

CHAPTER 5. No. 16.

MAINTENANCE ORDERS (ENFORCEMENT).

AN ORDINANCE TO FACILITATE THE ENFORCEMENT IN THE COLONY OF MAINTENANCE ORDERS MADE IN ENGLAND AND NORTHERN IRELAND AND IN OTHER BRITISH POSSESSIONS GRANTING RECIPROCAL FACILITIES.

Ordinance
Ch. 5, No. 16—
1940.

[1st March, 1922.]

Commence-
ment.

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

Short title.

2. In this Ordinance—

Interpre-
tation.

“ maintenance order ” means an order other than an order of affiliation 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;

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

“ 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.

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 Governor, the Governor shall send a copy of the order to the prescribed officer of a court

Enforcement
in the Colony
of mainten-
ance orders
made in
England or
Northern
Ireland.

in the Colony for registration; and on receipt thereof the order shall be registered in the prescribed manner, and shall, from the date of such registration, be of the same force and effect, and, subject to the provisions of this Ordinance, all proceedings may be taken on such 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 Supreme Court, and, if the court was not a court of superior jurisdiction, be a court of summary jurisdiction.

Transmission to England of orders made in the Colony.

4. Where a court in the Colony 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 Governor for transmission to the Secretary of State a certified copy of the order.

Provisional orders against persons in England or Northern Ireland.

5. (1) Where an application is made to a court of summary jurisdiction in the Colony 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.

Deposition to be taken.

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

Transmission of order and depositions.

(3) Where such an order is made, the court shall send to the Governor 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.

(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 the Colony which made the order for the purpose of taking further evidence, that court or any other court of summary jurisdiction in the Colony 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 such 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 Governor and dealt with in like manner as the original depositions.

Rescission of order.

(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: Provided that on the making of a varying or rescinding order the court shall send a certified copy thereof to the Governor for transmission to the Secretary of State, and that 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.

Confirmation not to affect power to vary or rescind.

(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.

Right of appeal.

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 the Colony, 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 Governor, and it appears to the Governor that the person

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

against whom the order was made is resident in the Colony, the Governor 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 such documents and requisition, the court shall issue such a summons and cause it to be served upon such person.

Service of
summons.

(2) A summons so issued may be served in the Colony 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.

Order
confirmed in
default of
appearance.

(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.

Adjournment
for further
evidence.

(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 applica-
tion for
rescission
or variation
of order.

(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.

(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 Ordinance or by which an order has been confirmed under this Ordinance, and the officers of such 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: Provided that, 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 the Colony 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.

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

Procedure.

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.

Proof of documents signed by officers of court.

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 Ordinance.

Rules.

11. (1) The Chief Justice, with the concurrence of a Puisne Judge, may make rules governing the practice and procedure under this Ordinance.

(2) All such rules shall be published in the *Royal Gazette*.

Extension of
Ordinance to other
Colonies.

12. Where the Governor is satisfied that reciprocal provisions have been made by the Legislature of any British possession or any territory under His Majesty's protection for the enforcement within such possession or territory of maintenance orders made by the courts in this Colony, the Governor may by proclamation extend this Ordinance to such possession or territory, and this Ordinance shall thereupon apply in respect of such possession or territory as though the references to England or Northern Ireland were references to such possession or territory and the references to the Secretary of State were references to the Governor of such possession or territory.*

* This Ordinance has been extended to maintenance orders made in British Guiana, Grenada, St. Lucia, St. Vincent, Leeward Islands, Barbados, Jamaica, New South Wales, Bahamas and the Australian Commonwealth (territory of seat of Government).