



Magistrates' Courts Act 1980

1980 CHAPTER 43

PART II

CIVIL JURISDICTION AND PROCEDURE

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.
- [^{F1}(4) Subsections (1) to (3) are subject, for the purposes of family proceedings in any magistrates' court, to other provision made by Family Procedure Rules.]

Textual Amendments

- F1** S. 53(4) inserted (6.4.2011) by [The Family Procedure \(Modification of Enactments\) Order 2011 \(S.I. 2011/1045\)](#), arts. 1, 5 (with art. 39)

Modifications etc. (not altering text)

- C1** S. 53(1)(2) applied (with modifications) (1.4.1997) by [S.I. 1997/704](#), [rule 5\(2\)\(3\)\(4\)\(b\)](#)
- C2** 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})

Status: Point in time view as at 06/04/2011.

Changes to legislation: Magistrates' Courts Act 1980, Cross Heading: Hearing of complaint is up to date with all changes known to be in force on or before 20 April 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. (See end of Document for details)

54 [F²Adjourment and stays]

- (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.
- [F³(3) In family proceedings a magistrates' court may stay the whole or part of any proceedings or order either generally or until a specified date or event.
- (4) Subsections (1) and (2) are subject, for the purpose of family proceedings in any magistrates' court, to other provision made by Family Procedure Rules.]

Textual Amendments

- F2** S. 54 heading substituted (6.4.2011) by [The Family Procedure \(Modification of Enactments\) Order 2011 \(S.I. 2011/1045\)](#), arts. 1, **6(a)** (with art. 39)
- F3** S. 54(3)(4) inserted (6.4.2011) by [The Family Procedure \(Modification of Enactments\) Order 2011 \(S.I. 2011/1045\)](#), arts. 1, **6(b)** (with art. 39)

Modifications etc. (not altering text)

- C3** S. 54 applied (with modifications) (1.4.1997) by [S.I. 1997/704](#), **rule 5(2)(3)(4)(c)**
- C4** S. 54 applied (with modifications) by [S.I. 2010/60](#), rule 62.16 (as substituted (4.4.2011) by [The Criminal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/3026\)](#), rules 1, 9, **Sch. 2**)

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 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.

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- (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.
- [^{F4}(9) Subsections (1) to (8) are subject, for the purpose of family proceedings in any magistrates' court, to other provision made by Family Procedure Rules.]

Textual Amendments

F4 S. 55(9) inserted (6.4.2011) by [The Family Procedure \(Modification of Enactments\) Order 2011 \(S.I. 2011/1045\)](#), arts. 1, 7 (with art. 39)

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 applied (with modifications) by [S.I. 2010/60](#), rule 62.16 (as substituted (4.4.2011) by [The Criminal Procedure \(Amendment No. 2\) Rules 2010 \(S.I. 2010/3026\)](#), rules 1, 9, **Sch. 2**)
- C7** S. 55(2) restricted by [S.I. 1989/438](#), **art. 29(4)**
- C8** S. 55(2) excluded (3.11.1994) by [1994 c. 33](#), **s. 78(6)**
- C9** S. 55(2) excluded (6.4.2010) by [The Community Infrastructure Levy Regulations 2010 \(S.I. 2010/948\)](#), regs. 1, **97(4)**
- C10** 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.

[^{F5}Subject to other provision made by Family Procedure Rules for the purposes of family proceedings in any magistrates' court, 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.

Textual Amendments

F5 Words in s. 56 substituted (6.4.2011) by [The Family Procedure \(Modification of Enactments\) Order 2011 \(S.I. 2011/1045\)](#), arts. 1, 8 (with art. 39)

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57 Non-appearance of both parties.

[^{F6}Subject to other provision made by Family Procedure Rules for the purposes of family proceedings in any magistrates' court, 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.

Textual Amendments

F6 Words in s. 57 substituted (6.4.2011) by [The Family Procedure \(Modification of Enactments\) Order 2011 \(S.I. 2011/1045\)](#), arts. 1, **9** (with art. 39)

Status:

Point in time view as at 06/04/2011.

Changes to legislation:

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