



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART III

SATISFACTION AND ENFORCEMENT

Sums adjudged to be paid by an order

[^{F1}95 Remission of arrears and manner in which arrears to be paid.

- (1) On the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a magistrates' court maintenance order, a magistrates' court may remit the whole or any part of the sum due under the order.

[The power in subsection (1) is not exercisable in relation to a maintenance order which ^{F2}(1A) falls to be enforced by a magistrates' court by virtue of—

- (a) the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011, ^{F3}...
- (b) the Council Regulation.]
- ^{F4}(c) [the 2007 Hague Convention, or
- (d) Part 1 of the Civil Jurisdiction and Judgments Act 1982.]

- (2) If, on the hearing of a complaint for the enforcement, revocation, revival, variation or discharge of a magistrates' court maintenance order, a magistrates' court orders that the whole or any part of the sum due under the order be paid by instalments (an "instalments order"), then—

- (a) if the maintenance order is an English maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) to (d) of section 59(3) above in relation to the instalments order;
- (b) if the maintenance order is a non-English maintenance order, the court shall at the same time exercise one of its powers under subsection (3) below in relation to the instalments order.

- (3) The powers of the court referred to in subsection (2)(b) above are—

Status: Point in time view as at 07/11/2012. This version of this provision has been superseded.

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- (a) the power to order that payments under the order be made directly to [^{F5}the designated officer for the court or for any other magistrates' court];
 - (b) the power to order that payments under the order be made to [^{F6}the designated officer for the court or for any other magistrates' court] by such method of payment falling within section 59(6) above as may be specified;
 - (c) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.
- (4) The court may in the course of any proceedings concerning an instalments order or the magistrates' court maintenance order to which it relates vary the instalments order by exercising—
- (a) in respect of an English maintenance order, one of the powers referred to in subsection (2)(a) above;
 - (b) in respect of a non-English maintenance order, one of its powers under subsection (3) above.
- (5) In respect of an English maintenance order, subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsections (2)(a) and (4)(a) above as they apply for the purposes of that section.
- (6) In respect of a non-English maintenance order—
- (a) subsection (4) of section 59 above shall apply for the purposes of subsections (2)(b) and (4)(b) 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 95(3) below;”;
 - (b) in deciding which of the powers under subsection (3) above it is to exercise the court shall have regard to any representations made by the debtor (within the meaning of section 59 above).
- (7) In this section—
- [^{F7}“the Council Regulation” means Council Regulation (EC) No 44/2001 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;]
 - “English maintenance order” has the same meaning as it has in section 94A above;
 - [^{F8}“the 2007 Hague Convention” means the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007;]
 - [^{F9}“the Maintenance Regulation” means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;]
 - “non-English maintenance order” means—
 - (a) a maintenance order registered in, or confirmed by, a magistrates' court—
 - (i) under the Maintenance Orders (Facilities for Enforcement) Act 1920;
 - (ii) under Part II of the Maintenance Orders Act 1950;

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- (iii) under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972; ^{F10} . . .
- (iv) under Part I of the Civil Jurisdiction and Judgments Act 1982; ^{F11} . . .
- (v) [^{F12}under the Council Regulation;][^{F13}or
- (vi) under the 2007 Hague Convention;]
- (b) an order deemed to be made by the High Court by virtue of section 1(2) of the Maintenance Orders Act 1958 and registered under Part I of that Act in a magistrates' court; ^{F14} . . .
- (c) a maintenance order made by a magistrates' court by virtue of Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972.][^{F15}or
- (d) a maintenance order which falls to be enforced by a magistrates' court by virtue of the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.]

Textual Amendments

- F1** S. 95 substituted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#), s. 11(1), **Sch. 2 para. 8**; [S.I. 1992/455, art. 2](#).
- F2** S. 95(1A) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 9(4)**
- F3** Word in s. 95(1A)(a) repealed (coming into force in accordance with reg. 1(1) of the amending S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(1), **Sch. 4 para. 4(3)(a)(i)**
- F4** S. 95(1A)(c)(d) inserted (coming into force in accordance with reg. 1(1) of the amending S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(1), **Sch. 4 para. 4(3)(a)(ii)**
- F5** Words in s. 95(3) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, **Sch. 8 para. 229**; [S.I. 2005/910, art. 3\(y\)](#)
- F6** Words in s. 95(3) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 109(1), 110, **Sch. 8 para. 229**; [S.I. 2005/910, art. 3\(y\)](#)
- F7** Words in s. 95(7) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 9(5)(a)**
- F8** Words in s. 95(7) inserted (coming into force in accordance with reg. 1(1) of the amending S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(1), **Sch. 4 para. 4(3)(b)**
- F9** Words in s. 95(7) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 9(5)(b)**
- F10** Word in s. 95(7) omitted (1.3.2002) by virtue of [S.I. 2001/3929](#), arts. 1(b), 5, **Sch. 3 para. 12(a)**
- F11** Word in s. 95(7) repealed (coming into force in accordance with reg. 1(1) of the amending S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(1), **Sch. 4 para. 4(3)(c)(i)**
- F12** Words in s. 95(7) substituted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 9(5)(c)(i)**
- F13** Words in s. 95(7) inserted (coming into force in accordance with reg. 1(1) of the amending S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(1), **Sch. 4 para. 4(3)(c)(ii)**
- F14** Word in s. 95(7) repealed (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 9(5)(c)(ii)**
- F15** Words in s. 95(7) inserted (18.6.2011) by [The Civil Jurisdiction and Judgments \(Maintenance\) Regulations 2011 \(S.I. 2011/1484\)](#), reg. 1(1), **Sch. 7 para. 9(5)(c)(iii)**

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Modifications etc. (not altering text)

C1 S. 95 applied by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), ss. 24(6), 30, [Sch. 3 Pt. I](#), para. 2(4)

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