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## SCHEDULES

### SCHEDULE 5 **E+W**

#### COLLECTION OF FINES <sup>[F1]</sup>AND OTHER SUMS IMPOSED ON CONVICTION]

##### Textual Amendments

- F1** Sch. 5: words in heading inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), arts. 1, **5** (with transitional provision in art. 3)

##### Modifications etc. (not altering text)

- C1** Sch. 5 applied (with modifications) (temp. from 23.3.2004 for certain purposes, 29.3.2004 for certain further purposes, 5.4.2004 for all purposes to 31.3.2006) by [S.I. 2004/175](#), arts. **1-3**, Sch. (as amended by [S.I. 2004/1406](#), arts. 3, 4; [S.I. 2005/487](#), arts. 4-6; [S.I. 2005/642](#), art. 2; [S.I. 2005/2410](#), art. 2; [S.I. 2005/3166](#), art. 2)
- C1** Sch. 5 modified (temp. from 27.3.2006 to 2.7.2006) by [The Collection of Fines \(Pilot Scheme\) and Discharge of Fines by Unpaid Work \(Pilot Schemes\) \(Amendment\) Order 2006 \(S.I. 2006/502\)](#), arts. 1(1)(b)(2), **5** (with transitional provision in art. 4)
- C1** Sch. 5 restricted (prosp.) by [Education and Skills Act 2008 \(c. 25\)](#), ss. **56-58**, 173(4)
- C1** Sch. 5 applied (1.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. **85(7)(b)**, 153; [S.I. 2009/2606](#), art. **2(f)**

### PART 9 **E+W**

#### <sup>[F1]</sup>FURTHER STEPS]

##### Textual Amendments

- F1** Sch. 5 Pt. 9: heading substituted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, **23**

*Effect of compliance with requirement to contact fines officer*

35

<sup>F2</sup> .....

##### Textual Amendments

- F2** Sch. 5 para. 35 omitted (3.7.2006) by virtue of [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, **24(a)**

##### Commencement Information

- I1** Sch. 5 para. 35 wholly in force at 5.4.2004; Sch. 5 para. 35 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 35 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), art. **4(a)**; Sch. 5 para. 35 in

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force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 35 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

*Application to fines officer after increase for variation of payment terms*

36

<sup>F3</sup> .....

**Textual Amendments**

**F3** Sch. 5 para. 36 omitted (3.7.2006) by virtue of [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, [24\(b\)](#)

**Commencement Information**

**I2** Sch. 5 para. 36 wholly in force at 5.4.2004; Sch. 5 para. 36 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 36 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 36 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 36 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

*Functions of fines officer in relation to defaulters: referral or further steps notice*

37

- [<sup>F4</sup>(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).

<sup>F5</sup> .....

- (6) The fines officer must—
  - (a) refer P’s case to the magistrates' court, or
  - (b) deliver to P a notice (a “further steps notice”) that he intends to take one or more of the steps listed in paragraph 38.
- (7) Any steps that the fines officer intends to take must be specified in the notice.
- (8) A further steps notice must be in writing and dated.
- (9) P may, within 10 working days from the date of the further steps notice, appeal to the magistrates' court against it.

**Textual Amendments**

**F4** Sch. 5 para. 37(1) substituted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, [25\(a\)](#)

**F5** Sch. 5 para. 37(2)-(5) omitted (3.7.2006) by virtue of [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, [25\(b\)](#)

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### Commencement Information

- I3** Sch. 5 para. 37 wholly in force at 5.4.2004; Sch. 5 para. 37 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 37 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 37 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 37 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

### *The range of further steps available against defaulters*

- 38 (1) The steps referred to in paragraphs 37(6)(b) and 39(3) and (4) (powers to take further steps) are—
- (a) issuing a warrant of distress for the purpose of levying the sum due;
  - (b) registering the sum in the register of judgments and orders required to be kept by section 98;
  - (c) making an attachment of earnings order or an application for benefit deductions;
  - (d) subject to sub-paragraph (3), making a clamping order;
  - [<sup>F6</sup>(e) taking proceedings by virtue of section 87(1) of the 1980 Act (enforcement of payment of fines by High Court and county court).]
  - [<sup>F7</sup>(f) subject to sub-paragraph (4), issuing a certificate requesting enforcement under the Framework Decision on financial penalties;]
- (2) A clamping order is an order—
- (a) that a motor vehicle be fitted with an immobilisation device (“clamped”), and
  - (b) which complies with any requirements that are imposed by fines collection regulations under paragraph 46 with respect to the making of clamping orders.
- (3) A clamping order must not be made except in relation to a vehicle which is registered under the Vehicle Excise and Registration Act 1994 in P’s name.
- [<sup>F8</sup>(4) A certificate requesting enforcement under the Framework Decision on financial penalties may only be issued where—
- (a) the sum due is a financial penalty within the meaning of section 80 of the Criminal Justice and Immigration Act 2008, and
  - (b) it appears to the fines officer or the court that P is normally resident, or has property or income, in a member State other than the United Kingdom.
- (5) In this paragraph, references to a certificate requesting enforcement under the Framework Decision on financial penalties are to be construed in accordance with section 92(3) of the Criminal Justice and Immigration Act 2008.]

### Textual Amendments

- F6** Sch. 5 para. 38(1)(e) substituted (3.7.2006) by virtue of [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), [arts. 1, 26](#)
- F7** Sch. 5 para. 38(1)(f) inserted (1.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 80\(1\)\(a\), 153](#) (with [Sch. 27 para. 29\(1\)](#)); [S.I. 2009/2606](#), [art. 2\(a\)](#)
- F8** Sch. 5 para. 38(4)(5) inserted (1.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), [ss. 80\(1\)\(b\), 153](#) (with [Sch. 27 para. 29\(1\)](#)); [S.I. 2009/2606](#), [art. 2\(a\)](#)

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### Commencement Information

- I4** Sch. 5 para. 38 wholly in force at 5.4.2004; Sch. 5 para. 38 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 38 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 38 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 38 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

### *Powers of court*<sup>F9</sup> . . .

### Textual Amendments

- F9** Sch. 5 para. 39: words in heading omitted (3.7.2006) by virtue of [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, [27\(d\)](#)

- 39 (1) This paragraph applies if the magistrates' court is hearing P's case following—
- (a) <sup>F10</sup> . . . . .
  - (b) a referral under paragraph 37(6)(a) (functions of fines officer in relation to defaulters), or
  - (c) an appeal under paragraph 37(9) (appeal against a further steps notice).
- (2) <sup>F10</sup> . . . . .
- (3) On [<sup>F11</sup>a] referral falling within sub-paragraph [<sup>F12</sup>(1)(b)] , the court may—
- (a) vary the payment terms (or the reserve terms);
  - (b) take any of the steps listed in paragraph 38;
  - (c) discharge the order and exercise any of its standard powers in respect of persons liable to pay fines [<sup>F13</sup>or other sums] .
- (4) On an appeal against a further steps notice, the court may—
- (a) confirm or quash the notice;
  - (b) vary the notice so as to specify any step listed in paragraph 38;
  - (c) vary the payment terms (or the reserve terms);
  - (d) discharge the order and exercise any of its standard powers in respect of persons liable to pay fines [<sup>F14</sup>or other sums] .

### Textual Amendments

- F10** Sch. 5 para. 39(1)(a)(2) omitted (3.7.2006) by virtue of [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, [27\(a\)](#)
- F11** Words in Sch. 5 para. 39(3) substituted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, [27\(b\)\(i\)](#)
- F12** Words in Sch. 5 para. 39(3) substituted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, [27\(b\)\(ii\)](#)
- F13** Words in Sch. 5 para. 39(3)(c) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, [27\(c\)\(i\)](#)
- F14** Words in Sch. 5 para. 39(4)(d) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, [27\(c\)\(ii\)](#)

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#### Commencement Information

- I5** Sch. 5 para. 39 wholly in force at 5.4.2004; Sch. 5 para. 39 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 39 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 39 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 39 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

#### *Implementation of further steps notice*

- 40 If—
- (a) P does not appeal within 10 working days against a further steps notice, or
  - (b) he does so but the further steps notice is confirmed or varied,
- any step specified in the notice (or the notice as varied) may be taken.

#### Commencement Information

- I6** Sch. 5 para. 40 wholly in force at 5.4.2004; Sch. 5 para. 40 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 40 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 40 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 40 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

#### *Power to order sale of clamped vehicle*

- 41 (1) This paragraph applies if—
- (a) a motor vehicle has been clamped under a clamping order, and
  - (b) at the end of the period specified in fines collection regulations under paragraph 46 any part of the sum due is unpaid.
- (2) The magistrates' court may order that—
- (a) the vehicle is to be sold or otherwise disposed of in accordance with those regulations, and
  - (b) any proceeds are to be applied in accordance with those regulations in discharging P's liability in respect of the sum due.

#### Commencement Information

- I7** Sch. 5 para. 41 wholly in force at 5.4.2004; Sch. 5 para. 41 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 41 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), [art. 4\(a\)](#); Sch. 5 para. 41 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), [art. 4\(b\)](#); Sch. 5 para. 41 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), [art. 4\(c\)](#)

#### *Power of fines officer to refer case to magistrates' court*

- 42 (1) The fines officer may refer a case to the magistrates' court at any time during the period which—
- (a) begins the day after the collection order is made, and
  - (b) ends with the date on which—
    - (i) the sum due (including any increase to which he remains liable) is paid, or

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(ii) the order is discharged.

(2) On a referral under this paragraph, the court may—

- (a) confirm or vary the payment terms (or the reserve terms),
- [<sup>F15</sup>(b) exercise any of its standard powers in respect of persons liable to pay fines or other sums, or]
- (c) <sup>F16</sup> . . . exercise a power it could exercise under any other paragraph.

[<sup>F17</sup>(2A) Where the court exercises any of its standard powers under sub-paragraph (2)(b) it may also discharge the order.]

(3) Fines collection regulations may provide for the fines officer to have the power to issue a summons for the purpose of ensuring that P attends a magistrates' court to whom P's case has been referred under this paragraph or paragraph 37.

#### Textual Amendments

- F15** Sch. 5 para. 42(2)(b) substituted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, **28(a)(i)**
- F16** Words in Sch. 5 para. 42(2)(c) omitted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, **28(a)(ii)**
- F17** Sch. 5 para. 42A(2A) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, **28(b)**

#### Commencement Information

- I8** Sch. 5 para. 42 wholly in force at 5.4.2004; Sch. 5 para. 42 not in force at Royal Assent see s. 110(1)(2); Sch. 5 para. 42 in force for certain purposes at 23.2.2004 by [S.I. 2004/174](#), **art. 4(a)**; Sch. 5 para. 42 in force for certain further purposes at 29.3.2004 by [S.I. 2004/174](#), **art. 4(b)**; Sch. 5 para. 42 in force for all purposes at 5.4.2004 by [S.I. 2004/174](#), **art. 4(c)**

#### *Increase in fine by court*

[<sup>F18</sup>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.]

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**Textual Amendments**

**F18** Sch. 5 para. 42A inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order \(S.I. 2006/1737\)](#), arts. 1, **29**

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