

PART B.-ENFORCEMENT OF MAINTENANCE ORDERS
BETWEEN INDIA AND OTHER COUNTRIES ON
RECIPROCAL BASIS

I. The Maintenance Orders Enforcement Act, 1921 (XVIII of 1921), which was originally enacted to facilitate the enforcement in India of Maintenance Orders made in His Majesty's Dominions and Protectorates and vice versa has been amended by Act XLVII of 1952. Now, under the amended Act arrangements can be established for the enforcement of Maintenance Orders on a reciprocal basis between India and any other 'reciprocating territory' outside India.

II. 'Reciprocating territory' is defined in the amended Act as any country or territory outside India in respect of which the Act for the time being applies by virtue of a declaration under Section 3 of that Act. Section 3, as substituted by Act XLVII of 1952 provides that if the Central Government is satisfied that legal provision exists in any country or territory outside India for the enforcement within that country or territory of maintenance orders made by courts in India, the Central Government may by notification in the official Gazette, declare that the Act applies in respect of that country or territory and thereupon it shall apply accordingly.

III. In exercise of the powers conferred by Section 12 of the Maintenance Orders Enforcement Act, 1921 (XVIII of 1921), and in supersession of the notification of the Government of India in the late Home Department, No. F. 120-22, dated the 22nd September, 1923, the Central Government has made the following rules, namely :—

1.(1) These rules may be called the Maintenance Orders Enforcement Rules, 1955.

(2) They extend to the whole of India except the State of Jammu and Kashmir.

2. In these rules the expression "the Act" means the Maintenance Orders Enforcement Act, 1921 (XVIII of 1921)

3. The Officer to whom copies of maintenance orders shall be sent under sub-section (1) of section 4 of the Act shall be, in the case of a High Court, the Registrar of such Court and in the case of a Court of summary jurisdiction, the presiding officer of such Court.

4. When such copy is received by the Registrar or Officer the contents thereof shall be entered in a register maintained for the purpose in the form shown in the Schedule to these rules.

5. The notice referred to in sub-section (4) of section 6 of the Act shall be issued to the person who applied under sub-section (1) of that section; it shall contain particulars of the further evidence which is required by the Court in the reciprocating territory and shall also state the date when the further evidence will be taken.

1. The Officer of a Court of summary jurisdiction to whom the documents referred to in sub-section (1) of section 7 of the Act may be sent under the provision of that sub-section shall be the presiding officer of such Court.

2. (1) When an order has been registered under rule 4, the party in whose favour the order has been made shall be entitled to appear, either in person or by pleader or duly authorised agent before the High Court or Court of summary jurisdiction in which the order has been registered or as the case may be, before the Civil Court named by such High Court under subsection (1) of section 8 of the Act and to move such Court to enforce the order.

(2) If within a period of one month from the date of the registration of the order, or as the case may be, of its transfer to the Civil Court named by the High Court no such appearance has been made, the High Court, Civil Court or Court of summary jurisdiction as the case may be, shall appoint an officer of the Court to apply for execution of the order as such officer shall be entitled to obtain execution

thereof on behalf of the person in whose favour the order has been made and shall pay into the Court any monies realised in execution of the order.

Provided that the appointment of such officer shall cease to have effect in the event of the subsequent appearance under sub-rule (1) of the party in whose favour the order has been made.

8. A Court of summary jurisdiction shall exercise in respect of a maintenance order registered or confirmed by it under the Act the powers conferred on it by sub-section (3) excluding the proviso thereto and sub-section (7) of section 488 of the Code of Criminal Procedure, 1898, in respect of an order passed by it under sub-section (1) of that section.

9. (1) During the pendency of proceedings under the Act or these rules with reference to a maintenance order made in reciprocating territory, whether such order be provisional or otherwise, the person against whom the order has been made shall without delay notify the Court in which such proceedings are pending of any change in his address.

(2) The Court shall at the outset of all such proceedings give notice to such person of the obligation imposed by sub-rule (1).

10. The charges referred to in section 9 of the Act, and the sum in rupees required for the purchase of a draft for the amount of the sum awarded as maintenance in sterling or other non-rupee currency shall be assessed by the Court at the time of the registration or confirmation of the order as the case may be and any sum recovered in excess as the result of such assessment from the person against whom the order has been made shall be refunded to such person.

11. Any payment required by a Court to be made in respect of a maintenance order registered or confirmed by it shall be made through the Court unless the Court otherwise directs.

12. A Court recovering any one on account of maintenance in accordance with a maintenance order registered or confirmed by it under the Act shall forthwith cause the said sum to be remitted by the local

from the applicant for the rescission or variation of where there is no such local head office or branch; by head office or branch of the State Bank of India, or, any other agency which the Court considers suitable to the Clerk of the Court from which the order has been received or such other officer or person as may be specified by that Court for that purpose.

13. (1) For every summons requiring the attendance of a witness or the production of a document which is issued by a Court of summary jurisdiction in the course of proceedings under section 6 or section 7 of Act, there shall be charged to the person at whose instance the summons is issued such fee as would be chargeable for the issue of a like summons in a proceeding under section 488 of the Code of Criminal Procedure, 1898.

(2) For any process issued in the course to proceedings taken in pursuance of section 8 of the Act there shall be chargeable in the case of proceedings in a High Court or of a subordinate Civil Court named by a High Court such fee as would be chargeable for the issue of a like process in the course of the execution of a decree of such Court and in the case of proceedings in a Court of summary jurisdiction such fee as would be chargeable for the issue of a like process in the course of proceedings under section 488 of the Code of Criminal Procedure, 1898.

(3) Fees of the nature referred to in sub-rule (2) shall not be chargeable, in advance but the amount thereof shall be added to the amount to be recovered from the person against whom the order has been made.

(4) The amount of the actual expenditure incurred in sending a certified copy of the record to the Central Government under sub-section (6) of section 7 of the Act and in its subsequent transmission to the Court which made the provisional order, shall be recovered that order as confirmed and the confirming Court may decline to send the copy for transmission until the payable amount of such expenditure has been deposited by the applicant.

Provided that any excess of an amount so deposited over the actual expenditure shall be refunded to the applicant.

14. When a Court of summary jurisdiction has under sub-section (4) of section 7 of the Act confirmed with or without modification a provisional maintenance order made by a Court in a reciprocating territory has decided not to confirm such order, notice of such confirmation or decision as the case may be, shall be sent to the Court from which the order, issued and to the Central Government.

SCHEDULE

(Referred to in Rule 4)

Register of maintenance orders made by Courts outside India for enforcement in India (except the States of Jammu and Kashmir)

Serial No.	Name of the Court making the order	Nature of the order with particulars as to parties	Name and address of the person against whom the	Amount recoverable	Dated of order	Dated of receipt of the order by Court in India	Date of issue of notice or order	Dates of recovery of any amount due under the order	Date of despatch of money for remittance under rule 12

(Government of India, Ministry of Law, Notification No. S.R.O. 1618, dated the 25th July, 1955.)

IV. The Central Government has by notifications in the official Gazette, issued under Section 3 of the Act declared the Act to apply to the following countries and territories:-

(1) Colony of *Mauritius*.

(Government of India, Ministry of Law, Notification No. S.R.O. 3389, dated 6th November, 1954, published in Gazette of India of the same date).

(ii) *Zanzibar Protectorate*.

(Government of India, Ministry of Law, Notification No. S.R.O. 3425, dated 8th November, 1954, published in Gazette of India, dated October 2, 1954)

(iii) *Somalil and Protectorate*.

(Government of India, Ministry of Law, Notification No. S.R.O. 3425, dated 8th November, 1954, published in Gazette of India, dated November 20, 1954).

(iv) *Colony and Protectorate of Kenya*.

(Government of India, Ministry of Law, Notification No. S.R.O. 818, dated 4th March, 1954, published in the Gazette of India, dated March 13, 1954)

(v) *Uganda Protectorate*

(Government of India, Ministry of Law, Notification No. S.R.O. 2411, dated 16th July, 1954, published in Gazette of India, dated July 24, 1954).

(vi) *Colony of Sevechelles*.

(Government of India, Ministry of Law, Notification No. S.R.O. 2, dated 21st December, 1956, published in the Gazette of India, dated January 1, 1955).

(vii) *Northern Rhodesia.*

(Government of India, Ministry of Law, Notification No. S.R.O. 6, dated 23rd December, 1954, published in Gazette of India, dated January 1, 1955).

(viii) *Colony of Singapore.*

(Government of India, Ministry of Law, Notification No. S.R.O. 1768, dated 12th - August, 1955, published in Gazette of India, dated August 13, 1955).

(ix) *Federation of Malaya.*

(Government of India, Ministry of Law, Notification No. S.R.O. 1869, dated 27th August, 1955, published in Gazette of India, dated September 3, 1955).

(x) *Nyasaland.*

(Government of India, Ministry of Law, Notification No. S.R.O. 3523, dated 16th November, 1955, published in Gazette of India, dated November 26, 1955).

(xi) *Southern Rhodesia.*

(Government of India, Ministry of Law, Notification No. S.R.O. 1075, dated 8th May, 1956, published in the Gazette of India, dated May 8, 1956).

(xii) *Union of Burma.*

(Government of India, Ministry of Law, Notification No. S.R.O. 673, dated 16th March, 1956, published in the Gazette of India, dated 24th March, 1956).

(xiii) *Colony of Sarawak.*

(Government of India, Ministry of Law, Notification No. S.R.O. 1891, dated 27th August, 1956, published in the Gazette of India, Part II, Section 3, dated September 1, 1956).

V. The Central Government had by orders passed under old section 3 (before its substitution by Act XLVII of 1952) extended the Act to the following parts of His Majesty's Dominions and British Protectorates, besides the territories mentioned in Para IV above :--

- (i) England and Ireland.
- (ii) Western Australia.
- (iii) New South Wales.
- (iv) Basutoland, the Bechuanaland Protectorate and Swaziland.
- (v) Victoria.
- (vi) Commonwealth of Australia.
- (vii) Union of South Africa.
- (viii) Colony of Ceylon.