

CHAPTER 145.

MAINTENANCE.

[No. XIV of 1903.]

[28th March, 1903.]

1. This Ordinance may be cited as the Maintenance Ordinance. Short title.

2. Every man is hereby required to maintain—

- (a) his own children; and also
- (b) every child, whether born in wedlock or not, which his wife has living at the time of her marriage with him; and also
- (c) if he cohabits with any woman, every child which that woman has living at the time of the commencement of the cohabitation; and also
- (d) the legitimate children of any child that his wife has by him during his marriage, or of any child of which he has been duly adjudged to be the father under any Ordinance for the time being in force for the maintenance of illegitimate children, in the event of the parents of those children failing to maintain them, until they attain the age of fourteen years, or longer if they are, by reason of bodily or mental infirmity, unable to maintain themselves.

Duty of man
to maintain
certain
children.

3. Every widow and unmarried woman is hereby required to maintain her own children, legitimate or illegitimate; and every woman having any children whom any man is primarily bound, under the provisions of the preceding section, to maintain, is hereby required to maintain those children in the event of his failing to perform his obligation; and every woman is hereby required to maintain the legitimate children of any child that she has had, in the event of the parents of those children and of any man primarily bound, under the provisions of the preceding section, to maintain them failing to do so, so long as

Duty of
woman to
maintain
certain
children.

they respectively are under the age of fourteen years, or, by reason of bodily or mental infirmity, unable to maintain themselves.

Duty of child to maintain parents.

4. Everyone born in wedlock is hereby required to maintain his or her father and mother, and grandfathers and grandmothers; and everyone not born in wedlock is hereby required to maintain his or her mother, and also the man (if any) with whom his mother openly cohabited at the time of his or her birth, provided that man recognised and treated him as the man's child during his or her infancy, if the father or mother or other person aforesaid, or all or any of those persons are, by reason of old age, or bodily or mental infirmity, unable to maintain himself, herself, or themselves.

Mode of compelling performance of duties imposed by the Ordinance.

5.—(1) Anyone entitled to be maintained by another person under this Ordinance, and anyone having the care and custody of a child so entitled, may, if the person, or some or one of the persons, if more than one, fails to maintain him or the child, make a complaint before a magistrate.

(2) The magistrate shall inquire into the matter and, if it appears that the complainant, or the child is entitled to be maintained by the person or persons against whom the complaint is made, but that he or they has or have neglected to comply with the requirements of this Ordinance, shall summon him or them to appear before the court at a time and place to be mentioned in the summons to answer the matter of the complaint.

(3) If anyone, entitled under this Ordinance to be maintained by some other person or persons, becomes chargeable to the poor law commissioners, the commissioners or a commissary of taxation may make complaint before a magistrate on behalf of the person relieved; and thereupon the magistrate shall proceed in the same way as if that person had himself made the complaint.

Proceedings on hearing of complaint:

6. At the time and place mentioned in the summons, the magistrate shall proceed to inquire into the matter, and, if satisfied that the complainant, or the person on whose behalf complaint is made as aforesaid, is entitled under this Ordinance, to be maintained by the party against whom the complaint is made, and that he has neglected his duty in that respect, shall proceed to inquire into his

means, and, if satisfied that he is of ability to maintain or contribute to the maintenance of the complainant, or the person on whose behalf complaint is made as aforesaid, shall proceed to make an order (to be called an order of maintenance) against him, ordering him to pay, either to the complainant or to some person approved by the magistrate and to be named in the order, that periodical sum which, having regard to the means of the party or parties against whom the complaint is made and all the circumstances of the case, the magistrate thinks just :

Provided that—

Proviso.

- (a) no person shall be entitled to receive more in the aggregate than two dollars a week from any person or persons required by this Ordinance to maintain him; and
- (b) if the complaint has been made under sub-section (2) of the preceding section by the poor law commissioners or a commissary of taxation, the magistrate, in the order, if he sees fit, may order the party or parties against whom the complaint is made to pay to some person to be named in the order, beyond the periodical sum aforesaid, a sum not exceeding two dollars a week for every week that the commissioners or commissary have or has given relief, and not exceeding the amount of that relief.

7. Any order of maintenance made under this Ordinance shall, in the case of a child, be deemed to be in force until the child attains the age of fourteen years, and, in the case of any other person, for the period named in the order :

Limitation of time for operation of order of maintenance :

Provided that—

Proviso.

- (a) the order may be renewed at any time by any magistrate having jurisdiction to make an order; and
- (b) where the person to be maintained is unable to maintain himself by reason of old age or by reason of an illness or infirmity likely to be permanent, the magistrate may make the order of maintenance for the rest of the natural life of that person.

8. Any person on whom any order has been made under this Ordinance may at any time apply to any magistrate, having jurisdiction to make that order, to cancel it; and, if

Cancellation of order in certain cases.

he satisfies the magistrate, on due inquiry, that he has ceased to be of ability to maintain or contribute, or that the person whom by the order he was ordered to maintain is no longer unable as aforesaid to maintain himself, the magistrate shall cancel the order.

Burden of proof as to power of child to maintain himself.

9. For the purposes of this Ordinance, every child under fourteen years of age shall be deemed unable to maintain himself by reason of tender years, unless the contrary is shown.

Absconding to avoid liability for maintenance.

10.—(1) Everyone, by this Ordinance required to maintain another, who departs from his usual place of abode with a view to evade any liability for any maintenance as aforesaid, or for any payments which he has been ordered to make for the maintenance of another shall be guilty of an offence, and, on conviction thereof, on complaint of the poor law commissioners, or a commissary of taxation, or of any person entitled under the provisions of this Ordinance to make a complaint as aforesaid, or of any police or other constable, shall be liable to a penalty not exceeding fifty dollars, or to imprisonment with or without hard labour for any term not exceeding three months.

Penalty.

(2) Any salary, wages, or debts due to that person shall be liable to satisfy the arrears of any payments ordered to be made under the provisions of this Ordinance, and may be attached, and required to be paid to the person entitled under the order to receive them under the order of the magistrate before whom the person has been tried.

Liability of husband to pay for wife's maintenance in asylum, hospital or almshouse.

11. Whenever any married woman is a patient in a lunatic asylum, leper asylum, or hospital, or is an inmate of an almshouse, the asylum, hospital, or almshouse being provided or maintained by the Government out of public moneys, her husband is hereby required to contribute towards her maintenance therein, and the provisions of the next three succeeding sections of this Ordinance shall apply in that case, and for the purposes of those sections every married woman shall be deemed a person entitled to be maintained by her husband within the meaning of this Ordinance.

Poor Law Commissioners may enforce payment for maintenance of persons in asylums, hospitals, etc.

12. If anyone, entitled under this Ordinance to be maintained by another or others, is a patient in a lunatic asylum, or leper asylum, or hospital, or is an inmate of an almshouse or orphanage, or is a child in a reformatory or

industrial school, the asylum, hospital, almshouse, orphanage, reformatory, or industrial school being provided or maintained by the Government out of public moneys, the poor law commissioners or a commissary of taxation may make complaint before a magistrate, who shall thereupon inquire into the matter, and, if it appears to him that the first-mentioned person is entitled to be maintained by any person or persons under the Ordinance, shall summon the last-mentioned person or persons to appear before him at a time and place to be mentioned in the summons, to show cause why he or they should not contribute towards the maintenance of the first-mentioned person.

13. At the time and place mentioned in the summons, the magistrate shall proceed to inquire into the matter, and, if satisfied that the person in respect of whom the complaint is made is entitled under this Ordinance to be maintained by the party or parties against whom the complaint is made, shall proceed to inquire into his or their means, and, if satisfied that he or they or any of them, is or are of sufficient ability to maintain or contribute towards the maintenance of the person in respect of whom the complaint is made, shall proceed to make an order against him or them, ordering him or them to pay to the poor law commissioners or a commissary of taxation that periodical sum which, having regard to his or their means, and all the circumstances of the case, the magistrate thinks just, not exceeding the sum of two dollars a week, and any further sum, not exceeding the sum of two dollars a week for every week that the person in respect of whom the complaint was made has been in the lunatic asylum, leper asylum, hospital, almshouse, orphanage, reformatory or industrial school as aforesaid :

Order for
maintenance :

Provided that—

(a) no payments shall be recoverable under the order for any period after the person in respect of whom it has been made has died, or has been discharged from the asylum, hospital, almshouse, orphanage, reformatory, or industrial school aforesaid ;

(b) if the person against whom an order is made under this section has previously had an order made against him under section six of this Ordinance in respect of the same person, the last-mentioned order shall not be enforced as long as the

Proviso.

order made under this section is enforceable; and

- (c) no order shall be made under section six of this Ordinance as long as any order under this section remains in force in respect of the same person.

Enforcement
of order and
procedure.

Chapter 14.

14.—(1) Any order made under this Ordinance, if the payments required by it to be made, or any of them, is or are in arrear, may be enforced by distress, in the manner prescribed in part IV of the Summary Jurisdiction (Procedure) Ordinance, and except as otherwise hereby provided, all proceedings under this Ordinance shall be as nearly as possible according to the procedure under that Ordinance.

(2) The forms contained in the second schedule to that Ordinance may, with any variations and additions the circumstances of the particular case require, be used in proceedings under this Ordinance, and when so used shall be good and sufficient in law.
