

LAWS OF GUYANA

MAINTENANCE ORDERS (FACILITIES FOR
ENFORCEMENT) ACT

CHAPTER 45:05

Act

6 of 1922

Amended by

19 of 1922

26 of 1949

4 of 1972

Current Authorised Pages

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1 - 17 ...	1/2012

Index
of
Subsidiary Legislation

	Page
Supreme Court (Maintenance Orders Registration) Rules (Rules of Court 22/11/1923 and R. 1/1970)	11
Magistrate's Courts (Maintenance) Rules (Gaz. 23/6/23 Nt. 221)	12
Maintenance Orders (Facilities for Enforcement) Orders	16

CHAPTER 45:05

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Enforcement in Guyana of maintenance orders made in England or Ireland.
4. Transmission of maintenance orders made in Guyana.
5. Provisional orders of maintenance against persons resident in England or Ireland.
6. Confirmation by court of summary jurisdiction of maintenance order made in England or Ireland.
7. Regulations to facilitate communications between courts.
8. Mode of enforcing orders.
9. Application of Cap. 10:02.
10. Proof of document signed by officers of court.
11. Depositions to be evidence.
12. Extension of Act.

1929 Ed.

c. 146

1953 Ed.

c. 28

6 of 1922

An Act to facilitate the Reciprocal Enforcement in Guyana of Maintenance Orders made in the other parts of the Commonwealth.

[6TH MAY, 1922]

Short title.

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

Interpretation.

2. For the purposes of this Act—

[4 of 1972] “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;

“dependants” means those whom that person, according to the law in force in the Commonwealth territory in which the maintenance order was made is 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 dependants of the person against whom the order is made;

“the Minister” means the Minister charged with responsibility for the administration of this Act;

“prescribed” means prescribed by rules of court;

“the Secretary of State” means the appropriate Secretary of State of the Government of the United Kingdom.

Enforcement in
Guyana of
maintenance
orders made in
England or
Ireland.
[4 of 1972]

3. (1) Where a maintenance order has, whether before or after the commencement of this Act, 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 Minister, the Minister shall send a copy of the order to the prescribed officer of a court in Guyana 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 this Act, 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.

(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 High Court of Guyana, and, if the court was not a court of superior jurisdiction, be a

court of summary jurisdiction.

Transmission
of
maintenance
orders made
in Guyana.

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

Provisional
orders of
maintenance
against persons
resident in
England or
Ireland.
[4 of 1972]

5. (1) Where an application is made to a court of summary jurisdiction in Guyana 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 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 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 Minister 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 Minister 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

Confirmation
by court of
summary
jurisdiction of
maintenance
order made in
England or
Ireland.
[4 of 1972]

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 Guyana, 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 Guyana, the Minister 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.

(2) A summons so issued may be served in Guyana 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.

Regulations to facilitate communications between courts.
[4 of 1972]

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 those courts.

Mode of enforcing orders.

8. (1) A 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 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 judgment for the payment of money under the Summary Jurisdiction (Petty Debt) Act:

c. 7:01

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 Guyana.

Application of
c. 10:02.

9. The Summary Jurisdiction (Procedure) Act shall apply to proceedings before courts of summary jurisdiction under this Act in like manner as they apply to proceedings in summary conviction offences, and the power of the Minister to make regulations under section 75 of the Summary Jurisdiction (Magistrates) Act shall include power to make rules regulating the procedure of courts of summary jurisdiction under this Act.

c. 3:05.

Proof of
document
signed by
officers of
court.

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.

Depositions to
be evidence.

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

Extension of
Act.
[4 of 1972]

12. (1) Where the Minister is satisfied that reciprocal provisions have been made by the legislature of any Commonwealth territory other than the United Kingdom for the enforcement within that territory of maintenance orders made by courts within Guyana, the Minister may by order declare that this Act shall extend to maintenance orders made by courts in that Commonwealth territory in like manner as it extends to maintenance orders made within England and Ireland, and on that order being made this Act shall extend accordingly.

(2) In the application of this Act to a Commonwealth territory other than the United Kingdom, orders intended to be registered or confirmed in that territory shall be transmitted to the Minister (by whatever name called)

LAWS OF GUYANA

10

Cap. 45:05 *Maintenance Orders (Facilities for Enforcement)*

of the Government of that territory charged with responsibility for this function or to the officer administering the Government of that territory.

SUBSIDIARY LEGISLATION

Rules of Court
22/11/1923
R.1/1970

**SUPREME COURT (MAINTENANCE ORDERS
REGISTRATION) RULES**

made under section 9

Citation.

1. These Rules may be cited as the Supreme Court (Maintenance. Orders Registration) Rules.

Prescribed officer.

2. The Registrar for the time being shall be the prescribed officer of the court in Guyana under section 3(1) of the Act.

Registration of maintenance orders
[R.1/1970]

3. (1) All orders, copies of which are transmitted for their enforcement to the Minister under the Act and by him sent to the court, shall be entered in a register to be kept for that purpose, and the copies so transmitted shall be filed in the registry.

(2) The register aforesaid shall be open to inspection upon payment of a search fee of fifty cents.

(3) Office copies of orders so registered shall be supplied upon payment of the proper fees.

(4) Any order sent to the Minister under the Act for enforcement in England or Ireland, or in any part of the Commonwealth to which the Act extends, shall be entered in the said register and a note made thereof in the court minutes of the suit in which that order occurs.

(5) The prescribed officer may give such further departmental directions as to the filing, registration, and transmission of any order in these rules mentioned as he shall think proper.

Gaz. 23/6/23
Nt. 221.

**MAGISTRATES' COURTS (MAINTENANCE)
RULES**

made under section 9

Citation.

1. These Rules may be cited as the Magistrates' Courts (Maintenance) Rules.

Prescribed officer.

2. The Magistrate for the time being shall be the prescribed officer of each Court of Summary Jurisdiction in Guyana under section 3(1) of the Act.

Final order made outside Guyana.

c. 10:02.

3. The copy of an order made by a Court of Summary Jurisdiction outside Guyana and sent to the Minister for its enforcement under the Act shall be sent to the Magistrate of the District in which the defendant resides or is alleged to reside and shall be enforced as if it were an order of that Court under the Summary Jurisdiction (Procedure) Act.

Provisional Order made outside Guyana.

c. 10:02.

4. The copy of a provisional order made by a Court of Summary Jurisdiction outside Guyana and received by the Minister under section 6 of the Act shall be sent to the Magistrate of the District in which the defendant resides or is alleged to reside with the accompanying documents and requisition for the issue of a summons, and such summons shall forthwith be issued and served in accordance with the Summary Jurisdiction (Procedure) Act.

Register to be kept.

5. All orders, copies of which are transmitted to the Minister under the Act and by him sent to any Magistrate for their enforcement, or, where provisional, for their confirmation and enforcement, shall be entered in the register to be kept for that purpose on the date on which they are received and such register shall distinguish them from the other entries and shall also distinguish provisional from final orders in such manner as may be most convenient so as to show that they are entered in pursuance of the Act and the copies of all documents so transmitted shall be filed by the

[Subsidiary]

Magistrate's Courts (Maintenance) Rules

Clerk of the Court.

Notice to be sent to Court of Origin.

6. When an order to which the Act applies has been provisionally made outside Guyana and has been confirmed with or without modification under section 6 of the Act by a Court of Summary Jurisdiction or the Court has decided not to confirm it the Magistrate shall send notice thereof to the Court from which it issued and also to the Minister.

Payments how to be made.

7. When an order has been registered in a Court of Summary Jurisdiction under section 3 of the Act or a provisional order has been confirmed by a Court of Summary Jurisdiction under section 6, that Court 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 it may specify for the purpose and such direction may be given without any complaint or application.

Enforcement and remittance of payments.

8. 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 Accountant General for remittance through the Crown Agents or otherwise to the Court from which the order originally issued.

Taking further evidence.

9. When a provisional order made in Guyana under section 5 of the Act has been remitted under section 5(4) to a Court of Summary Jurisdiction 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 or the Clerk of the Court to the person on whose application the provisional order was made.

Orders for enforcement in England etc.

10. Any order sent to the Minister under the Act for enforcement in England or Ireland or in any part of the Commonwealth to which the Act extends shall be entered in

LAWS OF GUYANA

14 **Cap. 45:05** *Maintenance Orders (Facilities for Enforcement)*

[Subsidiary] *Magistrate's Courts (Maintenance) Rules*

the said Register and a note etc. made thereof in the case jacket of the suit in which the order occurs.

Marriage certificate to be attached to depositions.

11. There should, wherever applicable, be attached to the depositions mentioned in section 5(2) of the Act a certified copy of the marriage certificate as an exhibit in proof of the marriage, or its absence should be accounted for in such depositions and also, if possible, a photograph together with a full address and personal description of the defendant.

Grounds of opposition form.

12. The form of statement of grounds on which the making of the order might have been opposed mentioned in section 5 (3) of the Act should be as nearly as circumstances admit in the form set out in the Schedule. This form is applicable to a provisional order for maintenance in favour of a wife on the ground of husband's desertion but it may be adapted to suit other cases *mutatis mutandis*.

Sterling currency

13. Any order made in Guyana under the Act should state a Sterling weekly or monthly sum in Guyana dollars.

Mutual jurisdiction of courts.

14. Any order confirmed by any Court whether of Summary or Superior Jurisdiction in Guyana may be enforced by any other Court in Guyana on being transmitted by the prescribed officer of the one Court to the prescribed officer of the other Court.

Departmental directions.

15. The Magistrate may give such further departmental directions as to the filing, registration and transmission of any order in the Act or in these Rules mentioned as he shall think proper.

SCHEDULE

Form I

GUYANA

In the

Magisterial District

A.B.

Versus

C.B.

The grounds upon which the making of the order herein might have been opposed if the said C.B. had been duly served with a summons and had appeared at the hearing are:

1. That he was not married to the said A.B.
2. That his marriage to the said A.B. was void at law.
3. That decree of divorce or of nullity of marriage had been pronounced by a competent court.
4. That a decree of judicial separation or an order having the effect of such a decree was in force at the time of said hearing.
5. That he and his wife A.B. were living apart by mutual consent or agreement.
6. That his wife had deserted him.
7. That A.B. had committed adultery which had not been condoned connived at or by wilful misconduct or neglect conducted by him.
8. That he had reasonable cause to leave his said wife.

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ORDER

made under section 12

1. This Order may be cited as the Maintenance Orders (Facilities for Enforcement) Order.

2. The Maintenance Orders (Facilities for Enforcement) Act shall extend to maintenance orders made by courts within those parts of the Commonwealth named in the Schedule, in like manner as it extends to maintenance orders made within England and Ireland.

SCHEDULE

<i>Parts of the Commonwealth</i>	<i>Date of Order in Council</i>
Trinidad and Tobago.....	20th July, 1922
Bermuda.....	22nd Aug., 1922
St. Vincent	22nd Aug., 1922
Leeward Islands these comprising— Antigua, Dominica, Montserrat, St. Kitts, Nevis and Anguilla.....	
St. Lucia.....	19th Sept., 1922
Barbados.....	19th Sept., 1922
Grenada.....	3rd April, 1923
Bahamas.....	15th May, 1923
The State of New South Wales and its dependencies, in the Commonwealth of Australia.....	23rd Sept., 1924
Australia.....	3rd Feb., 1925
Jamaica.....	7th Mar., 1925
Nigeria	18th May, 1926
British Honduras.....	22nd May, 1928
The Territory for the Seat of Government of the Common-wealth of Australia.....	
Australia.....	28th Jan., 1929
Island of Jersey	18th Mar., 1954
Bailiwick of Guernsey	16th Oct., 1957
Northern Territory of Australia.....	7th Nov., 1961

LAWS OF GUYANA

Maintenance Orders (Facilities)

Cap. 45:05

17

[Subsidiary]

Maintenance Orders (Facilities for Enforcement) Order

Isle of Man.....

7th Nov., 1961
