

# *The Family Maintenance Act, 1997*

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Chapter F-6.2 of the *Statutes of Saskatchewan, 1997* (effective March 1, 1998) as amended by the *Statutes of Saskatchewan, 2001, c.51; 2002, c.I-10.03 and c.5; 2004, c.16 and c.66; 2006, c.31; 2012, c.24; 2015, c.22; 2016, c.29; 2018, c.18 and c.43; 2020, c.2 and c.4; and 2023, c.26 and c.28.*

**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 F-6.2

### An Act respecting Child and Spousal Maintenance

#### SHORT TITLE AND INTERPRETATION

##### Short title

1 This Act may be cited as *The Family Maintenance Act, 1997*.

##### Interpretation

2 In this Act:

**“agreement”** means an agreement with respect to a matter that is dealt with in this Act that is:

- (a) made in writing; and
- (b) signed by the parties; (*«accord»*)

**“birth parent”** means, in relation to a child, the person who gives birth to the child; (*«parent de naissance»*)

**“child”** means:

- (a) a person who is under the age of 18 years; or
- (b) a person who is 18 years of age or older and unable, by reason of illness, disability, pursuit of reasonable education or other cause, to withdraw from a parent’s charge or to obtain the necessaries of life; (*«enfant»*)

**“claimant”** means a person seeking maintenance pursuant to this Act; (*partie requérante*)

**“court”** means:

- (a) the Provincial Court of Saskatchewan; or
- (b) the Family Law Division of the Court of King’s Bench; (*«tribunal»*)

**“dependant”** means the person for whom maintenance is sought or ordered to be paid pursuant to this Act; (*«personne à charge»*)

**“family arbitrator”** means family arbitrator as defined in section 2 of *The Arbitration Act, 1992*; (*«arbitre familial»*)

“**family mediator**” means family mediator as defined in section 7-4 of *The King’s Bench Act*; (« *médiateur familial* »)

“**guidelines**” means the guidelines established or adopted pursuant to the regulations; (« *lignes directrices* »)

“**maintenance**” includes support and alimony; (« *aliments* »)

“**parent**” means:

- (a) a parent as defined in *The Children’s Law Act, 2020*; or
- (b) a person who has demonstrated a settled intention to treat a child as a child of the person’s family, other than a person who is providing foster care services as defined in *The Child and Family Services Act*; (« *père ou mère* » ou « *parent* »)

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

“**respondent**” means a person against whom proceedings are taken pursuant to this Act; (« *partie intimée* »)

“**spousal relationship**” includes a relationship of two persons who have cohabited as spouses:

- (a) continuously for a period of not less than two years; or
- (b) in a relationship of some permanence if they are the parents of a child; (« *relation conjugale* »)

“**spouse**” means:

- (a) the legally married spouse of a person;
- (b) a party to a marriage that is voidable and has not been voided by a judgment of nullity or dissolution of marriage;
- (c) for the purpose of proceedings to enforce or vary an order, a party to a marriage with respect to which an order for divorce, dissolution of marriage or decree of nullity has been made; or
- (d) a person who has cohabited with another person as spouses:
  - (i) continuously for a period of not less than two years; or
  - (ii) in a relationship of some permanence, if they are the parents of a child; (« *conjoint* »)

## SUPPORT OBLIGATIONS

**Obligation to support child**

3(1) Every parent of a child has an obligation to provide maintenance for the child to the extent that the parent is capable of doing so.

(2) Subject to subsections (4) and (5), the amount of maintenance to be provided pursuant to the obligation mentioned in subsection (1) is to be determined in accordance with the guidelines.

(3) On application, the court shall order maintenance for a child in accordance with the guidelines.

(4) Notwithstanding subsection (3), the court may order maintenance for a child in an amount that differs from the amount that would be in accordance with the guidelines if the court is satisfied that:

(a) special provisions in an order, judgment or written agreement respecting the financial obligations of the parents, or respecting the division or transfer of their property, directly or indirectly benefit a child or that special provisions have otherwise been made for the benefit of a child; and

(b) the application of the guidelines would result in an amount of maintenance that is inequitable given those special provisions.

(5) If, pursuant to subsection (4), the court orders maintenance for a child in an amount that differs from the amount that would be in accordance with the guidelines, the court shall record its reasons for doing so.

(6) Notwithstanding subsection (3), the court may order maintenance for a child in an amount that differs from the amount that would be in accordance with the guidelines if:

(a) the parents consent; and

(b) the court is satisfied that reasonable arrangements have been made for the maintenance of the child.

(7) The court may make an order for maintenance for a child against more than one parent of the child.

2023, c26, s.4.

**4 Repealed.** 2023, c26, s.4.

**Spousal maintenance**

5(1) On application, the court may order a person to provide maintenance for the person's spouse, in accordance with need, to the extent that the person is capable of doing so.

(2) An order for the maintenance of a spouse should:

- (a) recognize any economic advantages or disadvantages to the spouses arising from the spousal relationship or its breakdown;
- (b) relieve any economic hardship of the spouses arising from the breakdown of the spousal relationship; and
- (c) insofar as practicable, promote the economic self-sufficiency of each spouse within a reasonable period of time.

1997, c.F-6.2, s.5; 2001, c.51, s.5; 2015, c.22, s.8;  
2023, c26, s.5.

**Priority of applications**

6(1) If a court is considering an application pursuant to section 3 for a child maintenance order and an application pursuant to section 5 for a spousal maintenance order, the court shall give priority to the application pursuant to section 3.

(2) If, as a result of giving priority to an application pursuant to section 3 for a child maintenance order, a spousal maintenance order is not made or the amount of a spousal maintenance order is less than it otherwise would have been:

- (a) the court shall record its reasons for not making the spousal maintenance order or making the amount of the spousal maintenance order less than it otherwise would have been; and
- (b) any subsequent reduction or termination of the child maintenance order made pursuant to section 3 constitutes a change of circumstances for the purposes of, as the case may be:
  - (i) an application pursuant to section 5 for a spousal maintenance order; or
  - (ii) an application pursuant to section 10 for a variation order respecting the spousal maintenance order.

2023, c26, s.6.

**Amount of maintenance**

7(1) In determining the amount, if any, of maintenance to be paid for a dependent spouse, the court shall take into account the needs, means and economic circumstances of the parties, including:

- (a) the age and the physical and mental health of the spouses;
- (b) the length of time the spouses cohabited;
- (c) the measures available for the dependent spouse to become financially independent and the length of time and cost involved to enable the dependent spouse to take those measures; and
- (d) the legal obligation of the respondent to provide maintenance for any other person.

(2) In determining the amount, if any, of maintenance to be paid for a dependant, the court shall not take into account any benefit that the ministry responsible for the administration of *The Saskatchewan Assistance Act* provides to or for the maintenance of the dependant.

1997, c.F-6.2, s.7; 2004, c.66, s.5; 2018, c 43, s.9.

#### Orders re assets

8(1) On application by a claimant, the Court of King's Bench may make an interim or final order restraining the disposition or wasting of assets that would impair or defeat a claim pursuant to this Act.

(2) An application pursuant to this section may be made without notice, at the discretion of the court.

1997, c.F-6.2, s.8; 2018, c 43, s.9; 2023, c28, s.17-13.

### ORDER FOR MAINTENANCE

#### Powers of court

9(1) On an application pursuant to this Act, the court may make an interim or final order on any terms and conditions that the court considers appropriate, including one or more of the following provisions:

- (a) that an amount be paid periodically, either for an indefinite or limited period, or until a specified event occurs;
- (b) that a lump sum be paid or held in trust on any conditions the court considers appropriate;
- (c) that maintenance be paid with respect to any period before the date of the order;
- (d) that a person who has a life insurance policy within the meaning of *The Insurance Act*:
  - (i) designate the person's dependant as a beneficiary irrevocably or for the period designated by the court; and
  - (ii) pay all premiums on the policy;
- (e) that a person who has an interest in a pension plan or other benefit plan designate the person's dependant as a beneficiary under the plan and not change that designation;
- (f) if a parent is ordered to pay maintenance for a child and whether or not the parents of the child are spouses, that the parent pay in addition:
  - (i) expenses of the birth parent of the child with respect to prenatal care and the birth of the child;
  - (ii) maintenance for the birth parent of the child for a period not exceeding 3 months immediately preceding the birth of the child; and
  - (iii) maintenance for the birth parent of the child during any period after the birth of the child, not exceeding 6 months, that the court may determine as a period during which, by reason of the birth of the child, the parent ought to contribute to the maintenance of the birth parent;

- (g) that costs incurred in obtaining an order pursuant to this Act be paid;
  - (h) that payment pursuant to the order be secured by a mortgage on land, security, deposit or bond in any form that the court directs.
- (2) A provision of an agreement entered into by the parties may be incorporated into an order made pursuant to this Act.
- (3) An order for maintenance pursuant to subclauses (1)(f)(i) and (ii) may be made before or after the birth of the child and whether or not the child survives the birth.

1997, c.F-6.2, s.9; 2020, c.2, s.87; 2023, c.26, s.7.

#### Variation

**10(1)** Where an order for maintenance has been made pursuant to this Act or any previous Act which provided for maintenance for a child, spouse or parent of a child, and the court is satisfied that there has been a material change in circumstances since the order was made, the court, on application, may:

- (a) discharge, vary or suspend any term of the order, prospectively or retroactively;
  - (b) relieve the respondent from the payment of part or all of the arrears;
  - (c) order that an irrevocable designation of a beneficiary under a life insurance policy, pension plan or other benefit plan be revoked; or
  - (d) make any other order pursuant to section 9 that the court considers appropriate in the circumstances.
- (2) Notwithstanding subsection (1), before the court makes an order mentioned in subsection (1) with respect to an order pursuant to section 3, the court shall satisfy itself that a change of circumstances provided for in the guidelines has occurred.
- (3) Notwithstanding subsection (1), where a spousal maintenance order provides for maintenance for a definite period or until a specified event occurs, a court shall not, on an application instituted after the expiration of that period or the occurrence of the event, make a variation order for the purpose of resuming that maintenance unless the court is satisfied that:
- (a) a variation order is necessary to relieve economic hardship arising from a material change in circumstances that is related to the spousal relationship; and
  - (b) the changed circumstances, had they existed at the time of the making of the maintenance order or the last variation order made with respect to that order, as the case may be, would likely have resulted in a different order.
- (4) An application pursuant to this section shall be made:
- (a) if the order in question was made by the Provincial Court of Saskatchewan:
    - (i) to the Court of King's Bench, if the proceeding is brought in a place or area designated pursuant to clause 15-1(1)(s) of The King's Bench Act; or
    - (ii) to the Court of King's Bench or the Provincial Court of Saskatchewan, if the proceeding is brought in a place or area designated pursuant to clause 15-1(1)(t) of The King's Bench Act; or

(b) if the order in question was made by the Court of King's Bench, to the Court of King's Bench at any judicial centre.

1997, c.F-6.2, s.10; 2001, c.51, s.5; 2004, c.66, s.5; 2020, c2, s.87; 2023, c26, s.8; 2023, c28, s.17-6.

#### **Filing agreement**

**11(1)** A person who is a party to an agreement made before or after this Act comes into force which includes provisions for maintenance for a child, spouse or parent of a child may file the agreement in the Court of King's Bench together with an affidavit stating that the agreement:

- (a) is in effect; and
- (b) has not been set aside or varied by a court, an extraprovincial tribunal or another agreement.

(2) A provision for maintenance contained in an agreement filed pursuant to subsection (1) may be enforced as if it were an order of the Court of King's Bench.

(3) Subsections (1) and (2) apply despite an agreement to the contrary.

(4) Subsection (2) applies to arrears accrued after December 1, 1990 and before or after the agreement is filed.

1997, c.F-6.2, s.11; 2015, c.22, s.12; 2020, c2, s.87; 2023, c26, s.9; 2023, c28, s.17-13.

## APPLICATION

#### **Standing to make application**

**12(1)** A child, or any person on behalf of a child, may apply pursuant to this Act for a child maintenance order or for a variation order respecting a child maintenance order.

(2) A spouse or parent who is a minor has the capacity to commence, conduct and defend a proceeding pursuant to this Act without the intervention of a litigation guardian.

(3) An application pursuant to this Act, may be made by the minister responsible for the administration of *The Saskatchewan Assistance Act*, in the name of the minister in the minister's official capacity or in the name of the dependant, if the ministry over which the minister presides is providing a benefit to or for the maintenance of the dependant.

1997, c.F-6.2, s.12; 2004, c.66, s.5; 2018, c43, s.9; 2023, c26, s.10.

#### **Application in Provincial Court**

**13(1)** An application made in the Provincial Court of Saskatchewan pursuant to this Act may be commenced by the filing of a notice of application in the prescribed form.

(2) On receiving the notice of application mentioned in subsection (1), the court shall issue a notice to appear in the prescribed form for service on each respondent, requiring each respondent to appear at the time and place described in the notice to appear.

(3) The notice to appear shall be served, and the application shall be heard, in accordance with the prescribed procedures.

1997, c.F-6.2, s.13; 2023, c26, s.11.

#### **Application in Court of King's Bench**

**14** An application made in the Court of King's Bench pursuant to this Act may be commenced:

(a) in the form and manner required by and is subject to the King's Bench Rules applicable to family law proceedings; or

(b) in any other manner that the court may permit.

1997, c.F-6.2, s.14; 2023, c26, s.12; 2023, c28, s.17-13.

#### **Mediation**

**15(1)** On an application by a claimant or a respondent pursuant to this Act, the court, by order, may appoint a family mediator to mediate a matter that is:

(a) dealt with in the application; and

(b) in dispute between the parties.

(2) No person shall be appointed as a family mediator without that person's consent.

(3) Except with the written consent of the family mediator and all parties to the proceeding in which the family mediator acted, the following types of evidence are not admissible in any civil, administrative, regulatory or summary conviction proceeding:

(a) evidence directly arising from anything said in the course of mediation;

(b) evidence of anything said in the course of mediation;

(c) evidence of an admission or communication made in the course of mediation.

(4) The court shall specify in an order made pursuant to subsection (1) the amount of the family mediator's fees and expenses that each party is required to pay.

(5) The court may order that one party pay all of the family mediator's fees and expenses if the court is satisfied that payment would cause the other party serious financial hardship.

(6) If the family mediator and the parties are unable to resolve the matter, either party, at any time after the first mediation session, may discontinue the mediation and proceed to have the matters in dispute between the parties resolved by the court.

2018, c 18, s.3.

**Arbitration**

**15.1(1)** A family arbitrator may conduct an arbitration in relation to a matter that is in dispute between the parties and to which this Act applies.

(2) Before initiating arbitration, the family arbitrator must:

(a) enter into a written agreement with the parties in accordance with *The Arbitration Act, 1992* to arbitrate the matter in dispute; and

(b) provide written confirmation to the parties that the family arbitrator meets the requirements for family arbitrators.

(3) The family arbitrator shall conduct the arbitration in accordance with the procedures set out in *The Arbitration Act, 1992*, with any necessary modification.

2018, c 18, s.3; 2023, c26, s.13.

**Duty of claimant's, respondent's lawyer**

**16(1)** It is the duty of every lawyer who undertakes to act on behalf of a claimant or respondent pursuant to this Act to:

(a) discuss with the claimant or respondent the advisability of using alternative methods to resolve the matters that are the subject of the application; and

(b) inform the claimant or respondent of the collaborative law services and mediation services known to the lawyer that might be able to assist the parties in resolving those matters.

(2) Every application presented to the court by a lawyer pursuant to this Act must contain a statement signed by the lawyer certifying that the lawyer has complied with subsection (1).

1997, c.F-6.2, s.16; 2012, c.24, s.3; 2023, c26, s.14.

**Jurisdiction of court**

**17(1)** No person who is a party to an application pursuant to this Act shall make another application pursuant to this Act to another court with respect to the same matter.

(2) A court may order that an application pursuant to this Act be transferred to another court having other jurisdiction where, in the first court's opinion, the other court is more appropriate to determine the matters in issue that should be determined at the same time.

1997, c.F-6.2, s.17.

**Closed hearing**

**18** Where, in the opinion of the court, the desirability of protecting against the consequences of possible disclosure of personal matters outweighs the desirability of holding a hearing in public, the court may:

(a) exclude the public from the hearing or any part of it; and

- (b) prohibit the publication of:
  - (i) any matter connected with the application or given in evidence at the hearing; or
  - (ii) any document filed with the court.

1997, c.F-6.2, s.18.

**Order in absence of respondent**

**19** The court may proceed in the absence of the respondent where:

- (a) an application is made pursuant to this Act;
- (b) notice of the application has been duly served on the respondent; and
- (c) the respondent fails to appear.

1997, c.F-6.2, s.19.

**Adjournment**

**20** The court may adjourn a hearing in whole or in part, from time to time, on any conditions that it may consider appropriate.

1997, c.F-6.2, s.20.

**Financial statements**

**21(1)** In this section and in section 23, “**court**” means the Provincial Court of Saskatchewan. (*«tribunal»*)

(2) Subject to subsection (3), when an application for maintenance is made pursuant to this Act, the claimant and the respondent shall serve on the other party and file with the court:

- (a) a financial statement in the prescribed form and completed in the prescribed manner; and
- (b) any other financial information or documents that the court may order.

(3) The financial statement mentioned in clause (2)(a) need not be filed and served where:

- (a) maintenance is sought only for a spouse; and
- (b) the parties consent.

(4) Where a party fails to file the financial information required pursuant to subsection (2), the court may draw whatever inferences appear to be reasonable having regard to all the circumstances.

1997, c.F-6.2, s.21; 2023, c26, s.15.

**Registration of order**

**22(1)** A maintenance order made by the Provincial Court of Saskatchewan pursuant to this Act or any previous Act that provides for maintenance for a child, spouse or parent of a child, or a copy of the order certified by the person who made the order or by a person acting on that person's behalf:

- (a) may be filed in the Court of King's Bench; and
- (b) on filing, may be enforced as an order of the Court of King's Bench.

(2) Without limiting the generality of clause (1)(b), an order filed pursuant to clause (1)(a) is deemed, for the purposes of *The Inter-jurisdictional Support Orders Act*, to be a support order as defined in that Act.

1997, c.F-6.2, s.22; 2002, c.I-10.03, s.48; 2020, c.2, s.87; 2023, c26, s.16; 2023, c28, s.17-13.

**Service**

**23(1)** Subject to subsections (2) and (3), any document required by this Act to be served may be served:

- (a) personally, by any adult, by delivering a copy of the document to the person to be served; or
- (b) by mailing to the person to be served a copy of the document by registered mail or certified mail.

(2) A document may be served on a person by leaving a copy with the person's lawyer if the lawyer accepts service by signing the lawyer's name on a true copy of the document and indicating that the lawyer is the lawyer for that person.

(3) The court may make an order for substituted or other service by letter, advertisement or otherwise as it considers reasonable or it may make an order dispensing with service where, on an application without notice, the court is satisfied that:

- (a) prompt service of a document cannot be effected;
- (b) the whereabouts of a person to be served cannot be determined; or
- (c) the person to be served is evading service.

1997, c.F-6.2, s.23; 2016, c29, s.4; 2018, c43, s.9; 2023, c26, s.17.

**Provisional order**

**24(1)** Every application for a provisional order or provisional order of variation within the meaning of *The Inter-jurisdictional Support Orders Act*:

- (a) is to be made to the Court of King's Bench at the judicial centre nearest to the place where the claimant resides; and
- (b) may be made in the absence of the respondent and without service of notice on the respondent or proof of the respondent's ability to pay.

(2) On an application mentioned in subsection (1), the judge may make any order that the judge might have made if the respondent had been served with notice of the application and failed to appear where:

- (a) it is proven that the respondent is resident in a reciprocating jurisdiction within the meaning of *The Inter-jurisdictional Support Orders Act*; and
- (b) after hearing the evidence, the judge is satisfied of the justice of the application.

1997, c.F-6.2, s.24; 2002, c.I-10.03, s.48; 2023, c26, s.18 and c28, s.17-13.

#### Appeal

**25(1)** An appeal lies from any order made 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 King's Bench or a judge of that court; or
- (b) to a judge of the Court of King's Bench if the order under appeal was made by the Provincial Court of Saskatchewan or a judge of that court.

(2) There is no appeal of an order made pursuant to clause (1)(b) or section 24, except by leave of the Court of Appeal or a judge of that court.

1997, c.F-6.2, s.25; 2023, c28, s.17-13.

#### No limitation

**26** Notwithstanding *The Limitations Act*, there is no limitation period respecting any proceedings pursuant to this Act.

2004, c.16, s.5.

#### Adding parties

**27(1)** Subject to subsection (2), in any proceeding concerning maintenance, the court, on the respondent's motion, may add as a party another person who may have an obligation to provide maintenance to the same dependant.

(2) The minister responsible for the administration of *The Saskatchewan Assistance Act* shall not be added as a party pursuant to this section.

1997, c.F-6.2, s.27; 2004, c.66, s.5; 2018, c 43, s.9.

## SASKATCHEWAN CHILD SUPPORT SERVICE

## Preliminary Matters

## Definitions for sections 27.1 to 27.9

27.1 In this section and in sections 27.11 to 27.9:

“**agreement**” means an agreement for child support or for maintenance of a child that is filed in accordance with section 11; (« *accord* »)

“**applicant**” means the person who applies to the child support service for a calculation or a recalculation of child support; (« *auteur de la demande* »)

“**calculated amount**” means the child support payable after calculation by the child support service; (« *aliments calculés* »)

“**calculation decision**” means a decision of the child support service made pursuant to section 27.24; (« *décision calculatoire* »)

“**child support order**” means:

- (a) an order for maintenance for a child made pursuant to this Act;
- (b) a child support order made pursuant to the *Divorce Act* (Canada);
- (c) an order for child support made pursuant to an enactment of another province or territory respecting family law if the order has been registered pursuant to *The Inter-jurisdictional Support Orders Act*;
- (d) an arbitration award for child support made pursuant to *The Arbitration Act, 1992*; or
- (e) a calculation determination or a recalculation determination respecting child support made by the calculation office or recalculation office of another jurisdiction in Canada;

but does not include a child support order that has no force or effect until it is confirmed by a court with jurisdiction to do so; (« *ordonnance d’entretien d’enfant* »)

“**child support service**” means the Saskatchewan Child Support Service continued pursuant to section 27.11; (« *service des aliments pour enfants* »)

“**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 *The Enforcement of Maintenance Orders Act, 1997*; (« *directeur* »)

“**manager**” means the manager of the child support service designated pursuant to section 27.11; (« *gestionnaire* »)

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

“**payor**” means a person who has an obligation to pay pursuant to a child support order, an agreement, a calculation decision or a recalculation decision; (« *payeur* »)

“**recalculated amount**” means the child support payable after recalculation by the child support service; (« *aliments recalculés* »)

“**recalculation decision**” means a decision of the child support service made pursuant to section 27.37; (« *décision recalculatoire* »)

“**recipient**” means:

- (a) the recipient of child support or maintenance for a child pursuant to a child support order, an agreement, a calculation decision or a recalculation decision; or
- (b) if an assignment of rights is made pursuant to section 6 of *The Enforcement of Maintenance Orders Act, 1997*, the minister as defined in that Act to the extent of the assignment. (« *réceptionnaire* »)

2023, c26, s.19.

#### **Child support service continued**

**27.11(1)** The Saskatchewan Child Support Recalculation Service established pursuant to the regulations, as the regulations existed on the day before the coming into force of this section, is continued as the Saskatchewan Child Support Service.

(2) The child support service may do all of the following:

- (a) calculate child support in accordance with this Act and the regulations;
- (b) recalculate child support in accordance with this Act and the regulations;
- (c) perform additional duties as required by the minister.

(3) The minister may designate, by order, any individual as the manager of the child support service.

2023, c26, s.19.

### **Administrative Calculation of Child Support**

#### **Application for calculation**

**27.2(1)** Subject to subsections (2) and (3) and the regulations, any of the following persons may apply to the child support service for a calculation of the amount of child support payable for the support of a child:

- (a) a parent of the child;
- (b) the child’s legal decision-maker as defined in *The Children’s Law Act, 2020*.

(2) An application for calculation must:

- (a) be in the form and manner required by the manager; and
- (b) include the prescribed information.

(3) No application for calculation shall be made unless the following requirements are met:

- (a) if the applicant is a parent of the child:
  - (i) the parents of the child live separate and apart; and
  - (ii) the child resides with one of the parents;
- (b) there is no order, agreement or calculation decision in effect respecting the amount of child support payable with respect to the child;
- (c) any other prescribed requirement.

2023, c26, s.19.

**Decline to calculate**

**27.21(1)** The child support service may decline an application for calculation of the amount of child support payable if:

- (a) the application is not made in accordance with this Act and the regulations;
- (b) the child support service is aware that a date has been set for the court to hear an application respecting the amount of child support payable; or
- (c) in the opinion of the child support service, calculation:
  - (i) may be impracticable or too complex for the child support service to perform; or
  - (ii) may, in the circumstances, produce an unjust result.

(2) The child support service shall not calculate the amount of child support payable until the child support service is satisfied that the other party is aware of the application.

(3) If the child support service declines an application for calculation, it shall notify the applicant.

2023, c26, s.19.

**Response to application**

**27.22** If an application for calculation meets the requirements of this Act and the regulations:

- (a) the child support service shall notify the other party; and
- (b) the other party shall provide to the child support service, within the prescribed period, the income information and any other information that is required by the regulations, in the form and manner required by the manager.

2023, c26, s.19.

**Calculated amount**

**27.23** After the child support service receives the prescribed information from each party, in the form and manner required by the manager, the child support service shall:

- (a) determine the income of the payor in accordance with the regulations; and
- (b) calculate the amount of child support payable in accordance with the guidelines.

2023, c26, s.19.

**Calculation decision**

**27.24(1)** The child support service shall provide the payor and the recipient with a calculation decision showing:

- (a) the amount of child support payable, if any;
  - (b) the date on which the first payment is due, as determined in accordance with the regulations; and
  - (c) any other prescribed information.
- (2) If a calculation decision is filed with the court, the calculation decision:
- (a) has the same effect as an agreement filed with the court pursuant to section 11, including for the purposes of enforcement; and
  - (b) may be recalculated in the same manner as an agreement.

2023, c26, s.19.

**Correction**

**27.25(1)** If, after the child support service issues a calculation decision, the child support service discovers a mistake in the calculation decision, including a clerical error, the child support service may:

- (a) correct the mistake and issue an amended calculation decision; or
  - (b) if the decision should not have been issued, issue a notice that the decision has been revoked.
- (2) A calculated amount that has been corrected pursuant to this section takes effect on the day on which the calculated amount would have taken effect if there had been no mistake.
- (3) An amended calculation decision or a notice of revocation mentioned in subsection (1) must be sent to the payor and the recipient.
- (4) If the payor or the recipient disagrees with a calculated amount that has been corrected pursuant to this section, the person may apply to the court in accordance with section 27.26.

2023, c26, s.19.

**Application to court**

**27.26** The payor or the recipient who does not agree with the calculated amount may apply to the court within 30 days after receiving notification respecting the calculated amount for an order pursuant to section 3.

2023, c26, s.19.

### **Administrative Recalculation of Child Support**

**Mandatory clause concerning recalculation**

**27.3(1)** Subject to subsection (2), in making a child support order, the court or the family arbitrator, as the case may be, shall include the mandatory clause concerning recalculation that is prescribed for the purposes of this subsection.

(2) If, in making a child support order, the court or the family arbitrator, as the case may be, determines that a recalculation of the amount of child support payable under the child support order by the child support service would be inappropriate, the court or family arbitrator shall include the following clause in the child support order:

The amount of child support in this order shall not be recalculated by the Saskatchewan Child Support Service.

(3) If a child support order made on or after March 15, 2018 does not contain the clause required pursuant to subsection (1) or (2), the order is deemed to include the clause prescribed pursuant to subsection (1).

(4) Every agreement entered into on or after September 15, 2020 that does not expressly prohibit the amount of child support payable under the agreement to be recalculated by the child support service is deemed to contain the clause concerning recalculation that is prescribed for the purposes of this subsection.

2023, c26, s.19.

**Order directing recalculation by Director of Maintenance Enforcement**

**27.31** If the court orders the director to recalculate the amount of child support payable under a child support order, the recalculation may be performed by the child support service if the child support order is otherwise eligible for recalculation in accordance with this Act and the regulations.

2023, c26, s.19.

**Application for recalculation**

**27.32(1)** Subject to subsections (2) and (3) and the regulations, a payor or a recipient may apply to the child support service for a recalculation of the amount of child support payable under a child support order, an agreement, a calculation decision or a previous recalculation decision.

(2) An application for recalculation must:

- (a) be in the form and manner required by the manager; and
- (b) include the prescribed information.

(3) No payor or recipient shall apply for a recalculation until at least 6 months have expired since the date of the most recent order, agreement, calculation decision or recalculation decision respecting the amount of child support payable.

2023, c26, s.19.

**Decline to recalculate**

**27.33(1)** The child support service may decline an application for recalculation of the amount of child support payable if:

- (a) the child support order, agreement, calculation decision or previous recalculation decision, as the case may be, is not eligible for recalculation in accordance with section 27.34 or the regulations;
- (b) the child support service is aware that a date has been set for the court to hear an application respecting the amount of child support payable; or

- (c) in the opinion of the child support service, recalculation:
  - (i) may be impracticable or too complex for the child support service to perform; or
  - (ii) may, in the circumstances, produce an unjust result.
- (2) The child support service shall not recalculate the amount of child support payable until the child support service is satisfied that both the payor and the recipient are aware of the application.
- (3) Nothing in a court order shall be construed so as to prevent the child support service from declining an application for recalculation in accordance with this section.
- (4) If the child support service declines an application for recalculation, it shall notify the applicant.

2023, c26, s.19.

#### **Eligibility for recalculation**

**27.34(1)** Subject to subsection (2), on receiving an application for recalculation, the child support service may recalculate the amount of child support payable:

- (a) under a child support order, if the child support order was made on or after May 1, 1997;
  - (b) under an agreement, if the agreement was made on or after March 15, 2018;
  - (c) under a calculation decision made on or after the date on which this section comes into force; or
  - (d) under a recalculation decision made on or after March 15, 2018.
- (2) Subsection (1) does not apply with respect to a child support order, agreement, calculation decision or recalculation decision that is prescribed by the regulations as being ineligible for recalculation pursuant to this section.

2023, c26, s.19.

#### **Response to application**

**27.35** If an application for recalculation meets the requirements of this Act and the regulations:

- (a) the child support service shall notify the other party; and
- (b) the other party shall provide to the child support service, within the prescribed period, any information that is required by the regulations, in the form and manner required by the manager.

2023, c26, s.19.

#### **Recalculated amount**

**27.36** Subject to section 27.41, after the child support service receives the information that is required pursuant to clause 27.35(b), the child support service shall:

- (a) determine the income of the payor; and
- (b) recalculate the amount of child support payable in accordance with the guidelines.

2023, c26, s.19.

**Recalculation decision**

**27.37(1)** If recalculation produces a change in the amount of child support payable, the child support service shall provide the payor and the recipient with a recalculation decision showing:

- (a) the recalculated amount payable;
- (b) the date on which the first payment is due, as determined in accordance with the regulations; and
- (c) any other prescribed information.

(2) If recalculation produces no change in the amount of child support payable, or a difference of less than the prescribed amount, the child support service shall notify the payor and the recipient that there is no change in the amount of child support payable.

(3) Whether a recalculation decision results in a change in the amount of child support payable or not, the child support service:

- (a) shall file the recalculation decision with the court; and
- (b) may send the recalculation decision to the director.

2023, c26, s.19.

**Correction**

**27.38(1)** If, after the child support service issues a recalculation decision, the child support service discovers a mistake in the recalculation decision, including a clerical error, the child support service may:

- (a) correct the mistake and issue an amended recalculation decision; or
- (b) if the decision should not have been issued, issue a notice that the decision has been revoked.

(2) A recalculated amount that has been corrected pursuant to this section takes effect on the day on which the recalculated amount would have taken effect if there had been no mistake.

(3) An amended recalculation decision or a notice of revocation mentioned in subsection (1):

- (a) must be sent to the payor and the recipient;
- (b) must be filed with the court; and
- (c) may be sent to the director in accordance with clause 27.37(3)(b).

(4) If the payor or the recipient disagrees with a recalculated amount that has been corrected pursuant to this section, the person may apply to the court in accordance with section 27.4.

2023, c26, s.19.

**Recalculation deemed to be part of order, agreement or calculation decision**

**27.39** Subject to subsection 25.1(5) of the *Divorce Act* (Canada), on the date on which the first payment is due pursuant to a recalculation decision, the recalculated amount is deemed to be the amount of child support payable under a child support order, an agreement or a calculation decision, as the case may be.

2023, c26, s.19.

**Application to court**

27.4(1) The payor or the recipient under a child support order who does not agree with the recalculated amount may apply to the court within 30 days after receiving notification respecting the recalculated amount:

- (a) to discharge, vary or suspend the child support order in accordance with section 10; or
  - (b) to vary, rescind or suspend the child support order in accordance with the *Divorce Act* (Canada).
- (2) The payor or the recipient under an agreement or a calculation decision who does not agree with the recalculated amount may apply to the court within 30 days after receiving notification respecting the recalculated amount for an order pursuant to section 3.
- (3) An application pursuant to subsection (1) or (2) must:
- (a) state that the person applying does not agree with the recalculated amount; and
  - (b) include a copy of the recalculation decision received pursuant to section 27.37 or the amended recalculation decision received pursuant to section 27.38, as the case may be.
- (4) At the time an application pursuant to subsection (1) or (2) is commenced, the person who commenced the application shall notify the child support service in writing and include:
- (a) a copy of any document filed with the court to commence the application; and
  - (b) if a date has been set for the court to hear the application, the date, time and place of the hearing.
- (5) If an application has been commenced pursuant to subsection (1) or (2), the operation of the recalculation decision is suspended and the amount of child support payable under the child support order, agreement, calculation decision or previous recalculation decision, as the case may be, continues in effect as if the recalculation decision had not been made.
- (6) If an application commenced pursuant to subsection (1) or (2) is withdrawn or is dismissed by the court, the recalculated amount is due in accordance with the recalculation decision as if the application had not been commenced.
- (7) For the purposes of this section, commencing an application includes complying with any mandatory prerequisites or requirements of the court with respect to the application.

2023, c26, s.19.

**Recalculation without updated income information**

27.41(1) If a payor fails to provide the payor's income information when required pursuant to the regulations, the deemed income of the payor is the sum of:

- (a) the payor's income used to determine the current amount of child support payable; and
- (b) the amount equal to the product obtained by multiplying the payor's income described in clause (a) by the applicable percentage determined in accordance with subsection (2).

(2) The applicable percentage is to be determined based on the amount of time that has elapsed since the payor's income was last determined in accordance with clause (1)(a) as follows:

- (a) if less than 2 years has elapsed, 10%;
- (b) if 2 years or more but less than 5 years has elapsed, 15%;
- (c) if 5 years or more but less than 10 years has elapsed, 20%;
- (d) if 10 years or more has elapsed, 30%.

(3) With respect to a child support order made pursuant to the *Divorce Act* (Canada) before March 15, 2018, the manager may apply to the court, on the notice that the court directs, for an order respecting the determination of the payor's income for the purposes of recalculation if:

- (a) the payor fails to provide to the child support service the payor's income information when required pursuant to the regulations; and
- (b) no other person provides to the manager the prescribed income information relating to the payor or, if the prescribed income information relating to the payor has been provided, the manager is not satisfied with the information.

(4) With respect to an agreement made before September 15, 2020, the manager may apply to the court, on the notice that the court directs, for an order respecting the determination of the payor's income for the purposes of recalculation if:

- (a) the payor fails to provide to the child support service the payor's income information when required pursuant to the regulations; and
- (b) no other person provides to the manager the prescribed income information relating to the payor or, if the prescribed income information relating to the payor has been provided, the manager is not satisfied with the information.

2023, c26, s.19.

## General

### Notices

**27.5(1)** Any notice or information that the child support service is required to provide shall be provided in the prescribed manner.

(2) Any notice or information that is required to be provided to the child support service in writing shall be provided in the prescribed manner.

2023, c26, s.19.

### Access to information

**27.6(1)** The child support service may, in writing, request any person, including an applicant, a payor, a recipient or any public body, including the Crown, who is in possession or control of information relating to the applicant, the other party, the payor or the recipient, to provide the income information and any other information that is required by the regulations to the child support service within the prescribed period.

(2) The child support service shall serve a request pursuant to subsection (1) in the prescribed manner.

(3) Notwithstanding any provision in any Act or regulation, a person or any public body, including the Crown, served with a request pursuant to subsection (1) shall provide the requested information to the child support service within the prescribed period.

(4) If the child support service does not receive the requested information within the prescribed period, the child support service may take any action it considers advisable, including the following:

(a) applying to the court for an order pursuant to subsection (5);

(b) recalculating the amount of child support payable on the basis of a payor's deemed income pursuant to section 27.41, if the payor has not provided the requested information.

(5) On an application by the manager, the court may make an order, subject to any terms and conditions that the court considers advisable, compelling a person or any public body, including the Crown, to give the requested information to the child support service.

2023, c26, s.19.

#### **Immunity**

**27.7** No action or proceeding lies or shall be commenced against the Crown, the minister, the manager, the child support service or an employee of the child support service for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons 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 order made pursuant to this Act or any duty imposed by this Act or the regulations.

2023, c26, s.19.

#### **Disclosure of information**

**27.8** Except in accordance with this Act and the regulations, no person shall disclose any information retained by the child support service.

2023, c26, s.19.

#### **Prospective calculation**

**27.9** Subject to subsections 27.25(2) and 27.38(2), amounts calculated or recalculated by the child support service are payable on a prospective basis only, and no consideration shall be given to any amount that may be owing to any party for the support of the child at the time of the calculation or recalculation.

2023, c26, s.19.

## REGULATIONS

**Regulations**

**28** The Lieutenant Governor in Council may make regulations:

- (a) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;
- (b) prescribing forms for the purposes of this Act and the regulations;
- (c) respecting applications for maintenance made to the court pursuant to this Act;
- (d) prescribing procedures for hearing applications for maintenance in the Provincial Court of Saskatchewan;
- (e) adopting, in whole or in part and as amended from time to time or otherwise, guidelines for maintenance orders pursuant to section 3 or establishing guidelines for maintenance orders pursuant to section 3, including guidelines:
  - (i) respecting the manner in which the amount of a maintenance order is to be determined;
  - (ii) respecting the circumstances in which discretion may be exercised in the making of a maintenance order;
  - (iii) respecting the circumstances that give rise to the making of a variation order with respect to a maintenance order;
  - (iv) respecting the determination of income;
  - (v) authorizing the court to impute income;
  - (vi) respecting the production of income information and providing for sanctions when that information is not provided;
- (f) respecting the child support service and its structure, operations, duties and functions;
- (g) respecting applications to the child support service;
- (h) prescribing the income information and any other information to be provided to the child support service;
- (i) respecting the manner in which and the time within which notices and information may or must be provided to or by the child support service;
- (j) for the purposes of clause 27.24(1)(b), governing the determination of the date on which the first payment is due pursuant to a calculation decision;
- (k) prescribing additional information to be provided in a calculation decision for the purposes of clause 27.24(1)(c);
- (l) respecting the mandatory clauses mentioned in subsections 27.3(1) and (4);
- (m) prescribing the circumstances in which a child support order, an agreement, a calculation decision or a recalculation decision is not eligible for recalculation;
- (n) for the purposes of clause 27.37(1)(b), governing the determination of the date on which the first payment is due pursuant to a recalculation decision;

- (o) prescribing additional information to be provided in a recalculation decision for the purposes of clause 27.37(1)(c);
- (p) prescribing an amount for the purposes of subsection 27.37(2);
- (q) respecting applications to the court pursuant to section 27.26 or 27.4;
- (r) respecting the collection, use and disclosure of personal information by the child support service, including purposes for which information may be collected, used or disclosed by the manager;
- (s) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;
- (t) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

2023, c26, s.21.

#### REPEAL, TRANSITIONAL AND COMING INTO FORCE

##### S.S. 1990-91, c.F-6.1 repealed

**29** *The Family Maintenance Act* is repealed.

1997, c.F-6.2, s.29.

##### Transitional

**30** An application for maintenance made pursuant to *The Family Maintenance Act*, as that Act existed before the coming into force of this section, but not completed before this section comes into force, is continued and is to be dealt with pursuant to this Act as if it were made pursuant to this Act.

1997, c.F-6.2, s.30.

##### Coming into force

**31** This Act comes into force on proclamation.

1997, c.F-6.2, s.31.