

1985

## c 1 Creditors' Relief Amendment Act, 1985

Ontario

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## CHAPTER 1

### An Act to amend the Creditors' Relief Act

*Assented to July 12th, 1985*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 3 of the *Creditors' Relief Act*, being chapter 103 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

**3.** Subject to this Act, there is no priority among creditors by execution or garnishment issued by the Supreme Court, the District Court, the Unified Family Court and the Provincial Court (Family Division). No priority among execution or garnishment creditors

**2.—(1) Subsection 4 (2) of the said Act is repealed and the following substituted therefor:**

(2) Payment of the debt shall be made to the sheriff of the county in which the debtor resides or, if the debtor resides outside the Province, to the sheriff of the county in which the proceeding that gave rise to the judgment was commenced. To whom to be paid

**(2) Subsection 4 (3) of the said Act is repealed and the following substituted therefor:**

(3) This section does not apply to a debt attached by garnishment in the Provincial Court (Civil Division), the Provincial Court (Family Division) or the Unified Family Court unless, before the amount recovered by garnishment is actually received by the creditor, an execution against the property of the debtor is placed in the hands of the sheriff of the county. Garnishment in provincial courts and Unified Family Court

**(3) Subsection 4 (5) of the said Act is repealed and the following substituted therefor:**

(5) Where money recovered by garnishment is paid into the Provincial Court (Civil Division), the Provincial Court (Family Division) or the Unified Family Court, the sheriff is enti- Money paid into provincial courts or Unified Family Court

tled to demand and receive it from the clerk of the court for the purpose of distributing it under this Act.

**(4) Subsections 4 (7), (8) and (9) of the said Act are repealed and the following substituted therefor:**

Sheriff's  
right to  
recover  
attached debt

(7) If money referred to in subsection (5) is received by the attaching creditor, the sheriff may recover it from him.

Clerk not  
liable

(8) The clerk of the Provincial Court (Civil Division), the Provincial Court (Family Division) or the Unified Family Court is not liable for making payment to the creditor unless, at the time of payment, he has notice that there is an execution against the property of the debtor in the sheriff's hands.

**3. The said Act is amended by adding thereto the following section:**

Priority for  
support  
orders

**4a.—**(1) Arrears of payment under a support or maintenance order have priority over other judgment debts and rank equally with arrears under another support or maintenance order, regardless of when an enforcement process is issued or served,

(a) if the order is for periodic payments, in an amount not exceeding one year's support or maintenance at the rate current at the time of seizure or attachment; and

(b) if the order is for a lump sum payment, in the amount of the lump sum.

Enforcement  
process

(2) Process for the enforcement of a support or maintenance order shall be identified on its face as being for support or maintenance.

Crown bound

(3) Subsection (1) binds the Crown in right of Ontario.

**4. Subsection 43 (3) of the *Courts of Justice Act, 1984*, being chapter 11, is repealed.**

Commence-  
ment

**5. This Act comes into force on the day it receives Royal Assent.**

Short title

**6. The short title of this Act is the *Creditors' Relief Amendment Act, 1985*.**