

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) REGULATIONS. ⁽¹⁾

1. These Regulations may be cited as the *Maintenance Orders (Facilities for Enforcement) Regulations.*⁽¹⁾ Short title.

2.—(1.) In these Regulations, unless the contrary intention appears— Definitions.

“The Court” means any District Court of the Territory;

“The Ordinance” means the *Maintenance Orders (Facilities for Enforcement) Ordinance 1928.*⁽²⁾

(2.) Any reference in these Regulations to a form shall, unless the contrary intention appears, be read as a reference to a form in the Schedule to these Regulations.

3.—(1.) The certified copy of a maintenance order made by a court in any reciprocating State, not being a court of superior jurisdiction, and received by the Administrator under section 3 of the Ordinance, shall be forwarded by the Administrator, to the Clerk of the Court, who shall register it in manner prescribed.

Certified copy of maintenance order made outside the Territory to be forwarded to the Clerk of the Court.

Am. by 1935, No. 13, r. 1.

(2.) Upon registration of the order, notice in writing of the registration in accordance with Form A or to the like effect shall be served on the person against whom the order is made.

4. Where a provisional order is made under section 5 of the Ordinance the formal order shall be headed with the word “Provisional” and at the foot thereof shall be written the following

Provisional order made in the Territory to be marked.

(1) The *Maintenance Orders (Facilities for Enforcement) Regulations* (made under the *Maintenance Orders (Facilities for Enforcement) Ordinance 1928-1938*) comprise the original *Maintenance Orders (Facilities for Enforcement) Regulations*, as amended by the other Regulations referred to in the following Table:—

REGULATIONS MADE BY THE ADMINISTRATOR.

Description and number and year (if any).	Date on which made by Administrator.	Date on which published in <i>N.G. Gaz.</i>	Date on which took effect.
<i>Maintenance Orders (Facilities for Enforcement) Regulations</i>	4.10.1928	15.10.1928	“Forthwith” ^(a) (<i>N.G. Gaz.</i> of 15.10.1928)
<i>Amending Regulations</i> (1935, No. 13)	25.10.1935	31.10.1935	31.10.1935 (<i>N.G. Gaz.</i> of 31.10.1935)

^(a) The set of Regulations to which this note ^(a) applies stated in its introductory part that it was “to come into operation forthwith”. At the relevant dates in 1928 Section 12 of the *Maintenance Orders (Facilities for Enforcement) Ordinance 1928-1938* (under which this set of Regulations was made) provided that “all regulations shall be published in the *New Guinea Gazette*, and shall take effect from the date of such publication, or from a later date specified therein”. At the relevant dates in 1928 there was no other Ordinance or regulation of general application providing for the publication of regulations, the date on which they were to take effect or the meaning of “forthwith”.

(2) Now the *Maintenance Orders (Facilities for Enforcement) Ordinance 1928-1938*.

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words:— “This order is provisional only, and shall have no force or effect unless and until confirmed by a competent court.”

Statement of grounds on which order might have been opposed.

5. The statement of the grounds on which the making of the order might have been opposed, required to be forwarded under section 5 of the Ordinance, shall be in accordance with Form B or to the like effect, and shall be signed by the justices constituting the Court.

Provisional order remitted for further evidence.

6.—(1.) Where a provisional order, made by the Court and transmitted to a court in any reciprocating State, has been remitted to the Court for the purpose of taking further evidence, the Clerk of the Court shall cause the matter to be brought before that Court as soon as practicable.

(2.) Before proceeding to take further evidence, the Court shall cause notice in accordance with Form C to be served on the complainant.

Certified copy of provisional order made outside the Territory to be forwarded to Clerk of Court. Am. by 1935, No. 13, r. 2.

7.—(1.) The certified copy of a provisional order made by a court in any reciprocating State, not being a court of superior jurisdiction, and received by the Administrator under section 6 of the Ordinance, may be forwarded by the Administrator to the Clerk of the Court, with the accompanying documents and a requisition for the issue of a summons.

(2.) The requisition and summons shall be in accordance with Forms D and E respectively, or to the like effect.

Clerk to enter orders in records.

8. The Clerk to whom any order is sent in accordance with the provisions of these Regulations shall register it on the date on which he receives it by entering it in a book to be kept for that purpose.

Notice of Court's decision to be sent to Administrator.

9.—(1.) When an order provisionally made in any reciprocating State has been confirmed with or without modification under section 6 of the Ordinance, or the Court has decided not to confirm it, or where, after confirmation, it has been rescinded or varied, the Clerk of the Court shall send notice of the Court's decision to the Administrator for transmission to the court by which the provisional order was made.

(2.) The notice required to be sent in pursuance of the last preceding sub-regulation shall be in accordance with Form F and shall be accompanied by a copy of the provisional order.

Manner of remission of case for further evidence.

10. When the Court, whether on proceedings for confirmation or for rescission or variation, is satisfied that it is necessary to remit the case to the court which made the provisional order, for the purpose of taking further evidence, the Clerk of the Court shall remit the case by sending to the Administrator for transmission to the court which made the provisional order a notice in accordance with Form G, which shall set out the matters in respect of which further evidence is necessary and shall attach a copy of the provisional order to the notice.

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11. When an order has been registered under section 3 of the Ordinance, or a provisional order has been confirmed with or without modification under section 6 of the Ordinance, the Court shall direct that all payments due thereunder shall be made to the Clerk of the Court.

Payments under orders to be made to Clerk of the Court.

12.—(1.) The Clerk to whom payments are directed to be made under the last preceding regulation shall collect or cause to be collected the moneys due under the order, and shall take all necessary proceedings in his own name for enforcing payment as provided in section 8 of the Ordinance, and shall remit the moneys so collected to the Treasurer of the Territory for transmission to the Clerk of the Court from which the order or provisional order (as the case may be) originally issued.

Collection &c. of moneys due under orders.

(2.) A statement giving the names of the parties in the case, and particulars of the period covered by the payment, shall be forwarded to the Treasurer and by him transmitted with each remittance.

(3.) The cost of remittance by the Treasurer shall be deducted by him from the amount to be remitted.

13. Subject to the provisions of the Ordinance, the provisions of section 52 of the *District Courts Ordinance 1924-1927*⁽³⁾ shall apply to the service, and proof thereof, of summonses and notices under the Ordinance.

Service and proof of service.

THE SCHEDULE.

FORM A.

Reg. 3.

TERRITORY OF NEW GUINEA.

Maintenance Orders (Facilities for Enforcement) Ordinance 1928.

NOTICE OF REGISTRATION OF ORDER.

In the District Court, at _____, in the District of _____, Territory of New Guinea. Complainant. Defendant.

To _____ of _____ Take notice that I have this day registered in the District Court, at _____, a certified copy of the order made at _____ on _____ by^(a) _____, in the above case, and transmitted to me for registration, whereby you were ordered to pay^(b) _____

(a) Insert name of court.

(b) Set out effect of order.

Such order is of the same force, and all proceedings may be taken thereon in the same manner, as if it had been a maintenance order originally made in the Territory. All payments thereunder must be made to me.

Dated this _____ day of _____, 19 _____

Clerk of District Court at _____

(3) Now the *District Courts Ordinance 1924-1938.*

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FORM B.

Reg. 5.

TERRITORY OF NEW GUINEA.

Maintenance Orders (Facilities for Enforcement) Ordinance 1928.

STATEMENT OF GROUNDS ON WHICH MAKING OF ORDER MIGHT HAVE BEEN OPPOSED.

In the District Court, at _____, in the District of _____, Territory of New Guinea. Complainant. Defendant.

The grounds on which the making of the order herein might have been opposed, if the above-named defendant had been duly served with a summons and had appeared at the hearing, are—(a)

(a) Set out grounds.

Dated this _____ day of _____, 19____, Justices constituting the Court.

FORM C.

Reg. 6.

TERRITORY OF NEW GUINEA.

Maintenance Orders (Facilities for Enforcement) Ordinance 1928.

NOTICE OF REMISSION OF PROVISIONAL ORDER.

In the District Court, at _____, in the District of _____, Territory of New Guinea. Complainant. Defendant.

To _____ of _____

Take notice that the provisional order for maintenance made against the above-named defendant on the _____ day of _____, 19____, on your complaint, has been remitted by (a) _____, for the purpose of further evidence in the matter being taken.

(a) Insert name of court.

You are therefore required to appear before the District Court at _____ in the said Territory, on the _____ day of _____, 19____, at _____ o'clock in the forenoon, and there adduce to the Court further evidence touching the following matters:—

Dated this _____ day of _____, 19____, Clerk of District Court at _____

FORM D.

Reg. 7.

TERRITORY OF NEW GUINEA.

Maintenance Orders (Facilities for Enforcement) Ordinance 1928.

REQUISITION FOR SUMMONS.

To the Clerk of the District Court at _____

Whereas, upon the application of _____, a provisional order under the (a) _____ was made against _____ the (b) _____ holden at _____ in _____ for the payment of _____ towards the maintenance of _____

(a) State title of Act.

(b) Insert name of court.

And whereas a certified copy of the said order, together with the depositions

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of witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted to me in the manner prescribed:

Now therefore I, the Administrator, in accordance with the provisions of the *Maintenance Orders (Facilities for Enforcement) Ordinance 1928*, do hereby forward you the said documents and request you to issue a summons against the said _____ calling upon him to appear before the District Court to be holden at _____ to show cause why the said order should not be confirmed.

Dated this _____ day of _____, 19 _____
Administrator.

FORM E.

Reg. 7. TERRITORY OF NEW GUINEA.

Maintenance Orders (Facilities for Enforcement) Ordinance 1928.

SUMMONS TO THE DEFENDANT TO SHOW CAUSE WHY
A PROVISIONAL ORDER SHOULD NOT BE CONFIRMED.

In the District Court, at _____, in the District
of _____, Territory of New Guinea.

To _____ of _____
Complainant.
Defendant.

Whereas, upon the application of _____,
a provisional order under the^(a)
was made against you in the^(b)
at _____ for the payment of _____ holden
towards the maintenance of _____ ;
(a) State title
of Act.
(b) Insert name
of court.

And whereas a certified copy of the said order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, has been transmitted, in the manner prescribed, to the Administrator, who has caused the said documents to be sent to the Clerk of the District Court at _____, with a requisition that a summons be issued thereon:

This is therefore to command you to appear, on the
day of _____, 19 _____, at _____ o'clock in the forenoon,
before the said District Court to show cause why the said order made against
you should not be confirmed under the *Maintenance Orders (Facilities for
Enforcement) Ordinance 1928*.

Dated this _____ day of _____, 19 _____
Clerk of District Court
at _____

FORM F.

Reg. 9. TERRITORY OF NEW GUINEA.

Maintenance Orders (Facilities for Enforcement) Ordinance 1928.

NOTICE OF THE COURT'S DECISION.

In the District Court, at _____, in the District
of _____, Territory of New Guinea.
Complainant.
Defendant.

The provisional order (a copy of which is annexed) made in the above-

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(a) Confirmation, rescission, or variation. mentioned case came before this Court on the day of , 19 , for^(a) and after due inquiry the Court arrived at the following decision:— , 19 ,

Dated this day of , 19 .

Clerk of District Court at

To the Clerk of the Court at

FORM G.

Reg. 10. TERRITORY OF NEW GUINEA.

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NOTICE OF REMISSION OF CASE.

In the District Court, at , in the District of , Territory of New Guinea. Complainant. Defendant.

(a) Confirmation, rescission, or variation.

Whereas, on the hearing of an application for the^(a) of the provisional order herein (a copy of which is annexed), the Court was satisfied that it was necessary to remit the case to the court which made the order, for the purpose of taking further evidence on the matters indicated hereunder:

I do, therefore, hereby remit the case to you accordingly, and request that the court which made the order, or some other competent court, will take further evidence on the following matters:—

and will further deal with the case according to law.

Dated this day of , 19 .

Clerk of District Court at

To the Clerk of the Court at