

# *The Enforcement of Maintenance Orders Act, 1997*

*being*

Chapter E-9.21 of the *Statutes of Saskatchewan, 1997* (effective March 1, 1998) as amended by the *Statutes of Saskatchewan, 1998, c.C-45.2; 2000, c.70; 2001, c.9; 2002, c.I-10.03 and 4; 2004, c.8, 16 and 67; 2006, c.E-11.2; and 2009, c.17.*

## **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.**

# Table of Contents

	<b>PART I</b>		<b>ATTACHMENT OF REGISTERED PLAN ENTITLEMENTS</b>
	<b>Short Title and Interpretation</b>		
1	Short title	40.1	Interpretation
2	Interpretation	40.2	Registered plan may be attached
3	Crown bound	40.3	Restrictions
	<b>PART II</b>	40.4	Attachment of registered plan
	<b>Maintenance Enforcement Office</b>		<b>ATTACHMENT OF ANNUITY</b>
4	Office continued	40.5	Interpretation
5	Director appointed	40.6	Annuity may be attached
6	Assignment to Crown	40.7	Notice of the director's intention
7	Filing orders	40.8	Restrictions
7.1	Filing agreement	40.9	Court application
8	Effect of filing	40.91	Attachment of annuity
9	Withdrawal of maintenance order		<b>LICENCE SUSPENSION</b>
10	Notice of filing or withdrawal	41	Licence may be suspended
11	Moneys paid to director	42	Suspension process
12	Payment of arrears	43	Application to the court
12.1	Corporation with the payor as sole shareholder		<b>OTHER REMEDIES</b>
12.2	Corporation controlled by the payor or by the payor and immediate family members	43.1	Order requiring security
13	Access to information	44	Seizure and sale of property
14	Confidentiality of information	45	Registration against real property
15	Immunity	46	Judicial sale
	<b>PART III</b>	47	Distress
	<b>Enforcement</b>	48	Duty to pay money recovered
	<b>GENERAL</b>	49	Appointment of receiver
15.1	Priority	50	Financial statement
15.2	Discretion to enforce lesser amount if child's entitlement ceases	51	Summons for default hearing
	<b>GARNISHMENT</b>	52	Warrant for arrest
16	Enforcement by garnishment	53	Default hearing
17	Notice of continuing garnishment	54	Realizing on security
18	Effect of notice of continuing garnishment	55	Evasion of respondent
19	Notice of garnishment	56	Imprisonment
20	Effect of notice of garnishment		<b>APPEAL</b>
21	Garnishment from outside Saskatchewan	57	Right of appeal
22	Garnishment of money owing by Crown		<b>PART IV</b>
23	Firms with members outside Saskatchewan as garnishees		<b>General</b>
24	Deposit accounts	58	Application of payments
25	Dispute of garnishment	59	Fees
26	Default of payment by garnishee	60	Service
26.1	Payment by garnishee a valid discharge against payor	61	Presumption of payor's ability to pay
27	Prohibition re execution against the Crown	62	Statements, signature of director as evidence
28	Dispute by payor	63	Proof of default
29	Withdrawal	63.1	Evidence of witnesses
30	Exemption from garnishment	64	Affidavits of arrears sworn, etc., outside Saskatchewan
31	Garnishee not to charge fees	65	Capacity of minor who is a spouse
32	Payment of moneys received	66	Action for arrears
33	Priority of garnishment	67	Debt no defence
34	Attachment of certain allowances, benefits, etc.	68	Claim on estate – default
	<b>ATTACHMENT OF PENSION ENTITLEMENTS</b>	69	Relief of obligation to pay default
35	Interpretation	70	Communications not privileged
36	Pension entitlement may be attached	71	Witnesses
37	Notice of the director's intention	72	Regulations
38	Restrictions		<b>PART V</b>
39	Court application		<b>Repeal, Transitional and Coming into Force</b>
40	Attachment of pension entitlement	73	S.S. 1984-85-86, c.E-9.2 repealed
		74	Transitional

## CHAPTER E-9.21

### An Act to Facilitate the Enforcement of Maintenance Orders

#### PART I

#### Short Title and Interpretation

##### Short title

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

##### Interpretation

2(1) In this Act:

“**clerk**” means a clerk of the Provincial Court within the meaning of *The Court Officials Act, 1994*; («*greffier*»)

“**court**” means the Court of Queen’s Bench and, in sections 7, 47, 50, 51, 52, 53, 54, 56, 57, 58, 63 and 69, includes the Provincial Court of Saskatchewan; («*tribunal*»)

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

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

“**garnishee**” means a person who is served with a notice of garnishment or notice of continuing garnishment; («*tiers saisi*»)

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

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

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

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

and includes an adjustment to the amount to be enforced as contemplated by section 15.2, an order made pursuant to section 53, an agreement filed in the court pursuant to section 11 of *The Family Maintenance Act, 1997* and an agreement filed in the office pursuant to section 7.1; («*ordonnance alimentaire*»)

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

“**notice of continuing garnishment**” means a notice of continuing garnishment described in section 17; (*«avis de saisie-arrêt continue»*)

“**notice of garnishment**” means a notice of garnishment described in section 19; (*«avis de saisie-arrêt»*)

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

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

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

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

“**recipient**” means:

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

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

“**statement of arrears**” means a statement of arrears mentioned in subsection 62(1). (*«état des arriérés»*)

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

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

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

**Crown bound**

**3** The Crown is bound by this Act.

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

PART II  
**Maintenance Enforcement Office**

**Office continued**

4(1) The Maintenance Enforcement Office is continued.

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

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

**Director appointed**

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

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

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

**Assignment to Crown**

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

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

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

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

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

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

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

**Filing orders**

7(1) Subject to subsection (5), where a court makes a maintenance order, the maintenance order is to state that:

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

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

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

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

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

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

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

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

**Filing agreement**

**7.1(1)** An agreement made before or after this Act comes into force that includes provisions for maintenance may be filed in the office together with an affidavit stating that the agreement:

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

(2) A provision for maintenance contained in an agreement filed pursuant to subsection (1) may be enforced by the director pursuant to this Act.

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

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

2002, c.4, s.5.

**Effect of filing**

**8** Where a maintenance order is filed in the office:

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

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

**Withdrawal of maintenance order**

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

- (a) if it appears to the director that the recipient is taking steps to enforce the maintenance order and 14 days have elapsed from the date the director mailed, by ordinary mail, to the recipient a written notice that the director intends to withdraw the maintenance order;
  - (b) if the recipient has applied to withdraw the maintenance order, except where the maintenance order was filed by the payor;
  - (c) if the payor has applied to withdraw the maintenance order, in cases where the maintenance order was filed by the payor; or
  - (d) where it appears to the director that the sum payable under the maintenance order is not readily verifiable.
- (2) A recipient or payor may refile a maintenance order that has been withdrawn from the office.
- (3) A maintenance order that is withdrawn pursuant to clause (1)(d) maybe refiled only with the consent of the director.
- (4) Where a maintenance order has been withdrawn pursuant to clause (1)(d), the recipient or the payor may apply to the court requesting clarification of the sum payable under the maintenance order.
- (5) Where an application is made pursuant to subsection (4), the director is not required to attend the hearing of the application and is not to be joined as party to that application.

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

**Notice of filing or withdrawal**

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

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

**Moneys paid to director**

**11(1)** The director shall pay to the recipient all moneys the director receives with respect to a maintenance order filed in the office to the extent of the recipient's entitlement pursuant to that maintenance order.

- (2) The director shall keep a record, in the prescribed manner, of:
- (a) all moneys received and paid out by the director; and
  - (b) the persons to whom and by whom the moneys mentioned in clause (a) have been paid.
- (3) On the request of a recipient or payor, the director may provide the recipient or payor with a statement showing the current status of payments required pursuant to a maintenance order filed in the office.

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

(4) On the request of the proper officer of a reciprocating state or a court of a reciprocating state, the director shall provide the proper officer with a sworn, itemized statement showing, with respect to a maintenance order:

- (a) all amounts that have become due and owing by the payor during the 24 months preceding the date of the statement; and
- (b) all payments made through the office during the period mentioned in clause (a) by or on behalf of the payor.

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

**Payment of arrears**

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

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

- (a) is to be a portion of the total arrears owed by the payor to the recipient; and
- (b) is not to exceed an amount determined in accordance with the regulations.

(3) If the director fixes an amount of arrears pursuant to subsection (1):

- (a) the director shall attach a notice of arrears attachment in the prescribed form to the true copy of the notice of continuing garnishment to be provided to the garnishee pursuant to subsection 17(3); and
- (b) the garnishee shall deliver the notice of arrears attachment to the payor with the true copy of the notice of continuing garnishment in accordance with subsection 17(4).

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

**Corporation with the payor as sole shareholder**

**12.1(1)** In this section, “**corporation**” means a corporation in which the payor:

- (a) is the sole shareholder; and
- (b) has the sole beneficial interest in the shares of the corporation. («*société*»)

(2) A corporation becomes jointly and severally liable with a payor for payments required under a maintenance order if:

- (a) the payor defaults in a payment required by a maintenance order;
- (b) the director has served the corporation with a notice of garnishment or notice of continuing garnishment respecting the amount owing by the payor under the maintenance order; and
- (c) the payor is in arrears in an amount not less than three months’ payments under a maintenance order that is filed in the office.

- (3) On becoming jointly and severally liable pursuant to subsection (2):
- (a) the corporation continues to be liable as long as the payor continues to be liable for payments required under the maintenance order;
  - (b) any enforcement measure that may be taken with respect to the payor may be taken with respect to the corporation; and
  - (c) the amount of a payment required under a maintenance order that is paid by the corporation is a debt owed by the payor to the corporation.
- (4) Notwithstanding subsection (3), a corporation is not liable for payments under a maintenance order that come due on or after the director receives written notification from the corporation:
- (a) stating that the payor has ceased to have a beneficial interest in any shares of the corporation and specifying the date on which the payor ceased to have a beneficial interest in the shares of the corporation;
  - (b) giving the name and address of the person who acquired the beneficial interest in the payor's shares; and
  - (c) specifying the nature and amount of the consideration that the payor received or will receive for the transfer of the beneficial interest in the shares.

2002, c.4, s.6; 2009, c.17, s.49.

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

12.2(1) In this section:

**“corporation”** means a corporation that is controlled by:

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

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

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

- (2) A recipient may apply to the court for an order declaring that a corporation is jointly and severally liable with a payor for payments required under a maintenance order if:
- (a) the payor defaults in a payment required under the maintenance order;

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

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

2002, c.4, s.6; 2009, c.17, s.49.

**Access to information**

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

- (a) wages, salary and other income;
- (b) assets and liabilities;
- (c) financial status;
- (d) location;
- (e) address;
- (f) place of employment;
- (g) status of any dependant for whom the payor or respondent is obligated to pay maintenance;

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

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

**Confidentiality of information**

14(1) No person shall disclose any information retained in the office except in accordance with this Act or the regulations.

(2) Where the director receives information pursuant to section 13, the director 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 13(4).

(3) Where a judge makes an order pursuant to subsection 13(4) or pursuant to any similar provision in any other Act or Act of the Parliament of Canada, the judge may make any order with respect to the confidentiality to be maintained in connection with the information released that the judge considers appropriate.

1997, c.E-9.21, s.14.

**Immunity**

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

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

PART III  
**Enforcement**  
GENERAL

**Priority**

15.1(1) Notwithstanding any other Act, a maintenance order, whether filed with the director or not, takes priority over any unsecured judgment debt of the payor, other than another maintenance order.

(2) The priority set out in subsection (1) applies to a maximum amount equal to one year's payments required by the maintenance order.

(3) A maintenance order ranks equally with another maintenance order regardless of when the order was made or filed with the office.

(4) Money paid to the director with respect to a maintenance order is not attachable pursuant to any other Act.

2009, c.17, s.10.

**Discretion to enforce lesser amount if child's entitlement ceases**

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

- (2) If the requirements of subsection (3) are satisfied with respect to a maintenance order, the director may enforce the amount, in accordance with the table set out in the *Child Support Guidelines* that were in effect when the maintenance order was made, that would have been ordered had the original order been made with respect to fewer children.
- (3) The following requirements must be satisfied before the director exercises the discretion to adjust the amount to be enforced as contemplated in subsection (2):
- (a) the amount of the maintenance order must have been made in accordance with the table set out in the *Child Support Guidelines*;
  - (b) the maintenance order considers two or more children;
  - (c) the obligation under the maintenance order has terminated with respect to a child;
  - (d) the obligation under the maintenance order still continues with respect to at least one other child;
  - (e) the maintenance order states:
    - (i) the number of children; and
    - (ii) the total amount of maintenance determined in accordance with the table set out in the *Child Support Guidelines*.

2009, c.17, s.10.

## GARNISHMENT

### Enforcement by garnishment

**16** In accordance with this Act, a recipient may enforce a maintenance order by garnishment of money payable to the payor by any other person.

1997, c.E-9.21, s.16; 2009, c.17, s.49.

### Notice of continuing garnishment

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

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

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

(4) 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 payor.

(5) The garnishee's failure to comply with subsection (4) does not make the garnishment ineffective.

(6) Where a notice of continuing garnishment or a notice of variation pursuant to subsection 18(5) is served by a person other than the director, the recipient shall file a copy of the notice, with proof of service, with the local registrar for the judicial centre where the notice requires payments to be made.

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

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

## c. E-9.21

**Effect of notice of continuing garnishment**

18(1) When a notice of continuing garnishment is served on the garnishee, the notice of continuing garnishment binds all money then due and from time to time accruing due from the garnishee to the payor, 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 payor:

- (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 12 as that amount becomes due; or
- (b) the total amount of moneys due from the garnishee to the payor if that amount is less than the amount to be deducted pursuant to clause (a).

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

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

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

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

**Notice of garnishment**

**19(1)** On behalf of the recipient, any person may serve one or more notices of garnishment directed to any persons who are alleged to be indebted to the payor.

(2) A notice of garnishment is to be in the prescribed form.

(3) After service of a notice of garnishment, the recipient shall cause to be served on the payor 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 recipient made before or after the period mentioned in clause (a) has expired and before or after the payor is served.

1997, c.E-9.21, s.19; 2009, c.17, s.49.

**Effect of notice of garnishment**

**20(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 payor, until the amount set out in the notice is paid or the notice is withdrawn pursuant to section 29.

(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 recipient shall file with the local registrar of the court for the judicial centre where the notice requires payments to be made:

(a) a copy of the notice; and

(b) proof of service of the notice.

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

1997, c.E-9.21, s.20; 2009, c.17, s.49.

**Garnishment from outside Saskatchewan**

**21(1)** The director may serve a notice of garnishment or notice of continuing garnishment, directed to any persons who are alleged to be indebted to the payor, if both of the following documents are filed with the director:

(a) a maintenance order; and

(b) a document:

(i) that purports to be issued by a competent authority outside Saskatchewan;

(ii) that is of similar effect to a notice of garnishment or notice of continuing garnishment;

(iii) that states that it is issued with respect to support, alimony or maintenance; and

(iv) that is written in English or French or that is accompanied by a sworn or certified translation in English or French.

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

(2) If a payor has or is purported to have property or funds located in Saskatchewan, a notice of garnishment or notice of continuing garnishment mentioned in subsection (1) may be served on a garnishee whether the payor is in Saskatchewan or not.

2002, c.4, s.9; 2009, c.17, s.49.

**Garnishment of money owing by Crown**

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

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

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

(3) Where the garnishee is the Crown, the notice of garnishment or the notice of continuing garnishment is to state the following:

- (a) if known to the recipient, the department, agency or other body of the Government of Saskatchewan or Crown corporation by which the money is payable;
- (b) as many particulars as possible with respect to the money due.

1997, c.E-9.21, s.22; 2009, c.17, s.49.

**Firms with members outside Saskatchewan as garnishees**

**23(1)** This section applies to a firm that carries on business in Saskatchewan and that has one or more members of the firm resident outside Saskatchewan.

(2) Debts owing from a firm described in subsection (1) may be garnished by serving the notice of garnishment or notice of continuing garnishment on any person having the control or management of the business in Saskatchewan, or on any member of the firm in Saskatchewan.

1997, c.E-9.21, s.23.

**Deposit accounts**

**24(1)** In this section, “**deposit account**” includes a demand account, time account, savings account, passbook account, chequing account, current account or 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, 1997*;
- (c) a credit union within the meaning of *The Credit Union Act, 1998*; or
- (d) a financial institution similar to one mentioned in clauses (a) to (c).  
(«*compte de dépôt*»)

(2) Where a notice of garnishment is issued against a deposit account that is owned by the payor 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 payor.

1997, c.E-9.21, s.24; 1998, c.C-45.2, s.476; 2001, c.9, s.7; 2009, c.17, s.49.

**Dispute of garnishment**

**25(1)** This section applies where the garnishee alleges that:

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

(2) In the circumstances mentioned in subsection (1), the garnishee shall file a notice of dispute that outlines the basis of the garnishee's allegations:

- (a) within 10 days of service on the garnishee of the notice of garnishment or notice of continuing garnishment; or
- (b) when the garnishee's obligation to pay the payor has been satisfied.

(3) The garnishee shall file his or her notice pursuant to subsection (2):

- (a) if the payments are to be made to a court, with the court; or
- (b) if the payments are to be made to the office, with the director.

(4) If a garnishee files a notice of dispute pursuant to subsection (2), the recipient may apply to the court for an order:

- (a) summarily determining if the garnishee is liable under the notice; or
- (b) that an issue or question necessary for the determination of the liability of the garnishee be tried.

(5) An application by the recipient pursuant to subsection (4) must be served on the garnishee within 30 days after the date the statement is filed by the garnishee.

(6) A determination of a court pursuant to this section is a judgment of the court and may be enforced as a judgment.

(7) If a garnishee files a notice of dispute pursuant to subsection (2) and the recipient does not make an application within the period specified in subsection (5), the garnishee is released from any claim pursuant to the notice of garnishment or notice of continuing garnishment.

1997, c.E-9.21, s.25; 2004, c.8, s.5; 2009, c.17, s.49.

**Default of payment by garnishee**

**26(1)** This section applies where the garnishee:

- (a) has not filed a notice of dispute pursuant to subsection 25(2); and

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

(b) does not pay into court or to the office, as the case may be, the amount due from the garnishee to the payor or the amount required to be paid by the garnishee pursuant to a notice of garnishment or notice of continuing garnishment.

(2) In the circumstances mentioned in subsection (1), the recipient is entitled to judgment against the garnishee by filing with the court:

- (a) the notice of garnishment or notice of continuing garnishment;
- (b) proof of service of the notice of garnishment or notice of continuing garnishment; and
- (c) an affidavit stating that the garnishee has not made payments required by this Act and has not filed a notice pursuant to subsection 25(2).

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

(3.1) Sections 13, 16, 17, 19 and 44 of this Act apply, with any necessary modification, to the enforcement of a judgment against a garnishee pursuant to subsection (2).

(4) **Repealed.** 2002, c.4, s.10.

1997, c.E-9.21, s.26; 2002, c.4, s.10; 2004, c.8,  
s.6; 2009, c.17, s.49.

**Payment by garnishee a valid discharge against payor**

**26.1** Payment made by or execution levied on a garnishee is a valid discharge to the garnishee against a payor to the amount paid or levied, notwithstanding that those proceedings may be set aside or the judgment or order later reversed.

2002, c.4, s.11; 2009, c.17, s.49.

**Prohibition re execution against the Crown**

**27** No execution is to issue on a judgment given pursuant to section 25 or 26 against the Crown in garnishment proceedings pursuant to this Act.

1997, c.E-9.21, s.27.

**Dispute by payor**

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

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

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

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

1997, c.E-9.21, s.28; 2004, c.8, s.7; 2009, c.17,  
s.49.

**Withdrawal**

**29(1)** A recipient may at any time serve a notice of withdrawal on any garnishee who has been served with a notice of garnishment or notice of continuing garnishment.

(2) When the amount set out in the notice of garnishment or notice of continuing garnishment has been satisfied, the recipient 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.

(3) A notice of withdrawal pursuant to this section is to be in the prescribed form.

(4) On service of a notice of withdrawal pursuant to subsection (1) or (2), the garnishee shall make no further deductions or payments.

1997, c.E-9.21, s.29; 2009, c.17, s.49.

**Exemption from garnishment**

**30(1)** Notwithstanding any other Act but 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 payor, a judge may make an order specifying the amount of money that is exempt from garnishment where the judge is satisfied that it would be grossly unfair and inequitable not to make an order.

(3) The payor shall serve an application made pursuant to subsection (2) on:

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

1997, c.E-9.21, s.30; 2004, c.8, s.8; 2009, c.17, s.49.

**Garnishee not to charge fees**

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

1997, c.E-9.21, s.31.

**Payment of moneys received**

**32(1)** Subject to subsection (3), money received by the court or the director pursuant to a notice of continuing garnishment is to be paid immediately to the recipient.

(2) Where moneys are received by the court or the director pursuant to subsection 20(4) and no dispute is made pursuant to section 25 or 28 or a dispute is settled in favour of the recipient:

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

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

(3) Moneys received by the court or director in excess of the amount required to satisfy the notice of garnishment or notice of continuing garnishment are to be paid to the payor.

1997, c.E-9.21, s.32; 2009, c.17, s.49.

**Priority of garnishment**

**33** Notwithstanding any other Act, any notice of garnishment or notice of continuing 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 service of the notice of garnishment or notice of continuing garnishment.

1997, c.E-9.21, s.33.

**Attachment of certain allowances, benefits, etc.**

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

1997, c.E-9.21, s.34.

ATTACHMENT OF PENSION ENTITLEMENTS

**Interpretation**

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

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

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

**“pension entitlement”** means the amount of money in a pension plan of a payor that is available for attachment pursuant to this Act; (*« prestation de pension »*)

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

- (a) benefits;
- (b) moneys that have been transferred to another plan, to a prescribed RRSP or to any other prescribed retirement plan that is registered pursuant to the *Income Tax Act* (Canada), including moneys transferred before January 1, 1993; and

(c) moneys earned by those transferred moneys mentioned in clause (b). (*«réime de pension»*)

(2) 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.

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

**Pension entitlement may be attached**

**36** The director may enforce a maintenance order by attaching the pension entitlement of a payor pursuant to section 40 where:

- (a) the payor 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 payor with a notice of the director's intention mentioned in section 37; and
- (d) the payor has not, prior to the service of a notice of attachment on the administrator pursuant to section 40, made arrangements satisfactory to the director to fulfil the obligation under the maintenance order.

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

**Notice of the director's intention**

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

- (a) direct the administrator to provide the director and the payor, within 30 days, with prescribed information respecting the payor's pension entitlement;
- (b) notify the payor, in accordance with the regulations, that the payor may apply to the court pursuant to section 39 within 30 days of receipt of the information mentioned in clause (a) for an order that the payor's pension entitlement is not to be attached; and
- (c) notify the payor, in accordance with the regulations, of the costs, income tax implications and pension reductions that would result from the attachment of the payor's pension entitlement.

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

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

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

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

**Restrictions**

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

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

(2) Where an administrator is served with a notice of the director's intention, the administrator shall not pay out any of the payor's pension entitlement at the direction of the payor until 60 days have elapsed from:

- (a) if no application is made to the court, the date that the director received the information mentioned in clause 37(1)(a); or
- (b) if an application is made to the court, the date that the court orders that the payor's pension entitlement may be attached.

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

**Court application**

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

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

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

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

**Attachment of pension entitlement**

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

- (a) an application pursuant to section 39:
  - (i) has not been made to the court by the payor; or
  - (ii) has been made to the court by the payor but the court has not ordered that the payor's pension entitlement is not to be attached; and

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

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

## ATTACHMENT OF REGISTERED PLAN ENTITLEMENTS

### Interpretation

**40.1** In this section and in sections 40.2 to 40.4:

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

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

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

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

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

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

2004, c.8, s.9.

### Registered plan may be attached

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

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

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

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

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

- (a) 15 days from the date of service on the trustee; or
- (b) any further time that the court may allow on an *ex parte* application of the director made before or after the period mentioned in clause (a) and before or after the payor is served.

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

**Restrictions**

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

- (a) the trustee has complied with the notice of attachment as required by section 40.4; or
- (b) the director has served notice upon the trustee withdrawing the notice of attachment.

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

**Attachment of registered plan**

**40.4(1)** If a trustee is served with a notice of attachment, the trustee shall:

- (a) within 30 days after receiving the notice, deduct from the amount standing to the credit of the payor in the payor's registered plan:
  - (i) the total amount of taxes, if any, that are required to be deducted or withheld as a result of the attachment;
  - (ii) the cost of complying with the attachment calculated in the prescribed manner; and
  - (iii) the lesser of:
    - (A) the amount attached; and
    - (B) the amount standing to the credit of the payor; and
- (b) pay the amount deducted pursuant to subclause (a)(iii) to the director within seven days after making the deduction.

(2) If an amount has been attached pursuant to this Act:

- (a) the payor has no further claim or entitlement to any registered plan benefit pursuant to the registered plan respecting the amount attached;
- (b) the amount standing to the credit of the payor is reduced by the amount deducted pursuant to clause (1)(a); and
- (c) neither the trustee nor the registered plan is liable to any person by reason of having made payment to the director pursuant to this Act.

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

ATTACHMENT OF ANNUITY

**Interpretation**

**40.5** In this section and in sections 40.6 to 40.91:

**“annuity”** means money set aside by the board pursuant to section 74 of *The Workers’ Compensation Act, 1979* to provide an annuity for a worker, and includes any accumulated interest and any supplement provided pursuant to section 75 of *The Workers’ Compensation Act, 1979*; (« *rente* »)

**“board”** means The Workers’ Compensation Board continued pursuant to section 13 of *The Workers’ Compensation Act, 1979*; (« *commission* »)

**“worker”** means worker as defined in *The Workers’ Compensation Act, 1979*. (« *travailleur* »)

2009, c.17, s.27.

**Annuity may be attached**

**40.6** The director may enforce a maintenance order by attaching the annuity of a payor pursuant to section 40.91 if:

- (a) the payor 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 board and the payor with a notice of the director’s intention mentioned in section 40.7; and
- (d) the payor has not, before the service of a notice of attachment on the board pursuant to section 40.91, made arrangements satisfactory to the director to fulfil the obligation under the maintenance order.

2009, c.17, s.27.

**Notice of the director’s intention**

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

- (a) direct the board to provide the director and the payor, within 30 days, with prescribed information respecting the payor’s annuity;
- (b) notify the payor, in accordance with the regulations, that the payor may apply to the court pursuant to section 40.9 within 30 days after receipt of the information mentioned in clause (a) for an order that the payor’s annuity is not to be attached; and
- (c) notify the payor, in accordance with the regulations, of the costs, income tax implications and annuity reductions that would result from the attachment of the payor’s annuity.

(2) The board may provide the information mentioned in clause (1)(a) to the payor at the most recent address for the payor in the board’s records.

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

2009, c.17, s.27.

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

**Restrictions**

**40.8(1)** The director shall not enforce a maintenance order by attaching the annuity of a payor if the payor is receiving compensation pursuant to *The Workers' Compensation Act, 1979* with respect to an injury.

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

(a) if no application is made to the court, the date that the director received the information mentioned in clause 40.7(1)(a); or

(b) if an application is made to the court, the date that the court orders that the payor's annuity may be attached.

2009, c.17, s.27.

**Court application**

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

(a) the payor 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) the payor is receiving compensation pursuant to *The Workers' Compensation Act, 1979* with respect to an injury.

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

2009, c.17, s.27.

**Attachment of annuity**

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

(a) an application pursuant to section 40.9:

(i) has not been made to the court by the payor; or

(ii) has been made to the court by the payor but the court has not ordered that the payor's annuity is not to be attached; and

(b) not more than 60 days have elapsed from:

(i) if no application is made to the court, the date that the director received the information mentioned in clause 40.7(1)(a); or

(ii) if an application is made to the court pursuant to section 40.9, the date that the court orders that the payor's annuity may be attached.

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

(a) immediately deliver, personally or by ordinary mail, a copy of the notice to the payor; and

(b) comply with the notice of attachment within 45 days after receiving the notice.

- (3) The board may deliver the notice of attachment to the payor at the most recent address for the payor in the board's records.
- (4) Failure of the board to comply with clause (2)(a) does not render the attachment ineffective.
- (5) Sections 25 to 27 apply, with any necessary modification, to the board served with a notice of the director's intention to attach the payor's annuity

2009, c.17, s.27.

## LICENCE SUSPENSION

### Licence may be suspended

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

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

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

- (2) The director may direct the administrator to suspend a payor's licence where:
  - (a) the payor is in arrears 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 payor with written notice pursuant to subsection 42(1) of the director's intention to direct the administrator to suspend the payor's licence; and
  - (d) after receiving notice pursuant to subsection 42(1), the payor has not, within the notice period, made arrangements satisfactory to the director to fulfil the obligation under the maintenance order.

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

### Suspension process

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

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

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

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

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

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

(3.1) If the payor has made arrangements pursuant to clause (3)(a), the director shall notify the payor that the suspension has been cancelled but may be revived without notice if, within 12 months, the payor fails to comply with the arrangements.

(3.2) If the director notifies the administrator pursuant to clause (3)(a) that a suspension may be cancelled, and the payor subsequently fails to comply with the arrangements made pursuant to clause (3)(a):

- (a) the director may revive the suspension by directing the administrator to suspend the payor's licence in accordance with the last notice that was served on the payor pursuant to subsection (1); and
- (b) the administrator shall immediately suspend the payor's licence and the payor's ability to secure a licence until the administrator has been further notified by the director that the suspension may be cancelled.

(4) If the director is unable to serve a notice pursuant to subsection (1), the director may give notice to the administrator for the purpose of clause 41(i) of *The Traffic Safety Act*:

- (a) stating that the payor is evading service of the written notice mentioned in subsection (1); and
- (b) directing the administrator to suspend the payor's ability to secure or renew a licence.

(5) If the director directs the administrator to suspend a payor's ability to secure or renew a licence pursuant to subsection (4), the administrator shall immediately suspend the payor's ability to secure or renew a licence until the administrator has been notified by the director that the suspension may be cancelled

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

**Application to the court**

**43(1)** The court, on application, may order the administrator to cancel a suspension mentioned in subsection 42(2) or (3.2) or not to suspend a payor's licence pursuant to that subsection where the court is satisfied that:

- (a) the payor 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.

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

OTHER REMEDIES

**Order requiring security**

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

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

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

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

2009, c.17, s.31.

**Seizure and sale of property**

**44(1)** Where there are arrears owing under a maintenance order, the recipient may enforce the maintenance order pursuant to *The Executions Act* by filing with the court:

- (a) a praecipe; and
- (b) an affidavit of the recipient or statement of arrears setting forth the amount then due under the maintenance order.

(2) On receipt of the documents mentioned in subsection (1), the local registrar shall issue a writ of execution.

(3) A writ of execution may be issued pursuant to subsection (2) to enforce a maintenance order that was made more than 10 years before the documents mentioned in subsection (1) are filed if there are arrears owing pursuant to the maintenance order that are enforceable pursuant to section 66.

(4) A writ of execution issued pursuant to subsection (2) is to be in the prescribed form.

(5) Notwithstanding subsection 26(5) of *The Executions Act*, but subject to subsections (6) to (11), a writ of execution for arrears owing pursuant to a maintenance order 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 66.

(6) A recipient who desires to maintain the registration in the Personal Property Registry or the Saskatchewan Writ Registry of a writ of execution for arrears owing pursuant to a maintenance order that would not remain registered without the operation of subsection (5) shall file with the Personal Property Registry or the Saskatchewan Writ Registry a notice identifying the writ as a writ of execution for arrears owing pursuant to a maintenance order.

(7) A notice mentioned in subsection (6) is to be in the prescribed form and filed in the prescribed manner.

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

## c. E-9.21

(8) A recipient who desires to maintain the registration in the sheriff's office of a writ of execution for arrears owing pursuant to a maintenance order that would not remain registered without the operation of subsection (5) shall file with the sheriff a notice identifying the writ as a writ of execution for arrears owing pursuant to a maintenance order.

(9) A notice mentioned in subsection (8) is to be in the prescribed form and filed in the prescribed manner.

(10) **Repealed.** 2000, c.70, s.10.

(11) A writ of execution that would not remain registered without the operation of subsection (5) does not remain registered pursuant to that subsection unless a notice pursuant to subsection (6) is filed with the Personal Property Registry or registered in the Saskatchewan Writ Registry prior to the day on which:

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

(b) the writ would otherwise expire pursuant to subsection 26(5) of *The Executions Act*.

(12) Notwithstanding any other Act or law that provides for exemptions from execution or seizure but subject to subsection (13), no property is exempt from seizure pursuant to a writ of execution issued on a maintenance order.

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

(13.1) The payor shall serve any application made pursuant to subsection (13) on:

(a) any person, including the director, who is acting on behalf of the recipient; or

(b) the recipient if no one else is acting on behalf of the recipient.

(14) In subsection (15), "**recipient**" means a recipient under a writ of execution issued pursuant to subsection (2) and filed in the office of the sheriff:

(a) at any time before a seizure is made under which money has been levied on an execution; or

(b) before the expiration of the time fixed for the distribution of the money under a seizure mentioned in clause (a). (*«réceptionnaire»*).

(15) Subject to section 15 of *The Creditors' Relief Act*, where a seizure is made and details of the levy have been recorded in accordance with section 4 of *The Creditors' Relief Act*, a recipient is entitled, out of the money levied:

(a) to be paid the amount of arrears under a maintenance order that are due to the recipient by the payor, to a maximum amount equal to one year's payments under the maintenance order at the current rate, in priority to the claims of other creditors of the respondent; and

(b) to share *pro rata* with any other creditors with respect to the remainder, if any, of the recipient's claim.

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

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

1997, c.E-9.21, s.44; 2000, c.70, s.10; 2004, c.8, s.10; 2009, c.17, s.32 and 49.

**Registration against real property**

**45(1)** In accordance with *The Land Titles Act, 2000*, a recipient may register:

- (a) a maintenance order in the Saskatchewan Writ Registry; and
- (b) an interest based on a maintenance order in the Land Titles Registry against a title or interest.

(2) On and from the date a maintenance order is registered pursuant to clause (1)(a) and as long as it remains in force, the maintenance order binds the estate and interest of every description that the payor may acquire in any lands.

(3) On and from the date an interest based on a maintenance order is registered pursuant to clause (1)(b) and as long as it remains in force, the maintenance order:

- (a) binds the estate and interest of every title and interest of the payor against which it is registered; and
- (b) has the same priority as a registered interest based on a mortgage.

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

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

2000, c.70, s.11; 2009, c.17, s.49.

**Judicial sale**

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

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

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

**Distress**

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

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

- (a) the amount of money in default that is specified in the warrant; and
- (b) the costs and charges of the levy and distress.

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

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997**c. E-9.21****Duty to pay money recovered**

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

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

**Appointment of receiver**

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

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

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

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

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

**Financial statement**

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

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

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

**Summons for default hearing**

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

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

- (2) The clerk or local registrar of the court in which a maintenance order was made or registered may issue a summons requiring the payor to appear at a default hearing before the court indicated in the summons to explain why the payor is not fulfilling his or her obligations pursuant to the maintenance order if:
- (a) the payor is in default of an obligation pursuant to a maintenance order;
  - (b) the recipient files an affidavit of arrears with the court; and
  - (c) the maintenance order is not filed in the office.
- (3) A summons issued pursuant to this section:
- (a) is to be in the prescribed form and issued in the prescribed manner;
  - (b) must be served on the payor at least 14 days before the date on which the payor is required to appear.
- (4) No payor who is served with a summons issued pursuant to subsection (1) or (2) shall fail to personally attend at the time and place specified in the summons, and at all subsequent adjournments of the proceeding, if any:
- (a) without just excuse;
  - (b) unless otherwise directed by the court; or
  - (c) in the case of a summons issued pursuant to subsection (1), without the consent of the director.

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

**Warrant for arrest**

**52(1)** If the recipient or payor fails to file a financial statement required pursuant to section 50, the court may, on an *ex parte* application, issue a warrant for the recipient's or payor's arrest for the purpose of bringing the recipient or payor before the court.

(2) If the payor fails to appear as required by a summons issued pursuant to section 51, or fails to appear as required pursuant to section 51 at any subsequent adjournment of the proceeding, the court may, on an *ex parte* application, issue a warrant for the payor's arrest for the purpose of bringing the payor before the court.

2009, c.17, s.37.

**Default hearing**

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

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

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

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

2009, c.17, s.37.

**Realizing on security**

**54(1)** This section applies where:

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

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

**Evasion of payor**

**55(1)** On an *ex parte* application by the recipient and where the court is satisfied that the payor is hindering or defeating or is attempting to hinder or defeat the enforcement of a maintenance order by dissipation, gift or transfer of assets, the court may make an order:

- (a) restraining any dealing with, or gift or transfer of, the property; or
- (b) appointing a receiver in accordance with section 49.

(2) On an *ex parte* application by the recipient and where the court is satisfied that the payor is attempting to hinder or defeat the enforcement of arrears under a maintenance order by leaving Saskatchewan, the court may issue a warrant for the arrest of the payor for the purpose of bringing the payor before the court to be examined with respect to his or her ability to meet his or her obligations pursuant to the maintenance order.

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

**Imprisonment**

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

(2) An order of the court pursuant to subsection (1) is in addition to all other remedies the court has pursuant to this or any other Act or law.

(3) An order pursuant to subsection (1) may be issued without taking any other step for the enforcement of the maintenance order.

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

(5) The keeper of a prison and all other persons whose duty it is to do so are authorized and required to:

- (a) receive the person to be committed into custody; and
- (b) carry out and execute the order.

(6) Imprisonment of a payor pursuant to this section does not discharge arrears owing under the maintenance order.

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

- (a) order that the period of committal be served intermittently at the times specified in the order; and
- (b) direct that the payor comply with any conditions specified in the order at all times when not in custody.

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

## c. E-9.21

## APPEAL

**Right of appeal**

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

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

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

Part IV  
General**Application of payments**

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

- (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.

1997, c.E-9.21, s.58; 2009, c.17, s.49.

**Fees**

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

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

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

**Service**

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

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

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

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

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

- (a) by personal service made:
  - (i) in the case of an individual, on that individual;
  - (ii) in the case of a partnership, on any partner; or
  - (iii) in the case of a corporation, on any officer or director of the corporation;
- (b) by ordinary mail;
- (c) by registered mail;
- (d) by facsimile transmission:
  - (i) in the case of a demand made pursuant to subsection 13(1):
    - (A) to a telecopier number provided by the person or public body to be served; or
    - (B) if the person or public body is a corporation, to a telecopier located where the corporation carries on business; and
  - (ii) in the case of a notice of garnishment or notice of continuing garnishment:
    - (A) to a telecopier number provided by the garnishee; or
    - (B) if the garnishee is a corporation, to a telecopier located where the corporation carries on business;
- (e) by any other prescribed means; or
- (f) in any case where the court is satisfied that it is not practicable to effect service by any of the means mentioned in clauses (a) to (e), by any method that the court may direct.

(6) A notice or demand sent by ordinary mail or registered mail pursuant to subsection (5) is deemed to have been served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of his or her own, the person did not receive the notice or demand or received it at a later date.

1997, c.E-9.21, s.60; 2002, c.4, s.13; 2004, c.8,  
s.12.

**Presumption of payor's ability to pay**

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

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

ENFORCEMENT OF MAINTENANCE  
ORDERS, 1997

**c. E-9.21**

**Statements, signature of director as evidence**

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

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

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

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

1997, c.E-9.21, s.62.

**Proof of default**

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

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

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

**Evidence of witnesses**

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

2004, c.8, s.13.

**Affidavits of arrears sworn, etc., outside Saskatchewan**

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

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

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

**Capacity of minor who is a spouse**

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

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

**Action for arrears**

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

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

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

**Debt no defence**

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

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

**Claim on estate – default**

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

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

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

**Relief of obligation to pay default**

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

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

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

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

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

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

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

**Communications not privileged**

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

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

## c. E-9.21

**Witnesses**

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

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

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

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

**Regulations**

72 The Lieutenant Governor in Council may make regulations:

- (a) prescribing forms required by this Act;
- (b) prescribing forms and procedures for making and keeping records, returns and reports with respect to the director's responsibilities;
- (c) for the purposes of clause 12(2)(b), prescribing a maximum amount of arrears or a manner of determining a maximum amount of arrears or both that may be enforced by continuing garnishment;
- (d) respecting the information that can be disclosed pursuant to section 14 and the purposes for which it can be disclosed;
- (e) with respect to the disclosure of financial information, including prescribing the information respecting a payor's pension entitlement or annuity that is to be provided for the purposes of clauses 37(1)(a) and 40.7(1)(a);
  - (e.1) for the purposes of subclause 40.4(1)(a)(ii), governing the manner of calculating the cost of complying with an attachment.
- (f) designating officers of the Crown or classes of officers who are to be served pursuant to this Act;
- (g) providing for exemptions or partial exemptions from garnishment pursuant to this Act or the *Family Orders and Agreements Enforcement Assistance Act* (Canada);
- (h) prescribing fees the director may charge for his or her services pursuant to this Act and the persons or classes of persons who are required to pay those fees;
  - (h.1) prescribing other means of service of documents required to be served pursuant to this Act;
- (i) prescribing any matter or thing that is required or authorized by this Act to be prescribed in the regulations.

1997, c.E-9.21, s.72; 2002, c.4, s.14; 2004, c.8, s.14; 2009, c.17, s.48.

PART V  
**Repeal, Transitional and Coming into force**

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

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

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

**Transitional**

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

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

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

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

