

**FAMILY SUPPORT ORDERS ENFORCEMENT ACT**

R-011-2013

Registered with the Registrar of Regulations

2013-04-15

**FAMILY SUPPORT ORDERS ENFORCEMENT REGULATIONS**

The Commissioner, on the recommendation of the Minister, under section 60 of the *Family Support Orders Enforcement Act* and every enabling power, makes the annexed *Family Support Orders Enforcement Regulations*.

1. In these regulations, "payment order" means a payment order issued under section 15 of the Act.
2. (1) A recipient who files a support order under subsection 3(3) of the Act shall provide to the Manager
  - (a) the information required under subsection 3(2) of the Act, to the extent it is known and available to the recipient; and
  - (b) an affidavit setting out the particulars of all arrears owing under the order.(2) Where the Director of Social Assistance files a support order under subsection 3(5) of the Act, the Director shall provide to the Manager
  - (a) the information required under subsection 3(2) of the Act, to the extent it is known and available to the recipient;
  - (b) an affidavit of the recipient setting out the particulars of all arrears owing under the order; and
  - (c) any other information that, in the opinion of the Manager, is required to enforce the order.(3) Where the Director of Child and Family Services files a support order under subsection 3(7) of the Act, the Director shall provide to the Manager the information required under subsection 3(2) of the Act with respect to the payer.
3. (1) A financial statement required under subsection 5(1), (3) or (5) or 31(1) or (3) of the Act shall be made under oath and must include the following information concerning the payer:
  - (a) full name, civic address, mailing address if different, and home and work telephone numbers;
  - (b) social insurance number;
  - (c) date of birth;
  - (d) maiden name of mother;
  - (e) driver's licence number;
  - (f) present marital status;
  - (g) name and address of present spouse, if other than the recipient;
  - (h) names and ages of any other dependants living with the payer;
  - (i) name, address and business telephone number of each employer;
  - (j) gross monthly salary or wages, including any benefits, commissions or bonuses paid to or on behalf of the payer;
  - (k) net monthly salary or wages after required deductions for taxes, CPP and employment insurance;
  - (l) any income from other sources, in addition to the salary or wages referred to in paragraph (j);
  - (m) where the payer is the owner or part owner of a business that is a proprietorship, partnership or joint venture;
    - (i) names and addresses of the partners or other principals in the business;
    - (ii) the business location;
    - (iii) percentage of the business owned by the payer;
    - (iv) net book value of the business;
    - (v) estimated market value of the business; and
    - (vi) yearly income of the payer from the business, including any bonuses, dividends or benefits;

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- (n) where the payer is employed by a corporation in which the payer has an ownership interest,
  - (i) the type of corporation;
  - (ii) position of the payer with the corporation;
  - (iii) total amount of all loans payable by the corporation to the payer;
  - (iv) the number, class and net book value of shares issued and outstanding; and
  - (v) the number, class and net book value of shares owned by the payer;
- (o) a list of monthly expenses;
- (p) a full description, in a manner sufficient to identify an asset or liability, of all assets and liabilities;
- (q) a full description, in a manner sufficient to identify the property, of any property that the payer gave away, sold, assigned or otherwise transferred within the previous two years, and the purchase price if any, received for such property; and
- (r) any further information required by the Manager.

(2) A financial statement required to be filed by a person other than a payer under paragraph 32(4)(b) of the Act shall be made under oath and must include the information set out in paragraphs (1)(a) to (r) concerning that person, unless otherwise indicated by the court.

(3) A form of financial statement provided by the Manager to be completed by a payer shall include a notice of the obligation to notify the Manager of any change to or correction of information included in a financial statement or of any change in the payer's employment status, in accordance with subsections 5(5), (6) and (7) of the Act.

**4.** A statement of arrears issued by the Manager under subsection 5(3) or (4) or 31(2) of the Act, or filed by a recipient under subsection 31(3) of the Act, must include the following:

- (a) the full name and address of the payer;
- (b) the social insurance number of the payer;
- (c) the date of birth of the payer;
- (d) the name of the recipient to whom the arrears are owed;
- (e) details of arrears outstanding at the date of the statement, including arrears that may have accrued before the support order was filed;
- (f) information on how the payer can contact the Manager;
- (g) information on how the payer can contact Legal Aid services;
- (h) action that may be taken by the Manager or the court if the payer fails to contact the Manager by the date set out in the statement to make payment arrangements with respect to the arrears;
- (i) any other information the Manager considers necessary.

**5.** A payment order issued under section 15 of the Act shall be in a form approved by the Manager and must include the following information:

- (a) the full name and address of the payer;
- (b) the social insurance number of the payer;
- (c) the date of birth of the payer;
- (d) the name of the recipient to whom support is payable;
- (e) the nature and amount of the obligation of the garnishee to the payer, as understood by the Manager;
- (f) the payment schedule of amounts that will become due under the support order for the term of the support order;
- (g) the payment schedule of amounts that will become due under the payment order for the term of the support order;
- (h) the payment schedule of amounts payable in respect of arrears;
- (i) that amounts exempt from garnishment under a payment order issued in respect of salary or wages, for each pay period in which the salary or wages are payable, include all amounts required to be deducted by the employer on account of:

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- (i) income tax;
- (ii) employment insurance;
- (iii) a compulsory pension plan;
- (iv) a health care, hospital or dental plan; and
- (v) union dues;
- (j) unless the payment order specifies otherwise, 50% of the amount of salary or wages remaining after the deductions under paragraph (i) are exempt from garnishment under the payment order;
- (k) information concerning the obligation of a garnishee where the garnishee owes money to or holds money on deposit for the payer jointly or jointly and severally with one or more other persons;
- (l) information on how the garnishee can contact the Manager;
- (m) information on applying for the revocation of a payment order;
- (n) action that may be taken by the Manager or the court if a garnishee fails to pay in accordance with the payment order;
- (o) that it is an offence for an employer to terminate the employment of or to discipline an employee because a payment order has been issued to the employer in respect of amounts owing to the employee, or because the employee or employer is involved in proceedings under the Act;
- (p) any other information the Manager considers necessary.

**6.** A payment order shall not be set aside for irregularity unless there has been substantial non-compliance with the Act and regulations.

**7.** An employer of a payer who is served with a payment order shall, if requested by the Manager, provide to the Manager a statement showing

- (a) the period for which any money is payable by the employer to the payer;
- (b) the particulars of any exemption or deductions made by the employer from money payable by the employer to the payer; and
- (c) any payments made by the employer to or on behalf of the payer.

**8.** Where a garnishee tenders to the Manager, as payment under a payment order, an uncertified cheque that is not honoured by the bank of the garnishee, the Manager may refuse to accept any other uncertified cheque tendered by the garnishee.

**9.** (1) A garnishee who is served with a payment order shall, in writing, notify the Manager of any change in the address for service of the garnishee.

(2) Where a garnishee who is served with a payment order has more than one place of business and it appears that the money bound by the payment order is or may be payable at a place of business other than the place served, the garnishee shall immediately notify the person in charge of the place of business at which the money is or may be payable.

(3) Notice given by a garnishee under subsection (2) is deemed to be given at the time it is received by the person in charge of the place of business or within 48 hours of the service of the payment order on the garnishee, whichever is the shorter period.

**10.** Where an employer has given notice under subsection 17(2) of the Act, the employer shall immediately notify the Manager if the payer re-enters the employ of the employer.

**11.** The Manager shall notify a garnishee of the termination of a payment order made in respect of a support order where

- (a) the support order has been withdrawn;
- (b) all amounts owing under the support order, including any arrears, have been paid; or
- (c) the payer enters into a voluntary payment arrangement satisfactory to the Manager.

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12. A warrant for arrest issued under subsection 31(4) or section 37 of the Act must be in Form 1 of the Schedule.
13. A warrant for committal issued under subsection 34(1) of the Act must be in Form 2 of the Schedule.
14. **These regulations come into force on the later of April 1, 2013 or the day they are registered with the Registrar of Regulations.**

**SCHEDULE**

FORM 1

*(Section 12 of the Regulations,  
subsection 31(4) and paragraph  
37(a) of the Act)*

**WARRANT FOR ARREST**

TO: ALL PEACE OFFICERS WITHIN NUNAVUT:

1. Name of payer: .....  
.....

2. Address of payer: .....  
.....

3. The payer .....  
.

\_\_\_ has not filed a financial statement as required by Manager or the Clerk under subsection 31(1) or (3) of the Act,

\_\_\_ has not appeared before the court as required by the Manager or the Clerk under subsection 31(1) or (3) of the Act, or

\_\_\_ appears to be about to leave Nunavut in order to evade or hinder enforcement of a support order.

4. I command you to arrest the payer and bring him or her before the court as soon as possible.

Dated at ..... on ..... 20 .....

.....  
Judge

WARRANT FOR COMMITTAL

1. Name of payer: .....  
.....

2. Address of payer: .....  
.....

3. The payer appeared before the court on ..... to explain his or her  
default

(date)

under a support order, or with respect to a payment ordered under subsection 32(2) of the Act.

4. The payer failed to satisfy the court that he or she is not in default or that he or she is unable for valid  
reasons to

make the payments for which he or she is in default.

NOTE: SECTION 5 APPLIES TO A DEFAULT UNDER A SUPPORT ORDER.

5. On ....., I ordered that the payer be imprisoned  
(date)

\_\_\_ continuously, or

\_\_\_ intermittently

for a period of ..... days (not to exceed 90 days) unless the arrears are paid sooner.

NOTE: SECTION 6 APPLIES TO A DEFAULT IN A PAYMENT ORDERED UNDER SUBSECTION 32(2) OF THE  
ACT.

6. On ....., I ordered that the payer be imprisoned  
(date)

\_\_\_ continuously, or

\_\_\_ intermittently

for a period of ..... days (not to exceed 90 days).

TO: ALL PEACE OFFICERS WITHIN NUNAVUT:

7. I command you to arrest the payer, convey him or her to a prison within Nunavut and deliver him or her,  
together with this warrant, to the keeper of the prison.

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TO: THE KEEPER OF A PRISON IN NUNAVUT:

8. I command you to receive the payer into your custody and imprison him or her in accordance with section 5 or 6,  
as the case may be.

Dated at ..... on ..... 20 .....

.....  
Judge

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