



Jersey

# **MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (JERSEY) LAW 2000**

## **Official Consolidated Version**

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Jersey

## MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (JERSEY) LAW 2000

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Jersey

## MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (JERSEY) LAW 2000

A **LAW** to make provision to facilitate the enforcement of maintenance orders; to make provision for the extension to Jersey of the United Nations Convention on the Recovery Abroad of Maintenance done at New York on 20th June, 1956 and the Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations done at the Hague on 2nd October, 1973; and for connected purposes

Commencement [[see endnotes](#)]

### PART 1

#### GENERAL INTERPRETATION PROVISIONS AND ENFORCEMENT OF MAINTENANCE ORDERS MADE IN JERSEY AND IN COMMONWEALTH COUNTRIES

##### 1 Interpretation

(1) In this Law unless the context otherwise requires –

“affiliation order” means an order (however described) adjudging, finding or declaring a person to be the father of a child, whether or not it also provides for the maintenance of the child;

“certificate of arrears”, in relation to a maintenance order, means a certificate certifying that the sum specified in the certificate is to the best of the information or belief of the officer giving the certificate the amount of the arrears due under the order at the date of the certificate or, as the case may be, that to the best of the officer’s information or belief there are no arrears due thereunder at that date;

“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;

“Commonwealth country” means any country outside Jersey which is an independent sovereign member of the Commonwealth or any territory for whose international relations any such country is responsible;

“competent court in a Hague Convention country” means any court in a Hague Convention country which has jurisdiction on one of the grounds specified in Article 33(5);

“convention country” means a country designated by Act under Article 22;

“court” includes any tribunal or person having power to make, confirm, enforce, vary or revoke a maintenance order;

“court in a Hague Convention country” means any judicial or administrative authority in a Hague Convention country;

“Greffier” means the Judicial Greffier;

“Hague Convention” means the Convention referred to in Article 30 and “Hague Convention country” means a country designated by Act under that Article;

“maintenance order” means an order (however described), including a settlement made by or before a competent court in a Hague Convention country, of any of the following descriptions, and in the case of an order which is not limited to the following descriptions, the part of the order which is so limited, that is to say –

- (a) an order (including an affiliation order or order consequent upon an affiliation order) which provides for the periodical payment of sums of money towards the maintenance of any person, being a person whom the person liable to make payments under the order is, according to the law applied in the place where the order is made, liable to maintain;
- (b) an affiliation order or order consequent upon an affiliation order, being an order which provides for the payment by a person adjudged, found or declared to be a child’s father, of expenses incidental to the child’s birth, or, where the child has died, of the child’s funeral expenses, or, where the mother of the child has died, of her funeral expenses; and
- (c) an order within the foregoing provisions of this definition made against a payer on the application of a public body which claims reimbursement of sums of money payable under the order with respect to the payee if reimbursement can be obtained by the public body under the law to which it is subject,

and, in the case of a maintenance order which has been varied (including a maintenance order which has been varied either by a court in Jersey or by a competent court in a Hague Convention country whether or not the original order was made by such a court) means that order as varied, but shall not include an order made in a Hague Convention country of a description which that country or Jersey has reserved the right under Article 26 of the Hague Convention not to recognize or enforce;

“payee”, in relation to a maintenance order, means the person entitled to the payments for which the order provides and, in the case of a person resident outside Jersey, includes a person authorized by the law of the country or territory of that person’s residence to act on behalf of the payee;

“payer”, in relation to a maintenance order, means the person liable to make payments under the order;

“Petty Debts Court” means the Petty Debts Court constituted in pursuance of the [Loi \(1891\) sur la Cour pour le recouvrement de menues dettes](#);

“prescribed” means prescribed by Rules of Court;

“provisional order” means (according to the context) –

- (a) a maintenance order made by a court in Jersey which is provisional only and has no effect unless and until confirmed, with or without alteration, by a competent court in a Commonwealth country; or
- (b) a maintenance order or assessment made by a court in a Commonwealth country which is provisional only and has no effect unless and until confirmed with or without alteration, by a court in Jersey having power under this Law to confirm it;

“responsible authority”, in relation to a Commonwealth country, means any person who in that country has functions similar to those of the Lieutenant-Governor under this Law, and in relation to a Hague convention country means the appropriate authority in that country;

“Royal Court” means the Family Division of the Royal Court.

- (2) A reference in this Law to the payment of money for the maintenance of a child shall be construed as a reference –
  - (a) to the payment of money for the child’s education; or
  - (b) to the payment, under an order of court in or outside Jersey, of money to any person for the benefit of that child.

## **2 Transmission of a maintenance order made in Jersey for registration in a Commonwealth country**

- (1) This Article applies to any maintenance order, not being a provisional order or an order made by virtue of a provision of Part 3, made, whether before or after the commencement of this Part, by a court in Jersey.
- (2) Where it appears that the payer under a maintenance order to which this Article applies is residing in or is proceeding to a Commonwealth country, the Greffier may, of the Greffier’s own motion or on the application of a payee under the order, send to the Lieutenant-Governor a Request for Registration in the prescribed form.
- (3) The Lieutenant-Governor shall transmit the Request for Registration to the responsible authority in the Commonwealth country if the Lieutenant-Governor is satisfied that the statement relating to the whereabouts of the payer gives sufficient information to justify that being done.
- (4) Nothing in this Article shall be taken as affecting any jurisdiction of a court in Jersey with respect to a maintenance order to which this Article applies, and, subject to Article 6, any such order may be enforced, varied or revoked accordingly.

## **3 Provisional orders for confirmation in a Commonwealth country**

- (1) Where an application is made to a court in Jersey for a maintenance order against any person who is proved to be residing in or to be proceeding to a Commonwealth country, and the application is one on which the court would have jurisdiction to make a maintenance order if that person were resident in Jersey and a summons to appear before the court to answer the application had been duly served upon the person, the court shall have jurisdiction to hear the application and may make a provisional order.

- (2) Where a court makes a provisional order by virtue of this Article, the Greffier shall send to the Lieutenant-Governor a Request for Confirmation in the prescribed form.

#### **4 Effect of confirmation**

A provisional order made by virtue of Article 3 which has been confirmed by a competent court in a Commonwealth country shall be treated for all purposes as if the court in Jersey which made the order had made it in the form in which it was confirmed and as if the order had never been a provisional order, and subject to Article 6 any such order may be enforced, varied or revoked accordingly.

#### **5 Further proceedings in respect of a provisional order**

- (1) Where before a provisional order made by virtue of Article 3 is confirmed, either –
  - (a) a document, duly authenticated, setting out or summarizing evidence taken in a Commonwealth country for the purpose of proceedings relating to the confirmation of the order is received by the court in Jersey which made the order; or
  - (b) that court, in compliance with a request made to it by a court in a Commonwealth country, takes the evidence of a person residing in Jersey for the purpose of such proceedings,the court in Jersey which made the order shall consider that evidence.
- (2) If it appears to the court, having considered such evidence that the provisional order ought not to have been made, or ought not to have been made in the form in which it was made –
  - (a) it shall, in such manner as may be prescribed, give to the person on whose application the order was made an opportunity to consider that evidence, to make representations with respect to it, and to adduce further evidence; and
  - (b) after considering all the evidence and any representations made by that person, it may revoke the provisional order, and may make a fresh provisional order.
- (3) Where a court makes a fresh provisional order by virtue of paragraph (2), the Greffier shall send in the prescribed manner to the court in the Commonwealth country a Request for Confirmation in the prescribed form.

#### **6 Variation and revocation in Jersey of orders to which Articles 2 and 3 apply**

- (1) This Article applies to a maintenance order which has been transmitted to a Commonwealth country in pursuance of Article 2 and to a provisional order made by virtue of Article 3 which has been confirmed by a competent court in a Commonwealth country.
- (2) A court in Jersey which, having considered an application for the variation of an order to which this Article applies, proposes to vary the order –
  - (a) may do so by a provisional order; and

- (b) shall do so by a provisional order where it proposes to increase the rate of payments under the order unless either –
  - (i) both the payer and the payee under the order appear in the proceedings, or
  - (ii) the applicant appears and the appropriate process has been duly served on the other party.
- (3) Where a court in Jersey makes a provisional order by virtue of this Article, the Greffier shall send in the prescribed manner to the court in a Commonwealth country having power to confirm the provisional order a Request for Confirmation in the prescribed form.

## **7 Confirmation of provisional orders affecting orders made in Jersey**

- (1) This Article applies to a maintenance order which has been transmitted to a Commonwealth country in pursuance of Article 2 and to a provisional order made by virtue of Article 3 which has been confirmed by a competent court in a Commonwealth country.
- (2) Where a certified copy of a provisional order made by a court in a Commonwealth country, being an order varying or revoking an order to which this Article applies, together with a document duly authenticated, setting out or summarizing the evidence given in the proceedings in which the provisional order was made, is received by the court in Jersey which made the order, that court may confirm or refuse to confirm the provisional order and if that order is an order varying the order, confirm it either without alteration or with such alterations as it thinks reasonable.
- (3) For the purpose of determining whether a provisional order should be confirmed under this Article, the court shall proceed as if an application for the variation or revocation, as the case may be, of the order in question had been made to it.

## **8 Registration in Jersey of maintenance order made in a Commonwealth country**

- (1) This Article applies to a maintenance order made before or after the commencement of this Part against any person by a court in a Commonwealth country, including a provisional order made by such a court which has been confirmed by a court in another Commonwealth country.
- (2) Subject to the following provisions of this Article, whenever the Greffier receives from the Lieutenant-Governor a certified copy of an order to which this Article applies the Greffier shall register the order in the prescribed manner in the court.
- (3) Before registering an order under this Article, the Greffier shall take such steps as he or she thinks fit for the purpose of ascertaining whether the payer is residing in Jersey, and, if after taking those steps the Greffier is satisfied that the payer is not so residing, he or she shall return the certified copy of the order to the Lieutenant-Governor with a statement giving such information as the Greffier possesses as to the whereabouts of the payer.
- (4) The court in which an order is to be registered shall be, if the court in which the order was made was a court of unlimited jurisdiction, the Royal Court, and, if the court was a court of limited jurisdiction, the Petty Debts Court.



## **9 Setting aside registration**

The registration of an order under Article 8 shall be set aside if the court in which the order has been registered is satisfied on an application by the payer that the order is not an order to which that Article applies.

## **10 Confirmation in Jersey of a provisional order made in a Commonwealth country**

- (1) This Article applies to a provisional order made before or after the commencement of this Part against any person by a court in a Commonwealth country.
- (2) Where the Greffier receives from the Lieutenant-Governor a certified copy of an order to which this Article applies together with –
  - (a) a document, duly authenticated, setting out or summarizing the evidence given in the proceedings in which the order was made; and
  - (b) a statement of the grounds on which the making of the order might have been opposed by the payer under the order,the Greffier shall cause proceedings to be commenced in the court for the confirmation of the order.
- (3) If a summons to appear in the proceedings for the confirmation of the order cannot be duly served on the payer, the Greffier shall return the certified copy of the order and documents which accompanied it to the Lieutenant-Governor with a statement giving such information as the Greffier possesses as to the whereabouts of the payer.
- (4) Subject to the provisions of Article 18, proceedings for the confirmation of the order shall be conducted as if an application for a maintenance order against the payer had been made to the court.
- (5) At the hearing it shall be open for the payer to raise any defence which the payer might have raised in the original proceedings had he or she been present, but no other defence, and the statement received from the court which made the order of the grounds on which the making of the order might have been opposed shall be conclusive evidence that the payer might have raised a defence on any of those grounds.
- (6) If the payer establishes any such defence as the payer might have raised in the original proceedings, the court shall refuse to confirm the order, and the Greffier shall send the certified copy of the order and the documents which accompanied it to the Lieutenant-Governor for return to the responsible authority in the Commonwealth country.
- (7) In any other case, the court shall confirm the order either without alteration or with such alteration as it thinks reasonable.
- (8) For the purposes of this Article, the court by which the order is to be confirmed shall be, if the court in which the order was made was a court of unlimited jurisdiction, the Royal Court, and if the court was a court of limited jurisdiction, the Petty Debts Court.

**11 Enforcement in Jersey of orders registered or confirmed under Part 1**

- (1) An order registered in a court in Jersey by virtue of Article 8(2) or confirmed under Article 10(7) may be enforced in Jersey as if it had been made by the court in which it is registered or confirmed and as if that court had had jurisdiction to make it; and proceedings for or with respect to the enforcement of any such order may be taken accordingly.
- (2) The Viscount shall take all such steps for enforcing the order as may be prescribed.
- (3) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in, or confirmed by, any court under this Part a certificate of arrears sent to the court or to the Greffier thereof shall be evidence of the facts stated therein.
- (4) Subject to paragraph (5), sums of money payable under an order registered or confirmed under this Part shall be payable in accordance with the order as from the date on which the order was made.
- (5) A court confirming an order under Article 10(7) may direct that the sums of money payable under it shall be deemed to have been payable in accordance with the order as from such date, being a date later than the date on which the order was made, as it may specify; and subject to any such direction an order so confirmed shall be treated as if it had been made in the form in which it was confirmed and as if it had never been a provisional order.

**12 Variation and revocation of orders registered or confirmed under Part 1**

- (1) This Article applies to orders registered in Jersey by virtue of Article 8(2) or confirmed under Article 10(7).
- (2) The court in which an order to which this Article applies is registered or has been confirmed shall have the like power, on an application made by the payer or the payee, to vary or revoke the order as if the court had made the order and had had jurisdiction to make it.
- (3) Where the court in which an order to which this Article applies is registered or has been confirmed varies the order it may do so by means of a provisional order and shall do so unless –
  - (a) both the payer and the payee are for the time being residing in Jersey;
  - (b) the application is made by the payee; or
  - (c) the variation consists of a reduction in the rate of payments under the order and is made solely on the ground that there has been a change in the financial circumstances of the payer since the order was made or, in the case of an order confirmed under Article 10(7), since the order was confirmed, and the courts in the Commonwealth country in which the order was made do not have power, according to the law in force in that country, to confirm provisional orders varying maintenance orders.
- (4) When the court in which an order to which this Article applies is registered or has been confirmed revokes the order it may do so by means of a provisional order and shall do so unless both the payer and the payee are for the time being resident in Jersey.

- (5) On an application for the revocation of an order to which this Article applies the court shall, if both the payer and the payee are for the time being residing in Jersey, apply the law of Jersey, but shall in any other case apply the law of the Commonwealth country in which the order was made; but where the court is required by virtue of this paragraph to apply the law of a Commonwealth country it may make a provisional order if it has reason to believe that the ground on which the application is made is a ground on which the order could be revoked according to that law, notwithstanding that it has not been established that it is such a ground.
- (6) Where a court makes a provisional order under this Article, the Greffier shall send in the prescribed manner to the court in the Commonwealth country which made the order a Request for Confirmation in the prescribed form.

### **13 Registration or confirmation of provisional orders affecting orders under Part 1**

- (1) This Article applies to orders registered in Jersey by virtue of Article 8(2) or confirmed under Article 10(7).
- (2) Where a certified copy of a provisional order made by a court in a Commonwealth country, being an order varying or revoking an order to which this Article applies, together with a document duly authenticated, setting out or summarizing the evidence given in the proceedings in which the provisional order was made, is received by a court in Jersey in which an order to which this Article applies is registered or has been confirmed, that court may confirm or refuse to confirm the provisional order and if that order is an order varying the order, confirm it either without alteration or with such alterations as it thinks reasonable.
- (3) For the purpose of determining whether a provisional order should be confirmed under this Article, the court shall proceed as if an application for the variation or revocation, as the case may be, of the order in question had been made to it.

### **14 Cancellation of registration or confirmation and transfer of order**

- (1) This Article applies to orders registered in Jersey by virtue of Article 8(2) or confirmed under Article 10(7).
- (2) Where an order to which this Article applies is revoked –
  - (a) by an order made by the court in which it is registered or has been confirmed;
  - (b) by a provisional order made by that court which has been confirmed by a court in a Commonwealth country and notice of the confirmation is received by the court in Jersey; or
  - (c) by an order made by a court in a Commonwealth country and notice of the revocation is received by the court in Jersey,the Greffier shall cancel the order but any arrears due under the order at the date of cancellation shall continue to be recoverable as if the order had not been cancelled.
- (3) Where the Greffier is of opinion that the payer has ceased to reside in Jersey, the Greffier shall cancel the order and shall send a certified copy to the Lieutenant-Governor together with –
  - (a) a certificate of any arrears, signed by the Viscount;

- (b) a statement giving such information as the Greffier possesses as to the whereabouts of the payer; and
- (c) any relevant document in the Greffier's possession relating to the case.

## **15 Transmission of certain orders by Lieutenant-Governor**

- (1) This Article applies to maintenance orders received by the Lieutenant-Governor from the responsible authority in a Commonwealth country and to orders which have been registered in a court in Jersey by virtue of Article 8(2) or confirmed under Article 10(7).
- (2) If it appears to the Lieutenant-Governor that the payer under an order to which this Article applies is not residing or has ceased to reside in Jersey, the Lieutenant-Governor shall send to the responsible authority of the Commonwealth country which in all the circumstances is appropriate –
  - (a) the certified copy of the order in question and a certified copy of any order varying that order;
  - (b) if the order has at any time been registered in, or confirmed by, a court in Jersey, a certificate of arrears signed by the Viscount;
  - (c) a statement giving such information as the Lieutenant-Governor possesses as to the whereabouts of the payer; and
  - (d) any other relevant documents in the Lieutenant-Governor's possession relating to the case.
- (3) Where the documents mentioned in paragraph (2) are sent to the responsible authority in a Commonwealth country other than that in which the order in question was made, the Lieutenant-Governor shall inform the responsible authority in the Commonwealth country in which the order was made of what the Lieutenant-Governor has done.

## **16 Appeals**

- (1) No appeal shall lie from a provisional order made under any provision of this Part by a court in Jersey.
- (2) Where any court in Jersey refuses to make a provisional order in pursuance of Article 3 or revokes a provisional order in pursuance of Article 5, the applicant shall have the like right of appeal (if any) from the refusal to make, or the revocation of, the provisional order as the applicant would have if that order were not a provisional order.
- (3) Where in pursuance of any provision of this Part, a court in Jersey confirms or refuses to confirm a provisional order made by a court in a Commonwealth country (including a provisional order varying or revoking a maintenance order), the payer or payee under the order shall have the like right of appeal (if any) from the confirmation of, or refusal to confirm, the provisional order as he or she would have if that order were not a provisional order and the court which confirmed or refused to confirm it had made or, as the case may be, refused to make it.
- (4) Where in pursuance of any provision in this Part, a court in Jersey makes, or refuses to make, an order varying or revoking a maintenance order made by a court in a Commonwealth country, then, subject to paragraph (1), the payer or payee

shall have the like right of appeal (if any) from that order or from the refusal to make it as he or she would have if the maintenance order had been made by the court in Jersey.

- (5) Nothing in this Article (except paragraph (1)) shall be construed as affecting any right of appeal conferred by any other enactment.

## **17 Obtaining of evidence for the purposes of proceedings in a Commonwealth country**

- (1) Where for the purpose of any proceedings in a court in a Commonwealth country relating to a maintenance order to which this Part applies a request is made by or on behalf of that court for the taking in Jersey of the evidence of a person residing therein relating to matters specified in the request, a court in Jersey shall have power to take that evidence and, after giving notice of the time and place at which the evidence is to be taken to such persons and in such manner as it thinks fit, shall take the evidence in such manner as may be prescribed.
- (2) Evidence taken by virtue of this Article shall be sent in the prescribed manner by the Greffier to the court in the Commonwealth country by or on behalf of which the request was made.

## **18 Remission of case to a court in a Commonwealth country; interim orders**

- (1) A court in Jersey may for the purpose of any proceedings in that court under this Part relating to an order to which this Part applies request a court in a Commonwealth country to take or provide evidence relating to such matters as may be specified in the request and may remit the case to that court for that purpose.
- (2) A court in Jersey considering the confirmation of an order under Article 10 and remitting the case in accordance with this Article may make such interim order for periodical payments by the payer as it thinks fit.

## **19 Conversion of currency**

- (1) Where the sums of money required to be paid under an order registered in, or confirmed by, a court in Jersey under this Part or specified in any statement of arrears due under a maintenance order made by a court in a Commonwealth country are expressed in a currency other than the currency of Jersey, then, as from the relevant date, the sums shall be treated as such sums in the currency of Jersey as are equivalent thereto on the basis of the rate of exchange prevailing at that date.
- (2) For the purposes of this Article a written certificate purporting to be signed by an officer of any bank in Jersey certifying that a specified rate of exchange prevailed between currencies at a specified date and that at such rate a specified sum in the currency of Jersey is equivalent to a specified sum in another specified currency shall be evidence of the rate of exchange so prevailing on that date and of the equivalent sums in terms of the respective currencies.
- (3) In this Article the “relevant date” means –
  - (a) in relation to an order which is registered in, or confirmed by, a court in Jersey or to a statement of arrears due under a maintenance order made by a

court in a Commonwealth country, the date on which the order is first registered or confirmed under this Law;

- (b) in relation to an order which has been varied, the date on which the last order varying that order is registered or confirmed under this Law.

## **20 Orders in a foreign language**

Where a maintenance order or a provisional order sought to be registered or confirmed in Jersey under this Part is in a language other than English, the certified copy of the order shall have attached thereto for all purposes of this Part, a translation in the English language.

## **PART 2**

### **EXTENSION OF PART 1 TO NON-COMMONWEALTH COUNTRIES**

## **21 Extension of Part 1 to non-Commonwealth countries**

The States may by Act declare that the provisions of Part 1, with such exceptions, adaptations and modifications as may be specified in the Act shall apply as if any country designated in the Act were a Commonwealth country.

## **PART 3**

### **FACILITIES FOR ENFORCEMENT OF CLAIMS FOR THE RECOVERY OF MAINTENANCE**

## **22 Convention countries**

The States may by Act declare that any country or territory specified in the Act, being a country or territory outside Jersey and not being a Commonwealth country or a country designated in an Act under Article 21, to which the United Nations Convention on the Recovery Abroad of Maintenance done at New York on 20th June 1956 extends, is a convention country for the purposes of this Law.

## **23 Application by person in Jersey**

- (1) Where a person in Jersey (in this Part referred to as the “applicant”) claims to be entitled to recover in a convention country maintenance from another person, and that other person is for the time being subject to the jurisdiction of that country, the applicant may apply to the Lieutenant-Governor, in accordance with the provisions of this Article, to have the applicant’s claim for the recovery of maintenance from that other person transmitted to that country.
- (2) Where the applicant seeks to vary any provision made in a convention country for the payment by any other person of maintenance to the applicant, and that other person is for the time being subject to the jurisdiction of that country, the applicant may apply to the Lieutenant-Governor, in accordance with the provisions of this Article, to have the applicant’s application for the variation of that provision transmitted to that country.

- (3) An application to the Lieutenant-Governor under this Article shall be made through the Greffier who shall assist the applicant in completing an application which will comply with the requirements of the law of the convention country and shall send the application to the Lieutenant-Governor, together with such other documents, if any, as are required by that law.
- (4) On receiving an application from the Greffier, the Lieutenant-Governor shall transmit it, together with any accompanying documents, to the appropriate authority in the convention country, unless the Lieutenant-Governor is satisfied that the application is not in good faith or that it does not comply with the requirements of the law of that country.
- (5) The Lieutenant-Governor may request the Greffier to obtain such information relating to the application as may be specified in the request.

## **24 Application by person in convention country for recovery of maintenance in Jersey**

- (1) Where the Lieutenant-Governor receives from the appropriate authority in a convention country an application by a person in that country for the recovery of maintenance from another person (in this Part referred to as the “defendant”) who is for the time being residing in Jersey, the Lieutenant-Governor shall send the application, together with any accompanying documents, to the Greffier.
- (2) On receiving the application in accordance with paragraph (1), the Greffier shall cause proceedings to be commenced in the Royal Court for the consideration of the application.
- (3) If a summons to appear in the proceedings cannot be duly served on the defendant, the Greffier shall return the application, together with any accompanying documents, to the Lieutenant-Governor with a statement giving such information as the Greffier possesses as to the whereabouts of the defendant.
- (4) In any case not falling under paragraph (3), the Court shall proceed as if the applicant were before the Court.

## **25 Return of orders**

- (1) Where the Greffier is of opinion that the payer under an order made under this Part has ceased to reside within Jersey the Greffier shall cancel the order and send a certified copy thereof and the related documents to the Lieutenant-Governor for return to the appropriate authority in the convention country.
- (2) In this Article, “related documents” means –
  - (a) the application on which the order was made;
  - (b) a certificate of any arrears, signed by the Viscount;
  - (c) a statement by the Greffier giving such information as the Greffier possesses as to the whereabouts of the payer; and
  - (d) any relevant documents in the possession of the Greffier relating to the case.

**26 Enforcement of orders**

- (1) The Viscount shall take all such steps as may be prescribed for enforcing an order made under this Part.
- (2) In any proceedings for or with respect to the enforcement of an order under this Part, a certificate of arrears sent under Article 24 to the Greffier shall be evidence of the facts stated therein.

**27 Variation and revocation of orders**

- (1) The Royal Court shall have jurisdiction to hear any application by the payer or the payee for the variation or revocation of an order under this Part where the defendant to the application is residing in Jersey or in a convention country.
- (2) Where the Lieutenant-Governor receives from the appropriate authority in a convention country an application by a person in that country for the variation or revocation of an order under this Part, the Lieutenant-Governor shall send the application, together with any accompanying documents, to the Greffier.
- (3) On receiving the application in accordance with paragraph (1), the Greffier shall cause proceedings to be commenced in the Court for the consideration of the application.
- (4) The Court shall not proceed to the hearing of an application for the variation or revocation of an order under this Part unless –
  - (a) in the case of a defendant to the application residing in Jersey, a summons to appear in the proceedings has been duly served on the defendant; and
  - (b) in the case of a defendant residing in a convention country, such notice of the proceedings as may be prescribed has been given to the defendant in the prescribed manner.

**28 Obtaining of evidence for purpose of proceedings in Jersey**

- (1) The Royal Court may for the purpose of any proceedings in that Court under this Part arising out of an application received by the Lieutenant-Governor from a convention country request the Lieutenant-Governor to make to the appropriate authority or court in the Convention country a request for the taking in that country of the evidence of a person residing therein relating to matters connected with the application.
- (2) A request made by the Court under this Article shall –
  - (a) give details of the application in question;
  - (b) state the name and address of the person whose evidence is to be taken; and
  - (c) specify the matters relating to which the evidence of that person is required.
- (3) If the Lieutenant-Governor is satisfied that a request made to him or her under this Article contains sufficient information to enable the evidence of the person named in the request relating to the matters specified therein to be taken by a court or person in the Convention country, the Lieutenant-Governor shall transmit the request to the appropriate authority or court in that country.



## **29 Taking of evidence at request of court in a convention country**

- (1) Where a request is made to the Lieutenant-Governor by or on behalf of a court in a convention country to obtain the evidence of a person residing in Jersey relating to matters connected with an application to which Article 24 applies, the Lieutenant-Governor shall transmit the request to the Royal Court which either shall take the evidence or shall nominate the Viscount or an officer of the Court to take the evidence of that person relating to such matters connected with that application as may be specified in the request.
- (2) The Royal Court, the Viscount or other officer of the Court shall have power to take the evidence and, after giving notice of the time and place at which the evidence is to be taken to such persons and in such manner as it, he or she thinks fit, shall take the evidence of the person named in the request relating to the matters specified therein in such manner as may be prescribed; and the evidence so taken shall be sent in the prescribed manner by the Greffier to the court in the convention country by or on behalf of which the request referred to in paragraph (1) was made.

## **PART 4**

### **ENFORCEMENT UNDER THE HAGUE CONVENTION**

## **30 Hague Convention countries**

- (1) The States may by Act declare that any country or territory specified in the Act, being a country or territory outside Jersey and not being a Commonwealth country or a country designated in an Act under Article 21, in which the Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations concluded at the Hague on 2nd October 1973 is in force, is a Hague Convention country for the purposes of this Part.
- (2) In relation to a Hague Convention country comprising territories in which different systems of law are in force in relation to the recognition and enforcement of maintenance orders, any reference to –
  - (a) the law or procedure of a Hague Convention country;
  - (b) a court in a Hague Convention country; or
  - (c) habitual residence in a Hague Convention country,shall have effect as if each territory were a separate Hague Convention country.

## **31 Transmission of a maintenance order made in Jersey for registration in a Hague Convention country**

- (1) This Article applies to any maintenance order, not being a provisional order or an order made by virtue of a provision of Part 3, made, whether before or after the commencement of this Part, by a court in Jersey if –
  - (a) either the payer or the payee had his or her habitual residence in Jersey at the time when the application for the maintenance order was made;
  - (b) the payer and the payee were British citizens at that time; or

- (c) the payer appeared in the proceedings in which the maintenance order was made and defended on the merits without objecting to the jurisdiction of the court.
- (2) Where it appears that the payer under a maintenance order to which this Article applies is residing in or is proceeding to a Hague Convention country, the Greffier may, of his or her own motion or on the application of a payee under the order, send to the Lieutenant-Governor a Request for Enforcement in the prescribed form.
- (3) The Lieutenant-Governor shall transmit the Request for Enforcement to the responsible authority in the Hague Convention country if the Lieutenant-Governor is satisfied that the statement relating to the whereabouts of the payer gives sufficient information to justify that being done.
- (4) Nothing in this Article shall be taken as affecting any jurisdiction of a court in Jersey with respect to a maintenance order to which this Article applies, and, subject to Article 32, any such order may be enforced, varied or revoked accordingly.

### **32 Variation and revocation in Jersey of orders**

- (1) This Article applies to a maintenance order which has been transmitted to a Hague Convention country by virtue of Article 31.
- (2) Where an application is made to a court in Jersey by the payee for the variation or revocation of an order to which this Article applies, and the payer is residing in a Hague Convention country, the court shall direct the Greffier to send to the Lieutenant-Governor a notice of the application in the prescribed form, and the court may not vary or revoke the maintenance order unless –
  - (a) it is satisfied that the notice of the application has been served on the payer in accordance with the law of the Hague Convention country in which the payer is residing not less than 6 weeks before the date of the hearing of the application; and
  - (b) it has taken into account any representations made and any evidence adduced by or on behalf of the payer.
- (3) Where a court in Jersey varies or revokes an order to which this Article applies, the Greffier shall send to the Lieutenant-Governor a Notice of Variation or Revocation in the prescribed form.

### **33 Registration in Jersey of maintenance order made in Hague Convention country**

- (1) This Article applies to a maintenance order made before or after the commencement of this Part against any person by a court in a Hague Convention country.
- (2) Subject to the following provisions of this Article, whenever the Greffier receives from the Lieutenant-Governor a certified copy of an order to which this Article applies the Greffier shall register the order in the prescribed manner in the court.
- (3) Before registering an order under this Article, the Greffier shall take such steps as he or she thinks fit for the purpose of ascertaining whether the payer is residing in Jersey and if after taking those steps the Greffier is satisfied that the payer is not so residing he or she shall return the certified copy of the order to the Lieutenant-

Governor with a statement giving such information as the Greffier possesses as to the whereabouts of the payer.

- (4) The court in which an order is to be registered shall be, if the court in which the order was made was a court of unlimited jurisdiction, the Royal Court, and if the court was a court of limited jurisdiction, the Petty Debts Court.
- (5)
  - (a) The Greffier may refuse to register the order if the court in the Hague Convention country by or before which the order was made did not have jurisdiction to make the order; and for these purposes a court in a Hague Convention country shall be considered to have jurisdiction if –
    - (i) either the payer or the payee had his or her habitual residence in the Hague Convention country at the time when the proceedings in which the maintenance order was made were instituted,
    - (ii) the payer and the payee were nationals of that country at that time,
    - (iii) the defendant in those proceedings had submitted to the jurisdiction of the court, either expressly or by defending on the merits of the case without objecting to the jurisdiction,
    - (iv) in the case of a maintenance order made by reason of a divorce or a legal separation or a declaration that a marriage is void or annulled, the court is recognized by the law of Jersey as having jurisdiction in that matter, or
    - (v) in the case of a maintenance order made by reason of a dissolution or annulment of a civil partnership or a legal separation of civil partners, the court is recognized by the law of Jersey as having jurisdiction in that matter.
  - (b) In deciding whether a court in a Hague Convention country had jurisdiction to make a maintenance order the Greffier shall be bound by any finding of fact on which the court based its jurisdiction.<sup>1</sup>
- (6) The Greffier may refuse to register the order –
  - (a) if such registration is manifestly contrary to public policy;
  - (b) if the order was obtained by fraud in connection with a matter of procedure;
  - (c) if proceedings between the same parties and having the same purpose are pending before a court in Jersey and those proceedings were the first to be instituted; or
  - (d) if the order is incompatible with an order made in proceedings between the same parties and having the same purpose, either in Jersey or in another country provided that in the latter case the order fulfils the conditions necessary for its recognition and enforcement in Jersey under this Law.
- (7) Without prejudice to paragraph (6), if the payer did not appear in the proceedings in the Hague Convention country in which the order was made, the Greffier shall refuse to register the order unless –
  - (a) notice of the institution of the proceedings, including notice of the substance of the claim, was served on the payer in accordance with the law of that Hague Convention country; and

- (b) having regard to the circumstances, the payer had sufficient time to enable him or her to defend the proceedings.

### **34 Setting aside registration**

- (1) The payer may apply to the court in which an order is registered under Article 33 for the registration to be set aside.
- (2) The court shall set aside the registration if it is satisfied that the order is not an order to which Article 33 applies or that the Greffier should have refused to register the order under paragraph (6) of that Article.
- (3) The court may set aside the registration on any ground upon which the Greffier might have refused to register the order under Article 33.

### **35 Appeals against refusal to register**

The payee may appeal to the court against any refusal by the Greffier to register an order to which Article 33 applies.

### **36 Enforcement in Jersey of orders registered under Article 33**

- (1) An order registered in a court in Jersey by virtue of Article 33 may be enforced in Jersey as if it had been made by the court in which it is registered and as if that court had jurisdiction to make it, and proceedings for or with respect to the enforcement of any such order may be taken accordingly.
- (2) The Viscount shall take all such steps for enforcing the order as may be prescribed.
- (3) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in any court under Article 33, a certificate of arrears sent to the Greffier shall be evidence of the facts stated therein.
- (4) Subject to paragraph (5), sums of money payable under an order registered under Article 33 shall be payable in accordance with the order as from the date on which the order was made.
- (5) Where an order was made by a court in a Hague Convention country prior to the date of the entry into force of the Hague Convention between Jersey and that country, no sums of money falling due before that date shall be payable in accordance with the order.

### **37 Cancellation, transfer and transmission of orders registered under Article 33**

- (1) This Article applies to a maintenance order registered in a court in Jersey by virtue of Article 33.
- (2) Subject to the following paragraphs, Article 14 and 15 shall apply in relation to orders to which this Article applies as if the Hague Convention country in which the maintenance order was made was a Commonwealth country.
- (3) In its application to the orders to which this Article applies, Article 14 shall apply with the omission of paragraph (2)(b).

- (4) In its application to the orders to which this Article applies, Article 15 shall apply with the omission in paragraph (2) of that Article of the words “which in all the circumstances is appropriate” and of paragraph (3) of that Article.

### **38 Obtaining of evidence for the purpose of proceedings in Jersey**

A court in Jersey may for the purpose of any proceedings in that court under this Part relating to a maintenance order to which this Part applies request the Lieutenant-Governor to make to the responsible authority in a Hague Convention country a request for the taking or provision of evidence relating to such matters as may be specified in the request.

### **39 Obtaining of evidence for the purpose of proceedings in a Hague Convention country**

- (1) Where for the purpose of any proceedings in a court in a Hague Convention country relating to a maintenance order to which this Part applies a request is made by or on behalf of that court for the taking in Jersey of the evidence of a person residing therein relating to matters specified in the request, a court in Jersey shall have power to take that evidence and, after giving notice of the time and place at which the evidence is to be taken to such persons and in such manner as it thinks fit, shall take the evidence in such manner as may be prescribed.
- (2) Evidence taken by virtue of this Article shall be sent by the Greffier to the Lieutenant-Governor for transmission to the responsible authority in the Hague Convention country.

### **40 Conversion of currency**

Article 19 shall apply in relation to orders made by a court in a Hague Convention country as if that country were a Commonwealth country.

## **PART 5**

### **SUPPLEMENTAL**

### **41 Provisional order to cease to have effect on remarriage or on registration of civil partnership<sup>2</sup>**

- (1) Where a court has, by virtue of Article 3, made a provisional order consisting of or including a provision for periodical payments by a husband or wife or civil partner and the order has been confirmed by a competent court in a Commonwealth country, then, if after the making of that order the marriage or civil partnership (as the case may be) of the parties to the proceedings in which the order was made is dissolved or annulled but the order continues in force, that order or, as the case may be, that provision thereof shall cease to have effect on the remarriage of the payee, or the entering into a civil partnership by the payee, except in relation to any arrears due under it on the date of such remarriage or civil partnership and shall not be capable of being revived.

- (2) For the avoidance of doubt it is declared that references in this Article to remarriage or civil partnership include references to a marriage or civil partnership which is by law void or voidable.

#### **42 Admissibility of evidence given abroad**

- (1) A statement contained in –
- (a) a document, duly authenticated, which purports to set out or summarize evidence given in proceedings in a court in a Commonwealth country, a convention country, a Hague Convention country or a country designated in an Act under Article 21;
  - (b) a document, duly authenticated, which purports to set out or summarize evidence taken in such a country for the purpose of proceedings in a court in Jersey under this Law, whether in response to a request made on behalf of such a court or otherwise; or
  - (c) a document, duly authenticated, which purports to have been received in evidence in proceedings in a court in such a country, or to be a copy of a document so received,

shall in any proceedings in a court in Jersey under this Law (including any proceedings on appeal from any such proceedings) be admissible as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

- (2) A document purporting to set out or summarize evidence given as mentioned in paragraph (1)(a), or taken as mentioned in paragraph (1)(b), shall be deemed to be duly authenticated for the purposes of that paragraph if the document purports to be certified by the judge, magistrate, or other person before whom the evidence was given or, as the case may be, by whom it was taken, to be the original document containing or recording or, as the case may be, summarizing, that evidence or a true copy of that document.
- (3) A document purporting to have been received in evidence as mentioned in paragraph (1)(c), or to be a copy of a document so received, shall be deemed to be duly authenticated for the purposes of that paragraph if the document purports to be certified by a judge, magistrate or officer of the court in question to have been, or to be a true copy of a document which has been so received.
- (4) It shall not be necessary in any such proceedings to prove the signature or official position of the person appearing to have given such a certificate.
- (5) Nothing in this Article shall prejudice the admission in evidence of any document which is admissible in evidence apart from this Article.

#### **43 Order, etc. made abroad need not be proved**

For the purposes of this Law, unless the contrary is shown –

- (a) any order made by a court in a Commonwealth country, a convention country, a Hague Convention country or a country designated in an Act under Article 21 purporting to bear the seal of that court or to be signed by any person in the person's capacity as a judge, magistrate or officer of the court, shall be deemed

without further proof to have been duly sealed or, as the case may be, to have been signed by that person;

- (b) the person by whom the order was signed shall be deemed without further proof to have been a judge, magistrate or officer, as the case may be, of that court when he or she signed it and, in the case of an officer, to have been authorized to sign it; and
- (c) a document purporting to be a certified copy of an order made by a court in such a country shall be deemed without further proof to be such a copy.

#### **44 Rules of Court**

Without prejudice to the generality of the powers conferred under Article 13 of the [Royal Court \(Jersey\) Law 1948](#), Article 2 of the [Law Reform \(Miscellaneous Provisions\) \(Jersey\) Law 1967](#) or any other Law, the Superior Number of the Royal Court, with the advice and assistance of the Rules Committee may make Rules of Court prescribing the practice and procedure under this Law before the Royal Court and the Petty Debts Court.

#### **45 Transitional provisions**

- (1) Where immediately before the commencement of Part 1, a country was one to which the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 1953 extended, the provisions of that Part shall apply to any order made under that Law by a court in Jersey against a person residing in that country and to any order made by a court in that country against a person residing in Jersey and transmitted to Jersey for the purpose of proceedings under that Law.
- (2) Any proceedings brought under or by virtue of any provision of the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 1953 in a court in Jersey which are pending immediately before the commencement of Part 1 shall be continued as if they had been brought under or by virtue of the corresponding provision of this Law.

#### **46 Citation**

This Law may be cited as the Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Maintenance Orders (Facilities for Enforcement) (Jersey) Law 2000	<a href="#">L.32/2000</a>	2 June 2003 ( <a href="#">R&amp;O.41/2003</a> )
Civil Partnership (Jersey) Law 2012	<a href="#">L.4/2012</a>	2 April 2012

### Table of Renumbered Provisions

Original	Current
1(3)	spent, omitted from this revised edition
(4)	spent, omitted from this revised edition
(5)	spent, omitted from this revised edition
45	spent, omitted from this revised edition
46	spent, omitted from this revised edition
47	45
48	46

### Table of Endnote References

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- <sup>1</sup> Article 33(5)                      *amended by L.4/2012*  
<sup>2</sup> Article 41                            *substituted by L.4/2012*