

**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**

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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 Sworn Statement under Article 827.5 of the Code of Civil Procedure (SJ-766A).

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** The affidavit is a declaration under oath by which you swear to the truth of the facts that are mentioned in the affidavit and in your application and that you sign before a person authorized to administer oaths. Each party must produce an affidavit.  
  
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 Sworn Statement under Article 827.5 of the Code of Civil Procedure (SJ-766A) and include it with your application. The form must be signed and sworn before a commissioner for oaths. For a list of people authorized to take oaths, see note 6, second paragraph.

► **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 814.1 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. As of the date of this application, there are no arrears in the support payments due to the creditor of support and the payments were always made as provided in the judgment determining the support;
4. 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;
5. 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

AFFIDAVIT 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 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 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

1 2 3 4

N° :

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

► **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](http://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](mailto:information@justice.gouv.qc.ca)

Please complete in block letters

IDENTITY  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 \_\_\_\_\_

Postal address (if different) \_\_\_\_\_

Postal Code \_\_\_\_\_ Province \_\_\_\_\_ Country \_\_\_\_\_

6 Date of birth \_\_\_\_\_ Social insurance number \_\_\_\_\_  
Y Y Y Y M M D D

**IIINFORMATION 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 income security benefits File No. (CP 12) \_\_\_\_\_

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 to which this statement is attached

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 \_\_\_\_\_  
Y Y Y Y M M D D

**INFORMATION (IF IT IS KNOWN) CONCERNING THE OTHER PARTY**

15 Residential address \_\_\_\_\_

16 Telephone at home \_\_\_\_\_ At work \_\_\_\_\_

17 Date of birth \_\_\_\_\_ Social insurance number \_\_\_\_\_  
Y Y Y Y M M D D

**SWORN STATEMENT**

I declare that the information given is true and complete, and I have signed

At \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

Deponent

Sworn before me at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

Person authorized to administer oath

**SWORN STATEMENT UNDER ARTICLE 827.5 OF THE  
CODE OF CIVIL PROCEDURE OF QUÉBEC**

**Writing instructions for the deponent**

The **Act to facilitate the payment of support** prescribes that every application relating to an obligation of support must be accompanied with this statement, completed by each party thereto, concerning his own situation. The information required therein is determined by regulation.

You are responsible for completing the statement in full, for signing it and for making a sworn statement on its contents.

**The Act stipulates that such statements are confidential** and they shall be kept by the clerk of the court until the judgment is rendered. If the court does not award support, the statements shall be **obligatorily destroyed** by the clerk.

If support is awarded by judgment, the information shall be entered in the register of support payments kept by the clerk.

**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**

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. As regards remuneration, indicate salary and frequency of payments. If unemployed, check number 8.

**8 Unemployed**

Check if applicable.

**9 Income security benefits**

Check if you are receiving social aid benefits. Where applicable, indicate also your file number with the Ministère 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** Give every information required

**Sworn statement**

Indicate the place and date and sign on the line "deponent". The statement must be sworn before any person authorized to administer oath, in particular the clerk of the court.



