

COURTS ACT 2003

EXPLANATORY NOTES

COMMENTARY

Fees, costs and fines

Part 6: Variation of collection order containing payment terms

278. **Part 6** deals with applications to the fines officer to vary the payment terms set by the court when imposing a collection order. Paragraph 22 stipulates that the offender may apply to the fines officer for a variation in payment terms at any time after the collection order is made and before Part 7 applies, provided he is not in default on the order.

279. The offender may apply for the payment terms to be varied, or volunteer for AOE or DFB. However, such an application may not be made unless:

- there has been a material change in the offender's circumstances since the collection order was made, or since the fines officer last used his powers to vary under this paragraph; or
- if the offender has provided more information about his circumstances (i.e. the information that was not available to the court when the original payment terms were set).

On application, the fines officer may decide whether or not to vary the payment terms in the offender's favour, or decide whether or not to make an AOE or application for DFB.

280. If the fines officer decides to make an AOE or application for DFB, he must also set reserve terms which will apply should the order fail. The reserve terms must be no more onerous than the payment terms originally set by the court.

281. The fines officer's decision must be in writing, dated and delivered to the offender.

282. **Paragraph 23** gives the offender the right of appeal to the magistrates' court against the fines officer's decision. The appeal must be lodged within 10 working days of the date of the decision. On appeal the magistrates' court may:

- confirm or vary the payment terms (or reserve terms);
- make an AOE or application for DFB benefits; or
- discharge the collection order and handle the case itself, using its standard powers. These are defined in Paragraph 50 of the Schedule as being any power which a magistrates' court would have had if a collection order had not been made, and any power given to the court by virtue of the fines collection regulations made under this Schedule.
- if the court attached earnings or benefits, it must vary the collection order so that it states reserve terms for use should the attachment/deduction fail.

*These notes refer to the Courts Act 2003 (c.39)
which received Royal Assent on 20 November 2003*

283. [Paragraph 24](#) details the nature of the power to vary the terms of the collection order in the offender's favour. Under this paragraph, the fines or court may:
- require the offender to pay by instalments rather than within a given period; or
 - require the offender to pay within a given period, rather than by instalments.
284. If the sum due is to be paid by instalments, the fines officer may vary the number of instalments, the amount of any instalment, and the date on which any instalment should be paid.
285. The paragraph also gives the fines officer the same powers in relation to varying the reserve terms which may be applied should an AOE or DFB fail.