

PRACTICE DIRECTION

COURT OF KING'S BENCH OF MANITOBA

RE: AMENDMENTS TO THE *FAMILY ORDERS AND AGREEMENTS ENFORCEMENT ASSISTANCE ACT*

On February 1, 2024, I issued a Practice Direction advising that amendments to Part I of the *Family Orders and Agreements Enforcement Assistance Act* (Canada), R.S.C., 1985, c. 4 (2nd Supp.) (“*FOAEAA*”) and the *Release of Information for Family Orders and Agreements Enforcement Assistance Regulations*, SOR/2023-125 (“*Regulation*”) came into force on November 15, 2023.

Those amendments to Part I of the *FOAEAA* permit the search, and release of, tracing information for a person (i.e. address and employer’s name and address) and/or financial information (i.e. Income Tax Return T1) from designated federal information banks.

On November 15, 2024, the remaining provisions of the *FOAEAA* Part I Regulations concerning release of further financial information came into effect.

Section 5(1)(c) and (d) of the *Regulation* sets out the financial information that may be released with respect to an application for establishment or variation of support. It includes:

- Income Tax and Benefit Return (T1), including the schedules
- Notice of Assessment and Notice of Reassessment
- Statement of Trust Income Allocations and Designations (T3)
- Statement of Remuneration Paid (T4)
- Statement of Pension, Retirement, Annuity, and Other Income (T4A)
- Statement of Old Age Security (T4A(OAS))
- Statement of Canada Pension Plan Benefits (T4A(P))
- Statement of Distributions from a Retirement Compensation Arrangement (RCA) (T4A-RCA)
- Statement of Employment Insurance and Other Benefits (T4E) or Statement of Employment Insurance and Other Benefits (Quebec) (T4EQ)
- Statement of Employee Profit-Sharing Plan Allocations and Payments (T4PS)
- Statement of Income from a Registered Retirement Income Fund (T4RIF)
- Statement of RRSP Income (T4RSP)
- Statement of Investment Income (T5)
- Statement of Real Estate Rentals (T776)
- Statement of Employment Expenses (T777)
- Government Service Contract Payments (T1204)
- Statement of Farming Activities (T2042) and documents related to the AgriStability and AgriInvest programs
- Statement of Fishing Activities (T2121)

- Statement of Business or Professional Activities (T2125)
- Declaration of Conditions of Employment (T2200)
- Statement of Benefits (T5007)
- Statement of Securities Transactions (T5008)
- Statement of Partnership Income (T5013)
- Statement of Contract Payments (T5018)
- Corporation Income Tax Return (T2) and schedules where the named person controls the corporation, directly or indirectly in any manner whatsoever, within the meaning of subsection 256(5.1) of the *Income Tax Act*

Not all of the information listed in the Regulation is available from CRA at this time.

The court forms for an application for establishment or variation of support pursuant to the *Family Orders and Agreements Enforcement Assistance Act* have been revised to include new information that is currently available. Further updates to these forms will be made as further information listed in s. 5(1) of the Regulation becomes available.

As stated in my Practice Direction, an application pursuant to the *Family Orders and Agreements Enforcement Assistance Act* is excluded from the Case Management process pursuant to King's Bench Rule 70.24(4)(i).

Court Applications

A party may file a *FOAEAA* application for the purpose of establishing, varying, and enforcing child and spousal support or enforcing a parenting, contact, custody, or access order.

The application requests an order from a judge under section 10 authorizing a court official to apply to the Minister of Justice for Canada for the release under section 12 of:

- (i) a support payor's or recipient's tracing information (address and employer's name and address) and/or their financial information to establish, or vary or enforce a child and/or spousal support provision in an interim or final order;
- (ii) the address of a person and/or child and/or the name or address of the employer of the person and/or the child to enforce an order related to parenting, contact, custody, and access.

The application also requests an order that upon receipt of the information by the court, that the information be disclosed to the applicant or their lawyer for the purpose of the application (s.13(3)).

Filing Requirements

A Petition, Petition for Divorce, Notice of Motion to Vary, or such other initiating pleading must be filed where the purpose of the *FOAEAA* application is to establish or vary a support order.

The following documents are required to be filed concurrently for a *FOAEAA* desktop application:

- *FOAEAA* application
- Affidavit
- Proof of service (if not *ex parte*)
- Court Order authorizing the request that Justice Canada release information and adjourning the request to disclose the information
- Court Order ordering the disclosure of the information received

Court Process

The application and supporting affidavit are served on the other party. If opposed, the other party will file a responding affidavit. The application may be made on an *ex parte* basis (e.g. tracing information where the location of a party is unknown).

The *FOAEAA* application is heard as a desk top application.

Where the court grants an order authorizing a court official (the Registrar) to apply to the Minister of Justice for Canada for the requested information, the party's request to release the information received by the court to the party is adjourned pending receipt of the information.

On receipt, the Registrar will seal the information and provide the information to the judge who may make an order that:

1. the information received be disclosed to the applicant without conditions;
2. the information be disclosed to the party's lawyer or another third party on the basis that the information be kept confidential or make such other use as is required (s.13(3));
3. partial disclosure of the requested information be granted (financial information but not tracing information); or
4. the information received not be disclosed to the moving party.

Where the application is made *ex parte*, the Minister of Justice for Canada has an obligation to notify the other party of the order authorizing the release of information to the court unless the court orders otherwise (s. 12.1).

Court of King's Bench Forms (FOAEAA)

The FOAEAA forms, which are non-prescribed, court approved forms, are located on the Manitoba Court's website. There are four sets of forms; each set is comprised of four forms, as follows:

Form	Title
	Locate Request to Establish or Vary Support Order – Ex Parte
1a	FOAEAA Application
1b	FOAEAA Affidavit
1c	FOAEAA Order Authorization
1d	FOAEAA Order Disclosure
	Financial Request to Establish or Vary Support Order
2a	FOAEAA Application
2b	FOAEAA Affidavit
2c	FOAEAA Order Authorization
2d	FOAEAA Order Disclosure
	Locate Request to Enforce an Order for parenting, contact, custody or access
3a	FOAEAA Application
3b	FOAEAA Affidavit
3c	FOAEAA Order Authorization
3d	FOAEAA Order Disclosure
	Locate/Financial Request to Enforce an Order for support
4a	FOAEAA Application
4b	FOAEAA Affidavit
4c	FOAEAA Order Authorization
4d	FOAEAA Order Disclosure

FOAEAA Applications: Purpose and Information

The following is a concise summary of the purpose and information sought respecting FOAEAA Applications:

Form 1a: Locate Request to Establish or Vary Support Order – Ex Parte

- Application where a party has filed an initiating pleading for support or a notice of motion to vary a support order and cannot locate the other party.
- Request address and the name and address of their employer.

Form 2a: Financial Request to Establish or Vary Support Order

- Application where a party has filed an initiating pleading for support or a notice of motion to vary a support order, and the other party:
 - (i) has failed to provide their financial information in the timeframe required by an order or direction of a judge or associate judge, or
 - (ii) has been noted in default.
- Request financial information in s.5(1)(c) and (d) of the Regulation, the name and address of their employer, and/or financial information of third party(ies) for determination of household income in accordance with the Child Support Guidelines.

Form 3a: Locate Request to Enforce an Order for Parenting, Contact, Custody or Access

- Application where a party has an interim or final order for parenting, contact, custody or access and cannot locate the other party believed to have the child(ren) with them.
- Request address of other party, the name and address of their employer, the address of the child(ren) believed to be with the other party, the name and address of the child's(ren's) employer.

Form 4a: Locate/Financial Request to Enforce an Order for Support

- Application where a party has an interim or final support order and cannot locate the other party, and/or requires the other party's financial information to enforce the support order where the order is not registered with the Maintenance Enforcement Program.
- Request address of other party, the name and address of their employer, and/or their federal tax returns.

Coming into effect

This Practice Direction comes into effect immediately.

ISSUED BY:

“Original signed by Associate Chief Justice Hatch”

**The Honourable Associate Chief Justice Gwen B. Hatch
Court of King's Bench of Manitoba**

DATE: May 16, 2025