

Subject: **ORDERS UNDER THE EMPLOYMENT STANDARDS
CODE**

BACKGROUND

The Employment Standards Code provides a mechanism for employees to collect overdue wages, overtime pay, entitlements or maternity benefits from employers without having to resort to formal court proceedings. (1) Officers and umpires appointed pursuant to the provisions of the Code are empowered to make orders for the payment of these overdue amounts. If the order of the officer or umpire is not complied with, it may be filed with the Clerk of the Court of Queen's Bench and it then becomes an enforceable order or judgment of that Court. (2) Once filed, a copy of the order may also be registered at the Land Titles Office (3) and upon registration, a secured charge is created in favour of the Director, on behalf of the employees in respect of whom the order was issued against all land or interests in land owned or held by the employer. (4)

REGISTRATION PROCEDURE

1. The form of order (FORM A) must have a stamp indicating that it has been filed with the Court of Queen's Bench.
2. A witness to the signature of the officer or umpire is not required. (5)
3. When a judgment is against a corporate body and they are unable to enforce against it, section 111 of the Employment Standards Code allows them to take action against directors of corporations in the form of a Certificate. A Certificate is filed as a judgement of the Court of Queen's Bench under the same action number as the originating Order of Officer. Under these circumstances the certificate is filed against any land that may be owned by the corporate director. However on registration the certificate is entered as an Order.
4. The Code makes provision for the recognition of orders, certificates or judgments of other provinces of Canada. The Director of the Employment Standards Branch is empowered to accept these orders, certificates or judgments and file them with the Clerk of the Court of Queen's Bench. They are then enforceable and have the same priorities as orders of officers and umpires. (6) Thus, an order, certificate or judgment from another province is registrable provided it has a stamp indicating it has been filed with the Court of Queen's Bench of Alberta and it is submitted for registration by the Director.
5. A Creditor's Statement of Debtor's Land (FORM S) must be submitted with the order or certificate.

6. The order is endorsed against the title, showing name and address of party for and party against. In details show "Employment Standards Code" and also show amount for either Total Amount Payable or Wages.

7. Orders are registered without fee, as the Employment Standards Branch is part of the Department of Human Resources and Employment.

8. **Discharge of Orders** - A registered order may be discharged (**FORM B**) by the Director of Employment Standards (**7**) or his designate. (**8**) The order is discharged from the certificate of title. Although the form used by the Employment Standards Branch provides for a witness, the witness is not an essential requirement. (**8**) The discharge is without fee.

STATUTE AND CASE REFERENCES

Statute references are to the Employment Standards Code, R.S.A. 2000, c. E-9, unless otherwise indicated.

1. s. 8
2. s. 110
3. s. 111(1)
4. s. 111(2)
5. s. 159(k), Land Titles Act, R.S.A. 2000, c. L-4
6. s. 113
7. s. 111(4)
8. s. 159(j), Land Titles Act