

Application for exemption under section 3

of the Act to facilitate the payment
of support

Application for exemption under section 3 of the Act to facilitate the payment of support

This document is intended for spouses or ex-spouses who agree to request that support be paid directly to the creditor of support. If this is your case and your agreement complies with the Act, you may ask the special clerk of the Superior Court to homologate your agreement without having to appear in court. To do so, you must submit a joint application for exemption under section 3 of the Act to facilitate the payment of support by following the instructions contained in this document.

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► **Definitions**

Homologation

Approval, official confirmation of an agreement with a view to having it recognized as a legal document equivalent to a judgment.

Security

A guarantee provided by a person to ensure compliance with an obligation, such as a contract of suretyship, deposit certificate, bond certificate or promissory note.

► **Introduction**

Since the coming into force of the Act to facilitate the payment of support, the spouse who must pay support (debtor of support) must make the payment to Revenu Québec for the benefit of the spouse entitled to receive it (creditor of support). The Act may exempt a debtor from the obligation, on certain conditions, and allow the support to be paid directly to the creditor of support.

Excerpts from the Act to facilitate the payment of support

Sec. 2 The debtor of support shall make his support payments, including arrears, if any, to the Minister of Revenue for the benefit of the creditor of support.

Sec. 3 The court may exempt a debtor of support from the obligation under section 2, in the following cases:

1° where the debtor of support establishes a trust guaranteeing the payment of the support;

2° where the parties make a joint application therefor, the court is satisfied that the parties have given free and enlightened consent and the debtor furnishes sufficient security to guarantee support payments for one month.

To satisfy itself that the parties have given free and enlightened consent, the court may summon and hear the parties, even separately, in the presence of their attorneys, where applicable.

Sec. 5 The exemption granted by the court ceases to have effect for the duration of the obligation of support:

1° where it is ascertained by the Minister that the debtor of support has failed to establish the trust or furnish and maintain the security;

2° where it is ascertained by the Minister, on application by the creditor of support, that the debtor of support has failed to make a support payment when due;

3° where the parties make a joint application therefor.

The applications shall be transmitted to the Minister by registered or certified mail, accompanied with the information and documents prescribed by regulation.

This document is not a complete guide providing all the answers, but rather a simple tool designed to help you and your spouse or ex-spouse file a joint application for exemption under section 3 of the Act to facilitate the payment of support. It contains information and an example of proceedings.

The proceeding may appear simple, however, each spouse must be capable of carefully analyzing all the consequences, personal and financial, involved in the signing of the agreement. If you are unfamiliar with the nature of your rights and obligations, you should seek legal counsel. If you have any questions concerning this document, you should consult a legal adviser, since the courthouse staff cannot give you any further information.

► **Payment of support directly to the creditor of support**

Under the Act, the debtor of support may pay support directly to the creditor of support rather than to Revenu Québec in two cases:

- if the debtor establishes a trust to guarantee the payment of support and sends a copy of the trust deed to Revenu Québec within 30 days of the judgment;
- if the parties file a joint application for exemption under section 3 of the Act to facilitate the payment of support. They must convince the court that they have given free and enlightened consent and may be summoned to a court hearing, together or separately, to ensure that the consent is free and enlightened. The debtor must provide Revenu Québec with sufficient security to guarantee support payments for one month within 30 days of the judgment.

You may file a joint application for exemption during the proceedings or after the amount of the support payments has been established by a court decision. In the latter case, you must prepare an application and an agreement according to the models provided in the following text. It is recommended that you inform Revenu Québec of your intent, so that your file is kept up to date.

For general enquiries concerning the security or the Act to facilitate the payment of support, you may contact Revenu Québec at 418 652-4413 or 1 800 488-2323.

► **Filing of the application at the office of the Superior Court**

Once you have drawn up the documents required in order to file your application, you must go to the office of the Superior Court at the courthouse of the judicial district where your support judgment was rendered.

When you file your application, you will have to pay the related costs:

- in cash;
- by debit or credit card;
- by certified cheque payable to the Minister of Finance;
- by postal money order or bank order payable to the Minister of Finance.

The payment of this fee will be confirmed by the clerk on your application. If you are eligible for legal aid, you will be exempted from paying these costs upon presentation of your certificate of eligibility.

NOTICE : You must write the file number on your proceedings before going to the office of the Superior Court.

If your application is filed in the same district where the support judgment was rendered, the file number will be the one appearing on the judgment.

If both you and your spouse or ex-spouse no longer reside in the district where the judgment was rendered, you may file your application before the court of the district where either of you resides. In this case, the court clerk will assign a file number at the time the application is filed. Copies of prior judgments and proceedings relating to previous applications must accompany the application.

► **Judgment**

If your file is complete, your agreement can be homologated by the special clerk upon examination of the file. Each party will be sent a copy of the judgment by mail as soon as it is rendered.

► Explanatory notes

These explanatory notes refer to the proceedings models numbered 1 to 4 designed to assist individuals in preparing and filing a joint application for exemption under section 3 of the Act to facilitate the payment of support on their own and to the form Statement required under Article 444 of the Code of Civil Procedure.

The note numbers appearing in the models indicate that additional information is available in the note to which a number refers.

1

All proceedings must be drawn up on one side of a white letter sized sheet 21.25 cm x 28 cm (8.5" x 11").

2

All proceedings must be legibly written; they are usually typewritten.

3

You must follow the proposed layout (for example, the indications on the left must remain on the left).

4

The information in bold type in the models, such as the name of the judicial district of Laval, is given as an example. You must adapt it to your own personal situation and to the allegations in your application.

5

In cases of separation from bed and board, annulment or dissolution of a civil union and joint applications by de facto spouses, the word "Divorce" must not appear in the heading of the proceeding on Models 1 and 3.

6

A sworn statement is a statement in which you attest to the truth of the facts mentioned in the statement and the facts contained in your application, and that you sign in the presence of a person accredited to administer oaths. Each party must file a sworn statement.

By virtue of their status, the following persons are authorised to receive oaths: court clerks and their assistants, lawyers, mayors, clerk and secretary-treasurers of municipalities and justice of the peace.

7

You must prepare a separate backing sheet for each document or evidence accompanying a proceeding and attach it to the back of your proceeding. The backing sheet is attached, with the writing facing outward, to the document it pertains to and becomes the last page of the document. As you can see on the model, when folded, it will allow the proceeding to be identified.

8

You must complete the form Statement required under Article 444 of the Code of Civil Procedure and include it with your application.

► **Model 1 – Joint application**

Canada
PROVINCE OF QUÉBEC
District of **Laval**

SUPERIOR COURT
Family Division
(Divorce)

5

N° :

1 2 3 4

Dominique Cantin, office clerk
domiciled at 144, boul. Laplante
Laval (Québec) J0T 9D8

Joint Applicant

and **Denis Tremblay, administrative technician**
domiciled at 33, avenue Concordia
Laval (Québec) J0A 5C4

Joint Applicant

JOINT APPLICATION FOR EXEMPTION UNDER SECTION 3
OF THE ACT TO FACILITATE THE PAYMENT OF SUPPORT
(article 728 of the Code of Civil Procedure)

The applicants state the following:

1. The applicants are **divorced** under the terms of a judgment rendered on **February 2, 2011**;
2. This judgment provides for child support payments of **\$400 a month** for the minor children of the parties, **payable on the first of each month**;
3. The parties have filed with this application an agreement to allow the debtor to be exempted from having to pay to Revenu Québec, for the benefit of the creditor, child support as established in the **February 2, 2011** judgment;
4. The parties have given free and enlightened consent, and the debtor has agreed to provide the Minister of Revenue with sufficient security to guarantee the payment of support for one month within 30 days of the judgment on this application.

WHEREFORE, MAY IT PLEASE THE COURT TO:

GRANT this application;

HOMOLOGATE the agreement reached on **June 15, 2011** allowing the debtor of support to be exempted from the obligation to pay to Revenu Québec, for the benefit of the creditor, the support payable according to the **February 2, 2011** judgment;

THE WHOLE without costs.

Signed at **Laval** on **July 29, 2011**

Joint Applicant

Joint Applicant

SWORN STATEMENT **6**

I, the undersigned, **Dominique Cantin, office clerk, domiciled at 144, boul. Laplante in Laval**, declare under oath that:

1. I am one of the Joint Applicants;
2. I understand the consequences of the judgment to be handed down on the present joint application. I have given my free and enlightened consent.

All the facts alleged in the joint application for exemption under section 3 of the Act to facilitate the payment of support are true.

And I have signed at **Laval**, on **July 29, 2011**

Joint Applicant

Sworn to before me at **Laval**, on **July 29, 2011**

Person authorized to administer oaths

AFFIDAVIT **6**

I, the undersigned, **Denis Tremblay, administrative technician, domiciled at 33, avenue Concordia in Laval**, declare under oath that:

1. I am one of the Joint Applicants;
2. I understand the consequences of the judgment to be made on this joint application and give my free and enlightened consent.

All the facts alleged in the joint application for exemption under section 3 of the Act facilitating the payment of support are true.

And I have signed at **Laval**, on **July 29, 2011**

Joint Applicant

Sworn to before me at **Laval**, on **July 29, 2011**

Person authorized to administer oaths

► **Model 3 – Agreement**

Canada
PROVINCE OF QUÉBEC
District of **Laval**

SUPERIOR COURT
Family Division
(Divorce)

5

N°:

1

2

3

4

Dominique Cantin

Joint Applicant

and

Denis Tremblay

Joint Applicant

AGREEMENT

THE PARTIES AGREE TO THE FOLLOWING:

The debtor, **Denis Tremblay**, shall pay, effective on the date of the judgment homologating the present agreement, directly to the creditor, **Dominique Cantin**, the support provided for in the judgment rendered on **February 2, 2011**, as provided in section 3 of the Act to facilitate the payment of support;

The debtor agrees to provide to Revenu Québec sufficient security to guarantee the payment of support for one month within 30 days of the rendering of the judgment.

THE WHOLE without costs.

Laval, June 15, 2011

Joint Applicant

Joint Applicant

N° :

1

2

3

4

SUPERIOR COURT
Family Division
District of Laval

Dominique Cantin
Joint Applicant

AND

Denis Tremblay
Joint Applicant

Joint application and agreement for exemption
under section 3 of the Act to facilitate the payment
of support

Dominique Cantin
144, boul. Laplante
Laval (Québec) J0T 9D8

AND

Denis Tremblay
33, avenue Concordia
Laval (Québec) J0A 5C4

Please complete in block letters

IDENTITY OF THE DEPONENT:

Applicant Defendant

1 Surname(s) _____ Given name(s) _____

2 Surname at birth _____

3 Sex M F 4 Language French English

5 Residential address _____

Postal code _____ Province _____ Country _____

Telephone at home _____ At work _____ Cell phone _____

Postal address (if different) _____

Postal code _____ Province _____ Country _____

6 Date of birth _____ Social insurance number _____
Year Month Day

INFORMATION ON EMPLOYMENT AND INCOME

7 Employee Self-employed worker

Name and address of employer _____

Postal code _____ Province _____ Country _____

Remuneration _____ Language of communication French English

8 The deponent is unemployed.

9 The deponent receives last resort financial assistance benefits. File No. (CP12) _____

10 Other income (**Indicate the source and amount of each**) _____

OTHER INFORMATION

11 The name at birth of the deponent's mother _____

12 Other name(s) used by the deponent _____

13 Indicate the nature and date of the application accompanying this statement.

14 If this statement accompanies an application for revision of support, indicate the date of the judgment awarding support

_____ and the file No., if different: _____
Year Month Day

INFORMATION (IF KNOWN) CONCERNING THE OTHER PARTY

15 Residential address _____

16 Telephone at home _____ At work _____ Cell phone _____

17 Date of birth _____ Social insurance number _____
Year Month Day

STATEMENT

I declare that the information concerning myself is true and complete and I have signed

at _____ on this _____ day of _____

Signature of the deponent

**STATEMENT REQUIRED UNDER ARTICLE 444 OF THE CODE
OF CIVIL PROCEDURE (chapter C-25.01)**

Writing instructions for the deponent

The Code of Civil Procedure (chapter C-25.01) prescribes that every application relating to a support obligation must be accompanied with a statement by each party to the application with respect to that party's own situation. The information to be included is determined by regulation.

You are responsible for completing and signing the statement.

The Code of Civil Procedure prescribes that the statements filed with the court office are destroyed if no support is granted by the court or if no judgment is rendered within one year after they are filed.

It also prescribes that if support is awarded by a judgment, the information in the statements is entered in the register of support payments kept by the clerk. **Information entered in the register of support payments is confidential.**

District of: Indicate the name of the judicial district where is submitted the application relating to an obligation of support.

File No.: Indicate the file number of the application relating to an obligation of support.

Identity of the deponent: Check the square corresponding to your designation on the application relating to an obligation of support.

1 Surname, Given name

Give surname(s) and given name(s) in full.

2 Surname at birth

Please indicate even if identical to item 1.

3 Sex

Check the appropriate case.

4 Language

Check the appropriate case.

5 Residential address

Indicate in full your usual residential address.

6 Date of birth and SIN

Indicate the year, month and day of your birth and your social insurance number.

7 Employee / self-employed worker

Check the square corresponding to your main employment. Give name of employer and every other information required. Concerning your remuneration, state your salary and payment frequency (for example, every two weeks). If unemployed, check number 8.

8 Unemployed

Check if applicable.

9 Last resort financial assistance

Check if you are receiving last resort financial assistance and provide your file number at the Ministère du Travail, de l'Emploi et de la Solidarité sociale (CP12).

10 Other income

Indicate every other source of income of any kind whatever (annuities, rents, dividends, other employment, etc.). If required, use a separate sheet.

11 The name at birth of the deponent mother

Indicate your mother's surname at birth.

12 Other name(s) used by the deponent

Indicate name and/or given name by which you are known if different than those given at items 1 and 2.

13 Nature and date

Indicate the nature of the application (e.g.: application for transitory measures) to which your statement is attached and the date of such application.

14 Application for revision

If the statement is attached to an application for revision of support already determined by judgment, indicate the date of that judgment and if different, the file number in which the judgment was rendered.

15 to 17 Provide the requested information **concerning the other party, if known** (including city of residence).

Statement: Indicate the place and date and sign on the line "signature of the deponent".

► **For more information**

The information summarized in this document was valid at the time of printing. For more information, go to the website of the Ministère de la Justice at www.justice.gouv.q.ca, or contact

Ministère de la Justice du Québec
1200, route de l'Église
Québec (Québec) G1V 4M1
Phone : 418 643-5140
Toll free: 1 866 536-5140
E-mail : information@justice.gouv.qc.ca

