

Jersey Law 2/1972

**SEPARATION AND MAINTENANCE ORDERS (AMENDMENT)
(JERSEY) LAW, 1971.**

A LAW to amend further the Separation and Maintenance Orders (Jersey) Law, 1953, sanctioned by Order of Her Majesty in Council of the

22nd day of DECEMBER, 1971.

(Registered on the 4th day of February, 1972).

STATES OF JERSEY.

The 6th day of April, 1971.

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law: -

ARTICLE 1

(1) In Article 2 of the Separation and Maintenance Orders (Jersey) Law, 1953,¹ as amended,² (hereinafter referred to as “the principal Law”) before the word “Where” there shall be inserted the figure “(1)”.

(2) For clause (iii) of paragraph (1) of the said Article 2 there shall be substituted the following clauses –

“(iii) a provision that the husband shall pay to the applicant personally, or to an officer of the court or third person on her behalf, such weekly sum (not exceeding such amount as the States shall by regulations prescribe) for the

¹ Tome 1951–1953, page 490.

² Tome 1954–1956, page 563.

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maintenance of herself and of each such child until the child attains the age of sixteen years as the court shall, having regard to the means of both the husband and the wife, consider reasonable;

- (iv) a provision –
- (a) where the wife is the tenant of the matrimonial home, that the husband shall vacate the premises within such period as the court shall, in all the circumstances, consider reasonable; or
- (b) where the husband is the tenant, or the husband and wife are joint tenants, of the matrimonial home, that the husband shall vacate the premises within such period as the court shall in all the circumstances consider reasonable and, subject to the agreement of the owner of the property, that the rights of tenancy possessed by the husband or by the husband and wife jointly shall be assigned to the wife.”

(3) After paragraph (1) of the said Article 2, there shall be added the following paragraph –

“(2) Where the court makes an order containing either of the provisions mentioned in clause (iv) of paragraph (1) of this Article, the husband shall, from the time the order is made, be deemed to have forfeited all his rights as a tenant or as a ‘locataire réfractaire’ within the meaning of the ‘Loi (1946) concernant l’expulsion des locataires réfractaires’.”.

ARTICLE 2

For clause (iii) of Article 3 of the principal Law³ there shall be substituted the following clause –

³ Tome 1951–1953, page 492.

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“(iii) a provision that the applicant shall pay to the wife personally, or to an officer of the court or third person on her behalf, such weekly sum (not exceeding such amount as the States shall by regulations prescribe) for the maintenance of herself as the court shall, having regard to the means of both the husband and wife, consider reasonable;”.

ARTICLE 3

(1) After Article 6 of the principal Law⁴ there shall be inserted the following Article –

“ARTICLE 6A

**POWER OF COURT WITH RESPECT TO CHILDREN ON
DISMISSAL OF APPLICATION**

Where an application for an order under Article 2 or Article 3 of this Law is dismissed at any stage after the commencement of the hearing, the court may make such order in respect of the legal custody of any children of the marriage as it thinks fit having regard to the interests of the children and, where the legal custody of the children is committed to the wife, may order the husband to pay to the wife personally, or to an officer of the court or third person on her behalf, such weekly sum (not exceeding such amount as the States shall by regulations prescribe) for the maintenance of each such child until the child attains the age of sixteen years as the court shall, having regard to the means of both the husband and the wife, consider reasonable.”.

(2) The amendments specified in the second column of the Schedule to this Law, being amendments of a minor nature consequential on the provisions of paragraph (1) of this Article, shall be made in the provisions of the principal Law specified in the first column of that Schedule.

⁴ Tome 1951–1953, page 493.

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ARTICLE 4

In sub-paragraph (*b*) of the proviso to paragraph (2) of Article 8 of the principal Law⁵ for the words from “a weekly sum not exceeding thirty shillings” to “sixteen years” there shall be substituted the following words –

“such weekly sum (not exceeding such amount as the States shall by regulations prescribe) for the maintenance of each such child until the child attains the age of sixteen years as the court shall, having regard to the means of both the husband and the wife, consider reasonable”.

ARTICLE 5

After Article 11 of the principal Law⁶ there shall be added the following Articles –

“ARTICLE 11A

**POWER OF AN OFFICER OF COURT TO RECOVER IN
OWN NAME PAYMENTS IN ARREAR**

(1) Where an order made under this Law requires payment of a weekly sum to an officer of the court and the payments are at any time in arrear, the said officer shall, if the person for whose benefit the payment should have been made so requests in writing, and unless it appears to the said officer that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of those sums.

(2) Where an officer of the court institutes proceedings in his own name under paragraph (1) of this Article, the person for whose benefit the payment should have been made shall have the same liability for all the costs properly incurred in and

⁵ Tome 1951–1953, page 494.

⁶ Tome 1951–1953, page 497.

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about the proceedings as if the proceedings had been instituted by him.

(3) Nothing in this Article shall affect any right of a person to proceed in his own name for the recovery of any sum payable to him on his behalf by virtue of an order made under this Law.

ARTICLE 11B

RELIEF OF COLLECTING OFFICER

Where an order made under this Law requires payment of a weekly sum to an officer of the court and it is proved that the person on whose behalf the order was made has persistently received the payments direct from the person liable to make them, the court may, on the application of the said officer, vary the order so as to require the payments to be made direct.”.

ARTICLE 6

This Law may be cited as the Separation and Maintenance Orders (Amendment) (Jersey) Law, 1971 and shall come into force forthwith upon promulgation.

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SCHEDULE

(Article 3(2))

ARTICLE⁷	AMENDMENT
7	For the words “or Article 3” there shall be substituted the words “, Article 3 or Article 6A”.
8 (1)	For the words “Article 2 or 3” there shall be substituted the words “Article 2, Article 3 or Article 6A”.
8 (3)	For the words “or Article 3” there shall be substituted the words “, Article 3 or Article 6A”.
9 (1)	After the words “Article 2” there shall be inserted the words “or Article 6A”, and for the words “that Article” there shall be substituted the words “those Articles”.

E.J.M. POTTER,

Greffier of the States

⁷ Tome 1951–1953, page 494 and 496.