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**CHAPTER 217**

**MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT)**

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**CHAPTER 217**  
**MAINTENANCE ORDERS**  
**(RECIPROCAL ENFORCEMENT)**

**1974-50**

*An Act to consolidate and revise the law relating to reciprocal enforcement of maintenance orders.*

**Commencement. S.I. 1975 No. 65**

[14th March, 1975]

PART  
*Preliminary*

**Short title**

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

**Interpretation**

2. For the purposes of this Act-

**Cap. 213**

"affiliation order " means an order made under section 6 of the *Affiliation Proceedings Act*;

"appropriate authority " means any person in a reciprocating State who has functions similar to the Attorney-General under this Act;

"certified copy " means a copy of a document certified by the proper officer of the court to be a true copy;

"certificate of arrears " means a certificate certifying that the sum specified in the certificate is, to the best knowledge or belief of the officer giving the certificate, the amount of the arrears due under the order at the date of the certificate, or, as the case may be, that to the best of his knowledge or belief there are no arrears due thereunder at that date;

"court " means an authority having statutory jurisdiction to make maintenance orders;

"dependant " means a person for whose maintenance a person against whom a maintenance order is sought or has been made is liable according to the law in force in the State where the maintenance order is sought or was made;

" maintenance order " or " order " means an order for the periodical payment of money as alimony or as maintenance for a wife, former wife, child or any other dependant of the person against whom the order was made, and includes an affiliation order;

payee " means a person entitled to the payment for which an order provides;

" payer " means a person liable to make payment under an order;

proper officer " means, in the case of the High Court, the Registrar of the Supreme Court, and in the case of a magistrate's court, the Chief Clerk of that court;

provisional order " means an order which has no effect until confirmed by a court in Barbados, or, as the case may be, a court in a reciprocating State;

" reciprocating State " means a State declared to be a reciprocating State under section 34;

" registering court " means a court in which an order is registered under this Act;

" registered order " means an order registered in a court in Barbados under this Act.

## PART II

### *Registration of maintenance orders made in reciprocating States*

#### **Registration in Barbados of maintenance orders made abroad.**

3. (1) Where, before or after the commencement of this Act-

- (a) a maintenance order has been made against a person by a court in a reciprocating State; and
- (b) a certified copy of the order has been transmitted by the appropriate authority in the reciprocating State to the Attorney-General,

the Attorney-General shall send to the proper officer of a court in Barbados a certified copy of the order for registration.

(2) The proper officer of the court in Barbados shall, before registering an order under this section, take such steps as he thinks fit to discover whether the payer under the order is residing in Barbados, and if he is satisfied that the payer is not residing in Barbados he shall return the copy of the order to the Attorney-General with a statement giving such information as he possesses as to the whereabouts of the payer.

(3) The court in which an order is to be registered under this section shall be-

- (a) where the court in which the order was made was a court of superior jurisdiction, the High Court;
- (b) where the court in which the order was made was not a court of superior jurisdiction, a magistrate's court for District A.

**Registration where the sums payable are expressed in foreign currency.**

4. A maintenance order that makes payable sums of money expressed in a currency other than the currency of Barbados shall not be registered under this section until-

- (a) the magistrate's court in which it is sought to register the order ; or
- (b) the Registrar of the Supreme Court,

**Cap. 322**

as the case may be, has determined the equivalent of those sums in the currency of Barbados on the basis of the rate of exchange prevailing at the date of the order of the court in the reciprocating State as ascertained from any branch of a bank licensed under the *Banking Act*, and the Registrar of the Supreme Court or, as the case may be, the magistrate's court, shall certify on the order the sums so determined expressed in the currency of Barbados, and upon the registration of the order it shall be deemed to be an order for payment of the sums so specified.

**PART III**

*Confirmation of orders made in  
reciprocating States*

**Confirmation in Barbados of maintenance orders made abroad.**

5. (1) Where-

- (a) a maintenance order has been made by a court in a reciprocating State and the order is provisional only;
- (b) a certified copy of the order, together with the depositions of witnesses or a certified copy of the transcript of the evidence if it was taken in shorthand, and a statement of the grounds on which the order might have been opposed if the person against whom the order was made had been a party to the proceedings, is received by the Attorney-General; and
- (c) it appears to the Attorney-General that the person against whom the order was made is resident in Barbados,

the Attorney-General shall send the certified copy of the order and the accompanying documents to the proper officer of the court in Barbados, and the court shall, upon receipt of the documents-

- (i) issue a summons to the person against whom the order was made for him to appear and show cause why the order should not be confirmed; and
- (ii) cause such summons to be served upon such person.

(2) At a hearing under this section, the person on whom the summons was served may raise only such defence as he might have raised in the original proceedings if he had been a party thereto, and a statement from the court which made the provisional order setting out the grounds on which the order might have been opposed if the person against whom the order was made had been a party to the proceedings is conclusive evidence that those grounds are grounds on which objection to confirmation of the order may be made.

(3) Where at a hearing under this section, a person who was served with a summons-

- (a) does not appear; or
- (b) appears but fails to satisfy the court that the order ought not to be confirmed,

the court may confirm the order, with or without modification.

(4) Where at a hearing under this section, a person who was served with a summons-

- (a) appears at the hearing ; and
- (b) satisfies the court that, for the purpose of any defence, it

is necessary to remit the case to the court that made the provisional order, for the taking of further evidence, the court may so remit the case and adjourn the proceedings for further evidence to be taken.

(5) An order confirmed under this section has from the date of confirmation the same force and effect, and, subject to this Act, all proceedings may be taken thereon as if it had been an order originally obtained in the court in which it is confirmed, and the court may enforce the order accordingly.



(6) The court by which an order is to be confirmed under this section shall be-

- (a) where the court by which the order was originally made was a court of superior jurisdiction, the High Court;
- (b) where the court by which the order was originally made was not a court of superior jurisdiction, a magistrate's court for District A.

**Confirmation where the sums payable are expressed in foreign currency.**

6. Where an order that is sought to be confirmed under this Part makes payable sums of money expressed in a currency other than the currency of Barbados-

- (a) the confirming court,' or where that court is the High Court, the Registrar of the Supreme Court, shall determine the equivalent of those sums in the currency of Barbados on the basis of the rate of exchange prevailing at the date of the provisional order of the court in the reciprocating State as ascertained from any branch of a bank licensed under the Banking Act;
- (b) the confirming court or, as the case may be, the Registrar of the Supreme Court, shall certify on the order, where it is confirmed, the sums so determined expressed in the currency of Barbados ; and
- (c) the order when confirmed shall be deemed to be an order for the sums so certified.

**Effective date of payment of sums under order.**

7. (1) A court having power under this section to confirm an order may, if it decides to confirm the order, direct that payment of the sums payable thereunder commence from a specific date, but in any case such date shall be a later date than the date on which the provisional order was made.

(2) Subject to subsection (1), any sums payable under an order which has been confirmed are payable in accordance with the order as from the date on which the provisional order was made.

**Order deemed to have been made in the form in which it is confirmed.**

8. Notwithstanding any direction given under section 7 (1), an order registered under this Act shall be deemed to have been made in the form in which it has been confirmed and as if it had never been a provisional order.

## PART IV

*Evidence***Admissibility of evidence given in reciprocating State**

9. (1) A statement contained in a duly authenticated document that purports to-

- (a) set out or summarise evidence given in a court in a reciprocating State;
- (b) set out or summarise evidence taken in a reciprocating State for the purpose of proceedings in a court in Barbados under this Act. and whether or not in response to a request made by such court;
- (c) have been received in evidence in a court in a reciprocating State or to be a copy of a document so received,

is, in any proceedings in a court in Barbados relating to a maintenance order under this Act, admissible as evidence of any fact stated therein to the same extent as oral evidence is admissible in those proceedings.

(2) A document purporting to set out or summarise evidence given or taken as specified in paragraph (a) or (b) of subsection (1) is deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by the Judge, magistrate or other person before whom the evidence was given or taken, to be-

- (a) the original document containing, recording or summarising that evidence; or
- (b) a true copy of the original document containing, recording or summarising that evidence.

**Judicial notice**

10. A court before which a document referred to in section 9 is tendered shall take judicial notice of the signature or official position of the person appearing to have certified such document.

**Foreign language**

11. Where a maintenance order which is sought to be registered or confirmed under this Act is in a language other than the English language, the maintenance order or a certified copy thereof shall have attached thereto, for the purposes of this Act, a translation in the English language, approved by the court, and upon such approval being given, the maintenance order shall be deemed to be in the English language.

**Saving**

12. Nothing in this section affects the admissibility of a document which, apart from this section, is admissible as evidence.

## PART V

*Enforcement of maintenance orders made in  
reciprocating States and registered  
in Barbados*

**Enforcement of maintenance orders registered in Barbados**

13. An order registered in a court in Barbados is enforceable as if it had been made by the court in which it is registered and as if that court had jurisdiction to make it, and proceedings for, or with respect to, the enforcement of such order may be taken accordingly.

**Change of address to be notified**

14. (1) A person who is under an obligation to make payments in pursuance of a registered order shall, if he changes his address, give notice of his new address to the clerk of the court, if the court is a magistrate's court, or to the Registrar of the Supreme Court, if the court is the High Court.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of fifty dollars.

**Enforcement by registering court**

15. (1) A court in which an order has been registered under this Act or by which an order has been confirmed under this Act shall take all proper steps for enforcing such order.

(2) An order which under this section is enforceable in a magistrate's court is enforceable as if it were an affiliation order made by that court, and any enactment relating to the enforcement of affiliation orders and arrears due under such orders applies thereto.

(3) In any proceedings for or with respect to the enforcement of an order that is registered in a court under this Act, a certificate of arrears sent to the proper officer of the court shall be sufficient evidence of the facts stated therein.

## PART VI

*Variation and revocation of maintenance orders  
made abroad and confirmed or registered in Barbados*

**Variation and revocation of maintenance orders confirmed or registered in Barbados.**

16. (1) Subject to this section, a court in which an order is confirmed or registered may-

- (a) vary or revoke such order as if it had made the order and had jurisdiction to make it; and
- (b) by a provisional order, revoke a registered order.

(2) Except where-

- (a) the payer and the payee are both resident in Barbados ;
- (b) an application is made by the payee; or
- (c) the variation consists of a reduction in the rate of payments to be made under the registered order, such variation being made solely on the ground that there has been a change in the financial circumstances of the payer since the date on which the order was made, or, in the case of an order registered in Barbados, after the order was confirmed, and the court in which the order was made has no power under the law in force in that country to confirm a provisional order varying a maintenance order,

the court in which the order is registered may not, otherwise than by a provisional order, vary a registered order.

(3) A court shall not, except by a provisional order, revoke an order registered therein unless the payer and the payee are both resident in Barbados.

(4) Where an application is made for the revocation of a registered order the court shall, unless both the payer and the payee are resident in Barbados, apply the law of the State in which the order was made.

(5) Where the court is by virtue of subsection (4) required to apply the law of the State where the order was made, the court may, if it has reason to believe that the order may be revoked under the law of such State, make a provisional order revoking such order notwithstanding that it is not established that there is a ground for revoking the order.

(6) Where a registering court makes a provisional order varying or revoking a registered order, the proper officer of the court shall send to the court in the State where the order was made-

- (a) a certified copy of the provisional order; and
- (b) a duly authenticated document setting out or summarising the evidence given in the course of the proceedings.

(7) Where documents of the kind specified in subsection (6) are received by a registering court in connection with a provisional order, that court may confirm the order with or without alteration.

(8) A court shall, when determining whether a provisional order ought to be confirmed, proceed as if the matter were an application for variation of an order.

(9) The proper officer of the registering court shall register any order varying a registered order other than a provisional order which is not confirmed.

(10) Where a registered order has been varied by an order of a court in Barbados or by a court in a reciprocating State, that order shall, from the date of the variation, have effect as varied, and where that order was a provisional order, as if it had been made in the form in which it was confirmed and had never been a provisional order.

(11) Where a registered order has been revoked by an order of a court in Barbados or by an order of a court in a reciprocating State, that order shall, as from the date of its revocation, be deemed to have ceased to have effect except as respects arrears due under such order at such date.

## PART VII

*Cancellation of registration and transfer of  
orders made abroad and registered  
in Barbados*

**Cancellation of registration where the order is revoked**

17. (1) Where a registered order is revoked by-

- (a) an order of the registering court; or
- (b) a provisional order of the registering court, such order being confirmed by an order of a court in a reciprocating State and notice of such confirmation has been received by the registering court; or
- (c) an order of a court in a reciprocating State and notice of the revocation has been received by the registering court,

the magistrate's court in which such order is registered, or, as the case may be, the Registrar of the Supreme Court, shall, subject to subsection (2), cancel the registration.

(2) Notwithstanding the cancellation of a registered order under subsection (1), arrears due under that order up to the time of cancellation are recoverable.

**Cancellation where the payer ceases to reside in Barbados**

18. Where the proper officer of the registering court is of the opinion that the payer under a registered order no longer resides in Barbados, he shall cancel the registration of the order and send to the :Attorney-General-

- (a) a copy of the registered order;
- (b) a certificate, signed by the proper officer, as to the amount of arrears due under the order;
- (c) a statement giving such information as to the whereabouts of the payer as the proper officer possesses, and
- (d) any documents relevant to the case that are in the proper officer's possession.

19. (1) If it appears to the Attorney-General that the payer under-

- (a) a maintenance order, a certified copy of which has been received by him from a reciprocating State; or

- (b) a maintenance order which subsequently became a registered order,

does not reside, or, as the case may be, has ceased to reside in Barbados, he shall send to the appropriate authority in the reciprocating State where the order was made, or, if the payer resides in another reciprocating State, to the appropriate authority in that other reciprocating State-

- (i) a certified copy of the order in question and a certified copy of any order varying that order;
- (ii) if the order has at any time been a registered order, a certificate of arrears signed by the proper officer of the court in Barbados;
- (iii) a statement giving such information as to the whereabouts of the payer as the Attorney-General possesses ; and
- (iv) any other documents in the Attorney-General's possession that are relevant to the case.

(2) Where the Attorney-General sends the documents referred to in subsection (1) to a State other than the State in which the order was originally made he shall inform the appropriate authority in the State in which the order was originally made of what he has done.

## PART VIII

### *Maintenance orders made in Barbados for enforcement abroad*

#### **Transmission of maintenance orders made in Barbados.**

20. Where before or after the commencement of this Act-

- (a) a court in Barbados has, on the application of a dependant who is resident in Barbados, made a maintenance order against a person; and
- (b) it is proved to the court that the person against whom the order was made is resident in a reciprocating State,

the court shall, on the request of the person in whose favour the order was made, send a certified copy of the order to the Attorney-General for transmission to the appropriate authority in the reciprocating State for enforcement.

**Provisional order against a person residing**

21. (1) Where an application is made to a court in Barbados by a dependant who is resident in Barbados, for a maintenance order against a person and it is proved that that person is resident in a reciprocating State, the court may, in the absence of that person and without service of a summons on him, after hearing the evidence make any maintenance order that it might have made if a summons had been duly served on that person and he had failed to appear at the hearing; but an order so made is provisional only and has no effect until it is confirmed by a competent court in the reciprocating State.

(2) Where the evidence of a witness who is examined at the hearing of an application mentioned in subsection (1) is not taken in shorthand-

- (a) the evidence shall be put into the form of a deposition; and
- (b) the deposition shall be signed by the witness and also by the Judge or magistrate presiding at the hearing.

**Procedure where provisional order is made for confirmation abroad.**

22. Where an order has been made pursuant to section 21-

- (a) the court shall-
  - (i) prepare a statement showing the grounds on which the making of the order might have been opposed if the person against whom the order was made had been duly served with a summons and had appeared at the hearing, and
  - (ii) prepare a statement showing the information that the court possesses for facilitating identification of the person against whom the order was made and for ascertaining his whereabouts; and
- (b) forward to the Attorney-General for transmission to the appropriate authority in the reciprocating State-
  - (i) a certified copy of the order,
  - (ii) the depositions or a certified copy of the transcript of the evidence, and
  - (iii) the statements referred to in paragraph (a).

**Procedure where order is resubmitted to court for further evidence.**

23. (1) Where a provisional order made under this section has come before a court in a reciprocating State for confirmation, and the order has by that court been remitted to the court in



Barbados that made the order for further evidence to be taken, the court in Barbados shall, after giving the notice prescribed by rules of court, proceed to take evidence in like manner and subject to like conditions as the evidence in support of the original application.

(2) Where upon the hearing of the evidence taken under subsection (1) it appears to the court in Barbados that the order ought not to have been made, the court may revoke the order, but in any other case the depositions or a certified copy of the transcript of the evidence, if it was taken in shorthand, shall be sent to the Attorney-General and dealt with in like manner as the depositions or transcript of the original evidence.

### **Saving**

24. The confirmation of an order made under this Part does not affect any power of the court that originally made the order to vary or revoke the order, but an order varying an original order has no effect until it is confirmed in like manner as the original order.

### **Procedure where court varies or revokes order**

25. (1) Where, after an order made under this Part is confirmed, the court that originally made the order makes a varying or revoking order, that court shall send a certified copy thereof together with the depositions or a certified copy of the transcript of any new evidence adduced before the court to the Attorney-General for transmission to the appropriate authority in the reciprocating State in which the original order was confirmed.

(2) An applicant for a provisional order under this section has the same right of appeal, if any, against a refusal to make the order as he would have had against a refusal to make a maintenance order if a summons had been duly served on the person against whom the order is sought.

## **PART IX**

### *Variation and revocation of maintenance orders made in Barbados*

26. (1) Where-

- (a) a maintenance order has been made by a court in Barbados and a certified copy thereof has been sent to a reciprocating State for enforcement; or
- (b) a provisional maintenance order made in a court in Barbados has been confirmed by a competent court in a reciprocating State,

the court in Barbados may, by a provisional order, vary or revoke that order.

(2) Notwithstanding subsection (1), where a court, after hearing an application for variation of a maintenance order, is of the view that such order ought to be varied by increasing the payments under the order, then, unless-

- (a) both parties appear at the hearing; or
- (b) the applicant appears and the court is satisfied that the other party has been duly served with the appropriate process,

any order varying the order may only be a provisional order.

(3) Where a court in Barbados makes a provisional order under this section, the proper officer of the court shall send to the Attorney-General for transmission to the appropriate authority in the reciprocating State having power to confirm the provisional order, a certified copy of the provisional order together with a duly authenticated document setting out or summarising the evidence given in the case.

**Variation and revocation of maintenance order by court abroad.**

27. (1) Where a court in a reciprocating State revokes a maintenance order which has been made in Barbados and-

- (a) a certified copy of the provisional order made by the court in the reciprocating State; and
- (b) a duly authenticated document setting out or summarising the evidence given in the proceedings in which the provisional order was made,

are received by the court in Barbados, the court may confirm the order with or without alteration.

(2) For the purpose of determining whether a provisional order may be confirmed under subsection (1), the court shall proceed as if an application for variation or revocation, as the case may be, had been made to it.

**Effective date of variation or revocation.**

28. (1) Where a court in Barbados or a court in a reciprocating State, by an order, whether or not such order is a provisional order that has been confirmed, varies a maintenance

order, the maintenance order shall, as from the date on which the order was made, have effect as varied, and where the order was a provisional order, as if that order had been made in the form in which it was confirmed and as if it had never been a provisional order.

(2) Where a court in a reciprocating State revokes a maintenance order, including a provisional order made by such court and confirmed by a court in Barbados, the maintenance order shall as from the date on which the revocation order was made be deemed to have terminated, but arrears due under the maintenance order up to that date are recoverable.

### **Revocation by court after consideration of additional evidence**

29. Where, before a maintenance order made by a magistrate's court in Barbados against a person residing in a reciprocating State is confirmed, a duly authenticated document setting out or summarising the evidence taken in the reciprocating State for the purpose of proceedings relating to the confirmation of the order is received by the court in Barbados that made the order, or that court in compliance with a request takes the evidence of a person residing in Barbados for the purpose of such proceedings, the court shall consider that evidence and if it appears to that court that the order ought not to have been made it shall give to the person on whose application the maintenance order was made an opportunity to consider the evidence, to make representations with regard to the evidence and to adduce further evidence and after then considering all the evidence and any representations made by that person, it may revoke the order.

## **PART X**

### *Application by a person in Barbados for recovery etc. of maintenance in a reciprocating State and vice versa*

### **Application by person in Barbados for recovery of maintenance in reciprocating State**

30. (1) Where a person in Barbados-

- (a) claims to be entitled to recover maintenance from another person in a reciprocating State; or
- (b) seeks to have varied a maintenance order made in a reciprocating State for payment of maintenance,

and the person against whom the claim is made is subject to the jurisdiction of that reciprocating State, the claimant may apply to the Attorney-General to have his claim for recovery or variation transmitted to that country.

(2) An application to the Attorney-General under subsection (1) shall be made through the proper officer of the court, and that officer shall assist the applicant in completing the application and ensure that it complies with the requirements of the law of the reciprocating State, and he shall forward to the Attorney-General the application and those documents that the law of the reciprocating State requires.

(3) The Attorney-General shall, on receipt of an application under this section, transmit it with the accompanying documents to the appropriate authority in the reciprocating State unless he is satisfied that the application is not made in good faith or that it does not comply with the requirements of the law of the reciprocating State.

(4) The Attorney-General may request the proper officer to obtain from the court of which he is an officer such information as the Attorney-General requires, and the court shall supply the information.

**Application by person in reciprocating State for recovery etc. of maintenance in Barbados.**

31. (1) Where the Attorney-General receives from the appropriate authority in a reciprocating State an application by a person in that country for recovery of maintenance from a person who resides in Barbados, he shall send the application together with any accompanying documents to the proper officer of the court.

(2) Where the proper officer receives from the Attorney-General an application under subsection (1), the applicant shall be deemed to be the complainant and the person against whom the application is made shall be deemed to be the defendant.

(3) The court shall in respect of any complaint under this section issue a summons to the defendant, and where service of such summons cannot be effected the proper officer of the court shall, subject to subsection (4), return the application and the accompanying documents to the Attorney-General giving such information as he possesses as to the whereabouts of the defendant.