

Maintenance Orders Enforcement Act 1921

Section 7 - Power of Court of Summary Jurisdiction to Confirm Maintenance Order Made out of India

(1) Where a maintenance order has been made by a Court in a reciprocating territory and the order is provisional only, and has no effect unless and until confirmed by a Court of summary jurisdiction in¹ [India], and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed has been transmitted to the² [Central Government], and it appears to the³ [Central Government] that the person against whom the order has been made is resident in¹ [India], the² [Central Government] may send the said documents to the prescribed officer of a Court of summary jurisdiction, with a requisition that a summons be issued calling upon the person to show cause why that order should not be confirmed, and, upon receipt of such documents and requisition, the Court shall issue a summons and cause it to be served upon such person.

(2) A summons issued under sub-section (1) shall for all purposes be deemed to be a summons issued by the Court in the exercise of its original criminal jurisdiction.

(3) At the hearing it shall be open to the person to whom the summons was issued to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the Court which 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.

(4) 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, notwithstanding any pecuniary limit imposed on its power by any law for the time being in force in¹ [India], confirm the order either without modification or with such modifications as to the Court after hearing the evidence may seem just:

Provided that no sum shall be awarded as maintenance under this section, or shall be recoverable as such, at a rate exceeding that proposed in the provisional order.

(5) If the person to 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 which made the provisional order for the taking of any further evidence, the Court may for that purpose send a certified copy of the record to the³ [Central Government] for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

(6) 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 which made the provisional order for the purpose of taking any further evidence, the Court may for that purpose send a certified copy of the record to the³ [Central Government] for transmission to that Court through the proper authority of the reciprocating territory, and may adjourn the proceedings.

1 . Substituted for the words "the States", by Part B States (Laws) Act, 1951 (3 of 1951), Section 3 and Schedule (1-4-1951).

2 . Substituted for the words "Governor-General" by A.O., 1937.

3 . Substituted for the words "Governor-General in Council," by A.O., 1937.
