

BILL 18

2004

MAINTENANCE ENFORCEMENT AMENDMENT ACT, 2004

(Assented to _____, 2004)

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

Amends RSA 2000 cM-1

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

2 Section 1 is amended

(a) in subsection (1) by adding the following after clause (e):

(f) “support deduction notice” means a support deduction notice issued by the Director under section 17.

(b) by repealing subsection (2) and substituting the following:

(2) An agreement entered into under any of the following provisions is deemed to be a maintenance order under this Act:

(a) Part 5 of the *Income and Employment Supports Act*;

(b) section 6 of the *Parentage and Maintenance Act*,
RSA 2000 cP-1;

(c) section 27 of the *Income Support Recovery Act*,
RSA 2000 cI-1.

3 The following is added after section 5:

Protection of Director and staff

5.1 No action lies against the Director or a person acting for or under the direction of the Director for anything done or omitted to be done in good faith in the exercise or performance or the intended exercise or performance of a power, duty or function under this Act.

4 Section 10.1 is amended

- (a) **by repealing subsection (4.1);**
- (b) **in subsections (9) and (10) by striking out “the *Parentage and Maintenance Act*” wherever it occurs and substituting “Part 5 of the *Income and Employment Supports Act* or under the *Parentage and Maintenance Act*, RSA 2000 cP-1, or the *Income Support Recovery Act*, RSA 2000 cI-1”.**

5 The following is added after section 10.1:

Provincial Court jurisdiction preserved

10.2(1) The filing of a maintenance agreement with the Court of Queen’s Bench pursuant to section 10.1 does not affect the rights of the parties to the agreement to apply to the Provincial Court for a maintenance order.

(2) The filing with the Court of Queen’s Bench by the Director of a maintenance order granted by the Provincial Court does not affect the rights of the parties to the maintenance order to apply to the Provincial Court for a variation of that order.

6 The following is added after section 11:

Variable maintenance order

11.1(1) In this section, “variable maintenance order” means a maintenance order filed with the Director that specifies different amounts payable by the debtor each month or other period set out in the order depending on differing circumstances set out in the order.

(2) A debtor under a variable maintenance order shall, at the times and in the form and manner required by the Director, provide the information to the Director that in the opinion of the Director is necessary to verify the amounts payable under the order from time to time.

(3) If a debtor fails to provide information to the Director in accordance with subsection (2), the Director may charge and collect each month or other period set out in the variable maintenance order the highest amount payable by the debtor under the variable maintenance order until the debtor provides the information to the Director.

(4) No amount that is charged and collected by the Director under subsection (3) is recoverable by the debtor, and no action lies against the Director or the creditor in respect of that amount.

7 Section 12 is repealed and the following is substituted:

Access to information

12(1) In this section,

- (a) “funds” means funds as defined in the regulations;
- (b) “Provincial agency” means a Provincial agency as defined in the *Financial Administration Act*;
- (c) “statutory agent” means a person that is designated or established as an agent of the Crown in right of Alberta by or under an enactment of Alberta.

(2) Notwithstanding any other Act, the Crown in right of Alberta, a Provincial agency and a statutory agent shall provide to the Director, on request, for the purpose of enforcing a maintenance order under this Act, the following information that is shown on a record in the possession or control of the Crown in right of Alberta, the Provincial agency or the statutory agent:

- (a) the social insurance number or any similar identification number issued by a jurisdiction other than Canada, residential address, residential telephone number,

employment telephone number, cellular telephone number and e-mail address of the debtor;

- (b) the name, address, telephone number and e-mail address of the debtor's employer;
- (c) any financial information concerning the debtor.

(3) Notwithstanding any other Act but subject to the regulations,

- (a) the Crown in right of Alberta, and
- (b) any
 - (i) Provincial agency,
 - (ii) statutory agent, or
 - (iii) other entity

designated in the regulations

shall, before paying out funds or approving the paying out of funds to or on behalf of an individual or to an agent of an individual, provide the Director with the name of the individual and any other information described in the regulations about the individual and hold those funds or withhold the approval of those funds, as the case may be, for a period of not less than 3 business days unless the Director notifies the Crown in right of Alberta, the Provincial agency, the statutory agent or the other entity, as the case may be, that the funds may be released before that time.

8 Section 13(1) and (2) are repealed and the following is substituted:

Provision of information to Director

13(1) In this section,

- (a) "business organization" means
 - (i) a bank, credit union, loan corporation, trust corporation, insurance corporation or Alberta Treasury Branches;

- (ii) a utility;
- (iii) a municipality;
- (iv) a professional or occupational association or organization;
- (v) a non-profit association or organization;
- (vi) a business whose primary activities include payday loans and other forms of cheque cashing;
- (vii) any employers or former employers of debtors;
- (viii) any organization of employees
 - (A) that has as one of its objects the regulation of relations between employers and employees, and
 - (B) that carries out functions for the purpose of facilitating the employment of those employees;
- (b) “utility” means a corporation or other entity authorized to supply or distribute electrical energy, signals for communication systems, telephone, gas, water or any other services prescribed or otherwise described in the regulations to the public or a consumer in Alberta.

(2) On the request of the Director, for the purpose of enforcing a maintenance order under this Act, a business organization shall, if the business organization has the information, provide to the Director the following:

- (a) the social insurance number or any similar identification number issued by a jurisdiction other than Canada, residential address, residential telephone number, employment telephone number, cellular telephone number and e-mail address of the debtor;
- (b) the name, address, telephone number and e-mail address of the debtor’s employer;
- (c) any financial information concerning the debtor.

9 The following is added after section 13:

Designated offices

13.1(1) Alberta Treasury Branches and every credit union that carries on business in Alberta shall designate an office in Alberta for service of support deduction notices and requests for information under section 13.

(2) Service of a support deduction notice or a request for information under section 13 on an office designated under subsection (1) constitutes service on every branch of Alberta Treasury Branches or a credit union, as the case may be.

(3) The designation of an office under subsection (1) must be made on or before the later of

- (a) the last day of the 3-month period beginning on the day that this section comes into force, and
- (b) the last day of the 3-month period beginning on the day on which Alberta Treasury Branches or the credit union begins to carry on business in Alberta.

(4) Alberta Treasury Branches and every credit union that designates an office under subsection (1) shall advise the Director by notice in writing, delivered by registered mail, of the name and address of the designated office.

(5) Notice to the Director under subsection (4) must be provided within 10 days after the designation is made.

(6) If Alberta Treasury Branches or a credit union intends to change the office that it has designated under subsection (1), it shall, at least 30 days before the change is made, provide notice of the name and address of the new office to the Director in the manner provided for under subsection (4).

(7) If Alberta Treasury Branches or a credit union fails to comply with this section, the Director may serve a support deduction notice or a request for information under section 13 on any branch of Alberta Treasury Branches or the credit union and that service is effective on every branch of Alberta Treasury Branches or the credit union, as the case may be, as if service of the support deduction notice or request for information had been made on a designated office.

10 Section 14 is repealed and the following is substituted:

Locating of debtor

14 The Director may employ any method that the Director considers appropriate to advertise for information as to, or otherwise make inquiries in order to determine, the whereabouts, assets, employment and financial circumstances of a debtor.

11 Section 15 is repealed and the following is substituted:

Providing information

15(1) Information received by the Director under this Act may be used only for the purpose of enforcing a maintenance order and is otherwise confidential.

(2) Notwithstanding subsection (1), the Director must provide information received by the Director under this Act to the Ombudsman for the purpose of an investigation conducted under the *Ombudsman Act*.

(3) Notwithstanding subsection (1), the Director may, subject to the regulations,

- (a) provide information as to the address and location of a debtor or creditor that is in the records of the Director
 - (i) to a person in a position similar to that of the Director in a reciprocating jurisdiction under the *Interjurisdictional Support Orders Act*, or
 - (ii) to a court or a person engaged in the administration of
 - (A) the *Interjurisdictional Support Orders Act*, or
 - (B) legislation similar to the *Interjurisdictional Support Orders Act* in a reciprocating jurisdiction under the *Interjurisdictional Support Orders Act* for the purpose of facilitating the service of an application under the *Interjurisdictional Support*

Orders Act or an application under the *Divorce Act* to vary a support order;

- (b) in a case where a reciprocating jurisdiction under the *Interjurisdictional Support Orders Act* is enforcing a maintenance order at the request of the Director on behalf of a creditor residing in Alberta, advise the creditor of the name of that jurisdiction;
- (c) in a case where the Director is enforcing a maintenance order at the request of a reciprocating jurisdiction under the *Interjurisdictional Support Orders Act*, advise the debtor of the name of that jurisdiction;
- (d) if a debtor is in arrears in the payment of maintenance under a maintenance order filed with the Director, provide that information and any other ancillary information
 - (i) to any person or organization that provides credit ratings in respect of persons, and
 - (ii) to any professional or occupational association or organization of which the debtor may be a member;
- (e) provide information received by the Director under this Act to any person who may have an interest in the financial affairs of the debtor and to any other person specified by the regulations;
- (f) if the Director considers it appropriate to do so, provide to a peace officer any information received by the Director under this Act.

12 Sections 17 and 18 are repealed and the following is substituted:

Support deduction notice

17(1) At the request of a debtor or where a debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, the Director may issue a support deduction notice.

(2) Notwithstanding any other Act, service in accordance with the regulations of a support deduction notice on the person required to pay under the support deduction 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 or an agent of the debtor by the person required to pay,
- (b) all money that becomes owing or payable from time to time after the date of service to the debtor or an agent of the debtor by the person required to pay, and
- (c) the portion of jointly owed money that is deemed under subsection (3) to be owned by the debtor.

(3) If a person required to pay under a support deduction notice 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 are owed the money jointly and that the debtor is the unconditional and sole owner of one portion of the money.

(4) The Director and the debtor and any person who is owed 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.

(5) Notice of an application under subsection (4) must be served,

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

(6) A support deduction notice remains in effect without further service until

- (a) the date shown on the support deduction notice,
- (b) notice terminating the support deduction notice is given by the Director in accordance with the regulations, or
- (c) the Court of Queen's Bench orders otherwise,

whichever occurs first.

(7) The person required to pay under a support deduction notice shall pay the money as it becomes payable to the Director in accordance with the notice.

(8) Payment by a person to the Director in accordance with a support deduction notice served on that person discharges the obligation of that person to the debtor or an agent of the debtor to the extent of the payment.

(9) If a person fails to pay in accordance with a support deduction notice served on that person or fails to respond to the support deduction notice in accordance with the regulations,

- (a) the Court of Queen's Bench may order payment by that person of the amount unpaid,
- (b) the order of the Court under clause (a) may be enforced in any manner that an order of the Court may be enforced, and
- (c) the Court shall award costs of the order and its enforcement against that person.

(10) A notice of continuing attachment issued by the Director before the coming into force of this section is deemed to be a support deduction notice for the purposes of this Act.

Support deduction notice re retirement savings entitlement

17.1(1) In this section,

- (a) "financial institution" means the financial institution that administers the retirement savings vehicle in question;

- (b) “LIF” means a retirement income arrangement, known as a life income fund, that is a RRIF that will not commence before the person entitled to it attains the age of 50 years;
- (c) “LIRA” means a locked-in retirement account as defined in the *Employment Pension Plans Act*;
- (d) “LRIF” means a retirement income arrangement, known as a locked-in retirement income fund, that is a RRIF that will not commence before the person entitled to it attains the age of 50 years;
- (e) “retirement income arrangement” means a retirement income arrangement as defined in the *Employment Pension Plans Act*;
- (f) “retirement savings vehicle” means a LIF, LIRA or LRIF;
- (g) “RRIF” means a retirement income fund within the meaning of the *Income Tax Act* (Canada) that is registered under the *Income Tax Act* (Canada).

(2) Notwithstanding any other law, the Director may enforce a maintenance order by serving the financial institution with a support deduction notice in respect of the debtor’s entitlement under a retirement savings vehicle.

(3) Except as otherwise provided in the regulations, the provisions of this Act and the regulations relating to support deduction notices apply to a support deduction notice under this section.

Support deduction notice issued by another jurisdiction

18(1) Subject to the regulations, if

- (a) there is filed with the Director
 - (i) an order or other document that in the opinion of the Director is similar in nature to a maintenance order under this Act and under which a person is required to make a payment that is similar in nature to maintenance under this Act, and

- (ii) a document that in the opinion of the Director is similar in nature to a support deduction notice under this Act relating to the property or funds of that person,
- (b) in the opinion of the Director, the order or other document referred to in clause (a)(i) and the document referred to in clause (a)(ii) are made, granted or otherwise issued by a competent authority in a jurisdiction outside Alberta, and
- (c) the debtor is not in Alberta but has or is purported to have property or funds located in Alberta,

the Director may serve the document referred to in clause (a)(ii) on a person in Alberta for the purpose of attaching that property or those funds.

(2) A document served under subsection (1) may be served in the same manner as a support deduction notice under this Act may be served.

(3) For the purposes of this Act, once a document referred to in subsection (1)(a)(ii) is served, it has the same force and effect and may be dealt with in the same manner as a support deduction notice under this Act.

13 Section 20(2) is amended by striking out “notice of continuing attachment” wherever it occurs and substituting “support deduction notice”.

14 The following is added after section 22:

Notice to Minister re fishing and hunting licences

22.1(1) In this section and section 45(c.1), “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for the *Fisheries (Alberta) Act* and the *Wildlife Act*.

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

Director, the Director may, subject to the regulations, give notice to the Minister

- (a) to refuse to issue a licence under the *Fisheries (Alberta) Act* that authorizes sportfishing, or
- (b) to refuse to issue a recreational licence under the *Wildlife Act*.

(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 Minister to issue the debtor a licence under the *Fisheries (Alberta) Act* that authorizes sportfishing, or a recreational licence under the *Wildlife Act*.

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

(5) The Director shall notify the Minister when a maintenance order with respect to which a notice has been given to the Minister is withdrawn under this Act.

15 Section 24 is repealed and the following is substituted:

Information to be provided when in default

24(1) If a debtor has defaulted in a payment required under a maintenance order that is filed with the Director, the Director may, by notice served on the debtor together with a statement of arrears in the prescribed form, require the debtor to do one or both of the following:

- (a) file a statement of finances with the Director;
- (b) appear before the Director to be examined in relation to employment, income, assets and financial circumstances generally, and to produce any records, documents or objects respecting the debtor's employment, income, assets and financial circumstances referred to in the notice.

(2) A statement of arrears prepared and served by the Director is presumed to be correct.

(3) The statement of finances required under subsection (1)(a) shall be in the form prescribed by the regulations and shall be filed by the debtor with the Director not more than 15 days after the debtor is served with a notice under subsection (1).

(4) The Director may extend the period within which the statement of finances is required to be filed by the debtor with the Director.

(5) If the debtor fails to appear before the Director as required under subsection (1)(b), the Director may apply ex parte to the Court of Queen's Bench for an order compelling the debtor to appear before the Director.

(6) If the debtor fails to comply with an order under subsection (5), the Director may apply ex parte to the Court of Queen's Bench for a warrant for the arrest of the debtor to have the debtor brought before the Court.

(7) If the debtor appears before the Director but refuses to answer any questions before the Director or to produce any records, documents or objects referred to in the notice under subsection (1), the Director may apply ex parte to the Court of Queen's Bench for an order compelling the debtor to answer those questions or to produce those records, documents or objects.

(8) If the debtor fails to comply with an order under subsection (7), the Director may on notice to the debtor apply to the Court of Queen's Bench for an order committing the debtor for contempt.

16 The following is added after section 25:

Deterrent charges

25.1(1) If

- (a) a debtor fails to pay maintenance under a maintenance order

- (i) by the date required in the order, or
 - (ii) in accordance with an arrangement made between the debtor and the Director,
- (b) a debtor fails to file a statement of finances with the Director pursuant to section 24, or
- (c) a debtor or another person on behalf of a debtor makes a payment to the Director in respect of maintenance or other amounts owing under this Act by cheque, pre-authorized withdrawal or money order and
- (i) the cheque or withdrawal is dishonoured on the grounds that no funds or insufficient funds were available, or
 - (ii) a stop payment order is placed on the cheque, withdrawal or money order,

the Director may require the debtor to pay a charge in an amount set in the regulations.

(2) A charge payable under subsection (1) may be collected in the same manner as maintenance may be enforced under this Act.

(3) A debtor who is required to pay a charge under subsection (1) for failing to file a statement of finances with the Director may not be charged under section 26 with an offence in respect of that contravention.

(4) If a creditor under a maintenance order filed with the Director receives a payment directly from the debtor and fails to report that payment to the Director in accordance with the regulations, the Director may require the creditor to pay a charge in an amount set in the regulations.

(5) Notwithstanding section 36(3), a charge payable under subsection (4) may be deducted from the amount of maintenance collected by the Director on behalf of the creditor.

17 Section 26 is amended by renumbering it as section 26(1) and by adding the following after subsection (1):

(2) A document that is signed by the Director or the Director's delegate stating that a debtor has not filed a statement of finances in accordance with this Act is conclusive evidence of that fact.

18 Section 29(2) is amended by adding “under subsection (1) or section 24(6)” **after** “warrant”.

19 Section 31(2) and (7)(a) are amended by striking out “continuing attachment” **and substituting** “support deduction notice”.

20 Section 32 is amended

(a) by repealing subsection (1) and substituting the following:

Suspension

32(1) If the Director has issued a support deduction notice or a creditor has obtained an order for payment under section 19, the debtor may apply by notice of motion to the Court of Queen's Bench for an order suspending those proceedings on any condition the Court considers appropriate for a period specified in the order, not to exceed the periods provided for under subsections (5) and (6).

(b) in subsection (2) by striking out “continuing attachment proceedings” **and substituting** “the proceedings referred to in subsection (1)”;

(c) in subsections (5) and (6) by striking out “continuing attachment proceedings” **and substituting** “proceedings referred to in subsection (1)”;

(d) in subsection (7) by striking out “continuing attachment”.

21 Section 36 is amended

(a) by repealing subsection (2) and substituting the following:

(2) Money paid to the Director under this Act shall be credited in the following order:

- (a) to the current periodic payment under a maintenance order;
- (b) to any arrears outstanding under a maintenance order;
- (c) to any fees or charges payable to the Director;
- (d) to any other amount payable and outstanding except for any interest owed to the creditor under a maintenance order;
- (e) to any interest owed to the creditor under a maintenance order.

(2.1) Notwithstanding subsection (2), if there is not sufficient money to fully credit both the outstanding arrears under subsection (2)(b) and the fees and charges payable to the Director under subsection (2)(c), any money remaining after crediting the current periodic payment shall be apportioned as follows:

- (a) 90% of the remaining money shall be credited to any arrears outstanding;
- (b) 10% of the remaining money shall be credited to any fees or charges payable to the Director.

(b) in subsection (5) by striking out “or” at the end of clause (a) and adding the following after clause (a):

- (a.1) fees and charges owed by the creditor to the Director, where the Director has collected the full amount of ongoing maintenance due to the creditor for that month,
- (a.2) fees and charges owed by the debtor to the Director that are collected and applied in the priority set out in subsection (2) or (2.1), or

22 Section 40 is amended

- (a) **in subsection (1) by striking out** “or a notice of continuing attachment” **and substituting** “, a notice of continuing attachment, a support deduction notice or an order for payment under section 19”;
- (b) **by repealing subsection (3) and substituting the following:**
- (3) If an application is made under subsection (2), an employer who dismisses, suspends, lays off, penalizes, disciplines or discriminates against an employee in respect of whom a garnishee summons, a notice of continuing attachment, a support deduction notice or an order for payment under section 19 is served on the employer while the garnishee summons, notice of continuing attachment, support deduction notice or order for payment is in effect or within 6 months after it has ceased to have effect shall be required to show cause for the action against the employee and, if the employer does not show cause, the action is deemed to have been in contravention of subsection (1).

23 Section 43(1) is repealed and the following is substituted:

Costs of enforcement

43(1) The Director may, subject to the regulations, require a debtor who is in default under a maintenance order to pay to the Director an amount specified by the Director to defray the costs incurred by the Director in the enforcement of the maintenance order.

24 Section 44 is repealed and the following is substituted:

Substitutional service

44 If a court makes an order under which a document may be substitutionally served on a debtor or creditor by service on the Director, the Director may, subject to the regulations, serve the document on the party in any manner that the Director considers appropriate in the circumstances.

25 The following is added after section 44:

Fees not payable by Director

44.1 No fees or charges of any kind are payable by the Director

- (a) for access or transfer to the Director of any information or record that is necessary for the purposes of administering this Act, or
- (b) for or in connection with anything that a person is required to do under this Act.

26 Section 45 is amended

- (a) in clause (b) by striking out “continuing attachment” and substituting “support deduction notices”;**
- (b) by adding the following after clause (c):**
 - (c.1) respecting the notification of the Minister by the Director under section 22.1;
- (c) in clause (d) by striking out “section 22” and substituting “sections 22 and 22.1”;**
- (d) in clause (f) by striking out “section 17(6)” and substituting “section 17(4)”;**
- (e) by repealing clause (h);**
- (f) by repealing clause (l) and substituting the following:**
 - (l) respecting the charging of debtors in default amounts for the purpose of defraying the costs of enforcement of maintenance orders;
- (g) by adding the following after clause (p):**
 - (q) defining funds for the purposes of section 12;
 - (r) for the purposes of section 12(3),
 - (i) describing information about an individual;
 - (ii) respecting the holding of funds by the Crown in right of Alberta and any Provincial agencies, statutory

agents and other entities designated in the regulations;

- (iii) designating Provincial agencies, statutory agents and other entities;
- (s) prescribing or otherwise describing services for the purposes of section 13(1)(b);
- (t) respecting support deduction notices in respect of a retirement savings vehicle under section 17.1;
- (u) respecting charges payable under section 25.1;
- (v) respecting, for the purpose of section 25.1(4), the manner in which a creditor must report to the Director a payment received directly from the debtor;
- (w) prescribing any matter referred to in this Act as prescribed;
- (x) respecting any other matter or thing that the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.

27 The *Agriculture Financial Services Act* is amended in section 55.1(a) by striking out “continuing attachment” and substituting “support deduction notice”.

28(1) The *Employment Pension Plans Act* is amended by this section.

(2) Section 85 is amended

(a) in subsection (1) by striking out “subsection” and substituting “subsections (1.1) and”;

(b) by adding the following after subsection (1):

(1.1) Subsection (1) does not apply in respect of an attachment of a retirement savings vehicle within the meaning of and under section 17.1 of the *Maintenance Enforcement Act*.

(3) Section 87(1) is amended by adding the following after clause (d):

- (d.1) respecting
 - (i) the collection of prescribed information about an owner, within the prescribed meaning, of a locked-in retirement account or a prescribed retirement income arrangement, and
 - (ii) the disclosure of that information to the Director of Maintenance Enforcement for the purpose of enforcing a maintenance order under the *Maintenance Enforcement Act*;

29 The *Fisheries (Alberta) Act* is amended by adding the following after section 15:

Refusal to issue licence re maintenance orders

15.1(1) In this section, “Director” means the Director of Maintenance Enforcement appointed under the *Maintenance Enforcement Act*.

(2) If the Director notifies the Minister pursuant to section 22.1(2) of the *Maintenance Enforcement Act*, the Minister shall, in respect of the debtor named in the notice, refuse to issue a licence under this Act that authorizes sportfishing except as permitted by the Director under section 22.1(3) of the *Maintenance Enforcement Act* until the Director withdraws the notice or notifies the Minister that the maintenance order has been withdrawn.

30 The *Wildlife Act* is amended by adding the following after section 19:

Refusal to issue licence re maintenance orders

19.1(1) In this section, “Director” means the Director of Maintenance Enforcement appointed under the *Maintenance Enforcement Act*.

(2) If the Director notifies the Minister pursuant to section 22.1(1) of the *Maintenance Enforcement Act*, the Minister shall, in respect of the debtor named in the notice, refuse to issue a recreational licence under this Act except as permitted by the Director under section 22.1(3) of the *Maintenance Enforcement Act* until the Director withdraws the notice or notifies the Minister that the maintenance order has been withdrawn.

31 Sections 2(a), 7, 9, 10, 12 to 14, 16, 19 to 22 and 26 to 30 come into force on Proclamation.

Explanatory Notes

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

2 Section 1(2) presently reads:

(2) An agreement entered into under section 6 of the Parentage and Maintenance Act or section 27 of the Income Support Recovery Act is deemed to be a maintenance order under this Act.

3 Protection of Director and staff.

4 Section 10.1 presently reads in part:

(4.1) Filing an agreement under subsection (1) does not affect the right of a party to the agreement to apply for a maintenance order in the Provincial Court.

(9) This section does not apply to agreements entered into under the Parentage and Maintenance Act.

(10) An agreement to which this section applies may not vary an agreement entered into under the Parentage and Maintenance Act, and an agreement under the Parentage and Maintenance Act prevails over any term of an agreement under this section with which it conflicts.

5 Provincial Court jurisdiction preserved.

6 Variable maintenance order.

7 Section 12 presently reads:

12(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 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 that is shown on a record in the possession or control of the Crown in right of Alberta, the Provincial agency or the agent.

(2) The Director may provide information as to the address and location of a debtor that is in the records of the Director to a person in a position similar to that of the Director in a reciprocating state under the Interjurisdictional Support Orders Act.

(3) Information received by the Director under this Act may be used only for the purpose of enforcing a maintenance order and is otherwise confidential.

(4) Notwithstanding subsection (3), the Director must provide information received by the Director under this Act to the Ombudsman for the purpose of

an investigation conducted under the Ombudsman Act.

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

13(1) In this section, “business organization” means

- (a) any bank, credit union, loan corporation, trust corporation or treasury branch;*
- (b) any employers or former employers of debtors;*
- (c) any organization of employees*
 - (i) that has as one of its objects the regulation of relations between employers and employees, and*
 - (ii) that carries out functions for the purpose of facilitating the employment of those employees.*

(2) On the request of the Director and for the purpose of enforcing a maintenance order under this Act, any business organization shall, if the business organization has the information, provide to the Director the following:

- (a) the social insurance number, residential address, residential telephone number and employment telephone number of the debtor;*
- (b) the name, address and telephone number of the debtor’s employer;*
- (c) any financial information concerning the debtor.*

9 Designated offices.

10 Section 14 presently reads:

14 Subject to the regulations, the Director may employ any method that the Director considers appropriate to advertise for information as to, or otherwise make inquiries in order to determine, the whereabouts of a debtor.

11 Section 15 presently reads:

15(1) Notwithstanding section 12(3), if a debtor is in arrears in the payment of maintenance under a maintenance order filed with the Director, the Director may, subject to the regulations, provide that information and any other ancillary information to any person or organization that provides credit ratings in respect of persons.

(2) Notwithstanding section 12(3), the Director may, subject to the regulations, provide information received by the Director under this Act to any person who may have an interest in the financial affairs of the debtor and to any other person specified by the regulations.

12 Sections 17 and 18 presently read:

17(1) Where a debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, the Director may issue a notice of continuing attachment.

(2) Within 30 days from the day that the Director issues a notice of continuing attachment, the Director shall file that notice with the Court of Queen's Bench.

(3) Notwithstanding subsection (2), failure to file a notice of continuing attachment with the Court of Queen's Bench does not affect the operation or legal effect of that notice.

(4) Notwithstanding any other Act, 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,*
- (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, and*
- (c) the portion of jointly owed money that is deemed under subsection (5) to be owned by the debtor.*

(5) 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 are owed the money jointly and that the debtor is the unconditional and sole owner of one portion of the money.

(6) The Director and the debtor, and any person who is owed 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.*

(7) Notice of an application under subsection (6) must be served,

- (a) if the applicant is the debtor or a person who is owed money jointly with the debtor, on all the other persons who are owed the money jointly, the creditor and the Director, or*

(b) if the applicant is the Director, on all the persons who are owed the money jointly.

(8) A notice of continuing attachment remains in effect without further service until

(a) the date shown on the notice of continuing attachment,

(b) notice terminating the continuing attachment is given by the Director in accordance with the regulations, or

(c) the Court of Queen's Bench orders otherwise,

whichever occurs first.

(9) The person required to pay under a notice of continuing attachment shall pay the money as it becomes payable to the Director in accordance with the notice.

(10) Payment by a person to the Director in accordance with a notice of continuing attachment served on that person discharges the obligation of that person to the debtor to the extent of the payment.

(11) If a person fails to pay in accordance with a notice of continuing attachment served on that person or fails to respond to the notice of continuing attachment in accordance with the regulations,

(a) the Court of Queen's Bench may order payment by that person of the amount unpaid,

(b) the order of the Court under clause (a) may be enforced in any manner that an order of the Court may be enforced, and

(c) the Court shall award costs of the order and its enforcement against that person.

18(1) Subject to the regulations, if

(a) there is filed with the Director

- (i) *an order or other document that in the opinion of the Director is similar in nature to a maintenance order under this Act and under which a person is required to make a payment that is similar in nature to maintenance under this Act, and*
 - (ii) *a document that in the opinion of the Director is similar in nature to a notice of continuing attachment under this Act relating to the property or funds of that person,*
- (b) *in the opinion of the Director, the order or other document referred to in clause (a)(i) and the document referred to in clause (a)(ii) are made, granted or otherwise issued by a competent authority in a jurisdiction outside Alberta, and*
- (c) *the debtor is not in Alberta but has or is purported to have property or funds located in Alberta,*

the Director may serve the document referred to in clause (a)(ii) on a person in Alberta for the purpose of attaching that property or those funds.

(2) A document served under subsection (1) may be served in the same manner as a notice of continuing attachment under this Act may be served.

(3) For the purposes of this Act, once a document referred to in subsection (1)(a)(ii) is served it has the same force and effect and may be dealt with in the same manner as a notice of continuing attachment under this Act.

13 Section 20(2) presently reads:

(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.

14 Notice to the Minister re fishing and hunting licences.

15 Section 24 presently reads:

24(1) If a debtor has defaulted in a payment required under a maintenance order that is filed with the Director, the Director by notice served on the debtor together with a statement of arrears in the prescribed form may require the debtor to file a statement of finances with the Director.

(2) The statement of finances required by subsection (1) shall be in the form prescribed by the regulations and shall be filed by the debtor with the Director not more than 15 days after the debtor is served with a notice under subsection (1).

(3) The Director may extend the period within which the statement of finances is required to be filed by the debtor with the Director.

16 Charges payable by debtor and creditor.

17 Conclusive evidence of document.

18 Section 29(2) presently reads:

(2) When a debtor is brought before the Court on a warrant, the Court may bind the debtor over to appear at a default hearing and

(a) require that a surety or sureties be procured or produced and join the recognizance,

- (b) *require that a sum of money be deposited with the Court sufficient to ensure the appearance of the debtor at the default hearing, or*
- (c) *commit the debtor to jail until the default hearing.*

19 Section 31 presently reads in part:

(2) *If*

- (a) *a debtor has defaulted in the payment of maintenance required under a maintenance order that is filed with the Director, and*
- (b) *in the opinion of the Director, with respect to property or funds that are legally owned or otherwise held by a corporation or other person, the debtor or another person on behalf of the debtor is exercising authority over the corporation or person,*

the Director may apply to the Court of Queen's Bench for an order directing that the property is or the funds are attachable, subject to seizure and sale or subject to a continuing attachment, as the case may be, for the purposes of payment of the arrears of maintenance payable under the maintenance order.

(7) *If subsection (6) applies, the Court may by order do one or more of the following:*

- (a) *for the purposes of payment of the arrears of maintenance payable under the maintenance order, direct that that*

property or those funds or any specific portion of that property or those funds is attached, is subject to seizure and sale or is subject to a continuing attachment, as the case may be;

20 Section 32 presently reads in part:

32(1) If continuing attachment proceedings are taken under this Act by the Director or the creditor, the debtor may apply by notice of motion to the Court of Queen's Bench for an order suspending those proceedings on any condition the Court considers appropriate for a period specified in the order, not to exceed the periods provided for under subsections (5) and (6).

(2) An order granted under this section suspending continuing attachment proceedings may be made only if the Court is satisfied that the debtor is unable for valid reasons to make the payments required under the maintenance order.

(5) An order granted pursuant to an application made under subsection (1) suspending the continuing attachment proceedings expires at the conclusion of 3 months from the day the order is entered with the Court or of any shorter period provided for in the order.

(6) Notwithstanding subsection (5), if within the 3-month period or shorter period referred to in subsection (5) the debtor applies to a court in Alberta to vary the maintenance order referred to in subsection (2), the Court of Queen's Bench may make an order suspending the continuing attachment proceedings for only one further period of not more than 6 months.

(7) Subject to subsections (5) and (6), in making an order suspending any continuing attachment proceedings referred to in subsection (1), the Court of Queen's Bench shall state in the order the period of time or the circumstances under which the suspension of the proceedings remains in effect.

21 Section 36(2) and (5) presently read:

(2) Money paid to the Director under a maintenance order shall be credited

(a) first to the current periodic payment,

(b) *next to any arrears outstanding, and*

(c) *last to any other amount payable and outstanding.*

(5) *Subsections (3) and (4) do not apply to*

(a) *taxed costs and disbursements received by the Director in respect of the enforcement of a maintenance order, or*

(b) *money received under a maintenance order in respect of a creditor under the order who has received a benefit under the Social Development Act.*

22 Section 40(1) and (3) presently read:

40(1) No employer shall dismiss, suspend, lay off, penalize, discipline or discriminate against an employee if the reason for doing so is in any way related to the service of a garnishee summons or a notice of continuing attachment on the employer.

(3) If an application is made under subsection (2), an employer who dismisses, suspends, lays off, penalizes, disciplines or discriminates against an employee in respect of whom a garnishee summons or a notice of continuing attachment is served on the employer while the

garnishee summons or notice of continuing attachment is in effect or within 6 months after it has ceased to have effect shall be required to show cause for the action and, if the employer does not show cause, the action is deemed to have been in contravention of subsection (1).

23 Section 43(1) presently reads:

43(1) If in the opinion of the Director a debtor meets the criteria set out in the regulations for being

classified as being chronically in default in the payment of maintenance required under a maintenance order that is filed with the Director, the Director may, subject to the regulations, require the debtor to pay to the Director an amount specified by the Director to defray the costs incurred by the Director in the enforcement of the maintenance order.

24 Section 44 presently reads:

44 If with respect to proceedings concerning the payment of maintenance a court makes an order under which a document may be substitutionally served on a party to the proceedings by service on the Director, the Director may, subject to the regulations, serve the document on the party in any manner that the Director considers appropriate in the circumstances.

25 Fees or charges not payable by Director.

26 Section 45 presently reads:

45 The Lieutenant Governor in Council may make regulations

- (a) respecting the filing and refiling of maintenance orders with the Director;*
- (b) respecting continuing attachment;*
- (c) respecting the notification of the Registrar by the Director under section 22;*
- (d) governing how the Director carries out the Director's powers and duties under section 22;*
- (e) respecting forms and procedures to be used in proceedings under this Act;*

- (f) respecting applications under section 17(6);*
- (g) respecting the information that may be released by the Director concerning a debtor's credit rating;*
- (g.1) respecting agreements, the filing of agreements and the varying of agreements referred to in section 10.1;*
- (h) respecting the advertising for and eliciting of information under section 14;*
- (i) respecting the provision of information under section 15;*
- (j) respecting the costs of enforcement under section 43;*
- (k) respecting the service of documents by the Director under section 44;*
- (l) respecting the classification of debtors as being chronically in default in the payment of maintenance and charging those debtors amounts for the purpose of defraying the costs of enforcement of maintenance orders;*
- (m) respecting the filing of and dealing with orders and documents originating from another jurisdiction;*
- (n) respecting the charging of fees for services provided by the Director;*
- (o) respecting records to be kept by the Director;*
- (p) respecting service of documents under this Act or the regulations.*

27 Amends chapter A-12 of the Revised Statutes of Alberta 2000. Section 55.1(a) presently reads:

55.1 Any amount payable by the Corporation under this Division in respect of a claim for loss or damage to crops is exempt from writ proceedings under the Civil Enforcement Act or any other form of attachment except for

- (a) any continuing attachment or order for payment under the Maintenance Enforcement Act;*

28(1) Amends chapter E-8 of the Revised Statutes of Alberta 2000.

(2) Section 85 of the Employment Pension Plans Act presently reads:

85(1) Subject to subsection (2), benefits, money that has been transferred under section 30(5), 37(2), 38, 39(6) or 64(3) or the regulations made in respect of section 80 or pursuant to a similar transfer made before January 1, 1987 and money earned by such transferred money may not be assigned, charged, alienated or anticipated and are exempt from execution, seizure or attachment either at law or in equity, and any transaction purporting to assign, charge, alienate or anticipate benefits or any such money is void.

(2) Subsection (1) does not apply to additional voluntary contributions or optional ancillary contributions.

(3) Any transaction purporting to effect a withdrawal, surrender or commutation referred to in section 35(1) is void.

(4) Where this Act requires an amount to be withheld, deducted, paid or credited, any agreement or arrangement by the person on whom the requirement is imposed not to withhold, deduct, pay or credit that amount is void.

(3) Regulation-making authority added.

29 Amends chapter F-16 of the Revised Statutes of Alberta 2000. Refusal to issue licences re maintenance orders.

30 Amends chapter W-10 of the Revised Statutes of Alberta 2000. Refusal to issue licences re maintenance orders.

31 Coming into force.