

# PROJET DE LOI

ENTITLED

## **The Maintenance Orders (Reciprocal Enforcement) (Bailiwick of Guernsey) Law, 1984 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* Ordres en Conseil Vol. XXVIII, p. 457; as amended by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988 (Ordres en Conseil Vol. XXXI, p. 171); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278). See also the Deputy Bailiff (Guernsey) Law, 1969 (Ordres en Conseil Vol. XXII, p. 122); the Government of Alderney Law, 2004 (No. III of 2005).

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## **The Maintenance Orders (Reciprocal Enforcement) (Bailiwick of Guernsey) Law, 1984**

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# PROJET DE LOI

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## **The Maintenance Orders (Reciprocal Enforcement) (Bailiwick of Guernsey) Law, 1984**

**THE STATES**, in pursuance of their Resolution of the twenty-fourth day of November, nineteen hundred and eighty-two, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### PART I

#### RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS MADE IN THE BAILIWICK OR RECIPROCATING COUNTRY

##### *Designation of reciprocating countries*

##### **Ordinances designating reciprocating countries.**

1. (1) The States, if satisfied that, in the event of the benefits conferred by this Part of this Law being applied to, or to particular classes of, maintenance orders made by the Courts of any country or territory outside the Bailiwick, similar benefits will in that country or territory be applied to, or to those classes of, maintenance orders made by the Courts of the Bailiwick, may by Ordinance designate that country or territory as a reciprocating country for the purposes of this Part of this Law; and, subject to the next succeeding subsection in this Part of this Law the expression "**reciprocating country**" means a country or territory that is for the time being so designated.

(2) A country or territory may be designated under the last preceding subsection as a reciprocating country either as regards maintenance orders generally, or as regards maintenance orders other than those of any specified class, or as regards maintenance orders of one or more specified classes only; and a country or territory which is for the time being so designated otherwise than as regards maintenance orders generally shall for the purposes of this Part of this Law be taken to be a reciprocating country only as regards maintenance orders of the class to which the designation extends.

*Orders made by Courts in the Bailiwick*

**Transmission of maintenance order made in the Bailiwick for enforcement in reciprocating country.**

2. (1) Subject to the next succeeding subsection, where the payer under a maintenance order made, whether before or after the commencement of this Part of this Law, by a Court in the Bailiwick is residing in a reciprocating country, the payee under the order may apply for the order to be sent to that country for enforcement.

(2) The provisions of the last preceding subsection shall not have effect in relation to a provisional order or to an order made by virtue of a provision of Part II of this Law.

(3) Every application under this section shall be made in the prescribed manner to the Court which made the maintenance order to which the application relates.

(4) If, on an application duly made under this section to a Court in the Bailiwick, that Court is satisfied that the payer under the maintenance order

to which the application relates is residing in a reciprocating country, the following documents, that is to say –

- (a) a certified copy of the maintenance order,
- (b) a certificate signed by the Clerk of the Court certifying that the order is enforceable in the Island of Guernsey, the Island of Alderney or the Island of Sark, as the case may be,
- (c) a certificate of arrears so signed,
- (d) a statement giving such information as the Court possesses as to the whereabouts of the payer,
- (e) a statement giving such information as the Court possesses for facilitating the identification of the payer, and
- (f) where available, a photograph of the payer,

shall be sent by the Court to the Bailiff, who shall forward the same to the Lieutenant-Governor, with a view to their being transmitted by the Lieutenant-Governor to the responsible authority in the reciprocating country if he is satisfied that the statement relating to the whereabouts of the payer gives sufficient information to justify that being done.

(5) Nothing in this section shall be taken as affecting any jurisdiction of a Court in the Bailiwick with respect to a maintenance order to which this section applies, and any such order may be enforced, varied or revoked

accordingly.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the reference herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Power of Bailiwick Court to make provisional maintenance order against person residing in reciprocating country.**

3. (1) Where an application is made to a Court in the Bailiwick against a person residing in a reciprocating country and the application is one on which the Court would have jurisdiction by virtue of any enactment to make a maintenance order if –

- (a) that person were residing in the Bailiwick, and
- (b) a summons to appear before the Court to answer to the application had been duly served on him,

the Court shall have jurisdiction to hear the application and may, subject to the next succeeding subsection, make a maintenance order on the application.

(2) A maintenance order made by virtue of this section shall be a provisional order.

(3) If the Court hearing an application to which subsection (1) of



this section applies is satisfied –

- (a) that there are grounds on which a maintenance order containing a provision requiring the making of payments for the maintenance of a child may be made on that application, but
- (b) that it has no jurisdiction to make that order unless it also makes an order providing for the legal custody of that child,

then, for the purpose of enabling the Court to make the maintenance order, the applicant shall be deemed to be the person to whom the legal custody of that child has been committed by an order of the Court which is for the time being in force.

(4) Where a Court makes a maintenance order which is by virtue of this section a provisional order, the following documents, that is to say –

- (a) a certified copy of the maintenance order,
- (b) a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings,
- (c) a certificate signed by the Clerk of the Court certifying that the grounds stated in the certificate are the grounds on which the making of the order might have been opposed by the payer under the order,
- (d) a statement giving such information as was available to

the Court as to the whereabouts of the payer,

(e) a statement giving such information as the Court possesses for facilitating the identification of the payer, and

(f) where available, a photograph of the payer,

shall be sent by the Court to the Bailiff, who shall forward the same to the Lieutenant-Governor, with a view to their being transmitted by the Lieutenant-Governor to the responsible authority in the reciprocating country in which the payer is residing if he is satisfied that the statement relating to the whereabouts of the payer gives sufficient information to justify that being done.

(5) A maintenance order made by virtue of this section which has been confirmed by a competent Court in a reciprocating country shall be treated for all purposes as if the Bailiwick Court which made the order had made it in the form in which it was confirmed and as if the order had never been a provisional order, and subject to the next succeeding section, any such order may be enforced, varied or revoked accordingly.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the reference herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Variation and revocation of maintenance order made in the Bailiwick.**

4. (1) This section applies to a maintenance order a certified copy of which has been sent to a reciprocating country in pursuance of section two of this Law and to a maintenance order made by virtue of the last preceding section which has been confirmed by a competent Court in such a country.

(2) A Court in the Bailiwick having power to vary a maintenance order to which this section applies shall have power to vary that order by a provisional order.

(3) Where the Court hearing an application for the variation of a maintenance order to which this section applies proposes to vary it by increasing the rate of the payments under the order then, unless either –

- (a) both the payer and the payee under the order appear in the proceedings, or
- (b) the applicant appears and the appropriate process has been duly served on the other party,

the order varying the order shall be a provisional order.

(4) Where a Court in the Bailiwick makes a provisional order varying a maintenance order to which this section applies, the Court shall send in the prescribed manner to the Court in the reciprocating country having power to confirm the provisional order a certified copy of the provisional order together with a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings.

(5) Where a certified copy of a provisional order made by a

Court in a reciprocating country, being an order varying or revoking a maintenance order to which this section applies, together with a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the provisional order was made, is received by the Court in the Bailiwick which made the maintenance order, that Court may confirm or refuse to confirm the provisional order and, if that order is an order varying the maintenance order, confirm it either without alteration or with such alterations as it thinks reasonable.

(6) For the purpose of determining whether a provisional order should be confirmed under the last preceding subsection, the Court shall proceed as if an application for the variation or revocation, as the case may be, of the maintenance order in question had been made to it; and the Court shall cause a summons to be issued calling upon the payee under the order to show cause before the Court why the order should not be confirmed.

(7) Where a maintenance order to which this section applies has been varied by an order (including a provisional order which has been confirmed) made by a Court in the Bailiwick or by a competent Court in a reciprocating country, the maintenance order shall, as from the date on which the order was made, have effect as varied by that order and, where that order was a provisional order, as if that order had been made in the form in which it was confirmed and as if it had never been a provisional order.

(8) Where a maintenance order to which this section applies has been revoked by an order made by a Court in the Bailiwick or by a competent Court in a reciprocating country, including a provisional order made by the last-mentioned Court which has been confirmed by a Court in the Bailiwick, the maintenance order shall, as from the date on which the order was made, be deemed to have ceased to have effect except as respects any arrears due under the maintenance order at that date.

(9) Where before a maintenance order made by virtue of section three of this Law is confirmed a document, duly authenticated, setting out or summarising evidence taken in a reciprocating country for the purpose of proceedings relating to the confirmation of the order is received by the Court in the Bailiwick which made the order, or that Court, in compliance with a request made to it by a Court in such a country, takes the evidence of a person residing in the Bailiwick for the purpose of such proceedings, the Court in the Bailiwick which made the order shall consider that evidence and if, having done so, it appears to it that the order ought not to have been made –

- (a) it shall, in such manner as may be prescribed, give to the person on whose application the maintenance order was made an opportunity to consider that evidence, to make representations with respect to it and to adduce further evidence, and
- (b) after considering all the evidence and any representations made by that person, it may revoke the maintenance order.

*Orders made by Courts in reciprocating Countries*

**Registration in Bailiwick Court of maintenance order made in reciprocating country.**

5. (1) This section applies to a maintenance order made, whether before or after the commencement of this Part of this Law, by a Court in a reciprocating country, including such an order made by such a Court which has been confirmed by a Court in another reciprocating country but excluding a provisional order which has not been confirmed.

(2) Where a certified copy of an order to which this section applies is received by the Lieutenant-Governor from the responsible authority in a reciprocating country, and it appears to the Lieutenant-Governor that the payer under the order is residing in the Bailiwick, he shall send the copy of the order to the Bailiff for registration in the Court, which in respect of that payer, is the appropriate Bailiwick Court.

(3) Where the appropriate Bailiwick Court receives a certified copy of an order to which this section applies, the Court shall, subject to the next succeeding subsection, register the order in the prescribed manner.

(4) Before registering an order under this section the Court shall take such steps as it thinks fit for the purpose of ascertaining whether the payer under the order is residing within the jurisdiction of the Court, and if after taking those steps it is satisfied that the payer is not so residing the Court shall return the certified copy of the order to the Bailiff for transmission to the Lieutenant-Governor with a statement giving such information as the Court possesses as to the whereabouts of the payer.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Confirmation by Bailiwick Court of provisional maintenance order made in**

**reciprocating country.**

6. (1) This section applies to a maintenance order made, whether before or after the commencement of this Part of this Law, by a Court in a reciprocating country being a provisional order.

(2) Where a certified copy of an order to which this section applies together with –

- (a) a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the order was made, and
- (b) a statement of the grounds on which the making of an order might have been opposed by the payer under the order,

is received by the Lieutenant-Governor from the responsible authority in a reciprocating country, and it appears to the Lieutenant-Governor that the payer under the order is residing in the Bailiwick, he shall send the copy of the order and documents which accompanied it to the Bailiff, for transmission to the Court, which in respect of that payer, is the appropriate Bailiwick Court and that Court shall –

- (i) if the payer under the order establishes any such defence as he might have raised in the proceedings in which the order was made, refuse to confirm the order, and
- (ii) in any other case, confirm the order either without alteration or with such alteration as it thinks reasonable.

(3) In any proceedings for the confirmation under this section of a provisional order, the statement received from the Court which made the order of the grounds on which the making of the order might have been opposed by the payer under the order shall be conclusive evidence that the payer might have raised a defence on any of those grounds in the proceedings in which the order was made.

(4) For the purpose of determining whether a provisional order should be confirmed under this section the Court shall proceed as if an application for a maintenance order against the payer under the provisional order had been made to it; and the Court shall cause a summons to be issued calling upon the payer under the order to show cause before the Court why the order should not be confirmed.

(5) The Court having power under this section to confirm a provisional order shall, if the Court confirms the order, register the order in the prescribed manner in that Court, and shall, if the Court refuses to confirm the order, return the certified copy of the order and the documents which accompanied it to the Bailiff, for transmission to the Lieutenant-Governor.

(6) If a summons to appear in the proceedings for the confirmation of the provisional order cannot be duly served on the payer under that order the Court by whom the certified copy of the order was received shall return that copy and the documents which accompanied it together with a statement giving such information as the Court possesses as to the whereabouts of the payer to the Bailiff for transmission to the Lieutenant-Governor.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law,*



*1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Enforcement of maintenance order registered in Bailiwick Court.**

7. (1) A registered order may be enforced in the Bailiwick as if it had been made by the registering Court and as if that Court had had jurisdiction to make it; and proceedings for or with respect to the enforcement of any such order may be taken accordingly.

(2) Any person for the time being under an obligation to make payments in pursuance of a registered order shall give notice of any change of address to the Clerk of the registering Court, and any person failing without reasonable excuse to give such a notice shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].

(3) An order which by virtue of this section is enforceable by a Court in the Island of Guernsey or the Island of Alderney shall be enforceable as if it were an affiliation order made by that Court under the provisions of the Law of 1927 or the Law of 1964, as the case may be; and the provisions of any enactment with respect to the enforcement of affiliation orders shall apply accordingly.

(4) An order which by virtue of this section is enforceable by a Court in the Island of Sark shall be enforceable as if the order were an order made by that Court for the payment of a civil debt.

(5) The Court by which an order is enforceable by virtue of this section, and the officers thereof, shall take all such steps for enforcing the order as

may be prescribed.

(6) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in any Court under this Part of this Law a certificate of arrears sent to the Court shall be evidence of the facts stated therein.

(7) Subject to the next succeeding subsection, sums of money payable under a registered order shall be payable in accordance with the order as from the date on which the order was made.

(8) The Court having power under the last preceding section to confirm a provisional order may, if it decides to confirm the order, direct that the sums of money payable under it shall be deemed to have been payable in accordance with the order as from such date, being a date later than the date on which the order was made, as it may specify; and subject to any such direction, a maintenance order registered under that section shall be treated as if it had been made in the form in which it was confirmed and as if it had never been a provisional order.

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**NOTE**

*In section 7, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.*

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**Variation and revocation of maintenance order registered in Bailiwick Court.**

8. (1) Subject to the provisions of this section, the registering Court –

- (a) shall have the like power, on an application made by the payer or payee under a registered order, to vary or revoke the order as if it had been made by the registering court and as if that court had had jurisdiction to make it, and
- (b) shall have power to vary or revoke a registered order by a provisional order.

(2) The registering Court shall not vary a registered order otherwise than by a provisional order unless –

- (a) both the payer and the payee under the registered order are for the time being residing in the Bailiwick, or
- (b) the application is made by the payee under the registered order, or
- (c) the variation consists of a reduction in the rate of the payments under the registered order and is made solely on the ground that there has been a change in the financial circumstances of the payer since the registered order was made or, in the case of an order registered under section six of this Law, since the registered order was confirmed, and the Courts in the reciprocating country in which the maintenance order in question was made do not have power, according to the law in force in that country, to confirm provisional orders varying maintenance orders.

(3) The registering Court shall not revoke a registered order otherwise than by a provisional order unless both the payer and the payee under the registered order are for the time being residing in the Bailiwick.

(4) On an application for the revocation of a registered order the registering Court shall, unless both the payer and the payee under the registered order are for the time being residing in the Bailiwick, apply the law applied by the reciprocating country in which the registered order was made; but where by virtue of this subsection the registering Court is required to apply that law, that Court may make a provisional order if it has reason to believe that the ground on which the application is made is a ground on which the order could be revoked according to the law applied by the reciprocating country, notwithstanding that it has not been established that it is such a ground.

(5) Where the registering Court makes a provisional order varying or revoking a registered order the Court shall send in the prescribed manner to the Court in the reciprocating country which made the registered order a certified copy of the provisional order together with a document, authenticated in the prescribed manner, setting out or summarising the evidence given in the proceedings.

(6) Where a certified copy of a provisional order made by a Court in a reciprocating country, being an order varying a registered order, together with a document, duly authenticated, setting out or summarising the evidence given in the proceedings in which the provisional order was made, is received by the registering Court, that Court may confirm the order either without alteration or with such alterations as it thinks reasonable or refuse to confirm the order.

(7) For the purpose of determining whether a provisional order

should be confirmed under the last preceding subsection the Court shall proceed as if an application for the variation of the registered order had been made to it; and the Court shall cause a summons to be issued calling upon the payer under the order to show cause before the Court why the order should not be confirmed.

(8) Where a registered order has been varied by an order (including a provisional order which has been confirmed) made by a Court in the Bailiwick or by a competent Court in a reciprocating country, the registered order shall, as from the date on which the order was made, have effect as varied by that order and, where that order was a provisional order, as if that order had been made in the form in which it was confirmed and as if it had never been a provisional order.

(9) Where a registered order has been revoked by an order made by a Court in the Bailiwick or by a competent Court in a reciprocating country, including a provisional order made by the first-mentioned Court which has been confirmed by a competent Court in a reciprocating country, the registered order shall, as from the date on which the order was made, be deemed to have ceased to have effect except as respects any arrears due under the registered order at that date.

(10) The registering Court shall register in the prescribed manner any order varying a registered order other than a provisional order which is not confirmed.

**Cancellation of registration and transfer of order.**

9. (1) Where –

(a) a registered order is revoked by an order made by the registering Court, or

- (b) a registered order is revoked by a provisional order made by that Court which has been confirmed by a Court in a reciprocating country and notice of the confirmation is received by the registering Court, or
- (c) a registered order is revoked by an order made by a Court in such a country and notice of the revocation is received by the registering Court,

the registering Court shall cancel the registration; but any arrears due under the registered order at the date when its registration is cancelled by virtue of this subsection shall continue to be recoverable as if the registration had not been cancelled.

(2) Where the registering Court is of opinion that the payer under a registered order has ceased to reside within the jurisdiction of that Court, the Court shall cancel the registration of the order and, subject to the next succeeding subsection, shall send the certified copy of the order to the Bailiff for transmission to the Lieutenant-Governor.

(3) Where the registering Court is of opinion that the payer is residing within the jurisdiction of another Court in the Bailiwick the Court shall transfer the order to that other Court by sending the certified copy of the order to that other Court.

(4) On the transfer of an order under the last preceding subsection the Court to which it is transferred shall, subject to the next succeeding subsection, register the order in the prescribed manner in that Court.

(5) Before registering an order in pursuance of the last preceding subsection the Court shall take such steps as it thinks fit for the purpose of ascertaining whether the payer is residing within the jurisdiction of the Court, and if after taking those steps the Court is satisfied that the payer is not so residing the Court shall send the certified copy of the order to the Bailiff for transmission to the Lieutenant-Governor.

(6) A Court which is required by any of the foregoing provisions of this section to send to the Bailiff or to another Court the certified copy of an order shall send with that copy –

- (a) a certificate of arrears signed by the Clerk of the Court,
- (b) a statement giving such information as the Court possesses as to the whereabouts of the payer, and
- (c) any relevant documents in the possession of the Court relating to the case.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Steps to be taken by the Lieutenant-Governor where payer under certain**

**orders is not residing in the Bailiwick.**

10. (1) If it appears to the Lieutenant-Governor that the payer under a maintenance order, a certified copy of which has been received by him from a reciprocating country, is not residing in the Bailiwick or, in the case of an order which subsequently became a registered order, has ceased to reside therein, he shall send to the responsible authority in that country or, if having regard to all the circumstances he thinks it proper to do so, to the responsible authority in another reciprocating country –

- (a) the certified copy of the order in question and a certified copy of any order varying that order,
- (b) if the order has at any time been a registered order, a certificate of arrears signed by the Clerk of the registering Court,
- (c) a statement giving such information as the Lieutenant-Governor possesses as to the whereabouts of the payer, and
- (d) any other relevant documents in his possession relating to the case.

(2) Where the documents mentioned in the last preceding subsection are sent to the responsible authority in a reciprocating country other than that in which the order in question was made, the Lieutenant-Governor shall inform the responsible authority in the reciprocating country in which that order was made of what he has done.

*Appeals*



**Appeals.**

11. (1) There shall be no appeal from a provisional order made in pursuance of any provision of this Part of this Law by a Court in the Bailiwick.

(2) Where in pursuance of any provision of this Part of this Law a Court in the Bailiwick confirms or refuses to confirm a provisional order made by a Court in a reciprocating country, whether a maintenance order or an order varying or revoking a maintenance order, the payer or payee under the maintenance order shall have the like right of appeal (if any) from the confirmation of, or refusal to confirm, the provisional order as he would have if that order were not a provisional order and the Court which confirmed or refused to confirm it had made or, as the case may be, refused to make it.

(3) Where in pursuance of any provision of this Part of this Law a Court in the Bailiwick makes, or refuses to make, an order varying or revoking a maintenance order made by a Court in a reciprocating country, then, subject to subsection (1) of this section, the payer or payee under the maintenance order shall have the like right of appeal (if any) from that order or from the refusal to make it as he would have if the maintenance order had been made by the first-mentioned Court.

(4) Nothing in this section (except subsection (1) thereof) shall be construed as affecting any right of appeal conferred by any other enactment.

*Evidence*

**Admissibility of evidence given in reciprocating country.**

12. (1) A statement contained in –

- (a) a document, duly authenticated, which purports to set out or summarise evidence given in proceedings in a Court in a reciprocating country, or
- (b) a document, duly authenticated, which purports to set out or summarise evidence taken in such a country for the purpose of proceedings in a Court in the Bailiwick under this Part of this Law, whether in response to a request made by such a Court or otherwise, or
- (c) a document, duly authenticated, which purports to have been received in evidence in proceedings in a Court in such a country or to be a copy of a document so received,

shall in any proceedings in a Court in the Bailiwick relating to a maintenance order to which this Part of this Law applies be admissible as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

(2) A document purporting to set out or summarise evidence given as mentioned in paragraph (a) of the last preceding subsection, or taken as mentioned in paragraph (b) of the said subsection, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by the judge, magistrate or other person before whom the evidence was given, or, as the case may be, by whom it was taken, to be the original document containing or recording, or, as the case may be, summarising, that evidence or a true copy of that document.

(3) A document purporting to have been received in evidence as

mentioned in paragraph (c) of subsection (1) of this section, or to be a copy of a document so received, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by a judge, magistrate or officer of the Court in question to have been, or to be a true copy of a document which has been, so received.

(4) It shall not be necessary in any such proceedings to prove the signature or official position of the person appearing to have given such a certificate.

(5) Nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

**Obtaining of evidence needed for purpose of certain proceedings.**

13. (1) Where for the purpose of any proceedings in a Court in a reciprocating country relating to a maintenance order to which this Part of this Law applies a request is made by or on behalf of that Court for the taking in the Bailiwick of the evidence of a person residing therein relating to matters specified in the request, such Court in the Bailiwick as may be prescribed shall have power to take that evidence in such manner as may be prescribed and shall cause a summons to be issued calling upon that person to appear before the Court for the purpose of giving such evidence; evidence taken in compliance with such a request shall be sent in the prescribed manner by the Court to the Court in the reciprocating country by or on behalf of which the request was made.

(2) Where any person, not being the payer or the payee under the maintenance order to which the proceedings in question relate, is required by virtue of this section to give evidence before a Court in the Bailiwick, the Court may order that there shall be paid such sums as appear to the Court reasonably sufficient to compensate that person for the expense, trouble or loss of time properly incurred in

or incidental to his attendance.

(3) Any enactment for the time being in force which provides for compelling the attendance of witnesses and for regulating the practice of the Court relating thereto shall apply in relation to a Court in the Bailiwick having power under subsection (1) of this section to take the evidence of any person as if the proceedings in the Court in a reciprocating country for the purpose of which a request for the taking of evidence has been made were proceedings in that Court in the Bailiwick.

(4) A Court in the Bailiwick may for the purpose of any proceedings in that Court under this Part of this Law relating to a maintenance order to which this Part of this Law applies request a Court in a reciprocating country to take or provide evidence relating to such matters as may be specified in the request and may remit the case to that Court for that purpose.

**Order, etc. made abroad need not be proved.**

**14.** For the purposes of this Part of this Law, unless the contrary is shown –

- (a) any order made by a Court in a reciprocating country purporting to bear the seal of that Court or to be signed by any person in his capacity as a judge, magistrate or officer of the Court, shall be deemed without further proof to have been duly sealed or, as the case may be, to have been signed by that person,
- (b) the person by whom the order was signed shall be deemed without further proof to have been a judge, magistrate or officer, as the case may be, of that Court

when he signed it and, in the case of an officer, to have been authorised to sign it, and

- (c) a document purporting to be a certified copy of an order made by a Court in a reciprocating country shall be deemed without further proof to be such a copy.

*Supplemental*

**Payment of sums under orders made abroad: conversion of currency.**

**15.** (1) Payment of sums due under a registered order shall, while the order is registered in a Court in the Bailiwick be made in such manner and to such person as may be prescribed.

(2) Where the sums required to be paid under a registered order are expressed in a currency other than the currency of Guernsey, then, as from the relevant date, the order shall be treated as if it were an order requiring the payment of such sums in the currency of Guernsey as, on the basis of the rate of exchange prevailing at that date, are equivalent to the sums so required to be paid.

(3) Where the sum specified in any statement, being a statement of the amount of any arrears due under a maintenance order made by a Court in a reciprocating country, is expressed in a currency other than the currency of Guernsey, that sum shall be deemed to be such sum in the currency of Guernsey as, on the basis of the rate of exchange prevailing at the relevant date, is equivalent to the sum so specified.

(4) For the purposes of this section a written certificate purporting to be signed by an officer of any bank in Guernsey certifying that a specified rate of exchange prevailed between currencies at a specified date and that

at such rate a specified sum in the currency of Guernsey is equivalent to a specified sum in another specified currency shall be evidence of the rate of exchange so prevailing on that date and of the equivalent sums in terms of the respective currencies.

- (5) In this section the expression "**the relevant date**" means –
- (a) in relation to a registered order or to a statement of arrears due under a maintenance order made by a Court in a reciprocating country, the date on which the order first becomes a registered order or (if earlier) the date on which it is confirmed by a Court in the Bailiwick,
  - (b) in relation to a registered order which has been varied, the date on which the last order varying that order is registered in a Court in the Bailiwick or (if earlier) the date on which the last order varying that order is confirmed by such a Court.

**Further provisions with respect to variation, etc. of orders.**

**16.** Where the respondent to an application for the variation or revocation –

- (a) of a maintenance order being an order to which section four of this Law applies, or
- (b) of a registered order,

does not appear at the time and place appointed for the hearing of the application,

but the Court is satisfied that the respondent is residing in a reciprocating country, the Court may proceed to hear and determine the application at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the respondent had appeared at that time and place.

**Rules of Court under Part I.**

17. (1) The Royal Court may, without prejudice to the generality of any other powers enabling it to make rules, in particular, make rules with respect to any of the following matters, namely –

- (a) the circumstances in which anything authorised or required by this Part of this Law to be done by, to or before a Court in the Bailiwick or by, to or before an officer of that Court may be done,
- (b) the orders made, or other things done, by a Court in the Bailiwick, or an officer of such a Court, under this Part of this Law, or by a Court in a reciprocating country, notice of which is to be given to such persons as the Rules may provide and the manner in which such notice shall be given,
- (c) the cases and manner in which Courts in reciprocating countries are to be informed of orders made, or other things done, by a Court in the Bailiwick under this Part of this Law,
- (d) the cases and manner in which a Court in the Bailiwick may take evidence needed for the purpose of proceedings in a Court in a reciprocating country

relating to a maintenance order to which this Part of this Law applies,

- (e) the circumstances and manner in which cases may be remitted by Courts in the Bailiwick to Courts in reciprocating countries,
- (f) the circumstances and manner in which Courts in the Bailiwick may for the purposes of this Part of this Law communicate with Courts in reciprocating countries.

(2) Any power conferred by this section to make any Rules of Court shall be construed as including a power exercisable in like manner to vary or repeal the Rules of Court.

### **Interpretation of Part I.**

**18.** (1) In this Part of this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

**"affiliation order"** means an order (however described) adjudging, finding or declaring a person to be the father of a child, whether or not it also provides for the maintenance of the child,

**"maintenance order"** means an order (however described) of any of the following description, that is to say –

- (a) an order (including an affiliation order or order consequent upon an affiliation order) which provides for the periodical payment of sums of money towards



the maintenance of any person, being a person whom the person liable to make payments under the order is, according to the law applied in the place where the order was made, liable to maintain, and

- (b) an affiliation order or order consequent upon an affiliation order, being an order which provides for the payment by a person adjudged, found or declared to be a child's father of expenses incidental to the child's birth or, where the child has died, of his funeral expenses,

and, in the case of a maintenance order which has been varied, means that order as varied,

**"provisional order"** means (according to the context) –

- (a) an order made by a Court in the Bailiwick which is provisional only and has no effect unless and until confirmed, with or without alteration, by a competent Court in a reciprocating country, or
- (b) an order made by a Court in a reciprocating country which is provisional only and has no effect unless and until confirmed, with or without alteration, by a Court in the Bailiwick having power under this Part of this Law to confirm it,

**"reciprocating country"** has the meaning assigned to it by section one of this Law,

**"registered order"** means a maintenance order which is for the time being registered in a Court in the Bailiwick under this Part of this Law,

**"registering Court"**, in relation to a registered order, means the Court in which that order is for the time being registered under this Part of this Law,

**"the responsible authority"**, in relation to a reciprocating country, means any person who in that country has functions similar to those of the Lieutenant-Governor under this Part of this Law.

(2) For the purposes of this Part of this Law an order shall be taken to be a maintenance order so far (but only so far) as it relates to the periodical payment of sums of money as mentioned in paragraph (a) of the definition of "maintenance order" in the last preceding subsection or to the payment by a person adjudged, found or declared to be a child's father of any such expenses as are mentioned in paragraph (b) of that definition.

(3) Any reference in this Part of this Law to the payment of money for the maintenance of a child shall be construed as including a reference to the payment of money for the child's education.

*Repeal and transitional provisions*

**Repeal.**

**19.** The Maintenance Orders (Facilities for Enforcement) (Guernsey) Law, 1955<sup>a</sup> is hereby repealed.

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<sup>a</sup> Ordres en Conseil Vol. XVI, p. 161.

**Maintenance order registered in Royal Court under the Law of 1955.**

20. (1) Where a country or territory, being a country or territory to which at the commencement of section one of this Law the Law of 1955 extended, becomes a reciprocating country, then, if immediately before the Ordinance made under section ten of that Law extending that Law to that country or territory was revoked any maintenance order made by a Court in that country or territory was registered in the Royal Court under section two of that Law, the Royal Court may, on an application by the payer or the payee under the order or of its own motion, transfer the order to the appropriate Bailiwick Court with a view to the order being registered in that Court under this Part of this Law.

(2) Where the Royal Court transfers an order to a Court in the Bailiwick under this section it shall –

- (a) cause a certified copy of the order to be sent to that Court, and
- (b) cause the registration of the order in the Royal Court to be cancelled.

(3) The Court which receives a certified copy of an order sent under this section shall register the order in the prescribed manner.

(4) In this section "**Royal Court**" means the Royal Court sitting as an Ordinary Court.

**Application of Part I to certain orders and proceedings under the Law of 1955.**

21. Where the States propose by Ordinance under section one of this Law to designate as a reciprocating country a country or territory to which at the

commencement of that section the Law of 1955 extended, that Ordinance may contain such provisions as the States consider expedient for the purpose of securing –

(a) that the provisions of this Part of this Law apply, subject to such modifications as may be specified in the Ordinance to maintenance orders, or maintenance orders of a specified class –

(i) made by a Court in the Bailiwick against a person residing in that country or territory, or

(ii) made by a Court in that country or territory against a person residing in the Bailiwick,

being orders to which immediately before the date of the coming into operation of the Ordinance the Law of 1955 applied, except any order which immediately before that date is registered in the Royal Court under section two of that Law,

(b) that any maintenance order, or maintenance order of a specified class, made by a Court in that country or territory which has been confirmed by a Court in the Bailiwick under section five of the Law of 1955 and is in force immediately before that date is registered under section six of this Law,

(c) that any proceedings brought under or by virtue of a provision of the Law of 1955 in a Court in the Bailiwick which are pending at that date, being

proceedings affecting a person resident in that country or territory, are continued as if they had been brought under or by virtue of the corresponding provision of this Part of this Law.

PART II  
RECIPROCAL ENFORCEMENT OF CLAIMS FOR THE RECOVERY OF  
MAINTENANCE

*Convention countries*

**Convention countries.**

22. (1) The States may by Ordinance declare that any country or territory specified in the Ordinance, being a country or territory outside the Bailiwick to which the Maintenance Convention extends, is a convention country for the purposes of this Part of this Law.

(2) In this section the expression "**the Maintenance Convention**" means the United Nations Convention on the Recovery Abroad of Maintenance done at New York on 20th June 1956.

*Application by person in the Bailiwick for recovery, etc. of maintenance in  
convention country*

**Application by person in the Bailiwick for recovery, etc. of maintenance in  
convention country.**

23. (1) Where a person in the Bailiwick (referred to in this section as "**the applicant**") claims to be entitled to recover in a convention country maintenance from another person, and that other person is for the time being subject to the jurisdiction of that country, the applicant may apply to the Court, which in

respect of the applicant, is the appropriate Bailiwick Court, in accordance with the provisions of this section, to have his claim for the recovery of maintenance from that other person transmitted to that country.

(2) Where the applicant seeks to vary any provision made in a convention country for the payment by any other person of maintenance to the applicant, and that other person is for the time being subject to the jurisdiction of that country, the applicant may apply to the Court, which in respect of the applicant, is the appropriate Bailiwick Court, in accordance with the provisions of this section, to have his application for the variation of that provision transmitted to that country.

(3) Where an application under subsection (1) or (2) of this section is made to the appropriate Bailiwick Court the Clerk of that Court shall assist the applicant in completing an application which will comply with the requirements of the law applied by the convention country and the Court shall send the application to the Bailiff for transmission to the Lieutenant-Governor, together with such other documents, if any, as are required by that law.

(4) On receiving an application under this section the Lieutenant-Governor shall forward the same, together with any accompanying documents, to the Secretary of State with a view to it being transmitted by the Secretary of State to the appropriate authority in the convention country if the Secretary of State is satisfied that the application is made in good faith and complies with the requirements of the law applied by that country.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers*

*appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the reference herein to the Bailiff included a reference to the Deputy Bailiff.*

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*Application by person in convention country for recovery of maintenance in the  
Bailiwick*

**General provisions relating to application for recovery of maintenance in the  
Bailiwick.**

**24.** (1) Where an application by a person in a convention country for the recovery of maintenance from another person who is for the time being residing in the Bailiwick has been transmitted by the Secretary of State to the Lieutenant-Governor from the appropriate authority in that country, the Lieutenant-Governor shall send the application, together with any accompanying documents to the Bailiff for transmission to the Court which, in respect of that other person, is the appropriate Bailiwick Court; and the application shall be treated for the purposes of any enactment as if it were an application made to that Court; and the Court shall cause a summons to be issued calling upon that other person to show cause before the Court why an order should not be made on the application; and references in this section and in sections twenty-five, twenty-six, twenty-seven and twenty-eight of this Law to the application, the applicant and the respondent shall be construed accordingly.

(2) If a summons to appear before the Court cannot be duly served on the respondent, the Court shall, subject to the next succeeding subsection, return the application and the accompanying documents together with a statement giving such information as the Court possesses as to the whereabouts of the respondent to the Bailiff for transmission to the Lieutenant-Governor; and if the Lieutenant-Governor is satisfied that the respondent is not residing in the Bailiwick

he shall return the application and accompanying documents to the Secretary of State.

(3) When hearing the application the Court shall proceed as if the applicant were before the Court.

(4) If the Court makes an order on the application, the Court shall register the order in the prescribed manner.

(5) Payment of sums due under a registered order shall, while the order is registered in a Court in the Bailiwick, be made in such manner and to such person as may be prescribed.

(6) The Royal Court may, without prejudice to the generality of any other powers enabling it to make rules, in particular make rules to prescribe the orders or other things done by a Court in the Bailiwick, or an officer of such a Court, under this Part of this Law, notice of which is to be given to such persons as the rules may provide and the manner in which such notice shall be given; and any power conferred by this subsection to make any Rules of Court shall be construed as including a power exercisable in like manner to vary or repeal the Rules of Court.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Application by married woman in convention country for recovery in Guernsey of maintenance from her husband.**

**25.** (1) Where the application is an application to the appropriate Bailiwick Court in the Island of Guernsey for a maintenance order under [the Law of 1988 by a married woman] the provisions of this section shall have effect.

(2) The only provisions which the Court hearing the application may include in [such an order] are either or both of the following provisions, namely –

- [(a) a provision for the making of payments by the husband to the wife, and
- (b) a provision for the making of payments by the husband to or for the benefit of any child of the marriage,]

but in determining whether to include in any such order a provision such as is specified in paragraph (b) of this subsection as respects a child the legal custody of whom has not been committed to any person, the Court shall proceed as if it had made an order under [the Law of 1988] committing the child to the custody of the wife.

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**NOTE**

*In section 25, the words in square brackets in subsection (1), the words in the first pair of square brackets in subsection (2), paragraph (a) and paragraph (b) of subsection (2) and the words in the last pair of square brackets in subsection (2) were substituted by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988, section 36, Schedule 1, with effect from 5th December, 1989.*

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**Application by married woman in convention country for recovery in Alderney of maintenance from her husband.**

26. (1) Where the application is an application to the appropriate Bailiwick Court in the Island of Alderney for a maintenance order under section two of the Law of 1964 the provisions of this section shall have effect.

(2) The only provisions which the Court hearing the application may include in an order under subsection (1) of section three of the Law of 1964 are either or both of the following provisions, namely –

- (a) a provision such as is mentioned in paragraph (c) of subsection (1) of the said section three, and
- (b) a provision such as is mentioned in paragraph (e) of that subsection,

but in determining whether to include in any such order a provision such as is specified in paragraph (b) of this subsection as respects a child the legal custody of whom has not been committed to any person, the Court shall proceed as if it had made an order under subsection (1) of the said section three committing the child to the custody of the wife.

**Application by married woman in convention country for recovery in Sark of maintenance from her husband.**

27. (1) Where the application is an application to the appropriate Bailiwick Court in the Island of Sark for a maintenance order the application shall be made under and in accordance with the customary law of Sark as applicable to maintenance orders.

(2) The only provisions which the Court hearing the application may include in a maintenance order made by the Court are either or both of the following provisions, namely –

- (a) a provision for the making by the husband to the wife, or to such other person on her behalf as may be specified in the order, of weekly payments, as the Court having regard to the practice of the Court consider reasonable,
- (b) a provision for the making by the husband to the wife, or to such other person on her behalf as may be specified in the order, of weekly payments, as the Court having regard to the practice of the Court consider reasonable, for the maintenance of any child of the marriage, if and for so long as the child is under the age of sixteen years,

but in determining whether to include in any order a provision such as is specified in paragraph (b) of this subsection as respects a child the legal custody of whom has not been committed to any person, the court shall proceed as if it had made an order committing the child to the custody of the wife.

**Further provisions relating to recovery in Guernsey and Alderney of maintenance for children.**

**28.** (1) Where the application is an application to the appropriate Bailiwick Court in the Island of Guernsey or the Island of Alderney for an affiliation order under the Law of 1927 or the Law of 1964, as the case may be –

- (a) it shall be sufficient for the purposes of Article one of

the Law of 1927 (time for making application) or subsection (1) of section eleven of the Law of 1964 (provision to the like effect), as the case may be, to prove that the respondent has within the twelve months next after the birth of the child to whom the application relates paid money for its maintenance in pursuance of a requirement of the law applied by a Court outside the Bailiwick, and

- (b) any evidence of the applicant in support of the application given in a convention country a record or summary of which is received by the Court hearing the application or the Court hearing an appeal against an affiliation order made on the application or against the refusal to make such an order, shall be treated by the Court hearing the application or the Court hearing such an appeal, as the case may be, as if it had been given by the applicant in person before that Court.

(2) Without prejudice to any other enactment empowering a Court in the Island of Guernsey or the Island of Alderney to vary an affiliation order made by it, an affiliation order made under the Law of 1927 or the Law of 1964, as the case may be, on the application to the appropriate Bailiwick Court may be varied by such a Court so as to entitle any person, other than the applicant, who for the time being has the custody of the child to whom the order relates to any payments to be made under the order.

*Transfer, enforcement, variation and revocation of registered orders*

**Transfer of orders.**

**29.** (1) Where the registering Court is of opinion that the payer under a registered order has ceased to reside within the jurisdiction of that Court, the Court shall, subject to the next succeeding subsection, send a certified copy of the order and the related documents to the Bailiff for transmission to the Lieutenant-Governor.

(2) Where the registering Court is of opinion that the payer is residing within the jurisdiction of another Court in the Bailiwick the Court shall transfer the order to that other Court by sending a certified copy of the order and the related documents to that other Court and, subject to the next succeeding subsection, that Court shall register the order in the prescribed manner.

(3) Before registering an order in pursuance of the last preceding subsection the Court shall take such steps as it thinks fit for the purpose of ascertaining whether the payer under the order is residing within the jurisdiction of the Court, and if after taking those steps the Court is satisfied that the payer is not so residing the Court shall send the certified copy of the order and the related documents to the Bailiff for transmission to the Lieutenant-Governor.

(4) Where a certified copy of an order is received by the Lieutenant-Governor under this section and it appears to him that the payer under the order has ceased to reside in the Bailiwick he shall return the copy of the order and the related documents to the Secretary of State.

(5) A Court on registering an order in pursuance of subsection (2) of this section shall give notice of the registration in the prescribed manner to the Court in which immediately before its registration under this section the order was registered.

(6) The Court to which notice is given under the last preceding

subsection shall on receiving the notice cancel the registration of the order.

(7) In this section the expression –

**"related documents"** means –

- (a) the application on which the order was made,
- (b) a certificate of arrears signed by the Clerk of the registering Court,
- (c) a statement giving such information as the registering Court possesses as to the whereabouts of the payer, and
- (d) any relevant documents in the possession of the registering Court relating to the case.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Enforcement of orders.**

**30.** (1) A registered order which is registered in a Court other than the Court by which the order was made may be enforced as if it had been made by

the registering Court and as if that Court had had jurisdiction to make it; and proceedings for or with respect to the enforcement of any such order may be taken in accordance with this subsection but not otherwise.

(2) An order which by virtue of the last preceding subsection is enforceable by a Court in the Island of Guernsey or the Island of Alderney shall be enforceable as if it were an affiliation order made by that Court under the provisions of the Law of 1927 or the Law of 1964, as the case may be; and the provisions of any enactment with respect to the enforcement of affiliation orders shall apply accordingly.

(3) An order which by virtue of subsection (1) of this section is enforceable by a Court in the Island of Sark shall be enforceable as if the order were an order made by that Court for the payment of a civil debt.

(4) A Court in which an order is registered under this Part of this Law, and the officers thereof, shall take all such steps for enforcing the order as may be prescribed.

(5) In any proceedings for or with respect to the enforcement of an order which is for the time being registered in any Court under this Part of this Law a certificate of arrears sent under the last preceding section to the Court shall be evidence of the facts stated therein.

(6) Any person for the time being under an obligation to make payments in pursuance of a registered order shall give notice of any change of address to the Clerk of the registering Court, and any person failing without reasonable excuse to give such a notice shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].

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**NOTE**

*In section 30, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.*

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**Variation and revocation of orders.**

31. (1) Where a registered order is registered in a Court other than the Court by which the order was made, the registering Court shall have the like power to vary or revoke the order as if it had been made by the registering Court and as if that court had had jurisdiction to make it; and any Court other than the registering Court shall not have power to vary or revoke a registered order.

(2) Where the registering Court revokes a registered order it shall cancel the registration.

(3) Where an application by a person in a convention country for the variation of a registered order has been transmitted by the Secretary of State to the Lieutenant-Governor from the appropriate authority in that country, the Lieutenant-Governor shall send the application together with any documents accompanying it to the Bailiff for transmission to the registering Court.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the reference herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Further provisions with respect to variation, etc. of orders by Bailiwick Courts.**

32. (1) A Court in the Bailiwick shall have jurisdiction to hear an application for the variation or revocation of a registered order registered in that Court, being –

- (a) an application made by the person against whom or on whose application the order was made, or
- (b) an application made by some other person in pursuance of subsection (2) of section twenty-eight of this Law for the variation of an affiliation order,

notwithstanding that the person by or against whom the application is made is residing outside the Bailiwick.

(2) Where an application by a person in a convention country for the variation of a registered order is received by a Court in the Bailiwick under subsection (3) of the last preceding section, the Court shall treat the application as if it were an application made to the Court for the variation of the order to which the application relates and the Court shall cause a summons to be issued calling upon the payer under the order to show cause before the Court why the order should not be varied; and the Court hearing the application shall proceed as if the applicant were before the Court.

(3) Where a respondent to an application for the variation or revocation of a registered order does not appear at the time and place appointed for the hearing of the application, but the Court is satisfied –

- (a) that the respondent is residing outside the Bailiwick, and

- (b) that such notice of the making of the application and of the time and place aforesaid as may be prescribed has been given to the respondent in the prescribed manner,

the Court may proceed to hear and determine the application at the time and place appointed for the hearing or for any adjourned hearing in like manner as if the respondent had appeared at that time and place.

*Supplemental*

**Admissibility of evidence given in convention country.**

**33.** (1) A statement contained in –

- (a) a document, duly authenticated, which purports to set out or summarise evidence given in proceedings in a Court in a convention country, or
- (b) a document, duly authenticated, which purports to set out or summarise evidence taken in such a country for the purpose of proceedings in a Court in the Bailiwick under this Part of this Law, whether in response to a request made on behalf of such a Court or otherwise, or
- (c) a document, duly authenticated, which purports to have been received in evidence in proceedings in a Court in such a country, or to be a copy of a document so received,

shall, in any proceedings in a Court in the Bailiwick arising out of an application received by the Lieutenant-Governor as mentioned in subsection (1) of section twenty-four of this Law or out of an application made by any person for the variation or revocation of a registered order or in proceedings on appeal from any such proceedings, be admissible as evidence of any fact stated therein to the same extent as oral evidence of that fact is admissible in those proceedings.

(2) A document purporting to set out or summarise evidence given as mentioned in paragraph (a) of the last preceding subsection, or taken as mentioned in paragraph (b) of the said subsection, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by the judge, magistrate or other person before whom the evidence was given or, as the case may be, by whom it was taken, to be the original document containing or recording, or, as the case may be, summarising, that evidence or a true copy of that document.

(3) A document purporting to have been received in evidence as mentioned in paragraph (c) of subsection (1) of this section, or to be a copy of a document so received, shall be deemed to be duly authenticated for the purposes of that subsection if the document purports to be certified by a judge, magistrate or officer of the Court in question to have been, or to be a true copy of a document which has been, so received.

(4) It shall not be necessary in any such proceedings to prove the signature or official position of the person appearing to have given such a certificate.

(5) Nothing in this section shall prejudice the admission in evidence of any document which is admissible in evidence apart from this section.

**Obtaining of evidence for purpose of proceedings in Bailiwick Court.**

34. (1) A Court in the Bailiwick may for the purpose of any proceedings in that Court under this Part of this Law arising out of an application transmitted by the Secretary of State to the Lieutenant-Governor from a convention country make a request, in accordance with the provisions of this section, to the appropriate authority or Court in the convention country for the taking in that country of the evidence of a person residing therein relating to matters connected with the application.

(2) A request made by a Court under this section shall be made to the Bailiff, who shall forward the same to the Lieutenant-Governor for transmission to the Secretary of State with a view to the request being made by the Secretary of State to the appropriate authority if the Secretary of State is satisfied that the request contains sufficient information to enable the evidence of the person named in the request relating to the matters specified therein to be taken by a Court or person in the convention country.

(3) A request made by a Court under this section shall –

- (a) give details of the application in question,
- (b) state the name and address of the person whose evidence is to be taken, and
- (c) specify the matters relating to which the evidence of that person is required.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law,*

*1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the reference herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Taking of evidence at request of Court in convention country.**

35. (1) Where a request made to the Secretary of State by or on behalf of a Court in a convention country to obtain the evidence of a person residing in the Bailiwick relating to matters connected with an application to which section twenty-three of this Law applies has been transmitted by the Secretary of State to the Lieutenant-Governor, the Lieutenant-Governor shall forward the same to the Bailiff for transmission to such Court, as the Bailiff may determine, for the taking by such Court of the evidence of that person relating to such matters connected with that application as may be specified in the request.

(2) The Court by which a request under the last preceding subsection is received shall have power to take the evidence of the person named in the request relating to the matters specified therein in such manner as may be prescribed and shall cause a summons to be issued calling upon that person to appear before the Court for the purpose of giving such evidence; and the evidence so taken shall be sent in the prescribed manner by the Court to the Court in the convention country by or on behalf of which the request referred to in the said subsection was made.

(3) Where any person, not being the person by whom the application mentioned in subsection (1) of this section was made, is required by virtue of this section to give evidence before a Court in the Bailiwick, the Court may order that there shall be paid such sums as appear to the Court reasonably sufficient to compensate that person for the expense, trouble or loss of time

properly incurred in or incidental to his attendance.

(4) Any enactment for the time being in force which provides for compelling the attendance of witnesses and for regulating the practice of the Court relating thereto shall apply in relation to a Court in the Bailiwick to which a request under subsection (1) of this section is made as if the application to which the request relates were an application to be heard by that Court in the Bailiwick.

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**NOTE**

*In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the references herein to the Bailiff included a reference to the Deputy Bailiff.*

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**Interpretation of Part II.**

**36.** In this Part of this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

**"the appropriate authority"**, in relation to a convention country, means any person who in that country has functions similar to those of the Secretary of State under this Part of this Law,

**"registered order"** means an order which is for the time being registered in a Court in the Bailiwick under this Part of this Law,

**"registering Court"**, in relation to a registered order, means the

Court in which that order is for the time being registered under this Part of this Law.

PART III  
MISCELLANEOUS AND SUPPLEMENTAL

*Further provisions relating to enforcement of maintenance orders and to  
applications for recovery of maintenance*

**Power to apply Law to maintenance orders and applications for recovery of  
maintenance made in certain countries.**

37. Where the States are satisfied –

- (a) that arrangements have been or will be made in a country or territory outside the Bailiwick to ensure that maintenance orders made by Courts in the Bailiwick against persons in that country or territory can be enforced in that country or territory or that applications by persons in the Bailiwick for the recovery of maintenance from persons in that country or territory can be entertained by Courts in that country or territory, and
- (b) that in the interest of reciprocity it is desirable to ensure that maintenance orders made by Courts in that country or territory against persons in the Bailiwick can be enforced in the Bailiwick or, as the case may be, that application by persons in that country or territory for the recovery of maintenance from persons in the Bailiwick can be entertained by Courts in the

Bailiwick,

the States may by Ordinance make provision for applying the provisions of this Law, with such exceptions, adaptations and modifications as may be specified in the Ordinance, to such orders or applications as are referred to in paragraphs (a) and (b) of this section and to maintenance and other orders made in connection with such applications by Courts in the Bailiwick or in that country or territory.

*Provisions with respect to certain orders of Bailiwick Courts*

**Provisional order for maintenance of party to marriage made by Bailiwick Court to cease to have effect on remarriage of party.**

38. (1) Where a Court in the Bailiwick has, by virtue of section three of this Law, made a provisional maintenance order consisting of, or including, a provision [for the making of payments by the husband to the wife, or a provision such as is mentioned in] paragraph (c) of section three of the Law of 1964 or under the customary law of Sark (payments of weekly sums by husband) and the order has been confirmed by a competent Court in a reciprocating country, then, if after the making of that order the marriage of the parties to the proceedings in which the order was made is dissolved or annulled but the order continues in force, that order or, as the case may be, that provision thereof shall cease to have effect on the remarriage of the party in whose favour it was made, except in relation to any arrears due under it on the date of such remarriage and shall not be capable of being revived.

(2) For the avoidance of doubt it is hereby declared that references in this section to remarriage include references to a marriage which is by law void or voidable.



**NOTE**

*In section 38, the words in square brackets in subsection (1) were substituted by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988, section 36, Schedule 1, with effect from 5th December, 1989.*

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*Supplemental provisions*

**Ordinances of the States.**

**39.** (1) Any power conferred by sections one, twenty-two or thirty-seven of this Law to make any Ordinance shall be construed as including a power exercisable in like manner to vary or repeal the Ordinance.

(2) Any Ordinance under sections one, twenty-two or thirty-seven of this Law may contain such incidental, consequential and transitional provisions as appear expedient to the States.

**Proceedings in Bailiwick Courts.**

**40.** The provisions of Article 65 (relating to the Regulation of Reports of Proceedings) of the Matrimonial Causes Law (Guernsey), 1939<sup>c</sup> –

- (a) shall apply to all proceedings in a Court in the Bailiwick under this Law other than proceedings for the variation or enforcement of a maintenance order,
- (b) shall apply to any proceedings in a Court in the Bailiwick under this Law for the variation of a maintenance order on the order of the Court before

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<sup>c</sup> Ordres en Conseil Vol. XI, p. 318; Vol. XII, p. 278; Vol. XIII, p. 38; Vol. XV, p. 422; Vol. XVII, p. 249; Vol. XXII, p. 102; Vol. XXIII, p. 489.

which there falls to be heard any such proceedings,

as if such proceedings were proceedings to which that Article applies.

**Summons under sections 4(6), 6(4), 8(7), 13(1), 24(1), 32(2) and 35(2) to be issued by Her Majesty's Procureur.**

**41.** Where under any provision of subsection (6) of section four, subsection (4) of section six, subsection (7) of section eight, subsection (1) of section thirteen, subsection (1) of section twenty-four, subsection (2) of section thirty-two or subsection (2) of section thirty-five a Court in the Bailiwick is required to cause a summons to be issued upon any person, the Court shall send a copy of the relevant documents in the possession of the Court relating to the matter to Her Majesty's Procureur with a requisition that a summons be issued calling upon the person concerned to appear before the Court for the purpose of any provision as aforesaid.

**Interpretation: general.**

**42.** (1) In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"the appropriate Bailiwick Court" means in relation to a person residing in –

- (a) the Island of Guernsey, the Magistrate's Court,
- (b) the Island of Alderney, the Court of Alderney,
- (c) the Island of Sark, the Court of the Seneschal of Sark,

**"Bailiwick"** means the Bailiwick of Guernsey,

**"certificate of arrears"**, in relation to a maintenance order, means a certificate certifying that the sum specified in the certificate is to the best of the information or belief of the officer giving the certificate the amount of the arrears due under the order at the date of the certificate or, as the case may be, that to the best of his information or belief there are no arrears due thereunder at that date,

**"certified copy"**, in relation to an order of the Court, means a copy of the order certified by the Clerk of the Court to be a true copy,

**"the Clerk of the Court"** means –

- (a) as respects the Royal Court, Her Majesty's Greffier,
- (b) as respects the Magistrate's Court, Her Majesty's Greffier,
- (c) as respects the Court of Alderney, the Clerk of the Court of Alderney,
- (d) as respects the Court of the Seneschal of Sark, the Greffier of Sark,

**"Court"** includes any tribunal or person having power to make, confirm, enforce, vary or revoke a maintenance order,

**"enactment"** includes any order, rule or regulation made under any enactment,

**"Her Majesty's Procureur"** includes Her Majesty's Comptroller,

**"the Island of Guernsey"** includes the Islands of Herm and Jethou,

**"the Law of 1927"** means the Law entitled "Loi relative à l'Entretien des Enfants Illégitimes, 1927"<sup>d</sup>,

[...]

**"the Law of 1955"** means the Maintenance Orders (Facilities for Enforcement) (Guernsey) Law, 1955<sup>f</sup>,

**"the Law of 1964"** means the Separation, Maintenance and Affiliation Proceedings (Alderney) Law, 1964<sup>g</sup>,

**["the Law of 1988"** means the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988,]

**"the Lieutenant-Governor"** means the person for the time being holding the office of Lieutenant-Governor and Commander-in-Chief of the Island of Guernsey and its Dependencies,

**"the Magistrate's Court"** means the Magistrate's Court constituted

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<sup>d</sup> Ordres en Conseil Vol. VIII, p. 130; Vol. XVI, p. 173; Vol. XIX, p. 21.

<sup>f</sup> Ordres en Conseil Vol. XVI, p. 161.

<sup>g</sup> Ordres en Conseil Vol. XIX, p. 241; Vol. XXIV, p. 150.

under and by virtue of the Magistrate's Court (Guernsey) Law, 1954<sup>h</sup>,

"**payee**", in relation to a maintenance order, means the person entitled to the payments for which the order provides,

"**payer**", in relation to a maintenance order, means the person liable to make payments under the order,

"**prescribed**" means prescribed by Rules of Court,

"**the States**" means the States of Guernsey.

(2) Any reference in this Law to any other enactment shall, except where the context otherwise requires, be construed as including a reference to that enactment as extended, repealed or replaced, extended or applied by or under any other enactment including this Law.

(3) The Interpretation (Guernsey) Law, 1948<sup>i</sup>, shall apply to the interpretation of this Law throughout the Bailiwick.

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#### NOTES

*In section 42, the words omitted in square brackets in subsection (1) were repealed, and the definition in square brackets of the expression "the Law of 1988" in subsection (1) was inserted, by the Domestic Proceedings and Magistrate's Court (Guernsey) Law, 1988, section 36, Schedule 1, with effect from 5th December, 1989.*

*In accordance with the provisions of the Government of Alderney Law,*

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<sup>h</sup> Ordres en Conseil Vol. XVI, p. 103.

<sup>i</sup> Ordres en Conseil Vol. XIII, p. 355.

*2004, section 20(1), with effect from 1st May, 2005, the person appointed to the office of Greffier is to act as the Clerk of the Court of Alderney and in accordance with the provisions of section 25(1)(e), with effect from that same date, the functions of the Greffier include the functions assigned by law to the Clerk of the Court.*

*The Magistrate's Court (Guernsey) Law, 1954 has since been repealed by the Magistrate's Court (Guernsey) Law, 2008, section 46(b), with effect from 1st September, 2009, subject to the savings and transitional provisions in section 47 of the 2008 Law.*

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**Citation.**

**43.** This Law may be cited as the Maintenance Orders (Reciprocal Enforcement) (Bailiwick of Guernsey) Law, 1984.

**Commencement.**

**44.** (1) This Law shall come into force on such day as the States may by Ordinance appoint, and different days may be so appointed for different provisions of this Law, or for different purposes.

(2) Any powers conferred by any provisions of this Law to make any Ordinance or Rules of Court may be exercised at any time after the registration of this Law and before the day on which the provisions under which such Ordinance or Rules of Court, as the case may be, are made shall come into force:

Provided that such Ordinance or Rules of Court shall not come into force until the respective provisions of this Law under which they are made shall come into force.

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**NOTE**

*The Law is not yet in force.*

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