

WESTERN PACIFIC HIGH COMMISSION.

No. 16 of 1921



[L.S.]

T. E. FELL,
Acting High Commissioner.

10th December, 1921

KING'S REGULATION

TO FACILITATE THE ENFORCEMENT IN THE BRITISH SOLOMON ISLANDS PROTECTORATE OF MAINTENANCE ORDERS MADE IN ENGLAND OR IRELAND.

Made by His Britannic Majesty's Acting High Commissioner for the Western Pacific under the provisions of the Pacific Order in Council, 1893.

In the name of His Majesty, GEORGE THE FIFTH, by the Grace of God of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India.

[10th December, 1921.]

1. This Regulation may be cited as the Maintenance Orders SHORT TITLE.
(Facilities for Enforcement) Regulation 1921.

2. For the purposes of this Regulation the expression "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 dependents of the person against whom the order is made; and the expression "dependents" means such persons as that person is according to the law in force in the part of His Majesty's dominions or that Protectorate in which the maintenance order was made liable to maintain; 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; and the expression "prescribed" means prescribed by rules of court. INTERPRETATION

3. Where a maintenance order has whether before or after the making of this Regulation been made against any person by any court in England or Ireland and a certified copy of the order has been transmitted by the Secretary of State to the High Commissioner the High Commissioner shall send a copy of the order to the Registrar of the Court for registration and on receipt thereof the order shall be registered in the prescribed manner and shall from the ENFORCEMENT IN THE PROTECTORATE OF MAINTENANCE ORDERS MADE IN ENGLAND OR IRELAND.

date of such registration be of the same force and effect and subject to the provisions of this Regulation all proceedings may be taken on such order as if it had been an order originally obtained in the Court in which it is so registered and the Court shall have power to enforce the order accordingly.

TRANSMISSION
OF MAINTENANCE
ORDERS MADE IN
THE PROTEC-
TORATE.

4. Where the Court has whether before or after the commencement of this Regulation made a maintenance order against any person and it is proved to the Court that the person is resident in England or Ireland the Court shall send to the High Commissioner for transmission to the Secretary of State a certified copy of the order.

POWER TO MAKE
PROVISIONAL
ORDERS OF
MAINTENANCE
AGAINST PERSONS
RESIDENT IN
ENGLAND OR
IRELAND.

5.—(1) Where an application is made to the Court for a maintenance order against any person and it is proved that that person is resident in England or Ireland 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 summons had been duly served on that person and he had failed to appear at the hearing but in such case the order shall be provisionally only and shall have no effect unless and until confirmed by a competent court in England or Ireland.

(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.

(3) Where such an order is made the Court shall send to the High Commissioner 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 such 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 Ireland for confirmation and the order has by that court been remitted to the Court for the purpose of taking further evidence the Court 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.

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 High Commissioner and dealt with in like manner as the original depositions.

(5) The confirmation of an order made under this section shall not affect any 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 High Commissioner for transmission to the Secretary of State 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 shall have the same right of appeal if any against a 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.

POWER OF THE
COURT TO
CONFIRM MAIN-
TENANCE ORDER
MADE IN
ENGLAND OR
IRELAND.

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 in a part of His Majesty's dominions outside England or Ireland or in a Protectorate to which the (Maintenance Orders Facilities for Enforcement) Act 1920 extends 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 High Commissioner and it appears to the High Commissioner that the person against whom the order was made is resident in the Protectorate the High Commissioner may send the said documents to the prescribed officer of the Court 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 such documents and requisition the Court shall issue such a summons and cause it to be served upon such person.

(2) A summons so issued may be served in the same manner as if it had been originally issued by the Court.

(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 such modifications as to the Court after hearing the evidence may seem 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 an order made by the Court confirming the order.

7. The High Commissioner may make rules 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 such courts.

POWER OF HIGH COMMISSIONER TO MAKE RULES FOR FACILITATING COMMUNICATIONS BETWEEN COURTS.

8.—(1) Where an order has been registered or confirmed under this Regulation the Court and its officers shall take all such steps for enforcing the order as may be necessary.

MODE OF ENFORCING ORDERS.

(2) Every such order shall be enforceable in like manner as if the order were for the payment of a civil debt.

Provided that if the order is of such a nature that if made by the Court it would be enforceable in like manner as an order of affiliation the order shall be so enforceable.

9. 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

PROOF OF DOCUMENTS SIGNED BY OFFICERS OF COURT.

Maintenance Orders (Facilities for Enforcement) Regulation 1921.

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.

10. Depositions taken in a court in England or Ireland for the purposes of this Regulation may be received in evidence in proceedings before the Court under this Regulation.

PROCEDURE.

11. All proceedings under this Regulation shall be deemed to be civil proceedings and the rules relating to civil cases shall apply with such adaptations as may be necessary.

HIGH COMMISSIONER MAY
EXTEND KING'S
REGULATION TO
BRITISH POSSESSIONS WHOSE
LEGISLATURE
HAVE ENACTED
RECIPROCAL
PROVISIONS TO
ORDERS MADE
BY COURTS IN
BRITISH SOLOMON ISLANDS
PROTECTORATE.

12. Where the High Commissioner is satisfied that reciprocal provisions have been made by the legislature of any British possession or any territory under His Majesty's protection for the enforcement within such possession or territory of maintenance orders made by Courts in the British Solomon Islands Protectorate the High Commissioner may by Proclamation extend this King's Regulation to maintenance orders made by Courts within such possession or territory and thereupon this King's Regulation shall apply to such maintenance orders as if they had been made in England or Ireland.

REPEAL OF
KING'S REGULATION NO. 11
OF 1921.

13. The Maintenance Orders (Facilities for Enforcement) Regulation No. 11 of 1921 is hereby repealed.

Published and exhibited in the Public Office of the High Commissioner for the Western Pacific this tenth day of December one thousand nine hundred and twenty-one.

By Command,

ROGER GREENE,

Secretary to His Britannic Majesty's High Commissioner for the Western Pacific.

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