

Country Code:	DM 1990 Rev. CAP. 35:62
Title:	MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT
Country:	DOMINICA
Date of entry into force:	February 2, 1921 (L.I. 11/1921)
Amendment:	L.I. 2/1922; L.I. 8/1930; L.I. 5/1931; L.I. 12/1996
Subject:	Children – Law – Dominica
Key words:	Maintenance Order - Enforcement; Maintenance Order - Provisional
Notes:	Maintenance Orders Regulations (L.I. Gazette 14 June 1921 and 12/1990); Maintenance Orders (Facilities for Enforcement) Application Order (for L.I. August 4, 1921) attached.

**LAWS OF DOMINICA**  
**MAINTENANCE ORDERS**  
**(FACILITIES FOR ENFORCEMENT) ACT**

**CHAPTER 35:62**

**Act**

**L.I. 11 of 1921**

Amended by

L.I. 2 of 1922

L.I. 8 of 1930

L.I. 5 of 1931

12 of 1990

**Current Authorised Pages**

<b>Pages</b>	<b>Authorised</b>
<i>(inclusive)</i>	
<i>1-12</i>	<i>by L.R.O. 1/1991</i>

**Index of Subsidiary Legislation**

	<b>Page</b>
Maintenance Orders Regulations	9
Maintenance Orders (Facilities for Enforcement)	
(Application) Order	12

**Note on Omission**

Rules of the Supreme Court (Maintenance Orders Facilities for Enforcement Act 1921) — Order XLIE contained in Volume V. of the 1961 Edition (at page 138) have been omitted.

**CHAPTER 35:62**  
**MAINTENANCE ORDERS**  
**(FACILITIES FOR ENFORCEMENT) ACT**  
**ARRANGEMENT OF SECTIONS**

**SECTION**

- 1.** Short title.
- 2.** Interpretation.
- 3.** Enforcement in the State of maintenance orders made in England or Northern Ireland
- 4.** Transmission of maintenance orders made in the State.
- 5.** Power to make provisional orders of maintenance against persons resident in England or Northern Ireland.
- 6.** Power of inferior Court of Summary Jurisdiction to confirm maintenance order made in England or Northern

Ireland.

7. Power of Minister to make Regulations for facilitating communications between Courts.
8. Mode of enforcing orders.
9. Application of Summary Jurisdiction Acts.
10. Proof of documents signed by officers of Court.
11. Depositions to be evidence.
12. Extension to Commonwealth territories.

**CHAPTER 35:62**  
**MAINTENANCE ORDERS**  
**(FACILITIES FOR ENFORCEMENT) ACT**

**1961 Ed. Cap. 12 L.I. 11 of 1921**

**AN ACT** to facilitate the enforcement of maintenance orders made in England, Northern Ireland or a Commonwealth territory.

**Commencement**

[25th February 1921]

**Short title**

1. This Act may be cited as the -

**MAINTENANCE ORDERS**  
**(FACILITIES FOR ENFORCEMENT) ACT.**

**Interpretation**

2. In this Act —

"certified copy" in relation to an order of 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 that part of England or Northern Ireland in which the maintenance order was made 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* rules of court.

**Enforcement in the State of maintenance orders made in England or Northern Ireland**

3. (I) Where a maintenance order has, whether before or after the passing of this Act, been made against any person by any Court in England or Northern 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 prescribed officer of a Court in the State 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 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 that Court shall have power to enforce the order accordingly.

(2) The Court in which an order is to be so registered as aforesaid shall if the Court by which the order was made was a Court of Superior Jurisdiction be the High Court and if the Court was not a Court of Superior Jurisdiction be an inferior Court of Summary Jurisdiction.

### **Transmission of maintenance orders made in the State**

**4.** Where a Court in the State has whether before or after the commencement of this Act 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 Minister for transmission to the Secretary of State a certified copy of the order.

### **Power to make provisional orders of maintenance against persons resident in England or Northern Ireland**

**5.** (1) Where an application is made to an inferior Court of Summary Jurisdiction in the State 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 the 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 Northern Ireland for confirmation and the order has by that Court been remitted to the inferior Court of Summary Jurisdiction 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 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 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 an inferior 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 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 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 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.

#### **Power of inferior Court of Summary Jurisdiction to conform maintenance order made in England or Northern Ireland**

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 an inferior Court of Summary Jurisdiction in the State 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 that the person against whom the order was made is resident in the State the Minister may send the said documents to the prescribed officer of the inferior Court of Summary Jurisdiction in the district wherein the person resides 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 requisition the Court shall issue such a summons and cause it to be served upon the person.

#### **Ch. 4::20**

**(2)** A summons so issued may be served in the State in the manner prescribed for the service of a summons by the Magistrate's Code of Procedure Act.

**(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 that 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.

## **Power of Minister to make Regulation for facilitating communications between Courts**

7. The Minister 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 such Courts.

## **Mode of enforcing orders**

8. (1) An inferior Court of Summary Jurisdiction in which an order has been registered under this Act or by which an order has been confirmed under this Act 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 in like manner as if the order were for the payment of a civil debt recoverable summarily 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.

(3) A warrant of distress or commitment issued by an inferior Court of Summary Jurisdiction for the purpose of enforcing any order so registered or confirmed may be executed in any part of the State in the manner prescribed by the Magistrate's Code of Procedure Act. **(Ch. 4:20)**

## **Application of Summary Jurisdiction Acts**

9. The Magistrates' Summary Jurisdiction Acts shall apply to proceedings before inferior Courts of Summary Jurisdiction under this Act in like manner as they apply to proceedings under those Acts and the power of the Minister to make Rules under the Magistrate's Code of Procedure Act shall include power to make Rules regulating the procedure of inferior Courts of Summary Jurisdiction under this Act.

10. Any document purporting to be signed by a Judge or officer of a Court 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.

## **Depositions to be evidence**

11. Depositions taken in a Court in England or Northern Ireland for the purposes of this Act may be received in evidence in proceedings before inferior Courts of Summary Jurisdiction under this Act.

12. Where the Minister is satisfied that the reciprocal provisions have been made by the Legislature of any Commonwealth territory for the enforcement within such territory of maintenance orders made by Courts in the State, the Minister may by Order extend this Act to such territory, and this Act shall thereupon apply in respect of such territory as though the references to England or Northern Ireland were references to such territory and the references to the Secretary of State were references to the Minister of Legal Affairs, the Minister of Justice or the Minister of Home Affairs of such territory. (This Act has been extended by Proclamation to maintenance orders made in Guyana, Bahamas, Barbados, Bermuda, Grenada, St. Lucia, St. Vincent, Trinidad, New South Wales, Belize, Jamaica, Australia, Leeward Islands, Jersey, Guernsey, Mauritius.

**SUBSIDIARY LEGISLATION**  
**MAINTENANCE ORDERS REGULATIONS**  
**ARRANGEMENT OF REGULATIONS**

**REGULATION**

1. Short title.
2. Copy of order to be sent to Magistrate.
3. Provisional order.
4. Entry in register.
5. Confirmation of provisional order.
6. How payments may be made.
7. Collection of moneys.
8. When further evidence is required.

**SUBSIDIARY LEGISLATION**  
**MAINTENANCE ORDERS REGULATIONS**

**L.I. Gazette 14/6/1923 [12 of 1990]**

**MADE UNDER SECTION 7**

**Commencement**

**[14th June 1923]**

**Short Title**

1. These Regulations may be cited as the —

**MAINTENANCE ORDERS REGULATIONS.**

**Copy of order to be sent to Magistrate**

2. The copy of an order made by a Court outside the State and received by the Minister under section 3 of the Act shall, unless the order was made by a Court of Superior Jurisdiction be sent to the Magistrate exercising jurisdiction in the district in which the defendant is alleged to be living.

**Provisional order**

3. The copy of a provisional order made by a Court outside the State and received by the Minister under section 6 of the Act shall be sent to the Magistrate in the manner provided by the foregoing regulation with the accompanying documents and a requisition for the issue of a summons.

**Entry in register**

4. The Magistrate to whom any order is sent in accordance with the above regulations shall enter it in his register on the date on which he received it in the same manner as though the order had been made at his Court, distinguishing it from

the other entries in such manner as he may find most convenient, so as to show that it is entered in pursuance of the Act.

#### **Confirmation of provisional order [12 of 1990]**

**5.** (1) When an order provisionally made outside the State has been confirmed with or without modification under section 6 of the Act by a Magistrate, or the Magistrate has decided not to confirm it, the Magistrate shall send notice thereof to the Court from which it issued and also to the Secretary of State.

(2) In this regulation the expression "Secretary of State" includes any of the officials of a Commonwealth territory mentioned in section 12 of the Act.

#### **How payments may be made**

**6.** When an order has been registered, or a provisional order has been confirmed as provided the Magistrate shall, unless satisfied that it is undesirable to do so, direct that all payments due thereunder shall be made through an officer of the Court, or such other person as he may specify for the purpose.

#### **Collection of moneys**

**7.** The person through whom the payments are directed to be made shall collect the moneys due under the order in the same manner as though it were an affiliation order, and may take proceedings in his own name for enforcing payment, and shall send the moneys, when so collected, to the Court from which the order originally issued; but if the Court from which the order originally issued is in a State for which the Crown Agents act the money so collected shall be paid to the Crown Agents for transmission to the person to whom they are due.

#### **When further evidence is required**

**8.** When a provisional order made under section 5 of the Act has been remitted under subsection (4) of that section to the Magistrate's 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 Magistrate to the person on whose application the provisional order was made.

### **SUBSIDIARY LEGISLATION**

#### **MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (APPLICATION) ORDER\*** ***made under section 12***

##### **Short title**

**1.** This Order may be cited as the -

**MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (APPLICATION) ORDER.**

##### **Territories to which Act extended**

**2.** By virtue and in exercise of the powers contained in the Maintenance Orders (Facilities for Enforcement) Act, the said Act has by Order been extended and is hereby declared to extend to the territories named in the Schedule hereto.

## SCHEDULE

Antigua.	Jamaica.
Australia.	Jersey.
Bahamas.	Mauritius.
Barbados.	Montserrat.
Belize.	New South Wales.
Bermuda.	St. Kitts-Nevis-Anguilla.
Grenada.	St. Lucia.
Guernsey.	St. Vincent.
Guyana.	Trinidad and Tobago.
Isle of Man.	Virgin Islands.

- \*(i) Grenada, Leeward Islands. Mauritius; *Gazette*, 4th day of August, 1921.
- (ii) British Guiana; *Gazette*, 9th day of August, 1922.
- (iii) Bahamas, Barbados, Bermuda, Grenada, St. Lucia, St. Vincent, Trinidad; *Gazette*, 30th day of August, 1923.
- (iv) New South Wales; *Gazette*, 3rd day of July, 1924.
- (v) British Honduras; *Gazette*, 28th day of August, 1924.
- (vi) Jamaica; *Gazette*, 14th day of May, 1925.
- (vii) Australia; S. R.O. 6/1929.
- (viii) Antigua, St. Kitts, Nevis, Anguilla, Montserrat, Virgin Islands; S.R.O. 54/1945.
- (ix) Jersey; S.R.O. 1/1955.
- (x) Guernsey; S.R.O. 17/1956. (Amended by S.R.O. 20/1956)
- (xi) Isle of Man; S.R.O. 24/1961.