

Maintenance Orders (Reciprocal Enforcement) Act

CHAPTER 119

MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT) ACT

[5th May, 1922]

Act 3 of 1922.

Act 1 of 1930.

Act 4 of 1954.

S.I .95 of 1975.

S.I.72 of 1976.

Act 23 of 1976.

Act 8 of 1998

ARRANGEMENT OF SECTIONS

SECTION

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

Definition. 2. "Court" in relation to Seychelles, means a court in Seychelles having jurisdiction to hear and grant applications for maintenance and includes the Family Tribunal established under the Children Act;

"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, and when used in relation to Northern Ireland, includes an order or decree for the recovery or payment of the cost of relief or maintenance made by virtue of the provisions of the Poor Relief (Ireland) Acts, 1839 to 1914 or any subsequent enactment applicable to Northern Ireland;

"dependants" means such persons as the person against whom a maintenance order is made, is, according to the law in force in the part of Her Majesty's Dominions 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;

"prescribed" means prescribed by rules of court or by the Code of Civil Procedure.

Enforcement in Seychelles of maintenance orders made in England and in Northern Ireland. S.I.95/1975. S.I.72/1976. 3/23/1976.

3. 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 in Northern Ireland and a certified copy of the order has been transmitted by the Secretary of State to the Minister, the Minister shall send a copy of this order to the Registrar of the Supreme Court 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 Supreme Court and the court shall have power to enforce the order accordingly.

Power of the court to confirm

4.(1) Where a maintenance order has been made by any Court in England or Northern Ireland, and the order is provisional only and has no effect unless and until confirmed by the

orders made in England or Northern Ireland against persons resident in Seychelles. S.I.95/1975. S.I.72/1976.

court in Seychelles, 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 Minister and it appears to the Minister that the person against whom the order was made is resident in Seychelles, the Minister shall send the said documents to the Supreme Court, with a requisition that a summons be issued calling upon such person to show cause why that order should not be confirmed, and upon receipt of such documents and requisition the said court 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 (had the person, against whom the order was made, 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 against whom the summons was issued does not appear or, on appearing, fails to satisfy the Supreme Court that the order ought not to be confirmed, the said court may confirm the order either without modification or with such modifications as to that court, after hearing the evidence, may seem just.

(4) 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 to the Minister for transmission to the original court and adjourn the proceedings for that purpose.

(5) Where a provisional order has been confirmed under subsection (3) it may be varied or rescinded in like manner as if it had originally been made in Seychelles, and where on an application for rescission or variation the Supreme Court is satisfied that it is necessary to remit the case to the court which made the provisional order for the purpose of taking any further evidence, the court may so remit the same and adjourn the proceedings for that purpose.

(6) If the court of England or Northern Ireland which made the provisional order shall for any reason vary or rescind an order confirmed under this section, such order varying or rescinding the original order shall not have effect in Seychelles unless and until confirmed in the same manner as the original order.

(7) Where an order has been so confirmed the person bound thereby shall have the same right of appeal, if any, as he would have had against the making of the order had the latter been an order made by the Supreme Court.

Transmission of maintenance orders made in Seychelles. S.I.95/1975. S.I.72/1976. 3/23/1976.

5. Where a court in Seychelles has whether before or after the commencement of this Act made a maintenance order against any person, and it is proved to the court that the person against whom the order was made is resident in England or Northern Ireland, the court shall send to the Minister for transmission to the Secretary of State a certified copy of the order.

Provisional order made in Seychelles against a person who at

6.(1) Where an application is made to the court for a maintenance order against any person, and it is proved that that person is resident in England or in Northern Ireland, the court may in the absence of that person, if after hearing the evidence it is satisfied of the justice of the applica-

time is in tion, make any such order as it might have made if a summons
England or had been duly served on that person and he had failed to
Northern appear at the hearing, but in that case the order shall be
Ireland to be provisional only and shall have no effect unless and until
confirmed confirmed by a competent court in England or in Northern
there. Ireland.

S.I.95/1975.

S.I.72/1976. (2) The evidence of any witness who is examined on any

Procedure. such application shall be put into writing, and such deposi- tion shall be read
over to and signed by him.

(3) Where such a provisional order is made, the court shall sent to the Minister 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 also such information as the court possesses for facilitating the identification of that person, and for ascertaining his whereabouts.

(4) Where such provisional order transmitted to England or Northern Ireland shall have been remitted to the court in Seychelles which made the order for the purpose of taking further evidence, the court shall, after giving the prescribed notice, proceed to take the further evidence in like manner and under similar conditions as in the case of the original evidence.

(5) If upon the hearing of such further evidence it appears to the court that the order should not have been made, the court may rescind the order, but otherwise the depositions shall be transmitted to the Secretary of State, as in the case of the original depositions.

Power of (6) The confirmation of an order made under this section
court in shall not affect the power of the court in Seychelles to vary

Seychelles to vary or rescind provisional order notwithstanding confirmation.

or rescind the order. A copy of such varying or rescinding order shall be transmitted to the Secretary of State, and such order varying the original order shall not have effect until and unless confirmed by the court which confirmed the original order.

Appeal against refusal of provisional order.

(7) The applicant shall have the same right of appeal, if any, against the refusal to make a provisional order as he would have had if the summons had been served on the person against whom the order is sought.

President to make regulations.

7. The President may make regulations for facilitating communication between the courts and also as to the manner in which cases can be remitted.

S.I.95/1975.
S.I.72/1976.

Enforcement of orders registered or confirmed in

8(1) An order registered or confirmed in Seychelles may be enforced in the same manner as if it had originally been made in Seychelles.

Seychelles which are registered therein.

(2) The court in Seychelles shall take all steps for enforcing all orders which are registered therein.

Provisions for reciprocal enforcement of maintenance orders.

2/1/1930.

2/4/1954.

S.I.95/1975.

S.I.72/1976.

9.(1) Where the President is satisfied that reciprocal provisions have been made by the Legislature of any British Possession or any territory under Her Majesty's protection for the enforcement within such possession or territory of maintenance orders made by courts in Seychelles, the President may by proclamation extend this Act to such possession or territory and this Act shall thereupon apply in respect of such possession or territory as though the reference to England or Northern Ireland were references to such possession or territory and the reference to the Secretary of State for the Colonies were references to the Governor of such possession or territory.

(2) Where the President is satisfied that reciprocal provisions have been made by the legislature of any country within the Commonwealth not falling within the application of subsection (1) for the enforcement within that country of maintenance orders made by courts, in Seychelles, the President, may by proclamation extend this Act to that country and this Act shall thereupon apply in respect of that country as though the references therein to England or Northern Ireland on the one hand and to the Secretary of State on the other were references to that country and to the Government of that country respectively.

Documents presumed authentic.

10. Any document purporting to be signed by a judge or officer of a court in England or in Northern Ireland (or in any other part contemplated by the preceding section) shall 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 shall be deemed to have been the proper officer to sign the document until the contrary is proved.

Depositions taken in any court hereinabove referred to shall be received as evidence before the court in Seychelles.
