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SCHEDULES

SCHEDULE 1

Section 2.

MAINTENANCE ORDERS TO WHICH THIS ACT APPLIES

- 1 An order for alimony, maintenance or other payments made, or having effect as if made, under Part II of the ^{M1}Matrimonial Causes Act 1965 (ancillary relief in actions for divorce etc.).

Marginal Citations

M1 1965 c. 72.

- 2 An order for payments to or in respect of a child, being an order made, or having effect as if made, under Part III of the said Act of 1965 (maintenance of children following divorce, etc.).

- [^{F13} An order for periodical or other payments made, or having effect as if made, under Part II of the ^{M2}Matrimonial Causes Act 1973]

Textual Amendments

F1 Para. 3 substituted by [Matrimonial Causes Act 1973 \(c. 18\)](#), [Sch. 2 para. 13](#)

Marginal Citations

M2 1973 c. 18.

- 4 An order for maintenance or other payments to or in respect of a spouse or child, being an order made, [^{F2}under Part I of the ^{M3}Domestic Proceedings and Magistrates' Courts Act 1978]

Textual Amendments

F2 Words substituted by [Domestic Proceedings and Magistrates' Courts Act 1978 \(c. 22\)](#), s. 89(3), [Sch. 2 para. 32](#)

Marginal Citations

M3 1978 c. 22.

- ^{F35} An order for periodical or other payments made or having effect as if made under Schedule 1 to the Children Act 1989.

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Textual Amendments

- F3** Sch. 1 para. 5 substituted (14.10.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, Sch. 16 para. 38; S.I. 1991/1883, art.3, Schedule

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F4

Textual Amendments

- F4** Para. 6 repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33, Sch. 2 para. 44(b), Sch. 3 paras. 1, 6, Sch. 4

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An order under [^{F5}paragraph 23 of Schedule 2 to the Children Act 1989] . . . ^{F6}section 23 of the Ministry of Social Security Act 1966 [^{F7} . . . ^{F8}section 18 of the Supplementary Benefits Act 1976][^{F9F10} . . . section 24 of the Social Security Act 1986][^{F11}or section 106 of the Social Security Administration Act 1992] (various provisions for obtaining contributions from a person whose dependants are assisted or maintained out of public funds).

Textual Amendments

- F5** Words in Sch. 1 para. 7 substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 29, Sch. 14 para. 1(1); S.I. 1991/828, art. 3(2)
- F6** Word repealed by Supplementary Benefits Act 1976 (c. 71), Sch. 7 para. 20(b)
- F7** Words inserted by Supplementary Benefits Act 1976 (c. 71), Sch. 7 para. 20(b)
- F8** Word repealed by Social Security Act 1986 (c. 50, SIF 113:1), s. 86, Sch. 10 Pt. II para. 43(b)
- F9** Words inserted by Social Security Act 1986 (c. 50, SIF 113:1), s. 86, Sch. 10 Pt. II para. 43(b)
- F10** Word in Sch. 1 para. 7 omitted (1.7.1992) by virtue of Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), Sch. 2 para. 7
- F11** Words in Sch. 1 para. 7 inserted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), Sch. 2 Para.7

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An order under section 43 of the ^{M4}National Assistance Act 1948 (recovery of costs of maintaining assisted person).

Marginal Citations

- M4** 1948 c. 29.

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An order to which section 16 of the ^{M5}Maintenance Orders Act 1950 applies by virtue of subsection (2)(b) or (c) of that section (that is to say an order made by a court in Scotland or Northern Ireland and corresponding to one of those specified in the foregoing paragraphs) and which has been registered in a court in England and Wales under Part II of that Act.

Modifications etc. (not altering text)

- C1** Para. 9 amended by Matrimonial Causes Act 1973 (c. 18), Sch. 2 para. 3(2)

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Marginal Citations

M5 1950 c. 37.

10 A maintenance order within the meaning of the ^{M6}Maintenance Orders (Facilities for Enforcement) Act 1920 (Commonwealth orders enforceable in the United Kingdom) registered in, or confirmed by, a court in England and Wales under that Act.

Marginal Citations

M6 1920 c. 33.

[^{F12}11 A maintenance order within the meaning of Part I of the ^{M7}Maintenance Orders (Reciprocal Enforcement) Act 1972 registered in a magistrates' court under the said Part I.]

Textual Amendments

F12 Para. 11 inserted by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **Sch. para. 7**

Marginal Citations

M7 1972 c. 18.

[^{F13}12 An order under section 34(1)(b) of the Children Act 1975 (payments of maintenance in respect of a child to his custodian).]

Textual Amendments

F13 Para. 12 inserted by Children Act 1975 (c. 72), s. 108(2), **Sch. 3 para. 76(b)**

[^{F14}13 A maintenance order within the meaning of Part I of the Civil Jurisdiction and Judgments Act 1982 which is registered in a magistrates' court under that Part.]

Textual Amendments

F14 Para. 13 inserted by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), s. 15(4), **Sch. 12 Pt. I para. 6**

[^{F15}14 A maintenance judgment within the meaning of Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, which is registered in a magistrates' court under that Regulation.]

Textual Amendments

F15 Sch. 1 para. 14 inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 9**

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VALID FROM 18/06/2011

[^{F16}14A(1) A decision, court settlement or authentic instrument which falls to be enforced by a magistrates' court by virtue of the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.

(2) In this paragraph—

“the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;

“decision”, “court settlement” and “authentic instrument” have the meanings given by Article 2 of that Regulation.]

Textual Amendments

F16 Sch 1 para. 14A inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), [Sch. 7 para. 4\(3\)](#)

[^{F17}15 An order made under Schedule 5 to the Civil Partnership Act 2004 (financial relief in the High Court or a county court etc.), for periodical or other payments.

Textual Amendments

F17 Sch. 1 paras. 15, 16 inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), [Sch. 27 para. 35](#); S.I. 2005/3175, [art. 2\(2\)](#)

16 An order made under Schedule 6 to the 2004 Act (financial relief in magistrates' courts etc.), for maintenance or other payments to or in respect of a civil partner or child.]

Textual Amendments

F17 Sch. 1 paras. 15, 16 inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), s. 263(10)(b), [Sch. 27 para. 35](#); S.I. 2005/3175, [art. 2\(2\)](#)

SCHEDULE 2

Section 3.

TAXES, SOCIAL SECURITY CONTRIBUTIONS ETC. RELEVANT FOR PURPOSES OF SECTION 3(6)

1 Income tax or any other tax or liability recoverable under section 65, 66 or 68 of the ^{M8}Taxes Management Act 1970.

Marginal Citations

M8 1970 c. 9.

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Textual Amendments

F18 Para. 2 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I Gp. 5**

[^{F193} [^{F20}Contributions equivalent premiums] under Part III of the [^{F21}Pension Schemes Act 1993].]

Textual Amendments

F19 Para. 3 substituted by Social Security Pensions Act 1975 (c. 60), **Sch. 4 Pt. I para. 16**

F20 Words in **Sch. 2 para. 3** substituted (6.4.1997) by 1995 c. 26, s. 151, **Sch. 5 para. 3**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

F21 Words in **Sch. 2 para. 3** substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 4** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**

3A Class 1, 2 and 4 contributions under Part I of the [^{F22}Social Security Contributions and Benefits Act 1992].

Textual Amendments

F22 Words in **Sch. 2 para. 3A** substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para.6**

4 ^{F23}

Textual Amendments

F23 Para. 4 repealed by Social Security Act 1973 (c. 38), **Sch. 28 Pt. I**

SCHEDULE 3

Sections 6 and 7.

DEDUCTIONS BY EMPLOYER UNDER ATTACHMENT OF EARNINGS ORDER

Modifications etc. (not altering text)

C2 **Sch. 3** modified by S.I. 1989/438, **reg. 37(2)**

C3 **Sch. 3** modified (1.4.1992) by S.I. 1992/613, **reg. 42(2)(b)**.

PART I

SCHEME OF DEDUCTIONS

Preliminary definitions

1 The following three paragraphs have effect for defining and explaining, for purposes of this Schedule, expressions used therein.

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- 2 “Pay-day”, in relation to earnings paid to a debtor, means an occasion on which they are paid.
- 3 “Attachable earnings”, in relation to a pay-day, are the earnings which remain payable to the debtor on that day after deduction by the employer of—
- (a) income tax;
 - [^{F24}(b) ^{F25}
 - (bb) primary class 1 contributions under Part I of the ^{M9}Social Security Act 1975]
 - [^{F26}(c) amounts deductible under any enactment, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme, namely any enactment, rules, deed or other instrument providing for the payment of annuities or lump sums—
 - (i) to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or
 - (ii) to the personal representatives or the widows, relatives or dependants of such persons on their death or otherwise, whether with or without any further or other benefits.]

Textual Amendments

- F24** Paras. 3(b)(bb) substituted for para. 3(b) by [Social Security \(Consequential Provisions\) Act 1975 \(c. 18\), Sch. 2 Pt. I para. 43](#)
- F25** Para. 3(b) repealed by [Social Security Pensions Act 1975 \(c. 60\), Sch. 5](#)
- F26** Para. 3(c) substituted by [Wages Act 1986 \(c. 48, SIF 43:2\), s. 32\(1\), Sch. 4 para. 4](#) (which substitution fell (22.8.1996) by reason of the repeal of s. 32(1), Sch. 4 para. 4 of the 1986 substituting Act by [1996 c. 18, ss. 242, 243, Sch. 3 Pt. I](#)) and substitution of para. 3(c) continued (22.8.1996) by [1996 c. 18, ss. 240, 243, Sch. 1 para. 3](#) (with [ss. 191-195, 202](#))

Marginal Citations

- M9** 1975 c. 60.

- [^{F274} (1) On any pay-day—
- (a) “the normal deduction” is arrived at by applying the normal deduction rate (as specified in the relevant attachment of earnings order) with respect to the relevant period; and
 - (b) “the protected earnings” are arrived at by applying the protected earnings rate (as so specified) with respect to the relevant period.
- (2) For the purposes of this paragraph the relevant period in relation to any pay-day is the period beginning—
- (a) if it is the first pay-day of the debtor’s employment with the employer, with the first pay day of the employment; or
 - (b) if on the last pay-day earnings were paid in respect of a period falling wholly or partly after that pay-day, with the first day after the end of that period; or
 - (c) in any other case, with the first day after the last pay-day, and ending—
 - (i) where earnings are paid in respect of a period falling wholly or partly after the pay-day, with the last day of that period; or
 - (ii) in any other case, with the pay-day.]

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Textual Amendments

F27 Para. 4 substituted by [Administration of Justice Act 1982 \(c. 53, SIF 37\)](#), s. 54

Employer's deduction (judgment debts and administration orders)

- 5 In the case of an attachment of earnings order made to secure the payment of a judgment debt or payments under an administration order, the employer shall on any pay-day—
- (a) if the attachable earnings exceed the protected earnings, deduct from the attachable earnings the amount of the excess or the normal deduction, whichever is the less;
 - (b) make no deduction if the attachable earnings are equal to, or less than, the protected earnings.

Employer's deduction (other cases)

- 6 (1) The following provision shall have effect in the case of an attachment of earnings order to which paragraph 5 above does not apply.
- (2) If on a pay-day the attachable earnings exceed the sum of—
- (a) the protected earnings; and
 - (b) so much of any amount by which the attachable earnings on any previous pay-day fell short of the protected earnings as has not been made good by virtue of this sub-paragraph on another previous pay-day,
- then, in so far as the excess allows, the employer shall deduct from the attachable earnings the amount specified in the following sub-paragraph.
- (3) The said amount is the sum of—
- (a) the normal deduction; and
 - (b) so much of the normal deduction on any previous pay-day as was not deducted on that day and has not been paid by virtue of this sub-paragraph on any other previous pay-day.
- (4) No deduction shall be made on any pay-day when the attachable earnings are equal to, or less than, the protected earnings.

VALID FROM 03/07/2006

[^{F28}6A In the case of an attachment of earnings order made under Schedule 5 to the Courts Act 2003, the employer shall make deductions from the debtor's earnings in accordance with fines collection regulations made under that Schedule.]

Textual Amendments

F28 Sch. 3 para. 6A inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), art. 45(b)

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PART II

PRIORITY AS BETWEEN ORDERS

- 7 Where the employer is required to comply with two or more attachment of earnings orders in respect of the same debtor, all or none of which orders are made to secure either the payment of judgment debts or payments under an administration order, then on any pay-day the employer shall, for the purpose of complying with Part I of this Schedule,—
 - (a) deal with the orders according to the respective dates on which they were made, disregarding any later order until an earlier one has been dealt with;
 - (b) deal with any later order as if the earnings to which it relates were the residue of the debtor’s earnings after the making of any deduction to comply with any earlier order.

- 8 Where the employer is required to comply with two or more attachment of earnings orders, and one or more (but not all) of those orders are made to secure either the payment of judgment debts or payments under an administration order, then on any pay-day the employer shall, for the purpose of complying with Part I of this Schedule—
 - (a) deal first with any order which is not made to secure the payment of a judgment debt or payments under an administration order (complying with paragraph 7 above if there are two or more such orders); and
 - (b) deal thereafter with any order which is made to secure the payment of a judgment debt or payments under an administration order as if the earnings to which it relates were the residue of the debtor’s earnings after the making of any deduction to comply with an order having priority by virtue of sub-paragraph (a) above; and
 - (c) if there are two or more orders to which sub-paragraph (b) above applies, comply with paragraph 7 above in respect of those orders.

SCHEDULE

4.
F29

Textual Amendments
F29 Sch. 4 repealed by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), s. 86, [Sch. 11](#)

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SCHEDULE 5

Section 27.

SECTION 20 OF ^{M10} MAINTENANCE ORDERS ACT 1958
AS HAVING EFFECT IN CONSEQUENCE OF THIS ACT**Marginal Citations**

M10 1958 c. 39.

Special provisions as to magistrates' courts.

- 20 (1) Notwithstanding anything in this Act, the clerk of a magistrates' court who is entitled to receive payments under a maintenance order for transmission to another person shall not 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 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.
- (2) An application to a magistrates' court by virtue of subsection (2) of section four of this Act for the variation of a maintenance order shall be made by complaint.
- (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.

SCHEDULE 6

Section 29

ENACTMENTS REPEALED

Modifications etc. (not altering text)

- C4** The text of ss. 27(3), 29(2) and Sch. 6 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.

Chapter	Short Title	Extent of Repeal
6 & 7 Eliz.2. c.39.	The Maintenance Orders Act 1958.	Section 9. In section 20, in subsection (1) the words “or Part II of the Administration of Justice Act 1970”, the word “or” at the end of paragraph (a), paragraphs

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1970 c.31.	The Administration of Justice Act 1970.	<p>(b) and (c) and the words from “and for the purposes” onwards; in subsection (2), the words “Subject to rules of court made by virtue of section 18(3)(c) of the Administration of Justice Act 1970”, and the words “and an application to a magistrates’ court for an attachment of earnings order, or an order discharging or varying an attachment of earnings order”; and subsections (3), (4), (5) and (7). In section 23(2), the words “except paragraph (a) of subsection (3) of section 20”.</p> <p>Sections 13 to 26. Section 27(1) and (2). In section 28— in subsection (1), the definitions of “Act of 1958”, “administration order”, “the court”, “debtor”, “judgment debt”, “relevant adjudication”, “the employer”, “legal aid contribution order”, and the words from “maintenance payments” onwards; and subsections (2) to (5). Section 29(1) to (4). Section 30(3) and (4). In section 53, the words “24 or”. In section 54(6), the words “and 27” and “7”. Schedules 5, 6 and 7.</p>
1970 c.55.	The Family Income Supplements Act 1970.	Section 14.

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