



Maintenance Enforcement Act 1991

1991 CHAPTER 17

The High Court and county courts

1 Maintenance orders in the High Court and county courts: means of payment, attachment of earnings and revocation, variation, etc

- (1) Where the High Court or a county court makes a qualifying periodical maintenance order, it may at the same time exercise either of its powers under subsection (4) below in relation to the order, whether of its own motion or on an application made under this subsection by an interested party.
- (2) For the purposes of this section, a periodical maintenance order is an order—
 - (a) which requires money to be paid periodically by one person (“the debtor”) to another (“the creditor”); and
 - (b) which is a maintenance order;and such an order is a “qualifying periodical maintenance order” if, at the time it is made, the debtor is ordinarily resident in England and Wales.
- (3) Where the High Court or a county court has made a qualifying periodical maintenance order, it may at any later time—
 - (a) on an application made under this subsection by an interested party, or
 - (b) of its own motion, in the course of any proceedings concerning the order, exercise either of its powers under subsection (4) below in relation to the order.
- (4) The powers mentioned in subsections (1) and (3) above are—
 - (a) the power to order that payments required to be made by the debtor to the creditor under the qualifying periodical maintenance order in question shall be so made by such a method of payment falling within subsection (5) below as the court may specify in the particular case; or
 - (b) the power, by virtue of this section, to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the qualifying periodical maintenance order in question.
- (5) The methods of payment mentioned in subsection (4)(a) above are—

- (a) payment by standing order; or
 - (b) payment by any other method which requires the debtor to give his authority for payments of a specific amount to be made from an account of his to an account of the creditor's on specific dates during the period for which the authority is in force and without the need for any further authority from the debtor.
- (6) In any case where—
- (a) the court proposes to exercise its power under paragraph (a) of subsection (4) above, and
 - (b) having given the debtor an opportunity of opening an account from which payments under the order may be made in accordance with the method of payment proposed to be ordered under that paragraph, the court is satisfied that the debtor has failed, without reasonable excuse, to open such an account,
- the court in exercising its power under that paragraph may order that the debtor open such an account.
- (7) Where in the exercise of its powers under subsection (1) or (3) above, the High Court or a county court has made in relation to a qualifying periodical maintenance order such an order as is mentioned in subsection (4)(a) above (a “means of payment order”), it may at any later time—
- (a) on an application made under this subsection by an interested party, or
 - (b) of its own motion, in the course of any proceedings concerning the qualifying periodical maintenance order,
- revoke, suspend, revive or vary the means of payment order.
- (8) In deciding whether to exercise any of its powers under this section the court in question having (if practicable) given every interested party an opportunity to make representations shall have regard to any representations made by any such party.
- (9) Nothing in this section shall be taken to prejudice—
- (a) any power under the Attachment of Earnings Act 1971 which would, apart from this section, be exercisable by the High Court or a county court; or
 - (b) any right of any person to make any application under that Act;
- and subsection (7) above is without prejudice to any other power of the High Court or a county court to revoke, suspend, revive or vary an order.
- (10) For the purposes of this section—
- “debtor” and “creditor” shall be construed in accordance with subsection (2) above;
 - “interested party” means any of the following, that is to say—
 - (a) the debtor;
 - (b) the creditor; and
 - (c) in a case where the person who applied for the qualifying periodical maintenance order in question is a person other than the creditor, that other person;
 - “maintenance order” means any order specified in Schedule 8 to the Administration of Justice Act 1970 and includes any such order which has been discharged, if any arrears are recoverable under it;
 - “qualifying periodical maintenance order” shall be construed in accordance with subsection (2) above, and the references to such an order in subsections

(3) and (7) above are references to any such order, whether made before or after the coming into force of this section;
and the reference in subsection (2) above to an order requiring money to be paid periodically by one person to another includes a reference to an order requiring a lump sum to be paid by instalments by one person to another.