

Orders of the Royal Court.



V
1955

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 30th day of July, 1955, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present: Sir John Leale, Arthur Falla, Walter John Sarre, William Robert Freake Clark, Ernest Francis Lainé, Bertram Bartlett, Osmond Priaulx, Stephen James Falla, Esquires, Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez and Bertram Guy Blampied, Esquires, Jurats.

No. 5 Order, 1955.

ENTITLED

The Maintenance Orders (Facilities for Enforcement) (Guernsey) Rules, 1955.

THE ROYAL COURT, in pursuance of Article sixty-four of the Reform (Guernsey) Law, 1948, section twelve of the Royal Court of Guernsey (Miscellaneous Reform Provisions) Law, 1950, and section six of the Maintenance Orders (Facilities for Enforcement) (Guernsey) Law, 1955, and of all other

powers thereunto enabling it, hereby makes the following Rules:—

PART I

Interpretation

Interpreta-
tion.

1. (1) In these Rules, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the appropriate Bailiwick court” has the same meaning as in the Law;

“the Royal Court” means the Royal Court sitting as an Ordinary Court;

“the appropriate court officer” 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;

(d) as respects the Court of the Seneschal of Sark, the Greffier of Sark;

“the Law” means the Maintenance Orders (Facilities for Enforcement) (Guernsey) Law, 1955;

“maintenance order” has the same meaning as in the Law;

“reciprocating country” has the meaning assigned to it by section ten of the Law.

(2) The Interpretation (Guernsey) Law, 1948, applies to the interpretation of these Rules as it applies to the interpretation of an enactment.

PART II

General

2. (1) A copy of a maintenance order received by the Bailiff under section two of the Law for registration shall—

Registration
of mainten-
ance orders.

(a) where the person against whom the order was made is resident in the Island of Guernsey—

(i) if the court by which the order was made was a court of superior jurisdiction, be transmitted to the Royal Court, which shall cause it to be enrolled in a register to be kept for the purposes of the Law; or

(ii) if the court was not a court of superior jurisdiction, be transmitted to the Magistrate's Court, which shall cause it to be enrolled in a register to be kept as aforesaid;

(b) where the person against whom the order was made is resident in the Island of Alderney, be transmitted to the Court of Alderney, which shall cause it to be enrolled in a register to be kept as aforesaid;

(c) where the person against whom the order was made is resident in the Island of Sark, be transmitted to the Court of the Seneschal of Sark, which shall cause it to be enrolled in a register to be kept as aforesaid.

(2) Where a maintenance order has been registered in the manner prescribed by paragraph (1) of this Rule, the appropriate court officer shall forthwith give notice of the registration to the court which made the order.

Transmission of maintenance orders.

3. (1) An application for the transmission of a maintenance order under section three of the Law to the Secretary of State shall be in writing and shall be made ex parte to the appropriate Bailiwick court by which the order was made.

(2) There shall be annexed to the application a certified copy of the maintenance order and an affidavit by the applicant stating the applicant's reasons for believing that the person liable to make payments under the maintenance order is resident in a reciprocating country, together with full particulars, so far as known to the applicant, of such person's address and occupation.

(3) The appropriate court officer shall cause to be entered in the register kept for the purposes of the Law particulars of every maintenance order of which a certified copy is sent to the Bailiff in accordance with the provisions of section three of the Law.

Taking further evidence in respect of provisional maintenance orders.

4. Where a provisional order has been remitted to the appropriate Bailiwick court in accordance with the provisions of subsection (4) of section four of the Law for the purpose of taking further evidence, notice specifying the further evidence required and the day, time and place fixed for taking it shall be served by the appropriate court officer on the person on whose application the provisional order was made not less than fourteen clear days before the day so fixed.

Remission of order to court making provisional order.

5. Where, in pursuance of subsection (4) of section five of the Law, the appropriate Bailiwick court has made an order remitting a case to a court which made a provisional order, the appropriate court officer shall transmit a copy of the order of the first-mentioned court to the court which made the provisional order.

Confirmation, etc., of maintenance orders.

6. Where a provisional order has been confirmed, with or without modification, or where the appro-

priate Bailiwick court has decided not to confirm a provisional order, or where a provisional order has, after confirmation, been varied or rescinded, the appropriate court officer shall notify the court which made the provisional order.

7. (1) Where the appropriate Bailiwick court has registered or confirmed an order under the Law, the appropriate court officer shall collect the monies from time to time due, and for the purposes of enforcing payment he shall be deemed to be substituted for the person in whose favour the order was made.

Collection of monies due under maintenance orders.

(2) The monies collected by the appropriate court officer shall be sent to the court which made the order.

PART III

Appeals

8. The provisions of this Part of these Rules shall have effect in relation to any appeal under subsection (6) of section four or subsection (6) of section five of the Law.

Application.

9. (1) An appeal shall be entered by filing with the appropriate court officer, within the seven days next following the decision of the appropriate Bailiwick court appealed from, a notice of appeal which shall state the grounds of the appeal and whether the whole or part only of the decision is complained of.

Notice of appeal.

(2) A copy of the notice of appeal shall, within forty-eight hours of the filing thereof, be served on every party affected by the appeal.

10. (1) Where a notice of appeal has been filed, the appropriate court officer shall, as soon as may

Documents for the Royal Court.

be, inform the Magistrate, the Chairman of the Court of Alderney or the Seneschal of Sark, as the case may be, and request him to furnish to the Bailiff, for the use of the Royal Court, a copy of his notes of the evidence and of the court's reasons for its decision.

(2) The appropriate court officer shall, within the seven days next following the filing of notice of appeal, furnish to the Bailiff's Secretary, for the use of the Royal Court, a certified copy of the Act of Court appealed from.

Security for costs.

11. (1) A wife may, within seven days after the date of service on her of notice of appeal, apply to the appropriate Bailiwick court for security for her costs of and incidental to an appeal.

(2) If, after taking into account all the circumstances, including the means of the husband and the wife, the appropriate Bailiwick court considers that the husband should provide security for all or some of his wife's costs of and incidental to the appeal, it may order the husband to pay into court or to give security for such sums as the court deems just and reasonable, and the court may direct a stay of the appeal until such order is complied with.

(3) Where the appropriate Bailiwick court has, under the provisions of paragraph (2) of this Rule, directed the stay of an appeal, the appropriate court officer shall, as soon as may be, inform the Bailiff's Secretary.

Date of hearing.

12. When a date has been fixed for the hearing of an appeal the appropriate court officer shall inform the appellant of the date so fixed, and notice thereof shall, as soon as may be, be served by the appellant on every other party affected by the appeal and shall,

in any case, be so served not less than four clear days before the date so fixed.

13. (1) The Royal Court may by order confirm, reverse or vary the decision of the appropriate Bailiwick court or make such other order in the matter as it thinks fit. Powers of the Royal Court.

(2) Upon the determination of an appeal the costs of and incidental to the proceedings, both on appeal and in first instance, shall, within the scale for the time being laid down according to law, be in the discretion of the Royal Court.

14. (1) The appellant may, at any time not less than two clear days before the date fixed for the hearing, abandon the appeal by giving notice in writing to the appropriate court officer, who shall thereupon give notice of such abandonment to the other party to the appeal and to the Bailiff. Abandonment of appeal.

(2) Where an appeal has been so abandoned, the judgment of the appropriate Bailiwick court shall be enforced subject to anything already suffered or done thereunder by the appellant.

(3) The Royal Court may, on the application of the other party to the appeal, order the appellant to pay to that party such costs, within the scale for the time being laid down according to law, as appear to the Royal Court to be just and reasonable in respect of expenses properly incurred by that party in connection with the appeal before notice of the abandonment was given to him.

(4) The Royal Court may order the forfeiture in whole or in part of the security given or found in connection with the appeal or the restoration to the appellant or other person concerned of the security or any part thereof not declared forfeited.

PART IV

Citation and Commencement

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commence
ment.

15. (1) These Rules may be cited as the Maintenance Orders (Facilities for Enforcement) (Guernsey) Rules, 1955.

(2) These Rules shall come into force on the 6th day of August, nineteen hundred and fifty-five.

JAMES E. LE PAGE,

Her Majesty's Greffier.