

Maintenance Orders (Commonwealth Officers)

No. 59 of 1966

An Act to provide for the Enforcement of certain
Maintenance Orders by Attachment of Earnings
Orders directed to the Commonwealth and
Authorities of the Commonwealth.

[Assented to 29 October 1966]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Maintenance Orders (Commonwealth Officers) Act 1966*. Short title.
 2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.
 3. In this Act, unless the contrary intention appears— Definitions.
 - “ attachment of earnings order ” means an order under the law of a State or Territory referred to in that law as an attachment of earnings order;
 - “ Commonwealth authority ” means a body corporate (not being an incorporated company, society or association) incorporated for a public purpose by or under a law of the Commonwealth or of a Territory;
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“ maintenance order ” means an order (whether made before or after the commencement of this Act) for the payment of money made under, or enforceable under, a law of a State or Territory that makes provision in relation to the maintenance of wives, children or other persons, including an order for payment of expenses of any kind or for payment of costs and an order for the recoupment of moneys spent in, or provided for, the maintenance of a person or meeting expenses of any kind;

“ Territory ” means a Territory of the Commonwealth that forms part of the Commonwealth or to which this Act extends;

“ the Commonwealth ” includes the Administration of a Territory.

**Extension to
Norfolk Island.**

4. This Act extends to Norfolk Island

**State and
Territorial laws
not to apply of
own force.**

5. Except as provided by this Act, moneys payable by the Commonwealth or a Commonwealth authority are not subject to attachment, by way of enforcement of a maintenance order, under an attachment of earnings order.

**Adoption of
certain
provisions as
Commonwealth
law.**

6.—(1.) Subject to this Act and the regulations, where a law of a State or Territory contains provisions (whether enacted before or after the commencement of this Act) for or in relation to the enforcement of maintenance orders by means of attachment of earnings orders directed to persons who are employers within the meaning of that law, those provisions apply, by force of this Act and as a law of the Commonwealth, in relation to the enforcement of maintenance orders against persons to whom moneys of a kind referred to in those provisions as earnings are or may become payable by the Commonwealth or a Commonwealth authority and so apply as if a reference in those provisions to an employer included a reference to the Commonwealth and to every Commonwealth authority, but otherwise in like manner as those provisions apply as part of the law of the State or Territory.

(2.) The operation, by virtue of this Act, of any of the provisions of a law of a State or Territory, or the jurisdiction of a court for the purposes of any of those provisions as applying by virtue of this Act, is not subject to any limitation depending on the locality of persons, things, acts or events within the State or Territory that is expressed or implied in the law of the State or Territory.

(3.) The provisions that apply by force of this Act have effect in respect of the attachment of moneys notwithstanding any law that, but for this Act, would prevent the attachment of those moneys.

7.—(1.) Where at any time there are in force two or more orders (whether or not made in the one State or Territory) directed to the Commonwealth or a Commonwealth authority by virtue of this Act in respect of maintenance orders against the one person, then, on any occasion on which moneys to which the orders are applicable become payable by the Commonwealth or the Commonwealth authority to that person, the Commonwealth or the Commonwealth authority—

Priorities.

- (a) shall comply with those orders according to the respective dates on which they came into force and shall disregard any order until an earlier order has been complied with in relation to those moneys; and
- (b) shall comply with any order as if any earnings (within the meaning of the order) to which the order relates were the residue of those earnings after the making of any payment out of those earnings under any earlier order.

(2.) Where, by virtue of the Third Schedule to the *Matrimonial Causes Act 1959–1966*, an attachment of earnings order under that Schedule directed to the Commonwealth or a Commonwealth authority has priority over an attachment of earnings order directed to the Commonwealth or that Commonwealth authority by virtue of this Act, the Commonwealth or the Commonwealth authority shall comply with the order made by virtue of this Act as if any earnings (within the meaning of the order) to which the order relates were the residue of those earnings after the making of any payment out of those earnings in accordance with the order under the Third Schedule to the *Matrimonial Causes Act 1959–1966*.

(3.) For the purposes of this section, where a variation of an order has come into force, the order shall be deemed to have come into force as so varied on the day upon which the order came into force.

8. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular—

Regulations.

- (a) for excluding or modifying the operation or effect of any provisions of a law of a State or Territory in their application by virtue of this Act, including exempting from the application of any such provisions moneys of prescribed classes; and
- (b) for or in relation to the service of orders or copies of orders on the Commonwealth or a Commonwealth authority, including service of an order or copy of an order outside the State or Territory in which the order was made.