

Draft Order laid before Parliament under section 108(2) and (3)(d) of the Courts Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2006 No.

**MAGISTRATES' COURTS,
ENGLAND AND WALES**

The Collection of Fines (Final Scheme) Order 2006

Made - - - - 2006
Coming into force - - 3rd July 2006

The Lord Chancellor makes the following Order in exercise of the powers conferred by section 97(7) and (9), section 108(6) and section 109(4) and (5) of the Courts Act 2003(1). In accordance with section 108(2) and (3) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) This Order may be cited as the Collection of Fines (Final Scheme) Order 2006 and shall come into force on 3rd July 2006.

(2) Subject to paragraph (3), this Order extends only to England and Wales.

(3) An amendment or repeal made by this Order has the same extent as the enactment to which it relates.

Final scheme

2. Schedule 5 to the Courts Act 2003, as amended by this Order, shall have effect—

- (a) in all local justice areas; and
- (b) indefinitely.

Transitional provision

3.—(1) Unless a court orders otherwise, where a collection order has not been made in relation to a sum imposed by a court prior to the coming into force of this Order, enforcement to recover that sum shall continue as if this Order had not been made.

(2) In this article—

“collection order” means an order made under Part 4 of Schedule 5 to the Courts Act 2003;

“enforcement” means any process or order for the purposes of recovering a sum imposed by a court; and

“sum imposed by a court” means a sum adjudged to be paid as mentioned in paragraph 1 of Schedule 5 to the Courts Act 2003.

Amendments to Schedule 5 to the Courts Act 2003

4. Amend Schedule 5 to the Courts Act 2003 (collection of fines) as follows.

5. In the heading to that Schedule after “FINES” add “AND OTHER SUMS IMPOSED ON CONVICTION”.

6. For paragraph 1 (application of Schedule) substitute—

“Application of Schedule

1. This Schedule applies if a person aged 18 or over (“P”) is liable to pay a sum which is or is treated for the purposes of Part 3 of the 1980 Act as a sum adjudged to be paid by a conviction of a magistrates’ court.”

7. For paragraph 2 (meaning of “the sum due”) substitute—

“Meaning of “the sum due” etc

2.—(1) In this Schedule “the sum due” means the sum adjudged to be paid as mentioned in paragraph 1.

(2) For the purposes of this Schedule—

a “fine” does not include any pecuniary forfeiture or pecuniary compensation payable on conviction; and

“a sum required to be paid by a compensation order” means any sum required to be paid by an order made under section 130(1) of the Powers of Criminal Courts (Sentencing) Act 2000.”

8. In paragraph 3 (meaning of “existing defaulter” etc)—

(a) in sub-paragraph (1)—

(i) omit sub-paragraph (a); and

(ii) in sub-paragraphs (c) and (d), for “1(1)” substitute “1”;

(b) omit sub-paragraph (5); and

(c) omit sub-paragraph (6).

9. Omit Part 2 (immediate payment of fines: discounts).

10. In paragraph 7 (application of Part 3)—

(a) for sub-paragraph (1) substitute—

“(1) This Part does not apply where the court is hearing P’s case following an appeal under paragraph 23, 32 or 37(9).”;

(b) in sub-paragraph (2)(b) omit “if sub-paragraph (1)(b) applies,”;

(c) after sub-paragraph (2) add—

“(3) For the purposes of this Schedule—

- (a) an attachment of earnings order, or
- (b) an application for benefit deductions,

is an order or application to secure the payment of the whole of the sum due.”.

11. After paragraph 7 insert—

“Attachment of earnings order or application for benefit deductions where P is liable to pay compensation

7A.—(1) This paragraph applies if the sum due consists of or includes a sum required to be paid by a compensation order.

(2) The relevant court must make an attachment of earnings order if it appears to the court—

- (a) that P is in employment, and
- (b) that it is not impracticable or inappropriate to make the order.

(3) The relevant court must make an application for benefit deductions if it appears to the court—

- (a) that P is entitled to a relevant benefit, and
- (b) that it is not impracticable or inappropriate to make the application.

(4) If it appears to the court that (apart from this sub-paragraph) both sub-paragraph (2) and sub-paragraph (3) would apply, the court must make either an attachment of earnings order or an application for benefit deductions.”

12. In paragraph 8 (attachment of earnings order or application for benefit deductions without P’s consent), for sub-paragraph (1) substitute—

“(1) This paragraph applies if—

- (a) paragraph 7A does not apply, and
- (b) the relevant court concludes that P is an existing defaulter and that his existing default (or defaults) cannot be disregarded.”

13. In paragraph 9 (attachment of earnings order or application for benefit deductions with P’s consent), for sub-paragraph (1) substitute—

“(1) This paragraph applies if—

- (a) paragraph 7A does not apply, and
- (b) the relevant court concludes that P is not an existing defaulter or, if he is, that his existing default (or defaults) can be disregarded.”

14. In paragraph 11 (application of Part 4), for sub-paragraph (1) substitute—

“(1) This Part applies whether or not the relevant court has made an attachment of earnings order or an application for benefit deductions under Part 3 of this Schedule.”.

15. In paragraph 13 (contents of collection order: general), for sub-paragraph (1)(a) substitute—

“(a) state the amount of the sum due,

(aa) where that sum consists of or includes a fine or a sum required to be paid by a compensation order, state—

- (i) the amount of the fine, or the amount required to be paid by the compensation order (or, if applicable, the amount of the fine and the amount required to be paid by the compensation order), and

(ii) the amount of any other part of the sum due,”.

16. In paragraph 15 (contents of collection orders: attachment of earnings order etc made), in sub-paragraph (2) omit “, 35, 36”.

17. Omit Part 5 (discount where collection order made).

18. After paragraph 24 (nature of power to vary terms of collection order), insert—

“Meaning of “in default on a collection order”

24A. For the purposes of this Schedule, P is in default on a collection order if he fails to pay any amount due under the payment terms (or, if they have effect, the reserve terms) on or before the date on which it is required to be paid.”

19. Omit—

- (a) paragraph 27 (increase in fine); and
- (b) paragraph 28 (notice of increase).

20. In paragraph 31 (application to fines officer for variation of reserve terms), in sub-paragraph (1)(a) for “an increase is imposed under paragraph 33” substitute “a further steps notice is delivered to him under paragraph 37”.

21. In paragraph 32 (appeal against decision of fines officer), in sub-paragraph (2)(b), at the end of that sub-paragraph insert “or other sums”.

22. Omit—

- (a) paragraph 33 (increase in fine on first default); and
- (b) paragraph 34 (notice of increase).

23. For the heading to Part 9 substitute “FURTHER STEPS”.

24. Omit—

- (a) paragraph 35 (effect of compliance with requirement to contact fines officer); and
- (b) paragraph 36 (application to fines officer after increase for variation of payment terms).

25. In paragraph 37 (functions of fines officer in relation to defaulters: referral or further steps notice)—

(a) for sub-paragraph (1) substitute—

“(1) This paragraph applies if—

- (a) P is in default on a collection order,
- (b) paragraph 26 does not apply, and
- (c) none of the following is pending—
 - (i) an application under paragraph 31(1) (application to fines officer for variation and reserve terms),
 - (ii) an appeal under paragraph 32(1) (appeal against decision of fines officer),
 - (iii) a reference under paragraph 42 (power of fines officer to refer case to magistrates’ court).”;

(b) omit sub-paragraphs (2) to (5).

26. In paragraph 38 (the range of further steps available against defaulters), for sub-paragraph (1) (e) substitute—

“(e) taking proceedings by virtue of section 87(1) of the 1980 Act (enforcement of payment of fines by High Court and county court).”.

27. In paragraph 39 (powers of court after increase)—

- (a) omit sub-paragraphs (1)(a) and (2);
- (b) in sub-paragraph (3)—
 - (i) for “an appeal or” substitute “a”; and
 - (ii) for “(1)(a) or (b)” substitute “(1)(b)”;
- (c) in the following sub-paragraphs, at the end of each sub-paragraph insert “or other sums”—
 - (i) sub-paragraph (3)(c);
 - (ii) sub-paragraph (4)(d);
- (d) in the heading to paragraph 39, omit “after increase”.

28. In paragraph 42 (power of fines officer to refer case to magistrates’ court)—

- (a) in sub-paragraph (2)—
 - (i) for sub-paragraph (b) substitute—
 - “(b) exercise any of its standard powers in respect of persons liable to pay fines or other sums, or”; and
 - (ii) in sub-paragraph (c) omit “to the extent permitted by fines collection regulations,”;
- (b) after sub-paragraph (2) insert—
 - “(2A) Where the court exercises any of its standard powers under sub-paragraph (2) (b) it may also discharge the order.”.

29. After paragraph 42 insert—

“Increase in fine by court

42A.—(1) This paragraph applies where—

- (a) P is in default on a collection order,
- (b) the sum due consists of or includes a fine, and
- (c) the fines officer has referred P’s case to the court—
 - (i) under paragraph 37(6)(a), or
 - (ii) after taking any of the steps listed in paragraph 38.

(2) Where the court is satisfied that the default is due to P’s wilful refusal or culpable neglect, the court may increase the fine which is the subject of the order.

(3) But the court may not increase any other sum which is the subject of the order.

(4) The amount of the increase is to be determined in accordance with fines collection regulations but must not be greater than 50% of the fine.

(5) The increase is given effect by treating it as part of the fine imposed on P by his conviction.”.

30. In paragraph 44 (fines collection regulations), in sub-paragraph (1) for “1(1)” substitute “1”.

31. Omit paragraph 47 (fines collection regulations).

32. In paragraph 49 (offence of meddling with a vehicle clamp), in sub-paragraph (1) omit “after increase”.

33. For paragraph 50 (meaning of “standard powers in respect of persons liable to pay fines”) substitute—

“Meaning of “standard powers in respect of persons liable to pay fines or other sums”

50. In this Schedule “standard powers in respect of persons liable to pay fines or other sums” means any power that a magistrates’ court would have had if P had not been subject to a collection order but had been liable to pay the sum due.”.

Amendments to the Attachment of Earnings Act 1971

34. The Attachment of Earnings Act 1971(2) is amended as follows.

35. In section 1 (courts with power to attach earnings)—

- (a) in subsection (3)—
 - (i) at the end of paragraph (a) insert “or”; and
 - (ii) omit paragraph (b);
- (b) omit subsection (4).

36. After section 1 insert—

“Orders to which this Act applies

1A. The following provisions of this Act apply, except where otherwise stated, to attachment of earnings orders made, or to be made, by any court under this Act or under Schedule 5 to the Courts Act 2003, or by a fines officer under that Schedule.”

37. In section 3(3) (application for order and conditions of court’s power to make it)—

- (a) before subsection (1) insert—
 - “(A1) This section shall not apply to an attachment of earnings order to be made under Schedule 5 to the Courts Act 2003.”; and
- (b) omit—
 - (i) subsection (3B); and
 - (ii) subsection (3C).

38. In section 6 (effect and contents of order)—

- (a) in subsection (1)—
 - (i) after “to the court” insert “, or as the case may be the fines officer, making the order”;
 - (ii) in paragraph (b), after “the court” insert “, or where the order is made under Schedule 5 to the Courts Act 2003, as the court or the fines officer as the case may be,”;
- (b) in subsection (5), at the beginning insert “Subject to subsection (5A) below,”; and
- (c) After subsection (5) insert—

(2) 1971 c.32.

(3) 1971 c.32; so far as relevant, in section 3, subsections (3B) and (3C) were inserted by the Criminal Procedure and Investigations Act 1996 (c.25) and subsection (3B) was amended by the Powers of Criminal Courts (Sentencing) Act 2000 (c.6), Schedule 9, paragraph 4.

“(5A) If the order is made under Schedule 5 to the Courts Act 2003 then it shall specify the percentage deduction rate in accordance with fines collection regulations made under that Schedule.”.

39. In section 8 (interrelation with alternative remedies open to creditors), for subsection (5) substitute—

“(5) An attachment of earnings order made to secure—

- (a) any payment mentioned in section 1(3)(c) of this Act; or
- (b) the payment of any sum mentioned in paragraph 1 of Schedule 5 to the Courts Act 2003,

shall cease to have effect on the issue of a warrant committing the debtor to prison for default in making that payment.”

40. In section 9 (variation, lapse and discharge of orders)—

(a) in subsection (1), after “The court” insert “, or where an attachment of earnings order is made under Schedule 5 to the Courts Act 2003, the court or the fines officer as the case may be,”;

(b) in subsection (3)—

- (i) in paragraph (a) after “order” insert “made under this Act”, and
- (ii) after paragraph (a) insert—

“(aa) as to the circumstances in which an attachment of earnings order made under Schedule 5 to the Courts Act 2003 may be varied or discharged by the court or the fines officer of its or his own motion;”; and

(c) in subsection (4)—

- (i) after “until the court” insert “, or where the order was made under Schedule 5 to the Courts Act 2003, unless and until the court or the fines officer as the case may be,”; and
- (ii) after “to the court” insert “or the fines officer (as the case may be)”.

41.—(1) Section 14(4) (power of court to obtain statement of earnings etc) is amended as follows—

(2) In subsection (1)—

(a) after “power” insert “under this Act or under Schedule 5 to the Courts Act 2003, or a fines officer has power under that Schedule,”;

(b) for “it” substitute “the court or the fines officer, as the case may be,”;

(c) in paragraph (a) after “court” insert “or the fines officer, as the case may be”; and

(d) in paragraph (b)—

- (i) after “appearing to the court” insert “or the fines officer, as the case may be,”; and
- (ii) for “give to the court,” substitute “give to the court or the fines officer, as the case may be,”.

(3) In subsection (2)—

(a) after “court” insert “or the fines officer, as the case may be,”; and

(b) for “it” substitute “the court”.

(4) In subsection (4), at the end add—

(4) 1971 c. 32; section 14(2) was amended by the Administration of Justice Act 1982, section 53(1).

“This subsection does not apply to an attachment of earnings order to be made under Schedule 5 to the Courts Act 2003.”

(5) In subsection (5)—

- (a) after “power” insert “under this Act or under Schedule 5 to the Courts Act 2003, or a fines officer has power under that Schedule,”; and
- (b) after “the court” insert “or the fines officer, as the case may be,”.

42. In section 15 (obligation of debtor and his employers to notify changes of employment and earnings)—

- (a) the existing words become subsection (1);
- (b) in subsection (1)(c) for “what court” substitute “, or (if the order was made by a fines officer) for, which court”; and
- (c) after subsection (1) insert—

“(2) In the case of an attachment of earnings order made by a fines officer, the reference to “the court” in subsection (1)(a) above shall mean the court for which that order was made.”

43. In section 17 (consolidated attachment orders)—

- (a) in subsection (1)—
 - (i) after “those sections” insert “or under Schedule 5 to the Courts Act 2003, and the powers of a fines officer under that Schedule,”;
 - (ii) after “section 1(3)” insert “of this Act and paragraph 1 of Schedule 5 to the Courts Act 2003”; and
- (b) in subsection (3)—
 - (i) in paragraph (a) after “another” insert “or (where Schedule 5 to the Courts Act 2003 applies) from a court or a fines officer, as the case may be, acting in one local justice area, to a court or a fines officer, as the case may be, acting in another local justice area”;
 - (ii) for paragraph (b) substitute—
 - “(b) for enabling a court or a fines officer, as the case may be, to which or to whom any order, proceedings or functions have been transferred under the rules to vary or discharge an attachment of earnings order made by another court or fines officer and to replace it (if the court, or fines officer as the case may be, thinks fit) with a consolidated attachment order;”;
 - (iii) in paragraph (c) for “of its” substitute “or a fines officer, as the case may be, of its or his”.

44. In section 25 (general interpretation), after the definition of “the employer” insert—

““the fines officer”, in relation to a debtor who is 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;”.

45. In Part 1 of Schedule 3 (deductions by employer under attachment of earnings order)—

- (a) in paragraph 6 (employer’s deduction: other cases) in sub-paragraph (1) for “does” substitute “and paragraph 6A below do”; and
- (b) after paragraph 6 insert—

“6A. In the case of an attachment of earnings order made under Schedule 5 to the Courts Act 2003, the employer shall make deductions from the debtor’s earnings in accordance with fines collection regulations made under that Schedule.”.

Amendments to the Magistrates’ Courts Act 1980

- 46. The Magistrates’ Courts Act 1980(5) is amended as follows.
- 47. In section 83 (process for securing attendance of offender for purposes of section 82)—
 - (a) in subsection (2) for “under this section” substitute “issued under this section, or by virtue of Schedule 5 to the Courts Act 2003”; and
 - (b) in the heading to section 83, omit “for purposes of section 82”.
- 48. In section 87(6) (enforcement of payment of fines by High Court and county court)—
 - (a) after subsection (1) insert—

“(1A) For the purposes of taking the step mentioned in paragraph 38(1)(e) of Schedule 5 to the Courts Act 2003, the reference in subsection (1) above to “the designated officer of the magistrates’ court” shall be construed as a reference to the fines officer.”
 - (b) after subsection (3) insert—

“(3A) The fines officer shall not, for the purposes of taking the step mentioned in paragraph 38(1)(e) of Schedule 5 to the Courts Act 2003, take proceedings by virtue of subsection (1) above to recover from any person a sum mentioned in paragraph 1 of that Schedule, unless the fines officer has made an inquiry into that person’s means and he appeared to the fines officer to have sufficient means to pay the sum forthwith.”
- 49. In section 89(7) (transfer of fine order)—
 - (a) in subsection (1)—
 - (i) after “to the court” insert “, or where that sum is the subject of a collection order, it appears to the court or the fines officer as the case may be,”; and
 - (ii) after “Wales, the court” insert “or the fines officer, as the case may be,”
 - (b) for subsection (2) substitute—

“(2) As from the date on which a transfer of fine order is made with respect to any sum, all functions under this Part of this Act or under Schedule 5 to the Courts Act 2003 relating to that sum which, if no order had been made, would have been exercisable by any court or person mentioned in column 1 of the Table below shall be exercisable by the court or person mentioned in the corresponding entry in column 2, and not otherwise.

Table

<i>Column 1</i>	<i>Column 2</i>
(A) The court which made the order.	In either case, a court acting in the local justice specified in the order.
(B) A court acting in the same local justice	

(5) 1980 c. 43.
(6) 1980 c. 43; so far as relevant, in section 87, subsection (1) was amended by the Courts Act 2003 (c.39), Schedule 8, paragraph 223(1) and (2) and subsection (3) was amended by the Criminal Procedure and Investigations Act 1996 (c.25), section 50.
(7) 1980 c. 43; so far as relevant, in section 89, subsections (1) and (2) were amended by the Courts Act 2003, Schedule 8, paragraph 225; subsection (2A) was inserted by the Criminal Justice and Public Order Act 1994 (c. 33), section 47(1).

<i>Column 1</i>	<i>Column 2</i>
area as was the fines officer who made the order.	
The designated officer for the court mentioned in the row above.	The designated officer for the court mentioned in the row above.
(A) The fines officer who made the order. (B) A fines officer acting in the same local justice area as was the court which made the order.”	In either case, a fines officer acting in the local justice area specified in the order.

- (c) in subsection (2A) after “court” insert “under this Part of this Act”; and
(d) in subsection (3) for “by which” substitute “or a fines officer, as the case may be, by which or whom”.

50. In section 90(8) (transfer of fines to Scotland or Northern Ireland)—

- (a) in subsection (1)—
- (i) after the first occurrence of “the court” insert “(or where that sum is the subject of a collection order, it appears to the court or the fines officer as the case may be)”; and
 - (ii) after the second occurrence of “the court” insert “(or the fines officer as the case may be)”; and
- (b) in subsection (3), for “the court which made the order or by the designated officer for that court” substitute “a magistrates’ court in England and Wales or by the designated officer for that court, or by a fines officer”; and
- (c) in subsection (3A) after “court” insert “under this Part of this Act”.

51. In section 91(9) (transfer of fines from Scotland or Northern Ireland)—

- (a) in subsection (1)—
- (i) after “Wales, a magistrates’ court” insert “(or a fines officer as the case may be)”; and
 - (ii) after “this Act” insert “(or under Schedule 5 to the Courts Act 2003 as the case may be)”; and
- (b) in subsection (3)—
- (i) after “Court, a magistrates’ court” insert “(or a fines officer as the case may be)”; and
 - (ii) “this Act” insert “(or under Schedule 5 to the Courts Act 2003 as the case may be)”; and
 - (iii) after “2000” insert “(or as if he were a fines officer acting in the same local justice area as that court as the case may be)”.

(8) 1980 c. 43; so far as relevant, in section 90, subsection (3) was amended by the Courts Act 2003 (c. 39), Schedule 8, paragraph 226; subsection (3A) was inserted by the Criminal Justice and Public Order Act 1994 (c. 33), section 47(2).
(9) 1980 c. 43; so far as relevant, in section 91, subsection (1) were amended by (NI) SI 1981/1675 and the Courts Act 2003 (c.39), Schedule 8, paragraph 227.

- 52.** In section 125A(10) (civilian enforcement officers), after subsection (3) insert—
- “(3A) Subsection (1) also applies to any warrant of distress issued under Schedule 5 to the Courts Act 2003 by a court or fines officer.”
- 53.** In section 150 (interpretation of other terms)—
- (a) after the definition of “bail in criminal proceedings” insert—
- ““collection order” means an order made under Part 4 of Schedule 5 to the Courts Act 2003;” and
- (b) after the definition of “fine” insert—
- ““the fines officer”, in relation to a person subject to a collection order, means any fines officer working at the fines office specified in that order;”.

Amendment to the Domestic Violence, Crime and Victims Act 2004

- 54.** Omit section 14(4) of the Domestic Violence, Crime and Victims Act 2004(11) (amendment of paragraph 1(1) of Schedule 5 to the Courts Act 2003).

On the authority of the Lord Chancellor

Date

Name
Minister of State
Department for Constitutional Affairs

(10) 1980 c. 43; section 125A was inserted by the Access to Justice Act 1999 (c.22), section 92.

(11) 2004 c. 28; section 14(4) amends paragraph 1(1) of Schedule 5 to the Courts Act 2003 (c.39) from a date to be appointed by the Secretary of State.

EXPLANATORY NOTE

(This note is not part of the Order)

The provisions of Schedule 5 to the Courts Act 2003(12)(collection of fines) have been piloted in various forms since February 2004. On the completion of those pilots, this Order will give effect to the final version of Schedule 5 (“the final scheme”) in all local justice areas and indefinitely. It also amends other legislation in connection with the operation of that final scheme. The Order comes into force on 3rd July 2006.

Amendments to Schedule 5 of the Courts Act 2003

Article 6 amends the application of Schedule 5, with the effect that the final scheme will apply to the collection of any sum imposed on conviction (such as fines, costs or sums required to be paid under a compensation order or a confiscation order), regardless of whether those sums are imposed together with a fine, or on their own without a fine. The following articles are consequential to that article: articles 7 (in part), 8(a)(ii), 21, 27(c), 28(a)(i), 30, 33 (in part) and 54.

Article 8, 10 and 14 remove the definition of immediate payments and alters the scheme so that no difference is made between the treatment of cases where an offender is required to pay immediately or is given time to pay.

Article 10 also makes the following provision. It ensures that the provisions of Part 3 (attachment of earnings orders and applications for benefit deductions) apply in every case where the relevant court is dealing with a person who is liable to pay a sum imposed on conviction (“P”), other than where the court is hearing an appeal. It also makes it clear that an attachment of earnings order or an application for benefit deductions is made to secure the whole of the sum due rather than any single constituent part of that sum, such as a sum payable under a compensation order.

Article 11 inserts a new provision requiring the court (where appropriate) to make either an attachment of earnings order or an application for benefit deductions in cases where P is liable to pay a sum under a compensation order. In contrast to paragraphs 8 and 9 of Schedule 5, this duty is not dependent on any conclusion that P is an existing defaulter, nor does it require P’s consent. The following articles are consequential to that article: articles 7 (in part), 12, 13 and 15.

Articles 9 and 17 remove those provisions giving discounts for early payments. Those provisions were not piloted.

Articles 19 and 22 together remove those provisions imposing automatic increases in fines. The following articles are consequential to those articles: articles 16, 20, 23, 25 and 27.

Article 26 specifies a further step available against defaulters. This step (which has been piloted) allows a fines officer to take enforcement proceedings in a county court or the High Court, where a third party debt order or a charging order can be made to secure the payment of the sum due. Following the completion of the pilot schemes, Article 26 will also remove the power to make fines collection regulations permitting the taking of other steps, because the purpose of that power was to facilitate the testing of “further steps” during the pilot period.

Article 29 inserts a new provision allowing the court to increase a fine in cases where P is in default on a collection order due to his wilful refusal or culpable neglect.

(12) 2003 c. 39.

Article 28(a)(i) and (b) allows the court, on the referral of a case to it under paragraph 42 of Schedule 5, to exercise any of its standard powers whilst keeping the collection order in place, if required.

Article 28(a)(ii) removes the reference to the fines collection regulations, which was required only for the purposes of piloting the provisions in Schedule 5.

Article 31 removes the power to make provision in fines collection regulations for cases that are transferred from one area to another. That power was required only for the purposes of piloting the provisions in Schedule 5.

Article 33 substitutes the definition of the “standard powers in respect of persons liable to pay fines”, with the effect that those standard powers will no longer be applied (with or without modifications) by fines collection regulations. Instead, the standard powers will be those powers that the court would have had if a collection order had not been made, but P had been liable to pay the sum due.

Amendments to the Attachment of Earnings Act 1971

Article 35(a)(ii) removes the power of a magistrates’ court to make an attachment of earnings order (“AEO”) under the Attachment of Earnings Act 1971 (the “1971 Act”) to secure the payment of a sum imposed on conviction. It ensures that the only powers and obligations to make AEOs in relation to those sums, are the powers and obligations under Schedule 5 to the Courts Act 2003 (the “2003 Act”).

Articles 35(b), 36 and 38 to 43 ensure that the relevant provisions of the 1971 Act apply to AEOs made by the court, or by the fines officer under Schedule 5 to the 2003 Act.

Article 37(a) disapplies the provisions about applications for AEOs in cases where the AEO is to be made under Schedule 5 to the 2003 Act. Schedule 5 gives powers to, and imposes obligations on, the courts and fines officers to make AEOs of their own motion.

Article 37(b) repeals the powers to make attachment of earnings orders, without the need for an application, in relation to fines and compensation orders. This is because those provisions are superseded by equivalent powers contained in Schedule 5 to the 2003 Act, as amended by this Order.

Article 38(b) and (c) and article 45 together ensure that, where an AEO is made under Schedule 5 to the 2003 Act, the deductions from earnings are calculated and made in accordance with fines collection regulations made under Schedule 5 to the 2003 Act.

Article 44 inserts a definition of “the fines officer” into the 1971 Act.

Amendments to the Magistrates’ Courts Act 1980

Article 47 allows the court to issue a warrant of arrest to secure P’s attendance before it following his failure to appear in answer to a summons issued by a fines officer by virtue of Schedule 5 to the 2003 Act.

Article 48 allows the fines officer to take proceedings in the High Court or county court (where, for example, a charging order or third party debt order can be made) to recover a sum imposed on conviction. This is one of the “further steps” specified in paragraph 38 of Schedule 5 to the 2003 Act, as amended by this Order.

Articles 49 to 51 ensure that the provisions relating to the transfer of fines, from one area or jurisdiction to another, apply to fines that are being enforced under Schedule 5 of the 2003 Act. It also allows a fines officer to make the relevant order for transfer.

Article 52 ensures that any warrant of distress issued by a court or a fines officer under Schedule 5 to the 2003 Act, can be executed in the same way that a warrant of distress issued by a justice of peace is executed.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Collection of Fines (Final Scheme) Order 2006 No. 1737*

Article 53 inserts definitions of “collection order” and “the fines officer” into the Magistrates’ Courts Act 1980.