

NORFOLK



ISLAND

MAINTENANCE ORDERS (FACILITIES FOR ENFORCEMENT) REGULATIONS

[Consolidated as at 14 October 2004
on the authority of the Administrator
and in accordance with
the *Enactments Reprinting Act 1980*]

TABLE OF PROVISIONS

Regulation

1. Citation
2. Definitions
3. Reciprocating States
4. Property authority
5. Notification of registration of maintenance order
6. Transmission of maintenance orders made under section 7 of the Act
7. Endorsements on provisional orders made under section 8 of the Act
8. Transmission of provisional orders made under section 8 of the Act
9. Form of notice under subsection 8(5)
10. Order confirming provisional order
11. Remission of case for purpose of taking further evidence
12. Notice to be given after further evidence has been taken
13. Enforcement of orders
 - Schedule 1
 - Schedule 2



Maintenance Orders (Facilities for Enforcement) Regulations

Citation

1. These Regulations may be cited as the *Maintenance Orders (Facilities for Enforcement) Regulations*.

Definitions

2. In these Regulations —

“the clerk of the court” means —

- (a) in relation to the Supreme Court - the Registrar of that Court; and
- (b) in relation to the Court of Petty Sessions - the Clerk of that Court;

“the Act” means the *Maintenance Orders (Facilities for Enforcement) Act 1960*.

Reciprocating States

3. Each State or Territory of the Commonwealth, each other country, and each part of a country, that is specified in the first column of Schedule 1 to these Regulations is a reciprocating State for the purposes of the Act.

Proper authority

4. The person, officer or authority specified in the second column of Schedule 1 to these Regulations opposite to the name of a reciprocating State is the proper authority for that reciprocating State.

Notification of registration of maintenance order

5. Where a maintenance order is registered in the appropriate court in accordance with section 6 of the Act, the officer in charge of the records of the court shall send to the Administrator, for transmission to the proper authority in the reciprocating State in which the order was made, a notice in accordance with Form 1 in Schedule 2 to these Regulations.

Transmission of maintenance orders made under section 7 of the Act

6. A court in Norfolk Island shall send with the copy of a maintenance order sent to the Administrator under section 7 of the Act a notice in accordance with Form 2 in Schedule 2 to these Regulations.

Endorsements on provisional orders made under section 8 of the Act

7. Where a provisional order is made by a court in Norfolk Island under section 8 of the Act, the formal title to the order of the court shall contain the word "Provisional", and there shall be endorsed, at the foot of the order, the words "This order is provisional only and has no effect unless and until confirmed by a competent court in a country in which the defendant is proved to be resident."

Transmission of provisional orders made under section 8 of the Act

8. A court in Norfolk Island shall send to the Administrator with the documents referred to in subsection (4) of section 8 of the Act, for transmission with those documents, a notice in accordance with Form 3 in Schedule 2 to these Regulations.

Form of notice under subsection 8(5)

9. A notice under subsection (5) of section 8 of the Act shall be in accordance with Form 4 in Schedule 2 to these Regulations.

Order confirming provisional order

10. (1) An order by the court under section 9 of the Act confirming either with or without modification, or refusing to confirm, a provisional maintenance order shall be in accordance with Form 5 in Schedule 2 to these Regulations.

(2) A copy of an order referred to in subregulation (1) shall be sent by the court to the Administrator for transmission to the proper authority in the reciprocating State in which the provisional order was made.

Remission of case for purpose of taking further evidence

11. Where a court in Norfolk Island is satisfied that it is necessary to remit a case to the court that made the provisional order for the purpose of taking further evidence and proposes so to remit the case under subsection (7) or (8) of section 9 of the Act, the court shall send the case to the Administrator for transmission to the proper authority in the reciprocating State in which the provisional order was made, together with —

- (a) a notice in accordance with Form 6 in Schedule 2 to these Regulations in which there shall be included a statement setting out the matters on which the further evidence is to be taken; and
- (b) the depositions of the witnesses heard before the court in Norfolk Island.

Notice to be given after further evidence has been taken

12. Where —

- (a) a court in Norfolk Island has under subsection (7) or (8) of section 9 of the Act, remitted a case to the court that made a provisional order for the purpose of taking further evidence; and
- (b) the depositions of the witnesses who gave the further evidence are received by the court in Norfolk Island,

the court shall fix a time and place for the further hearing of the case and shall cause a notice in accordance with Form 7 in Schedule 2 to these Regulations to be sent to the defendant.

Enforcement of orders

13. (1) The court in which a maintenance order has been registered under the Act or by which a provisional maintenance order has been confirmed under the Act may, on the application of the clerk of the court, direct that all payments under the order shall be made to the clerk of the court.

(2) Where a court makes a direction under the last preceding subregulation, a notice in accordance with Form 8 in the Second Schedule to these Regulations shall be served on the defendant.

(3) The clerk of the court shall collect all payments due under the order and may take, in his own name, the like proceedings for the enforcement of the order as if the order were a maintenance order made by the court which has directed that the payments under the order be so made.

(4) The clerk of the court shall transmit all moneys so collected by him to the court which made the order or the provisional order.

SCHEDULE 1

Regulations 3 and 4

RECIPROCATING STATES AND PROPER AUTHORITIES

Reciprocating State	Proper Authority
Australian Capital Territory	Attorney-General
Bailiwick of Guernsey	Lieutenant-Governor
British Solomon Islands	High Commissioner for the Western Pacific
Cook Island (including Niue)	New Zealand Minister for External Affairs
England	Secretary of State for Commonwealth Relations
Federation of Malaya	Attorney-General
Gilbert and Ellice Islands	High Commissioner for the Western Pacific
Isle of Man	Governor
New South Wales	Governor
New Zealand.	Minister of Justice
Northern Ireland	Secretary of State for Commonwealth Relations
Northern Territory	Administrator of the Northern Territory
Queensland	Attorney-General
Sarawak	Governor
South Australia	Governor

Reciprocating State	Proper Authority
States of Jersey	Lieutenant-Governor
Tasmania	Collector for Interstate Destitute Persons
Territory of Christmas Island	Official Representative
Territory of Cocos (Keeling) Islands	Official Representative
Territory of New Guinea	Administrator of the Territory of Papua and New Guinea
Territory of Papua	Administrator of the Territory of Papua and New Guinea
Trust Territory of Western Samoa	New Zealand Minister for External Affairs
Union of South Africa	Secretary for Justice
Victoria	Collector of Interstate Maintenance
Western Australia	Governor

SCHEDULE 2

FORM 1

Regulation 5

NOTICE OF REGISTRATION OF MAINTENANCE ORDER

Maintenance Orders (Facilities for Enforcement) Act 1960

In the Court of Norfolk Island.

Between Complainant

and Defendant

The maintenance order made against the abovenamed defendant by the Court in , a reciprocating State for the purposes of the Maintenance Orders (Facilities for Enforcement) Act 1960, has been registered in accordance with section 6 of that Act in the Court of Norfolk Island.

Dated this day of 20 . Officer in Charge of the Records of the Court.

FORM 2

Regulation 6

NOTICE TO BE SENT WITH CERTIFIED COPY OF MAINTENANCE ORDER MADE IN NORFOLK ISLAND

Maintenance Orders (Facilities for Enforcement) Act 1960

In the Court of Norfolk Island.

Between Complainant

and Defendant

Whereas this Court made, on the day of , 20 , on the application of the abovenamed complainant, an order against the abovenamed defendant for the periodical payment of sums of money towards the maintenance of :

And whereas it has been proved to the satisfaction of this Court that the abovenamed defendant is resident in , a reciprocating State for the purposes of the Maintenance Orders (Facilities for Enforcement) Act 1960:

Now this Court sends the annexed certified copy of the abovementioned order to the Administrator of Norfolk Island for transmission to the proper authority in

Dated this _____ day of _____ 20 .

By the Court,
Clerk of the Court.

FORM 3

Regulation 8

NOTICE TO BE SENT WITH CERTIFIED COPY OF PROVISIONAL MAINTENANCE ORDER

Maintenance Orders (Facilities for Enforcement) Act 1960

In the _____ Court
of Norfolk Island.

Between
Complainant
and
Defendant

Whereas this Court made, on the _____ day of _____, 20 ,
on the application of the abovenamed complainant, a provisional order against the
abovenamed defendant for the periodical payment of sums towards the maintenance of

And whereas it has been proved to the satisfaction of this Court that the abovenamed
defendant is resident in _____, a reciprocating State for the purposes of the
Maintenance Orders (Facilities for Enforcement) Act 1960:

Now this Court sends, in pursuance of section 8 of that Act, to the Administrator of Norfolk
Island for transmission to the proper authority in that State the following documents —

- (a) the depositions taken on the hearing of the application;
- (b) a certified copy of the provisional order;
- (c) a statement of the grounds on which the making of the order might, in the opinion of this Court, 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
- (d) the information that this Court possesses for facilitating the identification of the defendant and ascertaining his whereabouts.

By the Court,
Clerk of the Court.

FORM 4

Regulation 9

NOTICE OF INTENTION TO TAKE FURTHER EVIDENCE

Maintenance Orders (Facilities for Enforcement) Act 1960

In the _____ Court
of Norfolk Island.

Between
Complainant
and
Defendant

Notice is hereby given that, the provisional order made in this matter of the _____ day of _____, 20____, having come on for hearing before the _____ Court in _____, a reciprocating State for the purposes of the *Maintenance Orders (Facilities for Enforcement) Act 1960*, that Court did, on the _____ day of _____, 20____, direct that the case be remitted to this Court for the purpose of taking further evidence. You are therefore required to appear before this Court at _____ on the _____ day of _____, 20____, at the hour of _____ o'clock in the _____ noon and there give or adduce to the Court evidence on the following matters —

Dated this _____ day of _____, 20____.

By the Court,
Clerk of the Court.

To the Defendant.

FORM 5

Regulation 10

**DECISION OF A COURT ON AN APPLICATION FOR THE CONFIRMATION OF
A PROVISIONAL MAINTENANCE ORDER MADE BY A COURT IN A
RECIPROCATING STATE**

Maintenance Orders (Facilities for Enforcement) Act 1960

In the _____ Court
of Norfolk Island.

Between
Complainant
and
Defendant

The provisional maintenance order made against the abovenamed defendant by the _____ Court in _____, a reciprocating State for the purposes of the *Maintenance Orders (Facilities for Enforcement) Act 1960*, having come on for hearing before this Court on the _____ day of _____, 20____,

this Court confirms the order without modification (*or* confirms the order with the modifications set out hereunder *or* refuses to confirm the order).

Dated this _____ day of _____, 20__.

By the Court,
Clerk of the Court.

FORM 6

Regulation 11

**NOTICE SETTING OUT MATTERS ON WHICH FURTHER EVIDENCE IS TO BE
TAKEN**

Maintenance Orders (Facilities for Enforcement) Act 1960

In the _____ Court
of Norfolk Island.

Between
Complainant
and
Defendant

The provisional maintenance order made against the abovenamed defendant by the _____ Court in the _____, a reciprocating State for the purposes of the *Maintenance Orders (Facilities for Enforcement) Act 1960* (*or* An application by the abovenamed defendant for a variation or remission of the provisional maintenance order made by the _____ Court in _____, a reciprocating State for the purposes of the *Maintenance Orders (Facilities for Enforcement) Act 1960*, and confirmed by this Court under section 9 of that Act) having come on for hearing before this Court on the _____ day of _____, 20__, this Court, being satisfied that it is necessary to remit the case to the _____ Court in _____ for the purpose of taking evidence on the matter specified below, hereby sends the case to the proper authority in _____ for the purpose of taking further evidence on the following matters —

2. The depositions of the witnesses heard before this Court are attached.

Dated this _____ day of _____, 20__.

By the Court,
Clerk of the Court.

FORM 7

Regulation 12

NOTICE FOR THE TIME AND PLACE FIXED FOR FURTHER HEARING

Maintenance Orders (Facilities for Enforcement) Act 1960.

In the Court of Norfolk Island.

Court

Between

Complainant

and

Defendant

Notice is hereby given that this Court has fixed the day of , 20 , at for the further confirmation hearing of the application for the variation of the maintenance order in this rescission matter, the hearing of which was adjourned for the purposes of taking further evidence. You may appear and be heard at the time and place so fixed.

2. The depositions containing the further evidence are available for inspection at and you may, if you so desire, obtain a copy of the depositions on payment of a fee of .

Dated this day of 20 .

By the Court, Clerk of the Court.

To the Defendant.

FORM 8

Regulation 13

NOTICE DIRECTING PAYMENTS TO BE MADE TO THE CLERK OF THE COURT

*Maintenance Orders (Facilities for Enforcement) Act 1960.*In the
of Norfolk Island.

Court

Between

Complainant

and

Defendant

Notice is hereby given that this Court has directed that all payments under the maintenance order registered in this Court in this matter (*or* under the provisional maintenance order confirmed by this Court in this matter) be made to the Clerk of this Court at

Dated this day of 20 .

By the Court,

Clerk of the Court.

To the Defendant.

NOTES

The *Maintenance Orders (Facilities for Enforcement) Regulations* as shown in this consolidation comprises Regulations No. 3 of 1960 and amendments as indicated in the Tables below.

Enactment	Number and year	Date of commencement	Application saving or transitional provision
<i>Maintenance Orders (Facilities for Enforcement) Regulations</i>	3, 1960	1.2.61	
<i>Maintenance Orders (Facilities for Enforcement) Regulations (Amending)</i>	1, 1963	21.3.63	

Table of Amendments

ad =	added or inserted	am =	amended	rep =	repealed	rs =	repealed and substituted
Provision affected		How affected					
Schedule 1		am	1, 1963				

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