

# AUSTRALIAN CAPITAL TERRITORY.

No. 13 of 1956.

## AN ORDINANCE

### To amend the Maintenance Orders (Facilities for Enforcement) Ordinance 1927-1938.

**I** THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1955*.

Dated this fourteenth day of December, 1956.

W. J. SLIM,  
Governor-General.

By His Excellency's Command,

NEIL O'SULLIVAN,

For and on behalf of the Minister of State for the Interior.

#### MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) ORDINANCE 1956.\*

1.—(1.) This Ordinance may be cited as the *Maintenance Orders (Facilities for Enforcement) Ordinance 1956*. Short title and citation.

(2.) The *Maintenance Orders (Facilities for Enforcement) Ordinance 1927-1938*† is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Maintenance Orders (Facilities for Enforcement) Ordinance 1927-1956*.

2. The title of the Principal Ordinance is amended by omitting **Title.** the words "England and Ireland and other parts of His Majesty's Dominions and Protectorates and vice versa" and inserting in their stead the words "other parts of the Queen's dominions and elsewhere and the enforcement outside the Australian Capital Territory of Maintenance Orders made in the Australian Capital Territory".

\* Notified in the *Commonwealth Gazette* on 14th December, 1956.

† Ordinance No. 9, 1927, as amended by No. 27, 1937; and Nos. 25 and 34, 1938.

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## Definitions.

3. Section two of the Principal Ordinance is repealed and the following section inserted in its stead:—

“2. In this Ordinance, unless the contrary intention appears—  
‘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;

‘dependants’ means such persons as a person against whom a maintenance order is made is liable to maintain, according to the law in force in the place in which the order is made;

‘Governor’ includes—

(a) an administrator, commissioner, resident or other officer representing the Queen in—

(i) a part of the Queen’s dominions other than England and Northern Ireland;

(ii) a territory under the protection of the Queen; or

(iii) a territory administered by the Government of a part of the Queen’s dominions under the trusteeship system of the United Nations; and

(b) a Minister of a reciprocating State which is a country, or part of a country, which has at any time, since the establishment of the Commonwealth, been a part of the Queen’s dominions;

‘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, former wife or other dependants of the person against whom the order is made;

‘reciprocating State’ means a part of the Queen’s dominions (other than England and Northern Ireland), a territory, a country, or a part of a country, which, or a part of which, is specified in the regulations to be a reciprocating State for the purposes of this Ordinance;

‘the appropriate Court having jurisdiction in the Territory’ means—

(a) where an order to be registered or confirmed was made by a court of superior jurisdiction—the Supreme Court; and

(b) where an order to be registered or confirmed was made by a court other than a court of superior jurisdiction—the Court of Petty Sessions.”.

4. Section three of the Principal Ordinance is repealed and the following section inserted in its stead:—

Enforcement in the Territory of maintenance orders made elsewhere.

“3.—(1.) Where—

- (a) a maintenance order has, whether before or after the commencement of this section, been made against a person by a court in England, Northern Ireland or in a reciprocating State; and
- (b) a certified copy of the order has been transmitted by the Secretary of State for Commonwealth Relations or by the Governor of the reciprocating State to the Attorney-General,

the Attorney-General shall send the certified copy of the order to the prescribed officer of the appropriate Court having jurisdiction in the Territory.

“ (2.) On receipt of the copy, the officer shall register the order in a book kept for that purpose.

“ (3.) From the date of the registration of the order—

- (a) the order has the same force and effect; and
- (b) subject to the provisions of this Ordinance, all proceedings may be taken on the order,

as if the order had been originally obtained in the Court in which it is registered.”.

5. Section four of the Principal Ordinance is amended—

Transmission of maintenance orders made in the Territory.

- (a) by omitting the word “Ireland” and inserting in its stead the words “Northern Ireland”; and
- (b) by omitting the words “Dominion Affairs” and inserting in their stead the words “Commonwealth Relations”.

6. Section five of the Principal Ordinance is amended—

Power to make provisional orders of maintenance against persons resident elsewhere.

- (a) by omitting from sub-sections (1.), (3.) and (4.) the word “Ireland” (wherever occurring) and inserting in its stead the words “Northern Ireland”;
- (b) by omitting from sub-section (3.) the words “Dominion Affairs” and inserting in their stead the words “Commonwealth Relations”;
- (c) by omitting from sub-section (4.) the words “or any other Court sitting and acting for the same place”; and
- (d) by omitting from sub-section (6.) the words “Dominion Affairs” and inserting in their stead the words “Commonwealth Relations”.

Power of Court to confirm maintenance order made elsewhere.

**7. Section six of the Principal Ordinance is amended—**

- (a) by omitting from sub-section (1.) the word "Ireland" and inserting in its stead the words "Northern Ireland";
- (b) by omitting from sub-section (1.) the words "officer in charge of the records" and inserting in their stead the words "prescribed officer";
- (c) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

"(2.) A summons so issued may be served in the Territory in the same manner as if the proceedings had originally commenced in the Territory and the summons were a summons issued in the proceedings."; and

- (d) by adding at the end thereof the following sub-section:—

"(8.) Where a provisional order has been confirmed under this section—

- (a) the order has the same force and effect; and
- (b) subject to the provisions of this Ordinance, all proceedings may be taken on the order, as if the order had been originally obtained in the Court in which it is registered."

**8. Section eight of the Principal Ordinance is repealed and the following section inserted in its stead:—**

"8. The prescribed officer of a court in which an order has been registered under this Ordinance, or by which an order has been confirmed under this Ordinance, shall take such steps as are necessary to enforce the order and shall transmit all moneys collected under the order to the clerk of the court by which the order was originally issued."

Mode of enforcing orders.

**9. Section nine of the Principal Ordinance is amended by omitting the word "Ireland" and inserting in its stead the words "Northern Ireland".**

Proof of document signed by officers of Court.

**10. Section ten of the Principal Ordinance is amended by omitting the word "Ireland" and inserting in its stead the words "Northern Ireland".**

Depositions to be evidence.

**11. Section eleven of the Principal Ordinance is repealed and the following sections inserted in its stead:—**

"11.—(1.) The regulations may specify that—

- (a) a part of the Queen's dominions outside England and Northern Ireland;

Reciprocal arrangements.

- (b) a territory under the protection of the Queen;
- (c) a territory administered by the Government of a part of the Queen's dominions under the trusteeship system of the United Nations; or
- (d) a country, or part of a country, which, or a part of which, has, at any time since the establishment of the Commonwealth, been a part of the dominions of the Crown,

which has made, or proposes to make, reciprocal provisions for the enforcement in that part, territory, country or part of a country of maintenance orders made by Courts within the Territory is a reciprocating State for the purposes of this Ordinance.

“(2.) In any proceedings under this Ordinance, the fact that a part of the Queen's dominions outside England and Northern Ireland, a territory, or a country or part of a country is a reciprocating State shall be judicially noticed.

“11A.—(1.) The regulations may declare that a specified person is, in addition to, or instead of, the Governor of a specified reciprocating State, the person to whom the Attorney-General may transmit documents or by whom documents may be transmitted to the Attorney-General for the purposes of this Ordinance. Declared person to have transmitting and receiving powers of Governor.

“(2.) A document transmitted to or by a person declared under the last preceding sub-section shall, for the purposes of this Ordinance, be deemed to have been transmitted to or by the Governor of the specified reciprocating State.

“(3.) In this section, ‘document’ includes a certified copy of a maintenance order, provisional maintenance order, rescinding order, or varying order, and depositions, statements and information for facilitating the identification and ascertaining the whereabouts of a person against whom a provisional maintenance order has been made.”

12.—(1.) This Ordinance shall come into operation on the first day of January, 1957. Commencement.

(2.) Notwithstanding the last preceding sub-section, regulations may be made, at any time after notification of the making of this Ordinance is published in the *Gazette*, under the Principal Ordinance as amended by this Ordinance for the purposes of the Principal Ordinance as so amended, but any regulations so made shall not come into operation until the date specified in the last preceding sub-section.

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By Authority: A. J. ARTHUR, Commonwealth Government Printer, Canberra.  
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