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STATUTORY INSTRUMENTS

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**2015 No. 1490**

**The Criminal Procedure Rules 2015**

**PART 30**

**ENFORCEMENT OF FINES AND OTHER ORDERS FOR PAYMENT**

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*[Note. Part 13 contains rules about warrants for arrest, detention or imprisonment, including such warrants issued for failure to pay fines, etc.*

*Part 24 contains rules about the procedure on sentencing in a magistrates' court.*

*Part 28 contains rules about the exercise of a magistrates' court's powers to enforce an order made by another court.]*

**When this Part applies**

- 30.1.**—(1) This Part applies where a magistrates' court can enforce payment of—
- (a) a fine, or a sum that legislation requires the court to treat as a fine; or
  - (b) any other sum that a court has ordered to be paid—
    - (i) on a conviction, or
    - (ii) on the forfeiture of a surety.

(2) Rules 30.7 to 30.9 apply where the court, or a fines officer, issues a warrant for an enforcement agent to take control of a defendant's goods and sell them, using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007(1).

(3) In this Part—

- (a) 'defendant' means anyone liable to pay a sum to which this Part applies;
- (b) 'payment terms' means by when, and by what (if any) instalments, such a sum must be paid.

*[Note. For the means by which a magistrates' court may enforce payment, see—*

- (a) *Part 3 of the Magistrates' Courts Act 1980(2); and*
- (b) *Schedule 5 to the Courts Act 2003(3) and the Fines Collection Regulations 2006(4).*

*Under that Schedule and those Regulations, some enforcement powers may be exercised by a fines officer.*

*See also section 62 of, and Schedule 12 to, the Tribunals, Courts and Enforcement Act 2007. In that Act, a warrant to which this Part applies is described as 'a warrant of control'.]*

### **Exercise of court's powers**

**30.2.** The court must not exercise its enforcement powers unless—

- (a) the court officer has served on the defendant any collection order or other notice of—
  - (i) the obligation to pay,
  - (ii) the payment terms, and
  - (iii) how and where the defendant must pay; and
- (b) the defendant has failed to comply with the payment terms.

*[Note. See section 76 of the Magistrates' Courts Act 1980(5); and paragraphs 12 and 13 of Schedule 5 to the Courts Act 2003(6).]*

### **Duty to give receipt**

**30.3.—**(1) This rule applies where the defendant makes a payment to—

- (a) the court officer specified in an order or notice served under rule 30.2;
- (b) another court officer;
- (c) any—
  - (i) custodian of the defendant,
  - (ii) supervisor appointed to encourage the defendant to pay, or

(1) 2007 c. 15.

(2) 1980 c. 43.

(3) 2003 c. 39; Schedule 5 was amended by articles 2, 4, 6, 7 and 8 of S.I. 2006/1737, section 62 of, and paragraphs 148 and 149 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15), section 80 of the Criminal Justice and Immigration Act 2008 (c. 4), section 88 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), section 10 of, and paragraphs 24 and 27 of the Schedule to, the Prevention of Social Housing Fraud Act 2013 (c. 3), section 27 of the Crime and Courts Act 2013 (c. 22) and section 56 of the Criminal Justice and Courts Act 2015 (c. 2). It is further amended by section 26 of the Crime and Courts Act 2013 (c. 22) and paragraph 23 of Schedule 5 to the Modern Slavery Act 2015 (c. 30), with effect from dates to be appointed.

(4) S.I. 2006/501.

(5) 1980 c. 43; section 76 was amended by section 7 of the Maintenance Enforcement Act 1991 (c. 17), section 78 of, and Schedule 16 to, the Criminal Justice Act 1982 (c. 48), and section 62(3) of, and paragraphs 45 and 46 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(6) 2003 c. 39; paragraph 13 was amended by articles 2, 4 and 15 of S.I. 2006/1737.

- (iii) responsible officer appointed under a community sentence or a suspended sentence of imprisonment; or
  - (d) a person executing a warrant to which rule 13.6 (warrants for arrest, detention or imprisonment that cease to have effect on payment) or this Part applies.
- (2) The person receiving the payment must—
- (a) give the defendant a receipt; and
  - (b) as soon as practicable transmit the payment to the court officer specified in an order or notice served under rule 30.2, if the recipient is not that court officer.

*[Note. For the effect of payment to a person executing a warrant to which rule 13.6 applies, see that rule and sections 79(7) and 125(1)(8) of the Magistrates' Courts Act 1980.*

*For the circumstances in which the court may appoint a person to supervise payment, see section 88 of the 1980 Act(9).]*

### **Appeal against decision of fines officer**

- 30.4.**—(1) This rule applies where—
- (a) a collection order is in force;
  - (b) a fines officer makes a decision under one of these paragraphs of Schedule 5 to the Courts Act 2003—
    - (i) paragraph 22 (Application to fines officer for variation of order or attachment of earnings order, etc.),
    - (ii) paragraph 31(10) (Application to fines officer for variation of reserve terms), or
    - (iii) paragraph 37(11) (Functions of fines officer in relation to defaulters: referral or further steps notice); and
  - (c) the defendant wants to appeal against that decision.
- (2) Unless the court otherwise directs, the defendant must—
- (a) appeal in writing not more than 10 business days after the decision;
  - (b) serve the appeal on the court officer; and
  - (c) in the appeal—
    - (i) explain why a different decision should be made, and
    - (ii) specify the decision that the defendant proposes.
- (3) Where the court determines an appeal, the general rule is that it must do so at a hearing.

*[Note. Under paragraph 12 of Schedule 5 to the Courts Act 2003, where a collection order is in force the court's powers to deal with the defendant's liability to pay the sum for which that order was made are subject to the provisions of that Schedule and to fines collection regulations.*

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- (7) 1980 c. 43; section 79 was amended by paragraph 219 of Schedule 8 to the Courts Act 2003 (c. 39) and section 62 of, and paragraphs 45, 47 and 48 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
  - (8) 1980 c. 43; section 125 was amended by section 33 of the Police and Criminal Evidence Act 1984 (c. 60), section 65(1) of the Criminal Justice Act 1988 (c. 33), sections 95(1), 97(4) and 106 of, and Part V of Schedule 15 and Table (8) to, the Access to Justice Act 1999 (c. 22), section 109(1) of, and paragraph 238 of Schedule 8 to, the Courts Act 2003 (c. 39) and sections 62(3), 86 and 146 of and paragraphs 45 and 57 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).
  - (9) 1980 c. 43; section 88 was amended by paragraph 53 of Schedule 14 to the Criminal Justice Act 1982 (c. 48), paragraph 68 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and section 62 of, and paragraphs 45 and 54 of Schedule 13 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15). It is further amended by paragraphs 58 and 64 of Schedule 7 to the Criminal Justice and Court Services Act 2000 (c. 43) with effect from a date to be appointed.
  - (10) 2003 c. 39; paragraph 31 was amended by articles 2, 4 and 20 of S.I. 2006/1737.
  - (11) 2003 c. 39; paragraph 37 was amended by articles 2, 4 and 25(a) and (b) of S.I. 2006/1737.

*For the circumstances in which a defendant may appeal against a decision to which this rule applies, see paragraphs 23, 32 and 37(9) of Schedule 5 to the 2003 Act(12). The time limit for appeal is prescribed by those paragraphs. It may be neither extended nor shortened.]*

### **Application to reduce a fine, vary payment terms or remit a courts charge**

**30.5.**—(1) This rule applies where—

- (a) no collection order is in force and the defendant wants the court to—
  - (i) reduce the amount of a fine, or
  - (ii) vary payment terms;
- (b) the defendant, a fines officer or an enforcement agent wants the court to remit a criminal courts charge.

(2) Unless the court otherwise directs, such a defendant, fines officer or enforcement agent must—

- (a) apply in writing;
  - (b) serve the application on the court officer;
  - (c) if the application is to reduce a fine or vary payment terms, explain—
    - (i) what relevant circumstances have not yet been considered by the court, and
    - (ii) why the fine should be reduced, or the payment terms varied;
  - (d) if the application is to remit a criminal courts charge, explain—
    - (i) how the circumstances meet the time limits and other conditions in section 21E of the Prosecution of Offences Act 1985(13), and
    - (ii) why the charge should be remitted.
- (3) The court may determine an application—
- (a) at a hearing, which may be in public or in private; or
  - (b) without a hearing.

*[Note. See sections 75, 85 and 85A of the Magistrates' Courts Act 1980(14), section 165 of the Criminal Justice Act 2003(15) and section 21E of the Prosecution of Offences Act 1985.*

*Under section 21A of the 1985 Act(16), a court must, at the times listed in section 21B, order a defendant convicted of an offence to pay a charge in respect of relevant court costs. Under section 21E of the Act, a magistrates' court may remit the whole or part of such a charge, but—*

- (a) *the court may do so only if it is satisfied that—*
  - (i) *the defendant has taken all reasonable steps to pay the charge, having regard to his or her personal circumstances, or*
  - (ii) *collection and enforcement of the charge is impracticable;*
- (b) *the court may not do so at a time when the defendant is in prison; and*

(12) 2003 c. 39; paragraph 32 was amended by articles 2, 4 and 24(b) of S.I. 2006/1737.

(13) 1985 c. 23; section 21E was inserted by section 54 of the Criminal Justice and Courts Act 2015 (c. 2).

(14) 1980 c. 43; section 75 was amended by section 11 of, and paragraph 6 of Schedule 2 to, the Maintenance Enforcement Act 1991 (c. 17). Section 85 was substituted by section 61 of the Criminal Justice Act 1988 (c. 33) and amended by section 55 of, and paragraph 10(2) of Schedule 4 to, the Crime (Sentences) Act 1997 (c. 43), section 109(1) of, and paragraph 222 of Schedule 8 to, the Courts Act 2003 (c. 39) and section 179 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12). It is further amended by paragraphs 25 and 28 of Schedule 32 to the Criminal Justice Act 2003 (c. 44) and section 26 of the Crime and Courts Act 2013 (c. 22), with effect from dates to be appointed. Section 85A was inserted by section 51(1) of the Criminal Justice Act 1982 (c. 48).

(15) 2003 c. 44.

(16) 1985 c. 23; section 21A was inserted by section 54 of the Criminal Justice and Courts Act 2015 (c. 2).

- (c) *the court may not do so unless the periods specified by regulations under section 21E all have expired.]*

### **Claim to avoid fine after penalty notice**

**30.6.**—(1) This rule applies where—

- (a) a chief officer of police serves on the magistrates' court officer a certificate registering, for enforcement as a fine, a sum payable by a defendant after failure to comply with a penalty notice; and
- (b) the court or a fines officer enforces the fine.

(2) A defendant who claims not to be the person to whom the penalty notice was issued must, unless the court otherwise directs—

- (a) make that claim in writing; and
- (b) serve it on the court officer.

(3) The court officer must—

- (a) notify the chief officer of police by whom the certificate was registered; and
- (b) refer the case to the court.

(4) Where such a claim is made—

- (a) the general rule is that the court must adjourn the enforcement for 28 days and fix a hearing; but
- (b) the court may make a different order.

(5) At any such hearing, the chief officer of police must introduce any evidence to contradict the defendant's claim.

*[Note. See section 10 of the Criminal Justice and Police Act 2001(17).*

*For the circumstances in which a sum may be registered for enforcement as a fine after failure to comply with a penalty notice, see sections 8 and 9 of the 2001 Act(18).]*

### **Information to be included in a warrant of control**

**30.7.**—(1) A warrant must identify—

- (a) each person to whom it is directed;
- (b) the defendant against whom it was issued;
- (c) the sum for which it was issued and the reason that sum is owed;
- (d) the court or fines officer who issued it, unless that is otherwise recorded by the court officer; and
- (e) the court office for the court or fines officer who issued it.

(2) A person to whom a warrant is directed must record on it the date and time at which it is received.

(3) A warrant that contains an error is not invalid, as long as—

- (a) it was issued in respect of a lawful decision by the court or fines officer; and

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(17) 2001 c. 16; section 10 was amended by paragraphs 1 and 10 of Schedule 23 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10).

(18) 2001 c. 16; section 8 was amended by section 109(1) of, and paragraph 399 of Schedule 8 to, the Courts Act 2003 (c. 39). Section 9 was amended by section 109(1) of, and paragraph 400(1) (2) (3) and (4) of Schedule 8 to, the Courts Act 2003 (c. 39).

- (b) it contains enough information to identify that decision.

*[Note. See sections 78 and 125ZA of the Magistrates' Courts Act 1980(19).]*

**Warrant of control: application by enforcement agent for extension of time, etc.**

**30.8.**—(1) This rule applies where an enforcement agent wants the court to exercise a power under Schedule 12 to the Tribunals, Courts and Enforcement Act 2007(20), or under regulations made under that Schedule, to—

- (a) shorten or extend a time limit;
- (b) give the agent authority to—
  - (i) enter premises which the agent would not otherwise have authority to enter,
  - (ii) enter or remain on premises at a time at which the agent would not otherwise have authority to be there,
  - (iii) use reasonable force, in circumstances in which the agent would not otherwise have authority to use such force,
  - (iv) sell goods by a method which the agent would not otherwise have authority to use, or
  - (v) recover disbursements which the agent would not otherwise have authority to recover;
- (c) specify the manner in which goods which have not been sold must be disposed of.

(2) Such an enforcement agent must—

- (a) apply in writing;
- (b) serve the application on the court officer; and
- (c) pay any fee prescribed.

(3) The application must—

- (a) identify the power that the agent wants the court to exercise;
- (b) explain how the conditions for the exercise of that power are satisfied, including any condition that requires the agent to give another person notice of the application;
- (c) specify those persons, if any, to whom the agent has given notice in accordance with such a condition; and
- (d) propose the terms of the order that the agent wants the court to make;

(4) A person to whom the enforcement agent has given notice of an application and who wants to make representations to the court must—

- (a) serve the representations on—
  - (i) the court officer,
  - (ii) the enforcement agent, and
  - (iii) any other person to whom the enforcement agent gave notice;
- (b) do so as soon as reasonably practicable and in any event within such period as the court directs; and
- (c) in the representations, propose the terms of the order that that person wants the court to make, and explain why.

(19) 1980 c. 43; section 78 was amended by sections 37 and 46 of the Criminal Justice Act 1982 (c. 48) and paragraph 219 of Schedule 8 to, the Courts Act 2003 (c. 39). Section 125ZA was inserted by section 68 of the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(20) 2007 c. 15.

- (5) The court—
- (a) must not determine an application unless any person to whom the enforcement agent gave notice—
    - (i) is present, or
    - (ii) has had a reasonable opportunity to respond;
  - (b) subject to that, may determine an application—
    - (i) at a hearing, which must be in private unless the court otherwise directs, or
    - (ii) without a hearing.

*[Note. See paragraphs 8, 15, 20, 21, 25, 31, 32 and 41 of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007(21), regulations 6, 9, 13, 22, 25, 28, 29, 41 and 47 of the Taking Control of Goods Regulations 2013(22) and regulation 10 of the Taking Control of Goods (Fees) Regulations 2014(23). Under paragraph 41 of that Schedule and regulation 41 of the 2013 Regulations, on an application for authority to sell goods otherwise than by public auction the enforcement agent must give notice to a creditor of the defendant in the circumstances described in those provisions.]*

#### **Warrant of control: application to resolve dispute**

**30.9.**—(1) This rule applies where a defendant's goods are sold using the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 and there is a dispute about—

- (a) what share of the proceeds of those goods should be paid by the enforcement agent to a co-owner; or
  - (b) the fees or disbursements sought or recovered by the enforcement agent out of the proceeds.
- (2) An enforcement agent, a defendant or a co-owner who wants the court to resolve the dispute must—
- (a) apply in writing as soon as practicable after becoming aware of the grounds for doing so;
  - (b) serve the application on
    - (i) the court officer,
    - (ii) each other party to the dispute, and
    - (iii) any other co-owner; and
  - (c) pay any fee prescribed.
- (3) The application must—
- (a) identify the warrant of control;
  - (b) specify the goods sold, the proceeds, and the fees and disbursements sought or recovered by the enforcement agent;
  - (c) identify the power that the applicant wants the court to exercise;
  - (d) specify the persons served with the application;
  - (e) explain the circumstances of the dispute; and
  - (f) propose the terms of the order that the applicant wants the court to make.
- (4) A person served with an application who wants to make representations to the court must—

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(21) 2007 c. 15. Paragraph 31 of Schedule 12 was amended by section 25(1), (5) of the Crime and Courts Act 2013 (c. 22). Paragraphs 60 and 66 of Schedule 12 were amended by paragraph 52 of Schedule 9 to the Crime and Courts Act 2013 (c. 22).

(22) S.I. 2013/1894.

(23) S.I. 2014/1.

- (a) serve the representations on—
    - (i) the court officer,
    - (ii) the applicant, and
    - (iii) any other person on whom the application was served;
  - (b) do so as soon as reasonably practicable and in any event within such period as the court directs; and
  - (c) in the representations, propose the terms of the order that that person wants the court to make, and explain why.
- (5) The court—
- (a) must determine an application at a hearing, which must be in private unless the court otherwise directs;
  - (b) must not determine an application unless each party—
    - (i) is present, or
    - (ii) has had a reasonable opportunity to attend.

*[Note. See paragraph 50 of Schedule 12 to the Tribunals, Courts and Enforcement Act 2007(24), and regulations 15 and 16 of the Taking Control of Goods (Fees) Regulations 2014(25).]*

#### **Financial penalties imposed in other European Union member States**

**30.10.**—(1) This rule applies where the Lord Chancellor gives the court officer a request to enforce a financial penalty imposed in another European Union member State.

- (2) The court officer must serve on the defendant—
- (a) notice of the request for enforcement, and of its effect;
  - (b) a copy of—
    - (i) the certificate requesting enforcement, and
    - (ii) the decision requiring payment to which that certificate relates; and
  - (c) notice that the procedure set out in this rule applies.
- (3) A defendant who wants the court to refuse enforcement must—
- (a) serve notice of objection on the court officer;
  - (b) unless the court otherwise directs, serve that notice not more than 14 days after service of notice of the request; and
  - (c) in the notice of objection—
    - (i) identify each ground for refusal on which the defendant relies,
    - (ii) summarise any relevant facts not already included in the certificate and decision served with the notice of the request, and
    - (iii) identify any other document that the defendant thinks the court will need to determine the request (and serve any such document with the notice).
- (4) The court—
- (a) may determine a request for enforcement—
    - (i) at a hearing, which must be in public unless the court otherwise directs, or
    - (ii) without a hearing; but

(24) 2007 c. 15.

(25) S.I. 2014/1.



- (b) must not allow enforcement unless the defendant has had at least 14 days in which to serve notice of objection.
- (5) Paragraphs (2) and (3) do not apply if, on receipt of the request, the court decides that a ground for refusal applies.
- (6) The court officer must serve on the Lord Chancellor notice of the court's decision.

*[Note. Under section 84 of the Criminal Justice and Immigration Act 2008(26)—*

- (a) *the Lord Chancellor may receive—*
  - (i) *a certificate issued in another European Union member State, requesting enforcement of a financial penalty to which applies the Framework Decision of the Council of the European Union 2005/214/JHA, as amended by Council Framework Decision 2009/299/JHA, on the application of the principle of mutual recognition to financial penalties; and*
  - (ii) *the decision requiring payment of the penalty to which that certificate relates; and*
- (b) *the Lord Chancellor must then give the court officer—*
  - (i) *that certificate and that decision, and*
  - (ii) *a notice stating whether the Lord Chancellor thinks that any of the grounds for refusal of the request apply, and giving reasons for that opinion.*

*Under section 85 of the 2008 Act—*

- (a) *the court must then decide whether it is satisfied that any of the grounds for refusal of the request apply; and*
- (b) *if the court is not so satisfied, then the decision requiring payment may be enforced as if the penalty concerned were a sum that the court itself had ordered to be paid on convicting the defendant.*

*The grounds for refusal are listed in Schedule 19 to the 2008 Act, paraphrasing the grounds set out in the Framework Decision.*

*See also sections 91 and 92 of the 2008 Act.]*