

CHAPTER 127

MAINTENANCE ORDERS FACILITIES FOR ENFORCEMENT

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CHAPTER 127

MAINTENANCE ORDERS FACILITIES FOR
ENFORCEMENT

**An Act to facilitate the enforcement in The Bahamas of
maintenance orders made in England or Northern Ireland or
the Republic of Ireland and *vice versa*.**

[Commencement 19th July, 1923]

1. This Act may be cited as the Maintenance Orders
Facilities for Enforcement Act.

2. In this Act, unless the context otherwise requires —
“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;

“dependants” means such persons as the person
against whom a maintenance order is made is,
according to the law in force in the country of
the Commonwealth in which the maintenance
order was made, liable to maintain;

“maintenance order” means an order other than an
order of affiliation for the periodic payment of
sums of money towards the maintenance of the
wife or other dependants of the person against
whom the order is made;

“Minister” means the Minister responsible for Ex-
ternal Affairs;

“prescribed” means prescribed by rules of court;

“Rules Committee” means the Rules Committee
constituted under section 75 of the Supreme
Court Act.

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 or the
Republic of Ireland and a certified copy of the order has
been transmitted by the Secretary of State, or the Minister
for Foreign Affairs of the Republic of Ireland, as the case
may be, to the Minister, the Minister shall send a copy of

9 of 1923
1 of 1930
1 of 1957
G.N. 187/1964
3 of 1964
46 of 1964
18 of 1965
S.I. N.o.45 of
1969
E.L.A.O., 1974

Short title.

Interpretation.

43 of 1964, Third
Sch.

E.L.A.O., 1974.

46 of 1964, Sch.
Ch. 53.

Enforcement in
The Bahamas of
maintenance
orders made in
England or
Northern Ireland
or the Republic
of Ireland.
1 of 1957, s. 6.;
E.L.A.O., 1974.

the order to the prescribed officer of a court in The Bahamas 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 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 Supreme Court, and, if the court was not a court of superior jurisdiction, be a court of summary jurisdiction.

Transmission of
maintenance
orders made in
The Bahamas.
1 of 1957, s. 6.
E.L.A.O., 1974.

4. Where a court in The Bahamas 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 or the Republic of Ireland, the court shall send to the Minister for transmission to the Secretary of State, or the Minister for Foreign Affairs of the Republic of Ireland, as the case may be, a certified copy of the order.

Power to make
provisional
orders of
maintenance
against persons
resident in
England or
Northern Ireland
or the Republic
of Ireland.
1 of 1957, s. 6.

5. (1) Where an application is made to a court of summary jurisdiction in The Bahamas for a maintenance order against any person, and it is proved that that person is resident in England or Northern Ireland or the Republic of 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 or the Republic of Ireland.

(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.

(3) Where such an order is made, the court shall send to the Minister for transmission to the Secretary of State, or the Minister for Foreign Affairs of the Republic of Ireland, as the case may be, the depositions so taken and a certified copy of the order, together with a statement of the

E.L.A.O., 1974.

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 or the Republic of Ireland for confirmation, and the order has by that court been remitted to the court of summary jurisdiction which made the order for the purpose of taking further evidence, that court or any other court of summary jurisdiction sitting and acting for the same place, 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 Minister 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 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 Minister for transmission to the Secretary of State, or the Minister for Foreign Affairs of the Republic of Ireland, 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.

E.L.A.O., 1974.

(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 or the Republic of Ireland, and the order is provisional only and has no effect unless and until confirmed by a court of summary jurisdiction in The Bahamas, 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

Power of court of summary jurisdiction to confirm maintenance order made out of The Bahamas. *1 of 1957, s. 6.*

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 The Bahamas, 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 such documents and requisition the court shall issue such a summons and cause it to be served upon such person.

(2) A summons so issued may be served in The Bahamas 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.

(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 slating 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 the 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 Rules Committee may make rules 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.

Power of Rules Committee to make rules for facilitating communications between courts.
46 of 1964, Sch.

8. (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 such court, shall take all such steps for enforcing the order as may be prescribed.

Mode of enforcing.

(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 a court of summary jurisdiction for the purpose of enforcing any order so registered or confirmed may be executed in any part of The Bahamas 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.

9. The Magistrates Act shall apply to proceedings before courts of summary jurisdiction under this Act in like manner as they apply to proceedings under that Act and the power of the Rules Committee to make rules under section 103 of the Magistrates Act shall include power to make rules regulating the procedure of courts of summary jurisdiction under this Act.

Application of Magistrates Act.
46 of 1964, Sch.

Ch. 54.

10. Any document purporting to be signed by a judge or officer of a court outside The Bahamas shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official

Proof of documents signed by officers of court.

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.

1 of 1957, s. 6.

11. Depositions taken in a court in England or Northern Ireland or the Republic of Ireland for the purposes of this Act may be received in evidence in proceedings before courts of summary jurisdiction under this Act.

Extent of Act.

*1 of 1930, s. 2.; 1
of 1957, s. 6.;
G.N. 187/1964,
s. 6.; 43 of 1964,
Third Sch.; 18 of
1965, Sch.;
E.L.A.O., 1974.*

12. Where the Governor-General is satisfied that reciprocal provisions have been made by the Legislature of any country of the Commonwealth other than England or Northern Ireland for the enforcement within such country of maintenance orders made by courts in The Bahamas the Governor-General may, by Order, extend this Act to such country, and this Act shall thereupon apply in respect of such country as though the references to England or Northern Ireland or the Republic of Ireland were references to such country and the references to the Secretary of State were references to the Governor-General or other appropriate authority of the Government of such country.