

Statement of Arrears

Instructions

1. Complete the Statement of Arrears form in pen only, if any support payments are owing to you at this time. The Family Responsibility Office will begin the process of collecting these missed support payments (called arrears) for you. A copy of this form will be provided to the support payor and this form becomes a court document if we take action to enforce support payments. It must therefore be signed in front of a Commissioner of Oaths, Justice of the Peace or Notary Public. A Commissioner is available at all court offices, community legal clinics and municipal or township offices. A Commissioner is also available at most law offices.
2. To complete the calculations on the Statement of Arrears form write the date on which you were supposed to receive a support payment, starting with the first payment missed. The due dates for payment are found in your support order / agreement. If there is no due date, use the date of the order / agreement itself to calculate dates payments are due. Then indicate if the payment was missed completely or if it was paid in part. List every support payment due after that, indicating if the payment was missed or paid in part or in full. You must use a separate line for each payment. If you need more room, fill in "Schedule A" and attach it to the Statement of Arrears. We will try to collect the total amount of arrears you claim are owing to you on this form.
3. If the arrears you are claiming include interest, please note that the Family Responsibility Office will only take enforcement action on interest that has accrued as a result of the support payor's failure to comply with the support order. Where funds are being remitted to the Family Responsibility Office pursuant to a support deduction order or garnishment, the support payor has no control over the schedule of payments by the income source or garnishee and, therefore, the Family Responsibility Office will not enforce any interest owing for delays in the receipt of support payments. To claim interest, please see **Instructions for Completing Interest Calculations**.
4. Some support orders and agreements say that support payments must be changed on a regular basis to reflect changes in the cost of living over the previous year. These provisions are called Cost of Living Adjustment clauses (COLA). A COLA clause provides for the increase or decrease in the amount of support payments. In order to be enforced by the Family Responsibility Office, support orders that contain a cost of living adjustment clause must follow either the standard formula set out in Section 34(5) of the Ontario *Family Law Act* or Ontario *Regulation 176/98*.

Under the *Family Law Act*, the COLA is increased annually on the support order's anniversary date by the indexing factor for November of the previous year. The indexing factor for a given month is the percentage change in the Consumer Price Index for Canada for prices for all items since the same month of the previous year, as published by Statistics Canada.

Under *Regulation 176/98*, the following COLA clauses will be enforced by the Family Responsibility Office:

- clauses which apply cost of living adjustments derived from any part of the Consumer Price Index (CPI);
 - clauses which contain a calculation applying a specific rate of increase or decrease in support order or support deduction order;
 - clauses made in accordance with methods specified in Quebec legislation dealing with cost of living adjustments in support orders;
 - clauses which contain a calculation by applying the greater or lesser of:
 - I. percentage change in the payor's or recipient's income
AND
 - II. percentage change in the Consumer Price Index (CPI).
5. If the arrears you are claiming are not for regular on-going support, but are for expenses, please note:
 - Depending on the terms of your Order or Agreement, these types of expenses may or may not be enforceable by the Family Responsibility Office.
 - If the Order / Agreement doesn't include a clear requirement to pay or reimburse these expenses, they are likely not enforceable. If the expenses are enforceable, the Family Responsibility Office requires a sworn Statement of Arrears, including the receipts.

Instructions for Completing Interest Calculations

Please note that the Family Responsibility Office will **only** take enforcement action on interest that has accrued as a result of the support payor's failure to comply with the support order. Where funds are being remitted to the Family Responsibility Office pursuant to a support deduction order or garnishment, the support payor has no control over the schedule of payments by the income source or garnishee and, therefore, the Office will not enforce any interest owing for delays in the receipt of support payments.

When determining the amount of interest owed to you, you should know the following:

- i. If your Ontario support order is dated after June 21, 1979, the interest rate must be stated in the order. For Ontario orders made before June 22, 1979, the rate of interest is five percent (5%) and does not have to be stated in the order.
- ii. Prior to January 1, 1985, the Provincial Court (Family Division) could not award interest.
- iii. Under the Courts of Justice Act, interest accruing on a debt is simple interest and not compound interest.
- iv. Where the court provides that support be paid on a periodic basis (e.g. \$500.00 / month), each payment in default will bear interest from the date that the payment was due. Therefore, the interest owing for each missed support payment must be calculated separately.
- v. Interest can be calculated by using the following formula:

$$\frac{\text{Principal} \times \text{Interest Rate} \times \text{Number of Days the Payment is in Arrears}}{365 \text{ days}}$$

Where

The principal is the outstanding individual support payment.

The Interest Rate, established by the *Courts of Justice Act* or its predecessor, is the rate that was in effect on the date that the court made the support order.

Example

On January 27, 1992 the court made an order for support in the amount of \$500.00 / month. The support payor has failed to make support payments for the months of July and September, 1992. The prescribed rate of interest for the first quarter of 1992 is 9%. As of October 1, 1992, the accrued interest is calculated as follows:

$$\text{Interest on July's payment is:} \quad 500 \times 9\% \times \frac{92}{365} = \$11.34$$

$$\text{Interest on September's payment if} \quad 500 \times 9\% \times \frac{30}{365} = \$3.70$$

$$\text{Total Interest} = \quad \$11.34 + \$3.70 = \$15.04$$



Statement of Arrears

Case Number

Support Recipient's Name
Payor's Name

1. I am the support recipient under the following:

Order

Date of Order Court Court File Number

Agreement filed with the Court

Date of Agreement Court Agreement Filed With Court File Number

2. The following amounts due under the order / agreement have not been paid. (If you need more space, complete "Schedule A".)

Check if applicable. See "Schedule A" attached

Table with 5 columns: Date Payment Due Day/Month/Year, Amount Due, Date Paid Day/Month/Year, Amount Paid, Arrears

If you are entitled to interest on your support, you must calculate the interest amount. Attach a copy of your calculations.

If you are entitled to a COLA adjustment to your support, you must include the adjustment in the amount due. Attach a copy of your calculations.

Total Arrears \$ (a)
Total Interest to date (if any) \$ (b) Applicable interest rate used %
My arrears as at Date TOTAL \$ (c) (Add A and B)

You must sign this form in the presence of a lawyer, justice of the peace, notary public or commissioner for taking affidavits

Sworn before me at the of in
the of
this day of , 20

