Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.
Changes to legislation: Magistrates' Courts Act 1980, Section 93 is up to date with all changes known to be in force on or before 01 June 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)

Magistrates' Courts Act 1980

1980 CHAPTER 43

PART III

SATISFACTION AND ENFORCEMENT

Sums adjudged to be paid by an order

93   Complaint for arrears.

(1) Where default is made in paying a sum ordered to be paid by [**F1**a magistrates' court maintenance order], the court shall not enforce payment of the sum under section 76 above except by an order made on complaint.

(2) A complaint under this section shall be made not earlier than the fifteenth day after the making of the order for the enforcement of which it is made; but subject to this such a complaint may be made at any time notwithstanding anything in this or any other Act.

(3) In relation to complaints under this section, section 55 above shall not apply and section 56 above shall have effect as if the words "if evidence has been received on a previous occasion" were omitted.

(4) Where at the time and place appointed for the hearing or adjourned hearing of a complaint under this section the complainant appears but the defendant does not, the court may proceed in his absence; but the court shall not begin to hear the complaint in the absence of the defendant 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 the complaint.

(5) If a complaint under this section is substantiated on oath, any justice of the peace acting for the same petty sessions area as a court having jurisdiction to hear the complaint may issue a warrant for the defendant's arrest, whether or not a summons has been previously issued.

(6) A magistrates' court shall not impose imprisonment in respect of a default to which a complaint under this section relates unless the court has inquired in the presence of the defendant whether the default was due to the defendant's wilful refusal or culpable neglect, and shall not impose imprisonment as aforesaid if it is of opinion that the default was not so due; and, without prejudice to the preceding provisions of this subsection, a magistrates' court shall not impose imprisonment as aforesaid—

 (a) in a case in which the court has power to make an attachment of earnings order unless the court is of opinion that it is inappropriate to make such an order;

 (b) in any case, in the absence of the defendant.

(7) Notwithstanding anything in section 76(3) above, the period for which a defendant may be committed to prison under a warrant of commitment issued in pursuance of a complaint under this section shall not exceed 6 weeks.

(8) The imprisonment or other detention of a defendant under a warrant of commitment issued as aforesaid shall not operate to discharge the defendant from his liability to pay the sum in respect of which the warrant was issued.

Textual Amendments

 F1 Words substituted by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33(1)(2), Sch. 2 para. 84, Sch. 3 paras. 1, **6**

Modifications etc. (not altering text)

 C1 S. 93 applied by Legal Aid Act 1988 (c. 34, SIF 77:1), ss. 24(6), 30, **Sch. 3 Pt. I para. 2(4)**

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