



4th SESSION, 61st GENERAL ASSEMBLY
Province of Prince Edward Island
51 ELIZABETH II, 2002

BILL NO. 12

Interjurisdictional Support Orders Act

Honourable Jeffrey E. Lantz
Attorney General

GOVERNMENT BILL

YANNIE ENNIS
Acting Queen's Printer
Charlottetown, Prince Edward Island

Interjurisdictional Support Orders Act

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. In this Act

Definitions

- (a) “claimant” means a person who applies under this Act for support; claimant
- (b) “designated authority” means a person appointed as a designated authority under subsection 35(1) or delegated a power or duty under subsection 35(2); designated authority
- (c) “Director” means the Director of Maintenance Enforcement appointed under section 2 of the *Maintenance Enforcement Act* R.S.P.E.I. 1988, Cap. M-1; Director
- (d) “former Act” means the *Reciprocal Enforcement of Maintenance Orders Act* R.S.P.E.I. 1988, Cap. R-7; former Act
- (e) “interim order” means a support order made by a court or an administrative body for a time-limited period; interim order
- (f) “provisional order” means provisional order
 - (i) a support order of the Supreme Court that has no force or effect until confirmed by a court in a reciprocating jurisdiction, or
 - (ii) a similar order made in a reciprocating jurisdiction and received for confirmation in the province;
- (g) “provisional order of variation” means provisional order of variation
 - (i) a variation of a support order by the Supreme Court that has no force or effect until confirmed by a court in a reciprocating jurisdiction, or
 - (ii) a similar order made in a reciprocating jurisdiction and received for confirmation in the province;
- (h) “reciprocating jurisdiction” means a jurisdiction declared by the regulations made under subsection 41(1) to be a reciprocating jurisdiction; reciprocating jurisdiction
- (i) “support” includes support, maintenance or alimony payable for a claimant or for the child of a claimant or for both; support
- (j) “support order” means a court order or an order made by an administrative body requiring the payment of support to a claimant and includes the provisions of a written agreement requiring the support order

payment of support if those provisions are enforceable in the jurisdiction in which the agreement was made as if they were contained in an order of a court of that jurisdiction.

**PART I
CLAIMS WHERE NO ORDER EXISTS**

respondent **2.** In this Part, “respondent” means the person against whom support is sought.

Application of Part I **3.** This Part applies only where there is no support order in effect requiring the respondent to pay support for the claimant or for any children for whom support is claimed or for both.

**DIVISION 1
CLAIMANT ORDINARILY RESIDENT IN THE PROVINCE**

Process may start here **4.** (1) If a claimant is ordinarily resident in the province and believes that the respondent is ordinarily resident in a reciprocating jurisdiction, the claimant may start a process in the province that could result in a support order being made in the reciprocating jurisdiction.

Contents of support application (2) To start the process, a claimant shall complete a support application that includes the following:

- (a) the name and address for service of the claimant;
- (b) a copy of the specific statutory or other legal authority on which the claimant’s application for support is based, unless the claimant is relying on the law of the jurisdiction where the respondent is ordinarily resident;
- (c) the amount and nature of support claimed;
- (d) a sworn document setting out the following:
 - (i) the name and any information known to the claimant that can be used to locate or identify the respondent,
 - (ii) the financial circumstances of the respondent, to the extent known by the claimant,
 - (iii) the name of each person for whom support is claimed and the date of birth of any child for whom support is claimed,
 - (iv) the evidence in support of the claimant’s application that is relevant to establishing entitlement to or the amount of support, including,
 - (A) where support is claimed for a child, details of the parentage of the child and information about the child’s financial and other circumstances, and
 - (B) where support is claimed for the claimant, information about the claimant’s financial and other circumstances and the claimant’s relationship with the respondent;
- (e) any other information or documents required by the regulations.

(3) The claimant is not required to notify the respondent that a process has been started under this section.

Notice not required

5. (1) The claimant shall submit the support application to the designated authority in the province, accompanied by a certified translation if required by the appropriate authority in the reciprocating jurisdiction in which the claimant believes the respondent is ordinarily resident.

Submission to designated authority

(2) On receiving a support application, the designated authority shall

(a) review the support application to ensure that it is complete; and

(b) forward a copy of the completed support application, as soon as practicable, to the appropriate authority in the reciprocating jurisdiction in which the claimant believes the respondent is ordinarily resident.

Application sent to reciprocating jurisdiction

(3) On receiving a request for further information or documents from a reciprocating jurisdiction under an enactment in that jurisdiction that corresponds to clause 9(2)(a), the claimant shall, in accordance with the regulations, provide the further information or documents within the time referred to in the request.

Provide further information

(4) On receiving a certified copy of an order and reasons, if any, from a reciprocating jurisdiction under an enactment in that jurisdiction that corresponds to section 14, the designated authority shall, in accordance with the regulations, provide a copy of the order and reasons, if any, to the claimant and the Supreme Court.

Copy of order and reasons

6. (1) Where the respondent is ordinarily resident in a reciprocating jurisdiction that requires a provisional order, the Supreme Court may, on application by a claimant and without notice to and in the absence of a respondent, make a provisional order taking into account the specific statutory or other legal authority on which the claimant's application for support is based.

Provisional order

(2) Evidence in proceedings under subsection (1) may be given orally, in writing or as the Supreme Court may allow.

Evidence

(3) If a provisional order is made, the designated authority shall send to the reciprocating jurisdiction

Provisional order to reciprocating jurisdiction

(a) three certified copies of the provisional order; and

(b) a support application referred to in subsection 4(2).

(4) If, during a proceeding for confirmation of a provisional order, a court in a reciprocating jurisdiction remits a matter back for further evidence to the Supreme Court, the Supreme Court shall, after giving notice to the claimant, receive further evidence.

Remitted for further evidence

Evidence forwarded by court officer (5) If evidence is received under subsection (4), a proper officer of the Supreme Court shall forward to the court in the reciprocating jurisdiction a certified copy of the evidence with modifications, if any, to the provisional order as the Supreme Court considers appropriate.

Where confirmation denied (6) If a provisional order made under this section comes before a court in a reciprocating jurisdiction and confirmation is denied in respect of one or more persons for whom support is sought, the Supreme Court may, on application within six months after the denial of confirmation, re-open the matter, receive further evidence and make a new provisional order for a person in respect of whom confirmation was denied.

DIVISION 2

CLAIMANT ORDINARILY RESIDENT OUTSIDE THE PROVINCE

support application 7. In this Division, “support application” includes
 (a) a provisional order referred to in subclause 1(g)(ii); or
 (b) a document from a reciprocating jurisdiction corresponding to a support application described in subsection 4(2).

Service of application from other jurisdiction 8. (1) If the designated authority receives a support application from an appropriate authority in a reciprocating jurisdiction, with information that the respondent named in the support application ordinarily resides in the province, the designated authority shall serve on the respondent either by personal service or in accordance with the regulations,
 (a) a copy of the support application; and
 (b) a notice requiring the respondent to appear at a place and time set out in the notice and to provide the information or documents required by the regulations.

Respondent resides in another jurisdiction (2) If the designated authority has not served the respondent in accordance with subsection (1) and knows or believes that the respondent is ordinarily resident in another reciprocating jurisdiction in Canada, the designated authority
 (a) shall forward the support application to the appropriate authority in that other reciprocating jurisdiction; and
 (b) shall notify the appropriate authority in the originating reciprocating jurisdiction that it has done so.

Respondent not located (3) If the designated authority
 (a) is unable to determine where the respondent resides; or
 (b) has not served the respondent in accordance with subsection (1) and knows or believes that the respondent is ordinarily resident in a jurisdiction outside Canada,
 the designated authority shall return the support application to the appropriate authority in the originating reciprocating jurisdiction with

any available information respecting the location and circumstances of the respondent.

- 9.** (1) Where a support application comes before the Supreme Court, the Supreme Court, in making an order, shall consider
- Consideration by court
- (a) the evidence given or submitted to the Supreme Court; and
- (b) the documents forwarded from the reciprocating jurisdiction.
- (2) If the Supreme Court requires further information or documents from the claimant to make a support order, the Supreme Court
- Interim order
- (a) shall direct the designated authority to contact the claimant or the appropriate authority in the reciprocating jurisdiction to request the information or documents; and
- (b) shall adjourn the hearing and may, if the Supreme Court considers it appropriate, make an interim order.
- (3) If the information or documents requested under subsection (2) are not received by the Supreme Court within 18 months from the date of the request, the Supreme Court may dismiss the support application and terminate an interim order made under clause (2)(b).
- Terminating interim order
- (4) The dismissal of a support application under subsection (3) does not preclude the claimant from commencing a new support application.
- New application not precluded
- 10.** (1) If the parentage of a child is at issue and has not previously been determined, the Supreme Court may decide that issue.
- Parentage may be decided
- (2) A determination of parentage under this section has effect only for the purposes of support proceedings under this Act.
- Effect of parentage determination
- 11.** (1) With respect to entitlement to support for a child, the Supreme Court shall first apply the law of the jurisdiction in which the child is ordinarily resident, but if under that law the child is not entitled to support, the Supreme Court shall apply the law of the province.
- Applicable law
- (2) In deciding the amount of support to be paid for a child, the Supreme Court shall apply the law of the province.
- Provincial law applies
- (3) With respect to the entitlement of a party to receive support and the amount of that support, the Supreme Court shall apply the law of the province, but if under the law of the province the claimant is not entitled to support, the Supreme Court shall apply the law of the jurisdiction in which the claimant and the respondent last maintained a common habitual residence.
- Applicable law
- 12.** (1) On the conclusion of a hearing, the Supreme Court may, in respect of a claimant or a child, or both,
- Powers of the Supreme Court
- (a) make a support order;

	(b) make an interim order and adjourn the hearing to a specified date;
	(c) adjourn the hearing to a specified date without making an interim order; or
	(d) refuse to make a support order.
Retroactive order	(2) The Supreme Court may make a support order that is retroactive.
Types of payment	(3) A support order may require support to be paid in periodic payments or as a lump sum, or both.
Reasons for refusal	(4) If the Supreme Court refuses to make a support order, the Supreme Court shall give reasons for its order.
Order in absence of respondent	13. (1) If a respondent does not appear as required in the notice or does not provide the information or documents required under clause 8(1)(b), the Supreme Court may make an order in the absence of the respondent or of the information or documents and in making the order may draw any inference it considers appropriate.
Copy of order to respondent	(2) Where a respondent does not appear as required, the Supreme Court shall, in accordance with the regulations, send a copy of the order to the respondent.
Copy to reciprocating jurisdiction	14. The designated authority shall, as soon as practicable, forward a certified copy of an order made under this Division and reasons, if any, to the appropriate authority in the reciprocating jurisdiction that forwarded the claimant's support application.

PART II
REGISTRATION AND ENFORCEMENT OF ORDERS MADE
OUTSIDE THE PROVINCE

Definitions	15. In this Part,
extra-provincial order	(a) "extra-provincial order" means a support order, an interim order or an order that varies a support order made in a reciprocating jurisdiction in Canada, but does not include a provisional order or a provisional order of variation;
foreign order	(b) "foreign order" means a support order, an interim order or an order that varies a support order made in a reciprocating jurisdiction outside Canada, but does not include a provisional order or a provisional order of variation.
Order goes to designated authority	16. (1) To register an extra-provincial order or a foreign order, the order shall be forwarded to the designated authority in the province.

(2) On receiving a certified copy of an extra-provincial order or a foreign order, the designated authority in the province shall forward a copy of the order to the Supreme Court.

Copy to court

17. (1) On receiving an extra-provincial order or foreign order, the Supreme Court shall register the order as an order of that court.

Registration of order

- (2) On being registered, the extra-provincial order or foreign order
- (a) has, from the date it is registered, the same effect as if it was a support order made by the Supreme Court; and
 - (b) may, both with respect to arrears accrued before registration and with respect to obligations accruing after registration, be enforced in the same manner as a support order made by the Supreme Court, or varied as provided in this Act, whether the order is made before, on or after the day on which this Act comes into force.

Effect of registering order

18. (1) After the registration of a foreign order under section 17, the designated authority shall, in accordance with the regulations, notify any party to the order believed to be ordinarily resident in the province of the registration of the order.

Notification of party to order

(2) A party to the order may apply to the Supreme Court to set aside the registration of the foreign order within 30 days after receiving notice of the registration of the foreign order and on giving notice to the jurisdiction where the foreign order originates by registered mail unless the regulations stipulate otherwise.

Set aside registration of foreign order

- (3) On an application under subsection (2), the Supreme Court may
- (a) confirm the registration; or
 - (b) set aside the registration if the Supreme Court determines
 - (i) that, in the proceeding in which the foreign order was made, a party to the order did not have proper notice or a reasonable opportunity to be heard,
 - (ii) that the foreign order is contrary to the public policy of the province, or
 - (iii) that the court that made the foreign order did not have jurisdiction to make the order.

Powers of court

(4) If the Supreme Court sets aside the registration, it shall give reasons for its decision.

Reasons for setting aside registration

- (5) For the purposes of subclause (3)(b)(iii), a court has jurisdiction
- (a) if both parties to the order were ordinarily resident in the reciprocating jurisdiction outside Canada; or
 - (b) if a party, who was not ordinarily resident in the reciprocating jurisdiction outside Canada, is subject to the jurisdiction of the court that made the foreign order.

Jurisdiction of court

Notice of decision or order	(6) Notice of a decision or order of the Supreme Court shall be given to the parties and the designated authority by registered mail unless the regulations stipulate otherwise.
Effect of setting aside	19. (1) If the registration of a foreign order is set aside, the foreign order received under this Part shall, at the request of the party applying to register the order, be dealt with in accordance with Part I, Division 2 or Part III, Division 2, as the case may be, as if the foreign order were a document corresponding to a support application received under subsection 8(1) or a support variation application received under subsection 27(1).
Requesting further information	(2) If the foreign order does not contain the necessary information or documents required for a support application, the designated authority shall request from the appropriate authority of the reciprocating jurisdiction in which the foreign order was made the necessary information and documents and until the required information and documents are provided to the designated authority, no proceedings under Part I, Division 2, or Part III, Division 2, as the case may be, may continue.
Conversion to Canadian currency	20. If a foreign order that has been registered and filed in accordance with section 17 refers to an amount of support that is not expressed in Canadian currency, the conversion of the amount into Canadian currency shall be determined by the designated authority in accordance with the regulations.
Language other than English or French	21. (1) If a foreign order or other document is written in a language other than English or French, the order or other document shall be accompanied by a translation of the order or other document into the English or French language.
Translation	(2) A translation required under subsection (1) shall be authenticated as being accurate by a certificate of the translator.

**PART III
VARIATION OF A SUPPORT ORDER**

Definitions	22. (1) In this Part,
applicant	(a) “applicant” means a party applying to vary a support order;
respondent	(b) “respondent” means the party who is the respondent in a support variation application;
support order	(c) “support order” means a support order as defined in section 1 that is <ul style="list-style-type: none"> (i) made in the province, or

(ii) made in a reciprocating jurisdiction and registered in the Supreme Court under Part II or the former Act, but does not include a provisional order of variation.

(2) Nothing in this Part allows a support order made under the *Divorce Act* (Canada) to be varied except as authorized by a federal enactment. Order made under *Divorce Act* not affected

DIVISION 1 APPLICANT ORDINARILY RESIDENT IN THE PROVINCE

23. (1) If the applicant is ordinarily resident in the province and believes that the respondent is ordinarily resident in a reciprocating jurisdiction, the applicant may start a process in the province that could result in the variation of a support order being made in the reciprocating jurisdiction. Application to vary support order

(2) To start the process, an applicant shall complete a support variation application that includes the following: Support variation application

- (a) the name and address for service of the applicant;
- (b) a certified copy of the support order;
- (c) a copy of the specific statutory or other legal authority on which the applicant's application for variation is based, unless the applicant is relying on the law of the jurisdiction where the respondent is ordinarily resident;
- (d) the particulars of the variation applied for, which may include a termination of the support order;
- (e) a sworn document setting out the following:
 - (i) the name and any information known to the applicant that can be used to locate or identify the respondent,
 - (ii) the financial circumstances of the respondent, to the extent known by the applicant, including whether the respondent is or was receiving social assistance,
 - (iii) the name of each person, to the extent known by the applicant, for whom support is payable or who will be affected by the variation if granted,
 - (iv) the evidence in support of the application, including,
 - (A) where support to the applicant or respondent is at issue, information about the applicant's relationship with the respondent, and
 - (B) if the variation applied for affects support for a child, information about the child's financial and other circumstances,
 - (v) information prescribed in the regulations about the applicant's financial circumstances;
- (f) any other information or documents required by the regulations.

(3) The applicant is not required to notify the respondent that a process has been started under this section. Notice not required

Submission to designated authority	24. (1) The applicant shall submit the support variation application to the designated authority in the province, accompanied by a certified translation if required by the appropriate authority in the reciprocating jurisdiction in which the applicant believes the respondent is ordinarily resident.
Application sent to reciprocating jurisdiction	(2) On receiving a support variation application, the designated authority shall <ul style="list-style-type: none"> (a) review the support variation application to ensure that it is complete; and (b) forward a copy of the completed support variation application, as soon as practicable, to the appropriate authority in the reciprocating jurisdiction in which the applicant believes the respondent is ordinarily resident.
Provide further information	(3) On receiving a request for further information or documents from a reciprocating jurisdiction under an enactment in that jurisdiction that corresponds to clause 28(2)(a), the applicant shall, in accordance with the regulations, provide the further information or documents within the time referred to in the request.
Copy of order and reasons	(4) On receiving a certified copy of an order and reasons, if any, from a reciprocating jurisdiction under an enactment in that jurisdiction that corresponds to section 32, the designated authority shall, in accordance with the regulations, provide a copy of the order and reasons, if any, to the applicant and the Supreme Court.
Provisional order of variation	25. (1) Where the respondent is ordinarily resident in a reciprocating jurisdiction that requires a provisional order of variation, the Supreme Court may, on application by an applicant and without notice to and in the absence of a respondent, make a provisional order of variation taking into account the specific statutory or other legal authority on which the applicant's application for variation is based.
Evidence	(2) Evidence in proceedings under subsection (1) may be given orally, in writing or as the Supreme Court may allow.
Provisional order of variation to reciprocating jurisdiction	(3) If a provisional order of variation is made, the designated authority shall send to the reciprocating jurisdiction <ul style="list-style-type: none"> (a) three certified copies of the provisional order of variation; and (b) a support variation application referred to in subsection 23(2).
Further evidence	(4) If, during a proceeding for confirmation of a provisional order of variation, a court in a reciprocating jurisdiction remits a matter back for further evidence to the Supreme Court, the Supreme Court shall, after giving notice to the applicant, receive further evidence.

(5) If evidence is received under subsection (4), a proper officer of the Supreme Court shall forward to the court in the reciprocating jurisdiction a certified copy of the evidence with modifications, if any, to the provisional order of variation as the Supreme Court considers appropriate.

Evidence forwarded
by court officer

(6) If a provisional order of variation made under this section comes before a court in a reciprocating jurisdiction and confirmation is denied in respect of one or more persons for whom support is sought, the Supreme Court may, on application within six months after the denial of confirmation, re-open the matter, receive further evidence and make a new provisional order of variation for a person in respect of whom confirmation was denied.

Confirmation
denied

DIVISION 2

APPLICANT ORDINARILY RESIDENT OUTSIDE THE PROVINCE

26. In this Division, “support variation application” means

Support variation
application

- (a) a provisional order of variation referred to in subclause 1(h)(ii); or
- (b) a document from a reciprocating jurisdiction corresponding to a support variation application described in subsection 23(2).

27. (1) If the designated authority receives a support variation application from an appropriate authority in a reciprocating jurisdiction, with information that the respondent named in the support variation application ordinarily resides in province, the designated authority shall serve on the respondent either by personal service or in accordance with the regulations,

Service

- (a) a copy of the support variation application; and
- (b) a notice requiring the respondent to appear at a place and time set out in the notice and to provide the information or documents required by the regulations.

(2) If the designated authority has not served the respondent in accordance with subsection (1) and knows or believes that the respondent is ordinarily resident in another reciprocating jurisdiction in Canada, the designated authority

Respondent in
reciprocating
jurisdiction

- (a) shall forward the support variation application to the appropriate authority in that other reciprocating jurisdiction; and
- (b) shall notify the appropriate authority in the originating reciprocating jurisdiction that it has done so.

(3) If the designated authority

Respondent not
located

- (a) is unable to determine where the respondent resides; or

(b) has not served the respondent in accordance with subsection (1) and knows or believes that the respondent is ordinarily resident in a jurisdiction outside Canada,
the designated authority shall return the support variation application to the appropriate authority in the originating reciprocating jurisdiction with any available information respecting the location and circumstances of the respondent.

Consideration by court

28. (1) Where a support variation application comes before the Supreme Court, the Supreme Court, in making an order, shall consider
(a) the evidence given or submitted to the Supreme Court; and
(b) the documents forwarded from the reciprocating jurisdiction.

Interim support variation order

(2) If the Supreme Court requires further information or documents from the applicant to make a support variation order, the Supreme Court
(a) shall direct the designated authority to contact the applicant or the appropriate authority in the reciprocating jurisdiction to request the information or documents; and
(b) shall adjourn the hearing and may, if the Supreme Court considers it appropriate, make an interim support variation order.

Terminating support variation order

(3) If the information or documents requested under subsection (2) are not received by the Supreme Court within 18 months from the date of the request, the Supreme Court may dismiss the support variation application and terminate an interim support variation order made under clause (2)(b).

New application not precluded

(4) The dismissal of a support variation application under subsection (3) does not preclude the applicant from commencing a new support variation application.

Applicable law

29. (1) With respect to entitlement to receive or to continue to receive support for a child, the court shall first apply the law of the jurisdiction in which the child is ordinarily resident, but if under that law the child is not entitled to support, the Supreme Court shall apply the law of the province.

Law of province of residence

(2) In deciding the amount of support to be paid for a child, the Supreme Court shall apply the law of the jurisdiction where the person liable to pay the support is ordinarily resident.

Applicable law

(3) With respect to the entitlement of a party other than a child to continue to receive support and the amount of that support, the Supreme Court shall apply the law of the province, but if under the law of the province the party is not entitled to support, the Supreme Court shall apply
(a) the law of the jurisdiction in which the party is ordinarily resident; or

(b) if the party is not entitled to support under the law of the jurisdiction referred to in clause (a), the law of the jurisdiction in which the parties last maintained a common habitual residence.

30. (1) On the conclusion of a hearing, the Supreme Court may, in respect of a party or a child, or both, Powers of court

- (a) make a support variation order;
- (b) make an interim support variation order and adjourn the hearing to a specified date;
- (c) adjourn the hearing to a specified date without making an interim support variation order; or
- (d) refuse to make a support variation order.

(2) The Supreme Court may make a support variation order that is retroactive. Retroactive order

(3) A support variation order may require support to be paid in periodic payments or as a lump sum, or both. Types of payment

(4) If the Supreme Court refuses to make a support variation order, the Supreme Court shall give reasons for its order. Reasons for refusal

31. (1) If a respondent does not appear as required in the notice or does not provide the information or documents required under clause 27(1)(b), the Supreme Court may make an order in the absence of the respondent or of the information or documents and in making the order may draw any inference it considers appropriate. Order in absence of respondent

(2) Where a respondent does not appear as required, the Supreme Court shall, in accordance with the regulations, send a copy of the order to the respondent. Respondent does not appear

32. The designated authority shall, as soon as practicable, forward a certified copy of an order made under this Division and reasons, if any, to the appropriate authority in the reciprocating jurisdiction in which the applicant is ordinarily resident and if the support order was originally made in another reciprocating jurisdiction, to the appropriate authority in that jurisdiction. Copy to reciprocating jurisdiction

DIVISION 3 VARIATION OF REGISTERED ORDERS

33. (1) The Supreme Court, after taking into account any right of a government or agency of a government under section 37, may vary a support order registered in the province under Part II or the former Act Jurisdiction

- (a) if both the applicant and respondent accept the Supreme Court's jurisdiction;

(b) if both the applicant and respondent are ordinarily resident in the province; or

(c) if the respondent is ordinarily resident in the province and the support order was registered by the applicant under Part II or the former Act.

Family Law Act
applies

(2) The *Family Law Act* R.S.P.E.I. 1988, Cap. F-2.1 applies for the purposes of varying a support order under the circumstances referred to in subsection (1), as if the order being varied was an order for support made under that Act.

PART IV APPEALS

Appeal

34. (1) Subject to subsections (2) and (3), a party to a proceeding under this Act or the designated authority may appeal to the Supreme Court - Appeal Division any ruling, decision, or order of the Supreme Court under this Act.

Commencing
appeal

(2) An appeal shall be commenced within 90 days after the date the ruling, decision, or order of the Supreme Court appealed from is entered as a judgment of the Supreme Court, unless the period is extended by the Supreme Court - Appeal Division either before or after the appeal period has expired.

Responding to
appeal

(3) A person responding to an appeal under subsection (2) may appeal a ruling, decision or order in the same proceeding within 30 days after receipt of the notice of the appeal.

Order not stayed

(4) An order under appeal remains in force pending the determination of the appeal unless the Supreme Court or the Court of Appeal orders otherwise.

Notification of
division

(5) The designated authority shall notify the appropriate authority in the reciprocating jurisdiction of the decision on the appeal.

PART V GENERAL

Director is
designated authority

35. (1) The Director is a designated authority for the purposes of this Act.

Other designated
authorities

(2) The Attorney General may appoint one or more persons in addition to the Director to act as a designated authority in the province for the purposes of this Act.

(3) The Director or other person designated under subsection (2) may, in writing, delegate any power or duty under this Act to any other person or persons. Delegation

36. (1) On receipt of an order or document for transmission under this Act to a reciprocating jurisdiction, the designated authority shall transmit the order or document to the appropriate authority of the reciprocating jurisdiction. Transmission of documents

(2) If the reciprocating jurisdiction requires an order or document to be translated into a language other than English or French, the person for whom the order or document is being transmitted shall provide the required translation together with a certificate of the translator authenticating the accuracy of the translation. Translation if not English or French

37. Any government or agency of a government that is providing or has provided social assistance to a person has the same rights as that person to commence or participate in proceedings under this Act for any of the following purposes: Subrogation

- (a) obtaining support or a variation of support;
- (b) responding to an application for a variation of support payments or arrears under a support order;
- (c) responding to an application to suspend enforcement of support payments or arrears under a support order;
- (d) making or responding to an application to the Supreme Court to set aside the registration of a foreign order under section 18;
- (e) appealing or responding to an appeal of a ruling, decision or order of the Supreme Court or the Supreme Court - Appeal Division under this Act;

and has the right to seek an order of reimbursement of the social assistance provided to that person by the government or agency of the government.

38. If, in a proceeding under this Act, a document from a reciprocating jurisdiction contains terminology different from the terminology in this Act or contains terminology or is in a form different from that customarily in use in the Supreme Court, the Supreme Court shall give a broad and liberal interpretation to the terminology or form so as to give effect to the document. Terminology

39. (1) In a proceeding under this Act, Law of reciprocating jurisdiction

- (a) the Supreme Court shall take judicial notice of the law of a reciprocating jurisdiction and, where required, apply it; and
- (b) an enactment of a reciprocating jurisdiction may be pleaded and proved for the purposes of this Act by producing a copy of the enactment received from the reciprocating jurisdiction.

Official documents	(2) In a proceeding under this Act, a document purporting to be signed by a judge, officer of a court or public officer in a reciprocating jurisdiction is, unless the contrary is proved, proof of the appointment, signature and authority of the person who signed it.
Evidence	(3) Statements in writing sworn to by the maker, depositions or transcripts of evidence taken in a reciprocating jurisdiction may be received in evidence by the Supreme Court under this Act.
Other remedies	40. This Act does not impair any other remedy available to a person, the province, another province or territory of Canada, a jurisdiction outside Canada or a political subdivision or official agency of a province or territory of Canada or of a jurisdiction outside Canada.
Regulations declaring reciprocating jurisdiction	41. (1) If the Lieutenant Governor in Council is satisfied that laws are or will be in effect in a jurisdiction for the reciprocal enforcement of support orders made in the province on a basis substantially similar to this Act, the Lieutenant Governor in Council may make regulations declaring that jurisdiction to be a reciprocating jurisdiction.
Conditions on declaration	(2) In declaring a jurisdiction to be a reciprocating jurisdiction under subsection (1), the Lieutenant Governor in Council may impose any conditions with respect to the enforcement and recognition of support orders made or registered in that jurisdiction.
Revocation of declaration	(3) The Lieutenant Governor in Council may, by regulation, revoke any declaration made under subsection (1) and the jurisdiction with respect to which the declaration was made ceases to be a reciprocating jurisdiction for the purposes of this Act.
Regulations	(4) The Lieutenant Governor in Council may make regulations <ul style="list-style-type: none"> (a) respecting information or documents required for the purposes of this Act; (b) respecting the service or giving of documents required under this Act; (c) respecting the giving of notices under section 18; (d) respecting proceedings under this Act; (e) respecting forms for the purposes of this Act; (f) respecting the conversion of the amounts of support to Canadian currency; (g) respecting any other matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent of this Act.
Transitional	42. (1) An order made or registered under the former Act continues to be valid and in force, and may be varied or enforced or otherwise dealt with under this Act.

(2) Where notice of proceedings to consider a provisional order or a provisional order for variation or notice of registration of a final order is given to the respondent before the coming into force of this Act, the provisional order, provisional order for variation or application to set aside the registration of a final order shall be dealt with in accordance with the former Act as if the former Act had not been repealed.

Notice given under former Act

(3) An application for a provisional order or a provisional order for variation by a person ordinarily resident in the province under the former Act, made before the coming into force of this Act, may be continued as if the former Act had not been repealed.

Application under former Act

(4) Where, on the coming into force of this Act, a final order received for registration under the former Act has not been registered in the Supreme Court, the final order shall be dealt with in accordance with this Act as if it were an extra-provincial order or foreign order, as the case may be, received under Part II of this Act.

Final order not registered under former Act

(5) Where a provisional order or a provisional order for variation was received under the former Act and notice of proceedings to consider the order had not been given to the respondent on the coming into force of this Act, the provisional order or provisional order for variation shall be dealt with in accordance with this Act as if the order was received under Part I or Part III of this Act, as the case may be.

Notice not given under former Act

43. The *Reciprocal Enforcement of Maintenance Orders Act* R.S.P.E.I. 1988, Cap. R-7 is repealed.

Repeal

44. This Act comes into force on a date to be fixed by proclamation of the Lieutenant Governor in Council.

Commencement

EXPLANATORY NOTES

This Bill is a new Act that replaces the *Reciprocal Enforcement of Maintenance Orders Act*.

SECTION 1 is the definition section.

SECTION 2 defines respondent.

SECTION 3 specifies the application of Part I, which deals with claims where no support order already exists.

SECTION 4 provides for a support application to be made by a resident of the province against a resident of a reciprocating jurisdiction.

SECTION 5 deals with the submission of the support application to the designated authority in the reciprocating jurisdiction.

SECTION 6 allows for a claimant to apply for a provisional order, which is then sent for confirmation to the reciprocating jurisdiction.

SECTION 7 defines support application.

SECTION 8 deals with orders made in the absence of the respondent.

SECTION 9 deals with support applications originating from a reciprocating jurisdiction and service on the respondent.

SECTION 10 deals with determination of parentage.

SECTION 11 deals with the laws that are applicable to child support.

SECTION 12 deals with the powers of the Supreme Court.

SECTION 13 deals with orders made in the absence of the respondent.

SECTION 14 requires that a certified copy of a court order and reasons be sent to the reciprocating jurisdiction.

SECTION 15 provides definitions applicable to Part II, which deals with the registration and enforcement of orders made outside the province.

SECTIONS 16 and 17 deal with the receipt by the designated authority of an extra-provincial order or a foreign order and the effect of registration.

SECTION 18 deals with notification of a party to the order and the continuation or setting aside of the registration.

SECTION 19 deals with setting aside the registration of a foreign order.

SECTION 20 deals with conversion to Canadian currency of the amount of support requested in foreign orders.

SECTION 21 deals with the translation of a foreign order or document that is written in a language other than English or French.

SECTION 22 provides definitions applicable to Part III, which deals with variation of a support order.

SECTION 23 deals with a support variation application by an applicant who resides in the province.

SECTION 24 requires the submission of a support variation application to a designated authority in a reciprocating jurisdiction.

SECTION 25 deals with a provisional order of variation and the confirmation of a provisional order of variation.

SECTION 26 is a definition of a support variation application.

SECTION 27 provides for service of a support variation application on a respondent.

SECTION 28 deals with the hearing of a variation application, evidence and interim support variation orders.

SECTION 29 deals with the applicable laws on an application for support.

SECTION 30 deals with the powers of the Supreme Court on an application.

SECTION 31 provides for an order to be made in the absence of a respondent.

SECTION 32 provides for a copy of an order to be sent to an appropriate authority in a reciprocating jurisdiction.

SECTION 33 provides for variation of a registered order.

SECTION 34 provides for appeals.

SECTION 35 provides that the Director of Maintenance Enforcement is a designated authority under this Act and provides for the appointment of additional designated authorities.

SECTION 36 provides for the transmission of documents.

SECTION 37 gives the right of subrogation to a social assistance-providing agency.

SECTION 38 clarifies the use of terminology.

SECTION 39 deals with the law of a reciprocating jurisdiction.

SECTION 40 provides that the Act does not impair other remedies available to a person.

SECTION 41 provides for the Lieutenant Governor in Council to make regulations declaring other jurisdictions to be reciprocating jurisdictions, and other regulations.

SECTION 42 contains transitional provisions.

SECTION 43 repeals the *Reciprocal Enforcement of Maintenance Orders Act*.

SECTION 44 is the commencement section.

BILL NO. 12

Interjurisdictional Support Orders Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	November 26, 2002
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

Honourable Jeffrey E. Lantz
Attorney General

GOVERNMENT BILL