ANTIGUA AND BARBUDA

STATUTORY INSTRUMENTS

1994, No. 3

Resolution ratifying the Inter-American Convention on Support Obligations, done at Montevideo, Uruguay July 15, 1989.

WHEREAS the Ratification of the Treaties Act, 1987 (No. 1 of 1987) provides in section 3 (1) that where a Treaty to which Antigua and Barbuda becomes a party is one which affects or concerns the relationship of Antigua and Barbuda with any international organisation, agency or association or similar body, such Treaty shall not enter into force with respect to Antigua and Barbuda unless it has been ratified or its ratification has been authorised or approved in accordance with the provisions of the Act;

AND WHEREAS the Inter-American Convention on Support Obligations is an international agreement which was concluded between the Member States of the Organisation of American States, and is a Convention which is governed by international law;

AND WHEREAS THE Inter-American Convention on Support Obligations is an agreement which concerns the relationship of Antigua and Barbuda and the Member States of the Organisation of American States;

NOW, THEREFORE, BE IT RESOLVED by this Honourable House that the Inter-American Convention on Support Obligations which is attached hereto as a schedule be ratified as a Treaty under section 3 (1) (c) of the Ratification of Treaties Act, 1987.

Passed the House of Representatives this 10th day of January, 1994.

C. L. Murray,
Speaker.

L. A. Dowe,
Clerk to the House of Representatives.

SCHEDULE

ORGANIZATION OF AMERICAN STATES

Fourth Inter-American Specialized Conference on Private International Law.

July 9 through 15, 1989
Montevideo, Uruguay

Inter-American Convention on Support Obligations

Scope

ARTICLE 1

The purpose of this Convention is to establish the law applicable to support obligations and to jurisdiction and international procedural cooperation when the support creditor is domiciled or habitually resides in one State Party and the debtor is domiciled or habitually resides or has property or income in another State Party.

This Convention shall apply to child support obligations owed because of the child's minority and to spousal support obligations arising from the matrimonial relationship between spouses or former spouses.

When signing, ratifying, or acceding to this Convention, a State may declare that it restricts the scope of the Convention to child support obligations.

ARTICLE 2

For the purposes of this Convention, a child shall be any person below the age of eighteen years. However, the benefits of this Convention shall also apply to those who, having attained that age, continue to be entitled to support under the applicable law prescribed by Articles 6 and 7.

ARTICLE 3

When signing, ratifying or acceding to this Convention or after it has taken effect, a State may declare that it shall apply to support obligations in favour of other creditors, and may indicate the degree of kinship or other legal relationship required by its law for a person to be a support creditor or debtor.

ARTICLE 4

Any person, without regard to nationality, race, sex, religion, parentage, place of origin, immigration status or any other distinction, is entitled to receive support.

ARTICLE 5

Decisions rendered pursuant to this Convention shall be without prejudice to questions of parentage and family relationships between support creditors and debtors. Where relevant, however, such decisions may be used as evidence.

Applicable Law

ARTICLE 6

Support obligations, as well as the definition of support creditor and debtor, shall be governed by whichever of the following laws the competent authority finds the most favourable to the creditor:

(a) That of the State of domicile or habitual residence of the creditor;

(b) That of the State of domicile or habitual residence of the debtor.

ARTICLE 7

The applicable law pursuant to Article 6 shall determine:

(a) The amount of support due and the timing of and conditions for payment;

(b) Who may bring a support claim on behalf of the creditor; and

(c) Any other condition necessary for enjoyment of the right to support.

Jurisdiction

ARTICLE 8

At the option of the creditor, support claims may be heard by the following judicial or administrative authorities:

(a) Those of the State of domicile or habitual residence of the creditor;

(b) Those of the State of domicile or habitual residence of the debtor; or

(c) Those of the State to which the debtor is connected by personal links such as possessing property, receiving income or obtaining financial benefits.

Notwithstanding the provisions of this article, a judicial or administrative authority of another State shall also have jurisdiction if the defendant appears before it without challenging its jurisdiction.

ARTICLE 9

Actions to increase the amount of support may be heard by any of the authorities mentioned in Article 87. Actions to discontinue or reduce support shall be heard by the authorities of the State that set the amount of support.

ARTICLE 10

Support shall be commensurate with both the need of the creditor and the financial resources of the debtor.

Should a judicial or administrative authority responsible for enforcing or securing the effectiveness of a judgment order provisional measures or provide for execution of judgment in an amount lower than requested, the rights of the creditor shall not thereby be impaired.

International Procedural Cooperation

ARTICLE 11

Support orders of one State Party shall be enforced in other States Parties if they meet the following requirements:

(a) The judicial or administrative authority issuing the order had jurisdiction under Articles 8 and 9 of this Convention to hear and decide the matter;

(b) The order and the documents attached thereto required under this Convention have been duly translated into the official language of the State in which the order is to be enforced;

(c) As necessary, the order and the documents attached thereto have been certified in accordance with the law of the State in which the order is to be enforced;

(d) They have been certified in accordance with the law of the State of origin;

(e) The defendant was served with notice or was summoned to appear in due legal form substantially equivalent to that established by the law of the State in which the order is to be enforced;

(f) The parties had the opportunity to present their defense;

(g) The orders are final in the State in which they were rendered. A pending appeal from such order shall not delay its enforcement.

ARTICLE 12

A request for enforcement of an order shall include the following:

(a) A certified copy of the order;

(b) Certified copies of the documents needed to prove compliance with Article 11*(e)* and 11*(f)*;

(c) A certified copy of a document showing that the support order is final or is being appealed.

ARTICLE 13

Compliance with the above requirements shall be ascertained directly by the competent authority from which enforcement is sought, which shall proceed summarily, giving notice to the debtor and, where necessary, to the appropriate public agency and holding a hearing without reopening the merits. Should the enforcement decision be appealable, the appeal shall not suspend provisional measures or such collection or enforcement orders as may be in effect.

ARTICLE 14

No security of any kind may be required from the support creditor because of his foreign nationality or his domicile or habitual residence in another State.

An *in forma pauperis* waiver of court costs granted to a support creditor in the State Party where he brought his action for support shall be recognized in the State Party where recognition or enforcement is sought. The States Parties undertake to provide free legal assistance to the beneficiaries of such waivers.

ARTICLE 15

The judicial or administrative authorities of the States Parties shall order and carry out, pursuant to a well-founded request of a party or through the respective diplomatic agent or consular officer, provisional or urgent measures that are territorial in nature and whose purpose is to secure the outcome of a pending or anticipated support claim.

These provisions shall apply whatever authorities may have jurisdiction, so long as the property or income concerned is to be found within the territory where the action is brought.

ARTICLE 16

The granting of a request for provisional or precautionary measures shall imply neither recognition of jurisdiction of the requesting authority nor a commitment to recognize the validity of, or enforce, a support order presented for enforcement.

ARTICLE 17

Temporary support orders and interlocutory support judgments, including those rendered by courts hearing annulment, divorce, separation and similar cases, shall be enforced by the competent authority, although they may be subject to appeal in the State where rendered.

ARTICLE 18

Upon signing, ratifying or acceding to the Convention, a State may declare that its procedural law will govern jurisdiction of the courts and the proceedings for recognition of a foreign support order.

General Provisions

ARTICLE 19

The States Parties shall endeavour to provide, as far as they are able, temporary support to children from other States abandoned in their territory.

ARTICLE 20

The States Parties undertake to facilitate the transfer of funds required for compliance with this Convention.

ARTICLE 21

The provisions of this Convention may not be construed in such a way as to restrict the rights of the support creditor under the law of the forum.

ARTICLE 22

The enforcement of foreign judgments or application of foreign law prescribed by this Convention may be refused when the requested State Party considers such enforcement or application manifestly contrary to its fundamental principles of public policy *(ordre public)*.

Final Provisions

ARTICLE 23

This Convention shall be open for signature by the Member States of the Organization of American States.

ARTICLE 24

This Convention is subject to ratification. The instruments of ratification shall be deposited with the General Secretariat of the Organization of American States.

ARTICLE 25

This Convention shall remain open for accession by any other State. The instruments of accession shall be deposited with the General Secretariat of the Organization of American States.

ARTICLE 26

Each State may, at the time of signature, ratification, or accession, make reservations to this Convention, provided that the reservation concerns one or more specific provisions and is not incompatible with the purpose and fundamental objectives of this Convention.

ARTICLE 27

If a State has two or more territorial units in which different systems of law apply in relation to the matters dealt with in this Convention, it may, at the time of signature, ratification or accession, declare that this Convention shall extend to all its territorial units or only to one or more of them.

Such declaration may be modified by subsequent declarations, which shall expressly indicate the territorial unit or units to which the Convention applies. Such subsequent declarations, which shall expressly indicate the territorial unit or units to which the Convention applies. Such subsequent declarations shall be transmitted to the General Secretariat of the Organization of American States, and shall become effective thirty days after the date of their receipt.

ARTICLE 28

In the case of a State that, with respect to child support obligations, has two or more systems of law applicable in different territorial units:

(a) Any reference to the domicile or habitual residence in that State refers to domicile or habitual residence in a territorial unit of that State;

(b) Any reference to the law of the State of domicile or habitual residence refers to the law of the territorial unit in which the child has its domicile or habitual residence.

ARTICLE 29

Among Member States of the Organization of American States that are parties to this Convention and to the Hague Conventions of October 2, 1973 on the recognition and enforcement of decisions relating to maintenance obligations and on the law applicable to maintenance obligations, this Convention shall prevail.

However, States Parties may enter into bilateral agreements to give priority to the application of the Hague Conventions of October 2, 1973.

ARTICLE 30

This Convention shall limit neither the provisions of existing or future bilateral or multilateral conventions on this subject entered into by the States Parties, nor the more favourable practices that those States may observe in this area.

ARTICLE 31

This Convention shall enter into force on the thirtieth day following the date of deposit of the second instrument of ratification.

For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

ARTICLE 32

This Convention shall remain in force indefinitely, but any of the States Parties may denounce it. The instrument of denunciation shall be deposited with the General Secretariat of the Organization of American States. After one year from the date of deposit of the instrument of denunciation, the Convention shall no longer be in force for the denouncing State, but shall remain in force for the other States Parties.

ARTICLE 33

The original instrument of this Convention, the English, French, Portuguese and Spanish texts of which are equally authentic, shall be deposited with the General Secretariat of the Organization of American States, which shall forward an authenticated copy of its text to the Secretariat of the United Nations for registration and publication in accordance with article 1023 of its Charter. The General Secretariat of the Organization of American States shall notify the Member States of the Organization and the States that have acceded to the Convention of the signatures, deposits of instruments of ratification, accession and denunciation, as well as of reservations, if any. It shall also transmit the declarations provided for in this Convention.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Convention.

DONE AT MONTEVIDEO, EASTERN REPUBLIC OF URUGUAY, this fifteenth day of July, one thousand nine hundred and eighty-nine.

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