



Jersey

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) RULES 2003

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MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) RULES 2003

Contents

Rule

PART 1	7
1 Interpretation	7
PART 2	7
PROCEEDINGS UNDER PART 1 OF THE LAW	7
2 Authentication of document	7
3 Transmission of document to Commonwealth country.....	8
4 Application for transmission of order.....	8
5 Form of Request for Registration	8
6 Form of Request for Confirmation.....	8
7 Notice for the purposes of Article 5(2)	8
8 Taking of evidence under Article 17(1).....	9
9 Remission of request for evidence under Article 18(1).....	9
10 Notice of variation, revocation or confirmation of order or setting aside of registration.....	9
11 Notice to payer of order registered under Article 8(2)	10
12 Recovery of sums in arrear under Part 1	10
13 Notice of cancellation of legislation under Article 14(2)	10
PART 3	10
PROCEEDINGS UNDER PART 3 OF THE LAW	10
14 Application under Article 23	10
15 Application under Article 24	10
16 Dismissal of application under Article 24 or 27(2)	10
17 Recovery of sums in arrear under Part 3	11
18 Notice of application under Article 27(4)(b).....	11
19 Taking of evidence under Article 29(1).....	11
PART 4	11
PROCEEDINGS UNDER PART 4 OF THE LAW	11

20	Form of Request for Enforcement.....	11
21	Form of notice of application under Article 32(2).....	12
22	Form of Notice of Variation or Revocation.....	12
23	Notice of order registered under Article 33(2).....	12
24	Notice of refusal of registration under Article 33	12
25	Notice of application or setting aside under Article 34.....	12
26	Notice to payer of appeal against refusal to register.....	12
27	Recovery of sums in arrear under Part 4.....	13
28	Taking of evidence under Article 39(1)	13
PART 5		13
ENFORCEMENT OF ORDERS		13
29	Enforcement by Viscount	13
PART 6		14
CLOSING PROVISION		14
30	Citation.....	14
SCHEDULE 1		15
REQUEST FOR REGISTRATION OF A MAINTENANCE ORDER		15
SCHEDULE 2		16
REQUEST FOR CONFIRMATION OF A PROVISIONAL ORDER		16
SCHEDULE 3		17
REQUEST FOR CONFIRMATION OF A PROVISIONAL ORDER		17
SCHEDULE 4		18
NOTICE OF APPLICATION		18
SCHEDULE 5		19
REQUEST FOR ENFORCEMENT OF A MAINTENANCE ORDER		19
SCHEDULE 6		21
NOTICE OF APPLICATION		21
SCHEDULE 7		22
NOTICE OF VARIATION OR REVOCATION		22
ENDNOTES		23
Table of Legislation History		23
Table of Renumbered Provisions		23
Table of Endnote References		23



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MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) RULES 2003

THE SUPERIOR NUMBER OF THE ROYAL COURT, in pursuance of Article 13 of the [Royal Court \(Jersey\) Law 1948](#) and Article 44 of the [Maintenance Orders \(Facilities for Enforcement\) \(Jersey\) Law 2000](#), and of all other powers enabling it in this behalf, has made the following Rules –

Commencement [[see endnotes](#)]

PART 1

1 Interpretation

- (1) In these Rules the “Law” means the [Maintenance Orders \(Facilities for Enforcement\) \(Jersey\) Law 2000](#) and other terms have the same meaning as in the Law.
- (2) A reference in these Rules to a Part, Rule or Schedule by number only and without further identification is a reference to the Part, Rule or Schedule of that number in these Rules.

PART 2

PROCEEDINGS UNDER PART 1 OF THE LAW

2 Authentication of document

A document setting out or summarizing any evidence required by any provision of the Law or these Rules to be authenticated shall be authenticated by a certificate, signed by the Greffier, that the document is the original document containing or recording or, as the case may be, summarizing the evidence given or a true copy of that document.

3 Transmission of document to Commonwealth country

Any document required by any provision of the Law or these Rules to be sent to a court in a Commonwealth country shall be sent to the registrar of that court by post.

4 Application for transmission of order

- (1) An application by a payee under Article 2 of the Law shall be made in writing to the Greffier.
- (2) An application made in pursuance of paragraph (1) 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;
 - (d) where possible, be accompanied by a recent photograph of the payer.
- (3) The Greffier may require an application under paragraph (1) to be supported by an affidavit.

5 Form of Request for Registration

A Request for Registration under Article 2(2) of the Law shall be in the form set out in Schedule 1.

6 Form of Request for Confirmation

- (1) A Request for Confirmation under Article 3(2) of the Law shall be in the form set out in Schedule 2.
- (2) A Request for Confirmation under Article 5(3), 6(3) or 12(6) of the Law shall be in the form set out in Schedule 3.

7 Notice for the purposes of Article 5(2)

- (1) For the purpose of compliance with Article 5(2) of the Law there shall be served on the person on whose application the order was made a notice which shall –
 - (a) set out the evidence received or taken, as the case may be, in pursuance of Article 5(1) of the Law;
 - (b) inform that person that it appears to the court that the order ought not to have been made or, as the case may be, ought not to have been made in the form in which it was made; and
 - (c) inform that person that he or she –
 - (i) may make representations with respect to the evidence set out in the notice orally or in writing, and

- (ii) should notify the Greffier if he or she wishes to adduce further evidence.
- (2) Where the Greffier receives notification that the person on whose application the order was made wishes to adduce further evidence, the Greffier shall fix a date for the hearing of such evidence and shall send that person written notice of the date fixed.

8 Taking of evidence under Article 17(1)

- (1) Where the evidence of any person is to be taken in pursuance of Article 17(1) of the Law, subject to paragraph (2) –
 - (a) the evidence shall be taken in the same manner as if that person were a witness in proceedings on an application for maintenance;
 - (b) any oral evidence so taken shall be put into writing; and
 - (c) the Greffier shall certify at the foot of any document setting out the evidence taken of, or produced in evidence by, that person that such evidence was taken, or document received in evidence, as the case may be, by the court.
- (2) Where such a request as is mentioned in Article 17(1) of the Law includes a request that the evidence be taken in a particular manner, the court by which the evidence is taken shall, so far as circumstances permit, comply with that request.

9 Remission of request for evidence under Article 18(1)

Any request under Article 18 of the Law for the taking or provision of evidence by a court in a Commonwealth country shall be sent to the court in question by post.

10 Notice of variation, revocation or confirmation of order or setting aside of registration

- (1) Where under Article 6 of the Law a court makes an order (not being a provisional order) varying or revoking an order to which that Article applies, the Greffier shall send to any court in a Commonwealth country in which to the Greffier's knowledge the original order is registered or by which it was confirmed, written notice of the variation or revocation.
- (2) Where under Article 9 of the Law a court sets aside the registration of an order, the Greffier shall send written notice of that action to the Lieutenant-Governor.
- (3) Where under Article 10(7) of the Law a court confirms a provisional order, the Greffier shall send written notice of the confirmation and of any alteration made in the provisional order to the court which made the provisional order.
- (4) Where under Article 12 of the Law a court makes an order, not being a provisional order, varying or revoking an order to which that Article

applies, the Greffier shall send written notice of the variation or revocation to the court which made the order.

- (5) Where under Article 13(2) of the Law a court confirms a provisional order, the Greffier shall send written notice of the confirmation and of any alteration made in the provisional order to the court which made the provisional order.

11 Notice to payer of order registered under Article 8(2)

Where the Greffier registers an order under Article 8(2) of the Law, the Greffier shall send written notice to the payer that the order has been duly registered and of the person to whom and the hours and place at which payments under the order should be made.

12 Recovery of sums in arrear under Part 1

Where it appears to the Viscount that any sums payable under an order registered under Part 1 of the Law are in arrear the Viscount may, and if such sums are in arrear to an amount equal to 4 times the sum payable weekly under the order, the Viscount shall proceed in his or her own name for the recovery of those sums, unless it appears to the Viscount that it is unreasonable in the circumstances to do so.

13 Notice of cancellation of legislation under Article 14(2)

Where the registration of an order is cancelled under Article 14(2) of the Law, the Greffier shall send written notice of that action to the Lieutenant-Governor.

PART 3

PROCEEDINGS UNDER PART 3 OF THE LAW

14 Application under Article 23

An application under Article 23 of the Law shall be made through the Greffier.

15 Application under Article 24

An application received by the Lieutenant-Governor under Article 24 of the Law shall be sent to the Greffier.

16 Dismissal of application under Article 24 or 27(2)

Where the Royal Court dismisses an application under Article 24 of the Law for a maintenance order or an application received under Article 27(2) of the Law for the variation of an order under Part 3 of the Law, the Greffier shall send written notice of the decision and a statement of the Court's reasons to the Lieutenant-Governor.

17 Recovery of sums in arrear under Part 3

Where it appears to the Viscount that any sums payable under an order under Part 3 of the Law are in arrear the Viscount may, and if such sums are in arrear to an amount equal to 4 times the sum payable weekly under the order, the Viscount shall proceed in his or her own name for the recovery of those sums, unless it appears to the Viscount that it is unreasonable in the circumstances to do so.

18 Notice of application under Article 27(4)(b)

Notice under Article 27(4)(b) of the Law of an application for the variation or revocation of an order under Part 3 of the Law shall be in the form set out in Schedule 4 and shall be sent by post not less than 6 weeks before the date of the hearing of the application to the Lieutenant-Governor for transmission to the appropriate authority in the convention country in which the defendant to the application is residing.

19 Taking of evidence under Article 29(1)

- (1) Where the evidence of any person is to be taken in pursuance of Article 29(1) of the Law, subject to paragraph (2) –
 - (a) the evidence shall be taken in the same manner as if that person were a witness in proceedings on an application for maintenance;
 - (b) any oral evidence so taken shall be put into writing; and
 - (c) the Greffier shall certify at the foot of any document setting out the evidence taken, or produced in evidence, that such evidence was taken, or document received in evidence, as the case may be, by the court.
- (2) Where such a request as is mentioned in Article 29(1) of the Law includes a request that the evidence be taken in a particular manner, the court by which the evidence is taken shall, so far as circumstances permit, comply with that request.
- (3) Any such document as is referred to in sub-paragraph (1)(c) shall be sent to the Lieutenant-Governor for transmission to the appropriate authority in the convention country in which the request originated.

PART 4**PROCEEDINGS UNDER PART 4 OF THE LAW****20 Form of Request for Enforcement**

A Request for Enforcement under Article 31(2) of the Law shall be in the form set out in Schedule 5.

21 Form of notice of application under Article 32(2)

- (1) A notice of application for the variation or revocation of a maintenance order under Article 32(2) of the Law shall be in the form set out in Schedule 6.
- (2) The Greffier shall give the payer notice in writing of the date fixed for the hearing by sending notice by post addressed to the payer's last known or usual place of abode.

22 Form of Notice of Variation or Revocation

A Notice of Variation or Revocation under Article 32(3) of the Law shall be the form set out in Schedule 7.

23 Notice of order registered under Article 33(2)

Where the Greffier registers an order under Article 33(2) of the Law, the Greffier shall –

- (a) send written notice to the Lieutenant-Governor that the order has been duly registered; and
- (b) send written notice to the payer by post addressed to the payer's last known or usual place of abode that the order has been duly registered and of the person to whom and the hours and place at which payments under the order should be made.

24 Notice of refusal of registration under Article 33

If the Greffier refuses to register an order under Article 33 of the Law the Greffier shall give written notice of the Greffier's refusal and of the grounds to the Lieutenant-Governor.

25 Notice of application or setting aside under Article 34

If the payer applies under Article 34 of the Law for the registration of a maintenance order to be set aside, the Greffier shall give written notice of the application to the Lieutenant-Governor and, if the registration is set aside, shall give written notice thereof to the Lieutenant-Governor.

26 Notice to payer of appeal against refusal to register

If the payee appeals under Article 35 of the Law against any refusal to register, the Greffier shall give written notice of the appeal and of the date of the hearing of the appeal to the payer by post addressed to the payer's last known or usual place of abode.

27 Recovery of sums in arrear under Part 4

Where it appears to the Viscount that any sums payable under an order registered under Part 4 of the Law are in arrear the Viscount may, and if such sums are in arrear to any amount equal to 4 times the sum payable weekly under the order, the Viscount shall proceed in his or her own name for the recovery of those sums, unless it appears to the Viscount that it is unreasonable in the circumstances to do so.

28 Taking of evidence under Article 39(1)

- (1) Where the evidence of any person is to be taken in pursuance of Article 39(1) of the Law, subject to paragraph (2) –
 - (a) the evidence shall be taken in the same manner as if that person were a witness in proceedings on an application for maintenance;
 - (b) any oral evidence so taken shall be put into writing and read to the person who gave it, who shall be required to sign the document; and
 - (c) the Greffier shall certify at the foot of any document setting out the evidence taken, or produced in evidence, that such evidence was taken or document received in evidence, as the case may be, by the court.
- (2) Where such a request as is mentioned in Article 39(1) of the Law includes a request that the evidence be taken in a particular manner, the court by which the evidence is taken shall, so far as circumstances permit, comply with that request.

PART 5**ENFORCEMENT OF ORDERS****29 Enforcement by Viscount**

- (1) In the enforcement in Jersey of an order under the Law, the Viscount shall take such steps as the Viscount is empowered to take for the enforcement of a maintenance order within the meaning of the [Maintenance Orders \(Enforcement\) \(Jersey\) Law 1999](#) (the “1999 Law”).
- (2) In proceedings in Jersey for the recovery of sums payable under an order under the Law, such order ranks for the purposes of the 1999 Law as a maintenance order.

PART 6

CLOSING PROVISION

30 Citation

These Rules may be cited as the Maintenance Orders (Facilities for Enforcement) Rules 2003.

SCHEDULE 1

(Rule 5)

REQUEST FOR REGISTRATION OF A MAINTENANCE ORDER**MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (JERSEY)
LAW 2000 (ARTICLE 2(2))**

[The Judicial Greffier]

[Registrar, Family Division of the Royal Court of Jersey]*

(address)

.....

.....

.....

1. I enclose a certified copy of a maintenance order made by this Court for transmission to the responsible authority in *[name of country]*, requesting the registration of the order in the appropriate court in that country.

2. I certify that the order is legally enforceable in Jersey.

3. *(Either)* I certify that to the best of my information and belief the arrears due under the order at the date hereof are *[amount, in words in [] currency]*

(Or) I certify that to the best of my information and belief no arrears are due under the order at the date hereof.

4. The following is the information I have as to the whereabouts of the payer:

5. The following information may facilitate the identification of the payer:

6. I enclose a photograph of the payer *[delete if no photograph is available]*.

[Signature of Greffier/Registrar]

[Date of signature]

[Note: This form is to be sent to the Lieutenant-Governor for onward transmission to the responsible authority in the relevant country.]

* *Delete as appropriate*

SCHEDULE 2

(Rule 6(1))

REQUEST FOR CONFIRMATION OF A PROVISIONAL ORDER**MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (JERSEY)
LAW 2000 (ARTICLE 3(2))**

[The Judicial Greffier]

[Registrar, Family Division of the Royal Court of Jersey]*

(address)

.....

.....

.....

1. I enclose a certified copy of a provisional order made by this Court for transmission to the responsible authority in [*name of country*], requesting that proceedings be instituted in the appropriate court in that country for the confirmation of the order.
2. The order is provisional only and has no effect unless and until confirmed, with or without alteration, by a competent court.
3. I enclose a document, duly authenticated, setting out or summarizing the evidence given in the proceedings in this Court.
4. I certify that the following grounds on which the making of the order might have been opposed by the payer under the order:
5. The following is the information I have as to the whereabouts of the payer:
6. The following information may facilitate the identification of the payer:
7. I enclose a photograph of the payer [*delete if no photograph is available*].

[Signature of Greffier/Registrar]

[Date of signature]

[Note: This form is to be sent to the Lieutenant-Governor for onward transmission to the responsible authority in the relevant country.]

* *Delete as appropriate*

SCHEDULE 3

(Rule 6(2))

REQUEST FOR CONFIRMATION OF A PROVISIONAL ORDER**MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (JERSEY)
LAW 2000 (ARTICLE 5(3) OR 12(6))**

[The Judicial Greffier]

[Registrar, Family Division of the Royal Court of Jersey]*

(address)

.....

.....

.....

1. I enclose a certified copy of a provisional order made by this Court and request that proceedings be instituted in your court for the confirmation of the order.
2. The order is provisional only and has no effect unless and until it is confirmed, with or without alteration, by a competent court.
3. I enclose a document, duly authenticated, setting out or summarizing the evidence given in the proceedings in this Court.

Orders made under Article 5(3) only: *[delete if inapplicable]*

4. The order is a fresh provisional order in place of the order dated
and previously sent for confirmation in your court, which
has been revoked.

[Signature of Greffier/Registrar]

[Date of signature]

[Note: This form is to be sent to the Lieutenant-Governor for onward transmission to the responsible authority in the relevant country.]

* *Delete as appropriate*

SCHEDULE 4

(Rule 18)

NOTICE OF APPLICATION**MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (JERSEY
LAW 2000 (ARTICLE 27(4)(b))**

[The Judicial Greffier]

[Registrar, Family Division of the Royal Court of Jersey]*

(address)

.....

.....

.....

To: *[name of defendant]*

of *[address of defendant]*

1. An application has been made by *[name of applicant]*
..... that an order made on *[date]*
..... and registered in this Court and by which it was
ordered as follows: *[details of order]*

(Either) should be revoked

(Or) should be varied by an order requiring: *[state type of order sought]*

2. The grounds for the application are: *[give details]*
3. The hearing of the application will be on *[date]* at *[time]*
..... in this Court. If you do not appear the Court may proceed in
your absence. If you wish to make written representations to the Court you
may do so; they should be sent to me at the above address.

[Signature of Greffier/Registrar]

[Date of signature]

[Note: This form is to be sent to the Lieutenant-Governor for onward transmission
to the responsible authority in the relevant country.]

* *Delete as appropriate*

SCHEDULE 5

(Rule 20)

REQUEST FOR ENFORCEMENT OF A MAINTENANCE ORDER

Hague Convention on the Recognition and Enforcement
of Maintenance Obligations

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (JERSEY)
LAW 2000 (ARTICLE 31(2))

[The Judicial Greffier]

[Registrar, Family Division of the Royal Court of Jersey]*

(address)
.....
.....
.....

1. I enclose a certified copy of a maintenance order now registered in this Court for transmission to the responsible authority in *[name of country]*, requesting the enforcement of the order under the terms of the Hague Convention on the Recognition of Maintenance Orders.
2. I certify that the order is no longer subject to the ordinary forms of review and that it is legally enforceable in Jersey.
3. *(Either)* I certify that the payer appeared in the proceedings.

(Or) I certify that notice of the institution of the proceedings, including notice of the substance of the claim, was served on the payer, and enclose a copy of a document establishing that fact.
4. I certify that legal aid was granted as follows: *[give details, or delete if inapplicable]*
5. *(Either)* I certify that to the best of my information and belief the arrears due under the order at the date hereof are *[amount, in words in*
[] currency]

(Or) I certify that to the best of my information and belief no arrears are due under the order at the date hereof
6. The following is the information I have as to the whereabouts of the payer:

7. The following information may facilitate the identification of the payer:
8. I enclose a photograph of the payer [*delete if no photograph is available*].

[*Signature of Greffier/Registrar*]

[*Date of signature*]

[Note: This form is to be sent to the Lieutenant-Governor for onward transmission to the responsible authority in the relevant Hague Convention country.]

* *Delete as appropriate*

SCHEDULE 6

(Rule 21(1))

NOTICE OF APPLICATION

Hague Convention on the Recognition and Enforcement
of Maintenance Obligations

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (JERSEY)
LAW 2000 (ARTICLE 32(2))

[The Judicial Greffier]

[Registrar, Family Division of the Royal Court of Jersey]*

(address)
.....
.....
.....

To: *[name of payer]*
of *[address of payer]*

1. An application has been made by *[name of payee]* that an order made by this Court on *[date]* and by which you were ordered as follows: *[details of order]*

(Either) should be revoked

(Or) should be varied by an order requiring: *[give details]*

2. The substance of the application is as follows: *[give details of grounds, etc.]*
3. The hearing may take place at any time after the expiry of 6 weeks from the service on you of this notice. If you wish to make written representations to the Court, or to adduce evidence in person or through a representative you may do so.

[Signature of Greffier/Registrar]

[Date of signature]

[Note: This form is to be sent to the Lieutenant-Governor for onward transmission to the responsible authority in the relevant Hague Convention country.]

* *Delete as appropriate*

SCHEDULE 7

(Rule 22)

NOTICE OF VARIATION OR REVOCATION

Hague Convention on the Recognition and Enforcement
of Maintenance Obligations

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) (JERSEY)
LAW 2000 (ARTICLE 32(3))

[The Judicial Greffier]

[Registrar, Family Division of the Royal Court of Jersey]*

(address)
.....
.....
.....

1. I enclose a certified copy of an order made by this Court varying or revoking a maintenance order previously transmitted for enforcement in [*name of country*], under the terms of the Hague Convention on the Recognition and Enforcement of Maintenance Obligations.
2. I certify that the order of variation or revocation is no longer subject to the ordinary forms of review and that it is legally enforceable in Jersey.
3. (*Either*) I certify that the payer appeared in the proceedings leading to the making of the order of variation or revocation

(*Or*) I certify that notice of the institution of the proceedings for variation or revocation, including notice of the substance of the claim, was served on the payer and enclose a copy of a document establishing that fact.
4. I certify that legal aid was granted as follows: [*give details or delete if inapplicable*]

[*Signature of Greffier/Registrar*]

[*Date of signature*]

[Note: This form is to be sent to the Lieutenant-Governor for onward transmission to the responsible authority in the relevant Hague Convention country.]

* *Delete as appropriate*

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Maintenance Orders (Facilities for Enforcement) (Jersey) Rules 2003	R&O.28/2003	2 June 2003 (R&O.41/2003)

Table of Renumbered Provisions

Original	Current
1 (3), (4)	spent omitted from this revised edition

Table of Endnote References

There are currently no endnote references