

CHAPTER 146.

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT).

[No. VI. of 1922.]

[6th May, 1922.]

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

2. For the purposes of this Ordinance— Interpretation.

“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 those whom that person, according to the law in force in the part of his Majesty’s Dominions in which the maintenance order was made is liable to maintain;

“certified copy,” in relation to an order of the 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.

3.—(1) Where a maintenance order has, whether before or after the commencement of this Ordinance, been made against anyone by a 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 prescribed officer of a court in this colony for registration; and on receipt thereof the order shall be registered in the prescribed manner and shall, from the date of the registration, be of the same force and effect, and, subject to the provisions of this Ordinance, all proceedings may be taken thereon, 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 it accordingly. Enforcement in this colony of maintenance orders made in England or Ireland.

(2) The court in which an order is to be registered as aforesaid shall, if the court by which it was made was a court of superior jurisdiction, be the Supreme Court of British Guiana, and, if the court was not a court of superior jurisdiction, be a court of summary jurisdiction.

Transmission of maintenance orders made in this colony.

4. Where a court in this colony, has, whether before or after the commencement of this Ordinance, made a maintenance order against anyone, and it is proved to that court that that person 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.

Provisional orders of maintenance against persons resident in England or Ireland :

5.—(1) Where an application is made to a court of summary jurisdiction in this colony for a maintenance order against any person, and it is proved that that person is resident in England or Ireland, the court may in his absence if after hearing the evidence it is satisfied of the justice of the application, make any order it might have made if a summons had been duly served on him and he had failed to appear at the hearing, but in that case the order shall be provisional only and shall have no effect unless and until confirmed by a competent court in England or Ireland as aforesaid.

(2) The evidence of any witness examined on the application shall be put into writing, and his deposition shall be read over to and signed by him.

(3) Where an order aforesaid is made, the court shall send to the Governor, 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 any information the court possesses for facilitating the identification of that person and ascertaining his whereabouts.

(4) Where any provisional order aforesaid has come before a court in England or Ireland for confirmation, and has by that court been remitted to the court of summary jurisdiction which made it for the purpose of taking further evidence, that court or any other court of summary jurisdiction sitting and acting for the same place 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.

(5) If upon hearing the 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 Governor and dealt with in like manner as the original depositions.

(6) The confirmation of an order made under this section shall not affect any power of a court of summary jurisdiction 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 Governor for transmission to the Secretary of State, and, 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.

(7) The applicant shall have the same right of appeal (if any) against 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 a court of summary jurisdiction in this colony, 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 this colony, the Governor may send those documents to the prescribed officer of a court of summary jurisdiction 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 the documents and that requisition the court shall issue the summons and cause it to be served upon that person.

Confirmation by court of summary jurisdiction of maintenance order made in England or Ireland.

(2) A summons so issued may be served in this colony in the same manner as if it had been originally issued by a court of summary jurisdiction having jurisdiction in the place where the person happens to be.

(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 any modifications to the court after hearing the evidence seeming 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 one made by the court confirming the order.

7. The Governor in Council may make regulations 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 those courts.

8.—(1) A court of summary jurisdiction in which an order has been registered under this Ordinance or by which an order has been confirmed under this Ordinance, and the officers of that court, shall take all steps for enforcing the order as may be prescribed, and the order shall be enforceable in like manner as if it were a judgement for the payment of money under the Summary Jurisdiction (Petty Debts) Ordinance :

Provided that, if the order is of such a nature that if made by the court in which it is so registered, or by which it is so confirmed, it would be enforceable in like manner as an order of affiliation, the order shall be so enforceable.

(2) A warrant of distress or commitment issued by a court of summary jurisdiction for the purpose of enforcing an order so registered or confirmed may be executed in any part of the colony.

Regulations to facilitate communications between courts.

Mode of enforcing orders :

Chapter 15 :

Proviso.

9. The Summary Jurisdiction (Procedure) Ordinance shall apply to proceedings before courts of summary jurisdiction under this Ordinance in like manner as they apply to proceedings in summary conviction offences, and the power of the Governor in Council to make regulations under section sixty-two of the Summary Jurisdiction (Magistrates) Ordinance shall include power to make rules regulating the procedure of courts of summary jurisdiction under this Ordinance.

Application of Chapter 14.

Chapter 9.

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 it.

Proof of document signed by officers of court.

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

Depositions to be evidence.

12. (1) Where the Governor is satisfied that reciprocal provisions have been made by the legislature of any part of his Majesty's dominions outside the United Kingdom for the enforcement within that part of his Majesty's dominions of maintenance orders made by courts within this colony, the Governor may by order in council declare that this Ordinance shall extend to maintenance orders made by courts in that part of his Majesty's dominions in like manner as it extends to maintenance orders made within England and Ireland, and on that order being made this Ordinance shall extend accordingly.

Extension of Ordinance.

(2) For the purposes of this section the expression "part of his Majesty's dominions outside the United Kingdom" shall be deemed to include any territory which is under his Majesty's protection or in respect of which a mandate is being exercised by the Government of any part of his Majesty's dominions.

(3) In the application of this Ordinance to a part of his Majesty's dominions outside the United Kingdom, orders intended to be registered or confirmed in that part of his Majesty's dominions shall be transmitted to the Governor thereof.

(4) An order in council under this section may be varied or revoked by a subsequent order.