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SCHEDULES

SCHEDULE 5

COLLECTION OF FINES

Modifications etc. (not altering text)

- C1** Sch. 5 applied (with modifications) (temp. from 23.3.2004 for certain purposes, 29.3.2004 for certain further purposes, 5.4.2004 for all purposes to 31.3.2006) by [S.I. 2004/175](#), [arts. 1-3](#), Sch. (as amended by [S.I. 2004/1406](#), [arts. 3, 4](#); [S.I. 2005/487](#), [arts. 4-6](#); [S.I. 2005/642](#), [art. 2](#); [S.I. 2005/2410](#), [art. 2](#); [S.I. 2005/3166](#), [art. 2](#))
- C1** Sch. 5 modified (temp. from 27.3.2006 to 2.7.2006) by [The Collection of Fines \(Pilot Scheme\) and Discharge of Fines by Unpaid Work \(Pilot Schemes\) \(Amendment\) Order 2006 \(S.I. 2006/502\)](#), [arts. 1\(1\)\(b\)\(2\)](#), [5](#) (with transitional provision in [art. 4](#))

PART 9

OPERATION OF COLLECTION ORDERS AFTER INCREASE IMPOSED

Effect of compliance with requirement to contact fines officer

- 35 (1) This paragraph applies if P contacts the fines officer as required by an increase notice under paragraph 28 or 34.
- (2) The fines officer may decide—
- to vary the payment terms (or the reserve terms) in P's favour, or
 - not to vary them.
- (3) A decision of the fines officer under sub-paragraph (2) must be in writing, dated and delivered to P.
- (4) P may, within 10 working days from the date of the decision under sub-paragraph (2), appeal to the magistrates' court against the decision.
- (5) Subject to paragraph 39 (powers of court after increase), the effect of a decision under sub-paragraph (2)(a) is to vary the payment terms (or the reserve terms).
- (6) If, after the payment terms (or the reserve terms) are varied under sub-paragraph (2) (a), all amounts due under the order, other than the part of the fine representing the increase, are paid without P being in further default on the order, P's liability to pay that part is extinguished.

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Commencement Information

- II** Sch. 5 para. 35 wholly in force at 5.4.2004; Sch. 5 para. 35 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 35 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 35 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 35 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

Application to fines officer after increase for variation of payment terms

- 36 (1) P may, at any time—
- (a) after a relevant variation of the payment terms (or the reserve terms) and before paragraph 37 applies in relation to him, and
 - (b) when he is not in default on the collection order,
- apply to the fines officer for those terms to be further varied.
- (2) “Relevant variation of the payment terms (or the reserve terms)” means—
- (a) a variation under paragraph 35(2)(a) (variation in P’s favour following increase), or
 - (b) a variation under paragraph 39(3)(a) (variation by court).
- (3) No application may be made under sub-paragraph (1) unless—
- (a) there has been a material change in P’s circumstances since—
 - (i) the relevant variation, or
 - (ii) the last variation under this paragraph, or
 - (b) P is making further information about his circumstances available.
- (4) On such an application being made, the fines officer may decide—
- (a) to vary the payment terms (or the reserve terms) in P’s favour, or
 - (b) not to vary them.
- (5) A decision of the fines officer under this paragraph must be in writing, dated and delivered to P.
- (6) P may, within 10 working days from the date of a decision under sub-paragraph (4), appeal to the magistrates’ court against the decision.
- (7) Subject to paragraph 39, the effect of a decision under sub-paragraph (4)(a) is to vary the payment terms (or the reserve terms).

Commencement Information

- I2** Sch. 5 para. 36 wholly in force at 5.4.2004; Sch. 5 para. 36 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 36 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 36 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 36 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

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Functions of fines officer in relation to defaulters: referral or further steps notice

- 37 (1) This paragraph applies if P fails to contact the fines officer as required by an increase notice under paragraph 28 or 34.
- (2) This paragraph also applies if—
- (a) P contacts the fines officer as required by an increase notice under paragraph 28 or 34,
 - (b) the fines officer decides under paragraph 35(2) not to vary the payment terms (or the reserve terms), and
 - (c) no appeal under paragraph 35(4) (appeal against decision about variation following increase) is pending.
- (3) This paragraph also applies if after the increase is imposed—
- (a) there is a relevant variation of the payment terms (or the reserve terms),
 - (b) no relevant appeal is pending,
 - (c) no application under paragraph 36(1) (application for further variation in P’s favour) is pending, and
 - (d) no reference under paragraph 42 (power of fines officer to refer case to magistrates’ court) is pending,
- but P is again in default on the order.
- (4) “Relevant variation of the payment terms (or the reserve terms)” has the same meaning as in paragraph 36.
- (5) “Relevant appeal” means an appeal under—
- (a) paragraph 35(4) (appeal against decision whether to vary following increase), or
 - (b) paragraph 36(6) (appeal against decision on application for further variation).
- (6) The fines officer must—
- (a) refer P’s case to the magistrates’ court, or
 - (b) deliver to P a notice (a “further steps notice”) that he intends to take one or more of the steps listed in paragraph 38.
- (7) Any steps that the fines officer intends to take must be specified in the notice.
- (8) A further steps notice must be in writing and dated.
- (9) P may, within 10 working days from the date of the further steps notice, appeal to the magistrates’ court against it.

Commencement Information

I3 Sch. 5 para. 37 wholly in force at 5.4.2004; Sch. 5 para. 37 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 37 in force for certain purposes at 23.2.2004 by S.I. 2004/174, art. 4(a); Sch. 5 para. 37 in force for certain further purposes at 29.3.2004 by S.I. 2004/174, art. 4(b); Sch. 5 para. 37 in force for all purposes at 5.4.2004 by S.I. 2004/174, art. 4(c)

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The range of further steps available against defaulters

- 38 (1) The steps referred to in paragraphs 37(6)(b) and 39(3) and (4) (powers to take further steps) are—
- (a) issuing a warrant of distress for the purpose of levying the sum due;
 - (b) registering the sum in the register of judgments and orders required to be kept by section 98;
 - (c) making an attachment of earnings order or an application for benefit deductions;
 - (d) subject to sub-paragraph (3), making a clamping order;
 - (e) taking any other step permitted under provisions of fines collection regulations which apply any other enforcement power of a magistrates' court (with or without modifications).
- (2) A clamping order is an order—
- (a) that a motor vehicle be fitted with an immobilisation device (“clamped”), and
 - (b) which complies with any requirements that are imposed by fines collection regulations under paragraph 46 with respect to the making of clamping orders.
- (3) A clamping order must not be made except in relation to a vehicle which is registered under the Vehicle Excise and Registration Act 1994 in P’s name.

Commencement Information

- I4** Sch. 5 para. 38 wholly in force at 5.4.2004; Sch. 5 para. 38 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 38 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 38 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 38 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

Powers of court after increase

- 39 (1) This paragraph applies if the magistrates' court is hearing P’s case following—
- (a) an appeal under paragraph 35(4) or 36(6) (appeals against decisions about variation following increase),
 - (b) a referral under paragraph 37(6)(a) (functions of fines officer in relation to defaulters), or
 - (c) an appeal under paragraph 37(9) (appeal against a further steps notice).
- (2) If the magistrates' court is satisfied that the circumstances of P’s case are exceptional, it may make an order that if, after the making of the order, all amounts due under the collection order, other than the part of the fine representing the increase, are paid without P being in further default on the order, P’s liability to pay that part is extinguished.
- (3) On an appeal or referral falling within sub-paragraph (1)(a) or (b), the court may—
- (a) vary the payment terms (or the reserve terms);
 - (b) take any of the steps listed in paragraph 38;

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- (c) discharge the order and exercise any of its standard powers in respect of persons liable to pay fines.
- (4) On an appeal against a further steps notice, the court may—
- (a) confirm or quash the notice;
 - (b) vary the notice so as to specify any step listed in paragraph 38;
 - (c) vary the payment terms (or the reserve terms);
 - (d) discharge the order and exercise any of its standard powers in respect of persons liable to pay fines.

Commencement Information

- I5** Sch. 5 para. 39 wholly in force at 5.4.2004; Sch. 5 para. 39 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 39 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 39 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 39 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

Implementation of further steps notice

- 40 If—
- (a) P does not appeal within 10 working days against a further steps notice, or
 - (b) he does so but the further steps notice is confirmed or varied,
- any step specified in the notice (or the notice as varied) may be taken.

Commencement Information

- I6** Sch. 5 para. 40 wholly in force at 5.4.2004; Sch. 5 para. 40 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 40 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 40 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 40 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

Power to order sale of clamped vehicle

- 41 (1) This paragraph applies if—
- (a) a motor vehicle has been clamped under a clamping order, and
 - (b) at the end of the period specified in fines collection regulations under paragraph 46 any part of the sum due is unpaid.
- (2) The magistrates' court may order that—
- (a) the vehicle is to be sold or otherwise disposed of in accordance with those regulations, and
 - (b) any proceeds are to be applied in accordance with those regulations in discharging P's liability in respect of the sum due.

Commencement Information

- I7** Sch. 5 para. 41 wholly in force at 5.4.2004; Sch. 5 para. 41 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 41 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 41 in

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force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 41 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

Power of fines officer to refer case to magistrates' court

- 42 (1) The fines officer may refer a case to the magistrates' court at any time during the period which—
- (a) begins the day after the collection order is made, and
 - (b) ends with the date on which—
 - (i) the sum due (including any increase to which he remains liable) is paid, or
 - (ii) the order is discharged.
- (2) On a referral under this paragraph, the court may—
- (a) confirm or vary the payment terms (or the reserve terms),
 - (b) discharge the order and exercise any of its standard powers in respect of persons liable to pay fines, or
 - (c) to the extent permitted by fines collection regulations, exercise a power it could exercise under any other paragraph.
- (3) Fines collection regulations may provide for the fines officer to have the power to issue a summons for the purpose of ensuring that P attends a magistrates' court to whom P's case has been referred under this paragraph or paragraph 37.

Commencement Information

- I8** Sch. 5 para. 42 wholly in force at 5.4.2004; Sch. 5 para. 42 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 42 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 42 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 42 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

VALID FROM 03/07/2006

Increase in fine by court

- [^{F1}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) 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.

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- (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.]

Textual Amendments

- F1** Sch. 5 para. 42A inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, **29**

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