CHAPTER 48

MAINTENANCE ORDERS
(Facilities for Enforcement) ORDINANCE*

To facilitate the enforcement in Malta of Maintenance Orders made in England or Northern Ireland or in other parts of Her Majesty's Dominions and vice versa. †

(8th April, 1921)‡

Enacted by ORDINANCE V of 1921 as amended by Emergency Ordinance XV of 1958; Ordinances: XXI of 1960 and XXV of 1962; Legal Notice 46 of 1965; Act LVIII of 1974; Legal Notice 148 of 1975; Act XXIV of 1995; and Legal Notice 181 of 2006.

Short title.

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

Interpretation.

2. For the purposes of this Ordinance -

(*a*) the expression "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;

(*b*) the expression "dependants" means such persons as that person is, according to the law in force in the part of Her Majesty's Dominions in which the maintenance order was made, liable to maintain;

(*c*) the expression "maintenance order" means any judgment or order 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;

(*d*) the expression "prescribed" means prescribed by rules of court.

*By article 18 of the Maintenance Orders (Reciprocal Enforcement) Act, Cap. 242, this Ordinance was repealed. That article, however, was to come into force on a date or dates to be fixed by notice in the Gazette. By three separate notices (L.N. 48 of 1975, L.N. 153 of 1977, and L.N. 44 of 1978) the said article 18 was brought into force but only with respect to the United Kingdom of Great Britain and Northern Ireland, the Commonwealth of Australia and Gibraltar. The Ordinance is therefore still in force with respect to Bermuda.
Although, therefore, the Ordinance has been reproduced in its original form, as amended, and still includes references to England, Northern Ireland and other parts of H.M's Dominions, these references are now to be construed as limited only to Bermuda. Moreover, the Ordinance as a whole must be read in the light of the foregoing.
†*See* Order-in-Council of the 27th of June, 1921 published in Malta by Government Notice No. 199 of the 22nd of July, 1921
‡*See* Proclamation No. II of 1921.

Enforcement in Malta of maintenance orders made in England or Northern Ireland or in other parts of Her Majesty's Dominions. *Amended by: L.N.46 of 1965; LVIII.1974.68; L.N. 148 of 1975; XXIV.1995.360.*

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 or in any other part of Her Majesty's Dominions outside Malta to which this Ordinance extends, and a certified copy of the order has been transmitted by the Secretary of State or by the Governor of that part of Her Majesty's Dominions to the President of Malta, the President of Malta shall send a copy of the order to the Registrar of Courts 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 Civil Court, First Hall, and that court shall have power to enforce the order accordingly.

Transmission of maintenance orders made in Malta. *Amended by: L.N. 46 of 1965; LVIII. 1974.68.*

4. Where a court in Malta has, whether before or after the commencement of this Ordinance, 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 or in some other part of Her Majesty's Dominions outside Malta to which this Ordinance extends, the court shall send to the President of Malta for transmission to the Secretary of State or to the Governor of that part of Her Majesty's Dominions a certified copy of the order.

Power to make provisional orders of maintenance against persons resident in England or Northern Ireland or in other parts of Her Majesty's Dominions. *Amended by: L.N. 46 of 1965; LVIII. 1974.68; L.N. 181 of 2006.*

5. (1) Where an application is made to a superior court in Malta for a maintenance order against any person, and it is proved that that person is resident in England or Northern Ireland or in any other part of Her Majesty's Dominions outside Malta to which this Ordinance extends, 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 sworn application 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 or in such other part of Her Majesty's Dominions as aforesaid.

(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, or, if he cannot sign, by the Registrar of the Court.

(3) Where such an order is made, the court shall send to the President of Malta for transmission to the Secretary of State or to the Governor of such other part of Her Majesty's Dominions, as the case may be, 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 sworn application and had appeared at the hearing, and such other 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 or in any other part of Her Majesty's Dominions to which this Ordinance extends for

confirmation, and the order has by that court been remitted to the court which made the order for the purpose of taking further evidence, that court shall, after giving the prescribed notice to applicant, proceed to take the evidence in like manner and subject to like conditions as the evidence in support of the original application. If, upon the hearing of such 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 President of Malta and dealt with in like manner as the original depositions.

(5) The confirmation of an order made under this article shall not affect the power of the 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 of Malta for transmission to the Secretary of State or to the Governor of such other part of Her Majesty's Dominions, as the case may be, 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 may appeal against a refusal to make a provisional order by an application filed in the Court of Appeal within ten days from such refusal and the provisions of this Ordinance shall apply to that court for the purposes of such appeal.

Power of Civil Court, First Hall, to confirm maintenance orders made outside Malta.
Amended by: L.N. 46 of 1965; LVIII. 1974.68; L.N. 148 of 1975; XXIV. 1995.360; L.N. 181 of 2006.

6. (1) Where a maintenance order has been made by a court in England or Ireland or in any other part of Her Majesty's Dominions to which this Ordinance extends, and the order is provisional only and has no effect unless and until confirmed by a court in Malta, 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 of Malta, and it appears to the President of Malta that the person against whom the order was made is resident in Malta, the President of Malta may send the said documents to the Registrar of Courts with a requisition that a sworn application be issued by the Civil Court, First Hall, 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 sworn application and cause it to be served upon such person.

(2) A sworn application so issued may be served in Malta in the same manner as if it has been originally issued by a court 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 sworn application 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 sworn application 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 any modification or with such modifications as to the court, after hearing the evidence, may seem just.

(5) If the person against whom the sworn application 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 article, it may be varied and 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 right to appeal against the confirmation of the order by an application to be filed within ten days from the date of such confirmation, to the Court of Appeal, and the provisions of this Ordinance shall apply to that court for the purposes of such appeal.

Power of the President of Malta to make regulations facilitating communications between courts.
Amended by: XV. 1958.44; XXV. 1962.4; L.N. 46 of 1965; LVIII.1974.68.

7. The President of Malta 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.

Manner of enforcing orders.

8. (1) The court 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 in like manner and with the same means as if the order were one of the executive titles mentioned in article 253 (*a*) of the Code of Organization and Civil Procedure.

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Application of the provisions of the Code of Organization and Civil Procedure.
Cap. 12.

9. Subject to the provisions of this Ordinance the provisions of the Code of Organization and Civil Procedure shall apply to proceedings under this Ordinance and the power to make rules under article 29 of that Code shall include the power to make rules regulating the procedure of the court under this Ordinance*.

**See* Government Notice No. 422 of the 28th of October, 1927.

Proof of documents signed by officers of court.

10. Any document purporting to be signed by a judge or officer of a court outside Malta shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or of the 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 for the purposes of this Ordinance in a court in England or Northern Ireland or in another part of Her Majesty's Dominions to which this Ordinance extends may be received in evidence in proceedings before the court under this Ordinance.

Extent of Ordinance. *Amended by: XV.1958.44; XXV.1962.4; L.N. 46 of 1965; LVIII.1974.68.*

12. (1) Where the President of Malta is satisfied that reciprocal provisions have been made by the legislature of any part of Her Majesty's Dominions outside Malta for the enforcement within that part of maintenance orders made by the court of Malta, the President of Malta may by proclamation extend this Ordinance to that part, and thereupon that part shall become a part of Her Majesty's Dominions to which this Ordinance extends.

(2) The President of Malta may by proclamation extend this Ordinance to any British Protectorate, and when so extended this Ordinance shall apply as if any such Protectorate was a part of Her Majesty's Dominions to which this Ordinance extends.

Provision for transmission of maintenance orders. *Added by: XXI.1960.2. Amended by: L.N.46 of 1965; LVIII. 1974.68.*

13. (1) The President of Malta may by order -

(*a*) name a person in lieu of himself as the person by whom maintenance orders may be transmitted to, and to whom maintenance orders may be transmitted by, the Governor of any part of Her Majesty's Dominions outside England and Northern Ireland named in the order (or, where there is in force an order under this article naming a person in lieu of the Governor of that part of Her Majesty's Dominions as aforesaid, that person); and

(*b*) name a person, in lieu of the Governor of any part of Her Majesty's Dominions outside England and Northern Ireland named in the order, as the person to whom maintenance orders may be transmitted by, and by whom maintenance orders may be transmitted to, the President of Malta (or, where there is in force in respect of that part of Her Majesty's Dominions as aforesaid an order under paragraph (*a*) of this subarticle, the officer named in that order).

(2) An order under subarticle (1) may name a person by reference to the public office which he holds and such an order shall be deemed to name all persons successively holding that office while the order remains in force and shall be of force accordingly.

(3) Any person purporting to act in any office by reference to which a person is named in an order under this article shall be presumed duly to hold that office until the contrary is proved.

(4) (*a*) Any maintenance order transmitted by or to a person named in an order under article (1)(*a*) shall for the purposes of this Ordinance be deemed to have been transmitted to or by the President of Malta, and

(*b*) any maintenance order transmitted by or to a person named in an order under article (1)(*b*) shall for the purposes of this Ordinance be deemed to have been transmitted to or by the Governor of that part of Her Majesty's Dominions outside England and Northern Ireland named in that order.

(5) In this article the term "maintenance order" includes a provisional maintenance order.