

13. When does my support order end?

The following amendment to section 37 of The Family Law Act applies to orders made after March 31, 1998.

The Family Law Act now states in section

37. (1) Every parent has an obligation, to the extent that the parent is capable of doing so, to provide support for his or her child.

(7) The obligation under subsection (1) does not extend to

(a) a child who has attained the age of majority unless that child is under the charge of his or her parent and is unable by reason of illness, disability, pursuit of reasonable education or other cause to withdraw from the parent's charge or to obtain the necessities of life;

(b) a child who has not attained the age of majority and who is married; and

(c) a child over the age of 16 years who has withdrawn from parental care.

The Divorce Act states that a "child of the marriage" is a child of two spouses or former spouses who, at the material time,

(a) is under the age of majority and who has not withdrawn from their charge or

(b) is the age of majority or over and under their charge but unable, by reason of illness, disability or other cause, to withdraw from their charge or to obtain the necessities of life;"

If a dispute arises, the parties should seek legal advice.

14. What if I am having problems with custody and/or access?

The Support Enforcement Program is not mandated to handle custody or access matters. We will only enforce the support requirements of the order.

More information on the powers of the Director of Support Enforcement are contained in the Support Orders Enforcement Act. You may obtain a copy from the Queen's Printer.

15. As the creditor, what can I do to help?

- do not accept direct payments from debtor while registered with the program.
- advise us immediately of any change of address.
- put your account number on all correspondence.
- update us on changes in the debtor's address, employment, etc.

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Some of the terms involving the Support Enforcement Program may be new to you. Here are some important terms to know:

Affidavit:

A written statement of facts sworn under oath before a person authorized to administer oaths.

Arrears:

The balance of money owing because of missed support payments.

Creditor:

The person to whom money is owed under the terms of a support order, or an agreement.

Debtor:

The person responsible for making support payments.

Director of Support Enforcement:

The person empowered under the Support Orders Enforcement Act to collect support payments.

Support Payments:

The amount stated in a support order or agreement.

Support Orders:

Any court order, or legally enforceable domestic agreement requiring an individual to provide money for the care and support of others.

Variation:

An adjustment in the amount of a regular payment and/or arrears made by a court, on application of either a creditor or a debtor.

NEWFOUNDLAND
AND LABRADOR

Support Enforcement Program



Department of Justice
Newfoundland and Labrador

FACTS ABOUT THE SUPPORT ENFORCEMENT PROGRAM

The Government of Newfoundland and Labrador has introduced the Support Enforcement Program as part of its commitment to strengthening family services.

The Support Orders Enforcement Act is designed to help individuals who are entitled to receive support.

The Support Enforcement Program is located at Corner Brook and provides enforcement service to the entire province.

As of May 1, 1989, all orders relating to support payments issued by a court in Newfoundland will automatically be enrolled into the program. It is the court's responsibility to send a copy of the support order to the Support Enforcement Program.

The person entitled to receive support will be asked to complete a registration form, which contains the information needed to enforce the order.

People who don't want or need the enforcement service may complete a form marked Opt Out/Withdrawal, and file it with the Support Enforcement Program. You may re-register at any time.

People with court orders for support payments made before May 1, 1989 can also register with the program. You must complete; a registration information form; a sworn affidavit of arrears; and provide a certified copy of the support order. These documents may be obtained by contacting our office or any court.

SOME QUESTIONS YOU MAY BE ASKING:

1. Does the Support Enforcement Program guarantee payments?

The program can only pay to you what it has been able to collect. People entitled to support should realize that there are times when it is not possible to collect.

2. What will this enforcement service cost me?

Nothing. There will be no cost to any person who is entitled to receive support.

3. I am owed back payments. How much of this money can be collected?

The Director of Support Enforcement will attempt to collect money going back as far as 10 years; the law prohibits enforcement beyond 10 years.

4. What steps can be taken to collect support?

The Director of Support Enforcement can demand a financial statement from a person who is required to pay support.

The Director has the authority to garnish or collect wages from an employer; monies held at financial institutions; and federal sources of funds, such as EI payments or income tax refunds. In addition, property may be seized and sold to pay outstanding arrears.

The debtor may be brought before the court to explain the nonpayment and the court may make an order to enforce payment of arrears.

5. How are payments made?

The Support Enforcement Program uses a sophisticated computer program which monitors payments and alerts enforcement officers when payments are missed.

The person required to pay support must

make payments to the Director of Support Enforcement on the date(s) set out in the support order. The Director will then forward a government cheque to the individual who is entitled to receive support, in accordance with the terms of the support order.

If enforcement action is necessary, there will be delays.

6. What should I do if I receive payments directly from the person required to pay me support?

Direct payments should not be accepted. If you receive a direct payment, make sure you write to the Support Enforcement Program immediately to confirm it, so that accurate accounting records are maintained. All support payments must be made to the Support Enforcement Program. Accepting direct payments will delay enforcement action.

7. What if I don't know where the person who is required to make payment is living?

The Director of Support Enforcement has the authority to gain access to certain government records (both federal and provincial), and also has the authority to demand information from other sources in order to find out the whereabouts of someone who owes support payments.

8. What if a person required to make payments resides in another province or country?

The Support Enforcement Program works best when the parties involved live in this province.

Other provinces now have similar programs and access to these can be gained by registering with the Support Enforcement Program. The other jurisdiction then

assumes the responsibility to monitor and enforce the support order. However, enforcement is more difficult and may take longer.

9. What if my support order was made in another province?

If your support order was made in another province and the debtor resides in Newfoundland, we will enforce the support order after it is registered with a Newfoundland court.

If your support order was made in another province and the debtor resides outside Newfoundland, we will provide you with the name and address of the enforcement program in the province in which your support order was made.

For more information on this procedure, please contact our office.

10. Will information I give be kept confidential?

All information received by the Support Enforcement Program is confidential, and used only for the purposes of monitoring payments and enforcing support orders.

11. What if I have a written agreement for support? Can it be enforced?

The director will only enforce the support provisions of an agreement after it has been filed with the court pursuant to the provisions of the Family Law Act. It is your responsibility to have this done.

12. What if I want to vary my support order?

The Support Enforcement Program will not act on behalf of either party at a variation hearing. We suggest you seek legal advice or contact the court to obtain the necessary forms.