



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

MAINTENANCE ENFORCEMENT ACT

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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).

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MAINTENANCE ENFORCEMENT ACT

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MAINTENANCE ENFORCEMENT ACT

CHAPTER M-1

1. Definitions

(1) In this Act

- (a) “**Director**” means the Director of Maintenance Enforcement appointed under section 2;
- (a.1) “**company**” means a corporation as defined in the *Business Corporations Act* R.S.P.E.I. 1988, Cap. B-6.01, or a company as defined in the *Companies Act* R.S.P.E.I. 1988, Cap. C-14, for which the payor
 - (i) is the sole shareholder, and
 - (ii) has the sole beneficial interest in the shares of the company;
- (a.2) “**control**”, in respect of a family company, means the holding, by or on behalf of one or more persons, either directly or indirectly, other than by way of security only, of shares of the company carrying voting rights sufficient to elect a majority of the directors of the company;
- (a.3) “**credit reporting agency**” means any person whose business includes supplying, to one or more third parties, information about the financial circumstances or creditworthiness of other persons;
- (a.4) “**family company**” means a company that is under the control of
 - (i) the payor, or
 - (ii) the payor and the immediate family members of the payor;
- (a.5) “**immediate family member**”, in respect of a payor, means a spouse, former spouse, child, sibling, step-sibling, half-sibling or parent of the payor;
- (a.6) “**income source**”, in respect of a payor, includes
 - (i) a person that owes remuneration to a payor,
 - (ii) a person that owes remuneration to
 - (A) a company,
 - (B) a partnership of which the payor is a member,
 - (C) a sole proprietorship owned or operated by the payor,
 - (D) a trust in which the payor holds a beneficial interest,
 - (iii) the clerk or registrar of a court in which there are funds held that are payable to the payor, and
 - (iv) the government of Prince Edward Island, where there are funds owing or may be claimed by the payor under a provincial program;
- (b) “**maintenance order**” means a provision in an order of a court in or outside Prince Edward Island enforceable in Prince Edward Island for the payment of money as support or maintenance, and includes a provision for

- (i) the payment of an amount periodically, whether monthly or otherwise and whether for an indefinite or limited period, or until the happening of a specified event,
- (ii) a lump sum to be paid or held in trust,
- (iii) one spouse to be given exclusive possession of a matrimonial home or part thereof for life or for such lesser period as the court directs,
- (iv) a spouse to whom exclusive possession of a matrimonial home is given to make such periodic payments to the other spouse as are prescribed in the order,
- (v) one spouse to be given exclusive possession of the contents of a matrimonial home or household goods or any part thereof,
- (vi) fixing the obligation to repair and maintain a matrimonial home or to pay other liabilities arising in respect thereof,
- (vii) part or all of the money payable under the order to be paid into court or to any other appropriate person or agency for the benefit of a party,
- (viii) payment of support or maintenance in respect of any period before the date of the order,
- (ix) payment to the Minister of Social Development and Housing, or the former Minister of Health and Social Services, of any amount in reimbursement for a benefit or assistance provided to a party, including an amount in reimbursement for such benefit or assistance provided before the date of the order,
- (x) payment of expenses in respect of the prenatal care and birth of a child, or
- (xi) the securing of payment under the order, by a charge on property or otherwise,

and includes such a provision in a marriage contract, cohabitation agreement or separation agreement;

- (c) “**Minister**” means the Minister of Social Development and Housing;
- (c.1) “**parent**”, in relation to a child, means the mother or father, and includes a guardian, a step-parent or a person who stands in the place of a parent to the child, but does not include a foster parent;
- (c.2) “**payee**” means a person who is entitled to receive maintenance or support pursuant to a maintenance order;
- (d) “**payment order**” means an order made by the Director pursuant to section 3 requiring an income source to make payments in the amounts specified in the order to the Director;
- (e) “**payor**” means a person who is required to pay maintenance or support pursuant to a maintenance order;
- (f) “**remuneration**”, in respect of an income source, includes
 - (i) wages, salary or other financial benefit of employment,
 - (ii) a commission, bonus or other payment, if it is not recoverable by the income source from the payor on the failure of the payor to earn the commission, bonus or other payment, to meet a quota or to otherwise establish eligibility for the commission, bonus or other payment,
 - (iii) piece-work payments,
 - (iv) accident, disability or sickness benefits,
 - (v) retirement and pension benefits,



- (vi) an annuity,
- (vii) rental income,
- (viii) debts owing to the payor or to a family company, and
- (ix) money paid into court, in which the payor has an interest.

Acting by lawyer

- (2) Anything required by this Act to be signed or done by a person, or referred to in this Act as signed or done by a person, may be signed or done by a lawyer acting on the person's behalf. *1988, c.1, s.1; 1993, c.15, s.1; 2001, c.11, s.1; 2005, c.40, s.18; 2010, c.31, s.3; 2010, c.23, s.1; 2012, c.17, s.2; 2015, c.28, s.3; 2019, c.1, s.3; 2019, c.27, s.17(2).*

PART I**2. ENFORCEMENT BY DIRECTOR**

- (1) There shall be a Director of Maintenance Enforcement who shall be an employee of the Department of Justice and Public Safety.

Duty and powers of Director

- (2) It is the duty of the Director to enforce maintenance orders that are filed in the office of the Director in such manner, if any, as appears practicable and the Director may, for the purpose, commence and conduct a proceeding and take steps for the enforcement of an order in the name of the Director for the benefit of the person entitled to enforcement of the order, or of that person's child.

Arrears

- (3) The Director may enforce the payment of arrears of support under a support order although they were incurred before the order was filed in the Director's office or before this Act comes into force.

Fees

- (4) Repealed by 2012(2nd), c.17, s.1.

Enforcement officers

- (5) The Minister of Justice and Public Safety and Attorney General or the Director may designate employees of the office of the Director to be enforcement officers for the purposes of this Act.

Powers of enforcement officers

- (6) An enforcement officer may act for and in the name of the Director. *1988, c.1, s.2; 1993, c.15, s.1 and c.29, s.4; 1997, c.20, s.3; 2000, c.5, s.3; 2010, c.31, s.3; 2010, c.14, s.3; 2012, c.17, s.2; 2012(2nd), c.17, s.1; 2015, c.28, s.3.*

2.1 Director may decline to enforce order

Notwithstanding subsection 2(2), the Director may decline to enforce a maintenance order, or any part of a maintenance order, where the Director is satisfied that

- (a) it is not practicable to enforce the maintenance order or a part of the order;
- (b) the payee is accepting payments respecting the order directly from the payor;

- (c) the payee has failed or refused to supply information to the Director which the Director requires for enforcement of the order; or
- (d) there is doubt or ambiguity about the meaning, legal effect or enforceability of the order. *2001, c.11, s.2.*

3. Filing of maintenance orders made by the court

- (1) Every maintenance order made by a court in Prince Edward Island shall set out such information as the Director may require, including the residence and mailing addresses and phone numbers of the payor and payee, and shall
 - (a) in the operative part of the order, state that amounts owing pursuant to the order shall be paid to the Director who shall pay the amounts to the person to whom they are owed unless the order is withdrawn from the office of the Director; and
 - (b) be filed forthwith in the office of the Director by the person entitled to maintenance under the order,

unless after the order is made, the person who instituted the application for the order files with the office of the Director a notice in writing signed by the person stating that the person does not wish to have the order enforced by the Director.

Obligations of payor

- (2) Where a maintenance order has been filed with the office of the Director, the payor shall, within fourteen days after the filing of the order, provide the Director with any information the Director requires to enforce the order and shall
 - (a) make arrangements with one or more income sources whereby the income source or income sources agree to become parties to a payment order and pay the amounts payable by the payor under the maintenance order into the office of the Director; or
 - (b) request the Director to make one or more payment orders pursuant to subsection (3).

Payment orders

- (3) The Director may, at the request of the payor, make one or more payment orders directing an income source or income sources to pay to the office of the Director the amount payable, or part of the amount payable, pursuant to a maintenance order to which the payor is subject.

Powers of Director where payor disregards obligations

- (4) Where the payor does not comply with subsection (2) within the prescribed time, the Director may make one or more payment orders directing an income source or income sources to pay into the office of the Director the amount payable, or part of the amount payable, pursuant to the maintenance order.

Filing of maintenance orders made outside jurisdiction

- (5) Every maintenance order made by a court outside Prince Edward Island that is received by the Minister of Justice and Public Safety and Attorney General or a court for enforcement in Prince Edward Island shall be filed in the office of the Director forthwith after it is received unless the order is accompanied by a notice in writing signed by the person seeking to enforce the order stating that the person does not wish to have the order enforced by the Director.

Notice of change of address

- (5.1) Where a maintenance order has been filed with the office of the Director, a payor or payee whose residential or mailing address changes shall promptly file with the office of the



Director, in the form and in the manner required by the Director, a notice of the change of address.

Notice not filed

- (5.2) If a payor or payee does not file a notice under subsection (5.1), the Director
- (a) is not required to take any steps to determine the payor's or payee's current residential or mailing address; and
 - (b) notwithstanding any other provision of this Act, may proceed with any enforcement or other action under this Act or the regulations without notice to the payor or payee.

Application

- (6) This section applies in respect of maintenance orders filed before or after this section comes into force. *1993,c.15,s.3; 1996,c.27,s.3 {eff.} Jan.1/97; 1997,c.20,s.3; 2000,c.5,s.3; 2010,c.14,s.3; 2012,c.17,s.2; 2012(2nd),c.17,s.2; 2015,c.28,s.3.*

3.1 Notice to income source of variation or termination of payment order

- (1) Where a maintenance order is varied or terminated, and the Director consequently varies or terminates any payment order made pursuant to the maintenance order, the Director shall notify each income source of the variation or termination of any obligation under the payment order.

Notice to Director of change in, or termination of obligation of income source

- (2) Where an income source is no longer obligated to pay an amount to a payor, or there is substantial change in the amount the income source is obligated to pay, both the payor and the income source shall notify the Director of the change in, or termination of, the obligation within ten days of the change or termination. *1993,c.15,s.4.*

3.2 Unlawful dismissal etc. of employee who exercises rights

- (1) No employer shall dismiss, suspend, lay off, penalize, discipline or discriminate against any employee on the basis of any action that
- (a) the employee has taken in exercising the employee's rights under this Act; or
 - (b) the Director or any court has required the employee to take pursuant to this Act.

Violation, powers of court

- (2) Where the court, upon application of any employee, finds that an employer has violated subsection (1), the court may make any order it considers just, including an order
- (a) reinstating the employee; and
 - (b) awarding damages against the employer. *1993,c.15,s.4.*

3.3 Form of payment order

- (1) A payment order made by the Director pursuant to section 3 shall direct the income source named in the order to pay to the office of the Director the amount, or part of the amount, payable by the payor pursuant to the maintenance order for which the payment order is made.

Payment orders in aggregate not to exceed amount payable by payor

- (2) Where the Director makes more than one payment order pursuant to section 3, the total required to be paid to the office of the Director by all the income sources named in the

payment orders shall not exceed the total payable by the payor pursuant to the maintenance order for which the payment orders are made.

Offence

- (3) An income source that fails or refuses to comply with a payment order is guilty of an offence and is liable on summary conviction to a fine not exceeding \$2,000. *1993,c.15,s.4; 1996,c.27,s.3 {eff.} Jan.1/97.*

3.4 Resolution of questions by court

- (1) The Director, an income source, or a payor may, on notice to the other party involved, bring a motion before the court regarding a payment order, and the court shall make a determination on the motion subject to subsections (2) and (3).

Powers exclude variation etc. of maintenance order

- (2) In determining a motion brought under subsection (1), the court shall not vary or terminate any maintenance order.

Termination of payment order

- (3) The court may order that a payment order be terminated only where the court finds that it would be unconscionable to require the payor to fulfil the requirements of the maintenance order through a payment order. *1993,c.15,s.4.*

3.5 Withdrawal of payment order

- (1) A payment order may be withdrawn where the parties to the maintenance order for which the payment order is made give notice in writing to the Director that the payment order is to be withdrawn.

Reinstatement

- (2) A payment order that has been withdrawn pursuant to subsection (1) may be reinstated by the Director at the request of the party entitled to receive payments pursuant to the maintenance order for which the payment order was made. *1993,c.15,s.4.*

3.6 Director to vary etc. payment order consequent to variation etc. of maintenance order

Where a maintenance order is varied or terminated, the Director shall, upon notice from the registrar of the court that varied or terminated the maintenance order, ensure that any payment order made pursuant to the maintenance order is varied or terminated as required. *1993,c.15,s.4.*

4. Withdrawal of filing

- (1) A maintenance order filed in the office of the Director may be withdrawn by a notice in writing signed by the person by or on whose behalf it was filed.

Refiling

- (2) A maintenance order that has been withdrawn may be refiled at any time by any person entitled to file the order under section 3.

Notice of filings and withdrawals

- (3) The Director shall give notice of the filing or withdrawal of a maintenance order to all the parties to it and, on request of the Minister, to the Minister.



Filing by Minister

- (4) Where a person who is entitled to maintenance under a maintenance order has applied and is eligible for, or has received, a benefit or assistance under the *Child Protection Act* R.S.P.E.I. 1988, Cap. C-5.1 or the *Social Assistance Act* R.S.P.E.I. 1988, Cap. S-4.3, the Minister may file the order in the office of the Director regardless of whether a notice referred to in subsection 3(3) or (4) has been given, and the order shall not be withdrawn except by, or with the consent in writing of, the Minister. *1988,c.1,s.4;2000(2nd),c.3,s.62; 2001,c.19,s.16.*

4.1 Continued enforcement

- (1) The Director may continue to enforce a maintenance order to collect an amount described in subsection (2), even if
- (a) the maintenance order to which the amount relates has been withdrawn from the Director's office;
 - (b) there is no current maintenance obligation, and there are no arrears, or any arrears are rescinded by a changed maintenance order; or
 - (c) the support obligation has terminated and there are no arrears, or any arrears are rescinded by a changed maintenance order.

Amounts owing

- (2) Subsection (1) applies with respect to
- (a) a deterrent charge imposed under subsection 8.1(1);
 - (b) a prescribed service fee;
 - (c) any amount owed to the Director as reimbursement for money paid to a payee; and
 - (d) any amount similar to one described in clauses (a), (b) or (c) that is owed to a support enforcement program in a reciprocating jurisdiction, if the maintenance order to which the amount relates is registered in Prince Edward Island under the *Interjurisdictional Support Orders Act* R.S.P.E.I. 1988, Cap. I-4.2.

Waiver

- (3) The Director may, in his or her sole discretion, waive an amount that is otherwise due under this section. *2012(2nd),c.17,s.3.*

5. Enforcement by Director exclusive

No person other than the Director shall enforce a maintenance order that is filed in the office of the Director. *1988,c.1,s.5.*

6. Director may require information

- (1) The Director may, by request and for the purposes of enforcing a maintenance order or a payment order, require any person or public body to provide the Director with information that is within the knowledge of, or shown on a record in the possession or control of, the person or public body
- (a) that contains or relates to
 - (i) the remuneration,
 - (ii) the sources of income,
 - (iii) the assets or liabilities,
 - (iv) the financial status,

- (v) copies of income tax returns,
 - (vi) the social insurance number,
 - (vii) changes in the circumstances affecting the amount of maintenance to be paid under the order,
 - (viii) the location, address and place of employment,
 - (ix) the location, address and place of residence,
 - (x) the telephone number, and
 - (xi) the full name,
of the payor, the payor's spouse or an income source of the payor;
- (b) that contains or relates to the provincial health number of the payor or payee; or
 - (c) that contains or relates to any other information concerning the payor, the payor's spouse or an income source of the payor that the Director considers necessary for the enforcement of the maintenance order or payment order.

Duty to provide information

- (2) A person or public body that is requested under subsection (1) to provide the Director with information shall provide the information within 14 days of receiving the request.

Court order to provide information

- (3) If the court is satisfied, on an application by the Director, that the Director has not been provided with information pursuant to a request under subsection (1), the court may order any person or public body to provide information as specified in the order.

Costs

- (4) Where the Director obtains an order under subsection (3), the court shall award costs of the application to the Director.

Non-disclosure

- (5) Information obtained pursuant to this section shall not be disclosed to any person except
 - (a) for the enforcement of an order under this Act;
 - (b) in connection with the administration of this Act;
 - (c) to a person performing similar functions for a government body in another jurisdiction; or
 - (d) to a peace officer for the purposes of a criminal investigation.

Application of section

- (6) This section applies notwithstanding any other Act or any rule of common law relating to confidentiality, other than the rules of solicitor-client privilege.

Disclosure non-actionable

- (7) No action may be taken against any person who reveals information in accordance with this section.

Offence

- (8) Any person who
 - (a) discloses information obtained under this section, that is not otherwise lawfully available to the public, contrary to subsection (5);
 - (b) knowingly withholds information that the person is required to give under this section; or



- (c) gives false or misleading information to the Director or in response to an order made under subsection (2),

is guilty of an offence and is liable on summary conviction to a fine not exceeding \$2,000 or to imprisonment for up to six months, or both. *2001, c.11, s.3; 2010, c.23, s.2.*

6.1 Report to credit reporting agency

- (1) The Director may report a payor to a credit reporting agency in accordance with subsection (3) if
- (a) the payor is in default under a maintenance order filed with the Director;
 - (b) the arrears owing under the maintenance order are for an amount in excess of the amount prescribed by regulations;
 - (c) the 14-day period referred to in subsection (2) has elapsed; and
 - (d) ninety days have elapsed from the date the maintenance order was filed with the Director.

Service of notice

- (2) Before reporting a payor to a credit reporting agency, the Director shall serve the payor with notice in writing that unless the payor makes arrangements satisfactory to the Director to comply with the maintenance order within 14 days after service of the notice, the Director may report the payor to a credit reporting agency.

Information disclosed

- (3) Subject to subsection (1), the Director may disclose the following information to a credit reporting agency:
- (a) the name and birth date of the payor who is in default under the maintenance order;
 - (b) the date of the maintenance order;
 - (c) the amount and frequency of the payor's obligations under the maintenance order;
 - (d) the amount of arrears owing under the maintenance order at the time of the disclosure;
 - (e) any other information prescribed by regulation.

Inclusion of information in credit report

- (4) The Director may require a credit reporting agency to include in a report information respecting a payor's obligations under a maintenance order. *2001, c.11, s.3; 2012(2nd), c.17, s.4.*

7. Federal-provincial agreement

- (1) The Minister of Justice and Public Safety and Attorney General may, on behalf of the Government of Prince Edward Island, enter into an agreement with the Government of Canada concerning the searching for and the release of information under Part I of the *Family Orders and Agreements Enforcement Assistance Act* (Canada) Stats. Can. 1986, c.5.

Information obtained from federal government

- (2) The Director shall not disclose information obtained under the *Family Orders and Agreements Enforcement Assistance Act* (Canada) for the enforcement of a maintenance order or payment order, except to the extent necessary for the enforcement of the order. *1988, c.1, s.7; 1993, c.15, s.6; 1993, c.29, s.4; 1997, c.20, s.3; 2000, c.5, s.3; 2010, c.14, s.3; 2012, c.17, s.2; 2015, c.28, s.3.*

PART II — ENFORCEMENT REMEDIES

8. Definitions

In sections 9, 11 and 13, “court” means the Family Section of the Supreme Court. *1988, c.1, s.8; 2008, c.20, s.72(57).*

8.1 Deterrent charge

- (1) The Director may require a payor to pay a deterrent charge in an amount set out in the regulations, if
- (a) the payor fails to pay maintenance under a maintenance order that has been filed with the office of the Director or fails to comply with any payment condition included in an order under clause 11(4)(c) of the Act
 - (i) by the date required in the order, or
 - (ii) in accordance with an arrangement made between the payor and the Director; or
 - (b) the payor or another person on behalf of the payor makes a payment to the Director, in respect of a maintenance order that has been filed with the office of the Director or other amounts owing under this Act, by cheque or money order and
 - (i) the cheque is dishonoured on the grounds that no funds or insufficient funds were available, or
 - (ii) a stop payment order is placed on the cheque or money order.

Collection of deterrent charge

- (2) A deterrent charge payable under subsection (1) may be collected in the same manner as a maintenance order may be enforced under this Act. *2012(2nd), c.17, s.5.*

9. Recognition of extra-provincial garnishments

- (1) On the filing of a garnishment process that
- (a) is issued outside Prince Edward Island and is directed to a garnishee in Prince Edward Island;
 - (b) states that it is issued in respect of support or maintenance; and
 - (c) is written in or accompanied by a sworn or certified translation into English or French,

the Prothonotary shall issue a notice of garnishment to enforce the support or maintenance obligation.

Foreign currencies

- (2) If the garnishment process refers to an obligation in a foreign currency, section 54 of the *Judicature Act R.S.P.E.I. 1988, Cap. J-2.1* applies. *1988, c.1, s.9; 2008, c.20, s.72(57).*

10. Registration against land

- (1) A maintenance order that is filed in the office of the Director may be registered against the land of the person against whom an obligation to pay money under the order is enforceable, and on registration the obligation under the order becomes a charge on the property.



Sale of property

- (2) A charge created by subsection (1) may be enforced by sale of the property against which it is registered.

Discharge or postponement of charge

- (3) The court may order the discharge, in whole or in part, or the postponement of a charge created by subsection (1), on such terms as to security or other matters as the court considers just.

Director to be served

- (4) An order under subsection (3) may be made only after notice to the Director. *1988, c.1, s.10; 1993, c.15, s.7.*

11. Filing of financial statement with Director

- (1) When a maintenance order that is filed in the Director's office is in default, the Director may prepare a statement of the arrears and the Director may, by notice served on the payor together with the statement of arrears, require the payor to file in the Director's office a financial statement in the form prescribed by the rules of the court and to appear before the court to explain the default.

Arrest of payor

- (2) Where the payor fails to file the financial statement or to appear as the notice requires, the court may issue a warrant for the payor's arrest for the purpose of bringing him before the court.

Presumptions at hearing

- (3) At the default hearing, unless the contrary is shown, the payor shall be presumed to have the ability to pay the arrears and to make subsequent payments under the order, and the statement of arrears prepared and served by the Director shall be presumed to be correct as to arrears accruing while the order is filed in the office of the Director.

Powers of court

- (4) The court may, unless it is satisfied that there are no arrears or that the payor is unable for valid reasons to pay the arrears or to make subsequent payments under the order, order that the payor,
- (a) discharge the arrears by such periodic payments as the court considers just;
 - (b) discharge the arrears in full by a specified date;
 - (c) comply with the order to the extent of the payor's ability to pay, but an order under this clause does not affect the accruing of arrears;
 - (d) provide security in such form as the court directs for the arrears and subsequent payment;
 - (e) report periodically to the court, the Director or a person specified in the order;
 - (f) provide to the court, the Director or a person specified in the order particulars of any future change of address or employment as soon as they occur;
 - (g) be imprisoned continuously or intermittently for not more than ninety days unless the arrears are sooner paid;
 - (h) be imprisoned continuously or intermittently for not more than ninety days on default in any payment or requirement ordered under this subsection.

Garnishment of wages, etc.

- (4.1) In addition to any order under subsection (4) the court may order that the wages of the payor be garnisheed in the amount specified in the order and, where an order is made under this subsection the garnishee shall pay the amount specified into court without any hearing to show cause why he should not do so.

Garnishment of Federal Crown

- (4.2) In addition to an order under subsection (4) the court may order the garnishment of Her Majesty in right of Canada pursuant to the *Family Orders and Agreements Enforcement Assistance Act* in respect of garnishable moneys owed to a judgment payor and require Her Majesty to pay the amount specified in the order to the Director.

Application of provincial Act

- (4.3) The *Garnishee Act* R.S.P.E.I. 1988, Cap. G-2 does not apply to an order under subsection (4.2).

Power to vary order

- (5) The court may on motion vary an order made under subsection (4), (4.1) or (4.2) if satisfied that there is a material change in the payor's circumstances.

Imprisonment does not discharge arrears

- (6) Imprisonment of a payor under clause (4)(g) or (h) does not discharge arrears under an order.

Realizing on security

- (7) An order for security under clause (4)(d) or a subsequent order of the court may provide for the realization of the security by seizure, sale or other means, as the court directs.

Proof of service not necessary

- (8) Proof of service on the payor of a maintenance order is not necessary for the purpose of a default hearing.

Joinder of default and variation hearings

- (9) A default hearing under this section and a hearing on an application for variation of the maintenance order in default may be held together or separately.

Spouses compellable witnesses

- (10) Spouses are competent and compellable witnesses against each other on a default hearing. *1988,c.1,s.11; 1990,c.33,s.1; 1991,c.24,s.1; 1993,c.15,s.8, and 13.*

12. Restraining order

A court may make an interim or final order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a maintenance order. *1988,c.1,s.12.*

12.1 Notice to payor *re* suspension etc. of driving privileges

- (1) Where a payor is in default under a maintenance order being enforced by the Director, the Director may send a notice to the payor informing the payor that if the payor does not, within the time specified by the Director in the notice, make arrangements satisfactory to the Director for complying with the maintenance order, any driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle in the province or any other



license, registration of a vehicle or any permit issued to the payor pursuant to the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5 may be suspended or revoked.

Suspension etc., of driving privileges etc., on Director's request

- (2) Where a payor does not make an arrangement with the Director pursuant to subsection (1), the Director may request the Registrar of Motor Vehicles to suspend or revoke any driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle in the province or any other license, registration of a vehicle or any permit issued to the payor by the Registrar and the Registrar shall suspend or revoke the driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle in the province or any other license, registration of a vehicle or any permit.

Renewal, etc.

- (3) In addition to suspending or revoking a driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle in the province or any other license, registration of a vehicle or any permit pursuant to subsection (2), the Registrar of Motor Vehicles shall not renew a driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle in the province or any other license, registration of a vehicle or any permit issued to the payor pursuant to the *Highway Traffic Act* or otherwise deal with the payor pursuant to that Act until such time as the Registrar of Motor Vehicles receives a request from the Director to lift the suspension or revocation. *1996, c.27, s.3 {eff.} Jan.1/97.*

13. Arrest of absconding payor

- (1) If the court is satisfied that a payor is about to leave Prince Edward Island and that there are reasonable grounds for believing that the payor intends to evade his responsibilities under the order, the court may issue a warrant for the payor's arrest for the purpose of bringing him before the court.

Powers of court

- (2) When the payor is brought before the court, it may make any order provided for in subsection 11(4), (4.1) or (4.2). *1988, c.1, s.13; 1993, c.15, s.13.*

13.1 Joint and several liability

- (1) A company is jointly and severally liable with the payor for payments required under a maintenance order if
- (a) the payor has defaulted in a payment required under the maintenance order;
 - (b) the Director has served a notice on the company claiming joint and several liability; and
 - (c) the amount owing by the payor under the maintenance order exceeds \$500 at any time after the notice referred to in clause (b) has been served.

Company's liability

- (2) Where a company is jointly and severally liable pursuant to subsection (1),
- (a) the company continues to be liable as long as the payor continues to be liable for payments under the maintenance order;
 - (b) an enforcement proceeding that may be taken against the payor may be taken against the company; and

- (c) the amount of a payment required under a maintenance order that is paid by the company or obtained by enforcement against the company is a debt owed by the payor to the company.

Where company not liable

- (3) Notwithstanding subsection (2), a company is not liable for payments under a maintenance order that come due on or after the date that the company serves a notice on the Director which
 - (a) indicates that the payor has ceased to hold or to have a beneficial interest in any shares of the company and provides the date this occurred;
 - (b) gives the name and address of any person who acquired the shares or beneficial interest of the payor; and
 - (c) specifies the consideration, if known to the company, that the payor received or will receive for the transfer of the shares or the beneficial interest in them.

Application to court

- (4) The Director or the recipient of a notice served under clause (1)(b) may apply to the court for an order declaring
 - (a) whether or not the recipient of the notice is a company within the meaning of this Act; and
 - (b) when the recipient of the notice became or ceased to be such a company.

Determination of court

- (5) The court may, on an application under subsection (4),
 - (a) summarily make an order referred to in that subsection; or
 - (b) order a further hearing to determine what orders, if any, referred to in that subsection should be made. *2001, c.11, s.4.*

13.2 Application to court

- (1) The Director may apply to the court for an order that a family company is jointly and severally liable with the payor for payments required under a maintenance order if
 - (a) the payor has defaulted in a payment under the maintenance order;
 - (b) the director has served a notice on the family company claiming joint and several liability; and
 - (c) the amount owing under the maintenance order exceeds \$500 at any time after the notice referred to in clause (b) has been served.

Joint and several liability

- (2) Where a family company is jointly and severally liable pursuant to an order made by the court on an application under subsection (1),
 - (a) the family company continues to be liable as long as the payor continues to be liable for payments under the maintenance order;
 - (b) an enforcement proceeding that may be taken against the payor may be taken against the family company; and
 - (c) the amount of payment required under a maintenance order that is paid by the family company or obtained by enforcement against the family company is a debt owing by the payor to the family company.



Where family company not liable

- (3) Notwithstanding subsection (2), a family company is not liable for payments under a maintenance order that come due on or after the date that the family company serves a notice on the Director which
- (a) indicates that the payor has ceased to hold or have a beneficial interest in any shares of the family company and providing the date this occurred;
 - (b) gives the name and address of any person who acquired the shares or the beneficial interest of the payor; and
 - (c) specifies the consideration, if known to the family company, that the payor received or will receive for the transfer of the shares or beneficial interest in them.

Application to court

- (4) The Director or the recipient of a notice served under subsection (1), may apply to the court for an order declaring
- (a) whether or not the recipient of the notice is a family company within the meaning of this Act; and
 - (b) when the recipient of the notice became or ceased to be such a company.

Determination of court

- (5) The court may, on an application under subsection (4),
- (a) summarily make an order referred to in that subsection; or
 - (b) order a further hearing to determine what order, if any, referred to in that subsection should be made. *2001, c.11, s.4.*

13.3 Significant risk factor

For the purposes of an enforcement proceeding pursuant to sections 13.1 and 13.2, the Director and the court shall

- (a) consider whether a significant risk to the continued solvency of the company or family company arises or will arise from the enforcement proceedings; and
- (b) where there are reasonable grounds to believe that a significant risk has arisen or will arise, proceed in a manner that will reduce the risk and allow enforcement of the maintenance order to be effective. *2001, c.11, s.4.*

14. Application of payments

- (1) Money paid on account of a maintenance order shall be credited in accordance with the regulations.

Overpayments

- (2) Notwithstanding subsection (1), if a payor makes a payment under a maintenance order to the Director in excess of the amount due for that periodic payment, the Director may, in his or her sole discretion, credit the overpayment in accordance with the regulations or return the overpayment to the payor. *1988, c.1, s.14; 1993, c.15, s.13; 2012(2nd), c.17, s.6.*

15. Priority for support orders

- (1) A maintenance or payment order has priority over other judgment debts regardless of when an enforcement process is issued or served,

- (a) if the order is for periodic payments, in an amount not exceeding one year's support or maintenance at the rate current at the time of seizure or attachment; and
- (b) if the order is for a lump sum payment, in the amount of the lump sum.

Support orders rank equally

- (2) Maintenance or payment orders rank equally with one another. *1988,c.1,s.15; 1993,c.15,s.9.*

16. Exclusion of public from hearings

The court may exclude the public from a hearing or any part of a hearing held pursuant to this Act where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public, and the court by order may prohibit the publication of any matter connected with the application or given in evidence at the hearing. *1993,c.15,s.10.*

17. Garnishee Act not to apply

The provisions of the *Garnishee Act* do not apply to any payment order made or enforced pursuant to this Act. *1993,c.15,s.10.*

17.1 Service fees

- (1) The Director may charge prescribed service fees that relate to the costs of the Director for any steps taken by the Director to enforce a maintenance order, including
 - (a) issuing a payment order;
 - (b) requesting a person or public body to provide information under section 6;
 - (c) making a report respecting the payor to a credit reporting agency under section 6.1;
 - (d) registering a maintenance order against the land of a person against whom an obligation to pay money under the order is enforceable, under subsection 10(1);
 - (e) taking proceedings respecting default under section 11;
 - (f) giving notice of potential action, or taking action, respecting the suspension or revocation of privileges of the payor under the *Highway Traffic Act*, under section 12.1;
 - (g) taking proceedings respecting an absconding payor under subsection 13(1);
 - (h) taking proceedings to obtain an order under the *Garnishee Act*;
 - (i) taking proceedings to obtain a writ of execution under the *Judgments and Execution Act* R.S.P.E.I. 1988 Cap. J-2;
 - (j) issuing a garnishment summons under the *Garnishment and Pension Diversion Act* (Canada); or
 - (k) making an application for the release of information or for a license denial under the *Family Orders and Agreements Enforcement Assistance Act* (Canada).

Collection of service fees

- (2) A service fee payable under subsection (1) may be collected in the same manner as a maintenance order may be enforced under this Act. *2012(2nd),c.17,s.7.*



17.2 Limitation of liability

No action lies against the Director or a person acting for or under the direction of the Director for anything done or not done, in good faith, in the exercise or performance or the intended exercise or performance of a power, duty or function under the Act or the regulations.
2012(2nd),c.17,s.7.

17.3 Service

- (1) Whenever the Director is authorized or required under this Act or the regulations to give notice, the notice shall be served by
- (a) personal delivery of the notice to the person to be notified; or
 - (b) ordinary mail addressed to the person to be notified at the person's last known address as shown in the records of the office of the Director.

Deemed completion

- (2) The service of a notice by ordinary mail in accordance with subsection (1) is deemed to be complete upon the expiration of seven days after the deposit of the notice in the mail.

Certificate as *prima facie* proof

- (3) A certificate purporting to be signed by the Director, stating that, according to the records of the office of the Director, a notice has been served in either manner provided by subsection (1), and setting out the method of service, naming the person to whom notice was delivered or mailed, and specifying the time, place and manner of the delivery or mailing, shall be
- (a) *prima facie* proof in any court of this province of the proper service of the notice; and
 - (b) *prima facie* proof in any court of this province that the person to whom the notice was delivered or mailed received notice of the matters referred to in the notice.
2012(2nd),c.17,s.7.

18. Regulations

The Lieutenant Governor in Council may make regulations

- (a) respecting the amount of arrears under a maintenance order that a payor must owe before the Director may act under section 6.1;
- (b) prescribing information that may be disclosed to a credit reporting agency under section 6.1;
- (c) prescribing the amount of a deterrent charge referred to in section 8.1;
- (d) respecting the crediting of money paid on account of a maintenance order;
- (e) respecting the charging of service fees;
- (f) prescribing service fees;
- (g) prescribing anything required or authorized by this Act to be prescribed by regulation;
- (h) defining any word or phrase used but not defined in this Act; and
- (i) respecting any matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent and purpose of this Act.*2012(2nd),c.17,s.7.*