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**ENFORCEMENT OF FAMILY LAW
ORDERS AND AGREEMENTS:
LAW AND PRACTICE**

**Wilton & Miyauchi
Release No. 2, May 2022**

Publisher's Special Release Note 2022

The pages in this work were reissued in October 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the October 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the authors deem them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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This practice-oriented manual details the full range of family law enforcement remedies available under federal and provincial legislation. The work is divided into three parts: Support, Custody Orders and Separation Agreements. Under each part, available enforcement remedies are described in detail with an emphasis on practice and procedure points. The full text of all relevant federal, provincial and territorial enforcement legislation is included.

What's New in this Update

This release includes numerous updates to Chapter 1 — Support, Part II. (Legislative Initiatives — Commentary).

Highlights

- **Chapter 1 — Support — Family Orders and Agreements Enforcement Assistance Act — Evidence Required for Court Applications under s. 7** — On June 21, 2019, Bill C-78, which amends the *Divorce Act* and other acts including the *Family Orders and Agreements Enforcement Assistance Act*, received Royal Assent. Most of the amendments came into force on March 1, 2021, but some of the *FOAEAA* amendments are not in force at the time of writing. Bill C-78 replaces a large part of Part I of the *FOAEAA* and provided particular rules for the release of information. The forthcoming changes in s. 7 state that any person, body or service that is seeking to have a support provision established or varied or that is entitled to have a family provision enforced may, on application, which may be *ex parte*, request that a court authorize an official of the court to make an application under s. 12. The forthcoming changes to s. 8 outline the required evidence and documents for parties seeking to make an application in relation to the establishment or variation of a support provision. The forthcoming changes to s. 9 outline the required evidence and documents for parties seeking to make an application in relation to the enforcement of a family provision. The forthcoming changes also enumerate that both applications under s. 8 (support provisions) and s. 9 (family provisions) can be brought *ex parte*. The additional requirements for *ex parte* applications can be found in section 8 and section 9 under subsection 2 and if the application is being made by an individual further documents at subsection 3.
- **Chapter 1 — Support — Family Orders and Agreements Enforcement Assistance Act — Licence Denial** — Pursuant to section 71, Notwithstanding the provisions of any other Act of Parliament, of any regulation or order made under any other Act of Parliament or of any order made pursuant to a prerogative of the Crown, no appeal lies from any action taken under this Part.” Section 72 outlines how a request to terminate applications under Part III can be made. Subsection 72(1) states that “A provincial enforcement service shall immediately request that all actions taken under this Part in respect of a debtor be terminated where (a) the provincial enforcement service is satisfied that the debtor (i) is no longer in arrears under all support orders against the debtor that are enforced by a licence denial application, (ii) is complying, in respect of those support orders, with a payment plan that

the provincial enforcement service considers reasonable, or (iii) is unable to pay the amount in arrears and that the application of this Part against the debtor is not reasonable in the circumstances; or (b) the provincial enforcement service ceases to enforce those support orders against the debtor.” There is considerable case law that suggests there is jurisdiction for the court to issue a refraining order preventing the suspension of federal license or passport in limited circumstances. In *McLarty v. Ontario (Family Responsibility Office)*, 2001 CarswellOnt 539 (Ont. C.A.), Justice Laskin considered the jurisdictional issue regarding the suspension of federal licenses and concluded that although a refraining motions is not an appeal within the meaning of s. 71 of the *FOAEA* and the court retained jurisdiction to make an order concerning federal licenses, the right to interfere with the director’s discretion is narrow at best.

ProView Developments

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