

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Courts and Justice

Section 26: Payment of fines and other sums

428. *Section 26* makes provision: (a) to enable the recovery of charges for some or all of the administrative costs of collecting or pursuing criminal financial penalties from offenders who have defaulted on that sum; and (b) to facilitate the performance of the functions of fines officers by staff provided under contract.
429. *Subsection (1)* inserts a new section 75A into the Magistrates' Courts Act 1980 ("the 1980 Act"), which deals with the recovery of fine collection costs. A charge may be made in relation to the administrative costs incurred for the purpose of collecting or pursuing criminal financial penalties (new section 75A(1)). The charge would be added to the amount outstanding of the financial penalty imposed on conviction and treated in the same way (new section 75A(2)). This also means the charge would be recoverable in the same way and subject to the same sanctions for default. The offender must be notified of the obligation to pay the charge (new section 75A(3)): this will either be done in the collection order where the court has made such an order (a collection order is an order, which the court is required under paragraph 12 of Schedule 5 to the Courts Act 2003 ("the 2003 Act") to make unless it is impracticable or inappropriate to do so, relating to the payment of the financial penalty and containing information about the amount of the financial penalty and how it is to be paid) or via some other form of notice where no collection order is made.
430. The collection costs will not be chargeable where the court has allowed time to pay or where a person is paying by instalments and the sum has been satisfied within the time allowed or the payments are up to date (new section 75A(4) and (5)). The collection costs do not apply to costs related to taking control of goods (new section 75A(6)).
431. *Subsection (2)* inserts a new section 36A into the 2003 Act which makes it clear that the role and functions of the magistrates' court fines officer under that Act are to be treated as not involving the making of judicial decisions or the exercise of judicial discretion. This would facilitate the performance of those functions by staff provided under contract under section 2(4) of the 2003 Act.
432. *Subsections (3) to (8)* make amendments to other legislation consequential on the main changes made by subsections (1) and (2). *Subsection (3)* inserts provision into Schedule 5 to the 2003 Act to ensure that collection orders contain an explanation of the possibility of collection costs being chargeable in the event of default. *Subsection (4)* amends section 85 of the 1980 Act to provide that collection costs may be remitted in the same way as a fine to which they are added. *Subsection (5)* amends section 139 of the 1980 Act, which makes provision for how the balance of receipts on account of fines is to be applied: the amendment makes the provision subject to directions which may be made under section 139A of that Act. *Subsection (6)* inserts that new section 139A into the 1980 Act. The new section 139A enables the Lord Chancellor to give directions for

*These notes refer to the Crime and Courts Act 2013
(c.22) which received Royal Assent on 25 April 2013*

money received in respect of collection costs to be paid to the person who charged the amount, which allows for flexibility in the arrangements for applying that money, for example if fine collection functions were to be performed under contract.

433. *Subsection (7)* amends section 24(2) of the Criminal Justice Act 1991 to ensure that regulations about applications by courts for benefit reductions for payment of fines may make provision about deductions in connection with the sum being increased on account of collection costs. *Subsection (8)* amends section 56(3) of the Education and Skills Act 2008 (which provides for non-participation fines imposed in respect of failure to attend education or training to cease to be enforceable as fines once the person in question has reached 18, except in so far as necessary to complete enforcement which is already under way) so that it covers amounts in respect of collection costs incurred in relation to such a fine in the same way as amounts in respect of the fine itself.