

Kit #8

Preparing Support Agreements for MEO

Self-Help Kit*

- **Child Support**
- **Spousal Support**

You can use this kit to prepare and register an agreement with the Maintenance Enforcement Office in Saskatchewan. This agreement can cover child support and/or spousal support.

If you have any questions, please feel free to contact:

Family Law Information Centre
1-888-218-2822 (extension 2)
(306) 787-5837
svp@gov.sk.ca

*This self-help kit is not a substitute for professional legal advice. It does not address all possible situations nor does it cover all areas of applicable legislation. You use this kit entirely at your own risk. The legal process can be complicated and ***it is recommended that you consult with a lawyer*** before filing any documents and proceeding to court.

I. Is this Kit for Me?

This kit is designed to help parents create and file a Support Agreement which will then be registered with the Maintenance Enforcement Office. The agreement must be to establish child or spousal support, or to change existing child or spousal support provisions that have been set out in a previous agreement or order.

If you wish to review the applicable laws in Saskatchewan, you can go to www.publications.gov.sk.ca, and search for:

Family Maintenance Act:

The Enforcement of Maintenance Orders Act

There is also Federal Legislation which you can review:

Divorce Act: <http://laws.justice.gc.ca/PDF/D-3.4.pdf>

Federal Child Support Guidelines:

<http://laws-lois.justice.gc.ca/eng/regulations/SOR-97-175/page-1.html>

Agreements reached by both parties can be enforced by the Maintenance Enforcement Office, under the authority of section 11 of *Family Maintenance Act*.

- 11(1) A person who is a party to an agreement made before or after this Act comes into force which includes provisions for maintenance for a child, spouse or mother of a child or a person described in subsection 4(2) may file the agreement in the Court of Queen's Bench together with an affidavit stating that the agreement:
- (a) is in effect; and
 - (b) has not been set aside or varied by a court, an extra-provincial tribunal or another agreement.
- (2) A provision for maintenance contained in an agreement filed pursuant to subsection (1) may be enforced as if it were an order of the Court of Queen's Bench.
- (3) Subsections (1) and (2) apply despite an agreement to the contrary.
- (4) Subsection (2) applies to arrears accrued after December 1, 1990 and before or after the agreement is filed.

For adjustments to child support outside of court, you may also wish to consider the Child Support Recalculation Service. For more information on this program, you can call 1-833-825-1445 or visit their website: <http://www.saskatchewan.ca/child-support-recalculation>

What are the Child Support Guidelines?

The *Child Support Guidelines* are rules that the court must follow when deciding how much child support to order. The *Child Support Guidelines* include tables that are used to figure out a child support amount. The child support amount is generally based on:

- income of the party paying support;
- province where the paying party resides;
- the number of children for whom child support is paid.

In some cases, the child support amount also includes an extra amount for certain kinds of special expenses that children may have. These special expenses are often referred to as “Section 7” expenses because the definition of special expenses is found in section 7 of *The Child Support Guidelines*.

A copy of *the Child Support Guidelines’ Table for Saskatchewan* and an online look-up can be found here: <http://www.justice.gc.ca/>

What are the Spousal Support Advisory Guidelines?

The Spousal Support Advisory Guidelines set out formulas for arriving at spousal support figures in situations where there are, and where there are not, child support figures to factor in. Unlike the Child Support Guidelines, the Spousal Support Guidelines are not mandatory. They are not law. Therefore, a judge does not have to follow them in every situation. The Spousal Support Advisory Guidelines can be found on the Department of Justice Canada website here:

<http://www.justice.gc.ca/eng/fl-df/spousal-epoux/ssag-ldfpae.html>

II. Procedure:

This kit contains an affidavit for filing an agreement with the Court of Queen's Bench and a sample agreement attached to it. You can use the sample child support agreement in this kit, or make your own agreement.

Steps to take:

- 1) Prepare Support Agreement using template in this kit, or creating your own agreement.
- 2) Prepare Affidavit using form in this kit. If you have an existing court file in Saskatchewan, make sure that you include that file number on the top of your affidavit.
- 3) Take 2 copies of Affidavit and 2 copies of Child Support Agreement to the Court of Queen's Bench for filing.

If you do not have an existing court file, then let the Local Registrar's office know that you do not have an existing file, and that you are filing this agreement so that it can be enforced by the Maintenance Enforcement Office.

Have the Local Registrar stamp the original copy of the Affidavit and Agreement with the stamp indicating that a copy has been filed. Have them stamp the additional copy as well.

There is no fee to file your Affidavit and attached Agreement.

- 4) Take a copy of the Affidavit and Agreement that have been stamped by the Court and file them with the Maintenance Enforcement Office, at Room 100, 3085 Albert Street, Regina, S4S 0B1.

Contact the Family Law Information Centre at 1-888-218-2822 (extension 2) or 306-787-5837 if you have any questions.

III. Requirements of the Maintenance Enforcement Office:

CHECKLIST FOR DRAFTING SUPPORT AGREEMENTS FILED WITH MAINTENANCE ENFORCEMENT OFFICE

The following represents the suggestions for information that you may wish to include in your support agreement that will be filed with and enforced by Maintenance Enforcement Office. The Office does not provide legal advice with respect to these agreements. Parties may wish to obtain independent legal advice prior to signing a support agreement.

1. Full names of the parties entering into this agreement
2. Addresses of the parties to the agreement
3. If there is already a support agreement in place, provide the details of that agreement.
4. Were the parties legally married, or lived in a common-law union. If date of separation is known, include.
5. Who the support is for. Give names of children and birthdates, and name of spouse paying and receiving spousal support.
6. If support is for children, which parent the child/children lives with.
7. For alimony or spousal support, who pays (“the payor”) and who receives the payment (“the recipient”), how much the payment is for, when it commences, how frequently it is paid (i.e, monthly, bi-weekly, annually), and how long it will be paid for.
8. For child support:
 - ▶ the gross annual income of the payor
 - ▶ the gross annual income of the recipient, where applicable.
 - ▶ basic (table) amount to be paid according to the Child Support Table for the province where the payor lives
 - ▶ when the payment commences
 - ▶ how frequently the payment will be made (i.e, monthly, bi-weekly, weekly)
 - ▶ where s.7 expenses are to be paid, details of the special expense or activity including which child it pertains to, the percentage being paid by the payor, as well as the dollar amount of the payment, when the payment commences and ceases, and how frequently the payment will be made
9. Any other terms which parties feel are appropriate to help manage payments, share information, disclose changes in income, etc.

10. Agreement must be signed by both parties. The signature may be witnessed, and if so, the witness must be 18 or over.
11. Agreement must be dated.

Please note the following:

- ▶ In order to register an agreement with the Maintenance Enforcement Office, you must file an Affidavit with the agreement attached as an exhibit with the Court of Queen's Bench.
- ▶ If you have previously filed documents with the Court of Queen's Bench relating to this matter, then you should write in your court file number at the top of the Affidavit that is provided.
- ▶ The Court of Queen's Bench prefers to have a document with an original signature, and not a photocopy. An original agreement **MUST** be accompanied by a sworn affidavit when filed with the Maintenance Enforcement Office.
- ▶ An agreement cannot vary a court order. It may be enforceable "as if it were a court order". It suspends the effect of the court order with respect to enforcement for as long as the parties are prepared to abide by the filed agreement or pursue remedies to enforce the breached agreement.
- ▶ At any time, either party is entitled to apply to court for a support order, and at that time, the court will take the agreement into consideration, but the court is not compelled to follow the agreement and incorporate its terms into the order.
- ▶ Unless and until one of the parties obtains a new court order, the Director can continue to enforce the filed agreement. Once a new order is obtained, it supersedes the agreement, and the Office is guided by the terms of the new order with respect to ongoing support (and arrears if applicable).

IV. Assistance:

For assistance, please contact:

Family Law Information Centre
1-888-218-2822 (extension 2)
(306) 787-5837
svp@gov.sk.ca

JUDICIAL CENTRES IN SASKATCHEWAN

Battleford

Box 340, 291-23rd Street West
Battleford, Saskatchewan
S0M 0E0

Tel: (306) 446-7675
Fax: (306) 446-7737

Estevan

1016 – 4th Street
Estevan, Saskatchewan
S4A 0W5

Tel: (306) 637-4527
Fax: (306) 637-4536

Melfort

Box 6500, 409 Main Street
Melfort, Saskatchewan
S0E 1A0

Tel: (306) 752-6265
Fax: (306) 752-6264

Moose Jaw

64 Ominica Street West
Moose Jaw, Saskatchewan
S6H 1W9

Tel: (306) 694-3602
Fax: (306) 694-3056

Prince Albert

1800 Central Avenue
Prince Albert, Saskatchewan
S6V 4W7

Tel: (306) 953-3200
Fax: (306) 953-3210

Regina

2425 Victoria Avenue
Regina, Saskatchewan
S4P 3V7

Tel: (306) 787-5377
Fax: (306) 787-7217

Saskatoon

520 Spadina Crescent East
Saskatoon, SK
S7K 3G7

Tel: (306) 933-5174
Fax: (306) 975-4818

Swift Current

121 Lorne Street West
Swift Current, Saskatchewan
S9H 0J4

Tel: (306) 778-8400
Fax: (306) 778-8581

Yorkton

29 Darlington Street East
Yorkton, Saskatchewan
S3N 0C2

Tel: (306) 786-1515
Fax: (306) 786-1521

Form 13-31

COURT FILE NUMBER _____

Clerk's Stamp

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN
(FAMILY LAW DIVISION)

JUDICIAL CENTRE _____

PETITIONER _____

RESPONDENT _____

AFFIDAVIT OF _____

(your name)

In the matter of an Application pursuant to Section 11 of
The Family Maintenance Act,
to file an Agreement containing Maintenance Provisions

I, _____, of _____, in
(your name) (city or town of residence)

the province of _____, MAKE OATH AND SAY AS FOLLOWS:

1. THAT I am the said _____ who is one
(your name as it appears in the attached agreement)
of the parties to the agreement attached hereto and marked Exhibit "A" to this my affidavit.
2. THAT the said agreement was signed by myself and _____
(name of other party to the agreement)
on the ____ day of _____, 20____.
(day) (month) (year)
3. THAT the said agreement contains maintenance provisions for:

Names of Children or Spousal Support Recipient

Dates of Birth

4. THAT the said agreement is in effect and has not been set aside or varied by a court, an extra-provincial tribunal, or another agreement.
5. THAT there is no existing support order in place which orders support to be paid by one of the parties to the other.
6. THAT I make this affidavit for the purpose of filing the said agreement in this Honourable Court pursuant to Section 11 of *The Family Maintenance Act*.

I make this affidavit in support of my Application.

SWORN (OR AFFIRMED) BEFORE ME

at, _____ Saskatchewan,
 this _____ day of _____,
 201____

 Commissioner for Oaths
 for Saskatchewan



 (signature)

(MUST BE WITNESSED BY
 COMMISSIONER FOR OATHS)

I HEREBY certify that the attached agreement was filed in the Court of Queen’s Bench,
 Judicial Centre of _____, on the _____ day of
 _____, 20____, pursuant to section 11 of *The Family Maintenance Act*.

 Date

 Deputy Local Registrar

CONTACT INFORMATION AND ADDRESS FOR SERVICE

Address for service and contact information of party filing this document:

Name of party:

Address for service:

Telephone number:

Fax number:

E-mail address:

This is Exhibit "A" referred to in the Affidavit
of _____ sworn before me this
(your name)
_____ day of _____, 20____.
(day) (month) (year)

A Commissioner for Oaths
In and for the Province of Saskatchewan
My Commission Expires _____
Being a Solicitor

SUPPORT AGREEMENT

BETWEEN:

SUPPORT PAYOR

— and —

SUPPORT RECIPIENT

THE PARTIES AGREE AS FOLLOWS:

1. Child support is to be provided for:

<u>Names of Children</u>	<u>Dates of Birth</u>	<u>Living With...</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

2. The total annual income of the support payor, _____,
is \$ _____.

3. The total annual income of the support recipient, _____,
is \$ _____.

4. _____ will pay to _____ child support of \$_____ per month for the children referred to in paragraph 1, with such payments to commence on _____, 201_____.

5. _____ will pay to _____ spousal support of \$_____ per month, with such payments to commence on _____, 201_____.

6. The arrears owing by the payor to the recipient will be adjusted as follows:

7. The parties agree to split the following expenses as indicated below:

8. This agreement is to take effect on: _____, and will continue until: _____ (date that agreement takes effect)
a) a new agreement is reached by the support payor and support recipient, replacing this agreement; or,
b) a court order for child support is made by a court of competent jurisdiction.

Dated at _____, Saskatchewan, this _____ day of _____, 20_____.
(city) (day) (month) (year)

Signature of Payor

Dated at _____, Saskatchewan, this _____ day of _____, 20_____.
(city) (day) (month) (year)

Signature of Recipient