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STATUTORY INSTRUMENTS

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**2006 No. 501**

**MAGISTRATES' COURTS,  
ENGLAND AND WALES**

**The Fines Collection Regulations 2006**

<i>Made</i>	- - - -	<i>6th March 2006</i>
<i>Laid before Parliament</i>		<i>6th March 2006</i>
<i>Coming into force</i>	- -	<i>27th March 2006</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred on him by section 108(6) of, and paragraphs 38(2)(b), 41, 42(3), 42A(4), 43, 44, 45 and 46 of Schedule 5 to, the Courts Act 2003(1).

**PART 1**

**Introduction**

**Citation, commencement, extent and interpretation**

1.—(1) These Regulations may be cited as the Fines Collection Regulations 2006 and shall come into force on the 27th March 2006.

(2) These Regulations extend to England and Wales only.

(3) In these Regulations—

“attachable earnings” has the same meaning as it has in paragraph 3 of Schedule 3 to the Attachment of Earnings Act 1971(2);

“authorised person” means a person who is employed by the contractor and is authorised to carry out or direct and supervise the clamping, release from clamping, removal and release from storage, of vehicles.

“charges due” means any charge to payable to the contractor by P in addition to the sum due—

- (a) when payment is made to an authorised person so that the vehicle is not clamped,
- (b) as a condition of the release of the vehicle from clamping, and

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(1) [2003 c. 39](#); as modified by the Collection of Fines (Pilot Scheme) and Discharge of Fines by Unpaid Work (Pilot Schemes) (Amendment) Order 2006. [S.I. 2006/502](#).

(2) [1971 c. 32](#).

- (c) as a condition of the removal, storage and release of the vehicle from storage, within the range approved by the Lord Chancellor for such charges;
- “clamp” means an immobilisation device and related expressions shall be construed accordingly;
- “clamping contractor” means a person authorised to undertake the clamping, removal and storage of vehicles by and in accordance with a contract with the Lord Chancellor or the designated officer for a court, “the contractor” means the clamping contractor;
- “clamping notice” means a notice affixed to a car to inform the owner that their car is clamped;
- “earnings” has the same meaning as it has in section 24 of the Attachment of Earnings Act 1971;
- “pay-day” has the same meaning as it has in paragraph 2 of Schedule 3 to the Attachment of Earnings Act 1971;
- “Schedule 5” means Schedule 5 to the Courts Act 2003;
- “vehicle” means a motor vehicle,
- “working day” means a day other than a Saturday, Sunday, Christmas Day, Good Friday or bank holiday,
- and, save where the context requires otherwise, a reference to clamping or storage includes release from clamping or, as the case may be, release from storage.

## PART 2

### Fine increase, delivery and summons

#### **Increase in fine**

2. The increase in the fine under paragraph 42A of Schedule 5 shall be 50% of the fine.

#### **Delivery of further steps notice**

3. A further steps notice issued under paragraph 37 of Schedule 5 may be delivered by hand or be sent by post to P’s last known address.

#### **Summons for ensuring attendance of P before the court**

4. A fines officer may for the purpose of ensuring that P attends a magistrates' court to which he has referred P’s case under paragraph 37 or 42 of Schedule 5, issue a summons requiring P to appear before the court at the time and place appointed in the summons.

## PART 3

### Attachment of Earnings

#### **Tables and calculation method for attachment of earnings orders**

5. In the case of an attachment of earnings order made under Schedule 5, the employer shall make deductions from P’s earnings in accordance with the following tables and regulations 6 to 15—

### Tables of Periodical Deductions from Earnings

**Table A Deductions from Weekly Earnings**

<i>(1) Attachable Earnings</i>	<i>(2) Percentage deduction rate</i>
Not exceeding £55	0
Exceeding £55 but not exceeding £100	3
Exceeding £100 but not exceeding £135	5
Exceeding £135 but not exceeding £165	7
Exceeding £165 but not exceeding £260	12
Exceeding £260 but not exceeding £370	17
Exceeding £370	17 in respect of the first £370 and 50 in respect of the remainder.

**Table B Deductions from Monthly Earnings**

<i>(1) Attachable Earnings</i>	<i>(2) Percentage deduction rate</i>
Not exceeding £220	0
Exceeding £220 but not exceeding £400	3
Exceeding £400 but not exceeding £540	5
Exceeding £540 but not exceeding £660	7
Exceeding £660 but not exceeding £1,040	12
Exceeding £1,040 but not exceeding £1,480	17
Exceeding £1,480	17 in respect of the first £1,480 and 50 in respect of the remainder.

**Table C Deductions from Daily Earnings**

<i>(1) Attachable earnings</i>	<i>(2) Percentage deduction rate</i>
Not exceeding £8	0
Exceeding £8 but not exceeding £15	3
Exceeding £15 but not exceeding £20	5
Exceeding £20 but not exceeding £24	7
Exceeding £24 but not exceeding £38	12
Exceeding £38 but not exceeding £53	17
Exceeding £53	17 in respect of the first £53 and 50 in respect of the remainder.

6. Subject to regulations 7 and 8, the sum to be deducted by an employer under an attachment of earnings order on any pay-day shall be—

- (a) where P's earnings from the employer are payable weekly, a sum equal to the appropriate percentage of the attachable earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table A in regulation 5 in relation to the band in column 1 of that Table within which the attachable earnings fall;

- (b) where his earnings from the employer are payable monthly, a sum equal to the appropriate percentage of the attachable earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table B in regulation 5 in relation to the band in column 1 of that Table within which the attachable earnings fall; and
  - (c) where his earnings from the employer are payable at regular intervals of a whole number of weeks or months, the sum arrived at by—
    - (i) calculating what would be his weekly or monthly attachable earnings (the “notional attachable earnings”) by dividing the attachable earnings payable to him by the employer on the pay-day by that whole number of weeks or months, as the case may be,
    - (ii) ascertaining the percentage (or percentages) specified in column 2 of Table A (if the whole number is of weeks) or of Table B (if the whole number is of months) in regulation 5 in relation to the band in column 1 of that Table within which the notional attachable earnings calculated under paragraph (i) fall, and
    - (iii) calculating the sum which equals the appropriate percentage (or percentages) of the notional attachable earnings for any of those weeks or months and multiplying that sum by the whole number of weeks or months, as appropriate.
- 7.** Where regulation 6 applies and the amount to be paid to P on any pay-day includes an advance in respect of future pay, the sum to be deducted on that pay-day shall be the aggregate of the amount which would otherwise fall to be deducted under regulation 6 and—
- (a) where the amount advanced would otherwise have been paid on a single pay-day, the sum which would have been deducted on that pay-day in accordance with regulation 6 if the amount advanced had been the amount of attachable earnings on that day; or
  - (b) where the amount advanced would otherwise have been paid on more than one pay-day, the sums which would have been deducted on each of the relevant pay-days in accordance with regulation 6 if—
    - (i) an equal proportion of the amount advanced had been paid on each of those days; and
    - (ii) the attachable earnings of P on each of those days had been an amount equal to that proportion.
- 8.** Where the amount payable to P on any pay-day is reduced by reason of an earlier advance of pay, the attachable earnings of P on that day shall, for the purposes of regulation 6, be the attachable earnings less the amount of that deduction.
- 9.** Subject to regulations 10 and 11, where P’s earnings from the employer are payable at regular intervals other than at intervals to which regulation 6 applies, the sum to be deducted on any pay-day shall be arrived at by—
- (a) calculating what would be his daily attachable earnings (the “notional daily attachable earnings”) by dividing the attachable earnings payable to him by the employer on the pay-day by the number of days in the interval,
  - (b) ascertaining the percentage (or percentages) specified in column 2 of Table C in regulation 5 in relation to the band in column 1 of that Table within which the notional daily attachable earnings calculated under sub-paragraph (a) fall, and
  - (c) calculating the sum which equals the appropriate percentage (or percentages) of the notional daily attachable earnings and multiplying that sum by the number of days in the interval.
- 10.** Where P’s earnings are payable as mentioned in regulation 9, and the amount to be paid to P on any pay-day includes an amount advanced in respect of future pay, the amount of P’s notional

daily attachable earnings under paragraph (a) of that regulation shall be calculated in accordance with the formula—

$$(A + B) \text{ divided by } (C + D)$$

where:

A is the amount of attachable earnings payable to him on that pay-day (exclusive of the amount advanced);

B is the amount advanced;

C is the number of days in the period for which the amount of attachable earnings is payable; and

D is the number of days in the period for which, but for the agreement to pay in advance, the amount advanced would have been payable.

**11.** Regulation 8 applies in relation to regulation 9 as it applies in relation to regulation 6.

**12.** Where earnings are payable to P by the employer by 2 or more series of payments at regular intervals—

(a) if some or all of the intervals are of different lengths—

(i) for the purpose of arriving at the sum to be deducted, whichever of regulations 6, 7, 8, 9, 10 and 11 is appropriate shall apply to the series with the shortest interval (or, if there is more than one series with the shortest interval, such one of those series as the employer may choose), and

(ii) in relation to the earnings payable in every other series, the sum to be deducted shall be 20 per cent of the attachable earnings or, where on any pay-day an amount advanced is also paid, 20 per cent of the aggregate of the attachable earnings and the amount advanced;

(b) if all of the intervals are of the same length, whichever of regulations 6, 7, 8, 9, 10 and 11 is appropriate shall apply to such series as the employer may choose and paragraph (a)

(ii) shall apply to every other series,

and regulation 8 shall apply in relation to paragraph (a)(ii) as it applies in relation to regulation 6.

**13.** Subject to regulations 14 and 15, where P's earnings from the employer are payable at irregular intervals, the sums to be deducted on any pay-day shall be arrived at by—

(a) calculating what would be his daily attachable earnings by dividing the attachable earnings payable to him by the employer on the pay-day—

(i) by the number of days since earnings were last payable by the employer to him, or

(ii) if the earnings are the first earnings to be payable by the employer to him with respect to the employment in question, by the number of days since he began the employment;

(b) ascertaining the percentage (or percentages) specified in column 2 of Table C in regulation 5 in relation to the band in column 1 of that Table within which the notional attachable earnings calculated under paragraph (a) fall; and

(c) calculating the sum which equals the appropriate percentage (or percentages) of the daily attachable earnings and multiplying that sum by the same number as that of the divisor for the purposes of the calculation mentioned in paragraph (a).

**14.** Where on the same pay-day there are payable to P by the employer both earnings payable at regular intervals and earnings payable at irregular intervals, for the purpose of arriving at the sum to be deducted on the pay-day under the foregoing paragraphs all the earnings shall be aggregated and treated as earnings payable at the regular interval.

15. Where there are earnings payable to P by the employer at regular intervals on one pay-day, and earnings are payable by the employer to him at irregular intervals on a different pay-day, the sum to be deducted on each of the pay-days on which the earnings which are payable at irregular intervals are so payable shall be 20 per cent of the attachable earnings payable to him on the day.

## PART 4

### Clamping of motor vehicles

#### Requirements with respect to the making of a clamping order

16. Before a clamping order is made by the court under paragraph 39(3)(b) or 42(2)(c), or by the fines officer under paragraph 40, of Schedule 5 the court or, as the case may be, the fines officer must be satisfied—

- (a) that P has the means to pay the sum due; and
- (b) that the value of the vehicle or vehicles to be clamped, if sold, would be likely to exceed the amount of the sum due, the amount of the likely charges due and the likely costs of the sale.

#### Matters to be included in a clamping order

17. A clamping order must specify—

- (a) P's full name, address and date of birth;
- (b) details—
  - (i) of P's conviction (including date and nature) for which the liability to pay the sum due was imposed,
  - (ii) of the amount of the sum due,
  - (iii) of the collection order,
  - (iv) of the further steps notice, and
  - (v) of the vehicle or vehicles to be clamped;
- (c) the date after which the order must be executed if the sum due is not paid;
- (d) the name, official address and telephone number of the fines officer and the court; and
- (e) how the sum due may be paid.

#### Procedure on making a clamping order

18.—(1) On the making of a clamping order by the court or the fines officer, the fines officer must send a copy of the order to a clamping contractor who, if the sum due is not paid, must execute the order in accordance with these Regulations on or after the date specified in the order.

(2) The copy of the clamping order sent to the clamping contractor must be accompanied by details of P's last known address, the vehicle or vehicles to be clamped and, if known, the likely whereabouts of the vehicle or vehicles to be clamped.

#### Places where vehicles may be clamped

19.—(1) Vehicles may be clamped at any place (including on any highway or road) to which the public has access.

(2) Vehicles may be clamped on any private land to which access may be had at the time of clamping, without opening or removing any door, gate or other barrier.

(3) Authorised persons and other employees of the contractor entering land in accordance with paragraph (2) may enter such private land with their equipment and with or without a vehicle or vehicles for the purpose of clamping a vehicle on the land, releasing it from a clamp or removing it to secure storage.

### **Vehicles which must not be clamped**

**20.** The following vehicles must not be clamped—

- (a) a vehicle not registered in P's name under the Vehicle Excise and Registration Act 1994<sup>(3)</sup>;
- (b) a vehicle on which a current disabled person's badge is displayed or in relation to which there are reasonable grounds for believing that it is used for the carriage of a disabled person;
- (c) a vehicle used for police, fire or ambulance purposes; and
- (d) a vehicle being used by a doctor on call away from his usual place of work which is displaying a British Medical Association badge or other health emergency badge showing the doctor's address.

### **Defect in clamping order or irregularity in its execution**

**21.—**(1) A clamping order made for the purpose of enforcing payment of a sum adjudged to be paid, as mentioned in paragraph 1 of Schedule 5, shall not be held void by reason of any defect in the order.

(2) A person acting in the execution of a clamping order shall not be deemed to be a trespasser by reason only of any irregularity in the execution of the order.

(3) Nothing in this regulation shall prejudice the claim of any person for special damages in respect of any loss caused by a defect in the order or irregularity in its execution.

### **Clamping a vehicle**

**22.—**(1) If a vehicle to be clamped is so positioned that, while the vehicle is clamped in that position there would be at any time a contravention of any prohibition or restriction imposed by or under any enactment, the authorised person must before the vehicle is clamped, have it repositioned to the nearest place where there would be no such contravention while it is clamped there.

(2) If a repositioned vehicle is not visible from the place in which it was originally positioned, the authorised person must ensure that a notice is placed at or near the original position of the vehicle indicating that the vehicle has been clamped as required by the clamping order, where the vehicle may be found and giving a telephone number available during all reasonable hours for enquires by P or a person acting on his behalf.

(3) No extra charge may be required in respect of the repositioning of the vehicle.

(4) On clamping a vehicle the authorised person must affix in a prominent position on the vehicle a clamping notice specifying—

- (a) that the vehicle has been clamped and that it is an offence under paragraph 49 of Schedule 5 to remove or attempt to remove the clamp or the notice;
- (b) details of the clamping order;
- (c) how to secure the release of the vehicle;
- (d) the amount of the sum due and charges payable for the release of the vehicle;
- (e) a telephone number and address for enquires;

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(3) 1994 c. 22.

- (f) the name and address of the clamping contractor;
- (g) the name, official address and telephone number of the fines officer and the court;
- (h) the opening hours of the contractor and the court; and
- (i) how to apply under regulations 27 and 28 for the release of a vehicle wrongly clamped.

### **Release of vehicle on payment of charges and sum due**

**23.**—(1) The office of the contractor where payment of the sum due and charge or charges due may be made must be readily accessible from the place where the vehicle is clamped during all hours when the contractor undertakes clamping and for a least 2 hours thereafter.

(2) Payment of, or towards the payment of, the sum due and the charge or charges due can be made to the authorised person, as well as at the contractor's office, or at the court office specified in the clamping notice. A reasonable method of payment must be accepted by the contractor or authorised person.

(3) A vehicle in respect of which the sum due and charge or charges due have been paid in full must be released from clamping or, as the case may be, storage within—

- (a) 4 hours of the time of payment if payment is made at or to the contractor's office or the court; or
- (b) 2 hours of the time of payment if payment is made to an authorised person.

(4) If any payment made by P or a person acting on his behalf is less than the amount of the sum due and charge or charges due, it must first be applied to meet the charge or charges and any balance remaining must then be applied towards payment of the sum due.

(5) On payment by P or a person acting on his behalf of, or towards the payment of, the sum due and charge or charges due, the contractor or the authorised person must issue a receipt which includes the following information—

- (a) the contractor's name, address, telephone number, and value added tax registered number;
- (b) the registration mark of the vehicle;
- (c) the date of the clamping order requiring the vehicle to be clamped;
- (d) the name, official address and telephone number of the fines officer and the court;
- (e) if applicable, the date and time of clamping;
- (f) the name of P and, if payment is made by a person acting on his behalf, of that person;
- (g) the name or identification number, or both, of the member of the contractor's staff issuing the receipt;
- (h) the amount, date and time of the payment;
- (i) how to apply under regulations 27 and 28 for the release of a vehicle wrongly clamped;
- (j) if applicable, the place where the vehicle is clamped; and
- (k) the serial number of the receipt.

### **Removal of vehicle for storage**

**24.**—(1) A vehicle clamped under a clamping order must, unless released from clamping under regulation 23, 27 or 28, remain clamped where it is positioned or repositioned for the period of not less than 24 hours from the time of clamping.

- (2) When the period referred to in paragraph (1) has expired, if—
  - (a) the sum due and charge or charges due have not been paid in full;



(b) there is no application under regulations 27 or 28 outstanding; and  
(c) the case has not been referred to the court under paragraph 42(1) of Schedule 5,  
the contractor must have the vehicle removed by, or under the direction and supervision of, an authorised person to secure premises for storage.

(3) When a vehicle is removed to storage the contractor must send by post to P at his last known address or have delivered to him by hand, with a copy to the fines officer, a written notice specifying—

- (a) the contractor’s name, address and telephone number;
- (b) his value added tax registered number;
- (c) the registration mark of the clamped vehicle;
- (d) the date, time and place of clamping;
- (e) that the vehicle was clamped under the clamping order;
- (f) the date of the clamping order and the name, official address and telephone number of the fines officer and the court;
- (g) that since the sum due and charges due have not been paid in full the vehicle has been removed for storage;
- (h) the date of removal of the vehicle and the address, telephone number for, and hours of opening of, the storage premises;
- (i) the daily or weekly storage charge payable;
- (j) that the vehicle will be released on payment of the amount of the sum due and charges due in full with a statement of how the amount is made up;
- (k) how to pay the sum due and charges due;
- (l) how to apply under regulations 27 and 28 for the release of a vehicle wrongly clamped; and
- (m) a serial number of the notice.

### **Storage of vehicle**

**25.**—(1) A vehicle removed to storage must remain in storage, unless released on payment of the sum due and charges due in full or pursuant to a decision under regulation 27 or an order under regulation 28(6), or sold or otherwise disposed of by order of the court under paragraph 41(2) of Schedule 5.

(2) The clamping contractor may subcontract the storage of vehicles to another person or storage may be undertaken by another person under a contract with the Lord Chancellor and, in any such case, references in these Regulations to the “clamping contractor”, except in this paragraph, and “the contractor”, so far as applicable to the storage of vehicles under these Regulation, shall be construed as references to that other person.

(3) Premises used for the storage of vehicles must be secure and such as to protect the vehicles from damage or deterioration.

### **Sale of clamped vehicles**

**26.**—(1) The period referred to in paragraph 41(1)(b) (power to order sale of clamped vehicle) of Schedule 5 for the sale of a vehicle shall be the period of 1 month from the date on which the vehicle was clamped.

(2) If the sum due has not been paid in full before the expiry of the period of 10 clear working days from the date the vehicle was clamped the fines officer must apply in writing to the court for

an order for sale of the vehicle under paragraph 41(2) of Schedule 5. A copy of the application must be sent to P by post at his last known address.

(3) The hearing for the sale of a vehicle must not be listed before the expiry of the period of 21 days from the date the vehicle was clamped.

(4) When the application under paragraph (2) is listed for hearing the court must notify P in writing—

- (a) of the date, time and place of the hearing;
- (b) that he may attend, and be represented at, the hearing and may submit written representations;
- (c) that the court has the power to order the sale of the vehicle if the sum due has not been paid in full before the expiry of the period of 1 month from the date the vehicle was clamped; and

(d) of the amount of the sum due and charges payable to secure the release of the vehicle, and must notify the fines officer of the date and time of the hearing.

(5) The fines officer must make himself available for the hearing but only for the purpose of answering the court's questions and providing relevant information.

(6) If at the hearing the court decides that it will order the vehicle to be sold on the expiry of the period of 1 month from the date the vehicle was clamped if the sum due is not paid in full before the expiry of that period, the fines officer must so notify P in writing.

(7) If at the hearing the court decides that the vehicle should not be sold it may direct that the vehicle be released to P with or without payment of the charges due.

(8) In considering whether or not to order the sale of the vehicle the court must consider the history of P's case, in particular whether the clamping order was justified, reasonable and proportionate.

(9) After the court's decision on the application the case remains with the fines officer under the collection order.

(10) If the court makes an order for sale the fines officer must send a copy of the order for sale to the contractor who must arrange for the vehicle or vehicles to be sold by an agent or by auction.

(11) On the sale of a vehicle pursuant to an order under paragraph 41(2) of Schedule 5 the ownership of the vehicle shall vest in the purchaser and the contractor must secure the registration of the vehicle in the name of the purchaser under the Vehicle Excise and Registration Act 1994.

(12) When the vehicle has been sold the contractor must first deduct from the net proceeds of sale an amount equal to the charges due and must then transmit the remaining balance to the fines officer.

(13) The fines officer, receiving the remaining balance from the contractor, must deduct an amount sufficient to discharge P's liability in respect of the sum due, and send payment of any remaining balance to P within 10 working days of the date of the sale of the vehicle, accompanied by a written statement of account.

(14) If when a vehicle is sold, the net proceeds of sale are not sufficient to meet the amount of the sum due and charges due, the net proceeds of sale must first be applied towards meeting the charges due and then, if a balance remains, towards discharging P's liability in respect of the sum due.

(15) Where the balance is not sufficient to satisfy payment of the sum due the fines officer must then seek to recover the outstanding amount of the sum due under the collection order and the powers conferred by Schedule 5, including his power to refer the case to the court under paragraph 42 of that Schedule.

### **Release of vehicle wrongly clamped**

**27.**—(1) Where a vehicle is clamped, removed or stored in breach of any provision of this Part of these Regulations, a person may apply for the release and, where appropriate, the return of the vehicle in accordance with this regulation and regulation 28.

(2) Before making an application to the court under regulation 28, a request for the release and, where appropriate, return of the vehicle must be made to—

- (a) the fines officer, if the breach relates to the content or making of the clamping order, or
- (b) the contractor, if the breach relates to the execution of the clamping order, removal or storage of a vehicle.

(3) If a request is made to—

- (a) the contractor in a case where an alleged breach concerns the content or making of the clamping order, he must refer that request to the fines officer; and
- (b) to the fines officer in a case where an alleged breach concerns the execution of the clamping order, removal or storage, he must refer that request to the contractor.

(4) The fines officer or, as the case may be, the contractor must send to that person written notice of his decision within 7 working days of the date on which that request was made.

(5) If the decision is to accept the request, arrangements must immediately be made for the release and, where appropriate, return of the vehicle without charge.

**28.**—(1) A person may apply to the court for the release and, where appropriate, the return of the vehicle if, having made a request under regulation 27—

- (a) the request was refused; or
- (b) there was a failure to make a decision on that request within the period referred to in regulation 27(4).

(2) An application must be made in writing, within 10 workings days (or such further time as the court may allow) of the date when—

- (a) the applicant received notice of the decision on his request under regulation 27; or
- (b) if there was a failure to make a decision, the expiry of the period referred to in regulation 27(4).

(3) An application must be listed for an expedited hearing.

(4) The designated officer of the court must notify—

- (a) the applicant and the fines officer or, as the case may be, the contractor, of the date time and place of the hearing; and
- (b) the applicant that he may attend, and be represented at, the hearing and submit written representations.

(5) The fines officer or, as the case may be, a senior manager of the contractor, must be available for the hearing but only for the purpose of answering the court's questions and to provide relevant information, including the decision letter on the initial application.

(6) On an application, the court may—

- (a) order the release and, where appropriate the return, of the vehicle with or without payment of the charges due; or
- (b) dismiss the application.

## PART 5

### Application of enactments with modifications

#### Purpose of the application of enactments

**29.** The application of enactments with modifications in this Part is for the purpose of giving effect to Schedule 5 and section 97 of the Courts Act 2003 so far as it relates to that Schedule.

#### Application with modifications of the Magistrates' Courts (Attachment of Earnings) Rules 1971

**30.** In the case of a person aged 18 or over liable to pay a sum to which Schedule 5 applies, the Magistrates' Courts (Attachment of Earnings) Rules 1971(4) shall apply to attachments of earnings orders made under that Schedule as they apply to such orders made under the Attachment of Earnings Act 1971(5) but with the following modifications—

- (a) omit—
  - (i) rule 2(6) (interpretation of references to attachment of earnings order); and
  - (ii) rule 4 (jurisdiction as respects complaints for an attachment of earnings order);
- (b) in rule 6 (service of orders and notices)—
  - (i) in paragraphs (1) and (2) after “magistrates' court” insert “or a fines officer, as the case may be,”;
  - (ii) in paragraph (2), for “8 or 11” substitute “8(5)”; and
  - (iii) in paragraph (3)—
    - (aa) omit sub-paragraphs (a) and (b); and
    - (bb) in sub-paragraph (c) for the words from “65(2)” to the end of that sub-paragraph substitute “77(2) of the Magistrates' Courts Act 1980 (postponement of issue of warrant)”.
- (c) omit—
  - (i) rule 8 (notice of application for appropriate variation order);
  - (ii) rule 9 (jurisdiction as respects complaints for the discharge and variation of attachment of earnings orders);
  - (iii) rule 10 (complaints for variation or discharge of attachment of earnings orders against persons outside United Kingdom); and
  - (iv) rule 11 (complaints by debtors for variation or discharge of attachment of earnings orders against persons who cannot be found);
- (d) in rule 12 (variation of attachment of earnings order on change of employment)—
  - (i) after “magistrates' court” insert “or a fines officer, as the case may be,”;
  - (ii) after both occurrences of “the court” insert “or the fines officer, as the case may be,”; and
  - (iii) after “its” insert “or his”.
- (e) in rule 13 (discharge of attachment of earnings order by court of its own motion)—
  - (i) in paragraph (1)—

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(4) S.I. 1971/809 as amended by S.I. 2001/615, S.I. 2003/1236 and S.I. 2005/617.

(5) 1971 c. 32.

- (aa) after “a magistrates' court” insert “or a fines officer, as the case may be,”;
- (bb) after “the magistrates' court” and after “the court”, in each place insert “or the fines officer, as the case may be,”;
- (cc) after “its” insert “or his”;
- (ii) omit paragraph (2); and
- (iii) in the heading to the rule, for “of its” substitute “or fines officer of its or his”.
- (f) omit rule 14 (temporary variation of protected earnings rate);
- (g) in rule 15 (consolidated attachment orders)—
  - (i) in paragraph (1), after the first occurrence of “a magistrates' court” insert “or a fines officer, as the case may be,”;
  - (ii) in paragraph (2), —
    - (aa) after “a magistrates' court” insert “or a fines officer, as the case may be,”; and
    - (bb) after “it” insert “or he”;
  - (iii) in paragraph (3)—
    - (aa) after “a magistrates' court” insert “or a fines officer, as the case may be,”;
    - (bb) after “any magistrates' court” insert “or fines officer”; and
    - (cc) after “the court” insert “or the fines officer, as the case may be,”;
  - (iv) in paragraph (4)—
    - (aa) after “magistrates' courts” insert “or fines officers”;
    - (bb) after “a magistrates' court” insert “or a fines officer, as the case may be,”; and
    - (cc) after “those courts” insert “or one of those fines officers, as the case may be,”;
  - (v) in paragraph (5), after “debtor” insert “but a fines officer may exercise the powers conferred under paragraphs (2) to (4) of this Rule of his own motion only”;
  - (vi) omit paragraph (8);
  - (vii) in paragraph (9)—
    - (aa) after both occurrences of “magistrates' court” insert “or a fines officer, as the case may be,”;
    - (bb) after the first occurrence of the “first mentioned court” insert “or the first mentioned fines officer, as the case may be,”;
    - (cc) after “second mentioned court” insert “or the court for which the second mentioned fines officer made the relevant attachment of earnings order”;
    - (dd) after the second occurrence of the “first mentioned court” insert “or the court for which the first mentioned fines officer is to make the consolidated attachment order”; and
    - (ee) for the words from “72 of the Magistrates' Courts Act 1952” to “(transfer of enforcement of legal aid contribution orders)” substitute “89 of the Magistrates' Courts Act 1980 (transfer of fine order)”;
  - (viii) for paragraph (10) substitute—

“(10) Where a magistrates' court or, as the case may be, a fines officer makes a consolidated attachment order, the order shall specify the percentage deduction rate in accordance with the Fines Collection Regulations 2006.

(11) Paragraph (10) applies irrespective of whether the orders to be consolidated include any order made—

- (a) (before 27<sup>th</sup> March 2006) under section 1(3)(b) of the Act, to secure the payment of a sum adjudged to be paid by a conviction or treated as so adjudged to be paid; or
  - (b) under section 1(3)(c) of the Act, to secure the payment of a sum required to be paid under section 17(2) of the Access to Justice Act 1999 (recovery of criminal defence costs in publicly funded cases).”
- (h) in rule 16 (transfer of fines etc with view to making consolidated attachment order)—
- (i) in paragraph (1)—
    - (aa) after both occurrences of “a magistrates' court”, insert “or a fines officer, as the case may be,”;
    - (bb) after “first mentioned court” insert “or the first mentioned fines officer, as the case may be,”; and
    - (cc) after “second mentioned court” insert “or the second mentioned fines officer, as the case may be,”;
  - (ii) in paragraph (2)—
    - (aa) after “the court”, insert “or, as the case may be, the fines officer”; and
    - (bb) after “a court”, insert “or a fines officer”; and
  - (iii) in paragraph (3), for the words from “72” to the end of that paragraph substitute “89 (transfer of fine order) or section 90 (transfer of fines to Scotland or Northern Ireland) of the Magistrates' Courts Act 1980”;
- (i) in rule 18 (method of making payment under attachment of earnings order)—
- (i) in paragraph (1), omit “and the person entitled to receive payments under the related maintenance order”; and
  - (ii) omit paragraph (3); and
- (j) omit—
- (i) rule 19 (payments under attachment of earnings order after imprisonment imposed);
  - (ii) in rule 22 (justices' clerks), in paragraph (2), sub-paragraphs (b), (c) and (e); and
  - (iii) rule 23 (application of these Rules to attachment of earnings orders in respect of fines etc).

### **Application with modifications of the Fines (Deductions from Income Support) Regulations 1992**

**31.** In the case of a person aged 18 or over liable to pay a sum to which Schedule 5 applies, the Fines (Deductions from Income Support) Regulations 1992(6) apply to applications for benefit deductions made under that Schedule, as they apply to such applications made under those Regulations but with the following modifications—

- (a) in regulation 1 (citation, commencement and interpretation), in paragraph (2)—

- (i) in the definition of “application”, for “made under regulation 2” substitute “for benefit deductions made under Schedule 5 to the Courts Act 2003”;
- (ii) after the definition of “court” insert—
  - ““in default on a collection order” has the same meaning as it has under paragraph 24A of Schedule 5 to the Courts Act 2003;
  - “existing defaulter” has the same meaning as it has under paragraph 3 of Schedule 5 to the Courts Act 2003;
  - “the fines officer”, in relation to a person subject to a collection order made under Schedule 5 to the Courts Act 2003, means any fines officer working at the fines office specified in that order;”;
- (iii) after the definition of “state pension credit” insert—
  - ““sum due” has the same meaning as it has in paragraph 2 of Schedule 5 to the Courts Act 2003“;”.
- (b) in regulation 2 (application for deductions from income support, state pension credit or jobseeker’s allowance)—
  - (i) omit paragraph (1); and
  - (ii) in paragraph (2), after “court” insert “or the fines officer, as the case may be,”;
- (c) in regulation 2A (information that the court may require) in paragraph (1)—
  - (i) after “court” insert “or the fines officer, as the case may be,”; and
  - (ii) in the heading to the regulation, after “court” insert “or fines officer”;
- (d) In regulation 3 (contents of application)—
  - (i) in paragraph (1)—
    - (aa) in sub-paragraphs (b) and (c) for “compensation order” substitute “order requiring payment of the sum due”;
    - (bb) in sub-paragraph (d) for the words from “fine” to the end of that sub-paragraph substitute “sum due”; and
    - (cc) for sub-paragraph (g) substitute—
      - “(g) whether the offender—
        - (i) is an existing defaulter and his existing default cannot be disregarded;
        - (ii) has consented to the making of the application; or
        - (iii) is in default on a collection order”;
  - (ii) in paragraph (2) after “court” insert “or a fines officer, as the case may be,”; and
  - (iii) in paragraph (3)—
    - (aa) after “a court” insert “or a fines officer, as the case may be,”; and
    - (bb) after “the court” insert “or the fines officer, as the case may be,”;
- (e) in regulation 4 (deductions from offender’s income support, state pension credit or jobseeker’s allowance), in paragraphs (1) and (2)—
  - (i) after “a court” insert “or a fines officer, as the case may be,”;
  - (ii) after “the court” insert “by or for which the application was made”; and
  - (iii) for “fine or the sum required to be paid by compensation order” substitute “sum due”;
- (f) in regulation 7 (circumstances, time of making and termination of deductions)—

- (i) omit paragraph (2)(c);
- (ii) in paragraph (4)(c)—
  - (aa) after “a court” insert “or a fines officer, as the case may be,”; and
  - (bb) after “its” insert “or his”;
- (iii) in paragraph (4)(d) for “fine or under the compensation order as the case may be” substitute “sum due”; and
- (iv) in paragraph (7) after “the court” insert “or the fines officer, as the case may be,”; and
- (g) in regulation 8 (withdrawal of application), after “court” insert “or a fines officer, as the case may be,”.

## PART 6

### Revocations and transitional provision

#### Revocations

- 32.** The following Regulations are revoked—
- (a) The Fines Collection Regulations 2004(7);
  - (b) The Fines Collection (Amendment) Regulations 2004(8); and
  - (c) The Fines Collection (Amendment) Regulations 2005(9).

#### Transitional provision and savings

**33.—**(1) Subject to paragraph (2), these Regulations apply to any order made under Schedule 5, notwithstanding that the order may have been made before these Regulations come into force.

(2) Where a clamping order is made before 27<sup>th</sup> March 2006, Part 4 of the Fines Collection Regulations 2004(10) shall continue to have effect in relation to that order, as if these Regulations had not been brought into force.

On the authority of the Lord Chancellor

6th March 2006

*Harriet Harman*  
Minister of State  
Department for Constitutional Affairs

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(7) S.I. 2004/176.  
(8) S.I. 2004/1407.  
(9) S.I. 2005/484.  
(10) S.I. 2004/176.



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under Schedule 5 to the Courts Act 2005 (“Schedule 5”). Schedule 5 introduced a scheme for the collection of fines, which has been piloted in various forms since February 2004. These Regulations support the final pilot scheme for the collection of fines<sup>(11)</sup> and they replace the Fines Collection Regulations 2004<sup>(12)</sup>.

Part 2 (fine increase, delivery and summons) makes provision for the amount by which a court must increase a fine under paragraph 42A of Schedule 5; the methods by which a “further steps” notice may be delivered to the person who is liable to pay the sum due (“P”) and to allow a fines officer, when referring P’s case to the court, to issue a summons to secure P’s attendance at court.

Part 3 (attachment of earnings) contains provisions for calculating the deductions that an employer must make from P’s earnings under an attachment of earnings order made under Schedule 5.

Part 4 (clamping of motor vehicles) contains provisions about the clamping of motor vehicles under a clamping order made by a fines officer pursuant to a “further steps” notice, or by a court under Schedule 5. It includes provisions about the procedure for making a clamping order, the clamping, removal, storage and sale of clamped vehicles and the release of clamped vehicles on payment of the charges and sum due.

Part 5 (application of enactments with modifications) applies, with modifications, the Magistrates’ Courts (Attachment of Earnings) Rules 1971 (“the 1971 Rules”) and the Fines (Deductions from Income Support) Regulations 1992 (“the 1992 Regulations”) for the purpose of giving effect to Schedule 5.

The modifications to the 1971 Rules ensure that, so far as relevant,—

- (a) the rule (rule 6) relating to the service of attachment of earnings orders and the giving of a notice of cessation apply in relation to orders made by a fines officer, as well as those made by a court, under Schedule 5;
- (b) orders made by a court and those made by a fines officer under Schedule 5 may be varied by the court or the fines officer on a change of employment (under rule 12);
- (c) a court or a fines officer may (under rule 13) discharge an order made under Schedule 5—by either a court or fines officer acting in the same area—if it appears that P is not employed by the employer named in that order;
- (d) a court or a fines officer may (under rule 15) make a consolidated attachment order under Schedule 5 and such orders may consolidate attachment of earnings orders made under Schedule 5, with those made under section 1(3)(b) of the Attachment of Earnings Act 1971 (*i.e.*, orders made before 27<sup>th</sup> March to secure the payment of sums imposed on conviction) or under section 1(3)(c) of that Act (*i.e.*, orders to secure payment of criminal defence costs in publicly funded cases);
- (e) a court or a fines officer, having power to make an attachment of earnings order under Schedule 5, may (under rule 16) transfer the fine or other sum due to another local justice area with a view to the making of a consolidated attachment order; and

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<sup>(11)</sup> The final pilot scheme is established by the Collection of Fines (Pilot Scheme) and Discharge of Fines by Unpaid Work (Pilot Schemes) (Amendment) Order 2006, S.I. 2006/502.

<sup>(12)</sup> S.I. 2004/176, as amended by S.I. 2004/1407 and S.I. 2005/484.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

- (f) any rules that are not relevant to cases falling within Schedule 5, do not apply (those include rule 4, rule 6(3)(a) and (b), rules 8 to 11, rule 13(2), rule 18(1) in part and (3), rule 19, rule 22(2)(b), (c) and (e) and rule 23).

The modifications to the 1992 Regulations ensure that—

- (g) the regulation (regulation 2(1)) which allows applications for benefit deductions to be made under that regulation does not apply in cases where Schedule 5 applies. This is because, where Schedule 5 applies, any application for benefit deductions must be made in accordance with that Schedule;
- (h) where an application for benefit deductions is made under Schedule 5, the court or the fines officer making that application may (under regulation 2A) require P to give the information necessary to complete the application;
- (i) the regulation (regulation 3) which prescribes the content of an application for benefit deductions applies to applications made by a court or a fines officer under Schedule 5;
- (j) the regulation (regulation 4) concerning the deductions to be made from benefits pursuant to an application, applies to applications made by a court or a fines officer under Schedule 5, and applies in relation to the collection of any sum mentioned in paragraph 1 of Schedule 5;
- (k) the regulation (regulation 7) concerning the circumstances, time of making and termination of deductions from benefits, applies in relation to applications made by a court or a fines officer under Schedule 5 and ensures that the conditions, under the 1992 regulations, for making benefit deductions are not inconsistent with the conditions, under Schedule 5, for making an application for such deductions;
- (l) a court or a fines officer, having made an application for deduction from benefits under Schedule 5, may withdraw that application (under regulation 8).