

MAINTENANCE ORDERS ENFORCEMENT RULES, 1955

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SCHEDULE 1 :- SCHEDULE

MAINTENANCE ORDERS ENFORCEMENT RULES, 1955

The following rules framed by the Government of India under 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, are reproduced for the information and guidance of the criminal Courts:-

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 Order 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 No. 70.

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 state the date when the further evidence will be taken.

6. . :-

The Officer of the 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 provisions of that sub-section shall be the presiding officer of such Court.

7. . :-

(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 sub-section (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, and 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 orders:

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 provisos thereto, and subsection (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 rupee 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 sum 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 Head Office or branch of the State Bank of India, or, where there is no such local Head Office or branch, by 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 the Act, there shall be charge 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 of proceedings taken in pursuance of section 8 of the Act, there shall be chargeable, in the case of proceedings in a High Court or a subordinate Civil Court named by the 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, from the applicant for the recession or variation of that order as confirmed, and the confirming Court may decline to send the copy for transmission until the probable 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 reciprocating territory or has decided not to conform 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.

15. . :-

In supersession of the previous Notification in this behalf, the Government of India have made reciprocal arrangements in regard to the enforcement of Maintenance Orders under section 3 of the Maintenance Order Enforcement Act, 1921 (XVIII of 1921), in respect of the following countries:-

(1) Kenya Government of India Notification, Ministry of Law, No. S.R.O. 818, dated 4th March 1954.

(2) Singapore \Government of India Notification, Ministry of Law (Department of Legal Affairs), No. G.S.R. dated 20th August, 1969.

(3) Nayasaland No. F. 26(13)/54-L, dated 12th January, 1956.

(4) Rhodesia \No. F. 26 (13)/54-L(j), dated 5th December, 1956.

(5) Territories of Cocos (Keeling) Islands \Government of India Notification, Ministry of Law, No. 1, G.S.R. 29 dated 13th February, 1958.

(6) Australian Capital Territory Government of India Notification, Ministry of Law, No. G.S.R. 27, dated 13th February, 1958.

(7) Northern Territory Australia Government of India Notification, Ministry of Law, No. G.S.R. 28, dated 13th February, 1958.

(8) Western Australia Government of India Notification, Ministry of Law (Department of Legal Affairs), No. G.S.R. 1193, dated 10th December, 1958.

(9) Union of Burma Government of India Notification, Ministry of Law, No. S.R.O. 673, dated 16th March, 1956.

(10) Basutoland, Bechuanaland and Swaziland \Government of India Notification, Ministry of Law, No. S.R.O. 2725, dated 26th August, 1969.

(11) Ceylon Government of India Notification, Ministry of Law (Department of Legal Affairs), No. G.S.R. 1008, dated 20th October, 1958.

(12) Federation of Malaya Government of India Notification, Ministry of Law, No. S.R.O. 1869, dated 27th August, 1955.

(13) Mauritius Government of India Notification, Ministry of Law,

No. S.R.O. 3389, dated 6th November, 1954.

(14) Southern Government of India Notification, Ministry of Law, No. S.R.O. 1075, dated 8th May. 1956.

(15) Colony of Sarawak. Government of India Notification, Ministry of Law, No. S.R.O. 1891, dated 27th August, 1956.

(16) Colony of Seychelles. Government of India Notification, Ministry of Law, No. S.R.O. 2, dated 21st, December, 1954.

(17) Somali-land. Government of India Notification, Ministry of Law, No. S.R.O. 3425, dated 8th November, 1954.

(18) Uganda. Government of India Notification, Ministry of Law, No. S.R.O. 2411, dated 16th July, 1954.

(19) Zanzibar. Government of India Notification, Ministry of Law, No. S.R.O. 3127, dated 24th September, 1954.

(20) England and Ireland. Government of India Notification, Ministry of Law, No. F. 120, dated 6th March, 1922.

(21) Colony of Straight Settlements. \Government of India Notification, Ministry of Law, No. F. 863-24, dated 11th December, 1924.

(22) \Isle of Man. \Government of India Notification, Ministry of Law, No. G.S.R. 1005, dated 4th July, 1954.

(23) \Fiji \Government of India Notification, Ministry of Law (Department of Legal Affairs), No. G.S.R. dated 5th September, 1968.

Note.-The provision of the whole of this Chapter are applicable to Courts of Metropolitan Magistrates.

SCHEDULE 1

SCHEDULE

(Referred to in Rule 4)		
Register of maintenance orders made by Courts outside India, for enforcement in India (except the State of Jammu and Kashmir).		
Serial Name of the	Nature of	Name and ad- Amount
No. Court	the order	dress of the per- recoverable.
making the	with	son against

Order	particulars as to parties	whom the order is made