

Uniform Family Support Obligations Act

(As Adopted by the Conference: See 1980 Proceedings, page 138)

t. In this Act,

Interpretation

- (a) "child" means a person who is the child of a parent by birth, whether within or outside marriage, or by virtue of *(the provisions relating to the effect of adoption)* and includes a person whom the parent has demonstrated a settled intention to treat as a child of his or her family other than under an arrangement where the child is placed for valuable consideration in a foster home by a person having lawful custody;
- (b) "court" means *(insert appropriate court or courts)*;
- (c) "dependant" means a person to whom another has an obligation to provide support under this Act;
- (d) "domestic contract" means a marriage contract or separation agreement;
- (e) "order for support" or "order for the support of a dependant" means an order made in proceedings under sections 5.11 or 12 and an order for maintenance or alimony made before the coming into force of this Act;
- (f) "parent" means the father or mother of a child by birth, whether within or outside marriage, or by virtue of *(the provisions relating to the effect of adoption)* and includes a person who has demonstrated a settled intention to treat a child as a child of his or her family other than under an arrangement where the child is placed for valuable consideration in a foster home by a person having lawful custody;
- (g) "spouse" means either of a man and woman,
 - (i) who are married to each other,
 - (ii) who are married to each other by a marriage that is voidable and has not been voided by a judgment of nullity, notwithstanding that the marriage is actually or potentially polygamous if the marriage was celebrated in a jurisdiction whose system of law recognizes the marriage as valid,
 - (iii) who have gone through a form of marriage with each other in good faith that is void and are cohabiting or have cohabited within the preceding year.
- (fr) who, not being married to each other and not having gone through a form of marriage with each other, have cohabited in a relationship of some permanence, or

!Subparagraph ffrJ to be enacted at the option of each jurisdiction.

f v) between whom an order for support has been made under this Act or an order for alimony or maintenance has been made before the coming into force of this Act.

Obligation or spouses or support

2. Every spouse has an obligation to provide support for himself or herself and for the other spouse, in accordance with need, to the extent that he or she is capable of doing so.

Obligation or parent to support child

3. Every parent has an obligation, to the extent the parent is capable of doing so, to provide support, in accordance with need, for his or her child who is a minor and unmarried.

Obligation or child to support parent

4. Every child who is not a minor has an obligation to provide support, in accordance with need, for his or her parent who has cared for or provided support for the child, to the extent that the child is capable of doing so.

Order for support

5. (1) A court may, upon application, order a person to provide support for his or her dependants and determine the amount thereof.

Applicant,

(2) An application for an order for the support of a dependant may be made by the dependant or a parent of the dependant or under subsection (4).

Capacity of minors

(3) A minor who is a spouse has capacity to commence, conduct and defend a proceeding under this Act without the intervention of a next friend or guardian *ad item* and to give any consent required or authorized for the purpose.

Applicant or social UIC

(4) An application for an order for the support of a dependant who is a spouse or a dependent child of the spouse may be made by the Ministry of (*insert appropriate social service Ministry*) in the name of the Minister or a municipal corporation if the Ministry or municipality is providing a benefit under (*insert appropriate Act for general welfare allowances*) in respect of the support of the dependant.

Idem

(5) An application for an order for the support of a spouse, who has not gone through a form of marriage with the other spouse, shall be made during cohabitation or not later than three months after the cohabitation ceased.

Section 26 of domestic contract

(6) The court may set aside a provision for support in a domestic contract or in a paternity agreement referred to in section 26 and may determine and order support in an application under subsection (1), notwithstanding that the contract or agreement contains an express provision excluding the application of this section.

- (a) where the provision for support or the waiver of the right to support results in circumstances that are unconscionable;
- (b) where the provision for support or the waiver of the right to

support is in respect of a person who qualifies for an allowance for support out of public money; or

- (c) where there has been default in the payment of support under the contract or agreement and the payment or a portion thereof is outstanding when the court considers the application.

and where an order is made under this subsection, the order terminates the support provisions in the domestic contract or paternity agreement.

(7) In determining the amount, if any, of support in relation to need, the court shall consider all the circumstances of the parties, including,

Determinatilln
of amount

- (a) the assets and means of the dependant and of the respondent and any benefit or loss of benefit under a pension plan or annuity;
- (b) the capacity of the dependant to provide for his or her own support;
- (c) the capacity of the respondent to provide support;
- (d) the age and the physical and mental health of the dependant and of the respondent;
- (e) the length of time the dependant and respondent cohabited;
- (f) the needs of the dependant, in determining which the court may have regard to the accustomed standard of living while the parties resided together;
- (g) the measures available for the dependant to become financially independent and the length of time and cost involved to enable the dependant to take such measures;
- (h) the legal obligation of the respondent to provide support for any other person;
- (z) the desirability of the dependant or respondent remaining at home to care for a child;
- (j) the conduct of the dependant and respondent;
- (k) a contribution by the dependant to the realization of the career potential of the respondent;
- (l) where the dependant is a child, his or her aptitude for and reasonable prospects of obtaining an education;
- (m) where the dependant is a spouse, the effect on his or her earning capacity of the responsibilities assumed during cohabitation;
- (n) where the dependant is a spouse, whether the dependant has undertaken the care of a child who is of the age of majority and unable by reason of illness, disability or other cause to withdraw from the charge of his or her parents;
- (o) where the dependant is a spouse, whether the dependant has

undertaken to assist in the continuation of a program of education for a child who is of the age of majority and unable for that reason to withdraw from the charge of his or her parents;

- (p) where the dependant is a spouse, any housekeeping, child care or other domestic service performed by the spouse for the family; and
- (q) any other legal right of the dependant to support other than out of public money.

Refusal to
make order

(8) Where a dependant claims the obligation of the respondent to provide support arises under section 2 (obligation to support spouse), the court may refuse to make an order to provide support where, at the time of the bringing of the application, the dependant has married or remarried or has entered into a course of conduct that is so unconscionable as to constitute an obvious and gross repudiation of the relationship.

Powers or court

6. (1) In an application under section 5 the court may order,
- (a) an amount payable periodically, whether annually or otherwise and whether for an indefinite or limited period, or until the happening of a specified event;
 - (b) a lump sum to be paid or held in trust;
 - (c) any specified property to be transferred to or in trust for or vested in the dependant, whether absolutely, for life or for a term of years;
 - (d) where other provision for shelter is inadequate or where it is in the best interest of a child to do so, that a spouse has a right to possession of a residence to which the other spouse is entitled, upon such terms and for such period as the court considers appropriate;
 - (e) that all or any of the moneys payable under the order be paid into court or to any other appropriate person or agency for the benefit of the dependant;
 - (f) the payment of support to be made in respect of any period before the date of the order;
 - (g) the payment to an agency referred to in subsection 5(4) of any amount in reimbursement for a benefit or assistance referred to therein, including an amount in reimbursement for such benefit or assistance provided before the date of the order;
 - (h) the payment of expenses in respect of the prenatal care and birth of a child;
 - (i) that the obligation and liability for support continue after the death of the respondent and be a debt of his or her estate for such period as is fixed in the order;

- (j) that a spouse whose life is insured assign the policy of life insurance, if it is not otherwise assigned, to the other spouse;
- (k) that a spouse whose life is insured designate the other spouse or a child as the beneficiary irrevocably;
- (l) that a spouse pay premiums on an insurance policy which provides protection for the other spouse or a child; and
- (m) the securing of payment under the order, by a charge on property or otherwise.

(2) Any matter provided for in a domestic contract may be incorporated in an order made under this section. *Incorporation of contract in order*

(3) An order made under this section that provides that the obligation and liability for support continue after the death of the respondent is subject to any subsequent order for support out of the estate of the deceased respondent made under *(insert appropriate Act that provides for dependant,s relief)*. *Effect Of subsequent order for deprendant's relief*

(4) Where an application is made under section 5, the court may make such interim order as the court considers appropriate. *Interim orders*

(5) An order for support is assignable to an agency referred to in subsection 5(4). *Assignment of support*

~~1E~~ Where practicable, the court shall exercise its jurisdiction under this Act so as to encourage the dependant to achieve financial independence. *Object of court*

~~1E~~ (1) Where an action for divorce is commenced under the *Divorce Act* (Canada), any application for support under this Act that has not been determined is stayed except by leave of the court. *Effect of divorce proceedings*

(2) Where a marriage is terminated by a decree absolute of divorce or judgment of nullity and the question of support was not judicially determined in the divorce or nullity proceedings, an order for support made under this Act continues in force according to its terms. *Idem*

~~1E~~ Where an application is made under section 5 and a judge of the *(insert appropriate court)* is satisfied that the *Abscnding respondent or debtor*

respondent or debtor is about to leave (*insert jurisdiction*) and that there are reasonable grounds for believing that the respondent intends to evade his or her responsibilities under this Act, the judge may issue a warrant in the form prescribed by the rules of the court for the arrest of the respondent or debtor.

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10. In or pending an application under section 5, the court may make such interim or final order as it considers necessary for restraining the disposition or wasting of assets that would impair or defeat the claim or order for the payment of support.

*Domestic
contractor
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agrtim nt*

11. Any person who is obligated to pay support under a domestic contract or under a paternity agreement referred to in section 26 may apply to the court to set aside the provisions for support in the contract or agreement, and where the court is satisfied that,

- (a) requiring the person to continue to pay support under the terms of the contract or agreement would be unconscionable; or
- (b) the person obligated under the contract or agreement qualifies for support out of public money,

the court may set aside the provision for support in the contract or agreement and determine and order support in accordance with this Act in the same manner and subject to the same considerations as apply in the case of an application made under section 5, and where an order is made under this section the order terminates the support provisions in the contract or agreement.

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12. Where an order for support has been made or confirmed and where the court is satisfied,

- (a) that there has been a material change in the circumstances of the dependant or the respondent;
- (b) that the dependant has not taken reasonable steps that are available to improve self-sufficiency;
- (c) that, where the obligation to provide support arises under section 2 (obligation to support spouse), the dependant has entered into a course of conduct that is so unconscionable as to constitute an obvious and gross repudiation of the relationship; or
- (d) evidence has become available that was not available on the previous hearing,

the court may, upon the application of any person named in the order or the personal representative of the person named in the order or a person referred to in subsection 5(4),

- (e) discharge, vary or suspend any term of the order, prospectively or retroactively;
- (f) relieve the respondent from the payment of part or all of the arrears or any interest due thereon;
- (g) order that the assignment of a policy of life insurance to a spouse be revoked;
- (h) order that an irrevocable designation of a beneficiary under a policy of life insurance be revoked; and
- (i) make such other order under section 6 as the court considers appropriate in the circumstances referred to in section 5.

(2) An application under subsection (1) shall be made to the court that made the order or to a coordinate court in another part of *(insert jurisdiction)*. *court*

(3) No application under subsection (1) shall be made within six months after the making of the order for support or the disposition of any other application under subsection (1) in respect of the same order, except by leave of the court. ~~Limitation application or review~~

(4) This section applies to orders for maintenance or alimony made before this section comes into force or in a proceeding commenced before this section comes into force. ~~Existing orders~~

13. (1) Where an application is made under section 5, 11 or 12, each party shall file with the court and serve upon the other a financial statement in the manner and form prescribed by the rules of the court. ~~Financial Statement~~

(2) Where the parties consent in writing, the financial statement mentioned in subsection (1) need not be filed and served. ~~wave of~~
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(3) Where, in the opinion of the court, the public disclosure of any information required to be contained in a statement under subsection (1) would be a hardship on the person giving the statement, the court may order that the statement and any cross-examination upon it before the hearing be treated as confidential and not form part of the public record. ~~Order sealing statement~~

14. (1) Where it appears to a court that, for the purpose of bringing an application under this Act, the proposed appli- ~~Accession records~~

cant has need to learn or confirm the name and address of the employer or the whereabouts of the proposed respondent, the court may order any person or public agency to provide the court with such particulars thereof as are contained in the records in its custody or control and the person or agency shall provide to the court such particulars as it is able to provide.

*Section binds
Crown*

(2) This section binds the Crown.

*Order for return
by employer*

15. (1) In an application under section 5, 11 or 12, the court may order the employer of a party to the application to make a written return to the court showing the wages or other remuneration resulting from the employment of the party over the preceding twelve months.

*Return as
evidence*

(2) A return made under subsection (1) purporting to be signed by the employer may be received in evidence as *prima facie* proof of its contents.

*Section binds
Crown*

(3) This section binds the Crown.

*Provisional
orders*

16. (1) Where an application is made under section 5, 11 or 12 in a court and,

- (a) the respondent in the application fails to appear;
- (b) it appears to the court that the respondent resides in a locality in (*insert jurisdiction*) that is outside the territorial jurisdiction of the court; and
- (c) in the circumstances of the case, the court is of the opinion that the issues can be adequately determined by proceeding under this section,

the court may proceed in the absence of the respondent and without the financial statement of the respondent required by section 13 and in place of a final order may make an order for support that is provisional only and the order has no effect until it is confirmed by the court in the locality in which the respondent resides.

*Transmission for
hearing*

(2) Where a provisional order is made under subsection (1), the court making the order shall send to the court having jurisdiction in the locality in which the respondent resides copies of such documents and records, certified in such manner, as are prescribed by the rules of the court.

Showcause

(3) The court to which the documents and records are sent under subsection (2) shall cause them to be served upon

the respondent together with a notice to file with the court the financial statement required by section 13 and to appear and show cause why the provisional order should not be confirmed.

(4) At the hearing, the respondent may raise any defence that might have been raised in the original proceedings, but, if on appearing the respondent fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order without variation or with such variation as the court considers proper having regard to all the evidence.

Confirmation of Order

(5) Where the respondent appears before the court and satisfies the court that for the purpose of any defence or for the taking of further evidence or otherwise it is necessary to remit the case to the court where the applicant resides, the court may so remit the case and adjourn the proceedings for that purpose.

Adjournment for further evidence

(6) Where the respondent appears before the court and the court, having regard to all the evidence, is of the opinion that the order ought not to be confirmed, the court shall remit the case to the court that made the order together with a statement of the reasons for so doing, and in that event the court that made the order may dispose of the application in such manner as it considers proper.

Where order not confirmed

(7) A certificate certifying copies of documents or records for the purpose of this section and purporting to be signed by the clerk of the court is, without proof of the office or signature of the clerk, admissible in evidence in a court to which it is transmitted under this section as *prima facie* proof of the authenticity of the copy.

Certificate as evidence

(8) No appeal lies from a provisional order made under this section, but, where an order is confirmed under this section, the person bound thereby has the same right of appeal as he would have had if the order had been made under section 6.

Right of appeal

17. Repealed. 1986

18. Repealed. 1986

19. Repealed. 1986

20. Repealed. 1986

21. Repealed. 1986

Realization of security

22. Where a court orders security for the payment of support under this Act or charges property therewith, the court may, upon application and notice to all persons having an interest in the property, direct its sale for the purpose of realizing the security or charge.

Order restraining harassment

23. (1) Upon application, a court may make an order restraining the spouse of the applicant from molesting, annoying or harassing the applicant or children in the lawful custody of the applicant and may require the spouse of the applicant to enter into such recognizance as the court considers appropriate.

Interim order

(2) Where an application is made under subsection (1), the court may make such interim order as the court considers appropriate.

Termination of support after death

24. Unless an order for support otherwise provides, it terminates upon the death of the person having the obligation to provide support, and the amount under the order due and unpaid is a debt of his or her estate.

Pledging credit or necessities

25. (1) During cohabitation, a spouse has authority to render himself or herself and his or her spouse jointly and severally liable to a third party for necessities of life, except where the spouse has notified the third party that he or she has withdrawn the authority.

Liability for necessities of minor

(2) Where a person is entitled to recover against a minor in respect of the provision of necessities for the minor, each parent who has an obligation to support the minor is liable therefor jointly and severally with the minor.

Recovery between person jointly liable

(3) Where persons are jointly and severally liable with each other under this section, their liability to each other shall be determined in accordance with their obligation to provide support.

Common-law supplanted

(4) The provisions of this section apply in place of the rules of common law by which a wife may pledge the credit of her husband.

Paternity agreements

26. (1) Where a man and a woman who are not spouses enter into an agreement for,
 (a) the payment of the expenses of prenatal care and birth in respect of a child;

- (b) support of a child; or
- (c) burial expenses of the child or mother,

on the application of a party to the agreement or a children's aid society made to a court, the court may incorporate the agreement in an order, and this Act applies to the order in the same manner as if it were an order for support made under this Act.

(2) Where an application is made under subsection (1) and a judge of the (*insert appropriate court*) is satisfied that the respondent is about to leave (*insert jurisdiction*) and that there are reasonable grounds for believing that the respondent intends to evade his responsibilities under the agreement, the judge may issue a warrant in the form prescribed by the rules of the court for the arrest of the respondent. *Absconding respondent*

(3) A minor who has capacity to contract marriage has capacity to enter into an agreement under subsection (1) that is approved by the court, whether the approval is given before or after the agreement is entered into. *capacity of a minor*

(4) This section applies to agreements referred to in subsection (1) that were made before this Act comes into force. *Application to*

27. The court may extend any time prescribed by this Act where the court is satisfied that *Extension of time*

- (a) there are *prima facie* grounds for relief;
- (b) relief is unavailable because of delay that has been incurred in good faith; and
- (c) no substantial prejudice or hardship will result to any person affected by reason of the delay.

28. The court may exclude the public from a hearing, or any part thereof, where, in the opinion of the presiding judge, the desirability of protecting against the consequences of possible disclosure of intimate financial or personal matters outweighs the desirability of holding the hearing in public and the court may by order prohibit the publication of any matter connected with the application or given in evidence at the hearing. *Closed hearings*

Note: Mechanisms for the enforcement of support orders are contained in the Uniform Maintenance and Custody Enforcement Act.

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the smooth operation of any business and for the protection of its interests.

It is further stated that the records should be kept in a clear and concise manner, and that they should be readily accessible to all concerned parties. This will ensure that any disputes or questions can be resolved quickly and efficiently.

The document also mentions that the records should be kept for a sufficient period of time to allow for any future audits or investigations. It is recommended that a minimum of five years should be maintained.

In conclusion, the document stresses the importance of diligent record-keeping as a fundamental aspect of sound business management. It is a key factor in ensuring the long-term success and stability of the organization.

The second part of the document outlines the specific procedures for the collection and recording of data. It details the steps to be followed from the initial gathering of information to its final entry into the system, ensuring consistency and accuracy throughout the process.

It is noted that the data should be collected from reliable sources and that the recording process should be standardized to avoid any discrepancies. Regular reviews and updates to the records are also advised to reflect any changes in the data.

The document concludes by reiterating the significance of these procedures in providing a clear and accurate picture of the organization's activities. It is a vital tool for decision-making and for demonstrating the organization's performance to stakeholders.