



Maintenance Orders Act 1958

1958 CHAPTER 39

PART I

REGISTRATION, ENFORCEMENT AND VARIATION OF CERTAIN MAINTENANCE ORDERS

4 Variation of orders registered in magistrates' courts

- (1) The provisions of this section shall have effect with respect to the variation of orders registered in magistrates' courts, and references in this section to registered orders shall be construed accordingly.
- (2) Subject to the following provisions of this section—
 - (a) the court of registration may exercise the same jurisdiction to vary any rate of payments specified by a registered order (other than jurisdiction in a case where a party to the order is not present in England when the application for variation is made) as is exercisable, apart from this subsection, by the original court; and
 - (b) a rate of payments specified by a registered order shall not be varied except by the court of registration or any other magistrates' court to which the jurisdiction conferred by the foregoing paragraph is extended by rules of court.
- (3) A rate of payments specified by a registered order shall not be varied by virtue of the last foregoing subsection so as to exceed whichever of the following rates is the greater, that is to say—
 - (a) the rate of payments specified by the order as made or last varied by the original court; or
 - (b) in the case of payments for the maintenance of a person as a party to a marriage (including a marriage which has been dissolved or annulled), five pounds a week and, in the case of payments for the maintenance of a child or children, thirty shillings a week in respect of each child.
- (4) If it appears to the court to which an application is made by virtue of subsection (2) of this section for the variation of a rate of payments specified by a registered order that,

Status: This is the original version (as it was originally enacted).

by reason of the limitations imposed on the court's jurisdiction by the last foregoing subsection or for any other reason, it is appropriate to remit the application to the original court, the first-mentioned court shall so remit the application, and the original court shall thereupon deal with the application as if the order were not registered.

- (5) Nothing in subsection (2) of this section shall affect the jurisdiction of the original court to vary a rate of payments specified by a registered order if an application for the variation of that rate is made to that court—
 - (a) in proceedings for a variation of provisions of the order which do not specify a rate of payments; or
 - (b) at a time when a party to the order is not present in England.
- (6) No application for any variation of a registered order shall be made to any court while proceedings for any variation of the order are pending in any other court.
- (7) Where a magistrates' court, in exercise of the jurisdiction conferred by subsection (2) of this section, varies or refuses to vary a registered order, an appeal from the variation or refusal shall lie to the High Court; and so much of subsection (1) of section sixty-three of the Supreme Court of Judicature (Consolidation) Act, 1925, as requires an appeal from any court to the High Court to be heard and determined by a divisional court shall not apply to appeals under this subsection.