

**REPUBLIC OF NAURU**

**MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT) ACT 1973**

**MAINTENANCE ORDERS (RECIPROCAL ENFORCEMENT) RULES 1976**

**ARRANGEMENT OF RULES**

**Rule**

1. Title
2. Application under section 4 of the Act
3. Authentication of documents
4. Documents to be sent by air mail post
5. Notice to applicant under section 6(9) of the Act
6. Registration of a foreign maintenance order
7. Payment of moneys under a registered maintenance order
8. Taking of evidence for a foreign court
9. Request for evidence to be taken or provided by a foreign court
10. Provisional variation order
11. Notice of cancellation of registration

-----

**IN EXERCISE** of the powers conferred on me by section 29 of the Family Court Act 1973 and by section 19 of the Maintenance Orders (Reciprocal Enforcement) Act 1973, I hereby make the following rules -

**TITLE**

**1.** These Rules may be cited as the Maintenance Orders (Reciprocal Enforcement) Rules 1976.

**APPLICATION UNDER SECTION 4 OF THE ACT**

**2.** (1) An application under section 4 of the Act for a maintenance order to be sent to a reciprocating country for enforcement shall be made in writing and signed by or on behalf of the payee under the order.

(2) Any such application as is referred to in the preceding paragraph shall -

- (a) specify the date on which the order was made;
- (b) contain such particulars as are known to the applicant of the whereabouts of the payer;
- (c) specify any matters likely to assist in the identification of the payer; and
- (d) where possible be accompanied by a recent photograph of the payer.

## **AUTHENTICATION OF DOCUMENTS**

3. Where under section 5(3) (b), section 6(4) or section 10(5) of the Act a document setting out or summarising evidence is required to be authenticated, it shall be authenticated by a certificate signed by the Chairman of the Family Court that the document is the original record or summary of evidence or that it is a true copy of the original record or summary.

## **DOCUMENTS TO BE SENT BY AIR MAIL POST**

4. Where under section 6(4) or section 10(5) of the Act or under these Rules a document is required to be sent to a court in a reciprocating country it shall be sent to that court by prepaid registered air mail post:

## **NOTICE TO APPLICANT UNDER SECTION 6(9) OF THE ACT**

5. (1) Where under section 6(9) of the Act the Family Court is required to give to a person on whose application a maintenance order has been made under section 5 of the Act an opportunity to consider evidence taken in a court in a reciprocating country, or by the Family Court at the request of such a court, and to make representations with respect to it and to adduce further evidence, the Clerk shall cause to be served on that person a notice which shall -

(a) set out the evidence so taken;

(b) inform that person that it appears to the Court that the maintenance order ought not to have been made; and

(c) inform that person that, if he wishes to make representations with respect to the evidence set out in the notice, he may do so orally or in writing and that, if he wishes to adduce further evidence, he should notify the Clerk.

(2) Where the Clerk receives notification that the person on whose application the maintenance order was made wishes to adduce further evidence, the Chairman shall fix a date for the hearing of that evidence and the Clerk shall send to the person written notice of that date.

## **REGISTRATION OF A FOREIGN MAINTENANCE ORDER**

6. (1) Where a certified copy of an order, not being a provisional order, received by Clerk is required under any of the provisions of Part II of the Act to be registered, the Clerk shall cause the order to be registered in the Court by means of a minute entered and signed by him in a register to be maintained by him for the purpose.

(2) Where the Court makes or confirms an order which is required under section 8(5) or section 10(10) of the Act to be registered, the Clerk shall enter and sign a minute or memorandum thereof in the register referred to in the preceding paragraph.

(3) Every minute or memorandum entered in pursuance of paragraph (1) or (2) shall specify the section of the Act under which the order in question is registered.

## **PAYMENT OF MONEYS UNDER A REGISTERED MAINTENANCE ORDER**

7. (1) While a maintenance order is registered in the Family Court under Part II of the Act, payment of moneys due under that order shall be made to the Clerk during the hours when the office of the Family Court is open to the public.

(2) Where the Clerk receives moneys due under a maintenance order registered order Part II of the Act, he shall credit those moneys to the Courts Trust Fund and pay them into a bank account of the Fund. As soon as reasonably possible thereafter he shall notify the Registrar of the Supreme Court of the payment of the moneys into that bank account and the Registrar shall thereupon draw, and deliver to the Clerk, a cheque on that bank account for the amount of those moneys in favour of the court which made the order under which the moneys were paid or of any person or authority to whom that court has for the time being directed that such moneys are to be sent. The Clerk, upon receiving that cheque, shall forthwith send it by prepaid registered air mail post to that court or to that person or authority, as the case may be.

(3) Where it appears to the Clerk that any moneys due and payable under a maintenance order registered in the Family Court under Part II of the Act have not been paid, he may and, if the amount of such moneys is equal to or exceeds the total amount payable under the order for a period of four weeks, he shall, whether the person for whose benefit the moneys are payable requests him to do so or not, apply to the Family Court to make such orders as are necessary or expedient to enable those moneys to be recovered from the payer.

## **TAKING OF EVIDENCE FOR A FOREIGN COURT**

8. (1) Where a request is made under section 15 of the Act by or on behalf of a court in a reciprocating country for evidence to be taken in Nauru, then, subject to the next following paragraph -

(a) the evidence shall be taken in the same manner as if that person were a witness in proceedings in the Family Court on a complaint;

(b) any oral evidence so taken shall be recorded in writing and read to the person who gave it, and that person shall be required to sign the document; and

(c) the Chairman shall certify at the foot of any document setting out the evidence of, or produced in evidence by, that person that such evidence was taken, or such document received in evidence, as the case may be, by the Family Court.

(2) Where any such request as is referred to in the preceding paragraph is accompanied by or contains a request for the evidence to be taken in a particular manner, the Court shall, so far as circumstances permit, comply with that request.

(3) Any such document as is mentioned in sub-paragraph (c) of paragraph (1) shall be sent to the court in the reciprocating country by or on behalf of which the request was made.

## **REQUEST FOR EVIDENCE TO BE TAKEN OR PROVIDED BY A FOREIGN COURT**

9. Where a request is made under section 15(3) of the Act for evidence to be taken or

provided by a court in a reciprocating country, that request shall be made in writing by the Clerk and shall be sent to that court.

### **PROVISIONAL VARIATION ORDER**

**10.** (1) Where a provisional order is made under section 6 of the Act for the variation of a maintenance order, the Clerk shall send to the court in the reciprocating country having power to confirm that provisional order a written notice that the provisional order has been made and a copy of the provisional order certified by the Clerk.

(2) Where a maintenance order to which section 6 of the Act applies is revoked by the Court by which the order was made, the Clerk shall send to the court in a reciprocating country which has power to confirm that maintenance order, or by which that maintenance order has been confirmed or registered for enforcement, a written notice that the maintenance order has been revoked and a copy of the order of revocation certified by the Clerk.

(3) Where a maintenance order made by a court in a reciprocating country is registered in the Family Court under Part II of the Act and the Family Court makes an order, not being a provisional order, varying or revoking that order, the Clerk shall send to the court which made the maintenance order a written notice that the order of variation or revocation has been made and a copy of the order certified by the Clerk.

(4) Where a provisional maintenance order made by a court in a reciprocating country is confirmed by the Family Court under section 8(2) of the Act, the Clerk shall send to the court by which the provisional maintenance order was made a written notice of its confirmation.

### **NOTICE OF CANCELLATION OF REGISTRATION**

**11.** Where under section 11(1) of the Act the Clerk cancels the registration of a maintenance order, he shall deliver or send by post to the payer under that order a written notice of the cancellation.

Made this 16th day of August, 1976.

I.R. Thompson,  
Chief Justice

-----