



# Maintenance Enforcement Act 1991

## 1991 CHAPTER 17

### U.K.

An Act to make provision as to the methods of payment, and the variation of the methods of payment, under maintenance orders made by the High Court and county courts; to re-enact with modifications certain provisions relating to the making and variation of orders requiring money to be paid periodically; to make further provision as to the making, variation and enforcement by magistrates' courts of maintenance orders; to make further provision about proceedings by clerks of magistrates' courts in relation to arrears under certain orders requiring money to be paid periodically; to make further provision as to maintenance orders registered in, or confirmed by, magistrates' courts or registered in the High Court; to extend the power to make attachment of earnings orders in the case of maintenance orders; to amend section 10 of the Courts and Legal Services Act 1990; and for connected purposes. [27th June 1991]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

#### Extent Information

**E1** This Act extends to England and Wales only except for certain provisions: see [s. 12\(4\)](#)

*The High Court and [<sup>F1</sup>family court ]*

#### Textual Amendments

**F1** Words in s. 1 italic heading substituted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), [s. 61\(3\)](#), [Sch. 10 para. 77\(11\)](#); [S.I. 2014/954](#), [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

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*Changes to legislation:* There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

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**1 Maintenance orders in the High Court and [<sup>F2</sup>family court]: means of payment, attachment of earnings and revocation, variation, etc. E+W**

- (1) Where the High Court or [<sup>F3</sup>the family 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.
- [<sup>F4</sup>(1A) Where the family court makes a qualifying periodical maintenance order, it may at the same time exercise any of its powers under subsection (4A) 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 [<sup>F3</sup>the family 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.
- [<sup>F5</sup>( 3A ) Where the family 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 any of its powers under subsection (4A) 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 <sup>M1</sup>Attachment of Earnings Act 1971 to secure payments under the qualifying periodical maintenance order in question.
- [<sup>F6</sup>( 4A ) The powers mentioned in subsections (1A) and (3A) above are—
- (a) the power to order that payments under the qualifying periodical maintenance order in question be made to the court;
  - (b) the power to order that payments under the qualifying periodical maintenance order in question required to be made to the court are to be so made by such method of payment falling within subsection (5) below as the court may specify in the particular case; or
  - (c) the power to order that payments under the qualifying periodical maintenance order in question be made in accordance with arrangements for their collection made by the Secretary of State under section 30 of the Child Support Act 1991 and regulations made under that section.]

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- (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<sup>[F7]</sup>; or
  - (c) any method of payment specified in regulations made by the Lord Chancellor.]
- (6) In any case where—
- (a) the court proposes to exercise its power under paragraph (a) of subsection (4) above<sup>[F8]</sup> or under paragraph (b) of subsection (4A) 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) <sup>[F9]</sup>, (1A), (3) or (3A)] above, the High Court or <sup>[F3]</sup>the family court] has made in relation to a qualifying periodical maintenance order such an order as is mentioned in subsection (4)(a) <sup>[F10]</sup> or (4A)] 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.
- <sup>[F11]</sup>(8A) No order made by the family court under subsection (4) or (4A)(a) or (b) above has effect at any time when the Secretary of State is, under section 30 of the Child Support Act 1991 and regulations made under that section, arranging for the collection of payments under the qualifying periodical maintenance order in question.]
- (9) Nothing in this section shall be taken to prejudice—
- (a) any power under the <sup>M2</sup>Attachment of Earnings Act 1971 which would, apart from this section, be exercisable by the High Court or <sup>[F3]</sup>the family 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 <sup>[F3]</sup>the family 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

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- (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 <sup>M3</sup>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.

[<sup>F12</sup>(11) The power of the Lord Chancellor to make regulations under subsection (5)(c) above is exercisable by statutory instrument, and a statutory instrument containing regulations under subsection (5)(c) is subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F2** Words in s. 1 heading substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(11\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F3** Words in s. 1 substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(2\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F4** S. 1(1A) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(3\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F5** S. 1(3A) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(4\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F6** S. 1(4A) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(5\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F7** S. 1(5)(c) and preceding word inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(6\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F8** Words in s. 1(6)(a) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(7\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F9** Words in s. 1(7) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(8\)\(a\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F10** Words in s. 1(7) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(8\)\(b\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F11** S. 1(8A) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(9\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F12** S. 1(11) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 77\(10\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

**Changes to legislation:** There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

#### Modifications etc. (not altering text)

- C1** S. 1(3A) excluded by 1972 c. 18, s. 34A (as substituted (22.4.2014) by [Crime and Courts Act 2013](#) (c. 22), s. 61(3), [Sch. 11 para. 51\(2\)\(b\)](#)); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- C2** S. 1(4)(4A) applied by 1978 c. 22, s. 20ZA(6) (as amended (22.4.2014) by [Crime and Courts Act 2013](#) (c. 22), s. 61(3), [Sch. 11 para. 73\(4\)](#)); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- C3** S. 1(6) applied (with modifications) by 1920 c. 33, s. 4(5D) (as amended (22.4.2014) by [Crime and Courts Act 2013](#) (c. 22), s. 61(3), [Sch. 11 paras. 4\(2\), 7\(6\)](#)); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- C4** S. 1(6) applied (with modifications) by 1972 c. 18, s. 7(5D) (as amended (22.4.2014) by [Crime and Courts Act 2013](#) (c. 22), s. 61(3), [Sch. 11 paras. 33\(d\), 44\(f\), 51\(7\)](#)); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- C5** S. 1(6) applied by 2004 c. 33, Sch. 6 para. 38(1) (as amended (22.4.2014) by [Crime and Courts Act 2013](#) (c. 22), s. 61(3), [Sch. 11 para. 193](#)); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

#### Commencement Information

- I1** S. 1 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455](#), art. 2

#### Marginal Citations

- M1** [1971 c. 32](#).  
**M2** [1971 c. 32](#).  
**M3** [1970 c. 31](#).

### *Magistrates' courts*

## 2 **Orders for periodical payment in magistrates' courts: means of payment.** **E** **+W**

For section 59 of the <sup>M4</sup>Magistrates' Courts Act 1980 (periodical payments through justices' clerk) there shall be substituted the following section—

### **“59 Orders for periodical payment: means of payment.**

- (1) In any case where a magistrates' court orders money to be paid periodically by one person (in this section referred to as “the debtor”) to another (in this section referred to as “the creditor”), then—
- (a) if the order is a qualifying maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) to (d) of subsection (3) below;
  - (b) if the order is not a maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) and (b) of that subsection.
- (2) For the purposes of this section a maintenance order is a “qualifying maintenance order” if, at the time it is made, the debtor is ordinarily resident in England and Wales.
- (3) The powers of the court are—

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- (a) the power to order that payments under the order be made directly by the debtor to the creditor;
- (b) the power to order that payments under the order be made to the clerk of the court or to the clerk of any other magistrates' court;
- (c) the power to order that payments under the order be made by the debtor to the creditor by such method of payment falling within subsection (6) below as may be specified;
- (d) the power to make an attachment of earnings order under the <sup>M5</sup>Attachment of Earnings Act 1971 to secure payments under the order.

(4) In any case where—

- (a) the court proposes to exercise its power under paragraph (c) of subsection (3) 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.

(5) In deciding, in the case of a maintenance order, which of the powers under paragraphs (a) to (d) of subsection (3) above it is to exercise, the court having (if practicable) given them an opportunity to make representations shall have regard to any representations made—

- (a) by the debtor,
- (b) by the creditor, and
- (c) if the person who applied for the maintenance order is a person other than the creditor, by that other person.

(6) The methods of payment referred to in subsection (3)(c) above are the following, that is to say—

- (a) payment by standing order; or
- (b) payment by any other method which requires one person to give his authority for payments of a specific amount to be made from an account of his to an account of another's on specific dates during the period for which the authority is in force and without the need for any further authority from him.

(7) Where the maintenance order is an order—

- (a) under the Guardianship of Minors Acts 1971 and 1973,
- (b) under Part I of the <sup>M6</sup>Domestic Proceedings and Magistrates' Courts Act 1978, or
- (c) under, or having effect as if made under, Schedule 1 to the <sup>M7</sup>Children Act 1989,

and the court does not propose to exercise its power under paragraph (c) or (d) of subsection (3) above, the court shall, unless upon representations expressly made in that behalf by the person who applied for the maintenance order it is satisfied that it is undesirable to do so, exercise its power under paragraph (b) of that subsection.

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- (8) The Secretary of State may by regulations confer on magistrates' courts, in addition to their powers under paragraphs (a) to (d) of subsection (3) above, the power (the "additional power") to order that payments under a qualifying maintenance order be made by the debtor to the creditor or the clerk of a magistrates' court (as the regulations may provide) by such method of payment as may be specified in the regulations.
- (9) Any reference in any enactment to paragraphs (a) to (d) of subsection (3) above (but not a reference to any specific paragraph of that subsection) shall be taken to include a reference to the additional power, and the reference in subsection (10) below to the additional power shall be construed accordingly.
- (10) Regulations under subsection (8) above may make provision for any enactment concerning, or connected with, payments under maintenance orders to apply, with or without modifications, in relation to the additional power.
- (11) The power of the Secretary of State to make regulations under subsection (8) above shall be exercisable by statutory instrument and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (12) For the purposes of this section the reference in subsection (1) above to money paid periodically by one person to another includes, in the case of a maintenance order, a reference to a lump sum paid by instalments by one person to another."

#### Commencement Information

**I2** S. 2 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455, art. 2](#)

#### Marginal Citations

**M4** [1980 c. 43.](#)  
**M5** [1971 c. 32.](#)  
**M6** [1978 c. 22.](#)  
**M7** [1989 c. 41.](#)

### 3 Orders for periodical payment in magistrates' courts: proceedings by clerk and penalty for breach. **E+W**

After section 59 of the <sup>M8</sup>Magistrates' Courts Act 1980 (orders for periodical payment: means of payment), as substituted by section 2 above, there shall be inserted the following sections—

#### "59A Orders for periodical payment: proceedings by clerk.

- (1) Where payments under a relevant UK order are required to be made periodically—
  - (a) to or through the clerk of a magistrates' court, or
  - (b) by any method of payment falling within section 59(6) above,and any sums payable under the order are in arrear, the clerk of the relevant court shall, if the person for whose benefit the payments are required to be made so requests in writing, and unless it appears to the clerk that it is unreasonable

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in the circumstances to do so, proceed in his own name for the recovery of those sums.

- (2) Where payments under a relevant UK order are required to be made periodically to or through the clerk of a magistrates' court, the person for whose benefit the payments are required to be made may, at any time during the period in which the payments are required to be so made, give authority in writing to the clerk of the relevant court for the clerk to proceed as mentioned in subsection (3) below.
- (3) Where authority under subsection (2) above is given to the clerk of the relevant court, the clerk shall, unless it appears to him that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of any sums payable to or through him under the order in question which, on or after the date of the giving of the authority, fall into arrear.
- (4) In any case where—
  - (a) authority under subsection (2) above has been given to the clerk of a relevant court, and
  - (b) the person for whose benefit the payments are required to be made gives notice in writing to the clerk cancelling the authority,
 the authority shall cease to have effect and, accordingly, the clerk shall not continue any proceedings already commenced by virtue of the authority.
- (5) The person for whose benefit the payments are required to be made shall have the same liability for all the costs properly incurred in or about proceedings taken under subsection (1) above at his request or under subsection (3) above by virtue of his authority (including any costs incurred as a result of any proceedings commenced not being continued) as if the proceedings had been taken by him.
- (6) Nothing in subsection (1) or (3) above shall affect any right of a person to proceed in his own name for the recovery of sums payable on his behalf under an order of any court.
- (7) In this section—
 

“the relevant court”, in relation to an order, means—

  - (a) in a case where payments under the order are required to be made to or through the clerk of a magistrates' court, that magistrates' court; and
  - (b) in a case where such payments are required to be made by any method of payment falling within section 59(6) above, the magistrates' court which made the order or, if the order was not made by a magistrates' court, the magistrates' court in which the order is registered;

“relevant UK order” means—

  - (a) an order made by a magistrates' court, other than an order made by virtue of Part II of the <sup>M9</sup>Maintenance Orders (Reciprocal Enforcement) Act 1972;
  - (b) an order made by the High Court or a county court (including an order deemed to be made by the High Court by virtue of section 1(2) of the <sup>M10</sup>Maintenance Orders Act 1958) and registered under Part I of that Act of 1958 in a magistrates' court; or



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- (c) an order made by a court in Scotland or Northern Ireland and registered under Part II of the <sup>M11</sup>Maintenance Orders Act 1950 in a magistrates' court;

and any reference to payments required to be made periodically includes, in the case of a maintenance order, a reference to instalments required to be paid in respect of a lump sum payable by instalments.

### **59B Maintenance orders: penalty for breach.**

- (1) In any case where—
- (a) payments under a relevant English maintenance order are required to be made periodically in the manner mentioned in paragraph (a) or (b) of section 59A(1) above, and
  - (b) the debtor fails, on or after the date of commencement of this section, to comply with the order in so far as the order relates to the manner of payment concerned,
- the person for whose benefit the payments are required to be made may make a complaint to a relevant justice giving details of the failure to comply.
- (2) If the relevant justice is satisfied that the nature of the alleged failure to comply may be such as to justify the relevant court in exercising its power under subsection (3) below, he shall issue a summons directed to the debtor requiring him to appear before the relevant court to answer the complaint.
- (3) On the hearing of the complaint, the relevant court may order the debtor to pay a sum not exceeding £1000.
- (4) Any sum ordered to be paid under subsection (3) above shall for the purposes of this Act be treated as adjudged to be paid by a conviction of a magistrates' court.
- (5) In this section—
- “debtor” has the same meaning as it has in section 59 above;
  - “the relevant court” has the same meaning as it has in section 59A above;
  - “relevant English maintenance order” means—
    - (a) a maintenance order made by a magistrates' court, other than an order made by virtue of Part II of the <sup>M12</sup>Maintenance Orders (Reciprocal Enforcement) Act 1972; or
    - (b) an order made by the High Court or a county court (other than an order deemed to be made by the High Court by virtue of section 1(2) of the <sup>M13</sup>Maintenance Orders Act 1958) and registered under Part I of that Act of 1958 in a magistrates' court;
  - “relevant justice”, in relation to a relevant court, means a justice of the peace for the petty sessions area for which the relevant court is acting;
- and any reference to payments required to be made periodically includes a reference to instalments required to be paid in respect of a lump sum payable by instalments.”

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#### Commencement Information

**I3** S. 3 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455, art. 2](#)

#### Marginal Citations

**M8** 1980 c. 43.

**M9** 1972 c. 18.

**M10** 1958 c. 39.

**M11** 1950 c. 37.

**M12** 1972 c. 18.

**M13** 1958 c. 39.

#### 4 **Revocation, variation, etc. of orders for periodical payment in magistrates' courts: general.** **E+W**

For section 60 of the <sup>M14</sup>Magistrates' Courts Act 1980 (revocation, variation etc., of orders for periodical payment) there shall be substituted the following section—

##### **“60 Revocation, variation, etc. of orders for periodical payment.**

- (1) Where a magistrates' court has made an order for money to be paid periodically by one person to another, the court may, by order on complaint, revoke, revive or vary the order.
- (2) The power under subsection (1) above to vary an order shall include power to suspend the operation of any provision of the order temporarily and to revive the operation of any provision so suspended.
- (3) Where the order mentioned in subsection (1) above is a maintenance order, the power under that subsection to vary the order shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under paragraphs (a) to (d) of section 59(3) above.
- (4) In any case where—
  - (a) a magistrates' court has made a maintenance order, and
  - (b) payments under the order are required to be made by any method of payment falling within section 59(6) above,
 an interested party may apply in writing to the clerk of the court for the order to be varied as mentioned in subsection (5) below.
- (5) Subject to subsection (8) below, where an application has been made under subsection (4) above, the clerk, after giving written notice (by post or otherwise) of the application to any other interested party and allowing that party, within the period of 14 days beginning with the date of the giving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made to the clerk.
- (6) The clerk may proceed with an application under subsection (4) above notwithstanding that any such interested party as is referred to in subsection (5) above has not received written notice of the application.
- (7) In subsections (4) to (6) above “interested party”, in relation to a maintenance order, means—

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- (a) the debtor;
  - (b) the creditor; and
  - (c) if the person who applied for the maintenance order is a person other than the creditor, that other person.
- (8) Where an application has been made under subsection (4) above, the clerk may, if he considers it inappropriate to exercise his power under subsection (5) above, refer the matter to the court which may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) above.
- (9) Subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsections (3) and (8) above as they apply for the purposes of that section.
- (10) None of the powers of the court, or of the clerk of the court, conferred by subsections (3) to (9) above shall be exercisable in relation to a maintenance order which is not a qualifying maintenance order (within the meaning of section 59 above).
- (11) For the purposes of this section—
- (a) “creditor” and “debtor” have the same meaning as they have in section 59 above; and
  - (b) the reference in subsection (1) above to money paid periodically by one person to another includes, in the case of a maintenance order, a reference to a lump sum paid by instalments by one person to another.”

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**Commencement Information**

**I4** S. 4 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455, art. 2](#)

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**Marginal Citations**

**M14** [1980 c. 43.](#)

## **5 Variation of orders for periodical payment made under Part I of the Domestic Proceedings and Magistrates’ Courts Act 1978. [E+W](#)**

After section 20 of the <sup>M15</sup>Domestic Proceedings and Magistrates’ Courts Act 1978 (variation, revival and revocation of orders for periodical payments) there shall be inserted the following section—

**“20ZA Variation of orders for periodical payments: further provisions.**

- (1) Subject to subsections (7) and (8) below, the power of the court under section 20 of this Act to vary an order for the making of periodical payments shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under paragraphs (a) to (d) of section 59(3) of the <sup>M16</sup>Magistrates’ Courts Act 1980.
- (2) In any case where—
  - (a) a magistrates’ court has made an order under this Part of this Act for the making of periodical payments, and

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**Changes to legislation:** There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

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- (b) payments under the order are required to be made by any method of payment falling within section 59(6) of the Magistrates' Courts Act 1980 (standing order, etc.),

an application may be made under this subsection to the clerk to the justices for the petty sessions area for which the court is acting for the order to be varied as mentioned in subsection (3) below.

- (3) Subject to subsection (5) below, where an application is made under subsection (2) above, the clerk, after giving written notice (by post or otherwise) of the application to the respondent and allowing the respondent, within the period of 14 days beginning with the date of the giving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made to the clerk.
- (4) The clerk may proceed with an application under subsection (2) above notwithstanding that the respondent has not received written notice of the application.
- (5) Where an application has been made under subsection (2) above, the clerk may, if he considers it inappropriate to exercise his power under subsection (3) above, refer the matter to the court which, subject to subsections (7) and (8) below, may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Courts Act 1980.
- (6) Subsection (4) of section 59 of the Magistrates' Courts Act 1980 (power of court to order that account be opened) shall apply for the purposes of subsections (1) and (5) above as it applies for the purposes of that section.
- (7) Before varying the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) of the <sup>M17</sup>Magistrates' Courts Act 1980, the court shall have regard to any representations made by the parties to the application.
- (8) If the court does not propose to exercise its power under paragraph (c) or (d) of subsection (3) of section 59 of the Magistrates' Courts Act 1980, the court shall, unless upon representations expressly made in that behalf by the person to whom payments under the order are required to be made it is satisfied that it is undesirable to do so, exercise its power under paragraph (b) of that subsection.
- (9) Subsection (12) of section 20 of this Act shall have effect for the purposes of applications under subsection (2) above as it has effect for the purposes of applications under that section.
- (10) None of the powers of the court, or of the clerk to the justices, conferred by this section shall be exercisable in relation to an order under this Part of this Act for the making of periodical payments which is not a qualifying maintenance order (within the meaning of section 59 of the Magistrates' Courts Act 1980)."

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#### Commencement Information

**I5** S. 5 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455, art. 2](#)

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#### Marginal Citations

**M15** 1978 c. 22.

**M16** 1980 c. 43.

M17 1980 c. 43.

**6 Variation of orders for periodical payment made in magistrates' courts under Schedule 1 to the Children Act 1989. E+W**

In Schedule 1 to the <sup>M18</sup>Children Act 1989 (financial provision for children), after paragraph 6 (variation etc. of orders for periodical payments) there shall be inserted the following paragraph—

**Variation of orders for periodical payments etc. made by magistrates' courts**

“6A (1) Subject to sub-paragraphs (7) and (8), the power of a magistrates' court—

- (a) under paragraph 1 or 2 to vary an order for the making of periodical payments, or
- (b) under paragraph 5(6) to vary an order for the payment of a lump sum by instalments,

shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Courts Act 1980.

(2) In any case where—

- (a) a magistrates' court has made an order under this Schedule for the making of periodical payments or for the payment of a lump sum by instalments, and
- (b) payments under the order are required to be made by any method of payment falling within section 59(6) of the Magistrates' Courts Act 1980 (standing order, etc.),

any person entitled to make an application under this Schedule for the variation of the order (in this paragraph referred to as “the applicant”) may apply to the clerk to the justices for the petty sessions area for which the court is acting for the order to be varied as mentioned in sub-paragraph (3).

(3) Subject to sub-paragraph (5), where an application is made under sub-paragraph (2), the clerk, after giving written notice (by post or otherwise) of the application to any interested party and allowing that party, within the period of 14 days beginning with the date of the giving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made to the clerk.

(4) The clerk may proceed with an application under sub-paragraph (2) notwithstanding that any such interested party as is referred to in sub-paragraph (3) has not received written notice of the application.

(5) Where an application has been made under sub-paragraph (2), the clerk may, if he considers it inappropriate to exercise his power under sub-paragraph (3), refer the matter to the court which, subject to sub-paragraphs (7) and (8), may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) of the <sup>M19</sup>Magistrates' Courts Act 1980.

(6) Subsection (4) of section 59 of the Magistrates' Courts Act 1980 (power of court to order that account be opened) shall apply for the purposes of sub-paragraphs (1) and (5) as it applies for the purposes of that section.

**Changes to legislation:** There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

- (7) Before varying the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) of the Magistrates' Courts Act 1980, the court shall have regard to any representations made by the parties to the application.
- (8) If the court does not propose to exercise its power under paragraph (c) or (d) of subsection (3) of section 59 of the Magistrates' Courts Act 1980, the court shall, unless upon representations expressly made in that behalf by the applicant for the order it is satisfied that it is undesirable to do so, exercise its power under paragraph (b) of that subsection.
- (9) None of the powers of the court, or of the clerk to the justices, conferred by this paragraph shall be exercisable in relation to an order under this Schedule for the making of periodical payments, or for the payment of a lump sum by instalments, which is not a qualifying maintenance order (within the meaning of section 59 of the Magistrates' Courts Act 1980).
- (10) In sub-paragraphs (3) and (4) "interested party", in relation to an application made by the applicant under sub-paragraph (2), means a person who would be entitled to be a party to an application for the variation of the order made by the applicant under any other provision of this Schedule if such an application were made."

#### Commencement Information

**I6** S. 6 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455, art. 2](#)

#### Marginal Citations

**M18** 1989 c. 41.

**M19** 1980 c. 43.

### **F137 Maintenance orders in magistrates' courts: enforcement. E+W**

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#### Textual Amendments

**F13** Ss. 7, 8 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 99](#) Table; [S.I. 2014/954, art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

#### Commencement Information

**I7** S. 7 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455, art. 2](#)

### **F138 Interest on arrears. E+W**

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*Changes to legislation: There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)*

<b>Textual Amendments</b>	
<b>F13</b>	Ss. 7, 8 repealed (22.4.2014) by <a href="#">Crime and Courts Act 2013 (c. 22)</a> , s. 61(3), <b>Sch. 10 para. 99</b> Table; <a href="#">S.I. 2014/954</a> , <b>art. 2(d)</b> (with <b>art. 3</b> ) (with transitional provisions and savings in <a href="#">S.I. 2014/956</a> , arts. 3-11)
<b>Commencement Information</b>	
<b>I8</b>	S. 8 wholly in force at 1.4.1992 see s. 12(2) and <a href="#">S.I. 1992/455</a> , <b>art. 2</b> .

F149

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E+W

<b>Textual Amendments</b>	
<b>F14</b>	S. 9 repealed (1.7.1992) by <a href="#">Social Security (Consequential Provisions) Act 1992 (c. 6)</a> , ss. 3, 7(2), <b>Sch. 1</b> (subject as mentioned (6.3.1992) in <a href="#">Local Government Finance Act 1992 (c. 14)</a> , s. <b>118(5)(7)</b> (with s. <b>118(1)(2)(4))</b> ).

*Registered maintenance orders*

10

**Amendment of certain enactments relating to registered or confirmed maintenance orders.** **U.K.**

Schedule 1 to this Act, which by amending certain enactments applies some of the preceding provisions of this Act with modifications to maintenance orders registered in or confirmed by magistrates’ courts or registered in the High Court, shall have effect.

<b>Extent Information</b>	
<b>E2</b>	S.10 (in so far as it relates to paragraphs 3 to 6 of Schedule 1) extends to the United Kingdom.
<b>Commencement Information</b>	
<b>I9</b>	S. 10 partly in force; s. 10 not in force at Royal Assent see s. 12(2); s. 10 partly in force at 1.4.1992 by <a href="#">S.I. 1992/455</a> , <b>art. 2</b>

*General*

11

**Minor and consequential amendments and repeals.** **E+W**

(1) Schedule 2 to this Act, which contains minor amendments and amendments consequential on the provisions of this Act, shall have effect.

(2) The enactments specified in Schedule 3 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

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**Changes to legislation:** There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

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#### Commencement Information

**I10** S. 11 wholly in force; s. 11 not in force at Royal Assent see s. 12(2); s. 11(1) partly in force at 14.10.1991 by [S.I. 1991/2042](#), [art. 2](#); s. 11 fully in force at 1.4.1992 by [S.I. 1992/455](#), [art. 2](#).

## 12 Short title, commencement, application and extent. **U.K.**

- (1) This Act may be cited as the Maintenance Enforcement Act 1991.
- (2) The provisions of this Act, other than this section (which comes into force on the passing of this Act), shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions or for different purposes of the same provision.
- (3) In the application of any amendment made by this Act which has effect in relation to orders made, confirmed or registered by a court, it is immaterial whether the making, confirmation or registration occurred before or after the coming into force of the amendment.
- (4) Except for paragraphs 3 to 6 of Schedule 1, section 10 (in so far as it relates to those paragraphs) and this section, which extend to Scotland and Northern Ireland, this Act extends to England and Wales only.

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#### Subordinate Legislation Made

**P1** S. 12(2): s. 12(2) power exercised (9. 9. 1991) by [S.I.1991/2042](#) and [S.I.1992/455](#)



## SCHEDULES

### SCHEDULE 1 U.K.

Section 10.

#### AMENDMENT OF CERTAIN ENACTMENTS RELATING TO MAINTENANCE ORDERS REGISTERED IN OR CONFIRMED BY MAGISTRATES' COURTS OR REGISTERED IN THE HIGH COURT

##### *The Maintenance Orders (Facilities for Enforcement) Act 1920 (c. 33)*

- 1 (1) In section 4 of the Maintenance Orders (Facilities for Enforcement) Act 1920 (power of court of summary jurisdiction to confirm maintenance order made out of UK), after subsection (5) there shall be inserted the following subsections—

“(5A) Where a magistrates’ court confirms a provisional order under this section, it shall at the same time exercise one of its powers under subsection (5B).

(5B) The powers of the court are—

- (a) the power to order that payments under the order be made directly to the clerk of the court or the clerk of any other magistrates’ court;
- (b) the power to order that payments under the order be made to the clerk of the court, or to the clerk of any other magistrates’ court, by such method of payment falling within section 59(6) of the <sup>M20</sup>Magistrates’ Courts Act 1980 (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under the <sup>M21</sup>Attachment of Earnings Act 1971 to secure payments under the order.

(5C) In deciding which of the powers under subsection (5B) it is to exercise, the court shall have regard to any representations made by the person liable to make payments under the order.

(5D) Subsection (4) of section 59 of the Magistrates’ Courts Act 1980 (power of court to require debtor to open account) shall apply for the purposes of subsection (5B) as it applies for the purposes of that section but as if for paragraph (a) there were substituted—

- (a) the court proposes to exercise its power under paragraph (b) of section 4(5B) of the <sup>M22</sup>Maintenance Orders (Facilities for Enforcement) Act 1920, and”

- (2) For subsection (6) of that section (which provides that where a provisional order is confirmed it may be varied or rescinded as if it had been made by the confirming court and includes power to remit the order to the court which made it) there shall be substituted the following subsections—

“(6) Subject to subsection (6A), where a provisional order has been confirmed under this section, it may be varied or revoked in like manner as if it had originally been made by the confirming court.

*Changes to legislation:* There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

(6A) Where the confirming court is a magistrates’ court, section 60 of the Magistrates’ Courts Act 1980 (revocation, variation etc. of orders for periodical payment) shall have effect in relation to a provisional order confirmed under this section—

(a) as if in subsection (3) for the words “paragraphs (a) to (d) of section 59(3) above” there were substituted “section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920”;

(b) as if in subsection (4) for paragraph (b) there were substituted—

(b) payments under the order are required to be made to the clerk of the court, or to the clerk of any other magistrates’ court, by any method of payment falling within section 59(6) above (standing order, etc.)

;and as if after the words “the court” there were inserted “which made the order”;

(c) as if in subsection (5) for the words “to the clerk” there were substituted “in accordance with paragraph (a) of section 4(5B) of the <sup>M23</sup>Maintenance Orders (Facilities for Enforcement) Act 1920”;

(d) as if in subsection (7), paragraph (c) and the word “and” immediately preceding it were omitted;

(e) as if in subsection (8) for the words “paragraphs (a) to (d) of section 59(3) above” there were substituted “section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920”;

(f) as if for subsections (9) and (10) there were substituted the following subsections—

“(9) In deciding, for the purposes of subsections (3) and (8) above, which of the powers under section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920 it is to exercise, the court shall have regard to any representations made by the debtor.

(10) Subsection (4) of section 59 above (power of court to require debtor to open account) shall apply for the purposes of subsections (3) and (8) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—

(a) the court proposes to exercise its power under paragraph (b) of section 4(5B) of the Maintenance Orders (Facilities for Enforcement) Act 1920, and”

“(6B) Where on an application for variation or revocation the confirming court is satisfied that it is necessary to remit the case to the court which made the order for the purpose of taking any further evidence, the court may so remit the case and adjourn the proceedings for the purpose.”

#### Commencement Information

**I11** Sch. 1 para. 1 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

#### Marginal Citations

**M20** 1980 c. 43.

**M21** 1971 c. 32.

**M22** 1920 c. 33.

M23 1920 c. 33.

2 In section 6 of that Act (mode of enforcing orders registered in or confirmed by courts under Act), in subsection (2) (which provides that if the order is of such a nature that if made by the court it would be enforceable as a magistrates’ court maintenance order it shall be so enforceable), for the words “the order shall be so enforceable” there shall be substituted “ the order shall, subject to the modifications of sections 76 and 93 of the <sup>M24</sup>Magistrates’ Courts Act 1980 (enforcement of sums adjudged to be paid and complaint for arrears) specified in subsections (2ZA) and (2ZB) of section 18 of the <sup>M25</sup>Maintenance Orders Act 1950 (enforcement of registered orders), be so enforceable ”.

Commencement Information

I12 Sch. 1 para.2 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

Marginal Citations

M24 1980 c. 43.

M25 1950 c. 37.

The Maintenance Orders Act 1950 (c. 37)

F153 .....

Textual Amendments

F15 Sch. 1 para. 3 repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 para. 210 Table; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

I13 Sch. 1 para. 3 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

4 (1) In section 19 of that Act (functions of collecting officers, etc.), in subsection (2) (court to order that payments under maintenance order registered in court of summary jurisdiction in England or Northern Ireland be made to collecting officer, unless court satisfied it is undesirable to do so) for the words “unless it is satisfied that it is undesirable to do so” there shall be substituted “ unless, in the case of a court of summary jurisdiction in Northern Ireland, it is satisfied that it is undesirable to do so ”.

(2) For subsection (3) of that section (order under subsection (2) may be varied or revoked) there shall be substituted the following subsection—

“(3) An order made under subsection (2) of this section—

(a) by a court of summary jurisdiction in England may be varied or revoked by an exercise of the powers conferred by virtue of section 18(2ZA) or section 22(1A) or (1E) of this Act;

(b) by a court of summary jurisdiction in Northern Ireland may be varied or revoked by a subsequent order.”

*Changes to legislation: There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)*

#### Commencement Information

**I14** Sch. 1 para. 4 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

- 5 In section 22 of that Act (discharge and variation of maintenance orders registered in summary or sheriff courts), after subsection (1) (power of registering court to vary rate of payments under order) there shall be inserted the following subsections—
- “(1A) The power of a magistrates’ court in England and Wales to vary a maintenance order under subsection (1) of this section shall include power, if the court is satisfied that payment has not been made in accordance with the order, to vary the order by exercising one of its powers under subsection (1B) of this section.
- (1B) The powers of the court are—
- (a) the power to order that payments under the order be made directly to the clerk of the court or the clerk of any other magistrates’ court in England and Wales;
  - (b) the power to order that payments under the order be made to the clerk of the court, or to the clerk of any other magistrates’ court in England and Wales, by such method of payment falling within section 59(6) of the <sup>M26</sup>Magistrates’ Courts Act 1980 (standing order, etc.) as may be specified;
  - (c) the power to make an attachment of earnings order under the <sup>M27</sup>Attachment of Earnings Act 1971 to secure payments under the order.
- (1C) In deciding which of the powers under subsection (1B) of this section it is to exercise, the court shall have regard to any representations made by the person liable to make payments under the order.
- (1D) Subsection (4) of section 59 of the Magistrates’ Courts Act 1980 (power of court to require debtor to open account) shall apply for the purposes of subsection (1B) of this section as it applies for the purposes of that section but as if for paragraph (a) there were substituted—
- (a) the court proposes to exercise its power under paragraph (b) of section 22(1B) of the <sup>M28</sup>Maintenance Orders Act 1950, and
- (1E) Subsections (4) to (11) of section 60 of the Magistrates’ Courts Act 1980 (power of clerk and court to vary maintenance order) shall apply in relation to a maintenance order for the time being registered under this Part of this Act in a magistrates’ court in England and Wales as they apply in relation to a maintenance order made by a magistrates’ court in England and Wales but—
- (a) as if in subsection (4) for paragraph (b) there were substituted—
  - (b) payments under the order are required to be made to the clerk of the court, or to the clerk of any other magistrates’ court, by any method of payment falling within section 59(6) above (standing order, etc.)
- ;and as if after the words “the court” there were inserted “which made the order”;
- (b) as if in subsection (5) for the words “to the clerk” there were substituted “in accordance with paragraph (a) of section 22(1B) of the Maintenance Orders Act 1950”;

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**Changes to legislation:** There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

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- (c) as if in subsection (7), paragraph (c) and the word “and” immediately preceding it were omitted;
  - (d) as if in subsection (8) for the words “paragraphs (a) to (d) of section 59(3) above” there were substituted “section 22(1B) of the Maintenance Orders Act 1950”;
  - (e) as if for subsections (9) and (10) there were substituted the following subsections—
- (9) In deciding which of the powers under section 22(1B) of the <sup>M29</sup>Maintenance Orders Act 1950 it is to exercise, the court shall have regard to any representations made by the debtor.
- (10) Subsection (4) of section 59 above (power of court to require debtor to open account) shall apply for the purposes of subsection (8) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—
- (a) the court proposes to exercise its power under paragraph (b) of section 22(1B) of the Maintenance Orders Act 1950, and”.

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#### Commencement Information

**I15** Sch. 1 para.5 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

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#### Marginal Citations

**M26** 1980 c. 43.  
**M27** 1971 c. 32.  
**M28** 1950 c. 37.  
**M29** 1950 c. 37.

- 6 In section 24 of that Act (cancellation of registration), after subsection (5) (effect of cancellation of order registered in court of summary jurisdiction) there shall be inserted the following subsection—

“(5A) On the cancellation of the registration of a maintenance order registered in a magistrates’ court in England and Wales, any order—

- (a) made in relation thereto by virtue of the powers conferred by section 18(2ZA) or section 22(1A) or (1E) of this Act, and
- (b) requiring payment to the clerk of a magistrates’ court in England and Wales (whether or not by any method of payment falling within section 59(6) of the <sup>M30</sup>Magistrates’ Courts Act 1980),

shall cease to have effect; but until the person liable to make payments under the maintenance order receives the prescribed notice of the cancellation, he shall be deemed to comply with the maintenance order if he makes payments in accordance with any such order which was in force immediately before the cancellation.”

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#### Commencement Information

**I16** Sch. 1 para. 6 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

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*Changes to legislation: There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)*

#### **Marginal Citations**

**M30** 1980 c. 43.

#### *The Maintenance Orders Act 1958 (c. 39)*

7 In section 2 of the Maintenance Orders Act 1958 (registration of orders), for subsection (6) (section 19(1) to (4) of Maintenance Orders Act 1950 to have effect for the purposes of Part I) there shall be substituted the following subsections—

“(6) Where a magistrates’ court order is registered under this Part of this Act in the High Court, then—

- (a) if payments under the magistrates’ court order are required to be made (otherwise than to the clerk of a magistrates’ court) by any method of payment falling within section 59(6) of the Magistrates’ Courts Act 1980 (standing order, etc.), any order requiring payment by that method shall continue to have effect after registration;
- (b) any order by virtue of which sums payable under the magistrates’ court order are required to be paid to the clerk of a magistrates’ court (whether or not by any method of payment falling within section 59(6) of that Act) on behalf of the person entitled thereto shall cease to have effect.

(6ZA) Where a High Court or county court order is registered under this Part of this Act in a magistrates’ court, then—

- (a) if a means of payment order (within the meaning of section 1(7) of the Maintenance Enforcement Act 1991) has effect in relation to the order in question, it shall continue to have effect after registration; and
- (b) in any other case, the magistrates’ court shall order that all payments to be made under the order in question (including any arrears accrued before registration) shall be made to the clerk of the court or the clerk of any other magistrates’ court.

(6ZB) Any such order as to payment—

- (a) as is referred to in paragraph (a) of subsection (6) of this section may be revoked, suspended, revived or varied by an exercise of the powers conferred by section 4A of this Act; and
- (b) as is referred to in paragraph (a) or (b) of subsection (6ZA) of this section may be varied or revoked by an exercise of the powers conferred by section 3(2A) or (2B) or section 4(2A), (5A) or (5B) of this Act.

(6ZC) Where by virtue of the provisions of this section or any order under subsection (6ZA)(b) of this section payments under an order cease to be or become payable to the clerk of a magistrates’ court, the person liable to make the payments shall, until he is given the prescribed notice to that effect, be deemed to comply with the order if he makes payments in accordance with the order and any order under subsection (6ZA)(b) of this section of which he has received such notice.”

Commencement Information

I17 Sch. 1 para. 7 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

F168 . . . . .

Textual Amendments

F16 Sch. 1 paras. 8, 9 repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 99 Table; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

I18 Sch. 1 para. 8 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

F169 . . . . .

Textual Amendments

F16 Sch. 1 paras. 8, 9 repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 99 Table; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

I19 Sch. 1 para. 9 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

10 After section 4 of that Act (variation of orders registered in magistrates’ courts) there shall be inserted the following section—

- “4A Variation etc. of orders registered in the High Court.
- (1) The provisions of this section shall have effect with respect to orders registered in the High Court other than maintenance orders deemed to be made by a magistrates’ court by virtue of section 1(4) of this Act, and the reference in subsection (2) of this section to a registered order shall be construed accordingly.
- (2) The High Court may exercise the same powers in relation to a registered order as are exercisable by the High Court under section 1 of the Maintenance Enforcement Act 1991 in relation to a qualifying periodical maintenance order (within the meaning of that section) which has been made by the High Court, including the power under subsection (7) of that section to revoke, suspend, revive or vary—
- (a) any such order as is referred to in paragraph (a) of section 2(6) of this Act which continues to have effect by virtue of that paragraph; and
- (b) any means of payment order (within the meaning of section 1(7) of that Act of 1991) made by virtue of the provisions of this section.”



*Changes to legislation: There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)*

#### Commencement Information

**I20** Sch. 1 para. 10 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

- 11 In section 5 of that Act (cancellation of registration), for subsection (5) (effect of cancellation on order registered in magistrates’ court) there shall be substituted the following subsections—

“(5) On the cancellation of the registration of a High Court or county court order—

- (a) any order which requires payments under the order in question to be made (otherwise than to the clerk of a magistrates’ court) by any method of payment falling within section 59(6) of the <sup>M31</sup>Magistrates’ Courts Act 1980 or section 1(5) of the Maintenance Enforcement Act 1991 (standing order, etc.) shall continue to have effect; and
- (b) any order made under section 2(6ZA)(b) of this Act or by virtue of the powers conferred by section 3(2A) or (2B) or section 4(2A), (5A) or (5B) of this Act and which requires payments under the order in question to be made to the clerk of a magistrates’ court (whether or not by any method of payment falling within section 59(6) of the Magistrates’ Courts Act 1980) shall cease to have effect;

but, in a case falling within paragraph (b) of this subsection, until the defendant receives the prescribed notice of the cancellation he shall be deemed to comply with the High Court or county court order if he makes payment in accordance with any such order as is referred to in paragraph (b) of this subsection which was in force immediately before the cancellation and of which he has notice.

(6) On the cancellation of the registration of a magistrates’ court order—

- (a) any order which requires payments under the magistrates’ court order to be made by any method of payment falling within section 59(6) of the Magistrates’ Courts Act 1980 or section 1(5) of the Maintenance Enforcement Act 1991 (standing order, etc.) shall continue to have effect; and
- (b) in any other case, payments shall become payable to the clerk of the original court;

but, in a case falling within paragraph (b) of this subsection, until the defendant receives the prescribed notice of the cancellation he shall be deemed to comply with the magistrates’ court order if he makes payments in accordance with any order which was in force immediately before the cancellation and of which he has notice.

(7) In subsections (5) and (6) of this section “High Court order” and “magistrates’ court order” shall be construed in accordance with section 2(6A) of this Act.”

#### Commencement Information

**I21** Sch. 1 para. 11 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2



**Changes to legislation:** There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

**M31** 1980 c. 43.

12 In section 7 of the Maintenance Orders (Reciprocal Enforcement) Act 1972  
(confirmation by UK court of provisional maintenance order made in reciprocating  
country), after subsection (5) (registration etc. of order) there shall be inserted the  
following subsections—

“(5A) Where a magistrates’ court in England and Wales confirms a provisional order under this section, it shall at the same time exercise one of its powers under subsection (5B) below.

(5B) The powers of the court are—

- (a) the power to order that payments under the order be made directly to the clerk of the court or the clerk of any other magistrates' court in England and Wales;
- (b) the power to order that payments under the order be made to the clerk of the court, or to the clerk of any other magistrates' court in England and Wales, by such method of payment falling within section 59(6) of the Magistrates' Courts Act 1980 (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under the <sup>M32</sup> Attachment of Earnings Act 1971 to secure payments under the order.

(5C) In deciding which of the powers under subsection (5B) above it is to exercise, the court shall have regard to any representations made by the payer under the order.

(5D) Subsection (4) of section 59 of the <sup>M33</sup>Magistrates' Courts Act 1980 (power of court to require debtor to open account) shall apply for the purposes of subsection (5B) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—

“(a) the court proposes to exercise its power under paragraph (b) of section 7(5B) of the <sup>M34</sup>Maintenance Orders (Reciprocal Enforcement) Act 1972, and”

**I22** Sch. 1 para. 12 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

**M32** 1971 c. 32.

**M33** 1980 c. 43.

**M34** 1972 c. 18.

**M34** 1972 c. 18.

*Changes to legislation: There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)*

Textual Amendments

F17

Sch. 1 para. 13 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 210](#) Table; [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Commencement Information

I23

Sch. 1 para. 13 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455](#), [art. 2](#)

F1814 . . . . .

Textual Amendments

F18

Sch. 1 para. 14 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 210](#) Table; [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Commencement Information

I24

Sch. 1 para. 14 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455](#), [art. 2](#)

F1915 . . . . .

Textual Amendments

F19

Sch. 1 para. 15 repealed (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 2(2), [Sch.3](#); [S.I. 1993/618](#), [art.2](#)

F2016 . . . . .

Textual Amendments

F20

Sch. 1 para. 16 repealed (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 2(2), [Sch. 3](#); [S.I. 1993/618](#), [art.2](#)

F2117 . . . . .

Textual Amendments

F21

Sch. 1 para. 17 repealed (5.4.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\)](#), s. 2(2), [Sch.3](#); [S.I. 1993/618](#), [art.2](#)

F2218 . . . . .

Textual Amendments

F22

Sch. 1 para. 18 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 210](#) Table; [S.I. 2014/954](#), [art. 2\(e\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

**Changes to legislation:** There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

### Commencement Information

**I25** Sch. 1 para. 18 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455](#), [art. 2](#)

19 (1) In section 34 of that Act (variation and enforcement of orders), at the beginning of subsection (1) (order registered in court other than court which made it variable as if made by registering court) there shall be inserted the words “ Subject to section 34A of this Act ”.

(2) After that section there shall be inserted the following section—

**“34A Variation of orders by magistrates’ courts in England and Wales.**

(1) The provisions of this section shall have effect in relation to a registered order which is registered in a magistrates’ court in England and Wales (whether or not the court made the order) in place of the following enactments, that is to say—

- (a) subsections (3) to (11) of section 60 of the <sup>M35</sup>Magistrates’ Courts Act 1980;
- (b) section 20ZA of the <sup>M36</sup>Domestic Proceedings and Magistrates’ Courts Act 1978; and
- (c) paragraph 6A of Schedule 1 to the <sup>M37</sup>Children Act 1989.

(2) The power of a magistrates’ court in England and Wales to vary a registered order shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under subsection (3) below.

(3) The powers of the court are—

- (a) the power to order that payments under the order be made directly to the clerk of the court or the clerk of any other magistrates’ court in England and Wales;
- (b) the power to order that payments under the order be made to the clerk of the court, or to the clerk of any other magistrates’ court in England and Wales, by such method of payment falling within section 59(6) of the Magistrates’ Courts Act 1980 (standing order, etc.) as may be specified;
- (c) the power to make an attachment of earnings order under the <sup>M38</sup>Attachment of Earnings Act 1971 to secure payments under the order.

(4) In any case where—

- (a) a registered order is registered in a magistrates’ court in England and Wales, and
- (b) payments under the order are required to be made to the clerk of the court, or to the clerk of any other magistrates’ court in England and Wales, by any method of payment falling within section 59(6) of the Magistrates’ Courts Act 1980 (standing order, etc.),

an interested party may apply in writing to the clerk of the court in which the order is registered for the order to be varied as mentioned in subsection (5) below.

*Changes to legislation:* There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

- (5) Subject to subsection (8) below, where an application has been made under subsection (4) above, the clerk, after giving written notice (by post or otherwise) of the application to any other interested party and allowing that party, within the period of 14 days beginning with the date of the giving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made in accordance with paragraph (a) of subsection (3) above.
- (6) The clerk may proceed with an application under subsection (4) above notwithstanding that any such interested party as is referred to in subsection (5) above has not received written notice of the application.
- (7) In subsections (4) to (6) above “interested party”, in relation to an order, means the debtor or the creditor.
- (8) Where an application has been made under subsection (4) above, the clerk may, if he considers it inappropriate to exercise his power under subsection (5) above, refer the matter to the court which may vary the order by exercising one of its powers under subsection (3) above.
- (9) In deciding, for the purposes of subsections (2) and (8) above, which of the powers under subsection (3) above it is to exercise, the court shall have regard to any representations made by the debtor.
- (10) Subsection (4) of section 59 of the <sup>M39</sup>Magistrates’ Courts Act 1980 (power of court to require debtor to open account) shall apply for the purposes of subsection (3) above as it applies for the purposes of that section but as if for paragraph (a) there were substituted—

(a) the court proposes to exercise its power under paragraph (b) of section 34A(3) of the <sup>M40</sup>Maintenance Orders (Reciprocal Enforcement) Act 1972, and
- (11) In this section “creditor” and “debtor” have the same meaning as they have in section 59 of the Magistrates’ Courts Act 1980.”

Commencement Information

I26 Sch. 1 para. 19 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

Marginal Citations

- M35 1980 c. 43.
- M36 1978 c. 22.
- M37 1989 c. 41.
- M38 1971 c. 32.
- M39 1980 c. 43.
- M40 1972 c. 18.

*Changes to legislation: There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)*

#### Textual Amendments

- F23** [Sch. 1 para. 20](#) repealed (5.4.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 c. 56, s. 2(2), [Sch.3](#); [S.I. 1993/618](#) art.2

#### *The Civil Jurisdiction and Judgments Act 1982 (c. 27)*

**F24**<sup>21</sup> .....

#### Textual Amendments

- F24** [Sch. 1 para. 21](#) repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 210](#) Table; [S.I. 2014/954](#), art. 2(e) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

#### Commencement Information

- I27** [Sch. 1 para. 21](#) wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455](#), [art. 2](#)

## SCHEDULE 2 **E+W**

Section 11(1).

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *The Attachment of Earnings Act 1971 (c. 32)*

- 1 (1) In section 3 of the Attachment of Earnings Act 1971 (application for attachment of earnings order and conditions of court's power to make it), in subsection (1) (persons who may apply for order), in paragraph (c) for the words "section 59(1)" there shall be substituted "section 59".
- (2) Subsection (2) of that section (application, other than by debtor, for attachment of earnings order to secure maintenance payments not to be made unless at least 15 days have elapsed since maintenance order made) shall cease to have effect.
- (3) At the beginning of subsection (3) of that section (attachment of earnings order not to be made, other than on application of debtor, unless one or more payments have not been made) there shall be inserted the words "Subject to subsection (3A) below".
- (4) After that subsection there shall be inserted the following subsection—
- “(3A) Subsection (3) above shall not apply where the relevant adjudication is a maintenance order.”
- (5) In subsection (4) of that section (power of court to make attachment of earnings order where certain enforcement proceedings brought), the words "subject to subsection (5) below" shall cease to have effect.
- (6) Subsection (5) of that section (attachment of earnings order not to be made, other than on application of debtor, if debtor's failure to make payments is not due to his wilful refusal or culpable neglect) shall cease to have effect.

Commencement Information

I28 Sch. 2 para. 1 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

*The Domestic Proceedings and Magistrates’ Courts Act 1978 (c. 22)*

2 In section 23 of the Domestic Proceedings and Magistrates’ Courts Act 1978 (supplementary provisions with respect to variation and revocation of orders), in subsection (2) (power of magistrates’ court under section 60 of 1980 Act to vary etc. order not to apply to order under Part I of Act)—

(a)

after the word “money” there shall be inserted “ and the power of the clerk of a magistrates’ court to vary such an order ”; and

(b)

after the word “and” there shall be inserted “ the power of a magistrates’ court ”.

Commencement Information

I29 Sch. 2 para. 2 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

F253 . . . . .

Textual Amendments

F25 Sch. 2 para. 3 repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 para. 210 Table; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

I30 Sch. 2 para. 3 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

*The Justices of the Peace Act 1979 (c. 55)*

F264 . . . . .

Textual Amendments

F26 Sch. 2 para. 4 repealed (19.6.1997) by 1997 c. 25, ss. 73(1), 74(1), Sch. 6 Pt. I (with Sch. 4 para. 27)

*The Magistrates’ Courts Act 1980 (c. 43)*

5 In section 62 of the Magistrates’ Courts Act 1980 (provisions as to payments required to be made to a child, etc), in subsection (1) (which permits payments to be made to person with whom child has his home and permits that person to request clerk of court, under section 59(3) of 1980 Act, to proceed for recovery of arrears), in sub-paragraph (ii) for the words “request the clerk to the magistrates’ court, under subsection (3) of section 59 above” there shall be substituted “ request or authorise the clerk of the magistrates’ court under subsection (1) or subsection (2) respectively of section 59A above ”.

*Changes to legislation: There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)*

**Commencement Information**

**I31** Sch. 2 para.5 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455](#), [art. 2](#)

F276 . . . . .

**Textual Amendments**

**F27** Sch. 2 paras. 6-8 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 99](#) Table; [S.I. 2014/954](#), [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

**Commencement Information**

**I32** Sch. 2 para. 6 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455](#), [art. 2](#)

F277 . . . . .

**Textual Amendments**

**F27** Sch. 2 paras. 6-8 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 99](#) Table; [S.I. 2014/954](#), [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

**Commencement Information**

**I33** Sch. 2 para. 7 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455](#), [art. 2](#)

F278 . . . . .

**Textual Amendments**

**F27** Sch. 2 paras. 6-8 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 99](#) Table; [S.I. 2014/954](#), [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

**Commencement Information**

**I34** Sch. 2 para. 8 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455](#), [art. 2](#)

9 In section 143 of that Act (power to alter sums specified in certain provisions), in subsection (2) (which lists those provisions) after paragraph (d) there shall be inserted the following paragraph—  
“(dd) section 59B(3) above;”.

**Commencement Information**

**I35** Sch. 2 para. 9 wholly in force at 1.4.1992 see s. 12(2) and [S.I. 1992/455](#), [art. 2](#)

F2810 . . . . .

*Changes to legislation: There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)*

Textual Amendments

**F28** Sch. 2 para. 10 repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 11 para. 210 Table; S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

**I36** Sch. 2 para. 10 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

*The Courts and Legal Services Act 1990 (c. 41)*

- 11 <sup>F29</sup>(1) . . . . .
- <sup>F30</sup>(2) . . . . .

Textual Amendments

**F29** Sch. 2 para. 11(1) repealed (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 99 Table; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**F30** Sch. 2 para. 11(2) repealed (6.4.2011) by Courts Act 2003 (c. 39), s. 110(1), Sch. 10; S.I. 2010/2921, art. 3(c)

Commencement Information

**I37** Sch. 2 para. 11 wholly in force at 14.10.1991 see s. 12(2) and S.I. 1991/2042, art.2.

ENACTMENTS REPEALED

Commencement Information

**I38** Sch. 3 wholly in force at 1.4.1992 see s. 12(2) and S.I. 1992/455, art. 2

Chapter	Short title	Extent of repeal
1971 c. 32.	The Attachment of Earnings Act 1971.	In section 3, subsection (2), in subsection (4) the words “subject to subsection (5) below”, and subsection (5).
1972 c. 18.	The Maintenance Orders (Reciprocal Enforcement) Act 1972.	Section 27(9).
1980 c. 43.	The Magistrates’ Courts Act 1980.	In Schedule 7, paragraph 97(b).



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**Changes to legislation:** There are currently no known outstanding effects for the Maintenance Enforcement Act 1991. (See end of Document for details)

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1989 c. 41.	The Children Act 1989.	In Schedule 13, paragraph 44(1).
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**Changes to legislation:**

There are currently no known outstanding effects for the Maintenance Enforcement Act 1991.