



Maintenance Orders Act 1958

1958 CHAPTER 39 6 and 7 Eliz 2

PART III

MISCELLANEOUS AND SUPPLEMENTAL

Supplemental

20 Special provisions as to magistrates' courts.

(1) Notwithstanding anything in this Act, . . . ^{F1} the clerk of a magistrates' court who is entitled to receive payments under a maintenance order for transmission to another person shall not—

(a) apply for the registration of the maintenance order under Part I of this Act or give notice in relation to the order in pursuance of subsection (1) of section five thereof; . . . ^{F1}

(b) ^{F2}

unless he is requested in writing to do so by a person entitled to receive the payments through him; and where the clerk is requested as aforesaid—

(i) he shall comply with the request unless it appears to him unreasonable in the circumstances to do so;

(ii) the person by whom the request was made shall have the same liabilities for all the costs properly incurred in or about any proceedings taken in pursuance of the request as if the proceedings had been taken by that person;

. . . ^{F1}

(2) . . . ^{F1} An application to a magistrates' court by virtue of subsection (2) of section four of this Act for the variation of a maintenance order . . . ^{F1} shall be made by complaint.

(3) It is hereby declared that a magistrates' court has jurisdiction to hear a complaint by or against a person residing outside England for the discharge or variation of an attachment of earnings order made by a magistrates' court; and where such a complaint is made against a person residing outside England, then—

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[^{F3}(a) if he resides in Scotland or Northern Ireland, section fifteen of the Maintenance Orders Act, 1950 (which relates to the service of process on persons residing in those countries) shall have effect in relation to the complaint as it has effect in relation to the proceedings therein mentioned; and]

(b) ^{F4}

(4),(5)

..... ^{F4}

(6) ^{F5}

(7) ^{F6}

(8) For the avoidance of doubt it is hereby declared that a complaint may be made to enforce payment of a sum due and unpaid under a maintenance order notwithstanding that a previous complaint has been made in respect of that sum or a part thereof and whether or not an order was made in pursuance of the previous complaint.

Textual Amendments

- F1** Words repealed by [Attachment of Earnings Act 1971 \(c. 32\)](#), **Sch. 6**
- F2** [S. 20\(1\)\(b\)\(c\)](#) repealed by [Attachment of Earnings Act 1971 \(c. 32\)](#), **Sch. 6**
- F3** The text of s. 20(3)(a) which is spent (N.I.) is repealed (E.W.) (S.) by [Attachment of Earnings Act 1971 \(c. 32\)](#), **Sch. 6**
- F4** [S. 20\(3\)\(b\)\(4\)\(5\)](#) repealed by [Attachment of Earnings Act 1971 \(c. 32\)](#), **Sch. 6**
- F5** [S. 20\(6\)](#) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), **Sch. 9**
- F6** [S. 20\(7\)](#) repealed by [Attachment of Earnings Act 1971 \(c. 32\)](#), **Sch. 6**

Modifications etc. (not altering text)

- C1** [S. 20](#) set out as amended (E.W.) by [Attachment of Earnings Act 1971 \(c. 32\)](#) in Sch. 5 to that Act
- C2** The text of s. 20(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

21 Interpretation, etc.

(1) In this Act, unless the context otherwise requires, the following expressions have the following meanings—

..... ^{F7}, “magistrates’ court” and “petty sessions area” have the meanings assigned to them by [^{F8}the Magistrates’ Courts Act 1980] and for the purposes of the definition of a magistrates’ court the reference to that Act in [^{F8}subsection (2) of section 148 thereof] shall be construed as including a reference to this Act;

..... ^{F9}
“defendant”, in relation to a maintenance order or a related attachment of earnings order, means the person liable to make payments under the maintenance order;

..... ^{F9}
“England” includes Wales;

..... ^{F9}
“prescribed” means prescribed by rules of court;

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“proper officer”, in relation to a magistrates’ court, means the clerk of the court;

“rules of court”, in relation to a magistrates’ court, means rules under section fifteen of the Justices of the ^{M1}Peace Act, 1949.

- (2) Any reference in this Act to a person entitled to receive payments under a maintenance order is a reference to a person entitled to receive such payments either directly or through another person or for transmission to another person.
- (3) Any reference in this Act to proceedings relating to an order includes a reference to proceedings in which the order may be made.
- (4) Any reference in this Act to costs incurred in proceedings relating to a maintenance order shall be construed, in the case of a maintenance order made by the High Court, as a reference to such costs as are included in an order for costs relating solely to that maintenance order.
- (5) ^{F10}
- (6) Any reference in this Act to any enactment is a reference to that enactment as amended by or under any subsequent enactment.

Textual Amendments

- F7** Words repealed by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), s. 33(4), **Sch. 4**
- F8** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), **Sch. 7 para. 24**
- F9** Definitions of “attachment of earnings order”, “earnings”, “employer”, “excepted sums”, and “maintenance order” repealed by [Administration of Justice Act 1970 \(c. 31\)](#), **Sch. 11**
- F10** [S. 21\(5\)](#) repealed by [Administration of Justice Act 1970 \(c. 31\)](#), **Sch. 11**

Modifications etc. (not altering text)

- C3** [S. 21](#) applied (14.10.1991) by [S.I. 1991/1247](#), **rule7.22**

Marginal Citations

- M1** [1949 c. 101](#).

22 ^{F11}

Textual Amendments

- F11** [S. 22](#) repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), **Sch. 6 Pt. I**

23 Short title, extent, commencement and repeals.

(1) This Act may be cited as the Maintenance Orders Act, 1958.

[^{F12}(2) The following provisions of this Act, namely—
section 2 [^{F13}section 2A];
section 5(2), (3), (4) and (4A);
extend to Scotland and Northern Ireland.

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- (2A) section 20(3)(a) above extends to Northern Ireland.
- (2B) Subject to subsections (2) and (2A) above, this Act extends only to England.]
- (3) This Act shall come into operation on such date as the Secretary of State may by order, made by statutory instrument, appoint; and different dates may be so appointed for the purposes of different provisions of this Act.
- (4) Subsection (2) of section eight of the ^{M2}Guardianship of Infants Act, 1925, and section ten of the ^{M3}Affiliation Proceedings Act, 1957, are hereby repealed; but nothing in this subsection shall affect any order in force or deemed to be in force under either of those provisions at the commencement of this subsection, and any such order may be discharged or varied as if this subsection had not been passed.

Subordinate Legislation Made

P1 [S. 23\(3\)](#) power fully exercised (11.12.1958): 16.2.1959 for whole Act by [S.I. 1958/2111](#)

Textual Amendments

F12 [S. 23\(2\)\(2A\)\(2B\)](#) substituted for [s. 23\(2\)](#) by [Administration of Justice Act 1977 \(c. 38, SIF 37\)](#), [s. 3](#), [Sch. 3 para. 5](#), with effect in relation to the enforcement in one part of the United Kingdom of maintenance orders made in another part.

F13 Words inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), [ss. 36\(6\), 52](#), [Sch. 12 Pt. III para. 2](#)

Marginal Citations

M2 [1925 c. 45](#).

M3 [1957 c. 55](#).

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