notify the debtor forthwith, and
  - (b) pay that part of the salary, wages or other remuneration specified in the order to the clerk of the Court of Queen's Bench in accordance with the order.
- (6) Payment by an employer or other person to the clerk of the Court of Queen's Bench in accordance with an order made under subsection (1) discharges the obligation of the employer or other person to the debtor to the extent of the payment.
- (7) If the employer or other person fails to pay in accordance with an order made under subsection (1) or fails to respond to the order,
- (a) the Court of Queen's Bench may order payment by that employer or other person of the amount unpaid,
  - (b) the order of the Court made under clause (a) may be enforced in any manner that an order of the Court may be enforced, and
  - (c) the Court shall award costs of the order and its enforcement against that employer or other person.

1985 cM-0.5 s14

**Priority**

**20(1)** Notwithstanding any other Act, a maintenance order, whether filed with the Director or not, takes priority over any unsecured judgment debt of the debtor, other than another maintenance order.

**(2)** Notwithstanding any other Act, a support deduction notice takes priority over any other enforcement proceeding in respect of any unsecured judgment debt of the debtor, including another maintenance order, from the date on which the support deduction notice is served on the person required to pay under it.

**(3)** Money paid to the Director in respect of a maintenance order is not attachable under any other Act.

RSA 2000 cM-1 s20;2004 c18 s13

**Filing of maintenance order**

**21(1)** The Director or a creditor may register a maintenance order in the Personal Property Registry.

**(2)** If a maintenance order is registered under subsection (1), the order is deemed to be a writ of enforcement for the amount that the payment ordered is in arrears from time to time.

(3) Notwithstanding any other Act, a maintenance order registered under this section takes priority over any other writ of enforcement.

1985 cM-0.5 s16;1990 c29 s16;1994 cC-10.5 s141

**Notice to the Registrar of motor vehicles**

**22(1)** In this section and section 45, “Registrar” means Registrar as defined in the *Traffic Safety Act*.

(2) If a debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, the Director may, subject to the regulations, give notice to the Registrar to refuse to provide or otherwise restrict the provision of functions or services pursuant to section 58 of the *Traffic Safety Act*.

(3) If

- (a) a debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, and
- (b) that default in payment or in any portion of that payment has existed for more than 60 days,

the Director may, subject to the regulations, give notice to the Registrar to suspend any operator’s licence issued to the debtor as requested in the notice.

(4) Even though payments are in default under a maintenance order for which notice is given under subsection (2), if the debtor makes arrangements for making payments of maintenance that are satisfactory to the Director, the Director shall permit the Registrar to issue the debtor an operator’s licence or certificate of registration effective for a period of 2 years or less, as specified by the Director, and permit the Registrar to carry out any function, service, issuance, renewal, registration or any other dealing referred to in section 58 of the *Traffic Safety Act*.

(5) Even though payments are in default under a maintenance order for which notice is given under subsection (3), if the debtor makes arrangements for making payments of maintenance that are satisfactory to the Director, the Director shall permit the Registrar to reinstate that debtor’s operator’s licence subject to any terms or conditions imposed by the Director respecting the making of the payments.

(6) The Director shall notify the Registrar when the payments under a maintenance order for which notice is given under subsection (2) or (3) are no longer in default.

(7) Notwithstanding anything in this section, where a debtor is subject to a maintenance order that is filed with the Director, the Director may, subject to the regulations, notify the Registrar of that fact and request that the Registrar make the debtor's operator's licence subject to any terms or conditions that the Director considers appropriate in the circumstances.

(8) The Director shall notify the Registrar when a maintenance order with respect to which a notice is filed with the Registrar is withdrawn under this Act.

RSA 2000 cM-1 s22;RSA 2000 cT-6 s202;2009 c35 s8

#### **Notice to Minister re fishing and hunting licences**

**22.1(1)** In this section and section 45(c.1), "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for the *Fisheries (Alberta) Act* and the *Wildlife Act*.

(2) If a debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, the Director may, subject to the regulations, give notice to the Minister

- (a) to refuse to issue a licence under the *Fisheries (Alberta) Act* that authorizes sportfishing, or
- (b) to refuse to issue a recreational licence under the *Wildlife Act*.

(3) Even though payments are in default under a maintenance order for which notice is given under subsection (2), if the debtor makes arrangements for making payments of maintenance that are satisfactory to the Director, the Director shall permit the Minister to issue the debtor a licence under the *Fisheries (Alberta) Act* that authorizes sportfishing, or a recreational licence under the *Wildlife Act*.

(4) The Director shall notify the Minister when the payments under a maintenance order with respect to which notice is given under subsection (2) are no longer in default.

(5) The Director shall notify the Minister when a maintenance order with respect to which a notice has been given to the Minister is withdrawn under this Act.

2004 c18 s14

#### **Registration of orders**

**23(1)** A maintenance order may be registered in any land titles office and the registration, so long as the order remains in force,



- (a) binds all legal and equitable interests of the debtor in any land registered in the debtor's name at the time of or after registration of the maintenance order, and
- (b) operates on those interests in the same manner and with the same effect as registration of a charge by the debtor on the land of the debtor.

(2) The Registrar under the *Land Titles Act* shall discharge or register the postponement of a maintenance order registered under this section only if the discharge or postponement is signed by the person entitled to the benefit of the maintenance order.

(3) Notwithstanding subsection (2) and the *Land Titles Act*, if, at the time of registration or subsequent to registration of the maintenance order, the Director notifies in the prescribed form the Registrar under the *Land Titles Act* that a maintenance order is filed with the Director, the Registrar shall discharge or register the postponement of the maintenance order registered under this section only if the discharge or postponement is signed by the Director.

(4) The person against whose land a maintenance order is registered under subsection (1) may apply to the Court of Queen's Bench for an order directing the Registrar under the *Land Titles Act* to cancel the registration of the maintenance order.

(5) The Court of Queen's Bench may make an order directing the Registrar under the *Land Titles Act* to cancel the registration under subsection (1) of a maintenance order against part or all of the estates and interests of the debtor under any terms and conditions the Court considers appropriate.

1985 cM-0.5 s17

#### **Information to be provided when in default**

**24(1)** If a debtor has defaulted in a payment required under a maintenance order that is filed with the Director, the Director may, by notice served on the debtor together with a statement of arrears in the prescribed form, require the debtor to do one or both of the following:

- (a) file a statement of finances with the Director;
- (b) appear before the Director to be examined in relation to employment, income, assets and financial circumstances generally, and to produce any records, documents or objects respecting the debtor's employment, income, assets and financial circumstances referred to in the notice.

- (2) A statement of arrears prepared and served by the Director is presumed to be correct.
- (3) The statement of finances required under subsection (1)(a) shall be in the form prescribed by the regulations and shall be filed by the debtor with the Director not more than 15 days after the debtor is served with a notice under subsection (1).
- (4) The Director may extend the period within which the statement of finances is required to be filed by the debtor with the Director.
- (5) If the debtor fails to appear before the Director as required under subsection (1)(b), the Director may apply ex parte to the Court of Queen's Bench for an order compelling the debtor to appear before the Director.
- (5.1) The Director may apply ex parte to the Court of Queen's Bench for an order for alternative arrangements for the examination of a debtor in relation to the matters set out in subsection (1)(b), and the Court may make any order with respect to the examination of the debtor that it considers appropriate in the circumstances.
- (6) If the debtor fails to comply with an order under subsection (5), the Director may apply ex parte to the Court of Queen's Bench for a warrant for the arrest of the debtor to have the debtor brought before the Court.
- (7) If the debtor appears before the Director but refuses to answer any questions before the Director or to produce any records, documents or objects referred to in the notice under subsection (1), the Director may apply ex parte to the Court of Queen's Bench for an order compelling the debtor to answer those questions or to produce those records, documents or objects.
- (8) If the debtor fails to comply with an order under subsection (7), the Director may on notice to the debtor apply to the Court of Queen's Bench for an order committing the debtor for contempt.
- (9) The Director in the Director's discretion may adjourn the financial examination of a debtor
- (a) to allow the debtor more time to provide the information required by the Director under subsection (1),
  - (b) when in the opinion of the Director it is not practical or possible to complete the examination within the time stated in the notice, or
  - (c) when the debtor requests an alternative date or time for the examination and in the Director's opinion it would be reasonable in the circumstances to grant the request.

(10) If the Director directs or grants an adjournment under subsection (9), further service on the debtor under subsection (1) is not required.

(11) If in the opinion of the Director prompt personal service of a notice under this section on a debtor is impractical for any reason, the Director may apply ex parte to the Court of Queen's Bench for an order for substitutional service.

RSA 2000 cM-1 s24;2004 c18 s15;2006 c6 s4

#### **Statement of finances required by Court**

**25(1)** If a debtor defaults in a payment required under a maintenance order that is not filed with the Director, the creditor may file a statement of arrears in the prescribed form with the clerk of the Court of Queen's Bench and by notice served on the debtor together with the statement of arrears require the debtor to file a statement of finances with the Court.

(2) The statement of finances required by subsection (1) shall be in the form prescribed by the regulations and shall be filed by the debtor with the Court of Queen's Bench not more than 15 days after the debtor is served with a notice under subsection (1).

(3) The debtor shall serve the creditor with a copy of the statement of finances filed with the Court of Queen's Bench.

(4) The Court of Queen's Bench may extend the period within which the statement of finances is required to be filed by the debtor with the Court.

1985 cM-0.5 s19

#### **Deterrent charges**

##### **25.1(1)** If

- (a) a debtor fails to pay maintenance under a maintenance order
  - (i) by the date required in the order, or
  - (ii) in accordance with an arrangement made between the debtor and the Director,
- (b) a debtor fails to file a statement of finances with the Director pursuant to section 24, or
- (c) a debtor or another person on behalf of a debtor makes a payment to the Director in respect of maintenance or other amounts owing under this Act by cheque, pre-authorized withdrawal or money order and

- (i) the cheque or withdrawal is dishonoured on the grounds that no funds or insufficient funds were available, or
- (ii) a stop payment order is placed on the cheque, withdrawal or money order,

the Director may require the debtor to pay a charge in an amount set in the regulations.

(2) A charge payable under subsection (1) may be collected in the same manner as maintenance may be enforced under this Act.

(3) A debtor who is required to pay a charge under subsection (1) for failing to file a statement of finances with the Director may not be charged under section 26 with an offence in respect of that contravention.

(4) If a creditor under a maintenance order filed with the Director receives a payment directly from the debtor and fails to report that payment to the Director in accordance with the regulations, the Director may require the creditor to pay a charge in an amount set in the regulations.

(5) Notwithstanding section 36(3), a charge payable under subsection (4) may be deducted from the amount of maintenance collected by the Director on behalf of the creditor.

2004 c18 s16

#### **Amounts owed by creditors**

**25.2(1)** *In this section, “overpayment” means an amount paid to a creditor that should not have been paid because*

- (a) *the creditor did not give information to the Director that, in the opinion of the Director, was necessary to determine an enforceable amount of maintenance,*
- (b) *the Director made an accounting error, or*
- (c) *of some other circumstance provided for in the regulations.*

(2) *Where a creditor owes a fee or charge imposed under this Act or the child support recalculation program under the Family Law Act, the Director may enforce the payment by the creditor of the amount of the fee and charge owing by the creditor in the same manner as a maintenance order may be enforced against a debtor under this Act.*

(3) *Where the Director determines that an overpayment has been made, the Director may enforce the repayment by the creditor of*

*the amount of the overpayment in the same manner as a maintenance order may be enforced against a debtor under this Act.*

2010 c16 s3

*(NOTE: Section 25.2 comes into force on Proclamation.)*

#### **Updating contact information**

**25.3(1)** A debtor shall, in the prescribed manner, immediately notify the Director of any change to the debtor's

- (a) residential address, telephone number, e-mail address and other contact information required by the regulations, and
- (b) employment, income and other financial information required by the regulations.

**(2)** A creditor shall, in the prescribed manner, immediately notify the Director of any change to the creditor's residential address, telephone number, e-mail address and other contact information required by the regulations.

2010 c16 s3

#### **Offence**

**26(1)** A debtor who

- (a) does not file a statement of finances in accordance with this Act, or
- (b) knowingly gives false information in a statement of finances filed with the Director or the Court of Queen's Bench

is guilty of an offence and liable to a fine of not more than \$2000 or to imprisonment for a term of not more than 3 months, or to both.

**(2)** A document that is signed by the Director or the Director's delegate stating that a debtor has not filed a statement of finances in accordance with this Act is conclusive evidence of that fact.

RSA 2000 cM-1 s26;2004 c18 s17

#### **Summons**

**27(1)** If a debtor defaults in the payment of maintenance under a maintenance order, the Director, in the case of a maintenance order filed with the Director, or the creditor may procure a summons to attend at a default hearing from the clerk of the Court of Queen's Bench.

(2) The summons shall require the debtor to appear at a default hearing before the Court of Queen's Bench at a time and place set out in the summons

- (a) to show the Court why the maintenance order should not be enforced,
- (b) to be questioned on oath about the debtor's finances, including
  - (i) the means or ability the debtor has of complying with the maintenance order,
  - (ii) the disposal the debtor has made of any property since the date on which the proceedings were commenced in which the maintenance order was made,
  - (iii) any and all debts that are owing to the debtor or by the debtor, and
  - (iv) the debtor's assets, income and financial obligations generally,

and

- (c) to show why the debtor should not be committed to prison on the ground that the debtor has wilfully defaulted in the payment of maintenance under a maintenance order.

(3) The summons shall be served personally on the debtor unless the Court of Queen's Bench directs otherwise.

RSA 2000 cM-1 s27;2009 c53 s105

#### **Default hearing**

**28(1)** At a default hearing the Court shall inquire into

- (a) the resources of the debtor,
- (b) the debtor's means and ability to comply with the maintenance order,
- (c) the disposal the debtor has made of any property since the maintenance order was made,
- (d) any and all debts that are owing to the debtor or by the debtor,
- (e) the circumstances under which the debtor defaulted in paying under the maintenance order, and
- (f) any other matter the Court considers relevant,

and for that purpose may question on oath the creditor and the debtor and any witness produced on behalf of either of them.

- (2) At a default hearing, unless the contrary is shown,
- (a) the debtor shall be presumed to have the ability to pay the arrears owing and to make subsequent payments under the maintenance order unless the maintenance order is an agreement or an application to vary the maintenance order has been commenced but not concluded, and
  - (b) a statement of arrears prepared and served by the Director is presumed to be correct.

RSA 2000 cM-1 s28;2009 c53 s105

#### **Warrant for arrest**

**29(1)** If a debtor

- (a) who has been served with a summons under section 27, or
- (b) who has been bound over to appear pursuant to subsection (2),

does not appear at the time and place stated and no just excuse is offered for the debtor's non-appearance, the Court of Queen's Bench may issue a warrant for the arrest of the debtor to have the debtor brought before the Court.

(2) When a debtor is brought before the Court on a warrant under subsection (1) or section 24(6), the Court may bind the debtor over to appear at a default hearing and

- (a) require that a surety or sureties be procured or produced and join the recognizance,
- (b) require that a sum of money be deposited with the Court sufficient to ensure the appearance of the debtor at the default hearing, or
- (c) commit the debtor to jail until the default hearing.

RSA 2000 cM-1 s29;2004 c18 s18

#### **Court order**

**30(1)** The Court of Queen's Bench, unless it is satisfied that there are no arrears payable under the maintenance order, or that the debtor is unable because of illness, unemployment or other valid reasons to pay the arrears or to make subsequent payments required under the maintenance order, may do one or more of the following:

- (a) require the debtor to discharge the arrears payable by such periodic payments as the Court directs;

- (b) require the debtor to discharge the arrears payable in full by a specified date;
- (c) require the debtor to comply with the maintenance order to the extent of the ability of the debtor to pay, but an order under this clause does not affect the accruing of arrears payable under the maintenance order;
- (d) require the debtor to provide security in such form, including an assignment of debt or wages, as the Court directs for payments in arrears and subsequent payments;
- (e) require the debtor to provide forthwith to the Court, the Director or a person specified in the order particulars of any change of address or employment as soon as it occurs;
- (f) require the debtor to forthwith provide to the Director any information concerning the debtor's financial affairs;
- (g) require the debtor to forthwith provide to the Director any information with respect to property or funds that are legally owned or otherwise held by a corporation or another person and that
  - (i) the debtor, or another person on behalf of the debtor, is using or otherwise dealing with or is in a position to use or otherwise deal with in a manner that is or would be similar to that of a person who legally owns or otherwise holds the property or funds, or
  - (ii) the debtor, or another person on behalf of the debtor, is in a position to compel or otherwise influence the corporation or other person
    - (A) to use or deal with as directed by the debtor, or other person on behalf of the debtor, or
    - (B) to permit the debtor, or other person on behalf of the debtor, to use or otherwise deal with in a manner that would be similar to that of a person who legally owns or otherwise holds the property or funds;
- (h) if the Court has reason to believe that, with respect to property or funds that are legally owned or otherwise held by a corporation or another person, the debtor or another person on behalf of the debtor is exercising or has exercised authority over that corporation or person within the meaning of section 31(1), require the corporation or that other person to forthwith provide to the Director any information concerning that property or those funds and



the relationship of the company or that other person with the debtor;

- (i) imprison the debtor continuously or intermittently for not more than 90 days unless the arrears payable are sooner paid;
- (j) imprison the debtor continuously or intermittently for not more than 90 days if the debtor defaults in any payment ordered under this subsection;
- (k) appoint the Director or another person as a receiver of money owing or payable to, or to become owing or payable to, or earned or to be earned by the debtor to the extent of the default and, in addition, to the extent of any periodic payments payable or to become payable under the maintenance order or an order under this subsection.

**(2)** The Court of Queen's Bench may vary an order made under subsection (1) if there is a material change in the circumstances of the debtor.

**(3)** An order for security under subsection (1)(d) or a subsequent order of the Court may provide for the realization of the security by seizure, sale or other means, as the Court directs.

**(4)** Imprisonment of a debtor under subsection (1)(i) or (j) does not discharge arrears payable under the maintenance order.

**(5)** Proof of service on the debtor of the maintenance order is not necessary for the purpose of a default hearing.

**(6)** If a debtor defaults in payment under an order made under subsection (1), the default is deemed to be a default in payment under the maintenance order.

1985 cM-0.5 s24;1999 c25 s8

#### **Other assets**

**31(1)** In this section and section 30(1)(h), a reference to a debtor, or another person on behalf of a debtor, exercising authority over a corporation or other person is a reference to the situation whereby, with respect to property or funds that are legally owned or otherwise held by that corporation or other person,

- (a) the debtor, or another person on behalf of the debtor, is using or otherwise dealing with or is in a position to use or otherwise deal with that property or those funds in a manner that is or would be similar to that of a person who legally owns or otherwise holds the property or funds, or

- (b) the debtor, or another person on behalf of the debtor, is in a position to compel or otherwise influence the corporation or other person
  - (i) to use or deal with that property or those funds as directed by the debtor, or another person on behalf of the debtor, or
  - (ii) to permit the debtor, or another person on behalf of the debtor, to use or otherwise deal with that property or those funds in a manner that would be similar to that of a person who legally owns or otherwise holds the property or funds.

**(2) If**

- (a) a debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, and
- (b) in the opinion of the Director, with respect to property or funds that are legally owned or otherwise held by a corporation or other person, the debtor or another person on behalf of the debtor is exercising authority over the corporation or person,

the Director may apply to the Court of Queen's Bench for an order directing that the property is or the funds are attachable, subject to seizure and sale or subject to a support deduction notice, as the case may be, for the purposes of payment of the arrears of maintenance payable under the maintenance order.

**(3) Repealed 2009 c53 s105.**

**(4) An application made under subsection (2) may be made ex parte**

- (a) if service of documents respecting the application cannot be carried out or is otherwise thwarted,
- (b) if the Director is of the opinion that, before the Court has had an opportunity to hear the application, any property or funds in respect of which the application is being made may be dissipated or otherwise removed or dealt with to the prejudice of the creditor, or
- (c) for any reason not referred to in clause (a) or (b) that the Court considers appropriate in the circumstances.

**(5) If the Court grants an order pursuant to an application made ex parte, the Court shall include in the order a date for the purpose of**

conducting a hearing to review the matter in respect of which the order was granted.

- (6)** If on hearing an application the Court is satisfied that
- (a) the debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, and
  - (b) with respect to property or funds that are legally owned or otherwise held by a corporation or other person, the debtor, or another person on behalf of the debtor, is exercising or has exercised authority over the corporation or other person,

the Court may make an order under subsection (7).

**(7)** If subsection (6) applies, the Court may by order do one or more of the following:

- (a) for the purposes of payment of the arrears of maintenance payable under the maintenance order, direct that that property or those funds or any specific portion of that property or those funds is attached, is subject to seizure and sale or is subject to a support deduction notice, as the case may be;
- (b) give any other directions that the Court considers appropriate in the circumstances;
- (c) award costs.

RSA 2000 cM-1 s31;2004 c18 s19;2009 c53 s105

### **Stay of enforcement**

**32(1)** If the Director has issued a support deduction notice or a creditor has obtained an order for payment under section 19, the debtor may apply to the Court of Queen's Bench for a stay of those proceedings, and a copy of the application must be served by the applicant on the Director and the creditor.

**(2)** A stay of enforcement may be granted under this section with respect to the issuance of a support deduction notice only if the Court is satisfied that

- (a) the debtor has made attempts to establish a payment arrangement with the Director and there was a valid reason why the debtor was unable to enter into an arrangement, and

- (b) the debtor has a valid reason for not paying arrears or periodic maintenance payments during the period the stay of enforcement is in effect.
- (3)** Unless the Court provides otherwise, a stay of enforcement
- (a) applies to the enforcement of arrears but does not apply to the enforcement of periodic maintenance payments from the time the stay is entered with the Court,
  - (b) does not stay enforcement against lump sum or non-periodic amounts that are payable to the debtor, and
  - (c) terminates 9 months after it is entered with the Court.
- (4)** Notwithstanding subsection (1), a stay of enforcement does not stay or affect
- (a) any enforcement proceedings respecting the payment of maintenance carried out in relation to a federal enactment,
  - (b) any registration or filing made by the Director under the *Land Titles Act* or in the Personal Property Registry, or
  - (c) any proceeding or action taken under section 22.
- (5)** An order may not be granted by a court under any other enactment or otherwise that has the effect of staying a matter referred to in subsection (1) or suspending or staying any proceeding, matter or action referred to in subsection (4).
- (6)** If a stay of enforcement is granted under this section, the Court of Queen's Bench may direct that any money or any portion of the money paid into the Court or to the Director in respect of the proceedings that were stayed and that is still in the possession of or under the control of the Court or the Director, as the case may be, be paid to the debtor.

RSA 2000 cM-1 s32;2004 c18 s20;  
2009 c53 s105;2010 c16 s3

### Appeal

**33** Notwithstanding section 12 of the *Court of Queen's Bench Act*, an appeal lies to a judge of the Court of Queen's Bench by way of a new trial from an order of a master in chambers made under section 30.

1985 cM-0.5 s26

### Restraining order

**34** The Court of Queen's Bench may make an order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a maintenance order.

1985 cM-0.5 s27

**Arrest of absconding debtor**

**35(1)** If the Director or a creditor believes on reasonable and probable grounds that a debtor who

- (a) has defaulted in the payments required under a maintenance order, or
- (b) is in breach of an order made under section 30,

is about to leave Alberta in order to evade or hinder the enforcement against the debtor of a maintenance order, the Court of Queen's Bench may issue a warrant for the arrest of the debtor to have the debtor brought before any judge of the Court.

**(2)** When a debtor is brought before a judge on a warrant, the judge may order the release of the debtor and may require the debtor to provide security in a form satisfactory to the judge for any arrears payable and subsequent payments under the maintenance order or the order made under section 30.

1985 cM-0.5 s28

**Application of payments**

**36(1)** Notwithstanding the provisions of the maintenance order, if a maintenance order is filed with the Director, the debtor under the maintenance order shall make to the Director all payments required to be made to the creditor.

**(2)** Money paid to the Director under this Act shall be credited in the following order:

- (a) to the current payment or payments under a maintenance order;
- (b) to any arrears outstanding under a maintenance order;
- (c) to any fees or charges payable to the Director;
- (d) repealed 2006 c6 s5;
- (e) to any interest owed to the creditor under a maintenance order.

**(2.1)** Notwithstanding subsection (2), if there is not sufficient money to fully credit both the outstanding arrears under subsection (2)(b) and the fees and charges payable to the Director under subsection (2)(c), any money remaining after crediting the current payment or payments shall be apportioned as follows:

- (a) 90% of the remaining money shall be credited to any arrears outstanding;

(b) 10% of the remaining money shall be credited to any fees or charges payable to the Director.

(3) The Director shall pay to the creditor under the maintenance order all money received by the Director in respect of the maintenance order.

(4) If 2 or more maintenance orders in respect of the same debtor are filed with the Director, the Director may prorate any money received in respect of any one of the maintenance orders among all the creditors under the maintenance orders.

(5) Subsections (3) and (4) do not apply to

(a) assessed costs and disbursements received by the Director in respect of the enforcement of a maintenance order,

(a.1) fees and charges owed by the creditor to the Director, where the Director has collected the full amount of ongoing maintenance due to the creditor for that month,

(a.2) fees and charges owed by the debtor to the Director that are collected and applied in the priority set out in subsection (2) or (2.1), or

(b) money received under a maintenance order in respect of a creditor under the order who has received assistance as defined in Part 5 of the *Income and Employment Supports Act*.

RSA 2000 cM-1 s36;2003 c1-0.5 s57;2004 c18 s21;  
2006 c6 s5;2009 c53 s105

#### Capacity of minor

**37** A minor may file a maintenance order with the Director or commence, conduct and defend a proceeding and initiate and complete steps for the enforcement of a maintenance order, notwithstanding that the minor does not have a litigation representative.

RSA 2000 cM-1 s37;2011 c14 s18

#### Limitation

**38** On and after July 1, 1994 a person may enforce the payment by a debtor of the arrears of maintenance payable under a maintenance order that accrue or have accrued on or after July 1, 1984 but not arrears accrued before July 1, 1984, and the right to bring an action is not limited by the *Limitations Act*.

1985 cM-0.5 s31;1994 c21 ss6,9;1999 c32 s11

**Variation**

**39(1)** If an application is made to a court to vary a maintenance order, the clerk of the court shall notify the Director of the application.

**(2)** The clerk of a court that varies a maintenance order shall file with the Director the order of the court varying the maintenance order.

1985 cM-0.5 s32

**Employers**

**40(1)** No employer shall dismiss, suspend, lay off, penalize, discipline or discriminate against an employee if the reason for doing so is in any way related to the service of a garnishee summons, a notice of continuing attachment, a support deduction notice or an order for payment under section 19 on the employer.

**(2)** On the application of an employee who alleges that the employee is the subject of a contravention of subsection (1), the Court of Queen's Bench may, if it finds the allegation to be true, make any order in favour of the employee that it considers just, including an order for reinstatement and an award of damages.

**(3)** If an application is made under subsection (2), an employer who dismisses, suspends, lays off, penalizes, disciplines or discriminates against an employee in respect of whom a garnishee summons, a notice of continuing attachment, a support deduction notice or an order for payment under section 19 is served on the employer while the garnishee summons, notice of continuing attachment, support deduction notice or order for payment is in effect or within 6 months after it has ceased to have effect shall be required to show cause for the action against the employee and, if the employer does not show cause, the action is deemed to have been in contravention of subsection (1).

**(4)** Notwithstanding and in addition to an order made under subsection (2), a person who contravenes subsection (1) is guilty of an offence and subject to a fine of not more than \$5000 and in default of payment to imprisonment for a term of not more than 6 months.

RSA 2000 cM-1 s40;2004 c18 s22

**41** Repealed 2002 cA-4.5 s53.

**Provision unenforceable**

**42** A provision in an agreement or maintenance order by which a creditor agrees to, or that requires a creditor to

- (a) withdraw a maintenance order that is filed with the Director under this Act, or
- (b) file with the Court of Queen's Bench or the Director a notice stating that the creditor does not wish to have a maintenance order enforced by the Director

is not enforceable.

1985 cM-0.5 s35

#### **Costs of enforcement**

**43(1)** The Director may, subject to the regulations, require a debtor who is in default under a maintenance order to pay to the Director an amount specified by the Director to defray the costs incurred by the Director in the enforcement of the maintenance order.

**(2)** Any amount that a debtor is required to pay to the Director under subsection (1) may be collected in the same manner as maintenance may be enforced under this Act.

RSA 2000 cM-1 s43;2004 c18 s23

#### **Substitutional service**

**44** If a court makes an order under which a document may be substitutionally served on a debtor or creditor by service on the Director, the Director may, subject to the regulations, serve the document on the party in any manner that the Director considers appropriate in the circumstances.

RSA 2000 cM-1 s44;2004 c18 s24

#### **Fees not payable by Director**

**44.1** No fees or charges of any kind are payable by the Director

- (a) for access or transfer to the Director of any information or record that is necessary for the purposes of administering this Act, or
- (b) for or in connection with anything that a person is required to do under this Act.

2004 c18 s25

#### **Regulations**

**45** The Lieutenant Governor in Council may make regulations

- (a) respecting the filing and refiling of maintenance orders with the Director;
- (b) respecting support deduction notices;



- (b.1) specifying a business, corporation, association or organization as a business organization for the purpose of section 13(1)(a);
- (b.2) repealed 2013 cS-19.3 s3;
- (b.3) respecting the manner in which notification of any change in information of a debtor or creditor referred to in section 25.3 is to be made;
- (b.4) respecting other contact information and other financial information for the purpose of section 25.3;
- (c) respecting the notification of the Registrar by the Director under section 22;
- (c.1) respecting the notification of the Minister by the Director under section 22.1;
- (d) governing how the Director carries out the Director's powers and duties under sections 22 and 22.1;
- (e) respecting forms and procedures to be used in proceedings under this Act;
- (f) respecting applications under section 17(4);
- (g) respecting the information that may be released by the Director concerning a debtor's credit rating;
- (g.1) respecting agreements, the filing of agreements and the varying of agreements referred to in section 10.1;
- (h) repealed 2004 c18 s26;
- (i) respecting the provision of information under section 15;
- (j) respecting the costs of enforcement under section 43;
- (k) respecting the service of documents by the Director under section 44;
- (l) respecting the charging of debtors in default amounts for the purpose of defraying the costs of enforcement of maintenance orders;
- (m) respecting the filing of and dealing with orders and documents originating from another jurisdiction;
- (n) respecting the charging of fees for services provided by the Director;

- (o) respecting records to be kept by the Director;
- (p) respecting service of documents under this Act or the regulations;
- (q) defining funds for the purposes of section 12;
- (r) for the purposes of section 12(3),
  - (i) describing information about an individual;
  - (ii) respecting the holding of funds by the Crown in right of Alberta and any Provincial agencies, statutory agents and other entities designated in the regulations;
  - (iii) designating Provincial agencies, statutory agents and other entities;
- (s) prescribing or otherwise describing services for the purposes of section 13(1)(b);
- (t) respecting support deduction notices in respect of a retirement savings vehicle under section 17.1;
- (u) respecting charges payable under section 25.1;
- (v) respecting, for the purpose of section 25.1(4), the manner in which a creditor must report to the Director a payment received directly from the debtor;
- (w) prescribing any matter referred to in this Act as prescribed;
- (x) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.

RSA 2000 cM-1 s45;RSA 2000 c17(Supp) s3;  
2004 c18 s26;2010 c16 s3;2013 cS-19.3 s3

### **Consequential Amendments and Coming into Force**

**46** Repealed 2003 cF-4.5 s119.

#### **47 The *Income Support Recovery Act* is amended**

- (a) **in section 27(2) by striking out** “sections 30 to 39 of the *Domestic Relations Act* apply” **and substituting** “section 30 of the *Domestic Relations Act* applies”.

(b) repealed 2002 cI-3.5 s49.

RSA 2000 cM-1 s47;2002 cI-3.5 s49

**48** Repealed 2002 cI-3.5 s49.

**49** The *Social Development Act* is amended in section 15 by striking out “section 27 of the *Domestic Relations Act*” and substituting “section 21 of the *Maintenance Enforcement Act*”.

1985 cM-0.5 s42

**Coming into force**

**50** Sections 46 to 49 come into force on Proclamation.



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