

BACKGROUND

The Maintenance Enforcement Act, the Family Law Act and the Divorce Act (a federal act) authorize orders or judgments for maintenance support or alimony for the benefit of children and/or spouses or adult interdependent partners. These orders or judgments may be registered at the Land Titles Offices and binds any interest that the respondent has in land so long as the order or judgment remains in force. (1)

REGISTRATION PROCEDURE

The copy of an order or judgment filed in an Alberta Court or a copy of an extra-provincial or foreign order can be registered. These copies must be certified by the clerk of the Alberta Court and contain a court file number or action number. In addition, these orders or judgments must be accompanied by a Creditor's Statement of Debtor's Land (FORM S). The debtor's name on the Form S must be consistent with the name on the attached order or judgment. Orders or judgments registered pursuant to these Acts are not subject to lapse proceedings as provided for under section 123 of the Land Titles Act. (2)

A. Maintenance Enforcement Act

1. Most orders or judgments submitted to the Land Titles Offices are pursuant to the Maintenance Enforcement Act. Once registered, these orders or judgments operate as a charge on the land. (3) Document code ORDE is used and [Tariff item 11\(6\)](#) is charged.

2. An order or judgment may be accompanied by a Notice in the prescribed form (FORM A) stating that the order or judgment is filed with the Director of Maintenance Enforcement. (4) In this case, the order or judgment is registered first followed by the registration of the Notice. The Notice is registered separately as the registration number of the order or judgment is required in order to register the Notice. Document codes ORDE and NOTM are used and [Tariff item 11\(6\)](#) is used for both.

3. A maintenance order or judgment may be discharged or postponed by the person entitled to the benefit of the order. (5) If the order or judgment has been filed with the Director of Maintenance Enforcement then the discharge or postponement can only be registered if it is signed by the Director. (6) In addition, a certified copy of a court order directing the Registrar of Land Titles to cancel the registration of the order against all or part of the land may be registered. Document code DISO is used and [Tariff item 11\(5\)](#) is charged.

4. The parties to a maintenance order may enter into an agreement providing for maintenance payments to be made. This agreement may be filed with the Court of Queen's Bench and enforced as if it were a maintenance order. (7) Document code DISO is used and [Tariff item 11\(6\)](#) is charged.

B. Family Law Act

1. The Act provides for an order that may direct a person other than the registered owner to execute a transfer of land to the support recipient. (8) Both the order and the transfer of land executed by the person named in the order must be submitted for registration. The order must make reference to the section of the Act that is applicable and have compliance with section 191 of the Land Titles Act. The transfer of land must comply with all registration requirements. (see [TRF-1](#)) Document code TFLA is used and [Tariff item 3\(1\)](#) is charged.

2. This Act also provides for a person other than the registered owner to execute a mortgage to secure the payment authorized by the order. (9) Both the order and the mortgage executed by the person named in the order must be submitted for registration. The order must make reference to the section of the Act that is applicable and have compliance with section 191 of the Land Titles Act. All other mortgage requirements must be met. (see [MOR-1](#)) Document code MORT is used and [Tariff item 4](#) is charged.

3. An order under this Act charging real property is also registrable as a mortgage. (10) The order must comply with mortgage requirements, make reference to the applicable section of the Act and also comply with section 191 of the Land Titles Act. Title particulars must state "Re: Order" so as to ensure that only an order can be used for discharge purposes. Document code MORT is used and [Tariff item 4](#) is charged.

4. An injunction order under this Act can also be registered and restricts the respondent's ability to dispose of the land. (11) Document particulars must make reference to the restriction. Document type ORDE is used and [Tariff item 11\(6\)](#) is charged.

5. As part of a support order made under Division 1 or 2, the court may grant exclusive possession of the family home, direct eviction from the family home or restrict access to the family home. (12) This order may be submitted to the Land Titles Office and once registered it requires that consent of the spouse or adult interdependent partner in order to dispose of or encumber the property. A court order can dispose of consent but reference must be made to the section of the Act that allows for this. (13) As part of the title particulars, a notation must be made to reference that disposition cannot take place without consent. If an order dispenses with consent, then compliance with section 191 of the Land Titles Act is required. Document type ORDE is used and [Tariff item 11\(6\)](#) is charged.

6. Child support agreements and spousal or adult interdependent partner support agreements can be registered (14) but must be enforced under the Maintenance Enforcement Act. (15) The prescribed form from the Maintenance Enforcement Regulation is to be used. A copy certified by the clerk of the court and submitted with a FORM S can be registered at the Land Titles Office. The document code used is ORDE and Tariff item 11(6) is charged.

7. An order or judgment under this Act may be discharged by a certified copy of a court order directing the Registrar of Land Titles to cancel the registration against all or part of the land owned by the person ordered to pay maintenance support or alimony. (16) Document code DISO is used and Tariff item 11(5) is charged. There are no provisions in this Act to cancel a support agreement as this document is registered pursuant to the Maintenance Enforcement Act.

B. Divorce Act

1. The federal Divorce Act does provide for a court to order payment for support of children and spouses. (17) These orders can be registered at the Land Titles Office and must be submitted with a FORM S. Document code ORDE is used and Tariff item 11(6) is charged.

2. A certified copy of a court order directing the Registrar of Land Titles to cancel the registration of an order is required to discharge this order. Document code DISO is used and Tariff item 11(5) is charged.

STATUTE AND CASE REFERENCES

1. s. 23, Maintenance Enforcement Act, R.S.A. 2000, c. M-1; s. 71(1) Family Law Act S.A. c F-4.5; s. 15.1 and s. 15.2 Divorce Act R.S.C. 1985 c.3
2. s. 23(3), Maintenance Enforcement Act
3. s. 23(1), Maintenance Enforcement Act R.S.A. 2000 c. M-1
4. s. 23(3), Maintenance Enforcement Act R.S.A. 2000 c. M-1
5. s. 23(2), Maintenance Enforcement Act R.S.A. 2000 c. M-1
6. s. 23(3), Maintenance Enforcement Act R.S.A. 2000 c. M-1
7. s. 10.1(2), Maintenance Enforcement Act R.S.A. 2000 c. M-1
8. s. 66(7), Family Law Act S.A. 2003 c. F-4.5
9. s. 66(9), Family Law Act S.A. 2003 c. F-4.5
10. s. 66(8), Family Law Act S.A. 2003 c. F-4.5
11. s. 66(4), Family Law Act S.A. 2003 c. F-4.5
12. s. 68(1), Family Law Act S.A. 2003 c. F-4.5
13. s. 71(3), Family Law Act S.A. 2003 c. F-4.5
14. s. 53 and s. 62, Family Law Act S.A. 2003 c. F-4.5
15. s. 64, Family Law Act S.A. 2003 c. F-4.5
16. s. 76, Family Law Act S.A. 2003 c. F-4.5
17. s. 15.1 and s. 15.2 Divorce Act R.S.C. 1985 c. 3 (2nd Supp.)