

COURTS ACT 2003

EXPLANATORY NOTES

COMMENTARY

Fees, costs and fines

Part 7: Effect of first default on collection order containing payment terms

286. [Part 7](#) sets out the effect of the first default on a collection order containing payment terms (see [Part 4](#)). Paragraph 25 states that Part 7 applies unless one of the following is pending:

- an application by the offender for the fines officer to vary payment terms or attach earnings or benefits;
- an appeal against the fines officer's decision;
- a referral of the case, by the fines officer, to the magistrates' court.

287. [Paragraph 26](#) stipulates that on first default, and provided it is not impracticable or inappropriate to do so, the fines officer must either:

- make an AOE order if the offender is employed; or
- apply to the Secretary of State for Work and Pensions for deductions to be made from benefit.

If it appears to the fines officer that it would be possible to attach earnings or make a DFB, it must do one or the other(not both).

288. [Paragraph 27](#) provides for an increase to be imposed on the fine (but not compensation or costs) if:

- the AOE or DFB application made on first default (under [paragraph 26](#)) fails; or
- the fines officer does not make an AOE or DFB under [paragraph 26](#).

289. Unlike the discount, the increase will apply to fixed penalties registered as fines. The amount of the increase is determined (by the Lord Chancellor, not the fines officer) in the fines collection regulations, but the increase must not be more than 50% of the fine. The increase is given effect by treating it as part of the fine originally imposed on the offender.

290. The liability to pay the increase ranks after the liability to pay any other part of the sum due (i.e. after the original fine and any compensation or costs).

291. Whether the increase takes effect is then dependent on the behaviour of the offender. If he co-operates and make arrangements leading to full payment of the sum due, without further default, the offender's liability to pay the increase is waived ([Paragraph 35\(6\)](#) and [39\(2\)](#)).

*These notes refer to the Courts Act 2003 (c.39)
which received Royal Assent on 20 November 2003*

292. Paragraph 28 stipulates that if an increase is imposed the fines officer must send the offender an 'increase notice', which informs him of the increase. The increase notice must state that the offender has 10 working days from the date of the notice to contact the fines officer (in person or in writing) so that the case can be reviewed.
293. New payment terms, which include the increase, will then be sent by the fines officer (see Part 9 below). The offender will be warned that the increase will stand and further enforcement steps will be taken unless he complies with these new payment terms. Provided the offender co-operates and makes arrangements leading to full payment of the sum due, without further default, he does not have to pay the increase (see paragraphs 35(6) and 39(2)).