

COURTS ACT 2003

EXPLANATORY NOTES

COMMENTARY

Fees, costs and fines

Part 1: Introductory

332. [Paragraph 1](#) applies the Schedule to individuals over 18 who are liable to pay a fine or a sum treated for enforcement purposes as a fine, but excluding amounts due as compensation or costs. It defines terms used subsequently, in particular, 'the prescribed hourly sum', which is the conversion rate from amount owing into hours of work, to be as prescribed by regulations, and 'the relevant court' to be the court imposing the fine or the magistrates' courts enforcing a fine imposed by any court.
333. [Paragraph 2](#) sets out the circumstances in which a 'work order' may be made. A court may make such an order on the application of a fines officer, or may decide to do so itself, where it appears that, from the information before it of the offender's financial circumstances, the normal methods of fine collection are likely to be impracticable or inappropriate. It lists these collection methods as warrants of distress; application for enforcement by the High Court or county court; imposition of a supervision order; AOE; DFB; and a collection order under the Collection of Fines Schedule in this Act. The court must be satisfied that the offender appears suitable to carry out the work. The paragraph also requires that the offender must consent to the making of the order.
334. [Paragraph 3](#) sets out the provisions of a work order. It requires the offender to work for a specified number of hours in accordance with instructions given by a fines officer. The order must state the amount that is to be discharged by work; the fines office to which the order is allocated and the person who is to supervise the actual work being carried out by the offender. This person is called 'the supervisor'. The number of hours to be worked is calculated by dividing the sum owed by the prescribed hourly sum and rounding up to the nearest hour. The order must specify a date by which the number of hours is to be performed.
335. [Paragraph 4](#) requires that the payment of the amount to be discharged through work must not be enforced unless the work order is revoked. It also requires that any existing orders relating to such enforcement must be revoked when a court makes a work order.
336. [Paragraph 5](#) stipulates that no supervisor may be appointed without the offender's consent. It also sets out the duties of a supervisor as being to monitor the offender's compliance with the requirements of the work order and to provide information to the court about that compliance as required.
337. [Paragraph 6](#) states that an offender subject to a work order must work where, when and for the specified number of hours as instructed by the fines officer. The fines officer must ensure that, so far as is practicable, the instructions given should avoid both conflict with the offender's religious beliefs and interference with his work or education. It also provides that if the work is completed before the specified date, the liability to pay the amount due is discharged.

338. **Paragraph 7** allows the offender to discharge his liability by paying the sum in respect of which the work was set. He can also reduce the number of hours he has to work by paying part of the sum, in which case fractions of an hour are to be disregarded.
339. **Paragraph 8** provides for the order to be revoked or varied at any time on application to the fines officer. If the offender has failed, or is failing to comply but has a reasonable excuse, or a change in circumstances means he is unlikely to be able to comply, the court may revoke the order or may allow more time to do the work. The fines officer is given the power to issue a summons to require the offender to attend court where such an application has been made.
340. **Paragraph 9** stipulates that where an order has been revoked and it appears to the court that the offender has performed at least one hour of work, the court must specify, by order, the number of hours that have been worked, rounding down to the nearest hour. The offender's liability to pay is then reduced by the amount corresponding to this number of hours (calculated using the prescribed hourly sum).
341. **Paragraph 10** allows the amount outstanding following the revocation of an order, reduced under paragraph 9 if applicable, to be enforced against the offender. When doing so, the court may nevertheless allow time for payment or direct payments by instalments.
342. **Paragraph 11** provides that the only way of enforcing the obligations of an offender subject to a work order is under the provisions of paragraph 10.
343. **Paragraph 12** gives a court the power to issue a summons requiring the attendance of the supervisor before it. The power is available where the court is determining whether the offender has performed the work and where it believes that the supervisor will be able to help, but where the supervisor will not attend voluntarily.
344. **Paragraph 13** gives a power to make regulations requiring:
- a work order to contain prescribed information;
 - that copies of the order are given to prescribed persons; and
 - that a court varying or revoking an order gives notice of the revocation or variation to prescribed persons.

Register of judgments etc. and execution of writs

Section 98: Register of Judgments and order etc.

345. A new register is set up by this provision to replace the county court register under sections 73 and 73A of the CCA 1984. The new register expands the scope of the previous register, which was only concerned with county court judgments and orders.
346. The new register is designed to incorporate judgments of the High Court and criminal court fines. This will bring defaults from all the civil and criminal courts under one register. In the case of civil proceedings all judgments and orders will be registered unless an exception applies. In the criminal courts only certain cases, decided on an individual basis, will be registered. The provision allows for the register to be kept in house or contracted out.

Section 99: High Court writs of execution

347. This section will relieve High Sheriffs (being unpaid volunteers, appointed annually) of their legal obligations in connection with the enforcement of High Court judgments. The existing competence and probity of those actively engaged in High Court enforcement, currently in the names of the Sheriffs, will be maintained.

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

348. The High Court will continue to issue writs of execution - that is, in summary, writs for the enforcement of judgment debts, and writs to enforce judgments for the possession of land. England and Wales will be divided into enforcement districts defined by the Lord Chancellor. There will be a number of individuals authorised as High Court enforcement officers, either by the Lord Chancellor or by someone acting on his behalf. The Lord Chancellor (or his delegate) will assign at least one authorised enforcement officer to every district.
349. The existing jurisdiction of the High Court in relation to writs of execution will not be removed. But these provisions will give the High Court a new, efficient and adaptable tool to enforce its judgments.

Schedule 7: High Court writs of execution

350. [Schedule 7](#) gives High Court enforcement officers the same obligations and powers that sheriffs have under common law. The Lord Chancellor or his delegate must approve arrangements for the allocation of a writ where more than one enforcement officer could be obliged to execute it. In practice, those arrangements are likely to be based closely on the existing administrative arrangements under which writs directed to sheriffs can be delivered to a single address in central London from which they are distributed. The constable's duty to assist an enforcement officer, adopts and brings up to date the comparable provision that applies to sheriffs under section 8 of the Sheriffs Act 1887.
351. [Paragraphs 6 to 11](#) make the same provision, with the amendments needed to include enforcement officers, as sections 138, 138A and 138B of the SCA 1981, which the Act will omit. The Act will, by consequential amendments under Schedule 8, make it a criminal offence to obstruct a High Court enforcement officer who is executing a writ.