

## SCHEDULES

### SCHEDULE 1

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

##### *The Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18)*

- 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>M1</sup>Magistrates’ Courts Act 1980;
  - (b) section 20ZA of the <sup>M2</sup>Domestic Proceedings and Magistrates’ Courts Act 1978; and
  - (c) paragraph 6A of Schedule 1 to the <sup>M3</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>M4</sup>Attachment of Earnings Act 1971 to secure payments under the order.
- (4) In any case where—

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*Changes to legislation: There are currently no known outstanding effects for the Maintenance Enforcement Act 1991, Paragraph 19. (See end of Document for details)*

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- (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.

- (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>M5</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>M6</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

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

#### Marginal Citations

**M1** 1980 c. 43.  
**M2** 1978 c. 22.  
**M3** 1989 c. 41.  
**M4** 1971 c. 32.

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**Changes to legislation:** There are currently no known outstanding effects for the  
Maintenance Enforcement Act 1991, Paragraph 19. (See end of Document for details)

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**M5** 1980 c. 43.

**M6** 1972 c. 18.

**Changes to legislation:**

There are currently no known outstanding effects for the Maintenance Enforcement Act 1991, Paragraph 19.