

1994 BILL 22

Second Session, 23rd Legislature, 43 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 22

**MAINTENANCE ENFORCEMENT
AMENDMENT ACT, 1994**

MR. AMERY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 22
Mr. Amery

BILL 22

1994

MAINTENANCE ENFORCEMENT AMENDMENT ACT, 1994

(Assented to _____, 1994)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

1 *The Maintenance Enforcement Act is amended by this Act.*

2 *Section 11(1) is amended by striking out "the address or the location of a debtor" and substituting "the social insurance number and residential telephone number of a debtor, the address or the location of a debtor and the name and address of the employer of a debtor".*

3 *Section 13 is amended*

(a) *in subsection (2) by striking out "and" at the end of clause (a), adding ", and" at the end of clause (b) and adding the following after clause (b):*

(c) *the portion of jointly owned money that is deemed under subsection (2.1) to be owned by the debtor.*

(b) *by adding the following after subsection (2):*

(2.1) *If a person required to pay under a notice of continuing attachment owes money jointly to a debtor and one or more other persons, for the purposes of this Act it is deemed that the money is divided into as many equal portions as there are persons who hold the money jointly and that the debtor is the unconditional and sole owner of one portion of the money.*

Explanatory Notes

1 Amends chapter M-0.5 of the Statutes of Alberta, 1985.

2 Section 11(1) presently reads:

11(1) Notwithstanding any other Act, the Crown in right of Alberta, a Provincial agency as defined in the Financial Administration Act and a statutory agent of the Crown in right of Alberta shall provide to the Director, on request and for the purpose of enforcing a maintenance order under this Act, the address or the location of a debtor that is shown on a record in the possession or control of the Crown in right of Alberta, the Provincial agency or the agent.

3 Section 13(1) and (2) presently read:

13(1) The clerk of the Court of Queen's Bench shall issue a notice of continuing attachment in accordance with the regulations forthwith on the Director's filing with the clerk

(a) notice that the debtor has defaulted in the payment of maintenance under a maintenance order, and

(b) any other material required by the regulations.

(2) Service in accordance with the regulations of a notice of continuing attachment on the person required to pay under the notice binds in accordance with the regulations and without further service

(a) all money owing or payable on the date of service to the debtor by the person required to pay, and

(2.2) The Director and the debtor, and any other person who holds money jointly with the debtor, may, in accordance with the regulations, apply by notice of motion to the Court of Queen's Bench

- (a) for an order that the debtor is entitled to a smaller or greater portion of the money, and
- (b) for appropriate relief.

(2.3) Notice of an application under subsection (2.2) must be served,

- (a) if the applicant is the debtor or a person who holds money jointly with the debtor, on all the other persons who hold the money jointly, the creditor and the Director, or
- (b) if the applicant is the Director, on all the persons who hold the money jointly.

4 Section 15(3) is repealed.

5 The following is added after section 16:

Notice to the
Registrar of
motor vehicles

16.1(1) In this section and section 36, "Registrar" means Registrar as defined in the *Motor Vehicle Administration Act*.

(2) If a debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the

- (b) all money, including wages or salary, that becomes owing or payable from time to time after the date of service to the debtor by the person required to pay.*

4 Section 15 presently reads:

15(1) Notwithstanding any other Act, a maintenance order, whether filed with the Director or not, takes priority over any unsecured judgment debt of the debtor, other than another maintenance order.

(2) Notwithstanding any other Act, a notice of continuing attachment takes priority over any other enforcement proceeding in respect of any unsecured judgment debt of the debtor, including another maintenance order, from the date on which the notice of continuing attachment is served on the person required to pay under it.

(3) The priority under subsections (1) and (2) does not apply to arrears of maintenance payable under a maintenance order that were payable more than 3 years before the date on which the Director or the creditor initiated the current proceedings to enforce the maintenance order.

(4) Money paid to the Director in respect of a maintenance order is not attachable under any other Act.

5 Notice to the Registrar of motor vehicles.

Director, the Director may, subject to the regulations, notify the Registrar.

(3) Even though payments are in default under a maintenance order for which notice is given under subsection (2) if the debtor makes arrangements for making payments of maintenance that are satisfactory to the Director, the Director shall permit the Registrar to issue the debtor an operator's licence or certificate of registration effective for a period of 2 years or less, as specified by the Director, and permit the Registrar to carry out any function, service, issuance, renewal, registration or any other dealing referred to in section 57.2(2) of the *Motor Vehicle Administration Act*.

(4) The Director shall notify the Registrar when the payments under a maintenance order for which notice is given under subsection (2) are no longer in default.

(5) The Director shall notify the Registrar when a maintenance order with respect to which a notice is filed with the Registrar is withdrawn under this Act.

6 *Section 31 is amended*

(a) *in subsection (1) by striking out "No person" and substituting "Subject to subsection (3), no person";*

(b) *in subsection (2) by striking out "The period" and substituting "Subject to subsection (3), the period";*

(c) *by adding the following after subsection (2):*

(3) On and after July 1, 1994 a person may enforce the payment by a debtor of the arrears of maintenance payable under a maintenance order that accrue or have accrued on or after July 1, 1984 but not arrears accrued before July 1, 1984, and the right to bring an action is not limited by the *Limitation of Actions Act*.

7 *Section 36 is amended*

(a) *by adding the following after clause (b):*

(b.1) respecting the notification of the Registrar by the Director under section 16.1(2);

(b.2) governing how the Director carries out his powers and duties under section 16.1(3);

6 Section 31 presently reads:

31(1) No person shall enforce the payment by a debtor of more than 10 years of the arrears of maintenance payable under a maintenance order.

(2) The period of 10 years under subsection (1) begins 10 years before the date on which the person initiates the current proceedings to enforce the payment of maintenance under the maintenance order.

7 Section 36 presently reads:

36 The Lieutenant Governor in Council may make regulations

(a) respecting the filing and refiling of maintenance orders with the Director;

(b) respecting continuing attachment;

(b) by adding the following after clause (c):

(c.1) respecting applications under section 13(2.2);

8 *The Motor Vehicle Administration Act is amended by adding the following after section 57.1:*

Maintenance
orders arrears

57.2(1) In this section, "Director" means Director of Maintenance Enforcement appointed under the *Maintenance Enforcement Act*.

(2) If the Director notifies the Registrar pursuant to section 16.1(2) of the *Maintenance Enforcement Act*, the Registrar must

- (a) in respect of the debtor named in the notice, refuse to perform any function or service or to issue, renew or otherwise deal with any document, operator's licence, certificate of registration, in transit permit or licence plate, and
- (b) refuse to register the vehicle in the name of a new owner if the ownership of a registered vehicle passes from a person who is a debtor under the maintenance order directly or through intermediary owners to a person described by the regulations,

except as permitted by the Director under section 16.1(3) of the *Maintenance Enforcement Act*, until the Director withdraws the notice or notifies the Registrar that the maintenance order has been withdrawn.

(3) The Lieutenant Governor in Council may make regulations

- (a) authorizing the Registrar to refuse to register a vehicle in the name of a new owner if the ownership of a registered vehicle passes directly or indirectly from a person who is a debtor under a notice filed by the Director with the Registrar under subsection (2) to a class of persons;
- (b) governing persons or classes of persons referred to in clause (a).

9 *Section 31 is amended by repealing subsections (1) and (2).*

10(1) *Sections 3, 5, 7 and 8 come into force on Proclamation.*

(c) respecting forms and procedures to be used in proceedings under this Act;

(d) respecting records to be kept by the Director;

(e) respecting service of documents under this Act or the regulations.

8 Consequential amendment.

9 Transitional.

10 Coming into force.

(2) Section 4 comes into force on July 1, 1994.

(3) Section 9 comes into force on July 2, 1994.

