



## **PLEASE NOTE**

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For more information concerning the history of this Act, please see the [Table of Public Acts](#).

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## CHAPTER M-1

### MAINTENANCE ENFORCEMENT ACT

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

maintenance order

(b) “maintenance order” means a provision in an order of a court in or outside Prince Edward Island enforceable in Prince Edward Island for the payment of money as support or maintenance, and includes a provision for

(i) the payment of an amount periodically, whether monthly or otherwise and whether for an indefinite or limited period, or until the happening of a specified event,

(ii) a lump sum to be paid or held in trust,

(iii) one spouse to be given exclusive possession of a matrimonial home or part thereof for life or for such lesser period as the court directs,

(iv) a spouse to whom exclusive possession of a matrimonial home is given to make such periodic payments to the other spouse as are prescribed in the order,

(v) one spouse to be given exclusive possession of the contents of a matrimonial home or household goods or any part thereof,

(vi) fixing the obligation to repair and maintain a matrimonial home or to pay other liabilities arising in respect thereof,

(vii) part or all of the money payable under the order to be paid into court or to any other appropriate person or agency for the benefit of a party,

(viii) payment of support or maintenance in respect of any period before the date of the order,

(ix) payment to the Minister of Social Services and Seniors, or the former Minister of Health and Social Services, of any amount in reimbursement for a benefit or assistance provided to a party, including an amount in reimbursement for such benefit or assistance provided before the date of the order,

(x) payment of expenses in respect of the prenatal care and birth of a child, or

(xi) the securing of payment under the order, by a charge on property or otherwise,

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

Minister

(c) “Minister” means the Minister of Social Services and Seniors;

parent

(c.1) “parent”, in relation to a child, means the mother or father, and includes a guardian, a step-parent or a person who stands in the place of a parent to the child, but does not include a foster parent;

payee

(c.2) “payee” means a person who is entitled to receive maintenance or support pursuant to a maintenance order;

(d) "payment order" means an order made by the Director pursuant to section 3 requiring an income source to make payments in the amounts specified in the order to the Director;

payment order

(e) "payor" means a person who is required to pay maintenance or support pursuant to a maintenance order;

payor

(f) "remuneration", in respect of an income source, includes  
(i) wages, salary or other financial benefit of employment,  
(ii) a commission, bonus or other payment, if it is not recoverable by the income source from the payor on the failure of the payor to earn the commission, bonus or other payment, to meet a quota or to otherwise establish eligibility for the commission, bonus or other payment,  
(iii) piece-work payments,  
(iv) accident, disability or sickness benefits,  
(v) retirement and pension benefits,  
(vi) an annuity,  
(vii) rental income,  
(viii) debts owing to the payor or to a family company, and  
(ix) money paid into court, in which the payor has an interest.

remuneration

(2) Anything required by this Act to be signed or done by a person, or referred to in this Act as signed or done by a person, may be signed or done by a lawyer acting on the person's behalf. 1988,c.1,s.1; 1993,c.15,s.1; 2001,c.11,s.1; 2005,c.40,s.18.

Acting by lawyer

PART I  
ENFORCEMENT BY DIRECTOR

2. (1) There shall be a Director of Maintenance Enforcement who shall be an employee of the Office of the Attorney General.

Director of Maintenance Enforcement

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

Duty and powers of Director

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

Arrears

(4) The Director shall not charge a fee for services to persons on whose behalf the Director acts.

Fees

Enforcement officers	(5) The Attorney General or the Director may designate employees of the office of the Director to be enforcement officers for the purposes of this Act.
Powers of enforcement officers	(6) An enforcement officer may act for and in the name of the Director. 1988,c.1,s.2; 1993,c.15,s.1 and c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3.
Director may decline to enforce order	<p><b>2.1</b> Notwithstanding subsection 2(2), the Director may decline to enforce a maintenance order, or any part of a maintenance order, where the Director is satisfied that</p> <ul style="list-style-type: none"> <li>(a) it is not practicable to enforce the maintenance order or a part of the order;</li> <li>(b) the payee is accepting payments respecting the order directly from the payor;</li> <li>(c) the payee has failed or refused to supply information to the Director which the Director requires for enforcement of the order; or</li> <li>(d) there is doubt or ambiguity about the meaning, legal effect or enforceability of the order. 2001,c.11,s.2.</li> </ul>
Filing of maintenance orders made by the court	<p><b>3.</b> (1) Every maintenance order made by a court in Prince Edward Island shall set out such information as the Director may require, including the residence and mailing addresses and phone numbers of the payor and payee, and shall</p> <ul style="list-style-type: none"> <li>(a) in the operative part of the order, state that amounts owing pursuant to the order shall be paid to the Director who shall pay the amounts to the person to whom they are owed unless the order is withdrawn from the office of the Director; and</li> <li>(b) be filed forthwith in the office of the Director by the person entitled to maintenance under the order,</li> </ul> <p>unless after the order is made, the person who instituted the application for the order files with the office of the Director a notice in writing signed by the person stating that the person does not wish to have the order enforced by the Director.</p>
Obligations of payor	<p>(2) Where a maintenance order has been filed with the office of the Director, the payor shall, within fourteen days after the filing of the order, provide the Director with any information the Director requires to enforce the order and shall</p> <ul style="list-style-type: none"> <li>(a) make arrangements with one or more income sources whereby the income source or income sources agree to become parties to a payment order and pay the amounts payable by the payor under the maintenance order into the office of the Director; or</li> <li>(b) request the Director to make one or more payment orders pursuant to subsection (3).</li> </ul>

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

Payment orders

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

Powers of Director where payor disregards obligations

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

Filing of maintenance orders made outside jurisdiction

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

Application

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

Notice to income source of variation or termination of payment order

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

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

**3.2** (1) No employer shall dismiss, suspend, lay off, penalize, discipline or discriminate against any employee on the basis of any action that

Unlawful dismissal etc. of employee who exercises rights

- (a) the employee has taken in exercising the employee's rights under this Act; or
- (b) the Director or any court has required the employee to take pursuant to this Act.

(2) Where the court, upon application of any employee, finds that an employer has violated subsection (1), the court may make any order it considers just, including an order

Violation, powers of court

- (a) reinstating the employee; and
- (b) awarding damages against the employer. 1993,c.15,s.4.

Form of payment order	<p><b>3.3</b> (1) A payment order made by the Director pursuant to section 3 shall direct the income source named in the order to pay to the office of the Director the amount, or part of the amount, payable by the payor pursuant to the maintenance order for which the payment order is made.</p>
Payment orders in aggregate not to exceed amount payable by payor	<p>(2) Where the Director makes more than one payment order pursuant to section 3, the total required to be paid to the office of the Director by all the income sources named in the payment orders shall not exceed the total payable by the payor pursuant to the maintenance order for which the payment orders are made.</p>
Offence	<p>(3) An income source that fails or refuses to comply with a payment order is guilty of an offence and is liable on summary conviction to a fine not exceeding \$2,000. 1993,c.15,s.4; 1996,c.27,s.3 <i>{eff.}</i> Jan.1/97.</p>
Resolution of questions by court	<p><b>3.4</b> (1) The Director, an income source, or a payor may, on notice to the other party involved, bring a motion before the court regarding a payment order, and the court shall make a determination on the motion subject to subsections (2) and (3).</p>
Powers exclude variation etc. of maintenance order	<p>(2) In determining a motion brought under subsection (1), the court shall not vary or terminate any maintenance order.</p>
Termination of payment order	<p>(3) The court may order that a payment order be terminated only where the court finds that it would be unconscionable to require the payor to fulfil the requirements of the maintenance order through a payment order. 1993,c.15,s.4.</p>
Withdrawal of payment order	<p><b>3.5</b> (1) A payment order may be withdrawn where the parties to the maintenance order for which the payment order is made give notice in writing to the Director that the payment order is to be withdrawn.</p>
Reinstatement	<p>(2) A payment order that has been withdrawn pursuant to subsection (1) may be reinstated by the Director at the request of the party entitled to receive payments pursuant to the maintenance order for which the payment order was made. 1993,c.15,s.4.</p>
Director to vary etc. payment order consequent to variation etc. of maintenance order	<p><b>3.6</b> Where a maintenance order is varied or terminated, the Director shall, upon notice from the registrar of the court that varied or terminated the maintenance order, ensure that any payment order made pursuant to the maintenance order is varied or terminated as required. 1993,c.15,s.4.</p>
Withdrawal of filing	<p><b>4.</b> (1) A maintenance order filed in the office of the Director may be withdrawn by a notice in writing signed by the person by or on whose behalf it was filed.</p>
Refiling	<p>(2) A maintenance order that has been withdrawn may be refiled at any time by any person entitled to file the order under section 3.</p>

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

Notice of filings and withdrawals

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

Filing by Minister

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

Enforcement by Director exclusive

6. (1) The Director may, by request and for the purposes of enforcing a maintenance order or a payment order, require any person or public body to provide the Director with information

Director may require information

- (a) that is within the knowledge of, or shown on a record in the possession or control of, the person or public body; and
- (b) that relates to
  - (i) the remuneration;
  - (ii) the sources of income;
  - (iii) the assets or liabilities;
  - (iv) the financial status;
  - (v) copies of income tax returns;
  - (vi) the social insurance number;
  - (vii) changes in the circumstances affecting the amount of maintenance to be paid under the order;
  - (viii) the location, address and place of employment;
  - (ix) the location, address and place of residence; and
  - (x) the telephone number,

of the payor, the payor's spouse, or an income source of the payor.

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

Duty to provide information

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

Court order to provide information

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

Costs



Non-disclosure	<p>(5) Information obtained pursuant to this section shall not be disclosed to any person except</p> <ul style="list-style-type: none"> <li>(a) for the enforcement of an order under this Act;</li> <li>(b) in connection with the administration of this Act;</li> <li>(c) to a person performing similar functions for a government body in another jurisdiction; or</li> <li>(d) to a peace officer for the purposes of a criminal investigation.</li> </ul>
Application of section	<p>(6) This section applies notwithstanding any other Act or any rule of common law relating to confidentiality, other than the rules of solicitor-client privilege.</p>
Disclosure non-actionable	<p>(7) No action may be taken against any person who reveals information in accordance with this section.</p>
Offence	<p>(8) Any person who</p> <ul style="list-style-type: none"> <li>(a) discloses information obtained under this section, that is not otherwise lawfully available to the public, contrary to subsection (5);</li> <li>(b) knowingly withholds information that the person is required to give under this section; or</li> <li>(c) gives false or misleading information to the Director or in response to an order made under subsection (2),</li> </ul> <p>is guilty of an offence and is liable on summary conviction to a fine not exceeding \$2,000 or to imprisonment for up to six months, or both. 2001,c.11,s.3.</p>
Credit agency's report	<p><b>6.1</b> (1) The Director may require a credit reporting agency to include in its report information respecting a payor's obligations under a maintenance order.</p>
Variation in garnishment order	<p>(2) If the maintenance order for which a garnishment order was served is varied, and notice of the variation order is served on the Director, then the Director shall forthwith notify the credit reporting agency of the variation. 2001,c.11,s.3.</p>
Federal-provincial agreement	<p><b>7.</b> (1) The Attorney General may, on behalf of the Government of Prince Edward Island, enter into an agreement with the Government of Canada concerning the searching for and the release of information under Part I of the <i>Family Orders and Agreements Enforcement Assistance Act</i> (Canada) Stats. Can. 1986, c.5.</p>
Information obtained from federal government	<p>(2) The Director shall not disclose information obtained under the <i>Family Orders and Agreements Enforcement Assistance Act</i> (Canada) for the enforcement of a maintenance order or payment order, except to the extent necessary for the enforcement of the order. 1988,c.1,s.7; 1993,c.15,s.6; 1993,c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3.</p>

PART II  
ENFORCEMENT REMEDIES

- 8.** In sections 9, 11 and 13, “court” means the Family Section of the Trial Division of the Supreme Court. 1988,c.1,s.8. Definitions
- 9.** (1) On the filing of a garnishment process that  
 (a) is issued outside Prince Edward Island and is directed to a garnishee in Prince Edward Island;  
 (b) states that it is issued in respect of support or maintenance; and  
 (c) is written in or accompanied by a sworn or certified translation into English or French,  
 the prothonotary shall issue a notice of garnishment to enforce the support or maintenance obligation. Recognition of extra-provincial garnishments
- (2) If the garnishment process refers to an obligation in a foreign currency, section 46 of the *Supreme Court Act* R.S.P.E.I. 1988, Cap. S-10 applies. 1988,c.1,s.9. Foreign currencies
- 10.** (1) A maintenance order that is filed in the office of the Director may be registered against the land of the person against whom an obligation to pay money under the order is enforceable, and on registration the obligation under the order becomes a charge on the property. Registration against land
- (2) A charge created by subsection (1) may be enforced by sale of the property against which it is registered. Sale of property
- (3) The court may order the discharge, in whole or in part, or the postponement of a charge created by subsection (1), on such terms as to security or other matters as the court considers just. Discharge or postponement of charge
- (4) An order under subsection (3) may be made only after notice to the Director. 1988,c.1,s.10; 1993,c.15,s.7. Director to be served
- 11.** (1) When a maintenance order that is filed in the Director’s office is in default, the Director may prepare a statement of the arrears and the Director may, by notice served on the payor together with the statement of arrears, require the payor to file in the Director’s office a financial statement in the form prescribed by the rules of the court and to appear before the court to explain the default. Filing of financial statement with Director
- (2) Where the payor fails to file the financial statement or to appear as the notice requires, the court may issue a warrant for the payor’s arrest for the purpose of bringing him before the court. Arrest of payor
- (3) At the default hearing, unless the contrary is shown, the payor shall be presumed to have the ability to pay the arrears and to make subsequent payments under the order, and the statement of arrears Presumptions at hearing

prepared and served by the Director shall be presumed to be correct as to arrears accruing while the order is filed in the office of the Director.

- Powers of court (4) The court may, unless it is satisfied that there are no arrears or that the payor is unable for valid reasons to pay the arrears or to make subsequent payments under the order, order that the payor,
- (a) discharge the arrears by such periodic payments as the court considers just;
  - (b) discharge the arrears in full by a specified date;
  - (c) comply with the order to the extent of the payor's ability to pay, but an order under this clause does not affect the accruing of arrears;
  - (d) provide security in such form as the court directs for the arrears and subsequent payment;
  - (e) report periodically to the court, the Director or a person specified in the order;
  - (f) provide to the court, the Director or a person specified in the order particulars of any future change of address or employment as soon as they occur;
  - (g) be imprisoned continuously or intermittently for not more than ninety days unless the arrears are sooner paid;
  - (h) be imprisoned continuously or intermittently for not more than ninety days on default in any payment or requirement ordered under this subsection.
- Garnishment of wages, etc. (4.1) In addition to any order under subsection (4) the court may order that the wages of the payor be garnisheed in the amount specified in the order and, where an order is made under this subsection the garnishee shall pay the amount specified into court without any hearing to show cause why he should not do so.
- Garnishment of Federal Crown (4.2) In addition to an order under subsection (4) the court may order the garnishment of Her Majesty in right of Canada pursuant to the *Family Orders and Agreements Enforcement Assistance Act* in respect of garnishable moneys owed to a judgment payor and require Her Majesty to pay the amount specified in the order to the Director.
- Application of provincial Act (4.3) The *Garnishee Act* R.S.P.E.I. 1988, Cap. G-2 does not apply to an order under subsection (4.2).
- Power to vary order (5) The court may on motion vary an order made under subsection (4), (4.1) or (4.2) if satisfied that there is a material change in the payor's circumstances.
- Imprisonment does not discharge arrears (6) Imprisonment of a payor under clause (4)(g) or (h) does not discharge arrears under an order.

- (7) An order for security under clause (4)(d) or a subsequent order of the court may provide for the realization of the security by seizure, sale or other means, as the court directs. Realizing on security
- (8) Proof of service on the payor of a maintenance order is not necessary for the purpose of a default hearing. Proof of service not necessary
- (9) A default hearing under this section and a hearing on an application for variation of the maintenance order in default may be held together or separately. Joinder of default and variation hearings
- (10) Spouses are competent and compellable witnesses against each other on a default hearing. 1988,c.1,s.11; 1990,c.33,s.1; 1991,c.24,s.1; 1993,c.15,s.8, and 13. Spouses compellable witnesses
- 12.** A court may make an interim or final order restraining the disposition or wasting of assets that may hinder or defeat the enforcement of a maintenance order. 1988,c.1,s.12. Restraining order
- 12.1** (1) Where a payor is in default under a maintenance order being enforced by the Director, the Director may send a notice to the payor informing the payor that if the payor does not, within the time specified by the Director in the notice, make arrangements satisfactory to the Director for complying with the maintenance order, any driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle in the province or any other license, registration of a vehicle or any permit issued to the payor pursuant to the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5 may be suspended or revoked. Notice to payor re suspension etc. of driving privileges
- (2) Where a payor does not make an arrangement with the Director pursuant to subsection (1), the Director may request the Registrar of Motor Vehicles to suspend or revoke any driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle in the province or any other license, registration of a vehicle or any permit issued to the payor by the Registrar and the Registrar shall suspend or revoke the driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle in the province or any other license, registration of a vehicle or any permit. Suspension etc., of driving privileges etc., on Director's request
- (3) In addition to suspending or revoking a driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle in the province or any other license, registration of a vehicle or any permit pursuant to subsection (2), the Registrar of Motor Vehicles shall not renew a driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle in the province or any other license, registration of a vehicle or any permit issued to the payor pursuant to the *Highway Traffic Act* or otherwise deal with the payor pursuant to that Act until Renewal, etc.

such time as the Registrar of Motor Vehicles receives a request from the Director to lift the suspension or revocation. 1996,c.27,s.3 *{eff.}* Jan.1/97.

Arrest of  
absconding payor

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

Powers of court

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

Joint and several  
liability

**13.1** (1) A company is jointly and severally liable with the payor for payments required under a maintenance order if

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

Company's liability

(2) Where a company is jointly and severally liable pursuant to subsection (1),

- (a) the company continues to be liable as long as the payor continues to be liable for payments under the maintenance order;
- (b) an enforcement proceeding that may be taken against the payor may be taken against the company; and
- (c) the amount of a payment required under a maintenance order that is paid by the company or obtained by enforcement against the company is a debt owed by the payor to the company.

Where company not  
liable

(3) Notwithstanding subsection (2), a company is not liable for payments under a maintenance order that come due on or after the date that the company serves a notice on the Director which

- (a) indicates that the payor has ceased to hold or to have a beneficial interest in any shares of the company and provides the date this occurred;
- (b) gives the name and address of any person who acquired the shares or beneficial interest of the payor; and
- (c) specifies the consideration, if known to the company, that the payor received or will receive for the transfer of the shares or the beneficial interest in them.

- (4) The Director or the recipient of a notice served under clause (1)(b) may apply to the court for an order declaring
- (a) whether or not the recipient of the notice is a company within the meaning of this Act; and
  - (b) when the recipient of the notice became or ceased to be such a company.
- (5) The court may, on an application under subsection (4),
- (a) summarily make an order referred to in that subsection; or
  - (b) order a further hearing to determine what orders, if any, referred to in that subsection should be made. 2001,c.11,s.4.
- 13.2** (1) The Director may apply to the court for an order that a family company is jointly and severally liable with the payor for payments required under a maintenance order if
- (a) the payor has defaulted in a payment under the maintenance order;
  - (b) the director has served a notice on the family company claiming joint and several liability; and
  - (c) the amount owing under the maintenance order exceeds \$500 at any time after the notice referred to in clause (b) has been served.
- (2) Where a family company is jointly and severally liable pursuant to an order made by the court on an application under subsection (1),
- (a) the family company continues to be liable as long as the payor continues to be liable for payments under the maintenance order;
  - (b) an enforcement proceeding that may be taken against the payor may be taken against the family company; and
  - (c) the amount of payment required under a maintenance order that is paid by the family company or obtained by enforcement against the family company is a debt owing by the payor to the family company.
- (3) Notwithstanding subsection (2), a family company is not liable for payments under a maintenance order that come due on or after the date that the family company serves a notice on the Director which
- (a) indicates that the payor has ceased to hold or have a beneficial interest in any shares of the family company and providing the date this occurred;
  - (b) gives the name and address of any person who acquired the shares or the beneficial interest of the payor; and
  - (c) specifies the consideration, if known to the family company, that the payor received or will receive for the transfer of the shares or beneficial interest in them.

- Application to court (4) The Director or the recipient of a notice served under subsection (1), may apply to the court for an order declaring
- (a) whether or not the recipient of the notice is a family company within the meaning of this Act; and
  - (b) when the recipient of the notice became or ceased to be such a company.
- Determination of court (5) The court may, on an application under subsection (4),
- (a) summarily make an order referred to in that subsection; or
  - (b) order a further hearing to determine what order, if any, referred to in that subsection should be made. 2001,c.11,s.4.
- Significant risk factor **13.3** For the purposes of an enforcement proceeding pursuant to sections 13.1 and 13.2, the Director and the court shall
- (a) consider whether a significant risk to the continued solvency of the company or family company arises or will arise from the enforcement proceedings; and
  - (b) where there are reasonable grounds to believe that a significant risk has arisen or will arise, proceed in a manner that will reduce the risk and allow enforcement of the maintenance order to be effective. 2001,c.11,s.4.
- Application of payments **14.** Money paid on account of a maintenance order shall be credited,
- (a) first to the principal amount most recently due and then to any interest owing on that amount; and
  - (b) then to the balance outstanding in the manner set out in clause (a),
- unless the payor specifies otherwise at the time the payment is made or the court orders otherwise. 1988,c.1,s.14; 1993,c.15,s.13.
- Priority for support orders **15.** (1) A maintenance or payment order has priority over other judgment debts regardless of when an enforcement process is issued or served,
- (a) if the order is for periodic payments, in an amount not exceeding one year's support or maintenance at the rate current at the time of seizure or attachment; and
  - (b) if the order is for a lump sum payment, in the amount of the lump sum.
- Support orders rank equally (2) Maintenance or payment orders rank equally with one another. 1988,c.1,s.15; 1993,c.15,s.9.
- Exclusion of public from hearings **16.** The court may exclude the public from a hearing or any part of a hearing held pursuant to this Act where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public, and the court by order may

prohibit the publication of any matter connected with the application or given in evidence at the hearing. 1993,c.15,s.10.

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