

Magistrates' Courts Act 1980

1980 CHAPTER 43

PART II

CIVIL JURISDICTION AND PROCEDURE

Orders for periodical payment

[^{F1}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"), ^{F2}... the court shall at the same time exercise one of its powers under paragraphs (a) and (b) of [^{F3}subsection (3) below].
- - (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}the designated officer for the court or for any other magistrates' court];

 $F^{6}(c)$ $F^{7}(cc)$

- $^{F6}(d)$
- ^{F8}(3A)....
 - (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.

- - (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.

Textual Amendments

- F1 S. 59 substituted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 2; S.I. 1992/455, art. 2
- F2 Words in s. 59(1) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 41(2)(a); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F3 Words in s. 59(1) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 41(2)(b); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F4 S. 59(2) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 41(3); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- Words in s. 59(3)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 208(2); S.I. 2005/910, art. 3(y)
- F6 S. 59(3)(c)-(d) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 41(4); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F7 S. 59(3)(cc) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 41(3); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F8 S. 59(3A) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 41(3); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F9 S. 59(5) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 41(3); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F10 S. 59(7)-(12) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 41(3); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Modifications etc. (not altering text)

- C1 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
- C2 S. 59(3) extended (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 72(3), 263, Sch. 6 paras. 35-38; S.I. 2005/3175, art. 2, Sch. 1
- C3 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)

- C4 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)
- C5 S. 59(4) applied (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 72(3), 263, Sch. 6 para. 38(1); S.I. 2005/3175, art. 2, Sch. 1

[^{F11}59A Orders for periodical payment: proceedings by [^{F12}designated officer].

- (1) Where payments under [^{F13}an order made by a magistrates' court] are required to be made periodically—
 - (a) to or through [^{F14}the designated officer for a magistrates' court], or
 - (b) by any method of payment falling within section 59(6) above,

and any sums payable under the order are in arrear, [^{F15}the relevant designated officer] shall, if the person for whose benefit the payments are required to be made so requests in writing, and unless it appears [^{F16}to that designated officer] 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 [^{F13}an order made by a magistrates' court] are required to be made periodically to or through [^{F17}the designated officer for a magistrates' court], the person for whose benefit the payments are required to be made may, at any time during the period in which the payments are required to be so made, give authority in writing to [^{F18}the relevant designated officer for him] to proceed as mentioned in subsection (3) below.
- (3) Where authority under subsection (2) above is given to [^{F19}the relevant designated officer, 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 [^{F20}the relevant designated officer], and
 - (b) the person for whose benefit the payments are required to be made gives notice in writing to the [^{F21}relevant designated officer cancelling] the authority,

the authority shall cease to have effect and, accordingly, the [^{F22}relevant designated officer 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—

[^{F23}"the relevant designated officer", in relation to an order, means—

- (a) in a case where payments under the order are required to be made to or through the designated officer for a magistrates' court, the designated officer for that magistrates' court; [^{F24}and]
- (b) in a case where such payments are required to be made by any method of payment falling within section 59(6) and the order was made by a magistrates' court, the designated officer for that magistrates' court; ^{F25}...
 (c) ^{F25}...]

F27...]

Textual Amendments

- F11 S. 59A inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 2; S.I. 1992/455, art. 2
- F12 Words in s. 59A heading substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(7); S.I. 2005/910, art. 3(y)
- F13 Words in s. 59A(1)(2) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 42(2); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F14 Words in s. 59A(1)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(2)(a); S.I. 2005/910, art. 3(y)
- F15 Words in s. 59A(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(2)(b); S.I. 2005/910, art. 3(y)
- F16 Words in s. 59A(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(2)(c); S.I. 2005/910, art. 3(y)
- F17 Words in s. 59A(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(3)(a); S.I. 2005/910, art. 3(y)
- F18 Words in s. 59A(2) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(3)(b); S.I. 2005/910, art. 3(y)
- F19 Words in s. 59A(3) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(4); S.I. 2005/910, art. 3(y)
- F20 Words in s. 59A(4)(a) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(5)(a); S.I. 2005/910, art. 3(y)
- F21 Words in s. 59A(4)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(5)(b); S.I. 2005/910, art. 3(y)

- F22 Words in s. 59A(4)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(5)(c); S.I. 2005/910, art. 3(y)
- F23 S. 59A(7): definition of "the relevant designated officer" substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 209(6); S.I. 2005/910, art. 3(y)
- F24 Word in s. 59A(7) inserted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 42(3)(a)(i); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F25 Words in s. 59A(7) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 42(3)(a)(ii); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F26 Words in s. 59A(7) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 42(3)(b); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F27 Words in s. 59A(7) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 42(3)(c); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

^{F28}59B Maintenance orders: penalty for breach.

Textual Amendments

F28 S. 59B omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para.
43; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

[^{F29}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.

$F_{30}(3)$				•			•		•		•													
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- - (11) For the purposes of this section—
 - (a) "creditor" and "debtor" have the same meaning as they have in section 59 above; ^{F31}...
 - ^{F31}(b)]

Textual Amendments

- **F29** S. 60 substituted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 4; S.I. 1992/455, art. 2
- F30 S. 60(3)-(10B) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 44(a); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F31 S. 60(11)(b) and word omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3),
 Sch. 10 para. 44(b); S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Modifications etc. (not altering text)

S. 60 excluded (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 15(2) (with s. 108(6), Sch. 14 **C6** 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) **C7** S. 60 restricted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 72(3), 263, Sch. 6 para. 42(a); S.I. 2005/3175, art. 2, Sch. 1 S. 60(1) modified (5.11.1993) by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), s. **C8** 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 S. 60(3)-(11) excluded by 1972 c. 18, s. 34A(1) (as inserted (1.4.1992) by 1991 c. 17, Sch. 1 para. **C9** 19(2); S.I. 1992/455, art. 2) C10 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)

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

- (1) [^{F32}Rules of court may] 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 [^{F33}the designated officer for a magistrates' court] on any date by the person liable to make payments under the orders which is less than the total sum required to be

paid on that date to [^{F34}that designated officer] 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) [^{F35}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 ^{F36}... 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

- **F32** Words in s. 61(1) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 212(1); S.I. 2005/910, art. 3(y)
- **F33** Words in s. 61(1)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 212(2)(a); S.I. 2005/910, art. 3(y)
- **F34** Words in s. 61(1)(b) substituted (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(1), 110, Sch. 8 para. 212(2)(b); S.I. 2005/910, art. 3(y)
- F35 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
- F36 Words in s. 61(2) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), Sch. 10 para. 45; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Modifications etc. (not altering text)

C11 S. 61 amended by Criminal Justice Act 1988 (c. 33, SIF 39:1), ss. 81(8), 123(6), Sch. 8 para. 16

Changes to legislation: Magistrates' Courts Act 1980, Cross Heading: Orders for periodical payment is up to date with all changes known to be in force on or before 24 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. View outstanding changes Changes and effects yet to be applied to the whole Act associated Parts and Chapters: Act applied by 2017 anaw 2 Sch. 3 para. 18(5) Whole provisions yet to be inserted into this Act (including any effects on those provisions): s. 1(6A) inserted by 2003 c. 44 Sch. 36 para. 8(5) s. 1(6A) words substituted by 2015 c. 2 Sch. 11 para. 3(4) (Effect not applied as (6A) was only inserted prospectively.) s. 1(7A) inserted by 2003 c. 44 Sch. 36 para. 8(6) s. 12(2A) inserted by 2022 c. 35 s. 4(3) s. 12(5A)-(5F) inserted by 2022 c. 35 s. 4(6) s. 17A(1A) inserted by 2022 c. 35 Sch. 2 para. 6(2)(b) s. 17B(1A)-(1F) substituted for s. 17B(1) by 2022 c. 35 s. 9(2)(b) s. 17B(5) inserted by 2022 c. 35 s. 9(2)(d) s. 17BA inserted by 2022 c. 35 s. 7 s. 17ZA-17ZC inserted by 2022 c. 35 s. 6(2) s. 18(1)-(1B) substituted for s. 18(1) by 2022 c. 35 Sch. 2 para. 6(7)(a) s. 18(4A)(4B) inserted by 2022 c. 35 Sch. 2 para. 6(7)(b) s. 18(6) inserted by 2022 c. 35 Sch. 2 para. 6(7)(c) s. 20(7A)(7B) inserted by 2022 c. 35 Sch. 2 para. 6(8)(c) s. 22(2A)-(2E) inserted by 2022 c. 35 Sch. 2 para. 6(9)(a) s. 22A(1A)-(1E) inserted by 2022 c. 35 s. 6(3)(b) s. 23(1A)-(1G) substituted for s. 23(1) by 2022 c. 35 s. 9(4)(b) s. 23(4A)(4B) inserted by 2022 c. 35 s. 9(4)(d) s. 24A(1A) inserted by 2022 c. 35 Sch. 2 para. 6(11)(b) s. 24BA inserted by 2022 c. 35 s. 9(5) _ s. 24ZA24ZB inserted by 2022 c. 35 s. 8 s. 75A inserted by 2013 c. 22 s. 26(1) s. 85(5) inserted by 2013 c. 22 s. 26(4) s. 139A inserted by 2013 c. 22 s. 26(6) s. 145(1A) inserted by 2010 c. 26 Sch. 3 para. 8(3) (This amendment not applied to legislation.gov.uk. Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by 2013 c. 22, s. 17(4); S.I. 2013/2200 art. 2(a)) s. 145(1A) repealed by 2010 c. 26 Sch. 4 Pt. 2 (This amendment not applied to legislation.gov.uk. Sch. 4 Pt. 2 repealed (4.9.2013) without ever being in force by 2013 c. 22, s. 17(4); S.I. 2013/2200 art. 2(a)) Sch. 6A (entry) by 2000 c. 43 Sch. 7 para. 69