

Family Proceedings Amendment Act 2000

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Family Proceedings Amendment Act 2000.
- (2) In this Act, the Family Proceedings Act 1980 is called “the principal Act”.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Orders enforceable under Child Support Act 1991

Section 101 of the principal Act is amended by adding, as subsection (2), the following subsection:

- “(2) If a Court makes an order under Part VI or Part VIII of this Act, the Commissioner of Inland Revenue must, as soon as practicable, take any action necessary to give effect to the order for the purposes of the Child Support Act 1991.”

4 New heading inserted

The principal Act is amended by inserting, after section 141, the following heading:

“Discharge or variation of overseas maintenance order.”

5 Discharge or variation of registered or confirmed order

Section 142 of the principal Act is amended by repealing subsection (1), and substituting the following subsections:

- “(1) If a maintenance order has been registered or confirmed in New Zealand, a District Court may, at any time, on the application of any person, make any of the following orders under section 99:
- “(a) an order discharging a maintenance order:
 - “(b) an order varying a maintenance order:
 - “(c) an order suspending the operation of a maintenance order for the purposes of New Zealand law:
 - “(d) an order remitting or suspending arrears due under a maintenance order for the purposes of New Zealand law:

- “(e) an order varying or extending an order for the giving of security for the payment of maintenance (whether by altering the term of the order, or the nature of any security, or by increasing or diminishing the amount of any security, or otherwise):
 - “(f) an order discharging an order for the giving of security for the payment of maintenance.
- “(1A) If the Court makes an order referred to in subsection (1)(d),—
- “(a) the remittance or suspension may be in respect of all or any part of the arrears; and
 - “(b) the remittance or suspension may be in respect of any maintenance order, whether or not it has ceased to be in force; and
 - “(c) any suspension may be on any terms and conditions that the Court specifies.
- “(1B) This section does not apply to a child maintenance order (as defined in section 142A).”

6 New sections 142A to 142F inserted

The principal Act is amended by inserting, after section 142, the following sections:

“142A Definition of child maintenance order

In sections 142B to 142E, **child maintenance order** means a maintenance order that—

- “(a) provides for the payment by any person of a periodical sum of money towards the maintenance of a child; and
- “(b) has been made by a Court in a Commonwealth or designated country; and
- “(c) has been registered or confirmed in New Zealand.

“142B Discharge, variation, etc, of child maintenance order

- “(1) A District Court may, at any time, on the application of any person, make any of the following orders:
- “(a) an order discharging a child maintenance order:
 - “(b) an order varying a child maintenance order:
 - “(c) an order suspending the operation of a child maintenance order for the purposes of New Zealand law:

- “(d) an order remitting or suspending arrears due under a child maintenance order for the purposes of New Zealand law:
 - “(e) an order varying or extending an order for the giving of security for the payment of maintenance (whether by altering the term of the order, or the nature of any security, or by increasing or diminishing the amount of any security, or otherwise):
 - “(f) an order discharging an order for the giving of security for the payment of maintenance.
- “(2) The Court may make an order under this section even if the child maintenance order to which the order relates was made by consent of the parties.
- “(3) If an application is made under this section, notice of the application must be given to any person or persons that the Court directs.
- “(4) If an application is made under this section,—
- “(a) the Court may, if it thinks fit, require the Commissioner of Inland Revenue to provide it with a report on the relevant financial implications of the application for the position of any person under the Child Support Act 1991; and
 - “(b) the Commissioner must provide that report to the Court within any period that the Court directs.
- “(5) If it appears to the Court to be necessary, for the purpose of taking further evidence, to remit the case to the Court that made the child maintenance order, the Court may remit the case and adjourn the proceedings for that purpose.

“142C Conditions relating to variation of child maintenance order

- “(1) An application for a variation of a child maintenance order must be dealt with as if the maintenance order had been made in New Zealand on the date when it was made outside New Zealand.
- “(2) An order varying a child maintenance order by increasing the amount payable under it may, if the Court thinks fit, take effect from a date that is earlier than the date of the order of variation,

but must not be earlier than the date on which the grounds for the variation arose.

“142D Payment of arrears on child maintenance orders

- “(1) All arrears due under a child maintenance order at the time when it is discharged or otherwise ceases to have effect are recoverable by the person to whom they are owing as if the order were still in force, unless and to the extent that the arrears are remitted by the Court.
- “(2) If a Court remits or suspends, under this section or section 142B(1)(d), any arrears due under a child maintenance order,—
- “(a) the remittance or suspension may be in respect of all or any part of the arrears; and
 - “(b) the remittance or suspension may be in respect of any child maintenance order, whether or not it has ceased to be in force; and
 - “(c) any suspension may be on any terms and conditions that the Court specifies.

“142E Court may make provisional order discharging, etc, child maintenance order

- “(1) If it appears to the Court, on an application under section 142B, that the order it proposes to make is one that, if made provisionally, may be confirmed under the law of the country in which the child maintenance order was made, the New Zealand Court may, instead of making the proposed order, make a provisional order.
- “(2) A provisional order has no effect unless and until it is confirmed by a competent Court in the country in which the child maintenance order was originally made.
- “(3) Subsections (5) to (9) of section 147 apply, except that the Court must, instead of sending the statement referred to in subsection (6)(c) of that section, send a statement of the grounds on which the provisional order has been made.

“142F Copies of orders to be forwarded to Commissioner

If a Court makes an order under any of sections 142 to 142E, the Registrar or other responsible officer of the Court must, within 14 days after the date on which the order is made, send a certified or sealed copy of the order to the Commissioner of Inland Revenue.”

7 New heading and section 143 substituted

The principal Act is amended by repealing section 143, and substituting the following heading and section:

*“Steps to be taken if respondent not residing in
New Zealand*

“143 Steps to be taken by Secretary if respondent not residing in New Zealand

“(1) If a maintenance order made by a Court in a Commonwealth or designated country has been registered or confirmed in New Zealand, and it appears to the Secretary that the respondent against whom the order is made is not residing in New Zealand, the Secretary must send the documents specified in subsection (2) to—

“(a) the responsible authority in that Commonwealth or designated country; or

“(b) the responsible authority in any other Commonwealth or designated country if, having regard to all the circumstances, the Secretary thinks it proper to do so.

“(2) The documents that the Secretary must send are—

“(a) a certified copy of the maintenance order, together with a certified copy of every order varying that maintenance order; and

“(b) a certificate of the amount of the arrears (if any) owing under the maintenance order; and

“(c) a statement giving any information that the Secretary possesses about the whereabouts of the respondent; and

“(d) any other documents in the possession of the Secretary that are relevant to the case.

“(3) If the documents specified in subsection (2) are sent to a responsible authority in a Commonwealth or designated country other than the one in which the maintenance order was made, the Secretary must inform the responsible authority in

the country in which the order was made of where the documents have been sent.”

Legislative history

9. November 2000

Divided from the Statutes Amendment Bill (No 7) as reported from the Justice and Electoral Committee (Bill 334-A2), third reading
