

SCHEDULES

SCHEDULE 3

Sections 24 and 30.

CRIMINAL PROCEEDINGS: ENFORCEMENT OF CONTRIBUTION ORDERS

PART I

ORDERS MADE BY A COURT

Collecting court

- 1 In this Part “collecting court”, in relation to a contribution order, means a magistrates' court specified in the order; and the court so specified shall be—
- (a) in a case where the court making the order is itself a magistrates' court, that court;
 - (b) in a case where the order is made on an appeal from a magistrates' court, or in respect of a person who was committed (whether for trial or otherwise by a magistrates' court) to the Crown Court, the court from which the appeal is brought or, as the case may be, which committed him; and
 - (c) in any other case, a magistrates' court nominated by the court making the order.

Enforcement proceedings

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- (1) Any sum required to be paid by a contribution order shall be recoverable as if it had been adjudged to be paid by an order of the collecting court, subject to and in accordance with the provisions of this paragraph.
 - (2) Sections 17 (not more than one committal for same arrears) and 18 (power to review committal) of the Maintenance Orders Act 1958 shall apply as if a contribution order were a maintenance order.
 - (3) The collecting court may exercise, in relation to a contribution order, the power conferred by section 75 of the Magistrates' Courts Act 1980 (power to dispense with immediate payment); and for the purposes of that section any provisions made by the authority which made the order as to time for payment, or payment by instalments, shall be treated as made by the collecting court.
 - (4) The following provisions of the Magistrates' Courts Act 1980 shall apply as if a contribution order were enforceable as an affiliation order—
 - section 80 (application of money found on defaulter to satisfy sum adjudged);
 - section 93 (complaint for arrears);
 - section 94 (effect of committal on arrears); and
 - section 95 (power to remit arrears).

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- (5) Any costs awarded under section 64 of the Magistrates' Courts Act 1980 on the hearing of a complaint for the enforcement of a contribution order shall be enforceable as a sum required to be paid by that order.
- 3 (1) Without prejudice to paragraph 2, any sum required to be paid by a contribution order shall be enforceable by the High Court or a county court as if the sum were due to the clerk of the collecting court in pursuance of a judgment or order of the High Court or county court, as the case may be.
- (2) The clerk of the collecting court shall not take proceedings by virtue of this paragraph unless authorised to do so by the court.
- (3) This paragraph shall not authorise—
- (a) the enforcement of a sum required to be paid by a contribution order by issue of a writ of fieri facias or other process against goods or by imprisonment or attachment of earnings; or
 - (b) the enforcement by a county court of payment of any sum exceeding the amount which for the time being is the county court limit for the purposes of section 15 of the County Courts Act 1984.
- 4 (1) Any expenses incurred by the clerk of a magistrates' court in recovering any sum required to be paid by a contribution order shall be treated for the purposes of Part VI of the Justices of the Peace Act 1979 as expenses of the magistrates' courts committee.
- (2) Any sum paid to a clerk of a magistrates' court in or towards satisfaction of a liability imposed by a contribution order shall be paid by him to the Lord Chancellor and section 61(4) of the Justices of the Peace Act 1979 (regulations as to accounts of justices' clerks) shall apply in relation to sums payable to the Lord Chancellor under this sub-paragraph as it applies in relation to sums payable to the Secretary of State under that section.

Transfer of enforcement proceedings to different court

- 5 (1) Where in relation to any contribution order it appears to the collecting court that the person subject to it is residing in a petty sessions area other than that for which the court acts, the court may make an order under this paragraph (“a transfer order”) with respect to the contribution order specifying the other petty sessions area.
- (2) Where a court makes a transfer order in relation to any contribution order—
- (a) payment under the contribution order shall be enforceable in the petty sessions area specified in the transfer order; and
 - (b) as from the date of the transfer order, a magistrates' court for that petty sessions area shall be substituted for the court which made the transfer order as the collecting court in relation to the contribution order.

Limitations on enforcement by proceedings

- 6 Any sum due under a contribution order shall not be recoverable, and payment of any such sum shall not be enforced, under paragraph 2 or 3 until—
- (a) the conclusion of the proceedings for the purposes of which the relevant grant of representation was made; or

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- (b) if earlier, the revocation or withdrawal of the relevant grant of representation.

- 7 Where a contribution order has been made in respect of a member of Her Majesty's armed forces and the Secretary of State notifies the collecting court that any sum payable under the order will be recovered by deductions from the person's pay, the collecting court shall not enforce payment of any sum unless and until the Secretary of State subsequently notifies it that the person is no longer a member of those forces and that sum has not been fully recovered.

Power to defer enforcement proceedings

- 8 The collecting court may defer recovering any sum due under a contribution order if—
- (a) an appeal is pending in respect of the proceedings for the purposes of which the relevant grant of representation was made; or
 - (b) the person granted representation has been ordered to be retried.

Interpretation

- 9 In this Part—
- (a) “relevant grant of representation”, in relation to a contribution order, means the grant of representation in connection with which the order was made; and
 - (b) references to the proceedings for the purposes of which a grant of representation has been made include, where the proceedings are proceedings before a magistrates' court which result—
 - (i) in the legally assisted person being committed to the Crown Court for trial or sentence, or
 - (ii) in his case being remitted to a juvenile court in pursuance of section 56(1) of the Children and Young Persons Act 1933, the proceedings before the Crown Court or that juvenile court.

PART II

ORDERS MADE BY THE BOARD

Limitations on enforcement by proceedings

- 10 (1) Any sum due under a contribution order shall not be recoverable, and payment of any such sum shall not be enforced until—
- (a) the conclusion of the proceedings for the purposes of which the relevant grant of representation was made; or
 - (b) if earlier, the revocation or withdrawal of the relevant grant of representation.
- (2) In this paragraph—
- (a) “relevant grant of representation”, in relation to a contribution order, means the grant of representation in connection with which the order was made; and
 - (b) the reference to the proceedings for the purposes of which the relevant grant of representation was made includes, where the proceedings are proceedings before a magistrates' court which result—

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- (i) in the legally assisted person being committed to the Crown Court for trial or sentence, or
 - (ii) in his case being remitted to a juvenile court in pursuance of section 56(1) of the Children and Young Persons Act 1933,the proceedings before the Crown Court or that juvenile court.

- 11 Where a contribution order has been made in respect of a member of Her Majesty's armed forces and the Secretary of State notifies the Board that any sum payable under the order will be recovered by deductions from the person's pay, the Board shall not enforce payment of any sum unless and until the Secretary of State subsequently notifies it that the person is no longer a member of those forces and that sum has not been fully recovered.