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c 334 Reciprocal Enforcement of Maintenance Orders Act

Ontario

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CHAPTER 334

The Reciprocal Enforcement of Maintenance Orders Act

1. In this Act,

Interpretation.

- (a) "certified copy" in relation to an order of a court means a copy of the order certified by the proper officer of the court to be a true copy;
- (b) "court" means any authority having statutory jurisdiction to make maintenance orders;
- (c) "dependants" means such persons as a person, against whom a maintenance order is made, is liable to maintain according to the law in force in the place where the maintenance order is made;
- (d) "maintenance order" means an order, other than an order of affiliation, for the periodical payment of sums of money towards the maintenance of the wife or other dependants of the person against whom the order is made. 1948, c. 53, s. 1.

2.—(1) Where a maintenance order has been made against any person by a court in a reciprocating state and a certified copy of the order has been transmitted by the proper officer of the reciprocating state to the Attorney-General, the Attorney-General shall send a certified copy of the order to the proper officer of a court in Ontario for registration, and on receipt thereof the order shall be registered and shall from the date of the registration be of the same force and effect, and, subject to this Act, all proceedings may be taken on the order as if it had been an order originally obtained in the court in which it is so registered, and that court shall have power to enforce the order accordingly.

Enforcement in Ontario of maintenance orders made elsewhere.

(2) The court in which an order is to be registered shall, if the court by which the order was made was a court of superior jurisdiction, be the Supreme Court and, if the court was not a court of superior jurisdiction, be such court as is determined by the Attorney-General. 1948, c. 53, s. 2.

Court in which orders are to be registered.

3. Where a court in Ontario has made a maintenance order against any person, and it is proved to that court that the person against whom the order was made is resident in a reciprocating state, the court shall, on the request of the per-

Transmission of maintenance orders made in Ontario.

son in whose favour the order was made, send a certified copy of the order to the Attorney-General for transmission to the proper officer of that reciprocating state, and the Attorney-General shall transmit the certified copy accordingly. 1948, c. 53, s. 3.

Provisional maintenance orders against persons resident outside Ontario.

4.—(1) Where an application is made to a court in Ontario for a maintenance order against any person, and it is proved that that person is resident in a reciprocating state, the court may, in the absence of that person and without service of notice on him, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if a summons had been duly served on that person and he had failed to appear at the hearing, but in such case the order shall be provisional only, and shall have no effect unless and until confirmed by a competent court in the reciprocating state.

Depositions and transcripts.

(2) If the evidence of any witness who is examined on any such application is not taken in shorthand, the evidence shall be put into the form of a deposition, and the deposition shall be read over and signed by the witness and also by the judge or other person presiding at the hearing.

Transmission of order to Attorney-General.

(3) Where an order is made pursuant to subsection 1, the court shall send to the Attorney-General a certified copy of the order for transmission to the proper officer of the reciprocating state.

Statements to be prepared by court.

(4) The court shall also prepare,

- (a) a statement showing the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing; and
- (b) a statement showing such information as the Court possesses for facilitating the identification of the person against whom the order is made and ascertaining his whereabouts.

Transmission of other documents to Attorney-General.

(5) With the certified copy of the order the court shall also send to the Attorney-General for transmission to the proper officer of the reciprocating state,

- (a) the depositions or a certified copy of the transcript of the evidence;
- (b) the statement referred to in clause *a* of subsection 4; and
- (c) the statement referred to in clause *b* of subsection 4.

(6) The Attorney-General shall transmit the documents sent to him by the court to the proper officer of the reciprocating state. Transmission by Attorney-General.

(7) Where any such provisional order has come before a court in a reciprocating state for confirmation and the order has by that court been remitted to the court in Ontario that made the order for the purpose of taking further evidence, the last-mentioned court shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application. Power to take new evidence on renvoy.

(8) If upon the hearing of such evidence it appears to the court in Ontario that the order ought not to have been made, the court may rescind the order, but in any other case the depositions or a certified copy of the transcript of the evidence if it was taken in shorthand shall be sent to the Attorney-General and dealt with in like manner as the depositions or transcript of the original evidence. Further powers on renvoy.

(9) The confirmation of an order made under this section shall not affect any power of the court by which the order was originally made to vary or rescind the order; provided that on the making of a varying or rescinding order the court shall send a certified copy thereof, together with the depositions or a certified copy of the transcript of any new evidence adduced before the court, to the Attorney-General for transmission to the proper officer of the reciprocating state in which the original order was confirmed, and that in the case of an order varying an original order the order shall not have any effect unless and until confirmed in like manner as the original order. Power of original court to vary or rescind order.

(10) The applicant shall have the same right of appeal, if any, against a refusal to make a provisional order as he would have had against a refusal to make the order had a summons been duly served on the person against whom the order is sought to be made. 1948, c. 53, s. 4. Right of appeal.

5.—(1) Where a maintenance order has been made by a court in a reciprocating state and the order is provisional only and has no effect unless and until confirmed by a court in Ontario, and a certified copy of the order, together with the depositions of witnesses and a statement of the grounds on which the order might have been opposed is received by the Attorney-General and it appears to him that the person against whom the order was made is resident in Ontario, the Attorney-General may send the documents to the proper officer of the Supreme Court if the court by which the order was made was a court of superior jurisdiction or such court as is determined by the Attorney-General, if the court by which the order was made was not a court of superior jurisdiction. Confirmation of maintenance orders made out of Ontario.

tion, and upon receipt of the documents the court shall issue a summons calling upon the person against whom the order was made to show cause why the order should not be confirmed, and cause it to be served upon such person.

Right of defence on application for confirmation.

(2) At the hearing it shall be open to the person on whom the summons was served to raise any defence that he might have raised in the original proceedings had he been a party thereto but no other defence; and the statement from the court that made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

Power to confirm with or without modification.

(3) If at the hearing the person served with the summons does not appear or, on appearing, fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order either without modification or with such modifications as to the court after hearing the evidence may seem just.

Power to remit to court that made provisional order.

(4) If the person against whom the summons was issued appears at the hearing and satisfies the court that for the purpose of any defence it is necessary to remit the case to the court that made the provisional order for the taking of any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

Variation or rescission of order that has been confirmed.

(5) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming court, and where on an application for rescission or variation the court is satisfied that it is necessary to remit the case to the court that made the order for the purpose of taking any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.

Right of appeal.

(6) Where an order has been so confirmed, the person bound thereby shall have the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order had the order been an order made by the court confirming the order. 1948, c. 53, s. 5.

Enforcement of orders.

6.—(1) A court in which an order has been registered under this Act or by which an order has been confirmed under this Act, and the officers of such court, shall take all proper steps for enforcing the order.

Mode of enforcement.

(2) Every such order shall be enforceable in like manner as if the order were a judgment of the court in which the order is so registered or by which it is so confirmed. 1948, c. 53, s. 6.

7. The Lieutenant-Governor in Council may make rules prescribing the practice and procedure under this Act. 1948, c. 53, s. 7. Rules of practice.

8. Any document purporting to be signed by a judge or officer of a court in a reciprocating state shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or judicial or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the court to sign the document. 1948, c. 53, s. 8. Proof of documents signed by officer of court.

9. Depositions or transcripts from shorthand of evidence taken in a reciprocating state, for the purposes of this Act, may be received in evidence in proceedings before courts in Ontario under this Act. 1948, c. 53, s. 9. Depositions to be evidence.

10. Where the Lieutenant-Governor in Council is satisfied that reciprocal provisions have been made by any province in Canada, any part of the British Commonwealth of Nations or Empire, or any foreign state for the enforcement therein of maintenance orders made within Ontario, the Lieutenant-Governor in Council may declare it to be a reciprocating state for the purposes of this Act, and thereupon it shall become a reciprocating state within the meaning of this Act. 1948, c. 53, s. 10. Extent of Act.

(NOTE—As of August 1st, 1950, the following were reciprocating states within the meaning of this Act: Alberta, British Columbia, Manitoba, Nova Scotia, Saskatchewan, England, Isle of Man, Northern Ireland. See O. Reg. 133/50.)



