

CHAPTER 257

THE MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT

Arrangement of Sections Section

1. Short title.
 2. Interpretation.
 3. Enforcement in Antigua and Barbuda of maintenance orders made in England or Northern Ireland.
 4. Transmission of maintenance orders made in Antigua and Barbuda.
 5. Power to make provisional orders of maintenance against persons resident in England or Northern Ireland.
 6. Power of inferior Court of Summary Jurisdiction to confirm maintenance order made in England or Northern Ireland.
 7. Regulations for facilitating communications between courts.
 8. Mode of enforcing orders.
 9. Application of Magistrate's Code of Procedure Act.
 10. Proof of documents signed by officers of court.
 11. Depositions to be evidence.
 12. Extension to Commonwealth and territory under H.M.'s protection.
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MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT)

(25th February, 1921.)

11/1921.
2/1922.
5/1931.
32/1956.
15/1961.
18/1989.

1. This Act may be cited as the Maintenance Orders (Facilities for Enforcement) Act. Short title.

2. In this Act— Interpretation.

"certified copy" in relation to an order of Court means a copy of the order certified by the proper officer of the Court to be a true copy;

"dependants" means such persons as that person is, according to the law in force in that part of England or Northern Ireland in which the maintenance order was made liable to maintain;

"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;

"prescribed" means prescribed by rules of Court;

3. (1) Where a maintenance order has whether before or after the passing of this Act, 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-General, the Governor-General shall send a copy of the order to the prescribed officer of a Court in Antigua and Barbuda 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 Act, all proceedings may be taken on such order as if it had been an order originally obtained in the Court in

Enforcement in Antigua and Barbuda of maintenance orders made in England or Northern Ireland.

LAWS OF ANTIGUA AND BARBUDA

CAP. 257) *Maintenance Orders (Facilities
for Enforcement)*

which it is so registered, and that Court shall have power to enforce the order accordingly.

(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 an inferior Court of Summary Jurisdiction.

Transmission of maintenance orders made in Antigua and Barbuda.

4. Where a Court in Antigua and Barbuda has whether before or after the commencement of this Act 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 England or Northern Ireland the Court shall send to the Governor-General for transmission to the Secretary of State a certified copy of the order.

Power to make provisional orders of maintenance against persons resident in England or Northern Ireland.

5. (1) Where an application is made to an inferior Court of Summary Jurisdiction in Antigua and Barbuda 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.

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

(3) Where such an order is made the Court shall send to the Governor-General 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 inferior Court of Summary Jurisdiction which made the order for the purpose of taking further evidence that Court 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.

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-General and dealt with in like manner as the original depositions.

(5) The confirmation of an order made under this section shall not affect any power of an inferior 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-General for transmission to the Secretary of State and that in the case of an order varying the original order shall not have any effect unless and until confirmed in like manner as the original order.

(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.

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 an inferior Court of Summary Jurisdiction in Antigua and Barbuda 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-General and it appears to the Governor-General that the person against whom the order was made is resident in Antigua and Barbuda the Governor-General may send the said documents to the prescribed officer of the inferior Court of Summary Jurisdiction in the district wherein such person resides with a requisition that a

**Power of inferior
Court of
Summary
Jurisdiction to
confirm
maintenance
order made in
England or
Northern
Ireland.**

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.

Cap. 255.

(2) A summons so issued may be served in Antigua and Barbuda in the manner prescribed for the service of a summons by the Magistrate's Code of Procedure Act.

(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.

(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 that purpose.

(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.

7. The Governor-General may make regulations as to the manner in which a case can be remitted by a Court authorised to confirm a provisional order to the Court which made the provisional order and generally for facilitating communications between such Courts.

**Regulations for
facilitating
communications
between courts.**

8. (1) An inferior 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 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.

(3) A warrant of distress or commitment issued by an inferior Court of Summary Jurisdiction for the purpose of enforcing any order so registered or confirmed may be executed in any part of Antigua and Barbuda in the manner prescribed by the Magistrate's Code of Procedure Act.

9. The Magistrate's Code of Procedure Act shall apply to proceedings before inferior Courts of Summary Jurisdiction under this Act in like manner as they apply to proceedings under that Act and the power of the Minister to make rules under the Magistrate's Code of Procedure Act, shall include power to make rules regulating the procedure of inferior Courts of Summary Jurisdiction under this Act.

**Application of
Magistrate's
Code of
Procedure Act.**

10. 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

**Documents signed
by officers of
court.**

CAP. 257) *Maintenance Order (Facilities
for Enforcement)*

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.

11. Depositions taken in a Court in England or Northern Ireland for the purposes of this Act may be received in evidence in proceedings before inferior Court of Summary Jurisdiction under this Act.

Extension to Commonwealth and territory under H.M.'s protection.

12. Where the Governor-General is satisfied that reciprocal provisions have been made by the Legislature of any part of the Commonwealth other than England or Northern Ireland, or of any territory under Her Majesty's protection for the enforcement within such part or territory, of maintenance orders made by Courts in Antigua and Barbuda, the Governor-General may by Proclamation extend this Act to such part or territory, and this Act shall thereupon apply in respect of such part or territory as though the references to England or Northern Ireland were references to such part or territory and the references to the Secretary of State were references to the Government of such part or territory.
