Draft Order laid before Parliament under section 108(2) and (3)(d) of the Courts Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.

MAGISTRATES' COURTS, ENGLAND AND WALES

The Collection of Fines (Final Scheme) Order 2006

Made - - - -	*2006*
Coming into force - -	*3rd July 2006*

The Lord Chancellor makes the following Order in exercise of the powers conferred by section 97(7) and (9), section 108(6) and section 109(4) and (5) of the Courts Act 2003(**1**). In accordance with section 108(2) and (3) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Collection of Fines (Final Scheme) Order 2006 and shall come into force on 3rd July 2006.

(2) Subject to paragraph (3), this Order extends only to England and Wales.

(3) An amendment or repeal made by this Order has the same extent as the enactment to which it relates.

Final scheme

2. Schedule 5 to the Courts Act 2003, as amended by this Order, shall have effect—

(a) in all local justice areas; and

(b) indefinitely.

Transitional provision

3.—(1) Unless a court orders otherwise, where a collection order has not been made in relation to a sum imposed by a court prior to the coming into force of this Order, enforcement to recover that sum shall continue as if this Order had not been made.

(**1**) 2003 c.39.

(2) In this article—

"collection order" means an order made under Part 4 of Schedule 5 to the Courts Act 2003;

"enforcement" means any process or order for the purposes of recovering a sum imposed by a court; and

"sum imposed by a court" means a sum adjudged to be paid as mentioned in paragraph 1 of Schedule 5 to the Courts Act 2003.

Amendments to Schedule 5 to the Courts Act 2003

4. Amend Schedule 5 to the Courts Act 2003 (collection of fines) as follows.

5. In the heading to that Schedule after "FINES" add "AND OTHER SUMS IMPOSED ON CONVICTION".

6. For paragraph 1 (application of Schedule) substitute—

"**Application of Schedule**

1. This Schedule applies if a person aged 18 or over ("P") is liable to pay a sum which is or is treated for the purposes of Part 3 of the 1980 Act as a sum adjudged to be paid by a conviction of a magistrates' court."

7. For paragraph 2 (meaning of "the sum due") substitute—

"**Meaning of "the sum due" etc**

2.—(1) In this Schedule "the sum due" means the sum adjudged to be paid as mentioned in paragraph 1.

(2) For the purposes of this Schedule—

a "fine" does not include any pecuniary forfeiture or pecuniary compensation payable on conviction; and

"a sum required to be paid by a compensation order" means any sum required to be paid by an order made under section 130(1) of the Powers of Criminal Courts (Sentencing) Act 2000."

8. In paragraph 3 (meaning of "existing defaulter" etc)—

(a) in sub-paragraph (1)—

(i) omit sub-paragraph (a); and

(ii) in sub-paragraphs (c) and (d), for "1(1)" substitute "1";

(b) omit sub-paragraph (5); and

(c) omit sub-paragraph (6).

9. Omit Part 2 (immediate payment of fines: discounts).

10. In paragraph 7 (application of Part 3)—

(a) for sub-paragraph (1) substitute—

"(1) This Part does not apply where the court is hearing P's case following an appeal under paragraph 23, 32 or 37(9).";

(b) in sub-paragraph (2)(b) omit "if sub-paragraph (1)(b) applies,";

(c) after sub-paragraph (2) add—

"(3) For the purposes of this Schedule—

(a) an attachment of earnings order, or

(b) an application for benefit deductions,

is an order or application to secure the payment of the whole of the sum due.".

11. After paragraph 7 insert—

"**Attachment of earnings order or application for benefit deductions where P is liable to pay compensation**

7A.—(1) This paragraph applies if the sum due consists of or includes a sum required to be paid by a compensation order.

(2) The relevant court must make an attachment of earnings order if it appears to the court—

(a) that P is in employment, and

(b) that it is not impracticable or inappropriate to make the order.

(3) The relevant court must make an application for benefit deductions if it appears to the court—

(a) that P is entitled to a relevant benefit, and

(b) that it is not impracticable or inappropriate to make the application.

(4) If it appears to the court that (apart from this sub-paragraph) both sub-paragraph (2) and sub-paragraph (3) would apply, the court must make either an attachment of earnings order or an application for benefit deductions."

12. In paragraph 8 (attachment of earnings order or application for benefit deductions without P's consent), for sub-paragraph (1) substitute—

"(1) This paragraph applies if—

(a) paragraph 7A does not apply, and

(b) the relevant court concludes that P is an existing defaulter and that his existing default (or defaults) cannot be disregarded."

13. In paragraph 9 (attachment of earnings order or application for benefit deductions with P's consent), for sub-paragraph (1) substitute—

"(1) This paragraph applies if—

(a) paragraph 7A does not apply, and

(b) the relevant court concludes that P is not an existing defaulter or, if he is, that his existing default (or defaults) can be disregarded."

14. In paragraph 11 (application of Part 4), for sub-paragraph (1) substitute—

"(1) This Part applies whether or not the relevant court has made an attachment of earnings order or an application for benefit deductions under Part 3 of this Schedule.".

15. In paragraph 13 (contents of collection order: general), for sub-paragraph (1)(a) substitute—

"(a) state the amount of the sum due,

(aa) where that sum consists of or includes a fine or a sum required to be paid by a compensation order, state—

(i) i)the amount of the fine, or the amount required to be paid by the compensation order (or, if applicable, the amount of the fine and the amount required to be paid by the compensation order), and

(ii) the amount of any other part of the sum due,".

16. In paragraph 15 (contents of collection orders: attachment of earnings order etc made), in sub-paragraph (2) omit ", 35, 36".

17. Omit Part 5 (discount where collection order made).

18. After paragraph 24 (nature of power to vary terms of collection order), insert—

"**Meaning of "in default on a collection order"**

24A. For the purposes of this Schedule, P is in default on a collection order if he fails to pay any amount due under the payment terms (or, if they have effect, the reserve terms) on or before the date on which it is required to be paid."

19. Omit—

(a) paragraph 27 (increase in fine); and

(b) paragraph 28 (notice of increase).

20. In paragraph 31 (application to fines officer for variation of reserve terms), in sub-paragraph (1)(a) for "an increase is imposed under paragraph 33" substitute "a further steps notice is delivered to him under paragraph 37".

21. In paragraph 32 (appeal against decision of fines officer), in sub-paragraph (2)(b), at the end of that sub-paragraph insert "or other sums".

22. Omit—

(a) paragraph 33 (increase in fine on first default); and

(b) paragraph 34 (notice of increase).

23. For the heading to Part 9 substitute "FURTHER STEPS".

24. Omit—

(a) paragraph 35 (effect of compliance with requirement to contact fines officer); and

(b) paragraph 36 (application to fines officer after increase for variation of payment terms).

25. In paragraph 37 (functions of fines officer in relation to defaulters: referral or further steps notice)—

(a) for sub-paragraph (1) substitute—

"(1) This paragraph applies if—

(a) P is in default on a collection order,

(b) paragraph 26 does not apply, and

(c) none of the following is pending—

(i) i)an application under paragraph 31(1) (application to fines officer for variation and reserve terms),

(ii) an appeal under paragraph 32(1) (appeal against decision of fines officer),

(iii) a reference under paragraph 42 (power of fines officer to refer case to magistrates' court).''; and

(b) omit sub-paragraphs (2) to (5).

26. In paragraph 38 (the range of further steps available against defaulters), for sub-paragraph (1)(e) substitute—

"(e) taking proceedings by virtue of section 87(1) of the 1980 Act (enforcement of payment of fines by High Court and county court).".

27. In paragraph 39 (powers of court after increase)—

(a) omit sub-paragraphs (1)(a) and (2);

(b) in sub-paragraph (3)—

(i) for "an appeal or" substitute "a"; and

(ii) for "(1)(a) or (b)" substitute "(1)(b)";

(c) in the following sub-paragraphs, at the end of each sub-paragraph insert "or other sums"—

(i) sub-paragraph (3)(c);

(ii) sub-paragraph (4)(d);

(d) in the heading to paragraph 39, omit "after increase".

28. In paragraph 42 (power of fines officer to refer case to magistrates' court)—

(a) in sub-paragraph (2)—

(i) for sub-paragraph (b) substitute—

"(b) exercise any of its standard powers in respect of persons liable to pay fines or other sums, or"; and

(ii) in sub-paragraph (c) omit "to the extent permitted by fines collection regulations,";

(b) after sub-paragraph (2) insert—

"(2A) Where the court exercises any of its standard powers under sub-paragraph (2) (b) it may also discharge the order.".

29. After paragraph 42 insert—

"**Increase in fine by court**

42A.—(1) This paragraph applies where—

(a) P is in default on a collection order,

(b) the sum due consists of or includes a fine, and

(c) the fines officer has referred P's case to the court—

(i) i)under paragraph 37(6)(a), or

(ii) after taking any of the steps listed in paragraph 38.

(2) Where the court is satisfied that the default is due to P's wilful refusal or culpable neglect, the court may increase the fine which is the subject of the order.

(3) But the court may not increase any other sum which is the subject of the order.

(4) The amount of the increase is to be determined in accordance with fines collection regulations but must not be greater than 50% of the fine.

(5) The increase is given effect by treating it as part of the fine imposed on P by his conviction.".

30. In paragraph 44 (fines collection regulations), in sub-paragraph (1) for "1(1)" substitute "1".

31. Omit paragraph 47 (fines collection regulations).

32. In paragraph 49 (offence of meddling with a vehicle clamp), in sub-paragraph (1) omit "after increase".