



Maintenance Enforcement Act 1991

1991 CHAPTER 17

Magistrates' courts

5 Variation of orders for periodical payment made under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978.

After section 20 of the ^{M1}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 ^{M2}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
- (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.

Changes to legislation: There are currently no known outstanding effects for the Maintenance Enforcement Act 1991, Section 5. (See end of Document for details)

- (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 ^{M3}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)."

Commencement Information

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

Marginal Citations

M1 1978 c. 22.

M2 1980 c. 43.

M3 1980 c. 43.

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