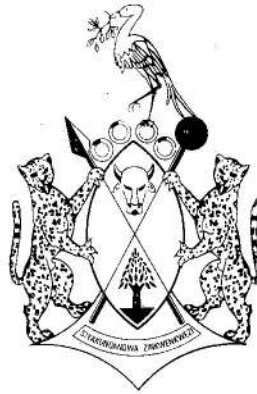


**IRIPHABLIKI
YECISKEI**

**REPUBLIC OF
CISKEI**

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**DEPARTMENT OF JUSTICE, POLICE AND
PRISONS**

GOVERNMENT NOTICE No. 87 OF 1988

**IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION:-**

**ENFORCEMENT OF MAINTENANCE ORDERS MADE IN
COUNTRIES IN AFRICA ACT, 1988**

ACT No. 27 OF 1988

ENFORCEMENT OF MAINTENANCE ORDERS MADE IN COUNTRIES IN AFRICA ACT, 1988

ACT

To provide for the reciprocal enforcement of maintenance orders made in Ciskei and in designated countries in Africa and to provide for incidental matters.

(English text signed by the President. Assented to on 9 September 1988).

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:-

1. **Definitions.** - In this Act, unless the context otherwise indicates —
 - "certified copy", in relation to an order of court, means a copy certified by the appropriate officer of the court to be a true copy;
 - "designated country", means a country in Africa in respect of which this Act applies in terms of section 2;
 - "Director-General", means the Director-General of the Department of Justice;
 - "maintenance court", means a maintenance court contemplated in section 2 of the Maintenance Act, 1963 (Act 23 of 1963);
 - "maintenance order", means any order for the periodical payment by any person of sums of money towards the maintenance of any other person whom the first mentioned person is liable to maintain in accordance with the law of the country in which the order is made;
 - "Minister", means the Minister of Justice;
 - "prescribed", means prescribed by rules made under this Act;
 - "provisional maintenance order", means a maintenance order having no effect unless and until confirmed by a competent court in the country where the person against whom it has been made is resident.
2. **Application of Act.** - (1) This Act shall apply in respect of any country in Africa designated by the Minister by notice in the *Gazette*.
(2) The Minister may by like notice withdraw any such designation.
3. **Transmission of maintenance orders.** - Whenever it appears to any court in Ciskei that any person against whom it has, before or after the commencement of this Act, made, registered or confirmed a maintenance order, is resident in a designated country, that court shall, with a view to registration of the maintenance order, transmit to the Director-General a certified copy of the order for transmission to an authority of such country recognized for the purpose by the Minister.
4. **Registration of maintenance orders.** - Whenever a certified copy of a maintenance order made before or after the commencement of this Act, against any person resident in Ciskei by any court in a designated country is transmitted to the Director-General by the administrative head of the Department of Justice of such country the Director-General shall transmit a copy of the order to a maintenance court in whose area of jurisdiction the person against whom the order was made, resides or is alleged to reside, and the order shall, on receipt thereof, be registered by that court in the prescribed manner.
5. **Provisional maintenance order against a person resident in designated country.** -
 - (1) Notwithstanding anything to the contrary in any other law contained an enquiry may be held under section 5 of the Maintenance Act, 1963, in the absence of any person resident in a designated country who may be legally liable to maintain any person in Ciskei, provided the evidence of all witnesses at the enquiry is read over to and signed by them.
 - (2) (a) Subject to the provisions of paragraph (c) the court holding the enquiry may make a provisional maintenance order only, against the person so resident and shall with a view to confirmation of the provisional maintenance order, forward to the Director-General for transmission to the administrative head of the Department of Justice of the designated country a certified copy of the order together with the depositions of any witnesses, and such information as may be available for the identification and location of the person against whom the order has been made.

ENFORCEMENT OF MAINTENANCE ORDERS MADE IN
COUNTRIES IN AFRICA ACT, 1988

(b) If the person so resident received notice of the proceedings at which the provisional maintenance order was made to enable him to defend such proceedings, proof of such notice shall accompany the said certified copy of the order.

(c) If at an enquiry under this section the written consent of the person so resident is produced by a maintenance officer, any order made in accordance with such written consent shall be a maintenance order for the purposes of transmission under section 3.

(3) If the court of the designated country before which the provisional maintenance order has come for confirmation, remits the case for further evidence to the maintenance court which made the provisional order, such court shall proceed with the enquiry as if no provisional order had been made and may take into consideration the contents of depositions of witnesses in the court before which such order has come for confirmation.

6. Confirmation of provisional maintenance order. - (1) Upon receipt from the administrative head of the Department of Justice of a designated country of a certified copy of a provisional maintenance order against any person resident in Ciskei made by a court in a designated country, together with the depositions of any witnesses, the Director-General shall transmit the documents concerned to the maintenance officer of the maintenance court in whose area of jurisdiction the person against whom this order was made resides or is alleged to reside, whereupon such maintenance officer shall institute an enquiry in such maintenance court with a view to confirmation of such order and may for that purpose cause any person, including any person legally liable to maintain any other person, to be summoned to appear before such maintenance court and give evidence or produce any book, document or statement, including, in the case of a person so liable, a statement giving full particulars of his earnings signed by his employer.

(2) Where the respondent received reasonable notice of the proceedings at which an order referred to in subsection (1) was made, the maintenance court conducting the enquiry shall limit its enquiry to the determination of the amount to be paid by the respondent towards the maintenance of such other person or persons and the finding by the court in the designated country to the effect that the respondent is liable under the laws of that country to maintain any person or persons shall be deemed to be final and conclusive.

(3) Any person to be summoned as a witness shall be summoned in the manner in which a person may be subpoenaed to appear before a magistrate's court in a criminal trial.

(4) The maintenance court shall hold the enquiry in such manner as may be prescribed and, subject to the provisions of subsection (2), may —

(a) make an order confirming the provisional maintenance order without modification or with such modification as to it may seem just;

(b) remit the case for further evidence to the court which made the provisional order;

(c) make no order;

(d) at any time make an order varying or discharging an order made by it under this section.

(5) (a) Any person aggrieved by an order made under this section may, within such period and in such manner as may be prescribed, appeal against such order to the general division of the Supreme Court.

(b) On appeal such division may make such order in the matter as it may deem fit.

(6) The provisions of section 8, 9 and 10 of the Maintenance Act, 1963, shall *mutatis mutandis* apply in respect of any enquiry held under this section.

7. Certain maintenance orders deemed for certain purposes to have been made under Maintenance Act, 1963. - Any maintenance order registered under section 4 or confirmed under section 6 shall for the purposes of sections 11, 12 and 14 of the Maintenance Act, 1963 be deemed to be a maintenance order made under subsection (4) of section 5 of the said Act by the maintenance court where such order has been so registered or confirmed:

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Provided that, in a prosecution for a contravention of section 11 in respect of an order of the said Act, the provisions of section 13 of that Act shall not apply.

8. Transmission to designated country of garnishee order in Ciskei. - Whenever it appears to any court in Ciskei that any person in respect of whom it has, before or after the commencement of this Act, made an order in terms of section 12(1) of the Maintenance Act, 1963, is resident in Ciskei but is employed or is in receipt of a salary, wages or other form of remuneration or allowance in a designated country, that court may transmit a certified copy of the record of the proceedings in which the order was made to the Director-General for transmission to the administrative head of the Department of Justice of such designated country.

9. Registration of garnishee order made in designated country. - (1) Whenever a certified copy of the record of proceedings of a court in a designated country, containing an order authorizing any employer of a person mentioned in such order to make on behalf of such person any payments required to be made in terms of a maintenance order, from the salary, wages or any other form of remuneration or allowance of such person, is received by the Director-General from the administrative head of the Department of Justice of a designated country, such order shall be transmitted to a maintenance court, which court, on the receipt thereof shall register such order in the prescribed manner.

(2) When an order has been registered in terms of subsection (1), the maintenance officer of the maintenance court which effected the registration shall from time to time in the prescribed manner cause a notice to be served on any such employer requiring him to make any such payments at such times and in such manner as may be specified in such notice.

(3) Any order registered under subsection (1) and any notice issued under subsection (2), shall for the purposes of subsections (2) and (3) of section 12 of the Maintenance Act, 1963, be deemed to be an order made or a notice issued under section 12(1) of that Act.

10. Certain maintenance moneys payable to clerk of the court. - Any sum of money payable in terms of a maintenance order registered under section 4 or confirmed under section 5 or an order registered under section 9 shall be payable to the clerk of the maintenance court where such order has been so registered or confirmed.

11. Evidence and procedure. - (1) Subject to the provisions of this Act and any rules made thereunder, the procedure and rules of evidence, including the competency, compellability, examination or cross-examination of witnesses, to be followed at or in connection with an enquiry under the Maintenance Act, 1963 shall in so far as they are appropriate and can be applied *mutatis mutandis* apply to enquiries under section 6(4).

(2) Any certified copy of a provisional maintenance order or of the depositions of witnesses referred to in section 6(1) shall on its mere production by the maintenance officer at an enquiry under section 6(4) be admissible in evidence.

12. Rules. - The Minister may by notice in the *Gazette* make rules as to any matter which may in terms of this Act be prescribed.

13. Short title and commencement. - This Act shall be called the Enforcement of Maintenance Orders made in Countries in Africa Act, 1988, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

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**ENFORCEMENT OF MAINTENANCE ORDERS MADE IN
COUNTRIES IN AFRICA ACT, 1988**

(ACT No. 27 OF 1988)
