

Enforcing Money Judgments

The legal process to enforce a money judgment involves the Court of Queen's Bench, the Office of the Sheriff and the Judgment Registry. That process arises from The Enforcement of Money Judgments Act and regulations and the Queen's Bench Rules of Court.

It is possible for a Judgment Creditor and Judgment Debtor to make a private arrangement for the settlement of a judgment debt that does not involve a legal process, but there are implications to this that are discussed below.

The following is a step-by-step process for enforcing a money judgment.

Step 1 - Issue Your Judgment

Issue your judgment in the Court of Queen's Bench. The process to do so will depend upon how the judgment was obtained.

If the judgment arose from a decision of the Court of Queen's Bench, then the judge's written decision that sets out his or her reasons and orders must then be summarized in the applicable Judgment Form from the list of forms found at pages 273 to 279 of the Queen's Bench Rules. The Judgment Creditor should complete and deliver this form, together with the Local Registrar's fee which can be found at pages 531 and 532 of the Queen's Bench Tariff, to the Local Registrar at the court location where the case was commenced or heard.

There are a number of statutes that allow for an order made in Provincial Court or by another authority to be registered in the Court of Queen's Bench for the purpose of enforcement. Common examples include judgments obtained in Provincial Court pursuant to The Small Claims Act, Labour Standards Certificates and Rentalsman Orders. All that is required to issue these orders is to deliver the original or certified copy of the order to the Local Registrar, together with the Local Registrar's fee.

An order, decree or judgment requiring a person to pay money resulting from civil proceedings held in the court of another Canadian province or territory can be enforced in Saskatchewan by registering it in this province. Once a certified copy of the judgment and an affidavit is filed with the Local Registrar's Office, it may be enforced as if it were a judgment of the Court of Queen's Bench for Saskatchewan.

Orders for restitution made pursuant to The Criminal Code of Canada can also be enforced as a judgment of the Court of Queen's Bench. For assistance in registering a Restitution Order, you should contact the Ministry of Justice's restitution services.

Step 2 - Register the Judgment with the Judgment Registry

The Judgment Registry is maintained by Information Services Corporation (ISC). Information on registering a Judgment with ISC can be found on the corporation's website.

If you do not register your judgment, you will have no legal process available to you to enforce the judgment. Neither can you share in any monies the Sheriff may collect from the Judgment Debtor on behalf of other registered Judgment Creditors. You must rely on the Judgment Debtor paying the judgment voluntarily.

Step 3 - Register Your Judgment with the Land Titles Registry

The Land Titles Registry is also maintained by Information Services Corporation (ISC). Information on registering a Judgment with the Land Titles Registry with ISC can be found on the corporation's website.

This step is optional, but failure to register will limit the ability to enforce the judgment against a Judgment Debtor's lands. In any event, the ability to force a sale of land to pay a Judgment Debt depends upon a number of factors such as: whether the person owns land, the use to which the land is put, whether that land is encumbered by a mortgage or other secured debt that takes priority to a Judgment Debt, and whether the Judgment Debtor has personal property available to satisfy the debt.

Step 4 (Optional) - Give the Sheriff an Enforcement Instruction

So long as your judgment is registered with the Judgment Registry, you will be notified by the Sheriff if it has collected monies acting on the Enforcement Instructions provided to the Sheriff by another Judgment Creditor in relation to the same Judgment Debtor. You will then have a fixed amount of time to provide the Sheriff with an Enforcement Instruction in order to share in the distribution of those monies.

If you do not provide the Sheriff with an Enforcement Instruction within the time provided you will not be entitled to share in the distribution of that fund. However, if you do provide an Enforcement Instruction, any payments received by you in the future from any source with respect to the judgment debt, must be paid to the Sheriff for distribution amongst all enforcing Judgment Creditors.

Judgment Creditors who provide Enforcement Instructions to the Sheriff that lead to the collection of monies are entitled to receive their expenses related to the Enforcement Instruction, plus an additional sum of between \$200 to \$1,000 out of the monies collected, in priority to the claims of other Judgment Creditors, who only provided their Enforcement Instructions after the monies were collected or did not share in the instructions that led to the collection.

If you are the only Judgment Creditor or if no other creditor has provided an instruction, then delivery of an Enforcement Instruction will be necessary before the Sheriff can take action to collect the judgment.

Should you decide to provide an Enforcement Instruction, you must deliver the form and Sheriff's fee to any Sheriff's office.

In completing the Enforcement Instruction Form, you must:

- A. Describe the enforcement measures you wish the Sheriff to take to enforce the Judgment. A general statement that you wish the Sheriff to collect the judgment debt out of all the wages,

salary, accounts, personal goods and lands of the Judgment Debtor available for seizure and sale, will be sufficient. However, it is preferred that if possible you be more specific in your instructions. For example:

- To seize any wages or salary owed to the Judgment Debtor from the following employer: name and address of employer.
 - To seize the Judgment Debtor's bank account as: name and branch of bank.
 - To seize the Judgment Debtor's crops located on: provide legal description of farm land.
- B. You must also provide a list of the Judgment Debtor's property and its location to the best of your information. Include in the list any property the Judgment Debtor may jointly own with another person.
- C. The Enforcement Instructions must also be accompanied by the following documents:
- Certified copy of the judgment being enforced
 - Certified copy of any other order of the court affecting enforcement of the judgment
 - Results of ISC Registry Search
 - Results of Land Titles Search
 - Registry Search indicating serial number of goods.

Alternatively, the registry searches can be conducted by the Sheriff for a fee.

Step 5 (Optional) - Question the Judgment Debtor

There are processes to enable the Judgment Creditor and/or the Sheriff to question the Judgment Debtor on his or her property and debts.

The Judgment Creditor could do one of the following to obtain more information to aid in the enforcement of the judgment:

- Obtain a 'Voluntary Questionnaire' from the Sheriff and serve it on the Judgment Debtor.
- If the Judgment Debtor fails to complete and return the Voluntary Questionnaire, instruct the Sheriff to send a 'Sheriff's Questionnaire' to the Judgment Debtor.
- If the Judgment Debtor fails or refuses to complete and return the Sheriff's Questionnaire, instruct the Sheriff to issue a Notice for an Appointment for Examination of the Judgment Debtor by the Judgment Creditor. Should this occur the Sheriff will instruct you on: what must be served on the Judgment Debtor; how to arrange for a court reporter to swear in the judgment debtor and record the examination; the questions you may ask; and the report to be completed following the examination.

A Judgment Creditor must inform the Sheriff of all information respecting a Judgment Debtor or property of a Judgment Debtor that is disclosed to the Judgment Creditor from these processes. The Sheriff will in turn, upon receipt of a written request, share that information with any other Judgment Creditor who has provided the Sheriff with an Enforcement Instruction.

Step 6 - Keep the Sheriff Informed and Complete Assigned Tasks

From time to time a Sheriff may seek additional information or instruct the Judgment Creditor to assist in the investigation or enforcement of the judgment. This could include:

A request by the Sheriff to the Judgment Creditor to provide the Sheriff with a Supplementary Enforcement Instruction. This could occur when the Sheriff has reached a dead end in locating property or assets of the Judgment Debtor and additional information is required. For example, the Supplementary Enforcement Instruction could involve a Voluntary Questionnaire or Examination of the Debtor.

Completing the tasks delegated to the Judgment Creditor by the Sheriff. For example, the Sheriff may delegate the Judgment Creditor to serve a Notice of Seizure of Account or Wages on a bank or employer.

Providing Information upon request. For example, the Sheriff may demand to know the amount remaining owing to you on the judgment debt.

A Judgment Creditor who has provided the Sheriff with an Enforcement Instruction is obliged to notify the Sheriff of any material change in circumstances that could affect the judgment enforcement.

Step 7 - Distribution of Monies Collected by Sheriff

Any monies received by a Sheriff either from seizure of accounts or wages, or from the seizure and sale of property, will be distributed by the Sheriff in accordance with the law. Some property may be exempt and be returned to the Judgment Debtor (e.g. household goods to a certain value). Some creditors may have priority to the property or funds (e.g. creditors who have a security interest in the property). Other creditors who have provided the Sheriff with an Enforcement Instruction will share in the remainder in proportion to their respective debts. In any event, the Sheriff will deliver a proposed distribution to all registered creditors and any registered creditor who disagrees may bring an application to the court within a fixed time to obtain the court's direction on how the funds are to be lawfully distributed.

Enforcing Non-Money Judgments

Enforcing court orders that order something other than the collection of money can be complicated. For more information on enforcing these orders, contact a Sheriff's office.