

(2) The Deputy Collector of Maintenance and every Assistant Collector of Maintenance shall have and may exercise, subject to the directions of the Collector of Maintenance, all the powers, authorities, duties and functions of the Collector of Maintenance.

198. (1) The Collector shall have power to do all things necessary or convenient to be done for the enforcement in this State of maintenance orders that are enforceable in this State by virtue of this Division.

Powers of  
Collector.

(2) The Collector shall—

- (a) receive moneys payable to him pursuant to orders enforceable under this Division and moneys remitted to him by Collectors for other Australian States and authorities in reciprocating countries, and give receipts for moneys so received;
- (b) keep proper accounts of all moneys received, remitted or paid by him;
- (c) remit to Collectors for other Australian States and to the proper authorities in reciprocating countries moneys received by him in respect of maintenance orders made for the maintenance or benefit of persons residing in those Australian States or in those countries and payable to or for the benefit of those persons, together with proper accounts in respect of those moneys;

and

- (d) pay other moneys received by him to the persons entitled thereto.

and has such other powers, authorities, duties and functions as are specified in this Act or are prescribed.

(3) In all proceedings under this Division, the Collector shall be entitled to appear, to be heard, to give evidence and to call, examine and cross-examine witnesses.

199. The provisions of sections 190 to 199 (inclusive) of the Justices Act, 1921, as amended, shall, so far as those provisions are applicable and with such modifications as are necessary, extend and apply to and in relation to acts done by a person in the exercise of

Protection of  
Collector.

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**DIVISION VIII**

the powers and the performance of the duties of the Collector, the Deputy Collector or an Assistant Collector, in pursuance of this or any other Act.

(2) No order for costs shall be made against the Collector in proceedings for the enforcement of an interstate or overseas order.

*Subdivision 2—Interstate Maintenance*

Transmission of  
South  
Australian  
orders for  
enforcement in  
other States.

**200.** (1) Where a South Australian order is presently enforceable in this State but not in any other Australian State, and it appears to the Collector that the defendant is resident in, or proceeding to, another Australian State, the Collector may send to the Collector for that other Australian State—

- (a) three certified copies of the order;
  - (b) a Collector's certificate relating to the order;
  - (c) such information and material as the Collector possesses for facilitating the identification, and ascertaining the whereabouts, of the defendant;
- and
- (d) a request in writing that the order be made enforceable in that other Australian State.

(2) Where—

- (a) a South Australian order is, under the law of another Australian State, enforceable in that other Australian State;

and

- (b) the Collector is satisfied that there are reasonable grounds for believing that the defendant is not resident in, or proceeding to, that other Australian State or it appears to the Collector that there is some other good reason why the order should no longer be enforceable in that other Australian State,

he may send to the Collector for that other Australian State, a request in writing that the order be made no longer enforceable in that other Australian State and, for the purposes of this Act, the order shall, upon the sending of the request, cease to be enforceable in that other Australian State.

(3) The fact that a South Australian order has ceased to be enforceable in another Australian State by reason of action taken in that other Australian State as a result of a request made under subsection (2) of this section does not prevent a further request under subsection (1) of this section that the order be again made enforceable in that other Australian State.

(4) Where a South Australian order is, in pursuance of a request under subsection (1) of this section, made enforceable in another Australian State—

(a) the order becomes unenforceable in this State;

(b) the order remains unenforceable in this State, and no proceedings for the enforcement thereof shall lie, unless and until it ceases to be enforceable in that other Australian State;

and

(c) every warrant or other process under this Act arising out of the order previously issued in this State and not executed ceases to have effect.

201. (1) Where the Collector receives from the Collector for another Australian State—

Enforcement in this State of orders made in other Australian States.

(a) three certified copies of an interstate order made in that State;

(b) a Collector's certificate relating to the order;

and

(c) a request in writing that the order be made enforceable in this State,

he shall, if it appears to him that there are reasonable grounds for believing that the defendant is resident in, or proceeding to, this State, send the documents to the clerk of the court of summary jurisdiction at Adelaide known as the Adelaide Magistrates' Court, with a request that the order be registered in that court.

(2) Where a request is so made to the clerk, the clerk shall (whether or not the order is of such a kind as could be made in this State) register the order and file in the court a certified copy of the order and the Collector's certificate.

(3) An interstate order so registered, shall until the registration is cancelled and subject to any order for the suspension thereof, be enforceable in this State, both as regards any arrears payable under

the order and as regards amounts becoming due under the order after it is so registered and the provisions of section 209 of this Act shall apply to and in relation to such order accordingly.

(4) Upon registration of the interstate order, the Collector shall notify the Collector for the other Australian State accordingly and shall cause a certified copy of the order to be served upon the defendant, together with a notice of registration of the order in this State—

- (a) specifying the amount, if any, of the arrears due under the order;
  - (b) stating that payments under the order are to be made to the Collector;
- and
- (c) giving an address at which those payments may be made.

(5) Where—

- (a) an interstate order is registered in this State under this section;
- and
- (b) the Collector receives from the Collector for the other Australian State a request in writing that the order be made no longer enforceable in this State,

the Collector shall request the clerk of the court of summary jurisdiction at Adelaide known as the Adelaide Magistrates' Court to cancel the registration of the order, and the clerk shall thereupon cancel the registration.

(6) Where the registration of an interstate order is so cancelled—

- (a) the order shall become unenforceable in this State;
  - (b) the order shall remain unenforceable in this State and no proceedings for the enforcement thereof shall lie, unless and until it is again registered in this State;
- and
- (c) every warrant or other process under this Act arising out of the order previously issued in this State, and not executed shall cease to have effect.

Collector to notify original State when defendant lives this State.

202. Where an interstate order has been registered in this State under this Act and the Collector has reasonable grounds for believing that the defendant is no longer resident in this State, but is resident in, or proceeding to, another Australian State, he shall forthwith notify the Collector in the State in which the order was made of the fact and shall give him such information as he possesses concerning the whereabouts and intended movements of the defendant.

PART VI  
DIVISION VIIIApplication for  
provisional  
order of  
variation.

203. (1) Where an interstate order made by a court of summary jurisdiction, or by a magistrate or justices, is enforceable in this State by virtue of this Subdivision, application in writing in accordance with the prescribed form may be made by or on behalf of the complainant or the defendant to a prescribed court of summary jurisdiction in this State constituted of a special magistrate for an order discharging, suspending, varying or reviving the interstate order, and that court has jurisdiction to hear and determine the application.

(2) Where a South Australian order made by a court of summary jurisdiction is enforceable in another Australian State by virtue of any enactment in that State corresponding with this Subdivision, application in writing in accordance with the prescribed form may be made by or on behalf of the complainant or the defendant to any court of summary jurisdiction in this State constituted of a special magistrate (being a court that would have jurisdiction to make an order under this Act in relation to the South Australian order) for an order discharging, suspending, varying or reviving the South Australian order.

(3) The applicant shall cause notice of an application under this section to be served personally or by post not less than fourteen days before the hearing of the application, upon the Collector at his office at Adelaide, and the Collector shall, forthwith upon receipt by him of the notice, notify the Collector for the Australian State in which the interstate order was made or the South Australian order is enforceable (as the case may be).

(4) Except where the complainant and the defendant both appear upon the hearing, the evidence of any witness who is examined at the hearing of any such application shall be put into writing and shall be read over to and signed by him.

(5) While a South Australian order is enforceable in another Australian State under the law of that other Australian State, no application for the discharge, suspension, variation or revival of the order shall be made in this State except in accordance with this section.

## 204. Where—

(a) an application is made under subsection (1) of section 203 of this Act by a defendant for the discharge, suspension or variation of an interstate order;

(b) the defendant did not appear at the hearing of the complaint upon which the original interstate order was made and was not served personally in the Australian State in which the order was made with the summons upon that complaint;

and

Discharge,  
suspension or  
variation of  
order made in  
absence of  
defendant.



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- (c) the application is made within six months after service on the defendant of notice of registration of the order in this State,

the defendant may, in addition to raising any matter that could have been raised on an application under section 144 of this Act, raise any ground of opposition that he could have raised in the original proceedings.

Law to be applied.

**205.** In an application under section 203 of this Act, the law to be applied shall, except in matters of practice or procedure, be the law of the Australian State in which the original order was made.

Order of variation to be provisional only.

**206.** (1) Except as provided in subsection (2) of this section, an order made on an application under section 203 of this Act discharging, suspending, varying or reviving a maintenance order shall be provisional only and shall have no effect unless and until confirmed by a competent court of the appropriate Australian State in which the maintenance order was made or is enforceable, and shall be expressed accordingly.

(2) Where the respondent to an application under section 203 of this Act has been served personally in this State with notice of the application or appears on the hearing of the application, any order made on the application shall recite that fact, and the order shall, subject to subsection (4) of section 200 of this Act, be enforceable and have effect forthwith in this State according to the tenor thereof.

(3) Where an order made on an application under section 203 of this Act is expressed to be provisional, the clerk of the court making the provisional order shall send a certified copy of the order, together with the depositions of the witnesses, to the Collector for the other Australian State.

(4) Where an order referred to in subsection (3) of this section has been confirmed (whether with or without modification) by a competent court of the other Australian State, the order shall, subject to subsection (4) of section 200 of this Act, be enforceable and have effect in this State as so confirmed.

Procedure where provisional order remitted by court of other Australian State.

**207.** (1) Where a provisional order made under the foregoing provisions of this Subdivision is remitted by a court in another Australian State to the court in this State that made the provisional order for the taking of further evidence, the court in this State, or, if requested by that court, another court in this State shall, after notice has been given to such persons in such manner as the court thinks fit, proceed to take the evidence, and shall cause the depositions of the witnesses to be sent to the court in the other Australian State.

(2) If, upon the taking of the further evidence, it appears to the court taking the further evidence that the order ought not to have been made, the court may rescind the order and may, if it thinks fit, make a fresh provisional order in its stead.

208. (1) Where the Collector receives—

(a) a certified copy of—

(i) a provisional order made by a court in another Australian State discharging, suspending, varying or reviving a South Australian order enforceable in that other Australian State;

or

(ii) a provisional order made by a court in another Australian State discharging, suspending, varying or reviving an interstate order made in that Australian State and enforceable in this State by virtue of this Subdivision;

and

(b) the depositions of the witnesses who gave evidence at the hearing of the application upon which the provisional order was made,

the Collector shall, on behalf of the party on whose application the provisional order was made in the other Australian State, apply to the court in this State by or in which the maintenance order was made or is registered for an order confirming the provisional order.

(2) The Collector shall cause notice, in accordance with the prescribed form, of the application under this section to be served on the respondent to the application not less than seven days before the hearing of the application.

(3) Upon the hearing of such an application, the court may—

(a) confirm the provisional order, either with or without modification;

(b) discharge the provisional order;

or

(c) adjourn the proceedings and remit the provisional order to the court that made it with a request that that court take further evidence and further consider its provisional order.

(4) Where a provisional order is confirmed under this section (whether with or without modification), the order as so confirmed shall, subject to subsection (4) of section 200 of this Act, be

Confirmation  
in this State of  
provisional  
orders made in  
other Australian  
States.

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enforceable and have effect in this State as if it were an order to the like effect validly made by the court in this State.

(5) Each party to an application for confirmation of a provisional order under this section shall have the same right of appeal against an order confirming or discharging the provisional order as he would have had on the making of, or the refusal to make, the original order.

**Proceedings for  
enforcement.**

**209.** (1) Where an interstate order is enforceable in this State by virtue of this Subdivision—

(a) all proceedings may be taken for the enforcement of the order;

and

(b) the provisions of this Part shall, so far as they are applicable and with such modifications as are necessary, apply and have effect,

as if it were a maintenance order made under this Part by the court of summary jurisdiction in which it is registered or by which it was confirmed, as the case may be.

(2) The Collector may take any proceedings that are authorized by or by virtue of subsection (1) of this section.

(3) Where proceedings are so taken by the Collector, the court shall, unless it is satisfied by evidence to the contrary, presume that the enforcement of the order is required for the actual support of the person for whose benefit the order was made and that since the order became enforceable in this State no moneys have been paid under the order otherwise than to the Collector.

*Subdivision 3—Overseas Maintenance*

**Transmission of  
maintenance  
orders made in  
this State for  
enforcement in  
reciprocating  
countries.**

**210.** Where a South Australian order is presently enforceable in this State but not in any other Australian State and it appears to the Collector that the defendant is resident in, or proceeding to, a reciprocating country, the Collector may send to an appropriate authority in that reciprocating country—

(a) three certified copies of the South Australian order;

(b) a Collector's certificate relating to the South Australian order;

(c) such information and material as the Collector possesses for facilitating the identification, and ascertaining the whereabouts, of the defendant;

and



- (d) a request in writing that the South Australian order be made enforceable in that reciprocating country.

**211.** (1) This section applies to an application for a maintenance order under this Act—

Power to make provisional order against person resident in reciprocating country.

- (a) against a husband for the maintenance of his wife;  
 (b) against a wife for the maintenance of her husband;  
 or  
 (c) against a near relative of a child for the maintenance of that child.

(2) Upon application made in writing in accordance with the prescribed form to a court of summary jurisdiction constituted of a special magistrate for a maintenance order to which this section applies and upon proof that the person against whom the order is sought is resident in, or proceeding to, a reciprocating country, the court may, in the absence of that person, make any order it could have made if a summons had been duly served on that person and he had failed to appear at the hearing.

(3) An order made under subsection (2) of this section shall be provisional only and shall have no effect unless and until confirmed (either with or without modification) by a competent court in a reciprocating country in which the defendant is resident at the time of that confirmation, and shall be expressed accordingly.

(4) The evidence of any witness who is examined on any such application shall be put into writing and shall be read over to and signed by him.

(5) Where a court makes an order under subsection (2) of this section, the clerk of the court shall send to the Collector for transmission to the reciprocating country referred to in subsection (2) of this section—

- (a) the depositions of the witnesses;  
 (b) three certified copies of the order;  
 and  
 (c) a statement of the grounds on which the making of the order could have been opposed if the defendant had appeared at the hearing.

(6) Where any provisional order made under this section has come before a court in a reciprocating country for confirmation and the order has by that court been remitted to the court in this State that made the order for taking of further evidence that court, or, if

requested by that court, another court in this State shall, after notice has been given to such persons and in such manner as the court thinks fit, proceed to take the evidence, and shall send the depositions of the witnesses to the Collector for transmission to the court in the reciprocating country.

(7) If, upon the taking of the further evidence, it appears to the court taking that further evidence that the order ought not to have been made, that court may rescind the order and may, if it thinks fit, make a fresh provisional order in its stead.

(8) Where a court takes evidence in pursuance of a request of another court made under subsection (6) of this section, the first-mentioned court may, for the purposes of subsection (7) of this section have regard to the evidence given at the hearing in the second-mentioned court.

(9) Where a court in a reciprocating country in which the defendant is for the time being resident confirms (either with or without modification) a provisional order made under this section, the order shall be enforceable and have effect in this State as so confirmed as if it were an order validly made under this Part by the court of summary jurisdiction referred to in subsection (2) of this section.

(10) Where a court in a reciprocating country confirms (either with or without modification) a provisional order made under this section, then, in any proceedings arising out of or relating to the order, it shall be presumed, unless the contrary is proved, that the defendant was resident in that reciprocating country at the time when the order was confirmed.

(11) 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.

Cancellation of  
registration.

## 212. Where—

(a) a South Australian order is, under the law of a reciprocating country, enforceable in that reciprocating country;

and

(b) the Collector is satisfied that there are reasonable grounds for believing that the defendant is not resident in, or proceeding to, that reciprocating country or it appears to the Collector that there is some other good reason why the order should no longer be enforceable in that reciprocating country,