

FAMILY MAINTENANCE ENFORCEMENT AMENDMENT ACT, 1994

CHAPTER 36

Assented to July 8, 1994

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

- I. Section 1 of the Family Maintenance Enforcement Act, S.B.C. 1988, c. 3, is amended*
- (a) in subsection (1) in the definition of "court" by repealing paragraph (a) and substituting the following:*
- (a) in sections 2.1, 3 (1) and (2), 9, 10, 13 to 21, 23 (1), (5), (7) and (8), 28, 29, 33 (2), 35.1, 36, 41 (c), 42, 43 (2) and (3), 45 (b), 47 (1) (c) and (i), 49 (1) and 49.1, the Supreme Court or the Provincial Court, ,*
- (b) in subsection (1) in the definition of "creditor" by striking out "sections 3 (1), 5 (2), 6 (1), 7 (2), 9 (1) (b), 11 (b)" and substituting "sections 3 (1), 5 (1) and (2), 6 (1), 7 (2), 9 (1) (b), 11 (2)",*
- (c) in subsection (1) in the definition of "maintenance" by repealing paragraphs (e) and (f) and substituting the following:*
- (e) an amount payable under section 14 (1) (b) or 20.01 (2) (a),*
- (f) fixed costs awarded under the regulations in favour of the director or a creditor,*
- (g) taxed costs awarded in relation to anything that comes within this definition,*
- (h) prescribed fees or expenses, and*
- (i) interest that is or may be imposed under section 11.1; ,*
- (d) in subsection (1) in the definition of "maintenance order" by repealing paragraphs (a) and (b) and substituting the following:*
- (a) a bench order made under section 2.1,*
- (b) an interim order made under Part 4.1 of the Family Relations Act, and*
- (c) an order made under section 20, ,*
- (e) in subsection (1) by adding the following definition:*

"spouse" includes

- (a) a husband or wife of a debtor, and
- (b) a man or woman who is living with a debtor in a marriage-like relationship; ,

(f) in subsection (2) by adding the following paragraph:

- (c) an agreement that was entered into under section 20 of the *Child Paternity and Support Act* and that contains a provision respecting maintenance. , and

(g) by adding the following subsection:

- (3) For the purposes of this Act, section 83 (9) of the *Family Relations Act* applies to an agreement referred to in subsection (2) (c) of this section.

2. Section 2 (2) is repealed and the following substituted:

- (2) Subject to subsection (3), the director may delegate to any person, service or agency any power, duty or function of the director under this Act or any other enactment.

3. The following section is added:

Bench maintenance orders

- 2.1 (1) A party to an application for a maintenance order or a variation of a maintenance order shall file with the court a statement in the prescribed form indicating whether the party wishes the maintenance order filed with the director.
- (2) The statement may be filed under subsection (1) at any time up to the hearing of the application for the maintenance order or for the variation of a maintenance order.
- (3) Where a statement requesting the filing of a maintenance order with the director has been filed under subsection (1), both parties shall complete and file with the court before the hearing of the application an enforcement statement in the prescribed form.
- (4) Where a statement requesting the filing of a maintenance order with the director has been filed under subsection (1), the court, on making or varying the maintenance order, shall make a bench order in the prescribed form setting out the terms of the maintenance order.
- (5) A bench order shall be completed and signed by the court at the time the maintenance order is made and shall be filed with the court immediately

after it is signed, even if the maintenance order has not been settled or signed at that time.

(6) The clerk or registrar of the court that makes the bench order shall

- (a) file the bench order with the director promptly after it is signed by and filed with the court, and
- (b) forward each enforcement statement to the director with the bench order.

4. *Section 3 is amended*

- (a) *in subsection (1) by adding "or debtor" after "by a creditor",*
- (b) *in subsection (3) by striking out "creditor" and substituting "a creditor or debtor", and*
- (c) *by adding the following subsections:*
 - (4) Where a maintenance order is varied while it is filed with the director, the variation of the order is deemed to have been filed with the director.
 - (5) Subsection (4) does not apply to a variation of an agreement that is deemed under section 1 (2) of this Act to be a maintenance order unless the variation is filed under section 74 or 74.1 of the *Family Relations Act*.

5. *Section 5 (1) is repealed and the following substituted:*

- (1) While a maintenance order is filed with the director, no person may enforce the order except
 - (a) the director, or
 - (b) the creditor, if authorized to do so under subsection (1.1).
- (1.1) Subject to section 19.2 (2) of the *Guaranteed Available Income for Need Act*, the director may, in writing, authorize the creditor to enforce a maintenance order while it is filed with the director and may include any conditions in the authorization.
- (1.2) An authorization under subsection (1.1) does not constitute a delegation of a power, duty or function of the director under section 2 (2).

6. *Section 6 (1) is repealed and the following substituted:*

- (1) A maintenance order that has been filed with the director by the creditor may be withdrawn from filing at any time if the creditor files with the director a written notice, signed by the creditor, that states the creditor wishes to withdraw the maintenance order.

(1.1) A maintenance order that has been filed with the director by the debtor may be withdrawn from filing at any time if

- (a) either party files with the director a written notice, signed by the party, that states the party wishes to withdraw the maintenance order, and
- (b) the director obtains the written consent of the other party to the withdrawal of the order.

7. *Section 8 is amended*

(a) *in subsection (1) by striking out "or" at the end of paragraph (a), by adding ", or" at the end of paragraph (b) and by adding the following paragraph:*

(c) *particulars of the assets or income of a debtor. , and*

(b) *in subsection (3) by adding "within 10 days" after "that receives a demand under subsection (1) shall".*

8. *Section 9 (1) is amended*

(a) *by striking out "or" at the end of paragraph (a) and by adding the following:*

(a.1) *the director needs, for the purpose set out in section 8 (1), information in personal correspondence between a debtor and a parent, spouse, brother or sister of the debtor, or , and*

(b) *by striking out "or" at the end of paragraph (c), by adding ", or" at the end of paragraph (d) and by adding the following paragraph:*

(e) *particulars of the assets or income of a debtor.*

9. *Sections 10 and 11 are repealed and the following substituted:*

Payments

10. (1) Notwithstanding the provisions of the maintenance order, all payments required to be made by a debtor under a maintenance order that is filed with the director shall

(a) be sent to the director and be payable

(i) to the creditor, or

(ii) if specified by the director, to the director or to a reciprocating state, or

(b) with the written approval of the director, be made directly to the creditor.

- (2) Subsection (1) does not apply if the maintenance order is made under the *Divorce Act* (Canada) and requires the payments to be made to the court.
- (3) The court shall
 - (a) forward to the party apparently entitled to receive them all payments received in accordance with a maintenance order made under the *Divorce Act* (Canada), and
 - (b) if the maintenance order is filed with the director, notify the director of the payment.
- (4) Subject to subsections (5) and (6), the director shall forward to the person apparently entitled to receive them all payments received by the director in respect of a maintenance order.
- (5) If the director forwards to the creditor an amount to which the creditor is not entitled under the maintenance order, the director may deduct that amount from subsequent payments received on behalf of the creditor and shall forward that amount to the person apparently entitled to it.
- (6) If there is a dispute about the payment of any money received by the director in respect of a maintenance order, the director may hold the money in trust until the dispute is settled by the court or otherwise.

Record of payments

- 11. (1) The director shall keep a record of all payments that, while a maintenance order is filed with the director, become due to the creditor and that are received and forwarded by the director on account of a maintenance order filed with the director.
- (2) At the request of the creditor or the debtor, the director shall provide a statement of account showing all payments that, while a maintenance order is filed with the director, become due to the creditor and that are received and forwarded by the director on account of the maintenance order.
- (3) At the request of the proper officer of or a court of a reciprocating state, the director shall provide a sworn statement of account with respect to a maintenance order, showing
 - (a) all payments that have become due and owing by the debtor since the maintenance order was filed with the director, and
 - (b) all payments received by the director under the maintenance order since it was filed with the director.

10. *The heading to Part 3 is amended by striking out "PROCEEDINGS" and substituting "MECHANISMS".*
11. *The following section is added to Part 3:*

Interest

- 11.1 (1) Subject to the regulations, the debtor shall pay to the creditor on any arrears of maintenance that accrue before or after this section comes into force simple interest calculated from the date and in the manner determined in accordance with the regulations.
- (2) The rate of interest payable under subsection (1) shall be prescribed by regulation and the date from which the interest is calculated shall not be earlier than the date this section comes into force.
- (3) Where interest is payable under this section on arrears under a maintenance order that is filed with the director,
- (a) the director shall not enforce payment of any interest that accrued before a date determined in accordance with the regulations, and
- (b) the creditor remains entitled to any interest that accrued up to that date and may, subject to section 5, enforce payment of that interest.
12. *Sections 12 (1) and 13 (1) are amended by striking out "defaults in" and substituting "has at any time defaulted in".*
13. *Section 14 is amended*
- (a) *in subsection (1) (b) by adding "director or the" after "on application by the", and*
- (b) *in subsection (3) by striking out everything after "30 days".*
14. *Section 15 is amended*
- (a) *by repealing subsection (1) and substituting the following:*
- (1) Where the debtor has at any time defaulted in a payment required under a maintenance order, the director may serve a notice of attachment in the prescribed form on a person who is indebted or likely to become indebted to the debtor.
- (1.1) After serving the notice of attachment, the director shall promptly file with the court

- (a) a copy of the notice of attachment, and
- (b) if the maintenance order has not been filed with the court, a copy of
 - (i) the maintenance order, and
 - (ii) the notice of the filing of the maintenance order with the director. ,
- (b) in subsection (4) by striking out "A notice" and substituting "Subject to subsection (5.1), a notice",
- (c) in subsection (4) (d) by striking out "termination" and substituting "withdrawal",
- (d) by repealing subsection (5) (b) and substituting the following:
 - (b) send to the director, within 5 days after each amount is deducted in accordance with the notice of attachment, a cheque or money order payable to the person specified in the notice of attachment. ,
- (e) by adding the following subsection:
 - (5.1) The director may, by serving an attachee with a notice of suspension, suspend, either for a specified period or until further notified by the director, the attachee's duty to comply with subsection (5). , and
- (f) in subsection (6) by striking out "creditor" and substituting "person specified in the notice of attachment".

15. Section 16 is amended

- (a) by repealing subsection (1) (a) (i) and substituting the following:
 - (i) no money is due and owing or is likely to become, during the term of the notice of attachment, due and owing by the attachee to the debtor, or ,
- (b) by repealing subsections (4) and (6) and substituting the following:
 - (6) If the court determines that the attachee is no longer liable or determines that the notice contains or is based on a material error, the notice of attachment no longer has any effect and must be withdrawn.
 - (6.1) If the court determines that the attachee is liable, it shall order payment by the attachee of the amount unpaid.
 - (6.2) An order under subsection (3) or (6.1) may be enforced by the director in any manner that a maintenance order may be enforced. ,
- (c) in subsection (7) by striking out "termination" and substituting "withdrawal" and by striking out "terminate" and substituting "withdraw", and

(d) in subsection (8) by striking out "or termination".

16. The following section is added:

Notice of attachment from outside Province

16.1 (1) The director may serve a notice of attachment in accordance with section 15 (1) if the following are filed with the director:

- (a) an order that contains a provision for the payment of maintenance and that is made by a competent authority outside the Province;
- (b) a document that
 - (i) is of similar effect to a notice of attachment,
 - (ii) purports to be issued by a competent authority outside the Province,
 - (iii) states that it is issued in respect of maintenance, and
 - (iv) is written in or accompanied by a sworn or certified translation into English.

(2) Sections 15 (1.1) to (6) and 16 apply in respect of a notice of attachment served under this section.

(3) For the purposes of the application of sections 15 and 16 to a notice of attachment under this section,

"debtor" includes a person who is required by an order filed under subsection (1) (a) to pay maintenance;

"maintenance order" includes an order filed under subsection (1) (a).

17. Section 20 is amended

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

- (a) that, by completing a statement of income and expenses in the prescribed form, the debtor report as directed by the court to the court or to
 - (i) the director, if the order is filed with the director, or
 - (ii) a person, other than a family court counsellor, designated by name or position by the court; ,

(b) in subsection (1) (b) (ii) by adding " , other than a family court counsellor," after "a person",

(c) by repealing subsection (1) (d) and substituting the following:

(d) that, notwithstanding section 72 of the *Offence Act* but subject to section 20.1 of this Act, the debtor be imprisoned for a period of up to 30 days each time the debtor fails to pay, by a date specified in an order under paragraph (c) or subsection (10) (a),

(i) the amount due on that date under the order under paragraph (c) or subsection (10) (a), and

(ii) the amount due by that date under the order being enforced under paragraph (c) or subsection (10) (a); ,

(d) *by adding the following subsections:*

(1.1) Where an order is made under subsection (1) (c) and a previous order has been made under that subsection against the debtor, the court shall also make an order under subsection (1) (d) unless it is satisfied that the debtor could not have avoided defaulting again in a payment required under the maintenance order.

(2.1) In determining whether the debtor is able to pay the arrears in full, the court shall take into account all of the debtor's circumstances, including the income and assets of the debtor's spouse.

(7.1) Where the court is satisfied that there has been a change in the circumstances of the debtor since an order was made under subsection (1) or (2) and that the change has improved the debtor's ability to pay the arrears, the court may, on application by the creditor or the director, vary that order. ,

(e) *by repealing subsection (9) and substituting the following:*

(9) Where an order for payment under subsection (1), (2) (b) or (10) is in force, a payment made by the debtor shall be credited

(a) first to the amount due and owing under the maintenance order after the date of the order under subsection (1), (2) (b) or (10),

(b) next to any arrears required to be paid under the order under subsection (1), (2) (b) or (10),

(c) next to any other amount, except interest, that is due and owing, and

(d) last to interest payable under section 11.1. , and

(f) *in subsection (10) by repealing paragraphs (a) and (b) and substituting the following:*

(a) make an interim order requiring the debtor to pay a specified amount by a specified date,

(b) if an interim order is made, make an order under section 20 (1) (d), and

- (c) direct that a copy of the interim order and the order under section 20 (1) (d) be served on the persons and in the manner specified by the court.

18. The following section is added:

Failure to report

- 20.01** (1) Where the debtor fails to comply with an order under section 20 (1) (a) or (b), the court may, on application by the director or the creditor, issue
- (a) a summons requiring the debtor to appear before the court at the time and place specified in the summons to show cause why the order should not be enforced, or
 - (b) a warrant authorizing the apprehension of the debtor to bring the debtor before the court to show cause why the order should not be enforced.
- (2) Where the court finds that a debtor who has been summoned or apprehended under subsection (1) is capable of complying with an order under section 20 (1) (a) or (b) and has not complied with the order, the court may order the debtor
- (a) to pay an amount not exceeding \$5 000 for the benefit of the creditor, or
 - (b) to be imprisoned for a term not exceeding 30 days.
- (3) A payment made or a term of imprisonment served under subsection (2) does not reduce or discharge the debtor's obligations under a maintenance order.

19. Section 20.1 is amended

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

- (1) Where a debtor against whom an order is made under section 20 (1) (d) fails to pay by a date specified in an order under section 20 (1) (c) or (10) (a) the full amount required by the order under section 20 (1) (d), the clerk of the court that made those orders shall, on application by
 - (a) the director, if the maintenance order is filed with the director, or
 - (b) the creditor, if the maintenance order is not filed with the director,issue a summons requiring the debtor to appear at a committal hearing before the court at a time and place indicated on the summons. ,

(b) by adding the following subsection:

(5.1) A debtor who is imprisoned under this section must be released on payment of the full amount required by the order under section 20 (1) (d)., and

(c) *in subsection (6) by repealing paragraphs (c) and (d) and substituting the following:*

(c) vary the order made under section 20 (1) (c) or (10) (a) without reducing or cancelling the aggregate of arrears required to be paid under that order, or

(d) set a date for hearing an application to vary, in accordance with paragraph (c), the order under section 20 (1) (c) or to vary the order under section 20 (10) (a).

20. Section 21 is amended

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

(1) Where at a default hearing or other proceeding the court finds that a debtor who has defaulted in a payment required under a maintenance order is receiving or entitled to receive wages, salary or other remuneration from a person employing or engaging the services of the debtor, the court shall make an attachment order unless it would be unfair to the debtor to do so.

(1.1) The fact that an attachment order would reveal to a person who employs or engages the services of the debtor that the debtor owes arrears of maintenance is not sufficient to make the order unfair to the debtor.

(1.2) The attachment order shall direct a person who, either when the order is made or at any time while the order is in effect, employs or engages the services of the debtor to do the following:

(a) deduct from the money due and owing and from time to time becoming due and owing to the debtor the amount required by the order;

(b) if the maintenance order is filed with the director, send to the director, within 5 days after each amount is deducted in accordance with the attachment order, a cheque or money order payable to the person specified in the attachment order;

(c) if the maintenance order is not filed with the director, pay each amount deducted to the person specified in the order within 5 days after it is deducted., and

(b) *by adding the following subsections:*

- (3.1) On application by the creditor or the director, the court may order an attachee who fails to comply with an attachment order served on the attachee to pay the amount the attachee has failed to pay.
- (3.2) A payment order under subsection (3.1) may be enforced in any manner that a maintenance order may be enforced.
- (5) An attachment order made before or after subsection (1.2) comes into force is deemed to contain the directions set out in subsection (1.2) (b) and (c), notwithstanding the terms of the order.

21. *Section 23 is amended*

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

- (1) On application under this section, a maintenance order that is certified by a proper officer of the court that made the order
 - (a) may be registered in a land title office in the same manner as a charge is registered, and
 - (b) is deemed for the purposes of Part 3 of the *Court Order Enforcement Act* to be a judgment as defined in section 74 of that Act.
- (1.1) The creditor may apply for registration of a maintenance order unless it is filed with the director.
- (1.2) With the consent of the creditor, the director may apply for registration of a maintenance order that is filed with the director.
- (1.3) The creditor's consent is not required for an application under subsection (1.2) if the debtor has at any time defaulted in a payment required under the maintenance order. ,

(b) *by repealing subsection (4) (a) and (b) and substituting the following:*

- (a) by the creditor, if the creditor applied for registration of the order, or
- (b) by the director, if the director applied for registration of the order. ,
and

(c) *by adding the following subsections:*

- (4.1) Before signing a discharge or postponement of a maintenance order under subsection (4), the director shall send by ordinary mail to the creditor a notice of the director's intention to sign the discharge or postponement.
- (4.2) The inability of the director, after reasonable effort, to notify the creditor of the director's intention to sign the discharge or postponement of a maintenance order does not render the discharge or postponement ineffective.

22. The following section is added:

**Registration in personal
property security registry**

- 23.1 (1) The Lieutenant Governor in Council may prescribe the circumstances in which the creditor or the director may, for the purpose of enforcing a maintenance order, register a claim under the *Miscellaneous Registrations Act, 1992*, against the personal property of the debtor.
- (2) Registration by the creditor or the director of a claim under the *Miscellaneous Registrations Act, 1992*, creates, in favour of the creditor, a lien on the personal property against which the claim is registered.
- (3) The lien created under subsection (2) is for the total of the following amounts:
- (a) any arrears of maintenance that have accrued before the claim is registered;
 - (b) any arrears of maintenance that accrue while the claim is registered.
- (4) The lien created under subsection (2) has priority, for the total amount determined under subsection (3), over any other claim that is registered and any security interest that is perfected after the lien is created, even though part of that amount is for arrears, interest and other sums that accrue after the other claim is registered or after the security interest is perfected.
- (5) Notwithstanding subsection (4), the lien created under subsection (2) does not have priority over
- (a) liens for wages due to workers by their employers, and
 - (b) liens under section 52 of the *Workers Compensation Act*.
- (6) The lien created under subsection (2) continues
- (a) for as long as the claim is registered, or
 - (b) until the arrears are paid,
- whichever happens first.
- (7) Registration by the director or a creditor of a claim under the *Miscellaneous Registrations Act, 1992*, is notice to any person of the claim and of the lien created by the registration.
- (8) Where the claim is registered against a manufactured home, the Registrar of Manufactured Homes must not, except with a consent given in accordance with subsection (9) or except in prescribed circumstances,

- (a) issue a transport permit under section 41 of the *Manufactured Home Act*, or
 - (b) register a transfer, or an agreement for sale, of a manufactured home.
- (9) For the purposes of subsection (8), consent may be given as follows:
- (a) by the creditor, if the claim was registered by the creditor;
 - (b) by the director, if the claim was registered by the director.
- (10) For the purposes of sections 6 and 7 of the *Miscellaneous Registrations Act, 1992*, and of any regulations made under section 9 (2) (c) of that Act, the director is considered to be the holder of a claim registered under that Act in respect of a maintenance order that is filed with the director.

23. Section 24 is amended

- (a) in subsection (1) by striking out "by the creditor," and substituting "by the creditor or the director," and
- (b) in subsection (2) by repealing paragraph (a).

24. Sections 26 and 27 are amended by striking out "by the creditor," and substituting "by the creditor or the director,".

25. Section 28 is amended

- (a) by striking out "by the creditor," and substituting "by the creditor or the director," and
- (b) in paragraph (b) by striking out "section 20 (1) or (2)." and substituting "section 20 (1), (2) or (10)."

26. Section 29 is repealed and the following substituted:

Crediting of payments

- 29. Unless the court otherwise orders, all payments, except when an order for payment under section 20 (1), (2) (b) or (10) is in effect, shall be credited**
- (a) first to the periodic payment most recently due under the maintenance order,
 - (b) next to the arrears due and owing,
 - (c) next to any other amount, except interest, due and owing in respect of the maintenance order, and
 - (d) last to interest payable under section 11.1.

27. *Section 30 (2) is amended by striking out "sections 9, 10 (2) (b) and (3)," and substituting "sections 2.1, 9, 10 (3)," and by adding "35.1," after "33 (2)."*
28. *Section 32 (2) is amended by striking out "default." and substituting "arrear."*
29. *The following section is added:*

Third parties compellable

- 35.1 (1) Where the court is satisfied on application by the creditor or the director that a debtor's association with an individual, corporation, partnership or proprietorship affects the debtor's ability to pay maintenance, the court shall require the individual or an authorized representative of a corporation, partnership or proprietorship
- (a) to attend a default hearing or a committal hearing before the court, and
 - (b) to file with the court by a date specified by the court financial information, financial statements or other prescribed documents.
- (2) A person who has access to any information or document obtained under this section shall not disclose the information or document except in the course of permitting it to be introduced in evidence at the default hearing or committal hearing.
30. *Section 39 is amended by renumbering the section as section 39 (1) and by adding the following subsection:*
- (2) Subsection (1) applies notwithstanding the *Freedom of Information and Protection of Privacy Act*.
31. *Section 42 (a) is amended by striking out "with a creditor," and substituting "with a creditor or with the director, a person to whom the director has delegated a power, duty or function under section 2 or an employee of that person,"*
32. *Section 44 is amended by adding the following subsection:*
- (3) Where the director is authorized by this Act to act in a proceeding, including a proceeding commenced under another enactment, the director
 - (a) has the same right as any other party to the proceeding to appeal or defend an appeal from an order or decision arising out of the proceeding, and
 - (b) must be served with notice of any appeal from such an order or decision.

33. Section 45 is amended

(a) *in subsection (1) by adding the following paragraphs:*

- (a.1) knowingly gives false information in an enforcement statement filed under section 2.1 (3),
- (b.1) knowingly gives false information in response to an order under section 20 (1) (a) or (b),
- (b.2) contravenes an order made under section 35.1, , and

(b) *by adding the following subsection:*

- (3) An officer, director employee or agent of a corporation who directed, authorized, assented to, acquiesced in or participated in the commission of an offence under subsection (1) (b.2) is a party to and guilty of the offence and is liable to the punishment provided for the offence.

34. Section 47 (1) is amended

(a) *by adding the following paragraphs:*

- (e.2) governing the payment by debtors or classes of debtors of interest on arrears under maintenance orders,
- (e.3) exempting classes of debtors from the requirement to pay interest on arrears under maintenance orders, , and

(b) *by repealing paragraphs (h) and (i) and substituting the following:*

- (h) for determining the amount of a debtor's wages, salary or other remuneration that shall be exempt from attachment under section 15 or 21 or from garnishment under section 17,
- (i) providing for applications by debtors to court for orders increasing or decreasing exemptions from attachment under section 15 or 21 or from garnishment under section 17, .

Consequential Amendments

Family and Child Service Act

35. Section 4 of the Family and Child Service Act, S.B.C. 1980, c. 11, is amended by renumbering the section as section 4 (1) and by adding the following subsection:

- (2) An agreement made under this section or section 5 that contains a provision for contribution by the parent to the child's maintenance may be filed in the court, and, if filed, that provision may be enforced, varied or cancelled in the same manner and on the same basis as a maintenance order made under the *Family Relations Act*.

Family Relations Act

36. *Section 62 of the Family Relations Act, R.S.B.C. 1979, c. 121, is amended by adding the following subsections:*

- (1.3) Where the court reduces arrears under a maintenance order, the court may order that interest shall not accrue on the reduced amount of arrears but only if, taking into consideration the factors listed in subsection (1.2), the court is satisfied it would be grossly unfair not to make that order.
- (1.4) Where the court cancels arrears under a maintenance order, the court may cancel interest that has accrued on the arrears under section 11.1 of the *Family Maintenance Enforcement Act* but only if, taking into consideration the factors listed in subsection (1.2), the court is satisfied it would be grossly unfair not to make that order.

Guaranteed Available Income for Need Act

37. *Section 19.2 (2) of the Guaranteed Available Income for Need Act, R.S.B.C. 1979, c. 158, is amended by striking out "Subject to section 5 (1) of the Family Maintenance Enforcement Act," and substituting "Subject to section 5 (1) (a) of the Family Maintenance Enforcement Act,".*

Commencement

38. This Act comes into force by regulation of the Lieutenant Governor in Council.