

# Judgment Enforcement



Public Legal Education  
and Information Service  
of New Brunswick

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The purpose of this booklet is to explain the *Enforcement of Money Judgments Act*, which came into force on December 1, 2019. This legislation establishes a new system for the enforcement of judgments for a sum of money. It provides tools that can be used by judgment creditors to try to get the money they are owed.

This booklet does not contain a complete statement of the law in this area and laws change from time to time. Anyone needing advice on their specific legal position should consult a lawyer.

## Published by:



**Public Legal Education  
and Information Service  
of New Brunswick**

P.O. Box 6000  
Fredericton, NB E3B 5H1  
Tel.: 506-453-5369  
Fax: 506-462-5193  
Email: [pleisnb@web.ca](mailto:pleisnb@web.ca)  
[www.legal-info-legale.nb.ca](http://www.legal-info-legale.nb.ca)  
[www.familylawnb.ca](http://www.familylawnb.ca)



**Department of Justice  
and Public Safety**  
P.O. Box 6000  
Fredericton, NB E3B 5H1

# Introduction

At the end of a trial or other process, the court will often make a judgment that requires one individual or business to pay a sum of money to another individual or business.

**Judgment debtor:** An individual or business who **owes** money according to a court judgment.

**Judgment creditor:** An individual or business who is **owed** money according to a court judgment.

Sometimes, the judgment debtor will pay the money owed immediately after the court makes the judgment, or after the judgment creditor sends them a letter requesting payment. Other times, they will not pay the money owed. When this happens, it is not the court's responsibility to collect the money or ensure the judgment debtor pays. Instead, the judgment creditor can take steps to try to get the money. This is called *enforcing a judgment*.



## Need Help?

Whether you are a judgment creditor or a judgment debtor, it is a good idea to get advice from a lawyer. However, the law does not require you to do so. For more information on the judgment enforcement process, check out the resources at the end of this booklet.

You can find general information about the law on the Public Legal Education and Information Service website: [www.legal-info-legale.nb.ca](http://www.legal-info-legale.nb.ca).

# Tools for enforcing a judgment

This booklet provides information about the three main tools that a judgment creditor can use to enforce a judgment. They are:



## 1. Registration of the judgment



## 2. Enforcement of the judgment by the sheriffs



## 3. Examination of the judgment debtor



# 1. Registration of the judgment

The first tool a judgment creditor can use to enforce a judgment is registration of the judgment in:

- a. the **Personal Property Registry**. (This registry deals with personal property such as vehicles and boats.)
  
- b. the **Land Registry**. (This registry deals with land, including buildings. It is made up of two systems – the **Land Titles system** and the **Registry system**.)

*Or,*

- c. both the Personal Property Registry and the Land Registry.

However, before the judgment creditor can register the judgment, they will need to take certain steps.

- If the judgment is from the Court of Queen's Bench, the judgment creditor will need to prepare a form from the *Rules of Court* and get it signed by the clerk. If it is a default judgment, the judgment creditor should use [Form 21A](#). If not, they should use [Form 60A](#). (The web address for the *Rules of Court* is provided at the end of this booklet.)
- If the judgment is from the Small Claims Court, the judgment creditor will need to file it with the Court of Queen's Bench.

**Note:** Staff at the clerk's office can provide help with these steps.

## Does the judgment creditor have to register the judgment?

The judgment creditor must register the judgment in the Personal Property Registry if they want to request enforcement by the sheriffs or apply for an examination of the judgment debtor. The judgment creditor does not need to register the judgment in the Land Registry before taking these steps. See the chart below:

Registry	Personal Property Registry	Land Registry
Judgment must be registered <b>BEFORE</b> the judgment creditor can request the sheriffs to enforce.	YES	NO
Judgment must be registered <b>BEFORE</b> the judgment creditor can apply for an examination of the judgment debtor.	YES	NO

## What is the advantage of registering the judgment?

A registered judgment can make it difficult for the judgment debtor to sell or mortgage assets. It can also affect their credit rating. This may encourage them to pay the money owed. When this happens the judgment creditor would not have to take further steps.

## How are judgments registered in the Personal Property Registry?

The judgment creditor registers the judgment in the Personal Property Registry by:

- entering information about the judgment into an electronic registry system, and
- paying a fee.

### Accessing the Personal Property Registry

Only people who have an account with “Atlantic Canada Online” (ACOL) can access the Personal Property Registry.

Judgment creditors who do not have an account can use a service provider. There is a list of service providers on the **Service New Brunswick website**. The web address is provided at the end of this booklet.



## Does a judgment registered in the Personal Property Registry cover all of the judgment debtor’s personal property?

Yes. When a judgment is registered in the Personal Property Registry, it is registered against all of the judgment debtor’s current and future personal property located in New Brunswick.

## How long does the registration period last and can it be renewed?

The judgment creditor chooses the length of the registration period when they register the judgment in the Personal Property Registry. The minimum period is one year and the maximum is fifteen years (starting from the date of the judgment). If the judgment creditor registers the judgment for less than 15 years, they can renew the registration for additional years, up to the 15-year maximum.

## What should the judgment creditor do after registering the judgment?

After registering the judgment in the Personal Property Registry, the judgment creditor should print a verification statement and send a copy of it to the judgment debtor.

If the judgment creditor is planning to ask the sheriffs to enforce the judgment, the judgment creditor should also search the Personal Property Registry by the name of the judgment debtor and print a search result report.

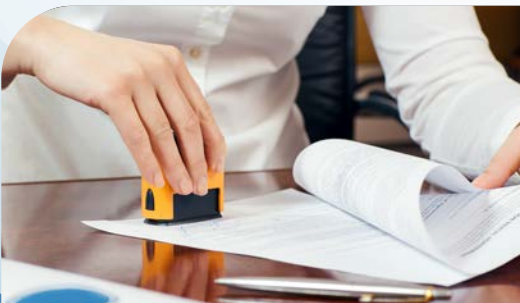
**The fee for registration in the Personal Property Registry is \$25 plus \$9 per year.** The fee for a search is \$10. If the judgment creditor is using a service provider, there will be an additional service fee.

## How are judgments registered in the Land Registry?

The judgment creditor registers the judgment in the Land Registry by:

- sending the judgment to the Provincial Land Registration Office, and
- paying a fee.

Contact information is provided at the end of this booklet.



**Note:** The judgment creditor may send either the original judgment or a certified copy from the clerk's office.



If the judgment creditor is registering the judgment in the Land Titles system, the judgment must be attached to a form called an **application to register judgment**. This is Form 34 in the *General Regulation – Land Titles Act*. (The web address is provided at the end of this booklet.)

When registering in the Land Titles system, the judgment creditor must specify which parcel of land (PID) the judgment is to be registered against. When registering in the Registry system, the judgment creditor only needs to specify the county – the judgment will be registered against all of the judgment debtor’s land in that county.

In either system, the registration remains in effect for 15 years. The registration fees are \$85 per PID in the Land Titles system and \$85 per county in the Registry system.

## What happens after the judgment is registered in the Land Registry?

Staff at the Provincial Land Registration Office will send the judgment creditor:

- the **judgment** and a **certificate of registered ownership** if the judgment was registered in the **Land Titles system**.
- the **judgment endorsed by a registrar** if the judgment was registered in the **Registry system**. This means that the judgment will be dated, numbered and signed by a registrar.

## How can the judgment creditor find out if the judgment debtor owns land to register a judgment against?

If the judgment creditor wants to find out if the judgment debtor owns land, they can do a search using the **PLANET** system, which can be accessed through the Land Registry website. (The web address is provided at the end of this booklet.) Or they can ask a service provider to do the search for them. Most service providers that register judgments in the Personal Property Registry can also do this search.



## 2. Enforcement by the sheriffs

The second tool that a judgment creditor can use is enforcement by the sheriffs. Sheriffs have the authority to demand payment from the judgment debtor. If that does not work, they can seize and sell the judgment debtor's assets or seize part of their income.

When deciding whether to request enforcement, the judgment creditor should review any information they have about the judgment debtor. This includes search results from the Personal Property Registry and the Land Registry. The judgment creditor should consider:

- how much income the judgment debtor has,
- what assets the judgment debtor has, and
- whether there are existing secured creditors with liens or mortgages on the assets.



**Note:** When a judgment debtor's asset has a lien or mortgage on it, it may not be worth seizing and selling. Since the sheriffs would have to pay the secured creditor(s) first, there may be no money left over for the judgment creditor.

If the judgment creditor decides to move forward with enforcement by the sheriffs, these are the next steps.



## Request for enforcement – setting out the enforcement instruction

If the judgment creditor wants to request enforcement by the sheriffs, they must fill out a form called an ***enforcement instruction*** and send it to the sheriffs. The enforcement instruction should include all the information the judgment creditor has about the judgment debtor. The form is available on request from the sheriffs' office. (Contact information is provided at the end of this booklet.)

The judgment creditor must also send the sheriffs:

- a certified copy of the judgment
- a copy of the Personal Property Registry verification statement
- a copy of the Personal Property Registry search result report
- a copy of the certificate of registered ownership (if the judgment has been registered in the Land Titles system)
- a copy of the judgment endorsed by a registrar (if the judgment has been registered in the Registry system)
- a \$120 enforcement fee

Remember, registration in the Personal Property Registry is **required** for enforcement of the judgment by the sheriffs. Registration in the Land Registry is **not required**.

### Is there a time limit for sending the enforcement instruction?

Yes. The judgment creditor must send an enforcement instruction to the sheriffs within six years of the date of the judgment, unless they get a court order that allows them to send it after that point.



## Demand for payment

When the sheriffs receive an enforcement instruction, they will usually start by serving a ***sheriff's demand for payment*** on the judgment debtor. That document will state the amount they owe. It will also explain that if they do not either pay that amount or make a payment arrangement with the judgment creditor, the sheriffs may seize their assets and income. The sheriffs will also require the judgment debtor to provide information about their assets and income.



## Seizure of assets and income

If the sheriffs' demand for payment does not result in the judgment debtor paying the amount owed or making a payment arrangement with the judgment creditor, the sheriffs will consider whether the judgment debtor has assets or income that the sheriffs can seize. If they do, the sheriffs and the judgment creditor will come up with a plan.

The judgment creditor can request that the sheriffs seize income or a certain asset, but the sheriffs have the final say.

The sheriffs usually start by serving the judgment debtor – or the person who has control of the asset or income – with a document called a ***notice of seizure***. The notice of seizure may have another document attached to it with directions that they must follow.

### Is there a fee for seizure?

Yes. Before the sheriffs make a seizure, the judgment creditor must pay a \$300 seizure fee and give the sheriffs money to cover expenses.

## What kinds of assets may the sheriffs seize?

The sheriffs are **allowed to seize** almost any type of asset, including land, vehicles and bank accounts. However, some things (like RRSPs and pensions) are **exempt from seizure** which means the sheriffs cannot seize them. And some things are partially exempt. That means the sheriffs can only sell or collect the portion that is not required to meet the basic needs of the judgment debtor. The following are partially exempt:

- household furniture, appliances and utensils
- food, clothing and home heating fuel
- one motor vehicle suitable for highway use
- tools and equipment used for work
- medical and dental aids
- household pets
- income.

## What about seizing income?

The sheriffs can seize income, including employment income. This is sometimes called *garnishment*.

However, income is partially exempt. The sheriffs use a calculation to figure out how much is exempt and how much they can collect. In some cases, all the judgment debtor's income will be exempt, and the sheriffs will not be able to collect any of it.

The calculation takes into account the judgment debtor's household income and expenses and the number of people in their household. It is based on the *Superintendent's Standards*, which are minimum income amounts set by the Superintendent of Bankruptcy each year.

## What if the judgment debtor asks to make payments themselves?

If the sheriffs are going to seize employment income, they must give the judgment debtor the chance to make payments themselves. If the judgment debtor fails to make payments, the sheriffs can seize the income from their employer.

## How long can the sheriffs seize income?

Usually the sheriffs can seize income for a maximum of four years. They must stop at that point even if they have not collected the full amount owed to the judgment creditor. However, the judgment creditor can get a court order that allows the sheriffs to continue seizure beyond the four-year period.

## What if the judgment debtor objects to a seizure?

If the judgment debtor or another person objects to a seizure made by the sheriffs, they should notify the sheriffs' office. The sheriffs will then decide whether there was a problem with the seizure. If the judgment debtor or other person disagrees with the sheriffs' decision, they can apply to the court for a review.



### Termination of enforcement

When the sheriffs have completed their efforts at enforcement of the judgment, they will send the judgment creditor a document called a ***notice of termination of enforcement instruction***. Usually, the sheriffs will send this document when they are finished with seizure or they have decided that they are not going to seize anything because:

- the judgment has been paid,
- a payment arrangement has been made, or
- there is nothing to seize.



## Payment of judgment creditor

If the sheriffs have made a seizure and collected money, they will keep 10% of the money as an additional seizure fee (up to a maximum of \$5,000). They will give the remainder to the judgment creditor, to reimburse them for expenses and fees and to pay them what they are owed by the judgment debtor. Often, the sheriffs cannot collect enough money to pay the entire amount owed.

The sheriffs will reimburse the judgment creditor only for the following fees (if they were paid):

- the \$25 fee for registration in the Personal Property Registry and the \$9 fee for one year of registration (even if additional fees were paid to register for additional years)
- the \$10 fee for the search of the Personal Property Registry
- the \$85 fee for registration in the Land Titles system (if the sheriffs seized the land)
- the \$85 fee for registration in the Registry system (if the sheriffs seized the land)
- the \$120 enforcement fee
- the \$300 seizure fee
- the \$50 fee for an examination of the judgment debtor

If the sheriffs have seized and sold an asset, they will usually make a single payment to the judgment creditor. If they have seized income, they will make a series of payments as they receive payments from the judgment debtor or employer.

## What happens if there is more than one judgment creditor?

Sometimes two or more judgment creditors will request enforcement against the same judgment debtor. When this happens, the sheriffs will divide the money between the judgment creditors.

The sheriffs will not give a judgment creditor a share of the money unless the judgment creditor sent the sheriffs their enforcement instruction before the sheriffs terminated the enforcement instruction of the original judgment creditor.



### 3. Examination of the judgment debtor

The third tool that a judgment creditor can use to enforce a judgment is an examination of the judgment debtor. An examination is a process where the judgment creditor (or their lawyer) asks the judgment debtor questions about their assets and income in a courtroom setting. The judgment debtor must truthfully answer the questions while under oath or affirmation. The clerk of the court is in charge of the examination.

#### How does an examination help the judgment creditor enforce the judgment?

An examination can help the judgment creditor in two ways:

- The judgment debtor may provide information about their assets and income, which could lead to a seizure by the sheriffs.
- Following the examination, the clerk can order the judgment debtor to make payments to the judgment creditor.



## When can the judgment creditor apply for an examination?

The judgment creditor can apply for an examination **before or after** they send an enforcement instruction to the sheriffs.

## How does the judgment creditor apply for an examination?

The judgment creditor can apply for an examination by filling out a form called an ***application for order to attend*** and sending it to the clerk. The form is available on request from the clerk's office. The judgment creditor must also send the clerk the following:

- a certified copy of the judgment
- a copy of the Personal Property Registry verification statement
- an affidavit of the judgment creditor
- a \$50 fee



The affidavit of the judgment creditor must meet certain requirements, which are set out in the ***General Regulation – Enforcement of Money Judgments Act***. (The web address is provided at the end of this booklet.)

If the clerk accepts the application, they will provide the judgment creditor with an ***order to attend***. The judgment creditor must then arrange for service of the order to attend on the judgment debtor at least 15 days before the examination. There are various ways to serve documents, including hiring a process server or the sheriffs.

## What if the judgment debtor does not attend?

A few things can happen if the judgment debtor does not attend the examination or attends but does not provide complete and honest answers to the questions:

- The judgment creditor can ask the clerk to order another person to be examined instead of the judgment debtor.
- The judgment creditor can apply to the court for a contempt order.
- The sheriffs can seize assets and income that would normally be exempt.

## What if circumstances change after the clerk makes an order?

If the clerk orders the judgment debtor to make payments and then there is a change of circumstances, the judgment debtor or judgment creditor can ask the clerk to review the order.

# Resources

## Service providers for the Personal Property Registry

[www2.snb.ca/content/snb/en/sites/personal/providers.html](http://www2.snb.ca/content/snb/en/sites/personal/providers.html)

## Information on the Personal Property Registry

[www2.snb.ca/content/snb/en/sites/personal.html](http://www2.snb.ca/content/snb/en/sites/personal.html)

## Information on the Land Registry

[www2.snb.ca/content/snb/en/sites/land-registry.html](http://www2.snb.ca/content/snb/en/sites/land-registry.html)

## *Enforcement of Money Judgments Act*

[laws.gnb.ca/en/ShowPdf/cs/2013-c.23.pdf](http://laws.gnb.ca/en/ShowPdf/cs/2013-c.23.pdf)

## *General Regulation – Enforcement of Money Judgments Act*

[laws.gnb.ca/en/ShowPdf/cr/2019-32.pdf](http://laws.gnb.ca/en/ShowPdf/cr/2019-32.pdf)

## *General Regulation – Land Titles Act*

[laws.gnb.ca/en/ShowPdf/cr/83-130.pdf](http://laws.gnb.ca/en/ShowPdf/cr/83-130.pdf)

## *Sheriff's Fees Regulation – Sheriffs Act*

[laws.gnb.ca/en/ShowPdf/cr/93-154.pdf](http://laws.gnb.ca/en/ShowPdf/cr/93-154.pdf)

## *Rules of Court*

[www2.gnb.ca/content/gnb/en/departments/jag/attorney-general/content/acts\\_regulations/content/rules\\_of\\_court.html](http://www2.gnb.ca/content/gnb/en/departments/jag/attorney-general/content/acts_regulations/content/rules_of_court.html)

## Public Legal Education and Information Service of New Brunswick

[www.legal-info-legale.nb.ca](http://www.legal-info-legale.nb.ca)

# Contact information

## Sheriff Services

**Bathurst** (506) 547-2163

**Campbellton** (506) 789-2100

**Edmundston** (506) 735-2032

**Fredericton** (506) 453-2801

**Miramichi** (506) 627-4026

**Moncton** (506) 856-2315

**Saint John** (506) 658-2569

**Woodstock** (506) 325-4426

 [sheriff.info.sherif@gnb.ca](mailto:sheriff.info.sherif@gnb.ca)

## Clerk's Offices

**Bathurst** (506) 547-2150

**Campbellton** (506) 789-2364

**Edmundston** (506) 735-2029

**Fredericton** (506) 453-2015

**Miramichi** (506) 627-4023

**Moncton** (506) 856-2304

**Saint John** (506) 658-2560

**Woodstock** (506) 325-4414

 [justice.info@gnb.ca](mailto:justice.info@gnb.ca)

## Provincial Land Registration Office

41 King Street, 2<sup>nd</sup> Floor

St. Stephen, NB E3L 2C1

1-888-621-9789

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