

Questions & Answers

about the new *Interjurisdictional Support Orders Act*

Q. Who is affected by this new Act?

A. The *Interjurisdictional Support Orders Act* (ISO) applies when the two people live in different provinces, territories, states, or countries. If one or both of the parties wants to obtain a support order, or change an existing one, or enforce an order, the ISO Act allows them to use support reciprocity between the two places.

Q. What is support reciprocity?

A. A ‘jurisdiction’ is defined by the geographic boundaries of its laws. Provincial or territorial jurisdiction ends at its borders. Support reciprocity is the legal step which allows the laws and orders of one jurisdiction to be recognized by another jurisdiction. An order made by a court in one place has the same effect, and authority, in the other place. Each territory and province in Canada has support reciprocity with all the other provinces and territories. Each also has reciprocity with some foreign jurisdictions, depending on the arrangements each has made. The foundation of reciprocity is that the two jurisdictions have “substantially similar” laws about support, and that they have agreed to recognize and honour the support orders made by the other.

Q. Is this something entirely new?

A. No. Support reciprocity has existed for several decades in Canada. It has been known as ‘reciprocal enforcement of maintenance orders’ or ‘reciprocal enforcement of support orders’ (REMO or RESO). The new Act – ISO – is a new way of handling support reciprocity in Canada.

Q. Why change to ISO?

A. Over the years the ways in which support reciprocity was handled in Canada changed. It still worked – people were able to obtain support orders, and change existing ones, and have orders enforced – but the changes in the laws of each of the jurisdictions made the process slower, with more differences between their procedures. Several years ago representatives of all the Canadian jurisdictions came together and began working on a new, streamlined, way of handling reciprocity. The result was a ‘model’ Act, which has become known as ISO. Each of the provinces and territories is adopting an ISO law.

Q. How is ISO different than what we have now?

A. Under REMO/RESO laws a person would apply for an order in the ‘home’ province. A court hearing would take place and a Provisional Order would be made. The Provisional Order was based on the evidence of that one person, and it had no authority until confirmed in the jurisdiction where the other person lived. The REMO/RESO laws were used to send the Provisional Order and evidence to the second province. There, a second hearing would happen, where the court would listen to the evidence of the second person, and could make a Confirmation Order, or refuse to make one, or ask for more evidence. The process was very slow. With ISO, there is only one hearing.

Q. How will ISO work?

A. Rather than having two hearings – one for a provisional order, and one for a confirmation order – there is just one hearing. The result will be a Support Order, or a Support Variation Order. The person who wants to get (or change) an order, will fill out a set of detailed application forms. The forms will include all the information which would normally be included in a court hearing, so the Judge will have all the facts needed to make a decision. The sworn forms package will be sent to the reciprocity officials in the ‘home’ territory or province. They will then be sent to the jurisdiction where the other person lives. Then there will be a court hearing. The other person (the respondent) will be summoned to court and asked to provide a matching set of forms. The Judge will then have a full picture of the family situation, and can make an order.

Q. Who benefits from ISO?

A. Claimant / Applicant. A claimant is a person applying for a first-time support order; an applicant is a person applying to change an existing order. The claimant/applicant benefits because the process is faster – no waiting time to obtain a court date, have a provisional order written and filed, and order transcripts of evidence. It will require some time to complete the ISO forms and gather the documents to attach to them, but it will be weeks or months less time than a provisional hearing would take. Less time means that the information will be more up-to-date, an order can be made more quickly, and enforcement of a new or changed order can begin promptly. A lawyer is not required.

Respondent. A respondent is a person responding to, or answering, an application. The respondent is the person in the jurisdiction where the court hearing happens. A respondent will receive a copy of the forms package, and will be summoned to court. The forms package lets the respondent know exactly what is being applied for. The respondent can agree with the requested order by filing one or two documents with the court. The respondent can disagree with the requested order, and file a forms package appropriate to the application, and go to court. The respondent may choose to hire a lawyer, but the documents are designed so a person can respond, and/or go to court, alone.

The Court. It can take weeks or months to schedule and complete a hearing for a provisional order, which has no authority until confirmed in another jurisdiction. The courts will no longer have this step, which will free-up time for Judges, Court Clerks, Court Recorders, and other court staff to handle duties which do require their time and expertise.

Q. Will ISO apply to all support orders?

A. No. ISO legislation is being passed by all the Canadian provinces and territories. These are provincial-level laws. The *Divorce Act* is a federal law, and is not changed by ISO. A person who wants to include support in the divorce action, or change an existing *Divorce Act* order, will use that law.

Q. Does ISO apply outside of Canada?

A. Yes, it does. ISO replaces the territorial and provincial laws which deal with support orders where the parties live in different places (jurisdictions). As long as the parties live in “reciprocating jurisdictions” – two places which have agreed to recognize and honour each other’s laws and orders – the ISO process can be used to obtain or change a support order. The Canadian provinces and territories are all reciprocating jurisdictions with each other, and about

90% of the orders which use reciprocity laws are between Canadian jurisdictions.

When a person wants to start a support, or variation, application **and** the other person is outside Canada, it is important to find out if the other place is a reciprocating jurisdiction **before** beginning. Ask a family law lawyer, go to your government's website, consult the public library, contact the maintenance/support enforcement program where you live. Some non-Canadian reciprocating jurisdictions will have special forms or procedures which must be used.

Q. What can I do if the other person lives in a non-reciprocating jurisdiction?

A. The basis of support reciprocity is that the two jurisdictions agree to recognize and honour each other's laws and orders, and that they have "substantially similar" laws about support. Many countries have laws that are too different than those in Canada, or there has not been an interest in setting up reciprocity arrangements. If the other person lives in a non-reciprocating jurisdiction, the ISO procedures will not apply. To obtain an order, or change an existing one, it will be necessary to get legal advice on the options available.

Q. When will ISO start?

A. There are 13 Canadian provinces and territories, and they will be 'phasing in' ISO during 2003. The first ones will start at the end of January, 2003. If the destination reciprocating jurisdiction has not yet proclaimed its ISO laws, it will be necessary to get a provisional, or provisional variation, order. For territories and provinces which have proclaimed ISO legislation, the application forms will be the new ISO forms, which can be used to obtain the provisional order, if required. If the new law is not yet in place, the REMO/RESO laws will apply.

Q. I already have a support order. Do I have to start over?

A. Your order is still 'good' and valid. ISO is just a method of obtaining or changing orders where the parties live in different reciprocating jurisdictions. If a maintenance/support enforcement program is enforcing the order, nothing will change in the way your file is handled. In fact, the procedure for registering a Canadian support order in a province or territory is now faster, and cannot be challenged.

Q. I've started an application for an order (or to change my order)? What happens to my application?

A. If your application has been filed in court, it will continue as a provisional, or provisional variation, application. The court will make an order under the REMO/RESO laws – not ISO – and the reciprocating jurisdiction will also use those laws until the application has been dealt with. If your province/territory has proclaimed ISO before you file an application with the court, you must use the ISO procedure.

Q. Where can I get more information?

A. Each of the Canadian territories and provinces will have information about how ISO will work in the individual jurisdiction. Start with the government website. If you do not have internet service at home, most public libraries do, as well as many community service agencies, government agents, and some courthouses. The blue pages of your telephone book may include a central information or enquiry number for all government programs, and ISO fact sheets can be mailed to you.