

**CHAPTER 101**

**BRITISH MAINTENANCE ORDERS**

*Ordinance:*

Nos. 15 of 1921, AN ORDINANCE TO FACILITATE THE ENFORCEMENT IN SRI LANKA OF MAINTENANCE  
 11 of 1922, ORDERS MADE IN BRITAIN OR ANY BRITISH POSSESSION OR PROTECTORATE OR IN  
 24 of 1929, ANY OTHER COUNTRY WHICH IS A MEMBER OF THE COMMONWEALTH.

*Ads*

Nos. 42 of 1956.  
 6 of 1957.

[16th December, 1921.]

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

Interpretation. **2.** For the purposes of this Ordinance—  
 " 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;

" dependents " means such persons as that person is, according to the law in force in England, Northern Ireland, or Sri Lanka, as the case may be, liable to maintain;

" 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 dependents of the person against whom the order is made;

" prescribed " means prescribed by regulations made by the President.

Enforcement in Sri Lanka of maintenance orders made in England or Northern Ireland.

**3\*** 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 Northern Ireland, and a certified copy of the order has been transmitted to the President by a Secretary of State, the President shall send a copy of the order to the prescribed officer of a Family Court\* in Sri Lanka 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.

**4.** Where a Family Court\* in Sri Lanka had 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 Northern Ireland, the court shall send to the President for transmission to a Secretary of State a certified copy of the order.

**5.** (1) Where an application is made to a Family Court\* in Sri Lanka for a maintenance order against any person, and it is proved that that person is resident in England or Northern 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 Northern Ireland.

(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.

Transmission of maintenance orders made in Sri Lanka

power to make provisional orders of maintenance against persons resident in England or Northern Ireland

\* The jurisdiction of the Family Court in maintenance matters has since been removed from such court by the Judicature (Amendment) Act, No. 71 of 1981, and re-vested in the Magistrate's Court.

(3) Where such an order is made, the court shall send to the President, for transmission to a 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 Northern Ireland for confirmation, and the order has by that court been remitted to the Family Court\* in Sri Lanka which made the order for the purpose of taking further evidence, that 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 such Family 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 President 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 Family 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 President, for transmission to a 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 professional 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 Northern Ireland, and the order is provisional only, and has no effect unless and until confirmed by a Family Court\* in Sri Lanka, 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 President, and it appears to the President that the person against whom the order was made is resident in Sri Lanka the President may send the said documents to the prescribed officer of a Family 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 upon such person.

Power of Family Court\* to confirm maintenance order made in England or Northern Ireland.

(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 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.

(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

\* See footnote to section 3.

provisional order for the taking of any further evidence, the court 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 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.

(6) 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 President may make regulations as to the manner in which a case can be remitted by a court authorized to confirm a provisional order to the court which made the provisional order, and generally for facilitating communications between such courts.

8. (1) A court in Sri Lanka 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 such court, shall take all such steps for enforcing the order as may be prescribed.

(2) Every such order shall be enforceable as if it were an order made by such court under sections 8, 8A+ or 8B+ of the Maintenance Ordinance.

(3) A warrant of distress or commitment issued by the court for the purpose of enforcing any order so registered or confirmed may be executed in any part of Sri Lanka in the same manner as if the warrant had been originally issued by a Family Court having jurisdiction in the place where the warrant is executed.

\* See footnote to section 3.

+ References to sections 8A and 8B have been added consequent to the amendment made by section 5 of Act No. 19 of 1972.

9. The Code of Criminal Procedure Act shall apply to proceedings before a Family Court\* under this Ordinance as it applies to proceedings under the Maintenance Ordinance.

Code of Criminal Procedure Act to apply to proceedings under this Ordinance.

10. Any document purporting to be signed by an officer of a court of summary jurisdiction in England or Northern 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.

11. Depositions taken in a court in England or Northern Ireland may be received in evidence in proceedings before Family Courts\* under this Ordinance.

Depositions to be evidence.

12. Where the President is satisfied that reciprocal provisions have been made by the Legislature of any British possession or any territory under British protection or of any country which is a member of the Commonwealth for the enforcement within such possession, territory or country of maintenance orders made by courts in Sri Lanka, the President may by Proclamation to be published in the Gazette extend this Ordinance to such possession, territory or country, and this Ordinance shall thereupon apply in respect of such possession, territory or country as though the references to England or Northern Ireland were references to such possession, territory or country and the references to a Secretary of State were references to the officer (designated Governor, High Commissioner or otherwise) who is for the time being administering the Government of such possession or territory and to the authority appointed by, or under the law of, such country to receive and transmit documents to which this Ordinance applies.

Reciprocal arrangements with British possessions or protectorates and countries which are members of the Commonwealth. [§ 3, 42 of 1956.]

(§2, 6 of 1957.)

Power of President to make regulations for facilitating communications between courts.

Mode of enforcing orders.