

CHAPTER 21

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT).

AN ACT TO FACILITATE THE ENFORCEMENT IN SOLOMON ISLANDS OF MAINTENANCE ORDERS MADE IN ENGLAND OR IRELAND

16 of 1921
6 of 1929
8 of 1959
LN 46A of 1975
LN 88 of 1978

[10th December 1921]

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

Short title

2. For the purposes of this Act-

Interpretation

"maintenance order" means an order other than an order for 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 a person against whom a maintenance order is made is liable to maintain, according to the law in force in the place where such maintenance order is made;

"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;

"Governor" includes an Administrator or other officer administering the government of any British possession or any territory under Her Majesty's protection.

3. Where a maintenance order has, whether before or after the making of this Act, 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 Minister, the Minister shall send a copy of the order to the Registrar of the 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 Court in which it is so registered and the Court shall have power to enforce the order accordingly.

Enforcement in Solomon Islands of maintenance orders made in England or Ireland
LN 46A of 1978

4. Where the Court 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 is resident in England or Ireland the Court shall send to the Minister for transmission to the Secretary of State a certified copy of the order.

Transmission of maintenance orders made in Solomon Islands
LN 46A of 1978

5.-(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 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 Ireland.

Power to make provisional orders of maintenance against persons resident in England or Ireland
LN 46A of 1978

(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 the depositions 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 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 Ireland for confirmation and the order has by that court been remitted to the Court for the purpose of taking further evidence the Court 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 the Court 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 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.

(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 Ireland and the order is provisional only and has no effect unless and until confirmed by the Court 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, after consultation with the Chief Justice, that the person against whom the order was made is resident in Solomon Islands the Minister may send the said documents to the prescribed officer of the Court 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 on such person.

Power of the Court to confirm maintenance order made in England or Ireland
LN 46A of 1978
LN 88 of 1978

(2) A summons so issued may be served in the same manner as if it had been originally issued by the Court.

(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 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.

(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 Minister 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 Minister to make rules for facilitating communications between courts

8.-(1) Where an order has been registered or confirmed under this Act the Court and its officers shall take all such steps for enforcing the order as may be necessary.

Mode of enforcing orders

(2) Every such order shall be enforceable in like manner as if the order were for the payment of a civil debt:

Provided that if the order is of such a nature that if made by the Court it would be enforceable in like manner as an order of affiliation the order shall be so enforceable.

9. 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.

Proof of documents signed by officers of Court

10. Depositions taken in a court in England or Ireland for the purposes of this Act may be received in evidence in proceedings before the Court under this Act.

Depositions to be evidence

11. All proceedings under this Act shall be deemed to be civil proceedings and the rules relating to civil cases shall apply with such adaptations as may be necessary.

Procedure

CHAPTER 21

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT).

Subsidiary Legislation

RULES FOR FACILITATING COMMUNICATIONS BETWEEN COURTS

Rules dated
31/1/1923

(Section 7)

1. The copy of an Order made by a Court in England or Ireland and received by the Minister under section 3 of the Maintenance Orders (Facilities for Enforcement) Act shall be sent to the Magistrate of the district in which the defendant is alleged to be living.

Copy of Order

2. The copy of a provisional order made by a Court in England or Ireland and received by the Minister under section 6 of the Act shall be sent with the accompanying documents in manner provided by the foregoing rule to the Magistrate of the district in which the defendant is alleged to be living with a requisition for the issue of a summons.

Copy of Provisional Order

3. The Magistrate to whom any order is sent in accordance with the above rules shall enter it in his cause book on the date on which he receives it in the same manner as though the order had been made at his Court, distinguishing it from other entries in such manner as he may find most convenient so as to show that it is entered in pursuance of the Act.

Order to be entered in cause book

4. When an order provisionally made in England or Ireland has been confirmed with or without modification under section 6 of the Act or the Court has decided not to confirm it, the Court shall send notice thereof to the Minister for transmission to the Court from which it issued.

Notice of confirmation, etc

5. When an order has been registered under section 3 of the Act or a provisional order has been confirmed under section 6 the Court shall direct that all payments due thereunder shall be made through the Court.

Payments to be made through Court

6. The Court through whom payments are directed to be made shall collect the moneys due under the orders and shall take all necessary proceedings for enforcing payment as provided in section 8 (2) of the Act and shall send the moneys when so collected through the Minister for transmission to the Crown Agents to be remitted by them to the person to whom they are due.

Collection of moneys

7. When a provisional order made under section 5 of the Act has been remitted under subsection (4) of that section to the Court for the purpose of taking further evidence, notice specifying the further evidence required and the time and place fixed for taking it shall be sent by the Court to the person on whose application the provisional order was made.

Further evidence

8. These Rules may be cited as the Maintenance Orders (Facilities for Enforcement) Title Rules.