



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART II

CIVIL JURISDICTION AND PROCEDURE

Orders for periodical payment

59 Periodical payment through justices' clerk.

- (1) Where a magistrates' court orders money to be paid periodically by one person to another, the court may order that the payment shall be made to the clerk of the court or the clerk of any other magistrates' court.
- (2) Where the order is ^{F1}, an order under [^{F2}(or having effect as if made under) Schedule 1 to the Children Act 1989] or an order under Part I of the ^{M1}Domestic Proceedings and Magistrates' Courts Act 1978, the court shall, unless upon representations expressly made in that behalf by the applicant for the order it is satisfied that it is undesirable to do so, exercise its power under subsection (1) above.
- (3) Where periodical payments under an order of any court are required to be paid to or through the clerk of a magistrates' court and any sums payable under the order are in arrear, the clerk shall, if the person for whose benefit the payment should have been made so requests in writing, and unless it appears to the clerk that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of those sums; but the said person shall have the same liability for all the costs properly incurred in or about the proceedings as if the proceedings had been taken by him.
- (4) Nothing in this section shall affect any right of a person to proceed in his own name for the recovery of sums payable on his behalf under an order of any court.

Textual Amendments

F1 Words repealed by [Family Law Reform Act 1987](#) (c. 42, SIF 49:7), s. 33(2)(4), Sch. 3 paras. 1, 6, [Sch.](#)

Status: Point in time view as at 14/10/1991. This version of this cross heading contains provisions that are not valid for this point in time.

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F2 Words in s. 59(2) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 44(1)(with Sch. 14 para. 1(1)); S.I. 1991/828, art.3(2)

Marginal Citations

M1 1978 c. 22.

VALID FROM 01/04/1992

[^{F3}59A Orders for periodical payment: proceedings by clerk.

- (1) Where payments under a relevant UK order are required to be made periodically—
 - (a) to or through the clerk of a magistrates' court, or
 - (b) by any method of payment falling within section 59(6) above,
 and any sums payable under the order are in arrear, the clerk of the relevant court shall, if the person for whose benefit the payments are required to be made so requests in writing, and unless it appears to the clerk that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of those sums.
- (2) Where payments under a relevant UK order are required to be made periodically to or through the clerk of a magistrates' court, the person for whose benefit the payments are required to be made may, at any time during the period in which the payments are required to be so made, give authority in writing to the clerk of the relevant court for the clerk to proceed as mentioned in subsection (3) below.
- (3) Where authority under subsection (2) above is given to the clerk of the relevant court, the clerk shall, unless it appears to him that it is unreasonable in the circumstances to do so, proceed in his own name for the recovery of any sums payable to or through him under the order in question which, on or after the date of the giving of the authority, fall into arrear.
- (4) In any case where—
 - (a) authority under subsection (2) above has been given to the clerk of a relevant court, and
 - (b) the person for whose benefit the payments are required to be made gives notice in writing to the clerk cancelling the authority,
 the authority shall cease to have effect and, accordingly, the clerk shall not continue any proceedings already commenced by virtue of the authority.
- (5) The person for whose benefit the payments are required to be made shall have the same liability for all the costs properly incurred in or about proceedings taken under subsection (1) above at his request or under subsection (3) above by virtue of his authority (including any costs incurred as a result of any proceedings commenced not being continued) as if the proceedings had been taken by him.
- (6) Nothing in subsection (1) or (3) above shall affect any right of a person to proceed in his own name for the recovery of sums payable on his behalf under an order of any court.
- (7) In this section—

“the relevant court”, in relation to an order, means—

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- (a) in a case where payments under the order are required to be made to or through the clerk of a magistrates' court, that magistrates' court; and
- (b) in a case where such payments are required to be made by any method of payment falling within section 59(6) above, the magistrates' court which made the order or, if the order was not made by a magistrates' court, the magistrates' court in which the order is registered;
 - “relevant UK order” means—
 - (a) an order made by a magistrates' court, other than an order made by virtue of Part II of the ^{M2}Maintenance Orders (Reciprocal Enforcement) Act 1972;
 - (b) an order made by the High Court or a county court (including an order deemed to be made by the High Court by virtue of section 1(2) of the ^{M3}Maintenance Orders Act 1958) and registered under Part I of that Act of 1958 in a magistrates' court; or
 - (c) an order made by a court in Scotland or Northern Ireland and registered under Part II of the ^{M4}Maintenance Orders Act 1950 in a magistrates' court;

and any reference to payments required to be made periodically includes, in the case of a maintenance order, a reference to instalments required to be paid in respect of a lump sum payable by instalments.]

Textual Amendments

- F3** S. 59A inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s.2; S.I. 1992/455, art.2

Marginal Citations

- M2** 1972 c. 18
M3 1958 c. 39
M4 1950 c. 37

VALID FROM 01/04/1992

[^{F4}59B Maintenance orders: penalty for breach.

- (1) In any case where—
 - (a) payments under a relevant English maintenance order are required to be made periodically in the manner mentioned in paragraph (a) or (b) of section 59A(1) above, and
 - (b) the debtor fails, on or after the date of commencement of this section, to comply with the order in so far as the order relates to the manner of payment concerned,
 - the person for whose benefit the payments are required to be made may make a complaint to a relevant justice giving details of the failure to comply.
- (2) If the relevant justice is satisfied that the nature of the alleged failure to comply may be such as to justify the relevant court in exercising its power under subsection (3) below, he shall issue a summons directed to the debtor requiring him to appear before the relevant court to answer the complaint.

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- (3) On the hearing of the complaint, the relevant court may order the debtor to pay a sum not exceeding £1000.
- (4) Any sum ordered to be paid under subsection (3) above shall for the purposes of this Act be treated as adjudged to be paid by a conviction of a magistrates' court.
- (5) In this section—
- “debtor” has the same meaning as it has in section 59 above;
- “the relevant court” has the same meaning as it has in section 59A above;
- “relevant English maintenance order” means—
- (a) a maintenance order made by a magistrates' court, other than an order made by virtue of Part II of the ^{M5}Maintenance Orders (Reciprocal Enforcement) Act 1972; or
- (b) an order made by the High Court or a county court (other than an order deemed to be made by the High Court by virtue of section 1(2) of the ^{M6}Maintenance Orders Act 1958) and registered under Part I of that Act of 1958 in a magistrates' court;
- “relevant justice”, in relation to a relevant court, means a justice of the peace for the petty sessions area for which the relevant court is acting;
- and any reference to payments required to be made periodically includes a reference to instalments required to be paid in respect of a lump sum payable by instalments.]

Textual Amendments

F4 [S. 59B](#) inserted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#), [s.3](#); [S.I. 1992/455](#), [art.2](#)

Marginal Citations

M5 1972 c. 18

M6 1958 c. 39

60 Revocation, variation, etc., of orders for periodical payment.

Where a magistrates' court has made an order for the periodical payment of money, the court may, by order on complaint, revoke, revive or vary the order.

The power to vary an order by virtue of this section shall include power to suspend the operation of any provision of that order temporarily and to revive the operation of any provision so suspended.

Modifications etc. (not altering text)

C1 [S. 60](#) excluded (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), [s. 15\(2\)](#) (with [s. 108\(6\)](#), [Sch. 14 para. 1\(1\)](#)); [S.I. 1991/828](#), [art. 3\(2\)](#)

61 Periodical payments payable by one person under more than one order.

- (1) The power to make rules conferred by section 144 below shall, without prejudice to the generality of subsection (1) of that section, include power to make provision—

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- (a) for enabling a person to make one complaint for the recovery of payments required to be made to him by another person under more than one periodical payments order; and
- (b) for apportioning between two or more periodical payments orders, in such manner as may be prescribed by the rules, any sum paid to a clerk to a magistrates' court on any date by the person liable to make payments under the orders which is less than the total sum required to be paid on that date to that clerk by that person in respect of those orders (being orders one of which requires payments to be made for the benefit of a child to the person with whom the child has his home and one or more of which requires payments to be made to that person either for his own benefit or for the benefit of another child who has his home with him) [^{F5}and sums paid into court in pursuance of orders under section 35 of the Powers of Criminal Courts Act 1973 (compensation orders)].

(2) In this section—

“child” means a person who has not attained the age of 18;

“periodical payments order” means an order made by a magistrates' court, or registered in a magistrates' court under Part II of the ^{M7}Maintenance Orders Act 1950 or Part I of the ^{M8}Maintenance Orders Act 1958, which requires the making of periodical payments,

and any payments required under a periodical payments order to be made to a child shall for the purposes of subsection (1) above be treated as if they were required to be made to the person with whom the child has his home.

Textual Amendments

F5 Words added by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 123(6), 170(1), Sch. 8 para. 16, **Sch. 15 para. 63**

Modifications etc. (not altering text)

C2 S. 61 amended by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 81(8), 123(6), **Sch. 8 para. 16**

Marginal Citations

M7 1950 c. 37.

M8 1958 c. 39.

Status:

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