



Jersey

# **MAINTENANCE ORDERS (ENFORCEMENT) (JERSEY) LAW 1999**

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## **MAINTENANCE ORDERS (ENFORCEMENT) (JERSEY) LAW 1999**

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## MAINTENANCE ORDERS (ENFORCEMENT) (JERSEY) LAW 1999

A LAW to make additional provision for the enforcement of maintenance orders

Commencement [[see endnotes](#)]

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### 1 Interpretation

In this Law, unless the context otherwise requires –

“maintenance order” means an order for the payment of a sum, or periodic sums, of money made –

- a) by the Royal Court –
  - (i) under Article 25, 29, 31, 32 or 33 of the [Matrimonial Causes \(Jersey\) Law 1949](#), or
  - (ii) under Schedule 1 to the [Children \(Jersey\) Law 2002](#); or
  - (iii) under Article 44, 49, 51, 52 or 53 of the [Civil Partnership \(Jersey\) Law 2012](#); or
- (b) by the Petty Debts Court under Article 2, 4, 5, or 7 of the [Separation and Maintenance Orders \(Jersey\) Law 1953](#),

and “maintenance” shall be construed accordingly;

“payer” means, in relation to a maintenance order, the person liable to make payments under the order;

“recipient” means, in relation to a maintenance order, the person for whose benefit the order is made;

“wages” has the same meaning as in the [Employment \(Jersey\) Law 2003](#) save that it shall include pensions contributions paid by the employer and any other ancillary non-monetary benefits.<sup>1</sup>

## **2 Enforcement of maintenance orders**

- (1) If the payer fails to comply with a maintenance order, the recipient may proceed for recovery of any sum due under that order in accordance with the following provisions of this Article.<sup>2</sup>
- (2) The recipient may apply *ex parte* to the Bailiff or, as the case may be, to the Judge of the Petty Debts Court, for an *ordre provisoire* to distrain upon the movables (*biens-meubles*) of the payer and to make a provisional arrest of the payer's wages.
- (3) An application under paragraph (2) shall be supported by an affidavit setting out the terms of the maintenance order and the circumstances of the alleged failure of the payer to comply.
- (4) The recipient shall, as soon as may be after the issue of the *ordre provisoire*, summons the payer to appear before the Royal Court, or, as the case may be, the Petty Debts Court, to witness confirmation of the distraint or arrest or both, as the case may be.
- (5) Upon the hearing of a summons issued in accordance with paragraph (4), the Court may confirm or discharge the distraint or arrest or both and, upon the application of the recipient, the Court may, if it thinks fit, order that the maintenance order shall have effect as if it authorized an arrest to be made on the wages of the payer in such amount as the Court thinks just.
- (6) The Court shall have the same powers upon the return of a summons issued other than in reliance upon the provisions of this Law for the recovery of arrears of maintenance as it has under paragraph (5).

### **2A Order for arrest of wages attaching to maintenance order<sup>3</sup>**

- (1) The Royal Court or the Petty Debts Court, as the case may be, when making a maintenance order or at any time after that, may on the application of the recipient or of its own motion authorize an arrest to be made on the wages of the payer.
- (2) The Court shall not authorize an arrest under paragraph (1) –
  - (a) on the application of the recipient, unless it has given the payer an opportunity to be heard; or
  - (b) of its own motion, unless it has given the parties an opportunity to be heard.
- (3) The Court shall not authorize an arrest under paragraph (1) unless it has had regard to the means of the payer.
- (4) An arrest under paragraph (1) may not exceed one half of the wages of the payer.
- (5) Paragraph (4) shall not affect the discretion of the Court under Article 2(5) to make an order for an arrest of wages in such amount as the Court thinks just.

### **2B Direction for registration of maintenance order<sup>4</sup>**

- (1) The Royal Court or the Petty Debts Court, as the case may be, may –

- (a) when making a maintenance order or at any time after that; and
  - (b) on the application of the recipient,
- direct that the maintenance order be registered in the Public Registry.
- (2) Upon registration pursuant to a direction under paragraph (1), the maintenance order shall take effect as a judicial hypothec upon the immovable property of the payer as if –
    - (a) it were an act or judgment of the Court to which Article 13 of the [Loi \(1880\) sur la propriété foncière](#) applied; but
    - (b) securing such amounts, accruing from time to time, as the payer is liable to pay pursuant to the order.
  - (3) A registration under this Article shall be cancelled only if the Court gives, on the application of the recipient or the payer, a further direction to such effect.
  - (4) The Court shall not make a direction for registration under paragraph (1) unless it has given the payer an opportunity to be heard.

### **3 Citation**

This Law may be cited as the Maintenance Orders (Enforcement) (Jersey) Law 1999.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement	◦Projet No (where applicable)
Maintenance Orders (Enforcement) (Jersey) Law 1999	<a href="#">L.3/1999</a>	22 January 1999	<a href="#">P.176/1998</a>
Maintenance Orders (Enforcement) (Amendment) (Jersey) Law 2000	<a href="#">L.28/2000</a>	20 October 2000	<a href="#">P.72/2000</a>
Employment (Jersey) Law 2003	<a href="#">L.42/2003</a>	1 July 2005 ( <a href="#">R&amp;O.38/2005</a> )	<a href="#">P.55/2003</a>
Children (Jersey) Law 2002	<a href="#">L.50/2002</a>	1 August 2005 ( <a href="#">R&amp;O.74/2005</a> )	<a href="#">P.200/2001</a>
Maintenance Orders (Enforcement) (Amendment No. 2) (Jersey) Law 2007	<a href="#">L.14/2007</a>	6 April 2007	<a href="#">P.105/2006</a>
Civil Partnership (Jersey) Law 2012	<a href="#">L.4/2012</a>	2 April 2012	<a href="#">P.85/2011</a>
Maintenance Orders (Enforcement) (Amendment No. 3) (Jersey) Law 2018	<a href="#">L.6/2018</a>	23 February 2018	<a href="#">P.89/2017</a>

◦Projets available at [www.statesassembly.gov.je](http://www.statesassembly.gov.je)

### Table of Endnote References

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- <sup>1</sup> Article 1                      amended by L.42/2003, L.14/2007, L.4/2012
- <sup>2</sup> Article 2(1)                  amended by L.14/2007
- <sup>3</sup> Article 2A                    inserted by L.14/2007
- <sup>4</sup> Article 2B                    inserted by L.6/2018