

Maintenance Orders (Commonwealth Officers) Act 1966

No. 59, 1966

**Compilation No. 4**

**Compilation date:** 9 December 2017

**Includes amendments up to:** Act No. 129, 2017

**Registered:** 9 December 2017

**About this compilation**

**This compilation**

This is a compilation of the *Maintenance Orders (Commonwealth Officers) Act 1966* that shows the text of the law as amended and in force on 9 December 2017 (the ***compilation date***).

The notes at the end of this compilation (the ***endnotes***) include information about amending laws and the amendment history of provisions of the compiled law.

**Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

**Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

**Editorial changes**

For more information about any editorial changes made in this compilation, see the endnotes.

**Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

**Self‑repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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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

1 Short title

This Act may be cited as the *Maintenance Orders (Commonwealth Officers) Act 1966*.

2 Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

3 Interpretation

In this Act, unless the contrary intention appears:

***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.

***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, husbands, spouses, 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 that forms part of the Commonwealth or to which this Act extends.

***the Commonwealth*** includes the Administration of a Territory.

4 Extension to Norfolk Island

This Act extends to Norfolk Island.

5 State and Territorial laws not to apply of own force

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.

6 Adoption of certain provisions as Commonwealth law

(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 Priorities

(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:

(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 Regulations

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:

(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.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

**Abbreviation key—Endnote 2**

The abbreviation key sets out abbreviations that may be used in the endnotes.

**Legislation history and amendment history—Endnotes 3 and 4**

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

**Editorial changes**

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

**Misdescribed amendments**

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) |
| C[x] = Compilation No. x | /sub‑subparagraph(s) |
| Ch = Chapter(s) | pres = present |
| def = definition(s) | prev = previous |
| Dict = Dictionary | (prev…) = previously |
| disallowed = disallowed by Parliament | Pt = Part(s) |
| Div = Division(s) | r = regulation(s)/rule(s) |
| ed = editorial change | reloc = relocated |
| exp = expires/expired or ceases/ceased to have | renum = renumbered |
| effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = *Legislation Act 2003* | Sch = Schedule(s) |
| LIA = *Legislative Instruments Act 2003* | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given | SLI = Select Legislative Instrument |
| effect | SR = Statutory Rules |
| (md not incorp) = misdescribed amendment | Sub‑Ch = Sub‑Chapter(s) |
| cannot be given effect | SubPt = Subpart(s) |
| mod = modified/modification | underlining = whole or part not |
| No. = Number(s) | commenced or to be commenced |

Endnote 3—Legislation history

| Act | Number and year | Assent | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- | --- |
| Maintenance Orders (Commonwealth Officers) Act 1966 | 59, 1966 | 29 Oct 1966 | 1 Apr 1969 (s 2 and gaz 1969, No 23, p 1548) |  |
| Statute Law Revision Act 1973 | 216, 1973 | 19 Dec 1973 | s 9(1), (10) and Sch 1: 31 Dec 1973 (s 2) | s 9(1) and 10 |
| Marriage Amendment (Definition and Religious Freedoms) Act 2017 | 129, 2017 | 8 Dec 2017 | Sch 3 (item 23) and Sch 4: 9 Dec 2017 (s 2(1) item 7) | Sch 4 |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| s 3 | am No 216, 1973; No 129, 2017 |