



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART II

CIVIL JURISDICTION AND PROCEDURE

Jurisdiction to issue summons and deal with complaints

51 Issue of summons on complaint.

Subject to the provisions of this Act, where a complaint is made to a justice of the peace acting for any petty sessions area upon which a magistrates' court acting for that area has power to make an order against any person, the justice may issue a summons directed to that person requiring him to appear before a magistrates' court acting for that area to answer to the complaint.

Modifications etc. (not altering text)

C1 S. 51 applied (with modifications) (1.4.1997) by S.I. 1997/704, [rule 5\(2\)\(3\)\(4\)\(a\)](#)

52 Jurisdiction to deal with complaints.

Where no express provision is made by any Act or the rules specifying what magistrates' courts shall have jurisdiction to hear a complaint, a magistrates' court shall have such jurisdiction if the complaint relates to anything done within the commission area for which the court is appointed or anything left undone that ought to have been done there, or ought to have been done either there or elsewhere, or relates to any other matter arising within that area.

F1
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Textual Amendments

- F1** Words in s. 52 repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3), **Sch. 15 Pt. V(1)** (with s. 107, Sch. 14 paras. 7(2), 36(9))

Hearing of complaint

53 Procedure on hearing.

- (1) On the hearing of a complaint, the court shall, if the defendant appears, state to him the substance of the complaint.
- (2) The court, after hearing the evidence and the parties, shall make the order for which the complaint is made or dismiss the complaint.
- (3) Where a complaint is for an order for the payment of a sum recoverable summarily as a civil debt, or for the variation of the rate of any periodical payments ordered by a magistrates' court to be made, or for such other matter as may be prescribed, the court may make the order with the consent of the defendant without hearing evidence.

Modifications etc. (not altering text)

- C2** S. 53(1)(2) applied (with modifications) (1.4.1997) by **S.I. 1997/704, rule 5(2)(3)(4)(b)**
- C3** S. 53(3) extended (14.10.1991) by **S.I. 1991/1991**, rule. 16(1) (as amended (5.12.2005) by **S.I. 2005/2930, Sch. 1** {rule 14})

54 Adjournment

- (1) A magistrates' court may at any time, whether before or after beginning to hear a complaint, adjourn the hearing, and may do so, notwithstanding anything in this Act, when composed of a single justice.
- (2) The court may when adjourning either fix the time and place at which the hearing is to be resumed or, unless it remands the defendant under section 55 below, leave the time and place to be determined later by the court; but the hearing shall not be resumed at that time and place unless the court is satisfied that the parties have had adequate notice thereof.

Modifications etc. (not altering text)

- C4** S. 54 applied (with modifications) (1.4.1997) by **S.I. 1997/704, rule 5(2)(3)(4)(c)**

55 Non-appearance of defendant.

- (1) Where at the time and place appointed for the hearing or adjourned hearing of a complaint the complainant appears but the defendant does not, the court may, subject to subsection (3) below, proceed in his absence.
- (2) Where the court, instead of proceeding in the absence of the defendant, adjourns, or further adjourns, the hearing, the court may, if the complaint has been substantiated

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on oath, and subject to the following provisions of this section, issue a warrant for his arrest.

- (3) The court shall not begin to hear the complaint in the absence of the defendant or issue a warrant under this section unless either it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the summons was served on him within what appears to the court to be a reasonable time before the hearing or adjourned hearing or the defendant has appeared on a previous occasion to answer to the complaint.
- (4) Where the defendant fails to appear at an adjourned hearing, the court shall not issue a warrant under this section unless it is satisfied that he has had adequate notice of the time and place of the adjourned hearing.
- (5) Where the defendant is arrested under a warrant issued under this section, the court may, on any subsequent adjournment of the hearing, but subject to the provisions of subsection (6) below, remand him.
- (6) The court shall not issue a warrant or remand a defendant under this section or further remand him by virtue of section 128(3) below after he has given evidence in the proceedings.
- (7) Where the court remands the defendant, the time fixed for the resumption of the hearing shall be that at which he is required to appear or be brought before the court in pursuance of the remand.
- (8) A warrant under this section shall not be issued in any proceedings for the recovery or enforcement of a sum recoverable summarily as a civil debt or in proceedings in any matter of bastardy.

Modifications etc. (not altering text)

- C5** S. 55 applied (with modifications) (1.4.1997) by S.I. 1997/704, **rule 5(2)(3)(4)(d)(5)**
- C6** S. 55(2) restricted by S.I. 1989/438, **art. 29(4)**
- C7** S. 55(2) excluded (3.11.1994) by 1994 c. 33, **s. 78(6)**
- C8** S. 55(3)(4) applied (with modifications) (25.8.2000) by 2000 c. 6, ss. 65, 168(1), **Sch. 7 para. 7(3)**
S. 55(3)(4) applied (with modifications) (25.8.2000) by 2000 c. 6, ss. 72, 75, 168(1), **Sch. 8 para. 6(3)**

56 Non-appearance of complainant.

Where at the time and place appointed for the hearing or adjourned hearing of a complaint the defendant appears but the complainant does not, the court may dismiss the complaint or, if evidence has been received on a previous occasion, proceed in the absence of the complainant.

57 Non-appearance of both parties.

Where at the time and place appointed for the hearing or adjourned hearing of a complaint neither the complainant nor the defendant appears, the court may dismiss the complaint.

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VALID FROM 01/04/2005

[^{F2}Transfer of civil proceedings (other than family proceedings)]

Textual Amendments

- F2** S. 57A and cross-heading inserted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), ss. 48, 110; S.I. 2005/910, art. 3(q)

57A Power to transfer civil proceedings (other than family proceedings)

- (1) A magistrates' court may at any time, whether before or after beginning to hear a complaint, transfer the hearing to another magistrates' court.
- (2) But if the court transfers the matter after it has begun to hear the evidence and the parties, the court to which the matter is transferred must begin hearing the evidence and the parties again.
- (3) This section does not apply to family proceedings.
- (4) The power of the court under this section to transfer a hearing must be exercised in accordance with any directions given under section 30(3) of the Courts Act 2003.]

Civil debt

58 Money recoverable summarily as civil debt.

- (1) A magistrates' court shall have power to make an order on complaint for the payment of any money recoverable summarily as a civil debt.
- (2) Any sum payment of which may be ordered by a magistrates' court shall be recoverable summarily as a civil debt except—
 - (a) a sum recoverable on complaint for [^{F3}a magistrates' court maintenance order]; or
 - (b) a sum that may be adjudged to be paid by a summary conviction or by an order enforceable as if it were a summary conviction.

Textual Amendments

- F3** Words substituted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 33(1)(2), Sch. 2 para. 80, Sch. 3 paras. 1, 6

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Orders for periodical payment

[^{F4}59] **Orders for periodical payment: means of payment.**

- (1) In any case where a magistrates' court orders money to be paid periodically by one person (in this section referred to as "the debtor") to another (in this section referred to as "the creditor"), then—
 - (a) if the order is a qualifying maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) to (d) of subsection (3) below;
 - (b) if the order is not a maintenance order, the court shall at the same time exercise one of its powers under paragraphs (a) and (b) of that subsection.
- (2) For the purposes of this section a maintenance order is a "qualifying maintenance order" if, at the time it is made, the debtor is ordinarily resident in England and Wales.
- (3) The powers of the court are—
 - (a) the power to order that payments under the order be made directly by the debtor to the creditor;
 - (b) the power to order that payments under the order be made to [^{F5}a justices' chief executive];
 - (c) the power to order that payments under the order be made by the debtor to the creditor by such method of payment falling within subsection (6) below as may be specified;
 - [the power to order that payments under the order be made in accordance with ^{F6}(cc) arrangements made by the Secretary of State for their collection;]
 - (d) the power to make an attachment of earnings order under the Attachment of Earnings Act 1971 to secure payments under the order.
- [No order made by a magistrates' court under paragraphs (a) to (d) of subsection (3) ^{F7}(3A) above (other than one made under paragraph (cc)) shall have effect at any time when the Secretary of State is arranging for the collection of payments under the qualifying maintenance order concerned.]
- (4) In any case where—
 - (a) the court proposes to exercise its power under paragraph (c) of subsection (3) above, and
 - (b) having given the debtor an opportunity of opening an account from which payments under the order may be made in accordance with the method of payment proposed to be ordered under that paragraph, the court is satisfied that the debtor has failed, without reasonable excuse, to open such an account,the court in exercising its power under that paragraph may order that the debtor open such an account.
- (5) In deciding, in the case of a maintenance order, which of the powers under paragraphs (a) to (d) of subsection (3) above [^{F8}(other than paragraph (cc))] it is to exercise, the court having (if practicable) given them an opportunity to make representations shall have regard to any representations made—
 - (a) by the debtor,
 - (b) by the creditor, and
 - (c) if the person who applied for the maintenance order is a person other than the creditor, by that other person.

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- (6) The methods of payment referred to in subsection (3)(c) above are the following, that is to say—
- (a) payment by standing order; or
 - (b) payment by any other method which requires one person to give his authority for payments of a specific amount to be made from an account of his to an account of another's on specific dates during the period for which the authority is in force and without the need for any further authority from him.
- (7) Where the maintenance order is an order—
- (a) under the Guardianship of Minors Acts 1971 and 1973,
 - (b) under Part I of the Domestic Proceedings and Magistrates' Courts Act 1978, or
 - (c) under, or having effect as if made under, Schedule 1 to the Children Act 1989,
- and the court does not propose to exercise its power under [F⁹ paragraph (c), (cc) or (d)] of subsection (3) above, the court shall, unless upon representations expressly made in that behalf by the person who applied for the maintenance order it is satisfied that it is undesirable to do so, exercise its power under paragraph (b) of that subsection.
- (8) The [F¹⁰ Lord Chancellor] may by regulations confer on magistrates' courts, in addition to their powers under paragraphs (a) to (d) of subsection (3) above, the power (the "additional power") to order that payments under a qualifying maintenance order be made by the debtor to the creditor or [F¹¹ a justices' chief executive] (as the regulations may provide) by such method of payment as may be specified in the regulations.
- (9) Any reference in any enactment to paragraphs (a) to (d) of subsection (3) above (but not a reference to any specific paragraph of that subsection) shall be taken to include a reference to the additional power, and the reference in subsection (10) below to the additional power shall be construed accordingly.
- (10) Regulations under subsection (8) above may make provision for any enactment concerning, or connected with, payments under maintenance orders to apply, with or without modifications, in relation to the additional power.
- (11) The power of the [F¹⁰ Lord Chancellor] to make regulations under subsection (8) above shall be exercisable by statutory instrument and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [For the purposes of this section—
- F¹²(12) (a) the reference in subsection (1) above to money paid periodically by one person to another includes, in the case of a maintenance order, a reference to a lump sum paid by instalments by one person to another; and
- (b) references to arrangements made by the Secretary of State for the collection of payments are to arrangements made by him under section 30 of the Child Support Act 1991 and regulations made under that section.]]

Textual Amendments

- F4** S. 59 substituted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#), s. 2; S.I. 1992/455, art. 2
- F5** Words in s. 59(3)(b) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **99(1)(2)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)
- F6** S. 59(3)(cc) inserted (11.4.1994) by S.I. 1994/731, art. 3(2)
- F7** S. 59(3A) inserted (11.4.1994) by S.I. 1994/731, art. 3(3)

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- F8** Words in s. 59(5) inserted (11.4.1994) by S.I. 1994/731, **art. 3(4)**
- F9** Words in s. 59(7) substituted (11.4.1994) by S.I. 1994/731, **art. 3(5)**
- F10** Words in s. 59(8)(11) substituted (1.4.1992) by S.I. 1992/709, **art. 3(2), Sch. 2**
- F11** Words in s. 59(8) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **99(1)(3)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F12** S. 59(12) substituted (11.4.1994) by S.I. 1994/731, **art. 3(6)**

Modifications etc. (not altering text)

- C9** S. 59 excluded (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **s. 27C(2)** (as substituted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II para. 13**); S.I. 1993/618, **art. 2**
- C10** S. 59(4) applied (1.4.1992) by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22, SIF 49:3), **s. 20ZA(6)** (inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s. 5**, S.I. 1992/455, **art. 2**)
S. 59(4) applied (with modifications) (1.4.1992) by Maintenance Orders (Facilities for Enforcement) Act 1920 (c. 33, SIF 49:3), **s. 4(5D)** (inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 1(1)**); S.I. 1992/455, **art. 2**)
S. 59(4) applied (with modifications) (1.4.1992) by Maintenance Orders Act 1950 (c. 37, SIF 49:3), **s. 22(1D)** (inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 10, **Sch. 1 para. 5**; S.I. 1992/455, **art. 2**)
- C11** S. 59(4) applied (with modifications) (5.11.1993) by Maintenance Order (Reciprocal Enforcement) Act 1972 (c. 18), **s. 27C(6)** (as substituted (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1992 (c. 56), s. 1, **Sch. 1 Pt. II para. 13**); S.I. 1993/618, **art. 2**)
- C12** S. 59(8)(10)(11) functions of the Secretary of State transferred to the Lord Chancellor (1.4.1992) by S.I. 1992/709, **art. 3(1), Sch. 2**

[^{F13}59A Orders for periodical payment: proceedings by [^{F14}justices' chief executive].

- (1) Where payments under a relevant UK order are required to be made periodically—
 - (a) to or through [^{F15}a justices' chief executive], or
 - (b) by any method of payment falling within section 59(6) above,and any sums payable under the order are in arrear, [^{F16}the relevant justices' chief executive] shall, if the person for whose benefit the payments are required to be made so requests in writing, and unless it appears [^{F17}to that justices' chief executive] 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 [^{F15}a justices' chief executive], 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 [^{F18}the relevant justices' chief executive for him] to proceed as mentioned in subsection (3) below.
- (3) Where authority under subsection (2) above is given to [^{F19}the relevant justices' chief executive, he] 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 [^{F15}a justices' chief executive], and

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- (b) the person for whose benefit the payments are required to be made gives notice in writing to the [^{F20}justices' chief executive cancelling] the authority, the authority shall cease to have effect and, accordingly, the [^{F21}justices' chief executive 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—
- ^{F22}“the relevant justices' chief executive”, in relation to an order, means—
- (a) in a case where payments under the order are required to be made to or through a justices' chief executive, that justices' chief executive;
- (b) in a case where such payments are required to be made by any method of payment falling within section 59(6) above and the order was made by a magistrates' court, the justices' chief executive for that magistrates' court; and
- (c) in a case where such payments are required to be made by any method of payment falling within section 59(6) above and the order was not made by a magistrates' court, the justices' chief executive for 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 ^{M1}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 ^{M2}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 ^{M3}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

- F13** S. 59A inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 2; S.I. 1992/455, art. 2
- F14** S. 59A: words in sidenote substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, 100(7) (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)
- F15** Words in s. 59A(1)(a)(2)(4)(a) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, 100(2)(a)(3)(a)(5)(a) (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii) (with Sch. 2 para. 2)

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- F16** Words in s. 59A(1) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **100(2)(b)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F17** Words in s. 59A(1) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **100(2)(c)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F18** Words in s. 59A(2) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **100(3)(b)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F19** Words in s. 59A(3) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **100(4)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F20** Words in s. 59A(4)(b) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **100(5)(b)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F21** Words in s. 59A(4) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **100(5)(c)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F22** Definition in s. 59A(7) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **100(6)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)

Marginal Citations

- M1** 1972 c. 18
M2 1958 c. 39
M3 1950 c. 37

[^{F23}59B Maintenance orders: penalty for breach.

- (1) In any case where—
- 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
 - 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.
- (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 maintenance order made by a magistrates' court, other than an order made by virtue of Part II of the ^{M4}Maintenance Orders (Reciprocal Enforcement) Act 1972; or
 - 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

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^{M5}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

F23 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

M4 1972 c. 18

M5 1958 c. 39

[^{F24}60] **Revocation, variation, etc. of orders for periodical payment.**

- (1) Where a magistrates' court has made an order for money to be paid periodically by one person to another, the court may, by order on complaint, revoke, revive or vary the order.
- (2) The power under subsection (1) above to vary an order shall include power to suspend the operation of any provision of the order temporarily and to revive the operation of any provision so suspended.
- (3) Where the order mentioned in subsection (1) above is a maintenance order, the power under that subsection to vary the order shall include power, if the court is satisfied that payment has not been made in accordance with the order, to exercise one of its powers under paragraphs (a) to (d) of section 59(3) above.
- (4) In any case where—
 - (a) a magistrates' court has made a maintenance order, and
 - (b) payments under the order are required to be made by any method of payment falling within section 59(6) above,
 an interested party may apply in writing to the clerk of the court for the order to be varied as mentioned in subsection (5) below.
- (5) Subject to subsection (8) below, where an application has been made under subsection (4) above, the clerk, after giving written notice (by post or otherwise) of the application to any other interested party and allowing that party, within the period of 14 days beginning with the date of the giving of that notice, an opportunity to make written representations, may vary the order to provide that payments under the order shall be made [^{F25}to the justices' chief executive for the court].
- (6) The clerk may proceed with an application under subsection (4) above notwithstanding that any such interested party as is referred to in subsection (5) above has not received written notice of the application.
- (7) In subsections (4) to (6) above “interested party”, in relation to a maintenance order, means—
 - (a) the debtor;

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- (b) the creditor; and
 - (c) if the person who applied for the maintenance order is a person other than the creditor, that other person.
- (8) Where an application has been made under subsection (4) above, the clerk may, if he considers it inappropriate to exercise his power under subsection (5) above, refer the matter to the court which may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) above.
- (9) Subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsections (3) and (8) above as they apply for the purposes of that section.
- (10) None of the powers of the court, or of the clerk of the court, conferred by subsections (3) to (9) above shall be exercisable in relation to a maintenance order which is not a qualifying maintenance order (within the meaning of section 59 above).
- (11) For the purposes of this section—
- (a) “creditor” and “debtor” have the same meaning as they have in section 59 above; and
 - (b) the reference in subsection (1) above to money paid periodically by one person to another includes, in the case of a maintenance order, a reference to a lump sum paid by instalments by one person to another.]

Textual Amendments

- F24** S. 60 substituted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\), s. 4](#); S.I. 1992/455, [art. 2](#)
- F25** Words in s. 60(5) substituted (1.4.2001) by [1999 c. 22, s. 90, Sch. 13 paras. 95, 101](#) (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, [art. 2\(a\)\(ii\)](#) (with Sch. 2 para. 2)

Modifications etc. (not altering text)

- C13** 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\(2\)](#)
S. 60 modified (1.4.1992) by [Maintenance Orders \(Facilities for Enforcement\) Act 1920 \(c. 33, SIF 49:3\), s. 4\(6A\)](#) (as substituted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\), s. 10, Sch. 1 para. 1\(2\)](#); S.I. 1992/455, [art. 2](#))
S. 60 modified (1.4.1992) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1972 \(c. 18, SIF 49:3\), s. 9\(1ZA\)](#) (as inserted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\), s. 10, Sch. 1 para. 14](#); S.I. 1992/455, [art. 2](#))
- C14** S. 60(1) modified (5.11.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1972 \(c. 18\), s. 5\(3A\)](#) (as inserted (5.11.1993) by [Maintenance Orders \(Reciprocal Enforcement\) Act 1992 \(c. 56\), s. 1, Sch. 1 Pt. II para. 7](#); S.I. 1993/618, [art. 2](#))
- C15** S. 60(3)-(11) excluded by [1972 c. 18, s. 34A\(1\)](#) (as inserted (1.4.1992) by [1991 c. 17, Sch. 1 para. 19\(2\)](#); S.I. 1992/455, [art. 2](#))
- C16** S. 60(4)-(11) applied (with modifications) (1.4.1992) by [Maintenance Orders Act 1950 \(c. 37, SIF 49:3\), s. 22\(1E\)](#) (as inserted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\), s. 10, Sch. 1 para. 5](#); S.I. 1992/455, [art. 2](#))
S. 60(4)-(11) applied (with modifications) (1.4.1992) by [Maintenance Orders Act 1958 \(c. 39, SIF 49:3\), s. 4\(5A\)](#) (as inserted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\), s. 10, Sch. 1 para. 9\(2\)](#); S.I. 1992/455, [art. 2](#))

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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—
- (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 [^{F26}justices' chief executive] 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 [^{F27}that justices' chief executive] 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) [^{F28}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 ^{M6}Maintenance Orders Act 1950 or Part I of the ^{M7}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

- F26** Words in s. 61(1)(b) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **102(a)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F27** Words in s. 61(1)(b) substituted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 paras. 95, **102(b)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)** (with Sch. 2 para. 2)
- F28** 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)

- C17** S. 61 amended by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 81(8), 123(6), **Sch. 8 para. 16**

Marginal Citations

- M6** 1950 c. 37.
M7 1958 c. 39.

Payments to children

62 Provisions as to payments required to be made to a child, etc.

- (1) Where—

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- (a) periodical payments are required to be made, or a lump sum is required to be paid, to a child under an order made by a magistrates' court, or
 - (b) periodical payments are required to be made to a child under an order which is registered in a magistrates' court,
- any sum required under the order to be paid to the child may be paid to the person with whom the child has his home, and that person—
- (i) may proceed in his own name for the variation, revival or revocation of the order, and
 - (ii) may either proceed in his own name for the recovery of any sum required to be paid under the order or [^{F29}request or authorise the [^{F30}justices' chief executive for] the magistrates' court under subsection (1) or subsection (2) respectively of section 59A above], to proceed for the recovery of that sum.
- (2) Where a child has a right under any enactment to apply for the revival of an order made by a magistrates' court which provided for the making of periodical payments to or for the benefit of the child, the person with whom the child has his home may proceed in his own name for the revival of that order.
 - (3) Where any person by whom periodical payments are required to be paid to a child under an order made by or registered in a magistrates' court makes a complaint for the variation or revocation of that order, the person with whom the child has his home may answer the complaint in his own name.
 - (4) Nothing in subsections (1) and (2) above shall affect any right of a child to proceed in his own name for the variation, revival or revocation of an order or for the recovery of any sum payable thereunder.
 - [^{F31}(5) In this section references to the person with whom a child has his home—
 - (a) in the case of any child who is being looked after by a local authority (within the meaning of section 22 of the Children Act 1989), are references to that local authority; and
 - (b) in any other case, are references to the person who, disregarding any absence of the child at a hospital or boarding school and any other temporary absence, has care of the child.]
 - (6) In this section any reference to an order registered in a magistrates' court is a reference to an order registered in a magistrates' court under Part II of the ^{M8}Maintenance Orders Act 1950 or Part I of the ^{M9}Maintenance Orders Act 1958.
 - (7) In this section “child” means a person who has not attained the age of 18.

Textual Amendments

- F29** Words in s. 62(1)(ii) substituted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#), s. 11(1), [Sch. 2, para. 5](#); S.I. 1992/455, [art. 2](#)
- F30** Words in s. 62(1)(ii) substituted (1.4.2001) by 1999 c. 22, s. 90, [Sch. 13 para. 95](#), **103** (with s. 107, [Sch. 14 para. 7\(2\)](#)); S.I. 2001/916, [art. 2\(a\)\(ii\)](#) (with [Sch. 2 para. 2](#))
- F31** S. 62(5) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(5), [Sch. 13 para. 44\(2\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)

Marginal Citations

- M8** 1950 c. 37.
M9 1958 c. 39.

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Orders other than for payment of money

63 Orders other than for payment of money.

- (1) Where under any Act passed after 31st December 1879 a magistrates' court has power to require the doing of anything other than the payment of money, or to prohibit the doing of anything, any order of the court for the purpose of exercising that power may contain such provisions for the manner in which anything is to be done, for the time within which anything is to be done, or during which anything is not to be done, and generally for giving effect to the order, as the court thinks fit.
- (2) The court may by order made on complaint suspend or rescind any such order as aforesaid.
- (3) Where any person disobeys an order of a magistrates' court made under an Act passed after 31st December 1879 to do anything other than the payment of money or to abstain from doing anything the court may—
 - (a) order him to pay a sum not exceeding £50 for every day during which he is in default or a sum not exceeding [^{F32}£5,000]; or
 - (b) commit him to custody until he has remedied his default or for a period not exceeding 2 months;

but a person who is ordered to pay a sum for every day during which he is in default or who is committed to custody until he has remedied his default shall not by virtue of this section be ordered to pay more than £1,000 or be committed for more than 2 months in all for doing or abstaining from doing the same thing contrary to the order (without prejudice to the operation of this section in relation to any subsequent default).
- (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) The preceding provisions of this section shall not apply to any order for the enforcement of which provision is made by any other enactment.

Textual Amendments

F32 Word in s. 63(3)(a) substituted (1.10.1992) by [Criminal Justice Act 1991 \(c. 53, SIF 39:1\)](#), ss. 17(3)(a), 101(1), [Sch. 4 Pt.I](#), [Sch. 12 para. 6](#) (with s. 28); S.I. 1992/333, art. 2(2), [Sch.2](#)

Modifications etc. (not altering text)

- C18** S. 63(1)-(4) applied by [2000 c. 6, Sch. 1 Pt 1A para. 9F\(2\)](#) (as inserted (27.2.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 324, 336, [Sch. 34 para. 6](#); S.I. 2004/81, [art. 5\(2\)\(d\)](#))
- C19** S. 63(2) excluded by [Public Order Act 1986 \(c. 64, SIF 39:2\)](#), [s. 33\(6\)](#)
- C20** S. 63(2) excluded by [Football Spectators Act 1989 \(c. 37, SIF 45A\)](#), [s. 17\(6\)](#)
S. 63(2) restricted (1.10.1997) by [1996 c. 27, s. 59\(3\)](#) (with [Sch. 9 paras. 8, 9, 10](#)); S.I. 1997/1892, [art. 3\(1\)\(a\)](#)
- C21** S. 63(1)-(4) applied by [2000 c. 6, Sch. 1 Pt 1A para. 9F\(2\)](#) (as inserted (27.2.2004) by [Criminal Justice Act 2003 \(c. 44\)](#), ss. 324, 336, [Sch. 34 para. 6](#); S.I. 2004/81, [art. 5\(2\)\(d\)](#))
- C22** S. 63(2) restricted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), ss. 73(3), 263, [Sch. 6 para. 42\(b\)](#); S.I. 2005/3175, [art. 2](#), [Sch. 1](#)
- C23** S. 63(3) amended by [Contempt of Court Act 1981 \(c. 49, SIF 39:3\)](#), [s. 17\(1\)](#)
- C24** S. 63(3) extended (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#) ss. 14(1), 108(6) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)

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- C25** S. 63(1)-(4) applied by 2000 c. 6, Sch. 1 Pt 1A para. 9F(2) (as inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336, Sch. 34 para. 6; S.I. 2004/81, art. 5(2)(d))
- C26** S. 63(1)-(4) applied by 2000 c. 6, Sch. 1 Pt 1A para. 9F(2) (as inserted (27.2.2004) by Criminal Justice Act 2003 (c. 44), ss. 324, 336, Sch. 34 para. 6; S.I. 2004/81, art. 5(2)(d))

Costs

64 Power to award costs and enforcement of costs.

- (1) On the hearing of a complaint, a magistrates' court shall have power in its discretion to make such order as to costs—
- (a) on making the order for which the complaint is made, to be paid by the defendant to the complainant;
 - (b) on dismissing the complaint, to be paid by the complainant to the defendant, as it thinks just and reasonable; but if the complaint is for an order for the periodical payment of money, or for the revocation, revival or variation of such an order, or for the enforcement of such an order, the court may, whatever adjudication it makes, order either party to pay the whole or any part of the other's costs.
- (2) The amount of any sum ordered to be paid under subsection (1) above shall be specified in the order, or order of dismissal, as the case may be.
- (3) Subject to subsection (4) below, costs ordered to be paid under this section shall be enforceable as a civil debt.
- [^{F33}(4) Any costs awarded on a complaint for a maintenance order, or for the enforcement, variation, revocation, discharge or revival of such an order, against the person liable to make payments under the order shall be enforceable as a sum ordered to be paid by a magistrates' court maintenance order.]
- (5) The preceding provisions of this section shall have effect subject to any other Act enabling a magistrates' court to order a successful party to pay the other party's costs.

Textual Amendments

- F33** S. 64(4) substituted by Family Law Reform Act 1987 (c. 42, SIF 49:7), ss. 33(1)(2), Sch. 2 para. 81, Sch. 3 paras. 1, 6

Domestic proceedings

65 Meaning of domestic proceedings.

- (1) In this Act “[^{F34}family proceedings]” means proceedings under any of the following enactments, that is to say—
- (a) the ^{M10}Maintenance Orders (Facilities for Enforcement) Act 1920;
 - (b) section 43 ^{F35} of the ^{M11}National Assistance Act 1948;
 - (c) section 3 of the ^{M12}Marriage Act 1949;
 - (d) ^{F36}
 - ^{F37}(e) ^{F36}
- [^{F38}(e) section 35 of the Matrimonial Causes Act 1973;]

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- (f) Part I of the ^{M13}Maintenance Orders (Reciprocal Enforcement) Act 1972;
 - ^{F37}(g)
 - (h) the ^{M14}Adoption Act 1976, except proceedings under section 34 of that Act;
 - (i) section 18 ^{F35} of the ^{M15}Supplementary Benefits Act 1976;
 - (j) Part I of the ^{M16}Domestic Proceedings and Magistrates' Courts Act 1978;
 - ^{F39}(k)
 - (l) section 60 of this Act;
 - ^{F40}(m) Part I of the Civil Jurisdiction and Judgments Act 1982, so far as that Part relates to the recognition or enforcement of maintenance orders;]
 - ^{F41}(m)
 - ^{F42}(m)
 - ^{F43}(mm) section 55A of the ^{M17}Family Law Act 1986;]
 - ^{F44}(n) the Children Act 1989]
 - ^{F45}(n) section 106 of the Social Security Administration Act 1992;]
 - (o) section 20 (so far as it provides, by virtue of an order under section 45 ^{F46}, for appeals to be made to a court) ^{F47} . . . of the Child Support Act 1991; except that, subject to subsection (2) below, it does not include—
 - (i) proceedings for the enforcement of any order made, confirmed or registered under any of those enactments;
 - (ii) proceedings for the variation of any provision for the periodical payment of money contained in an order made, confirmed or registered under any of those enactments; or
 - (iii) proceedings on an information in respect of the commission of an offence under any of those enactments.
 - ^{F48}(p) Part IV of the Family Law Act 1996;]
 - ^{F49}(q) sections 11 and 12 of the Crime and Disorder Act 1998;]
 - ^{F50}(r) Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, so far as that Regulation relates to the recognition or enforcement of maintenance orders;]
 - ^{F51}(s) Council Regulation (EC) No 2201/2003 of 27th November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and matters of parental responsibility, so far as that Regulation relates to jurisdiction, recognition and enforcement in parental responsibility matters;]
- (2) The court before which there fall to be heard any of the following proceedings, that is to say—
- (a) proceedings (whether under this Act or any other enactment) for the enforcement of any order made, confirmed or registered under any of the enactments specified in paragraphs (a) to (k) [^{F52}(m), (n) and [^{F53}, (p) and (r)]] of subsection (1) above;
 - (b) proceeding (whether under this Act or any other enactment) for the variation of any provision for the making of periodical payments contained in an order made, confirmed or registered under any of those enactments;
 - (c) proceedings for an attachment of earnings order to secure maintenance payments within the meaning of the ^{M18}Attachment of Earnings Act 1971 or for the discharge or variation of such an order; or

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- (d) proceedings for the enforcement of a maintenance order which is registered in a magistrates' court under Part II of the ^{M19}Maintenance Orders Act 1950 or Part I of the ^{M20}Maintenance Orders Act 1958 or for the variation of the rate of payments specified by such an order.
- [^{F54}(e) [^{F55}proceedings under]]section 20 (so far as it provides, by virtue of an order under section 45, for appeals to be made to a court) ^{F47} . . . of the Child Support Act 1991.
- may if it thinks fit order that those proceedings and any other proceedings being heard therewith shall, notwithstanding anything in subsection (1) above, be treated as [^{F34}family proceedings]for the purposes of this Act.
- (3) Where the same parties are parties—
- (a) to proceedings which are [^{F34}family proceedings] by virtue of subsection (1) above, and
- (b) to proceedings which the court has power to treat as [^{F34}family proceedings] by virtue of subsection (2) above,
- and the proceedings are heard together by a magistrates' court, the whole of those proceedings shall be treated as [^{F34}family proceedings]for the purposes of this Act.
- (4) No appeal shall lie from the making of, or refusal to make, an order under subsection (2) above.
- (5) Until the ^{M21}Adoption Act 1976 comes into force subsection (1) above shall have effect as if for paragraph (h) thereof there were substituted the following paragraph—
- “(h) The Adoption Act 1958, the Adoption Act 1960 or Part I of the Children Act 1975, except proceedings under section 42 or 43 of the Adoption Act 1958.”
- (6) Until the ^{M22}Child Care Act 1980 comes into force subsection (1) above shall have effect as if for paragraph (k) thereof there were substituted the following paragraph—
- “(k) Section 87 or section 88 of the Children and Young Persons Act 1933 or section 26 of the Children Act 1948.”

Textual Amendments

- F34** Words in s. 65(1)(2)(3) substituted (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), ss. 92, 108(6), [Sch. 11 Pt. II para. 8\(c\)](#) (with [Sch. 14 para. 1\(1\)](#)); S.I. 1991/828, [art. 3\(2\)](#)
- F35** Words repealed by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), s. 33(2)(4), [Sch. 3 paras. 1, 6](#), [Sch. 4](#)
- F36** S. 65(d) repealed by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), ss. 33(2)(4), [Sch. 3 paras. 1, 6](#), [Sch. 4](#)
- F37** S. 65(e)(g) repealed (14.10.1991) by [Children Act 1989 \(c. 41, SIF 20\)](#), s. 108(6)(7), [Sch. 15](#) (with [Sch. 14 paras. 1\(1\), 27\(4\)](#)); S.I. 1991/828, [art. 3\(2\)](#).
- F38** S. 65(ee) inserted by [Matrimonial and Family Proceedings Act 1984 \(c. 42, SIF 49:3\)](#), [s. 44](#)
- F39** S. 65(k) repealed (14.10.1991) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1, 82\)](#), ss. 116, 125(7), [Sch. 16 para. 40](#), [Sch. 20](#); S.I. 1991/1883, [art. 3](#), [Sch.](#)
- F40** S. 65(1)(m) commencing “Part I of the Civil Jurisdiction and Judgments Act 1982” inserted (1.1.1987) by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 45:3\)](#), s. 15(4), [Sch. 12 Pt. I para. 7\(a\)](#)
- F41** S. 65(1)(m) commencing “section 24” (which was added (E.W.S.) (11.4.1988) by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), s. 86(1), [Sch. 10 Pt. II para. 54](#)) repealed (1.7.1992) by [Social Security \(Consequential Provisions\) Act 1992 \(c. 6\)](#), ss. 3, 7(2), [Sch. 1](#) (subject as mentioned in [Local Government Finance Act 1992 \(c. 14\)](#), [s. 118](#))

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- F42** S. 65(1)(m) commencing 'section 4' (which was inserted (1.4.1989) by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(2), Sch. 2 para. 82, Sch. 3 paras. 1, 6) repealed (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(6)(7), Sch. 15 (with Sch. 14 paras. 1(1), 27(4)); S.I. 1991/828, art. 3(2)
- F43** S. 65(1)(mm) inserted (1.4.2001) by 2000 c. 19, s. 83, Sch. 8 para. 2(2) (with s. 83(6)); S.I. 2001/774, art. 2(b)(c)
- F44** S. 65(1)(n) inserted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92(11), 108(6), Sch. 11 Pt. II para. 8(a) (with Sch. 14 para. 1(1)); S.I. 1991/828, art. 3(2)
- F45** S. 65(1)(n) inserted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), Sch. 2 para. 60
- F46** S.I. 1993/961 provides for appeals on parentage issues to be made to a court instead of to a child support appeals tribunal.
- F47** Words in s. 65(1)(o)(2)(e) repealed (1.4.2001) by 2000 c. 19, s. 85, Sch. 9 Pt. IX (with s. 83(6)); S.I. 2001/774, art. 2(d)
- F48** S. 65(1)(p) inserted (1.10.1997) by 1996 c. 27, s. 66(1), Sch. 8 Pt. III para. 49 (with Sch. 9 paras. 8, 9, 10); S.I. 1997/1892, art. 3(1)(b)
- F49** S. 65(1)(q) inserted (30.9.1998) by 1998 c. 37, s. 119, Sch. 8 para. 42; S.I. 1998/2327, art. 2(1)(y)(2)(o)
- F50** S. 65(1)(r) inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, Sch. 3 para. 11(a)
- F51** S. 65(1)(s) inserted (1.3.2005) by The European Communities (Jurisdiction and Judgments in Matrimonial and Parental Responsibility Matters) Regulations 2005 (S.I. 2005/265), art. 4
- F52** Words in s. 65(2)(a) substituted (1.10.1997) by virtue of S.I. 1997/1898, art. 2
- F53** Words in s. 65(2)(a) substituted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, Sch. 3 para. 11(b)
- F54** S. 65(2)(e) inserted (5.4.1993) by S.I. 1993/623, art. 3, Sch. 2 para. 2
- F55** Words in 65(2)(e) inserted (1.4.2001) by 2000 c. 19, s. 83, Sch. 8 para. 2(3) (with s. 83(6)); S.I. 2001/774, art. 2(b)(c)

Modifications etc. (not altering text)

- C27** S. 65 excluded (14.10.1991) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 60(3); S.I. 1991/2208, art. 2(1), Sch. 1
- S. 65 extended (30.9.1998) by 1998 c. 37, s. 11(6); S.I. 1998/2327, art. 2(1)(c)

Marginal Citations

- M10** 1920 c. 33.
M11 1948 c. 29.
M12 1949 c. 76
M13 1972 c. 18.
M14 1976 c. 36
M15 1976 c. 71.
M16 1978 c. 22.
M17 1986 c. 55.
M18 1971 c. 32.
M19 1950 c. 37.
M20 1958 c. 39
M21 1976 c. 36.
M22 1980 c. 5.

[^{F56}66] **Composition of magistrates' courts for family proceedings: general.**

- (1) A magistrates' court when hearing family proceedings shall be composed of—
- (a) two or three lay justices; or
 - (b) a District Judge (Magistrates' Courts) as chairman and one or two lay justices;

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or, if it is not practicable for such a court to be so composed, a District Judge (Magistrates' Courts) sitting alone.

- (2) Except where such a court is composed of a District Judge (Magistrates' Courts) sitting alone, it shall, so far as practicable, include both a man and a woman.
- (3) In this section and section 67 below "lay justices" means justices of the peace who are not District Judges (Magistrates' Courts).]

Textual Amendments

F56 S. 66 substituted (31.8.2000) by 1999 c. 22, ss. 78, 108(1), Sch. 11 paras. 26, 27 (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/1920, art. 3(a)

67 Domestic courts and panels.

- (1) Magistrates' courts constituted in accordance with the provisions of this section and sitting for the purpose of hearing [^{F57}family proceedings] shall be known as [^{F58}family proceedings courts].
- (2) A justice shall not be qualified to sit as a member of a [^{F59}family proceedings court] unless
 - ^{F60}(a) he is a District Judge (Magistrates' Courts) nominated by the Lord Chancellor to do so; or
 - (b) he is a member of a family panel, that is to say a panel of lay justices] specially appointed to deal with [^{F57}family proceedings].
- (3) Without prejudice to the generality of the power to make rules under section 144 below relating to the procedure and practice to be followed in magistrates' courts, provision may be made by such rules with respect to any of the following matters, that is to say—
 - (a) the formation and revision of [^{F61}family panels] and the eligibility of justices to be members of such panels;
 - (b) the appointment of persons as chairmen of [^{F58}family proceedings courts] ; and
 - (c) the composition of domestic courts.
- (4) Any provision made by rules by virtue of subsection (3) above for the formation of [^{F61}family panels] shall include provision for the formation of at least one [^{F62}family panel] for each commission area, but provision shall not be made by the rules for the formation of more than one [^{F62}family panel] for any petty sessions area.

^{F63}In this subsection "commission area" has the same meaning as in [^{F64} the Justices of the Peace Act 1997].]
- (5) Rules made by virtue of subsection (3) above may confer powers on the Lord Chancellor with respect to any of the matters specified in the rules and may, in particular, provide for the appointment of [^{F61}family panels] by him and for the removal from a [^{F62}family panel] of any justice who, in his opinion, is unsuitable to serve on a [^{F59}family proceedings court].
- (6) Rules made by virtue of subsection (3) above may make different provision in relation to different areas for which [^{F61}family panels] are formed; and in the application of this section to the counties of Greater Manchester, Merseyside and Lancashire for any

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reference in subsection (5) above to the Lord Chancellor there shall be substituted a reference to the Chancellor of the Duchy of Lancaster.

(7) ^{F65}

[^{F66}(8) Nothing in this section shall require the formation of a [^{F62}family panel] for the City of London.]

Textual Amendments

- F57** Words in s. 67(1)(2)(7) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F58** Words in s. 67(1)(3)(b) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(f)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F59** Words in s. 67(2)(5) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(g)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F60** S. 67(2)(a)(b) substituted (31.8.2000) for words in s. 67(2) by 1999 c. 22, ss. 78, 108(1), Sch. 11 paras. 26, **28(1)(2)** (with s. 107, Sch. 14 para. 7(2)); S.I. 2000/1920, **art. 3(a)**
- F61** Words in s. 67(3-6) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(e)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F62** Words in s. 67(2)(4)(5)(7)(8) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(d)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F63** Words in s. 67(4) repealed (27.9.1999) by 1999 c. 22, ss. 106, 108(3), **Sch. 15 Pt. V(1)** (with s. 107, Sch. 14 paras. 7(2), 36(9))
- F64** Words in s. 67(4) substituted (19.6.1997) by 1997 c. 25, ss. 73(2), 74(1), **Sch. 5 para. 19(2)(3)(b)** (with Sch. 4 para. 27)
- F65** S. 67(7) repealed (31.8.2000) by 1999 c. 22, ss. 78, 106, 108(1), Sch. 11 paras. 26, 28(3), **Sch. 15 Pt. V(3)** (with s. 107, Sch. 14 paras. 7(2), 36(9)); S.I. 2000/1920, **art. 3(c)**
- F66** S. 67(8) repealed (prosp.) by 1999 c. 22, ss. 106, 108(1), **Sch. 15 Pt. V(1)** (with s. 107, Sch. 14 para. 7(2))

68 Combined domestic court panels.

- (1) Where the [^{F67}Lord Chancellor] considers—
- that a combined [^{F68}family panel] should be formed for 2 or more petty sessions areas, or
 - that any combined [^{F68}family panel] which has been so formed should be dissolved,
- he may direct the magistrates' courts committee for the area concerned to review the functioning of [^{F69}family proceedings courts] in their area and on completion of the review to submit a report to the [^{F67}Lord Chancellor].
- (2) Where the [^{F67}Lord Chancellor] gives a direction under subsection (1) above, then—
- after consideration of any report submitted to him under that subsection, or
 - if the committee fail to comply with the direction within 6 months from the giving thereof, after the expiration of that period of 6 months,
- the [^{F67}Lord Chancellor] may, if he thinks fit, make an order for the formation of a combined [^{F68}family panel] for the petty sessions areas concerned or, as the case may be, for the dissolution of the combined [^{F68}family panel] concerned.
- (3) Where the [^{F67}Lord Chancellor] proposes to make an order under subsection (2) above, he shall send a copy of the proposed order to the magistrates' courts committee for

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any area the whole or part of which is concerned and to any [^{F68}family panel] which is concerned.

- (4) Where a copy of the proposed order is required to be sent under subsection (3) above to any committee or panel, the [^{F67}Lord Chancellor] shall, before making an order, consider any representations made to him by the committee or panel within one month from the time the copy of the proposed order was sent.
- (5) An order of the [^{F67}Lord Chancellor] under subsection (2) above shall be made by statutory instrument and may be revoked or varied by a subsequent order thereunder.
- (6) Any order made under subsection (2) above may contain supplementary, incidental and consequential provisions.

^{F70}(7)

Textual Amendments

- F67** Words in s. 68 substituted (1.4.1992) by S.I. 1992/709, art. 2(3), **Sch. 1**
- F68** Words in s. 68(1)-(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(d)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F69** Words in s. 68(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(f)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F70** S. 68(7) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. II**; S.I. 1995/685, **arts. 4(n), 8(n)**

Modifications etc. (not altering text)

- C28** S. 68: functions of the Secretary of State transferred to the Lord Chancellor (1.4.1992) by S.I. 1992/709, art. 2(1), **Sch. 1**

69 Sittings of magistrates' courts for domestic proceedings.

- (1) The business of magistrates' courts shall, so far as is consistent with the due dispatch of business, be arranged in such manner as may be requisite for separating the hearing and determination of [^{F71}family proceedings] from other business.
- (2) In the case of [^{F71}family proceedings] in a magistrates' court other than proceedings under the ^{M23}Adoption Act 1976, no person shall be present during the hearing and determination by the court of the proceedings except—
 - (a) officers of the court;
 - (b) parties to the case before the court, their [^{F72}legal representatives], witnesses and other persons directly concerned in the case;
 - (c) representatives of newspapers or news agencies;
 - (d) any other person whom the court may in its discretion permit to be present, so, however, that permission shall not be withheld from a person who appears to the court to have adequate grounds for attendance.
- (3) In relation to any [^{F71}family proceedings] under the ^{M24}Adoption Act 1976, subsection (2) above shall apply with the omission of paragraphs (c) and (d).
- (4) When hearing [^{F71}family proceedings], a magistrates' court may, if it thinks it necessary in the interest of the administration of justice or of public decency, direct that any persons, not being officers of the court or parties to the case, the parties'

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[^{F73}legal representatives], or other persons directly concerned in the case, be excluded during the taking of any indecent evidence.

- (5) The powers conferred on a magistrates' court by this section shall be in addition and without prejudice to any other powers of the court to hear proceedings in camera.
- (6) Nothing in this section shall affect the exercise by a magistrates' court of the power to direct that witnesses shall be excluded until they are called for examination.
- (7) Until the coming into operation of the ^{M25}Adoption Act 1976 this section shall have effect as if for any reference to that Act there were substituted a reference to the ^{M26}Adoption Act 1958, the ^{M27}Adoption Act 1960 and Part I of the ^{M28}Children Act 1975.

Textual Amendments

- F71** Words in s. 69(1)-(4) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F72** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 82), s. 125(3), **Sch. 18 para. 25(6)(a)**
- F73** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37, 82), s. 125(3), **Sch. 18 para. 25(6)(b)**

Marginal Citations

- M23** 1976 c. 36.
- M24** 1976 c. 36.
- M25** 1976 c. 36.
- M26** 1958 c. 5 (7 & 8 Eliz. 2).
- M27** 1960 c. 59.
- M28** 1975 c. 72.

70 Jurisdiction of magistrates' courts in inner London for domestic proceedings.

- (1) A relevant court for an inner London petty sessions area shall, in addition to hearing proceedings which (apart from subsection (2) below) may be heard by a relevant court for that area, have jurisdiction to hear proceedings which could be heard before a relevant court for any other such area, but shall not exercise the jurisdiction conferred by this subsection except in such cases or classes of case as may be determined by the [^{F74}magistrates' courts committee whose area consists of or includes that petty sessions area].
- (2) A magistrates' court for an inner London petty sessions area shall not hear any [^{F75}family proceedings] if the [^{F74}magistrates' courts committee whose area consists of or includes that petty sessions area] so determine.
- (3) In this section—
 - “relevant court” means a magistrates' court when composed for the purpose of exercising jurisdiction to hear [^{F75}family proceedings];
 - “inner London petty sessions area” means [^{F76}any petty sessions area falling wholly or partly within the area consisting of the inner London boroughs and the City of London.]

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Textual Amendments

- F74** Words in s. 70(1)(2) substituted (1.4.1995) by 1994 c. 29, s. 91, **Sch. 8 Pt. II para. 30**; S.I. 1995/685, **arts. 4(1), 7(f)**
- F75** Words in s. 70(2)(3) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F76** Words in definition of “inner London petty sessions area” substituted (27.9.1999) by 1999 c. 22, ss. 76, 108(3), **Sch. 10 paras. 33, 34** (with s. 107, Sch. 14 para. 7(2))

71 Newspaper reports of domestic proceedings.

[^{F77}(1) In the case of [^{F78}family proceedings] in a magistrates' court (other than proceedings under the Adoption Act 1976) it shall not be lawful for a person to whom this subsection applies—

- (a) to print or publish, or cause or procure to be printed or published, in a newspaper or periodical, or
- (b) to include, or cause or procure to be included, in a programme included in a programme service (within the meaning of the Broadcasting Act 1990) for reception in Great Britain,

any particulars of the proceedings other than such particulars as are mentioned in subsection (1A) below.

(1A) The particulars referred to in subsection (1) above are—

- (a) the names, addresses and occupations of the parties and witnesses;
- (b) the grounds of the application, and a concise statement of the charges, defences and counter-charges in support of which evidence has been given;
- (c) submissions on any point of law arising in the course of the proceedings and the decision of the court on the submissions;
- (d) the decision of the court, and any observations made by the court in giving it.

(1B) Subsection (1) above applies—

- (a) in relation to paragraph (a) of that subsection, to the proprietor, editor or publisher of the newspaper or periodical, and
- (b) in relation to paragraph (b) of that subsection, to any body corporate which provides the service in which the programme is included and to any person having functions in relation to the programme corresponding to those of an editor of a newspaper.]

(2) In the case of [^{F78c}family proceedings] in a magistrates' court under the ^{M29}Adoption Act 1976, [^{F79}subsection (1A)]above shall apply with the omission of paragraphs (a) and (b) and the reference in that subsection to the particulars of the proceedings shall, in relation to any child concerned in the proceedings, include—

- (a) the name, address or school of the child,
- (b) any picture as being, or including, a picture of the child, and
- (c) any other particulars calculated to lead to the identification of the child.

(3) Any person acting in contravention of this section shall be liable on summary conviction to a fine not exceeding [^{F80}level 4 on the standard scale].

(4) No prosecution for an offence under this section shall be begun without the consent of the Attorney General.

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- (5) Nothing in this section shall prohibit the printing or publishing of any matter in a newspaper or periodical of a technical character bona fide intended for circulation among members of the legal or medical professions.
- (6) Until the coming into operation of the ^{M30}Adoption Act 1976 this section shall have effect as if for any reference to that Act there were substituted a reference to the ^{M31}Adoption Act 1958, the ^{M32}Adoption Act 1960 and Part I of the ^{M33}Children Act 1975.

Textual Amendments

- F77** S. 71(1)(1A)(1B) substituted (1.1.1991) for s. 71(1) by Broadcasting Act 1990 (c. 42, SIF 96), ss. 4(6), 87(6), 203(1), **Sch. 20 para. 29(2)**
- F78** Words in s. 71(1)(2) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**
- F79** Words substituted by Broadcasting Act 1990 (c. 42, SIF 96), s. 203(1), **Sch. 20 para. 29(2)**
- F80** Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**

Modifications etc. (not altering text)

- C29** S. 71 applied (14.10.1991) by Children Act 1989 (c. 41, SIF 20), **ss. 97(8), 108(6)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

Marginal Citations

- M29** 1976 c. 36.
- M30** 1976 c. 36.
- M31** 1958 c. 5 (7 & 8 Eliz. 2).
- M32** 1960 c. 59.
- M33** 1975 c. 72.

^{F81}72 Report by probation officer on means of parties.

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Textual Amendments

- F81** S. 72 repealed (1.4.2001) by 2000 c. 43, ss. 74, 75, Sch. 7 Pt. II para. 61, **Sch. 8**; S.I. 2001/919, **art. 2(f)(ii)**

73 Examination of witnesses by court.

Where in any [^{F82}family proceedings], or in any proceedings for the enforcement or variation of an order made in [^{F82}family proceedings], it appears to a magistrates' court that any party to the proceedings who is not legally represented is unable effectively to examine or cross-examine a witness, the court shall ascertain from that party what are the matters about which the witness may be able to depose or on which the witness ought to be cross-examined, as the case may be, and shall put, or cause to be put, to the witness such questions in the interests of that party as may appear to the court to be proper.

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Textual Amendments

F82 Words in s. 73 substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

74 Reasons for decisions in domestic proceedings.

- (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 for the recording by a magistrates' court, in such manner as may be prescribed by the rules, of reasons for a decision made in such [^{F83}family proceedings] or class of [^{F83}family proceedings] as may be so prescribed, and for making available a copy of any record made in accordance with those rules of the reasons for a decision of a magistrates' court to any person who requests a copy thereof for the purposes of an appeal against that decision or for the purpose of deciding whether or not to appeal against that decision.
- (2) A copy of any record made by virtue of this section of the reasons for a decision of a magistrates' court shall, if certified by such officer of the court as may be prescribed, be admissible as evidence of those reasons.

Textual Amendments

F83 Words in s. 74(1) substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), ss. 92, 108(6), **Sch. 11 Pt. II para. 8(c)** (with Sch. 14 para. 1(1)); S.I. 1991/828, **art. 3(2)**

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