



# Magistrates' Courts Act 1980

## 1980 CHAPTER 43

### PART III

#### SATISFACTION AND ENFORCEMENT

##### *General provisions*

#### **75 Power to dispense with immediate payment.**

- (1) A magistrates' court by whose conviction or order a sum is adjudged to be paid may, instead of requiring immediate payment, allow time for payment, or order payment by instalments.
  - (2) Where a magistrates' court has allowed time for payment, the court may, on application by or on behalf of the person liable to make the payment, allow further time or order payment by instalments.
- [<sup>F1</sup>(2A) An order under this section that a lump sum required to be paid under a maintenance order shall be paid by instalments (a "maintenance instalments order") shall be treated for the purposes of sections 59, 59B and 60 above as a maintenance order.
- (2B) Subsections (5) and (7) of section 59 above (including those subsections as they apply for the purposes of section 60 above) shall have effect in relation to a maintenance instalments order—
- (a) as if in subsection (5), paragraph (c) and the word "and" immediately preceding it were omitted; and
  - (b) as if in subsection (7)—
    - (i) the reference to the maintenance order were a reference to the maintenance order in respect of which the maintenance instalments order in question is made;
    - (ii) for the words "the person who applied for the maintenance order" there were substituted "the debtor".

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- (2C) Section 60 above shall have effect in relation to a maintenance instalments order as if in subsection (7), paragraph (c) and the word “and” immediately preceding it were omitted.]
- (3) Where a court has ordered payment by instalments and default is made in the payment of any one instalment, proceedings may be taken as if the default had been made in the payment of all the instalments then unpaid.

#### Textual Amendments

- F1** S. 75(2A)-(2C) inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1), Sch. 2 para.6; S.I. 1992/455, art.2.

#### Modifications etc. (not altering text)

- C1** S. 75 extended (with modifications) by Legal Aid Act 1988 (c. 34, SIF 77:1), ss. 24(6), 30, Sch. 3 Pt. I para. 2(3)

## 76 Enforcement of sums adjudged to be paid.

- (1) Subject to the following provisions of this Part of this Act, and to section 132 below<sup>F2</sup>, where default is made in paying a sum adjudged to be paid by a conviction or order of a magistrates' court, the court may issue a warrant of distress for the purpose of levying the sum or issue a warrant committing the defaulter to prison.
- (2) A warrant of commitment may be issued as aforesaid either—
- where it appears on the return to a warrant of distress that the money and goods of the defaulter are insufficient to satisfy the sum with the costs and charges of levying the sum; or
  - instead of a warrant of distress.
- (3) The period for which a person may be committed to prison under such a warrant as aforesaid shall not, subject to the provisions of any enactment passed after 31st December 1879, exceed the period applicable to the case under Schedule 4 to this Act.
- [<sup>F3</sup>(4) Where proceedings are brought for the enforcement of a magistrates' court maintenance order under this section, the court may vary the order by exercising one of its powers under paragraphs (a) to (d) of section 59(3) above.
- (5) Subsections (4), (5) and (7) of section 59 above shall apply for the purposes of subsection (4) above as they apply for the purposes of that section.
- (6) Subsections (4) and (5) above shall not have effect in relation to a maintenance order which is not a qualifying maintenance order (within the meaning of section 59 above).]

#### Textual Amendments

- F2** Words repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, Sch. 16
- F3** S. 76(4)-(6) inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s.7; S.I. 1992/455, art.2.

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**Modifications etc. (not altering text)**

- C2** S. 76 modified (1.4.1992) by [Civil Jurisdiction and Judgments Act 1982 \(c. 27, SIF 49:3\)](#), [s. 5\(5B\)](#) (which was inserted (1.4.1992) by [Maintenance Enforcement Act 1991 \(c. 17, SIF 49:3\)](#), s. 10, [Sch. 1 para. 21\(2\)](#); [S.I. 1992/455](#), [art.2](#)).

**77 Postponement of issue of warrant.**

- (1) Where a magistrates' court has power to issue a warrant of distress under this Part of this Act, it may, if it thinks it expedient to do so, postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.
- (2) Where a magistrates' court has power to issue a warrant of commitment under this Part of this Act, it may, if it thinks it expedient to do so, fix a term of imprisonment [<sup>F4</sup>or detention under section 9 of the Criminal Justice Act 1982 (detention of persons aged 17 to 20 for default)]and postpone the issue of the warrant until such time and on such conditions, if any, as the court thinks just.
- [<sup>F5</sup>(3) A magistrates' court shall have power at any time to do either or both of the following—
  - (a) to direct that the issue of the warrant of commitment shall be postponed until a time different from that to which it was previously postponed;
  - (b) to vary any of the conditions on which its issue is postponed,but only if it thinks it just to do so having regard to a change of circumstances since the relevant time.
- (4) In this section "the relevant time" means—
  - (a) where neither of the powers conferred by subsection (3) above has been exercised previously, the date when the issue of the warrant was postponed under subsection (2) above; and
  - (b) in any other case, the date of the exercise or latest exercise of either or both of the powers.
- (5) Without prejudice to the generality of subsection (3) above, if on an application by a person in respect of whom issue of a warrant has been postponed it appears to a justice of the peace acting for the petty sessions area in which the warrant has been or would have been issued that since the relevant time there has been a change of circumstances which would make it just for the court to exercise one or other or both of the powers conferred by that subsection, he shall refer the application to the court.
- (6) Where such an application is referred to the court, it shall be the duty of the clerk of the court—
  - (a) to fix a time and place for the application to be heard; and
  - (b) to give the applicant notice of the time and place which he fixes.
- (7) Where such a notice has been given but the applicant does not appear at the time and place specified in the notice, the court may proceed with the consideration of the application in his absence.
- (8) If a warrant of commitment in respect of the sum adjudged to be paid has been issued before the hearing of the application, the court shall have power to order that the warrant shall cease to have effect and, if the applicant has been arrested in pursuance of it, to order that he shall be released, but it shall only make an order under this subsection if it is satisfied that the change of circumstances on which the applicant

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relies was not put before the court when it was determining whether to issue the warrant.]

#### Textual Amendments

- F4** Words inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 77, **Sch. 14 para. 50**
- F5** [S. 77\(3\)–\(8\)](#) added (E.W.) by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), ss. 61(1)(2), 123(6), **Sch. 8 para. 16**

#### Modifications etc. (not altering text)

- C3** [S. 77\(1\)](#) extended by [S.I. 1985/215, art. 4\(3\)](#), [1985/313, art. 4\(3\)](#), [1985/487, art. 5\(3\)](#), [1986/110, art. 4\(3\)](#), [1986/250, art. 5\(3\)](#), [1986/779, art. 3\(3\)](#), [1986/2090, art. 5\(3\)](#), [1987/213, art. 4\(3\)](#), [1987/292, art. 3\(3\)](#)
- C4** [S. 77\(1\)](#) applied: by [S.I. 1990/137, art. 5\(3\)](#); by [S.I. 1991/138, art. 5\(3\)](#); by [S.I. 1991/139, reg. 7\(3\)](#); by [S.I. 1991/522, art. 3\(3\)](#); (31.1.1992) by [S.I. 1992/130, reg. 8\(3\)](#); (8.2.1992) by [S.I. 1992/190, art. 5\(3\)](#); (27.2.1993) by [S.I. 1993/387, art. 5\(3\)](#); (5.5.1993) by [S.I. 1993/1197, art. 3\(3\)](#); (1.9.1993) by [S.I. 1993/2015, art. 6\(3\)](#) and [S.I. 1993/2016, art. 5\(3\)](#); (22.3.1994) by [S.I. 1994/451, art. 5\(3\)](#); (15.7.1994) by [S.I. 1994/1679, art. 5\(3\)](#) and [S.I. 1994/1681, art. 4\(3\)](#); (18.4.1995) by [S.I. 1995/907, art. 4\(3\)](#) and [S.I. 1995/908, art. 5\(3\)](#); (29.2.1996) by [S.I. 1996/247, art. 5\(3\)](#); (24.4.1996) by [S.I. 1996/1036, art. 5\(3\)](#); (9.4.1997) by [S.I. 1997/883, art. 5\(3\)](#); (12.8.1997) by [S.I. 1997/1949, art. 5\(3\)](#); (14.3.1998) by [S.I. 1998/268, art. 5\(3\)](#); (18.3.1999) by [S.I. 1999/424, art. 5\(3\)](#); (8.2.2000) by [S.I. 2000/51, art. 5\(2\)](#); (21.2.2000) by [S.I. 2000/181, art. 5\(2\)](#); (25.2.2000) by [S.I. 2000/435, art. 5\(2\)](#); (W.)(18.3.2000) by [S.I. 2000/976, art. 5\(2\)](#); (W.)(1.4.2000) by [S.I. 2000/1075, art. 5\(2\)](#); (W.)(7.4.2000) by [S.I. 2000/1078, art. 6\(2\)](#); (11.4.2000) by [S.I. 2000/827, art. 5\(2\)](#); (W.)(11.4.2000) by [S.I. 2000/1096, art. 5\(2\)](#); (15.4.2000) by [S.I. 2000/1081, art. 5\(2\)](#); (24.7.2000) by [S.I. 2000/1843, art. 6\(2\)](#)

## 78 Defect in distress warrant and irregularity in its execution.

- (1) A warrant of distress issued for the purpose of levying a sum adjudged to be paid by the conviction or order of a magistrates' court shall not, if it states that the sum has been so adjudged to be paid, be held void by reason of any defect in the warrant.
- (2) A person acting under a warrant of distress shall not be deemed to be a trespasser from the beginning by reason only of any irregularity in the execution of the warrant.
- (3) Nothing in this section shall prejudice the claim of any person for special damages in respect of any loss caused by a defect in the warrant or irregularity in its execution.
- (4) If any person removes any goods marked in accordance with the rules as articles impounded in the execution of a warrant of distress, or defaces or removes any such mark, he shall be liable on summary conviction to a fine not exceeding [<sup>F6</sup>level 1 on the standard scale].
- (5) If any person charged with the execution of a warrant of distress wilfully retains from the proceeds of a sale of the goods on which distress is levied, or otherwise exacts, any greater costs and charges than those properly payable, or makes any improper charge, he shall be liable on summary conviction to a fine not exceeding [<sup>F6</sup>level 1 on the standard scale].

#### Textual Amendments

- F6** Words substituted by virtue of [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 46

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#### **Modifications etc. (not altering text)**

- C5** S. 78 extended by [S.I. 1985/215, art. 4\(3\)](#), 1985/313, art. 4(3), 1985/487, art. 5(3), 1986/110, art. 4(3), 1986/250, art. 5(3), 1986/779, art. 3(3), 1986/2090, art. 5(3), 1987/213, art. 4(3), 1987/292, art. 3(3)
- C6** S. 78 applied: by [S.I. 1990/137, art. 5\(3\)](#); by [S.I. 1991/138, art. 5\(3\)](#); by [S.I. 1991/139, reg. 7\(3\)](#); by [S.I. 1991/522, art. 3\(3\)](#); (31.1.1992) by [S.I. 1992/130, reg. 8\(3\)](#); (8.2.1992) by [S.I. 1992/190, art. 5\(3\)](#); (27.2.1993) by [S.I. 1993/387, art. 5\(3\)](#); (5.5.1993) by [S.I. 1993/1197, art. 3\(3\)](#); (1.9.1993) by [S.I. 1993/2015, art. 6\(3\)](#) and [S.I. 1993/2016, art. 5\(3\)](#); (22.3.1994) by [S.I. 1994/451, art. 5\(3\)](#); (15.7.1994) by [S.I. 1994/1679, art. 5\(3\)](#) and [S.I. 1994/1681, art. 4\(3\)](#); (18.4.1995) by [S.I. 1995/907, art. 4\(3\)](#) and [S.I. 1995/908, art. 5\(3\)](#); (29.2.1996) by [S.I. 1996/247, art. 5\(3\)](#); (24.4.1996) by [S.I. 1996/1036, art. 5\(3\)](#); (9.4.1997) by [S.I. 1997/883, art. 5\(3\)](#); (12.8.1997) by [S.I. 1997/1949, art. 5\(3\)](#); (14.3.1998) by [S.I. 1998/268, art. 5\(3\)](#); (W.) (18.3.1999) by [S.I. 1999/424, art. 5\(3\)](#); (8.2.2000) by [S.I. 2000/51, art. 5\(2\)](#); (21.2.2000) by [S.I. 2000/181, art. 5\(2\)](#); (25.2.2000) by [S.I. 2000/435, art. 5\(2\)](#); (W.) (18.3.2000) by [S.I. 2000/976, art. 5\(2\)](#); (W.) (1.4.2000) by [S.I. 2000/1075, art. 5\(2\)](#); (W.) (7.4.2000) by [S.I. 2000/1078, art. 6\(2\)](#); (11.4.2000) by [S.I. 2000/827, art. 5\(2\)](#); (W.) (11.4.2000) by [S.I. 2000/1096, art. 5\(2\)](#); (15.4.2000) by [S.I. 2000/1081, art. 5\(2\)](#); (24.7.2000) by [S.I. 2000/1843, art. 6\(2\)](#); (W.) (24.7.2000) by [S.I. 2000/2230, art. 5\(2\)](#); S. 78 applied (29.5.2001) by [S.I. 2001/1631, art. 5\(2\)](#) (which was revoked (8.3.2002) by [S.I. 2002/272, art. 13](#)); s. 78 applied (8.2.2002) by [S.I. 2002/272, art. 5\(2\)](#)
- C7** S. 78 applied (8.2.2003) by [The Sea Fishing \(Restriction on Days at Sea\) Order 2003 \(S.I. 2003/229\), art. 13\(2\)](#)  
S. 78 applied (7.7.2003) by [The Sea Fishing \(Restriction on Days at Sea\)\(No. 2\) Order 2003 \(S.I. 2003/1535\)](#), {art. 13(2)}  
S. 78 applied (with modifications) (temp.) (23.2.2004 and 29.3.2004 for certain purposes, otherwise 5.4.2004 until 31.3.2006) by [The Fines Collection Regulations 2004 \(S.I. 2004/176\)](#), regs. 1(3), **10** (with [reg. 3](#)) (as amended (30.3.2005) by [S.I. 2005/484](#), regs. 1(1)(a)(2), 2)  
S. 78 applied (E.) (26.5.2004) by [The Sea Fishing \(Enforcement of Community Quota and Third Country Fishing Measures\) \(England\) Order 2004 \(S.I. 2004/1237\), art. 6\(2\)](#)

## **79 Release from custody and reduction of detention on payment.**

- (1) Where imprisonment or other detention has been imposed on any person by the order of a magistrates' court in default of payment of any sum adjudged to be paid by the conviction or order of a magistrates' court or for want of sufficient distress to satisfy such a sum, then, on the payment of the sum, together with the costs and charges, if any, of the commitment and distress, the order shall cease to have effect; and if the person has been committed to custody he shall be released unless he is in custody for some other cause.
- (2) Where, after a period of imprisonment or other detention has been imposed on any person in default of payment of any sum adjudged to be paid by the conviction or order of a magistrates' court or for want of sufficient distress to satisfy such a sum, payment is made in accordance with the rules of part of the sum, the period of detention shall be reduced by such number of days as bears to the total number of days in that period less one day the same proportion as the amount so paid bears to so much of the said sum, and the costs and charges of any distress levied to satisfy that sum, as was due at the time the period of detention was imposed.
- (3) In calculating the reduction required under subsection (2) above any fraction of a day shall be left out of account.

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## **80 Application of money found on defaulter to satisfy sum adjudged.**

- (1) Where a magistrates' court has adjudged a person to pay a sum by a conviction or has ordered the enforcement of a sum due from a person under [<sup>F7</sup>a magistrates' court maintenance order], the court may order him to be searched.
- (2) Any money found on the arrest of a person adjudged to pay such a sum as aforesaid, or on a search as aforesaid, or on his being taken to a prison or other place of detention in default of payment of such a sum or for want of sufficient distress to satisfy such a sum, may, unless the court otherwise directs, be applied towards payment of the said sum; and the balance, if any, shall be returned to him.
- (3) A magistrates' court shall not allow the application as aforesaid of any money found on a person if it is satisfied that the money does not belong to him or that the loss of the money would be more injurious to his family than would be his detention.

### **Textual Amendments**

**F7** Words substituted by [Family Law Reform Act 1987 \(c. 42, SIF 49:7\)](#), s. 33(1), [Sch. 2 para. 83](#)

### **Modifications etc. (not altering text)**

**C8** [S. 80](#) applied by [Legal Aid Act 1988 \(c. 34, SIF 77:1\)](#), ss. 24(6), 30, [Sch. 3 Pt. I para. 2\(4\)](#)  
[S. 80](#) applied (2.4.2001) by [1991 c. 48, s. 40B\(10\)](#) (as inserted (2.4.2001) by [2000 c. 19, s. 16\(3\)](#)), (with s. 86(3); [S.I. 2000/3354, art. 2\(3\)](#))

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