

THE CLAIMS FOR MAINTENANCE (RECOVERY ABROAD) ORDINANCE, 1959.

ORDINANCE NO. L OF 1959

[10th September, 1959]

An Ordinance to give effect to the United Nations Convention on the Recovery Abroad of Claims for Maintenance.

WHEREAS the United Nations Conference on Maintenance Obligations held at New York from the 29th May, 1956, to the 20th June, 1956, adopted the Convention on the Recovery Abroad of Maintenance;

AND WHEREAS Article 13 of the said Convention provides that the Convention may be acceded to at any time on behalf of any Member of the United Nations;

AND WHEREAS Pakistan, being a Member of the United Nations, has, in pursuance of the aforesaid Article, acceded to the Convention on the fourteenth day of July, 1959 ;

¹ Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government".

AND WHEREAS it is expedient to give effect to the Convention;

NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance.

1. Short title and commencement. — (1) This Ordinance may be called the Claims for Maintenance (Recovery Abroad) Ordinance, 1959.

(2) It shall come into force at once.

2. Definitions. In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “Article” means an article of the Convention ;

¹(b) “Contracting Party” means Pakistan, and any other state whose instrument of ratification or accession is deposited under Article 13 and which is notified by the ²[Federal Government] in the official Gazette to be a contracting Party ;

(c) “Convention” means the United Nations Convention on the Recovery Abroad of Maintenance; and

³(d) “Transmitting Agency” and “Receiving Agency” for a Contracting Part shall mean respectively the judicial or administrative authority and the public or private body designated under Article 2 to be the Transmitting Agency or the Receiving Agency, as the case may be, and notified as such by the ²[Federal Government] in the official Gazette.

¹ For Notifn under this clause, *see* Gaz., of P. 1960 pt, I p. 610, and *ibid.*, 1961, pp. 156-157.

² Subs. by F.A.O., 1975, Art. 2 and Table, for “Central Government”.

³ For notifn under this section, *see* Gaz. of P., 1961, pt. I, pp. 156-157.

¹**3. Publication of information.** The ²[Federal Government] shall, from time to time, publish in the official Gazette any information received by it from the Secretary- General of the United Nations in pursuance of Article 19.

4. The Convention to have the force of law in Pakistan. — (1) Notwithstanding anything to the contrary contained in any other law, the provisions of the Convention set out in Schedule shall have the force of law in Pakistan.

(2) The ²[Federal Government] may amend the Schedule in conformity with such amendments as may, from time to time, be made in the Convention.

5. Power to make rules. The ²[Federal Government] may make rules for carrying out the purposes of this Ordinance.

THE SCHEDULE

(See section 4)

CONVENTION ON THE RECOVERY ABROAD OF MAINTENANCE.

Article 1

SCOPE OF THE CONVENTION

1. The purpose of this Convention is to facilitate the recovery of maintenance to which person, hereinafter referred to as claimant, who is in the territory of one of the Contracting Parties, claims to be entitled from another person, hereinafter referred to as respondent, who is subject to the jurisdiction of another Contracting Party. This purpose shall be effected through the offices of agencies which will hereinafter be referred to as Transmitting and Receiving Agencies.

¹ For notifn., under this section, see Gaz. of P., 1961 Pt. I, pp. 157-161.

² Subs. by F.A.O., 1975 Art. 2 and Table, for "Central Government".

2. The remedies provided for in this Convention are in addition to, and not in substitution for, any remedies available under municipal or international law.

Article 2

DESIGNATION OF AGENCIES

1. Each Contracting Party shall, at the time when the instrument of ratification or accession is deposited, designate one or more judicial or administrative authorities which shall act in its territory as Transmitting Agencies.

2. Each Contracting Party shall, at the time when the instrument of ratification or accession is deposited, designate a public or private body which shall act in its territory as Receiving Agency.

3. Each Contracting Party shall promptly communicate to the Secretary-General of the United Nations the designations made under paragraphs 1 and 2 and any changes made in respect thereof.

4. Transmitting and Receiving Agencies may communicate directly with Transmitting and Receiving Agencies of other Contracting Parties.

Article 3

APPLICATION TO TRANSMITTING AGENCY

1. Where a claimant is in the territory of one Contracting Part, hereinafter referred to as the State of the claimant, and the respondent is subject to the jurisdiction of another Contracting Party, hereinafter referred to as the State of the respondent, the claimant may make application to a Transmitting Agency in the State of the claimant for the recovery of maintenance from the respondent.

2. Each Contracting Party shall inform the Secretary-General as to the evidence, normally required under the law of the State of the Receiving Agency for the proof of maintenance claims, of the manner in which such evidence should be submitted and of other requirements to be compiled with under such law.

3. The application shall be accompanied by all relevant documents, including, where necessary, a power of attorney authorizing the Receiving Agency to act, or to appoint some other person to act, on behalf of the claimant. It shall also be accompanied by a photograph of the claimant and, where available, a photograph of the respondent.

4. The Transmitting Agency shall take all reasonable steps to ensure that the requirements of the law of the State of the Receiving Agency are complied with; and, subject to the requirements of such law, the application shall include :

- (a) the full name, address, date of birth, nationality, and occupation of the claimant, and the name and address of any legal representative of the claimant;
- (b) the full name of the respondent, and, so far as known to the claimant, his addresses during the preceding five years, date of birth, nationality, and occupation;
- (c) particulars of the grounds upon which the claim is based and of the relief sought, and any other relevant information such as the financial and family circumstances of the claimant and the respondent.

Article 4

TRANSMISSION OF DOCUMENTS

1. The Transmitting Agency shall transmit the documents to the Receiving Agency of the State of the respondent, unless satisfied that the application is not made in good faith.

2. Before transmitting such documents, the Transmitting Agency shall satisfy itself that they are regular as to form, in accordance with the law of the State of the claimant.

3. The Transmitting Agency may express to the Receiving Agency an opinion as to the merits of the case and may recommend that free legal aid and exemption from costs be given to the claimant.