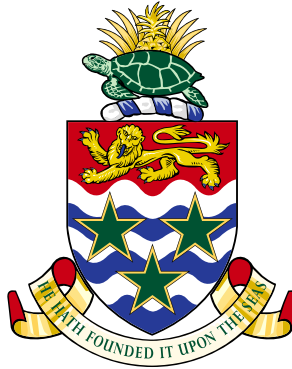


CAYMAN ISLANDS



MAINTENANCE LAW

(1996 Revision)

Supplement No. 4 published with Gazette No. 11 of 27th May, 1996.

PUBLISHING DETAILS

Consolidated with Laws 10 of 1972, 10 of 1985 and 17 of 1992, and with the Maintenance Orders (Facilities for Enforcement) Law (Cap. 90) (renamed in the 1977 Revision as the Maintenance Orders (Enforcement) Law) as amended by Laws 9 of 1972 and 18 of 1992.

Revised under the authority of the Law Revision Law (19 of 1975).

Originally enacted-

Cap. 89-1st January, 1964

Law 10 of 1972-11th May, 1972

Law 10 of 1985-22nd May, 1985

Law 17 of 1992-11th September, 1992

Cap. 90-1st January, 1964

Law 9 of 1972-11th May, 1972

Law 18 of 1992-11th September, 1992.

Consolidated and revised this 9th day of April, 1996.



CAYMAN ISLANDS**MAINTENANCE LAW****(1996 Revision)****Arrangement of Sections**

Section	Page
PART I - Preliminary	
1. Short title	5
2. Definitions	5
PART II - Duty to Maintain	
3. Duty of man to maintain certain children	6
4. Duty of woman to maintain certain children	6
5. Duty of children to maintain parents	7
6. Method of compelling performance of duties imposed by this Law	7
7. Manner of proceeding on summons	7
8. Duration of order of maintenance	8
9. Order may be cancelled in certain cases	8
10. Burden of proof	8
11. Liability of husband to support his wife	8
12. Penalties on neglecting to maintain wife and children or abandoning them	9
13. Order for maintenance of wife and children	9
14. Registration of orders and enforcement	9
15. Procedure where application is made for a maintenance order against a resident of England or Ireland	10
16. Procedure where a provisional maintenance order has been made by a court in England or Ireland, etc.	11
17. Governor may make regulations	12
18. Courts and officers shall take steps for enforcing orders	12



19.	Proceedings before courts	12
20.	Signing of documents	12
21.	Depositions which may be received in evidence	13
22.	Provisions applicable to Jamaica	13
23.	Power of Governor to extend Law to other countries or territories	13
24.	Free process	13



CAYMAN ISLANDS



MAINTENANCE LAW

(1996 Revision)

ENACTED by the Legislature of the Cayman Islands.

PART I - Preliminary

Short title

1. This Law may be cited as the *Maintenance Law (1996 Revision)*.

Definitions

2. In this Law —

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

“**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;

“**maintenance order**” means —

- (a) an order, however described, (including an affiliation order or order consequent upon an affiliation order) which provides for the periodical payment of sums 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, however described, or order consequent upon an affiliation order, being an order which provides for the payment by a man 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 the child's funeral expenses,

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

“**prescribed**” means prescribed by rules of court.

PART II - Duty to Maintain

Duty of man to maintain certain children

3. Every man is hereby required to maintain his own children and —

- (a) every child, whether born in wedlock or not, which his wife may have living at the time of her marriage with him;
- (b) if he cohabits with any woman, every child which such woman may have living at the time of the commencement of such cohabitation; and
- (c) the legitimate children of any child that his wife may have by him during his marriage, or of any child of which he may have been duly adjudged to be the father under any law that may be passed to provide for the maintenance of illegitimate children, in the event of the parents of such children failing to maintain them,

so long as such children respectively are unable by reason of tender years or bodily or mental infirmity to maintain themselves.

Duty of woman to maintain certain children

4. Every widow and unmarried woman is hereby required to maintain her own children, legitimate or illegitimate, and every woman having any children which any man, under section 3, is primarily bound to maintain is hereby required to maintain such children in the event of such man failing to perform his obligation, and every woman is hereby required to maintain the legitimate children of any child that she may have had in the event of the parents of such children and of any man primarily bound under section 3 to maintain such children failing to do so, so long as such children respectively are, by reason of tender years or bodily or mental infirmity, unable to maintain themselves.



Duty of children to maintain parents

5. Every person born in wedlock is hereby required to maintain his or her father and mother, grandfathers and grandmothers, and every person not born in wedlock is hereby required to maintain his or her mother, the person registered as his or her father, and if there be no person so registered, the man, if any, with whom his or her mother openly cohabited at the time of his or her birth, provided that such man recognised and treated such person as his child during his or her infancy, in case such father or mother or other person as aforesaid, or all or any of such persons are unable by reason of old age, or bodily or mental infirmity to maintain himself, herself or themselves.

Method of compelling performance of duties imposed by this Law

6. Any person entitled to be maintained by any other person or persons under this Law, and any person having the actual care and custody of any child so entitled, may, in case the person or persons by whom such first mentioned person or such child is entitled to be maintained or some or one of them shall fail to maintain such person or child, make a complaint before any Justice, who shall thereupon enquire into the case, and if it shall appear to him that the complainant, or the child on whose behalf the complaint is made, is entitled to be maintained by the person or persons complained against and that such person or persons have neglected to comply with the requirements of this Law, he shall summon such last mentioned person or persons to appear before the summary court at a time and place to be named in such summons, to answer the matter of such complaint.

Manner of proceeding on summons

7. At the time and place named in the summons the court on the appearance of the party summoned, or on being satisfied by affidavit that such summons was served on such party, shall proceed to enquire into the case and if the court is satisfied that the party complaining, or on whose behalf complaint is made as aforesaid, is entitled under this Law to be maintained by the party or parties complained against, and that such party or parties had or have neglected his or their duty in that respect, the court shall proceed to enquire into the means of the party or parties complained against, and if satisfied that he or they or any of them are of ability to maintain or contribute to the maintenance of the party complaining, or on whose behalf complaint is made, the court shall proceed to make an order (to be called an order of maintenance) against such party or parties, ordering him or them to pay either to the party complaining, or to some person approved by the court and to be named in the order, such periodical sum as, having regard to the means of the party or parties complained against and all the circumstances of the case, the court thinks just.

Duration of order of maintenance

8. Any order of maintenance made under this Law shall in the case of a child be made to hold good until such child attains the age of fourteen years, and in the case of any other person for such period as may be named in the order:

Provided that any order may be renewed, reviewed and varied at any time by the court:

Provided further, that when the person to be maintained is unable to maintain himself by reason of old age, or by reason of an illness or infirmity which is likely to be permanent, it shall be lawful for the court to make an order of maintenance for the rest of the natural life of such person.

Order may be cancelled in certain cases

9. Any person on whom any order has been made under this Law may, at any time, apply to the summary court to cancel the same; and if he then satisfies the court that the person whom by such order he was ordered to maintain is no longer unable as aforesaid to maintain himself the court shall cancel the said order.

Burden of proof

10. For the purposes of this Law every child under fourteen years of age shall be deemed unable to maintain himself or herself by reason of tender years, unless the contrary be shown.

Liability of husband to support his wife

11. For the purposes of this Law every man shall be liable and is hereby required to maintain his wife, irrespective of her being able to maintain herself:

Provided that no order for the payment of any sum of money by the husband of any married woman shall be made against such husband under this Law if it be proved before the summary court to whom application for such order is made that the wife has committed adultery (unless such adultery has been condoned), or that the wife has wilfully and without just cause deserted her husband; and any order for payment of any such sum may be discharged by the court upon proof that the wife has, since the making thereof, committed adultery.



Penalties on neglecting to maintain wife and children or abandoning them

- 12.** Every person who, by work or other means, is able to maintain himself and his wife and children, and who refuses or neglects so to do, and every person who wilfully abandons his wife or children, whereby such wife or children shall be left destitute, or dependent for support upon public or private charity, and every person who having had an order made against him under this Law, departs from his usual place of abode and thereby evades compliance with the said order, shall be deemed to be a rogue and vagabond, and, on summary conviction, for the first offence liable to imprisonment for thirty days, and for a second or subsequent offence liable to imprisonment for three months.

Order for maintenance of wife and children

- 13.** Notwithstanding anything in section 12, it is lawful for the court to make an order for maintenance against a person refusing or neglecting to maintain his wife and children, or abandoning his wife or children, instead of, or in addition to ordering such person to be imprisoned.

Registration of orders and enforcement

- 14.** (1) Where a maintenance order has, whether before or after the passing of this Law, been made against any person by any court in England or Ireland, and a certified copy of the order has been transmitted to the Governor he shall send a copy of the order to the prescribed officer of a court in the Islands for registration; and on receipt thereof the order shall be registered in the prescribed manner; and shall from the date of such registration, be of the same force and effect, and subject to this Law, all proceedings may be taken on such 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.
- (2) The court in which such order is to be registered shall, if the court by which the order was made was a court of superior jurisdiction, be the Grand Court, and, if the court was not a court of superior jurisdiction be a court of summary jurisdiction.
- (3) Where a court in the Islands 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 England or Ireland, the court shall send to the Governor, for transmission to the Secretary of State, a certified copy of the order.

Procedure where application is made for a maintenance order against a resident of England or Ireland

15. (1) Where an application is made to a court of summary jurisdiction in the Islands for a maintenance order against any person, and it is proved that that person is resident in England or Ireland, the court may, in the absence of that person, 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 England or Ireland.
- (2) The evidence of any witness who is examined on any such application shall be put in writing and such deposition shall be read over to and signed by him.
- (3) Where such an order is made the court shall send to the Governor, for transmission to the Secretary of State, the depositions so taken and a certified copy of the order, together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order was made had been duly served with a summons and had appeared at the hearing, and such information as the court possesses for facilitating the identification of that person, and ascertaining his whereabouts.
- (4) Where any such provisional order has come before a court in England or Ireland for confirmation, and the order has by that court been remitted to the court of summary jurisdiction which made the order for the purpose of taking further evidence, that court or any other court of summary jurisdiction sitting and acting for the same place 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. If, upon the hearing of such evidence, it appears to the court that the order ought not to have been made, the court may rescind the order, but in any other case the depositions shall be sent to the Secretary of State and dealt with in like manner as the original depositions.
- (5) The confirmation of an order made under this section shall not affect any power of a court of summary jurisdiction to vary or rescind that order:
- Provided that on the making of a varying or rescinding order the court shall send a certified copy thereof to the Governor, for transmission to the Secretary of State, and that in case of an order varying the original order the order shall not have any effect unless and until confirmed in like manner as the original order.
- (6) 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.



Procedure where a provisional maintenance order has been made by a court in England or Ireland, etc.

16. (1) Where a maintenance order has been made by a court in England or Ireland and the order is provisional only and has no effect unless and until confirmed by a court of summary jurisdiction in the Islands, 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 has been transmitted to the Governor, and it appears to the Governor that the person against whom the order was made is resident in the Islands, the Governor 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 such summons and cause it to be served upon such person.
- (2) A summons so issued may be served in the Islands in the same manner as if it had been originally issued or subsequently endorsed by a court of summary jurisdiction in the Islands.
- (3) At the hearing it shall be open to the person on whom the summons was served 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 confirm the order either without modification or with such modification as to the court after hearing the evidence may seem just.
- (5) 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 which 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.
- (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 application for rescission or variation the court is satisfied that it is necessary to remit the case to the court which 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.

- (7) 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.

Governor may make regulations

17. The Governor may make regulations as to the manner in which a case can be remitted by a court authorised to confirm a provisional order to the court which made the provisional order, and generally for facilitating communications between such courts.

Courts and officers shall take steps for enforcing orders

18. (1) A court of summary jurisdiction in which an order has been registered under this Law or by which an order has been confirmed under this Law, and the officers of such court shall take such steps for enforcing the order as may be prescribed.
- (2) Every such order shall be enforceable in like manner as if the order were for the payment of a civil debt recoverable summarily:
- Provided that, if the order is of such a nature that if made by the court in which it is so registered, or by which it is so confirmed, it would be enforceable in like manner as an order of affiliation, the order shall be so enforceable.
- (3) A warrant of distress or commitment issued by a court of summary jurisdiction for the purpose of enforcing any order so registered or confirmed may be executed in any part of the Islands in the same manner as if the warrant had been originally issued or subsequently endorsed by a court of summary jurisdiction having jurisdiction in the Islands.

Proceedings before courts

19. The laws of the Islands relating to and governing the exercise of summary jurisdiction in the courts shall apply to proceedings before such court under this Law in like manner as they apply to other proceedings and the power to make rules under such laws shall include power to make rules regulating the procedure of such courts under this Law.

Signing of documents

20. Any document purporting to be signed by a judge or officer of a court in England or Ireland, 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.



Depositions which may be received in evidence

21. Depositions taken in a court in England or Ireland for the purposes of this Law may be received in evidence in proceedings before courts of summary jurisdiction under this Law.

Provisions applicable to Jamaica

22. Sections 14 to 21 shall have effect in respect of Jamaica as though the references to England or Ireland therein were references to Jamaica, and the references to the Secretary of State were references to the person holding equivalent authority in Jamaica.

Power of Governor to extend Law to other countries or territories

23. (1) The Governor, if satisfied that, were the benefits conferred by this Law to be applied to, or to a particular class of, maintenance orders made by the courts of any country or territory outside the Islands, similar benefits would in that country or territory be applied to, or to that class of, maintenance orders made by the courts of the Islands, he may, by order, extend this Law to that country or territory, and this Law shall thereupon apply in respect of the country or territory as though —
- (a) references in it to England or Wales were references to that country or territory; and
 - (b) references in it to the secretary of State were references to the Head of State or Governor of the country or territory/
- (2) An order made under subsection (1) may extend sections 14 to 22 of this Law to another country or territory either as regards maintenance orders generally, or as regards a specified class of maintenance orders.

Free process

24. All process under this Law is free.

**Publication in consolidated and revised form authorised by the Governor in Council
this 9th day of April, 1996.**

Mona N. Banks-Jackson
Clerk of Executive Council

