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# Maintenance Enforcement Programs in Canada:

Description of Operations 1999/2000



Canadian Centre for Justice Statistics

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# Maintenance Enforcement Programs in Canada:

Description of Operations  
1999/2000

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## Note of appreciation

*Canada owes the success of its statistical system to a long-standing partnership between Statistics Canada, the citizens of Canada, its businesses, governments and other institutions. Accurate and timely statistical information could not be produced without their continued cooperation and goodwill.*

## Preface

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### ***National Justice Statistics Initiative***

Since 1981, the Federal, Provincial and Territorial Deputy Ministers responsible for the administration of justice in Canada, with the Chief Statistician, have been working together in an enterprise known as the National Justice Statistics Initiative (NJSI). In general, the mandate of the NJSI is to provide information to support the administration of justice, and to ensure that accurate information regarding the nature of criminal and civil justice is available to the Canadian public.

### ***Canadian Centre for Justice Statistics***

The National Justice Statistics Initiative operates under the fundamental principle that national justice information is a shared responsibility between the federal, provincial and territorial governments. Although the Canadian Centre for Justice Statistics (CCJS) operates under the responsibility and authority of Statistics Canada, its programs and priorities are established by federal, provincial and territorial departments and agencies responsible for the administration of justice. This process is accomplished through a number of formal committees, including, the Justice Information Council, Liaison Officers Committee, Program Advisory Committee to the Technical Assistance Directorate and Sector-Specific Advisory Groups.

## Acknowledgments

This report has been made possible by the continued co-operation of the National Justice Statistics Initiative, and extends to the Maintenance Enforcement Programs in operation in the country.

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## Introduction

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This report provides a description of the organization and operation of provincial and territorial maintenance enforcement programs. It was compiled to supplement the release of the results and analysis of the Maintenance Enforcement Survey. The Maintenance Enforcement Survey (MES) collects, for the first time, data from the maintenance enforcement programs (MEPs) in Canada according to a set of national definitions. However, there is considerable variation in the delivery of services across the jurisdictions, each dealing with the collection and enforcement of child and spousal support differently. As a result, there is a need to describe the basic features of each MEP.

This document describes the relevant provincial legislation, latest developments, a general description of each program, how each manages cases, intake/withdrawal procedures, tracing, monitoring, payment processing and enforcement practices. The reader will be able to identify variations and similarities between the programs. Overall,

the jurisdictions have similar objectives for their maintenance enforcement program, including:

- increasing the number of payments processed for payors who are obligated to pay child and spousal support;
- enforcing support payments and collecting arrears;
- reducing the burden on social assistance programs that result from non-compliance; and
- relieving the emotional and financial stress of the recipient and children.

In pursuing these goals, MEPs have embarked on a client centred service approach where the recipient and payor are treated in a fair, professional and responsive manner.

All of the MEPs rely upon several federal acts to collect, trace and enforce support payments. Therefore, a review of the relevant federal legislation is presented first, followed by a description of each provincial and territorial MEP.

## Department of Justice Canada

### The Family Law Assistance Services Section

Under the Canadian legal system, the enforcement of family support orders and agreements is primarily a provincial responsibility. The government of Canada assists the provinces in this responsibility through federal legislation such as the *Family Orders and Agreements Enforcement Assistance Act* (FOAEA) (1987) and the *Garnishment, Attachment and Pension Diversion Act* (GAPDA) (1983) which removed the immunity of certain federal moneys from garnishment.

### **Family Orders and Agreements Enforcement Assistance Unit**

The Department of Justice, which is responsible for the administration of the FOAEA, established this unit in Ottawa to implement and operate its legislative provisions. The provinces and territories are the main users of the three FOAEA services: tracing, interception, and license denial.

#### **Tracing**

This service provides location information on individuals who have obligations under a support, access or custody order or agreement. It can also serve to enforce a charge of parental child abduction under the *Criminal Code*. Limited information (residential addresses and employer name and address) may only be obtained from designated federal data banks used for the administration of the *Canada Pension Plan Act*, the *Employment Insurance Act* and the *Income Tax Act*. Under existing federal-provincial-territorial agreements, strict procedures must be followed for the release of such information. While courts and police agencies may apply, over 99% of all applications for this service emanate from provincial and territorial maintenance enforcement programs (MEP).

#### **Interception**

Interception allows for the garnishment of designated federal moneys payable to individuals owing family financial support, in accordance with provincial garnishment laws. These moneys include income tax refunds, employment insurance benefits, old age security, Canada pension plan benefits, and interest on regular Canada savings bonds, as well as moneys from selected Department of Agriculture programs. Anyone who submits an application form along with a garnishee summons may use this service. Moneys thus garnisheed are paid into court or a provincial maintenance enforcement program for distribution to recipients and children.

#### **License denial**

This service came into force in May 1997 and involves the suspension and denial of Canadian passports and federally issued licenses for marine, aviation and navigation certificates from individuals who are in default of family support by at least \$3,000 or at least three payments in arrears. An effective support enforcement tool, license denial is used exclusively by provincial and territorial services that must submit denial applications and affidavits to the FOAEA program in Ottawa.

#### **FOAEA program characteristics**

An administration fee of \$38 per year may be imposed to recover the costs of processing garnishee summons. The fee is collectable from the payor once the financial terms of a summons have been satisfied.

A working capital fund of \$7 million allows the FOAEA Unit to disburse funds to the provinces immediately when departments confirm that funds have been garnisheed. Moneys are thus transferred more rapidly to the recipient.

The public may access the FOAEA information services' Automated System by calling 1-800-267-7777. An average of 10,000 calls are received each month. Payors using the system may access their own account information, request statements of accounts and leave messages for return calls. The system offers general information to recipients and the public about the program.

#### **FOAEA highlights**

For the most recent completed fiscal year (1999/2000), the FOAEA unit successfully carried out a large volume of operations. The Unit achieved the following milestones:

- the completion of the reengineering of the FOAEA computer system;
- the initiation of discussion with Nunavut for the signing of a Memorandum of Understanding for FOAEA Part I;
- playing a significant role in the Child Support Team initiative through active participation in the enforcement, communications and reciprocity (REMO) sub-committees; and
- the completion of work on a series of pamphlets on the operations for the Family Law Assistance services which includes FOAEA.

### ***Garnishment, Attachment and Pension Diversion Act Registry***

The GAPDA Registry receives garnishment summonses for family support and other judgement debts against public servant salaries as well as money paid to contractors, and validates and forwards the documentation to the appropriate federal pay office. There is a GAPDA registry in each province and territory. The Registry, located in Ottawa, plays a policy co-ordination role with respect to the overall administration of the Act and provides three essential services:

- the receipt and validation of all garnishment applications;
- the validation and onward transmission of subsequent documentation (e.g. Termination notices, amendments, stay of bankruptcies, etc.) to the appropriate federal pay office and Public Works and Government Services Canada (PWGSC) for payment to the court; and
- a telephone and mail enquiry service.

#### ***GAPDA program characteristics***

The processing and routing of a file may be triggered by one or more of the following: Notices or applications, or both, received for garnishment, terminations, amendments, bankruptcies, and updates.

GAPDA Registries in each province and territory are usually located in, and are part of the regional offices of the Federal Department of Justice. As well, all telephone and mail enquiries from client departments and organizations about the status or the processing of GAPDA actions are handled through the GAPDA's own enquiry service.

#### ***GAPDA highlights***

Beyond their normal work, GAPDA personnel worked on two major projects. The first, now complete, is a feasibility study on the automation and centralization of the Registry process administration. The second, still under way, is part of the Department's Child Support Initiative and consists of a major review of the *GAPDA Act* to determine how this program might better serve the public.

#### ***Policy initiatives***

The Unit, through the Director of the Family Law Assistance Services Program, is responsible for the development of program policies, regulations and frameworks governing the delivery of services to provincial and territorial governments and the establishment of agreements with other federal departments. It also develops and approves Memoranda of Understanding between the Department of Justice and federal "funding" departments such as Human

Resources Development Canada (HRDC) and Canada Customs and Revenue Agency (CCRA), and the provincial and territorial governments. As needed, it recommends changes in current laws, and initiates or participates in the amendment of legislation to meet identified client needs and enhance service delivery. Also, specific policies may be developed regarding, for instance, the procedures to be followed by the federal courts in obtaining divorce clearance certificates prior to hearing divorce cases.

Much of the Section's work involves close co-operation with the Child Support Team, the Family, Children and Youth section and the provinces and territories in the Family Law policy area. The Child Support Team has thus far been instrumental in bringing about a number of legislative and regulatory changes that have significantly enhanced child support in Canada. Other major initiatives being addressed by the Child Support Team are:

- an investigation of the possibility of providing maintenance enforcement programs with more locate information (e.g. location of assets, etc);
- the feasibility of establishing a New Employee Tracing Program to allow for the location of employment income;
- the possibility to allow Foreign countries to access the *FOAEA Act* Part I and the foreign locator service;
- an examination for more federal licenses to be added to Part III of the *FOAEA Act* for denial purposes;
- an investigation of how those in default of payment who frequently cross between the United States and Canada could be located; and
- the establishment of an agreement between all jurisdictions that each will reciprocate on a motor vehicle license denial action.

#### ***Service standards***

*FOAEA* — The Unit has implemented the service standards prescribed under the *FOAEA Act* which contains many of the government service standards:

- tracing applications under Part I of the Act processed, and a response provided to the provincial enforcement authorities within 40 days of receipt;
- garnishment applications under Part II of the Act in effect 35 days after receipt;
- license denial applications under Part III of the Act initiated and terminated in a timely manner;
- client departments provided with necessary information to allow them to meet their responsibilities under the *FOAEA Act*; and
- accurate and timely information on enforcement policy and procedures provided and inquiries on status of garnishment actions responded to.



GAPDA — The GAPDA clients are the general public and payroll sections in federal departments. The following service standards apply:

- all applications for garnishment received, validated and issued within five working days;
- all subsequent documents (termination notices, amendments, stay for bankruptcies, etc.) processed within three days; and
- all inquiries responded to within 48 hours.

## Newfoundland and Labrador

### **Relevant legislation**

The enforcement of support orders in the Province of Newfoundland and Labrador is the responsibility of the Director of Support Enforcement and the authority arises pursuant to the *Support Orders Enforcement Act*. Recipients may withdraw their support order from the Support Enforcement Program (SEP) and commence enforcement action on their own pursuant to the same legislation and the *Family Law Act*. The Director is also responsible for reciprocal enforcement pursuant to the *Reciprocal Enforcement of Support Orders Act*, 'RESO' and the *Divorce Act*.

### **Latest developments**

Support payments may now be paid to the recipient through an electronic direct deposit. Prior to July 1999 payments were made by cheque mailed to the recipient's address. This caused some problems for recipients as cheques were lost or stolen, causing delays in receiving their support payments. Replacing lost or stolen cheques would take up to three weeks to process.

Payors may now use telephone/internet banking to make support payments. Many clients complained about the time that it takes to receive payments sent through the mail system. Payments made through telephone/internet banking by the daily deadline will be received and processed by the Director the next business day.

Applications to FOAEA are now made online through the Internet. Prior to April 2000 all applications to FOAEA were hand written and sent through the mail. With the Internet, access enforcement officers can submit and receive information online.

Phase I of a three phase computer enhancement project is now complete. The new application is targeted for December 3, 2001. The existing Support Enforcement Program System (SEPS) is a mainframe application and

is no longer cost effective to operate. The new system will perform the same functions and will be modified to better monitor and track enforcement activity.

### **General**

The Director of Support Enforcement operates as a division of the Provincial Department of Justice and is located in the city of Corner Brook. All orders for support issued in Newfoundland and Labrador are required to be registered with the Director. Orders made in other jurisdictions may be enforced by the Director if the person required to pay support resides in Newfoundland and Labrador. Support Enforcement Program (SEP) staff consists of a director, two supervisors, one accountant, ten enforcement officers and two support clerks.

### **Case management**

Orders for support are mailed or faxed to the SEP from the court immediately after they are filed. Enforcement officers manage the registration, enforcement and accounting adjustments of all files.

Registration includes the creation of a file in the SEPS computer. The information recorded includes the name of the court that issued the order, the support terms, the date support ends, if available, the names and addresses of the parties to the order, the names and ages of the children, and other identifiers such as phone numbers and date of birth. When a new file is created, the SEPS computer will automatically print letters to the parties. The recipient of support will receive confirmation of registration, a direct deposit form, information on the Interactive Voice Response system, a registration information form and an opt-out form. The support payor will receive confirmation of registration, instructions on where to send payments, information on the payment methods and notice that enforcement action may be automatic and without notice should payments be missed. The recipient may opt out of the Program at any time provided the order has not been assigned to the Crown.

Enforcement activities may start with a phone call or a letter to the person required to pay support. SEPS monitors all activity in the computer system and alerts the enforcement officer when action needs to be taken. The enforcement officer will review the file and take the appropriate action.

Account adjustments are performed by the enforcement officer as required in the normal course of enforcement. Some payors require different support payment arrangements depending on their employment status and

adjustments to the account are necessary. Payments are processed by the receipts clerk and high-level activity, such as processing non-sufficient funds (NSF) cheques, bank reconciliation and financial statements, are performed by the accountant.

#### *Intake/withdrawal procedures*

All orders for the payment of support made in Newfoundland and Labrador are required to be filed with the Director by the Clerk of the Court. The Director will create a file in the SEPS and immediately commence collection activity. The parties are notified by mail of the registration and the person entitled to receive support is given the option to opt out of the SEP. If an opt-out takes place, the parties will no longer be required to communicate with the Director. However, the order may be re-registered at any time by either party. If no opt-out takes place, the person required to pay support must make all payments to the SEP. Payments may be by cash, money order, cheque, post-dated cheques or telephone/internet banking.

Orders are received from other jurisdictions when the person required to pay support is in Newfoundland and Labrador and the person entitled to receive support is in a reciprocating jurisdiction. The foreign order is filed with a court and notice is given that all future support payments must be made to the Director. Failure to make payments may result in enforcement activity. The reciprocating jurisdiction may withdraw the order from the Director at any time.

The SEP Director may withdraw an order from enforcement if information is not provided regarding the status of the children or when the person entitled to receive support has taken steps to enforce the order outside the Program.

#### *Monitoring*

The SEPS is designed to flag accounts with missed payments. The system will allow a set number of grace days before alerting the enforcement officer. When an account goes into default, the enforcement officer is prompted to issue a warning letter. Accounts that remain in default are reviewed by enforcement officers and action is taken to recover the past due amount. The file is then reviewed on a regular basis until the account is paid up to date. Files sent to other jurisdictions for enforcement are also reviewed on a regular basis.

#### *Payment processing*

The SEP program is designed to be a 'pay to' system and will accept payments by cash, money order, cheque or telephone/internet banking. All payments are deposited to a trust bank account. Payments received will normally be paid out to the recipient the next business day, provided the support payment is due and no holds have been placed on the account. Cheques will be held until cleared, if a history of NSF cheques exists.

Payments made directly to the recipient by the payor are discouraged. In order to maintain accurate accounting records, all payments are required to be made to the Program. In cases where the recipient accepts a direct payment, the Program will adjust its records only upon written confirmation from the payor.

#### *Tracing*

Section 10 of the *Support Orders Enforcement Act* states that the SEP Director may demand and receive from a person, corporation or public body, information about the payor that is shown on a record in their possession or control. Tracing involves searching for the location of a payor and locating their assets, which include wages, bank accounts, real estate and vehicles. Enforcement officers have access to certain provincial data banks including Motor Registration, which allows enforcement officers to search each province and territory for a current address and vehicle information. Enforcement officers will use all means available to them in searching out information, including phoning the payors known friends, relatives, previous employers and neighbours. The recent use of the Internet has been helpful in locating payors. The federal government, through FOAEA, is frequently used to search federal data banks for information on a payor's address and the name and address of an employer.

#### *Enforcement*

Accounts in default are subject to a variety of enforcement remedies. Failure to pay support may result, among other things, in personal contact by an enforcement officer, demand letters, wage garnishment, seizure of personal and real property and garnishment of federal funds. A court may order that arrears be paid over a period of time or a judge may imprison a payor for up to 90 days.

### **Future developments**

A new computer system called Support Enforcement Application (SEA) is in the final stages and is scheduled for launch early December 2001. This application will replace the costly mainframe application currently in use. Phase two of the implementation will concentrate on the completion of a new management information system that will provide better, more informative reports and statistics. The statistics generated will be CCJS compliant. Phase two will continue into the 2001 fiscal year.

Longer-term plans include the expansion of the interactive voice response (IVR) system and the development of an interactive website for Support Enforcement. The IVR will be expanded to include information on enforcement and not just payment activity. The website will provide quicker information to both debtors and creditors, and will also allow the interactive flow of information, all via a secure process.

## **Prince Edward Island**

### **Relevant legislation**

From the inception of P.E.I.'s Unified Family Court in the mid-1970s, the province had no specific legislation to govern the enforcement of maintenance orders. Enforcement actions were based on provisions in various pieces of provincial legislation, *Rules of Court*, and the *Divorce Act*. Provincial officials recognized the need to develop specific enforcement legislation to deal with the urgent and growing problem of maintenance arrears.

As a result, the *Maintenance Enforcement Act*, R.S.P.E.I. 1988, Cap. M-1 was passed in March of 1988. One year after the Maintenance Enforcement Program (MEP) was developed, support collections grew rapidly. The province of Prince Edward Island relies on enforcement through this Act, and also other federal legislation.

### **General**

The MEP is part of the Office of the Attorney General and is housed in the Law Courts Building in Charlottetown. All matters of an administrative support nature are directed to the Registrar of the Supreme Court and all matters of a legal nature are directed to the Director of Legal Services. Program staff consists of a Director, Senior Enforcement Officer, Enforcement/Reciprocity Officer, and Bookkeeper and relies on counsel within the Attorney General's office. A liaison officer who is an employee of Health and Social Services, is also housed with program staff and manages all cases with subrogated, ongoing obligations and arrears.

### **Case management**

Once a case is registered with the MEP, the system automatically generates a letter to the payor by ordinary mail to advise on methods of payment. The letter indicates that the case has been enrolled in the MEP and advises that enforcement action will be taken if payment is not made. The letter also includes a payroll deduction form that the payor may take to the employer. Ideally, the employer will complete the form and forward particulars back to the MEP and then begin making deductions. Alternatively, the payor may wish to make arrangements with enforcement staff to make voluntary payments. The payor is provided 14 days to respond to the letter. In the event voluntary payments are not made, or in the event the payor does not respond to the letter and becomes delinquent, a number of steps can be taken.

The MEP will register the order with the Family Court and then determine the appropriate enforcement remedy.

If staff can identify an income source, a payment order is generated and forwarded to the employer by ordinary mail or by fax. This payment order is signed by enforcement staff in conformity with the provisions of the Act.

If the employment particulars of the payor are unknown, staff may initiate a federal interception, and the file is then referred to the MEP Director for the preparation of a court hearing. The notice of default can be generated with or without a resolution invitation. If the notice has a resolution invitation, the payor may meet with the MEP Director and counsel prior to the appointed hearing time in an attempt to secure information on the payor's income sources and ability to conform to the order or to make the appropriate referrals (child support guideline office, or independent counsel to commence variation proceedings, orderly payment of debt, refinancing, family mediation, or parenting program).

The MEP Director may not wish to hold a resolution meeting when a payor has not followed through with a previous proposal to honour the support obligation or in the event a payor chooses not to meet with the Director or counsel. All notices are prepared from the Program's automated system, filed with the Family Court and then forwarded to the sheriff's office for personal service.

There are two days assigned to the MEP Director each month for defaults. Due to time constraints, additional time is secured from the Family Court chamber's docket. A docket day may see as many as 35 cases prepared. In the event a payor fails to appear after being personally served with a notice of default, the court may issue a warrant with or without discretion.

The MEP relies heavily upon the input of the recipients in providing information about the payor's income sources.

Cases registered are managed by way of voluntary payments, payment orders being issued to employers, federal interceptions being placed on payor's employment insurance benefits, income tax returns, and other sources as prescribed, wage attachments through the Garnishment, Attachment and Pension Diversion Act or through the structuring of default hearings. In the event an employer fails to honour a payment order generated by the MEP, an employer may be guilty of an offence and is liable on summary conviction to a fine not exceeding \$52,000. The Act also provides for the revocation of any driver's license, privilege of obtaining a driver's license, right to operate a motor vehicle or any permit issued to a payor by the Registrar of Motor Vehicles. All cases that are received by the Program are entered on the system by the senior enforcement officer and are then brought forward by enforcement staff 14 days after registration. All cases that have subrogated arrears are monitored by the Program's liaison officer. All cases that require reciprocal enforcement are managed by one enforcement officer.

#### *Intake/withdrawal procedures*

Orders/agreements may be registered with the MEP either in person or by mail. All cases are activated by a recipient opting in. When both parties reside within the jurisdiction, the MEP requires a certified copy of the order and the completion of a filing registration form. Once the documents are received by the Program, all relevant information is entered into the automated system. In the event the order is received from an outside jurisdiction, the MEP requires three certified copies of the order.

Recipients may opt out of the MEP and may opt in at any time. Where a recipient may be limited in opting out is when the case is being managed by the liaison officer who may be collecting support as outstanding subrogated arrears. Opting out is not a prerogative offered to a payor.

Once a case is registered with the MEP, a letter is automatically generated advising the payor of the registration and the options of payment. In the event the payor ignores the letter, enforcement ensues, depending upon the ability of enforcement staff to identify an income source. The only time the MEPS would close a case would be if an order had an age specific termination of obligation date, or if a court order varied the original terms upon application.

#### *Monitoring*

Although the automated system provides an overdue account report when requested, staff do not utilize this search as the recipients bring the default to the attention of staff without delay. Also, cases are routinely brought forward by enforcement staff, and manual reviews of files are routinely undertaken. However the MEP lacks the ability to routinely monitor cases which have been transmitted to an outside jurisdiction for reciprocal enforcement.

#### *Payment processing*

The MEP is a "pay-to" system. The Program will accept non-certified personal cheques, cash, bank drafts, money orders and certified cheques. Also, cheques may be forwarded from employers as a result of a garnishee. Payments are processed on the same day they are received and may be delayed to allow normal clearing if a payor is a non-resident. The MEP recently introduced pre-authorized payment and direct deposit services. In the event a payor negotiates a dishonoured payment, the Program will no longer accept personal cheques and the payor is charged a penalty fee. If the error occurred through a banking institution, the Program will continue to honour personal cheque payment.

#### *Tracing*

MEP staff often depend upon the recipient to provide information as to the payor's whereabouts. They can also use the International Record Exchange (IRE) or undertake a federal search through the *Family Orders and Agreements Enforcement Assistance Act (FOAEA)*. The *Maintenance Enforcement Act* also provides legislative authority to demand and receive from any person or public body, information that is shown on a record in the person's or body's possession or control as to the location, address or place of employment, or employment income or terms of employment of a payor. MEP staff relies as well upon the expertise of the three sheriffs' offices to locate payors due to the geographical layout of the province. The Internet web page Canada 411 is also used.

#### *Enforcement*

It is the duty of the MEP Director to enforce orders that are filed in the office of the Director in such manner, if any, as appears practicable. The Director may take steps for the enforcement of an order in the name of the Director for the benefit of the person entitled to enforcement of the order or of that person's child. Enforcement is seen to be done either administratively or judicially. The latter

method of enforcement is generally used if the MEP is not made aware of an income source of a payor, or if the payor is self-employed and there is no identifiable means by which to intercept payment. Notices of default are generated on the Program's automated system, filed with the Family Court and then distributed to the appropriate sheriffs' offices for personal service to be affected. These docket days are assigned twice monthly and a payor may be given an opportunity to meet with the MEP Director and in-house counsel for a resolution meeting to attempt to get payment back on track. In the event a payor is personally served but fails to appear, the court may issue a warrant to compel the payor's appearance. This may result in a payor being incarcerated on the eve of the hearing date.

### **Future developments**

The MEP will shortly be introducing interactive voice for all clients, 24 hours a day, seven days a week. The MEP is working with other family support services toward the integration of support services for family break-ups.

## **Nova Scotia**

### **Relevant legislation**

The Maintenance Enforcement Program (MEP) of Nova Scotia is an administrative enforcement program that began in January 1996 under the *Maintenance Enforcement Act*. The *Maintenance Enforcement Act* establishes a Director of Maintenance Enforcement and confers on that Director a number of enforcement powers.

Prior to 1996, enforcement of support orders was a judicial function and the onus for bringing a default application before the court was on the recipient.

### **Latest developments**

A program evaluation released in May of 1998 contained 18 program improvement recommendations all of which have been implemented in whole or in part. Since that time other program improvements have been made, including:

- implementation of direct deposit for recipient clients;
- development of an informational video and brochure;
- ongoing system enhancements; and
- legislative amendments in late 1998 to increase enforcement powers.

### **General**

In Nova Scotia, the MEP is part of the Court Services Division of the Department of Justice. The Program has enforcement officers located in 8 communities across the

province and a centralized enrolment and payment processing unit. The MEP has 46 staff including 22 enforcement officers and 9 enforcement assistants. The enforcement officers average 700 active cases each. A 24-hour, 7-day "Infoline" handles, on average, 25,000 calls per month. The MEP has a registration officer who handles all reciprocal matters, both incoming and outgoing, in terms of court registration and enrolment with the Program.

The MEP has a close working relationship with the Provincial and Supreme Family Courts and with the Department of Community Services.

### **Case management**

Support orders are automatically sent from the court to the MEP for enrolment. Both the recipient and payor receive a Notice of Enrolment. Once an enrolment package has been completed by the recipient, the payor is advised of any arrears which may be owing and is asked to make a payment arrangement. Enrolment is considered complete at this time and the file is sent to the field office closest to the payor's place of residence for monitoring and, if necessary, enforcement.

### **Intake/withdrawal procedures**

Support orders issued out of the Nova Scotia Provincial and Supreme Family Courts are automatically sent to the MEP for enrolment. Under the *Maintenance Enforcement Act*, the orders are to be sent to the Program within 5 days of their issue.

Parties may opt out of the MEP within 10 days of receiving the Notice of Enrolment by sending a request, signed by both parties, to the Program. Either party may re-enrol the order.

Either party may apply to withdraw from the MEP by a written request. The Director has the discretion to grant such a request based on what is an effective method to ensure compliance with the order, and having regard to the best interests of the parties.

### **Monitoring**

The MEP has an automated information system which creates default lists for each enforcement officer. On a daily basis, the enforcement officer reviews the default list and takes appropriate action on as many cases as possible. Along with the default list, the enforcement staff must deal with both system generated and manual bring forwards, client phone calls and varied orders.

### *Payment processing*

The MEP is both “pay to” and “pay through”. It encourages payors to pay by way of post-dated cheques made out to the recipient. All cheques received are forwarded to the recipient and none are held back for a later release. The MEP will accept personal cheques and money orders.

Payments are usually processed within 24 hours. As of April 1, 2000, direct deposit became available to recipients. Payors who submit non-sufficient fund cheques are charged a fee and must subsequently submit certified cheques or some other form of guaranteed payment, as their personal cheques are no longer accepted.

### *Tracing*

MEP staff often receive information about the payor from the recipient. Tracing sources and information demands are used if a payor's whereabouts are unknown, if the payor refuses to provide information, or if the MEP is attempting to verify information. Staff have a number of provincial databanks which can be searched and, can use the Interprovincial Records Exchange (IRE), and the *Family Orders and Agreements Enforcement Assistance Act* for tracing purposes.

The *Maintenance Enforcement Act* has a demand of information provision giving the MEP authority to require any person or public body to provide information relevant to the payor's employment, address, financial status, assets and to provide documentation relating to same.

### *Enforcement*

The *Maintenance Enforcement Act* confers a number of administrative enforcement powers on the MEP Director. Should these powers prove unsuccessful in securing payment on a support order, the Director can apply to the court for a default hearing. The court has a wide range of enforcement options open to it including incarceration of the payor.

The MEP has been relatively successful with its administrative enforcement powers and therefore applies for court intervention on an infrequent basis.

### *Future developments*

The MEP continues to make client service its main focus and through enhanced functionality of the InfoLine, clients are able to leave voice mail messages for staff and staff are able to respond by leaving voice mail messages for clients. In addition, the MEP has completed its first stage of a call centre management process with the clients' calls being tracked via the automated system. This has

proven to be significant for staff in that they receive their messages in a timely fashion and the clients report greater satisfaction with their calls being returned in a timely manner. Other developments the Nova Scotia program is considering include introducing the MEP online so that clients can access their file information via the Internet and, with the support of federal funding, introducing a pilot project with staff dedicated to being in the field, tracking default payors who have never paid and for whom the MEP has been unable to find assets or employment sources.

## **New Brunswick**

### ***Relevant legislation***

New Brunswick's Maintenance Enforcement Program is called the Family Support Orders Service (FSOS). The FSOS was established in 1992, and derives its authority from the *Family Services Act*. Pursuant to this Act, all support orders are filed with the Court of Queen's Bench (Family Division) for the purposes of enforcement. Pursuant to the Act, support obligations contained in voluntary agreements can also be filed with the court for the same purposes. New Brunswick's legislation also provides that a separation agreement containing a support provision is enforceable in the same way as a support order.

### ***Latest developments***

The FSOS Enhancement Development Project was established in January 1999 for a two-year term. The project team reviewed the strengths and weaknesses of the FSOS program, identified goals to be achieved, and developed a project plan.

The goals of this project are to:

- improve services to clients (beneficiaries and payors) by providing greater access to information;
- make it easier for payors to pay support obligations by offering additional methods of payment; and
- improve enforcement of orders by providing additional resources to assist Enforcement Officers in managing their caseloads, allowing them more time for enforcement action.

Several sub-committees, reporting to the Steering Committee of the project, have been established to work on specific initiatives. Some of the project objectives achieved to date are the completion of an Interactive Voice Response Feasibility Study containing recommendations for implementation, a completed Workload Measurement report for the Bookkeepers, and

decentralization of the FOAEA system to each regional office, permitting direct access by each individual Enforcement Officer for federal documents. Debit card machines are also being installed in each Region for payment of support, and Enforcement Officers have gained direct access to Medicare and cross-country motor vehicle records (decentralization from central to regional office).

### **General**

The FSOS is located in all 8 judicial district centres of the Court of Queen's Bench (Family Division), with a total complement of 18 Enforcement Officers and 12 Bookkeepers. Enforcement Officers and Bookkeepers are dedicated to FSOS activities and they work under the direct supervision of the Regional Managers for Court Services.

The Court Services Division of the Department of Justice also administers mediation services, which are provided free of charge by professionally trained social workers, and are available except in cases where abuse is involved. Dependents may have the free services of a Family Solicitor for support-related issues.

The Family Solicitor provides legal representation to dependent beneficiaries to obtain a support order or agreement, and acts for them in all enforcement activities that require legal counsel. Respondents to such support applications/motions for support or to motions relating to support enforcement are provided with Duty Counsel (when Duty Counsel is scheduled). The Minister of Family and Community Services (social assistance) has eight FSOS Liaison Officers who seek to negotiate support agreements with the non-custodial parents of children whose custodial parents are receiving social assistance benefits. Where negotiation fails, the Family Solicitor represents the Minister in applications for support. Support orders and agreements providing for support payable to the Minister are enforced as any other support order or agreement.

The Attorney General has designated a Deputy Registrar of the Court of Queen's Bench (who is located in Fredericton) as his designate under the *Reciprocal Enforcement of Maintenance Orders Act*. With regard to payor-in cases, they are received first by the designate and then passed onto the appropriate judicial district, depending on where the payor resides in the province. Once the order has been registered as an order under the Act, it is assigned to an Enforcement Officer within the FSOS and is handled like any other enforcement case. The payor-out cases are referred by enforcement officers to the designate, who then forwards the case out

to the appropriate reciprocating office. A case file is opened, and an enforcement officer is assigned to each payor-out case to monitor the status of the case, and act as a liaison for the recipient.

### **Case management**

#### *Intake/withdrawal procedures*

Pursuant to the provisions of Part VII of the *Family Services Act*, all support orders are filed with the Court of Queen's Bench – Family Division for the purpose of enforcement. Such filing is automatic on the eighth day after a support order has been made. Then, the recipient (or their counsel) completes the identification sheets, which provide FSOS with the necessary filing information on the payor and recipient.

If, after the eighth day, the recipient does not opt out, the case is assigned to an enforcement officer who sends a "notice of registration" letter to the payor, in which they have 14 days to choose one of the following three methods to make their support payments:

- make their own arrangements with their employer to have the amount deducted from their income — "notice of arrangement with income source" form;
- request the FSOS to arrange with their employer to deduct support via a "payment order"; or
- voluntarily make their payment directly to the court by way of cash, debit card, certified cheque or money order or by coming into the FSOS office. If they chose this option, they are required to file a security deposit that is equal to three months worth of maintenance — "notice of security" form.

If, after 14 days, the payor hasn't chosen any of the above-mentioned options, the enforcement officer will review the information on the payor and initiate tracing if required. All necessary steps to collect the support will be taken, such as issuing a payment order against the payor's employer, registration of a federal interception and/or initiating an enforcement hearing, unless the dependent spouse opts out (i.e. advises before that time that they do not want the order filed with the court for enforcement purposes — "notice not to file support order" form).

The recipient may withdraw from the Program at anytime by opting-out and completing a "withdrawal of support order" form. Pursuant to the legislation, the court administrator may also withdraw cases for various reasons: the Program can't locate the recipient, both parties have left the province, or the order has expired and is paid in full. In cases where the recipient is on social assistance, the Minister of Family and Community

Services (FCS) is the only person who may withdraw the support order. If the recipient opts out and there is money owed to the FCS, the file will remain open to collect the portion of funds owed to the Minister.

A recipient may re-opt into the Program at any time by filing a "notice to file support order" form and swearing to an affidavit of arrears if there is an existing default.

### *Monitoring*

The enforcement officer manually brings all files forward for review, usually as a result of contact from the recipient for a status update. The current computer system is used in a limited capacity when reviewing files, and is routinely used when reviewing the payment status of a case.

### *Payment processing*

The FSOS is a "pay-to" system, which accepts support payments by way of certified cheque, money order, cash, debit card, credit card and company cheques, which are forwarded from employers as the result of a payment order. The payments come into any one of the eight offices throughout New Brunswick, and the Bookkeeper records them onto the Maintenance and Enforcement System (MAES). Then, the information is downloaded, and cheques are disbursed from a central office in Fredericton the next business day.

### *Tracing*

The FSOS Enforcement Officers generally depend on the recipient to provide any new information they may have on the payor. Other means of tracing consist of:

- accessing designated provincial government information banks: New Brunswick Power Corporation and direct access to New Brunswick Medicare records;
- direct access to cross-country motor-vehicle records;
- accessing the Canada 411 web page; and
- accessing the reverse-directory web page.

### *Enforcement*

#### Administrative

Upon receipt of either a support order or a voluntary agreement, the enforcement officer notifies the payor that the order or agreement has been filed and identifies the enforcement provisions which will apply. Pursuant to the legislation, the payor has 14 days to elect one of three methods of payment: automatic wage deduction (payment order), voluntary payment order, or security deposit. If the payor fails to make an election within 14 days, a payment order is automatically issued and served on the employer or other identified income source (including

a federal interception) requiring the income source to deduct the payment from the payor's wages.

If a payor defaults and a payment order is not already in place, and a telephone reminder or demand letter seeking a "voluntary payment arrangement" does not produce results, a payment order will be issued where an income source can be identified. It should be noted that these orders are made by Court Administrators and do not require a court hearing. Where no income source is apparent (e.g. the payor is self-employed), staff will seek to arrange "voluntary payment arrangements".

Under the legislation, the Court Administrator may order disclosure of income and assets. A payor may be summoned before the Court Administrator, who may conduct a show-cause hearing into the reasons for non-payment and make any order, which a Court of Queen's Bench Family Division judge could make, except an order of imprisonment.

Given the quasi-judicial powers vested in the Court Administrator and given the reality of court delays, a hearing before the Court Administrator generally takes place much sooner than would a hearing before a judge (and is equally effective, unless an order to imprison the payor becomes necessary).

#### Court

Where enforcement is undertaken at a court enforcement hearing, it is generally only because all other means of enforcement have failed. The payor may be required to file a financial statement, disclosing all his/her assets, income and liabilities permitting the court to have a better look at his/her financial circumstances. Based on the information before the court, it may make an order for the payor to pay the arrears over a period of time, or in a lump sum payment, or imprison the payor for non-payment of support. It should be noted that the court enforcement hearing is conducted by a Court of Queen's Bench Family Division judge.

### ***Future developments***

#### FSOS enhancement development project

Some of the initiatives currently being worked on include:

- the implementation phase of the Interactive Voice Response (IVR) to assist clients in obtaining payment information;
- consolidating the database to facilitate the IVR and statistical requirements;
- participating in a Workload Measurement project for the Enforcement Officers;



- analysing and reporting on the use of security deposits in the FSOS;
- drafting user requirements for system development;
- reviewing the feasibility of direct deposit for FSOS clients; and
- creating a FSOS pamphlet to assist clients in understanding the enforcement process.

## Quebec

### Relevant legislation

Quebec's automatic support payment plan was created under the *Act to facilitate the payment of support* (R.S.Q., Ch. P-22, hereinafter called the AFPS), which received royal assent on May 16, 1995. The Act, which partially came into force on December 1, 1995, has been fully applicable since May 16, 1996.

The Act applies automatically and universally, and it covers all support orders rendered for the first time from December 1, 1995 onward, whether under the *Civil Code of Quebec* or the *Divorce Act*.

The Ministère du Revenu du Québec (MRQ) is responsible for administering the new support collection plan. The system replaces the "default" collection plan administered by the former collector of support payments in the Ministère de la Justice. As a result, the new plan has greatly changed the relationship between payors and recipients of support.

### General

The *Direction principale de la perception des pensions alimentaires* (DPPPA) (main support collection branch) is the central body for support collection within the administrative structure of the MRQ. It has two regional offices, one located in Ste-Foy and the other in Montréal. Broadly speaking, its mandate is to collect and disburse support payments and answer general information requests concerning the plan.

The *Centre de perception fiscale* (CPF) (revenue collection centre) is responsible for handling cases involving support payments in arrears that cannot be collected by means of a deduction notice and a payment order. Thus, the CPF first conducts research to locate support payors and their property. It is also up to the CPF to take the appropriate administrative and legal steps (in the latter case with the assistance of the *Contentieux* (legal services unit)).

The *Directeur générale de la Législation et des enquêtes* (DGLE) (director general of legislation and investigations) and the *Contentieux* are respectively responsible for interpreting the Act and representing the MRQ before the courts.

### Case management

#### Intake/withdrawal procedures

As noted above, the support collection plan is universal. It applies to all support orders rendered for the first time beginning December 1, 1995. It also applies to judgements rendered before that date if the parties concerned jointly request this, or if a payment default is reported by the recipient of support.

In concrete terms, the automatic collection plan means that the MRQ collects support from the person required to pay it (the payor) and disburses it to the person who is entitled to support under the judgement (the recipient). However, under the *Act to facilitate the payment of support*, the parties to whom the support order applies may be exempted from the obligation to have the support payments collected by the MRQ.

An application for exemption may be made as a part of legal separation or divorce proceeding or of proceedings to set support payments or amend corollary relief. It may also be the object of an independent motion filed with the special clerk of the Superior Court.

It should be noted that only the Court has the power to order an exemption. No exemption will be granted unless the parties meet one of the following two conditions:

- the payor establishes a trust that guarantees payment of support throughout the entire duration of the order;
- the parties jointly request exemption (free and informed consent) and the payor provides the MRQ with sufficient security to guarantee support payments for one month.

Thus, the exemption order allows the payor to pay support directly to the recipient without the involvement of the MRQ.

The exemption ceases to have effect when one of the following situations occurs:

- the payor fails to establish the trust or provide security within 30 days after the judgement is handed down;
- the recipient informs the MRQ that the payor has failed to make a support payment when due;
- the parties jointly request that the exemption be terminated.

Apart from cases exempted from the application of the plan as described above, the regular procedure followed in a support case is generally as follows:

1. The courthouse enters the order in the register of support payments.
2. The judgement or order is received by the MRQ.
3. The MRQ sets up a file.
4. The MRQ assigns the file.
5. The MRQ determines the collection method (deduction notice or payment order).
6. The MRQ collects the amounts received either from a third party or from the payor.
7. The MRQ issues cheques to the recipient of support.

#### *Payment processing*

As to determining the method of collecting support (step 5), this is done on the basis of the payor's employment situation. If the payor receives wages on a regular and periodic basis, the MRQ sends a deduction notice to his/her employer in order for the latter to deduct support payments from the payor's wages at source. The amounts from which such a deduction may be made are as follows:

- salaries, wages or other remuneration;
- fees or advances on remuneration, fees or profits; benefits granted under an Act in respect of a pension plan or compensation plan.

Support may also be deducted at source from disability benefits, retiring allowances or annuity payments [redevances de rente].

It should be noted that up to 50% of the payor's gross earnings may be deducted at source. Of course, it is the employer's responsibility to forward the amounts thus collected to the MRQ.

Where the payor of support does not receive any amount from which a deduction at source may be made (e.g., a self-employed person), or receives such an amount on an irregular basis (e.g., on-call work), or the deduction at source is insufficient to cover the entire support payment, the MRQ collects the support by means of a payment order. In this case, the payor pays support directly to the MRQ. He/she must also provide and maintain security equivalent to three months of support.

As to disbursement of support (step 7), the MRQ disburses support twice a month in cheque form or as a direct deposit into the recipient's bank account. These payments are made on the 1<sup>st</sup> and 16<sup>th</sup> day of each month. Furthermore, the MRQ may, in some circumstances, pay the recipient support advances that stand in lieu of

support payments. This measure was introduced so that support could be paid on a regular basis, sparing the recipient the delays inherent in having payment made through an intermediary.

The advances paid are for a period not exceeding three months, up to a maximum amount of \$1,500. Since the advances are paid in lieu of support, they are recoverable from the payor, unless the support is reduced or cancelled retroactively, in which case the recipient is required to repay the advances.

It should also be noted that advances are provided only if the MRQ will be able to recover the amounts advanced from the payor. For this reason, the MRQ cannot pay advances where:

- the payor cannot be located or has no income;
- the payor is in default and the MRQ has sent him/her a demand for payment;
- the payor is in default and has furnished security to the MRQ (in the case of a payor under a payment order);
- the recipient resides outside Quebec;
- the recipient is also a payor under the AFPS;
- the legal right to support is subrogated (where the recipient is receiving last-resort assistance payments).

#### *Enforcement*

If the payor defaults in paying his/her support when due, the MRQ first sends him/her a demand for payment. This demand consists of a notice in writing, requiring the payor to make the support payment within ten days after receipt of the demand.

At this stage, the MRQ may enter into an agreement with the payor to establish the terms and conditions of payment of the amount owed. Under such an agreement for the reimbursement of arrears, the MRQ may require payors to provide any document or information needed to determine their financial situation and report on any steps they have taken to obtain a loan from a financial institution.

In the event that the payor of support fails to comply with the terms of the agreement thus concluded, the agreement becomes null and void. More specifically, the file is transferred to the Centre de la Perception Fiscale (CPC – revenue collection centre). It then becomes possible to draw on all the recovery mechanisms available to the MRQ, both under the Act to facilitate the payment of support (AFPS) and under the provisions of the Quebec Code of Civil Procedure that relate to execution (enforcement by seizure of the payor's property).

Since the AFPS came into force, only the MRQ has had the authority to undertake procedures to recover support arrears. The recovery mechanisms available to the MRQ are as follows:

#### Property lien

This is a mechanism for maintaining and carrying out the support order by which the MRQ, on behalf of the recipient, charges the real and/or personal property of the payor in order to guarantee the payment of support where the payor defaults.

#### Garnishment

This allows the MRQ to intercept in the hands of a third party one or more amounts payable to the payor of support in order to fulfil the payor's support obligations. It includes administrative garnishment and attachment after judgement. In brief, the MRQ has the power to administratively garnish certain amounts that a third party is required to pay, lend or advance to the payor of support.

#### Government compensation

This allows the MRQ, where the payor owes an amount under the AFPS and is also a recipient or beneficiary of an amount payable by a public body, to withhold this amount in order to apply it to payment of the support owing (e.g., taking possession of the payor's tax refund).

#### Execution against personal and real property

This is an enforcement measure that enables the MRQ, with the authorization of the Court, to have attachable personal and real property of the debtor seized and sold, and to collect from the proceeds of the sale the amounts owed by the payor of support.

#### Acquisition and disposal of property

This allows the MRQ to acquire and dispose of all the property of a person owing amounts under the AFPS, whether the property is offered for sale following legal proceedings or otherwise.

#### Action to render null and void

Allows the MRQ to contest, under certain circumstances, the transfer by the payor of his/her property to a third party where such a transaction is detrimental to the recipient of support and infringes his/her rights.

#### *Tracing*

It should first be noted that within the framework of applying the AFPS, MRQ officials have certain powers of examination for purposes of recovering an amount owed. Thus, officials may require information or a

document not only from the payor, but also from any third party that is linked to the payor (financial institution, employer, etc.).

MRQ officials may also, under the *Code of Civil Procedure of Quebec*, question the payor regarding any property that the payor owns or has owned since the obligation of support began. They may also acquire from a third party information on the payor's residence or place of work and even ask that the third party be questioned on this matter before a clerk of the court, notwithstanding any incompatible provision of confidentiality legislation, except in the case of professional privilege.

Furthermore, MRQ officials may use the information obtained under a tax law, using the files or tools made available to them (e.g., tax files) in order to apply the AFPS.

Lastly, it should be noted that the recipient of support is a prime resource when seeking information needed to recover amounts owing under the AFPS.

## **Ontario**

### ***Relevant legislation***

The Family Responsibility Office (FRO), formerly the Family Support Plan, works under the authority of the *Family Responsibility and Support Arrears Enforcement Act, 1996* to enforce family support obligations contained in court orders, separation agreements, other domestic contracts, and in paternity agreements. The Act added new enforcement powers including driver's license suspension and Credit Bureau reporting for support payment default, interception of lottery winnings, garnishing joint bank accounts to recover support arrears, and third party default proceedings.

### ***Latest developments***

In April 2000, the FRO introduced a 24-hour, 7-day service on the automated voice response information line which gives basic information on payment processing, enforcement activity and general information on the legislation. There are up to 18,000 calls handled on the automated line daily.

Electronic Corporate Link to Internet Payment Services (E-CLIPS) was developed in partnership with the Royal Bank and introduced in October 1999. E-CLIPS provides income sources with a fast, free and secure way of sending support payments, which have been deducted through a support deduction order from a payor's income, to FRO by the Internet.

Administrative fees were implemented in April 2000 to help pay for the cost of providing non-core services and to encourage support payors to comply with their support obligations:

- \$25 for each written case account summary (Director's Statement of Arrears/Account); the first account summary is provided free of charge;
- \$10 to process each post-dated cheque;
- \$150 for Confirmation of Identity Letters for real estate transactions;
- \$100 for adjustments made as a result of direct payment from payor to recipient; and
- \$400 when aggressive enforcement measures are necessary in cases of persistent default.

The only fee that may apply to support recipients is the \$25 statement of account fee. Payments for this account summary and the Confirmation of Identity Letter are paid directly to the FRO. Fees paid by a support payor for adjustments for direct payments, processing post-dated cheques, and enforcement actions, are collected by the FRO only after all outstanding support has been paid to the recipient.

### **General**

The FRO currently has a budget of \$29.1 million and over 400 staff, including approximately 230 front-line service staff, comprised of 139 Client Services Associates (CSAs), who do enforcement related activities, and 90 Client Services Clerks who assist them. The FRO has 6 main functional units: the Director's Office, Legal Services, Planning and Support, Operations, Finance and Administration, and Systems.

The FRO is proposing to move to a case management system where each case registered for support enforcement will be assigned permanently to an individual CSA. Under the current system, client inquiries coming into the call centre are streamed to the next available CSA.

Ontario has formal agreements with all of the provinces and territories of Canada, a number of states in the U.S., and many other countries for reciprocal enforcement of support orders where the payor or recipient is living outside the province. The legislation that allows Ontario to participate in these reciprocal arrangements is the *Reciprocal Enforcement of Support Orders Act*, often referred to as the RESO Act. The FRO provides services to register orders from other jurisdictions in Ontario for confirmation in Ontario courts and for enforcement. The FRO also transfers Ontario orders to other reciprocating jurisdictions when the support payor has left the Province.

### **Case processing**

The FRO enforces court orders, domestic contracts, and paternity agreements that are filed for enforcement with the office, but cannot change a court order, domestic contract, or paternity agreement in any way. Only the court can change a court order.

The FRO collects and disburses payments according to the terms of the order or agreement and takes whatever enforcement measures are deemed appropriate if the payor defaults. At the end of March 2000, the FRO was administering over 172,000 cases.

### *Intake/withdrawal procedures*

In order for the FRO to process and enforce support payments, the support terms must be contained in either a support order made by an Ontario court or in a court order made by a court in a jurisdiction with which Ontario has reciprocal enforcement arrangements or contained in a domestic contract or agreement that is enforceable in Ontario, and has been filed with an Ontario court under section 35 of the *Family Law Act*.

The order or agreement is registered with the FRO and becomes a case. When an Ontario court makes a support order, the FRO will be sent a Support Deduction Order (SDO) by the court. Once the FRO receives the SDO, the case will be registered usually within seven days. The support order itself is also sent to the FRO by the court or by the parties to the order.

Domestic contracts or agreements that are filed with Ontario courts may be forwarded by the payor, recipient or assignee for registration with the FRO.

Ontario support orders that were made prior to July 2, 1987 can be registered with the FRO. A support order, domestic contract, or agreement can be re-filed if it had been withdrawn from the Program in the past.

Under the FRO's legislation, consenting parties can opt out of the Program if they both provide written notice that they wish to withdraw their support order, domestic contract, or agreement from enforcement by the office. The Family Responsibility Office will not terminate the enforcement if there is a court order that prevents withdrawal from the office, or if the case is currently on assignment to an Ontario social service agency for recovery of social assistance payments.

The FRO cannot determine when the support obligation ends, according to the legislation, unless the termination

date is stated in the court order or agreement, or unless the payor and the recipient both agree that it has ended. The FRO can not enforce a support order or Support Deduction Order against an estate of a payor once the office has been notified of the payor's death.

### *Monitoring*

Both the payor and the recipient in the case receive a seven-digit case number to use in all case-related contact and correspondence with the FRO, and for the purpose of processing payments. The FRO sends every recipient a filing package to be filled out and returned to the Office. The package provides the FRO with enforcement information including: any pre-filing support arrears owing, the payor's address and other personal information, and the name and address of the payor's employer or other income source.

Intake Officers process incoming/outgoing mail, any incoming court orders affecting enforcement, withdrawals of assigned and unassigned orders, new court orders that vary support obligations and maintain general file administration services.

Client Service Associates provide telephone support to payors, recipients, income sources and the general public; initiate trace and locate activities and collection actions; and respond to general and case specific inquiries. CSAs work through a number of enforcement decision processes that are detailed in a Policies and Procedures Manual.

Financial Officers make adjustments that may be required to the support payments owing to clients (e.g. cost of living allowance adjustments and adjustments arising from variations in support terms or calculations of interest owing), reconcile support payment receipts and amounts transmitted by electronic commerce, and provide other financial management services for clients' trust accounts.

Legal Services ensure legal adherence to the legislative authority of the Program and provide litigation services including attendance at court hearings, preparation of court files and consultations with a panel of private family law lawyers retained by the FRO.

### *Payment processing*

The FRO operates a trust fund, where support payments are accepted by the Director and then applied to individual cases. The FRO has the authority to collect money in trust according to the terms of the order, directly from the payor, from the payor's employer (or income source) or from both, depending on the circumstances.

It is the payor's obligation to pay support, or an employer's obligation to remit payment under a Support Deduction Notice (SDN) on behalf of the payor. The FRO will collect support payments on behalf of the recipient (the person or agency to whom it is owed) and can directly deposit these payments to the recipient's bank, credit union or trust company account within 48 hours. The FRO cannot send money to recipients until it receives a support payment from either the payor or the payor's income source.

### *Tracing*

Section 54 of Part VIII of the *Family Responsibility and Support Arrears Enforcement Act, 1996* prescribes the Director's powers in obtaining access to information.

The FRO can demand from any person or public body information from a record (or part of a larger record) in their possession or control that indicates the employer, place of employment, wages, salary, other income, assets, liabilities, address or location of a payor or payors. This section further restricts access to health information in a record and limits the FRO's ability to disclose confidential information except in prescribed circumstances.

The FRO contacts the support recipient, social assistance agency (if case is assigned) and all leads from the filing package, and, where possible, institutes a Demand for Information under Section 54.

Traces can include checks of the following databases: Info-Direct, Ministry of Transportation and its inter-provincial counterparts and Credit Bureaus. In addition, the FRO conducts the following searches: *Personal Property & Security Act* search, and federal search (*FOAEA Part I*).

### *Enforcement*

Once a payor is in arrears, the first procedure for enforcement attempted is the issuance of a request to enter into *Voluntary Arrears Payment Schedule* (VAPS) arrangement. This provides the payor with an option to enter into an agreement that sets an approved periodic repayment schedule that covers arrears and ongoing support.

Other standard enforcement tools that may be initiated include: entering into a repayment plan with the support payor who is in arrears, issuing a writ of seizure and sale, issuing garnishment documents to income source/ employer or a Support Deduction Notice to the federal government. If there is no Support Deduction Order associated with the case, the FRO may commence the

deeming process to administratively convert a support order/agreement to a support deduction order (on cases prior to March 1992).

If there is no active income source/employer, the FRO identifies trace and locate sources to be searched. If a valid income source/employer is identified, notices are issued. Several other enforcement actions can be commenced upon review of the trace and locate information, depending on the information received.

The Family Responsibility Office will take all necessary steps to enforce the support obligation. The support obligation includes the ongoing support payments (usually monthly), and any support arrears. It may also include interest on the outstanding arrears and cost of living adjustments. The FRO will enforce interest on support payments when the interest rate is stated in the court order or agreement. It is the support recipient's responsibility to calculate the interest amount and submit a Statement of Arrears.

If the support obligation is not being met, the FRO has the authority to take any or all of the following enforcement measures:

- suspending a payor's driver's license;
- seizing and selling the payor's assets;
- garnishing a bank account;
- garnishing monies held in joint bank accounts;
- suspending a passport;
- reporting the payor to the Credit Bureau;
- taking the payor back to court on a default hearing;
- collecting funds that are owed to the payor by the federal government (e.g., income tax refund, Employment Insurance Benefits, GST);
- intercepting lottery winnings; and
- taking third parties to court for default hearings, in cases where there is some evidence the third party is sheltering the payor's assets or income.

### **Future developments**

In April 2001, the administrative responsibility for the FRO was transferred from the Ontario Ministry of the Attorney General to the Ministry of Community and Social Services. This transfer does not affect the program's operations and day-to-day management which will continue as before.

The FRO is examining the feasibility of implementing a new, integrated model for service delivery. The proposed model, which is based on a case management system,

includes the introduction of new technology to support integrated service delivery.

The FRO is proceeding with its Enhanced Collection Agencies Project. Four collection agencies will be working on a total of approximately 24,000 cases in default over a three-year period. These cases represent \$278 million in support arrears. The agencies will use their resources and expertise to track down delinquent support payors. Where possible, the delinquent support payor will be notified in writing that his/her case is about to be sent to a collection agency. The payor will have a limited time to voluntarily submit an overdue payment to the FRO, or agree to a monthly payment plan, in order to avoid collection action.

New outreach materials and forms will continue to be introduced, as a result of a comprehensive plain language review that the program began in 2000.

FRO will continue to promote and upgrade E-CLIPS, its Internet service, for employers and other income sources who remit support deductions. The service now offers income sources additional time-saving features.

The *Interjurisdictional Support Orders Act, 2001* was introduced in the Ontario legislature on November 8, 2001. Passage of this legislation would streamline existing procedures under the *Reciprocal Enforcement of Support Orders Act*, which governs support cases where one party lives outside of Ontario. For example, it would reduce from two to one the number of hearings required to obtain or change a support order.

## **Manitoba**

### **Relevant legislation**

Enforcement of child and spousal support payments was the responsibility of the Provincial Judges' Court in the 1960s and 1970s. In the late 1970s, it was recognized that there was a need to identify default in a more efficient manner. Manitoba was the first province to be automated on January 1, 1980. With the unification of the Family Court in 1984, the Maintenance Enforcement Program (MEP) became a separate program. Part VI of *The Family Maintenance Act* provides the legislative authority for the Program. The Maintenance Enforcement Program is part of the Courts Division of the Department of Justice.

The amendments to the *Divorce Act* and the coming into force of the Federal Child Support Guidelines and subsequent amendments to provincial legislation incorporating the Guidelines have eliminated "variable" orders for child support. Approximately 40% of the Manitoba

caseload contains orders made prior to the guidelines and subsequent amendments to provincial legislation, where monthly payments are based on monthly income to be reported to the MEP. The computer system calculates payments at the highest potential payment required by the order and once the monthly reporting is received, program staff manually calculate the required payment and make the appropriate adjustments to each account based on this reporting. As orders are varied this number will be reduced. Variable spousal support orders are still received and enforced by the Program.

### **Latest developments**

Work is currently underway for a complete re-write of the MEP operating system. The rewrite will further automate accounting functions to eliminate manual calculation of payments relating to variable orders that require monthly reporting, provide electronic transmission of payments, provide state of the art monitoring and automated enforcement for all affected MEP clients, and provide better management information.

### **General**

The Family Law Branch provides legal services to the MEP.

All orders granted under *The Family Maintenance Act* and orders granted under the *Divorce Act* that contain a clause providing for enforcement by the MEP are automatically registered with the Program for enforcement. Agreements may contain a clause indicating the intent that the Agreement be registered with the Program. If there is no provision contained in the Agreement, both parties may consent to the registration. Orders and Agreements from other jurisdictions may also be registered with the Program under *The Reciprocal Enforcement of Maintenance Orders Act*. The improved *Interjurisdictional Support Orders Act* has been passed and will come into force in 2002.

The MEP has an office in Winnipeg and during the fiscal year 2000/2001, responsibility for enforcement in 8 regional court offices was amalgamated into 3 offices (Winnipeg, Brandon and Thompson). Program staff consist of a Director, 2 Client Services Managers with 18 enforcement officers and administrative staff located in Winnipeg, 3 enforcement officers and 1 administrative staff located in Brandon, and 2 enforcement officers located in Thompson. Currently, there are in excess of 15,000 active accounts. The MEP collects approximately \$45 million per year. An Automated Voice Response System is available 24 hours per day, 7 days per week, in both English and French. The system allows recipients access

to updated account and enforcement information, and provides account information to payors. This system manages over 15,000 calls per month, and has been in operation since 1994.

On-line access is available to the following government agencies: Land Titles Office, Corporations Branch, Personal Property Registry, Employment & Income Assistance, Driver and Motor Vehicle Registry.

### **Case management**

Once an order is registered with the MEP, the system automatically generates letters to the payor and recipient, which are sent by ordinary mail. Both are advised as to what the MEP can and cannot do. The recipient is required to respond by completing an information package containing an identification form and a statement advising of any payments made from the time the order was granted until received by the Program. If the recipient does not respond within 45 days, the account is closed. The payor is advised of the account number, how payments should be made, and warned about the action that may be taken should payments fail to be made.

If there is no response from the recipient to the enrolment package, the account is then brought forward in 45 days to be closed by the "Good Payor" officer. Cases remain on the Good Payor list until default occurs. Once default occurs, the account is transferred to a regular caseload.

### **Intake/withdrawal procedures**

Orders granted under *The Family Maintenance Act* and orders containing a provision for enforcement by the MEP are automatically registered. The MEP is an "opt-out" program, where only the recipient may opt out. Letters are sent to both parties advising of withdrawal. Recipients may opt back into the MEP at any time. Payees may not opt out of the program if they are receiving social assistance.

Separation agreements can be registered (by either party) if there is a provision in the agreement specifying this, or if both parties sign a consent to the registration with the MEP.

If the recipient resides outside Manitoba and a request for registration is received from a reciprocating jurisdiction, the foreign order is registered in the Manitoba Court of Queen's Bench and the payor is given notice of the registration. The payor may apply to the court within one month to set the registration aside. Enforcement action

may commence at any time after the notice is given. The summons to either the Deputy Registrar or the Master may be used at any time, depending on the level of compliance.

If a request is received for enforcement of an order granted in Manitoba from another jurisdiction under the *Divorce Act* and the order does not contain the appropriate enforcement provision, it may be registered under *The Reciprocal Enforcement of Maintenance Orders Act (REMO)*. Notice of the registration is given to the payor and enforcement commences in the same manner as other orders registered under the REMO Act.

### *Monitoring*

The current computer application utilized by the MEP is set up to record all payments-in, to generate default lists and payment records, bring forward lists and other information. Each enforcement officer can automatically initiate various enforcement steps as a result of the information received by the MEP.

### *Payment processing*

The MEP is a “pass-through” and direct pay system. Payments from the payor are received by the MEP, recorded and forwarded to the recipient. The MEP accepts cheques, cash, bank drafts, money orders and certified cheques, as well as payment by debit card and telephone. In the event the payor’s cheque is dishonoured, the MEP requires a more secure form of payment. Payments made payable to the recipient are forwarded to the recipient within 24 hours of receipt at the MEP’s office. Payments made payable to the MEP require additional time to process. Sums garnisheed from employers are immediately redirected or reissued to the recipient. Other attachment processes may require more processing time.

### *Tracing*

Tracing may be done at the time of registration if the recipient is unable to provide sufficient information about the payor’s whereabouts. Tracing may occur at any time when arrears have accrued and the payor has failed to make payments. The recipient is the best source of information regarding the payor. However, the MEP may access information through the following:

- various provincial data banks, such as Personal Property Registry, Driver and Motor Vehicle Registry, Manitoba Health, Employment & Income Assistance;
- various Internet directories;

- federal tracing, through the FOAEA Unit of the Department of Justice; and
- Credit Bureau searches.

Manitoba has legislative provisions that permit the program to demand any information related to finances of the payor or any connected third party. Failure to provide this information can result in third parties being summoned to default hearings related to failure to provide information.

Demands for Information can be made under *The Family Maintenance Act*. This legislation provides the authority to the designated officer to issue demands to a person, the government or an agency of the government to obtain information regarding: the whereabouts of the payor; the name and address of the payor’s employer; the payor’s financial means, including source of income and payroll records, assets, liabilities and property transfers to a third party; the payor’s pension benefit credits; income tax returns and assessment notices; social insurance number and any circumstances that could affect the amount of maintenance payable under the order.

### *Enforcement*

Once the order is registered and arrears have accrued, the method of enforcement is at the discretion of the Designated Officer and generally is accelerated based on degree of non-compliance of the payor. Where collection efforts have failed, the MEP may initiate a default hearing at either the Deputy Registrar or before the Master (Court of Queen’s Bench)

In addition to default hearings, the MEP’s enforcement measures include the following options:

- If employment information is available when default occurs, the designated officer will issue a Garnishing Order to collect both regular payments and payments toward the arrears. If the information is not available, the designated officer will try to locate the information.
- If there is any banking information available, a Garnishing Order may be issued to the bank to collect both regular payments and arrears.
- If employment and banking information are not available, the designated officer will issue a notice to suspend driver and motor vehicle licenses. If the payor cannot be served with the notice, a refusal to renew will be placed on the licenses.
- If the payor doesn’t have a driver’s license or if the designated officer determines that more information may be obtained by a hearing before the Deputy



Registrar, a summons may be issued for the payor to appear in court. The Deputy Register may order repayment arrangements or adjourn the matter for up to 28 days to allow the payor to seek legal advice.

- The designated officer may also issue a summons for the payor to appear before a Judge or Master for a show cause hearing. If the court finds the payor in willful default, the payor may be subject to a fine of up to \$1,000, incarceration of up to 90 days, or both.
- The designated officer may issue a Federal Garnishing to secure maintenance payments against Employment Insurance Benefits, Revenue Canada rebates or any other source of federal funds payable to the debtor. Repayment arrangements with the designated officer or the court generally require the payment of any tax refunds or GST rebates toward arrears. In these cases a Federal Garnishing Order may be limited to these funds.
- There must be at least one year of arrears and no other practical method of collection before Garnishment of capital pension benefit credits with respect to pensions governed by the *Manitoba Pension Benefit Act* can be made.
- Suspension of federal licenses, including Canadian passports.
- Obtain an order for receivership or make application for orders enjoining third parties to the maintenance order. Third parties may include valid subsisting corporations owned by the payor or sheltering income or assets for the payor to avoid payment of outstanding family support.
- Suspension or refusal of driver and motor vehicle licenses (1995).
- Garnishment of pension benefit credits (1995).
- Registration of debt with Credit Bureau (1995).
- Adoption of provincial child support guidelines that mirror the Federal Child Support Guidelines (1998).

## Saskatchewan

### *Relevant legislation*

The enactment of *The Enforcement of Maintenance Orders Act* in 1985 led to the creation of the Maintenance Enforcement Program in March of 1986. Prior to 1986, dependent spouses and single parents with dependent children in Saskatchewan were responsible for obtaining maintenance orders and enforcing them, at their own expense. In many cases, payors could not be found, or they shielded their funds and assets. The Director of Maintenance Enforcement was given substantial power under the Act, and over time, amendments to the Act broadened these powers and restricted the payor's ability to shield income and assets.

### **Latest developments**

Legislative:

- Adoption of provincial child support guidelines which mirror the Federal Child Support Guidelines;
- Suspension of Saskatchewan driver's license;
- The collapse of locked-in pension plans; and
- Credit Bureau on-line reports on payors.

System enhancements:

- Interactive Voice Response: 24 hours a day, 7 days a week, allowing recipients to get updated information on the status of their account and payments (over 12,000 calls per month);
- On-line access to the following government agencies: Land Titles Office, Corporations Branch, Personal Property Registry, Department of Social Services, Motor Vehicle Registry;
- On-line exchange of credit information with licensed Credit Bureaus;
- Automated REMO (Reciprocal Enforcement of Maintenance Orders) forms; and
- A direct deposit/direct debit banking system for payors and recipients.

### **General**

The Maintenance Enforcement Program (MEP) is part of the Registry Services Division of the Department of Justice. While its main office is in Regina, it maintains a satellite office in Saskatoon and it serves the rest of the province through agents who provide court services. The MEP, which serves the entire province, is located in Regina. It employs 32 full-time employees, including the Director and Assistant-Director. A computerized central registry and system of enforcement was implemented in March 1986. The MEP registers maintenance orders, records and monitors payments, and takes enforcement action when the required payments are missed or late. Legal support for the Program is provided by solicitors from the Civil Law Division of the Department of Justice and by a number of private law firms throughout the province. Sheriff services are also provided to the Program.

The following may be registered with the MEP for enforcement:

- Any maintenance order made in a Saskatchewan court;
- An agreement signed by the parties that provides for spousal and/or child support and meets the requirements of *The Family Maintenance Act* of Saskatchewan;

- Maintenance orders from other jurisdictions eligible to be enforced under *The Reciprocal Enforcement of Maintenance Orders Act*.

### **Case management**

#### *Intake/withdrawal procedures*

The MEP is a voluntary “opt-in” program, unless the individual entitled to the maintenance is receiving social assistance benefits. Either or both the recipient and the payor can register. A registered party becomes a “client” of the Program. The recipient may choose to opt out of the MEP at the time the order is granted, or withdraw once the order has been registered with the Program.

The registration process for Saskatchewan residents is initiated by an Application for Registration. The applicant (recipient or payor) returns the completed form to the MEP in person, by mail, through the court or via a lawyer. Once the form has been received, the Program obtains three certified copies of the order, and thereafter, information contained in the order, and information obtained from the completed form, and on-line searches is entered into the registry system. An affidavit of arrears is obtained from the recipient. Both parties are notified in writing that registration has occurred and that all future payments shall be made to the MEP. The parties are also advised that henceforth, the Director of the Program is the sole entity who may take steps to enforce the order. Each file is assigned to an enforcement officer and all activity on the file is supported by an automated system.

The registration process for recipients who reside outside Saskatchewan is initiated by a Request for Registration from a reciprocating state. The foreign order is registered in the Saskatchewan Court of Queen’s Bench in the centre nearest where the payor resides, and thereafter, a Notice of Registration is forwarded to the payor. A 30-day grace period allows the payor to dispute registration by applying to court. Unless registration is cancelled by the court, enforcement of the order commences 30 days later.

If an order was granted in Saskatchewan, but has been sent to the MEP for enforcement by a reciprocal jurisdiction, the Saskatchewan court is asked to “deem it registered”, and once the payor is served with Notice by ordinary mail, the order is immediately enforceable.

A maintenance order may be withdrawn from the MEP only by the person who registered it. The recipient (or the payor if he/she registered the order) completes a Withdrawal Form and files it with the Program. Letters are sent to both parties advising of withdrawal. Parties

may re-register. However, acceptance of re-registration is at the discretion of the MEP Director or his/her designates. Re-registration may be refused if the individual has not complied with requests for information, continues to solicit and accept direct payments, etc.

The only time a file will be closed by the Program is when:

- the order being enforced has an expiry date and no arrears are owing;
- the order has been varied and the variation order does not provide for any further support or payments of arrears;
- the variation order has not been registered with the Program.

#### *Monitoring*

The custom-designed computer program utilized by the MEP is set up not only to automatically record all payments in and out, but to generate default lists, “good payor” lists, payment records, enforcement history lists and a multitude of other information based on specific fields. Management monitors the overall default rate each month, and each enforcement officer can automatically initiate various enforcement steps. Some enforcement measures, such as license suspension, require the approval of the MEP Director or designate.

#### *Payment processing*

The MEP Program is a “pay-through” system. Payment from the payor is received by the Program, recorded and forwarded to the claimant. The Program accepts non-certified cheques, cash, bank drafts, money orders, certified cheques and debit card. In the event the payor’s cheque is dishonoured, the Program requires a more secure form of payment. Payments made payable to the recipient are forwarded to the recipient within 24 hours of receipt at the Program’s office. Payments made payable to the Director require additional time to process. Sums garnisheed from employers are immediately redirected or reissued to the recipient. Other attachment processes may require more processing time.

#### *Tracing*

Tracing can be done upon the application for registration being filed, if the recipient is unable to provide sufficient information about the payor’s whereabouts. Further and more detailed tracing can occur at a later date where arrears have accrued and the payor has made no satisfactory arrangement for payment. The MEP can access information through the following:

- Provincial data banks — Personal Property Registry, Motor Vehicle Registry, Saskatchewan Health Plan, Sask Tel, SaskPower and SaskEnergy, Social Services;
- Municipal Data Banks — City/town tax assessments, Water Departments, Henderson's Directories, Rural Municipalities, Town offices;
- Section 13 Demands — Under s.13 of *The Enforcement of Maintenance Orders Act*, the Director may serve a formal Demand on any person or public body with respect to the location, address and place of employment and/or financial circumstances of a payor. The person or public body can be brought to court to enforce compliance;
- federal tracing through the FOAEA Unit; and
- Other information sources such as Sheriffs Office, RCMP and municipal police, and Credit Bureau searches.

### Enforcement

The MEP is an administrative model of registration and enforcement of support orders. Accordingly, once the order is registered and arrears have accrued, the method of enforcement is at the discretion of the Program and its Director. The recipient will be consulted regarding enforcement measures only if the course of action contemplated might compromise his/her claim. Where collection efforts have failed, the Program initiates a default hearing, and prepares all of the information required for counsel, except the resulting order.

Besides default hearings, the MEP can undertake the measures listed below:

- Continuing garnishments are used for ongoing monthly support and arrears, where there is a continuing source of money to a payor, e.g., wages, commission, pension, etc. The only exemptions to garnishment are social assistance payments and government grants.
- Garnishment is typically used to collect arrears of maintenance from a source of funds owing to the payor. Once the sums requested in the Notice of Garnishment are satisfied, a Termination of Garnishment is served on the Garnishee.
- Seizure and sale of payor's assets, including both personal property and real estate, by Writ of Execution through the Sheriff's office.
- Driver's license withholding/suspension for payors who are 3 months or \$4,000 in arrears, whichever is more. This action is taken after all possible remedies have been explored, and is viewed by the MEP as a "last resort". The suspension/withholding is effective from the time of filing, not solely upon the renewal of the license on the payor's birthday.

- Registration of maintenance orders at Land Titles Office to prevent the payor from mortgaging or selling property without first dealing with the MEP on the arrears.
- Collapsing locked-in pension plans can be used to satisfy arrears. It must be a pension fund that the payor is not drawing on or contributing to.
- Suspending/withholding a Canadian passport.
- Assignment of wages (must be voluntary).
- Court order restraining the disposal or dissipation of assets; can also be in the form of a receivership order requiring the assets to be transferred to the MEP.
- Arrest warrant where the payor is about to flee the jurisdiction in an attempt to hinder or defeat enforcement of the arrears.
- The posting of a security deposit/bond by the payor, to guarantee future payments.

### Future developments

Currently, the MEP is working towards electronic sharing of information with other REMO jurisdictions, as well as developing an *IVR-type (interactive voice response)* system that will encompass Saskatchewan's two major reciprocity partners, Alberta and British Columbia.

The MEP has also added two client service representatives whose full-time occupation is phoning the Program's clients for the purpose of answering questions, updating file information, providing information about the Program and increasing the client's comfort level regarding the Program.

## Alberta

### Relevant legislation

The Alberta *Maintenance Enforcement Act* (passed in 1985) authorizes the Maintenance Enforcement Program to collect child/spousal maintenance ordered by the court or required under certain agreements filed in court. The *Maintenance Enforcement Amendment Act, 1999* was developed as a result of recommendations contained in the report of the MLA Review of the Maintenance Enforcement Program and Child Access, released in June 1998.

### Latest developments

The Maintenance Information Management System Project (MIMS), formerly known as the Maintenance Enforcement and Tracking System, is being developed by 2004 with the goals of improving customer service, improved staff communication and increased Program efficiency and effectiveness. As a result of the MLA

Review, Alberta Justice initiated a review of the Maintenance Enforcement Program to identify improvements that could be made to the program and service delivery. MIMS was initiated to address many of the issues raised in the MLA Review.

The 1998 MLA Review of the Maintenance Enforcement Program and Child Access made several recommendations to improve service and communication with program clients. Since then, MEP has implemented several new initiatives to better serve program clients, including a Special Investigations Unit, staff training, the MEP Info Line, an expanded Client Services Centre with dedicated complaint and troubleshooting specialists, a comprehensive website, and the Accounts Internet Access Project.

### General

It is the responsibility of the Alberta MEP to enforce child and spousal maintenance obligations by collecting payments and forwarding them to the appropriate individuals. There are two types of support obligations that MEP can enforce:

1. Support ordered by a court.
2. Limited types of support agreements. At present, these include only Paternity Agreements under the *Parentage and Maintenance Act* or the *Maintenance and Recovery Act*, and agreements made under the *Income Recovery Act* and *Child Welfare Act*. In the future, however, the MEP will also be able to enforce maintenance agreements that meet the requirements of the *Maintenance Enforcement Regulation* that are filed with the Court of Queen's Bench.

The MEP cannot enforce a court order or maintenance agreement unless the recipient or payor registers with the MEP or the government has subrogated rights. The MEP provides an intermediary, or go-between, service for payors (those paying support) and recipients (those receiving support) in relation to maintenance payments. The MEP receives the payment from the payor and forwards this payment to the recipient once the funds have been cleared through a trust account. In cases of default (non-payment by the payor), the MEP has access to a variety of information databases to assist in locating the payor and the payor's assets or income. The MEP has the legislative authority to take steps to recover the support owed, including wage garnishees and motor vehicle restrictions. The MEP will conduct a child status review at the request of payors who believe their children may no longer be eligible for support under their court order, but does not automatically review children's eligibility for support at age 18 or otherwise.

### Case management

#### Intake/withdrawal procedures

The court automatically sends copies of all Alberta maintenance orders to the Alberta MEP. This does not mean that the order is automatically enforced by the MEP. For collection to occur, the MEP requires either the recipient or payor to complete and return a registration package.

A registration package can be accessed through the MEP's website or requested from the MEP or any Alberta courthouse. If a client has access to a fax machine, packages can also be ordered through the MEP Info Line in Edmonton or toll-free access anywhere in Alberta.

Included in the registration package are all forms necessary to establish a 'file' with the MEP. The following documents are required with a registration application:

- court order for maintenance, or enforceable support agreement: (For out-of-province/country orders, two certified copies are required), and any of the following that apply to the existing child or spousal support obligation: interim order, final order, Decree Nisi, or Divorce Judgement and Corollary Relief Order;
- original signed copy of Paternity Agreement (for unwed parents), *Child Welfare Act* Agreement, or *Income Support Recovery Act* Agreement;
- all orders varying the terms of an original maintenance agreement or order;
- enforcement orders made in any court to enforce payment;
- Affidavit of Arrears and Calculation Worksheet (provided in registration package); and
- direct deposit form for recipients or pre-authorized withdrawal form for payors (provided in registration package).

If the recipient wishes to register with the MEP, it is the recipient's responsibility to provide a maintenance order to the program. Recipients should not accept any payments directly from the payor once a file is registered. The recipient keeps the MEP informed of:

- changes in the recipient's mailing address and telephone numbers;
- changes in the child's status that may make the child no longer eligible for maintenance (e.g., residence, education, over age 18);
- any information the recipient may have that could assist the MEP in collecting, such as details of the payor's location, telephone numbers, employment or assets.

Once a registration package is processed, notification of the registration is sent to the recipient and the payor. Where a recipient has initiated the registration, the payor is asked to contact the MEP to establish a payment arrangement. Failure to do so may result in the commencement of collection action. Those payors who establish and continue a full payment arrangement within the MEP are given "Good Payor" status.

A recipient or payor who completes registration with the MEP may later withdraw from the MEP. Where both the recipient and payor are registered, both must agree to the withdrawal before the file can be closed. Withdrawal must be done in writing. For clients' convenience, a withdrawal form is available by request through the MEP staff or through the website or "fax on demand" option of the MEP Info Line. It may also be permissible for a client to re-register with the MEP at a later date, having previously withdrawn.

If the payor wishes to register with the MEP, it is the payor's responsibility to provide a maintenance order to the MEP. Payors should make all payments to the MEP according to the maintenance order. If this is not possible, the payor applies for a variation to the order. To avoid controversy and risk having to pay twice, payors should not make any payments directly to a recipient. The payor shall keep MEP informed of:

- changes in the payor's telephone numbers, address or employment;
- changes in the child's status that may make the child no longer eligible for maintenance (e.g., residence, education, over age 18);
- any anticipated problems such as late payments.

### *Monitoring*

Clients of Alberta's Maintenance Enforcement Program have around-the-clock, access to their account information. Through MEP Accounts On-line and MEP Info Line, both recipients and payors can access current account status (last four payments), request a statement, report their change of address, balance and disbursements and send an e-mail inquiry or comment. Recipients can see the last four enforcement actions. In addition, recipients can report a payment and provide new information on a payor, such as a change of address or bank information. Payors can also request income tax letters and access a listing of their next four post-dated cheques. The system complements existing services provided by collection officers and the interactive MEP Info Line, which provides telephone access to account information 24 hours a day, 7 days a week. Because MEP Accounts On-line is

Internet based, it allows clients to view or provide personal information confidentially from the privacy of their home or office. To protect the privacy of program recipients and payors, on-line files provide no identifying information. Files consist solely of account numbers and a PIN, followed by current account figures and enforcement information. No names, addresses or phone numbers can be accessed on-line.

### *Payment processing*

For payors living in Canada or the United States, payments are made to the Alberta MEP by pre-authorized withdrawal arranged with the payor's Canadian financial institution. With pre-authorized payment, the client avoids the inconvenience of writing and delivering cheques, and the potential for inconvenient collection action when payments are forgotten or lost in the mail. Often, the payments debited from clients' bank accounts can be arranged to coincide with pay-days. Pre-authorized withdrawal is the simplest and easiest way of ensuring payments are made in a timely manner.

It is the payor's responsibility to advise the MEP of any changes to the bank account, such as a new account, banking at a different branch or bank, etc.

For payors where pre-authorized payments cannot be established, the MEP offers the following ways to make payments:

- pay by cheque;
- use MEP's personalized remittance invoice forms to make payments to bank tellers or automated banking machines;
- mail individual payments or a series of post-dated cheques with personalized remittance advices. It is the payor's responsibility to periodically replenish the MEP's supply of post-dated cheques. If a cheque is returned for non-sufficient funds (NSF), the Director of Maintenance Enforcement may require subsequent payments be made by alternate methods; or
- Quick Collect — Payments can be made almost anywhere in the world, and MEP will receive them within minutes. This involves a four step process for the payor: consult the nearest Western Union agent; when payment is made, the client identifies him/herself as a Quick Collect customer and provides account number; complete the Quick Collect Payment Form, indicating the Alberta Department of Justice as the payee and the MEP as the destination; retain the receipt with Quick Collect money transfer control number.
- Interac on April 1, 2002
- telephone and Internet banking

## *Enforcement*

When payments are not made on court orders or agreements registered with the Alberta MEP, collection action will be taken. The MEP has a variety of enforcement tools available such as the following:

### Wage Garnishee (Notice of Continuing Attachment)

The MEP can require that employers make scheduled deductions from a payor's wages in order to fulfil support responsibilities. A wage garnishee attaches any wages over and above the payor's monthly exemption of \$525, plus 30% of net pay.

### Bank Garnishee (Non-Wage Notice of Continuing Attachment)

The MEP can intercept monies payable to the payor from bank accounts or other sources (e.g. mutual funds, rent or contract fees). Non-wage garnishees are placed to satisfy outstanding arrears on maintenance accounts. They may be used to collect funds until the arrears are paid in full or satisfactory payment arrangements are made with the MEP.

### Federal Garnishee (Continuing Attachment)

These garnishees are issued in cooperation with the federal government and can attach funds that may be payable to the payor from federal sources, such as income tax refunds, GST rebates, Canada Pension Plan income, and Employment Insurance payments.

### Federal License Denial

Through co-operation with the federal government, the MEP may restrict the issuing of passports, federal licenses, and permits. The MEP can also cause an existing passport or federal license to be revoked.

### Motor Vehicle Restrictions

The MEP may restrict the payor's access to motor vehicle services within the Province of Alberta. These include registrations, license plates, driver's licenses, abstracts, and the issuance of identification.

### Drivers' License Cancellations

The MEP may cancel current driver's licenses for accounts more than 60 days in arrears. Advance warning to the payor must first be provided.

### Credit Bureau Reporting

The MEP can report a failure to pay child or spousal support to the Credit Bureau to be registered as a bad debt.

### Default Hearing

The MEP can summon defaulting payors to court to explain why they have not complied with their support obligations. The court can send a payor to jail for continued non-payment of maintenance. On docket days in Edmonton and Calgary, MEP representatives will meet with the payor at the courthouse before the default hearing begins to try to reach an agreement, and thereby avoid the need for a full hearing.

### Writ at Personal Property Registry

The MEP can file a support order with the Personal Property Registry as a writ against the name of the payor and/or any personal property that the payor may own, such as recreational or other vehicles. Once a writ is filed, the payor may be prevented from transferring clear title to any property he or she wishes to sell. The filing of a writ also allows the MEP to seize assets, including vehicles and certain kinds of retirement savings plans (RSPs), shares and bonds.

### Registration Against Real Property

The MEP may register the support order against a property at the Land Titles Registry. The registration can prevent the owner from re-mortgaging or selling the property without first making payment arrangements with MEP. In some circumstances, MEP may force sale of real estate.

### Sheltering Assets

Some payors try to shelter assets or income from MEP by keeping them in the name of a company. In these cases, MEP can apply for a court order allowing the company's property or income to be applied towards the payor's maintenance debt.

### Seizure

The MEP may intercept a payor's assets (e.g. vehicles). Seized assets may be sold and applied towards a payor's maintenance arrears.

### Seizure of Third Party Assets

Some payors may try to shelter assets or income in someone else's name to avoid collection by MEP. In these cases, the MEP can apply for a court order allowing it to seize the sheltered assets or income.

## **British Columbia**

### *Relevant legislation*

The *Family Maintenance Enforcement Act* (FMEA), proclaimed in 1988, establishes the Director of Maintenance Enforcement and the Director's authority, including the ability to attach sources of payor income. Since the

FMEA was introduced, many of the Director's legislative responsibilities have been delegated under a series of contracts with a private sector management firm. The legislative authority to demand location, employment, asset, and income information rests with the public servants working in the Family Search Program.

Amendments to the FMEA, proclaimed in 1998, include enforcement against personal corporations, registration of maintenance claims at the Personal Property Registry, and the power to garnishee pension benefits in provincially regulated pension plans. A default fee for payors who default on their payments twice in any one calendar year also came into effect.

A new enforcement measure, the withholding of driver's licenses, also came into effect in November 1998. The Director of Maintenance Enforcement may now instruct the Insurance Company of British Columbia (ICBC) to refuse to renew or issue a current driver's license for any payor who is more than \$3,000 behind in maintenance payments. All payors to whom this measure will be applied are given individual advance notice. This action has contributed to Family Maintenance Enforcement Program's (FMEP) increased collection rate.

In addition, the *Family Maintenance Enforcement Act* now allows the FMEP to report the fact that a payor is over \$2,000 in arrears on maintenance payments to Credit Bureaux. This measure is designed not only as an incentive to payors to pay their maintenance in full and on time, but also to advise potential credit grantors of the true extent of a payor's financial obligations.

Since September 1997, the Ministry of Social Development and Economic Security (MSDES) enrolls maintenance orders in the FMEP for persons in receipt of BC Benefits whose maintenance rights have been assigned to the Crown. Under the amendment to the *BC Benefits Act*, individuals must assign their maintenance rights and income to government in order to be eligible for BC Benefits. Many recipients in these new cases stay enrolled in the FMEP after the termination of their BC Benefits.

### **General**

The Family Justice Programs Division (FJPD) of the Ministry of Attorney General manages a number of programs and services developed to support B.C. families and children. The major programs are the Family Search Program, the Reciprocals Program, the Client Relations Program, the Payor Assistance Program, and the Family Maintenance Enforcement Program (FMEP).

The FMEP monitors and enforces maintenance orders and agreements enrolled in the program. The program currently operates from three locations, and has an estimated staff of 222, including management. In the course of business, the program routinely interacts with the other major FJPD programs as well as other government ministries and agencies.

The Family Search Program conducts searches, where necessary, to find location, assets, employment, and source of income information in order to obtain, change, or enforce custody, access, guardianship or maintenance orders or agreements.

The Reciprocals Program ensures the smooth flow of maintenance orders between the B.C. courts, the FMEP and reciprocating jurisdictions in order to obtain, confirm or change maintenance orders or agreements.

The Client Relations Program provides information on, and investigates complaints about, the programs of the Family Justice Programs Division.

The Debtor Assistance Program provides individuals and families in financial difficulty with a variety of services, including counselling, information on payor rights, remedies and obligations, dispute mediation, and court reports.

The Director of Family Justice Programs Division is also the Director of Maintenance Enforcement, the public servant designated by the Attorney General under the *Family Maintenance Enforcement Act (FMEA)* with responsibility for maintenance enforcement matters in the Province of British Columbia.

The Family Justice Programs Division is located in Vancouver and has 41 staff. This includes FJPD management, Family Search, Reciprocal Client Relations and Programs Debtor Assistance Program.

### **Case management**

The FMEP is an "opt-in" system in that orders are filed with and enforced by the program at the option of the recipient or the payor. The only exceptions are cases that are assigned by the Ministry of Social Development and Economic Security, where enrolment is mandatory.

The FMEP is responsible under the *Family Maintenance Enforcement Act* for monitoring and enforcing all maintenance orders that are filed with it. That means the Program will:

- calculate, receive, record and forward payments to the person receiving maintenance; and
- take action, if and when necessary, to try to ensure the payor makes the required maintenance payments.

Overall, British Columbia uses an enforcement model that:

- emphasizes administrative enforcement, limiting court enforcement to cases where administrative efforts have failed or are not appropriate;
- limits one-to-one communications with recipients to maximize the time spent on actual enforcement;
- provides case information and responds to inquiries from clients through the use of an automated telephone information line and enquiry representatives;
- places responsibility for determining how best to enforce an order with FMEP staff rather than individual participants;
- is characterized by large caseloads, standardized procedures and a high degree of computerization; and
- maintains a regional presence in the lower mainland, Vancouver Island and Northern British Columbia, and participates in the policy development of the Ministry of Attorney General family justice services initiatives, and with those of MSDES and other ministries and governments to meet social policy objectives relating to the integration of family justice services.

### *Communications*

The FMEP has developed an extensive communication system – combining computer and telecommunications technology – that enables clients both to give and receive information, and to easily access services. The system includes several features.

- Infoline – an automated telephone system that connects callers to the FMEP computer. Through Infoline, clients may request a Payment Summary listing all payments made to date, find out when the most recent payment was received, and how much the payor may owe in missed payments. Infoline also offers detailed, recorded information on all aspects of the FMEP, including the various enforcement actions FMEP has the authority to take. A new version of Infoline was introduced in the spring of 2000, providing more features and services for clients as well as streamlined navigation.
- The 1-800 Message Centre is a free service for B.C. callers who live outside the local call area of their nearest regional office.
- Direct Access – Each regional office switchboard is equipped with an automated call management system.

- Driver's License Hotline – The FMEP has the authority to instruct the Insurance Corporation of British Columbia (ICBC) to refuse to issue or renew a payor's driver's license if the payor is more than \$3,000 behind in maintenance payments. The FMEP provides a 1-800 number that allows payors to connect with the office managing his or her case to discuss arrangements for having the hold removed.

### *Intake/withdrawal procedures*

Enrolment in the FMEP is free of charge. Anyone with a valid maintenance order or agreement may choose to enrol in the FMEP (except for recipients who are applying for or receiving BC Benefits; for those recipients, enrolment is usually required).

Recipients may withdraw their case from the FMEP at any time, unless the recipient is receiving BC Benefits (i.e. income assistance) or it was the payor who enrolled the case. If the recipient is receiving BC Benefits, he or she will need to talk to a MSDES family maintenance worker about withdrawing. If it was a payor who enrolled the case, the recipient will need the payor's permission to withdraw.

### *Monitoring*

The FMEP uses advanced computer technology to manage large caseloads and maximize the time spent on enforcing and collecting family support. Each enforcement officer handles approximately 700 cases at a time.

All FMEP cases operate on a defined review cycle, and are reviewed proactively by enforcement staff at regular intervals.

### *Payment processing*

The FMEP is primarily a "pay through" program. Payors make their payments through the FMEP by mailing their cheques or money orders to the Program, payable to the recipient. The Program then forwards the payments to the recipient, usually the same day they are received. However, with the advent of federal interceptions and electronic commerce, the FMEP acts in some cases as a "pay to" program.

### *Tracing*

The FMEP relies upon recipients giving precise information about payors – including where they are living or working and what their assets are. Where the recipient does not know the payor's location, and the Program cannot locate the payor themselves, FMEP requests that the Family Search Program (FAMS) conduct a search.



The FAMS conducts searches, where necessary, to locate a payor's address, assets, employment and sources of income in order to obtain, change or enforce custody, access, guardianship or maintenance orders or agreements. It has the authority to demand information about a payor's location, employment, assets or income from any person or public body in British Columbia, including government, with very few restrictions.

#### *Enforcement*

The FMEP acknowledges that many payors will not fall behind in their payments and enforcement action against them will not be necessary. If a payor falls into arrears, the FMEP will try to work with the payor to develop a plan for paying the arrears in addition to making regular maintenance payments. Where the FMEP cannot agree on a voluntary payment plan they will consider other action – either administrative or court enforcement – to try to make sure the recipient receives what she or he is legally owed under the maintenance order or agreement.

#### *Future developments*

In consultation with the Ombudsman's office, the Director of Maintenance Enforcement has commenced a project to review, enhance and update the complaints process and the computer system that supports it.

A new MLA's Information Manual has been updated to reflect the new legislative amendments, and will be distributed in the spring of 2001.

The FMEP has a highly functional automated computer system which supports many unique features, including the ability to do timely case management. The FMEP will introduce a new version of the computer system in November 2000, which will feature a new Windows environment and will enable future enhancements to be made more easily.

Three pilot projects being developed are extended hours in the Victoria region, payment conferencing, and increased co-ordination with Family Justice Centres.

The FMEP is working with Family Justice Centres and other components of the family justice system to maximize integration of services and referral processes for mutual clients.

Direct deposit for recipients, and telephone/personal computer banking for payors, will be introduced in 2001.

The FMEP plans to commission an independent research company to conduct their fourth client satisfaction survey, to take place late in 2001.

## **Yukon**

### *Relevant legislation*

In 1986, the Yukon's *Maintenance and Custody Orders Enforcement Act*, R.S.Y.T. 1986, Chap. 108 (MCOEA) was passed. In 1987, the Maintenance Enforcement Program (MEP) was established and enforcement and collection of support orders was commenced.

In 1996, the MCOEA was amended to allow for motor vehicle sanctions to be applied against non-paying parents. In 1998, the MCOEA was again amended and was proclaimed in November 1999. The Act is now called the *Maintenance Enforcement Act* (MEA).

With respect to the *Garnishment, Attachment and Pension Diversion Act* (GAPDA), the MEP welcomed the changes made and utilizes this Act when the situation presents itself.

### *Latest developments*

In order for the Yukon to meet its own program needs, and to be able to report to the national survey, the existing MONIES system must be replaced. With this in mind, the Yukon MEP is proceeding with the design and development of a new MEP information system.

### *General*

The MEP is part of the Court Services Branch of the Department of Justice. The Director of Court Services is also the Director of Maintenance Enforcement. Program staff consists of an Administrator, 2 full-time Enforcement Officers and 1 term Enforcement Officer. The Administrator and Officers cover the reception desk as well.

### *Case management*

The MEP currently uses a mainframe program called MONIES. MONIES is a data-entry program in that manual files are pulled and reviewed on a daily basis. Once a case is registered with the MEP, the Officer will then send, by certified mail, a Notification Letter to the payor. The payor will then have 30 days to make arrangements for payment with the appropriate Officer.

The notification letter indicates that the order is now registered with the MEP and advises that enforcement action(s) will be taken if there is no immediate response

to this letter. The letter further outlines some enforcement actions that could be taken, as well as how payments can be made. The payor is also provided with a MEP brochure entitled 'A guide for people who pay or receive support', a Visa pre-authorization form and an Income and Expense form which allows the payor to outline his/her payment proposal on any arrears that may be owing.

In the event voluntary payments are not made or in the event the payor does not respond to the Notification Letter, the MEP will:

- initiate a federal interception;
- initiate an Employer Garnishment if an employer's name has been provided to the Program; or
- conduct searches in order to determine an employer and/or assets.

All registered cases are managed by way of voluntary payments, payment agreements, employer garnishments, federal interceptions, bank garnishments, as well as any other available enforcement methods open to program staff including motor vehicle sanctions.

The caseloads are currently assigned as non-REMO, REMO-in and REMO-out.

#### *Intake/withdrawal procedures*

Orders/agreements may be registered with the MEP either in person or by mail. All cases are activated by the payor or recipient opting in. Where both parties reside within the jurisdiction, the MEP requires a copy of the order, completed filing registration form and an Affidavit of Arrears which must be sworn by a Notary Public or Commissioner of Oaths. Once the documents are received by the MEP, all relevant information is entered into the MONIES program and a paper file is made up. If an order is received from an outside jurisdiction, the MEP requires 3 certified copies of the order, a statement of arrears and a copy of the filing registration form which will provide all necessary information on the payor, recipient and child(ren).

Both recipients and payors may opt in and opt out. The MEP will close a case if an order is age specific, Program staff cannot make contact with the recipient, both parties have left the jurisdiction, or the order is paid in full.

#### *Monitoring*

All files are routinely brought forward for manual review by the Enforcement Officers. The MONIES system is used in a limited capacity when reviewing files. It is only used when reviewing whether payments have been made.

#### *Payment processing*

The MEP is both a "pay-to" and "pay-through" system. The MEP accepts payments made by cash, money order, Visa, debit card, personal cheque, employer's cheque or certified cheque. All payments are processed on the day they are received and paid out the following day with the exception of post-dated cheques paid either to the MEP or to the recipient. Personal cheques payable to the MEP are held for 14 days before they are paid out to the recipient. Cheques that are payable to the recipient are copied for the file, entered and released on the date they are received. If a payor has 3 consecutive dishonoured cheques, the MEP will no longer accept post-dated cheques from the payor.

#### *Tracing*

MEP staff always depend on the recipient to provide information as to the payor's location and employment. The MEP uses the International Record Exchange (IRE), jurisdictional data banks and at times, undertakes a federal search through FOAEA. The *Maintenance Enforcement Act* (MEA) also provides legislative authority under section 6.(1). This section of the Act gives the MEP Director authority to require any person, including the government of the Yukon, to provide information about the payor's:

- wages, salary, or other remuneration;
- sources of income;
- assets or liabilities;
- financial status;
- copies of income tax returns;
- Social Insurance Number;
- changes in circumstances which affect the amount of maintenance to be paid under the order;
- location, address, and place of employment;
- location, address, and place of residence;
- telephone number.

#### *Enforcement*

It is the duty of the MEP Director to enforce maintenance orders. Enforcement is done either administratively or judicially. The latter method of enforcement is generally used if the MEP is not made aware of an income source of a payor, cannot locate a payor or if the payor is self-employed and there is no identifiable means by which to intercept payment. Default notices are done by the Officer, filed with the courts and then given to the Sheriff for service on the payor. The MEP normally allocates two days a month for default hearings. In the event a payor is personally served and does not appear in court, the court may issue a warrant of arrest for the payor.

The MEP Director may decide not to enforce a maintenance order, or a part of a maintenance order, if satisfied on reasonable grounds that:

- it is not practicable to enforce the order;
- the recipient accepts payments directly from the respondent in relation to the order;
- the order is for an amount less than an amount fixed by the Director;
- the recipient fails or refuses to supply information to the Director which the Director requires to enforce the order;
- there is doubt or ambiguity about the meaning, legal effect, or enforceability of the order.

### **Future developments**

In future, Yukon will be looking at an interactive voice system that would be available to all clients, 24 hours a day, 7 days a week.

## **Northwest Territories**

### **Relevant legislation**

In June 1987, the Northwest Territories Legislative Assembly passed the *Maintenance Orders Enforcement Act* that empowered a Maintenance Enforcement Administrator, appointed under the Act, to enforce payment of support orders and agreements relating to the payment of support. The legislation gave powers to the Minister to enter into agreements with other jurisdictions and the federal government relating to the search for and release of information.

The *Maintenance Orders (Facilities for Enforcement) Act* provides for the hearing of provisional matters and registration of orders made by reciprocating states. This Act also provides for the authority to the government of the NWT to designate reciprocating states.

A Maintenance Enforcement Office was created in January 1989.

No significant changes have been made to the legislation since 1987.

### **General**

The Northwest Territories Maintenance Enforcement Program (MEP) is part of the Courts Services Division of the Department of Justice. Legal services are provided to MEP by the Legal Division of that Department.

Legal Division is responsible for the management of provisional orders from other jurisdictions. MEP is not

involved until such time as an order is confirmed and registered with MEP.

Reciprocal agreements have been established and entered into with all other Canadian jurisdictions, some American states and some other countries.

### **Case management**

The MEP office currently supports an administrator, one Senior Officer, three Enforcement Officers and one Administrative officer.

A mainframe computer system is used to facilitate financial record keeping (which allows the receipt and deposit of payments, issuance of cheques and bank reconciliations), general file management and the storage of information to assist in the day to day operations.

The Act provides that all orders issued by NWT or registered with the Court as extra-jurisdictional orders shall be filed with the MEP Administrator unless the recipient of maintenance indicates in writing that the order is not to be enforced by MEP. Any orders or agreements made prior to the enactment of the legislation would have to be registered by one of the parties on an opt-in basis. The Director of Income Support can file an order made prior to 1988.

The Act provides for enforcement to commence upon the receipt and filing of an Order.

### **Intake/withdrawal procedures**

Initial intake is dealt with as described above. Once the order has been received from the Court, MEP sends out a registration form, which finalizes registration. On-line searches are conducted and all relevant and required information is entered into a computerized system which automatically assigns the case a MEP file number. If required, MEP will obtain certified copies of orders from the Court. Both parties are advised in writing of the registration and are advised that all payments shall be made through the MEP. It is confirmed with the parties, again in writing, that only the MEP Administrator can take enforcement steps so long as the order is registered with the program. Files are assigned to officers for further action.

The registration process for recipients residing outside the NWT is initiated by a request for registration from a reciprocating jurisdiction. The MEP uses the same process as that used for recipients who are residents of the NWT. All files are treated in the same manner.

Only the recipient may “opt-out” of the MEP and may do so at any time by written notice to the Program. Letters are sent to the parties confirming the withdrawal. Either party may take steps to re-register with the program at any time. The MEP may on notice, withdraw an order if the recipient is taking individual action to enforce the order.

### *Monitoring*

The mainframe computer system used by the MEP allows for the collection of operational statistics, monitoring enforcement action and assists the MEP in its day to day operations and enforcement needs.

### *Payment processing*

Payments are received and processed through the MEP, which accepts cheques, cash, bank drafts, money orders and certified cheques, Visa, debit and direct deposit. Payments are made to recipients by way of cheque (once each week) or direct deposit (three times per week).

### *Tracing*

Tracing is routinely undertaken for MEP’s own clients as well as for other jurisdictions at their request for assistance. The MEP accesses information through the following:

- Territorial Data Banks — Personal Property Registry, Motor Vehicle Registry, Social Services, GNWT Human Resources, student financial assistance offices;
- federal tracing — FOAEA ; and
- Other — requests for information are made to other agencies such as the RCMP and municipal police, banks, employers, and municipal authorities

### *Enforcement*

The method of enforcement is at the direction of the Administrator once the order is registered and if full payments are not being made on a voluntary basis. The MEP may initiate default hearings when collection efforts have failed. The enforcement measures allowed under the legislation include proceedings:

- for Garnishment;
- to attach wages;
- to obtain a writ of execution;
- to have property seized pursuant to a writ of execution;
- to realize on any bond or security deposited pursuant to any Act;
- to obtain a restraining order;
- to obtain an order for the arrest of an absconding debtor; and

- for the imposition of a penalty (fine) as contemplated by the legislation

In addition, if a garnishee fails to respond or to make payments pursuant to a garnishee summons the Court can order payment by the garnishee.

### ***Future developments***

The Government of the Northwest Territories is currently considering proposing amendments to the MEP legislation to expand its enforcement capabilities and to generally bring the legislation up to date with legislation in other jurisdictions. No major amendments have been made since the legislation came into force.

The Department is also considering the replacement of the mainframe computer system. A requirements analysis of the current system is underway and is expected to provide the department with a blueprint of a new system.

## **Nunavut**

### ***Relevant legislation***

On April 1, 1999 the Northwest Territories was divided and the Territory of Nunavut was established. The *Maintenance Order (Facilities for Enforcement) Act*, R.S.N.W.T. 1988, c.M-3 was amended and continued for Nunavut pursuant to Section 99 of the federal *Nunavut Act*.

While the legislation came into force in Nunavut on April 1, 1999, there was an administrative agreement between Nunavut and the Northwest Territories. This agreement covered the period from April 1, 1999 until March 1, 2000 and allowed the Northwest Territories to continue administering Nunavut’s Maintenance Enforcement Program until Nunavut established sufficient capacity to assume this statutory responsibility.

### ***Latest developments***

The Territory of Nunavut was established on April 1, 1999. Nunavut assumed responsibility for administering the Maintenance Enforcement Program on March 1, 2000.

### ***General***

In Nunavut, the Maintenance Enforcement Program (MEP) is part of the Court Services Branch of the Department of Justice. The office is located in the Courthouse, in Iqaluit. At this time the administrator of the MEP is the only employee and does all the work associated with the MEP.

### ***Case management***

Currently, the MEP is not using an automated data entry system. The Nunavut Justice Department Integrated Systems Management Plan is under development and will include the MEP.

Once a case is registered with the MEP, a notification letter is sent to the payor, who has 30 days to respond and make arrangements for payments. The letter indicates that a support order is registered with the MEP, advises that enforcement action will be taken if there is no response to the letter, outlines possible enforcement actions that could be taken, and advises how payments can be made.

If voluntary payments are not made, or if the payor does not respond to the notification letter, the following actions can be taken:

- initiation of a federal interception;
- employer garnishment if an employer is known;
- initiation of searches to determine an employer and/or identify assets.

Half of the MEP's files come from other jurisdictions. These files are often the easiest to collect on because most payors have come to the territory to work and wage attachments can be initiated. However, these payors can also be transient and sometimes by the time an employer is located, the payor has moved on.

#### *Intake/withdrawal procedures*

Orders and agreements may be registered with the MEP in person or by mail. Cases are activated when either the payor or recipient opt in.

If an order is received from another jurisdiction, the MEP requires three certified copies of the order, a statement of arrears and a copy of the filing registration form that provides all necessary information on the payor, recipient and the children

### *Monitoring*

All files are routinely brought forward for manual review.

### *Payment processing*

The MEP accepts payments made by cash, money order, personal cheque or certified cheque. If a payor's cheque is dishonoured, a more secure form of payment will be required in the future. There are also cheques that are forwarded from employers as a result of a wage attachment. A manual accounting system is currently being used to process cheques once a week.

### *Tracing*

Although the MEP relies on information received from recipients about the payors' sources of income, the best source of information about payors is from the RCMP in Nunavut. Because most of the communities in Nunavut are very remote and very small, the RCMP are familiar with the residents and are able to keep the MEP updated regularly on a payor's employment status.

The *Maintenance Enforcement Act* also provides legislative authority to demand and receive from any person or public body, information that is shown on a record in the person's or body's possession or control as to the location, address or place of employment of, or employment income or terms of employment of a payor.

### *Enforcement*

Once an order has been registered and arrears have accrued, the method of enforcement is at the discretion of the Administrator of the MEP. A large percentage of files are being enforced through wage attachments. Driver's license withholding/suspension is not being used in Nunavut at this time.

### ***Future developments***

Nunavut is planning the design and implementation of an Information System for MEP, with a view to working towards electronic sharing of information with other jurisdictions.

## Maintenance Enforcement Program Characteristics, 2000 Summary Charts

### Program Staff and Services Engaged in the MEP

|   | Nfld.Lab. | P.E.I. | N.S. | N.B. | Que. | Ont. | Man. | Sask. | Alta. | B.C.               | Y.T.           | N.W.T. | Nvt. |
|---|-----------|--------|------|------|------|------|------|-------|-------|--------------------|----------------|--------|------|
| Staff (FTE)   | 16        | 4      | 46   | 30   | 731  | 350  | 29   | 32    | 151   | 145 <sup>1</sup>   | 3              | 5      |      |
| Court enforcement staff (includes full and part-time) | 0         | 5      | 0    | 28   | 594  |      | 8    | 2     |       | 222.7 <sup>2</sup> | 1              |        |      |
| Retained lawyers used outside service area            | 0         | 0      | 0    | †    | 0    | †    |      | 1     | 8     | 20                 | †              |        |      |
| Private lawyers used (FTE)                            | 0         | 1      | 0    | 7    | 0    |      |      | 10    | 1     |                    | †              |        |      |
| <b>Government services used</b>                       |           |        |      |      |      |      |      |       |       |                    |                |        |      |
| Legal   | †         | †      | †    | †    | †    |      | †    | †     | †     | †                  | † <sup>3</sup> |        | †    |
| Budget and financial analysis                         | †         | †      | †    | †    | †    |      |      | †     | †     | †                  |                |        | †    |
| Systems service / development                         | †         | †      | †    | †    | †    |      | †    | †     | †     | †                  | †              |        | †    |
| Research and policy analysis                          |           | †      | †    | †    | †    |      |      | †     | †     | †                  |                |        | †    |

<sup>†</sup> indicates provision specifically mentioned.

<sup>1</sup> This includes Family Justice Programs Division management and staff employed by the Ministry of Attorney General.

<sup>2</sup> This includes Family Maintenance Enforcement Program staff employed by a private contractor.

<sup>3</sup> Amount of private lawyers used when government legal counsel cannot attend at a circuit is unknown.

**Case Intake Procedure**

|  | Nfld.Lab. | P.E.I. | N.S. | N.B. | Que.           | Ont. | Man. | Sask. | Alta.                                | B.C.            | Y.T. | N.W.T. | Nvt. |
|--|-----------|--------|------|------|----------------|------|------|-------|--------------------------------------|-----------------|------|--------|------|
| Opt-In   |           | †      |      | †    |                |      |      | †     |                                      | †               | †    | †      |      |
| Opt-Out  | †         | †      | †    | †    | † <sup>4</sup> | †    | †    | †     | †                                    |                 | †    | †      |      |
| <b>Source of initial request/documents</b>       |           |        |      |      |                |      |      |       |                                      |                 |      |        |      |
| Court  | †         | †      | †    | †    | †              | †    | †    | †     | †                                    |                 | †    |        |      |
| Reciprocating Jurisdiction                       | †         | †      | †    | †    | †              |      | †    | †     | †                                    | †               | †    | †      | †    |
| Recipient, directly                              | †         | †      | †    | †    |                |      | †    | †     | †                                    | †               | †    | †      | †    |
| Payor, directly                                  | †         | †      | †    | †    |                | †    |      |       |                                      | †               | †    |        |      |
| Parties, if agreement & consent                  | †         | †      | †    | †    |                |      |      | †     |                                      |                 | †    |        |      |
| Social Services                                  | †         | †      | †    | †    |                |      |      | †     | †                                    | †               | †    |        |      |
| Family lawyers                                   | †         | †      | †    | †    |                |      | †    |       |                                      |                 | †    | †      |      |
| <b>Required to complete enrollment</b>           |           |        |      |      |                |      |      |       |                                      |                 |      |        |      |
| Affidavit of Arrears                             | †         | †      | †    | †    |                | †    |      | †     | †                                    | †               | †    | †      | †    |
| - prepared by Program                            |           | †      | †    | †    |                |      |      | †     |                                      | †               |      |        | †    |
| - prepared by Recipient/Reciprocal Jurisdiction  | †         | †      | †    | †    |                | †    | †    | †     | †                                    | †               | †    | †      | †    |
| Certified Order(s)/Agreements                    | †         | 3      | 3    |      |                | †    |      |       | †                                    | †               | 3    | †      | †    |
| - obtained by Program                            |           |        |      | †    |                |      |      |       |                                      | † <sup>5</sup>  | †    | †      |      |
| - obtained by Recipient/ Reciprocal Jurisdiction | †         | †      | †    | †    |                |      |      |       | †                                    | †               | †    | †      | †    |
| - sent by Court to enroll                        | †         |        |      |      | †              | †    | †    |       | †                                    |                 |      |        | †    |
| Payor / Family Information                       |           | †      |      | †    | †              | †    | †    | †     |                                      | †               | †    | †      | †    |
| Enforcement follows in (#) days                  | 14        | 14     | 30   | 8    | 15             |      |      | 14    | 14 <sup>6</sup> ,<br>30 <sup>7</sup> | 14 <sup>8</sup> | 30   | 7      |      |

† indicates provision specifically mentioned.

<sup>4</sup> Mandatory as of December 1, 1995. Exemptions only through Court orders.<sup>5</sup> FMEP receives orders and agreements from the Court Registry at enrolment.<sup>6</sup> For Alberta orders.<sup>7</sup> For orders outside of Alberta.<sup>8</sup> Enrolment is defined as an attempt to initiate contact with the payor by the intake officer. Enforcement may occur sooner than indicated.

**Case Withdrawal**

Who may withdraw the order

|                                  | Nfld.Lab. | P.E.I. | N.S. | N.B. | Que. | Ont. | Man. | Sask. | Alta. | B.C.           | Y.T.          | N.W.T. | Nvt. |
|----------------------------------|-----------|--------|------|------|------|------|------|-------|-------|----------------|---------------|--------|------|
| <b>Recipient</b>                 |           |        |      |      |      |      |      |       |       |                |               |        |      |
| With Social Services Consent     | †         | †      | †    | †    |      | †    | †    | †     | †     | †              |               |        |      |
| Recipient, unrestricted          | †         | †      |      | †    |      |      |      |       |       | † <sup>9</sup> | †             |        | †    |
| Rec/Payor who "registered last"  | †         |        |      |      |      |      |      | †     |       |                | †             |        |      |
| Reciprocating Jurisdiction       | †         | †      |      | †    |      |      |      | †     |       | †              | †             |        | †    |
| <b>Program</b>                   |           |        |      |      |      |      |      |       |       |                |               |        |      |
| If Recipient location unknown    | †         |        | †    |      |      |      | †    | †     | †     | †              | †             |        | †    |
| If either party dies             | †         |        | †    |      | †    |      | †    |       | †     | †              | <sup>10</sup> |        | †    |
| If Recipient /child in danger    |           |        |      |      |      |      |      | †     |       | †              | <sup>11</sup> |        |      |
| If Recipient hinders enforcement | †         |        | †    |      |      |      |      | †     | †     | †              | †             |        |      |
| If Order expired, no arrears     | †         | †      | †    | †    | †    | †    | †    | †     | †     | †              | †             |        | †    |
| Unenforceable Order              | †         |        | †    |      | †    |      | †    | †     | †     | †              | †             |        |      |

† indicates provision specifically mentioned.

<sup>9</sup> The exception is a BC Benefits case, registered by the Ministry of Social Development and Economic Security.<sup>10</sup> Providing no arrears owing.<sup>11</sup> Would be up to the recipient.



**Tracing**

|                                | Nfld.Lab. | P.E.I. | N.S. | N.B. | Que. | Ont. | Man. | Sask. | Alta. | B.C. | Y.T. | N.W.T. | Nvt. |
|--------------------------------|-----------|--------|------|------|------|------|------|-------|-------|------|------|--------|------|
| <b>Formal Tracing</b>          |           |        |      |      |      |      |      |       |       |      |      |        |      |
| Demand for information         | †         | †      | †    | †    | †    | †    | †    | †     | †     | †    | †    | †      | †    |
| Provincial databases           | †         | †      | †    | †    | †    | †    |      | †     | †     | †    | †    | †      | †    |
| Federal sources                | †         | †      | †    | †    | †    | †    | †    | †     | †     | †    | †    | †      | †    |
| Motor Vehicle                  | †         | †      | †    | †    | †    | †    | †    | †     | †     |      | †    | †      | †    |
| Health Insurance Plan          |           |        |      | †    | †    |      | †    | †     | †     |      | †    |        |      |
| Personal Property Registry     |           |        |      | †    |      | †    |      | †     | †     |      | †    | †      | †    |
| Corporate Registry             | †         |        |      | †    | †    | †    |      | †     | †     |      | †    | †      | †    |
| Social Services                | †         | †      | †    |      |      |      |      |       | †     |      | †    |        |      |
| Land Titles                    | †         | †      | †    |      | †    |      |      | †     | †     |      | †    |        |      |
| Interprov. Records Exchange    | †         | †      | †    | †    | †    | †    |      | †     | †     | †    | †    | †      | †    |
| Payor examination by Registrar |           | †      | †    | †    |      |      | †    |       |       |      |      |        |      |
| Can. Police Info.Centre (CPIC) |           |        |      |      |      | †    |      |       |       |      |      |        |      |
| Credit Bureau searches         |           |        | †    |      | †    | †    |      | †     | †     |      |      |        |      |
| Sheriffs, for investigation    |           | †      |      |      | †    |      |      | †     | †     |      | †    |        |      |

† indicates provision specifically mentioned.

**Administrative Enforcement Provisions**

|                                     | Nfld.Lab. | P.E.I. | N.S. | N.B. | Que. | Ont. | Man. | Sask. | Alta. | B.C. | Y.T. | N.W.T. | Nvt. |
|-------------------------------------|-----------|--------|------|------|------|------|------|-------|-------|------|------|--------|------|
| <b>Informal/Negotiation Methods</b> |           |        |      |      |      |      |      |       |       |      |      |        |      |
| Telephone contact                   | †         | †      | †    | †    | †    |      |      | †     | †     | †    | †    |        | †    |
| Default / Demand / Reminder Letter  | †         | †      | †    | †    | †    |      | †    | †     | †     | †    | †    |        | †    |
| Voluntary Payment Schedule          | †         | †      | †    | †    | †    | †    | †    | †     | †     | †    | †    |        | †    |
| Statement of Finances request       | †         | †      | †    | †    | †    | †    |      | †     | †     | †    | †    |        |      |
| <b>Formal Enforcement Processes</b> |           |        |      |      |      |      |      |       |       |      |      |        |      |
| Continuing Attachment               | †         | †      |      | †    | †    | †    | †    | †     | †     | †    | †    |        | †    |
| On employment source                | †         | †      | †    | †    | †    | †    | †    | †     | †     | †    | †    |        | †    |
| On non-wage income source           | †         |        | †    |      | †    | †    | †    | †     | †     | †    | †    |        |      |
| On realizable financial assets      |           |        | †    |      |      | †    | †    | †     | †     | †    | †    |        | †    |
| On Federal funds (FOAEAU)           | †         | †      | †    | †    | †    | †    | †    | †     | †     | †    | †    |        | †    |
| On Federal employees (GAPDA)        | †         | †      | †    | †    | †    | †    | †    | †     | †     | †    | †    |        | †    |
| On Armed Forces personnel           | †         |        | †    | †    | †    | †    | †    | †     | †     | †    | †    |        |      |
| Voluntary Wage Assignment           |           | †      | †    | †    | †    |      | †    | †     | †     | †    | †    |        | †    |
| Land Registration                   |           |        |      |      | †    | †    | †    | †     | †     | †    | †    |        |      |
| Lump sum garnishment                | †         | †      | †    | †    | †    | †    | †    | †     | †     | †    | †    |        | †    |
| Payment/Arrears Attachment/Order    | †         | †      |      | †    | †    |      |      |       | †     | †    | †    |        | †    |
| Writ of Execution (chattel)         | †         | †      | †    | †    | †    | †    | †    | †     | †     | †    | †    |        | †    |

† indicates provision specifically mentioned.

**Court Enforcement Provisions**

|  | Nfld.Lab. | P.E.I. | N.S. | N.B. | Que. | Ont. | Man. | Sask. | Alta. | B.C. | Y.T. | N.W.T. | Nvt. |
|--|-----------|--------|------|------|------|------|------|-------|-------|------|------|--------|------|
| Default Hearing  | †         | †      | †    | †    |      | †    |      | †     | †     | †    | †    |        | †    |
| Committal Hearing  |           | †      |      | †    |      |      |      | †     |       | †    |      |        |      |
| Order to Provide Information                                   | †         | †      | †    | †    | †    |      |      | †     | †     | †    | †    |        | †    |
| Restraining Order to Prevent Disposal of Assets                | †         | †      | †    | †    |      | †    |      | †     | †     | †    | †    |        | †    |
| Restraining Order to Prevent Harassment of Recipient/MEP staff |           |        |      |      |      |      |      | †     | †     | †    |      |        |      |

† indicates provision specifically mentioned.