

LAWS OF THE GILBERT ISLANDS  
REVISED EDITION 1977

CHAPTER 53

MAINTENANCE (MISCELLANEOUS PROVISIONS)

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Short title

PART II

MAINTENANCE OF NEGLECTED PERSONS

2. Interpretation of Part II
3. Power of court to make a maintenance declaration
4. Power of court to make a maintenance enforcement order
5. Penalties for failure to comply with maintenance enforcement order
6. Powers of court to discharge and vary orders
7. Venue
8. Jurisdiction of courts under Part II
9. Power to make regulations

PART III

ENFORCEMENT OF CERTAIN MAINTENANCE ORDERS MADE OUTSIDE  
THE GILBERT ISLANDS

10. Interpretation of Part III
11. Enforcement of maintenance orders made in England or Ireland
12. Transmission of maintenance orders made in the Gilbert Islands
13. Power to make provisional orders of maintenance against persons resident in England or Ireland
14. Power of the court to confirm maintenance order made in England or Ireland
15. Power of Governor to make rules for facilitating communications between courts
16. Mode of enforcing order

## Section

17. Proof of documents signed by officers of court
18. Depositions to be evidence
19. Procedure
20. Power to extend Part III to other countries

12 of 1921  
6 of 1929  
(Cap. 5 of  
1952)  
3 of 1959  
L.N. 16/72  
3 of 1972  
(Cap. 4 of  
1973)  
7 of 1973  
(Cap. 96 of  
1973)  
10 of 1977  
26 of 1977

**An Ordinance to provide for the maintenance of neglected persons in ~~Kiribati Islands~~ and to facilitate the enforcement in ~~Kiribati Islands~~ of maintenance orders made in England, Ireland and other countries**

*Commencement: Parts I and III—13th December 1921  
Part II—1st November 1973*

## PART I

## PRELIMINARY

- Short title      1. This Ordinance may be cited as the Maintenance (Miscellaneous Provisions) Ordinance.

## PART II

## MAINTENANCE OF NEGLECTED PERSONS

Interpretation  
of Part II

2. In this Part—  
“maintenance declaration” means a declaration under section 3;  
“maintenance enforcement order” means an order under section 4;  
“order” means a maintenance declaration, a maintenance enforcement order or an order under section 6.

Power of  
court to make  
a maintenance  
declaration

3. (1) A court may on application by or on behalf of any person make a declaration that another person or other persons shall be liable to maintain that person where it is satisfied that there is a legal or customary obligation to do so.

(2) Before making a maintenance declaration the court shall make a full enquiry into all the circumstances and in particular shall take into consideration—

- (a) the age of the person for whose benefit the application is made; and
- (b) the personal circumstances of every person concerned in the application.

(3) In the performance of the duty imposed on it by subsection (2) the court shall call for any evidence or report it may in the interests of justice consider necessary.

4. (1) An application to a court may be made by or on behalf of any person for whose benefit a maintenance declaration has been made (hereinafter referred to as the applicant) for an order under this Ordinance against any person who by virtue of that declaration is liable to maintain him (hereinafter referred to as the defendant) on the ground that the defendant has wilfully neglected to provide or to make proper contribution towards reasonable maintenance for the applicant.

Power of court to make a maintenance enforcement order

(2) On an application under this section the court shall have regard to all the circumstances and in particular to the resources of the defendant and may order—

- (a) payment by the defendant to the applicant or to any other person on the applicant's behalf or to the court of such sums of money as the court considers reasonable at such times as the court may direct;
- (b) provision by the defendant for the applicant of such shelter and care as the court may direct;
- (c) any reasonable combination of the matters specified in paragraphs (a) and (b).

(3) Payment of any sum of money due under a maintenance enforcement order may be enforced as if judgment for the payment of that amount to the applicant had been given against the defendant by any magistrates' court.

5. (1) Without prejudice to section 4 (3) any person who wilfully fails to comply with a maintenance enforcement order shall be liable to a fine of \$50 and to imprisonment for 6 months.

Penalties for failure to comply with maintenance enforcement order

(2) Any failure to comply with a maintenance enforcement order shall be deemed to be wilful unless the contrary is proved.

(3) Conviction of an offence under this section shall not affect any existing obligations under a maintenance enforcement order.

(4) Conviction or acquittal of an offence under this section shall in no way operate as a bar to a prosecution for an offence under section 226 of the Penal Code.

Cap. 67

6. (1) A court may at any time on application by any person make an order discharging or varying a maintenance declaration or a maintenance enforcement order or remitting any payments then due thereunder.

Powers of court to discharge and vary orders

(2) Before making an order under this section the court shall perform the duties imposed on it by section 3 or 4 as the case may be so that in every case the order of the court shall be and shall continue to be reasonable and fair in all the circumstances.

## Venue

7. (1) Subject to the provisions of this section—

- (a) an application under section 3 shall be made to a court within the ordinary limits of whose jurisdiction the person for whose benefit the application is made normally resides;
- (b) an application under section 4 or 6 shall be made to the court by whom an order was last made.

(2) A magistrate on being satisfied that it is in the interests of justice to do so may in any case give leave for an application under this Part to be made to a court, within or without the limits of his jurisdiction, other than that prescribed by subsection (1) and shall specify the court.

(3) On leave being granted by a magistrate under subsection (2) the record or a copy of the record of any previous proceedings shall be forthwith transmitted by the court in which those proceedings took place to the court specified by the magistrate.

Jurisdiction  
of courts  
under Part II

8. Notwithstanding any other law to the contrary but subject to sections 4 and 7 every court shall for the purpose of proceedings under this Part exercise jurisdiction throughout the Gilbert Islands.

Power to  
make regula-  
tions

9. Without prejudice to any powers conferred by other laws to make rules of court or regulations governing magistrates' courts the Chief Justice may make regulations for those courts in respect of proceedings under this Part—

- (a) regulating the practice and procedure;
- (b) regulating the forms to be used and all matters connected therewith;
- (c) regulating the receipt of moneys paid to a court under a maintenance enforcement order and the payment of such moneys out of court to persons entitled thereto;
- (d) prescribing rules of evidence to be observed;
- (e) generally for the better carrying into effect of the provisions, objects and intentions of this Part.

## PART III

ENFORCEMENT OF CERTAIN MAINTENANCE ORDERS MADE  
OUTSIDE ~~THE GILBERT ISLANDS~~ K

## 10. For the purposes of this Part—

“maintenance order” means an order other than an order for affiliation for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made;

“dependants” means such persons as a person against whom a maintenance order is made is liable to maintain according to the law in force in the place where such maintenance order is made;

“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;

“prescribed” means prescribed by rules of court.

Interpre-  
tation  
of Part III

11. Where a maintenance order has, whether before or after the commencement of this Part, 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 ~~C. 10. 10. 10.~~, the ~~C. 10. 10. 10.~~ shall send a copy of the order to an appropriate court for registration, and on receipt thereof 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 this Part, 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.

Enforcement  
of mainte-  
nance orders  
made in Eng-  
land or Ire-  
land

12. Where the court has, whether before or after the commencement of this Part, 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 ~~C. 10. 10. 10.~~ for transmission to the Secretary of State a certified copy of the order.

Transmission  
of mainte-  
nance orders  
made in the  
Gilbert  
Islands

13. (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

Power to  
make provi-  
sional orders  
of mainte-  
nance against  
persons resi-  
dent in Eng-  
land or Ire-  
land

shall be provisional 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 Governor, 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 evidence in like manner and subject to the like conditions as the evidence in support of the original application; and 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 ~~Minister~~ <sup>Minister</sup> 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 ~~Minister~~ <sup>Minister</sup> 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 maintenance order made in England or Ireland

14. (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 the court, 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 Governor, and it appears to the Governor that the person against whom the order was made is resident in the Gilbert Islands, the Governor 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 on 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.

Power of Governor to make rules for facilitating communications between courts

<sup>Minister</sup>  
15. The ~~Governor~~ 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.

Mode of enforcing order

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

(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.

Proof of documents signed by officers of court

17. 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 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

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

Procedure

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

Power to extend Ordinance to other countries

<sup>Minister</sup>  
20. The ~~Governor~~, if satisfied that reciprocal provisions have been made by the legislature of any country or territory outside the ~~Gilbert Islands~~ for the enforcement within such country or territory of maintenance orders made by the courts of ~~the Gilbert Islands~~, may by order extend this Ordinance to such country or territory and this Ordinance shall thereupon apply in respect of such country or territory as though the references to England or Ireland were references to such country or territory and the references to a Secretary of State were references to the person responsible for administering the courts of that country or territory.



## SUBSIDIARY LEGISLATION

[Subsidiary]

## Rules under section 15

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) RULES Rev. 1952, p.  
541  
L.N. 16/72  
3 of 1972

1. These Rules may be cited as the Maintenance Orders (Facilities for Enforcement) Rules. Citation

2. The copy of an order made by a court in England or Ireland and received by the Governor under section 11 shall be sent to a magistrates' court appropriate for the place in which the defendant is alleged to be living. Copy of order

3. The copy of a provisional order made by a court in England or Ireland and received by the Governor under section 14 shall be sent with the accompanying documents to a magistrates' court appropriate for the place in which the defendant is alleged to be living with a requisition for the issue of a summons. Copy of provisional order

4. The magistrate presiding over the court to which an order is sent in accordance with the preceding rules shall enter it in the records of the court on the date on which he receives it in the same manner as though the order had been made by that court, distinguishing it from other entries in such manner as he may find most convenient so as to show that it is entered in pursuance of the Ordinance. Order to be entered in cause book

5. When an order provisionally made in England or Ireland has been confirmed with or without modification under section 14 or the court has decided not to confirm it, the court shall send notice thereof to the Governor for transmission to the court from which it issued. Notice of confirmation etc.

6. When an order has been registered under section 3 or a provisional order has been confirmed under section 14, the court shall direct that all payments due thereunder shall be made through the court. Payments to be made through court

7. The court through whom payments are directed to be made shall collect the moneys due under the orders and shall take all necessary proceedings for enforcing payment as provided in section 16 (2), and shall send the moneys when so collected through the Governor for transmission to the Crown Agents for Overseas Governments and Administrations to be remitted by them to the person to whom they are due. Collection of moneys

8. When a provisional order made under section 13 has been remitted under subsection (4) of that section to the court for the purpose of taking further evidence, notice specifying the further evidence required and the time and place fixed for taking it shall be sent by the court to the person on whose application the provisional order was made. Further evidence

**Territories to which this Part has been extended by order under section 20**

New South Wales  
New Zealand  
Fiji  
Queensland  
Western Australia  
Norfolk Island

Proclamation  
Nos.  
4/1924  
3/1925

## [Subsidiary]

	Northern Territory
	Solomon Islands
1/1927	Victoria
5/1930	South Australia
1/1929	Tasmania
5/1927	The Australian Capital Territory
13/1927	Independent State of Western Samoa
G.N. 29/54	Island of Jersey
L.N. 25/65	Bailiwick of Guernsey
L.N. 16/66	Independent State of Papua New Guinea
L.N. 17/78	Nauru