

**CHAPTER 101.****MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT).**

## ARRANGEMENT OF SECTIONS.

## SECTION.

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**CHAPTER 101.****MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT).**

6 of 1921.  
20 of 1921.  
20 of 1929.  
10 of 1957.

**An Ordinance to Facilitate the Enforcement in Sierra Leone of Maintenance Orders made in England or Ireland and vice versa.**

[23RD APRIL, 1921.]

Short title.

1. This Ordinance may be cited as the Maintenance Orders (Facilities for Enforcement) Ordinance, and shall apply to the Colony and Protectorate.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—  
“ 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 that person is, according to the law in force in the territory in which the maintenance order was made, liable to maintain;

“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; and

“prescribed” means prescribed by rules of Court.

3. (1) Where a maintenance order has, whether before or after the passing of this Ordinance, been made against any person by any Court in England or 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 proper officer of a Court in the Colony or Protectorate 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.

Enforcement in the Colony of maintenance orders made in England or Ireland.\*

(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 of Sierra Leone, and, if the Court was not a Court of superior jurisdiction, be a Magistrate's Court.

(3) In sub-section (1) of this section the expression “proper officer” shall in the case of the Supreme Court be deemed to be the Master and Registrar, and in the case of a Magistrate's Court shall be deemed to be the Magistrate.

4. Where a Court in the Colony or Protectorate has, whether before or after the commencement of this Ordinance, 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 Ireland, the Court shall send to the Governor for transmission to the Secretary of State a certified copy of the order.

Transmission of maintenance orders made in the Colony.

5. (1) Where an application is made to a Magistrate in the Colony or Protectorate for a maintenance order against any person, and it is proved that that person is resident in England or Ireland, the Magistrate may, in the absence of that person, if after hearing the evidence he is satisfied of the justice of the

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

\* See The Ireland Act, 1949 (12, 13 and 14 Geo. 6, c. 41), in particular its section 3 (2) as to the effect of the references to Ireland in this Ordinance.

application, make any such order as he 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 Court of summary jurisdiction in England or Ireland, as the case may be.

(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 Magistrate shall send to the Governor for transmission to the Secretary of State the deposition 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 Magistrate possesses for facilitating the identification of that person, and ascertaining his whereabouts.

(4) Where any such provisional order has come before a Court of summary jurisdiction in England or Ireland for confirmation, and the order has by that Court been remitted to the Magistrate who made the order for the purpose of taking further evidence, such Magistrate or any other Magistrate sitting and acting for the same judicial district 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 Magistrate that the order ought not to have been made, the Magistrate 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.

(5) The confirmation of an order made under this section shall not affect any power of a Magistrate to vary or rescind that order:

Provided that on the making of a varying or rescinding order the Magistrate 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 in the original order.

(6) The applicant shall have the same right of appeal 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.



Power of Magistrate to confirm maintenance order made by a Court of summary jurisdiction in England or Ireland.

6. (1) Where a maintenance order has been made by a Court of summary jurisdiction in England or Ireland, and the order is provisional only, and has no effect unless, and until, confirmed by a Magistrate in the Colony or Protectorate, 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, against whom the order was made, is resident in the Colony or Protectorate, the Governor may send the said documents to a Magistrate 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 Magistrate shall issue such a summons and cause it to be served upon such person.

(2) 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.

(3) If at the hearing the person served with the summons does not appear, or on appearing fails to satisfy the Magistrate that the order ought not to be confirmed, the Magistrate may confirm the order, either without modification or with such modification as to the Magistrate, after hearing the evidence, may seem just.

(4) If the person against whom the summons was issued appears at the hearing and satisfies the Magistrate 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 Magistrate may so remit the case and adjourn the proceedings for the purpose.

(5) 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 Magistrate, and where on an application for rescission or variation the Magistrate 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 Magistrate may so remit the case and adjourn the proceedings for the purpose.

(6) Where an order has been so confirmed, the person bound thereby shall have the same right of appeal 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 Magistrate confirming the order.

Mode of enforcing orders.

7. (1) A Magistrate in whose Court an order has been registered under this Ordinance, or by whom an order has been confirmed under this Ordinance, and the officers of such Magistrate's Court, shall take all such steps for enforcing the order as may be prescribed.

Cap. 100.

(2) Every such order shall be enforceable in like manner as an order made under the Married Women's Maintenance Ordinance:

Provided that a Justice may, if he think fit, instead of issuing in the first instance a warrant, issue a summons requiring the defaulter to appear before a Magistrate.

Application of Cap. 7.

8. The Courts Ordinance shall apply to proceedings before Magistrates' Courts under this Ordinance in like manner as it applies to proceedings before Magistrates' Courts under that Ordinance, and the references in section 35 of the Courts Ordinance to rules for regulating the practice and procedure of, and to forms for use by, Magistrates' Courts, shall be deemed to include references to rules for regulating the practice and procedure of, and to forms for use by, Magistrates' Courts, under this Ordinance.

Rules for facilitating communications between Courts.

9. The Governor in Council 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.

Proof of documents signed by officers of Court.

10. Any document purporting to be signed by a Judge or officer of a Court in England or 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.

11. Depositions taken in a Court of summary jurisdiction in England or Ireland, for the purposes of this Ordinance, may be received in evidence in proceedings before a Magistrate under this Ordinance.

Depositions  
to be  
evidence.

12. Where the Governor is satisfied that reciprocal provisions have been made by the Legislature of any territory within the British Commonwealth of Nations for the enforcement within such territory of maintenance orders made by Courts in the Colony or Protectorate, the Governor may by Proclamation extend this Ordinance to such territory, and the Ordinance shall thereupon apply in respect of such territory as though the references to England or Ireland were references to such territory and the references to the Secretary of State were references to the Officer administering the government of such territory.

Power to  
extend  
application of  
Ordinance  
to other  
territories  
within the  
British Com-  
monwealth.  
10 of 1957.  
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\* Extended to Maintenance Orders made within the Colony of the Gambia by Proclamation of 1st September, 1924 (*Gazette* No. 2189 of 6th September, 1924); to those made within the Colony of the Gold Coast, Ashanti and the Northern Territories of the Gold Coast by Proclamation of 1st October, 1924 (*Gazette* No. 2194 of 4th October, 1924), to those made within Nigeria by Proclamation of 3rd January, 1925; to those made within the territory for the seat of Government of the Commonwealth of Australia by Proclamation of 2nd February, 1929; and to those made within Gibraltar by Proclamation of 1st June, 1929.