



Maintenance Orders Act 1958

1958 CHAPTER 39 6 and 7 Eliz 2

PART III

MISCELLANEOUS AND SUPPLEMENTAL

Miscellaneous

16^{F1}

Textual Amendments

F1 S. 16 repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 9](#)

17 **Prohibition of committal more than once in respect of same arrears.**

Where a defendant has been imprisoned or otherwise detained under an order or warrant of commitment issued in respect of his failure to pay a sum due under a maintenance order, then, notwithstanding anything in this Act, no such order or warrant (other than a warrant of which the issue has been postponed under paragraph (ii) of subsection (5) of the next following section) shall thereafter be issued in respect of that sum or any part thereof.

Modifications etc. (not altering text)

C1 S. 17 extended by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), ss. 24, 30, [Sch. 3 Pt. 1 para. 2\(2\)](#)

^{F2}18 **Powers of magistrates to review committals, etc.**

.....

Status: Point in time view as at 22/04/2014.

Changes to legislation: There are currently no known outstanding effects for the Maintenance Orders Act 1958, Part III. (See end of Document for details)

Textual Amendments

F2 S. 18 repealed (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 11](#); [S.I. 2014/954](#), art. 2(d) (with [art. 3](#)) (with transitional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}19 Revocation and variation of Orders in Council under 10 & 11 Geo. 5. c. 33, s. 12.

Her Majesty may by Order in Council revoke or vary any Order in Council made under section twelve of the ^{M1}Maintenance Orders (Facilities for Enforcement) Act, 1920 (which provides for the extension of that Act by Order in Council to certain oversea territories), and an Order under this section may contain such incidental, consequential and transitional provisions as Her Majesty considers expedient for the purposes of that Act.]

Textual Amendments

F3 S. 19 repealed (prosp.) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1972 \(c. 18\)](#), s. 22(2)

Marginal Citations

M1 [1920 c. 33](#).

Supplemental

20 [^{F4}Repeat applications to enforce payment of maintenance arrears]

^{F5}(1)

^{F5}(2)

(3) It is hereby declared that a magistrates’ court has jurisdiction to hear a complaint by or against a person residing outside England for the discharge or variation of an attachment of earnings order made by a magistrates’ court; and where such a complaint is made against a person residing outside England, then—

^{F6}(a) if he resides in Scotland or Northern Ireland, section fifteen of the Maintenance Orders Act, 1950 (which relates to the service of process on persons residing in those countries) shall have effect in relation to the complaint as it has effect in relation to the proceedings therein mentioned; and]

(b) ^{F7}

(4),(5)

..... ^{F7}

(6) ^{F8}

(7) ^{F9}

(8) For the avoidance of doubt it is hereby declared that [^{F10}an application] may be made to enforce payment of a sum due and unpaid under a maintenance order notwithstanding that a previous [^{F11}application] has been made in respect of that sum or a part thereof and whether or not an order was made in pursuance of the previous [^{F11}application].

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Textual Amendments

- F4** S. 20 title substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 12\(4\)](#); [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. 20(1)(2) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 12\(2\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F6** The text of s. 20(3)(a) which is spent (N.I.) is repealed (E.W.) (S.) by [Attachment of Earnings Act 1971 \(c. 32\)](#), [Sch. 6](#)
- F7** S. 20(3)(b)(4)(5) repealed by [Attachment of Earnings Act 1971 \(c. 32\)](#), [Sch. 6](#)
- F8** S. 20(6) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 9](#)
- F9** S. 20(7) repealed by [Attachment of Earnings Act 1971 \(c. 32\)](#), [Sch. 6](#)
- F10** Words in s. 20(8) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 12\(3\)\(a\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F11** Word in s. 20(8) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 12\(3\)\(b\)](#); [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

Modifications etc. (not altering text)

- C2** The text of s. 20(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

21 Interpretation, etc.

- (1) In this Act, unless the context otherwise requires, the following expressions have the following meanings—

F12

...

F13

...

“defendant”, in relation to a maintenance order or a related attachment of earnings order, means the person liable to make payments under the maintenance order;

F13

...

“England” includes Wales;

F13

...

“prescribed” means prescribed by rules of court;

[^{F14}“proper officer”, in relation to a magistrates’ court, means the clerk of the court;]

F15

...

- (2) Any reference in this Act to a person entitled to receive payments under a maintenance order is a reference to a person entitled to receive such payments either directly or through another person or for transmission to another person.
- (3) Any reference in this Act to proceedings relating to an order includes a reference to proceedings in which the order may be made.
- (4) Any reference in this Act to costs incurred in proceedings relating to a maintenance order shall be construed, in the case of a maintenance order made by the High Court,

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as a reference to such costs as are included in an order for costs relating solely to that maintenance order.

(5) ^{F16}

(6) Any reference in this Act to any enactment is a reference to that enactment as amended by or under any subsequent enactment.

Textual Amendments

- F12** Words in s. 21(1) omitted (22.4.2014) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 13](#); [S.I. 2014/954](#), [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F13** Definitions of “attachment of earnings order”, “earnings”, “employer”, “excepted sums”, and “maintenance order” repealed by [Administration of Justice Act 1970 \(c. 31\)](#), [Sch. 11](#)
- F14** Definition of “proper officer” in s. 21(1) repealed (1.4.2001) by [1999 c. 22](#), s. 106, [Sch. 15 Pt. V\(7\)](#) (with s. 107, [Sch. 14 para. 7\(2\)](#), [36\(9\)](#)); [S.I. 2001/916](#), [art. 2\(c\)\(ii\)](#) (with transitional provision in [Sch. 2 para. 2](#))
- F15** Words in s. 21(1) repealed (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), [Sch. 8 para. 104](#), [Sch. 10](#); [S.I. 2005/910](#), [art. 3\(y\)](#)
- F16** S. 21(5) repealed by [Administration of Justice Act 1970 \(c. 31\)](#), [Sch. 11](#)

Modifications etc. (not altering text)

- C3** S. 21 applied (14.10.1991) by [S.I. 1991/1247](#), [rule 7.22](#)
- C4** S. 21 applied (18.6.2011) by [The Magistrates Courts \(Enforcement or Variation of Orders Made in Family Proceedings and Miscellaneous Provisions\) Rules 2011 \(S.I. 2011/1329\)](#), rules 1, [34\(2\)](#) (with [rule 3](#))

22 ^{F17}

Textual Amendments

- F17** S. 22 repealed by [Northern Ireland Constitution Act 1973 \(c. 36\)](#), [Sch. 6 Pt. I](#)

23 Short title, extent, commencement and repeals.

(1) This Act may be cited as the Maintenance Orders Act, 1958.

[^{F18}(2) The following provisions of this Act, namely—
section 2 [^{F19}section 2A];
section 5(2), (3), (4) and (4A);
extend to Scotland and Northern Ireland.

(2A) section 20(3)(a) above extends to Northern Ireland.

(2B) Subject to subsections (2) and (2A) above, this Act extends only to England.]

(3) This Act shall come into operation on such date as the Secretary of State may by order, made by statutory instrument, appoint; and different dates may be so appointed for the purposes of different provisions of this Act.

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- (4) Subsection (2) of section eight of the ^{M2}Guardianship of Infants Act, 1925, and section ten of the ^{M3}Affiliation Proceedings Act, 1957, are hereby repealed; but nothing in this subsection shall affect any order in force or deemed to be in force under either of those provisions at the commencement of this subsection, and any such order may be discharged or varied as if this subsection had not been passed.

Subordinate Legislation Made

P1 S. 23(3) power fully exercised (11.12.1958): 16.2.1959 for whole Act by [S.I. 1958/2111](#)

Textual Amendments

F18 S. 23(2)(2A)(2B) substituted for s. 23(2) by [Administration of Justice Act 1977 \(c. 38, SIF 37\)](#), s. 3, [Sch. 3 para. 5](#), with effect in relation to the enforcement in one part of the United Kingdom of maintenance orders made in another part.

F19 Words inserted by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), ss. 36(6), 52, [Sch. 12 Pt. III para. 2](#)

Marginal Citations

M2 1925 c. 45.

M3 1957 c. 55.

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