

The Collection of Support Payments

When the Debtor
or Creditor Resides
Outside Québec



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Introduction

The Ministère de la Justice and the Ministère du Revenu may intervene in the enforcement of support judgments where the person who is required to pay support (the debtor) or the person entitled to receive support (the creditor) resides outside Québec. The Ministère de la Justice is responsible for applying the *Act respecting reciprocal enforcement of maintenance orders*.

The Ministère du Revenu, for its part, is responsible for applying the *Act to facilitate the payment of support*. This brochure deals mainly with the role of the Ministère du Revenu (referred to as “the Ministère”).

Under the *Act to facilitate the payment of support*, the Ministère collects support from debtors and pays it to creditors. Most judgments enforced by the Ministère are handed down in Québec, and the Act applies only in Québec. But what happens when a debtor or creditor leaves Québec to take up residence elsewhere? Or what if the support is awarded under a judgment handed down outside Québec, but the debtor or creditor comes to live in Québec? This brochure answers these and a number of related questions.





General information

Support that is paid regularly

The debtor no longer lives in Québec. The debtor pays the support regularly to the Ministère du Revenu. In other words, there is no default on payment. The payment procedure established by the Ministère continues to apply.

Example

Will Scott leaves Québec and goes to live in Virginia. He may decide that the Ministère is to continue to receive the support he is required to pay. In this case, the Ministère simply notes the change of address and continues to collect the support. Mr. Scott may, however, choose to pay the support directly to his former wife.

The creditor no longer lives in Québec.

The debtor must continue to pay the support regularly to the Ministère du Revenu because he or she is still a Québec resident and therefore remains subject to the *Act to facilitate the payment of support*. The Ministère remits the support to the creditor, regardless of where he or she lives.

A debtor who wishes to pay the support directly to the creditor without the intervention of the Ministère must apply to be exempted from the support-payment collection program. For further information, consult the folder *Application for Exemption* (IN-900-V).

Support that is not paid regularly

The debtor no longer lives in Québec. The debtor does not pay the support regularly. In other words, there is a default on payment. In this case, a procedure known as reciprocal enforcement of support judgments may be used. Under this procedure, a judgment handed down in Québec can be enforced in a jurisdiction designated by the Québec government, just as though the judgment had been handed down by a court of the jurisdiction concerned.

At present, the jurisdictions designated by the Québec government, under the *Act respecting reciprocal enforcement of maintenance orders*, are as follows: all Canadian provinces and territories, as well as California, Florida, Maine, Massachusetts, New Jersey, New York and Pennsylvania.

The Ministère du Revenu will take steps in collaboration with the Ministère du Justice to have a judgment enforced in the jurisdiction where the debtor resides only if all of the following conditions are met:

- the debtor has failed to pay support that is owed to the creditor under a judgment enforceable in Québec;
- the Ministère has exhausted all available means of recourse respecting the debtor's seizable property in Québec; and
- the debtor resides in a jurisdiction designated by the Québec government.

Example

At the time that the judgment was rendered, Ben Jones (the debtor) and Pam Green (the creditor) lived in Québec. Since that time, Mr. Jones has moved to Ontario and has defaulted on his support payments. The Ministère du Revenu therefore transmits the Québec judgment to Ontario so that the authorities in that province can collect the support.

The *Act to facilitate the payment of support* does not apply outside Québec. Consequently, the Ministère generally has no recourse if a debtor moves to a jurisdiction not designated by the Québec government and fails to make his or her support payments, unless the debtor has seizable property in Québec.

The creditor may of course seek legal advice in order to determine whether the Québec judgment can be recognized and enforced in the jurisdiction concerned. However, such action involves judicial proceedings and legal costs.

The creditor no longer resides in Québec but the debtor resides in Québec. Accordingly, the debtor remains subject to the *Act to facilitate the payment of support*. The Ministère will continue to take measures to collect the support owed by the debtor and to remit the support to the creditor, regardless of where he or she lives.

The judgment was rendered in a designated jurisdiction. Under the procedure of reciprocal enforcement of support judgments, a judgment handed down in a designated jurisdiction can be enforced by Québec, and support can be collected, just as though the judgment had been handed down by a court in Québec.

Example

At the time that the judgment was rendered, Claude Martin (the debtor) and Cindy Taylor (the creditor) were residing in Ontario. Since that time, Mr. Martin has moved to Québec and has defaulted on his support payments. The government of Ontario therefore transmits the judgment to Québec so that it can be deposited or registered under the applicable statute.¹ It is the Ministère du Revenu that undertakes measures to collect the support.



1. *The Act respecting reciprocal enforcement of maintenance orders or the Divorce Act.*



Characteristics

Special rules for collection of support in designated jurisdictions

Where the enforcement of a judgment is transferred to the authorities of a jurisdiction designated by the government of Québec, the laws of that jurisdiction apply. Some designated jurisdictions automatically stop collecting support for children over 17 who are not full-time students, and others do not collect support that is for the sole benefit of the spouse. Moreover, while support is automatically indexed in Québec, this is not the case everywhere.

Longer administrative process for reciprocal enforcement files

It generally takes longer to receive support payments if the support must be collected in a jurisdiction outside Québec, since the administrative procedures are more complex than they would be if the debtor and creditor resided in Québec. However, the various government departments are working together with the authorities in the designated jurisdictions to ensure speedier processing of such files.

Advances

Where the debtor or creditor resides outside Québec, the Ministère can pay the creditor only the amounts of support that it has actually collected; it cannot grant advances of support.

Modifications to support payments

Where the debtor and the creditor live in different jurisdictions, the person wishing to have the support payments modified may contact the court of the jurisdiction in which he or she resides.

Recourse available when support is not paid

Once a judgment has been transmitted to the designated jurisdiction in which the debtor lives in order to be enforced, the laws of that jurisdiction apply. The debtor is therefore subject to the collection measures prescribed by the laws of the jurisdiction concerned.

For example, a debtor living in Florida would be subject, under a reciprocal enforcement procedure, to Florida's laws, which include a provision for the revocation of the debtor's driver's licence and professional licence in cases of non-payment of support.

Role of the Ministère de la Justice

The Ministère de la Justice, which is responsible for applying the *Act respecting reciprocal enforcement of maintenance orders* in Québec, provides designated jurisdictions with the documents they need to enforce Québec judgments; likewise, the designated jurisdictions provide Québec authorities with the documents they need to enforce judgments handed down in those jurisdictions.

A creditor subject to the *Act to facilitate the payment of support* is not required to contact the Ministère de la Justice, as the necessary formalities are taken care of by the Ministère du Revenu.



Further information

If you live in Québec, you may contact the person responsible for your file at the Ministère du Revenu; his or her telephone number is mentioned in the correspondence you received from the Ministère when your file was opened. If you do not live in Québec, or do not have a file with the Ministère, see the following page.

For information concerning the *Act respecting reciprocal enforcement of maintenance orders*, contact the Direction des communications of the Ministère de la Justice, at the following address:

Édifice Louis-Philippe-Pigeon
1200, route de l'Église, 6e étage
Sainte-Foy (Québec) G1V 4M1

You may also contact the Ministère de la Justice at the following numbers or online:

Telephone: (418) 643-3947 or (418) 643-5140

Fax: (418) 646-4449

Internet: www.justice.gouv.qc.ca

For further information on the support-payment collection program, you may contact a representative of the Ministère du Revenu at one of the following numbers:

In the Québec City area

652-4413

Elsewhere in Québec (toll-free)

1 800 488-2323

You may also write to the Ministère at one of the following addresses:

3800, rue de Marly, secteur 1-1-1
Sainte-Foy (Québec) G1X 4A5

577, boulevard Henri-Bourassa Est, 2^e étage
Montréal (Québec) H2C 1E2

We invite you to visit the Web site of the Ministère at

www.revenu.gouv.qc.ca

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Vous pouvez vous procurer la version française de cette publication en demandant la brochure *La perception des pensions alimentaires - Le débiteur ou le créancier réside à l'extérieur du Québec* (IN-904).

Revenu

Québec



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