

Uganda

## Maintenance Orders Enforcement Act

### Chapter 17

Legislation as at 31 December 2000

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## Maintenance Orders Enforcement Act

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# Uganda

## Maintenance Orders Enforcement Act

### Chapter 17

Commenced on 30 June 1921

*[This is the version of this document at 31 December 2000.]*

*[Note: The version of the Act as at 31 December 2000 was revised and consolidated by the Law Reform Commission of Uganda. All subsequent amendments have been researched and applied by Laws.Africa for ULII.]*

**An Act to facilitate the enforcement in Uganda of maintenance orders made in England and Northern Ireland and the Commonwealth and the Republic of Ireland.**

#### 1. Interpretation

In this Act—

- (a) “**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;
- (b) “**dependents**” means such persons as that person is, according to the law in force in that country in which the maintenance order was made, liable to maintain;
- (c) “**maintenance order**” means an order, other than an order of affiliation, for the periodical payment of sums of money toward the maintenance of the wife or other dependents of the person against whom the order is made, and includes an order or decree for the recovery or repayment of the cost of relief or maintenance made in Ireland by virtue of the provisions of the Poor Relief (Ireland) Acts, 1838 to 1914;
- (d) “**prescribed**” means prescribed by rules of court.

#### 2. Enforcement in Uganda of maintenance orders made in England and Ireland

- (1) Where a maintenance order has been made against any person by any court in England, Northern Ireland or the Republic of Ireland and a certified copy of the order has been transmitted by a Secretary of State to the Minister, the Minister shall send a copy of the order to the prescribed officer of a court in Uganda for registration; and on receipt of the copy the order shall be registered in the prescribed manner, and shall, from the date of such registration, be of the same force and effect, and, subject to the provisions of this Act, 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 that court shall have power to enforce the order accordingly.
- (2) The court in which an order is to be so registered as aforesaid shall, if the order was made by a court of a superior jurisdiction, be the High Court, and, if the order was made by a court not of superior jurisdiction, be a magistrate’s court over which presides a chief magistrate or a magistrate grade I.

#### 3. Transmission of maintenance orders made in Uganda

Where a court in Uganda has made a maintenance order against any person, and it is proved to that court that the person against whom the order was made is resident in England, Northern Ireland or the Republic of Ireland, the court shall send to the Minister for transmission to a Secretary of State a certified copy of the order.

#### **4. Power to make provisional orders of maintenance against persons resident in England or Ireland**

- (1) Where an application is made to a magistrate's court over which presides a chief magistrate or a magistrate grade I for a maintenance order against any person, and it is proved that that person is resident in England, Northern Ireland or the Republic of 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 or she had failed to appear at the hearing; but in such case the order shall be provisional only, and shall have no effect until confirmed by a competent court in England, Northern Ireland or the Republic of 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 the witness.
- (3) Where such an order is made, the court shall send to the Minister for transmission to a 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 or her whereabouts.
- (4) Where any such provisional order has come before a court in England, Northern Ireland or the Republic of Ireland for confirmation and the order has by that court been remitted to the court which made the order for the purpose of taking further evidence, that 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; and if upon hearing 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 Minister 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 a magistrate's court to vary or rescind that order; but on the making of a varying or rescinding order the court shall send a certified copy of the order to the Minister for transmission to a Secretary of State, and in the case of an order varying the original order the order shall not have any effect 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 or she 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.

#### **5. Power of court to confirm maintenance order made in England or Ireland**

- (1) Where a maintenance order has been made by a court in England, Northern Ireland or the Republic of Ireland, and the order is provisional only and has no effect until confirmed by a court in Uganda, 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 Minister, and it appears to the Minister that the person against whom the order was made is resident in Uganda, the Minister may send the 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 Uganda in the same manner as if it had been originally issued or subsequently endorsed by a court having jurisdiction in the place where the person happens to be.

- (3) At the hearing it shall be open to the person on whom the summons was served to raise any defence which he or she might have raised in the original proceedings had he or she been a party to them, 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 purpose of taking 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 by it shall have the same right of appeal, if any, against the confirmation of the order as he or she would have had against the making of the order had the order been an order made by the court confirming the order.

## **6. Mode of enforcing orders**

- (1) The court in which an order has been registered under this Act or by which an order has been confirmed under this Act, and the officers of such court, shall take all such steps for enforcing the order as may be prescribed.
- (2) Every such order shall be enforceable in like manner as if the order were a decree for payment of a civil debt under the provisions of the Civil Procedure Act.

## **7. Depositions to be evidence**

Depositions taken in a court in England, Northern Ireland or the Republic of Ireland for the purposes of the Maintenance Orders (Facilities for Enforcement) Act, 1920, of the United Kingdom, may be received in evidence in proceedings under this Act.

## **8. Provisions of Act may be extended to orders made in other Commonwealth countries**

Where the Minister is satisfied that reciprocal provisions have been made by the legislature of any Commonwealth country for the enforcement within such country of maintenance orders made by courts in Uganda, the Minister may, by statutory order, extend this Act to such country, and this Act shall thereupon apply in respect of such country as though the references to England, Northern Ireland or the Republic of Ireland were references to such country and the references to the Secretary of State were references to the Governor or appropriate Minister of such country.