



# I've got a maintenance order but it's not being paid

## Can this leaflet help me?

This leaflet can help you if you have a maintenance order from the Family Court in England and Wales and the person who was ordered to pay you (the debtor) lives in England or Wales and is not keeping to the order. This leaflet describes some of the ways you could try to 'enforce the maintenance order' to get your money.

This leaflet **cannot** help you if any of the following applies: you have a High Court order (unless it is registered in the Family Court); a family-based arrangement with the other party; the Child Support Agency or the Child Maintenance Service decided the amount of maintenance you should receive; the maintenance order was made outside England and Wales; or the debtor now lives outside the United Kingdom. Please refer to the **Further help** section on pages 9 – 11 for more information.

**Remember**, court staff can provide you with general process information but they cannot give you legal advice. They can't tell you which enforcement method would be best for you or if you are likely to succeed.

## What are the options?

If you are owed money for maintenance (called arrears of maintenance) you can either make an application for a specific enforcement measure or for an enforcement measure that the court considers appropriate.

Some of the options for getting your money will only help you to recover arrears. The enforcement measures described in this leaflet are:

- an attachment of earnings order;
- a warrant of control;
- a third party debt order;
- a charging order;
- a judgment summons; and
- a method of enforcement that the court considers appropriate.

**Remember**, if the debtor owes more than one year's arrears, you will first need to ask the court for permission (or 'leave') to make an enforcement application.

You may be asked to provide a statement outlining why you have not pursued the arrears before now. The issue will be dealt with as a preliminary issue before the court decides how the debtor should pay off any arrears.

You could also try to find out more about the debtor's financial situation.

## An attachment of earnings order

With this order, the debtor's employer regularly takes money from the debtor's income. You should only apply for this order if the debtor is in regular paid work (not self-employed).

**Remember**, there are special arrangements for getting money from someone in the armed forces or a merchant seaman. Court staff will be able to give you more information about your options but are unable to give you legal advice.

## Applying for an attachment of earnings order

You will need to fill in application form **N337 - request for an attachment of earnings order** and return it with your statement, the fee or remission application with supporting evidence if applicable, and a copy of the maintenance order.

You will usually have to go to a hearing. At the hearing the judge will decide whether to make the order and, if so, how much the debtor should pay each month. If the debtor does not attend the hearing, the judge can order them to be present at another hearing. If the debtor does not attend this time, they can be arrested and brought to court.

Once an attachment of earnings order has been made, the debtor's employer should send money to the court and the court will send it to you. The court can take action against the employer if they do not keep to the order.

## **A warrant of control**

A warrant of control allows a bailiff to visit the debtor's home or business. The bailiff will try to either:

- collect the money the debtor owes you, or
- take goods to sell at auction.

## **Applying for a warrant of control**

For more information on this option, read leaflet **EX322 – How do I ask for a warrant of control?**

## **A third party debt order, or a charging order**

A third party debt order freezes money in the debtor's bank or building society account. The court may then order payment of the available funds to you straight from the debtor's account.

A charging order prevents the debtor from selling their home or land until they have paid the money they owe you.

## **Applying for a third party debt order or a charging order**

For more information about these orders, read leaflet **EX325 – Third party debt orders and charging orders – how do I apply for an order?**

**Remember**, third party debt orders and charging orders can be complicated, especially if the court has already made orders about property and finances. You may need to seek legal advice.

## A judgment summons

With a judgment summons, the debtor could be sent to prison if they do not pay the amount they owe you. The judge will only send the debtor to prison if you can prove that the debtor has, or has had the means to pay the sum and refuses or neglects to pay it. This may be difficult to prove and if you cannot prove it, you may have to pay the debtor's legal costs.

## Applying for a judgment summons

You will need to fill in an application form **D62 - Request for issue of judgment summons**.

The court bailiff will give the summons to the debtor. The court will arrange a hearing. At the hearing the judge can:

- send the debtor to prison for up to 6 weeks;
- make a suspended order (this means the debtor will not go to prison if they pay you the money all at once or by instalments);
- make a new order for payment; or
- fix a new date for a hearing if the debtor does not attend.

**Remember**, the judgment summons procedure can be complicated and you may find you need to seek legal advice.

## Applying for the court to decide on the method of enforcement

If you would like the court to decide how the order should be enforced you should complete form **D50K – Notice of Application for Enforcement by such method of enforcement as the court may consider appropriate**. The debtor will be required to attend a hearing. The judge will then decide how the order will be enforced.

The court can only decide what is the best enforcement option available under the D50K application with the information available to it usually provided by you about the debtor.

**Remember**, if you have any further details about the debtor's income or assets attach a supporting statement to your application and this will be taken into consideration during the proceedings and will enable the court to enforce more effectively.

## What can I do if I have no information about the debtor's finances?

If you are not sure about the best option, it may be helpful to ask the court for **an order to obtain information from a judgment debtor**. This is a way of finding out about the debtor's financial situation.

For more information about applying for an order to obtain information from a judgment debtor, read leaflet **EX324 – How do I apply for an order? – Orders to obtain information**.

## Where do I apply?

If your maintenance order was made in England or Wales, the debtor lives in England or Wales and payments are made between the parties direct, you should apply to your nearest designated Family Court. A full list of Family Courts is available on our website [courtribunalfinder.service.gov.uk](http://courtribunalfinder.service.gov.uk)

You will need to select the issue category '**Children: child contact issues and disputes over maintenance payments**' to find your nearest designated Family Court.

If your maintenance order was made in England or Wales, the debtor lives in England or Wales and payments are made via the court, you should apply to a Maintenance Enforcement Business Centre. Where you make the application will depend on where the debtor now lives - Wales, England (excluding London) or London.

### **The Maintenance Enforcement Business Centre - Wales**

The Law Courts, Sunnyside, Bridgend, South Wales, CF31 4AJ

Telephone: 01656 673833

Email: [Wales\\_MEBC@hmcts.gsi.gov.uk](mailto:Wales_MEBC@hmcts.gsi.gov.uk)

### **The Maintenance Enforcement Business Centre - England (excluding London)**

Triton House, St Andrews Street North, Bury St Edmunds, Suffolk IP33 1TR

Telephone: 0300 123 3034

Email: [MEBC.BSE@hmcts.gsi.gov.uk](mailto:MEBC.BSE@hmcts.gsi.gov.uk)

### **The Maintenance Enforcement Business Centre - London**

Central Family Court, First Avenue House, 42-49 High Holborn, London, WC1V 6NP

Telephone: 020 7421 8657

Email: [MEBC.London@hmcts.gsi.gov.uk](mailto:MEBC.London@hmcts.gsi.gov.uk)

## Application fees

A fee is payable for each of the options explained in the leaflet – unless your maintenance order was registered with the Family Court before 22 April 2014.

**Remember**, if your maintenance order was registered with the Family Court before 22 April 2014 no enforcement application fee is payable.

For more information about fees, please refer to the booklet **EX50 – Civil and Family Court Fees**.

If you cannot afford to pay the court fee, you may be eligible for a fee remission in full or in part. The combined booklet and application form **EX160A – Court and Tribunal Fees – do I have to pay them?** gives all the information you need.

### Further help

**Leaflets and forms** – All the leaflets and forms mentioned in this leaflet are available from any Family Court, the Maintenance Enforcement Business Centres and our website: [hmctsformfinder.justice.gov.uk](http://hmctsformfinder.justice.gov.uk)

**Legal advice** – If you have a solicitor, they will be able to help you. If not, you may be able to get help from a local law centre, consumer advice centre or Citizens Advice Bureau. Local services will be publicised in your telephone directory.

**High Court Order** – If you have a High Court order some of the procedures are slightly different from those described in this leaflet. Contact the designated Family Court nearest to where the debtor lives or works for general process information.

**Family-based arrangement** – If you have a family-based arrangement you made with the other parent and it is not working, call Child Maintenance Options on 0800 988 0988.

**Child Support Agency (CSA) or the Child Maintenance Service** – If you applied to the CSA or the Child Maintenance Service for child maintenance and the money you are owed is not being paid, phone 0345 713 3133 or 0345 266 8792 respectively (calls are charged at a local rate).

### **Maintenance order was made outside England and Wales and/or the debtor lives outside the United Kingdom**

If your maintenance order was made in Scotland or Northern Ireland, but the debtor lives in England or Wales, you must register the order in an English or Welsh Family Court, nearest to where the debtor lives, before you can enforce it. You should make your application to the Maintenance Enforcement Business Centre nearest to where the debtor lives (see page 5 for contact details).

If your maintenance order was made in England or Wales but the debtor lives in Scotland or Northern Ireland you must register it in Scotland or Northern Ireland first.

If the debtor now lives outside the United Kingdom, or if the order was made outside the United Kingdom, you may still be able to enforce it. Some countries have an agreement with the UK so that orders made there can be registered here and vice versa. See leaflet **REMO20** – A guide to Reciprocal Enforcement of Maintenance Orders.

For more information about international maintenance claims contact:

REMO Unit, Official Solicitor and Public Trustee, Victory House, 30-34 Kingsway, London, WC2B 6EX

Phone: 020 3681 2757

Fax number: 020 3681 2764

Email: [remo@offsol.gsi.gov.uk](mailto:remo@offsol.gsi.gov.uk)

Website: [www.gov.uk/child-maintenance-if-one-parent-lives-abroad](http://www.gov.uk/child-maintenance-if-one-parent-lives-abroad)