

Maintenance Orders (Reciprocal Enforcement) Ordinance 1979

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Assented to in Her Majesty's name this 19th day of March 1979.

J. R. W. PARKER,
Governor.

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No. 1



1979

Colony of the Falkland Islands

IN THE TWENTY-EIGHTH YEAR OF THE REIGN OF
Her Majesty Queen Elizabeth II.

JAMES ROLAND WALTER PARKER, C.M.G., O.B.E.
Governor.

An Ordinance

To make provision for the reciprocal enforcement of maintenance orders. Title.

(21st March 1979)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows —

1. This Ordinance may be cited as the Maintenance Orders (Reciprocal Enforcement) Ordinance 1979. Short title.

2. (1) In this Ordinance, unless the context otherwise requires — Interpretation.

“affiliation order” means an order (however described) adjudging, finding or declaring a person to be the father of a child, whether or not it also provides for the maintenance of the child;

“certificate of arrears”, in relation to a maintenance order, means a certificate certifying that the sum specified in the certificate is to the best of the information or belief of the officer giving the certificate the amount of the arrears due under the order at the date of the certificate, or, as the case may be, that to the best of his information or belief there are no arrears due thereunder at the date;

“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;

“court” includes any tribunal or person having power to make, confirm, enforce, vary or revoke a maintenance order;

"maintenance order" means an order (however described) of any of the following descriptions, that is to say —

- (a) an order (including an affiliation order) which provides for the periodical payment of sums of money towards the maintenance of any person, being a person whom the person liable to make payments under the order is, according to the law applied in the place where the order was made, liable to maintain; and
- (b) an affiliation order which provides for the payment by a person adjudged, found or declared to be a child's father of expenses incidental to the child's birth or, where the child has died, of his funeral expenses,

and, in the case of a maintenance order which has been varied, means that order as varied;

"payee", in relation to a maintenance order, means the person entitled to the payments for which the order provides;

"payer", in relation to a maintenance order, means the person liable to make payments under the order;

"provisional order" means (according to the context) —

- (a) an order made by a court in the Colony which is provisional only and which has no effect unless and until confirmed, with or without alteration, by a competent court in a reciprocating country; or
- (b) an order made by a competent court in a reciprocating country which is provisional only and which has no effect unless and until confirmed, with or without alteration, by a court in the Colony having power under this Ordinance to confirm it;

"reciprocating country" means a country or territory designated in an order made by the Governor under section 3 of the Ordinance to the extent which it is so designated;

"registered order" means a maintenance order which is for the time being registered in a court in the Colony under this Ordinance;

"registering court", in relation to a registered order, means the court in which that order is for the time being registered under this Ordinance;

"the responsible authority", in relation to a reciprocating country, means any person who in that country has functions similar to those of the Governor under this Ordinance.

(2) For the purposes of this Ordinance an order shall be taken to be a maintenance order so far (but only so far) as it relates to the periodical payment of sums of money as mentioned in paragraph (a) of the definition of "maintenance order" in subsection (1) above or to the payment by a person adjudged, found or declared to be a child's father of any such expenses as are mentioned in paragraph (b) of that definition.

(3) Any reference in this Ordinance to the payment of money for the maintenance of a child shall be construed as including a reference to the payment of money for the child's education.

3. (1) If the Governor is satisfied that, in the event of the benefits conferred by this Ordinance being applied to, or to particular classes of, maintenance orders made by the courts of any country or territory other than the Colony, similar benefits will in that country or territory be applied to, or to those classes of, maintenance orders made by the courts of the Colony, he may by Order-in-Council, designate that country or territory as a reciprocating country for the purposes of this Ordinance.

Orders designating
reciprocating countries.
1972 c. 18 s. 1.

(2) A country or territory may be designated under subsection (1) above as a reciprocating country either as regards maintenance orders generally, or as regards maintenance orders other than those of any specified class, or as regards maintenance orders of one or more specified classes only; and a country or territory which is for the time being so designated otherwise than as regards maintenance orders generally shall for the purposes of this Ordinance be taken to be a reciprocating country only as regards maintenance orders of the class to which the designation extends.

4. (1) Subject to subsection (2) below, where the payer under a maintenance order made, whether before or after the commencement of this Ordinance, by a court in the Colony is residing in a reciprocating country, the payee under the order may apply for the order to be sent to that country for enforcement.

Transmission of maintenance order made in the Colony for enforcement in reciprocating country.
1972 c. 18 s. 2.

(2) Subsection (1) above shall not have effect in relation to a provisional order.

(3) Every application under this section shall be made in the prescribed manner to the prescribed officer of the court which made the maintenance order to which the application relates.

(4) If, on an application duly made under this section to the prescribed officer of a court in the Colony, that officer is satisfied that the payer under the maintenance order to which the application relates is residing in a reciprocating country, the following documents, that is to say —

- (a) a certified copy of the maintenance order;
- (b) a certificate signed by that officer certifying that the order is enforceable in the Colony;
- (c) a certificate of arrears;
- (d) a statement giving such information as the officer possesses as to the whereabouts of the payer;
- (e) a statement giving such information as the officer possesses for facilitating the identification of the payer; and
- (f) where available, a photograph of the payer,

shall be sent by that officer to the Governor with a view to their being transmitted by the Governor to the responsible authority in the reciprocating country if he is satisfied that the statement relating to the whereabouts of the payer gives sufficient information to justify that being done.

(5) Nothing in this section shall be taken as affecting any jurisdiction of a court in the Colony with respect to a maintenance order to which this section applies, and any such order may be enforced, varied or revoked accordingly.

5. (1) Where a complaint is made to the Magistrate's Court or a Summary Court against a person residing in a reciprocating country and the complaint is one of which such court would have jurisdiction by virtue of any enactment to make a maintenance order if —

Power of Magistrate's Court or Summary Court to make provisional maintenance order against person residing in reciprocating country.

1972 c. 18 s. 3.

- (a) that person were residing in the Colony;
- (b) a summons to appear before the court to answer to the complaint had been served on him,

such court shall have jurisdiction to hear the complaint and may, subject to subsection (2) below, make a maintenance order on the complaint.

(2) A maintenance order made by virtue of this section shall be a provisional order.

(3) If the court hearing a complaint to which subsection (1) above applies is satisfied —

- (a) that there are grounds on which a maintenance order containing a provision requiring the making of payments for the maintenance of a child may be made on that complaint; but
- (b) that it has no jurisdiction to make that order unless it also makes an order providing for the legal custody of that child, then, for the purpose of enabling such court to make the maintenance order, the complainant shall be deemed to be the person to whom the legal custody of that child has been committed by an order of such court which is for the time being in force.

(4) No enactment empowering the Magistrate's Court or a Summary Court to refuse to make an order on a complaint on the ground that the matter in question is one which would be more conveniently dealt with by the Supreme Court shall apply in relation to a complaint to which subsection (1) above applies.

(5) Where a court makes a maintenance order which is by virtue of this section a provisional order, the following documents, that is to say —

- (a) a certified copy of the maintenance order;
- (b) a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings;
- (c) a certificate signed by the prescribed officer of the court certifying that the grounds stated in the certificate are the grounds on which the making of the order might have been opposed by the payer under the order;
- (d) a statement giving such information as was available to the court as to the whereabouts of the payer;
- (e) a statement giving such information as the officer possesses for facilitating the identification of the payer; and
- (f) where available, a photograph of the payer,

shall be sent by that officer to the Governor with a view to their being transmitted by the Governor to the responsible authority in the reciprocating country in which the payer is residing if he is satisfied that the statement relating to the whereabouts of the payer gives sufficient information to justify that being done.

(6) A maintenance order made by virtue of this section which has been confirmed by a competent court in a reciprocating country shall be treated for all purposes as if the Magistrate's Court or Summary Court which made the order had made it in the form in which it was confirmed and as if the order had never been a provisional order, and, subject to section 6 of this Ordinance, any such order may be enforced, varied or revoked accordingly.

6. (1) This section applies to a maintenance order a certified copy of which has been sent to a reciprocating country in pursuance of section 4 of this Ordinance and to a maintenance order made by virtue of section 5 thereof which has been confirmed by a competent court in such country.

(2) A court in the Colony having power to vary a maintenance order to which this section applies shall have power to vary that order by a provisional order.

(3) Where the court hearing an application for the variation of a maintenance order to which this section applies proposes to vary it by increasing the rate of the payments under the order then, unless

- (a) both the payer and the payee under the order appear in the proceedings; or

(b) the applicant appears and the appropriate process has been duly served on the other party,

the order varying the order shall be a provisional order.

(4) Where a court in the Colony makes a provisional order varying a maintenance order to which this section applies, the prescribed officer of the court shall send in the prescribed manner to the court in a reciprocating country having power to confirm the provisional order a certified copy of the provisional order together with a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings.

(5) Where a certified copy of a provisional order made by a court in a reciprocating country, being an order varying or revoking a maintenance order to which this section applies, together with a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the provisional order was made, is received by the court in the Colony which made the maintenance order, that court may confirm or refuse to confirm the provisional order and, if that order is an order varying the maintenance order, confirm it either without alteration or with such alterations as it thinks reasonable.

(6) For the purpose of determining whether a provisional order should be confirmed under subsection (5) above, the court shall proceed as if an application for the variation or revocation, as the case may be, of the maintenance orders in question, had been made to it.

(7) Where a maintenance order to which this section applies has been varied by an order (including a provisional order which has been confirmed) made by a court in the Colony or by a competent court in a reciprocating country, the maintenance order shall, as from the date on which the order was made, have effect as varied by that order and, where that order is a provisional order, as if that order had been made in the form it was confirmed, and as if it had never been a provisional order.

(8) Where a maintenance order to which this section applies has been revoked by an order made by a court in the Colony or by a competent court in a reciprocating country, including a provisional order made by the last-mentioned court which has been confirmed by a court in the Colony, the maintenance order shall, as from the date on which the order was made, be deemed to have ceased to have effect except as respects any arrears due under the maintenance order at that date.

(9) Where before a maintenance order made by virtue of section 5 of this Ordinance is confirmed a document, duly authenticated, setting out or summarising evidence taken in a reciprocating country for the purpose of proceedings relating to the confirmation of the order is received by the court in the Colony which made the order, or that court, in compliance with a request made to it by a court in such a country, takes the evidence of a person residing in the Colony for the purpose of such proceedings, the court in the Colony which made the order shall consider that evidence and if, having done so, it appears to it that the order ought not to have been made—

- (a) it shall, in such manner as may be prescribed, give the person on whose application the maintenance order was made an opportunity to consider that evidence, to make representations with respect to it and to adduce further evidence; and
- (b) after considering all evidence and any representations made by that person, it may revoke the maintenance order.

7. (1) This section applies to a maintenance order made, whether before or after the commencement of this Ordinance, by a court in a reciprocating country, including such an order made by

such a court which has been confirmed by a court in another reciprocating country but excluding a provisional order which has not been confirmed.

(2) Where a certified copy of an order to which this section applies is received by the Governor from the responsible authority in a reciprocating country, and it appears to the Governor that the payer under the order is residing in the Colony, he shall send the copy of the order to the prescribed officer of the appropriate court.

(3) Where the prescribed officer of the appropriate court receives from the Governor a certified copy of an order to which this section applies, he shall, subject to subsection (4) below, register the order in the prescribed manner in that court.

(4) Before registering an order under this section an officer of a court shall take such steps as he thinks fit for the purpose of ascertaining whether the payer under the order is residing within the Colony, and if after taking those steps he is satisfied that the payer is not so residing he shall return the certified copy of the order to the Governor with a statement giving such information as he possesses as to the whereabouts of the payer.

8. (1) This section applies to a maintenance order made, whether before or after the commencement of this Ordinance, by a court in a reciprocating country being a provisional order.

(2) Where a certified copy of an order to which this section applies together with —

- (a) a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the order was made; and
- (b) a statement of the grounds on which the making of the order might have been opposed by the payer under the order,

is received by the Governor from the responsible authority in a reciprocating country, and it appears to the Governor that the payer under the order is residing in the Colony, he shall send the copy of the order and documents which accompanied it to the prescribed officer of the appropriate court, and that court shall —

- (i) if the payer under the order establishes any such defence as he might have raised in the proceedings in which the order was made, refuse to confirm the order; and
- (ii) in any other case, confirm the order either without alteration or with such alterations as it thinks reasonable.

(3) In any proceedings for the confirmation under this section of a provisional order, the statement received from the court which made the order of the grounds on which the making of the order might have been opposed by the payer under the order shall be conclusive evidence that the payer might have raised a defence on any of those grounds in the proceedings in which the order was made.

(4) For the purpose of determining whether a provisional order should be confirmed under this section the court shall proceed as if an application for a maintenance order against the payer under the provisional order had been made to it.

(5) The prescribed officer of a court having power under this section to confirm a provisional order shall, if the court confirms the order, register the order in the prescribed manner in that court, and shall, if the court refuses to confirm the order, return the certified copy of the order and the documents which accompanied it to the Governor.

(6) If a summons to appear in the proceedings for the confirmation of the provisional order cannot be duly served on the payer under that order the officer by whom the certified copy of the order

was received shall return that copy and the documents which accompanied it to the Governor with a statement giving such information as he possesses as to the whereabouts of the payer.

9. (1) Subject to subsection (2) below, a registered order may be enforced in the Colony as if it had been made by the registering court and as if that court had had jurisdiction to make it; and proceedings for or with respect to the enforcement of any such order may be taken accordingly.

(2) Any person for the time being under an obligation to make payments in pursuance of a registered order shall give notice of any change of address to the prescribed officer of the court, and any person failing without reasonable excuse to give such notice shall be liable on summary conviction to a fine not exceeding £10.

(3) An order which by virtue of this section is enforceable by the Magistrate's Court or a Summary Court shall be enforceable as if it were an affiliation order made by such court; and the provisions of any enactment with respect to the enforcement of affiliation orders (including enactments relating to the accrual of arrears and the remission of sums due) shall apply accordingly.

(4) The Magistrate's Court or a Summary Court shall take all such steps for enforcing the order as may be prescribed.

(5) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in any court a certificate of arrears sent to the prescribed officer of the court shall be evidence of the facts stated therein.

(6) Subject to subsection (7) below, sums of money payable under a registered order shall be payable in accordance with the order as from the date on which the order was made.

(7) The court having power under section 8 of this Ordinance to confirm a provisional order may, if it decides to confirm the order, direct that the sums of money payable under it shall be deemed to have been payable in accordance with the order as from such date, being a date later than the date on which the order was made, as it may specify; and subject to any such direction, a maintenance order registered under the said section 8 shall be treated as if it had been made in the form in which it was confirmed and as if it had never been a provisional order.

10. (1) Subject to the provisions of this section, the registering court —

- (a) shall have the like power, on an application made by the payer or payee under a registered order, to vary or revoke the order as if it had been made by the registering court and as if that court had had jurisdiction to make it; and
- (b) shall have power to vary or revoke a registered order by a provisional order.

(2) The registering court shall not vary a registered order otherwise than by a provisional order unless —

- (a) both the payer and the payee under the registered order are for the time being residing in the Colony; or
- (b) the application is made by the payee under the registered order; or
- (c) the variation consists of a reduction in the rate of the payments under the registered order and is made solely on the ground that there has been a change in the financial circumstances of the payer since the registered order was made or, in the case of an order registered under section 8 of this Ordinance, since the registered order was confirmed,

Enforcement of maintenance order registered in the Colony court.
1972 c. 18 s. 8.

Confirmation by Colony court of provisional maintenance order made in reciprocating country.
1972 c. 18 s. 7.

Variation and revocation of maintenance order registered in the Colony.
1972 c. 18 s. 9.

and the courts in the reciprocating country in which the maintenance order in question was made do not have power, according to the law in force in that country, to confirm provisional orders varying maintenance orders.

(3) The registering court shall not revoke a registered order otherwise than by a provisional order unless both the payer and the payee under the registered order are for the time being residing in the Colony.

(4) On an application for the revocation of a registered order the registering court shall, unless the payer and the payee under the registered order are for the time being residing in the Colony, apply the law applied by the reciprocating country in which the registered order was made; but where by virtue of this subsection the registering court is required to apply that law, that court may make a provisional order if it has reason to believe that the ground on which the application is made is a ground on which the order could be revoked according to the law applied by the reciprocating country, notwithstanding that it has not been established that it is such a ground.

(5) Where the registering court makes a provisional order varying or revoking a registered order the prescribed officer of the court shall send in the prescribed manner to the court in the reciprocating country which made the registered order a certified copy of the provisional order together with a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings.

(6) Where a certified copy of a provisional order made by a court in a reciprocating country, being an order varying a registered order, together with a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the provisional order was made, is received by the registering court, that court may confirm the order either without alteration or with such alteration as it thinks reasonable or refuse to confirm the order.

(7) For the purpose of determining whether a provisional order should be confirmed under subsection (6) above the court shall proceed as if an application for the variation of the registered order had been made to it.

(8) Where a registered order has been varied by an order (including a provisional order which has been confirmed) made by a court in the Colony or by a competent court in a reciprocating country, the registered order shall, as from the date on which the order was made, have effect as varied by that order and, where that order was a provisional order, as if that order had been made in the form in which it was confirmed and as if it had never been a provisional order.

(9) Where a registered order has been revoked by an order made by a court in the Colony or by a competent court in a reciprocating country, including a provisional order made by the court in the Colony which has been confirmed by a competent court in a reciprocating country, the registered order shall, as from the date on which the order was made, be deemed to have ceased to have effect except as respects any arrears due under the registered order at that date.

(10) The prescribed officer of the registering court shall register in the prescribed manner any order varying a registered order other than a provisional order which is not confirmed.

11. (1) Where —

(a) a registered order is revoked by an order made by the registering court; or

- (b) a registered order is revoked by a provisional order made by that court which has been confirmed by a court in a reciprocating country and notice of the confirmation is received by the registering court; or
- (c) a registered order is revoked by an order made by a court in such a country and notice of the revocation is received by the registering court,

the prescribed officer of the registering court shall cancel the registration; but any arrears due under the registered order at the date when its registration is cancelled by virtue of this subsection shall continue to be recoverable as if the registration had not been cancelled.

(2) Where the prescribed officer of the registering court is of opinion that the payer under a registered order has ceased to reside within the jurisdiction of that court, he shall cancel the registration of the order and shall send the certified copy of the order to the Governor.

12. (1) If it appears to the Governor that the payer under a maintenance order, a certified copy of which has been received by him from a reciprocating country, is not residing in the Colony, or, in the case of an order which subsequently became a registered order, has ceased to reside therein, he shall send to the responsible authority in that country or, if having regard to all the circumstances he thinks it proper to do so, to the responsible authority in another reciprocating country —

- (a) the certified copy of the order in question and a certified copy of any order varying that order;
- (b) if the order has at any time been a registered order, a certificate of arrears signed by the prescribed officer;
- (c) a statement giving such information as the Governor possesses as to the whereabouts of the payer; and
- (d) any other relevant documents in his possession relating to the case.

(2) Where the documents mentioned in subsection (1) above are sent to the responsible authority in a reciprocating country other than that in which the order in question was made, the Governor shall inform the responsible authority in the reciprocating country in which that order was made of what he has done.

13. (1) No appeal shall lie from a provisional order made in pursuance of any provision of this Ordinance by a court in the Colony.

(2) Where in pursuance of any such provision any such court confirms or refuses to confirm a provisional order made by a court in a reciprocating country, whether a maintenance order or an order varying or revoking a maintenance order, the payer or payee under the maintenance order shall have the like right of appeal (if any) from the confirmation of, or refusal to confirm, the provisional order as he would have if that order were not a provisional order and the court which confirmed or refused to confirm it had made or, as the case may be, refused to make it.

(3) Where in pursuance of any such provision any such court makes, or refuses to make, an order varying or revoking a maintenance order made by a court in a reciprocating country then subject to subsection (1) above, the payer or payee under the maintenance order shall have the like right of appeal (if any) from that order or from the refusal to make it as he would have if the maintenance order had been made by the first-mentioned court.

(4) Nothing in this section (except subsection (1) above) shall be construed as affecting any right of appeal conferred by any other enactment.

Steps to be taken by the Governor where payer under certain orders is not residing in the Colony.
1972 c. 18 s. 11.

Appeals.
1972 c. 18 s. 12.

Admissibility of evidence given in reciprocating country.

1972 c. 18 s. 13.

14. (1) A statement contained in —

- (a) a document, duly authenticated, which purports to set out or summarise evidence given in proceedings in a court in a reciprocating country; or
- (b) a document, duly authenticated, which purports to set out or summarise evidence taken in such a country for the purpose of proceedings in a court in the Colony under this Ordinance, whether in response to a request made by such a court or otherwise; or
- (c) a document, duly authenticated, which purports to have been received in evidence in proceedings in a court in such a country or to be a copy of a document so received,

shall in any proceedings in a court in the Colony relating to a maintenance order to which this Ordinance applies be admissible as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

(2) A document purporting to set out or summarise evidence given as mentioned in subsection (1) (a) above, or taken as mentioned in subsection (1) (b) above, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by the judge, magistrate or other person before whom the evidence was given, or, as the case may be, by whom it was taken, to be the original document containing or recording, or, as the case may be, summarising, that evidence or a true copy of that document.

(3) A document purporting to have been received in evidence as mentioned in subsection (1) (c) above, or to be a copy of a document so received, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by a judge, magistrate or officer of the court in question to have been, or to be a true copy of a document which has been, so received.

(4) It shall not be necessary in any such proceedings to prove the signature or official position of the person appearing to have given such a certificate.

(5) Nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

15. (1) Where for the purpose of any proceedings in a court in a reciprocating country relating to a maintenance order to which this Ordinance applies a request is made by or on behalf of that court for the taking in the Colony of the evidence of a person residing therein relating to matters specified in the request, such court in the Colony as may be prescribed shall have power to take that evidence and, after giving notice of the time and place at which the evidence is to be taken to such persons and in such manner as it thinks fit, shall take the evidence in such manner as may be prescribed.

Evidence taken in compliance with such a request shall be sent in the prescribed manner by the prescribed officer of the court to the court in the reciprocating country by or on behalf of which the request was made.

(2) Where any person, not being the payer or the payee under the maintenance order to which the proceedings in question relate, is required by virtue of this section to give evidence before a court in the Colony, the court may order that there shall be paid such sums as appear to the court reasonably sufficient to compensate that person for the expense, trouble or loss of time properly incurred in or incidental to his attendance.

(3) Section 77 (1), (3) and (4) of the Magistrate's Court Act 1952 (which provides for compelling the attendance of witnesses, etc)

shall apply in relation to the Magistrate's Court or a Summary Court having power under subsection (1) above to take the evidence of any person as if the proceedings in the court in a reciprocating country for the purpose of which a request for the taking of the evidence has been made were proceedings in the Magistrate's Court or a Summary Court and had been begun by complaint.

(4) A court in the Colony may for the purpose of any proceedings in that court under this Ordinance relating to a maintenance order to which this Ordinance applies request a court in a reciprocating country to take or provide evidence relating to such matters as may be specified in the request and may remit the case to that court for that purpose.

16. For the purposes of this Ordinance, unless the contrary is shown —

- (a) any order made by a court in a reciprocating country purporting to bear the seal of that court or to be signed by any person in his capacity as a judge, magistrate or officer of the court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person;
- (b) the person by whom the order was signed shall be deemed without further proof to have been a judge, magistrate or officer, as the case may be, of that court when he signed it and, in the case of an officer, to have been authorized to sign it; and
- (c) a document purporting to be a certified copy of an order made by a court in a reciprocating country shall be deemed without further proof to be such a copy.

17. (1) Payment of sums due under a registered order shall, while the order is registered in a court in the Colony, be made in such manner and to such person as may be prescribed.

(2) Where the sums required to be paid under a registered order are expressed in a currency other than the currency of the Colony, then, as from the relevant date, the order shall be treated as if it were an order requiring the payment of such sums in the currency of the Colony, as, on the basis of the rate of exchange prevailing at that date, are equivalent to the sums so required to be paid.

(3) Where the sum specified in the statement, being a statement of the amount of any arrears due under a maintenance order made by a court in a reciprocating country, is expressed in a currency other than the currency of the Colony, that sum shall be deemed to be such sum in the currency of the Colony, as, on the basis of the rate of exchange prevailing at the relevant date, is equivalent to the sum so specified.

(4) For the purpose of this section a written certificate purporting to be signed by the Financial Secretary certifying that a specified rate of exchange prevailed between currencies at a specified date and that at such rate a specified sum in the currency of the Colony is equivalent to a specified sum in another specified currency shall be evidence of the rate of exchange so prevailing on that date and of the equivalent sums in terms of the respective currencies.

(5) In this section "the relevant date" means —

- (a) in relation to a registered order or to a statement of arrears due under a maintenance order made by a court in a reciprocating country, the date on which the order first becomes a registered order or (if earlier) the date on which it is confirmed by a court in the Colony;
- (b) in relation to a registered order which has been varied, the date on which the last order varying that order is registered in a court in the Colony or (if earlier) the date on which the last order varying that order is confirmed by such a court.

Order, etc., made abroad need not be proved.

1972 c. 18 s. 15.

Payment of sums under orders made abroad; conversion of currency.

1972 c. 18 s. 16.

Obtaining of evidence needed for purpose of certain proceedings.

1972 c. 18 s. 14.

18. Where the Governor makes an order under section 3 of this Ordinance designating as a reciprocating country a country or territory to which, at the commencement of this Ordinance, the Maintenance Orders (Facilities for Enforcement) Ordinance as repealed by this Ordinance extended, that order may contain such provisions as the Governor considers expedient for the purposes of securing —

(a) that the provisions of this Ordinance apply, subject to such modifications as may be specified in the order, to maintenance orders, or maintenance orders of a specified class —

- (i) made by a court in the Colony against a person residing in that country or territory; or
- (ii) made by a court in that country or territory against a person residing in the Colony,

being orders to which immediately before the date of the coming into operation of the order of the said Ordinance applied, except any order which immediately before that date is registered in the Supreme Court;

(b) that any maintenance order, or maintenance order of a specified class, made by a court in that country or territory which has been confirmed by a court in the Colony under section 6 of the said Ordinance and is in force immediately before that date is registered under section 8 of this Ordinance;

(c) that any proceedings brought under or by virtue of a provision of the said Ordinance in a court in the Colony which are pending at the date, being proceedings affecting a person resident in that country or territory, are continued as if they had been brought under or by virtue of the corresponding provision of this Ordinance.

19. (1) Where a country or territory, being a country or territory to which at the commencement of this Ordinance the Maintenance Orders (Facilities for Enforcement) Ordinance extended, becomes a reciprocating country, then, if immediately before the said Ordinance was repealed any maintenance order made by a court in that country or territory was registered in the Supreme Court, the Supreme Court may, on application by the payer or the payee under the order or of its own motion, transfer the order to the Magistrate's Court or a Summary Court for all the circumstances it thinks appropriate, with a view to the order being registered in the Magistrate's Court or a Summary Court under this Ordinance.

(2) Where the Supreme Court transfers an order to the Magistrate's Court or a Summary Court under this section it shall —

- (a) cause a certified copy of the order to be sent to the prescribed officer of that court; and
- (b) cancel the registration of the order in the Supreme Court.

(3) The prescribed officer of the Magistrate's Court or a Summary Court on receiving a certified copy of an order sent to him under this section shall register the order in the prescribed manner in that court.

20. (1) Subject to subsection (2) below, the proceedings which are domestic proceedings within the meaning of the Magistrate's Court Act 1952 shall include all proceedings in a Magistrate's Court or a Summary Court under this Ordinance other than proceedings for the variation or enforcement of a maintenance order.

(2) The Magistrate's Court or a Summary Court on hearing any proceedings for the variation of a maintenance order to which this Ordinance applies may, if it thinks fit, order that those proceedings and any other proceedings being heard therewith shall be treated for the purposes of the said Act of 1952 as domestic proceedings.

(3) The said Act of 1952 shall have effect in accordance with subsections (1) and (2) above notwithstanding anything in subsection (1) of section 56 thereof.

(4) Any application which by virtue of a provision of this Ordinance is made to the Magistrate's Court or a Summary Court shall be made by complaint.

(5) Where the defendant to a complaint for the variation or revocation —

- (a) of a maintenance order made by the Magistrate's Court or a Summary Court being an order to which section 6 of this Ordinance applies; or
- (b) of a registered order,

does not appear at the time and place appointed for the hearing of the complaint, but the court is satisfied that the defendant is residing in a reciprocating country, the court may proceed to hear and determine the complaint at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the defendant had appeared at that time and place.

21. The Governor in Council may make rules generally for the carrying out of the purposes or provisions of this Ordinance or any matters incidental or consequential thereto as may appear to him to be necessary and without prejudice to the generality of the foregoing rules may be made for any of the following purposes —

- (a) the orders made, or other things done, by the Magistrate's Court or a Summary Court, or an officer of such court, under this Ordinance, or by a court in a reciprocating country, notice of which is to be given to such persons as the rules may provide and the manner in which such notice shall be given;
- (b) the cases and manner in which courts in reciprocating countries are to be informed of orders made, or other things done; by the Magistrate's Court or a Summary Court under this Ordinance;
- (c) the cases and manner in which a prescribed officer may take evidence needed for the purpose of proceedings in a court in a reciprocating country relating to a maintenance order to which this Ordinance applies;
- (d) the circumstances and manner in which cases may be remitted by the Magistrate's Court or a Summary Court to courts in reciprocating countries;
- (e) the circumstances and manner in which the Magistrates Court or a Summary Court may for the purpose of this Ordinance communicate with courts in reciprocating countries.

22. The Maintenance Orders (Facilities for Enforcement) Ordinance is repealed.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

W. A. ETHERIDGE,
Clerk of Councils.

Ref. LEG/10/34.

Rules.
1972 c. 18 s. 18.

Repeal.
(Cap. 42)