

The Enforcement of Maintenance Orders Act, 1997

being

Chapter E-9.21 of the *Statutes of Saskatchewan, 1997* (effective March 1, 1998) as amended by the *Statutes of Saskatchewan, 1998, c.C-45.2; 2000, c.70; 2001, c.9; 2002, c.I-10.03 and c.4; 2004, c.8, c.16 and c.67; 2006, c.E-11.2; 2009, c.17; 2010, c.10; 2012, c.13 and c.18; 2013, c.2, and c.24; 2015, c.22, 2016, c.29; 2018, c.43; 2020, c.4 and c.24; and 2022, c.8.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER E-9.21

An Act to Facilitate the Enforcement of Maintenance Orders

PART I

Short Title and Interpretation

Short title

1 This Act may be cited as *The Enforcement of Maintenance Orders Act, 1997*.

Interpretation

2(1) In this Act:

“**account debtor**” means a person, partnership, trustee or governmental entity:

- (a) that is obligated under an account to a payor; or
- (b) that, subject to any conditions affecting the account, will become obligated to a payor under a future account;

and, where the context permits, includes an insurer, issuer, guarantor or indemnitor; (« *débiteur de compte* »)

“**arrears**” includes interest pursuant to section 11.1; (« *arriérés* »)

“**clerk**” means a clerk of the Provincial Court within the meaning of *The Court Officials Act, 2012*; (« *greffier* »)

“**court**” means the Court of Queen’s Bench and, in sections 7, 47, 50, 51, 52, 53, 53.1, 54, 56, 57, 58, 63.1 and 69, includes the Provincial Court of Saskatchewan; (« *tribunal* »)

“**Crown**” means the Crown in right of Saskatchewan and includes a ministry, agency, board or other body of the Government of Saskatchewan and a Crown corporation; (« *Couronne* »)

“**director**” means the Director of Maintenance Enforcement appointed pursuant to section 5; (« *directeur* »)

“**enforcement measure**” means any action, step or measure provided by this Act to enforce a maintenance order; (« *mesure d’exécution* »)

“**judge**” means a judge of the court; (« *juge* »)

“**local registrar**” means a local registrar or deputy local registrar of the Court of Queen’s Bench; (« *registraire local* »)

“maintenance order”:

- (a) means a provision in an order enforceable in Saskatchewan for the payment of any or all of the following:
- (i) support, alimony or maintenance;
 - (ii) expenses arising from pre-natal care of a mother or the birth of a child;
 - (iii) interest on a maintenance order;
 - (iv) legal fees or other expenses arising in relation to a maintenance order; and
- (b) includes the following:
- (i) an adjustment to the amount to be enforced as contemplated by section 15.2;
 - (ii) an order made pursuant to section 53;
 - (iii) an agreement filed in the court pursuant to section 11 of *The Family Maintenance Act, 1997*;
 - (iv) an agreement filed in the office pursuant to section 7.1;
 - (v) an award for support or maintenance pursuant to an arbitration conducted pursuant to *The Arbitration Act, 1992*;
 - (vi) a recalculated amount pursuant to *The Family Maintenance Regulations, 1998*;
 - (vii) any other prescribed item; (« *ordonnance alimentaire* »)

“minister” means the member of the Executive Council to whom for the time being the administration of *The Saskatchewan Assistance Act* is assigned; (« *ministre* »)

“notice of continuing seizure of account” means a notice of continuing seizure of account described in section 19; (« *avis de saisie de compte continue* »)

“notice of seizure” means a notice of seizure of account or a notice of continuing seizure of account; (« *avis de saisie* »)

“notice of seizure of account” means a notice of seizure of account described in section 17; (« *avis de saisie de compte* »)

“office” means the Maintenance Enforcement Office continued pursuant to section 4; (« *bureau* »)

“payor” means a person who has an obligation to pay a maintenance order; (« *payeur* »)

“prescribed” means prescribed in the regulations; (« *prescrit* » ou « *réglementaire* »)

“provisional order” means a provisional order as defined in *The Inter-jurisdictional Support Orders Act*; (« *ordonnance provisoire* »)

“recipient” means:

- (a) a person in whose favour a maintenance order has been made; or
- (b) if an assignment of rights with respect to a maintenance order is made pursuant to section 6, the minister to the extent of the assignment; (« *réceptionnaire* »)

“reciprocating jurisdiction” means a reciprocating jurisdiction as defined in *The Inter-jurisdictional Support Orders Act*; (« *ressort pratiquant la réciprocité* »)

“statement of account” means a statement of payments and arrears. (« *relevé de compte* »)

(2) A reference in this Act to a maintenance order means:

- (a) the original of that maintenance order; or
- (b) a copy of that maintenance order certified by an officer of the court in which the order was made or registered.

1997, c.E-9.21, s.2; 2002, c.4, s.3; 2002,
c.I-10.03, s.47; 2009, c.17, s.3; 2012, c.13, s.;
2014, c.2, s.3; 2020, c.4, s.3.

Crown bound

3 The Crown is bound by this Act.

1997, c.E-9.21, s.3.

PART II
Maintenance Enforcement Office

Office continued

4(1) The Maintenance Enforcement Office is continued.

(2) The director is responsible for recording and enforcing maintenance orders filed in the office pursuant to this Act.

1997, c.E-9.21, s.4.

Director appointed

5(1) The Minister of Justice may appoint a person as the Director of Maintenance Enforcement and may appoint any other persons as deputy directors.

(2) The director may delegate to any person the exercise of any powers given to the director and the fulfilling of any responsibilities imposed on the director pursuant to this Act.

1997, c.E-9.21, s.5.

Assignment to Crown

6(1) On behalf of the Crown, the minister may accept from a person an assignment in writing of any of the following rights of the person with respect to a maintenance order:

- (a) the right to apply for a maintenance order or a provisional order;
- (b) the right to receive payments pursuant to a maintenance order or a provisional order;
- (c) the right to apply for variation of a maintenance order;
- (d) the right to bring proceedings to enforce a maintenance order.

(2) Where an assignment is made pursuant to subsection (1), the Crown is subrogated to the rights of the person giving the assignment to the extent of the assignment.

(3) The minister shall file in the office an assignment made pursuant to subsection (1).

(4) Where an assignment made pursuant to subsection (1) ceases to have any effect, the minister shall file in the office a notice of termination.

(5) Where an assignment is made pursuant to subsection (1) and notwithstanding the death of the person in whose favour a maintenance order is made, the minister may commence or continue any proceeding pursuant to section 68 or 69.

1997, c.E-9.21, s.6.

Filing orders

7(1) Subject to subsection (6), where a court makes a maintenance order, the maintenance order is to state that:

- (a) the director shall enforce the maintenance order; and
- (b) the amounts owing pursuant to the order are to be paid to the person to whom they are owed through the office unless the maintenance order is withdrawn from the office pursuant to this Act.

(2) **Repealed.** 2002, c.4, s.4.

(3) On the application of a recipient or payor, the director may file a maintenance order in the office.

(4) The Minister of Justice shall cause to be filed in the office every maintenance order and provisional order received for transmission or enforcement pursuant to *The Inter-jurisdictional Support Orders Act*, *The Reciprocal Enforcement of Maintenance Orders Act, 1996* or any former *Reciprocal Enforcement of Maintenance Orders Act*.

(5) A maintenance order filed pursuant to this section is to be filed in the prescribed manner.

(6) Subsection (1) does not apply if a recipient files a notice in writing with the court stating that he or she does not wish to have the maintenance order filed in the office.

1997, c.E-9.21, s.7; 2002, c.4, s.4; 2002,
c.I-10.03, s.47; 2009, c.17, s.49; 2022, c.8, s.3.

Filing agreement

7.1(1) An agreement made before or after this Act comes into force that includes provisions for maintenance and that amends an existing maintenance order filed with the office may be filed in the office 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 extraprovincial tribunal or another agreement.
- (2) A provision for maintenance contained in an agreement filed pursuant to subsection (1) may be enforced by the director pursuant to this Act.
- (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.

2002, c.4, s.5; 2012, c.13, s.4; 2015, c.22, s.12.

Effect of filing

8 Where a maintenance order is filed in the office:

- (a) the director may take any steps that the director considers advisable to enforce the maintenance order;
- (b) only the director may, on behalf of a recipient, commence, continue or discontinue proceedings to enforce a maintenance order;
- (c) no person other than the director shall take steps to enforce the maintenance order;
- (d) the director may sign all documents with respect to the enforcement of a maintenance order;
- (e) the director may enforce arrears under a maintenance order notwithstanding that the arrears accrued before the date that the order was filed in the office or before the date that this section comes into force; and
- (f) for the purposes of section 12.2 and Parts III and IV, the director stands in the place of the recipient.

1997, c.E-9.21, s.8; 2009, c.17, s.5 and 49.

Withdrawal of maintenance order

9(1) The director may withdraw a maintenance order filed in the office in any of the following circumstances:

- (a) if it appears to the director that the recipient is taking steps to enforce the maintenance order and 14 days have elapsed from the date the director mailed, by ordinary mail, to the recipient a written notice that the director intends to withdraw the maintenance order;
- (b) if the recipient has applied to withdraw the maintenance order, except where the maintenance order was filed by the payor;

- (c) if the payor has applied to withdraw the maintenance order, in cases where the maintenance order was filed by the payor; or
 - (d) where it appears to the director that the sum payable under the maintenance order is not readily verifiable.
- (2) A recipient or payor may refile a maintenance order that has been withdrawn from the office.
 - (3) A maintenance order that is withdrawn pursuant to clause (1)(d) maybe refiled only with the consent of the director.
 - (4) Where a maintenance order has been withdrawn pursuant to clause (1)(d), the recipient or the payor may apply to the court requesting clarification of the sum payable under the maintenance order.
 - (5) Where an application is made pursuant to subsection (4), the director is not required to attend the hearing of the application and is not to be joined as party to that application.

1997, c.E-9.21, s.9; 2009, c.17, s.49.

Notice of filing or withdrawal

- 10 The director shall give written notice, by ordinary mail, of the filing or withdrawal of a maintenance order to the recipient and the payor.

1997, c.E-9.21, s.10; 2009, c.17, s.49.

Moneys paid to director

- 11(1) The director shall pay to the recipient all moneys the director receives with respect to a maintenance order filed in the office to the extent of the recipient's entitlement pursuant to that maintenance order.
- (2) The director shall keep a record, in the prescribed manner, of:
 - (a) all moneys received and paid out by the director; and
 - (b) the persons to whom and by whom the moneys mentioned in clause (a) have been paid.
- (3) On the request of a recipient or payor, the director may provide the recipient or payor with a statement showing the current status of payments required pursuant to a maintenance order filed in the office.
- (4) On the request of the proper officer of a reciprocating jurisdiction or a court of a reciprocating jurisdiction, the director shall provide the proper officer with a sworn, itemized statement of account showing, with respect to a maintenance order:
 - (a) all amounts that have become due and owing by the payor during the 24 months preceding the date of the statement of account; and
 - (b) all payments made through the office during the period mentioned in clause (a) by or on behalf of the payor.

1997, c.E-9.21, s.11; 2009, c.17, s.49; 2012, c.13, s.5.

Payment of arrears

12(1) If there are arrears owing pursuant to a maintenance order that is filed in the office, the director may fix an amount to be applied towards the arrears by way of a continuing seizure of account.

- (2) The amount mentioned in subsection (1):
 - (a) is to be a portion of the total arrears owed by the payor to the recipient; and
 - (b) is not to exceed an amount determined in accordance with the regulations.
- (3) If the director fixes an amount of arrears pursuant to subsection (1):
 - (a) the director shall attach a notice of arrears attachment in the prescribed form to the true copy of the notice of continuing seizure of account to be provided to the account debtor pursuant to subsection 19(3); and
 - (b) the account debtor shall deliver the notice of arrears attachment to the payor with the true copy of the notice of continuing seizure of account in accordance with subsection 19(4).

1997, c.E-9.21, s.12; 2004, c.8, s.3; 2009, c.17,
s.49; 2012, c.13, s.7.

Corporation with the payor as sole shareholder

- 12.1(1)** In this section, “**corporation**” means a corporation in which the payor:
- (a) is the sole shareholder; and
 - (b) has the sole beneficial interest in the shares of the corporation. («*société*»)
- (2) A corporation becomes jointly and severally liable with a payor for payments required under a maintenance order that is filed in the office if:
- (a) the payor defaults in a payment required under the maintenance order;
 - (b) the director has served the corporation with a notice of seizure respecting the amount owing by the payor under the maintenance order; and
 - (c) the payor is in arrears:
 - (i) in an amount equal to at least 3 months of payments under the maintenance order; or
 - (ii) in an amount equal to less than 3 months of payments under the maintenance order but the director has made a decision pursuant to section 15.3 to enforce the lesser amount.
- (3) On becoming jointly and severally liable pursuant to subsection (2):
- (a) the corporation continues to be liable as long as the payor continues to be liable for payments required under the maintenance order;

- (b) any enforcement measure that may be taken with respect to the payor may be taken with respect to the corporation; and
 - (c) the amount of a payment required under a maintenance order that is paid by the corporation is a debt owed by the payor to the corporation.
- (4) Notwithstanding subsection (3), a corporation is not liable for payments under a maintenance order that come due on or after the director receives written notification from the corporation:
- (a) stating that the payor has ceased to have a beneficial interest in any shares of the corporation and specifying the date on which the payor ceased to have a beneficial interest in the shares of the corporation;
 - (b) giving the name and address of the person who acquired the beneficial interest in the payor's shares; and
 - (c) specifying the nature and amount of the consideration that the payor received or will receive for the transfer of the beneficial interest in the shares.

2002, c.4, s.6; 2009, c.17, s.49; 2012, c.13, s.8;
2022, c.8, s.4.

Corporation controlled by the payor or by the payor and immediate family members

12.2(1) In this section:

“corporation” means a corporation that is controlled by:

- (a) a payor; or
- (b) a payor and the immediate family members of the payor; (*«société»*)

“immediate family member” means a spouse, former spouse, child, sibling, step-sibling, half-sibling, parent or step-parent of the payor or a person cohabiting with the payor in a spousal relationship; (*«membre de la famille immédiate»*)

“to control”, with respect to a corporation, means to hold, other than by way of security only, by or for the benefit of a person or a group of persons not dealing with each other at arm's length, shares in the corporation that, in an election of the directors of the corporation, carry, in total, sufficient voting rights, if those rights are exercised, to elect 50% or more of the directors or to otherwise effectively control the operations and direction of the corporation. (*«contrôler»*)

- (2) A recipient may apply to the court for an order declaring that a corporation is jointly and severally liable with a payor for payments required under a maintenance order that is filed in the office if:
- (a) the payor defaults in a payment required under the maintenance order;
 - (b) the corporation has been served with a notice of seizure respecting the amount owing by the payor under the maintenance order; and

- (c) the payor is in arrears:
 - (i) in an amount equal to at least 3 months of payments under the maintenance order; or
 - (ii) in an amount equal to less than 3 months of payments under the maintenance order but the director has made a decision pursuant to section 15.3 to enforce the lesser amount.
- (3) If, on an application pursuant to subsection (2), the court orders that the corporation is jointly and severally liable with the payor for payments required under a maintenance order:
 - (a) the corporation continues to be liable as long as the payor continues to be liable for payments required under the maintenance order;
 - (b) any enforcement measure that may be taken with respect to the payor may be taken with respect to the corporation; and
 - (c) the amount of a payment required under a maintenance order that is paid by the corporation is a debt owed by the payor to the corporation.
- (4) Notwithstanding subsection (3), a corporation is not liable for payments under a maintenance order that come due on or after the director or recipient, as the case may be, receives written notification from the corporation:
 - (a) stating that the payor has ceased to have a beneficial interest in any shares of the corporation and specifying the date on which the payor ceased to have a beneficial interest in the shares of the corporation;
 - (b) giving the name and address of the person who acquired the beneficial interest in the payor's shares; and
 - (c) specifying the nature and amount of the consideration that the payor received or will receive for the transfer of the beneficial interest in the shares.

2002, c.4, s.6; 2009, c.17, s.49; 2012, c.13, s.9;
2022, c.8, s.5.

Access to information

13(1) For the purposes of enforcing a maintenance order that is filed in the office or of obtaining information for a person in another jurisdiction who performs functions similar to those of the director, the director may demand from any person or any public body, including the Crown, any of the following information with respect to a payor, a recipient, a person mentioned in section 37.1 of *The Inter-jurisdictional Support Orders Act* with respect to whom a request to locate has been made, a person against whom a provisional order has been made or a respondent within the meaning of Part II or IV of *The Inter-jurisdictional Support Orders Act* and that is within the knowledge of, or is in any record in the possession or control of, the person or public body:

- (a) wages, salary and other income;
- (b) assets and liabilities;
- (c) financial information, including banking information;

- (d) location;
 - (e) address;
 - (f) place of employment;
 - (g) status of any dependant for whom the payor or respondent is obligated to pay maintenance;
 - (h) relationship of the payor or respondent to the person or public body;
 - (i) identification information, including a photograph.
- (2) A demand made pursuant to subsection (1) must be served in accordance with subsections 60(5) and (6).
- (3) Notwithstanding any other Act or law restricting the disclosure of information, any person or any public body, including the Crown, that receives a demand pursuant to subsection (1) shall provide to the director, within 20 days after the demand has been served, any of the demanded information that is within the knowledge of the person or public body or contained in the records of the person or public body.
- (4) A judge may make an order pursuant to subsection (5) where, on application, the judge is satisfied that:
- (a) the director has been refused information after making a demand pursuant to subsection (1);
 - (b) the person or public body served with a demand pursuant to subsection (1) has failed to respond to the demand within the period set out in subsection (3); or
 - (c) a person requires an order pursuant to this subsection in aid of an application to obtain or enforce a maintenance order.
- (5) In the circumstances mentioned in subsection (4) and notwithstanding any other Act or law restricting the disclosure of the information, the judge may order any person or any public body, including the Crown, to provide the applicant or any other person whom the court considers appropriate with any of the following information with respect to the payor, the person against whom the maintenance order is sought to be obtained or the respondent within the meaning of Part II or IV of *The Inter-jurisdictional Support Orders Act* that is within the knowledge of, or is in any record in the possession or control of, the person or public body:
- (a) wages, salary and other income;
 - (b) assets and liabilities;
 - (c) financial information, including banking information;
 - (d) location;
 - (e) address;
 - (f) place of employment;
 - (g) status of any dependant for whom the payor or respondent is obligated to pay maintenance;

- (h) relationship of the payor or respondent to the person or public body;
 - (i) identification information, including a photograph.
- (6) Where the director obtains an order pursuant to subsection (5), the court shall award the costs of the application to the director.

2009, c.17, s.9; 2012, c.13, s.10 and c.18, s.30;
2020, c.4, s.4.

Confidentiality of information

- 14(1) No person shall disclose any information retained in the office except in accordance with this Act or the regulations.
- (2) The director may disclose information retained in the office to the extent necessary for the enforcement of maintenance orders filed in the office.
- (2.1) The director may disclose information to a person mentioned in clause 13(4)(c) if the court makes an order pursuant to subsection 13(5) for the disclosure of information.
- (3) Where a judge makes an order pursuant to subsection 13(5) or pursuant to any similar provision in any other Act or Act of the Parliament of Canada, the judge may make any order with respect to the confidentiality to be maintained in connection with the information released that the judge considers appropriate.

1997, c.E-9.21, s.14; 2012, c.13, s.11.

Immunity

15 No action lies or shall be instituted against a person who is acting pursuant to the authority of this Act or the regulations, for any loss or damage suffered by a person by reason of anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done, by a person pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any duty imposed by this Act or the regulations.

1997, c.E-9.21, s.15.

PART III
Enforcement

DIVISION 1
General

Priority

- 15.1(1) Notwithstanding any other Act, a maintenance order, whether filed with the director or not, takes priority over any unsecured judgment debt of the payor, other than another maintenance order.
- (2) The priority set out in subsection (1) applies to a maximum amount equal to one year's payments required by the maintenance order.

- (3) A maintenance order ranks equally with another maintenance order regardless of when the order was made or filed with the office.
- (4) Money paid to the director with respect to a maintenance order is not attachable pursuant to any other Act.

2009, c.17, s.10.

Discretion to enforce lesser amount if child's entitlement ceases

15.2(1) In this section, "***Child Support Guidelines***" means the *Federal Child Support Guidelines* established pursuant to section 26.1 of the *Divorce Act* (Canada). (« *Lignes directrices sur les pensions alimentaires pour enfants* »)

(2) If the requirements of subsection (3) are satisfied with respect to a maintenance order, the director may enforce the amount, in accordance with the table set out in the *Child Support Guidelines* that were in effect when the maintenance order was made, that would have been ordered had the original order been made with respect to fewer children.

(3) The following requirements must be satisfied before the director exercises the discretion to adjust the amount to be enforced as contemplated in subsection (2):

- (a) the amount of the maintenance order must have been made in accordance with the table set out in the *Child Support Guidelines*;
- (b) the maintenance order considers two or more children;
- (c) the obligation under the maintenance order has terminated with respect to a child;
- (d) the obligation under the maintenance order still continues with respect to at least one other child;
- (e) the maintenance order states:
 - (i) the number of children; and
 - (ii) the total amount of maintenance determined in accordance with the table set out in the *Child Support Guidelines*.

2009, c.17, s.10.

Discretion to enforce less than 3 months of payments

15.3(1) Notwithstanding any other provision of this Act, the director may enforce arrears under a maintenance order equal to less than 3 months of payments if:

- (a) the maintenance order is filed in the office;
- (b) the payor is in arrears under the maintenance order;
- (c) the director is satisfied on reasonable grounds that the payor is acting in bad faith with respect to the payor's obligations under the maintenance order;

- (d) in the opinion of the director, all other reasonable steps have been taken to enforce the maintenance order; and
 - (e) the payor otherwise meets the requirements for enforcement of arrears under the maintenance order pursuant to this Act.
- (2) The director may enforce arrears under a maintenance order in accordance with subsection (1) notwithstanding that the maintenance order was filed in the office before the day on which this section came into force or that the arrears accrued before the day on which this section came into force.

2022, c 8, s.6.

DIVISION 2 Seizure

Interpretation

16 In this Division:

“account” means a monetary obligation however created, other than an obligation evidenced by a negotiable instrument or a security, due to a payor:

- (a) by a person, partnership, trustee or governmental entity;
- (b) whether or not payable and whether or not specific as to amount; and
- (c) including an obligation under a term deposit contract, an insurance contract, a letter of credit, a guarantee agreement or an indemnity agreement to make payment to the payor in discharge of a liability of the insurer, issuer, guarantor or indemnitor to a payor;

and, if the context requires, includes a future account; (« *compte* »)

“deposit account” means an account owing by a deposit-taking institution in the form of a demand, time, savings or passbook account, but does not include an obligation arising under a contract with the deposit-taking institution to pay to the payor a specified sum of money and interest at a specified date in the future; (« *compte de dépôt* »)

“deposit-taking institution” means an organization that is a member of the Canadian Payments Association or a credit union; (« *institution de dépôt* »)

“due”, when used in relation to a monetary obligation, means:

- (a) that the obligation is owed unconditionally, notwithstanding that it may not be payable;
- (b) that payment of the obligation is conditional only on the effluxion of time; or
- (c) in connection with an obligation subject to a condition other than or in addition to the effluxion of time, that the condition has been satisfied, notwithstanding that the obligation is not immediately payable on satisfaction of the condition; (« *échéance* » ou « *échu* »)

“**future account**” means an account:

- (a) that becomes due any time within 12 months after a notice of seizure of account has been served; or
- (b) that is one of a series of periodic recurring payments arising from a legal relationship between the account debtor and a payor existing when a notice of seizure of account is served, regardless of the period over which the periodic recurring payment obligations become due; (« *compte futur* »)

2012, c.13, s.15.

Enforcement by seizure

16.1 In accordance with this Act, a recipient may enforce a maintenance order by seizure of an account payable to the payor by any other person.

2012, c.13, s.15.

Notice of seizure of account

17(1) On behalf of the recipient, any person may serve one or more notices of seizure of account directed to any person alleged to be indebted to the payor.

- (2) A notice of seizure of account is to be in the prescribed form.
- (3) On service of a notice of seizure of account, the recipient shall cause to be served on the payor a true copy of the notice of seizure of account within:
 - (a) 30 days after the date of service on the account debtor; or
 - (b) any further time that the court may allow on the application, without notice, of the recipient made before or after the period mentioned in clause (a) has expired and before or after the payor is served.
- (4) A notice of seizure of account is effective with respect to a future account notwithstanding that the legal relationship out of which the account arose did not exist at the date the notice was served.
- (5) For the purpose of subsection (4), a person on whom a notice of seizure of account is served is deemed to be an account debtor.
- (6) A notice of seizure of account shall not be served on a person mentioned in subsection (5) unless the recipient has reasonable grounds to believe that a legal relationship exists between the payor and the person out of which an account is likely to arise or that such a legal relationship is likely to come into existence within a reasonable period after the notice of seizure of account is served.
- (7) Notwithstanding subsection (4), a notice of seizure of account with respect to a deposit account only affects a deposit-taking institution if a legal relationship existed between the payor and the deposit-taking institution with respect to any deposit account on the date on which the notice was served.

2012, c.13, s.15; 2018, c.43, s.8.

Effect of notice of seizure of account

18(1) When an account debtor has been served with a notice of seizure of account, the account debtor is deemed to have received from the payor a demand to discharge the account immediately or at such time as the account, if payable at a future time, becomes payable, until the amount set out in the notice is paid or the notice is withdrawn pursuant to section 29.

(2) An account debtor who is served with a notice of seizure of account shall:

(a) pay the lesser of:

(i) the amount payable at that date; and

(ii) the amount recoverable that is payable at that date as stated in the notice or otherwise stated in writing by the recipient; or

(b) if the account is not due or is a future account, pay the lesser of the following when the account becomes payable:

(i) the amount that the account debtor is obligated to pay; and

(ii) the amount recoverable as stated in the notice or otherwise stated in writing by the recipient.

(3) The probable costs of a notice of seizure of account may be included in the amount set out in the notice of seizure of account.

(4) If a notice of seizure of account is served by a person other than the director, the recipient shall file with the local registrar for the judicial centre where the notice requires payments to be made:

(a) a copy of the notice; and

(b) proof of service of the notice.

2012, c.13, s.15.

Notice of continuing seizure of account

19(1) On behalf of the recipient, any person may serve one or more notices of continuing seizure of account directed to any person alleged to be indebted to the payor.

(2) A notice of continuing seizure of account is to be in the prescribed form.

(3) On service of a notice of continuing seizure of account, the recipient shall provide the account debtor with a true copy of the notice of continuing seizure of account.

(4) On receipt of the notice of continuing seizure of account, the account debtor shall immediately deliver, personally or by ordinary mail, the true copy of the notice to the payor.

(5) The account debtor's failure to comply with subsection (4) does not make the seizure ineffective.

(6) If a notice of continuing seizure of account or a notice of variation pursuant to subsection 20(5) or (7) is served by a person other than the director, the recipient shall file a copy of the notice, with proof of service, with the local registrar for the judicial centre where the notice requires payments to be made.

2012, c.13, s.15.

Effect of notice of continuing seizure of account

20(1) When an account debtor has been served with a notice of continuing seizure of account, the account debtor must discharge the account immediately or at such time as the account, if payable at a future time, becomes payable, in the amount required to be deducted pursuant to subsection (2) until the amount is varied pursuant to subsection (5) or (7) or the notice of continuing seizure of account is withdrawn pursuant to section 29.

(2) On service of a notice of continuing seizure of account, the account debtor shall pay:

- (a) in accordance with the notice of continuing seizure of account:
 - (i) the amount of any payment required by the maintenance order as that payment becomes due or any lesser amount to which the recipient has agreed; and
 - (ii) any amount fixed by the director pursuant to section 12 as that amount becomes due; or
- (b) the total amount due from the account debtor to the payor if that amount is less than the amount to be deducted pursuant to clause (a).

(3) The account debtor shall pay the amount deducted pursuant to subsection (2) in accordance with the notice of continuing seizure of account within seven days after making the deduction.

(4) If the amount paid pursuant to subsection (3) is insufficient to cover the amount then required to fulfil the obligation under the maintenance order, the amount equal to the difference between the amount that should have been paid and the amount that was actually paid is, for the purpose of this section, to be added to and is deemed to be a part of the next payment due pursuant to the maintenance order.

(5) If a maintenance order that is the subject of a notice of continuing seizure of account is varied after service of that notice:

- (a) the recipient shall serve a notice of variation in the prescribed form on the account debtor; and
- (b) on service of a notice of variation pursuant to clause (a), the account debtor shall make deductions in accordance with the notice of variation.

(6) If a recipient fails to serve a notice of variation on the account debtor in accordance with clause (5)(a) within 15 days after the maintenance order that is the subject of the notice of continuing seizure of account is varied, the court may, on application by the payor or the account debtor:

- (a) revoke the notice of continuing seizure of account;
- (b) order the account debtor to make payments in accordance with the maintenance order, as varied; or
- (c) make any other order that the court considers appropriate.

(7) The recipient may serve on the account debtor a notice of variation in the prescribed form that varies the amount to be deducted pursuant to subsection (2), and on service the account debtor shall make deductions in accordance with the notice of variation.

2012, c.13, s.15.

Seizure from outside Saskatchewan

21(1) The director may serve a notice of seizure, directed to any person alleged to be indebted to the payor, if the following are filed with the director:

- (a) a maintenance order;
- (b) a document:
 - (i) that purports to be issued by the appropriate authority in a reciprocating jurisdiction;
 - (ii) that is of similar effect to a notice of seizure;
 - (iii) that states that it is issued with respect to support, alimony or maintenance; and
 - (iv) that is written in English or French or that is accompanied by a sworn or certified translation in English or French.

(2) If a payor has or is purported to have an account located in Saskatchewan, a notice of seizure mentioned in subsection (1) may be served on an account debtor whether the payor is in Saskatchewan or not.

(3) Sections 16 to 34, except subsection 17(3), apply to seizures pursuant to this section.

2012, c.13, s.15.

Seizure of account owing by Crown

22(1) Notwithstanding any other Act, the Crown may be named as an account debtor in a notice of seizure for the purpose of seizure of any account due to a payor, other than payments made pursuant to *The Saskatchewan Assistance Act* or grants made pursuant to any Act.

(2) A recipient may effect service on the Crown by serving:

- (a) the officer designated in the regulations; or
- (b) in the case of a board, agency or commission if no designation is made in the regulations, by serving the chairperson or secretary of the board, agency or commission.

- (3) If the account debtor is the Crown, the notice of seizure is to state the following:
- (a) if known to the recipient, the ministry, agency or other body of the Government of Saskatchewan or Crown corporation by which the account is payable;
 - (b) as many particulars as possible with respect to the account.

2012, c.13, s.15.

Firms with members outside Saskatchewan as account debtors

- 23(1)** This section applies to a firm that carries on business in Saskatchewan and that has one or more members of the firm resident outside Saskatchewan.
- (2) Accounts owing from a firm described in subsection (1) may be seized by serving the notice of seizure on any person having the control or management of the business in Saskatchewan, or on any member of the firm in Saskatchewan.

2012, c.13, s.15.

Deposit accounts

- 24** If a notice of seizure of account is served on a deposit-taking institution or a trust corporation within the meaning of *The Trust and Loan Corporations Act, 1997* against a deposit account that is owned by the payor and one or more other persons as joint or joint and several owners, the deposit account is presumed to be owned by the payor.

2012, c.13, s.15; 2013, c.24, s.2.

Dispute of seizure

- 25(1)** This section applies if the account debtor alleges that:
- (a) no account is owing by the account debtor to the payor;
 - (b) the account debtor has fully satisfied his or her obligation to make payments to the payor and no further payments from him or her to the payor are due; or
 - (c) the account debtor has not received sufficient information with respect to the payor to enable him or her to make any deductions.
- (2) In the circumstances mentioned in subsection (1), the account debtor shall file a notice of dispute that outlines the basis of the account debtor's allegations:
- (a) within 10 days after service on the account debtor of the notice of seizure; or
 - (b) when the account debtor's obligation to pay the payor has been satisfied.
- (3) The account debtor shall file his or her notice pursuant to subsection (2):
- (a) if the payments are to be made to a court, with the court; or
 - (b) if the payments are to be made to the office, with the director.

- (4) If an account debtor files a notice of dispute pursuant to subsection (2), the recipient may apply to the court for an order:
- (a) summarily determining whether the account debtor is liable under the notice; or
 - (b) that an issue or question necessary for the determination of the liability of the account debtor be tried.
- (5) An application by the recipient pursuant to subsection (4) must be served on the account debtor within 30 days after the date on which the notice of dispute is filed by the account debtor.
- (6) A determination of the court pursuant to this section is a judgment of the court and may be enforced as a judgment.
- (7) If an account debtor files a notice of dispute pursuant to subsection (2) and the recipient does not make an application within the period specified in subsection (5), the account debtor is released from any claim pursuant to the notice of seizure.

2012, c.13, s.15.

Failure to honour notice of seizure

26(1) This section applies if the account debtor:

- (a) has not filed a notice of dispute pursuant to subsection 25(2); and
 - (b) does not pay into court or to the office, as the case may be, the amount due from the account debtor to the payor or the amount required to be paid by the account debtor pursuant to a notice of seizure.
- (2) In the circumstances mentioned in subsection (1), the recipient is entitled to judgment against the account debtor by filing with the court:
- (a) the notice of seizure;
 - (b) proof of service of the notice of seizure; and
 - (c) an affidavit stating that the account debtor has not made payments required by this Act and has not filed a notice pursuant to subsection 25(2).
- (3) A judgment pursuant to subsection (2) is to include the amount of the default under the notice of seizure, together with the costs of the application.
- (4) Sections 13, 16, 17, 19 and 44 apply, with any necessary modification, to the enforcement of a judgment against an account debtor pursuant to subsection (2).

2012, c.13, s.15.

Payment by account debtor a valid discharge against payor

26.1(1) Payment to the recipient of the amount specified in the notice of seizure is a valid discharge of the account debtor against a payor to the amount paid, notwithstanding that those proceedings may be set aside or the judgment or order later reversed.

(2) Subject to subsection (3), an account debtor is entitled to exercise a right of set-off against an account seized by the recipient to the same extent as the account debtor could exercise a right of set-off against the claim of the payor to payment of the account.

(3) An account debtor shall not set off against an account seized by the recipient a claim or obligation that arose after the notice of seizure is served on the account debtor unless the claim or obligation could have been set off against an assignee of the account.

(4) If money is paid into court by a person in connection with legal proceedings between that person and a payor, the person is discharged from any obligations that have arisen or that could arise pursuant to section 18 or 20 as a result of a notice of seizure served on that person by the recipient, to the extent of the amount paid into court.

2012, c.13, s.15.

Prohibition re execution against the Crown

27 No judgment enforcement proceedings shall proceed on a judgment made pursuant to section 25 or 26 against the Crown in seizure proceedings pursuant to this Act.

2012, c.13, s.15.

Dispute by payor

28(1) The payor may apply to the court for an order setting aside a notice of seizure on the basis that:

- (a) money owed pursuant to the maintenance order has been paid; or
- (b) there is no account owing by the account debtor to the payor.

(2) The payor shall serve notice of an application pursuant to subsection (1) on:

- (a) any person, including the director, who is acting on behalf of the recipient; or
- (b) the recipient if no one else is acting on behalf of the recipient.

2012, c.13, s.15.

Withdrawal

29(1) A recipient may, at any time, serve a notice of withdrawal on any account debtor who has been served with a notice of seizure.

- (2) When the amount set out in the notice of seizure has been satisfied, the recipient shall:
- (a) serve a notice of withdrawal on the account debtor; and
 - (b) if the account debtor was making payments to the court, file a copy of the notice of withdrawal with the court.
- (3) A notice of withdrawal pursuant to this section is to be in the prescribed form.
- (4) On service of a notice of withdrawal pursuant to subsection (1) or (2), the account debtor shall make no further deductions or payments.

2012, c.13, s.15.

Exemption from seizure

- 30**(1) Notwithstanding any other Act but subject to subsection (2) and the regulations, if proceedings with respect to a notice of seizure are taken pursuant to this Act, no account is exempt from seizure.
- (2) On application by the payor, a judge may make an order specifying the amount that is exempt from seizure if the judge is satisfied that it would be grossly unfair and inequitable not to make an order.
- (3) The payor shall serve an application made pursuant to subsection (2) on:
- (a) any person, including the director, who is acting on behalf of the recipient;
or
 - (b) the recipient if no one else is acting on behalf of the recipient.

2012, c.13, s.15.

Account debtor not to charge fees

- 31** No account debtor shall charge a fee with respect to anything required to be done by the account debtor pursuant to this Act.

2012, c.13, s.15.

Payments received

- 32**(1) Subject to subsection (3), payments received by the court or the director pursuant to a notice of continuing seizure of account are to be paid immediately to the recipient.
- (2) If payments are received by the court or the director pursuant to subsection 18(2) and no dispute is made pursuant to section 25 or 28 or a dispute is settled in favour of the recipient:
- (a) the payments held by the court are to be paid to the recipient:
 - (i) on an application without notice by the recipient; or
 - (ii) with the written consent of the recipient and the payor; and
 - (b) the payments held by the director are to be paid to the recipient.

(3) Payments received by the court or director in excess of the amount required to satisfy the notice of seizure are to be paid to the payor, unless otherwise directed by the court pursuant to section 43.1.

2012, c.13, s.15; 2018, c.43, s.8.

Priority of seizure

33 Notwithstanding any other Act, any notice of seizure served pursuant to this Act has priority over:

- (a) any assignment made after the date of service of that notice; or
- (b) any seizure, execution or attachment made pursuant to any other Act against the same accounts whether made before or after service of the notice of seizure.

2012, c.13, s.15.

Attachment of certain allowances, benefits etc.

34 Notwithstanding any other Act respecting pensions or other allowances, any pension payments, pension funds, allowances or benefits that are authorized to be paid pursuant to any Act or any program pursuant to any Act are seizable for the purpose of enforcement of maintenance orders.

2012, c.13, s.15; 2013, c.24, s.2.

DIVISION 3
Attachment of Pension Entitlements

Interpretation

35(1) In this section and in sections 36 to 40:

“administrator” means a person charged with the administration of a pension plan and includes a financial or other institution that issues, underwrites or is a depository of:

- (a) benefits;
- (b) moneys that have been transferred to another plan, to a prescribed RRSP or to any other prescribed retirement plan that is registered pursuant to the *Income Tax Act* (Canada), including moneys transferred before January 1, 1993; and
- (c) moneys earned by those transferred moneys mentioned in clause (b); (*«administrateur»*)

“pension entitlement” means either or both of the following, as the case may be:

- (a) the amount of money in a pension plan of a payor that is available for attachment pursuant to this Act;
- (b) the funds in a pooled registered pension plan account of a payor that are available for attachment pursuant to this Act; (*« prestation de pension »*)

“**pension plan**” means a pension plan governed by an Act that permits a pension entitlement to be attached and includes:

- (a) benefits;
 - (a.1) funds in a pooled registered pension plan account;
 - (b) moneys that have been transferred to another plan, to a prescribed RRSP or to any other prescribed retirement plan that is registered pursuant to the *Income Tax Act* (Canada), including moneys transferred before January 1, 1993; and
 - (c) moneys earned by those transferred moneys mentioned in clause (b). (*«réime de pension»*)
- (2) Subject to subsection (3), words or phrases used in the definitions in subsection (1) that have been defined in *The Pension Benefits Act, 1992* have the same meaning as in that Act.
- (3) With respect to pooled registered pension plans, words or phrases used in the definitions in subsection (1) or in sections 36 to 40 that have been defined in *The Pooled Registered Pension Plans (Saskatchewan) Act* have the same meaning as in that Act.

1997, c.E-9.21, s.35; 2009, c.17, s.24; 2013, c.24, s.2.

Pension entitlement may be attached

36 The director may enforce a maintenance order that is filed in the office by attaching the pension entitlement of a payor pursuant to section 40 where:

- (a) the payor is in arrears:
 - (i) in an amount equal to at least 3 months of payments under the maintenance order; or
 - (ii) in an amount equal to less than 3 months of payments under the maintenance order but the director has made a decision pursuant to section 15.3 to enforce the lesser amount.
- (b) in the opinion of the director, all reasonable steps have been taken to enforce the maintenance order;
- (c) the director has served the administrator and the payor with a notice of the director’s intention mentioned in section 37; and
- (d) the payor has not, prior to the service of a notice of attachment on the administrator pursuant to section 40, made arrangements satisfactory to the director to fulfil the obligation under the maintenance order.

1997, c.E-9.21, s.36; 2009, c.17, s.49; 2022, c.8, s.7.

Notice of the director’s intention

37(1) The notice of the director’s intention to attach the payor’s pension entitlement is to be in the prescribed form and is to:

- (a) direct the administrator to provide the director and the payor, within 30 days, with prescribed information respecting the payor’s pension entitlement;

- (b) notify the payor, in accordance with the regulations, that the payor may apply to the court pursuant to section 39 within 30 days of receipt of the information mentioned in clause (a) for an order that the payor's pension entitlement is not to be attached; and
 - (c) notify the payor, in accordance with the regulations, of the costs, income tax implications and pension reductions that would result from the attachment of the payor's pension entitlement.
- (2) The administrator may provide the information mentioned in clause (1)(a) to the payor at the most recent address for the payor in the administrator's records.
 - (3) Failure of the administrator to provide the information mentioned in clause (1)(a) to the payor does not render the attachment ineffective.

1997, c.E-9.21, s.37; 2009, c.17, s.49.

Restrictions

38(1) The director shall not enforce a maintenance order by attaching the pension entitlement of a payor where:

- (a) the payor is a member of a pension plan and:
 - (i) the payor is required to make contributions to the plan that the director proposes to attach; or
 - (ii) the payor's employer is required by the plan to make contributions on the payor's behalf to the plan that the director proposes to attach; or
 - (b) the payor is receiving a pension benefit pursuant to the pension plan that the director proposes to attach.
- (2) Where an administrator is served with a notice of the director's intention, the administrator shall not pay out any of the payor's pension entitlement at the direction of the payor until 60 days have elapsed from:
 - (a) if no application is made to the court, the date that the director received the information mentioned in clause 37(1)(a); or
 - (b) if an application is made to the court, the date that the court orders that the payor's pension entitlement may be attached.

1997, c.E-9.21, s.38; 2009, c.17, s.49.

Court application

39(1) The court, on application by the payor, may order that the payor's pension entitlement is not to be attached where the court is satisfied that:

- (a) with respect to a maintenance order that is filed in the office, the payor is not in arrears in an amount equal to at least 3 months of payments under the maintenance order nor is the payor subject to a decision of the director pursuant to section 15.3 to enforce a lesser amount under the maintenance order;

- (b) the payor is a member of a pension plan and:
 - (i) is required to make contributions to the plan that the director proposes to attach; or
 - (ii) the payor's employer is required by the plan to make contributions on the payor's behalf to the plan that the director proposes to attach; or
 - (c) the payor is receiving a pension benefit pursuant to the pension plan that the director proposes to attach.
- (2) A payor applying to the court shall serve the director and the administrator with notice of the application.

1997, c.E-9.21, s.39; 2009, c.17, s.49; 2022, c8, s.8.

Attachment of pension entitlement

40(1) The director may serve the administrator with a notice of attachment of the payor's pension entitlement in the prescribed form where:

- (a) an application pursuant to section 39:
 - (i) has not been made to the court by the payor; or
 - (ii) has been made to the court by the payor but the court has not ordered that the payor's pension entitlement is not to be attached; and
 - (b) not more than 60 days have elapsed from:
 - (i) if no application is made to the court, the date that the director received the information mentioned in clause 37(1)(a); or
 - (ii) if an application is made to the court pursuant to section 39, the date that the court orders that the payor's pension entitlement may be attached.
- (2) Where the director serves a notice of attachment, the administrator shall:
- (a) immediately deliver, personally or by ordinary mail, a copy of the notice to the payor; and
 - (b) comply with the notice of attachment within 45 days of receiving the notice.
- (3) The administrator may deliver the notice of attachment to the payor at the most recent address for the payor in the administrator's records.
- (4) Failure of the administrator to comply with clause (2)(a) does not render the attachment ineffective.
- (5) Sections 25 to 27 apply, with any necessary modification, to an administrator served with a notice of the director's intention to attach the payor's pension entitlement.

1997, c.E-9.21, s.40; 2009, c.17, s.49.

DIVISION 4
Attachment of Registered Plan Entitlements

Interpretation

40.1 In this section and in sections 40.2 to 40.4:

“**DPSP**” means a deferred profit sharing plan as defined in section 147 of the federal Act; (« *RPDB* »)

“**federal Act**” means the *Income Tax Act* (Canada); (« *loi fédérale* »)

“**registered plan**” means a DPSP, an RRIF or an RRSP; (« *régime enregistré* »)

“**RRIF**” means a registered retirement income fund as defined in section 146.3 of the federal Act; (« *FERR* »)

“**RRSP**” means a registered retirement savings plan as defined in section 146 of the federal Act; (« *REER* »)

“**trustee**” means a person charged with the administration of a registered plan. (« *fiduciaire* »)

2004, c.8, s.9.

Registered plan may be attached

40.2(1) The director may enforce a maintenance order by attaching the registered plan of a payor in accordance with this Act.

(2) To attach the registered plan of a payor, the director shall serve the plan’s trustee with a notice of attachment in the prescribed form.

(3) Service of a notice of attachment on a trustee binds the amount standing to the credit of the payor in the registered plan of which the trustee is charged with administration.

(4) After service of a notice of attachment on a trustee pursuant to subsection (2), the director shall serve the payor with a true copy of the notice of attachment within:

(a) 30 days from the date of service on the trustee; or

(b) any further time that the court may allow on an application without notice brought by the director:

(i) before or after the 30-day period mentioned in clause (a); and

(ii) before or after the payor is served with a true copy of the notice of attachment.

2004, c.8, s.9; 2009, c.17, s.49; 2012, c.13, s.18;
2018, c.43, s.8; 2020, c.4, s.5.

Restrictions

40.3 If a trustee is served with a notice of attachment, the trustee shall not pay out any of the payor’s registered plan at the direction of the payor until:

(a) the trustee has complied with the notice of attachment as required by section 40.4; or

(b) the director has served notice upon the trustee withdrawing the notice of attachment.

2004, c.8, s.8; 2009, c.17, s.49.

Attachment of registered plan

- 40.4(1)** If a trustee is served with a notice of attachment, the trustee shall:
- (a) within 30 days after receiving the notice, deduct from the amount standing to the credit of the payor in the payor's registered plan:
 - (i) the total amount of taxes, if any, that are required to be deducted or withheld as a result of the attachment;
 - (ii) the cost of complying with the attachment calculated in the prescribed manner; and
 - (iii) the lesser of:
 - (A) the amount attached; and
 - (B) the amount standing to the credit of the payor; and
 - (b) pay the amount deducted pursuant to subclause (a)(iii) to the director within seven days after making the deduction.
- (2) If an amount has been attached pursuant to this Act:
- (a) the payor has no further claim or entitlement to any registered plan benefit pursuant to the registered plan respecting the amount attached;
 - (b) the amount standing to the credit of the payor is reduced by the amount deducted pursuant to clause (1)(a); and
 - (c) neither the trustee nor the registered plan is liable to any person by reason of having made payment to the director pursuant to this Act.

2004, c.8, s.9; 2009, c.17, s.49.

DIVISION 5
Attachment of Annuity

Interpretation

40.5 In this section and in sections 40.6 to 40.91:

“annuity” means money set aside by the board pursuant to section 73 of *The Workers' Compensation Act, 2013* to provide an annuity for a worker, and includes any accumulated interest and any supplement provided pursuant to section 74 of *The Workers' Compensation Act, 2013*; (« *rente* »)

“board” means The Workers' Compensation Board continued pursuant to section 9 of *The Workers' Compensation Act, 2013*; (« *commission* »)

“worker” means worker as defined in *The Workers' Compensation Act, 2013*. (« *travailleur* »)

2009, c.17, s.27; 2020, c.4, s.6.

Annuity may be attached

40.6 The director may enforce a maintenance order that is filed in the office by attaching the annuity of a payor pursuant to section 40.91 if:

- (a) the payor is in arrears:
 - (i) in an amount equal to at least 3 months of payments under the maintenance order; or

- (ii) in an amount equal to less than 3 months of payments under the maintenance order but the director has made a decision pursuant to section 15.3 to enforce the lesser amount;
- (b) in the opinion of the director, all reasonable steps have been taken to enforce the maintenance order;
- (c) the director has served the board and the payor with a notice of the director's intention mentioned in section 40.7; and
- (d) the payor has not, before the service of a notice of attachment on the board pursuant to section 40.91, made arrangements satisfactory to the director to fulfil the obligation under the maintenance order.

2009, c.17, s.27; 2022, c.8, s.9.

Notice of the director's intention

40.7(1) The notice of the director's intention to attach the payor's annuity is to be in the prescribed form and is to:

- (a) direct the board to provide the director and the payor, within 30 days, with prescribed information respecting the payor's annuity;
 - (b) notify the payor, in accordance with the regulations, that the payor may apply to the court pursuant to section 40.9 within 30 days after receipt of the information mentioned in clause (a) for an order that the payor's annuity is not to be attached; and
 - (c) notify the payor, in accordance with the regulations, of the costs, income tax implications and annuity reductions that would result from the attachment of the payor's annuity.
- (2) The board may provide the information mentioned in clause (1)(a) to the payor at the most recent address for the payor in the board's records.
- (3) Failure of the board to provide the information mentioned in clause (1)(a) to the payor does not render the attachment ineffective.

2009, c.17, s.27.

Restrictions

40.8(1) The director shall not enforce a maintenance order by attaching the annuity of a payor if the payor is receiving compensation pursuant to *The Workers' Compensation Act, 2013* with respect to an injury.

(2) If the board is served with a notice of the director's intention, the board shall not pay out any of the payor's annuity at the direction of the payor until 60 days have elapsed from:

- (a) if no application is made to the court, the date that the director received the information mentioned in clause 40.7(1)(a); or
- (b) if an application is made to the court, the date that the court orders that the payor's annuity may be attached.

2009, c.17, s.27; 2020, c.4, s.7.

Court application

40.9(1) The court, on application by the payor, may order that the payor's annuity is not to be attached if the court is satisfied that:

- (a) with respect to a maintenance order that is filed in the office, the payor is not in arrears in an amount equal to at least 3 months of payments under the maintenance order nor is the payor subject to a decision of the director pursuant to section 15.3 to enforce a lesser amount under the maintenance order; or
- (b) the payor is receiving compensation pursuant to *The Workers' Compensation Act, 2013* with respect to an injury.

(2) A payor applying to the court shall serve the director and the board with notice of the application.

2009, c.17, s.27; 2020, c 4, s.8; 2022, c 8, s.10.

Attachment of annuity

40.91(1) The director may serve the board with a notice of attachment of the payor's annuity in the prescribed form if:

- (a) an application pursuant to section 40.9:
 - (i) has not been made to the court by the payor; or
 - (ii) has been made to the court by the payor but the court has not ordered that the payor's annuity is not to be attached; and
- (b) not more than 60 days have elapsed from:
 - (i) if no application is made to the court, the date that the director received the information mentioned in clause 40.7(1)(a); or
 - (ii) if an application is made to the court pursuant to section 40.9, the date that the court orders that the payor's annuity may be attached.

(2) If the director serves a notice of attachment, the board shall:

- (a) immediately deliver, personally or by ordinary mail, a copy of the notice to the payor; and
- (b) comply with the notice of attachment within 45 days after receiving the notice.

(3) The board may deliver the notice of attachment to the payor at the most recent address for the payor in the board's records.

(4) Failure of the board to comply with clause (2)(a) does not render the attachment ineffective.

(5) Sections 25 to 27 apply, with any necessary modification, to the board served with a notice of the director's intention to attach the payor's annuity

2009, c.17, s.27.

DIVISION 6
Licence Suspension

Licence may be suspended

41(1) In this section and in sections 42 and 43:

“**administrator**” means the administrator designated pursuant to section 3 of *The Traffic Safety Act*; («*administrateur*»)

“**licence**” means driver’s licence within the meaning of *The Traffic Safety Act*. («*permis*»)

(2) The director may direct the administrator to suspend a payor’s licence where:

(a) the payor is in arrears under a maintenance order that is filed in the office:

(i) in an amount equal to at least 3 months of payments under the maintenance order; or

(ii) in an amount equal to less than 3 months of payments under the maintenance order but the director has made a decision pursuant to section 15.3 to enforce the lesser amount;

(b) in the opinion of the director, all reasonable steps have been taken to enforce the maintenance order;

(c) the director has served the payor with written notice pursuant to subsection 42(1) of the director’s intention to direct the administrator to suspend the payor’s licence; and

(d) after receiving notice pursuant to subsection 42(1), the payor has not, within the notice period, made arrangements satisfactory to the director to fulfil the obligation under the maintenance order.

1997, c.E-9.21, s.4; 2004, c.67, s.6; 2009, c.17,
s.49; 2022, c8, s.11.

Suspension process

42(1) Before directing the administrator to suspend a payor’s licence, the director shall serve the payor with not less than 30 days’ written notice:

(a) by ordinary mail; or

(b) by any other prescribed means.

(2) Where the director directs the administrator to suspend a payor’s licence, the administrator shall immediately suspend that licence and the payor’s ability to secure a licence until the administrator has been notified by the director that the suspension may be cancelled.

(3) The director shall notify the administrator that a suspension may be cancelled where:

(a) the payor has made arrangements satisfactory to the director to fulfil the obligation under the maintenance order; or

(b) the maintenance order has been withdrawn pursuant to section 9.

- (3.1) If the payor has made arrangements pursuant to clause (3)(a), the director shall notify the payor that the suspension has been cancelled but may be revived without notice if, within 12 months, the payor fails to comply with the arrangements.
- (3.2) If the director notifies the administrator pursuant to clause (3)(a) that a suspension may be cancelled, and the payor subsequently fails to comply with the arrangements made pursuant to clause (3)(a):
- (a) the director may revive the suspension by directing the administrator to suspend the payor's licence in accordance with the last notice that was served on the payor pursuant to subsection (1); and
 - (b) the administrator shall immediately suspend the payor's licence and the payor's ability to secure a licence until the administrator has been further notified by the director that the suspension may be cancelled.
- (4) If the director is unable to serve a notice pursuant to subsection (1), the director may give notice to the administrator for the purpose of clause 41(i) of *The Traffic Safety Act*:
- (a) stating that the payor is evading service of the written notice mentioned in subsection (1); and
 - (b) directing the administrator to suspend the payor's ability to secure or renew a licence.
- (5) If the director directs the administrator to suspend a payor's ability to secure or renew a licence pursuant to subsection (4), the administrator shall immediately suspend the payor's ability to secure or renew a licence until the administrator has been notified by the director that the suspension may be cancelled

1997, c.E-9.21, s.42; 2002, c.4, s.12; 2004, c.67,
s.6; 2009, c.17, s.29 and 49.

Application to the court

- 43(1)** The court, on application, may order the administrator to cancel a suspension mentioned in subsection 42(2) or (3.2) or not to suspend a payor's licence pursuant to that subsection where the court is satisfied that:
- (a) with respect to a maintenance order that is filed in the office, the payor is not in arrears in an amount equal to at least 3 months of payments under the maintenance order nor is the payor subject to a decision of the director pursuant to section 15.3 to enforce a lesser amount under the maintenance order; or
 - (b) a person's health is or would be seriously threatened by the suspension.
- (2) A person applying to the court shall serve the director with notice of the application.

1997, c.E-9.21, s.43; 2009, c.17, s.30; 2022, c.8,
s.12.

Hunting licence may be suspended

43.01(1) In this section and in section 43.02:

“**licence**” means a licence within the meaning of *The Wildlife Act, 1998*; (« *permis* »)

“**minister**” means the member of Executive Council to whom for the time being the administration of *The Wildlife Act, 1998* is assigned. (« *ministre* »)

(2) The director may direct the minister to prohibit a person from applying for or obtaining a licence if:

- (a) the payor is in arrears under a maintenance order that is filed in the office:
 - (i) in an amount equal to at least 3 months of payments under the maintenance order; or
 - (ii) in an amount equal to less than 3 months of payments under the maintenance order but the director has made a decision pursuant to section 15.3 to enforce the lesser amount;
- (b) in the opinion of the director, all reasonable steps have been taken to enforce the maintenance order;
- (c) the director has served the payor with written notice pursuant to section 43.02 of the director’s intention to direct the minister to prohibit the payor from applying for or obtaining a licence; and
- (d) after receiving the notice pursuant to section 43.02 the payor has not, within the notice period, made arrangements satisfactory to the director to fulfil the obligation under the maintenance order.

2014, c.2, s.4; 2022, c8, s.13.

Suspension process

43.02(1) Before directing the minister to prohibit a payor from applying for or obtaining a licence, the director shall serve the payor with not less than 30 days’ written notice:

- (a) by ordinary mail; or
- (b) by any other prescribed means.

(2) If the director directs the minister to prohibit a payor from applying for or obtaining a licence, the minister shall immediately suspend the payor’s ability to secure a licence until the minister has been notified by the director that the suspension may be cancelled.

(3) The director shall notify the minister that a suspension may be cancelled if:

- (a) the payor has made arrangements satisfactory to the director to fulfil the obligation under the maintenance order; or
- (b) the maintenance order has been withdrawn pursuant to section 9.

2014, c.2, s.4.

Angling licence may be suspended

43.03(1) In this section and in section 43.04:

“**licence**” means an angling licence issued in accordance with the regulations made pursuant to *The Fisheries (Saskatchewan) Act, 2020*; (« permis »)

“**minister**” means the member of Executive Council to whom for the time being the administration of *The Fisheries (Saskatchewan) Act, 2020* is assigned. (« ministre »”).

(2) The director may direct the minister to prohibit a person from applying for or obtaining a licence if:

- (a) the payor is in arrears under a maintenance order that is filed in the office:
 - (i) in an amount equal to at least 3 months of payments under the maintenance order; or
 - (ii) in an amount equal to less than 3 months of payments under the maintenance order but the director has made a decision pursuant to section 15.3 to enforce the lesser amount;
- (b) in the opinion of the director, all reasonable steps have been taken to enforce the maintenance order;
- (c) the director has served the payor with written notice pursuant to section 43.04 of the director’s intention to direct the minister to prohibit the payor from applying for or obtaining a licence; and
- (d) after receiving the notice pursuant to section 43.04 the payor has not, within the notice period, made arrangements satisfactory to the director to fulfil the obligation under the maintenance order.

2014, c.2, s.4; 2020, c24, s.2; 2022, c8, s.14.

Suspension process

43.04(1) Before directing the minister to prohibit a payor from applying for or obtaining a licence, the director shall serve the payor with not less than 30 days’ written notice:

- (a) by ordinary mail; or
- (b) by any other prescribed means.

(2) If the director directs the minister to prohibit a payor from applying for or obtaining a licence, the minister shall immediately suspend the payor’s ability to secure a licence until the minister has been notified by the director that the suspension may be cancelled.

(3) The director shall notify the minister that a suspension may be cancelled if:

- (a) the payor has made arrangements satisfactory to the director to fulfil the obligation under the maintenance order; or
- (b) the maintenance order has been withdrawn pursuant to section 9.

2014, c.2, s.4.

DIVISION 7
Other Remedies

Order requiring security

43.1(1) The following persons may apply to the court for an order requiring the payor to provide security for an obligation under a maintenance order whether or not the payor is in default of an obligation under a maintenance order:

- (a) if the maintenance order is filed in the office, the director;
- (b) if the maintenance order is not filed in the office, the recipient.

(2) On hearing an application pursuant to subsection (1), the court may order that the payor provide security for an obligation under a maintenance order, in any form that the court directs, as security for the following:

- (a) payments in arrears;
- (b) subsequent payments.

2009, c.17, s.31.

Enforcement measures at the request of a reciprocating jurisdiction

43.2(1) The director may take any enforcement measure against a payor at the request of the appropriate authority in a reciprocating jurisdiction if all documents required by the director are filed with the director.

(2) If an enforcement measure is taken pursuant to subsection (1), the provisions of this Act that relate to the enforcement measure taken apply with any necessary modification.

(3) Enforcement measures against a payor may be taken pursuant to subsection (1) whether or not the payor is in Saskatchewan.

2012, c.13, s.22.

Seizure and sale property

44(1) In this section and in section 45:

“enforcement charge” means enforcement charge as defined in *The Enforcement of Money Judgments Act*; (« charge par voie d'enregistrement »)

“judgment registry” means the registry as defined in *The Enforcement of Money Judgments Act*. (« réseau d'enregistrement des jugements »)

(2) If there are arrears owing under a maintenance order, the recipient may enforce the maintenance order pursuant to *The Enforcement of Money Judgments Act* by:

- (a) registering the maintenance order as a judgment in the judgment registry; and
- (b) providing the sheriff with enforcement instructions with respect to the maintenance order mentioned in clause (a).

- (3) Enforcement instructions may be given to the sheriff in accordance with subsection (2) to enforce a maintenance order that was made more than 10 years before the maintenance order was registered if there are arrears owing pursuant to the maintenance order that are enforceable pursuant to section 66.
- (4) Notwithstanding any other Act or law that provides for exemptions from seizure but subject to subsection (5), no property is exempt from seizure pursuant to the enforcement of a maintenance order.
- (5) On application by the payor, if a judge is satisfied that it would be grossly unfair and inequitable to do otherwise, the judge may make an order specifying the amount of money that is exempt from enforcement.
- (6) The payor shall serve any application made pursuant to subsection (5) on:
- (a) any person, including the director, who is acting on behalf of the recipient; or
 - (b) the recipient if no one else is acting on behalf of the recipient.
- (7) In subsection (8), “**recipient**” means a recipient under a maintenance order registered pursuant to subsection (2) at any time before the expiration of the time fixed for the distribution of the money under a seizure made pursuant to *The Enforcement of Money Judgments Act*. («*réceptionnaire* »)
- (8) Notwithstanding Part XII of *The Enforcement of Money Judgments Act*, if a seizure is made and a fund constituted pursuant to section 107 of *The Enforcement of Money Judgments Act*, a recipient is entitled, out of the money in the fund:
- (a) to be paid the amount of arrears under a maintenance order that are due to the recipient by the payor, to a maximum amount equal to one year’s payments under the maintenance order at the current rate, in priority to the claims of other creditors of the payor; and
 - (b) to share *pro rata* with any other creditors in accordance with clause 110(3)(g) of *The Enforcement of Money Judgments Act* with respect to the remainder, if any, of the recipient’s claim.
- (9) All maintenance orders registered pursuant to subsection (2) rank equally.
- (10) Subsection 107(3) of *The Enforcement of Money Judgments Act* does not apply to money realized under an enforcement process taken by a recipient with respect to money owing pursuant to a maintenance order.

2010, c.10, s.4.

Registration against real property

- 45(1) In this section, “**land titles registry**” means the land titles registry as defined in *The Land Titles Act, 2000*. («*réseau d’enregistrement des titres fonciers* »)
- (2) A recipient may register:
- (a) a maintenance order as a judgment in the judgment registry in accordance with *The Enforcement of Money Judgments Act*; and
 - (b) an interest based on a maintenance order in the land titles registry against a title or interest in accordance with *The Land Titles Act, 2000*.

(3) On and from the date a maintenance order is registered pursuant to clause (2)(a), and as long as it remains in force, section 172 of *The Land Titles Act, 2000* applies to that maintenance order.

(4) On and from the date an interest based on a maintenance order is registered pursuant to clause (2)(b) and as long as it remains in force, the maintenance order:

(a) binds the estate and interest of every title and interest of the payor against which it is registered; and

(b) has the same priority as a registered interest based on a mortgage.

(5) In accordance with section 62 of *The Land Titles Act, 2000*, the director may sign a postponement of the registration of an interest based on:

(a) a judgment; or

(b) a maintenance order.

2010, c.10, s.4.

Judicial sale

46(1) In this section, “**maintenance order**” means a maintenance order that is registered in the Land Titles Registry pursuant to section 45.

(2) Notwithstanding any other Act, a maintenance order may be enforced by the judicial sale of the encumbered land in the manner set out in Division 5 of Part 10 of *The Queen’s Bench Rules*.

1997, c.E-9.21, s.46; 2000, c.70, s.12; 2016, c29, s.2.

Distress

47(1) Where the payor defaults in making any payment pursuant to a maintenance order, the recipient may apply to a judge of the court in which the order was made or registered for a warrant of distress.

(2) On an application pursuant to subsection (1), a judge may issue a warrant of distress directed to any sheriff, bailiff or peace officer requiring him or her to levy on the goods and chattels of the payor:

(a) the amount of money in default that is specified in the warrant; and

(b) the costs and charges of the levy and distress.

1997, c.E-9.21, s.47; 2009, c.17, s.49.

Duty to pay money recovered

48 The person to whom a warrant is directed pursuant to section 47 shall transmit to the person to whom payment was ordered any amount realized by him or her pursuant to execution of the warrant.

1997, c.E-9.21, s.48.

Appointment of receiver

49(1) On an application to the court by a recipient, a judge may make an order appointing a person as the receiver, either conditionally or unconditionally, of any moneys due, owing or payable to or to become due, owing or payable to or earned or to be earned by the payor where:

- (a) the judge considers it just and equitable to enforce obligations under a maintenance order; and
- (b) the person consents to the appointment as a receiver.

(2) Where a receiver realizes money pursuant to an order made pursuant to subsection (1), the receiver shall:

- (a) deduct and retain his or her costs;
- (b) pay an amount to the recipient sufficient to satisfy the payor's obligation under the maintenance order; and
- (c) pay the balance, if any, to the payor.

1997, c.E-9.21, s.49; 2009, c.17, s.49.

Financial statement

50(1) The director may serve a notice on a payor or recipient requiring the payor or recipient to file with the director and with the court a financial statement in the prescribed form and manner.

(2) Where a maintenance order is not filed in the office, the clerk or local registrar of the court in which the order was made or registered may, at the request of the recipient or payor, issue a notice to be served by the party making the request on the other party requiring that other party to file a financial statement in the prescribed form and manner.

1997, c.E-9.21, s.50; 2009, c.17, s.49.

Summons for default hearing

51(1) The director may issue a summons requiring the payor to appear at a default hearing before the court indicated in the summons to explain why the payor is not fulfilling his or her obligations pursuant to the maintenance order if:

- (a) the payor is in default of an obligation pursuant to a maintenance order; and
- (b) the maintenance order is filed in the office.

(2) The clerk or local registrar of the court in which a maintenance order was made or registered may issue a summons requiring the payor to appear at a default hearing before the court indicated in the summons to explain why the payor is not fulfilling his or her obligations pursuant to the maintenance order if:

- (a) the payor is in default of an obligation pursuant to a maintenance order;
- (b) the recipient files an affidavit of arrears with the court; and
- (c) the maintenance order is not filed in the office.

- (3) A summons issued pursuant to this section:
- (a) is to be in the prescribed form and issued in the prescribed manner;
 - (b) must be served on the payor at least 14 days before the date on which the payor is required to appear.
- (4) No payor who is served with a summons issued pursuant to subsection (1) or (2) shall fail to personally attend at the time and place specified in the summons, and at all subsequent adjournments of the proceeding, if any:
- (a) without just excuse;
 - (b) unless otherwise directed by the court; or
 - (c) in the case of a summons issued pursuant to subsection (1), without the consent of the director.

1997, c.E-9.21, s.51; 2004, c.8, s.11; 2009, c.17, s.36 and 49.

Warrant for arrest

52(1) If the recipient or payor fails to file a financial statement required pursuant to section 50, the court may, on an application without notice, issue a warrant for the recipient's or payor's arrest for the purpose of bringing the recipient or payor before the court.

(2) If the payor fails to appear as required by a summons issued pursuant to section 51, or fails to appear as required pursuant to section 51 at any subsequent adjournment of the proceeding, the court may, on an application without notice, issue a warrant for the payor's arrest for the purpose of bringing the payor before the court.

2009, c.17, s.37; 2018, c.43, s.8.

Default hearing

53(1) On a default hearing, and whether or not the payor is present, the court may order all or any combination of the following:

- (a) that the payor discharge the arrears by making any periodic payments that the court considers just;
- (b) that the payor discharge the arrears in full by a specified date;
- (c) that the payor pay any portion of the amount owing pursuant to the maintenance order that the court determines the payor is able to pay, for a period not to exceed six months;
- (d) that the payor provide a security, deposit or bond in any form that the court directs for the arrears and subsequent payments;
- (e) that the payor report periodically to the court, the director or any person specified in the order;
- (f) that the payor immediately provide to the court, the director or any person specified in the order particulars of any future change of address or employment;

- (g) that the payor be imprisoned in accordance with subsection 56(1);
 - (h) that the payor pay any costs that the court considers just.
- (2) Where the payor fails to file a financial statement required pursuant to section 50, the court may draw those inferences that appear reasonable to the court having regard to all the circumstances.
- (3) At a default hearing, the burden of proof of inability to fulfil obligations pursuant to a maintenance order is on the payor.
- (4) A default hearing held pursuant to this section may be adjourned from time to time and on any terms and conditions, including any provisions set out in clauses (1)(a) to (h), that the court considers appropriate.
- (5) On the application of the payor or recipient to the court that made the order pursuant to subsection (1), the court may vary the order where there has been a material change in the circumstances of the recipient or the payor.
- (6) An order pursuant to subsection (1), (4) or (5) does not affect the accruing of arrears pursuant to the maintenance order.
- (7) A default hearing held pursuant to this section and a hearing of an application for variation of the maintenance order may be heard together or separately.
- (8) The remedies pursuant to this section are to be considered as civil process, and *The Summary Offences Procedure Act, 1990* does not apply to an application made pursuant to this section.

2009, c.17, s.37.

Suspension

- 53.1(1)** If the director has commenced a default hearing pursuant to section 51, the payor may apply to the court for an order suspending enforcement measures, on any conditions the court considers appropriate, for a period not exceeding six months.
- (2) An order may be made pursuant to this section only if the court is satisfied that the payor is unable for valid reasons to make the payments required under the maintenance order.
- (3) An order made pursuant to this section does not suspend or affect:
- (a) any enforcement measure authorized by an Act of the Parliament of Canada;
 - (b) any registration or filing made by the director pursuant to *The Land Titles Act, 2000* or in the Personal Property Registry; or
 - (c) any proceeding or enforcement measure taken pursuant to sections 41 and 42.
- (4) The court may not make an order that has the effect of suspending any proceeding, action or matter mentioned in subsection (3).
- (5) The payor shall serve notice of an application made pursuant to subsection (1) on the director.

2012, c.13, s.23.

Realizing on security

54(1) This section applies where:

- (a) a security, deposit or bond has been ordered pursuant to clause 53(1)(d) or pursuant to any other Act to ensure payments pursuant to a maintenance order;
 - (b) the payor is in default of his or her obligations under the maintenance order; and
 - (c) the recipient has applied to the court for an order pursuant to this section.
- (2) In the circumstances described in subsection (1), the court in which the maintenance order was made or registered may issue an order:
- (a) directing the realization or forfeiture of the security, deposit or bond by seizure, sale or other means; and
 - (b) directing the payment of costs in any manner that it considers appropriate.

1997, c.E-9.21, s.54; 2009, c.17, s.49.

Evasion of payor

55(1) On an application without notice brought by the recipient and where the court is satisfied that the payor is hindering or defeating or is attempting to hinder or defeat the enforcement of a maintenance order by dissipation, gift or transfer of assets, the court may make an order:

- (a) restraining any dealing with, or gift or transfer of, the property; or
 - (b) appointing a receiver in accordance with section 49.
- (2) On an application without notice brought by the recipient and where the court is satisfied that the payor is attempting to hinder or defeat the enforcement of arrears under a maintenance order by leaving Saskatchewan, the court may issue a warrant for the arrest of the payor for the purpose of bringing the payor before the court to be examined with respect to his or her ability to meet his or her obligations pursuant to the maintenance order.

1997, c.E-9.21, s.55; 2009, c.17, s.49; 2018, c.43, s.8.

Imprisonment

56(1) Where a payor fails to comply with a maintenance order, the court may enforce the maintenance order by issuing an order for committal for contempt for a period of up to 90 days.

- (2) An order of the court pursuant to subsection (1) is in addition to all other remedies the court has pursuant to this or any other Act or law.
- (3) An order pursuant to subsection (1) may be issued without taking any other step for the enforcement of the maintenance order.
- (4) The sheriff or any other officer or person pursuant to the sheriff's or court's direction may convey any person to be committed to prison, without any further warrant than a copy of the minutes of the court certified by a judge or the local registrar or clerk of the court.

- (5) The keeper of a prison and all other persons whose duty it is to do so are authorized and required to:
- (a) receive the person to be committed into custody; and
 - (b) carry out and execute the order.
- (6) Imprisonment of a payor pursuant to this section does not discharge arrears owing under the maintenance order.
- (7) Where the court commits a payor for contempt pursuant to subsection (1), the court may:
- (a) order that the period of committal be served intermittently at the times specified in the order; and
 - (b) direct that the payor comply with any conditions specified in the order at all times when not in custody.

1997, c.E-9.21, s.56; 2009, c.17, s.49.

DIVISION 8 **Appeal**

Right of appeal

57(1) An appeal lies from any order made by a court pursuant to this Act within 30 days of the date of the order:

- (a) to the Court of Appeal, if the order under appeal was made by the Court of Queen's Bench or a judge of that court; or
 - (b) to the Court of Queen's Bench in chambers, if the order under appeal was made by the Provincial Court of Saskatchewan or a judge of that court.
- (2) An appeal of an order made pursuant to clause (1)(b) may be made only with leave of the Court of Appeal or a judge of that court.
- (3) An order under appeal remains in force pending the determination of the appeal, unless the court appealed to otherwise orders.

1997, c.E-9.21, s.57.

Part IV **General**

Application of payments

58 Unless the payor specifies otherwise at the time the payment is made or unless the court orders otherwise, any money paid on account of a maintenance order is to be credited in the following order:

- (a) to the current payment due under the maintenance order;
- (b) to the principal balance of any arrears outstanding under the maintenance order;
- (c) to any interest owing on the maintenance order.

2012, c.13, s.25.

Fees

59(1) Subject to subsection (2), the director may charge any fee for his or her services in the prescribed amounts and to the prescribed persons.

(2) The director shall not charge a fee to any recipient for services provided by the director to the recipient pursuant to this Act.

1997, c.E-9.21, s.59; 2009, c.17, s.49.

Service

60(1) Subject to the other provisions of this Act respecting service, any notice or document required by this Act to be served must be served in the manner prescribed in *The Queen's Bench Rules* for service of a statement of claim.

(1.1) Any notice or document that is required by this Act to be served may be served by electronic transmission, in accordance with *The Queen's Bench Rules*, if the person being served has provided that person's agreement to the office with respect to service by electronic transmission.

(2) In accordance with *The Queen's Bench Rules*, the court may make an order for substituted service or an order dispensing with service with respect to any notice or document that is required by this Act to be served, including a summons issued pursuant to section 51.

(3) In accordance with *The Queen's Bench Rules*, the Provincial Court of Saskatchewan may make an order for substituted service or an order dispensing with service with respect to a summons that is returnable in that court.

(4) Where a proceeding is brought to enforce a maintenance order, the person commencing the proceeding is not required to prove that the payor was served with the maintenance order.

(5) A demand made pursuant to subsection 13(1) or a notice of seizure must be served:

- (a) by personal service made:
 - (i) in the case of an individual, on that individual;
 - (ii) in the case of a partnership, on any partner; or
 - (iii) in the case of a corporation, on any officer or director of the corporation;
- (b) by ordinary mail;
- (c) by registered mail;
- (d) by fax:
 - (i) in the case of a demand made pursuant to subsection 13(1):
 - (A) to a fax number provided by the person or public body to be served; or
 - (B) if the person or public body is a corporation, to a fax machine located where the corporation carries on business; and

- (ii) in the case of a notice of seizure:
 - (A) to a fax number provided by the account debtor; or
 - (B) if the account debtor is a corporation, to a fax machine located where the corporation carries on business;
 - (e) by any other prescribed means; or
 - (f) in any case where the court is satisfied that it is not practicable to effect service by any of the means mentioned in clauses (a) to (e), by any method that the court may direct.
- (6) A notice or demand sent by ordinary mail or registered mail pursuant to subsection (5) is deemed to have been served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of his or her own, the person did not receive the notice or demand or received it at a later date.

1997, c.E-9.21, s.60; 2002, c.4, s.13; 2004, c.8, s.12; 2012, c.13, s.26; 2015, c.22, s.7; 2020, c.4, s.9.

Presumption of payor's ability to pay

61 In any proceedings brought pursuant to this Act, the payor is presumed to have the ability to pay the arrears and to make subsequent payments pursuant to the maintenance order.

1997, c.E-9.21, s.61; 2009, c.17, s.49.

Statements, signature of director as evidence

62(1) A statement of account signed by the director is admissible in evidence as proof, in the absence of evidence to the contrary, of the arrears without prior notice to the other party.

(2) A statement signed by the director that a maintenance order is filed in the office or that an assignment pursuant to section 6 is filed in the office is admissible in evidence as conclusive proof of the facts contained in the statement.

(3) Any document signed by the director with respect to the enforcement of a maintenance order is admissible in evidence without proof of the signature or official character of the director.

(4) Where the signature of the director is required for the purposes of this Act, the signature may be written, engraved, lithographed or reproduced by any other mode of reproducing words in visible form.

1997, c.E-9.21, s.62; 2012, c.13, s.27.

Proof of default

63 In an action brought on default of an obligation pursuant to a maintenance order, proof of the default may be made:

- (a) by oral or affidavit evidence; or
- (b) by other evidence that the judge may allow.

1997, c.E-9.21, s.63.

Evidence of witnesses

63.1 Notwithstanding any Act or law, in a proceeding to enforce a maintenance order, the court may admit and rely on any evidence, including hearsay evidence, that the court considers credible, trustworthy and relevant to the proceeding.

2004, c.8, s.13.

Affidavits of arrears sworn, etc., outside Saskatchewan

64(1) Notwithstanding section 27 of *The Evidence Act*, an affidavit of arrears required by this Act that is sworn, affirmed or made in a jurisdiction other than Saskatchewan before a person authorized to administer oaths in that jurisdiction is as valid, and has the same effect, as if it had been sworn, affirmed or made in Saskatchewan before a commissioner for oaths.

(2) A document purporting to be signed by a person described in subsection (1) is admissible in evidence without proof of the signature or official character of the person.

1997, c.E-9.21, s.64; 2006, c.E-11.2, s.69.

Capacity of minor who is a spouse

65 A minor who is a spouse has the capacity to commence, conduct and defend a proceeding and initiate and complete steps for enforcement of a maintenance order without the intervention of a litigation guardian.

1997, c.E-9.21, s.65.

Action for arrears

66(1) Notwithstanding *The Limitations Act*, there is no limitation period respecting the enforcement of arrears of any payment pursuant to a maintenance order.

(2) Subsection (1) applies only to those arrears that exist on or after November 1, 1996.

1997, c.E-9.21, s.66; 2004, c.16, s.4.

Debt no defence

67 The fact that a payor is in debt or has paid debts is not a defence to proceedings brought to enforce a maintenance order.

1997, c.E-9.21, s.67; 2009, c.17, s.49.

Claim on estate – default

68(1) Subject to section 69, if a payor dies and, at the time of his or her death, the payor is in default of any payments pursuant to a maintenance order, the amount in default is a debt of the estate of the payor and recoverable by the recipient from the estate.

(2) Subject to section 69, if the person in whose favour a maintenance order was made dies, his or her personal representative, the minister or the director may recover any payments pursuant to a maintenance order that are in default at the time of the death of that person.

1997, c.E-9.21, s.68; 2009, c.17, s.49.

Relief of obligation to pay default

69(1) Subject to subsection (2), if moneys are recoverable pursuant to section 68, a judge of the court in which the maintenance order was made or registered may relieve the payor or, if the payor has died, the payor's estate of the obligation to pay, in whole or in part, the amount in default.

(2) Subsection (1) applies where the judge is satisfied that:

(a) having regard to the interests of the payor or the payor's estate, as the case may be, it would be grossly unfair and inequitable not to relieve the obligation to pay;

(b) having regard to the interests of the person in whose favour the maintenance order was made or his or her estate, as the case may be, it is justified;

(c) having regard to the interests of other dependants of the payor, interference with the claim of the estate of the person in whose favour the maintenance order was made or the claim of the minister is justified.

(3) An application for an order pursuant to subsection (1) may be made by any interested person.

1997, c.E-9.21, s.69; 2009, c.17, s.49.

Communications not privileged

70 Notwithstanding any other Act, rule or law, in any proceedings brought pursuant to this Act, a person is compellable to disclose a communication made to him or her by his or her spouse.

1997, c.E-9.21, s.70.

Witnesses

71(1) A judge or clerk of the Provincial Court of Saskatchewan may issue a writ of *subpoena ad testificandum* or *subpoena duces tecum* to any witness to be served in Saskatchewan, and the person subpoenaed, on being tendered the appropriate conduct money shall attend in the manner, at the place and at the time required by the subpoena.

(2) A subpoena issued pursuant to subsection (1) may be served by any person by showing it to the witness and delivering to him or her a copy of the writ, together with the appropriate conduct money.

(3) A subpoena issued pursuant to subsection (1) has the force and effect of a subpoena issued out of the Court of Queen's Bench, and any witness who does not attend in obedience to a subpoena is liable in the same manner as if he or she disobeyed a subpoena issued out of the Court of Queen's Bench.

1997, c.E-9.21, s.71.

Regulations

72 The Lieutenant Governor in Council may make regulations:

(a) prescribing forms required by this Act;

(b) prescribing forms and procedures for making and keeping records, returns and reports with respect to the director's responsibilities;

- (b.01) prescribing other items that are to be included pursuant to clause (b) of the definition of ‘maintenance order’ as defined in subsection 2(1);
- (b.1) for the purposes of subsections 11.1(1) and (2), prescribing the rate of interest, the manner of calculating interest and the date from which interest is to be calculated on arrears pursuant to maintenance orders;
- (c) for the purposes of clause 12(2)(b), prescribing a maximum amount of arrears or a manner of determining a maximum amount of arrears or both that may be enforced by continuing seizure of account;
- (d) respecting the information that can be disclosed pursuant to section 14 and the purposes for which it can be disclosed;
- (e) with respect to the disclosure of financial information, including prescribing the information respecting a payor’s pension entitlement or annuity that is to be provided for the purposes of clauses 37(1)(a) and 40.7(1)(a);
- (e.1) for the purposes of subclause 40.4(1)(a)(ii), governing the manner of calculating the cost of complying with an attachment.
- (f) designating officers of the Crown or classes of officers who are to be served pursuant to this Act;
- (g) providing for exemptions or partial exemptions from seizure pursuant to this Act or the *Family Orders and Agreements Enforcement Assistance Act* (Canada);
- (h) prescribing fees the director may charge for his or her services pursuant to this Act and the persons or classes of persons who are required to pay those fees;
- (h.1) prescribing other means of service of documents required to be served pursuant to this Act;
- (i) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations.

1997, c.E-9.21, s.72; 2002, c.4, s.14; 2004, c.8, s.14; 2009, c.17, s.48; 2012, c.13, s.28; 2020, c.4, s.10.

PART V

Repeal, Transitional and Coming into force

S.S. 1984-85-86, c.E-9.2 repealed

73 *The Enforcement of Maintenance Orders Act* is repealed.

1997, c.E-9.21, s.73.

Transitional

74(1) In this section, “**former Act**” means *The Enforcement of Maintenance Orders Act* as that Act existed on the day before this Act comes into force. (*«ancienne loi»*)

(2) Any maintenance order filed in the office pursuant to the former Act that has not been withdrawn or terminated and that is still in force on the day this Act comes into force is deemed to have been filed pursuant to this Act and may be dealt with pursuant to this Act as if it had been filed pursuant to this Act.

(3) Any document issued, filed or served, or any proceeding commenced pursuant to the former Act that is still in force on the day this Act comes into force is deemed to have been issued, filed, served or commenced pursuant to this Act and may be dealt with as if issued, filed, served or commenced pursuant to this Act.

1997, c.E-9.21, s.74.

Coming into force

75 This Act comes into force into proclamation.

1997, c.E-9.21, s.75.

