

CAYMAN ISLANDS



**MAINTENANCE (AMENDMENT) BILL,
2024**

Supplement No. 2 published with Legislation Gazette No. 37 dated 25th October, 2024.

A BILL FOR AN ACT TO AMEND THE MAINTENANCE ACT (1996 REVISION) TO REMOVE REFERENCES TO MAINTENANCE OF CHILDREN AS MATTERS DEALING WITH THE MAINTENANCE OF CHILDREN ARE BEING PROVIDED FOR UNDER THE CHILDREN ACT (2012 REVISION); TO REMOVE REFERENCES TO AFFILIATION ORDERS AS A CONSEQUENCE OF THE REPEAL OF THE AFFILIATION ACT (1995 REVISION); AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Investment, Innovation and Social Development (IISD)



Memorandum of OBJECTS AND REASONS

This Bill amends the Maintenance Act (1996 Revision) (“the principal Act”) as a consequence of matters related to the maintenance of children being dealt with under the Children Act (2012 Revision) and as a consequence of the repeal of the Affiliation Act (1995 Revision).

The Bill also provides for incidental and connected purposes.

Clause 1 provides the short title and commencement of the legislation.

Clause 2 provides for general amendments to the principal Act to remove references to Roman numerals and replace them with references to Arabic numerals.

Clause 3 amends section 2 of the principal Act to, among other things, remove references to affiliation orders as a consequence of the repeal of the Affiliation Act (1995 Revision).

Clauses 4 and 5 amends the principal Act by repealing sections 3 and 4, which provide respectively for the duty of a man and the duty of a woman to maintain certain children, as this is being provided for under the Children Act (2012 Revision).

Clause 6 amends the principal Act by repealing and substituting section 6. The substituted section 6 removes references to compelling performance of duties imposed by the legislation in respect of children. This is being provided for under the Children Act (2012 Revision).

Clause 7 amends section 7 of the principal Act to streamline the references to maintenance orders in the legislation.

Clause 8 amends the principal Act by repealing and substituting section 8. The substituted section 8 removes references to the duration of maintenance orders in respect of children, as this is being provided for under the Children Act (2012 Revision).

Clause 9 amends the principal Act by repealing section 10 as a consequence of the removal from this legislation of provisions dealing with the maintenance of children.

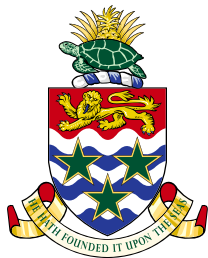
Clause 10 amends the principal Act by repealing and substituting section 12. The substituted section 12 proposes to deal only with penalties for, among other things, neglecting to maintain one’s wife. Penalties relating to the failure to maintain one’s child are provided for under the Children Act (2012 Revision).

Clause 11 amends the principal Act by repealing and substituting section 13. The substituted section 13 provides that, instead of, or in addition to, ordering a person to be imprisoned for failure to maintain that person’s wife, the court may make a maintenance order against such a person. Consequential amendments have been made to remove references to children.

Clause 12 amends section 18 of the principal Act by repealing and substituting subsection (2) to remove references to affiliation orders as a consequence of the repeal of the Affiliation Act (1995 Revision).



CAYMAN ISLANDS



MAINTENANCE (AMENDMENT) BILL, 2024

Arrangement of Clauses

Clause	Page
1. Short title and commencement	7
2. General amendments to the Maintenance Act (1996 Revision) - references to Part headings.....	7
3. Amendment of section 2 - definitions	8
4. Repeal of section 3 - duty of man to maintain certain children.....	8
5. Repeal of section 4 - duty of woman to maintain certain children	8
6. Repeal and substitution of section 6 - method of compelling performance of duties imposed by this Act.....	8
7. Amendment of section 7 - manner of proceeding on summons.....	9
8. Repeal and substitution of section 8 - duration of order of maintenance.....	9
9. Repeal of section 10 - burden of proof.....	9
10. Repeal and substitution of section 12 - penalties on neglecting to maintain wife and children or abandoning them.....	9
11. Repeal and substitution of section 13 - order for maintenance of wife and children.....	10
12. Amendment of section 18 - courts and officers shall take steps for enforcing orders.....	10



CAYMAN ISLANDS

**MAINTENANCE (AMENDMENT) BILL, 2024**

A BILL FOR AN ACT TO AMEND THE MAINTENANCE ACT (1996 REVISION) TO REMOVE REFERENCES TO MAINTENANCE OF CHILDREN AS MATTERS DEALING WITH THE MAINTENANCE OF CHILDREN ARE BEING PROVIDED FOR UNDER THE CHILDREN ACT (2012 REVISION); TO REMOVE REFERENCES TO AFFILIATION ORDERS AS A CONSEQUENCE OF THE REPEAL OF THE AFFILIATION ACT (1995 REVISION); AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Act may be cited as the Maintenance (Amendment) Act, 2024.
- (2) This Act shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Act and in relation to different matters.

General amendments to the Maintenance Act (1996 Revision) - references to Part headings

2. The *Maintenance Act (1996 Revision)*, in this Act referred to as the “principal Act”, is amended as follows —
 - (a) by deleting the words “Part I” wherever they appear and substituting the words “Part 1”; and

- (b) by deleting the words “Part II” wherever they appear and substituting the words “Part 2”.

Amendment of section 2 - definitions

3. The principal Act is amended in section 2 as follows —

- (a) by repealing the section heading and substituting the following section heading —
“**Interpretation**”;
- (b) by deleting the definition of the words “**affiliation order**”; and
- (c) by deleting the definition of the words “**maintenance order**” and substituting the following definition —
“**“maintenance order”** —
 - (a) means an order, however described, which provides for the periodical payment of sums towards the maintenance of a person, being a person whom the person liable to make payments under the order is, according to the law applied in the place where the order was made, liable to maintain; and
 - (b) in the case of a maintenance order which has been varied, means that order as varied; and”.

Repeal of section 3 - duty of man to maintain certain children

4. The principal Act is amended by repealing section 3.

Repeal of section 4 - duty of woman to maintain certain children

5. The principal Act is amended by repealing section 4.

Repeal and substitution of section 6 - method of compelling performance of duties imposed by this Act

6. The principal Act is amended by repealing section 6 and substituting the following section —

“Method of compelling performance of duties imposed by this Act

- 6. (1) A person (“applicant”) who is entitled to be maintained by any other person (“respondent”) under this Act may apply to a court for a maintenance order if the person is not being maintained in accordance with this Act.
- (2) Where an application is made under subsection (1), the court shall enquire into the matter and if it appears to the court that —
 - (a) the applicant is entitled to be maintained by the respondent to the application; and



- (b) the respondent has failed to maintain the applicant in accordance with this Act,
- the court shall issue a summons requiring the respondent to appear before the court at a time and place specified in the summons.”.

Amendment of section 7 - manner of proceeding on summons

7. The principal Act is amended in section 7 by deleting the words “an order of maintenance” and substituting the words “a maintenance order”.

Repeal and substitution of section 8 - duration of order of maintenance

8. The principal Act is amended by repealing section 8 and substituting the following section —

“Duration of maintenance order

8. (1) Subject to subsection (2), a maintenance order shall remain in force for a period as may be specified in the order, and it may be renewed, reviewed or varied at any time by the court.
- (2) Where a person who is to be maintained under this Act is unable to maintain himself or herself by reason of old age or an illness or infirmity which is likely to be permanent, the court may make a maintenance order that provides that the order is to remain in force for the rest of the natural life of that person.”.

Repeal of section 10 - burden of proof

9. The principal Act is amended by repealing section 10.

Repeal and substitution of section 12 - penalties on neglecting to maintain wife and children or abandoning them

10. The principal Act is amended by repealing section 12 and substituting the following section —

“Penalties for neglecting to maintain wife or abandoning wife

12. A person who —

- (a) is able to maintain that person and that person’s wife and who refuses or neglects to do so or wilfully abandons that person’s wife; or
- (b) fails to comply with an order made under this Act,
- commits an offence and is liable, on summary conviction, for the first offence, to imprisonment for thirty days and for a second or subsequent offence, to imprisonment for three months.”.

Repeal and substitution of section 13 - order for maintenance of wife and children

- 11.** The principal Act is amended by repealing section 13 and substituting the following section —

“Maintenance order in respect of wife instead of or in addition to imprisonment

13. Notwithstanding section 12, the court may make a maintenance order against a person who refuses or neglects to maintain that person's wife, or who abandons that person's wife, instead of, or in addition to, ordering that person to be imprisoned.”.

Amendment of section 18 - courts and officers shall take steps for enforcing orders

- 12.** The principal Act is amended in section 18 by repealing subsection (2) and substituting the following subsection —

“(2) An order referred to under subsection (1) is enforceable in like manner as if the order were for the payment of a civil debt recoverable summarily.”.

Passed by the Parliament the _____ day of _____, 2024.

Speaker

Clerk of the Parliament

