

**LAWS OF TRINIDAD AND TOBAGO**

**MAINTENANCE ORDERS (ENFORCEMENT) ACT**

**CHAPTER 45:53**

**Act**  
**3 of 1921**  
**Amended by**  
**44 of 1921**  
**26 of 1936**  
**45 of 1979**  
**15 of 1981**

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**Note**

on

**Adaptation**

Under paragraph 6 of the Second Schedule to the Law Revision Act (Ch. 3:03) the Commission amended certain references to public officers in this Chapter. The Minister's approval of the amendments was signified by L.N. 120/1980, but no marginal reference is made to this Notice where any such amendment is made in the text.

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CHAPTER 45:53

MAINTENANCE ORDERS (ENFORCEMENT) ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Enforcement in Trinidad and Tobago of maintenance orders made in England or Northern Ireland.
4. Transmission to England of orders made in Trinidad and Tobago.
5. Provisional orders against persons in England or Northern Ireland.
6. Power of court of summary jurisdiction to confirm order made in England or Northern Ireland.
7. Mode of enforcing orders.
8. Procedure.
9. Proof of documents signed by officers of court.
10. Depositions to be evidence.
11. Rules.
12. Extension of Act to other Commonwealth Territories.

## CHAPTER 45:53

## MAINTENANCE ORDERS (ENFORCEMENT) ACT

1950 Ed.  
Ch. 5 No. 16.  
3 of 1921.

An Act to facilitate the enforcement in Trinidad and Tobago of Maintenance Orders made in England and Northern Ireland and in other Commonwealth Territories granting reciprocal facilities.

Commencement.

[1ST MARCH 1922]

Short title.

1. This Act may be cited as the Maintenance Orders (Enforcement) Act.

Interpretation.  
[15 of 1981].

2. In this Act—

“certified copy” in relation to an order of a court, means a copy of the order certified by the proper officer of the court to be a true copy;

“dependant” means such person as a person against whom a maintenance order is made is liable to maintain under the law in force in England, Northern Ireland, or Trinidad and Tobago, as the case may be, according as the maintenance order was made in England, Northern Ireland or Trinidad and Tobago;

“maintenance order” means an order for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made.

Enforcement in  
Trinidad and  
Tobago of  
maintenance  
orders made in  
England or  
Northern  
Ireland.

3. (1) Where a maintenance order has been made against any person by any court in England or Northern Ireland and a certified copy of the order has been transmitted by the Secretary of State to the Minister, the Minister shall send a copy of the order to the prescribed officer of a court in Trinidad and Tobago for registration; and on receipt thereof the order shall be registered in the prescribed manner, and shall, from the date of the registration, be of the same force and effect, and, subject to the provisions of this Act, all proceedings may be taken on the order as if it had been an order originally obtained in the court in which it is so registered, and that court shall have power to enforce the order accordingly.

Court in which  
order to be  
registered.

(2) The court in which an order is to be so registered as aforesaid shall, if the court by which the order was made was a court of superior jurisdiction, be the High Court, and, if the court was not a court of superior jurisdiction, be a court of summary jurisdiction.

4. Where a court in Trinidad and Tobago has made a maintenance order against any person, and it is proved to that court that the person against whom the order was made is resident in some part of England or Northern Ireland, the court shall send to the Minister for transmission to the Secretary of State a certified copy of the order.

Transmission to England of orders made in Trinidad and Tobago.

5. (1) Where an application is made to a court of summary jurisdiction in Trinidad and Tobago for a maintenance order against any person, and it is proved that that person is resident in England or Northern Ireland, the court may, in the absence of that person, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if a summons had been duly served on that person and he had failed to appear at the hearing, but in such case the order shall be provisional only, and shall have no effect unless and until confirmed by a competent court in England or Northern Ireland.

Provisional orders against persons in England or Northern Ireland.

(2) The evidence of any witness who is examined on any such application shall be put into writing, and the deposition shall be read over to and signed by him.

Deposition to be taken.

(3) Where such an order is made, the court shall send to the Minister for transmission to the Secretary of State the depositions so taken and a certified copy of the order, together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing, and such information as the court possesses for facilitating the identification of that person and ascertaining his whereabouts.

Transmission of order and depositions.

(4) Where any such provisional order has come before a court in England or Northern Ireland for confirmation, and the order has by that court been remitted to the court of summary jurisdiction in Trinidad and Tobago which made the order for the purpose of taking further evidence, that court or any other court of summary jurisdiction in Trinidad and Tobago shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

Further evidence.

If upon the hearing of the evidence it appears to the court that the order ought not to have been made, the court may rescind the order, but in any other case the depositions shall be sent to the Minister and dealt with in like manner as the original depositions.

Rescission of order.

Confirmation  
not to affect  
power to vary  
or rescind.

(5) The confirmation of an order made under this section shall not affect any power of a court of summary jurisdiction to vary or rescind that order. However, on the making of a varying or rescinding order the court shall send a certified copy thereof to the Minister for transmission to the Secretary of State, and in the case of an order varying the original order the order shall not have any effect unless and until confirmed in like manner as the original order.

Right of appeal.

(6) The applicant shall have the same right of appeal, if any, against a refusal to make a provisional order as he would have had against a refusal to make the order had a summons been duly served on the person against whom the order is sought to be made.

Power of court  
of summary  
jurisdiction to  
confirm order  
made in  
England or  
Northern  
Ireland.

6. (1) Where a maintenance order has been made by a court in England or Northern Ireland, and the order is provisional only and has no effect unless and until confirmed by a court of summary jurisdiction in Trinidad and Tobago, and a certified copy of the order, together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to the Minister, and it appears to the Minister that the person against whom the order was made is resident in Trinidad and Tobago the Minister may send the said documents to the prescribed officer of a court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of the documents and requisition, the court shall issue such a summons and cause it to be served upon the person.

Service of  
summons.

(2) A summons so issued may be served in Trinidad and Tobago in the same manner as if it had been originally issued or subsequently endorsed by a court of summary jurisdiction having jurisdiction in the place where the person happens to be.

Defences which  
can be raised.

(3) At the hearing it shall be open to the person on whom the summons was served to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with the summons does not appear, or, on appearing, fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order either without modification or with such modifications as to the court after hearing the evidence may seem just.

Order confirmed in default of appearance.

(5) If the person against whom the summons was issued appears at the hearing and satisfies the court that for the purpose of any defence it is necessary to remit the case to the court which made the provisional order for the taking of any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

Adjournment of further evidence.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming court, and where, on an application for rescission or variation, the court is satisfied that it is necessary to remit the case to the court which made the order for the purpose of taking any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

Adjournment of application for rescission or variation of order.

(7) Where an order has been so confirmed, the person bound thereby shall have the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order had the order been an order made by the court confirming the order.

Appeal from confirmation of order.

7. (1) A court of summary jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act, and the officers of the court, shall take all such steps for enforcing the order as may be prescribed.

Mode of enforcing orders.

(2) Every such order shall be enforceable in like manner as if the order were for the payment of a civil debt recoverable summarily. However, if the order is of such a nature that if made by the court in which it is so registered, or by which it is so confirmed, it would be enforceable in like manner as an order of affiliation, the order shall be so enforceable.

Payments recoverable summarily.

(3) A warrant of distress or commitment issued by a court of summary jurisdiction for the purpose of enforcing any order so registered or confirmed may be executed in any part of Trinidad and Tobago in the same manner as if the warrant had been originally issued or subsequently endorsed by a court of summary jurisdiction having jurisdiction in the place where the warrant is executed.

Warrant of distress or commitment.

Procedure.  
Ch. 4: 20

8. The Summary Courts Act shall apply to proceedings before courts of summary jurisdiction under this Act in like manner as it applies to proceedings under that Act.

Proof of documents signed by officers of court.

9. Any document purporting to be signed by a Judge or officer of a court in England or Northern Ireland shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the court to sign the document.

Depositions to be evidence.

10. Depositions taken in a court in England or Northern Ireland may be received in evidence in proceedings before courts of summary jurisdiction under this Act.

Rules.  
Ch.4: 01

11. The Rules Committee established by the Supreme Court of Judicature Act may make rules governing the practice and procedure under this Act.

Extension of Act to other Commonwealth Territories [45 of 1979]\*

12. Where the Minister is satisfied that reciprocal provisions have been made by the Legislature of any Commonwealth territory for the enforcement within that territory of maintenance orders made by the Courts in Trinidad and Tobago, the Minister may by Order extend this Act to the territory and this Act shall thereupon apply in respect of the territory as though the references to England or Northern Ireland were references to the territory and the references to the Secretary of State were references to the appropriate official designated by the Government of that territory.

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\*This Act has been extended to maintenance orders made in Guyana, Grenada, Saint Lucia, St. Vincent, Leeward Islands, Barbados, Jamaica, New South Wales, Bahamas, the Australian Commonwealth (territory of seat of Government), Bailiwick of Guernsey (153/1956), State of Queensland (157/1959), Isle of Man (132/1964), States of South Australia, Victoria, Tasmania (29/1974).

**SUBSIDIARY LEGISLATION**

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**MAINTENANCE ORDERS (ENFORCEMENT) RULES**

**ARRANGEMENT OF RULES**

**RULE**

1. Citation.
2. Copy of order.
3. Copy of provisional order.
4. Order to be entered in Magistrate's register.
5. Confirmation and non-confirmation of provisional order.
6. Payments.
7. Collection of money and enforcing payment.
8. Further evidence.
9. Enforcing an order.
10. Hearing of provisional order.
11. Currency.
12. Prescribed officer.
13. Registration and filing of orders.
14. Register open to inspection.
15. Copies of orders.
16. Orders and provisional orders enforced abroad.
17. Directions given by prescribed officer.
18. Prescribed notice.

**SCHEDULE**

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**MAINTENANCE ORDERS (ENFORCEMENT) RULES**

G. 14.12.1922  
[30.11.1933]

*made under section 11.*

1. These Rules may be cited as the Maintenance Orders (Enforcement) Rules. Citation

2. The copy of an order made by a court outside Trinidad and Tobago and received by the Minister under section 3 of the Act shall, unless the order was made by a court of superior jurisdiction, be sent to the Magistrate of the district in which the defendant is alleged to be living. Copy of order

[Subsidiary]

*Maintenance Orders (Enforcement) Rules*Copy of  
provisional  
order

3. The copy of a provisional order made by a court outside Trinidad and Tobago and received by the Minister under section 6 of the Act shall be sent to a Magistrate in the manner provided by the foregoing rule with the accompanying documents and a requisition for the issue of a summons.

Order to be  
entered in  
Magistrate's  
register

4. The Magistrate to whom any order is sent in accordance with the above rules shall enter it or cause it to be entered in his register on the date on which he receives it in the same manner as though the order had been made at his court, distinguishing it from the other entries in such manner as he may find most convenient, so as to show that it is entered in pursuance of the Act.

Confirmation  
and non-  
confirmation of  
provisional  
order

5. When an order provisionally made outside Trinidad and Tobago has been confirmed with or without modification under section 6 of the Act by a Magistrate or the Magistrate has decided not to confirm it, the Magistrate shall send notice thereof to the court from which it issued and also to the Minister.

Payments

6. When an order has been registered under section 3 of the Act or a provisional order has been confirmed by a Magistrate under section 6, the Magistrate shall, unless satisfied that it is undesirable to do so, direct that all payments due thereunder shall be made through an officer of the court or such other person as he may specify for the purpose. The direction may be given without any complaint or application.

Collection of  
money and  
enforcing  
payment

7. The person through whom the payments are directed to be made shall collect the moneys due under the order in the same manner as though it were an affiliation order, and may take proceedings in his own name for enforcing payment, and shall pay the said moneys as and when collected to the person to whom they are due; but if such last-mentioned person is absent from Trinidad and Tobago the said moneys may be sent by the person collecting the same to the Comptroller of Accounts for transmission to the person entitled through whatever channel the Minister may deem most convenient in the circumstances.

Further  
evidence

8. When a provisional order made under section 5 of the Act has been remitted under subsection (4) of that section to a Magistrate for the purpose of taking further evidence, notice specifying the further evidence required and the time and place fixed for taking the evidence shall be sent by the Magistrate to the person on whose application the provisional order was made.

*Maintenance Orders (Enforcement) Rules*

[Subsidiary]

9. When it is desired to enforce under section 4 of the Act an order made in Trinidad and Tobago against a defendant who is resident abroad, a certified copy of the order shall be forwarded to the Minister with a statement giving the full address and personal description of the defendant, to which his photograph shall, if possible, be attached.

Enforcing an order

10. (1) When an order is made provisionally under section 5 of the Act against a defendant who is resident abroad, the evidence taken at the hearing shall be put in the form of a deposition and sent to the Minister with a certified copy of the order and a statement of the grounds on which it might have been opposed if the defendant had appeared in obedience to a summons duly served on him. Such an order shall show clearly on its face that it is provisional. A certificate of marriage shall, if possible, be attached to the depositions as an exhibit in proof of the marriage.

Hearing of provisional order

(2) The statement of the grounds on which the making of the order might have been opposed if the defendant had appeared in answer to a summons shall be signed by the Magistrate having cognisance of the case and shall be in the form set out in the Schedule.

Schedule

11. All sums shall be made payable in the currency of Trinidad and Tobago.

Currency

12. The prescribed officer mentioned in section 3 and section 6(1) of the Act shall, if the order is to be registered in the High Court, be the Registrar of the High Court and, if it is to be registered in a court of summary jurisdiction, the Magistrate of the District in which the order is to be enforced.

Prescribed officer

13. All orders, copies of which are transmitted for their enforcement to the High Court, shall be entered in a register to be kept for that purpose, and the copies so transmitted shall be filed in the Registrar's office.

Registration and filing of orders

14. Such register shall be open to inspection upon payment of a search fee of sixty cents.

Register open to inspection

15. Copies of orders so registered shall be supplied upon payment of the proper fees.

Copies of orders

16. All orders and provisional orders sent to the Minister for enforcement abroad shall be entered in the said register and a

Orders and provisional orders enforced abroad

12 **Chap. 45:53 Maintenance Orders (Enforcement)**

**[Subsidiary]** *Maintenance Orders(Enforcement) Rules*

note made thereof in the court minutes of the suit in which any such order occurs.

Directions given by prescribed officer

17. The prescribed officer shall give such further directions as to the filing, registering and transmission of all such orders under the Act as he thinks proper.

Prescribed notice

18. The prescribed notice mentioned in section 5(4) of the Act shall be by service on the applicant of a notice of the date when the matter is coming on for hearing in the like manner as notices or summonses are served in the several courts.

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**SCHEDULE.**

Regulation 10(2)

**Statement under section 5(3) of the Act.**

In the District.

A.B.

v.

C.D.

The grounds upon which the making of the order herein might have been opposed if the said C.D. had been duly served with a summons and had appeared at the hearing are—

1. That he was not married to the said A.B.
2. That his marriage to the said A.B. was void in law.
3. That a decree of divorce or of nullity of marriage had been pronounced by a competent Court.
4. That a decree of judicial separation or an order having the effect of such a decree was in force at the time of the said hearing.
5. That he and his wife A.B. were living apart by mutual consent or agreement.
6. That his wife had deserted him.
7. That A.B. had committed adultery which had not been condoned, connived at or by wilful misconduct or neglect conducted to by him.
8. That he had reasonable cause to leave his said wife.

Given under my hand this            day of            19    , at            the Court aforesaid.

*Magistrate for*

[Subsidiary]

**RECIPROCAL ENFORCEMENT MAINTENANCE ORDER***made under section 12*

1. This Order may be cited as the Reciprocal Enforcement Maintenance Order. Citation

2. The Act has been extended to maintenance orders made by the Commonwealth territories set out in the Schedule. Extension of Act to Commonwealth territories.

**SCHEDULE****PART I***Caribbean Commonwealth Territories*

|             |                 |
|-------------|-----------------|
| Guyana      | Leeward Islands |
| Grenada     | Barbados        |
| Saint Lucia | Jamaica         |
| St. Vincent | Bahamas         |

**PART II***Other Commonwealth Territories*

|  |          |
|--|----------|
| New South Wales  |          |
| The Australian Commonwealth<br>(territory of seat of Government) |          |
| Bailiwick of Guernsey  | 153/1956 |
| State of Queensland  | 157/1959 |
| Isle of Man  | 132/1964 |
| The State of Western Australia                                   | 28/1974  |
| The States of South Australia                                    | 29/1974  |
| Victoria and Tasmania  |          |