

The Enforcement of Maintenance Orders Act

Repealed

by Chapter E-9.21 of the *Statutes of Saskatchewan, 1997*
(effective March 1, 1998).

Formerly

Chapter E-9.2 of the *Statutes of Saskatchewan, 1984-85-86*
(effective March 1, 1986) as amended by the *Statutes of
Saskatchewan, 1988-89, c.52; 1990-91, c.F-6.1 and S-63.1; 1992,
c.5; 1994, c.27; and 1996, c.15.*

NOTE:

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

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CHAPTER E-9.2

An Act to Facilitate the Enforcement of Maintenance Orders and to Establish the Maintenance Enforcement Office

PART I

Title and Interpretation

TITLE

Short title

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

INTERPRETATION

Interpretation

2(1) In this Act:

- (a) **“claimant”** means:
 - (i) a person in whose favour a maintenance order has been made; or
 - (ii) where an assignment is made pursuant to section 6, the minister to the extent of the assignment;
- (b) **“clerk”** means a clerk within the meaning of *The Provincial Court Act*;
- (c) **“court”** means:
 - (i) Her Majesty’s Court of Queen’s Bench for Saskatchewan;
 - (ii) **Repealed.** 1994, c.27, s.23.
 - (iii) for the purposes of sections 7, 35, 38, 39, 40, 41, 42, 44, 45, 46, 51 and 56 includes the Provincial Court of Saskatchewan;
- (d) **“Crown”** means Her Majesty the Queen in right of Saskatchewan and includes any corporation of the Crown and any department, agency, board or other body of the government of Saskatchewan;
- (e) **“director”** means the Director of Maintenance Enforcement appointed pursuant to section 5;
- (f) **“garnishee”** means a person who is served with a notice of continuing garnishment or notice of garnishment;
- (g) **“judge”** means a judge of the court;
- (h) **“local registrar”** means a local registrar or deputy local registrar of a court;

c. E-9.2

ENFORCEMENT OF MAINTENANCE ORDERS

(i) “**maintenance order**” means a provision in an order enforceable in Saskatchewan for the payment of:

- (i) support, alimony or maintenance;
- (ii) expenses arising from pre-natal care of a mother or the birth of a child;
- (iii) interest on a maintenance order;
- (iv) legal fees or other expenses arising in relation to a maintenance order;

and includes an order made pursuant to section 41 and an agreement filed in the court pursuant to section 9 of *The Family Maintenance Act*;

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

(k) “**notice of continuing garnishment**” means a notice of continuing garnishment described in section 15;

(l) “**notice of garnishment**” means a notice of garnishment described in section 17;

(m) “**office**” means the Maintenance Enforcement Office established pursuant to section 4;

(n) “**provisional order**” means a provisional order as defined in *The Reciprocal Enforcement of Maintenance Orders Act, 1983*;

(o) “**reciprocating state**” means a reciprocating state as defined in *The Reciprocal Enforcement of Maintenance Orders Act, 1983*;

(p) “**respondent**” means a person who has an obligation to pay a maintenance order;

(q) “**statement of arrears**” means a statement of arrears mentioned in subsection 50(1).

(2) Where a maintenance order has been made, reference to that maintenance order in this Act means the original of that maintenance order or a copy of that maintenance order certified by an officer of the court in which the order was made or registered.

1984-85-86, c.E-9.2, s.2; 1990-91, c.F-6.1, s.30;
1994, c.27, s.23.

Crown bound

3 The Crown is bound by this Act.

1984-85-86, c.E-9.2, s.3.

PART II
Maintenance Enforcement Office
ESTABLISHMENT

Office established

4 An office, to be known as the Maintenance Enforcement Office, is established for the purpose of recording and enforcing maintenance orders filed pursuant to this Act.

1984-85-86, c.E-9.2, s.4.

Director appointed

5(1) The Minister of Justice may appoint a person as the Director of Maintenance Enforcement and any number of persons as deputy directors that may be required for the proper operation of the office.

(2) The director may designate any person to act on his behalf.

1984-85-86, c.E-9.2, s.5.

FUNCTIONS

Assignment to Crown

6(1) The Crown, as represented by the minister, may accept an assignment in writing of any of the following rights of a person with respect to a maintenance order:

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

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

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

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

(5) Where an assignment is made pursuant to subsection (1), the minister may, notwithstanding the death of the person in whose favour a maintenance order is made, commence or continue any proceeding pursuant to section 55 or 56.

1984-85-86, c.E-9.2, s.6.

c. E-9.2**ENFORCEMENT OF MAINTENANCE ORDERS****Filing orders**

7(1) Subject to subsection (5), where a court makes a maintenance order on or after the date this section comes into force, the maintenance order is to:

- (a) state that the director shall enforce the maintenance order and that the amounts owing pursuant to the order are to be paid to the person to whom it is owed through the office unless the maintenance order is withdrawn from the office pursuant to this Act; and
 - (b) be filed in the office by the clerk or local registrar of the court that made the maintenance order immediately after it is made or issued.
- (2) The director may, on the application of a claimant or respondent, file a maintenance order in the office.
- (3) The Attorney General shall cause to be filed in the office every maintenance order and provisional order received for transmission or enforcement pursuant to *The Reciprocal Enforcement of Maintenance Orders Act, 1983*, or any former *Reciprocal Enforcement of Maintenance Orders Act* or former *Maintenance Orders (Facilities for Enforcement) Act*.
- (4) A maintenance order filed pursuant to this section is to be filed in the manner prescribed in the regulations.
- (5) Subsection (1) does not apply if a claimant files a notice in writing with the court stating that he does not wish to have the maintenance order filed in the office.

1984-85-86, c.E-9.2, s.7.

Effect of filing

8 Where a maintenance order is filed in the office pursuant to section 7:

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

1984-85-86, c.E-9.2, s.8; 1996, c.15, s.3.

Withdrawal of maintenance order

- 9(1) The director may withdraw a maintenance order filed in the office:
- (a) where it appears to him that the claimant is taking steps to enforce the maintenance order, 14 days after he mails to the claimant a written notice sent by ordinary mail that he will withdraw the maintenance order;
 - (b) on the application of the claimant, except where the maintenance order was filed by the respondent;
 - (c) by the respondent, on the application of the respondent; or
 - (d) where it appears to the director that the sum payable under the maintenance order is not readily verifiable.
- (2) The claimant or respondent may refile a maintenance order that has been withdrawn from the office.
- (3) The director shall, by ordinary mail, give notice of the filing or withdrawal of a maintenance order to the claimant and the respondent.
- (4) A maintenance order that is withdrawn pursuant to clause (1)(d) may be refiled only with the consent of the director.
- (5) Where a maintenance order has been withdrawn pursuant to clause (1)(d), the claimant or the respondent may apply to the court requesting clarification of the sum payable under the maintenance order.
- (6) Where an application is made pursuant to subsection (5), the director is not required to attend the hearing of the application and is not to be joined as a party to that application.

1984-85-86, c.E-9.2, s.9; 1996, c.15, s.4.

Moneys paid to director

- 10(1) The director shall pay to the claimant all money he receives in respect of a maintenance order filed in the office to the extent of the entitlement of the claimant pursuant to that maintenance order.
- (2) The director shall, in the manner prescribed in the regulations, keep a record of all moneys received and paid out by him and the persons to whom and by whom such moneys have been paid.
- (3) The director may, on the request of the claimant or respondent, provide a statement showing the current status of payments required pursuant to a maintenance order filed in the office.
- (4) The director shall, on the request of the proper officer of a reciprocating state or a court of a reciprocating state pursuant to *The Reciprocal Enforcement of Maintenance Orders Act, 1983*, provide a sworn, itemized statement with respect to a maintenance order, showing:
- (a) all amounts that have become due and owing by the respondent during the 24 months immediately preceding the date of the statement; and
 - (b) all payments made through the office during the period mentioned in clause (a) by or on behalf of the respondent.

1984-85-86, c.E-9.2, s.10.

c. E-9.2**ENFORCEMENT OF MAINTENANCE ORDERS****Payment of arrears**

10.1(1) Where there are arrears owing pursuant to a maintenance order, the director may fix an amount to be applied toward the arrears by way of a continuing garnishment.

(2) The amount mentioned in subsection (1):

(a) is to be a portion of the total arrears owed by the respondent to the claimant; and

(b) is not to exceed an amount determined in accordance with the regulations.

(3) Where the director fixes an amount of arrears pursuant to subsection (1), the director shall attach a notice of arrears attachment in the prescribed form to the true copy of the notice of continuing garnishment to be provided to the garnishee pursuant to subsection 15(2), and the garnishee shall deliver it to the respondent with the true copy of the notice of continuing garnishment in accordance with subsection 15(3).

1992, c.5, s.3.

Access to information

11(1) For the purposes of enforcing a maintenance order that is filed in the office or of obtaining information for a person in another jurisdiction who performs functions similar to those of the director, the director may demand from any person or public body, including the Crown, any of the following information with respect to a respondent or a person against whom a provisional order has been made that is within the knowledge of, or is in any record in the possession or control of, the person or public body:

(a) wages, salary and other income;

(b) assets and liabilities;

(c) financial status;

(d) location;

(e) address;

(f) place of employment.

(2) Notwithstanding any other Act or law restricting the disclosure of information, any person or public body, including the Crown, that receives a demand pursuant to subsection (1) shall provide any of the demanded information that is within the knowledge of the person or public body or contained in the records of the person or public body.

(3) Where, on application, a judge is satisfied that:

(a) the director has been refused information after making a demand pursuant to subsection (1); or

(b) a person requires an order pursuant to this subsection in aid of an application to obtain or enforce a maintenance order;

he may, notwithstanding any other Act or law restricting the disclosure of the information, order any person or public body, including the Crown, to provide the applicant or any other person who the court considers appropriate with any of the following information with respect to the respondent or the person against whom the maintenance order is sought to be obtained that is within the knowledge of, or is in any record in the possession or control of, the person or public body:

- (a) wages, salary and other income;
- (b) assets and liabilities;
- (c) financial status;
- (d) location;
- (e) address;
- (f) place of employment.

(4) Where the director obtains an order pursuant to subsection (3), the court shall award the costs of the application to the director.

1984-85-86, c.E-9.2, s.11; 1992, c.5, s.4.

Confidentiality of information

12(1) No person shall disclose any information retained in the office except in accordance with this Act or the regulations.

(2) Where the director receives information pursuant to section 11, he shall not disclose that information to any person except in accordance with the regulations and only:

- (a) to the extent that is necessary for the enforcement of the maintenance order filed in the office;
- (b) on request, to a person performing similar functions in another jurisdiction; or
- (c) to a person named in an order made pursuant to subsection 11(3).

(3) Where a judge makes an order pursuant to subsection 11(3) or in accordance with any similar provision in any other Act or enactment of the Parliament of Canada, he may make any order with respect to the confidentiality to be maintained in connection with the information released that he considers appropriate.

1984-85-86, c.E-9.2, s.12.

Non-liability for bona fide acts

13 Neither the minister, the Minister of Justice, the director, any deputy director nor any person designated by the director pursuant to this Act to act on his behalf is liable for any loss or damage suffered by any person by reason of anything done or omitted to be done in good faith with respect to the enforcement of a maintenance order or provisional order.

1984-85-86, c.E-9.2, s.13.

PART III
Enforcement
GARNISHMENT

Enforcement by garnishment

14 A maintenance order may be enforced by a claimant by garnishment, in accordance with this Act, of money payable to the respondent by any other person.

1984-85-86, c.E-9.2, s.14.

Notice of continuing garnishment

15(1) Any person may, on behalf of the claimant, serve one or more notices of continuing garnishment, in the form prescribed in the regulations, directed to any persons alleged to be indebted to the respondent.

(2) On serving a notice of continuing garnishment, the claimant shall provide the garnishee with a true copy of the notice of continuing garnishment.

(3) On receipt of the notice of continuing garnishment, the garnishee shall immediately deliver, personally or by ordinary mail, the true copy of the notice to the respondent.

(4) Failure of the garnishee to comply with subsection (3) does not render the garnishment ineffective.

(5) Where a notice of continuing garnishment or a notice of variation pursuant to subsection 16(5) is served by a person other than the director, the claimant shall file a copy of the notice, with proof of service, with the local registrar of the court where the notice requires payments to be made.

1984-85-86, c.E-9.2, s.15.

Effect of notice of continuing garnishment

16(1) A notice of continuing garnishment, on service on the garnishee, binds all money then due and from time to time accruing due from the garnishee to the respondent, in the amount required to be deducted pursuant to subsection (2).

(2) On service of a notice of continuing garnishment, the garnishee shall deduct from the moneys then due, and from time to time accruing due, to the respondent:

(a) in accordance with the notice of continuing garnishment:

(i) the amount of any payment required by the maintenance order as that payment becomes due; and

(ii) any amount fixed by the director pursuant to section 10.1 as that amount becomes due; or

(b) the total amount of moneys due from the garnishee to the respondent if that amount is less than the amount to be deducted pursuant to clause (a).

(3) The garnishee shall, within seven days after he makes a deduction pursuant to subsection (2), pay the amount deducted in accordance with the notice of continuing garnishment.

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

(5) Where a maintenance order that is the subject of a notice of continuing garnishment is varied after service of that notice:

- (a) a notice of variation in the form prescribed in the regulations shall be served on the garnishee by the claimant; and
- (b) the garnishee shall, on service pursuant to clause (a), make deductions in accordance with the notice of variation.

1984-85-86, c.E-9.2, s.16; 1992, c.5, s.5.

Notice of garnishment

17(1) Any person may, on behalf of the claimant, serve one or more notices of garnishment, in the form prescribed in the regulations, directed to any persons who are alleged to be indebted to the respondent.

(2) **Repealed.** 1992, c.5, s.6.

(3) After service of a notice of garnishment, the claimant shall cause to be served on the respondent a true copy of the notice of garnishment within:

- (a) 30 days from the date of service on the garnishee; or
- (b) any further time that the court may allow on the application, *ex parte*, of the claimant made before or after the period mentioned in clause (a) has expired and before or after the respondent is served.

1984-85-86, c.E-9.2, s.17; 1992, c.5, s.6.

Effect of notice of garnishment

18(1) Service of a notice of garnishment binds all money that is due or accruing due from time to time by the garnishee to the respondent, until the amount set out in the notice is paid or the notice is withdrawn pursuant to section 26.

(2) The probable costs of a notice of garnishment may be included in the amount set out in the notice of garnishment.

(3) Where a notice of garnishment is served by a person other than the director, the claimant shall file a copy of the notice, together with proof of service, with the local registrar of the court where the notice requires payments to be made.

(4) After service of a notice of garnishment, the garnishee shall pay, in accordance with the notice of garnishment, the amount required to be paid pursuant to subsection (1) as it becomes due.

1984-85-86, c.E-9.2, s.18; 1992, c.5, s.7.

Garnishment outside Saskatchewan

19(1) On the filing by the director of a document which purports to be issued by a competent authority in a jurisdiction outside Saskatchewan that:

- (a) states that it is issued in respect of support, alimony or maintenance;
- (b) states the amount of the support, alimony or maintenance;
- (c) states the name, address and telephone number of the person who caused it to be issued and the name and address of a person who is alleged to owe money to the respondent;
- (d) is written in or accompanied by a sworn or certified translation in English;

the local registrar shall issue a notice of garnishment or notice of continuing garnishment in similar terms in the form prescribed in the regulations.

(2) A notice of garnishment or notice of continuing garnishment in the form prescribed in the regulations may be issued by the court in respect of a garnishee who is outside Saskatchewan and shall:

- (a) be signed and sealed by the local registrar;
- (b) state that it is issued in respect of support, alimony or maintenance;
- (c) state the amount of the support, alimony or maintenance due to a claimant;
- (d) state the name, address and telephone number of the person who caused it to be issued and the name and address of the garnishee; and
- (e) be written in or accompanied by a sworn or certified translation in a language ordinarily used in the court of the jurisdiction where it is to be served.

(3) Where, in any proceeding pursuant to this Act, a document from a competent authority in a jurisdiction outside Saskatchewan contains terminology different from the terminology contained in this Act or that is customarily in use in the court in Saskatchewan, the court in Saskatchewan shall give a broad and liberal interpretation to the terminology so as to give effect to the document.

1984-85-86, c.E-9.2, s.19.

Garnishment of money owing by Crown

20(1) Notwithstanding any other Act, the Crown may be named as a garnishee in a notice of continuing garnishment or notice of garnishment for the purpose of garnishment of any money due to a respondent other than payments made pursuant to *The Saskatchewan Assistance Act* or grants made pursuant to any Act.

(2) A claimant may effect service on the Crown by serving the appropriate officer designated in the regulations or, in the case of a board, agency or commission where no designation is made in the regulations, by serving the chairman or secretary of the board, agency or commission.

(3) Where the garnishee is the Crown, the notice of continuing garnishment or the notice of garnishment is to indicate, if known, the department, agency or other body of the Government of Saskatchewan by which the money is payable and shall provide as many particulars as possible with respect to the money due.

1984-85-86, c.E-9.2, s.20.

Certain firms as garnishees

21 Debts owing from a firm carrying on business within Saskatchewan, where one or more members of the firm may be resident outside Saskatchewan, may be garnished if any person having the control or management of the business or any member of the firm within Saskatchewan is served with the notice of continuing garnishment or notice of garnishment.

1984-85-86, c.E-9.2, s.21.

Deposit accounts

21.1(1) In this section, “**deposit account**” includes a demand account, time account, savings account, passbook account, chequing account, current account and other similar accounts at:

- (a) a bank set out in Schedule I or Schedule II to the *Bank Act* (Canada);
- (b) a trust corporation within the meaning of *The Trust and Loan Corporations Act*;
- (c) a credit union within the meaning of *The Credit Union Act, 1985*; or
- (d) a similar institution.

(2) Where a notice of garnishment is issued against a deposit account that is owned by the respondent and one or more other persons as joint or joint and several owners, the moneys credited to the deposit account are presumed to be owned by the respondent.

1992, c.5, s.8.

Dispute of garnishment

22(1) Where the garnishee alleges that:

- (a) no money is owing by him to the respondent;
- (b) he has fully satisfied his obligation to make payments to the respondent and no further payments from him to the respondent are accruing due; or
- (c) he has not received sufficient information with respect to the respondent to enable him to make any deductions;

he shall file, where the payments are to be made to a court, with the court or, where the payments are to be made to the office, with the director a statement to that effect within 10 days of service on him of the notice of continuing garnishment or notice of garnishment or when his obligation to pay the respondent has been satisfied, as the case may be.

c. E-9.2**ENFORCEMENT OF MAINTENANCE ORDERS**

(2) Where a statement is filed by the garnishee pursuant to subsection (1), the court may, on application by the claimant within 30 days after the date the statement is filed:

- (a) summarily determine whether the garnishee is liable under the notice; or
 - (b) order that an issue or question necessary for the determination of the liability of the garnishee be tried.
- (3) A determination of a court pursuant to this section is a judgment of the court and may be so enforced.
- (4) Where a garnishee files a statement pursuant to subsection (1) and the claimant does not make an application within the period specified in subsection (2), the garnishee is released from any claim pursuant to the notice of continuing garnishment or notice of garnishment.

1984-85-86, c.E-9.2, s.22.

Default of payment by garnishee

23(1) Unless the garnishee files a statement pursuant to subsection 22(1), where the garnishee does not pay into court or to the office, as the case may be, the amount due from him to the respondent or the amount required to be paid by him pursuant to a notice of continuing garnishment or notice of garnishment, the claimant is entitled to judgment against the garnishee by filing with the court the notice of continuing garnishment or notice of garnishment, with proof of service, and an affidavit stating that the garnishee has not made payments required by this Act and has not filed a statement pursuant to subsection 22(1).

(2) A judgment pursuant to subsection (1) shall include the amount of the default under the notice of continuing garnishment or notice of garnishment, together with the costs of the application.

(3) Payment made by or execution levied on the garnishee is a valid discharge to him against the respondent to the amount paid or levied, notwithstanding that those proceedings may be set aside or the judgment or order later reversed.

1984-85-86, c.E-9.2, s.23.

Prohibition re execution

24 No execution is to issue on a judgment given pursuant to section 22 or 23 against the Crown in garnishment proceedings pursuant to this Act.

1984-85-86, c.E-9.2, s.24.

Dispute by respondent

25(1) The respondent may apply to the court for an order setting aside a notice of continuing garnishment or notice of garnishment on the basis that money owed pursuant to the maintenance order has been paid or that there is no debt owing by the garnishee to the respondent.

(2) The respondent shall serve a notice of an application pursuant to subsection (1) on the claimant.

1984-85-86, c.E-9.2, s.25.

Withdrawal

26(1) The claimant may at any time serve a notice of withdrawal in the form prescribed in the regulations on any garnishee who has been served with a notice of continuing garnishment or notice of garnishment and, on service of the notice of withdrawal, the garnishee shall make no further deductions or payments.

(2) When the amount set out in the notice of continuing garnishment or notice of garnishment has been satisfied, the claimant shall:

- (a) serve a notice of withdrawal on the garnishee; and
- (b) where the garnishee was paying the money to the court, file a copy of the notice of withdrawal with the court;

and, on service of that notice, the garnishee shall make no further deductions or payments.

1984-85-86, c.E-9.2, s.26.

Exemption from garnishment

27(1) Notwithstanding any other Act and subject to subsection (2) and the regulations, where proceedings with respect to garnishment are taken pursuant to this Act, no money is exempt from garnishment.

(2) On application by the respondent, a judge may, where he is satisfied that it would be grossly unfair and inequitable to do otherwise, make an order specifying the amount of money that is exempt from garnishment.

1984-85-86, c.E-9.2, s.27; 1992, c.5, s.9.

Prohibition re fees

28 No garnishee shall charge a fee in respect of anything required to be done by him pursuant to this Act.

1984-85-86, c.E-9.2, s.28.

Payment of moneys received

29(1) Subject to subsection (3), money received by the director or the court pursuant to a notice of continuing garnishment is to be paid immediately to the claimant.

(2) Where moneys are received by the court or the director pursuant to subsection 18(4) and no dispute is made pursuant to section 22 or 25 or a dispute is settled in favour of the claimant:

- (a) moneys held by the court are to be paid to the claimant:
 - (i) on an *ex parte* application by the claimant; or
 - (ii) with the written consent of the claimant and the respondent; and
- (b) moneys held by the director are to be paid to the claimant.

(3) Money received by the court or director in excess of the amount required to satisfy the notice of continuing garnishment or notice of garnishment is to be paid to the respondent.

1984-85-86, c.E-9.2, s.29; 1992, c.5, s.10.

c. E-9.2

ENFORCEMENT OF MAINTENANCE ORDERS

Priority of garnishment

30 Notwithstanding any other Act, any notice of continuing garnishment or notice of garnishment served pursuant to this Act has priority over:

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

1984-85-86, c.E-9.2, s.30.

Attachment of certain allowances, benefits, etc.

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

1984-85-86, c.E-9.2, s.31.

ATTACHMENT OF PENSION ENTITLEMENTS

Interpretation

31.1(1) In this section and in sections 31.2 to 31.6:

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

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

(b) **“pension entitlement”** means the amount of money in a pension plan of a respondent that is available for attachment pursuant to this Act;

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

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

(2) Words or phrases used in the definitions in subsection (1) that have been defined in *The Pension Benefits Act, 1992* have the same meaning as in that Act.

1996, c.15, s.5.

Pension entitlement may be attached

31.2 The director may enforce a maintenance order by attaching the pension entitlement of a respondent pursuant to section 31.6 where:

- (a) the respondent is in arrears in an amount not less than three months' payments respecting an obligation under a maintenance order that is filed in the office;
- (b) in the opinion of the director, all reasonable steps have been taken to enforce the maintenance order;
- (c) the director has served the administrator and the respondent with a notice of the director's intention mentioned in section 31.3; and
- (d) the respondent has not, prior to the service of a notice of attachment on the administrator pursuant to section 31.6, made arrangements satisfactory to the director to fulfil the obligation under the maintenance order.

1996, c.15, s.5.

Notice of the director's intention

31.3(1) The notice of the director's intention to attach the respondent's pension entitlement is to be in the prescribed form and is to:

- (a) direct the administrator to provide the director and the respondent, within 30 days, with information prescribed in the regulations respecting the respondent's pension entitlement;
- (b) notify the respondent, in accordance with the regulations, that the respondent may apply to the court pursuant to section 31.5 within 30 days of receipt of the information mentioned in clause (a) for an order that the respondent's pension entitlement is not to be attached; and
- (c) notify the respondent, in accordance with the regulations, of the costs, income tax implications and pension reductions that would result from the attachment of the respondent's pension entitlement.

(2) The administrator may provide the information mentioned in clause (1)(a) to the respondent at the most recent address for the respondent in the administrator's records.

(3) Failure of the administrator to provide the information mentioned in clause (1)(a) to the respondent does not render the attachment ineffective.

1996, c.15, s.5.

Restrictions

31.4(1) The director shall not enforce a maintenance order by attaching the pension entitlement of a respondent where:

- (a) the respondent is a member of a pension plan and:
 - (i) the respondent is required to make contributions to the plan that the director proposes to attach; or
 - (ii) the respondent's employer is required by the plan to make contributions on the respondent's behalf to the plan that the director proposes to attach; or

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- (b) the respondent is receiving a pension benefit pursuant to the pension plan that the director proposes to attach.
- (2) Where an administrator is served with a notice of the director's intention, the administrator shall not pay out any of the respondent's pension entitlement at the direction of the respondent until 60 days have elapsed from:
 - (a) if no application is made to the court, the date that the director received the information mentioned in clause 31.3(1)(a); or
 - (b) if an application is made to the court, the date that the court orders that the respondent's pension entitlement may be attached.

1996, c.15, s.5.

Court application

31.5(1) The court, on application by the respondent, may order that the respondent's pension entitlement is not to be attached where the court is satisfied that:

- (a) the respondent is not in arrears in an amount not less than three months' payments respecting an obligation under a maintenance order that is filed in the office;
- (b) the respondent is a member of a pension plan and:
 - (i) is required to make contributions to the plan that the director proposes to attach; or
 - (ii) the respondent's employer is required by the plan to make contributions on the respondent's behalf to the plan that the director proposes to attach; or
- (c) the respondent is receiving a pension benefit pursuant to the pension plan that the director proposes to attach.
- (2) A respondent applying to the court shall serve the director and the administrator with notice of the application.

1996, c.15, s.5.

Attachment of pension entitlement

31.6(1) The director may serve the administrator with a notice of attachment of the respondent's pension entitlement in the form prescribed in the regulations where:

- (a) an application pursuant to section 31.5:
 - (i) has not been made to the court by the respondent; or
 - (ii) has been made to the court by the respondent but the court has not ordered that the respondent's pension entitlement is not to be attached; and

- (b) not more than 60 days have elapsed from:
 - (i) if no application is made to the court, the date that the director received the information mentioned in clause 31.3(1)(a); or
 - (ii) if an application is made to the court pursuant to section 31.5, the date that the court orders that the respondent's pension entitlement may be attached.
- (2) Where the director serves a notice of attachment, the administrator shall:
 - (a) immediately deliver, personally or by ordinary mail, a copy of the notice to the respondent; and
 - (b) comply with the notice of attachment within 45 days of receiving the notice.
- (3) The administrator may deliver the notice of attachment to the respondent at the most recent address for the respondent in the administrator's records.
- (4) Failure of the administrator to comply with clause (2)(a) does not render the attachment ineffective.
- (5) Sections 22 to 24 apply, with any necessary modification, to an administrator served with a notice of the director's intention to attach the respondent's pension entitlement.

1996, c.15, s.5.

LICENCE SUSPENSION

Licence may be suspended

31.7(1) In this section and in sections 31.8 and 31.9:

- (a) **“administrator”** means the administrator designated pursuant to section 3 of *The Vehicle Administration Act*;
- (b) **“licence”** means driver's licence within the meaning of *The Vehicle Administration Act*.
- (2) The director may direct the administrator to suspend a respondent's licence where:
 - (a) the respondent is in arrears in an amount not less than three months' payments respecting an obligation under a maintenance order that is filed in the office;
 - (b) in the opinion of the director, all reasonable steps have been taken to enforce the maintenance order;
 - (c) the director has served the respondent with written notice pursuant to subsection 31.8(1) of the director's intention to direct the administrator to suspend the respondent's licence; and
 - (d) after receiving notice pursuant to subsection 31.8(1), the respondent has not, within the notice period, made arrangements satisfactory to the director to fulfil the obligation under the maintenance order.

1996, c.15, s.5.

c. E-9.2**ENFORCEMENT OF MAINTENANCE ORDERS****Suspension process**

31.8(1) Before directing the administrator to suspend a respondent's licence, the director shall serve the respondent with:

- (a) not less than 30 days' written notice by ordinary mail; and
- (b) not less than 15 days' written notice by personal service or registered mail.

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

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

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

(4) The director may give notice to the administrator for the purpose of clause 15(2)(g.2) of *The Vehicle Administration Act* where:

- (a) the respondent is evading service; and
- (b) the director is unable to effect service pursuant to subsection (1).

1996, c.15, s.5.

Application to the court

31.9(1) The court, on application, may order the administrator to cancel a suspension mentioned in subsection 31.8(2) or not to suspend a respondent's licence pursuant to that subsection where the court is satisfied that:

- (a) the respondent is not in arrears in an amount not less than three months' payments respecting an obligation under a maintenance order that is filed in the office; or
- (b) a person's health is or would be seriously threatened by the suspension.

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

1996, c.15, s.5.

OTHER REMEDIES**Seizure and sale of property**

32(1) Where there are arrears owing under a maintenance order, the claimant may enforce the maintenance order pursuant to *The Executions Act* by filing with the court:

- (a) a praecipe; and

(b) an affidavit of the claimant or statement of arrears by the director setting forth the amount then due under the maintenance order;

and the local registrar shall issue a writ of execution.

(1.1) A writ of execution may be issued pursuant to subsection (1) to enforce a maintenance order that was made more than 10 years before the materials mentioned are filed if there are arrears owing pursuant to the maintenance order that are enforceable pursuant to section 53.

(1.2) A writ of execution issued pursuant to subsection (1) after the coming into force of this subsection is to be in the form prescribed in the regulations.

(1.3) Notwithstanding subsection 26(5) of *The Executions Act* and subsection 180(8) of *The Land Titles Act*, but subject to subsections (1.4), (1.5) and (1.6), a writ of execution for arrears owing pursuant to a maintenance order, whether issued before or after the coming into force of this section, continues to bind and form a lien and charge on the debtor's land as long as there are arrears that are enforceable pursuant to section 53.

(1.4) A claimant who desires to maintain the registration in the Personal Property Registry of a writ of execution for arrears owing pursuant to a maintenance order that would not remain registered without the operation of subsection (1.3) shall file with the Personal Property Registry a notice in the form and manner prescribed in the regulations identifying the writ as a writ of execution for arrears owing pursuant to a maintenance order.

(1.5) A claimant who desires to maintain the registration in the sheriff's office and the Land Titles Office of a writ of execution for arrears owing pursuant to a maintenance order that would not remain registered without the operation of subsection (1.3) shall file with the sheriff a notice in the form and manner prescribed in the regulations identifying the writ as a writ of execution for arrears owing pursuant to a maintenance order, and the sheriff shall deliver or transmit by registered mail a copy of the notice to the registrar for each land registration district in which the writ of execution is registered.

(1.6) A writ of execution that would not remain registered without the operation of subsection (1.3) does not remain registered pursuant to that subsection unless a notice pursuant to subsection (1.4) or (1.5), as the case may be, is filed with the Personal Property Registry or in the Land Titles Office in which the writ of execution is registered prior to the day on which:

(a) the registration affecting the writ in the Personal Property Registry would otherwise expire; or

(b) the writ would otherwise expire pursuant to subsection 26(5) of *The Executions Act* or subsection 180(8) of *The Land Titles Act*.

(2) Notwithstanding any other Act or law that provides for exemptions from execution or seizure but subject to subsection (3), no property is exempt from seizure pursuant to a writ of execution issued on a maintenance order.

(3) On application by the respondent, a judge may, where he is satisfied that it would be grossly unfair and inequitable to do otherwise, make an order specifying the amount of money that is exempt from execution.

c. E-9.2**ENFORCEMENT OF MAINTENANCE ORDERS**

(4) Subject to section 15 of *The Creditors' Relief Act*, where a seizure is made under which money has been levied on an execution and details of the levy have been recorded in accordance with section 4 of *The Creditors' Relief Act*, a claimant under a writ of execution issued pursuant to subsection (1) and filed in the office of the sheriff:

- (a) at any time before the seizure is made; or
- (b) prior to the expiration of the time fixed for the distribution of the money under that seizure;

is entitled to be paid out of the money so levied the amount of arrears under a maintenance order due to him by the respondent, not exceeding an amount equal to one year's payments pursuant to the maintenance order at the current rate, in priority to the claims of other creditors of the respondent, and is entitled to share *pro rata* with any other creditors with respect to the remainder, if any, of his claim.

(5) All writs of execution issued pursuant to subsection (1) rank equally.

(6) Section 6 of *The Creditors' Relief Act* does not apply to money realized under an enforcement process taken by a claimant in respect of money owing pursuant to a maintenance order.

1984-85-86, c.E-9.2, s.32; 1988-89, c.52, s.6;
1992, c.5, s.11.

Registration against real property

33(1) The claimant may file a maintenance order in any Land Titles Office in Saskatchewan and a maintenance order so filed binds, from the date it is filed for as long as the maintenance order remains in force, the estate and interest of every description that the respondent has or may acquire in any lands in the same land registration district and has the same priority as a registered mortgage.

(2) On request of the claimant, a maintenance order may be registered against the title of any land registered in the name of the respondent in Saskatchewan and a maintenance order so registered binds, from the date it is registered for as long as the maintenance order remains in force, the estate and interest of every description that the respondent has in that land and has the same priority as a registered mortgage.

(3) Notwithstanding section 146 of *The Land Titles Act*, where a maintenance order is filed in the office, the director may sign a postponement of the registration of:

- (a) the maintenance order; or
- (b) a writ of execution for arrears owing pursuant to the maintenance order.

1984-85-86, c.E-9.2, s.33; 1992, c.5, s.12.

Judicial sale

34 Notwithstanding any other Act, a maintenance order that is filed or registered pursuant to section 33 or the registration of which is continued pursuant to section 130 of *The Land Titles Act* may be enforced by the judicial sale of the encumbered land in the manner set out in Part Thirty-seven of The Queen's Bench Rules.

1984-85-86, c.E-9.2, s.34.

Distress

35(1) Where the respondent defaults in making any payment pursuant to a maintenance order, the claimant may apply to a judge of the court where the order was made or registered for a warrant of distress.

(2) On an application pursuant to subsection (1), a judge may issue a warrant of distress directed to any sheriff, bailiff or peace officer requiring him to levy on the goods and chattels of the respondent the amount of money in default that is specified in the warrant, together with the costs and charges of the levy and distress.

1984-85-86, c.E-9.2, s.35.

Duty to pay money recovered

36 The person to whom a warrant is directed under section 35 shall transmit to the person to whom payment was ordered any amount realized by him pursuant to execution of the warrant.

1984-85-86, c.E-9.2, s.36.

Appointment of receiver

37(1) On an application to the court by a claimant at any time, a judge may, where he considers it just and equitable to enforce obligations under a maintenance order, on the consent of a person, make an order appointing that person as the receiver, either conditionally or unconditionally, of any moneys due, owing or payable or to become due, owing or payable to or earned or to be earned by the respondent.

(2) Where a receiver realizes money pursuant to an order made pursuant to subsection (1), the receiver shall, after deduction of his costs, pay the money to the claimant to satisfy the respondent's obligation under the maintenance order and pay the balance, if any, to the respondent.

1984-85-86, c.E-9.2, s.37.

Financial statement

38(1) The director may, by notice served on the respondent or claimant, require the respondent or claimant to file with him and with the court a financial statement in the manner and form prescribed in the regulations.

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

1984-85-86, c.E-9.2, s.38.

c. E-9.2**ENFORCEMENT OF MAINTENANCE ORDERS****Summons for default hearing**

39 Where a respondent is in default of an obligation pursuant to a maintenance order:

- (a) where the maintenance order is filed in the office, the director; or
- (b) where the maintenance order is not filed in the office, the clerk or local registrar of the court in which the order was made or registered on receipt of an affidavit of arrears from the claimant;

may issue a summons in the manner and form prescribed in the regulations requiring the respondent to appear at a default hearing before the court indicated in the summons to explain why he is not fulfilling his obligations pursuant to the maintenance order.

1984-85-86, c.E-9.2, s.39.

Warrant for arrest

40 Where the respondent fails to appear as required by a summons issued pursuant to section 39 or the claimant or respondent fails to file a financial statement required pursuant to section 38, the court may, on an *ex parte* application, issue a warrant for his arrest for the purpose of bringing him before the court.

1984-85-86, c.E-9.2, s.40; 1992, c.5, s.13.

Default hearing

41(1) The court may, on a default hearing, whether or not the respondent is present, order:

- (a) that the respondent discharge the arrears by making any periodic payments that the court considers just;
- (b) that the respondent discharge the arrears in full by a specified date;
- (c) that the respondent pay any portion of the amount owing pursuant to the maintenance order that the court determines he is able to pay;
- (d) that the respondent provide security, deposit or bond in any form that the court directs for the arrears and subsequent payments;
- (e) that the respondent report periodically to the court, the director or any person specified in the order;
- (f) that the respondent provide immediately to the court, the director or any person specified in the order particulars of any future change of address or employment;
- (g) imprisonment of the respondent in accordance with subsection 44(1);
- (h) that the respondent pay any costs that the court considers just.

(2) Where the respondent fails to file a financial statement required pursuant to section 38, the court may draw whatever inferences that appear to be reasonable having regard to all the circumstances.

(3) At a default hearing, the burden of proof of inability to fulfil obligations pursuant to a maintenance order is on the respondent.

(4) A default hearing held pursuant to this section may be adjourned from time to time, on any terms and conditions, including any terms set out in clauses (1)(a) to (h), that the court considers appropriate.

(5) On the application of the respondent or claimant to the court that made the order pursuant to subsection (1), the court may vary the order where there has been a material change in the circumstances of the claimant or the respondent.

(6) An order pursuant to subsection (1), (4) or (5) does not affect the accruing of arrears pursuant to the maintenance order.

(7) A default hearing held pursuant to this section and a hearing of an application for variation of the maintenance order may be heard together or separately.

(8) The remedies under this section are civil process and *The Summary Offences Procedure Act, 1990* does not apply to an application made pursuant to this section.

1984-85-86, c.E-9.2, s.41; 1990-91, c.S-63.1, s.63.

Realizing on security

42 Where a security, deposit or bond has been ordered pursuant to clause 41(1)(d) or pursuant to any other Act to ensure payments pursuant to a maintenance order and the respondent is in default of his obligations under that maintenance order, the court in which the maintenance order was made or registered may, on the application of the claimant, direct the realization or forfeiture of the security, deposit or bond by seizure, sale or other means and may make any order as to costs that it considers appropriate.

1984-85-86, c.E-9.2, s.42.

Evasion of respondent

43(1) Where the court is satisfied, on application *ex parte* by the claimant, that the respondent is hindering or defeating or is attempting to hinder or defeat the enforcement of a maintenance order by dissipation, gift or transfer of assets, the court may make an order restraining any dealing with, or gift or transfer of, the property or make an order pursuant to section 37.

(2) Where the court is satisfied, on application *ex parte* by the claimant, that the respondent is attempting to hinder or defeat the enforcement of arrears under a maintenance order by leaving Saskatchewan, the court may issue a warrant for the arrest of the respondent for the purpose of bringing him before the court to be examined with respect to his ability to meet his obligations pursuant to the maintenance order.

1984-85-86, c.E-9.2, s.43.

Imprisonment

44(1) Where a respondent fails to comply with a maintenance order, the court may, in addition to all other remedies, enforce the maintenance order by process for committal for contempt for a period of up to 90 days.

(2) Proceedings pursuant to subsection (1) may be taken without having taken any other step for the enforcement of the maintenance order.

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(3) The sheriff, or any other officer or person by his direction or by direction of the court, may convey any person to be committed to prison, without any further warrant than a copy of the minutes of the court certified by a judge or the local registrar or clerk of the court.

(4) The keeper of a prison and all other persons whose duty it is to do so are authorized, and required, to receive the person to be committed into custody and to carry out and execute the order according to its tenor and effect.

(5) Imprisonment of a respondent pursuant to subsection (1) does not discharge arrears owing under the maintenance order.

(6) Where the court commits a respondent for contempt pursuant to subsection (1), the court may:

(a) order that the period of committal be served intermittently at the times specified in the order; and

(b) direct that the respondent comply with any conditions specified in the order at all times when not in custody.

1984-85-86, c.E-9.2, s.44; 1992, c.5, s.14.

APPEAL**Right of appeal**

45(1) An appeal lies from any order made by a court pursuant to this Act within 30 days of the date of the order:

(a) to the Court of Appeal, if the order under appeal was made by Her Majesty's Court of Queen's Bench for Saskatchewan or a judge of that court; or

(b) to Her Majesty's Court of Queen's Bench for Saskatchewan, in chambers, 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 of a judge made pursuant to clause (1)(b), except by leave of the Court of Appeal.

(3) An order under appeal remains in force pending the determination of the appeal, unless the court appealed to otherwise orders.

1984-85-86, c.E-9.2, s.45.

**PART IV
General****Application of payments**

46 Money paid on account of a maintenance order is to be credited:

(a) firstly to the payment most recently due;

(b) secondly to any interest owing on any payment; and

(c) thirdly to the principal balance outstanding;

unless the respondent specifies otherwise at the time the payment is made or the court orders otherwise.

1984-85-86, c.E-9.2, s.46.

Fees

47(1) Subject to subsection (2), the director may charge any fee for his services in the amount and to the persons prescribed in the regulations.

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

1984-85-86, c.E-9.2, s.47.

Service

48(1) Subject to the other provisions of this Act respecting service, any notice or document required by this Act to be served shall be served in the manner prescribed in *The Queen's Bench Rules* for service of a statement of claim.

(1.1) The court may, in accordance with *The Queen's Bench Rules*, make an order for substituted service or an order dispensing with service with respect to any notice or document that is required by this Act to be served, including a summons issued pursuant to section 39.

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

(2) Where a proceeding is brought to enforce a maintenance order, it is not necessary to prove that the respondent was served with the maintenance order.

1984-85-86, c.E-9.2, s.48; 1992, c.5, s.15.

Presumption of respondent's ability to pay

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

1984-85-86, c.E-9.2, s.49.

Statements, signature of director as evidence

50(1) A statement of arrears signed by the director is admissible in evidence as prima facie proof of the arrears without prior notice to the other party.

(2) A statement signed by the director that:

(a) a maintenance order is filed in the office; or

(b) an assignment pursuant to section 6 is filed in the office;

is admissible in evidence as conclusive proof of the facts contained in the statement.

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

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

1984-85-86, c.E-9.2, s.50.

Proof of default

51 In an action brought on default of an obligation pursuant to a maintenance order, proof of the default may be made either by oral or affidavit evidence or by other evidence that the judge may allow.

1984-85-86, c.E-9.2, s.51.

Affidavits of arrears sworn, etc., outside Saskatchewan

51.1(1) Notwithstanding section 51 of *The Saskatchewan Evidence Act*, an affidavit of arrears required by this Act that is sworn, affirmed or made in a jurisdiction other than Saskatchewan before a person authorized to administer oaths in that jurisdiction is as valid, and has the same effect, as if it had been sworn, affirmed or made in Saskatchewan before a commissioner for oaths.

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

1992, c.5, s.16.

Capacity of minor

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

1984-85-86, c.E-9.2, s.52.

Action for arrears

53(1) Notwithstanding *The Limitation of Actions Act*, there is no limitation period respecting the enforcement of arrears of any payment pursuant to a maintenance order.

(2) Subsection (1) applies only to those arrears that exist on or after the coming into force of this section.

1996, c.15, s.6.

Debt no defence

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

1984-85-86, c.E-9.2, s.54.

Claim on estate

55(1) Where a respondent dies and, at the time of his death, he is in default of any payments pursuant to a maintenance order, the amount in default is, subject to section 56, a debt of the estate of the respondent and recoverable by the claimant from the estate.

(2) Where the person in whose favour a maintenance order was made dies, his personal representative, the minister or the director may, subject to section 56, recover any payments pursuant to a maintenance order that are in default at the time of the death of that person.

1984-85-86, c.E-9.2, s.55.

Relief of obligation to pay

56 Where moneys are recoverable pursuant to section 55, a judge of the court in which the maintenance order was made or registered may, on the application of any interested party, relieve the respondent or, if the respondent has died, the estate of the respondent of the obligation to pay, in whole or in part, the amount in default if the judge is satisfied that:

- (a) having regard to the interests of the respondent or the estate of the respondent, as the case may be, it would be grossly unfair and inequitable not to do so;
- (b) having regard to the interests of the person in whose favour the maintenance order was made or his estate, as the case may be, it is justified;
- (c) having regard to the interests of other dependants of the respondent, interference with the claim of the estate of the person in whose favour the maintenance order was made or the claim of the minister is justified.

1984-85-86, c.E-9.2, s.56.

Communications not privileged

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

1984-85-86, c.E-9.2, s.57.

Witnesses

58(1) A judge or clerk of the Provincial Court of Saskatchewan may issue a subpoena to any witness to be served in Saskatchewan, and the person subpoenaed, on being tendered the appropriate fees, shall attend as subpoenaed.

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

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

1984-85-86, c.E-9.2, s.58.

Regulations

59 The Lieutenant Governor in Council may make regulations:

- (a) prescribing forms required by this Act;

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- (b) prescribing forms and procedures for making and keeping records, returns and reports with respect to the director's responsibilities;
- (b.1) for the purposes of clause 10.1(2)(b), prescribing a maximum amount of arrears or a manner of determining a maximum amount of arrears or both that may be enforced by continuing garnishment;
- (c) respecting the information that can be disclosed pursuant to section 12 and the purposes for which it can be disclosed;
- (d) with respect to the disclosure of financial information;
- (e) prescribing Crown employees who are to be served pursuant to this Act;
- (e.1) providing for exemptions or partial exemptions from garnishment pursuant to this Act or the *Family Orders and Agreements Enforcement Assistance Act* (Canada);
- (f) prescribing fees for services under this Act;
- (g) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations.

1984-85-86, c.E-9.2, s.59; 1992, c.5, s.17.