

**THE FEDERAL CHILD SUPPORT
GUIDELINES:
Their Framework and Application
since May 1997**

September 27, 2012

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September 27, 2012

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SENT BY E-MAIL

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Dear Mr. Duguid:

THE FEDERAL CHILD SUPPORT GUIDELINES: Their Framework and Application since May, 1997

I – INTRODUCTION:

1. You have asked us to provide our opinion with respect to the framework and application of the Federal Child Support Guidelines, SOR/97-175, (hereinafter referred to as “the Guidelines”) since the implementation of the legislation on May 1, 1997. We understand that you have requested our assistance in respect of a challenge to the Guidelines by specific individuals from several provinces.
2. This report examines the operation of the Guidelines on specific child support scenarios in separated and divorced families in Canada. It further provides a factual description of the mechanics of the Guidelines, particularly with respect to sections which include an element of complexity. We have not examined the legal challenges

being raised by the individual litigants nor have we examined the legal implications of the Guidelines on those legal challenges.

II – CONCLUSIONS:

3. On the basis of the scope of our review, analysis and experience, and subject to the assumptions, restrictions and qualifications set out herein, we have set out our findings in the chart below. Further details respecting same are set out in specific paragraphs below in this report.

FINDINGS	APPLICABLE SECTIONS OF THE GUIDELINES	REFERENCE
Recipient of Table child support is not required to account for how funds are spent.	Sections 3(1), 21(1), 21(5) and provincial regulations	Paragraphs 30-41
Recipient of Table child support is not required to account for how funds are spent when seeking Section 7 expenses.	Sections 3(1), 7, 21(1), 21(5) and provincial regulations	Paragraphs 39, 40, 48
Recipient of Table child support is not required to show contribution from his or her own resources to children's expenses.	Sections 3(1), 21(1), 21(5) and provincial regulations	Paragraphs 39, 40, 48
Special or Extraordinary Expenses are paid in addition to amounts paid for Table child support.	Section 3(1)(b) and Section 7	Paragraphs 45-52
Table child support may be payable by more than one parent, including those who stand in the place of a parent.	Section 5	Paragraphs 53-60

<p>Absent special provisions made to benefit a child or consent by the parents under Sections 15.1(5) and (7) of the <i>Divorce Act</i>, proof of undue hardship is the only method by which an amount less than the Table can be ordered against a payor.</p>	<p>Section 10</p>	<p>Paragraphs 61-68</p>
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III - STATEMENT OF INDEPENDENCE AND DISINTERESTEDNESS:

4. No member of our firm has any interest in the outcome of this matter, either directly or indirectly. Our fee for this assignment is based solely on hours spent, and is in no way contingent upon the results of our analysis on the individuals' legal challenges.

IV – ASSUMPTIONS:

5. In preparing our analysis and the opinions expressed throughout this report, in addition to the assumptions where noted, we have also assumed the following:
 - a. The children for whom child support is being paid are under the age of majority, and therefore Section 3(2) of the Guidelines is not applicable;
 - b. The children for whom child support is being paid are not in a split custody arrangement where at least one child resides with each parent, and therefore Section 8 of the Guidelines is not applicable;
 - c. The children for whom child support is being paid are not spending more than 40% of the time with each parent, and

therefore the shared custody arrangement in Section 9 of the Guidelines is not applicable;

- d. Unless otherwise noted, the payor of child support earns less than \$150,000 per year, and therefore Section 4 of the Guidelines is not applicable;
- e. Unless otherwise noted, the payor of child support is the biological parent, and therefore Section 5 of the Guidelines is not applicable.

- 6. Should the above assumptions not be applicable or accurate or should any of the other information provided to us not be factual or correct, our opinions expressed herein and our analysis may require revision.

V – RESTRICTIONS:

- 7. Our analysis contained herein is based on the information supplied to us and is subject to the assumptions outlined herein.
- 8. This report is not intended for general circulation or publication, nor is it to be reproduced or used for any purpose other than that outlined above without our prior written permission in each specific instance. We will not assume any responsibility or liability for losses occasioned to you, or to any other parties as a result of the circulation, publication, reproduction or use of our report other than as outlined in this paragraph.
- 9. Our findings are restricted to the extent that we are unable to comment on the intent of the legislation and the drafting of the Guidelines. Further, we have not considered the mathematical formulae used or the

external data relied upon to create the Guideline Tables. Rather, our comments are limited to our opinion with respect to the practical application of the Guidelines.

10. We reserve the right to review our analysis included herein and, if we consider it necessary, to revise and reissue our report in light of any information which becomes known to us after the date of this report.

VI - BACKGROUND AND OVERVIEW OF THE LEGISLATIVE FRAMEWORK OF THE CHILD SUPPORT GUIDELINES:

11. When a court makes a child support order in Canada, it does so either under s. 15.1 of the Divorce Act R.S.C. 1985, c. 3 (2nd Supp.) or the applicable provincial statute governing family law. The applicable sections of the Divorce Act are attached as **Appendix A** to this report.

12. Section 15.1 of the Divorce Act states:

Child support order

15.1 (1) A court of competent jurisdiction may, on application by either or both spouses, make an order requiring a spouse to pay for the support of any or all children of the marriage.

Interim order

(2) Where an application is made under subsection (1), the court may, on application by either or both spouses, make an interim order requiring a spouse to pay for the support of any or all children of the marriage, pending the determination of the application under subsection (1).

Guidelines apply

(3) A court making an order under subsection (1) or an interim order under subsection (2) shall do so in accordance with the applicable guidelines.

Terms and conditions

(4) The court may make an order under subsection (1) or an interim order under subsection (2) for a definite or indefinite period or until a specified event occurs, and may impose terms, conditions or restrictions in connection with the order or interim order as it thinks fit and just.

Court may take agreement, etc., into account

(5) Notwithstanding subsection (3), a court may award an amount that is different from the amount that would be determined in accordance with the applicable guidelines if the court is satisfied

(a) that special provisions in an order, a judgment or a written agreement respecting the financial obligations of the spouses, or the division or transfer of their property, directly or indirectly benefit a child, or that special provisions have otherwise been made for the benefit of a child; and

(b) that the application of the applicable guidelines would result in an amount of child support that is inequitable given those special provisions.

Reasons

(6) Where the court awards, pursuant to subsection (5), an amount that is different from the amount that would be determined in accordance with the applicable guidelines, the court shall record its reasons for having done so.

Consent orders

(7) Notwithstanding subsection (3), a court may award an amount that is different from the amount that would be determined in accordance with the applicable guidelines on the consent of both spouses if it is satisfied that reasonable arrangements have been made for the support of the child to whom the order relates.

Reasonable arrangements

(8) For the purposes of subsection (7), in determining whether reasonable arrangements have been made for the support of a child, the court shall have regard to the applicable guidelines. However, the court shall not consider the arrangements to be unreasonable solely because the

amount of support agreed to is not the same as the amount that would otherwise have been determined in accordance with the applicable guidelines.

13. As noted above, s. 15.1(3) of the Divorce Act requires child support to be ordered in accordance with the applicable Child Support Guidelines. Section 26.1(1)(a) through (h) of the *Divorce Act* authorizes the Governor in Council to enact such Guidelines respecting the method of determining child support, the exercise of discretion, periodic or lump sum payments, security, variations of child support, determining income, imputing income, and production of income information.

14. Section 26.1(2) of the Divorce Act states that:

Principle

(2) The guidelines shall be based on the principle that spouses have a joint financial obligation to maintain the children of the marriage in accordance with their relative abilities to contribute to the performance of that obligation.

15. The Federal Child Support Guidelines were enacted by the federal government as a regulation to the Divorce Act in 1997 and are attached as **Appendix B**. The updates to such Guidelines were last modified on December 31, 2011 and the consolidated version as at June 27, 2012 is attached as **Appendix C**. There have not been significant changes from 1997 to date. They apply to all child support orders made under the *Divorce Act* by all courts across Canada, other than Quebec. All of the provinces and territories have also enacted Child Support Guidelines as regulations to their provincial family law legislation which essentially mirror the federal Guidelines. Accordingly, it is mandatory that all Canadian Court orders outside of Quebec are governed by the Guidelines.

16. The Guidelines set out 26 sections of objectives, definitions, and all elements that must be followed when determining child support. The Guidelines also have 3 Schedules, attached as **Appendix D** to this report:

Schedule I - The Child Support Tables (the "Tables")

Schedule II - Comparison of Household Standards of Living Test

Schedule III - Adjustments to Income

17. The stated objectives of the Guidelines are set out at Section 1:

Objectives

1. The objectives of these Guidelines are

(a) to establish a fair standard of support for children that ensures that they continue to benefit from the financial means of both spouses after separation;

(b) to reduce conflict and tension between spouses by making the calculation of child support orders more objective;

(c) to improve the efficiency of the legal process by giving courts and spouses guidance in setting the levels of child support orders and encouraging settlement; and

(d) to ensure consistent treatment of spouses and children who are in similar circumstances.

18. The presumptive rule to be followed when determining the amount of child support to be paid is set out at s. 3:

Presumptive rule

3. (1) Unless otherwise provided under these Guidelines, the amount of a child support order for children under the age of majority is

(a) the amount set out in the applicable table, according to the number of children under the age of majority to whom the order relates and the income of the spouse against whom the order is sought; and

(b) the amount, if any, determined under section 7.

19. The “applicable tables” referred to above are a series of charts that show the required amount of support by a payor with a specific income level for a specific number of children. Child support is not paid to the child. It is paid to the spouse applying for a child support order for the number of children in question. There is a different table for each province, however the amounts paid within each area and city within a province do not vary.
20. The amounts paid for child support are based on the payor’s gross income, and such payments are not deductible for income tax purposes. Prior to the enactment of the Guidelines, child support awards were tax deductible to the payor. Agreements and court orders made prior to May 1, 1997 often referred to one monthly amount payable which combined both child and spousal support.
21. We understand that the Table amounts are stated to reflect the average amounts spent on regular expenses for children at those income levels. According to the Department of Justice, child support only captures some of the direct costs of child-rearing [FN1]. Caselaw with respect to child support does not provide a mathematical analysis as to how the

FN1: Department of Justice, Spousal Support Advisory Guidelines, July, 2008 page 73.

formulae were implemented to create the Tables. We have not been retained to conduct such research.

22. Schedule I, Note 5 of the Guidelines states:

The amounts in the tables are based on economic studies of average spending on children in families at different income levels in Canada. They are calculated on the basis that child support payments are no longer taxable in the hands of the receiving parent and no longer deductible by the paying parent. They are calculated using a mathematical formula and generated by a computer program.

23. Schedule I, Note 6 of the Guidelines states:

The formula referred to in note 5 sets support amounts to reflect average expenditures on children by a spouse with a particular number of children and level of income. The calculation is based on the support payer's income. The formula uses the basic personal amount for non-refundable tax credits to recognize personal expenses, and takes other federal and provincial income taxes and credits into account. Federal Child Tax benefits and Goods and Services Tax credits for children are excluded from the calculation. At lower income levels, the formula sets the amounts to take into account the combined impact of taxes and child support payments on the support payer's limited disposable income.

24. The child support amount ordered by a court must be the Table amount plus any special or extraordinary expenses under section 7 of the Guidelines; this is mandatory pursuant to s.15.1(3) of the Divorce Act and s.3(1) of the Guidelines. The only situations in which the Guidelines provide a court with discretion to deviate from the Table amount are the following:

- a. If the child is over the age of majority (s. 3(2));
- b. The payor's income is over \$150,000 per year (s. 4);
- c. The payor is a step-parent (s. 5);
- d. The children reside with the parents in a split custody arrangement (s. 8);
- e. The children reside with each parent for more than 40% of the time (s. 9); or
- f. The payor would suffer undue hardship if the table amount was paid (s.10).

25. Unless a family's situation matches one of the above noted provisions under the Guidelines, there is no room for discretion of the court to adjust the Table amounts for particular fact situations [FN2]. Where families have traditional custodial arrangements with minor children and do not fall within (a) through (f) above, no deviation is permissible [FN3].

26. As noted in exception (b) above, Section 4 of the Guidelines permit deviations from the Table amount where the payor's income is over \$150,000 per annum. However, courts rarely deviate from the Tables where the payor's income is up to \$1,000,000 per annum. We have attached a chart of sample high income cases where such amounts were ordered as **Appendix E** to this report. At all income levels, child

FN 2: The Guidelines are applied universally except in very specific situations. For example, if parents entered into an agreement prior to May 1, 1997, such agreement will continue until either parent wishes to opt into the Guideline regime or a new court order is made. Under Section 15.1(7) of the Divorce Act, both parents may consent to an amount different than the Table amounts, however they typically require a judge's approval to do so if an Order is filed. Finally, pursuant to Section 15.1(5) of the Divorce Act, a court may deviate from the Table amount if "special provisions" have been made for the benefit of the child and the application of the Guidelines would result in an amount of child support that would be inequitable.

FN 3: In this report, "traditional custodial arrangements" refers to residential arrangements where the child lives with the payor of child support for less than 40% of the time. The amount of child support is not impacted by which parent has decision-making with respect to the children.

support payable fluctuates with annual income of the payor unless the court orders otherwise.

27. Once a family is considered to be in a traditional custodial arrangement, the following information, for example, is irrelevant in determining the quantum of child support payable:

- a. A child support payor who does not see the child pays the same amount as one who lives with the child 35% of the time;
- b. The amount of child support is identical for a newborn and for a child who is 17 years old;
- c. The costs of the child support payor to visit with the child, even if the parent lives in a different city from the child and has increased access fees (unless undue hardship exists);
- d. Whether the child lives in a urban or rural location with variations for cost of living within a province; and
- e. The payor's gross income will result in the same Table amount of child support payable regardless of whether the payor has a spousal support obligation or not. **[FN4]**

28. The amounts of child support do not change annually or periodically to reflect changes in income tax rates and incentives. The Table amounts have only changed two times in the 15 years since the Guidelines were implemented. **[FN5]**

FN 4: The Spousal Support Advisory Guidelines ("SSAG's") are non-mandatory Guidelines released by the Department of Justice as a useful tool in determining spousal support obligations. Specific software, such as DivorceMate, is required to prepare such calculations. Spousal support awards under the SSAG's do take into account whether or not child support is being paid in suggesting appropriate levels of spousal support. However the SSAG's were only recently developed and are not universally applied by all Courts.

FN 5: In contrast to child support tables, the SSAG's are updated annually to reflect changes to income tax rates.

29. Once a child support order is made, non-payment can result in severe consequences for a payor, which consequences are set and enforced by provincial legislation and government agencies. These consequences include: garnishment of wages, income tax refunds, and bank accounts; loss of drivers licence and/or passport; and, in extreme cases, incarceration of the payor. Child support payment obligations also survive bankruptcy. [FN6]

VII - ANALYSIS OF SPECIFIC AREAS OF THE GUIDELINES:

A - INFORMATION OF RECIPIENT

30. According to the *Divorce Act*, the principle of the Guidelines is that spouses have a "joint financial obligation" to support the children of the marriage (s. 26.1(2)). Similarly, the Guidelines themselves specify one of the objectives is for children to "continue to benefit from the financial means of both spouses after separation" (s. 1(a)).
31. Notwithstanding these stated objectives, financial information is not required from both spouses in order to determine the table amount of child support. Rather, only the payor's financial information is required. The recipient's financial information is not considered relevant to the determination of basic child support. This principle is clear from the three provisions of the Child Support Guidelines discussed below.
32. Section 3(1) of the Guidelines states that the Table amount is set in accordance with only two factors: first, the number of children in

question; and second, the payor's income. The recipient's income, the recipient's financial circumstances, the children's budgeted needs, and whether such funds are spent on the children are specifically not listed nor considered to be relevant under the Guidelines. Those facts cannot be considered by the court when setting the Guideline Table amount.

33. Section 21 of the Guidelines sets out the income information to be disclosed by the parties. It states:

(1) A spouse who is applying for a child support order and whose income information is necessary to determine the amount of the order must include the following with the application:.

34. The list in Section 21 (a) through (g) includes the spouse's last three years of personal income tax returns as filed.
35. However, the documentation required under section 21 is only required if the applicant's income information "is necessary to determine the amount of the order". When this section is read in conjunction with s. 3(1) of the Guidelines, the income information of the applicant / recipient is not required in order to determine the Table amount. Similarly, Section 21(5) of the Guidelines specifically allows for court rules to be made requiring the disclosure of income information, again, if considered necessary for determining the amount of a child support order.
36. Since the regulatory framework within the Guidelines does not require the disclosure of the applicant spouse's income, one would expect that

FN 6: *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, s. 178 (1)(c).

the provincial rules of court and / or the corresponding court forms would place this obligation on the applicant. However, most provinces do not require a financial statement nor disclosure of any financial information from the applicant spouse where the claim is for basic Table support only. For example, the Ontario Family Law Rules state:

R. 13 (1.3) Exception – Certain Support Claims – If the only claim for support contained in the application, answer or motion is a claim for child support in the amount specified in the table of the applicable child support Guidelines, the party making the claim is not required to file a financial statement, unless the application, answer or motion also contains a property claim or a claim for exclusive possession of the matrimonial home and its contents.

37. Similar lack of such disclosure is found in the Manitoba Queen's Bench Rules, Manitoba Regulation 553/88:

Where Form 70D not required

70.05(2) Where an application for child support is made in the originating process, the petitioner does not need to file and serve Form 70D (financial statement) if

- (a) the only child support claimed is an amount in the applicable table under the guidelines and all children for whom support is sought are under the age of majority;***
(b) there are no other issues of support or property raised in the originating process; and
(c) the application is made by a person whose income information is not necessary to determine the amount of the order.

38. In British Columbia, the court forms instruct a claimant not to complete the financial statement if claiming only the Table amount of support with the factual situations set out in paragraph 5 of this report. Similarly, the Alberta rules do not require a financial statement in those circumstances.

39. The Applicant seeking child support is not required to provide income information, net worth statements, or a budget. There is no information provided to account for how the child support monies will be spent (or on a retroactive claim, would have been spent) for the benefit of the child. A payor of child support is specifically not entitled to analyse such information, as there is no opportunity within the Guidelines to access this information. In practice, it is considered inappropriate for one to request such disclosure.
40. Once the child support is received, the spending of those funds is entirely within the recipient's control. No information is required as to whether the funds were spent, or whether they were placed into savings or accumulation of assets.
41. Without complete evidence as to the recipient's income, financial circumstances and child expense budget before the court when the table amount is set, and no accounting for the spending of child support once ordered, it is difficult to determine if a recipient spouse is living up to his or her part of the "joint financial obligation" to support the children of the marriage as required by s.26.1(2) of the *Divorce Act*. Most reported cases do not assess whether the recipient spouse has fulfilled such obligation by reference to this section of the statute. In the traditional child support scenarios (set out at paragraph 5), there is no evidence as to whether the child is benefitting from the financial means of the recipient spouse, even though that benefit is one of the stated objectives in Section 1(a) of the Guidelines.

B – INFORMATION OF PAYOR IS ALWAYS RELEVANT

42. Despite the lack of evidence as to the recipient's financial information, all evidence relating to the financial circumstances of the payor is relevant. This evidence includes, but is not limited to, three years of income tax returns, and three years of financial statements for privately held companies, even if the payor is a minority shareholder.

C –PAYOR'S INCOME AVAILABLE FOR SUPPORT

43. According to Section 15 of the Guidelines, the payor's income available for support is governed by Sections 16 through 20 and Schedule III. The starting point is the payor's total income per line 150 of the annual income tax return (T1 General). To that income, a court may add or impute additional income to the payor in the circumstances set out in s. 18 and 19 of the Guidelines, which circumstances include:
- a. All or part of the pre-tax income of a corporation in which the payor is a shareholder, director or officer [Section 18(1)(a)];
 - b. Income from the payor's property if such property is not reasonably utilized to generate income [Section 19(1)(e)];
 - c. If the payor unreasonably deducts expenses from income, even if such expenses are permissible under the *Income Tax Act* [Sections 19(1)(g) and 19(2)];
 - d. Actual capital gains, along with potential tax savings associated with such gains [Schedule III, Section 6 and Section 19(1)(h)];
and,
 - e. Income or other benefits from a trust of which the payor is a beneficiary [Section 19(1)(i)].

44. The payor's income includes all types and sources of income, including even government benefits. Disability income, pension income, survivor benefits, worker's compensation benefits and social assistance for the benefit of the payor are included. Such amounts may be adjusted upwards to reflect the tax savings associated with these sources of income.

D – SECTION 7 ADD-ON EXPENSES

45. There is no ability to claim a reduction from the Table amounts payable if the child expense budget of a particular family is less than the Guideline Table amount. But, there is an ability to increase the child support payment by add-on expenses through s. 7 of the Guidelines.
46. The amount of child support payable in a traditional child custody arrangement as set out in the assumptions above is the Table amount plus the amount if any determined under s. 7 (Guidelines s.3(1)). Section 7 states:

Special or extraordinary expenses

7. (1) In a child support order the court may, on either spouse's request, provide for an amount to cover all or any portion of the following expenses, which expenses may be estimated, taking into account the necessity of the expense in relation to the child's best interests and the reasonableness of the expense in relation to the means of the spouses and those of the child and to the family's spending pattern prior to the separation:

(a) child care expenses incurred as a result of the custodial parent's employment, illness, disability or education or training for employment;

(b) that portion of the medical and dental insurance premiums attributable to the child;

(c) health-related expenses that exceed insurance reimbursement by at least \$100 annually, including orthodontic treatment, professional counselling provided by a psychologist, social worker, psychiatrist or any other person, physiotherapy, occupational therapy, speech therapy and prescription drugs, hearing aids, glasses and contact lenses;

(d) extraordinary expenses for primary or secondary school education or for any other educational programs that meet the child's particular needs;

(e) expenses for post-secondary education; and

(f) extraordinary expenses for extracurricular activities.

Definition of "extraordinary expenses"

(1.1) For the purposes of paragraphs (1)(d) and (f), the term "extraordinary expenses" means

(a) expenses that exceed those that the spouse requesting an amount for the extraordinary expenses can reasonably cover, taking into account that spouse's income and the amount that the spouse would receive under the applicable table or, where the court has determined that the table amount is inappropriate, the amount that the court has otherwise determined is appropriate; or

(b) where paragraph (a) is not applicable, expenses that the court considers are extraordinary taking into account

(i) the amount of the expense in relation to the income of the spouse requesting the amount, including the amount that the spouse would receive under the applicable table or, where the court has determined that the table amount is inappropriate, the amount that the court has otherwise determined is appropriate,

(ii) the nature and number of the educational programs and extracurricular activities,

(iii) any special needs and talents of the child or children,

(iv) the overall cost of the programs and activities, and

(v) any other similar factor that the court considers relevant.

Sharing of expense

(2) The guiding principle in determining the amount of an expense referred to in subsection (1) is that the expense is shared by the spouses in proportion to their respective incomes

after deducting from the expense, the contribution, if any, from the child.

Subsidies, tax deductions, etc.

(3) Subject to subsection (4), in determining the amount of an expense referred to in subsection (1), the court must take into account any subsidies, benefits or income tax deductions or credits relating to the expense, and any eligibility to claim a subsidy, benefit or income tax deduction or credit relating to the expense.

Universal child care benefit

(4) In determining the amount of an expense referred to in subsection (1), the court shall not take into account any universal child care benefit or any eligibility to claim that benefit.

47. Section 7 amounts, if applicable, are payable in addition to the basic Table amounts and are therefore often referred to as “add-on expenses”. They work to increase the amount paid for child support payable.
48. The recipient does not need to establish that the Table Amount is insufficient to cover the add-on expenses or that the monthly Table Amounts received have otherwise been exhausted on other expenses. In addition, once there is an Order and such payment is made, there is no ongoing accounting or disclosure by the recipient with respect to the expense.
49. It is very common for a court to order s.7 add-on expenses when requested once the recipient produces the required financial disclosure. Such disclosure is similar to the productions required by a payor in all circumstances. Although the section is permissive and not mandatory, s. 7 expenses are ordered in most cases where they are requested if the expense falls under one of the defined expenses set out in the

Section. Where the payor's income was between \$75,000 and \$149,999, one study showed that upon pooling all provinces 57% of cases ordered special expenses, and in Ontario, the percentage increased to 63%. Further, the amounts awarded under this Section appeared to increase as the payor's income increases [FN7].

50. In calculating the amount of the expense that is to be shared pursuant to Section 7 (the "net cost"), Section 7(3) of the *Guidelines* above takes into account various subsidies and tax deductions that are directly related to the expense. Those tax deductions and savings related to the children, but not related directly to the Section 7 expense, will be ignored in calculating the spouse's proportionate share.
51. The spouses then contribute to the net cost of the s. 7 expense on a pro rata basis in accordance with their respective gross incomes. If the applicant spouse does not earn income, the payor spouse is responsible for 100% of such costs. Any benefits to the custodial parent of incremental tax savings related to the children is ignored in calculating that spouse's proportionate share. If the s.7 expenses were shared on the bases of relative after tax income, including non taxable benefits, the custodial parent would pay a higher portion.
52. Section 7 expenses are routinely added on to the Table amount of support, even in cases where the payor's annual income is over \$1,000,000. In such cases, the Table amount of support is often enough to cover the cost of typical s.7 expenses such as medical insurance premiums, childcare, private school and extraordinary extracurricular activities, yet the payor's pro rata contribution is often

FN 7: Children Come First: A Report to Parliament Reviewing the Provisions and Operation of the *Federal*

added onto support awards. As noted above, we have attached a chart at **Appendix E** of sample high income cases in certain provinces where Section 7 expenses were ordered in addition to the Table amounts.

E – MULTIPLE PAYORS

53. A child support order made under the Guidelines can be made against a spouse who is a parent or who stands in the place of a parent to the child in question.
54. The jurisdiction to make a child support order against a spouse who stands in the place of a parent comes from s. 15.1(1) of the *Divorce Act* which says that child support may be ordered for “any or all children of the marriage”. Child of the marriage is defined under s. 2(2) of the *Divorce Act* as:

Child of the marriage

(2) For the purposes of the definition “child of the marriage” in subsection (1), a child of two spouses or former spouses includes

- (a) any child for whom they both stand in the place of parents; and*
- (b) any child of whom one is the parent and for whom the other stands in the place of a parent.*

55. Child support payments by step-parents are specifically addressed at s. 5 of the Guidelines. That section states:

Spouse in place of a parent

5. Where the spouse against whom a child support order is sought stands in the place of a parent for a child, the amount of a child support order is, in respect of that spouse, such

amount as the court considers appropriate, having regard to these Guidelines and any other parent's legal duty to support the child.

56. When there are multiple payors for the same child or children the Tables continue to apply, unless (a) the step-parent is successful for a request for a deviation under s.5 of the Guidelines or (b) the natural parent can make a successful undue hardship claim under s. 10 as discussed at paragraphs 61-68 below.
57. Section 5 may be used by step-parents to deviate from the Table amount. However, we understand that Section 5 is not available to a natural or adoptive parent [FN8]. Accordingly, a biological or adoptive parent cannot reduce the Table amount of support even if the child is being supported by a wealthy step-parent of a new intact family.
58. When Section 3 of the Guidelines, which requires mandatory payment of Table support for parents, is considered together with Section 5 relating to support payable by step-parents, it is possible that multiple child support orders may be made against multiple payors for the same child or children. This could result in a financial windfall or "double recovery" for the recipient parent.
59. According to Bastarache J. of the Supreme Court of Canada,
The contribution to be paid by the biological parent should be assessed independently of the obligations of the step-parent...the issue of contribution is one between all of the parents who have obligations towards the child, whether they are biological parents or step-parents; it should not affect the child. If a parent seeks contribution from another parent, he or she must,

FN 8: *Wright v. Zaver*, 2002 CarswellOnt 887 (Ont. C.A.).

in the meantime, pay support for the child regardless of the obligations of the other parent. [FN9]

60. We understand that the natural parent has the primary obligation to support the child and must pay the Table amount of child support even in the case where no support was previously requested and the step-parent has assumed full financial responsibility for the children [FN10].

F – THE CLAIM FOR UNDUE HARDSHIP

Undue Hardship – General Principles

61. The Child Support Guidelines purport to give courts discretion to deal with some unfairness that might arise from payment of Table support in an application under s. 10 of the Guidelines. That section states:

Undue hardship

10. (1) On either spouse's application, a court may award an amount of child support that is different from the amount determined under any of sections 3 to 5, 8 or 9 if the court finds that the spouse making the request, or a child in respect of whom the request is made, would otherwise suffer undue hardship.

Circumstances that may cause undue hardship

(2) Circumstances that may cause a spouse or child to suffer undue hardship include the following:

- (a) the spouse has responsibility for an unusually high level of debts reasonably incurred to support the spouses and their children prior to the separation or to earn a living;*
- (b) the spouse has unusually high expenses in relation to exercising access to a child;*
- (c) the spouse has a legal duty under a judgment, order or written separation agreement to support any person;*

FN9: *Chartier v. Chartier*, [1999] 1 S.C.R. 242 (S.C.C.)

FN10: *H(U.V.) v. H(M.W.)*, 2008 BCCA 177 (B.C.C.A.)

(d) the spouse has a legal duty to support a child, other than a child of the marriage, who is

(i) under the age of majority, or

(ii) the age of majority or over but is unable, by reason of illness, disability or other cause, to obtain the necessaries of life; and

(e) the spouse has a legal duty to support any person who is unable to obtain the necessaries of life due to an illness or disability.

Standards of living must be considered

(3) Despite a determination of undue hardship under subsection (1), an application under that subsection must be denied by the court if it is of the opinion that the household of the spouse who claims undue hardship would, after determining the amount of child support under any of sections 3 to 5, 8 or 9, have a higher standard of living than the household of the other spouse.

Standards of living test

(4) In comparing standards of living for the purpose of subsection (3), the court may use the comparison of household standards of living test set out in Schedule II.

Reasonable time

(5) Where the court awards a different amount of child support under subsection (1), it may specify, in the child support order, a reasonable time for the satisfaction of any obligation arising from circumstances that cause undue hardship and the amount payable at the end of that time.

Reasons

(6) Where the court makes a child support order in a different amount under this section, it must record its reasons for doing so.

62. Absent a special arrangement as discussed in footnote 2 above, Section 10 is the only discretionary section of the *Guidelines* that is available to a court to resolve a child support dispute between natural parents whose children are in a traditional custody arrangement as set out in this report's assumptions.

63. A claim made to reduce the child support amount because of undue hardship must meet a two-part test. First, undue hardship must be proven (s.10(1)). Secondly, the payor claiming the reduction must have a lower household standard of living than the recipient spouse (s. 10(3)).
64. Undue hardship is a very tough threshold to meet and payment of the Guideline amount will rarely constitute same. The hardship experienced by applying the Guidelines Table amount must match the synonyms used by the Court such as: “excessive, extreme, improper, unreasonable, unjustified. It is more than awkward or inconvenient” **[FN11]**. We further understand that clear and cogent evidence showing significant deprivation with respect to “food, clothing, shelter or some medical or other health need” is required by the payor to claim such a reduction **[FN12]**.
65. In our experience and from a practical application of the test, such a claim will rarely be successful unless the payor is truly impoverished.
66. Even if the payor establishes undue hardship under Section 10(1), evidence must also prove to the court that his or her household standard of living is lower than the recipient’s household standard of living, pursuant to Sections 10(3) and (4) of the Guidelines. The prescribed method for comparing standards of living is set out in Schedule II to the *Guidelines* which is attached as **Appendix D**.

Undue Hardship & Expenses of Second Families

FN11: *Swift v. Swift*, 1998 CarswellOnt 402 (Ont. Gen.Div.).

FN12: *Reid v. Nelson*, 2002 CarswellOnt 2257

67. In making a claim for undue hardship under Section 10(1) of the *Guidelines*, a spouse's legal duty to pay support for another child is a circumstance as specifically noted in Section 10(2)(d) that may be considered. As noted above, the undue hardship test is extremely difficult to meet. We understand that courts have found that a payor parent has "made his own life choices" by having a second family, and must take responsibility for those choices, and the courts consequently do not reduce the support payable **[FN13]**.
68. Where the payor is supporting children in more than one family, the Guideline Tables completely ignore the existence of the associated expenses for the children of the second family.

VIII – SCOPE OF REVIEW:

69. We have relied, inter alia on the information and documentation in preparing our report as noted on **Appendix F**.

FN13: *A(K) v. D(T)*, 2008 CarswellAlta 719.

APPENDIX A – EXCERPTS FROM *DIVORCE ACT*

Divorce Act, R.S.C. 1985, c. 3 (2nd Supp.)

Definitions

2. (1) In this Act,

“age of majority”

“age of majority”, in respect of a child, means the age of majority as determined by the laws of the province where the child ordinarily resides, or, if the child ordinarily resides outside of Canada, eighteen years of age;

“appellate court”

“appellate court”, in respect of an appeal from a court, means the court exercising appellate jurisdiction with respect to that appeal;

“applicable guidelines”

“applicable guidelines” means

(a) where both spouses or former spouses are ordinarily resident in the same province at the time an application for a child support order or a variation order in respect of a child support order is made, or the amount of a child support order is to be recalculated pursuant to section 25.1, and that province has been designated by an order made under subsection (5), the laws of the province specified in the order, and

(b) in any other case, the Federal Child Support Guidelines;

“child of the marriage”

“child of the marriage” means a child of two spouses or former spouses who, at the material time,

(a) is under the age of majority and who has not withdrawn from their charge, or

(b) is the age of majority or over and under their charge but unable, by reason of illness, disability or other cause, to withdraw from their charge or to obtain the necessaries of life;

“child support order”

“child support order” means an order made under subsection 15.1(1);

“corollary relief proceeding”

“corollary relief proceeding” means a proceeding in a court in which either or both former spouses seek a child support order, a spousal support order or a custody order;

“court”

“court”, in respect of a province, means

(a) for the Province of Ontario, the Superior Court of Justice,

(a.1) for the Province of Prince Edward Island or Newfoundland, the trial division of the Supreme Court of the Province,

(b) for the Province of Quebec, the Superior Court,

(c) for the Provinces of Nova Scotia and British Columbia, the Supreme Court of the Province,

(d) for the Province of New Brunswick, Manitoba, Saskatchewan or Alberta, the Court of Queen's Bench for the Province, and

(e) for Yukon or the Northwest Territories, the Supreme Court, and in Nunavut, the Nunavut Court of Justice,

and includes such other court in the province the judges of which are appointed by the Governor General as is designated by the Lieutenant Governor in Council of the province as a court for the purposes of this Act;

"custody"

"custody" includes care, upbringing and any other incident of custody;

"custody order"

"custody order" means an order made under subsection 16(1);

"divorce proceeding"

"divorce proceeding" means a proceeding in a court in which either or both spouses seek a divorce alone or together with a child support order, a spousal support order or a custody order;

"Federal Child Support Guidelines"

"Federal Child Support Guidelines" means the guidelines made under section 26.1;

"provincial child support service"

"provincial child support service" means any service, agency or body designated in an agreement with a province under subsection 25.1(1);

"spousal support order"

"spousal support order" means an order made under subsection 15.2(1);

"spouse"

"spouse" means either of two persons who are married to each other;

"support order"

"support order" means a child support order or a spousal support order;

"variation order"

"variation order" means an order made under subsection 17(1);

"variation proceeding"

"variation proceeding" means a proceeding in a court in which either or both former spouses seek a variation order.

Child of the marriage

(2) For the purposes of the definition "child of the marriage" in subsection (1), a child of two spouses or former spouses includes

(a) any child for whom they both stand in the place of parents; and

(b) any child of whom one is the parent and for whom the other stands in the place of a parent.

Term not restrictive

(3) The use of the term "application" to describe a proceeding under this Act in a court shall not be construed as limiting the name under which and the form and manner in which that proceeding may be taken in that court, and the name, manner and form of the proceeding in that court shall be such as is provided for by the rules regulating the practice and procedure in that court.

Idem

(4) The use in section 21.1 of the terms "affidavit" and "pleadings" to describe documents shall not be construed as limiting the name that may be used to refer to those documents in a court and the form of those documents, and the name and form of the documents shall be such as is provided for by the rules regulating the practice and procedure in that court.

Provincial child support guidelines

(5) The Governor in Council may, by order, designate a province for the purposes of the definition "applicable guidelines" in subsection (1) if the laws of the province establish comprehensive guidelines for the determination of child support that deal with the matters referred to in section 26.1. The order shall specify the laws of the province that constitute the guidelines of the province.

Amendments included

(6) The guidelines of a province referred to in subsection (5) include any amendments made to them from time to time.

R.S., 1985, c. 3 (2nd Supp.), s. 2, c. 27 (2nd Supp.), s. 10; 1990, c. 18, s. 1; 1992, c. 51, s. 46; 1997, c. 1, s. 1; 1998, c. 30, ss. 13(F), 15(E); 1999, c. 3, s. 61; 2002, c. 7, s. 158(E); 2005, c. 33, s. 8.

Child support order

15.1 (1) A court of competent jurisdiction may, on application by either or both spouses, make an order requiring a spouse to pay for the support of any or all children of the marriage.

Interim order

(2) Where an application is made under subsection (1), the court may, on application by either or both spouses, make an interim order requiring a spouse to pay for the support of any or all children of the marriage, pending the determination of the application under subsection (1).

Guidelines apply

(3) A court making an order under subsection (1) or an interim order under subsection (2) shall do so in accordance with the applicable guidelines.

Terms and conditions

(4) The court may make an order under subsection (1) or an interim order under subsection (2) for a definite or indefinite period or until a specified event occurs, and may impose terms, conditions or restrictions in connection with the order or interim order as it thinks fit and just.

Court may take agreement, etc., into account

(5) Notwithstanding subsection (3), a court may award an amount that is different from the amount that would be determined in accordance with the applicable guidelines if the court is satisfied

(a) that special provisions in an order, a judgment or a written agreement respecting the financial obligations of the spouses, or the division or transfer of their property, directly or indirectly benefit a child, or that special provisions have otherwise been made for the benefit of a child; and

(b) that the application of the applicable guidelines would result in an amount of child support that is inequitable given those special provisions.

Reasons

(6) Where the court awards, pursuant to subsection (5), an amount that is different from the amount that would be determined in accordance with the applicable guidelines, the court shall record its reasons for having done so.

Consent orders

(7) Notwithstanding subsection (3), a court may award an amount that is different from the amount that would be determined in accordance with the applicable guidelines on the consent of both spouses if it is satisfied that reasonable arrangements have been made for the support of the child to whom the order relates.

Reasonable arrangements

(8) For the purposes of subsection (7), in determining whether reasonable arrangements have been made for the support of a child, the court shall have regard to the applicable guidelines. However, the court shall not consider the arrangements to be unreasonable solely because the amount of support agreed to is not the same as the amount that would otherwise have been determined in accordance with the applicable guidelines.

Guidelines

26.1 (1) The Governor in Council may establish guidelines respecting the making of orders for child support, including, but without limiting the generality of the foregoing, guidelines

- (a) respecting the way in which the amount of an order for child support is to be determined;**
- (b) respecting the circumstances in which discretion may be exercised in the making of an order for child support;**
- (c) authorizing a court to require that the amount payable under an order for child support be paid in periodic payments, in a lump sum or in a lump sum and periodic payments;**
- (d) authorizing a court to require that the amount payable under an order for child support be paid or secured, or paid and secured, in the manner specified in the order;**
- (e) respecting the circumstances that give rise to the making of a variation order in respect of a child support order;**
- (f) respecting the determination of income for the purposes of the application of the guidelines;**
- (g) authorizing a court to impute income for the purposes of the application of the guidelines; and**
- (h) respecting the production of income information and providing for sanctions when that information is not provided.**

Principle

(2) The guidelines shall be based on the principle that spouses have a joint financial obligation to maintain the children of the marriage in accordance with their relative abilities to contribute to the performance of that obligation.

Definition of "order for child support"

- (3) In subsection (1), "order for child support" means**
- (a) an order or interim order made under section 15.1;**
 - (b) a variation order in respect of a child support order; or**
 - (c) an order or an interim order made under section 19.**

1997, c. 1, s. 11.

Second Session, Thirty-fifth Parliament,
45-46 Elizabeth II, 1996-97

Deuxième session, trente-cinquième législature,
45-46 Elizabeth II, 1996-97

STATUTES OF CANADA 1997

LOIS DU CANADA (1997)

CHAPTER 1

CHAPITRE 1

An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act, the Garnishment, Attachment and Pension Diversion Act and the Canada Shipping Act

Loi modifiant la Loi sur le divorce, la Loi d'aide à l'exécution des ordonnances et des ententes familiales, la Loi sur la saisie-arrêt et la distraction de pensions et la Loi sur la marine marchande du Canada

BILL C-41

ASSENTED TO 19th FEBRUARY, 1997

PROJET DE LOI C-41

SANCTIONNÉ LE 19 FÉVRIER 1997

RECOMMENDATION

His Excellency the Governor General recommends to the House of Commons the appropriation of public revenue under the circumstances, in the manner and for the purposes set out in a measure entitled “An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act, the Garnishment, Attachment and Pension Diversion Act and the Canada Shipping Act”.

SUMMARY

This enactment establishes a framework for the use of child support guidelines in applications for child support under the *Divorce Act*.

Among the more important amendments to the *Family Orders and Agreements Enforcement Assistance Act* are amendments to add Revenue Canada databanks to the information banks that can be searched to locate persons in default of family support obligations and to create a scheme under that Act for the denial of certain federal licences to further assist in the enforcement of family support obligations.

Among the more important amendments to the *Garnishment, Attachment and Pension Diversion Act* are amendments that remove the requirement to submit a notice of intention to garnishee before serving a garnishee summons and amendments to expand the scope of federal pension diversion in arrears situations.

RECOMMANDATION

Son Excellence le gouverneur général recommande à la Chambre des communes l'affectation de deniers publics dans les circonstances, de la manière et aux fins prévues dans une mesure intitulée « Loi modifiant la Loi sur le divorce, la Loi d'aide à l'exécution des ordonnances et des ententes familiales, la Loi sur la saisie-arrêt et la distraction de pensions et la Loi sur la marine marchande du Canada ».

SOMMAIRE

Le texte établit un cadre pour l'utilisation des lignes directrices sur les pensions alimentaires pour enfants applicables aux demandes de pensions alimentaires présentées au titre de la *Loi sur le divorce*.

Parmi les modifications les plus importantes apportées à la *Loi d'aide à l'exécution des ordonnances et des ententes familiales* figurent celles permettant la consultation des fichiers régis par Revenu Canada afin de retrouver les personnes qui ne remplissent pas leurs obligations alimentaires familiales et celles créant un régime en matière de refus d'autorisations fédérales afin de faciliter l'exécution de telles obligations.

Parmi les modifications les plus importantes apportées à la *Loi sur la saisie-arrêt et la distraction de pensions* figurent celles supprimant l'obligation de transmettre un avis d'intention de pratiquer une saisie-arrêt avant la signification du bref de saisie-arrêt et celles permettant d'étendre le champ d'application de la distraction de pensions fédérales lorsqu'il y a des arrrages.

45-46 ELIZABETH II

45-46 ELIZABETH II

CHAPTER 1

CHAPITRE 1

An Act to amend the Divorce Act, the Family Orders and Agreements Enforcement Assistance Act, the Garnishment, Attachment and Pension Diversion Act and the Canada Shipping Act

Loi modifiant la Loi sur le divorce, la Loi d'aide à l'exécution des ordonnances et des ententes familiales, la Loi sur la saisie-arrêt et la distraction de pensions et la Loi sur la marine marchande du Canada

[Assented to 19th February, 1997]

[Sanctionnée le 19 février 1997]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

R.S., c. 3 (2nd Supp.); R.S., c. 27 (2nd Supp.); 1990, c. 18; 1992, c. 51; 1993, cc. 8, 28

Divorce Act

1. (1) The definitions “corollary relief proceeding”, “divorce proceeding” and “support order” in subsection 2(1) of the *Divorce Act* are replaced by the following:

“corollary relief proceeding”
« action en mesures accessoires »

“corollary relief proceeding” means a proceeding in a court in which either or both former spouses seek a child support order, a spousal support order or a custody order;

“divorce proceeding”
« action en divorce »

“divorce proceeding” means a proceeding in a court in which either or both spouses seek a divorce alone or together with a child support order, a spousal support order or a custody order;

“support order”
« ordonnance alimentaire »

“support order” means a child support order or a spousal support order;

Loi sur le divorce

1. (1) Les définitions de « action en divorce », « action en mesures accessoires » et « ordonnance alimentaire », au paragraphe 2(1) de la *Loi sur le divorce*, sont respectivement remplacées par ce qui suit :

L.R., ch. 3, (2^e suppl.); L.R., ch. 27 (2^e suppl.); 1990, ch. 18; 1992, ch. 51; 1993, ch. 8, 28

« action en divorce » Action exercée devant un tribunal par l'un des époux ou conjointement par eux en vue d'obtenir un divorce assorti ou non d'une ordonnance alimentaire au profit d'un enfant, d'une ordonnance alimentaire au profit d'un époux ou d'une ordonnance de garde.

« action en divorce »
“divorce proceeding”

« action en mesures accessoires » Action exercée devant un tribunal par l'un des ex-époux ou conjointement par eux en vue d'obtenir une ordonnance alimentaire au profit d'un enfant, une ordonnance alimentaire au profit d'un époux ou une ordonnance de garde.

« action en mesures accessoires »
“corollary relief proceeding”

« ordonnance alimentaire » Ordonnance alimentaire au profit d'un enfant ou ordonnance alimentaire au profit d'un époux.

« ordonnance alimentaire »
“support order”

(2) Paragraphs (a) and (b) of the definition “child of the marriage” in subsection 2(1) of the Act are replaced by the following:

(a) is under the age of majority and who has not withdrawn from their charge, or

(b) is the age of majority or over and under their charge but unable, by reason of illness, disability or other cause, to withdraw from their charge or to obtain the necessities of life;

(3) Subsection 2(1) of the Act is amended by adding the following in alphabetical order:

“age of majority”, in respect of a child, means the age of majority as determined by the laws of the province where the child ordinarily resides, or, if the child ordinarily resides outside of Canada, eighteen years of age;

“applicable guidelines” means

(a) where both spouses or former spouses are ordinarily resident in the same province at the time an application for a child support order or a variation order in respect of a child support order is made, or the amount of a child support order is to be recalculated pursuant to section 25.1, and that province has been designated by an order made under subsection (5), the laws of the province specified in the order, and

(b) in any other case, the Federal Child Support Guidelines;

“child support order” means an order made under subsection 15.1(1);

“Federal Child Support Guidelines” means the guidelines made under section 26.1;

(2) Les alinéas a) et b) de la définition de « enfant à charge », au paragraphe 2(1) de la même loi, sont remplacés par ce qui suit :

a) il n'est pas majeur et est à leur charge;

b) il est majeur et est à leur charge, sans pouvoir, pour cause notamment de maladie ou d'invalidité, cesser d'être à leur charge ou subvenir à ses propres besoins.

(3) Le paragraphe 2(1) de la même loi est modifié par adjonction, selon l'ordre alphabétique, de ce qui suit :

« lignes directrices applicables » S'entend :

a) dans le cas où les époux ou les ex-époux résident habituellement, à la date à laquelle la demande d'ordonnance alimentaire au profit d'un enfant ou la demande modificative de celle-ci est présentée ou à la date à laquelle le nouveau montant de l'ordonnance alimentaire au profit d'un enfant doit être fixée sous le régime de l'article 25.1, dans la même province — qui est désignée par un décret pris en vertu du paragraphe (5) —, des textes législatifs de celle-ci précisés dans le décret;

b) dans les autres cas, des lignes directrices fédérales sur les pensions alimentaires pour enfants.

« lignes directrices fédérales sur les pensions alimentaires pour enfants » Les lignes directrices établies en vertu de l'article 26.1.

« majeur » Est majeur l'enfant qui a atteint l'âge de la majorité selon le droit de la province où il réside habituellement ou, s'il réside habituellement à l'étranger, dix-huit ans.

“age of majority”
« majeur »

“applicable guidelines”
« lignes directrices applicables »

“child support order”
« ordonnance alimentaire au profit d'un enfant »

“Federal Child Support Guidelines”
« lignes directrices fédérales sur les pensions alimentaires pour enfants »

« lignes directrices applicables »
“applicable guidelines”

« lignes directrices fédérales sur les pensions alimentaires pour enfants »
“Federal Child Support Guidelines”

« majeur »
“age of majority”

“provincial child support service”
« *service provinciale des aliments pour enfants* »

“provincial child support service” means any service, agency or body designated in an agreement with a province under subsection 25.1(1);

« ordonnance alimentaire au profit d’un enfant » Ordonnance rendue en vertu du paragraphe 15.1(1).

« ordonnance alimentaire au profit d’un enfant »
“*child support order*”

“spousal support order”
« *ordonnance alimentaire au profit d’un époux* »

“spousal support order” means an order made under subsection 15.2(1);

« ordonnance alimentaire au profit d’un époux » Ordonnance rendue en vertu du paragraphe 15.2(1).

« ordonnance alimentaire au profit d’un époux »
“*spousal support order*”

« service provincial des aliments pour enfants » Administration, organisme ou service désignés dans un accord conclu avec une province en vertu de l’article 25.1.

« service provincial des aliments pour enfants »
“*provincial child support service*”

(4) Section 2 of the Act is amended by adding the following after subsection (4):

(4) L’article 2 de la même loi est modifié par adjonction, après le paragraphe (4), de ce qui suit :

Provincial child support guidelines

(5) The Governor in Council may, by order, designate a province for the purposes of the definition “applicable guidelines” in subsection (1) if the laws of the province establish comprehensive guidelines for the determination of child support that deal with the matters referred to in section 26.1. The order shall specify the laws of the province that constitute the guidelines of the province.

(5) Le gouverneur en conseil peut, par décret, désigner une province pour l’application de la définition de « lignes directrices applicables » au paragraphe (1) si la province a établi, relativement aux aliments pour enfants, des lignes directrices complètes qui traitent des questions visées à l’article 26.1. Le décret mentionne les textes législatifs qui constituent les lignes directrices de la province.

Lignes directrices provinciales sur les aliments pour les enfants

Amendments included

(6) The guidelines of a province referred to in subsection (5) include any amendments made to them from time to time.

(6) Les lignes directrices de la province comprennent leurs modifications éventuelles.

Modifications

1.1 Paragraph 11(1)(b) of the Act is replaced by the following:

(b) to satisfy itself that reasonable arrangements have been made for the support of any children of the marriage, having regard to the applicable guidelines, and, if such arrangements have not been made, to stay the granting of the divorce until such arrangements are made; and

1.1 L’alinéa 11(1)(b) de la même loi est remplacé par ce qui suit :

b) de s’assurer de la conclusion d’arrangements raisonnables pour les aliments des enfants à charge eu égard aux lignes directrices applicables et, en l’absence de tels arrangements, de surseoir au prononcé du divorce jusqu’à leur conclusion;

2. Section 15 of the Act is replaced by the following:

2. L’article 15 de la même loi est remplacé par ce qui suit :

Interpretation

Definition of "spouse"

15. In sections 15.1 to 16, "spouse" has the meaning assigned by subsection 2(1), and includes a former spouse.

Child Support Orders

Child support order

15.1 (1) A court of competent jurisdiction may, on application by either or both spouses, make an order requiring a spouse to pay for the support of any or all children of the marriage.

Interim order

(2) Where an application is made under subsection (1), the court may, on application by either or both spouses, make an interim order requiring a spouse to pay for the support of any or all children of the marriage, pending the determination of the application under subsection (1).

Guidelines apply

(3) A court making an order under subsection (1) or an interim order under subsection (2) shall do so in accordance with the applicable guidelines.

Terms and conditions

(4) The court may make an order under subsection (1) or an interim order under subsection (2) for a definite or indefinite period or until a specified event occurs, and may impose terms, conditions or restrictions in connection with the order or interim order as it thinks fit and just.

Court may take agreement, etc., into account

(5) Notwithstanding subsection (3), a court may award an amount that is different from the amount that would be determined in accordance with the applicable guidelines if the court is satisfied

(a) that special provisions in an order, a judgment or a written agreement respecting the financial obligations of the spouses, or the division or transfer of their property, directly or indirectly benefit a child, or that special provisions have otherwise been made for the benefit of a child; and

(b) that the application of the applicable guidelines would result in an amount of child support that is inequitable given those special provisions.

Définition

15. Aux articles 15.1 à 16, « époux » s'entend au sens du paragraphe 2(1) et, en outre, d'un ex-époux.

Ordonnances alimentaires au profit d'un enfant

Définition de « époux »

15.1 (1) Sur demande des époux ou de l'un d'eux, le tribunal compétent peut rendre une ordonnance enjoignant à un époux de verser une prestation pour les aliments des enfants à charge ou de l'un d'eux.

Ordonnance alimentaire au profit d'un enfant

(2) Sur demande des époux ou de l'un d'eux, le tribunal peut rendre une ordonnance provisoire enjoignant à un époux de verser, dans l'attente d'une décision sur la demande visée au paragraphe (1), une prestation pour les aliments des enfants à charge ou de l'un d'eux.

Ordonnance provisoire

(3) Le tribunal qui rend une ordonnance ou une ordonnance provisoire la rend conformément aux lignes directrices applicables.

Application des lignes directrices applicables

(4) La durée de validité de l'ordonnance ou de l'ordonnance provisoire rendue par le tribunal au titre du présent article peut être déterminée ou indéterminée ou dépendre d'un événement précis; elle peut être assujettie aux modalités ou aux restrictions que le tribunal estime justes et appropriées.

Modalités

(5) Par dérogation au paragraphe (3), le tribunal peut fixer un montant différent de celui qui serait déterminé conformément aux lignes directrices applicables s'il est convaincu, à la fois :

Ententes, ordonnances, jugements, etc.

a) que des dispositions spéciales d'un jugement, d'une ordonnance ou d'une entente écrite relatif aux obligations financières des époux ou au partage ou au transfert de leurs biens accordent directement ou indirectement un avantage à un enfant pour qui les aliments sont demandés, ou que des dispositions spéciales ont été prises pour lui accorder autrement un avantage;

b) que le montant déterminé conformément aux lignes directrices applicables serait inéquitable eu égard à ces dispositions.

Reasons	<p>(6) Where the court awards, pursuant to subsection (5), an amount that is different from the amount that would be determined in accordance with the applicable guidelines, the court shall record its reasons for having done so.</p>	<p>(6) S'il fixe, au titre du paragraphe (5), un montant qui est différent de celui qui serait déterminé conformément aux lignes directrices applicables, le tribunal enregistre les motifs de sa décision.</p>	Motifs
Consent orders	<p>(7) Notwithstanding subsection (3), a court may award an amount that is different from the amount that would be determined in accordance with the applicable guidelines on the consent of both spouses if it is satisfied that reasonable arrangements have been made for the support of the child to whom the order relates.</p>	<p>(7) Par dérogation au paragraphe (3), le tribunal peut, avec le consentement des époux, fixer un montant qui est différent de celui qui serait déterminé conformément aux lignes directrices applicables s'il est convaincu que des arrangements raisonnables ont été conclus pour les aliments de l'enfant visé par l'ordonnance.</p>	Consentement des époux
Reasonable arrangements	<p>(8) For the purposes of subsection (7), in determining whether reasonable arrangements have been made for the support of a child, the court shall have regard to the applicable guidelines. However, the court shall not consider the arrangements to be unreasonable solely because the amount of support agreed to is not the same as the amount that would otherwise have been determined in accordance with the applicable guidelines.</p>	<p>(8) Pour l'application du paragraphe (7), le tribunal tient compte des lignes directrices applicables pour déterminer si les arrangements sont raisonnables. Toutefois, les arrangements ne sont pas déraisonnables du seul fait que le montant sur lequel les conjoints s'entendent est différent de celui qui serait déterminé conformément aux lignes directrices applicables.</p>	Arrangements raisonnables
<i>Spousal Support Orders</i>		<i>Ordonnances alimentaires au profit d'un époux</i>	
Spousal support order	<p>15.2 (1) A court of competent jurisdiction may, on application by either or both spouses, make an order requiring a spouse to secure or pay, or to secure and pay, such lump sum or periodic sums, or such lump sum and periodic sums, as the court thinks reasonable for the support of the other spouse.</p>	<p>15.2 (1) Sur demande des époux ou de l'un d'eux, le tribunal compétent peut rendre une ordonnance enjoignant à un époux de garantir ou de verser, ou de garantir et de verser, la prestation, sous forme de capital, de pension ou des deux, qu'il estime raisonnable pour les aliments de l'autre époux.</p>	Ordonnance alimentaire au profit d'un époux
Interim order	<p>(2) Where an application is made under subsection (1), the court may, on application by either or both spouses, make an interim order requiring a spouse to secure or pay, or to secure and pay, such lump sum or periodic sums, or such lump sum and periodic sums, as the court thinks reasonable for the support of the other spouse, pending the determination of the application under subsection (1).</p>	<p>(2) Sur demande des époux ou de l'un d'eux, le tribunal peut rendre une ordonnance provisoire enjoignant à un époux de garantir ou de verser, ou de garantir et de verser, dans l'attente d'une décision sur la demande visée au paragraphe (1), la prestation, sous forme de capital, de pension ou des deux, qu'il estime raisonnable pour les aliments de l'autre époux.</p>	Ordonnance provisoire
Terms and conditions	<p>(3) The court may make an order under subsection (1) or an interim order under subsection (2) for a definite or indefinite period or until a specified event occurs, and may impose terms, conditions or restrictions in connection with the order as it thinks fit and just.</p>	<p>(3) La durée de validité de l'ordonnance ou de l'ordonnance provisoire rendue par le tribunal au titre du présent article peut être déterminée ou indéterminée ou dépendre d'un événement précis; elle peut être assujettie aux modalités ou aux restrictions que le tribunal estime justes et appropriées.</p>	Modalités

Factors

(4) In making an order under subsection (1) or an interim order under subsection (2), the court shall take into consideration the condition, means, needs and other circumstances of each spouse, including

- (a) the length of time the spouses cohabited;
- (b) the functions performed by each spouse during cohabitation; and
- (c) any order, agreement or arrangement relating to support of either spouse.

(4) En rendant une ordonnance ou une ordonnance provisoire au titre du présent article, le tribunal tient compte des ressources, des besoins et, d'une façon générale, de la situation de chaque époux, y compris :

- a) la durée de la cohabitation des époux;
- b) les fonctions qu'ils ont remplies au cours de celle-ci;
- c) toute ordonnance, toute entente ou tout arrangement alimentaire au profit de l'un ou l'autre des époux.

Facteurs

Spousal misconduct

(5) In making an order under subsection (1) or an interim order under subsection (2), the court shall not take into consideration any misconduct of a spouse in relation to the marriage.

(5) En rendant une ordonnance ou une ordonnance provisoire au titre du présent article, le tribunal ne tient pas compte des fautes commises par l'un ou l'autre des époux relativement au mariage.

Fautes du conjoint

Objectives of spousal support order

(6) An order made under subsection (1) or an interim order under subsection (2) that provides for the support of a spouse should

- (a) recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown;
- (b) apportion between the spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage;
- (c) relieve any economic hardship of the spouses arising from the breakdown of the marriage; and
- (d) in so far as practicable, promote the economic self-sufficiency of each spouse within a reasonable period of time.

(6) L'ordonnance ou l'ordonnance provisoire rendue pour les aliments d'un époux au titre du présent article vise :

- a) à prendre en compte les avantages ou les inconvénients économiques qui découlent, pour les époux, du mariage ou de son échec;
- b) à répartir entre eux les conséquences économiques qui découlent du soin de tout enfant à charge, en sus de toute obligation alimentaire relative à tout enfant à charge;
- c) à remédier à toute difficulté économique que l'échec du mariage leur cause;
- d) à favoriser, dans la mesure du possible, l'indépendance économique de chacun d'eux dans un délai raisonnable.

Objectifs de l'ordonnance alimentaire au profit d'un époux

Priority

Priority to child support

15.3 (1) Where a court is considering an application for a child support order and an application for a spousal support order, the court shall give priority to child support in determining the applications.

Priorité

15.3 (1) Dans le cas où une demande d'ordonnance alimentaire au profit d'un enfant et une demande d'ordonnance alimentaire au profit d'un époux lui sont présentées, le tribunal donne la priorité aux aliments de l'enfant.

Priorité aux aliments pour enfants

Reasons

(2) Where, as a result of giving priority to child support, the court is unable to make a spousal support order or the court makes a spousal support order in an amount that is less than it otherwise would have been, the court shall record its reasons for having done so.

(2) Si, en raison du fait qu'il a donné la priorité aux aliments de l'enfant, il ne peut rendre une ordonnance alimentaire au profit d'un époux ou fixe un montant moindre pour les aliments de celui-ci, le tribunal enregistre les motifs de sa décision.

Motifs

Consequences of reduction or termination of child support order

(3) Where, as a result of giving priority to child support, a spousal support order was not made, or the amount of a spousal support order is less than it otherwise would have been, any subsequent reduction or termination of that child support constitutes a change of circumstances for the purposes of applying for a spousal support order, or a variation order in respect of the spousal support order, as the case may be.

3. The Act is amended by adding the following before section 16:

Custody Orders

4. The Act is amended by adding the following before section 17:

Variation, Rescission or Suspension of Orders

5. (1) Subsection 17(4) of the Act is replaced by the following:

(4) Before the court makes a variation order in respect of a child support order, the court shall satisfy itself that a change of circumstances as provided for in the applicable guidelines has occurred since the making of the child support order or the last variation order made in respect of that order.

(4.1) Before the court makes a variation order in respect of a spousal support order, the court shall satisfy itself that a change in the condition, means, needs or other circumstances of either former spouse has occurred since the making of the spousal support order or the last variation order made in respect of that order, and, in making the variation order, the court shall take that change into consideration.

(2) Section 17 of the Act is amended by adding the following after subsection (6):

(6.1) A court making a variation order in respect of a child support order shall do so in accordance with the applicable guidelines.

(6.2) Notwithstanding subsection (6.1), in making a variation order in respect of a child support order, a court may award an amount that is different from the amount that would be

Factors for child support order

Factors for spousal support order

Guidelines apply

Court may take agreement, etc., into account

(3) Dans le cadre d'une demande d'ordonnance alimentaire au profit d'un époux ou d'une ordonnance modificative de celle-ci, la réduction ou la suppression des aliments d'un enfant constitue un changement dans la situation des ex-époux si, en raison du fait qu'il a donné la priorité aux aliments de l'enfant, le tribunal n'a pu rendre une ordonnance alimentaire au profit de l'époux ou a fixé un montant moindre pour les aliments de celui-ci.

3. La même loi est modifiée par adjonction, avant l'article 16, de ce qui suit :

Ordonnances relatives à la garde des enfants

4. La même loi est modifiée par adjonction, avant l'article 17, de ce qui suit :

Modification, annulation ou suspension des ordonnances

5. (1) Le paragraphe 17(4) de la même loi est remplacé par ce qui suit :

(4) Avant de rendre une ordonnance modificative de l'ordonnance alimentaire au profit d'un enfant, le tribunal s'assure qu'il est survenu un changement de situation, selon les lignes directrices applicables, depuis que cette ordonnance ou la dernière ordonnance modificative de celle-ci a été rendue.

(4.1) Avant de rendre une ordonnance modificative de l'ordonnance alimentaire au profit d'un époux, le tribunal s'assure qu'il est survenu un changement dans les ressources, les besoins ou, d'une façon générale, la situation de l'un ou l'autre des ex-époux depuis que cette ordonnance ou la dernière ordonnance modificative de celle-ci a été rendue et tient compte du changement en rendant l'ordonnance modificative.

(2) L'article 17 de la même loi est modifié par adjonction, après le paragraphe (6), de ce qui suit :

(6.1) Le tribunal qui rend une ordonnance modificative d'une ordonnance alimentaire au profit d'un enfant la rend conformément aux lignes directrices applicables.

(6.2) En rendant une ordonnance modificative d'une ordonnance alimentaire au profit d'un enfant, le tribunal peut, par dérogation au paragraphe (6.1), fixer un montant différent de

Réduction ou suppression des aliments de l'enfant

Facteurs — ordonnance alimentaire au profit d'un enfant

Facteurs — ordonnance alimentaire au profit d'un époux

Application des lignes directrices

Ententes, ordonnances, jugements, etc.

determined in accordance with the applicable guidelines if the court is satisfied

(a) that special provisions in an order, a judgment or a written agreement respecting the financial obligations of the spouses, or the division or transfer of their property, directly or indirectly benefit a child, or that special provisions have otherwise been made for the benefit of a child; and

(b) that the application of the applicable guidelines would result in an amount of child support that is inequitable given those special provisions.

Reasons

(6.3) Where the court awards, pursuant to subsection (6.2), an amount that is different from the amount that would be determined in accordance with the applicable guidelines, the court shall record its reasons for having done so.

Consent orders

(6.4) Notwithstanding subsection (6.1), a court may award an amount that is different from the amount that would be determined in accordance with the applicable guidelines on the consent of both spouses if it is satisfied that reasonable arrangements have been made for the support of the child to whom the order relates.

Reasonable arrangements

(6.5) For the purposes of subsection (6.4), in determining whether reasonable arrangements have been made for the support of a child, the court shall have regard to the applicable guidelines. However, the court shall not consider the arrangements to be unreasonable solely because the amount of support agreed to is not the same as the amount that would otherwise have been determined in accordance with the applicable guidelines.

(3) The portion of subsection 17(7) of the Act before paragraph (a) is replaced by the following:

Objectives of variation order varying spousal support order

(7) A variation order varying a spousal support order should

celui qui serait déterminé conformément aux lignes directrices applicables s'il est convaincu, à la fois :

a) que des dispositions spéciales d'un jugement, d'une ordonnance ou d'une entente écrite relatif aux obligations financières des époux ou au partage ou au transfert de leurs biens accordent directement ou indirectement un avantage à un enfant pour qui les aliments sont demandés, ou que des dispositions spéciales ont été prises pour lui accorder autrement un avantage;

b) que le montant déterminé conformément aux lignes directrices applicables serait inéquitable eu égard à ces dispositions.

(6.3) S'il fixe, au titre du paragraphe (6.2), un montant qui est différent de celui qui serait déterminé conformément aux lignes directrices applicables, le tribunal enregistre les motifs de sa décision.

Motifs

(6.4) Par dérogation au paragraphe (6.1), le tribunal peut, avec le consentement des époux, fixer un montant qui est différent de celui qui serait déterminé conformément aux lignes directrices applicables s'il est convaincu que des arrangements raisonnables ont été conclus pour les aliments de l'enfant visé par l'ordonnance.

Consentement des époux

(6.5) Pour l'application du paragraphe (6.4), le tribunal tient compte des lignes directrices applicables pour déterminer si les arrangements sont raisonnables. Toutefois, les arrangements ne sont pas déraisonnables du seul fait que le montant sur lequel les conjoints s'entendent est différent de celui qui serait déterminé conformément aux lignes directrices applicables.

Arrangements raisonnables

(3) Le passage du paragraphe 17(7) de la même loi précédant l'alinéa a) est remplacé par ce qui suit :

(7) L'ordonnance modificative de l'ordonnance alimentaire au profit d'un époux vise :

Objectifs de l'ordonnance modificative de l'ordonnance alimentaire au profit d'un époux

(4) Paragraph 17(7)(b) of the Act is replaced by the following:

(b) apportion between the former spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage;

(5) Subsection 17(8) of the Act is repealed.

(6) Subsection 17(10) of the Act is replaced by the following:

(10) Notwithstanding subsection (1), where a spousal support order provides for support for a definite period or until a specified event occurs, a court may not, on an application instituted after the expiration of that period or the occurrence of the event, make a variation order for the purpose of resuming that support unless the court is satisfied that

(a) a variation order is necessary to relieve economic hardship arising from a change described in subsection (4.1) that is related to the marriage; and

(b) the changed circumstances, had they existed at the time of the making of the spousal support order or the last variation order made in respect of that order, as the case may be, would likely have resulted in a different order.

6. The Act is amended by adding the following before section 18:

Provisional Orders

7. (1) The portion of subsection 19(7) of the Act before paragraph (a) is replaced by the following:

(7) Subject to subsection (7.1), at the conclusion of a proceeding under this section, the court shall make an order

(2) Section 19 of the Act is amended by adding the following after subsection (7):

(4) L'alinéa 17(7)(b) de la même loi est remplacé par ce qui suit :

b) à répartir entre eux les conséquences économiques qui découlent du soin de tout enfant à charge, en sus de toute obligation alimentaire relative à tout enfant à charge;

(5) Le paragraphe 17(8) de la même loi est abrogé.

(6) Le paragraphe 17(10) de la même loi est remplacé par ce qui suit :

(10) Par dérogation au paragraphe (1), le tribunal ne peut modifier l'ordonnance alimentaire au profit d'un époux dont la durée de validité est déterminée ou dépend d'un événement précis, sur demande présentée après l'échéance de son terme ou après la survenance de cet événement, en vue de la reprise de la fourniture des aliments, que s'il est convaincu des faits suivants :

a) l'ordonnance modificative s'impose pour remédier à une difficulté économique causée par un changement visé au paragraphe (4.1) et lié au mariage;

b) la nouvelle situation, si elle avait existé à l'époque où l'ordonnance alimentaire au profit d'un époux ou la dernière ordonnance modificative de celle-ci a été rendue, aurait vraisemblablement donné lieu à une ordonnance différente.

6. La même loi est modifiée par adjonction, avant l'article 18, de ce qui suit :

Ordonnances conditionnelles

7. (1) Le passage du paragraphe 19(7) de la même loi précédant l'alinéa a) est remplacé par ce qui suit :

(7) À l'issue de la procédure prévue au présent article, le tribunal rend, sous réserve du paragraphe (7.1), une ordonnance :

(2) L'article 19 de la même loi est modifié par adjonction, après le paragraphe (7), de ce qui suit :

Limitation

Restriction

1993, c. 8, s. 4(2)

Order of confirmation or refusal

1993, ch. 8, par 4(2)

Issue de la procédure

Guidelines apply

(7.1) A court making an order under subsection (7) in respect of a child support order shall do so in accordance with the applicable guidelines.

(7.1) Le tribunal qui rend, au titre du paragraphe (7), une ordonnance relative à une ordonnance alimentaire au profit d'un enfant la rend conformément aux lignes directrices applicables.

Application des lignes directrices

(3) Subsections 19(9) to (11) of the Act are replaced by the following:

(3) Les paragraphes 19(9) à (11) de la même loi sont remplacés par ce qui suit :

Interim order for support of children

(9) Where a court remits a matter pursuant to this section in relation to a child support order, the court may, pending the making of an order under subsection (7), make an interim order in accordance with the applicable guidelines requiring a spouse to pay for the support of any or all children of the marriage.

(9) Le tribunal qui renvoie une affaire relative à une ordonnance alimentaire au profit d'un enfant peut, avant de rendre l'ordonnance prévue au paragraphe (7), rendre, conformément aux lignes directrices applicables, une ordonnance provisoire enjoignant à un époux de verser une prestation pour les aliments des enfants à charge ou de l'un d'eux.

Ordonnance alimentaire provisoire au profit d'un enfant

Interim order for support of spouse

(9.1) Where a court remits a matter pursuant to this section in relation to a spousal support order, the court may make an interim order requiring a spouse to secure or pay, or to secure and pay, such lump sum or periodic sums, or such lump sum and periodic sums, as the court thinks reasonable for the support of the other spouse, pending the making of an order under subsection (7).

(9.1) Le tribunal qui renvoie une affaire relative à une ordonnance alimentaire au profit d'un époux peut, avant de rendre l'ordonnance prévue au paragraphe (7), rendre une ordonnance provisoire enjoignant à un époux de garantir ou de verser, ou de garantir et de verser, la prestation, sous forme de capital, de pension ou des deux, qu'il estime raisonnable pour les aliments de l'autre époux.

Ordonnance alimentaire provisoire au profit d'un époux

Terms and conditions

(10) The court may make an order under subsection (9) or (9.1) for a definite or indefinite period or until a specified event occurs, and may impose terms, conditions or restrictions in connection with the order as it thinks fit and just.

(10) La durée de validité de l'ordonnance rendue par le tribunal au titre des paragraphes (9) ou (9.1) peut être déterminée ou indéterminée ou dépendre d'un événement précis; l'ordonnance peut être assujettie aux modalités ou aux restrictions que le tribunal estime justes et appropriées.

Modalités de l'ordonnance

Provisions applicable

(11) Subsections 17(4), (4.1) and (6) to (7) apply, with such modifications as the circumstances require, in respect of an order made under subsection (9) or (9.1) as if it were a variation order referred to in those subsections.

(11) Les paragraphes 17(4), (4.1) et (6) à (7) s'appliquent, avec les adaptations nécessaires, à une ordonnance rendue au titre des paragraphes (9) ou (9.1) comme s'il s'agissait d'une ordonnance modificative prévue à ces paragraphes.

Dispositions applicables

8. (1) Subsection 20(2) of the Act is replaced by the following:

8. (1) Le paragraphe 20(2) de la même loi est remplacé par ce qui suit :

Legal effect throughout Canada

(2) Subject to subsection 18(2), an order made under any of sections 15.1 to 17 or subsection 19(7), (9) or (9.1) has legal effect throughout Canada.

(2) Sous réserve du paragraphe 18(2), une ordonnance rendue au titre des articles 15.1 à 17 ou des paragraphes 19(7), (9) ou (9.1) est valide dans tout le Canada.

Validité de l'ordonnance dans tout le Canada

(2) Paragraph 20(3)(b) of the Act is replaced by the following:

(b) enforced in a province in any other manner provided for by the laws of that province, including its laws respecting reciprocal enforcement between the province and a jurisdiction outside Canada.

(3) Section 20 of the Act is amended by adding the following after subsection (3):

(4) Notwithstanding subsection (3), a court may only vary an order that has legal effect throughout Canada pursuant to subsection (2) in accordance with this Act.

9. The Act is amended by adding the following after section 20:

20.1 (1) A support order may be assigned to

(a) any minister of the Crown for Canada designated by the Governor in Council;

(b) any minister of the Crown for a province, or any agency in a province, designated by the Lieutenant Governor in Council of the province;

(c) any member of the Council of the Yukon Territory, or any agency in the Yukon Territory, designated by the Commissioner of the Yukon Territory; or

(d) any member of the Council of the Northwest Territories, or any agency in the Northwest Territories, designated by the Commissioner of the Northwest Territories.

(2) A minister, member or agency referred to in subsection (1) to whom an order is assigned is entitled to the payments due under the order, and has the same right to be notified of, and to participate in, proceedings under this Act to vary, rescind, suspend or enforce the order as the person who would otherwise be entitled to the payments.

10. The Act is amended by adding the following after section 25:

(2) L'alinéa 20(3)b) de la même loi est remplacé par ce qui suit :

b) soit exécutée dans une province de toute autre façon prévue par ses lois, notamment les lois en matière d'exécution réciproque entre celle-ci et une autorité étrangère.

(3) L'article 20 de la même loi est modifié par adjonction, après le paragraphe (3), de ce qui suit :

(4) Par dérogation au paragraphe (3), le tribunal ne peut modifier l'ordonnance visée au paragraphe (2) que conformément à la présente loi.

9. La même loi est modifiée par adjonction, après l'article 20, de ce qui suit :

20.1 (1) La créance alimentaire octroyée par une ordonnance peut être cédée :

a) à un ministre fédéral désigné par le gouverneur en conseil;

b) à un ministre d'une province ou à une administration qui est située dans celle-ci, désigné par le lieutenant-gouverneur en conseil de la province;

c) à un membre du Conseil du territoire du Yukon ou à une administration qui est située dans ce territoire, désigné par le commissaire de ce territoire;

d) à un membre du Conseil des Territoires du Nord-Ouest ou à une administration qui est située dans ces territoires, désigné par le commissaire de ces territoires.

(2) Le ministre, le membre ou l'administration à qui la créance alimentaire octroyée par une ordonnance a été cédée a droit aux montants dus au titre de l'ordonnance et a le droit, dans le cadre des procédures relatives à la modification, l'annulation, la suspension ou l'exécution de l'ordonnance, d'en être avisé ou d'y participer au même titre que la personne qui aurait autrement eu droit à ces montants.

10. La même loi est modifiée par adjonction, après l'article 25, de ce qui suit :

Variation of orders

Assignment of order

Rights

Modification des ordonnances

Cession de la créance alimentaire

Droits

Agreements
with
provinces

25.1 (1) With the approval of the Governor in Council, the Minister of Justice may, on behalf of the Government of Canada, enter into an agreement with a province authorizing a provincial child support service designated in the agreement to

(a) assist courts in the province in the determination of the amount of child support; and

(b) recalculate, at regular intervals, in accordance with the applicable guidelines, the amount of child support orders on the basis of updated income information.

25.1 (1) Le ministre de la Justice peut, avec l'approbation du gouverneur en conseil, conclure au nom du gouvernement fédéral un accord avec une province autorisant le service provincial des aliments pour enfants désigné dans celui-ci :

a) à aider le tribunal à fixer le nouveau montant des aliments pour un enfant;

b) à fixer, à intervalles réguliers, un nouveau montant pour les ordonnances alimentaires au profit d'un enfant en conformité avec les lignes directrices applicables et à la lumière des renseignements à jour sur le revenu.

Accords avec
les provinces

Effect of
recalculation

(2) Subject to subsection (5), the amount of a child support order as recalculated pursuant to this section shall for all purposes be deemed to be the amount payable under the child support order.

(2) Sous réserve du paragraphe (5), le nouveau montant de l'ordonnance alimentaire au profit d'un enfant fixé sous le régime du présent article est réputé, à toutes fins utiles, être le montant payable au titre de l'ordonnance.

Effet du
nouveau
calcul

Liability

(3) The former spouse against whom a child support order was made becomes liable to pay the amount as recalculated pursuant to this section thirty-one days after both former spouses to whom the order relates are notified of the recalculation in the manner provided for in the agreement authorizing the recalculation.

(3) Le nouveau montant fixé sous le régime du présent article est payable par l'ex-époux visé par l'ordonnance alimentaire au profit d'un enfant trente et un jours après celui où les ex-époux en ont été avisés selon les modalités prévues dans l'accord autorisant la fixation du nouveau montant.

Obligation de
payer

Right to vary

(4) Where either or both former spouses to whom a child support order relates do not agree with the amount of the order as recalculated pursuant to this section, either former spouse may, within thirty days after both former spouses are notified of the recalculation in the manner provided for in the agreement authorizing the recalculation, apply to a court of competent jurisdiction for an order under subsection 17(1).

(4) Dans les trente jours suivant celui où ils ont été avisés du nouveau montant, selon les modalités prévues dans l'accord en autorisant la fixation, les ex-époux, ou l'un deux, peuvent demander au tribunal compétent de rendre une ordonnance au titre du paragraphe 17(1).

Modification
du nouveau
montant de
l'ordonnance

Effect of
application

(5) Where an application is made under subsection (4), the operation of subsection (3) is suspended pending the determination of the application, and the child support order continues in effect.

(5) Dans le cas où une demande est présentée au titre du paragraphe (4), l'application du paragraphe (3) est suspendue dans l'attente d'une décision du tribunal compétent sur la demande, et l'ordonnance alimentaire au profit d'un enfant continue d'avoir effet.

Effet de la
demande

Withdrawal of
application

(6) Where an application made under subsection (4) is withdrawn before the determination of the application, the former spouse against whom the order was made becomes

(6) Dans le cas où la demande présentée au titre du paragraphe (4) est retirée avant qu'une décision soit rendue à son égard, le montant payable par l'ex-époux visé par l'ordonnance

Retrait de la
demande

liable to pay the amount as recalculated pursuant to this section on the day on which the former spouse would have become liable had the application not been made.

11. The Act is amended by adding the following after section 26:

Guidelines

26.1 (1) The Governor in Council may establish guidelines respecting the making of orders for child support, including, but without limiting the generality of the foregoing, guidelines

- (a) respecting the way in which the amount of an order for child support is to be determined;
- (b) respecting the circumstances in which discretion may be exercised in the making of an order for child support;
- (c) authorizing a court to require that the amount payable under an order for child support be paid in periodic payments, in a lump sum or in a lump sum and periodic payments;
- (d) authorizing a court to require that the amount payable under an order for child support be paid or secured, or paid and secured, in the manner specified in the order;
- (e) respecting the circumstances that give rise to the making of a variation order in respect of a child support order;
- (f) respecting the determination of income for the purposes of the application of the guidelines;
- (g) authorizing a court to impute income for the purposes of the application of the guidelines; and
- (h) respecting the production of income information and providing for sanctions when that information is not provided.

Principle

(2) The guidelines shall be based on the principle that spouses have a joint financial obligation to maintain the children of the marriage in accordance with their relative abilities to contribute to the performance of that obligation.

alimentaire au profit d'un enfant est le nouveau montant fixé sous le régime du présent article et ce à compter du jour où ce montant aurait été payable si la demande n'avait pas été présentée.

11. La même loi est modifiée par adjonction, après l'article 26, de ce qui suit :

Lignes directrices

26.1 (1) Le gouverneur en conseil peut établir des lignes directrices à l'égard des ordonnances pour les aliments des enfants, notamment pour :

- a) régir le mode de détermination du montant des ordonnances pour les aliments des enfants;
- b) régir les cas où le tribunal peut exercer son pouvoir discrétionnaire lorsqu'il rend des ordonnances pour les aliments des enfants;
- c) autoriser le tribunal à exiger que le montant de l'ordonnance pour les aliments d'un enfant soit payable sous forme de capital ou de pension, ou des deux;
- d) autoriser le tribunal à exiger que le montant de l'ordonnance pour les aliments d'un enfant soit versé ou garanti, ou versé et garanti, selon les modalités prévues par l'ordonnance;
- e) régir les changements de situation au titre desquels les ordonnances modificatives des ordonnances alimentaires au profit d'un enfant peuvent être rendues;
- f) régir la détermination du revenu pour l'application des lignes directrices;
- g) autoriser le tribunal à attribuer un revenu pour l'application des lignes directrices;
- h) régir la communication de renseignements sur le revenu et prévoir les sanctions afférentes à la non-communication de tels renseignements.

Principe

(2) Les lignes directrices doivent être fondées sur le principe que l'obligation financière de subvenir aux besoins des enfants à charge est commune aux époux et qu'elle est répartie entre eux selon leurs ressources respectives permettant de remplir cette obligation.

Definition of
“order for
child
support”

(3) In subsection (1), “order for child support” means

- (a) an order or interim order made under section 15.1;
- (b) a variation order in respect of a child support order; or
- (c) an order or an interim order made under section 19.

12. The headings before section 28 and sections 28 to 31 of the Act are replaced by the following:

28. The Minister of Justice shall undertake a comprehensive review of the provisions and operation of the Federal Child Support Guidelines and the determination of child support under this Act and shall cause a report on the review to be laid before each House of Parliament within five years after the coming into force of this section.

13. The Act is amended by adding the following before section 33:

Divorce Act, R.S. 1970, c. D-8

14. Section 34 of the Act is replaced by the following:

34. (1) Subject to subsection (1.1), any order made under subsection 11(1) of the *Divorce Act*, chapter D-8 of the Revised Statutes of Canada, 1970, including any order made pursuant to section 33 of this Act, and any order to the like effect made corollary to a decree of divorce granted in Canada before July 2, 1968 or granted on or after that day pursuant to subsection 22(2) of that Act may be varied, rescinded, suspended or enforced in accordance with sections 17 to 20, other than subsection 17(10), of this Act as if

- (a) the order were a support order or custody order, as the case may be; and
- (b) in subsections 17(4), (4.1) and (5), the words “or the last order made under subsection 11(2) of the *Divorce Act*, chapter D-8 of the Revised Statutes of Canada,

(3) Pour l'application du paragraphe (1), « ordonnance pour les aliments d'un enfant » s'entend :

- a) de l'ordonnance ou de l'ordonnance provisoire rendue au titre de l'article 15.1;
- b) de l'ordonnance modificative de l'ordonnance alimentaire au profit d'un enfant;
- c) de l'ordonnance ou de l'ordonnance provisoire rendue au titre de l'article 19.

12. Les intertitres précédant l'article 28 et les articles 28 à 31 de la même loi sont remplacés par ce qui suit :

28. Le ministre de la Justice procède à l'examen détaillé, d'une part, de l'application des lignes directrices fédérales sur les pensions alimentaires pour enfants et, d'autre part, de la détermination des aliments pour enfants. Il dépose son rapport devant chaque chambre du Parlement dans les cinq ans suivant l'entrée en vigueur du présent article.

13. La même loi est modifiée par adjonction, avant l'article 33, de ce qui suit :

Loi sur le divorce, S.R. 1970, ch. D-8

14. L'article 34 de la même loi est remplacé par ce qui suit :

34. (1) Sous réserve du paragraphe (1.1), toute ordonnance rendue en vertu du paragraphe 11(1) de la *Loi sur le divorce*, chapitre D-8 des Statuts révisés du Canada de 1970, y compris une ordonnance rendue en vertu de l'article 33 de la présente loi, ainsi que toute ordonnance de même effet rendue accessoirement à un jugement de divorce prononcé au Canada avant le 2 juillet 1968 ou prononcé le 2 juillet 1968 ou après cette date conformément au paragraphe 22(2) de la loi précitée, peut être modifiée, suspendue, annulée ou exécutée conformément aux articles 17 à 20, à l'exclusion du paragraphe 17(10), de la présente loi comme :

- a) s'il s'agissait d'une ordonnance alimentaire ou de garde, selon le cas;
- b) si, aux paragraphes 17(4), (4.1) et (5), les mots « ou de la dernière ordonnance rendue en vertu du paragraphe 11(2) de la *Loi sur le divorce*, chapitre D-8 des Statuts révisés

Définition de
« ordonnance
pour les
aliments d'un
enfant »

Examen et
rapport

Modification
et exécution
d'ordonnances
déjà rendues

Review and
report

Variation and
enforcement
of orders
previously
made

1970, varying that order” were added immediately before the words “or the last variation order made in respect of that order”.

Combined orders

(1.1) Where an application is made under subsection 17(1) to vary an order referred to in subsection (1) that provides a single amount of money for the combined support of one or more children and a former spouse, the court shall rescind the order and treat the application as an application for a child support order and an application for a spousal support order.

Enforcement of interim orders

(2) Any order made under section 10 of the *Divorce Act*, chapter D-8 of the Revised Statutes of Canada, 1970, including any order made pursuant to section 33 of this Act, may be enforced in accordance with section 20 of this Act as if it were an order made under subsection 15.1(1) or 15.2(1) or section 16 of this Act, as the case may be.

Assignment of orders previously made

(3) Any order for the maintenance of a spouse or child of the marriage made under section 10 or 11 of the *Divorce Act*, chapter D-8 of the Revised Statutes of Canada, 1970, including any order made pursuant to section 33 of this Act, and any order to the like effect made corollary to a decree of divorce granted in Canada before July 2, 1968 or granted on or after that day pursuant to subsection 22(2) of that Act may be assigned to any minister, member or agency designated pursuant to section 20.1.

15. The Act is amended by adding the following after section 35:

Divorce Act, R.S. 1985, c. 3 (2nd Supp.)

Variation and enforcement of support orders previously made

35.1 (1) Subject to subsection (2), any support order made under this Act before the coming into force of this section may be varied, rescinded, suspended or enforced in

du Canada de 1970, aux fins de modifier cette ordonnance » étaient insérés avant les mots « ou de la dernière ordonnance modificative de celle-ci ».

Ordonnances conjointes

(1.1) Dans le cas où une demande est présentée au titre du paragraphe 17(1), en vue de modifier l'ordonnance visée au paragraphe (1) qui prévoit un seul montant pour les aliments d'un ou de plusieurs enfants et d'un ex-époux, le tribunal annule l'ordonnance et applique les règles applicables à la demande relative à l'ordonnance alimentaire au profit d'un enfant et à la demande relative à l'ordonnance alimentaire au profit d'un époux.

Exécution d'ordonnances provisoires

(2) Toute ordonnance rendue en vertu de l'article 10 de la *Loi sur le divorce*, chapitre D-8 des Statuts révisés du Canada de 1970, y compris une ordonnance rendue en vertu de l'article 33 de la présente loi, peut être exécutée en conformité avec l'article 20 de la présente loi comme s'il s'agissait d'une ordonnance rendue en vertu des paragraphes 15.1(1) ou 15.2(1) ou de l'article 16, selon le cas.

Cession des créances octroyées par des ordonnances déjà rendues

(3) Les créances octroyées par toute ordonnance rendue conformément aux articles 10 ou 11 de la *Loi sur le divorce*, chapitre D-8 des Statuts révisés du Canada de 1970, pour l'entretien d'un époux ou d'un enfant du mariage, y compris une ordonnance rendue en vertu de l'article 33 de la présente loi, ainsi que toute ordonnance de même effet rendue accessoirement à un jugement de divorce prononcé au Canada avant le 2 juillet 1968 ou prononcé le 2 juillet 1968 ou après cette date conformément au paragraphe 22(2) de la loi précitée, peuvent être cédées à un ministre, un membre ou une administration désigné suivant les termes de l'article 20.1.

15. La même loi est modifiée par adjonction, après l'article 35, de ce qui suit :

Loi sur le divorce, L.R. ch. 3 (2^e suppl.)

Modification et exécution d'ordonnances alimentaires déjà rendues

35.1 (1) Sous réserve du paragraphe (2), l'ordonnance alimentaire rendue au titre de la présente loi avant l'entrée en vigueur du présent article peut être modifiée, suspendue,

accordance with sections 17 to 20 as if the support order were a child support order or a spousal support order, as the case may be.

Combined orders

(2) Where an application is made under subsection 17(1) to vary a support order made under this Act before the coming into force of this section that provides for the combined support of one or more children and a former spouse, the court shall rescind the order and treat the application as an application for a child support order and an application for a spousal support order.

Assignment of orders previously made

(3) Any support order made under this Act before the coming into force of this section may be assigned to any minister, member or agency designated pursuant to section 20.1.

R.S., c. 4 (2nd Supp.); 1992, c. 1; 1993, c. 8

Family Orders and Agreements Enforcement Assistance Act

16. The definition “information bank director” in section 2 of the *Family Orders and Agreements Enforcement Assistance Act* is amended by striking out the word “and” after paragraph (a), by adding the word “and” after paragraph (b) and by adding the following after paragraph (b):

(c) with respect to any of the information banks controlled by the Department of National Revenue that may be searched under this Part, the Minister of National Revenue;

17. The portion of section 13 of the Act after paragraph (c) is replaced by the following:

may apply to the Minister, in the manner prescribed by the regulations, to have the information banks referred to in section 15 searched for the information referred to in section 16 and to have any such information found in those information banks released on a confidential basis.

1993, c. 8, s. 10(3)

18. Subsection 14(3) of the Act is replaced by the following:

annulée ou exécutée conformément aux articles 17 à 20 comme s’il s’agissait d’une ordonnance alimentaire au profit d’un enfant ou d’une ordonnance alimentaire au profit d’un époux, selon le cas.

(2) Dans le cas où une demande est présentée au titre du paragraphe 17(1), en vue de modifier une ordonnance alimentaire rendue au titre de la présente loi avant l’entrée en vigueur du présent article qui prévoit un seul montant pour les aliments d’un ou de plusieurs enfants et d’un ex-époux, le tribunal annule l’ordonnance et applique les règles applicables à la demande relative à l’ordonnance alimentaire au profit d’un enfant et à la demande relative à l’ordonnance alimentaire au profit d’un époux.

(3) Les créances octroyées par toute ordonnance alimentaire rendue au titre de la présente loi avant l’entrée en vigueur du présent article peuvent être cédées à un ministre, un membre ou une administration désigné suivant les termes de l’article 20.1.

Ordonnances conjointes

Cession des créances octroyées par des ordonnances déjà rendues

Loi d’aide à l’exécution des ordonnances et des ententes familiales

L.R., ch. 4 (2^e suppl.); 1992, ch. 1; 1993, ch. 8

16. La définition de « directeur de fichier », à l’article 2 de la *Loi d’aide à l’exécution des ordonnances et des ententes familiales*, est modifiée par adjonction, après l’alinéa b), de ce qui suit :

c) le ministre du Revenu national pour les fichiers régis par le ministère du même nom et susceptibles d’être consultés au titre de la présente partie.

17. Le passage de l’article 13 de la même loi précédant l’alinéa a) est remplacé par ce qui suit :

13. Sous réserve des autres dispositions de la présente partie, peuvent demander au ministre, selon les modalités prévues par les règlements, la consultation des fichiers visés à l’article 15 en vue d’obtenir communication, à titre confidentiel, des renseignements visés à l’article 16 :

Demande de communication de renseignements

18. Le paragraphe 14(3) de la même loi est remplacé par ce qui suit :

1993, ch. 8, par. 10(3)

Supporting documents for provincial enforcement service

(3) Where an application under section 13 is made by a provincial enforcement service, the application must be accompanied by an affidavit submitted by an officer of the provincial enforcement service in accordance with subsection (4).

(3) Dans le cas où la demande visée à l'article 13 est présentée par l'autorité provinciale, elle doit être accompagnée d'un affidavit présenté par un fonctionnaire de celle-ci en conformité avec le paragraphe (4).

Documents à l'appui de la demande

Supporting documents for peace officer

(3.1) Where an application under section 13 is made by a peace officer investigating a child abduction pursuant to section 282 or 283 of the *Criminal Code*, the application must be accompanied by

(3.1) Dans le cas où la demande visée à l'article 13 est présentée par un agent de la paix enquêtant sur un enlèvement d'enfant au sens des articles 282 ou 283 du *Code criminel*, elle doit être accompagnée :

Documents à l'appui de la demande

(a) a copy of the information to which the application relates; and

a) d'une copie de la dénonciation pertinente;

(b) an affidavit, submitted by the peace officer in accordance with subsection (5).

b) d'un affidavit présenté par l'agent de la paix en conformité avec le paragraphe (5).

19. Section 15 of the Act is replaced by the following:

19. L'article 15 de la même loi est remplacé par ce qui suit :

Information banks that may be searched

15. The information banks that may be searched under this Part are the information banks designated by the regulations from among the information banks controlled by the Department of Human Resources Development, the Department of National Revenue and the Canada Employment Insurance Commission.

15. Les fichiers susceptibles d'être consultés au titre de la présente partie sont, parmi les fichiers régis par le ministère de la Santé nationale et du Bien-être social, par le ministère du Développement des ressources humaines et par la Commission de l'assurance-emploi du Canada, ceux qui sont désignés par règlement.

Fichiers visés

20. Section 22 of the Act is amended by adding the following after paragraph (a):

20. L'article 22 de la même loi est modifié par adjonction, après l'alinéa a), de ce qui suit :

(a.1) prescribing the manner in which an application for the searching of information banks and the release of information under this Part may be made;

a.1) prévoir les modalités de présentation des demandes relatives à la consultation et à la communication de renseignements visées à la présente partie;

21. Section 28 of the Act is amended by adding the word "and" after paragraph (a) and by repealing paragraph (b).

21. L'alinéa 28b) de la même loi est abrogé.

22. Part III of the Act is replaced by the following:

22. La partie III de la même loi est remplacée par ce qui suit :

PART III

PARTIE III

LICENCE DENIAL

REFUS D'AUTORISATION

Interpretation

Définitions et interprétation

Definitions

62. The definitions in this section apply in this Part.

62. Les définitions qui suivent s'appliquent à la présente partie.

Définitions

“appropriate Minister”
« ministre compétent »

“appropriate Minister” means a minister of the Crown in right of Canada who is responsible for the issuance of any type or class of licence set out in the schedule.

« autorisation » Notamment un permis, une licence ou un certificat, ou un passeport au sens de l'article 2 du *Décret sur les passeports canadiens*.

« autorisation »
“licence”

<p>“debtor” « débiteur »</p>	<p>“debtor” means a person who is in arrears under a support order or a support provision.</p>	<p>« autorisation visée » Autorisation d’un type ou d’une catégorie mentionnés à l’annexe.</p>	<p>« autorisation visée » “schedule licence”</p>
<p>“licence” « autorisation »</p>	<p>“licence” means a licence, a permit, a certificate or an authorization of any kind, and includes a passport within the meaning of section 2 of the <i>Canadian Passport Order</i>.</p>	<p>« autorité provinciale » S’entend au sens de l’article 2.</p>	<p>« autorité provinciale » “provincial enforcement service”</p>
<p>“licence denial application” « demande de refus d’autorisation »</p>	<p>“licence denial application” means an application made under section 67.</p>	<p>« débiteur » Personne qui est en défaut en ce qui concerne une ordonnance alimentaire ou d’une disposition alimentaire.</p>	<p>« débiteur » “debtor”</p>
<p>“Minister” « ministre »</p>	<p>“Minister” means the Minister of Justice.</p>	<p>« demande de refus d’autorisation » Demande présentée au titre de l’article 67.</p>	<p>« demande de refus d’autorisation » “licence denial application”</p>
<p>“persistent arrears” « être en défaut de façon répétée »</p>	<p>“persistent arrears”, in respect of a support order or support provision, means</p> <p>(a) arrears in any amount where the arrears are due to the failure to make in full the payments required in respect of any three payment periods, within the meaning of the support order or the support provision, or</p> <p>(b) accumulated arrears of \$3000 or more.</p>	<p>« disposition alimentaire » Disposition alimentaire d’une entente familiale qui est exécutoire en application du droit provincial.</p> <p>« être en défaut de façon répétée » S’entend du fait que le débiteur doit, au titre d’une ordonnance alimentaire ou d’une disposition alimentaire :</p> <p>a) soit des arriérés parce qu’il n’a pas acquitté intégralement les montants en cause pour trois périodes de paiement, selon les termes de l’ordonnance ou de la disposition;</p> <p>b) soit des arriérés pour une somme d’au moins 3 000 \$.</p>	<p>« disposition alimentaire » “support provision”</p> <p>« être en défaut de façon répétée » “persistent arrears”</p>
<p>“prescribed” Version anglaise seulement</p>	<p>“prescribed” means prescribed by the regulations.</p>	<p>« ministre » Le ministre de la Justice.</p>	<p>« ministre » “Minister”</p>
<p>“provincial enforcement service” « autorité provinciale »</p>	<p>“provincial enforcement service” has the meaning assigned by section 2.</p>	<p>« ministre compétent » Ministre fédéral chargé de la délivrance d’une autorisation d’un type ou d’une catégorie mentionnés à l’annexe.</p>	<p>« ministre compétent » “appropriate Minister”</p>
<p>“schedule licence” « autorisation visée »</p>	<p>“schedule licence” means a licence of a type or class set out in the schedule.</p>	<p>« ordonnance alimentaire » S’entend au sens du paragraphe 23(1).</p>	<p>« ordonnance alimentaire » “support order”</p>
<p>“support order” « ordonnance alimentaire »</p>	<p>“support order” has the meaning assigned by subsection 23(1).</p>		
<p>“support provision” « disposition alimentaire »</p>	<p>“support provision” means a provision in an agreement relating to the payment of maintenance or family financial support that is enforceable under provincial law.</p>		
<p>Amendments to schedule</p>	<p>63. The Governor in Council may, by order, add to or delete from the schedule any type or class of licence that may be issued to an individual under an Act of Parliament or under an order made pursuant to a prerogative of the Crown.</p>	<p>63. Le gouverneur en conseil peut, par décret, modifier l’annexe pour y ajouter ou en retrancher tout type ou catégorie d’autorisation pouvant être délivrée à des particuliers au titre d’une loi fédérale ou d’un décret pris en vertu de la prérogative royale.</p>	<p>Modification de l’annexe</p>

Purpose of Part

Purpose of Part

64. The purpose of this Part is to help provincial enforcement services enforce support orders and support provisions by providing for the denial of certain licences to debtors who are in persistent arrears.

Objet

Objet

64. La présente partie prévoit, en vue d'aider les autorités provinciales à exécuter les ordonnances alimentaires et les dispositions alimentaires, des mesures en matière de refus d'autorisation visant les débiteurs qui sont en défaut de façon répétée.

Application of Part

Application of Part

65. This Part applies notwithstanding the provisions of any other Act of Parliament, of any regulation or order made under any other Act of Parliament or of any order made pursuant to a prerogative of the Crown respecting the issuance, renewal or suspension of licences.

Application

Application

65. Les dispositions de la présente partie l'emportent sur celles de tout texte législatif fédéral — loi, décret et règlement, et décret pris en vertu de la prérogative royale — en matière de délivrance, de renouvellement ou de suspension d'autorisation.

Royal prerogative

66. Nothing in this Part in any manner limits or affects Her Majesty's royal prerogative with respect to passports.

66. La présente partie n'a pas pour effet de limiter, de quelque manière, la prérogative royale en matière de passeport ou d'y porter atteinte.

Prérogative royale

Licence Denial Application

Application

67. (1) Where a debtor is in persistent arrears under a support order or a support provision, a provincial enforcement service may apply to the Minister that the following actions be taken against the debtor:

Demandes de refus d'autorisation

Demande

67. (1) L'autorité provinciale peut demander au ministre que les mesures suivantes soient prises contre un débiteur qui est en défaut de façon répétée :

- (a) that no new schedule licences be issued to the debtor;
- (b) that all schedule licences held by the debtor be suspended; and
- (c) that schedule licences held by the debtor not be renewed.

- a) le refus de délivrer de nouvelles autorisations visées;
- b) la suspension des autorisations visées;
- c) le non-renouvellement des autorisations visées.

Contents of application

(2) An application must be in the prescribed form and must contain the prescribed information concerning

(2) La demande doit être présentée en la forme réglementaire et comporter :

- (a) the identity of the debtor; and
- (b) the support order or support provision.

- a) les renseignements réglementaires sur l'identité du débiteur;
- b) les renseignements réglementaires sur l'ordonnance alimentaire ou la disposition alimentaire.

Contenu de la demande

Contents of supporting affidavit

(3) An application must be accompanied by an affidavit in the prescribed form. The affidavit must be submitted by an officer of the provincial enforcement service and must contain the following statements:

(3) La demande doit être accompagnée d'un affidavit en la forme réglementaire, présenté par un fonctionnaire de l'autorité provinciale et déclarant que :

- (a) that the provincial enforcement service is satisfied that the debtor is in persistent

- a) l'autorité provinciale est convaincue que le débiteur est en défaut de façon répétée;

Contenu de l'affidavit

arrears under the support order or the support provision;

(b) that the provincial enforcement service has made reasonable attempts to enforce the support order or the support provision before making the licence denial application; and

(c) that the provincial enforcement service has sent a notice to the debtor, at the debtor's last known address,

(i) stating that the provincial enforcement service has reasonable grounds to believe that the debtor is in persistent arrears under the support order or support provision,

(ii) stating that the provincial enforcement service intends to make a licence denial application in relation to the debtor,

(iii) informing the debtor of the consequences to the debtor of a licence denial application, and

(iv) advising the debtor that a licence denial application will not be made if the debtor enters into a payment plan that is acceptable to the provincial enforcement service or satisfies the provincial enforcement service that the debtor is unable to pay the amount in arrears and that the making of the application is not reasonable in the circumstances.

(4) An application may be made only after thirty days have expired after the notice referred to in subsection (3) was received by the debtor.

(5) A notice referred to in subsection (3) is deemed to have been received by a debtor ten days after it is sent to the debtor.

Processing of Licence Denial Applications

68. Immediately on the receipt of a licence denial application and the affidavit referred to in subsection 67(3), the Minister shall inform each appropriate Minister of the receipt of the application, and shall provide the appropriate Minister with such information as may be necessary to help the appropriate Minister

b) l'autorité provinciale a pris, avant de présenter une demande de refus d'autorisation, des mesures raisonnables en vue d'exécuter l'ordonnance alimentaire ou la disposition alimentaire;

c) l'autorité provinciale a envoyé au débiteur, à sa dernière adresse connue, un avis :

(i) énonçant qu'elle avait des motifs raisonnables de croire qu'il était en défaut de façon répétée,

(ii) énonçant qu'elle avait l'intention de présenter une demande de refus d'autorisation le visant,

(iii) l'informant des conséquences découlant d'une telle demande,

(iv) l'informant qu'une telle demande ne sera pas présentée s'il conclut un accord en matière de paiement qu'elle juge acceptable ou s'il la convainc qu'il ne peut acquitter les arriérés et qu'il n'est pas raisonnable de présenter une telle demande en l'espèce.

(4) La demande ne peut être présentée que trente jours après la réception de l'avis par le débiteur.

(5) Le débiteur est présumé avoir reçu l'avis dix jours après son envoi.

Demandes de refus d'autorisation

68. Dès qu'il reçoit une demande de refus d'autorisation et l'affidavit visé au paragraphe 67(3), le ministre en donne avis à chaque ministre compétent et lui transmet l'information nécessaire pour lui permettre de vérifier si le débiteur en cause est titulaire d'autorisations visées.

Délai

Présomption

Avis à chaque ministre compétent

Time for making application

Deemed receipt

Informing appropriate Ministers

determine whether the debtor to whom the application relates is the holder of a schedule licence.

Obligations of Appropriate Ministers

Determination — does debtor hold schedule licence

69. (1) On being informed of a licence denial application in respect of a debtor, an appropriate Minister shall immediately determine whether the debtor is the holder of a schedule licence issued by the appropriate Minister.

Suspension and non-renewal of schedule licences

(2) If an appropriate Minister determines that a debtor is the holder of a schedule licence, the appropriate Minister shall suspend the schedule licence and, where applicable, refuse to renew the schedule licence.

Notice to debtor

(3) An appropriate Minister who takes any action under subsection (2) against a debtor shall send the debtor a notice in writing informing the debtor that the action has been taken.

Refusal to issue schedule licence

70. An appropriate Minister who is informed of a licence denial application in respect of a debtor shall refuse to issue a schedule licence to the debtor.

No Appeal

No appeal

71. Notwithstanding the provisions of any other Act of Parliament, of any regulation or order made under any other Act of Parliament or of any order made pursuant to a prerogative of the Crown, no appeal lies from any action taken under this Part.

Request to Terminate Application of Part

Request to terminate application of Part

72. (1) A provincial enforcement service shall immediately request that all actions taken under this Part in respect of a debtor be terminated where

(a) the provincial enforcement service is satisfied that the debtor

(i) is no longer in arrears under all support orders and support provisions against the debtor that have been enforced by a licence denial application,

(ii) is complying, in respect of all support orders and support provisions against the

Devoirs du ministre compétent

Vérification

69. (1) Dès qu'il est informé de la demande de refus d'autorisation, le ministre compétent vérifie si le débiteur est titulaire d'autorisations visées.

(2) Si le débiteur est titulaire d'autorisations visées, le ministre compétent les suspend ou, le cas échéant, refuse de les renouveler.

Suspension et non-renouvellement des autorisations visées

(3) Le ministre compétent envoie au débiteur un avis l'informant des mesures prises en application du paragraphe (2).

Avis au débiteur

70. Le ministre compétent qui est informé de la demande de refus d'autorisation refuse de délivrer toute autorisation visée au débiteur en cause.

Non-délivrance d'autorisations visées

Aucun appel

Aucun appel

71. Malgré tout autre texte législatif fédéral — loi, décret et règlement, et décret pris en vertu de la prérogative royale —, les mesures prises au titre de la présente partie ne sont pas susceptibles d'appel.

Cessation d'effet des mesures

Demande de cessation d'effet des mesures

72. (1) L'autorité provinciale demande sans délai qu'il soit mis fin aux mesures prises au titre de la présente partie si, selon le cas :

a) elle est convaincue :

(i) soit que le débiteur n'est plus en défaut en ce qui concerne toutes les ordonnances alimentaires et les dispositions alimentaires visées par toute demande de refus d'autorisation le touchant,

(ii) soit que le débiteur se conforme, à l'égard de ces ordonnances et ces dispositions, à l'accord en matière de paiement qu'elle juge acceptable,

debtor that have been enforced by a licence denial application, with a payment plan that the provincial enforcement service considers reasonable, or

(iii) is unable to pay the amount in arrears and that the application of this Part against the debtor is not reasonable in the circumstances; or

(b) the provincial enforcement service ceases to enforce all support orders and support provisions against the debtor that have been enforced by a licence denial application.

Prescribed manner

(2) A request under subsection (1) must be made to the Minister in the prescribed manner.

Informing appropriate Ministers

73. Where the Minister receives a request under section 72, the Minister shall immediately inform each appropriate Minister of the receipt of the request.

Obligation of appropriate Ministers

74. Immediately on being informed under section 73, each appropriate Minister shall

(a) cancel the suspension of every schedule licence suspended by that appropriate Minister and inform the licence holder that the suspension has been cancelled;

(b) stop refusing to renew schedule licences of the debtor solely on the basis of this Part; and

(c) stop refusing to issue schedule licences to the debtor solely on the basis of this Part.

When licence not revived

75. The cancellation of the suspension of a schedule licence pursuant to section 74 does not operate to revive the licence if the term of the licence expired while the suspension was in force.

Offence

Offence

76. Every person who is notified that a passport issued to the person has been suspended under this Part and who fails to return the passport forthwith to a Passport Office, as defined in section 2 of the *Canadian Passport Order*, or who subsequently uses the passport after being so notified, is guilty of an offence punishable on summary conviction and liable to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding six months or to both.

(iii) soit que le débiteur ne peut acquitter les arriérés et qu'il n'est pas raisonnable de mettre en application la présente partie;

b) elle n'exécute plus ces ordonnances et ces dispositions contre le débiteur.

(2) La demande doit être présentée au ministre de la manière réglementaire.

Manière réglementaire

73. Dès qu'il reçoit la demande visée à l'article 72, le ministre en donne avis à chaque ministre compétent.

Avis aux ministres compétents

74. Dès qu'il est informé de la demande en application de l'article 73, le ministre compétent :

Devoirs du ministre compétent

a) annule la suspension de toute autorisation visée et en avise le titulaire;

b) ne peut plus, en se fondant sur la présente partie, refuser de renouveler une autorisation visée;

c) ne peut plus, en se fondant sur la présente partie, refuser de délivrer une autorisation visée.

75. L'annulation de la suspension d'une autorisation visée au titre de l'article 74 n'a pas pour effet de rétablir l'autorisation qui a expiré pendant la période de suspension.

Autorisation expirée

Infraction

Infraction

76. Quiconque, après avoir été avisé de la suspension de son passeport au titre de la présente partie, ne le retourne pas sans délai au Bureau des passeports, au sens de l'article 2 du *Décret sur les passeports canadiens*, ou l'utilise commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, un emprisonnement maximal de six mois et une amende maximale de 5 000 \$, ou l'une de ces peines.

No Liability

No liability

77. No action lies against Her Majesty in right of Canada, any Minister of the Crown in right of Canada or any officer or employee of Her Majesty in right of Canada for anything done or omitted to be done, or purported to be done or omitted to be done, in good faith in the administration of this Part or the discharge of any obligation, power or duty under this Part.

Absence de responsabilité

Absence de responsabilité

77. Sa Majesté, ses ministres et ses fonctionnaires bénéficient de l'immunité judiciaire pour tout fait — acte ou omission — accompli, ou censé l'avoir été, de bonne foi dans l'exercice des pouvoirs et fonctions conférés par la présente partie.

Regulations

Regulations

78. The Governor in Council may make regulations prescribing anything that by this Part is to be or may be prescribed.

Règlements

Règlements

78. Le gouverneur en conseil peut, par règlement, prendre toute mesure d'ordre réglementaire prévue par la présente partie.

PART IV

RELEASE AUTHORIZATION AND
CONFIDENTIALITY*Release Authorization*

Release authorization

79. Notwithstanding any provision in any other Act of Parliament that prohibits or restricts the release of information, the following information may be released for the purposes of this Act:

- (a) information in any information bank that may be searched under Part I,
- (b) information that is necessarily incidental to the garnishment of moneys under Part II, and
- (c) information that is necessarily incidental to the administration of Part III.

Prohibition, Offence and Punishment

Prohibition

80. No officer or employee of Her Majesty, and no person who is hired on a contractual basis by Her Majesty to assist in the administration of this Act, who obtains any information pursuant to this Act shall, except as provided in this Act, knowingly communicate or knowingly allow the information to be communicated to any person, or knowingly allow any person to inspect or have access to any statement or other writing containing the information.

PARTIE IV

COMMUNICATION DE
RENSEIGNEMENTS ET
CONFIDENTIALITÉ*Communication de renseignements*

Communication de renseignements

79. Par dérogation aux dispositions de toute autre loi fédérale qui interdisent ou limitent la communication de renseignements, peuvent être communiqués, pour l'application de la présente loi :

- a) les renseignements contenus dans un fichier susceptible d'être consulté au titre de la partie I;
- b) les renseignements nécessairement liés à la saisie-arrêt au titre de la partie II;
- c) les renseignements nécessairement liés à l'application de la partie III.

Interdiction, infraction et peine

Interdiction

80. Sous réserve des autres dispositions de la présente loi, aucun fonctionnaire ou employé de Sa Majesté qui obtient des renseignements au titre de la présente loi ne peut sciemment les communiquer ou permettre qu'ils soient communiqués à une personne ou permettre qu'une personne prenne connaissance d'une déclaration ou d'un autre document contenant de tels renseignements, ou y ait accès. Le présent article s'applique également aux personnes qui sont engagées à contrat par Sa Majesté dans le cadre de l'application de la présente loi.

Offence and punishment

81. Every person who contravenes section 80 is guilty of an offence, and is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding \$1,000, or to both.

81. Quiconque contrevient à l'article 80 commet une infraction et encourt, sur déclaration de culpabilité par procédure sommaire, un emprisonnement maximal de six mois et une amende maximale de 1 000 \$, ou l'une de ces peines.

Infraction et peine

Limitation period

82. Any proceedings under section 81 may be instituted at any time within but not later than three years after the time when the subject-matter of the proceedings arose.

82. Les procédures visées à l'article 81 peuvent être engagées dans les trois ans qui suivent la date où s'est produit le fait qui leur a donné lieu.

Prescription

23. The Act is amended by adding the schedule set out in the schedule to this Act after section 82.

23. La même loi est modifiée par adjonction, après l'article 82, de l'annexe figurant en annexe de la présente loi.

R.S., c. G-2;
R.S., cc. 3, 4
(2nd Supp.);
1992, c. 1

*Garnishment, Attachment and Pension
Diversion Act*

*Loi sur la saisie-arrêt et la distraction de
pensions*

L.R., ch. G-2;
L.R., ch. 3, 4
(2^e suppl.);
1992, ch. 1

24. Section 2 of the Garnishment, Attachment and Pension Diversion Act is amended by adding the following in alphabetical order:

24. L'article 2 de la Loi sur la saisie-arrêt et la distraction de pensions est modifié par adjonction, selon l'ordre alphabétique, de ce qui suit :

“debtor”
« débiteur »

“debtor”, in respect of a garnishee summons, means the person whose salary or remuneration is sought to be garnisheed;

« débiteur » Personne dont le traitement ou la rémunération est visé par un bref de saisie-arrêt.

« débiteur »
“debtor”

25. Section 6 of the Act is replaced by the following:

25. L'article 6 de la même loi est remplacé par ce qui suit :

Service binds
Her Majesty

6. (1) Subject to this Division, service on Her Majesty of a garnishee summons, together with a copy of the judgment or order against the debtor and an application in the prescribed form, binds Her Majesty fifteen days after the day on which those documents are served.

6. (1) Sous réserve des autres dispositions de la présente section, le bref de saisie-arrêt, accompagné de la demande présentée en la forme réglementaire et de la copie du jugement ou de l'ordonnance visant le débiteur, devient opposable à Sa Majesté quinze jours après la signification de ces documents.

Opposabilité
à Sa Majesté

When service
is effective

(2) A garnishee summons served on Her Majesty is of no effect unless it is served on Her Majesty in the first thirty days following the first day on which it could have been validly served on Her Majesty.

(2) Le bref de saisie-arrêt ne produit ses effets que s'il a été signifié à Sa Majesté dans les trente jours suivant la date à compter de laquelle il pouvait valablement l'être.

Date d'effet

26. Sections 8 and 9 of the Act are replaced by the following:

26. Les articles 8 et 9 de la même loi sont remplacés par ce qui suit :

Moneys
bound by
service of
garnishee
summons

8. For the purposes of garnishment proceedings permitted by this Division, service of a garnishee summons binds Her Majesty in respect of the following money to be paid by Her Majesty to the debtor named in the garnishee summons:

8. Pour les besoins de toute procédure de saisie-arrêt prévue par la présente section, la signification à Sa Majesté du bref de saisie-arrêt frappe d'indisponibilité les sommes suivantes dont elle est redevable envers le débiteur mentionné dans le bref :

Sommes
frappées
d'indisponi-
bilité par la
signification
du bref de
saisie-arrêt

(a) in the case of a salary,

a) dans le cas d'un traitement :

(i) the salary to be paid on the last day of the second pay period next following the pay period in which Her Majesty is bound by the garnishee summons, and

(ii) where the garnishee summons has continuing effect under the law of the province, the salary to be paid on the last day of each subsequent pay period; or

(b) in the case of remuneration described in paragraph 5(b),

(i) the remuneration payable, in respect of the department or Crown corporation named in the application referred to in section 6, on the fifteenth day following the day on which Her Majesty is bound by the garnishee summons, and

(ii) either

(A) any remuneration becoming payable in respect of that department or Crown corporation in the thirty days following the fifteenth day after the day on which Her Majesty is bound by the garnishee summons that is owing on that fifteenth day or that becomes owing in the fourteen days following that fifteenth day, or

(B) where the garnishee summons has continuing effect under the law of the province, any remuneration becoming payable in respect of that department or Crown corporation subsequent to the fifteenth day after the day on which Her Majesty is bound by the garnishee summons.

27. Section 10 of the Act is replaced by the following:

10. Her Majesty has the following time period within which to respond to a garnishee summons:

(a) in the case of a salary, fifteen days, or such lesser number of days as is prescribed, after the last day of the second pay period next following the pay period in which Her Majesty is bound by the garnishee summons; or

(i) le traitement payable le dernier jour de la deuxième période de paye qui suit celle au cours de laquelle le bref de saisie-arrêt devient opposable à Sa Majesté,

(ii) lorsqu'en vertu du droit de la province en question la saisie-arrêt produit des effets continus, le traitement payable le dernier jour de chaque période de paye subséquente;

b) dans le cas d'une rémunération visée à l'alinéa 5b) :

(i) la rémunération qui incombe au ministère ou à la société d'État mentionnée dans la demande prévue à l'article 6, à compter du quinzième jour suivant celui où le bref de saisie-arrêt devient opposable à Sa Majesté,

(ii) l'une des rémunérations suivantes :

(A) la rémunération qui incombe à ce ministère ou à cette société d'État, dans les trente jours suivant le quinzième jour suivant celui où le bref de saisie-arrêt devient opposable à Sa Majesté et dont le terme est échu ce quinzième jour ou arrive à échéance dans les quatorze jours suivant ce quinzième jour,

(B) lorsqu'en vertu du droit de la province en question la saisie-arrêt produit des effets continus, la rémunération qui incombe à ce ministère ou à cette société d'État postérieurement au quinzième jour suivant celui où le bref de saisie-arrêt devient opposable à Sa Majesté.

27. L'article 10 de la même loi est remplacé par ce qui suit :

10. Sa Majesté dispose, pour comparaître, des délais suivants :

a) dans le cas d'un traitement, quinze jours — ou le délai plus court prévu par les règlements d'application — à compter du dernier jour de la deuxième période de paye suivant celle durant laquelle le bref de saisie-arrêt lui devient opposable;

Time period for Her Majesty's response to a garnishee summons

Délai imparti à Sa Majesté pour comparaître

(b) in the case of remuneration described in paragraph 5(b), fifteen days, or such lesser number of days as is prescribed, after the day on which the remuneration is garnished.

28. Subsection 11(4) of the Act is replaced by the following:

(4) Where, in honouring a garnishee summons, Her Majesty, through error, pays to a debtor by way of salary or remuneration an amount in excess of the amount that Her Majesty should have paid to that debtor, the excess becomes a debt due to Her Majesty by that debtor and may be recovered from the debtor at any time by set-off against future moneys payable to the debtor as salary or remuneration.

29. Section 18 of the Act is replaced by the following:

18. (1) Subject to this Division, service on the Senate, House of Commons or Library of Parliament of a garnishee summons, together with a copy of the judgment or order against the debtor and an application in the prescribed form, binds the Senate, House of Commons or Library of Parliament, as the case may be, fifteen days after the day on which those documents are served.

(2) A garnishee summons served on the Senate, House of Commons or Library of Parliament is of no effect unless it is served on the Senate, House of Commons or Library of Parliament, as the case may be, in the first thirty days following the first day on which it could have been validly served on the Senate, House of Commons or Library of Parliament, as the case may be.

30. Sections 20 to 22 of the Act are replaced by the following:

21. For the purposes of garnishment proceedings permitted by this Division, service of a garnishee summons is binding in respect of the following money to be paid to the debtor named in the garnishee summons:

- (a) in the case of a salary,
- (i) the salary to be paid on the last day of the second pay period next following the

b) dans le cas d'une rémunération visée à l'alinéa 5b), quinze jours — ou le délai plus court prévu par les règlements d'application — à compter du jour suivant celui où la rémunération fait l'objet de la saisie-arrêt.

28. Le paragraphe 11(4) de la même loi est remplacé par ce qui suit :

(4) Lorsque Sa Majesté, en obtempérant à un bref de saisie-arrêt, a, par erreur, versé à un débiteur, à titre de traitement ou de rémunération, une somme supérieure à celle qui aurait dû lui être versée, le trop-perçu constitue une créance de Sa Majesté sur ce débiteur, qui peut être recouvrée par compensation avec les versements à venir afférents au traitement ou à la rémunération de celui-ci.

29. L'article 18 de la même loi est remplacé par ce qui suit :

18. (1) Sous réserve des autres dispositions de la présente section, le bref de saisie-arrêt, accompagné de la demande présentée en la forme réglementaire et de la copie du jugement ou de l'ordonnance visant le débiteur, devient opposable au Sénat, à la Chambre des communes ou à la bibliothèque du Parlement, selon le cas, quinze jours après la signification de ces documents.

(2) Le bref de saisie-arrêt ne produit ses effets que s'il a été signifié au Sénat, à la Chambre des communes ou à la bibliothèque du Parlement, selon le cas, dans les trente jours suivant la date à compter de laquelle il pouvait valablement l'être.

30. Les articles 20 à 22 de la même loi sont remplacés par ce qui suit :

21. Pour les besoins de toute procédure de saisie-arrêt prévue par la présente section, la signification au Sénat, à la Chambre des communes ou à la bibliothèque du Parlement, selon le cas, du bref de saisie-arrêt frappe d'indisponibilité les sommes suivantes dont l'un ou l'autre est redevable envers le débiteur mentionné dans le bref :

- a) dans le cas d'un traitement :

Recovery of overpayment to debtor

Service binds the Senate, House of Commons or Library of Parliament

When service is effective

Moneys bound by service of garnishee summons

Recouvrement du trop-perçu

Opposabilité au Sénat, à la Chambre des communes ou à la bibliothèque du Parlement

Date d'effet

Sommes frappées d'indisponibilité par la signification du bref de saisie-arrêt

pay period in which the Senate, House of Commons or Library of Parliament, as the case may be, is bound by the garnishee summons, and

(ii) where the garnishee summons has continuing effect under the law of the province, the salary to be paid on the last day of each subsequent pay period; or

(b) in the case of remuneration described in paragraph 17(b),

(i) the remuneration payable on the fifteenth day following the day on which the Senate, House of Commons or Library of Parliament, as the case may be, is bound by the garnishee summons, and

(ii) either

(A) any remuneration becoming payable in the thirty days following the fifteenth day after the day on which the Senate, House of Commons or Library of Parliament, as the case may be, is bound by the garnishee summons that is owing on that fifteenth day or that becomes owing in the fourteen days following that fifteenth day, or

(B) where the garnishee summons has continuing effect under the law of the province, any remuneration becoming payable subsequent to the fifteenth day after the day on which the Senate, House of Commons or Library of Parliament, as the case may be, is bound by the garnishee summons.

22. The Senate, House of Commons or Library of Parliament has the following time period within which to respond to a garnishee summons:

(a) in the case of a salary, fifteen days, or such lesser number of days as is prescribed, after the last day of the second pay period next following the pay period in which the Senate, House of Commons or Library of Parliament is bound by the garnishee summons; or

(b) in the case of remuneration described in paragraph 17(b), fifteen days, or such lesser number of days as is prescribed, after the

(i) le traitement payable le dernier jour de la deuxième période de paye qui suit celle au cours de laquelle le bref de saisie-arrêt lui devient opposable,

(ii) lorsqu'en vertu du droit de la province en question la saisie-arrêt produit des effets continus, le traitement payable le dernier jour de chaque période de paye subséquente;

b) dans le cas d'une rémunération visée à l'alinéa 17b) :

(i) la rémunération qui lui incombe, à compter du quinzième jour suivant celui où le bref de saisie-arrêt lui devient opposable,

(ii) l'une des rémunérations suivantes :

(A) la rémunération qui lui incombe, dans les trente jours suivant le quinzième jour suivant celui où le bref de saisie-arrêt lui devient opposable et dont le terme est échu ce quinzième jour ou arrive à échéance dans les quatorze jours suivant ce quinzième jour,

(B) lorsqu'en vertu du droit de la province en question la saisie-arrêt produit des effets continus, la rémunération qui lui incombe postérieurement au quinzième jour suivant celui où le bref de saisie-arrêt lui devient opposable.

22. Le Sénat, la Chambre des communes ou la bibliothèque du Parlement dispose, pour comparaître, des délais suivants :

a) dans le cas d'un traitement, quinze jours — ou le délai plus court prévu par les règlements d'application — à compter du dernier jour de la deuxième période de paye suivant celle durant laquelle le bref de saisie-arrêt lui devient opposable;

b) dans le cas d'une rémunération visée à l'alinéa 17b), quinze jours — ou le délai plus court prévu par les règlements d'application — à compter du jour suivant celui où la rémunération fait l'objet de la saisie-arrêt.

Time period
to respond to
a garnishee
summons

Délai imparti
pour
comparaître

day on which the remuneration is garnished.

31. Subsection 23(4) of the Act is replaced by the following:

(4) Where, in honouring a garnishee summons, the Senate, House of Commons or Library of Parliament, through error, pays to a debtor by way of salary or remuneration an amount in excess of the amount that it should have paid to that debtor, the excess becomes a debt due to the Senate, House of Commons or Library of Parliament, as the case may be, by that debtor and may be recovered from the debtor at any time by set-off against future moneys payable to the debtor as salary or remuneration.

32. (1) The definitions “application”, “financial support order” and “recipient” in subsection 32(1) of the Act are replaced by the following:

“application” means, except in subsection 35.1(2), sections 35.3 and 35.4, subsection 41(2) and paragraph 46(c), a request in writing to the Minister for a diversion of a pension benefit under this Part, containing the prescribed information, accompanied by a certified copy of the financial support order on which the application is based and any prescribed additional documentation;

“financial support order” means, subject to subsection (2), an order or judgment for maintenance, alimony or support, including an order or judgment for arrears of payments, made pursuant to the *Divorce Act*, chapter D-8 of the Revised Statutes of Canada, 1970, or the *Divorce Act* or pursuant to the laws of a province relating to family financial support or the enforcement of family financial support;

“recipient” means

(a) in respect of a pension benefit referred to in any of paragraphs (a) to (g) of the definition “pension benefit”, a person to whom the pension benefit is immediately payable, but does not include a person whose entitlement to the pension benefit is based on his or her status as a surviving spouse or surviving

31. Le paragraphe 23(4) de la même loi est remplacé par ce qui suit :

(4) Lorsque le Sénat, la Chambre des communes ou la bibliothèque du Parlement, en obtempérant à un bref de saisie-arrêt, a, par erreur, versé à un débiteur, à titre de traitement ou de rémunération, une somme supérieure à celle qui aurait dû lui être versée, le trop-perçu constitue une créance du Sénat, de la Chambre des communes ou de la bibliothèque du Parlement sur ce débiteur, qui peut être recouvrée par compensation avec les versements à venir afférents au traitement ou à la rémunération de celui-ci.

32. (1) Les définitions de « ordonnance de soutien financier », « prestataire » et « requête », au paragraphe 32(1) de la même loi, sont respectivement remplacées par ce qui suit :

« ordonnance de soutien financier » Sous réserve du paragraphe (2), ordonnance alimentaire ou décision au sujet des aliments, y compris leurs arrérages, rendues en application de la *Loi sur le divorce*, chapitre D-8 des Statuts révisés du Canada de 1970, ou de la *Loi sur le divorce* ou du droit provincial de la famille, y compris le droit en matière d'exécution.

« prestataire »

a) Dans le cas de la prestation de pension mentionnée à l'un des alinéas a) à g) de la définition de « prestation de pension », la personne à qui une pension est directement allouée, à l'exclusion de toute personne dont le droit à une prestation de pension découle de sa qualité de conjoint ou d'enfant survivant de la personne qui originellement y avait droit ou qui y aurait droit si elle était vivante;

b) dans le cas de la prestation de pension mentionnée à l'alinéa h) de la définition de « prestation de pension », la personne qui a droit à celle-ci.

« requête » À l'exception des cas prévus au paragraphe 35.1(2), aux articles 35.3 ou

Recouvrement du trop-perçu

L.R., ch. 3 (2^e suppl.), art. 29

« ordonnance de soutien financier »
“financial support order”

« prestataire »
“recipient”

« requête »
“application”

Recovery of overpayment to debtor

R.S., c. 3 (2nd Supp.), s. 29

“application”
« requête »

“financial support order”
« ordonnance de soutien financier »

“recipient”
« prestataire »

child of the person who was originally entitled to the pension benefit or would have been entitled to it had death not intervened, or

(b) in respect of a pension benefit referred to in paragraph (h) of the definition “pension benefit”, a person who is entitled to the pension benefit.

R.S., c. 3 (2nd Supp.), s. 29

(2) The definition “pension benefit” in subsection 32(1) of the Act is amended by striking out the word “or” at the end of paragraph (f), by adding the word “or” at the end of paragraph (g) and by adding the following after paragraph (g):

(h) transfer value

33. Section 35 of the Act is replaced by the following:

35. No diversion of pension benefits under this Part shall be made unless the amount to be diverted is at least

(a) twenty-five dollars per annum, in the case of periodic diversion payments; or

(b) twenty-five dollars, in the case of a lump sum diversion payment.

Conditions for diversion of pension benefits

Where pension benefit not immediately payable — *Public Service Superannuation Act*

35.1 (1) Where a person against whom there is a valid and subsisting financial support order

(a) has ceased to be employed in the Public Service,

(b) is not a recipient but has exercised an option for a deferred annuity under section 12 or 13 of the *Public Service Superannuation Act* or is entitled to exercise an option for a deferred annuity under either of those sections, and

(c) has reached 50 years of age but has not yet reached 60 years of age,

a person entitled to support under the financial support order may apply for an order under subsection (2) to any court in Canada that has jurisdiction to make a financial support order.

35.4, au paragraphe 41(2) et à l’alinéa 46c), la demande écrite, présentée au ministre aux fins de distraction des prestations de pension sous le régime de la présente partie, contenant les renseignements réglementaires et accompagnée d’une copie certifiée conforme de l’ordonnance de soutien financier sur laquelle est fondée la requête et de tout autre document réglementaire.

(2) La définition de « prestation de pension », au paragraphe 32(1) de la même loi, est modifiée par adjonction, après l’alinéa g), de ce qui suit :

h) valeur de transfert.

33. L’article 35 de la même loi est remplacé par ce qui suit :

35. La distraction des prestations de pension ne peut se faire sous le régime de la présente partie que si le montant à distraire est d’au moins :

a) vingt-cinq dollars par an en cas de distraction comportant des versements périodiques;

b) vingt-cinq dollars en cas de distraction consistant en un versement global.

35.1 (1) La personne qui a droit à des aliments au titre d’une ordonnance de soutien financier valide et exécutoire peut demander au tribunal canadien compétent en matière d’ordonnance de soutien financier de rendre, en vertu du paragraphe (2), une ordonnance à l’égard de l’intéressé visé par l’ordonnance de soutien financier si les conditions suivantes sont réunies :

a) l’intéressé a cessé d’être employé dans la fonction publique;

b) l’intéressé n’est pas un prestataire, mais il a opté pour une pension différée au titre des articles 12 ou 13 de la *Loi sur la pension de la fonction publique*, ou a le droit de le faire;

c) l’intéressé a atteint l’âge de 50 ans, sans avoir atteint l’âge de 60 ans.

L.R., ch. 3 (2^e suppl.), art. 29

Requête aux fins de distraction de prestations de pension

Prestations de pension non immédiatement payables — *Loi sur la pension de la fonction publique*

Order

(2) A court to whom an application is made under subsection (1) may make an order deeming the person against whom there is a valid and subsisting financial support order to have exercised an option under section 12 or 13 of the *Public Service Superannuation Act* in favour of an annual allowance payable as of the date of the making of the order under this subsection if the court is satisfied that

(a) there is an extended pattern of non-payment of the financial support order; and

(b) the person making the application has taken reasonable steps to enforce the financial support order through other means.

Effect of order

35.2 An order made under subsection 35.1(2) shall be deemed for all purposes to have the same effect as if the person to whom the order relates had exercised the option referred to in the order.

Provision of information

35.3 On application by a person entitled to support under a valid and subsisting financial support order, the Minister shall, in accordance with the regulations, provide the person with the prescribed information concerning any matter related to the making of an application under subsection 35.1(1).

Application may be made by provincial enforcement service

35.4 An application under subsection 35.1(1) or section 35.3 may be made on behalf of a person by any other person or by a provincial enforcement service, within the meaning of section 2 of the *Family Orders and Agreements Enforcement Assistance Act*.

34. Section 36 of the Act is amended by striking out the word “or” at the end of paragraph (e), by adding the word “or” at the end of paragraph (f) and by adding the following after paragraph (f):

(g) where the recipient and the applicant are domiciled outside Canada and are ordinarily resident outside Canada, the amount to be diverted shall be the amount required to satisfy the financial support order, up to a maximum of fifty per cent of the recipient's net pension benefit.

35. (1) Paragraph 38(a) of the Act is replaced by the following:

(2) Le tribunal saisi de la demande visée au paragraphe (1) peut rendre une ordonnance selon laquelle l'intéressé est présumé avoir opté, au titre des articles 12 ou 13 de la *Loi sur la pension de la fonction publique*, pour une allocation annuelle payable à compter de la date où l'ordonnance est rendue s'il est convaincu que :

a) d'une part, l'intéressé a manifesté une tendance chronique à se soustraire aux paiements prévus par l'ordonnance de soutien financier;

b) d'autre part, le demandeur a pris des mesures raisonnables pour exécuter l'ordonnance de soutien financier par d'autres moyens.

35.2 L'ordonnance rendue au titre du paragraphe 35.1(2) est présumée valoir option par l'intéressé.

35.3 À la demande de la personne qui a droit à des aliments au titre d'une ordonnance de soutien financier valide et exécutoire, le ministre lui communique, conformément aux règlements, les renseignements réglementaires sur tout point relatif à la demande visée au paragraphe 35.1(1).

35.4 La demande visée au paragraphe 35.1(1) ou à l'article 35.3 peut être présentée par un mandataire ou par une autorité provinciale au sens de l'article 2 de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales*.

34. L'article 36 de la même loi est modifié par adjonction, après l'alinéa f), de ce qui suit :

g) si le prestataire et le requérant sont domiciliés à l'étranger et résident habituellement à l'étranger, le montant est celui qui est nécessaire à l'exécution de l'ordonnance, jusqu'à concurrence de cinquante pour cent de la prestation nette de pension du prestataire.

35. (1) L'alinéa 38a) de la même loi est remplacé par ce qui suit :

Ordonnance

Effets de l'ordonnance

Communication de renseignements

Demande présentée par une autorité provinciale

(a) the periodic component of the financial support order shall be dealt with in accordance with the rules in paragraphs 36(c) to (g); and

(2) Subparagraph 38(b)(ii) of the Act is replaced by the following:

(ii) the maximum that could be diverted pursuant to paragraph (a) as a result of the application of the rules in paragraphs 36(c) to (g) exceeds the amount actually diverted pursuant to paragraph (a),

36. Paragraph 39(1)(a) of the Act is replaced by the following:

(a) take all reasonable steps to cause payment to the recipient of any portion of the recipient's pension benefit that could be subject to diversion as a result of the application of the rules in paragraphs 36(c) to (g) to be delayed, in accordance with this section; and

37. Paragraphs 40(a) and (b) of the Act are replaced by the following:

(a) the lump sum component of the financial support order shall be dealt with in accordance with the rules in paragraphs 36(c) to (g); and

(b) where the maximum that could be diverted pursuant to paragraph (a) as a result of the application of the rules in paragraphs 36(c) to (g) exceeds the amount actually diverted pursuant to paragraph (a), then, in respect of that excess, section 39 applies, with such modifications as the circumstances require, to the periodic component of the financial support order.

38. The Act is amended by adding the following after section 40:

40.1 Notwithstanding paragraph 36(d), (f) or (g), subsection 37(2) or section 38, 39 or 40, where the financial support order is an order or judgment for arrears of payments, the amount to be diverted may exceed fifty per cent of the recipient's net pension benefit.

a) les règles visées aux alinéas 36c) à g) s'appliquent aux versements périodiques prévus par l'ordonnance de soutien financier;

(2) Le sous-alinéa 38b)(ii) de la même loi est remplacé par ce qui suit :

(ii) le montant maximal qui pourrait être distrait en application des règles prévues aux alinéas 36c) à g) dépasse le montant effectivement distrait en vertu de l'alinéa a),

36. L'alinéa 39(1)a) de la même loi est remplacé par ce qui suit :

a) prend les mesures voulues pour faire reporter, conformément au présent article, le versement au prestataire de la portion de sa prestation de pension qui pourrait faire l'objet de la distraction en application des règles prévues aux alinéas 36c) à g);

37. Les alinéas 40a) et b) de la même loi sont remplacés par ce qui suit :

a) les règles prévues aux alinéas 36c) à g) s'appliquent à la somme globale prévue à l'ordonnance;

b) si le montant maximal qui pourrait être distrait en application des règles prévues aux alinéas 36c) à g) dépasse le montant effectivement distrait en vertu de l'alinéa a), l'article 39, compte tenu des adaptations de circonstance, s'applique, en ce qui concerne cet excédent, aux versements périodiques prévus par l'ordonnance de soutien financier.

38. La même loi est modifiée par adjonction, après l'article 40, de ce qui suit :

40.1 Par dérogation aux alinéas 36d), f) ou g), au paragraphe 37(2) et aux articles 38, 39 ou 40, le montant qui peut être distrait, dans le cas d'une ordonnance de soutien financier qui est une ordonnance ou une décision relatives à des arrérages, peut dépasser cinquante pour cent de la prestation nette du prestataire.

39. Section 46 of the Act is amended by adding the following after paragraph (b):

(b.1) respecting the provision of information for the purposes of section 35.3;

40. The schedule to the Act is amended by adding the following after item 17:

18. *Special Retirement Arrangements Act.*

Canada Shipping Act

R.S., c. S-9;
R.S., cc. 27,
31 (1st
Suppl.), cc. 1,
27 (2nd
Suppl.), c. 6
(3rd Suppl.), c.
40 (4th
Suppl.); 1989,
cc. 3, 17;
1990, cc. 16,
17, 44; 1991,
c. 24; 1992,
cc. 1, 27, 31,
51; 1993, c.
36; 1994, cc.
24, 41; 1995,
cc. 1, 5

41. Paragraph 203(1)(a) of the *Canada Shipping Act* is replaced by the following:

(a) they are not subject to attachment or arrestment from any court, unless the attachment or arrestment is in respect of the garnishment or attachment of wages for the purpose of enforcing a support provision as defined in section 2 of the *Family Orders and Agreements Enforcement Assistance Act*;

COMING INTO FORCE

42. This Act or any provision of this Act comes into force on a day or days to be fixed by order of the Governor in Council.

Coming into
force

39. L'article 46 de la même loi est modifié par adjonction, après l'alinéa b), de ce qui suit :

b.1) régir la communication des renseignements visés à l'article 35.3;

40. L'annexe de la même loi est modifiée par adjonction, après l'article 17, de ce qui suit :

18. *Loi sur les régimes de retraite particuliers.*

Loi sur la marine marchande du Canada

L.R., ch. S-9;
L.R., ch. 27,
31 (1^{er}
suppl.), ch. 1,
27 (2^e
suppl.), ch. 6
(3^e suppl.),
ch. 40 (4^e
suppl.); 1989,
ch. 3, 17;
1990, ch. 16,
17, 44; 1991,
ch. 24; 1992,
ch. 1, 27, 31,
51; 1993, ch.
36; 1994, ch.
24, 41; 1995,
ch. 1, 5

41. L'alinéa 203(1)a) de la *Loi sur la marine marchande du Canada* est remplacé par ce qui suit :

a) ils ne sont pas sujets à saisie ou à opposition devant un tribunal, sauf pour l'exécution d'une disposition alimentaire au sens de l'article 2 de la *Loi d'aide à l'exécution des ordonnances et des ententes familiales*;

ENTRÉE EN VIGUEUR

42. La présente loi ou telle de ses dispositions entre en vigueur à la date ou aux dates fixées par décret.

Entrée en
vigueur

SCHEDULE
(Section 23)ANNEXE
(article 23)SCHEDULE
(Sections 62 and 63)ANNEXE
(articles 62 et 63)

LICENCES

AUTORISATIONS

CANADIAN PASSPORT ORDER

DÉCRET SUR LES PASSEPORTS CANADIENS

Passport

Passeport

*Passport**Passport*

AERONAUTICS ACT

LOI SUR L'ÉRONAUTIQUE

Air traffic controller licence

Licence de contrôleur de la circulation aérienne

*Licence de contrôleur de la circulation aérienne**Air traffic controller licence*

Aircraft maintenance engineer licence

Licence de mécanicien navigant

*Licence de technicien d'entretien d'aéronef**Flight engineer licence*

Airline transport pilot licence — aeroplane

Licence de navigateur

*Licence de pilote de ligne — avion**Flight navigator licence*

Airline transport pilot licence — helicopter

Licence de pilote de ballon

*Licence de pilote de ligne — hélicoptère**Balloon pilot licence*

Balloon pilot licence

Licence de pilote de ligne — avion

*Licence de pilote de ballon**Airline transport pilot licence — aeroplane*

Commercial pilot licence — aeroplane

Licence de pilote de ligne — hélicoptère

*Licence de pilote professionnel — avion**Airline transport pilot licence — helicopter*

Commercial pilot licence — helicopter

Licence de pilote de planeur

*Licence de pilote professionnel — hélicoptère**Glider pilot licence*

Commercial pilot licence — ultra-light aeroplane

Licence de pilote privé — autogyre

*Licence de pilote professionnel — avion ultra-léger**Private pilot licence — gyroplane*

Flight engineer licence

Licence de pilote privé — avion

*Licence de mécanicien navigant**Private pilot licence — aeroplane*

Flight navigator licence

Licence de pilote privé — avion ultra-léger

*Licence de navigateur**Private pilot licence — ultra-light aeroplane*

Glider pilot licence

Licence de pilote privé — hélicoptère

*Licence de pilote de planeur**Private pilot licence — helicopter*

Private pilot licence — aeroplane

Licence de pilote professionnel — avion

*Licence de pilote privé — avion**Commercial pilot licence — aeroplane*

Private pilot licence — gyroplane

Licence de pilote professionnel — avion ultra-léger

*Licence de pilote privé — autogyre**Commercial pilot licence — ultra-light aeroplane*

Private pilot licence — helicopter

Licence de pilote professionnel — hélicoptère

*Licence de pilote privé — hélicoptère**Commercial pilot licence — helicopter*

Private pilot licence — ultra-light aeroplane

Licence de technicien d'entretien d'aéronef

*Licence de pilote privé — avion ultra-léger**Aircraft maintenance engineer licence*

Private pilot permit (tourist) <i>Permis de pilote privé (touriste)</i>	Permis d'élève-pilote <i>Student pilot permit</i>
Recreational pilot permit — aeroplane <i>Permis de pilote de loisir — avion</i>	Permis de pilote de loisir — avion <i>Recreational pilot permit — aeroplane</i>
Student pilot permit <i>Permis d'élève-pilote</i>	Permis de pilote privé (touriste) <i>Private pilot permit (tourist)</i>
CANADA SHIPPING ACT	
Able seaman certificate <i>Certificat de matelot qualifié</i>	Brevet de service de capitaine de bateau de pêche d'au plus 100 tonneaux de jauge brute <i>Certificate of service as master of a fishing vessel of not more than 100 tons, gross tonnage</i>
Barge supervisor, MODU/inland certificate <i>Certificat de surveillant de chaland, UMFM/eaux internes</i>	Brevet de service de capitaine de navire d'au plus 1600 tonneaux de jauge brute <i>Certificate of service as master of a ship of not more than 1600 tons, gross tonnage</i>
Barge supervisor, MODU/self-elevating certificate <i>Certificat de surveillant de chaland, UMFM/auto élévatrice</i>	Brevet et État du service en mer <i>Certificate and Statement of Sea Service</i>
Barge supervisor, MODU/surface certificate <i>Certificat de surveillant de chaland, UMFM/surface</i>	Certificat d'adjoint de la salle des machines <i>Engine-room assistant certificate</i>
Bridge watchman certificate <i>Certificat d'homme de quart à la passerelle</i>	Certificat de capitaine au long cours <i>Master mariner certificate</i>
Certificate and Statement of Sea Service <i>Brevet et État du service en mer</i>	Certificat de capitaine avec restrictions <i>Master, limited certificate</i>
Certificate of service as master of a fishing vessel of not more than 100 tons, gross tonnage <i>Brevet de service de capitaine de bateau de pêche d'au plus 100 tonneaux de jauge brute</i>	Certificat de capitaine de pêche, deuxième classe <i>Fishing master, second-class certificate</i>
Certificate of service as master of a ship of not more than 1600 tons, gross tonnage <i>Brevet de service de capitaine de navire d'au plus 1600 tonneaux de jauge brute</i>	Certificat de capitaine de pêche, première classe <i>Fishing master, first-class certificate</i>
Chemical tanker, level 1 certificate <i>Certificat de transporteur de produits chimiques, niveau 1</i>	Certificat de capitaine de pêche, quatrième classe <i>Fishing master, fourth-class certificate</i>
Chemical tanker, level 2 certificate <i>Certificat de transporteur de produits chimiques, niveau 2</i>	Certificat de capitaine de pêche, troisième classe <i>Fishing master, third-class certificate</i>
Chief engineer, motor ship certificate <i>Certificat d'officier mécanicien en chef, navire à moteur</i>	Certificat de capitaine, navire à vapeur d'au plus 350 tonneaux de jauge brute ou remorqueur, voyage local <i>Master, steam ship of not more than 350 tons, gross tonnage or tug, local voyage</i>
Chief engineer, motor-driven fishing vessel certificate <i>Certificat d'officier mécanicien en chef, bateau de pêche à moteur</i>	Certificat de capitaine, voyage intermédiaire <i>Master, intermediate voyage certificate</i>
Chief engineer, steamship certificate <i>Certificat d'officier mécanicien en chef, navire à vapeur</i>	Certificat de capitaine, voyage local <i>Master, local voyage certificate</i>
Continued proficiency certificate <i>Certificat de maintien des compétences</i>	Certificat de compétence en dérive magnétique <i>Proficiency in compass deviation certificate</i>
Electrician certificate <i>Certificat d'électricien</i>	Certificat de compétence en embarcations de sauvetage <i>Proficiency in survival craft certificate</i>
Engine-room assistant certificate <i>Certificat d'adjoint de la salle des machines</i>	Certificat de compétence en embarcations de sauvetage avec restrictions <i>Restricted proficiency in survival craft certificate</i>
	LOI SUR LA MARINE MARCHANDE DU CANADA

Engine-room rating certificate <i>Certificat de matelot de la salle des machines</i>	Certificat de compétence en pétroliers <i>Proficiency in oil tankers certificate</i>
First mate, intermediate voyage certificate <i>Certificat de premier officier de pont, voyage intermédiaire</i>	Certificat de compétence en transporteurs de gaz liquéfié <i>Proficiency in liquefied gas tankers certificate</i>
First mate, limited certificate <i>Certificat de premier officier de pont avec restrictions</i>	Certificat de compétence en transporteurs de produits chimiques <i>Proficiency in chemical tankers certificate</i>
First mate, local voyage certificate <i>Certificat de premier officier de pont, voyage local</i>	Certificat de cuisinier de navire <i>Ship's cook certificate</i>
First-class engineer, motor ship certificate <i>Certificat d'officier mécanicien de première classe, navire à moteur</i>	Certificat de directeur d'installation extracôtière, UMFM/auto élévatrice <i>Offshore installation manager, MODU/self-elevating certificate</i>
First-class engineer, steamship certificate <i>Certificat d'officier mécanicien de première classe, navire à vapeur</i>	Certificat de directeur d'installation extracôtière, UMFM/eaux internes <i>Offshore installation manager, MODU/inland certificate</i>
Fishing master, first-class certificate <i>Certificat de capitaine de pêche, première classe</i>	Certificat de directeur d'installation extracôtière, UMFM/surface <i>Offshore installation manager, MODU/surface certificate</i>
Fishing master, fourth-class certificate <i>Certificat de capitaine de pêche, quatrième classe</i>	Certificat d'électricien <i>Electrician certificate</i>
Fishing master, second-class certificate <i>Certificat de capitaine de pêche, deuxième classe</i>	Certificat de maintien des compétences <i>Continued proficiency certificate</i>
Fishing master, third-class certificate <i>Certificat de capitaine de pêche, troisième classe</i>	Certificat de matelot qualifié <i>Able seaman certificate</i>
Fourth-class engineer, motor ship certificate <i>Certificat d'officier mécanicien de quatrième classe, navire à moteur</i>	Certificat de matelot de la salle des machines <i>Engine-room rating certificate</i>
Fourth-class engineer, steamship certificate <i>Certificat d'officier mécanicien de quatrième classe, navire à vapeur</i>	Certificat de pétroliers, niveau 1 <i>Oil tanker, level 1 certificate</i>
Liquefied gas tanker, level 1 certificate <i>Certificat de transporteur de gaz liquéfié, niveau 1</i>	Certificat de pétroliers, niveau 2 <i>Oil tanker, level 2 certificate</i>
Liquefied gas tanker, level 2 certificate <i>Certificat de transporteur de gaz liquéfié, niveau 2</i>	Certificat de premier officier de pont, voyage intermédiaire <i>First mate, intermediate voyage certificate</i>
Maintenance supervisor, MODU/self-elevating certificate <i>Certificat de surveillant de la maintenance, UMFM/auto élévatrice</i>	Certificat de premier officier de pont, voyage local <i>First mate, local voyage certificate</i>
Maintenance supervisor, MODU/surface certificate <i>Certificat de surveillant de la maintenance, UMFM/surface</i>	Certificat de premier officier de pont avec restrictions <i>First mate, limited certificate</i>
Master, intermediate voyage certificate <i>Certificat de capitaine, voyage intermédiaire</i>	Certificat de surveillant de chaland, UMFM/auto élévatrice <i>Barge supervisor, MODU/self-elevating certificate</i>
Master, limited certificate <i>Certificat de capitaine avec restrictions</i>	Certificat de surveillant de chaland, UMFM/eaux internes <i>Barge supervisor, MODU/inland certificate</i>
Master, local voyage certificate <i>Certificat de capitaine, voyage local</i>	Certificat de surveillant de chaland, UMFM/surface <i>Barge supervisor, MODU/surface certificate</i>
Master mariner certificate <i>Certificat de capitaine au long cours</i>	Certificat de surveillant de la maintenance, UMFM/auto élévatrice <i>Maintenance supervisor, MODU/self-elevating certificate</i>

Master, steam ship of not more than 350 tons, gross tonnage or tug, local voyage <i>Certificat de capitaine, navire à vapeur d'au plus 350 tonneaux de jauge brute ou remorqueur, voyage local</i>	Certificat de surveillant de la maintenance, UMFM/surface <i>Maintenance supervisor, MODU/surface certificate</i>
MODU certificate <i>Certificat UMFM</i>	Certificat de surveillant d'opérations de transbordement de gaz liquéfié <i>Supervisor of a liquefied gas transfer operation certificate</i>
Offshore installation manager, MODU/inland certificate <i>Certificat de directeur d'installation extracôtière, UMFM/eaux internes</i>	Certificat de surveillant d'opérations de transbordement de pétrole <i>Supervisor of an oil transfer operation certificate</i>
Offshore installation manager, MODU/self-elevating certificate <i>Certificat de directeur d'installation extracôtière, UMFM/auto élévatrice</i>	Certificat de surveillant d'opérations de transbordement de pétrole, eaux de l'Arctique (au nord de 60°00' N.) <i>Supervisor of an oil transfer operation in Arctic waters (north of 60°00' N) certificate</i>
Offshore installation manager, MODU/surface certificate <i>Certificat de directeur d'installation extracôtière, UMFM/surface</i>	Certificat de surveillant d'opérations de transbordement de produits chimiques <i>Supervisor of a chemical transfer operation certificate</i>
Oil tanker, level 1 certificate <i>Certificat de pétroliers, niveau 1</i>	Certificat de transporteur de gaz liquéfié, niveau 1 <i>Liquefied gas tanker, level 1 certificate</i>
Oil tanker, level 2 certificate <i>Certificat de pétroliers, niveau 2</i>	Certificat de transporteur de gaz liquéfié, niveau 2 <i>Liquefied gas tanker, level 2 certificate</i>
Proficiency in chemical tankers certificate <i>Certificat de compétence en transporteurs de produits chimiques</i>	Certificat de transporteur de produits chimiques, niveau 1 <i>Chemical tanker, level 1 certificate</i>
Proficiency in compass deviation certificate <i>Certificat de compétence en dérive magnétique</i>	Certificat de transporteur de produits chimiques, niveau 2 <i>Chemical tanker, level 2 certificate</i>
Proficiency in liquefied gas tankers certificate <i>Certificat de compétence en transporteurs de gaz liquéfié</i>	Certificat d'homme de quart à la passerelle <i>Bridge watchman certificate</i>
Proficiency in oil tankers certificate <i>Certificat de compétence en pétroliers</i>	Certificat d'officier de pont de quart de navire <i>Watchkeeping mate, ship certificate</i>
Proficiency in survival craft certificate <i>Certificat de compétence en embarcations de sauvetage</i>	Certificat d'officier de pont de quart de navire avec restrictions <i>Restricted watchkeeping mate, ship certificate</i>
Restricted engineer, motor ship certificate <i>Certificat d'officier mécanicien avec restrictions, navire à moteur</i>	Certificat d'officier de pont de quart, UMFM/auto élévatrice <i>Watchkeeping mate, MODU/self-elevating certificate</i>
Restricted proficiency in survival craft certificate <i>Certificat de compétence en embarcations de sauvetage avec restrictions</i>	Certificat d'officier de pont de quart, UMFM/eaux internes <i>Watchkeeping mate, MODU/inland certificate</i>
Restricted watchkeeping mate, ship certificate <i>Certificat d'officier de pont de quart de navire avec restrictions</i>	Certificat d'officier de pont de quart, UMFM/surface <i>Watchkeeping mate, MODU/surface certificate</i>
Seafarer's Identity Document <i>Pièce d'identité des gens de mer</i>	Certificat d'officier mécanicien avec restrictions, navire à moteur <i>Restricted engineer, motor ship certificate</i>
Second engineer, motor ship certificate <i>Certificat d'officier mécanicien en second, navire à moteur</i>	Certificat d'officier mécanicien de deuxième classe, navire à moteur <i>Second-class engineer, motor ship certificate</i>
Second engineer, steamship certificate <i>Certificat d'officier mécanicien en second, navire à vapeur</i>	Certificat d'officier mécanicien de deuxième classe, navire à vapeur <i>Second-class engineer, steamship certificate</i>
Second-class engineer, motor ship certificate <i>Certificat d'officier mécanicien de deuxième classe, navire à moteur</i>	

Second-class engineer, steamship certificate <i>Certificat d'officier mécanicien de deuxième classe, navire à vapeur</i>	Certificat d'officier mécanicien de première classe, navire à moteur <i>First-class engineer, motor ship certificate</i>
Ship's cook certificate <i>Certificat de cuisinier de navire</i>	Certificat d'officier mécanicien de première classe, navire à vapeur <i>First-class engineer, steamship certificate</i>
Supervisor of a chemical transfer operation certificate <i>Certificat de surveillant d'opérations de transbordement de produits chimiques</i>	Certificat d'officier mécanicien de quart, bateau de pêche à moteur <i>Watchkeeping engineer, motor-driven fishing vessel certificate</i>
Supervisor of a liquefied gas transfer operation certificate <i>Certificat de surveillant d'opérations de transbordement de gaz liquéfié</i>	Certificat d'officier mécanicien de quatrième classe, navire à moteur <i>Fourth-class engineer, motor ship certificate</i>
Supervisor of an oil transfer operation certificate <i>Certificat de surveillant d'opérations de transbordement de pétrole</i>	Certificat d'officier mécanicien de quatrième classe, navire à vapeur <i>Fourth-class engineer, steamship certificate</i>
Supervisor of an oil transfer operation in Arctic waters (north of 60°00'N) certificate <i>Certificat de surveillant d'opérations de transbordement de pétrole, eaux de l'Arctique (au nord de 60°00' N.)</i>	Certificat d'officier mécanicien de troisième classe, navire à moteur <i>Third-class engineer, motor ship certificate</i>
Third-class engineer, motor ship certificate <i>Certificat d'officier mécanicien de troisième classe, navire à moteur</i>	Certificat d'officier mécanicien de troisième classe, navire à vapeur <i>Third-class engineer, steamship certificate</i>
Third-class engineer, steamship certificate <i>Certificat d'officier mécanicien de troisième classe, navire à vapeur</i>	Certificat d'officier mécanicien en chef, bateau de pêche à moteur <i>Chief engineer, motor-driven fishing vessel certificate</i>
Watchkeeping engineer, motor-driven fishing vessel certificate <i>Certificat d'officier mécanicien de quart, bateau de pêche à moteur</i>	Certificat d'officier mécanicien en chef, navire à moteur <i>Chief engineer, motor ship certificate</i>
Watchkeeping mate, MODU/inland certificate <i>Certificat d'officier de pont de quart, UMFM/eaux internes</i>	Certificat d'officier mécanicien en chef, navire à vapeur <i>Chief engineer, steamship certificate</i>
Watchkeeping mate, MODU/self-elevating certificate <i>Certificat d'officier de pont de quart, UMFM/auto élévatrice</i>	Certificat d'officier mécanicien en second, navire à moteur <i>Second engineer, motor ship certificate</i>
Watchkeeping mate, MODU/surface certificate <i>Certificat d'officier de pont de quart, UMFM/surface</i>	Certificat d'officier mécanicien en second, navire à vapeur <i>Second engineer, steamship certificate</i>
Watchkeeping mate, ship certificate <i>Certificat d'officier de pont de quart de navire</i>	Certificat UMFM <i>MODU certificate</i>
	Pièce d'identité des gens de mer <i>Seafarer's Identity Document</i>

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FEDERAL CHILD SUPPORT GUIDELINES

OBJECTIVES

Objectives

1. The objectives of these Guidelines are
 - (a) to establish a fair standard of support for children that ensures that they continue to benefit from the financial means of both spouses after separation;
 - (b) to reduce conflict and tension between spouses by making the calculation of child support orders more objective;
 - (c) to improve the efficiency of the legal process by giving courts and spouses guidance in setting the levels of child support orders and encouraging settlement; and
 - (d) to ensure consistent treatment of spouses and children who are in similar circumstances.

INTERPRETATION

Definitions

2. (1) The definitions in this subsection apply in these Guidelines.

"Act"
« Loi »

"Act" means the *Divorce Act*.

"child"
« enfant »

"child" means a child of the marriage.

"income"
« revenu »

"income" means the annual income determined under sections 15 to 20.

"order
assignee"
« *cessionnaire de la
créance alimentaire* »

"order assignee" means a minister, member or agency referred to in subsection 20.1(1) of the Act to whom a child support order is assigned in accordance with that subsection.

"spouse"
« *époux* »

"spouse" has the meaning assigned by subsection 2(1) of the Act, and includes a former spouse.

"table"
« *table* »

"table" means a federal child support table set out in Schedule I.

Income Tax Act

(2) Words and expressions that are used in sections 15 to 21 and that are not defined in this section have the meanings assigned to them under the *Income Tax Act*.

Most current information

(3) Where, for the purposes of these Guidelines, any amount is determined on the basis of specified information, the most current information must be used.

Application of Guidelines

(4) In addition to child support orders, these Guidelines apply, with such modifications as the circumstances require, to

- (a) interim orders under subsections 15.1(2) and 19(9) of the Act;
- (b) orders varying a child support order;
- (c) orders referred to in subsection 19(7) of the Act; and
- (d) recalculations under paragraph 25.1(1)(b) of the Act.

Recalculations

(5) For greater certainty, the provisions of these Guidelines that confer a discretionary power on a court do not apply to recalculations under paragraph 25.1(1)(b) of the Act by a provincial child support service.

AMOUNT OF CHILD SUPPORT

Presumptive rule

3. (1) Unless otherwise provided under these Guidelines, the amount of a child support order for children under the age of majority is

(a) the amount set out in the applicable table, according to the number of children under the age of majority to whom the order relates and the income of the spouse against whom the order is sought; and

(b) the amount, if any, determined under section 7.

Child the age of majority or over

(2) Unless otherwise provided under these Guidelines, where a child to whom a child support order relates is the age of majority or over, the amount of the child support order is

(a) the amount determined by applying these Guidelines as if the child were under the age of majority; or

(b) if the court considers that approach to be inappropriate, the amount that it considers appropriate, having regard to the condition, means, needs and other circumstances of the child and the financial ability of each spouse to contribute to the support of the child.

Applicable table

(3) The applicable table is

(a) if the spouse against whom an order is sought resides in Canada, the table for the province in which that spouse ordinarily resides at the time the application for the child support order or for a variation order in respect of a child support order is made or the amount is to be recalculated under section 25.1 of the Act; and

(b) if the spouse against whom an order is sought resides outside of Canada, or if the residence of that spouse is unknown, the table for the province where the other spouse ordinarily resides at the time the application for the child support order or for a variation order in respect of a child support order is made or the amount is to be recalculated under section 25.1 of the Act.

**Incomes over
\$150,000**

4. Where the income of the spouse against whom a child support order is sought is over \$150,000, the amount of a child support order is

(a) the amount determined under section 3; or

(b) if the court considers that amount to be inappropriate,

(i) in respect of the first \$150,000 of the spouse's income, the amount set out in the applicable table for the number of children under the age of majority to whom the order relates;

(ii) in respect of the balance of the spouse's income, the amount that the court considers appropriate, having regard to the condition, means, needs and other circumstances of the children who are entitled to support and the financial ability of each spouse to contribute to the support of the children; and

(iii) the amount, if any, determined under section 7.

**Spouse in place
of a parent**

5. Where the spouse against whom a child support order is sought stands in the place of a parent for a child, the amount of a child support order is, in respect of that spouse, such amount as the court considers appropriate, having regard to these Guidelines and any other parent's legal duty to support the child.

**Medical and
dental
insurance**

6. In making a child support order, where medical or dental insurance coverage for the child is available to either spouse through his or her employer or otherwise at a reasonable rate, the court may order that coverage be acquired or continued.

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**Special or
extraordinary
expenses**

7. (1) In a child support order the court may, on either spouse's request, provide for an amount to cover the following expenses, or any portion of those expenses, taking into account the necessity of the expense in relation to the child's best interests and the reasonableness of the expense, having regard to the means of the spouses and those of the child and to the family's spending pattern prior to the separation:

- (a) child care expenses incurred as a result of the custodial parent's employment, illness, disability or education or training for employment;
- (b) that portion of the medical and dental insurance premiums attributable to the child;
- (c) health-related expenses that exceed insurance reimbursement by at least \$100 annually per illness or event, including orthodontic treatment, professional counselling provided by a psychologist, social worker, psychiatrist or any other person, physiotherapy, occupational therapy, speech therapy and prescription drugs, hearing aids, glasses and contact lenses;
- (d) extraordinary expenses for primary or secondary school education or for any educational programs that meet the child's particular needs;
- (e) expenses for post-secondary education; and
- (f) extraordinary expenses for extracurricular activities.

**Sharing of
expense**

(2) The guiding principle in determining the amount of an expense referred to in subsection (1) is that the expense is shared by the spouses in proportion to their respective incomes after deducting from the expense, the contribution, if any, from the child.

**Subsidies, tax
deductions,
etc.**

(3) In determining the amount of an expense referred to in subsection (1), the court must take into account any subsidies, benefits or income tax deductions or credits relating to the expense, and any eligibility to claim a subsidy, benefit or income tax deduction or credit relating to the expense.

Split custody

8. Where each spouse has custody of one or more children, the amount of a child support order is the difference between the amount that each spouse would otherwise pay if a child support order were sought against each of the spouses.

Shared custody

9. Where a spouse exercises a right of access to, or has physical custody of, a child for not less than 40 per cent of the time over the course of a year, the amount of the child support order must be determined by taking into account

- (a) the amounts set out in the applicable tables for each of the spouses;
- (b) the increased costs of shared custody arrangements; and
- (c) the conditions, means, needs and other circumstances of each spouse and of any child for whom support is sought.

Undue hardship

10. (1) On either spouse's application, a court may award an amount of child support that is different from the amount determined under any of sections 3 to 5, 8 or 9 if the court finds that the spouse making the request, or a child in respect of whom the request is made, would otherwise suffer undue hardship.

Circumstances that may cause undue hardship

(2) Circumstances that may cause a spouse or child to suffer undue hardship include the following:

- (a) the spouse has responsibility for an unusually high level of debts reasonably incurred to support the spouses and their children prior to the separation or to earn a living;
- (b) the spouse has unusually high expenses in relation to exercising access to a child;
- (c) the spouse has a legal duty under a judgment, order or written separation agreement to support any person;
- (d) the spouse has a legal duty to support a child, other than a child of the marriage, who is
 - (i) under the age of majority; or

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(ii) the age of majority or over but is unable, by reason of illness, disability or other cause, to obtain the necessaries of life; and

(c) the spouse has a legal duty to support any person who is unable to obtain the necessaries of life due to an illness or disability.

Standards of living must be considered

(3) Despite a determination of undue hardship under subsection (1), an application under that subsection must be denied by the court if it is of the opinion that the household of the spouse who claims undue hardship would, after determining the amount of child support under any of sections 3 to 5, 8 or 9, have a higher standard of living than the household of the other spouse.

Standards of living test

(4) In comparing standards of living for the purpose of subsection (3), the court may use the comparison of household standards of living test set out in Schedule II.

Reasonable time

(5) Where the court awards a different amount of child support under subsection (1), it may specify, in the child support order, a reasonable time for the satisfaction of any obligation arising from circumstances that cause undue hardship and the amount payable at the end of that time.

Reasons

(6) Where the court makes a child support order in a different amount under this section, it must record its reasons for doing so.

ELEMENTS OF A CHILD SUPPORT ORDER

Form of payments

11. The court may require in a child support order that the amount payable under the order be paid in periodic payments, in a lump sum or in a lump sum and periodic payments.

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Security

12. The court may require in the child support order that the amount payable under the order be paid or secured, or paid and secured, in the manner specified in the order.

Information to
be specified in
order

13. A child support order must include the following information:

- (a) the name and birth date of each child to whom the order relates;
- (b) the income of any spouse whose income is used to determine the amount of the child support order;
- (c) the amount determined under paragraph 3(1)(a) for the number of children to whom the order relates;
- (d) the amount determined under paragraph 3(2)(b) for a child the age of majority or over;
- (e) the particulars of any expense described in subsection 7(1), the child to whom the expense relates, and the amount of the expense or, where that amount cannot be determined, the proportion to be paid in relation to the expense; and
- (f) the date on which the lump sum or first payment is payable and the day of the month or other time period on which all subsequent payments are to be made.

VARIAION OF CHILD SUPPORT ORDERS

Circumstances
for variation

14. For the purposes of subsection 17(4) of the Act, a change of circumstances is

- (a) in the case where the amount of child support includes a determination made in accordance with the applicable table, any change in circumstances that would result in a different child support order or any provision thereof;
- (b) in the case where the amount of child support does not include a determination made in accordance with a table, any change in the condition, means, needs or other circumstances of either spouse or of any child who is entitled to support; and

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(c) in the case of an order made before May 1, 1997, the coming into force of section 15.1 of the Act, enacted by section 2 of chapter 1 of the Statutes of Canada, (1997).

INCOME

Determination
of annual
income

15. (1) Subject to subsection (2), a spouse's annual income is determined by the court in accordance with sections 16 to 20.

Agreement

(2) Where both spouses agree in writing on the annual income of a spouse, the court may consider that amount to be the spouse's income for the purposes of these Guidelines if the court thinks that the amount is reasonable having regard to the income information provided under section 21.

Calculation of
annual income

16. Subject to sections 17 to 20, a spouse's annual income is determined using the sources of income set out under the heading "Total income" in the T1 General form issued by Revenue Canada and is adjusted in accordance with Schedule III.

Pattern of
income

17. (1) Where the court is of the opinion that the determination of a spouse's annual income from a source of income under section 16 would not provide the fairest determination of the annual income from that source, the court may determine the annual income from that source

(a) where the amount in respect of the source of income has increased in each of the three most recent taxation years or has decreased in each of those three years, to be the amount from that source of income in the spouse's most recent taxation year;

(b) where the amount in respect of the source of income has not increased or decreased as described in paragraph (a), to be the average of the amount received by the spouse from that source of income in the three most recent taxation years, or such other amount, if any, that the court considers appropriate; or

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(c) where the spouse has received a non-recurring amount in any of the three most recent taxation years, to be such portion of the amount as the court considers appropriate, if any.

Non-recurring losses

(2) Where a spouse has incurred a non-recurring capital or business investment loss, the court may, if it is of the opinion that the determination of the spouse's annual income under section 16 would not provide the fairest determination of the annual income, choose not to apply sections 6 and 7 of Schedule III, and adjust the amount of the loss, including related expenses and carrying charges and interest expenses, to arrive at such amount as the court considers appropriate.

Shareholder, director or officer

18. (1) Where a spouse is a shareholder, director or officer of a corporation and the court is of the opinion that the amount of the spouse's annual income as determined under section 16 does not fairly reflect all the money available to the spouse for the payment of child support, the court may consider the situations described in section 17 and determine the spouse's annual income to include

(a) all or part of the pre-tax income of the corporation, and of any corporation that is related to that corporation, for the most recent taxation year; or

(b) an amount commensurate with the services that the spouse provides to the corporation, provided that the amount does not exceed the corporation's pre-tax income.

Adjustment to corporation's pre-tax income

(add back payments to non-arm's length spouse, etc)

(2) In determining the pre-tax income of a corporation for the purposes of subsection (1), all amounts paid by the corporation as salaries, wages or management fees, or other payments or benefits, to or on behalf of persons with whom the corporation does not deal at arm's length must be added to the pre-tax income, unless the spouse establishes that the payments were reasonable in the circumstances.

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Imputing income

19. (1) The court may impute such amount of income to a spouse as it considers appropriate in the circumstances, which circumstances include the following:

- (a) the spouse is intentionally under-employed or unemployed, other than where the under-employment or unemployment is required by the needs of a child of the marriage or any child under the age of majority or by the reasonable educational or health needs of the spouse;
- (b) the spouse is exempt from paying federal or provincial income tax;
- (c) the spouse lives in a country that has effective rates of income tax that are significantly lower than those in Canada;
- (d) it appears that income has been diverted which would affect the level of child support to be determined under these Guidelines;
- (e) the spouse's property is not reasonably utilized to generate income;
- (f) the spouse has failed to provide income information when under a legal obligation to do so;
- (g) the spouse unreasonably deducts expenses from income;
- (h) the spouse derives a significant portion of income from dividends, capital gains or other sources that are taxed at a lower rate than employment or business income; and
- (i) the spouse is a beneficiary under a trust and is or will be in receipt of income or other benefits from the trust.

Reasonableness of expenses

(2) For the purpose of paragraph (1)(g), the reasonableness of an expense deduction is not solely governed by whether the deduction is permitted under the *Income Tax Act*.

Non-resident

20. Where a spouse is a non-resident of Canada, the spouse's annual income is determined as though the spouse were a resident of Canada.

INCOME INFORMATION

Obligation of applicant

21. (1) A spouse who is applying for a child support order and whose income information is necessary to determine the amount of the order must include the following with the application:

(a) a copy of every personal income tax return filed by the spouse for each of the three most recent taxation years;

(b) a copy of every notice of assessment or re-assessment issued to the spouse for each of the three most recent taxation years;

(c) where the spouse is an employee, the most recent statement of earnings indicating the total earnings paid in the year to date, including overtime or, where such a statement is not provided by the employer, a letter from the spouse's employer setting out that information including the spouse's rate of annual salary or remuneration;

(d) where the spouse is self-employed, for the three most recent taxation years

(i) the financial statements of the spouse's business or professional practice, other than a partnership, and

(ii) a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom the spouse does not deal at arm's length;

(e) where the spouse is a partner in a partnership, confirmation of the spouse's income and draw from, and capital in, the partnership for its three most recent taxation years;

(f) where the spouse controls a corporation, for its three most recent taxation years

(i) the financial statements of the corporation and its subsidiaries, and

(ii) a statement showing a breakdown of all salaries, wages, management fees or other payments or benefits paid to, or on behalf of, persons or corporations with whom the corporation, and every related corporation, does not deal at arm's length; and

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(g) where the spouse is a beneficiary under a trust, a copy of the trust settlement agreement and copies of the trust's three most recent financial statements.

Obligation of respondent

(2) A spouse who is served with an application for a child support order and whose income information is necessary to determine the amount of the order, must, within 30 days after the application is served if the spouse resides in Canada or the United States or within 60 days if the spouse resides elsewhere, or such other time limit as the court specifies, provide the other spouse or the order assignee with the documents referred to in subsection (1).

Special expenses or undue hardship

(3) Where, in the course of proceedings in respect of an application for a child support order, a spouse requests an amount to cover expenses referred to in subsection 7(1) or pleads undue hardship, the spouse who would be receiving the amount of child support must, within 30 days after the amount is sought or undue hardship is pleaded if the spouse resides in Canada or the United States or within 60 days if the spouse resides elsewhere, or such other time limit as the court specifies, provide the other spouse with the documents referred to in subsection (1).

Income over \$150,000

(4) Where, in the course of proceedings in respect of an application for a child support order, it is established that the income of the spouse who would be paying the amount of child support is greater than \$150,000, the other spouse must, within 30 days after the income is established to be greater than \$150,000 if the other spouse resides in Canada or the United States or within 60 days if the other spouse resides elsewhere, or such other time limit as the court specifies, provide the spouse with the documents referred to in subsection (1).

Making of rules not precluded

(5) Nothing in this section precludes the making of rules by a competent authority, within the meaning of section 25 of the Act, respecting the disclosure of income information that is considered necessary for the purposes of the determination of an amount of a child support order.

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**Failure to
comply**

22. (1) Where a spouse fails to comply with section 21, the other spouse may apply

(a) to have the application for a child support order set down for a hearing, or move for judgment; or

(b) for an order requiring the spouse who failed to comply to provide the court with the required documents.

**Costs of the
proceedings**

(2) Where a court makes an order under paragraph (1)(a) or (b), the court may award costs in favour of the other spouse up to an amount that fully compensates the other spouse for all costs incurred in the proceedings.

**Adverse
inference**

23. Where the court proceeds to a hearing on the basis of an application under paragraph 22(1)(a), the court may draw an adverse inference against the spouse who failed to comply and impute income to that spouse in such amount as it considers appropriate.

**Failure to
comply with
court order**

24. Where a spouse fails to comply with an order issued on the basis of an application under paragraph 22(1)(b), the court may

(a) strike out any of the spouse's pleadings;

(b) make a contempt order against the spouse;

(c) proceed to a hearing, in the course of which it may draw an adverse inference against the spouse and impute income to that spouse in such amount as it considers appropriate; and

(d) award costs in favour of the other spouse up to an amount that fully compensates the other spouse for all costs incurred in the proceedings.

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**Continuing
obligation to
provide income
information**

25. (1) Every spouse against whom a child support order has been made must, on the written request of the other spouse or the order assignee, not more than once a year after the making of the order and as long as the child is a child within the meaning of these Guidelines, provide that other spouse or the order assignee with the documents referred to in subsection 21(1) for any of the three most recent taxation years for which the spouse has not previously provided the documents.

**Below minimum
income**

(2) Where a court has determined that the spouse against whom a child support order is sought does not have to pay child support because his or her income level is below the minimum amount required for application of the tables, that spouse must, on the written request of the other spouse, not more than once a year after the determination and as long as the child is a child within the meaning of these Guidelines, provide the other spouse with the documents referred to in subsection 21(1) for any of the three most recent taxation years for which the spouse has not previously provided the documents.

**Obligation of
receiving
spouse**

(3) Where the income information of the spouse in favour of whom a child support order is made is used to determine the amount of the order, the spouse must, not more than once a year after the making of the order and as long as the child is a child within the meaning of these Guidelines, on the written request of the other spouse, provide the other spouse with the documents referred to in subsection 21(1) for any of the three most recent taxation years for which the spouse has not previously provided the documents, as well as any current information about the status of any expenses included in the order pursuant to subsection 7(1).

**Information
requests**

(4) Where a spouse or an order assignee requests information from the other spouse under any of subsections (1) to (3) and the income information of the spouse is used to determine the amount of the child support order, the requesting spouse or order assignee must include the documents set out in subsection 21(1)

with the request, as well as any current information about the status of any expenses included in the order pursuant to subsection 7(1).

Time limit

(5) A spouse who receives a request made under any of subsections (1) to (3) must provide the required documents within 30 days after the request's receipt if the spouse resides in Canada or the United States and within 60 days after the request's receipt if the spouse resides elsewhere.

Deemed receipt

(6) A request made under any of subsections (1) to (3) is deemed to have been received 10 days after it is sent.

Failure to comply

(7) A court may, on application by either spouse or an order assignee, where the other spouse has failed to comply with any of subsections (1) to (3)

(a) consider the other spouse to be in contempt of court and award costs in favour of the applicant up to an amount that fully compensates the applicant for all costs incurred in the proceedings; or

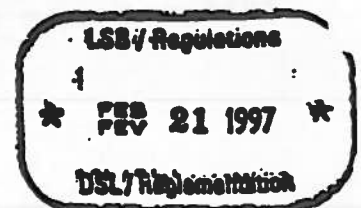
(b) make an order requiring the other spouse to provide the court with the required documents.

Unenforceable provision

(8) A provision in a judgment, order or agreement purporting to limit a spouse's obligation to provide documents under this section is unenforceable.

Provincial child support services

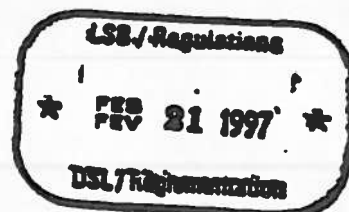
26. A spouse or an order assignee may appoint a provincial child support service to act on their behalf for the purposes of requesting and receiving income information under any of subsections 25(1) to (3), as well as for the purposes of an application under subsection 25(7).



COMING INTO FORCE

Coming into
force

27. These Guidelines come into force on May 1, 1997.



SCHEDULE II
(Subsection 10(4))

COMPARISON OF HOUSEHOLD STANDARDS OF LIVING TEST

Definitions

1. The definitions in this section apply in this Schedule.

"average tax rate"

« taux d'imposition moyen »

"average tax rate" means the rate determined by dividing the federal and provincial taxes payable on a person's annual income determined under sections 15 to 20 of these Guidelines by the person's taxable income:

"child"

« enfant »

"child" means a child of the marriage or a child who

(a) is under the age of majority; or

(b) is the age of majority or over but is unable, by reason of illness, disability or other cause to obtain the necessaries of life.

"household"

« ménage »

"household" means a spouse and any of the following persons residing with the spouse

(a) any person who has a legal duty to support the spouse or whom the spouse has a legal duty to support,

(b) any child whom the spouse or the person described in paragraph (a) has a legal duty to support; and

(c) any other person who shares living expenses with the spouse or from whom the spouse otherwise receives an economic benefit as a result of living with that person, if the court considers it reasonable for that person to be considered part of the household.

"taxable
income"
« *revenu*
imposable »

"taxable income" means the annual taxable income determined using the calculations required to determine "Taxable Income" in the T1 General form issued by Revenue Canada.

Test

2. The comparison of household standards of living test is as follows:

STEP 1

Establish the annual income of each person in each household by applying the formula

$$A - B$$

where

A is the person's income determined under sections 15 to 20 of these Guidelines, and

B is the federal and provincial taxes payable on the person's taxable income.

Where the information on which to base the income determination is not provided, the court may impute income in the amount it considers appropriate.

STEP 2

Adjust the annual income of each person in each household by .

(a) deducting the following amounts, net of any applicable income tax based on that person's average tax rate, calculated on an annual basis:

(i) any amount relied on by the court as a factor that resulted in a determination of undue hardship,

(ii) the amount that would otherwise be payable by the person under these Guidelines if the pleading of undue hardship was not made, and

(iii) unless already deducted under subparagraph (i), any amount of support that is paid by the person under a judgment, order or written separation agreement; and

His Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to section 26.1^a of the *Divorce Act*^b, hereby establishes the annexed *Federal Child Support Guidelines*.

^a S.C. 1997, c.1, s. 11
^b R.S., c. 3 (2nd Supp.)

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(b) adding the following amounts, net of any applicable income tax based on that person's average tax rate, on an annual basis:

(i) the amount that would otherwise be receivable by the person under these Guidelines if the pleading of undue hardship was not made, and

(ii) any amount of child support that the person has received for any child under a judgment, order or written separation agreement.

STEP 3

Add the amounts of adjusted annual income for all the persons in each household to determine the total household income for each household.

STEP 4

Determine the applicable low-income measures amount for each household based on the following:

Low-income Measures

Household Size	Low-income Measures Amount
One person	
1 adult	\$10,382
Two persons	
2 adults	\$14,535
1 adult and 1 child	\$14,535
Three persons	
3 adults	\$18,688
2 adults and 1 child	\$17,649
1 adult and 2 children	\$17,649
Four persons	
4 adults	\$22,840
3 adults and 1 child	\$21,802
2 adults and 2 children	\$20,764
1 adult and 3 children	\$20,764

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Household Size	Low-income Measures Amount
Five persons	
5 adults	\$26,993
4 adults and 1 child	\$25,955
3 adults and 2 children	\$24,917
2 adults and 3 children	\$23,879
1 adult and 4 children	\$23,879
Six persons	
6 adults	\$31,145
5 adults and 1 child	\$30,108
4 adults and 2 children	\$29,070
3 adults and 3 children	\$28,031
2 adults and 4 children	\$26,993
1 adult and 5 children	\$26,993
Seven persons	
7 adults	\$34,261
6 adults and 1 child	\$33,222
5 adults and 2 children	\$32,184
4 adults and 3 children	\$31,146
3 adults and 4 children	\$30,108
2 adults and 5 children	\$29,070
1 adult and 6 children	\$29,070
Eight persons	
8 adults	\$38,413
7 adults and 1 child	\$37,375
6 adults and 2 children	\$36,337
5 adults and 3 children	\$35,299
4 adults and 4 children	\$34,261
3 adults and 5 children	\$33,222
2 adults and 6 children	\$32,184
1 adult and 7 children	\$32,184

STEP 5

Divide the household income amount (Step 3) by the low-income measures amount (Step 4) to get a household income ratio for each household.

STEP 6

Compare the household income ratios. The household that has the higher ratio has the higher standard of living.

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SCHEDULE III
(Section 16)

ADJUSTMENTS TO INCOME

Employment
expenses

1. Where the spouse is an employee, the spouse's applicable employment expenses described in the following provisions of the *Income Tax Act* are deducted:

- (a) paragraph 8(1)(c) concerning expenses of clergyman's residence;
- (b) paragraph 8(1)(d) concerning expenses of teacher's exchange fund contribution;
- (c) paragraph 8(1)(e) concerning expenses of railway employees;
- (d) paragraph 8(1)(f) concerning sales expenses;
- (e) paragraph 8(1)(g) concerning transport employee's expenses;
- (f) paragraph 8(1)(h) concerning travel expenses;
- (g) paragraph 8(1)(i) concerning dues and other expenses of performing duties;
- (h) paragraph 8(1)(j) concerning motor vehicle and aircraft costs;
- (i) paragraph 8(1)(l1) concerning *Canada Pension Plan* contributions and *Employment Insurance Act* premiums;
- (j) paragraph 8(1)(n) concerning salary reimbursement;
- (k) paragraph 8(1)(o) concerning forfeited amounts;
- (l) paragraph 8(1)(p) concerning musical instrument costs; and
- (m) paragraph 8(1)(q) concerning artists' employment expenses.

Child support

2. Deduct child support that is included to determine total income in the T1 General form issued by Revenue Canada.

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Spousal support

3. (1) To calculate income for the purpose of determining an amount under an applicable table, deduct the spousal support received from the other spouse.

Special or extraordinary expenses

(2) To calculate income for the purpose of determining an amount under section 7 of these Guidelines, deduct the spousal support paid to the other spouse.

Social assistance

4. Adjust social assistance income to include only that portion attributable to the spouse.

Dividends from taxable Canadian corporations

5. Replace the taxable amount of dividends from taxable Canadian corporations received by the spouse by the actual amount of those dividends received by the spouse.

*grossed
return to
actual
dividends*

Capital gains and capital losses

6. Replace the taxable capital gains realized in a year by the spouse by the actual amount of capital gains realized by the spouse in excess of the spouse's actual capital losses in that year.

*gross up
to actual
CG*

Business investment losses

7. Deduct the actual amount of business investment losses suffered by the spouse during the year.

Carrying charges

8. Deduct the spouse's carrying charges and interest expenses that are paid by the spouse and that would be deductible under the *Income Tax Act*.

Net self-employment income

9. Where the spouse's net self-employment income is determined by deducting an amount for salaries, benefits, wages or management fees, or other payments, paid to or on behalf of persons with whom the spouse does not deal at arm's length, include that amount, unless the spouse establishes that the payments were necessary to earn the self-employment income and were reasonable in the circumstances.

Additional amount

10. Where the spouse reports income from self-employment that includes the self-employment income for the 12 months ending on December 31 of the reporting year plus an additional amount earned in a prior period, deduct the amount earned in the prior period, net of reserves.

Capital cost allowance for property

11. Include the spouse's deduction for an allowable capital cost allowance with respect to real property.

Partnership income

12. Where the spouse earns income through a partnership, deduct any amount included in income that is properly required by the partnership for purposes of capitalization.

Employee stock options with a Canadian-controlled private corporation

13. (1) Where the spouse has received, as an employee benefit, options to purchase shares of a Canadian-controlled private corporation and has exercised those options during the year, add the difference between the value of the shares at the time the options are exercised and the amount paid by the spouse for the shares and any amount paid to acquire the options to purchase the shares, to the income for the year in which the options are exercised.

*as
bal
paid
to the
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length
rule*

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**Disposal of
shares**

(2) If the spouse has disposed of the shares during the year referred to in subsection (1), deduct from the income for that year the difference determined pursuant to that subsection.

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SCHEDULE I
(Subsection 2(1))

FEDERAL CHILD SUPPORT TABLES

Notes:

1. *The federal child support tables set out the amount of monthly child support payments for each province on the basis of the annual income of the spouse ordered to pay child support (the "support payer") and the number of children for whom a table amount is payable. Refer to these Guidelines to determine whether special measures apply.*
2. *There is a threshold level of income below which no amount of child support is payable. Child support amounts are specified for incomes up to \$150,000 per year. Refer to section 4 of these Guidelines to determine the amount of child support payments for support payers with annual incomes over \$150,000.*
3. *Income is set out in the tables in intervals of \$1,000. Monthly amounts are determined by adding the basic amount and the amount calculated by multiplying the applicable percentage by the portion of the income that exceeds the lower amount within that interval of income.*

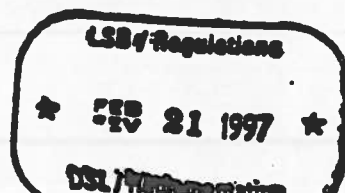
Example:

Province: British Columbia
Number of children: 2
Annual income of support payer: \$33,760
Basic amount: \$480
Percentage: 1.20%
Lower amount of the income interval: \$33,000

The amount of monthly child support is calculated as follows:

$$\begin{aligned} & \$480 + [1.2\% \times (\$33,760 - \$33,000)] \\ & \$480 + [1.2/100 \times \$760] \\ & \$480 + [0.012 \times \$760] \\ & \$480 + \$9.12 = \$489.12 \end{aligned}$$

4. *There are separate tables for each province. The amounts vary from one province to another because of differences in provincial income tax rates. The tables are in the following order:*
 - (a) Ontario;
 - (b) Quebec;
 - (c) Nova Scotia;



- (d) *New Brunswick;*
- (e) *Manitoba;*
- (f) *British Columbia;*
- (g) *Prince Edward Island;*
- (h) *Saskatchewan;*
- (i) *Alberta;*
- (j) *Newfoundland;*
- (k) *Yukon; and*
- (l) *Northwest Territories.*

5. *The amounts in the tables are calculated using a mathematical formula and generated by a computer program. The amounts are based on economic studies of average spending on children in families at different income levels in Canada.*
6. *The formula referred to in note 5 sets support amounts to reflect average expenditures on children by a spouse with a particular number of children and level of income. The calculation is based on the support payer's income. The formula uses the basic personal amount for non-refundable tax credits to recognize personal expenses, and takes other federal and provincial income taxes and credits into account. Federal Child Tax benefits and Goods and Services Tax credits for children are excluded from the calculation. At lower income levels, the formula sets the amounts to take into account the combined impact of taxes and child support payments on the support payer's limited disposable income.*

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PROVINCE: ONTARIO
NO. OF CHILDREN/NBRE D'ENFANTS: One/Un

Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)			Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)		
From/ De	To/ À	Basic Amount/ Montant de base	Plus (%)	of income over/ du revenu dépassant	From/ De	To/ À	Basic Amount/ Montant de base	Plus (%)	of income over/ du revenu dépassant
0	6729	0	5.00		54000	54999	481	0.72	54000
6730	8999	0	4.81	6730	55000	55999	488	0.73	55000
7000	7999	14	0.86	7000	56000	56999	475	0.80	56000
8000	8999	62	0.88	8000	57000	57999	483	0.80	57000
9000	8999	70	0.88	9000	58000	58999	492	0.80	58000
10000	10999	79	0.89	10000	59000	59999	500	0.75	59000
11000	11999	87	0.86	11000	60000	60999	507	0.74	60000
12000	12999	89	0.86	12000	61000	61999	514	0.74	61000
13000	13999	105	0.88	13000	62000	62999	522	0.74	62000
14000	14999	113	0.90	14000	63000	63999	529	0.70	63000
15000	15999	120	0.88	15000	64000	64999	538	0.67	64000
16000	16999	127	0.86	16000	65000	65999	543	0.51	65000
17000	17999	134	0.88	17000	66000	66999	548	0.52	66000
18000	18999	140	0.72	18000	67000	67999	553	0.55	67000
19000	19999	148	1.50	19000	68000	68999	559	0.64	68000
20000	20999	163	1.50	20000	69000	69999	565	0.67	69000
21000	21999	178	1.60	21000	70000	70999	572	0.67	70000
22000	22999	182	1.08	22000	71000	71999	578	0.67	71000
23000	23999	203	0.95	23000	72000	72999	585	0.67	72000
24000	24999	213	0.95	24000	73000	73999	592	0.67	73000
25000	25999	222	0.95	25000	74000	74999	599	0.67	74000
26000	26999	232	0.88	26000	75000	75999	605	0.67	75000
27000	27999	240	0.88	27000	76000	76999	612	0.67	76000
28000	28999	249	0.88	28000	77000	77999	619	0.67	77000
29000	29999	258	0.80	29000	78000	78999	625	0.67	78000
30000	30999	266	0.71	30000	79000	79999	632	0.67	79000
31000	31999	273	0.78	31000	80000	80999	639	0.67	80000
32000	32999	281	0.83	32000	81000	81999	645	0.67	81000
33000	33999	289	0.83	33000	82000	82999	652	0.67	82000
34000	34999	297	0.79	34000	83000	83999	659	0.67	83000
35000	35999	305	0.78	35000	84000	84999	666	0.67	84000
36000	36999	313	0.81	36000	85000	85999	672	0.67	85000
37000	37999	321	0.81	37000	86000	86999	679	0.67	86000
38000	38999	329	0.81	38000	87000	87999	686	0.67	87000
39000	39999	337	0.81	39000	88000	88999	699	0.67	88000
40000	40999	345	0.84	40000	89000	89999	708	0.67	89000
41000	41999	354	0.84	41000	90000	90999	712	0.67	90000
42000	42999	362	0.84	42000	91000	91999	719	0.67	91000
43000	43999	371	0.84	43000	92000	92999	728	0.67	92000
44000	44999	379	0.84	44000	93000	93999	733	0.67	93000
45000	45999	387	0.84	45000	94000	94999	739	0.67	94000
46000	46999	396	0.84	46000	95000	95999	746	0.67	95000
47000	47999	404	0.84	47000	96000	96999	753	0.67	96000
48000	48999	413	0.84	48000	97000	97999	759	0.67	97000
49000	49999	421	0.84	49000	98000	98999	766	0.67	98000
50000	50999	429	0.84	50000	99000	99999	773	0.67	99000
51000	51999	438	0.84	51000	100000	100999	779	0.67	100000
52000	52999	446	0.76	52000	101000	101999	786	0.67	101000
53000	53999	454	0.72	53000	102000	102999	796	0.67	102000

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FEDERAL C. SUPPORT TABLES/
 TABLES FÉDÉRALES DE PENSIONS ALIMENTAIRES POUR ENFANTS

Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)				Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)			
From/ De	To/ A	Basic Amount/ Montant de base	Plus (%)	Total/ Total	Income/ Revenu (\$)	From/ De	To/ A	Basic Amount/ Montant de base	Plus (%)	Total/ Total	Income/ Revenu (\$)
0	6720	0			54000	54000	54000	750	1.17	103989	103000
6730	6899	0	5.42	6730	55000	55000	55000	762	1.18	104999	104000
7000	7000	15	8.23	7000	56000	56000	56000	774	1.25	105999	105000
8000	8099	67	3.54	8000	57000	57000	57000	786	1.25	106999	106000
8000	8299	102	1.65	8000	58000	58000	58000	799	1.25	107999	107000
10000	10299	119	2.94	10000	59000	59000	59000	811	1.16	108999	108000
11000	11399	147	3.90	11000	60000	60000	60000	823	1.15	109999	109000
12000	12799	176	2.21	12000	61000	61000	61000	834	1.15	110999	110000
13000	13999	199	1.24	13000	62000	62000	62000	846	1.15	111999	111000
14000	14999	211	1.24	14000	63000	63000	63000	857	1.10	112999	112000
15000	15999	223	1.24	15000	64000	64000	64000	868	1.07	113999	113000
16000	16999	236	1.24	16000	65000	65000	65000	879	0.91	114999	114000
17000	17999	248	1.24	17000	66000	66000	66000	889	0.91	115999	115000
18000	18999	260	1.24	18000	67000	67000	67000	897	0.94	116999	116000
19000	19999	273	1.24	19000	68000	68000	68000	907	1.02	117999	117000
20000	20999	285	1.94	20000	69000	69000	69000	917	1.04	118999	118000
21000	21999	297	1.24	21000	70000	70000	70000	927	1.04	119999	119000
22000	22999	310	1.24	22000	71000	71000	71000	938	1.04	120999	120000
23000	23999	322	1.60	23000	72000	72000	72000	948	1.04	121999	121000
24000	24999	340	1.96	24000	73000	73000	73000	959	1.04	122999	122000
25000	25999	350	1.85	25000	74000	74000	74000	969	1.04	123999	123000
26000	26999	379	1.85	26000	75000	75000	75000	979	1.04	124999	124000
27000	27999	398	1.65	27000	76000	76000	76000	989	1.04	125999	125000
28000	28999	416	1.68	28000	77000	77000	77000	1000	1.04	126999	126000
29000	29999	433	1.25	29000	78000	78000	78000	1011	1.04	127999	127000
30000	30999	446	1.10	30000	79000	79000	79000	1021	1.04	128999	128000
31000	31999	458	1.15	31000	80000	80000	80000	1031	1.04	129999	129000
32000	32999	469	1.28	32000	81000	81000	81000	1042	1.04	130999	130000
33000	33999	481	1.28	33000	82000	82000	82000	1052	1.04	131999	131000
34000	34999	493	1.28	34000	83000	83000	83000	1063	1.04	132999	132000
35000	35999	505	1.28	35000	84000	84000	84000	1073	1.04	133999	133000
36000	36999	518	1.30	36000	85000	85000	85000	1084	1.04	134999	134000
37000	37999	531	1.30	37000	86000	86000	86000	1094	1.04	135999	135000
38000	38999	544	1.28	38000	87000	87000	87000	1104	1.04	136999	136000
39000	39999	557	1.28	39000	88000	88000	88000	1115	1.04	137999	137000
40000	40999	570	1.31	40000	89000	89000	89000	1125	1.04	138999	138000
41000	41999	583	1.31	41000	90000	90000	90000	1136	1.04	139999	139000
42000	42999	595	1.31	42000	91000	91000	91000	1146	1.04	140999	140000
43000	43999	608	1.31	43000	92000	92000	92000	1156	1.04	141999	141000
44000	44999	622	1.31	44000	93000	93000	93000	1167	1.04	142999	142000
45000	45999	635	1.31	45000	94000	94000	94000	1177	1.04	143999	143000
46000	46999	648	1.31	46000	95000	95000	95000	1188	1.04	144999	144000
47000	47999	661	1.31	47000	96000	96000	96000	1198	1.04	145999	145000
48000	48999	674	1.31	48000	97000	97000	97000	1209	1.04	146999	146000
49000	49999	687	1.31	49000	98000	98000	98000	1219	1.04	147999	147000
50000	50999	700	1.31	50000	99000	99000	99000	1229	1.04	148999	148000
51000	51999	713	1.31	51000	100000	100000	100000	1240	1.04	149999	149000
52000	52999	726	1.22	52000	101000	101000	101000	1250	1.04	150999	150000
53000	53999	739	1.17	53000	102000	102000	102000	1261	1.04	151999	151000

UNIVERSAL CHILD SUPPORT TABLES / TABLES FÉDÉRALES DE PENSIONS ALIMENTAIRES POUR ENFANTS

PROVINCE: ONTARIO / N^O D'ENFANTS: Three/Trois

Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)			Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)			Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)		
From/ De	To/ À	Basic Amount/ Montant de base	Plus (%)	of income over/ du revenu dépassant	From/ De	To/ À	Basic Amount/ Montant de base	Plus (%)	of income over/ du revenu dépassant	From/ De	To/ À	Basic Amount/ Montant de base	Plus (%)	of income over/ du revenu dépassant
0	6720	0	6.83	6730	54000	54000	882	1.54	54000	103000	103000	1654	1.34	103000
6730	6900	16	6.95	7000	55000	55000	907	1.55	55000	104000	104000	1667	1.34	104000
7000	7090	72	3.95	8000	56000	56000	1013	1.61	56000	105000	105000	1680	1.34	105000
8000	8090	112	2.06	9000	57000	57000	1029	1.61	57000	106000	106000	1694	1.34	106000
10000	10090	132	3.27	10000	58000	58000	1045	1.61	58000	107000	107000	1707	1.34	107000
11000	11090	169	3.32	11000	59000	59000	1061	1.60	59000	108000	108000	1721	1.34	108000
12000	12090	198	3.20	12000	60000	60000	1076	1.47	60000	109000	109000	1734	1.34	109000
13000	13090	230	3.20	13000	61000	61000	1091	1.47	61000	110000	110000	1747	1.34	110000
14000	14090	262	3.20	14000	62000	62000	1105	1.47	62000	111000	111000	1761	1.34	111000
15000	15090	294	2.81	15000	63000	63000	1120	1.43	63000	112000	112000	1774	1.34	112000
16000	16090	323	1.88	16000	64000	64000	1134	1.39	64000	113000	113000	1788	1.34	113000
17000	17090	359	1.68	17000	65000	65000	1148	1.22	65000	114000	114000	1801	1.34	114000
18000	18090	358	1.68	18000	66000	66000	1160	1.22	66000	115000	115000	1814	1.34	115000
19000	19090	373	1.66	19000	67000	67000	1173	1.24	67000	116000	116000	1828	1.34	116000
20000	20090	390	1.66	20000	68000	68000	1185	1.32	68000	117000	117000	1841	1.34	117000
21000	21090	407	1.66	21000	69000	69000	1196	1.34	69000	118000	118000	1855	1.34	118000
22000	22090	424	1.68	22000	70000	70000	1212	1.34	70000	119000	119000	1868	1.34	119000
23000	23090	440	1.66	23000	71000	71000	1225	1.34	71000	120000	120000	1881	1.34	120000
24000	24090	457	1.68	24000	72000	72000	1238	1.34	72000	121000	121000	1895	1.34	121000
25000	25090	474	1.67	25000	73000	73000	1252	1.34	73000	122000	122000	1908	1.34	122000
26000	26090	491	1.54	26000	74000	74000	1265	1.34	74000	123000	123000	1922	1.34	123000
27000	27090	508	1.68	27000	75000	75000	1279	1.34	75000	124000	124000	1935	1.34	124000
28000	28090	525	2.20	28000	76000	76000	1292	1.34	76000	125000	125000	1948	1.34	125000
29000	29090	547	2.14	29000	77000	77000	1305	1.34	77000	126000	126000	1962	1.34	126000
30000	30090	568	2.09	30000	78000	78000	1319	1.34	78000	127000	127000	1975	1.34	127000
31000	31090	589	2.14	31000	79000	79000	1332	1.34	79000	128000	128000	1988	1.34	128000
32000	32090	611	2.28	32000	80000	80000	1346	1.34	80000	129000	129000	2002	1.34	129000
33000	33090	633	1.84	33000	81000	81000	1359	1.34	81000	130000	130000	2015	1.34	130000
34000	34090	650	1.80	34000	82000	82000	1372	1.34	82000	131000	131000	2029	1.34	131000
35000	35090	666	1.60	35000	83000	83000	1386	1.34	83000	132000	132000	2042	1.34	132000
36000	36090	682	1.68	36000	84000	84000	1399	1.34	84000	133000	133000	2055	1.34	133000
37000	37090	698	1.68	37000	85000	85000	1413	1.34	85000	134000	134000	2068	1.34	134000
38000	38090	715	1.68	38000	86000	86000	1426	1.34	86000	135000	135000	2082	1.34	135000
39000	39090	732	1.67	39000	87000	87000	1439	1.34	87000	136000	136000	2096	1.34	136000
40000	40090	748	1.72	40000	88000	88000	1453	1.34	88000	137000	137000	2109	1.34	137000
41000	41090	765	1.79	41000	89000	89000	1468	1.34	89000	138000	138000	2122	1.34	138000
42000	42090	782	1.84	42000	90000	90000	1480	1.34	90000	139000	139000	2136	1.34	139000
43000	43090	799	1.88	43000	91000	91000	1493	1.34	91000	140000	140000	2149	1.34	140000
44000	44090	816	1.88	44000	92000	92000	1508	1.34	92000	141000	141000	2163	1.34	141000
45000	45090	833	1.68	45000	93000	93000	1520	1.34	93000	142000	142000	2176	1.34	142000
46000	46090	850	1.68	46000	94000	94000	1533	1.34	94000	143000	143000	2189	1.34	143000
47000	47090	866	1.68	47000	95000	95000	1546	1.34	95000	144000	144000	2203	1.34	144000
48000	48090	883	1.68	48000	96000	96000	1560	1.34	96000	145000	145000	2216	1.34	145000
49000	49090	900	1.68	49000	97000	97000	1573	1.34	97000	146000	146000	2230	1.34	146000
50000	50090	917	1.68	50000	98000	98000	1587	1.34	98000	147000	147000	2243	1.34	147000
1000	51990	934	1.68	51000	99000	99000	1600	1.34	99000	148000	148000	2256	1.34	148000
2000	52990	950	1.59	52000	100000	100000	1613	1.34	100000	149000	149000	2270	1.34	149000
3000	638	968	1.54	53000	101000	101000	1627	1.34	101000	150000 or greater/ ou plus	150000 or greater/ ou plus	2283	1.34	150000

Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)			Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)		
From/ De	To/ À	Basic Amount/ Montant de base	Plus (%)	of Income over/ du revenu dépassant	From/ De	To/ À	Basic Amount/ Montant de base	Plus (%)	of Income over/ du revenu dépassant
0	6729	0			103000	103999	1967	1.58	103000
6730	6899	0	6.25	6730	104000	104999	1963	1.58	104000
7000	7999	17	6.06	7000	105000	105999	1988	1.58	105000
8000	8999	78	4.37	8000	106000	106999	2014	1.58	106000
9000	9999	121	2.48	9000	107000	107999	2030	1.58	107000
10000	10999	148	3.89	10000	108000	108999	2046	1.58	108000
11000	11999	163	3.74	11000	109000	109999	2062	1.58	109000
12000	12999	220	3.62	12000	110000	110999	2077	1.58	110000
13000	13999	256	3.62	13000	111000	111999	2093	1.58	111000
14000	14999	293	3.62	14000	112000	112999	2109	1.58	112000
15000	15999	329	3.62	15000	113000	113999	2125	1.58	113000
16000	16999	365	3.62	16000	114000	114999	2141	1.58	114000
17000	17999	401	3.34	17000	115000	115999	2157	1.58	115000
18000	18999	435	2.05	18000	116000	116999	2172	1.58	116000
19000	19999	455	2.05	19000	117000	117999	2188	1.58	117000
20000	20999	476	2.05	20000	118000	118999	2204	1.58	118000
21000	21999	496	2.05	21000	119000	119999	2220	1.58	119000
22000	22999	517	2.05	22000	120000	120999	2236	1.58	120000
23000	23999	537	2.05	23000	121000	121999	2252	1.58	121000
24000	24999	558	2.05	24000	122000	122999	2267	1.58	122000
25000	25999	578	2.04	25000	123000	123999	2283	1.58	123000
26000	26999	598	1.86	26000	124000	124999	2299	1.58	124000
27000	27999	617	1.86	27000	125000	125999	2315	1.58	125000
28000	28999	636	1.86	28000	126000	126999	2331	1.58	126000
29000	29999	655	1.86	29000	127000	127999	2347	1.58	127000
30000	30999	672	1.37	30000	128000	128999	2362	1.58	128000
31000	31999	685	2.33	31000	129000	129999	2376	1.58	129000
32000	32999	709	2.56	32000	130000	130999	2394	1.58	130000
33000	33999	733	2.56	33000	131000	131999	2410	1.58	131000
34000	34999	758	2.56	34000	132000	132999	2426	1.58	132000
35000	35999	783	2.51	35000	133000	133999	2442	1.58	133000
36000	36999	809	2.56	36000	134000	134999	2457	1.58	134000
37000	37999	834	2.03	37000	135000	135999	2473	1.58	135000
38000	38999	855	1.85	38000	136000	136999	2489	1.58	136000
39000	39999	874	1.96	39000	137000	137999	2505	1.58	137000
40000	40999	894	2.05	40000	138000	138999	2521	1.58	138000
41000	41999	914	2.02	41000	139000	139999	2537	1.58	139000
42000	42999	934	2.02	42000	140000	140999	2552	1.58	140000
43000	43999	954	2.02	43000	141000	141999	2568	1.58	141000
44000	44999	975	2.02	44000	142000	142999	2584	1.58	142000
45000	45999	995	1.89	45000	143000	143999	2600	1.58	143000
46000	46999	1015	1.99	46000	144000	144999	2616	1.58	144000
47000	47999	1034	1.99	47000	145000	145999	2631	1.58	145000
48000	48999	1054	1.99	48000	146000	146999	2647	1.58	146000
49000	49999	1074	1.99	49000	147000	147999	2663	1.58	147000
50000	50999	1094	1.99	50000	148000	148999	2679	1.58	148000
51000	51999	1114	1.99	51000	149000	149999	2695	1.58	149000
52000	52999	1134	1.89	52000	150000 or greater/ ou plus	150000 or greater/ ou plus	2711	1.58	150000
53000	53999	1163	1.84	53000					

TABLES FÉDÉRALES DE PENSIONS ALIMENTAIRES POUR ENFANTS

Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)			Income/ Revenu (\$)		Monthly Award/ Paiement mensuel (\$)		
From/ De	To/ À	Basic Amount/ Montant de base	Plus (%)	of income over/ du revenu dépassant	From/ De	To/ À	Basic Amount/ Montant de base	Plus (%)	of income over/ du revenu dépassant
0	6729	0			0	6729	0		
6730	6800	0	6.25	6730	6800	6800	0	1.98	103000
7000	7099	17	6.06	7000	7099	104000	2468	1.98	104000
8000	8099	76	4.37	8000	8099	105000	2467	1.98	105000
9000	9099	121	2.48	9000	9099	106000	2507	1.98	106000
10000	10999	149	3.09	10000	10999	107000	2527	1.98	107000
11000	11999	163	3.74	11000	11999	108000	2546	1.98	108000
12000	12999	220	3.62	12000	12999	109000	2566	1.98	109000
13000	13999	256	3.62	13000	13999	110000	2585	1.98	110000
14000	14999	263	3.62	14000	14999	111000	2605	1.98	111000
15000	15999	329	3.62	15000	15999	112000	2624	1.98	112000
16000	16999	365	3.62	16000	16999	113000	2644	1.98	113000
17000	17999	401	3.62	17000	17999	114000	2664	1.98	114000
18000	18999	437	3.62	18000	18999	115000	2683	1.98	115000
19000	19999	474	3.62	19000	19999	116000	2703	1.98	116000
20000	20999	510	3.62	20000	20999	117000	2722	1.98	117000
21000	21999	546	3.62	21000	21999	118000	2742	1.98	118000
22000	22999	582	3.62	22000	22999	119000	2761	1.98	119000
23000	23999	618	3.62	23000	23999	120000	2781	1.98	120000
24000	24999	655	3.62	24000	24999	121000	2801	1.98	121000
25000	25999	691	3.59	25000	25999	122000	2820	1.98	122000
26000	26999	727	3.20	26000	26999	123000	2840	1.98	123000
27000	27999	769	3.20	27000	27999	124000	2859	1.98	124000
28000	28999	791	3.20	28000	28999	125000	2879	1.98	125000
29000	29999	823	2.74	29000	29999	126000	2899	1.98	126000
30000	30999	860	2.10	30000	30999	127000	2918	1.98	127000
31000	31999	871	2.19	31000	31999	128000	2938	1.98	128000
32000	32999	893	2.19	32000	32999	129000	2957	1.98	129000
33000	33999	914	2.49	33000	33999	130000	2977	1.98	130000
34000	34999	935	2.49	34000	34999	131000	2996	1.98	131000
35000	35999	955	2.06	35000	35999	132000	3016	1.98	132000
36000	36999	976	2.59	36000	36999	133000	3036	1.98	133000
37000	37999	1002	2.93	37000	37999	134000	3055	1.98	134000
38000	38999	1031	2.93	38000	38999	135000	3075	1.98	135000
39000	39999	1060	2.94	39000	39999	136000	3094	1.98	136000
40000	40999	1090	3.03	40000	40999	137000	3114	1.98	137000
41000	41999	1120	3.03	41000	41999	138000	3133	1.98	138000
42000	42999	1151	3.03	42000	42999	139000	3153	1.98	139000
43000	43999	1181	3.03	43000	43999	140000	3173	1.98	140000
44000	44999	1211	3.03	44000	44999	141000	3192	1.98	141000
45000	45999	1241	2.53	45000	45999	142000	3212	1.98	142000
46000	46999	1267	2.49	46000	46999	143000	3231	1.98	143000
47000	47999	1292	2.49	47000	47999	144000	3251	1.98	144000
48000	48999	1318	2.49	48000	48999	145000	3270	1.98	145000
49000	49999	1341	2.49	49000	49999	146000	3290	1.98	146000
50000	50999	1366	2.49	50000	50999	147000	3310	1.98	147000
51000	51999	1391	2.49	51000	51999	148000	3329	1.98	148000
52000	52999	1416	2.36	52000	52999	149000	3349	1.98	149000
53000	53999	1439	2.30	53000	53999	150000 or greater/ ou plus	3368	1.98	150000

APPENDIX E -

SAMPLE HIGH INCOME CASES IN BRITISH COLUMBIA, NOVA SCOTIA, AND ONTARIO

Case Name and Citation	Number of Children	Payor's Income	Recipient's Income	Children's Ages	Monthly Table Amount	Monthly Amount Awarded	Section 7 Expenses in addition to Monthly Amounts
<i>R. v. R.</i> 2002 CarswellOnt 902 (Ont. C.A.).	4	\$4,100,000	N/A	young	\$65,000	\$32,000	\$4,000 per month for private school and extracurriculars
<i>A.(S.H.) v. A.(W.D.)</i> , 2002 CarswellBC 1144 (B.C.S.C.).	2	\$1,000,000 - \$5,000,000	N/A	University age	\$10,100 to \$54,000	\$12,000	Post-secondary education; retroactive order for tutoring and post-secondary education costs
<i>De Zen v. De Zen</i> , 2001 CarswellOnt 2702 (Ont.S.C.J.).	3	\$1,622,000 range	33,700	4 6 10	\$18,493 to \$25,525	\$10,100	\$4,900 per month for private school, uniforms, and summer camp plus medical expenses not covered by insurance

APPENDIX E -

SAMPLE HIGH INCOME CASES IN BRITISH COLUMBIA, NOVA SCOTIA, AND ONTARIO

<i>Marinangeli v. Marinangeli</i> (2001), 16 R.F.L. (5 th) 326 (Ont.S.C.J.), Paisley J.; aff'd. (2003) 174 O.A.C. 76 (Ont. C.A.), Weiler J.A.	1	\$371,000 to \$1,400,000	N/A	unknown	\$1,857 to \$8,718	\$1,857 to \$8,718 Fluctuate with income	100% of private school tuition
<i>T(D.M.C.) v. S.(L.K.)</i> , 2007 CarswellNS 318 (N.S. Family Ct.)	1	\$1,111,000	0	12	\$8,125	\$8,125	50% of private school tuition

APPENDIX E -

SAMPLE HIGH INCOME CASES IN BRITISH COLUMBIA, NOVA SCOTIA, AND ONTARIO

<i>Greenwood v. Greenwood</i> , 1998 CarswellBC 632, 37 R.F.L. (4th) 422	1	\$995,819	64,000	10 ½	\$6,492	\$6,492	94% private school, country club dues, babysitting, furniture for son's bedroom, kayak rental, new bicycle, piano rental, piano lessons, drum kit & drum lessons
<i>Francis v. Baker</i> , 1999 Carswell Ont 2948 (S.C.C.).	2	\$945,538	93,000 Including spousal support	14 15	\$10,034	\$10,034	Payment of items "listed on schedule", but not attached to judgment
<i>Abelson v. Mitra</i> , 2008 CarswellBC 1873	2	\$355,000	29,000	13 16	\$4,562	\$4,562	Child care, medical/dental premiums, physiotherapy, private school