

the Collector may send to an appropriate authority in that reciprocating country a request in writing that the order be made no longer enforceable in that reciprocating country and, for the purposes of this Act, the order shall, upon the sending of the request, cease to be enforceable in that reciprocating country.

**213. (1) Where the Collector receives—**

Registration of  
overseas orders.

(a) a certified copy of an overseas order;

and

(b) a certificate signed by an officer of a court or by an appropriate authority in the reciprocating country relating to the order and containing—

(i) a statement that the order is, at the date of the certificate, enforceable in that reciprocating country;

and

(ii) a statement as to the amount of any arrears due under the order, distinguishing any amount in respect of which the defendant has been imprisoned,

the Collector shall, subject to subsection (2) of this section, if it appears to him that there are reasonable grounds for believing that the defendant is resident in or proceeding to this State send those 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) In the case of an overseas order originating in a country having restricted reciprocity, the Collector shall not send the documents as required by subsection (1) of this section unless the Collector is satisfied that the order is a maintenance order of such a kind as can be made under this Part.

(3) Upon a request made under subsection (1) of this section, the clerk shall register the order and file in the court a certified copy of the order and the certificate relating thereto.

(4) An overseas 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.

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(5) Upon registration of an overseas order, the Collector shall notify the officer of the court or other appropriate authority in the reciprocating country accordingly and 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 such payments may be made.

Confirmation of  
provisional  
orders made  
overseas.

**214. (1) Where—**

- (a) an overseas order (other than an order in an affiliation case or an order consequent upon such an order) has no effect under the law of the reciprocating country in which it is made unless and until confirmed by a court outside that reciprocating country (whether or not it appears from the order that it may be confirmed by a court in this State);
- (b) a certified copy of the order and the depositions of the witnesses in the proceedings in which the order was made, together with a statement of the grounds on which the making of the order could have been opposed if the defendant had appeared at the hearing, have been received by the Collector;
- and
- (c) it appears to the Collector that—
  - (i) there are reasonable grounds for believing that the defendant is resident in, or proceeding to, this State;
  - and
  - (ii) the order will have effect under the law of the reciprocating country if it is confirmed by a court in this State,

a summons may, subject to subsection (2) of this section, on the application of the Collector, be issued by any justice calling upon the defendant to appear before a convenient court of summary jurisdiction specified in the summons and constituted of a special magistrate to show cause why the provisional order should not be confirmed.

(2) In the case of a provisional order made in a country having restricted reciprocity, the Collector shall not make an application as provided by subsection (1) of this section unless he is satisfied that the order is of such a kind (apart from its provisional nature) as could be made under this Part.

(3) At the hearing the defendant may raise any ground of opposition which he could have raised in the original proceedings or any ground of opposition which he could have raised if those proceedings had been heard in this State, and the statement referred to in subsection (1) of this section shall be conclusive evidence that the grounds referred to in that statement are grounds on which the making of the order might have been refused in the original proceedings.

(4) If the defendant, having been served in this State with the summons, does not appear at the hearing, or if the defendant appears at the hearing but fails to satisfy the court that the order ought not to be confirmed, the court may—

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

or

(b) 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,

but the court may, if it thinks it just to do so, discharge the provisional order.

(5) Where a provisional order is confirmed under this section (whether with or without modification), the order as so confirmed shall be 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.

(6) If, at the hearing, the court is of opinion that it is necessary to remit the case to the court that made the provisional order for the taking of further evidence, the case may be so remitted.

**215.** (1) Where an overseas order is enforceable in this State under this Subdivision, and it appears to the Collector that there are reasonable grounds for believing that the defendant has ceased to reside in this State and is resident in, or proceeding to, another Australian State, the Collector may send to the Collector for that Australian State—

Order enforceable in this State may be sent to another Australian State.

(a) three certified copies of the overseas order;

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

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(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 Australian State,

and if he does so, shall forthwith notify the officer of the appropriate court or the appropriate authority in the reciprocating country of the fact that he has so sent the documents.

(2) Where a request is made under subsection (1) of this section—

(a) the order shall become unenforceable in this State, and, if the order has been registered in a court in this State, that registration shall be deemed to be cancelled;

(b) the order shall remain unenforceable in this State and no proceedings for the enforcement thereof shall lie, unless and until it is registered, or 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.

Registration of overseas orders registered or confirmed in another Australian State.

**216. (1) Where—**

(a) the Collector receives from the Collector for another Australian State—

(i) three certified copies of an overseas order;

(ii) a Collector's certificate signed by the Collector for that Australian State relating to the order;

and

(iii) a request in writing that the order be made enforceable in this State;

and

(b) it appears from the Collector's certificate that—

(i) the order has been registered in, or confirmed by, a court in that Australian State under a law of that Australian State corresponding with this Subdivision;

and

(ii) the order was, at the date of the certificate, presently enforceable in that Australian State in accordance with that law,

the Collector shall if it appears to him that there are reasonable grounds for believing that the defendant is residing 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, the clerk shall (whether or not the order is of such a kind as could be made under this Part) register the order and file in the court a certified copy of the order and the Collector's certificate.

(3) An overseas order so registered shall, until the registration is cancelled, 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.

(4) Upon registration of an overseas order, the Collector shall notify the officer of the appropriate court or the other appropriate authority in the reciprocating country 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 such payments may be made.

217. Where the Collector receives documents relating to an overseas order (including a provisional order) that have been transmitted to this State for the purpose of having the order made enforceable or confirmed in this State and it appears to him that the defendant is not resident in, or proceeding to, this State but is resident in, or proceeding to another Australian State or a reciprocating country other than that in which the order was made, the Collector may, instead of taking steps with a view to the registration or confirmation of the order in this State—

Transmission of documents where defendant not in this State.

- (a) transmit the documents to the Collector for that other Australian State or an appropriate authority in that other reciprocating country together with such information as he possesses concerning the whereabouts and intended movements of the defendant;
- and
- (b) give to the officer of the appropriate court or other appropriate authority in the reciprocating country in which the order was made notice of the fact that he has so transmitted the documents.

**218. (1) Where—**

(a) an overseas order is registered or confirmed under this Subdivision;

and

(b) the Collector receives a request in writing made by an officer of the Court that made the order or some other appropriate authority in the reciprocating country that the order be made no longer enforceable in this State,

the Collector shall send the request to the clerk of the court of summary jurisdiction at Adelaide known as the Adelaide Magistrates' Court, who shall file the request and, if the order is registered under this Subdivision, cancel the registration of the order.

(2) Where such a request has been so filed—

(a) the overseas order shall become unenforceable in this State;

(b) the order shall remain unenforceable in this State unless and until it is registered, or 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.

**219. (1) Where an overseas 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 in this State in which the order 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.

220. (1) Where an overseas order is enforceable in this State by virtue of this Subdivision, the defendant may make an application in writing, in accordance with the prescribed form, to a prescribed court of summary jurisdiction constituted of a special magistrate for an order discharging, suspending or varying the overseas order, and that court has jurisdiction to hear and determine the application.

(2) Where a South Australian order is enforceable under the law of a reciprocating country in which the defendant is for the time being resident, the complainant may make an application in writing, in accordance with the prescribed form, to the court that made the order for an order varying or (if the order has been suspended) reviving, the order.

(3) The applicant shall cause notice of an application under this section to be served personally or by post upon the Collector at his office at Adelaide not less than fourteen days before the hearing of the application.

(4) 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) The court shall, as far as practicable, hear and determine an application under this section as if it were a similar application under Division V of this Part.

### 221. Where—

(a) an application is made by a defendant for the discharge, suspension or variation of an overseas order;

(b) the defendant did not appear at the hearing of the proceedings upon which the overseas order was made and was not served personally in the reciprocating country with notice of those proceedings;

and

(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 had the proceedings on which the overseas order was made been heard in this State.

222. In an application under section 220 of this Act the law to be applied shall be the law of this State.

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

Law to be  
applied.

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**DIVISION VIII**  
**Certain orders**  
**to be provisional**  
**only.**

**223.** (1) Where the court proposes to make an order on an application under section 220 of this Act and any court in the reciprocating country will, if the order is provisional only, have jurisdiction to confirm the order, the order shall be provisional only and shall have no effect unless and until confirmed (either with or without modification) by such a court, and shall be expressed accordingly.

(2) Where a provisional order is made in accordance with this section, the Collector shall send a certified copy of the provisional order, together with the depositions of the witnesses, to an officer of a court in the reciprocating country having jurisdiction to confirm the provisional order, or to an appropriate authority in that country for transmission to such court.

(3) Where a court in the reciprocating country confirms (either with or without modification) a provisional order made on an application under section 220 of this Act, the order shall be enforceable and have effect in this State as so confirmed.

(4) Notwithstanding anything contained in this section, if a provisional order made on an application under subsection (2) of section 220 of this Act is confirmed (either with or without modification, by a court of a reciprocating country being a country other than the country specified in the order) in which the defendant is resident at the time of the confirmation, the order shall be enforceable and have effect in this State as so confirmed.

**Procedure**  
**where**  
**provisional**  
**order remitted**  
**by court in**  
**reciprocating**  
**country.**

**224.** (1) Where a provisional order made in accordance with section 223 of this Act is remitted by a court in a reciprocating country 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 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.

(2) 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.

**Confirmation in**  
**this State of**  
**provisional**  
**orders of**  
**variation made**  
**in reciprocating**  
**countries.**

**225.** (1) Where the Collector receives—

(a) a certified copy of—

(i) a provisional order made by a court of a reciprocating country discharging, suspending, varying or reviving a South Australian order enforceable in that reciprocating country;

or

- (ii) a provisional order made by a court in a reciprocating country discharging, suspending, varying or reviving an overseas order made in that reciprocating country 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 reciprocating country, apply to the court in this State by or in which the maintenance order was made, registered or confirmed 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 any such 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 the 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 be 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.

**226.** (1) Where the Governor is satisfied that the law of a country makes provision for the enforcement in that country of maintenance orders made in another country and that under that law South Australian orders may be made enforceable in that country, the Governor may, by proclamation, declare that country to be a reciprocating country for the purposes of this Act.

Power of  
Governor to  
declare  
reciprocating  
countries.

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(2) If it appears to the Governor that the jurisdiction of the courts of a country specified, or to be specified, in a proclamation under subsection (1) of this section to make maintenance orders extends to the making of orders that are not of the same kind as orders that may be made in this State under this Part he may, by the same or a subsequent proclamation, declare that that country has restricted reciprocity with this State.

(3) In a proclamation made under subsection (1) or subsection (2) of this section the Governor may specify, in relation to the country to which the proclamation applies, a date, which may be before or after or the same day as the date of the proclamation, and declare that maintenance orders made in that country on or after that date shall be enforceable in this State in accordance with the provisions of this Act.

(4) The Governor may, by the like proclamation, revoke or vary or further vary any proclamation made under subsection (1) or subsection (2) of this section or any corresponding previous enactment.

(5) Where, by virtue of any proclamation made pursuant to this section, a country that has been a reciprocating country ceases to be a reciprocating country—

(a) a maintenance order made in that country and enforceable in this State by virtue of this Subdivision shall cease to be so enforceable and no further proceedings for the enforcement thereof shall lie;

and

(b) every warrant or other process under this Act arising out of any such order previously issued in this State and not executed shall cease to have effect,

but this subsection shall not affect the validity of anything done under this Act for the enforcement of a maintenance order while that country was a reciprocating country.

(6) At least once in every year the Collector shall cause to be published in the *Gazette* a list of the names of the reciprocating countries, showing the respective dates upon which they became reciprocating countries, the dates, if any, on or after which maintenance orders made in those countries are enforceable in this State and indicating which of those countries are countries having restricted reciprocity.

(7) A copy of the *Gazette* containing such a list shall be accepted in any proceedings as evidence of the matters stated in the list and of the fact that a country shown in the list as a reciprocating country of either class continues to be a reciprocating country of that class.