

Bill 5
Mr. Rathgeber

BILL 5

2002

INTERJURISDICTIONAL SUPPORT ORDERS ACT

(Assented to , 2002)

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

Definitions

1 In this Act,

- (a) “Alberta court” means a court designated under section 2;
- (b) “appropriate authority”, when used in reference to a reciprocating jurisdiction, means the person or persons in that jurisdiction who correspond to the designated authority;
- (c) “claimant” means a person who applies under this Act for support;

- (d) “designated authority” means the person or persons appointed under section 37(1), and includes a person to whom a power or duty is delegated under section 37(2);
- (e) “former Act” means the *Reciprocal Enforcement of Maintenance Orders Act* (RSA 2000 cR-7);
- (f) “Minister” means the Minister of Justice and Attorney General;
- (g) “provisional order” means
 - (i) a support order of an Alberta court that has no force or effect until confirmed by a court in a reciprocating jurisdiction, or
 - (ii) a similar order made in a reciprocating jurisdiction and received for confirmation in Alberta;
- (h) “provisional support variation order” means
 - (i) an order of an Alberta court that varies a support order and that has no force or effect until confirmed by a court in a reciprocating jurisdiction, or
 - (ii) a similar order made in a reciprocating jurisdiction and received for confirmation in Alberta;
- (i) “reciprocating jurisdiction” means a jurisdiction declared in the regulations made under section 46(1) to be a reciprocating jurisdiction;
- (j) “support” means support, maintenance or alimony payable for a person or for the child of a person or for both;
- (k) “support order” means a court order or an order made by an administrative body requiring the payment of support and includes the provisions of a written agreement requiring the payment of support if those provisions are enforceable in the jurisdiction in which the agreement was made as if they were contained in an order of a court of that jurisdiction;
- (l) “support variation order” means an order made under Part 3.

Designation of Court

2 The Minister may designate a court or courts in Alberta for the purpose of proceedings under this Act.

Part 1 Claims Where No Order Exists

Definition

3 In this Part, “respondent” means the person against whom support is sought.

Application of Part 1

4 This Part applies only where there is no support order in effect requiring the respondent to pay support for the claimant or for any children for whom support is claimed or for both.

Division 1 Claimant Ordinarily Resident in Alberta

Support application

5(1) Where a claimant ordinarily resides in Alberta and believes that the respondent ordinarily resides in a reciprocating jurisdiction, the claimant may start a process in Alberta that could result in a support order being made in the reciprocating jurisdiction.

(2) To start the process, the claimant must complete a support application that includes the following:

- (a) the claimant’s name and address for service;
- (b) a copy of the specific statutory or other legal authority on which the claimant’s support application is based, unless the claimant is relying on the law of the jurisdiction where the respondent ordinarily resides;
- (c) the amount and nature of support claimed;
- (d) the sworn document described in subsection (3);
- (e) any other information or documents required by the regulations.

(3) The sworn document referred to in subsection (2)(d) must set out the following:

- (a) the respondent's name and any information known to the claimant that can be used to locate or identify the respondent;
- (b) the respondent's financial circumstances, to the extent known by the claimant, including whether the respondent is receiving social assistance;
- (c) the name of each person for whom support is claimed and the date of birth of any child for whom support is claimed;
- (d) the evidence in support of the support application that is relevant to establishing entitlement to or the amount of support, including
 - (i) where support is claimed for a child, details of the parentage of the child and information about the child's and claimant's financial and other circumstances, and
 - (ii) where support is claimed for the claimant, information about the claimant's financial and other circumstances and the claimant's relationship with the respondent.

(4) The claimant is not required to notify the respondent that a process has been started under this section.

Submitting application to designated authority

6(1) The claimant must submit the support application to the designated authority in Alberta.

(2) On receiving a support application, the designated authority must

- (a) review the support application to ensure that it is complete, and
- (b) send a copy of the completed application, as soon as practicable, to the appropriate authority in the reciprocating jurisdiction in which the claimant believes the respondent ordinarily resides.

(3) On receiving a request for further information or documents from a reciprocating jurisdiction under a provision of an enactment in that jurisdiction that corresponds to section 10(2)(a), the claimant must, in accordance with the regulations, provide the further information or documents within the time referred to in the request.

(4) On receiving a certified copy of a support order and reasons, if any, from a reciprocating jurisdiction under a provision of an enactment in that jurisdiction that corresponds to section 15, the designated authority must, in accordance with the regulations, provide a copy of the order and reasons, if any, to the claimant.

Provisional order

7(1) Where the claimant believes that the respondent ordinarily resides in a reciprocating jurisdiction that requires a provisional order, the Alberta court may, on application by the claimant and without notice to and in the absence of the respondent, make a provisional order taking into account the specific statutory or other legal authority on which the claimant's support application is based.

(2) Evidence in proceedings under subsection (1) may be given orally, in writing or as the Alberta court may allow.

(3) In proceedings under subsection (1), the Alberta court may impute income to the respondent for the purpose of determining the amount of support to be paid.

(4) If a provisional order is made, the designated authority must send to the appropriate authority in the reciprocating jurisdiction

- (a) three certified copies of the provisional order,
- (b) a transcript of any oral evidence given in the proceedings, and
- (c) the support application referred to in section 5(2).

(5) If, during a proceeding for confirmation of a provisional order, a court in a reciprocating jurisdiction sends a matter back for further evidence to the Alberta court that made the provisional order, the Alberta court must, after giving notice to the claimant, receive further evidence.

(6) If evidence is received under subsection (5), the designated authority must send to the appropriate authority in the reciprocating jurisdiction a certified copy of the evidence with modifications, if any, to the provisional order as the Alberta court considers appropriate.

(7) If a provisional order made under this section comes before a court in a reciprocating jurisdiction and confirmation is denied in respect of one or more persons for whom support is sought, the Alberta court that made the provisional order may, on application within 6 months after the denial of confirmation, reopen the matter, receive further evidence and make a new provisional order for a person in respect of whom confirmation was denied.

Division 2 Claimant Ordinarily Resident Outside Alberta

Definition

8 In this Division, “support application” means

- (a) a provisional order referred to in subclause (ii) of the definition of “provisional order” in section 1, or
- (b) documents from a reciprocating jurisdiction corresponding to a support application described in section 5(2).

Notice of hearing

9(1) Where the designated authority receives a support application from the appropriate authority in a reciprocating jurisdiction, with information that the respondent named in the support application ordinarily resides in Alberta, the designated authority must serve on the respondent, in accordance with the regulations,

- (a) a copy of the support application, and
- (b) a notice requiring the respondent to appear at the place and time set out in the notice and to provide the information or documents required by the regulations.

(2) If the designated authority has not served the respondent in accordance with subsection (1) and knows or believes that the respondent ordinarily resides in another reciprocating jurisdiction

in Canada, the designated authority must send the support application to the appropriate authority in that other reciprocating jurisdiction and must notify the appropriate authority in the originating reciprocating jurisdiction that it has done so.

(3) If the designated authority

- (a) is unable to determine where the respondent resides,
- (b) is unable to serve the respondent in accordance with subsection (1), or
- (c) knows or believes that the respondent ordinarily resides in a jurisdiction outside Canada,

the designated authority must return the support application to the appropriate authority in the originating reciprocating jurisdiction with any available information respecting the location and circumstances of the respondent.

Information that Alberta court must consider

10(1) In dealing with a support application, the Alberta court must consider

- (a) the evidence given or submitted to the Alberta court, and
- (b) the documents sent from the reciprocating jurisdiction.

(2) If the Alberta court requires further information or documents from the claimant to make a support order, the Alberta court

- (a) must direct the designated authority to contact the claimant or the appropriate authority in the reciprocating jurisdiction to request the information or documents, and
- (b) must adjourn the hearing and may, if the Alberta court considers it appropriate, make an interim support order.

(3) If the information or documents requested under subsection (2) are not received by the Alberta court within 18 months from the date of the request, the Alberta court may dismiss the support application and terminate an interim support order made under subsection (2)(b).

(4) The dismissal of a support application under subsection (3) does not preclude the claimant from commencing a new support application.

Parentage

11(1) If a child's parentage is in issue and has not previously been determined, the Alberta court may decide that issue.

(2) A determination of parentage under this section has effect only for the purposes of support proceedings under this Act.

Choice of law

12(1) In determining the entitlement to support for a child, the Alberta court must first apply the law of the jurisdiction in which the child ordinarily resides, but if the child is not entitled to support under that law, the Alberta court must apply the law of Alberta.

(2) In determining the amount of support for a child, the Alberta court must apply the law of Alberta.

(3) In determining the entitlement to support and the amount of support for a claimant, the Alberta court must first apply the law of Alberta, but if the claimant is not entitled to support under that law, the Alberta court must apply the law of the jurisdiction in which the claimant and the respondent last maintained a common habitual residence.

Order

13(1) On the conclusion of a hearing, the Alberta court may, in respect of a claimant or a child, or both,

- (a) make a support order,
- (b) make an interim support order and adjourn the hearing to a specified date,
- (c) adjourn the hearing to a specified date without making an interim support order, or
- (d) refuse to make a support order.

(2) The Alberta court may make a support order that is retroactive.

(3) A support order may require support to be paid in periodic payments or as a lump sum, or both.

(4) If the Alberta court refuses to make a support order, the Alberta court must give reasons for its decision.

Order where notice not complied with

14(1) If the respondent does not appear as required in the notice or does not provide the information or documents required under section 9(1)(b), the Alberta court must, unless subsection (2) applies, make a support order in the absence of the respondent or of the information or documents, and in making the order may draw any inference it considers appropriate.

(2) Where the Alberta court has no information as to the respondent's financial or employment circumstances, the Alberta court need not make the order referred to in subsection (1) but must make an order requiring the respondent to appear before it to give evidence at the place and time set out in the order.

(3) If the respondent does not appear in accordance with an order under subsection (2), the Alberta court may

- (a) issue a summons requiring the respondent to appear before it to give evidence, or
- (b) issue a warrant for the arrest of the respondent.

(4) If the respondent does not appear as required, the Alberta court must, in accordance with the regulations, send a copy of any support order made under this section to the respondent.

Sending order to reciprocating jurisdiction

15 The designated authority must, as soon as practicable, send a certified copy of a support order made under this Division and reasons, if any, to the appropriate authority in the reciprocating jurisdiction that sent the claimant's support application.

Part 2 Registration and Enforcement of Orders Made Outside Alberta

Definitions

16 In this Part,

- (a) “extra-provincial order” means a support order, an interim support order or a support variation order made in a reciprocating jurisdiction in Canada, but does not include a provisional order or a provisional support variation order;
- (b) “foreign order” means a support order, an interim support order or a support variation order made in a reciprocating jurisdiction outside Canada, but does not include a provisional order or a provisional support variation order.

Receipt of order in Alberta

17(1) To enforce an extra-provincial order or a foreign order, the claimant or the appropriate authority of the reciprocating jurisdiction must send a certified copy of the order to the designated authority in Alberta.

(2) On receiving a certified copy of the extra-provincial order or foreign order, the designated authority must send a copy of the order in accordance with the regulations to the clerk of the Alberta court.

Registration

18(1) On receiving a copy of the extra-provincial order or foreign order, the clerk of the Alberta court must register it as an order of the court.

(2) On being registered, the extra-provincial order or foreign order

- (a) has, from the date it is registered, the same effect as if it were a support order made by an Alberta court, and
- (b) may, with respect to arrears accrued before registration and with respect to obligations accruing after registration, be enforced or varied as provided in this Act whether the

order is made before, on or after the day on which this Act comes into force.

(3) An order registered under subsection (1) may be filed with the Director of Maintenance Enforcement and, if so filed, must be enforced in Alberta in accordance with the *Maintenance Enforcement Act*.

Foreign order

19(1) After the registration of a foreign order under section 18, the designated authority must, in accordance with the regulations, notify any party to the order believed to ordinarily reside in Alberta of the registration of the order.

(2) Within 30 days after receiving notice of the registration of a foreign order, a party to the order may apply to the Alberta court to set aside the registration on giving notice in accordance with the regulations.

(3) On an application under subsection (2), the Alberta court may

- (a) confirm the registration, or
- (b) set aside the registration if the Alberta court determines that
 - (i) in the proceeding in which the foreign order was made, a party to the order did not have proper notice or a reasonable opportunity to be heard,
 - (ii) the foreign order is contrary to public policy in Alberta, or
 - (iii) the court that made the foreign order did not have jurisdiction to make the order.

(4) If the Alberta court sets aside the registration, it must give reasons for its decision.

(5) For the purposes of subsection (3)(b)(iii), a court has jurisdiction

- (a) if both parties to the foreign order ordinarily reside in the reciprocating jurisdiction outside Canada, or

- (b) if a party does not ordinarily reside in the reciprocating jurisdiction outside Canada but is subject to the jurisdiction of the court that made the foreign order.

(6) The party who applies to set aside the registration of a foreign order must give notice of the decision or order of the Alberta court, in accordance with the regulations, to the other party and to the designated authority.

Effect of setting aside

20(1) If the registration of a foreign order is set aside, the foreign order received under this Part must, at the request of the party applying to register the order, be dealt with in accordance with Part 1, Division 2 or Part 3, Division 2, as the case may be, as if the foreign order were a support application received under section 9(1) or a support variation application received under section 29(1).

(2) If the foreign order does not contain the necessary information or documents required for a support application, the designated authority must request from the appropriate authority of the reciprocating jurisdiction in which the foreign order was made the necessary information and documents, and until the required information and documents are provided to the designated authority, no proceedings under Part 1, Division 2, or Part 3, Division 2, as the case may be, may continue.

Part 3 Variation of a Support Order

Definitions

21 In this Part,

- (a) “applicant” means a party applying to vary a support order;
- (b) “respondent” means the party who is the respondent in a support variation application;
- (c) “support order” means a support order as defined in section 1 that is
 - (i) made in Alberta, or

- (ii) made in a reciprocating jurisdiction and registered in the Alberta court under Part 2 of this Act or under the former Act,

but does not include a provisional order or a provisional support variation order.

Variation in reciprocating jurisdiction

22 If a support order originally made in Alberta is varied in a reciprocating jurisdiction under provisions of an enactment in that jurisdiction that correspond to sections 28 to 34, it is deemed to be so varied in Alberta.

Restrictions

23 Nothing in this Part

- (a) authorizes a judge of the Provincial Court to vary a support order made in Canada by a federally appointed judge, or
- (b) allows a support order originally made under the *Divorce Act* (Canada) to be varied except as authorized by a federal enactment.

Division 1 Applicant Ordinarily Resident in Alberta

Application to vary support order

24(1) Where an applicant ordinarily resides in Alberta and believes that the respondent ordinarily resides in a reciprocating jurisdiction, the applicant may start a process in Alberta that could result in a support variation order being made in the reciprocating jurisdiction.

(2) To start the process, the applicant must complete a support variation application that includes the following:

- (a) the applicant's name and address for service;
- (b) a certified copy of the support order that the applicant is applying to vary;

- (c) a copy of the specific statutory or other legal authority on which the applicant's support variation application is based, unless the applicant is relying on the law of the jurisdiction where the respondent ordinarily resides;
- (d) the particulars of the variation applied for, which may include a termination of the support order;
- (e) the sworn document described in subsection (3);
- (f) any other information or documents required by the regulations.

(3) The sworn document referred to in subsection (2)(e) must set out the following:

- (a) the respondent's name and any information known to the applicant that can be used to locate or identify the respondent;
- (b) the respondent's financial circumstances, to the extent known by the applicant, including whether the respondent is receiving social assistance;
- (c) the name and date of birth of each person, to the extent known by the applicant, for whom support is payable or who will be affected by the variation if it is granted;
- (d) the evidence in support of the support variation application that is relevant to establishing a change in entitlement to or the amount of support, including
 - (i) where support to the applicant or respondent is an issue, information about the applicant's relationship with the respondent, and
 - (ii) if the variation applied for affects support for a child, information about the child's and applicant's financial and other circumstances;
- (e) information about the applicant's financial and other circumstances.

(4) The applicant is not required to notify the respondent that a process has been started under this section.

Submitting application to designated authority

25(1) The applicant must submit the support variation application to the designated authority in Alberta.

(2) On receiving a support variation application, the designated authority must

- (a) review the support variation application to ensure that it is complete, and
- (b) send a copy of the completed support variation application, as soon as practicable, to the appropriate authority in the reciprocating jurisdiction in which the applicant believes the respondent ordinarily resides.

(3) On receiving a request for further information or documents from a reciprocating jurisdiction under a provision of an enactment in that jurisdiction that corresponds to section 30(2)(a), the applicant must, in accordance with the regulations, provide the further information or documents within the time referred to in the request.

(4) On receiving a certified copy of a support variation order and reasons, if any, from a reciprocating jurisdiction under a provision of an enactment in that jurisdiction that corresponds to section 34, the designated authority must, in accordance with the regulations, provide a copy of the order and reasons, if any, to the applicant.

Variation where respondent no longer resides in reciprocating jurisdiction

26 If the applicant ordinarily resides in Alberta and the respondent no longer ordinarily resides in a reciprocating jurisdiction, the applicant may apply directly to the Alberta court to vary the support order, and the Alberta court may make a support variation order if the respondent has been given notice of the proceeding.

Provisional support variation order

27(1) Where the applicant believes that the respondent ordinarily resides in a reciprocating jurisdiction that requires a provisional support variation order, the Alberta court may, on application by the applicant and without notice to and in the absence of the respondent, make a provisional support variation order taking into

account the specific statutory or other legal authority on which the applicant's support variation application is based.

(2) Evidence in proceedings under subsection (1) may be given orally, in writing or as the Alberta court may allow.

(3) In proceedings under subsection (1), the Alberta court may impute income to the respondent for the purpose of determining the amount of support to be paid.

(4) If a provisional support variation order is made, the designated authority must send to the appropriate authority in the reciprocating jurisdiction

- (a) three certified copies of the provisional support variation order,
- (b) a transcript of any oral evidence given in the proceedings, and
- (c) the support variation application referred to in section 24(2).

(5) If, during a proceeding for confirmation of a provisional support variation order, a court in a reciprocating jurisdiction sends a matter back for further evidence to the Alberta court that made the provisional support variation order, the Alberta court must, after giving notice to the applicant, receive further evidence.

(6) If evidence is received under subsection (5), the designated authority must send to the appropriate authority in the reciprocating jurisdiction a certified copy of the evidence with modifications, if any, to the provisional support variation order as the Alberta court considers appropriate.

(7) If a provisional support variation order made under this section comes before a court in a reciprocating jurisdiction and confirmation is denied in respect of one or more persons for whom support is sought, the Alberta court that made the provisional support variation order may, on application within 6 months after the denial of confirmation, reopen the matter, receive further evidence and make a new provisional support variation order for a person in respect of whom confirmation was denied.

Division 2
Applicant Ordinarily Resident
Outside Alberta

Definition

28 In this Division, “support variation application” means

- (a) a provisional support variation order referred to in subclause (ii) of the definition of “provisional support variation order” in section 1, or
- (b) documents from a reciprocating jurisdiction corresponding to a support variation application described in section 24(2).

Notice of hearing

29(1) Where the designated authority receives a support variation application from the appropriate authority in a reciprocating jurisdiction, with information that the respondent named in the support variation application ordinarily resides in Alberta, the designated authority must serve on the respondent, in accordance with the regulations,

- (a) a copy of the support variation application, and
- (b) a notice requiring the respondent to appear at the place and time set out in the notice and to provide the information or documents required by the regulations.

(2) If the designated authority has not served the respondent in accordance with subsection (1) and knows or believes that the respondent ordinarily resides in another reciprocating jurisdiction in Canada, the designated authority must send the support variation application to the appropriate authority in that other reciprocating jurisdiction and must notify the appropriate authority in the originating reciprocating jurisdiction that it has done so.

(3) If the designated authority

- (a) is unable to determine where the respondent resides,
- (b) is unable to serve the respondent in accordance with subsection (1), or

- (c) knows or believes that the respondent ordinarily resides in a jurisdiction outside Canada,

the designated authority must return the support variation application to the appropriate authority in the originating reciprocating jurisdiction with any available information respecting the location and circumstances of the respondent.

Information that Alberta court must consider

30(1) In dealing with a support variation application, the Alberta court must consider

- (a) the evidence given or submitted to the Alberta court, and
- (b) the documents sent from the reciprocating jurisdiction.

(2) If the Alberta court requires further information or documents from the applicant to make a support variation order, the Alberta court

- (a) must direct the designated authority to contact the applicant or the appropriate authority in the reciprocating jurisdiction to request the information or documents, and
- (b) must adjourn the hearing and may, if the Alberta court considers it appropriate, make an interim support variation order.

(3) If the information or documents requested under subsection (2) are not received by the Alberta court within 18 months from the date of the request, the Alberta court may dismiss the support variation application and terminate an interim support variation order made under subsection (2)(b).

(4) The dismissal of a support variation application under subsection (3) does not preclude the applicant from commencing a new support variation application.

Choice of law

31(1) In determining the entitlement to receive or to continue to receive support for a child, the Alberta court must first apply the law of the jurisdiction in which the child ordinarily resides, but if the child is not entitled to support under that law, the Alberta court must apply the law of Alberta.

(2) In determining the amount of support for a child, the Alberta court must apply the law of the jurisdiction where the person liable to pay the support ordinarily resides.

(3) In determining the entitlement of a party other than a child to receive or to continue to receive support and the amount of that support, the Alberta court must apply the law of Alberta.

(4) If under the law of Alberta a party other than a child is not entitled to receive or to continue to receive support, the Alberta court must apply the law of the jurisdiction in which that party ordinarily resides.

(5) If a party other than a child is neither entitled to receive or to continue to receive support under the law of Alberta nor under the law of the jurisdiction in which that party ordinarily resides, the Alberta court must apply the law of the jurisdiction in which the parties last maintained a common habitual residence.

Order

32(1) On the conclusion of a hearing, the Alberta court may, in respect of a party or a child, or both,

- (a) make a support variation order,
- (b) make an interim support variation order and adjourn the hearing to a specified date,
- (c) adjourn the hearing to a specified date without making an interim support variation order, or
- (d) refuse to make a support variation order.

(2) The Alberta court may make a support variation order that is retroactive.

(3) A support variation order may require support to be paid in periodic payments or as a lump sum, or both.

(4) If the Alberta court refuses to make a support variation order, the Alberta court must give reasons for its decision.

Order where notice not complied with

33(1) If the respondent does not appear as required in the notice or does not provide the information or documents required under section 29(1)(b), the Alberta court must, unless subsection (2) applies, make a support variation order in the absence of the respondent or of the information or documents, and in making the order may draw any inference it considers appropriate.

(2) Where the Alberta court has no information as to the respondent's financial or employment circumstances, the Alberta court need not make the order referred to in subsection (1) but must make an order requiring the respondent to appear before it to give evidence at the place and time set out in the order.

(3) If the respondent does not appear in accordance with an order under subsection (2), the Alberta court may

- (a) issue a summons requiring the respondent to appear before it to give evidence, or
- (b) issue a warrant for the arrest of the respondent.

(4) If the respondent does not appear as required, the Alberta court must, in accordance with the regulations, send a copy of any support variation order made under this section to the respondent.

Sending order to reciprocating jurisdiction

34 The designated authority must, as soon as practicable, send a certified copy of a support variation order made under this Division and reasons, if any, to the appropriate authority in the reciprocating jurisdiction in which the applicant ordinarily resides and, if the support order was originally made in another reciprocating jurisdiction, to the appropriate authority in that jurisdiction.

Division 3 Variation of Registered Orders

Jurisdiction

35(1) The Alberta court may, on a party's motion and after taking into account any right of a government or agency of a government under section 42, vary a support order registered in Alberta under Part 2 of this Act or under the former Act

- (a) if both the applicant and respondent accept the Alberta court's jurisdiction,
- (b) if both the applicant and respondent ordinarily reside in Alberta, or
- (c) if the respondent ordinarily resides in Alberta and the support order is registered by the applicant under Part 2 of this Act or under the former Act.

(2) For the purposes of varying a support order under this section, the Alberta court must apply the law that would have applied if the registered order had been made in Alberta.

Part 4 Appeals

Appeals

36(1) Subject to subsections (2) and (3), a party to a proceeding under this Act or the designated authority may appeal to the Court of Appeal any ruling, decision or order of the Alberta court under this Act.

(2) An appeal must be commenced within 90 days after the date the ruling, decision or order of the Alberta court appealed from is entered as a judgment of the court unless the period is extended by the Court of Appeal either before or after the appeal period has expired.

(3) A person responding to an appeal under subsection (2) may appeal a ruling, decision or order in the same proceeding within 30 days after receipt of the notice of the appeal.

(4) An order under appeal remains in force pending the determination of the appeal unless the court that made the order or the Court of Appeal orders otherwise.

(5) The Registrar of the Court of Appeal must send a copy of that court's decision on the appeal to the designated authority, and the designated authority must notify the appropriate authority in the reciprocating jurisdiction of the decision on the appeal.

Part 5 General Matters

Appointment of designated authority

37(1) The Minister may appoint one or more persons to act as the designated authority in Alberta for the purposes of this Act.

(2) A person appointed under subsection (1) may, in writing, delegate any power or duty under this Act to any other person or persons.

(3) No proceeding for damages may be commenced against the designated authority or any employee of the designated authority's office for any act done in good faith in the execution or intended execution of any power or duty under this Act or for any alleged neglect or default in the execution in good faith of any power or duty under this Act.

Establishing forms

38 The Minister may establish forms that must be used for the purposes of this Act.

Transmission of documents

39 On receipt of an order or document to be sent under this Act to a reciprocating jurisdiction, the designated authority must send the order or document to the appropriate authority of the reciprocating jurisdiction.

Translation

40(1) An order or other document that is to be sent to a reciprocating jurisdiction that requires it to be translated into another language must be accompanied with a translation into that language and a certificate of the translator authenticating the accuracy of the translation.

(2) The person for whom the order or document is being sent to a reciprocating jurisdiction must provide the translation and certificate.

(3) An order or other document from a reciprocating jurisdiction that is written in a language other than English must be accompanied with a translation into English and a certificate of the translator authenticating the accuracy of the translation.

Order or application expressed in foreign currency

41 If a support order or an application made in a reciprocating jurisdiction outside Canada and received by the Alberta court under this Act refers to an amount of support that is not expressed in Canadian currency, the designated authority must convert the amount to Canadian currency in accordance with the regulations.

Right of subrogation

42 Where a government or an agency of a government has a right of subrogation in law or pursuant to an assignment in respect of

- (a) a claimant who commences or is entitled to commence a support application under Part 1,
- (b) an applicant who commences or is entitled to commence a support variation application under Part 3, or
- (c) a respondent to a support application under Part 1 or a support variation application under Part 3,

the government or agency has all the rights under this Act of the claimant, the applicant or the respondent in respect of the application and any order made as a result of the application.

Terminology

43 If, in a proceeding under this Act, a document from a court in a reciprocating jurisdiction contains terminology different from the terminology in this Act or contains terminology or is in a form different from that customarily in use in the Alberta court, the Alberta court must give a broad and liberal interpretation to the terminology or form so as to give effect to the document.

Documents from reciprocating jurisdiction

44(1) In a proceeding under this Act, the Alberta court must take judicial notice of the law of a reciprocating jurisdiction and, where required, apply it.

(2) In a proceeding under this Act, a document purporting to be signed by a judge, officer of a court or public officer in a reciprocating jurisdiction is, unless the contrary is proved, proof of the appointment, signature and authority of the person who signed it.

(3) Statements in writing sworn to by the maker, depositions or transcripts of evidence taken in a reciprocating jurisdiction may be received in evidence by the Alberta court under this Act.

Other remedies

45 This Act does not impair any other remedy available to a person, the Province of Alberta, a province or territory of Canada, a jurisdiction outside Canada or a political subdivision or official agency of the Province of Alberta, of a province or territory of Canada or of a jurisdiction outside Canada.

Regulations

46(1) If the Lieutenant Governor in Council is satisfied that laws are or will be in effect in a jurisdiction for the reciprocal enforcement of support orders made in Alberta on a basis substantially similar to this Act, the Lieutenant Governor in Council may make regulations declaring that jurisdiction to be a reciprocating jurisdiction.

(2) In declaring a jurisdiction to be a reciprocating jurisdiction under subsection (1), the Lieutenant Governor in Council may impose any conditions with respect to the enforcement and recognition of support orders made or registered in that jurisdiction.

(3) The Lieutenant Governor in Council may make regulations

- (a) respecting information or documents required for the purposes of this Act;
- (b) respecting the service, providing or sending of information or documents required under this Act;
- (c) respecting the service, providing or sending of notices under this Act;
- (d) respecting proceedings under this Act;
- (e) respecting forms for the purposes of this Act;
- (f) respecting the conduct and disposition of any proceedings under this Act without an oral hearing;

- (g) respecting the conversion of amounts of support to Canadian currency;
- (h) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.

Transitional

47(1) An order made or registered under the former Act continues to be valid and in force and may be varied, enforced or otherwise dealt with under this Act.

(2) Where notice of proceedings to consider a provisional order or a provisional support variation order or notice of registration of a final order is given to the respondent before the coming into force of this Act, the matter must be dealt with in accordance with the former Act as if the former Act had not been repealed.

(3) Where an application for a provisional order or a provisional support variation order is made by a person ordinarily resident in Alberta under the former Act before the coming into force of this Act, the application may be continued as if the former Act had not been repealed.

(4) Where, on the coming into force of this Act, a final order has been received for registration under the former Act but has not yet been registered in the Alberta court, the final order must be dealt with in accordance with this Act as if it were an extra-provincial order or foreign order, as the case may be, received under Part 2 of this Act.

(5) Where a provisional order or a provisional support variation order was received under the former Act and notice of proceedings to consider the order has not been given to the respondent on the coming into force of this Act, the order must be dealt with in accordance with this Act as if it had been received under Part 1 or Part 3 of this Act, as the case may be.

Amends RSA 2000 c1-1

48 The *Income Support Recovery Act* is amended

- (a) in section 27 by repealing subsection (3) and substituting the following:**

(3) If no agreement to pay is entered into by a parent and the parent is resident outside Alberta, the Director may, on behalf of the dependent child, start a process or bring an application under Part 1, Division 1 of the *Interjurisdictional Support Orders Act* to obtain a support order against that parent.

(b) **in section 30(b) by striking out** “section 3 of the *Reciprocal Enforcement of Maintenance Orders Act*” **and substituting** “Part 1, Division 1 of the *Interjurisdictional Support Orders Act*”.

Amends RSA 2000 cM-1

49 The *Maintenance Enforcement Act* is amended

- (a) **in section 1(1)(e) by adding** “or the *Interjurisdictional Support Orders Act*” **after** “*Reciprocal Enforcement of Maintenance Orders Act*”;
- (b) **in section 7(2) by striking out** “1986,” **and substituting** “1986 or under the *Interjurisdictional Support Orders Act*”;
- (c) **in section 12(2) by striking out** “*Reciprocal Enforcement of Maintenance Orders Act*” **and substituting** “*Interjurisdictional Support Orders Act*”;
- (d) **by repealing section 47(b);**
- (e) **by repealing section 48.**

Repeal

50 The *Reciprocal Enforcement of Maintenance Orders Act* is repealed.

Coming into force

51 This Act comes into force on Proclamation.

Explanatory Notes

48 Amends chapter I-1 of the Revised Statutes of Alberta 2000. Consequential amendments.

49 Amends chapter M-1 of the Revised Statutes of Alberta
2000.
Consequential amendments.