
STATUTORY INSTRUMENTS

1992 No. 1856 (L.8)

MAGISTRATES' COURTS

The Magistrates' Courts (Unit Fines) Rules 1992

<i>Made</i>	- - - -	<i>27th July 1992</i>
<i>Laid before Parliament</i>		<i>3rd August 1992</i>
<i>Coming into force</i>	- -	<i>1st October 1992</i>

The Lord Chancellor, in exercise of the powers conferred on him by section 144 of the Magistrates' Courts Act 1980((1)) and section 18(2)(b) of the Criminal Justice Act 1991((2)), after consultation with the Rule Committee appointed under the said section 144, hereby makes the following Rules:

Citation, commencement and application

1.—(1) These Rules may be cited as the Magistrates' Courts (Unit Fines) Rules 1992 and shall come into force on 1st October 1992.

(2) These Rules apply to a fine imposed by a magistrates' court the amount of which falls to be fixed under section 18 of the Criminal Justice Act 1991 (“the Act”).

(3) Nothing in these Rules shall apply in relation to offences committed before 1st October 1992.

Interpretation

2.—(1) In these Rules—

(a) any reference to a “means enquiry form” is a reference to Form A or B set out in Schedule 1 to these Rules or a form to like effect, and “appropriate means enquiry form” shall be construed accordingly;

(b) any reference to an offender, and an offender’s disposable weekly income, shall have effect, in a case to which section 57(3) of the Act applies, as if it were a reference to the parent or guardian against whom the order to pay the fine of the child or young person in question is made, and to the disposable weekly income of the parent or guardian.

Arrangements for provision of means enquiry form

3. The clerk to the justices for each petty sessions area shall make arrangements to secure, so far as is possible, that where a person is to appear before a magistrates' court for the area for an offence

(1) 1980 c. 43; section 144 was extended by section 145 of that Act and section 20(5) of the Criminal Justice Act 1991 (c. 53).
(2) 1991 c. 53.

to which section 18 of the Act applies, he or, where that person is under the age of 16, his parent or guardian, is supplied with an appropriate means enquiry form.

Determination of disposable weekly income

4.—(1) Subject to subsections (5), (6) and (8) of section 18 of the Act (which make special provision for determination in certain cases) and to paragraph (2) below, for the purpose of fixing the amount of a fine to which these Rules apply, the amount of an offender's disposable weekly income shall be the amount given in his case by the application of the formula

$$\frac{I-E}{3},$$

- (a) I is the amount of his net weekly income, and
- (b) E is the amount of the appropriate expenditure level in his case, determined by the court in accordance with these Rules.

(2) With the consent of an offender, whether given orally or in writing, the court may determine his disposable weekly income to be an amount equal to 1/50th of level 5 on the standard scale or, where section 18(6) of the Act applies, the appropriate fraction of that amount.

(3) Before sentencing an offender who is present in court, unless he has previously furnished the court with the information, the court shall invite him, whether in writing or orally, to furnish to the court information as to the matters specified in a means enquiry form.

(4) As well as any information so furnished, or furnished in pursuance of an order of the court under section 20(1) of the Act, the court may take into account such other information relating to an offender's means as appears to the court to be relevant.

(5) In determining an offender's disposable weekly income there shall be disregarded—

- (a) any child benefit paid to the offender under section 1 of the Child Benefit Act 1975((3)); and
- (b) any sum or sums payable by the offender as a result of any fine imposed or compensation order made in proceedings other than those in respect of which the determination is to be made.

(6) The court may round up or down, as and where appropriate, the amount determined to be an offender's disposable weekly income to the nearest whole pound.

(7) Schedule 2 to these Rules shall have effect for the purpose of determining an offender's net weekly income and the appropriate expenditure level in his case.

Order for statement of means

5. Where, in relation to a fine to which these Rules apply, an offender is ordered to furnish a statement of means under section 20(1) of the Act it shall be furnished on a means enquiry form.

Announcement of number and value of units

6. Where a court imposes a fine to which these Rules apply, it shall announce in open court—

- (a) the number of units determined under section 18(2)(a) of the Act as being commensurate with the seriousness of the offence for which the fine is imposed or the combination of that offence and other offences associated with it (hereinafter called "the relevant number of units"); and

- (b) the value to be given to each of those units, determined in accordance with these Rules.

Particulars of unit fine to be entered in register

7. Where a court imposes a fine to which these Rules apply, there shall be entered in the register particulars of—

- (a) the relevant number of units;
- (b) any consent given by the offender pursuant to rule 4(2) above; and
- (c) the value to be given to each of the units mentioned in sub-paragraph (a) above, determined in accordance with these Rules.

Dated 27th July 1992

Mackay of Clashfern, C.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE 1

Rule 2

MEANS ENQUIRY FORMS

MEANS ENQUIRY FORM A: DEFENDANT

(Sections 18 and 20 Criminal Justice Act 1991)

A *[Before Hearing

If you are convicted the court may order you to pay a fine. It will take your weekly income into account in setting the amount of the fine. The court can require you to supply information about your means and failure to comply with that request may be an offence.

You are asked to complete this statement of your means which can either be sent to the court in advance of the hearing or brought with you when you attend court. In the absence of this information, the court may decide that you can pay a fine based on a spare income** of up to [***] a week.]

B *[Following Conviction

You have been convicted of an offence and the court is considering ordering you to pay a fine. If it decides to order a fine, it will take your weekly income into account. In the absence of information about your means, the court may decide that you can pay a fine based on a spare income** of up to [***] a week.

The court requires the following information about your means. A failure to provide this information is an offence carrying a fine of up to [***]. Deliberately or recklessly supplying misleading information is an offence carrying a fine of up to [***] and/or 3 months' imprisonment.]

- * Delete as appropriate
- ** "Spare income" means "disposable weekly income" as calculated under rule 4 of these Rules
- *** Insert appropriate amount

MEANS ENQUIRY FORM B: PARENT/GUARDIAN

(Sections 18 and 57 Criminal Justice Act 1991 and section 55 Children and Young Persons Act 1933(4))

A *[Before Hearing

A juvenile of whom you are the parent/guardian has been charged with an offence and is to appear in court. If he/she is found guilty the court may impose a fine, which you may be ordered to pay. In this case, the court will take your weekly income into account in setting the amount of the fine.

You are asked to complete this statement of your means which can either be sent to the court in advance of the hearing or be brought with you when you attend court with the juvenile. In the absence of this information, the court may decide that you can pay a fine based on a spare income ** of up to [***] a week.]

B *[Following Conviction

A juvenile of whom you are the parent/guardian has been found guilty of an offence and the court is considering imposing a fine, which you may be ordered to pay. It will take your weekly income into account. In the absence of information about your means, the court may decide that you can pay a fine based on a spare income ** of up to [***] a week.

The court requires the following information about your means.]

- * Delete as appropriate
- ** "Spare income" means "disposable weekly income" as calculated under rule 4 of these Rules
- *** Insert appropriate amount

MEANS ENQUIRY FORMS A AND B:—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

I — E



3,

SCHEDULE 2

Rule 4

DETERMINATION OF OFFENDER'S NET WEEKLY INCOME AND APPROPRIATE EXPENDITURE LEVEL

1. In these Rules the “net weekly income” of an offender means that offender’s weekly income (including income from overtime, commissions and bonuses) less—

- (a) any tax payable on that income;
- (b) any contributions payable by him under the Social Security Acts 1975—1988; and
- (c) the amount of any contribution paid by him, whether under a legal obligation or not, to an occupational pension scheme within the meaning of the Social Security Pensions Act 1975 or to a personal pension scheme within the meaning of the Social Security Act 1986.

2. The magistrates for each petty sessions area shall, from time to time and at least once a year, taking into account local conditions, determine amounts that appear to them to represent the reasonable weekly expenditure of households in their petty sessions area, on the items specified in column 2 below, in respect of the members of such households specified in column 1 below, in this Schedule referred to as “deemed expenditure levels”.

Column 1	Column 2
Member of household	Items of expenditure
OFFENDER	Food

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Column 1	Column 2
Member of household	Items of expenditure
	Heating
	Housing costs
	Community charge
	Water rates
	Clothing
	Travel to work
SPOUSE/COHABITEE	Food
	Community charge
	Clothing
ADULT DEPENDANTS/CHILDREN	Food
	Clothing

3.—(1) Subject to paragraph (2) below, in these Rules “the appropriate expenditure level ” for an offender shall be an amount that is the sum of the deemed expenditure levels for his household.

(2) The amount determined by the court under paragraph (1) above shall be—

- (a) reduced to take account of expenditure on the other members of the offender’s household which is met out of those members' incomes, and of exceptionally low expenditure on housing; and
- (b) increased to take account of the offender’s maintenance payments and, where the court thinks fit, of the offender’s exceptional expenditure.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules govern the procedure to be followed by magistrates' courts in the operation of the unit fines system introduced by section 18 of the Criminal Justice Act 1991.

Rule 3 places a duty on justices' clerks to make arrangements for the provision of a prescribed means enquiry form to defendants and, where appropriate, the parent or guardian of a juvenile defendant. The means enquiry forms are set out in *Schedule 1* to the Rules.

Rule 4 provides the formula whereby the court is to determine the value of a unit, that is, the offender’s disposable weekly income, under section 18(2)(b) of the 1991 Act. *Rule 4* further provides that, in so doing, the magistrates' court is to take into account the information sought in the means enquiry form. *Schedule 2* requires the magistrates for each petty sessions area to set local expenditure levels which they are to take into account when determining an offender’s disposable weekly income.

Rule 5 provides that the statement of means which may be ordered under section 20(1) of the Act shall, where the unit fine scheme applies, be furnished on a prescribed means enquiry form.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Rule 6 requires the court to announce in open court the number of units determined to be commensurate with the seriousness of the offence for which a fine is to be imposed and the value to be given to each of those units.

Rule 7 prescribes particulars which are to be entered in the court register.

These Rules come into force on 1st October 1992.