



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **INTERJURISDICTIONAL SUPPORT ORDERS ACT**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to December 2, 2015. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## INTERJURISDICTIONAL SUPPORT ORDERS ACT

### CHAPTER I-4.2

#### 1. Definitions

In this Act

- (a) “**claimant**” means a person who applies under this Act for support;
- (b) “**designated authority**” means a person appointed as a designated authority under subsection 35(1) or delegated a power or duty under subsection 35(2);
- (c) “**Director**” means the Director of Maintenance Enforcement appointed under section 2 of the *Maintenance Enforcement Act* R.S.P.E.I. 1988, Cap. M-1;
- (d) “**former Act**” means the *Reciprocal Enforcement of Maintenance Orders Act* R.S.P.E.I. 1988, Cap. R-7;
- (e) “**interim order**” means a support order made by a court or an administrative body for a time-limited period;
- (f) “**provisional order**” means
  - (i) a support order of the Supreme Court that has no force or effect until confirmed by a court in a reciprocating jurisdiction, or
  - (ii) a similar order made in a reciprocating jurisdiction and received for confirmation in the province;
- (g) “**provisional order of variation**” means
  - (i) a variation of a support order by the Supreme Court that has no force or effect until confirmed by a court in a reciprocating jurisdiction, or
  - (ii) a similar order made in a reciprocating jurisdiction and received for confirmation in the province;
- (h) “**reciprocating jurisdiction**” means a jurisdiction declared by the regulations made under subsection 41(1) to be a reciprocating jurisdiction;
- (h.1) “**request to locate**” means a written request to locate a person for the purpose of facilitating a proceeding with respect to the establishment, variation, registration or enforcement of a support order;
- (i) “**support**” includes support, maintenance or alimony payable for a claimant or for the child of a claimant or for both;
- (j) “**support order**” means
  - (i) an order made by a court or an administrative body that requires the payment of support, or
  - (ii) the provisions of a written agreement that requires the payment of support, if those provisions are enforceable in the jurisdiction in which the agreement was made as if they were contained in an order of a court of that jurisdiction, and includes the recalculation by an administrative body of the payment of support for a child, if the recalculation is enforceable in the jurisdiction in which the

- recalculation was made as if it were an order of, or were contained in an order of, a court of that jurisdiction;
- (k) repealed by *2008,c.20,s.72*; *2002,c.14,s.1*; *2008,c.20,s.72(46)*; *2013,c.36,s.1*.

## **PART I — CLAIMS WHERE NO ORDER EXISTS**

### **2. Respondent**

In this Part, “**respondent**” means the person against whom support is sought. *2002,c.14,s.2*.

### **3. Application of Part I**

This Part applies only where there is no support order in effect requiring the respondent to pay support for the claimant or for any children for whom support is claimed or for both. *2002,c.14,s.3*.

## **Division 1 — Claimant Resident in Prince Edward Island**

### **4. Process may start**

- (1) If a claimant resides in Prince Edward Island and believes that the respondent habitually resides in a reciprocating jurisdiction, the claimant may start a process in Prince Edward Island to obtain a support order in the reciprocating jurisdiction.

#### **Contents of support application**

- (2) To start the process, a claimant shall complete a support application that includes the following:
- (a) the name and address for service of the claimant;
  - (b) a copy of the specific statutory or other legal authority on which the claimant’s support application is based, unless the claimant is relying on the law of the jurisdiction where the respondent habitually resides;
  - (c) the amount and nature of support claimed;
  - (d) a sworn document setting out the following:
    - (i) the name and any information known to the claimant that can be used to locate or identify the respondent,
    - (ii) the financial circumstances of the respondent, to the extent known by the claimant,
    - (iii) the name of each person for whom support is claimed and the date of birth of any child for whom support is claimed,
    - (iv) the evidence in support of the claimant’s application that is relevant to establishing entitlement to or the amount of support, including,
      - (A) where support is claimed for a child, details of the parentage of the child and information about the child’s financial and other circumstances, and
      - (B) where support is claimed for the claimant, information about the claimant’s financial and other circumstances and the claimant’s relationship with the respondent;
  - (e) any other information or documents required by the regulations.



**Notice not required**

- (3) The claimant is not required to notify the respondent that a process has been started under this section. *2002, c.14, s.4; 2013, c.36, s.3.*

**5. Submission to designated authority**

- (1) The claimant shall submit the support application to the designated authority in the province, accompanied by a certified translation if required by the appropriate authority in the reciprocating jurisdiction in which the claimant believes the respondent is ordinarily resident.

**Application sent to reciprocating jurisdiction**

- (2) On receiving a support application, the designated authority shall
- (a) review the support application to ensure that it is complete; and
  - (b) forward a copy of the completed support application, as soon as practicable, to the appropriate authority in the reciprocating jurisdiction in which the claimant believes the respondent habitually resides.

**Provide further information**

- (3) On receiving a request for further information or documents from a reciprocating jurisdiction under an enactment in that jurisdiction that corresponds to clause 9(2)(a), the claimant shall, in accordance with the regulations, provide the further information or documents within the time referred to in the request.

**Copy of order and reasons**

- (4) On receiving a certified copy of an order and reasons, if any, from a reciprocating jurisdiction under an enactment in that jurisdiction that corresponds to section 14, the designated authority shall, in accordance with the regulations, provide a copy of the order and reasons, if any, to the claimant and the Supreme Court. *2002, c.14, s.5; 2013, c.36, s.4.*

**6. Provisional order**

- (1) If the claimant believes that the respondent habitually resides in a reciprocating jurisdiction that requires a provisional order, the Supreme Court may, on application by the claimant and without notice to, and in the absence of, the respondent, make a provisional order taking into account the specific statutory or other legal authority on which the claimant's support application is based.

**Evidence**

- (2) Evidence in proceedings under subsection (1) may be given orally, in writing or as the Supreme Court may allow.

**Provisional order to reciprocating jurisdiction**

- (3) If a provisional order is made, the designated authority shall send to the reciprocating jurisdiction
- (a) three certified copies of the provisional order; and
  - (b) a support application referred to in subsection 4(2).

**Remitted for further evidence**

- (4) If, during a proceeding for confirmation of a provisional order, a court in a reciprocating jurisdiction remits a matter back for further evidence to the Supreme Court, the Supreme Court shall, after giving notice to the claimant, receive further evidence.

**Evidence forwarded by court officer**

- (5) If evidence is received under subsection (4), a proper officer of the Supreme Court shall forward to the court in the reciprocating jurisdiction a certified copy of the evidence with modifications, if any, to the provisional order as the Supreme Court considers appropriate.

**Where confirmation denied**

- (6) If a provisional order made under this section comes before a court in a reciprocating jurisdiction and confirmation is denied in respect of one or more persons for whom support is sought, the Supreme Court may, on application within six months after the denial of confirmation, *re-open* the matter, receive further evidence and make a new provisional order for a person in respect of whom confirmation was denied. *2002, c.14, s.6; 2013, c.36, s.5.*

**Division 2 — Claimant Resident Outside Prince Edward Island**

**7. Support application**

In this Division, “**support application**” means

- (a) a provisional order referred to in subclause 1(g)(ii); or  
(b) a document from a reciprocating jurisdiction corresponding to a support application described in subsection 4(2). *2002, c.14, s.7; 2013, c.36, s.7.*

**8. Service of application from other jurisdiction**

- (1) If the designated authority receives a support application from an appropriate authority in a reciprocating jurisdiction, with information that the respondent named in the support application habitually resides in the province, the designated authority shall serve on the respondent in accordance with the regulations,
- (a) a copy of the support application; and  
(b) a notice requiring the respondent to appear at a place and time set out in the notice and to provide the information or documents required by the regulations.

**Respondent resides in another jurisdiction**

- (2) If the designated authority has not served the respondent in accordance with subsection (1) and knows or believes that the respondent is habitually resident in another reciprocating jurisdiction in Canada, the designated authority shall
- (a) forward the support application to the appropriate authority in that other reciprocating jurisdiction; and  
(b) notify the appropriate authority in the originating reciprocating jurisdiction that it has done so.

**Respondent not located**

- (3) If the designated authority
- (a) is unable to determine where the respondent resides; or  
(b) has not served the respondent in accordance with subsection (1) and knows or believes that the respondent is habitually resident in a jurisdiction outside Canada,
- the designated authority shall return the support application to the appropriate authority in the originating reciprocating jurisdiction with any available information respecting the location and circumstances of the respondent. *2002, c.14, s.8; 2013, c.36, s.8.*





**9. Consideration by court**

- (1) Where a support application comes before the Supreme Court, the Supreme Court, in making an order, shall consider
- (a) the evidence given or submitted to the Supreme Court; and
  - (b) the documents forwarded from the reciprocating jurisdiction.

**Interim order**

- (2) If the Supreme Court requires further information or documents from the claimant to make a support order, the Supreme Court
- (a) shall direct the designated authority to contact the claimant or the appropriate authority in the reciprocating jurisdiction to request the information or documents; and
  - (b) shall adjourn the hearing and may, if the Supreme Court considers it appropriate, make an interim order.

**Dismissal of application and termination of interim order**

- (3) The Supreme Court may dismiss the support application and terminate an interim support order made under clause (2)(b), if the Supreme Court does not receive the information or documents requested under clause (2)(a)
- (a) within 18 months from the date of the request, if the request was made before June 1, 2013; or
  - (b) within 12 months from the date of the request, if the request was made on or after June 1, 2013.

**New application not precluded**

- (4) The dismissal of a support application under subsection (3) does not preclude the claimant from commencing a new support application. *2002, c.14, s.9; 2013, c.36, s.9.*

**10. Parentage may be decided**

- (1) If the parentage of a child is at issue and has not previously been determined, the Supreme Court may decide that issue.

**Effect of parentage determination**

- (2) A determination of parentage under this section has effect only for the purposes of support proceedings under this Act. *2002, c.14, s.10.*

**11. Applicable law – entitlement to support for child**

- (1) In determining the entitlement of a claimant, other than a child, to support for a child or the entitlement of a child to support for himself or herself, the Supreme Court shall first apply the law of Prince Edward Island, but if the claimant is not entitled to support for the child or the child is not entitled to support for himself or herself, as the case may be, under that law, the Supreme Court shall apply the law of the jurisdiction in which the child habitually resides.

**Applicable law - amount of support for child**

- (2) In determining the amount of support payable for a child, the Supreme Court shall apply the law of Prince Edward Island.

**Ibid**

- (3) For greater certainty, the law of Prince Edward Island referred to in subsection (2) includes the applicable table under the Child Support Guidelines Regulations (EC668/97).

**Applicable law – support for claimant**

- (4) In determining the entitlement of a claimant, other than a child, to support for himself or herself and the amount of that support, the Supreme Court shall apply the law of Prince Edward Island, but if the claimant is not entitled to support for himself or herself under that law, the Supreme Court shall apply the law of the jurisdiction in which the claimant and the respondent last maintained a common habitual residence. *2002,c.14,s.11; 2013,c.36,s.10.*

**12. Powers of the Supreme Court**

- (1) On the conclusion of a hearing, the Supreme Court may, in respect of a claimant or a child, or both,
- (a) make a support order;
  - (b) make an interim order and adjourn the hearing to a specified date;
  - (c) adjourn the hearing to a specified date without making an interim order; or
  - (d) refuse to make a support order.

**Retroactive order**

- (2) The Supreme Court may make a support order that is retroactive.

**Types of payment**

- (3) A support order may require support to be paid in periodic payments or as a lump sum, or both.

**Reasons for refusal**

- (4) If the Supreme Court refuses to make a support order, the Supreme Court shall give reasons for its order.

**Order to specify applicable law**

- (5) A support order shall specify the jurisdiction of the law applied, but if the order does not specify the jurisdiction of the law applied, the order is deemed to have been made under the law of Prince Edward Island. *2002,c.14,s.12; 2013,c.36,s.11.*

**13. Order in absence of respondent**

- (1) If a respondent does not appear as required in the notice or does not provide the information or documents required under clause 8(1)(b), the Supreme Court may make an order in the absence of the respondent or of the information or documents and in making the order may draw any inference it considers appropriate.

**Copy of order to respondent**

- (2) Where a respondent does not appear as required, the Supreme Court shall, in accordance with the regulations, send a copy of the order to the respondent. *2002,c.14,s.13.*



**14. Copy to reciprocating jurisdiction**

The designated authority shall, as soon as practicable, forward a certified copy of an order made under this Division and reasons, if any, to the appropriate authority in the reciprocating jurisdiction that forwarded the claimant's support application. *2002,c.14,s.14.*

**PART II — REGISTRATION AND ENFORCEMENT OF ORDERS MADE OUTSIDE  
THE PROVINCE**

**15. Definitions**

In this Part,

- (a) “**extra-provincial order**” means a support order, an interim order or an order that varies a support order made in a reciprocating jurisdiction in Canada, but does not include a provisional order or a provisional order of variation;
- (b) “**foreign order**” means a support order, an interim order or an order that varies a support order made in a reciprocating jurisdiction outside Canada, but does not include a provisional order or a provisional order of variation. *2002,c.14,s.15.*

**16. Order goes to designated authority**

- (1) To register an extra-provincial order or a foreign order, the order shall be forwarded to the designated authority in the province.

**Copy to court**

- (2) On receiving a certified copy of an extra-provincial order or a foreign order, the designated authority in the province shall forward a copy of the order to the Supreme Court. *2002,c.14,s.16.*

**17. Registration of order**

- (1) On receiving an extra-provincial order or foreign order, the Supreme Court shall register the order as an order of that court.

**Effect of registering order**

- (2) On being registered, the extra-provincial order or foreign order
  - (a) has, from the date it is registered, the same effect as if it was a support order made by the Supreme Court; and
  - (b) may, both with respect to arrears accrued before registration and with respect to obligations accruing after registration, be enforced in the same manner as a support order made by the Supreme Court, or varied as provided in this Act, whether the order is made before, on or after the day on which this Act comes into force.

**Duration of support**

- (3) The duration of the support obligation in an extra-provincial order or foreign order registered under subsection (1) is governed by the law of the jurisdiction under which the order was made.

**Onus to prove applicable law**

- (4) The onus is on the appropriate authority of the reciprocating jurisdiction to provide proof of the law governing duration of the support obligation to the satisfaction of the designated authority.

**Duration in absence of proof**

- (5) Notwithstanding subsection (3), if the designated authority is unable to determine the duration of the support obligation under the law of the reciprocating jurisdiction, the designated authority may enforce the support order for the duration determined by the law of Prince Edward Island. *2002, c.14, s.17; 2013, c.36, s.12.*

**18. Notification of party to order**

- (1) After the registration of a foreign order under section 17, the designated authority shall, in accordance with the regulations, notify any party to the order believed to habitually reside in Prince Edward Island of the registration of the order.

**Set aside registration of foreign order**

- (2) A party to the order may apply to the Supreme Court to set aside the registration of the foreign order within 30 days after receiving notice of the registration of the foreign order and on giving notice to the jurisdiction where the foreign order originates by registered mail unless the regulations stipulate otherwise.

**Powers of court**

- (3) On an application under subsection (2), the Supreme Court may
- (a) confirm the registration; or
  - (b) set aside the registration if the Supreme Court determines
    - (i) that, in the proceeding in which the foreign order was made, a party to the order did not have proper notice or a reasonable opportunity to be heard,
    - (ii) that the foreign order is contrary to the public policy of the province, or
    - (iii) that the court that made the foreign order did not have jurisdiction to make the order.

**Reasons for setting aside registration**

- (4) If the Supreme Court sets aside the registration, it shall give reasons for its decision.

**Jurisdiction of court**

- (5) For the purpose of subclause (3)(b)(iii), a court has jurisdiction if
- (a) both parties to the foreign order habitually reside in the reciprocating jurisdiction outside Canada; or
  - (b) a party to the foreign order does not habitually reside in the reciprocating jurisdiction outside Canada but is subject to the jurisdiction of the court that made the foreign order.

**Notice of decision or order**

- (6) Notice of a decision or order of the Supreme Court shall be given to the parties and the designated authority by registered mail unless the regulations stipulate otherwise. *2002, c.14, s.18; 2013, c.36, s.13.*

**19. Effect of setting aside**

- (1) If the registration of a foreign order is set aside, the foreign order received under this Part shall, at the request of the party applying to register the order, be dealt with in accordance with Part I, Division 2 or Part III, Division 2, as the case may be, as if the foreign order were

a document corresponding to a support application received under subsection 8(1) or a support variation application received under subsection 27(1).

**Requesting further information**

- (2) If the foreign order does not contain the necessary information or documents required for a support application, the designated authority shall request from the appropriate authority of the reciprocating jurisdiction in which the foreign order was made the necessary information and documents and until the required information and documents are provided to the designated authority, no proceedings under Part I, Division 2, or Part III, Division 2, as the case may be, may continue. *2002, c.14, s.19.*

**20. Conversion to Canadian currency**

If a foreign order that has been registered and filed in accordance with section 17 refers to an amount of support that is not expressed in Canadian currency, the conversion of the amount into Canadian currency shall be determined by the designated authority in accordance with the regulations. *2002, c.14, s.20.*

**21. Language other than English or French**

- (1) If a foreign order or other document is written in a language other than English or French, the order or other document shall be accompanied by a translation of the order or other document into the English or French language.

**Translation**

- (2) A translation required under subsection (1) shall be authenticated as being accurate by a certificate of the translator. *2002, c.14, s.21.*

## PART III — VARIATION OF A SUPPORT ORDER

**22. Definitions**

- (1) In this Part,
- (a) “**applicant**” means a party applying to vary a support order;
  - (b) “**respondent**” means the party who is the respondent in a support variation application;
  - (c) “**support order**” means a support order as defined in section 1 that is
    - (i) made in the province, or
    - (ii) made in a reciprocating jurisdiction and registered in the Supreme Court under Part II or the former Act,but does not include a provisional order of variation.

**Order made under *Divorce Act* not affected**

- (2) Nothing in this Part allows a support order made under the *Divorce Act* (Canada) to be varied except as authorized by a federal enactment. *2002, c.14, s.22.*

## **Division 1 — Applicant Resident in Prince Edward Island**

### **23. Application to vary support order**

- (1) If an applicant resides in Prince Edward Island and believes that the respondent habitually resides in a reciprocating jurisdiction, the applicant may start a process in Prince Edward Island to obtain a support variation order in the reciprocating jurisdiction.

#### **Support variation application**

- (2) To start the process, an applicant shall complete a support variation application that includes the following:
- (a) the name and address for service of the applicant;
  - (b) a certified copy of the support order;
  - (c) a copy of the specific statutory or other legal authority on which the applicant's application for variation is based, unless the applicant is relying on the law of the jurisdiction where the respondent habitually resides;
  - (d) the particulars of the variation applied for, which may include a termination of the support order;
  - (e) a sworn document setting out the following:
    - (i) the name and any information known to the applicant that can be used to locate or identify the respondent,
    - (ii) the financial circumstances of the respondent, to the extent known by the applicant, including whether the respondent is or was receiving social assistance,
    - (iii) the name of each person, to the extent known by the applicant, for whom support is payable or who will be affected by the variation if granted,
    - (iv) the evidence in support of the application, including,
      - (A) where support to the applicant or respondent is at issue, information about the applicant's relationship with the respondent, and
      - (B) if the variation applied for affects support for a child, information about the child's financial and other circumstances,
    - (v) information prescribed in the regulations about the applicant's financial circumstances;
  - (f) any other information or documents required by the regulations.

#### **Notice not required**

- (3) The applicant is not required to notify the respondent that a process has been started under this section. *2002, c.14, s.23; 2013, c.36, s.15.*

### **24. Submission to designated authority**

- (1) The applicant shall submit the support variation application to the designated authority in the province, accompanied by a certified translation if required by the appropriate authority in the reciprocating jurisdiction in which the applicant believes the respondent is ordinarily resident.

#### **Application sent to reciprocating jurisdiction**

- (2) On receiving a support variation application, the designated authority shall
- (a) review the support variation application to ensure that it is complete; and



- (b) forward a copy of the completed support variation application, as soon as practicable, to the appropriate authority in the reciprocating jurisdiction in which the applicant believes the respondent habitually resides.

**Provide further information**

- (3) On receiving a request for further information or documents from a reciprocating jurisdiction under an enactment in that jurisdiction that corresponds to clause 28(2)(a), the applicant shall, in accordance with the regulations, provide the further information or documents within the time referred to in the request.

**Copy of order and reasons**

- (4) On receiving a certified copy of an order and reasons, if any, from a reciprocating jurisdiction under an enactment in that jurisdiction that corresponds to section 32, the designated authority shall, in accordance with the regulations, provide a copy of the order and reasons, if any, to the applicant and the Supreme Court. *2002, c.14, s.24; 2013, c.36, s.16.*

**25. Provisional order of variation**

- (1) Where the respondent habitually resides in a reciprocating jurisdiction that requires a provisional order of variation, the Supreme Court may, on application by an applicant and without notice to and in the absence of a respondent, make a provisional order of variation taking into account the specific statutory or other legal authority on which the applicant's application for variation is based.

**Evidence**

- (2) Evidence in proceedings under subsection (1) may be given orally, in writing or as the Supreme Court may allow.

**Provisional order of variation to reciprocating jurisdiction**

- (3) If a provisional order of variation is made, the designated authority shall send to the reciprocating jurisdiction
  - (a) three certified copies of the provisional order of variation; and
  - (b) a support variation application referred to in subsection 23(2).

**Further evidence**

- (4) If, during a proceeding for confirmation of a provisional order of variation, a court in a reciprocating jurisdiction remits a matter back for further evidence to the Supreme Court, the Supreme Court shall, after giving notice to the applicant, receive further evidence.

**Evidence forwarded by court officer**

- (5) If evidence is received under subsection (4), a proper officer of the Supreme Court shall forward to the court in the reciprocating jurisdiction a certified copy of the evidence with modifications, if any, to the provisional order of variation as the Supreme Court considers appropriate.

**Confirmation denied**

- (6) If a provisional order of variation made under this section comes before a court in a reciprocating jurisdiction and confirmation is denied in respect of one or more persons for whom support is sought, the Supreme Court may, on application within six months after the denial of confirmation, *re-open* the matter, receive further evidence and make a new provisional order of variation for a person in respect of whom confirmation was denied. *2002, c.14, s.25; 2013, c.36, s.17.*

## **Division 2 — Applicant Resident Outside Prince Edward Island**

### **26. Support variation application**

In this Division, “**support variation application**” means

- (a) a provisional order of variation referred to in subclause 1(h)(ii); or
- (b) a document from a reciprocating jurisdiction corresponding to a support variation application described in subsection 23(2). *2002, c.14, s.26.*

### **27. Service**

- (1) If the designated authority receives a support variation application from an appropriate authority in a reciprocating jurisdiction, with information that the respondent named in the support variation application habitually resides in province, the designated authority shall serve on the respondent either by personal service or in accordance with the regulations,

- (a) a copy of the support variation application; and
- (b) a notice requiring the respondent to appear at a place and time set out in the notice and to provide the information or documents required by the regulations.

#### **Respondent in reciprocating jurisdiction**

- (2) If the designated authority has not served the respondent in accordance with subsection (1) and knows or believes that the respondent is habitually resident in another reciprocating jurisdiction in Canada, the designated authority shall

- (a) forward the support variation application to the appropriate authority in that other reciprocating jurisdiction; and
- (b) notify the appropriate authority in the originating reciprocating jurisdiction that it has done so.

#### **Respondent not located**

- (3) If the designated authority

- (a) is unable to determine where the respondent resides; or
- (b) has not served the respondent in accordance with subsection (1) and knows or believes that the respondent resides in a jurisdiction outside Canada,

the designated authority shall return the support variation application to the appropriate authority in the originating reciprocating jurisdiction with any available information respecting the location and circumstances of the respondent. *2002, c.14, s.27; 2013, c.36, s.19.*

### **28. Consideration by court**

- (1) Where a support variation application comes before the Supreme Court, the Supreme Court, in making an order, shall consider

- (a) the evidence given or submitted to the Supreme Court; and
- (b) the documents forwarded from the reciprocating jurisdiction.

#### **Interim support variation order**

- (2) If the Supreme Court requires further information or documents from the applicant to make a support variation order, the Supreme Court





- (a) shall direct the designated authority to contact the applicant or the appropriate authority in the reciprocating jurisdiction to request the information or documents; and
- (b) shall adjourn the hearing and may, if the Supreme Court considers it appropriate, make an interim support variation order.

**Dismissal of application and termination of interim order**

- (3) The Supreme Court may dismiss the support variation application and terminate an interim support variation order made under clause (2)(b), if the Supreme Court does not receive the information or documents requested under clause (2)(a)
  - (a) within 18 months from the date of the request, if the request was made before June 1, 2013; or
  - (b) within 12 months from the date of the request, if the request was made on or after June 1, 2013.

**New application not precluded**

- (4) The dismissal of a support variation application under subsection (3) does not preclude the applicant from commencing a new support variation application. *2002, c.14, s.28; 2013, c.36, s.20.*

**29. Applicable law - entitlement to support for child**

- (1) In determining the entitlement of a party, other than a child, to receive or continue to receive support for a child or the entitlement of a child to receive or continue to receive support for himself or herself, the Supreme Court shall first apply the law of Prince Edward Island, but if the party is not entitled to support for the child or the child is not entitled to support for himself or herself, as the case may be, under that law, the Supreme Court shall apply the law of the jurisdiction in which the child habitually resides.

**Applicable law - amount of support for child**

- (2) In determining the amount of support payable for a child, the Supreme Court shall apply the law of Prince Edward Island.

**Ibid**

- (3) For greater certainty, the law of Prince Edward Island referred to in subsection (2) includes the applicable table under the Child Support Guidelines Regulations (EC668/97).

**Applicable law - support for party**

- (4) In determining the entitlement of a party, other than a child, to receive or to continue to receive support for himself or herself and the amount of that support, the court shall apply the law of Prince Edward Island.

**Ibid**

- (5) If, under the law of Prince Edward Island, a party, other than a child, is not entitled to receive or to continue to receive support for himself or herself, the court shall apply the law of the jurisdiction in which that party habitually resides.

**Ibid**

- (6) If a party, other than a child, is not entitled to receive or to continue to receive support for himself or herself under the law of Prince Edward Island or under the law of the jurisdiction in which that party habitually resides, the court shall apply the law of the jurisdiction in which the parties last maintained a common habitual residence. *2002, c.14, s.29; 2013, c.36, s.21.*

**30. Powers of court**

- (1) On the conclusion of a hearing, the Supreme Court may, in respect of a party or a child, or both,
- (a) make a support variation order;
  - (b) make an interim support variation order and adjourn the hearing to a specified date;
  - (c) adjourn the hearing to a specified date without making an interim support variation order; or
  - (d) refuse to make a support variation order.

**Retroactive order**

- (2) The Supreme Court may make a support variation order that is retroactive.

**Types of payment**

- (3) A support variation order may require support to be paid in periodic payments or as a lump sum, or both.

**Reasons for refusal**

- (4) If the Supreme Court refuses to make a support variation order, the Supreme Court shall give reasons for its order. *2002, c.14, s.30.*

**31. Order in absence of respondent**

- (1) If a respondent does not appear as required in the notice or does not provide the information or documents required under clause 27(1)(b), the Supreme Court may make an order in the absence of the respondent or of the information or documents and in making the order may draw any inference it considers appropriate.

**Respondent does not appear**

- (2) Where a respondent does not appear as required, the Supreme Court shall, in accordance with the regulations, send a copy of the order to the respondent. *2002, c.14, s.31.*

**32. Copy to reciprocating jurisdiction**

The designated authority shall, as soon as practicable, forward a certified copy of an order made under this Division and reasons, if any, to the appropriate authority in the reciprocating jurisdiction in which the applicant resides and if the support order was originally made in another reciprocating jurisdiction, to the appropriate authority in that jurisdiction. *2002, c.14, s.32; 2013, c.36, s.22.*

### **Division 3 — Variation of Registered Orders**

**33. Jurisdiction**

- (1) The Supreme Court may, on a party's motion and after taking into account any right of a government or agency of a government under section 37, vary a support order registered in Prince Edward Island under Part II of this Act or under the former Act if
- (a) both the applicant and respondent accept the Supreme Court's jurisdiction;
  - (b) both the applicant and respondent habitually reside in Prince Edward Island; or
  - (c) the respondent habitually resides in Prince Edward Island and the support order is registered by the applicant under Part II of this Act or under the former Act.



**Family Law Act applies**

- (2) The *Family Law Act* R.S.P.E.I. 1988, Cap. F-2.1 applies for the purposes of varying a support order under the circumstances referred to in subsection (1), as if the order being varied was an order for support made under that Act. *2002, c.14, s.33; 2013, c.36, s.24.*

**PART IV — APPEALS****34. Appeal**

- (1) Subject to subsections (2) and (3), a party to a proceeding under this Act or the designated authority may appeal to the Court of Appeal any ruling, decision, or order of the Supreme Court under this Act.

**Commencing appeal**

- (2) An appeal shall be commenced within 90 days after the date the ruling, decision, or order of the Supreme Court appealed from is entered as a judgment of the Supreme Court, unless the period is extended by the Court of Appeal either before or after the appeal period has expired.

**Responding to appeal**

- (3) A person responding to an appeal under subsection (2) may appeal a ruling, decision or order in the same proceeding within 30 days after receipt of the notice of the appeal.

**Order not stayed**

- (4) An order under appeal remains in force pending the determination of the appeal unless the Supreme Court or the Court of Appeal orders otherwise.

**Notification of division**

- (5) The designated authority shall notify the appropriate authority in the reciprocating jurisdiction of the decision on the appeal. *2002, c.14, s.34; 2008, c.20, s.72(46).*

**PART V — GENERAL****35. Director is designated authority**

- (1) The Director is a designated authority for the purposes of this Act.

**Other designated authorities**

- (2) The Minister of Justice and Public Safety and Attorney General may appoint one or more persons in addition to the Director to act as a designated authority in the province for the purposes of this Act.

**Delegation**

- (3) The Director or other person designated under subsection (2) may, in writing, delegate any power or duty under this Act to any other person or persons. *2002, c.14, s.35; 2010, c.14, s.3; 2012, c.17, s.2; 2015, c.28, s.3.*

**35.1 Request to locate**

- (1) If the designated authority receives a request to locate from an appropriate authority in a reciprocating jurisdiction, the designated authority may request any person or public body to

provide the designated authority with information for the purpose of determining the whereabouts of the person named in the request.

**Response to request to locate**

- (2) The designated authority may respond to a request to locate by advising the appropriate authority in the reciprocating jurisdiction whether the person has been located in Prince Edward Island, but shall not disclose specific information respecting the location of the person.

**Confidentiality**

- (3) Information received by the designated authority from an appropriate authority in a reciprocating jurisdiction or through inquiries made under subsection (1) is confidential, but the designated authority may use and disclose the information for the purpose of carrying out its duties and powers under this Act and the regulations. *2013,c.36,s.25.*

**36. Transmission of documents**

- (1) On receipt of an order or document for transmission under this Act to a reciprocating jurisdiction, the designated authority shall transmit the order or document to the appropriate authority of the reciprocating jurisdiction.

**Translation if not English or French**

- (2) If the reciprocating jurisdiction requires an order or document to be translated into a language other than English or French, the person for whom the order or document is being transmitted shall provide the required translation together with a certificate of the translator authenticating the accuracy of the translation. *2002,c.14,s.36.*

**37. Subrogation**

Any government or agency of a government that is providing or has provided social assistance to a person has the same rights as that person to commence or participate in proceedings under this Act for any of the following purposes:

- (a) obtaining support or a variation of support;
- (b) responding to an application for a variation of support payments or arrears under a support order;
- (c) responding to an application to suspend enforcement of support payments or arrears under a support order;
- (d) making or responding to an application to the Supreme Court to set aside the registration of a foreign order under section 18;
- (e) appealing or responding to an appeal of a ruling, decision or order of the Supreme Court or the Court of Appeal under this Act;

and has the right to seek an order of reimbursement of the social assistance provided to that person by the government or agency of the government. *2002,c.14,s.37; 2008,c.20,s.72(46).*

**38. Terminology**

If, in a proceeding under this Act, a document from a reciprocating jurisdiction contains terminology different from the terminology in this Act or contains terminology or is in a form different from that customarily in use in the Supreme Court, the Supreme Court shall give a broad and liberal interpretation to the terminology or form so as to give effect to the document. *2002,c.14,s.38.*



**39. Law of reciprocating jurisdiction**

- (1) In a proceeding under this Act,
  - (a) the Supreme Court shall take judicial notice of the law of a reciprocating jurisdiction and, where required, apply it; and
  - (b) an enactment of a reciprocating jurisdiction may be pleaded and proved for the purposes of this Act by producing a copy of the enactment received from the reciprocating jurisdiction.

**Official documents**

- (2) In a proceeding under this Act, a document purporting to be signed by a judge, officer of a court or public officer in a reciprocating jurisdiction is, unless the contrary is proved, proof of the appointment, signature and authority of the person who signed it.

**Evidence**

- (3) Statements in writing sworn to by the maker, depositions or transcripts of evidence taken in a reciprocating jurisdiction may be received in evidence by the Supreme Court under this Act.  
*2002, c.14, s.39.*

**40. Other remedies**

This Act does not impair any other remedy available to a person, the province, another province or territory of Canada, a jurisdiction outside Canada or a political subdivision or official agency of a province or territory of Canada or of a jurisdiction outside Canada.  
*2002, c.14, s.40.*

**41. Regulations declaring reciprocating jurisdiction**

- (1) If the Lieutenant Governor in Council is satisfied that laws are or will be in effect in a jurisdiction for the reciprocal enforcement of support orders made in the province on a basis substantially similar to this Act, the Lieutenant Governor in Council may make regulations declaring that jurisdiction to be a reciprocating jurisdiction.

**Conditions on declaration**

- (2) In declaring a jurisdiction to be a reciprocating jurisdiction under subsection (1), the Lieutenant Governor in Council may impose any conditions with respect to the enforcement and recognition of support orders made or registered in that jurisdiction.

**Revocation of declaration**

- (3) The Lieutenant Governor in Council may, by regulation, revoke any declaration made under subsection (1) and the jurisdiction with respect to which the declaration was made ceases to be a reciprocating jurisdiction for the purposes of this Act.

**Regulations**

- (4) The Lieutenant Governor in Council may make regulations
  - (a) respecting information or documents required for the purposes of this Act;
  - (b) respecting the service or giving of documents required under this Act;
  - (c) respecting the giving of notices under section 18;
  - (d) respecting proceedings under this Act;
  - (e) respecting forms for the purposes of this Act;
  - (f) respecting the conversion of the amounts of support to Canadian currency;

- (g) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act. *2002, c.14, s.41.*

**42. Transitional**

- (1) An order made or registered under the former Act continues to be valid and in force, and may be varied or enforced or otherwise dealt with under this Act.

**Notice given under former Act**

- (2) - (5) Repealed by *2013, c.36, s.26. 2002, c.14, s.42; 2013, c.36, s.26.*

