



# Support Enforcement Program

## Information Guide



“Children Come First”





## TABLE OF CONTENTS

How the Program Works	4
Creditor Responsibilities	6
Debtor Responsibilities	7
Collection Actions	8
Payment Options	11
Frequently Asked Questions—Creditor	13
Frequently Asked Questions—Debtor	17
Obtaining or Varying a Support Order	24
Interjurisdictional Issues	25
Recalculation of Support Orders	26



## How the Program Works:

The Support Enforcement Program was introduced in 1989 to provide enforcement services to individuals requiring assistance in the collection of support. The authority for the establishment of this Program lies under the *Support Orders Enforcement Act, 2006*.

It is mandatory that all orders related to support payments issued by a court in Newfoundland and Labrador be sent to the program for enrollment. It is the court's responsibility to send a certified copy of the support order to the Support Enforcement Program.

Upon receipt of the support order a file is created and the **Creditor** (the person entitled to receive support) is sent a registration package including an Opt-Out form. The file will remain open unless the creditor fails to register or Opts Out of the Program. The **Debtor** (the person paying the support) is sent a notice of registration package that includes information on the program including where and how to make payments.

The registration package also provides information as to the possible enforcement actions that may be initiated if the Debtor does not comply with the terms of their support order.

Once a file is up and running the program will accept payments from the debtor, process them, and issue a government cheque to the creditor. All cheques are issued the next business day after payment is received at the program. If a debtor refuses to pay, the program will commence enforcement actions necessary to collect the support due. Enforcement actions will take time to become effective so there will be delays in getting payments out. This means that payments will no longer be available as per the dates indicated in your order.

Creditors and Debtors who are registered with Support



Enforcement are provided with a Personal Identification Number (PIN) so they can access information related to their accounts through the web at site:\*

<http://sea-remote.justice.gov.nl.ca>

\*Subject to certain conditions.



## **CREDITOR RESPONSIBILITIES:**

You are the person for whom we work to collect support. Therefore we consider you our partner and one of the best sources of information in relation to the debtor.

The SEP office will use its trace and locate abilities but it may not always be successful or timely enough. Therefore we may contact you periodically to ascertain if you have information that will help in locating the debtor and enforcing your file. You may be able to provide us with contacts such as mutual friends, former employers or family relations who we may contact to obtain information. If you are contacted by your case worker your cooperation is expected.

Additional responsibilities:

- You are expected to keep us up to date on any changes in your residential address or banking information.
- You will not accept support payments directly from the debtor.
- You are expected to notify us if the status of your child/children changes.
- You are responsible for contacting us if you do not wish us to collect your support.



## **DEBTOR RESPONSIBILITIES:**

- You are responsible for making your Support Payment as the Court has ordered. This means on time and on the date the support is due.
- You are to notify us if your payment will be late.
- You are responsible for notifying us of a change of residence, whether within or outside the province.
- You are responsible for notifying us if your financial circumstances have changed to the point where you are unable to meet your support payments.



## **COLLECTION ACTIONS:**

When payments are not made on court orders or agreements registered with the Support Enforcement Program (SEP), collection action(s) will be taken. SEP has many collection tools available and may use one or more of these tools to achieve compliance on an order. The following is a list of these actions:

### **WAGE GARNISHMENT**

SEP can require employers to make scheduled deductions from a debtor's wages in order to bring about compliance. All wage garnishees attach 50% of the debtor's net pay until the arrears are paid. After arrears are paid, wages are attached only for the amount due under the order. SEP has the authority to take 100% under certain conditions.

### **BANK GARNISHMENT**

SEP can intercept money payable to the debtor from bank accounts or other sources such as mutual funds, rent or contract fees. It also will intercept money on deposit up to the amount outstanding with SEP. This includes joint bank accounts.

### **PENSION GARNISHMENT**

SEP can attach certain pension entitlements that a debtor is entitled to under a Registered Pension Plan.

### **FEDERAL GARNISHMENT**

Under an agreement with the Federal Justice Department, SEP can attach funds payable to the debtor from federal sources, such as Income Tax refunds, GST/HST rebates, Canada Pension Plans, Training Allowances and Employment Insurance. SEP attaches 100% of Income Tax and GST rebates.



## **FEDERAL LICENCE DENIAL**

Under an agreement with the Federal Justice Department, SEP can restrict the issuing of passports, federal licences, and permits. SEP can also cause an existing passport or federal licences to be revoked.

## **CREDIT BUREAU REPORTING**

SEP can report a failure to pay child or spousal support to the credit bureau as a bad debt.

## **REGISTRATION WITH THE SHERIFF'S OFFICE**

Under the *Judgment Enforcement Act*, SEP can register a support order as a judgment with the High Sheriff. This registration is a lien against all real property and can prevent the owner from re-mortgaging or selling the property without settling the unpaid balance with SEP. SEP can also force the sale of real estate.

## **SEIZE AND SELL ASSETS**

SEP can seize and sell a debtor's assets (i.e. vehicles, inventory, shares, bonds etc.) through the High Sheriff. The seized assets may be sold to settle the debtor's arrears.

## **REGISTERED RETIREMENT SAVING PLANS (RRSP)**

SEP can collapse RRSPs to satisfy a debtor's arrears.

## **MOTOR VEHICLE RESTRICTIONS**

SEP can issue a notice to the Registrar of Motor Vehicles to suspend, cancel or refuse to renew the driver's licence of a debtor if the debtor is in default under a support order filed with the director.

## **BIG GAME LICENCE RESTRICTIONS**

The director may request that the Minister responsible for



*Wild Life Act* suspend or cancel a debtor's licence if the debtor is in default under a support order filed with the director.

### **DEFAULT HEARING**

SEP can issue a default summons against the debtor to appear in court and give evidence why they have not complied with their support obligation. The court can send a debtor to jail for continued non-payment of support.

### **FEES**

The director may, with the approval of the Minister, charge a fee respecting matters arising in the course of enforcing a support order.



## PAYMENT OPTIONS:

The Support Enforcement Program (SEP) can accept payments by the following Methods:

- Cheque or Post Dated Cheque
- Money Order or Bank Draft
- Telephone or Internet Banking
- Pre-authorized Debit/Credit
- VISA, Master Card
- Debit Card

## TELEBANKING

The Newfoundland & Labrador Support Enforcement Program is a registered biller with most financial institutions. To use TELEBANKING, register with your bank by calling one of the following numbers:

Royal Bank	1-800-769-2555
Bank of Montreal	1-800-363-9992
TD Canada Trust	1-866-222-3456
CIBC	1-800-465-2422
Scotia Bank	1-800-267-1234
Hong Kong Bank	1-877-621-8811
NL Credit Union	1-800-963-4848

Your seven digit "Support Enforcement Account Number" is the bill identification number you need to enter when prompted. Most banks list us as **Newfoundland Support Enforcement Program** but there could be variants of this.

## INTERNET BANKING

To use this method of payment, register with your bank at



one of the following websites:

Royal Bank [www.royalbank.com](http://www.royalbank.com)

Bank of Montreal [www.bmo.com](http://www.bmo.com)

TD Canada Trust [www.tdcanadatrust.com](http://www.tdcanadatrust.com)

CIBC [www.cibc.com](http://www.cibc.com)

Scotia Bank [www.scotiabank.com](http://www.scotiabank.com)

Hong Kong Bank [www.hsbc.com](http://www.hsbc.com)

NL Credit Union [www.nlcu.com](http://www.nlcu.com)

To add us as a bill to pay select "Add a biller" choose NL as the province and enter **Newfoundland Support Enforcement Program**. If this does not work, select query and enter the word "support". This will bring up a list of any biller that has support in its name.

#### **CHEQUE OR MONEY ORDERS**

Cheques or money orders must be made payable to the "Director of Support Enforcement". Your first name, last name and "Support Enforcement seven digit Account Number" must be on the front of your cheque or money order.\*

\* Payment Policy:

*The Director does not assume responsibility for payments incorrectly applied if the payor's name and account number does not appear on the cheque or money order. The Director also does not assume responsibility for incorrectly applied payments against multiple accounts if the payor does not indicate the amount of payment for each. If the amount is not listed, the payment will be split according to the court order amount on each file. If your payment appears to be missing, the Director requires that you provide proof of payment. This is the same responsibility you assume when paying any bill.*



## **FAQ — Creditor:**

### **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.

### **What will this enforcement service cost me?**

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

### **After an order is made how long does it take to become registered at Support Enforcement Program?**

We have no control over the length of time it takes the court to forward orders to this office. When orders are received at this office, they are registered immediately.

### **What steps can be taken to collect support?**

(See pages 8 — 10 for more details.)

### **How do I get paid?**

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 or will deposit directly in the creditor's bank account. Payments are made to the recipient the next available business day after it is received from the debtor.

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

If enforcement action is necessary, there will be delays.



### **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 immediately confirm it by writing or reporting it via the web portal to the Support Enforcement Program so that accurate accounting records are maintained. All support payments must be made to the Support Enforcement Program. Accepting direct payments may also create unnecessary enforcement action.

### **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.

### **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.

All provinces and territories and several countries 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.

### **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 and Labrador, we will enforce the support order after it is registered with a Newfoundland and Labrador court.



### **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.

### **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.

### **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. (See Page 24 for details)

### **How long after a Garnishment is issued will I get money? Will I get my payment on time?**

It depends on the timing of the garnishment in relation to the first available pay period, however, we usually expect to receive funds from a garnishment within 30 business days after first issued. The Garnishee has to deduct from the first available funds that are due to the debtor following the receipt of the garnishment and remit to Support Enforcement. Employers normally remit one monthly payment.

### **How long does it take to receive Federal Funds that are garnished?**

*The Family Orders and Agreements Enforcement Assistance Act* allows us to issue a garnishment summons to our Federal Justice Department. This summons will be in effect 35 days after it is served. Funds are available to garnish after this 35 days so we usually can expect to receive our first funds within 2 months.



Funds garnished after this date usually arrive at this office within 1-2 weeks. We will remit to you on the next business day.

**My child has turned 19 but is not in school and is looking for work. Is this child still considered eligible for support?**

No, the *Family Law Act* and the *Divorce Act* do not make provisions for this. Unless the child is mentally or physically incapable of providing for him/herself and not in school, he or she would not be considered eligible for support.

**If the Debtor buys things for the children is that deducted from the support he is required to pay?**

No, gifts for the children are not considered support payments unless you, the creditor, accept them as such and notify us in writing to make the necessary adjustments to your support. Support payments are expected to be paid as per the terms of your court order.

**Do I have to claim the amount of support I receive as Income on my Income Tax Return?**

Support payments received under child support orders issued after April 30, 1997 are no longer taxable.

**Revenue Canada is looking for a copy of my court order. Is Support Enforcement responsible for providing me with this copy?**

No, you need to obtain a copy of your order from the court that issued it. You should have received a copy of same when it was originally issued.



## **FAQ – DEBTOR:**

### **When and how do I make my payments at the Support Enforcement Program?**

Your payments are due as per the terms of your court order. For example, if your payment is due on the 1st of every month you need to have the funds available to the program for payment on the first.

The Support Enforcement Program (SEP) can accept payments by the following Methods: (see pages 11 & 12)

- Cheque or Post Dated Cheques
- Money Order or Bank Draft or Mastercard/Visa
- Telephone or Internet Banking
- Pre-authorized Debit/Credit

### **How do I get credit for Payments made directly to the Creditor?**

We will credit your account if, and only if, the creditor forwards notification to us in writing; otherwise, your payment to the creditor will not be applied to your account.

Payments should **always be made directly to the Support Enforcement Program** as per the direction of your Court Order. Paying directly to the creditor instead of through the Support Enforcement Program could result in the following:

-your account may reflect an inaccurate balance and most likely lead to an embarrassing and unnecessary enforcement action.

Note: If you do pay directly at any time, we strongly encourage you to pay the exact amount of support due and obtain a receipt.



### **Will I receive a receipt for my support payments?**

No, we do not forward receipts for payments forwarded to this office unless it is a Cash Payment . You can forward a written request for a “Statement of Account” at anytime. You may also use the Web portal to view/print your statement and/or send a web message to have a statement forwarded to you.

### **I am paying support for two children but one of them is now residing with me. Can I pay 50% less?**

If your support terms indicate that support is ‘X’ number of dollars per child and the creditor confirms in writing that the support is now only required for one child the term may be changed. If, however, your order does not indicate an amount per child but states ‘for the children’ the Director may exercise discretion to enforce a lesser amount of support in accordance with the table set out in the applicable child support guidelines.

<http://canada.justice.gc.ca/en/ps/sup/index.html>

### **My financial circumstance has changed significantly since my court order and I have accumulated arrears. Will Support Enforcement reduce my support payments?**

Support Enforcement Program does not have the authority to change the amount of support. You need to obtain a new court order to vary the amount you pay. (see pg 24).

If you start to fall behind in your payments due to a change in your financial circumstances, you should contact us immediately. Subject to a financial review, we may be able to work out a payment arrangement until you are able to take the matter back to court.

### **Why should I have to pay support when my ‘ex’ will not let me see the kids?**



If there is a court order that requires you to pay support, then you have a legal obligation to pay it.

Custody and visitation issues are outside the mandate of the Support Enforcement Program. We are only responsible for the collection of support or maintenance as court ordered. If you have an issue with access to your children as your order states you should, we recommend you seek legal counsel.

### **Do I have to keep on paying once my child reaches the age of majority?**

The age of majority in Newfoundland and Labrador is 19. In other provinces it may be different.

If the child support order was made under the *Family Law Act* the obligation to pay support may continue beyond the child's 19th birthday if:

a 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;

If the child support order was made under the *Divorce Act* the obligation to pay support may continue beyond the child's 19th birthday if:

the child is under their charge but unable, by reason of illness, disability or other cause, to withdraw from their charge to obtain the necessities of life. "Other cause" has also been deemed to be the pursuit of reasonable education under this act.

### **How much of my income will you Garnishments?**

We are not limited by legislation as to the amount we garnish, however, our policy is to garnish 50% of net employment income. For Federal Garnishments we will normally garnish



100% of Revenue Canada funds such as GST and Income Tax Refunds.

**Will I receive notification that my funds are being garnished?**

SEP is not required to notify you of a garnishment, however, the garnishee (i.e. your employer) is required to provide you with a copy of the Garnishment Notice when received. The federal government is also required to do the same.

**If I have not been provided with a copy of the Garnishment, does my employer have the right to garnish funds from my pay?**

Yes, failure of the Garnishee to provide you with a copy does not relieve the Garnishee of his/her obligation to remit to Support Enforcement as per the terms of the Garnishment Notice.

**My support payments are now up to date but my Employment Insurance (EI) Benefits are still delayed getting to me because of a Federal Garnishment. I was told that you would not be deducting anything from my federal funds. Why is it still in place?**

Your Federal Garnishment may only be SUSPENDED. If that is the case this means that although we have notified Federal Justice not to deduct any funds from your federal benefits we can reactivate the Garnishment at any time if you fall behind on your support payments. Your federal cheque will be delayed but you will receive FULL benefits. We do not remove federal garnishments where there has been poor payment history.

If your Federal Garnishment is WITHDRAWN, it may take a month before you will notice that your benefits are no longer delayed. You will receive FULL benefits.



**Will I be able to get Cash Back from my Income Tax refund if there is a Federal Garnishment issued against me?**

No, Financial Groups who process Income Tax Claims will normally have access to information to confirm if a Federal Garnishment is in place against you. If they do confirm this, you will NOT be able to receive cash back.

**Will my Federal Garnishment be lifted if I want to receive a Cash Back from my Income tax refund?**

No, Federal Garnishments will not be released unless your account is brought up to date and satisfactory arrangements are made with the Director for future payments.

**Revenue Canada is looking for a copy of my court order. Is Support Enforcement responsible for providing me with this copy?**

No, you need to obtain a copy of your order from the court that issued it. You should have received a copy of same when it was originally issued.

**I am a seasonal worker and therefore there is always a period of time when I have no income while I wait for my Employment Insurance. Will I have to pay support during this period of time?**

Unless your support order has a provision that you do not pay when you are unemployed and have no income or your term is to pay a lesser amount when you are receiving EI benefits, you are expected to pay according to your order terms.

We suggest you try and budget for the times when you will have no income (your waiting time) and therefore it will not be necessary for us to take enforcement actions, such as a Federal Garnishment.



**Can I claim the support I pay as a deduction on my Income Tax Return?**

Support payments due under support orders issued after April 30, 1997 are no longer tax deductible.

**You have revoked my Passport and I require one to work outside the country. Will you reinstate my Passport for this purpose?**

No, your Passport will not be returned to you unless satisfactory arrangements are made to pay off the outstanding arrears and to pay your ongoing support as per the terms of your court order.

If satisfactory arrangements are made, you will have to reapply for your passport and pay all associated fees.

**You have a Judgment registered against me with the High Sheriff's Office and I need to sell or re-mortgage my house. Will you remove this Judgment so I can sell or re-mortgage this property?**

No, we will not release this Judgment with the High Sheriff unless the outstanding arrears are paid in full.

**You have suspended my driver's licence and I require my driver's licence to travel to work. How do I get my driving privileges back?**

Your driving privileges will not be reinstated unless satisfactory arrangements are made to pay off the outstanding arrears and to pay your ongoing support as per the terms of your court order; or, you may apply to the court to obtain an order to have your licence returned.



**My support order says I am to pay \$500 per month on the first day of every month, however I get paid bi-weekly and want to deduct it from my pay cheque at \$230.77 each pay period. Is this okay?**

No, you are responsible for paying \$500.00 on the 1st of each month. 26 pay periods will also mean that you will not make \$500 payments each month and will fall into arrears until such time as you have a 3 pay period month which happens only twice per year. We encourage that where possible, you should obtain or agree to order terms that meet your budget or pay periods.



## **OBTAINING OR VARYING A SUPPORT**

### **ORDER:**

Obtaining or varying a support order is NOT the responsibility of this program. To obtain or vary a court order you need to contact the court or Family Justice Services Division (FJSD). There are two ways to access Family Justice Services, a Request for Service or a formal court application.

**Request for Service:** Where both people want to work out their problems outside of the court process they can access dispute resolution services through a Request for Service. Both parties must complete and sign a Request for Service form and forward it to the nearest FJSD office. The Request for Service form is available at all court locations and FJSD offices. You can also check the website: <http://www.court.nl.ca/> and follow the link for Family Justice Services Division.

**Court Application:** Upon making application directly to court for child support, spousal support, custody or access the application will be forwarded to FJSD for services.

**Intake:** Once the court application or Request for Service is received by FJSD, the parties involved will be contacted to arrange individual initial appointments (Intake). The Intake interview is a private meeting with the Family Justice Mediator.

There are 11 Family Justice Service offices in the province. Locations are as follows:

St. Johns	709-729-1183
Carbonear	709-945-3223
Clarenville	709-466-4036



Marystow	709-891-4137
Gander	709-256-1205
Grand Falls-Windsor	709-292-1194
Lewisporte	709-535-6266
Corner Brook	709-634-4174
Stephenville	709-643-8396
Wabush	709-944-3209
Happy Valley-Goose Bay	709-896-7904

## **INTERJURISDICTIONAL ISSUES:**

If you were divorced and one party resides outside of the province, you will be required to appear in court here in NL where a Provisional Order will be obtained. This order will then be sent to the province or territory where the other party resides and the court will hear evidence from the respondent. The provisional Order will then be confirmed or denied.

If you were **never married**, you need to complete an Interjurisdictional Support Orders (ISO) application that is sent to the other province or territory via the designated authority for service on the Respondent to appear at a designated court. You are not required to attend court here in NL.

Web link to obtain an ISO application:

<http://www.justice.gov.nl.ca/just>



## **RECALCULATION OF SUPPORT ORDER:**

**Effective April 1, 2007** any new or varied order for child support will have a Recalculation Clause.

This means that each year the Child Support Recalculation Service (CRSS) will request debtors and some creditors to provide updated income tax information which will be used to recalculate child support. Where the service does not receive the requested information, recalculation will be based on a 10% increase to the debtors income indicated on the most recent order and support increased accordingly.

At any time during the recalculation process, parents may apply to court to vary an existing child support order.



## NOTES:



## NOTES:



## NOTES:



## CASE WORKER INFORMATION:

**NAME:** \_\_\_\_\_

**DIRECT PHONE NUMBER:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_





## CONTACT INFORMATION:

Support Enforcement Program

P. O. Box 2006

Corner Brook, NL

A2H 6J8

SEA WEBPORTAL:

<https://sea-remote.justice.gov.nl.ca>

T: (709) 637-2608 F: (709) 634-9518