

**2005 No. 484**

**MAGISTRATES' COURTS, ENGLAND AND WALES**

**The Fines Collection (Amendment) Regulations 2005**

*Made* - - - - - *6th March 2005*

*Laid before Parliament* *8th March 2005*

*Coming into force in accordance with regulation 1(1)*

The Lord Chancellor, in exercise of the powers conferred upon him by sections 97(1) and 108(6) of, and paragraphs 27(4), 33(3), 38(1)(e) and (2)(b), 41, 42(3), 43, 44, 45, 46, 47 and 50 of Schedule 5 to, the Courts Act 2003(a) hereby makes the following Regulations:

**Citation, commencement, duration, extent, definition and transitional provision**

1.—(1) These Regulations may be cited as the Fines Collection (Amendment) Regulations 2005 and shall come into force—

- (a) for the purposes of regulation 2 of these Regulations and this regulation on 30th March 2005; and
- (b) for all other purposes on 1st April 2005.

(2) These Regulations shall cease to have effect on the 31st March 2006.

(3) These Regulations apply to local justice areas, in England and Wales to which the provisions of Schedule 5 of the Courts Act 2003 have effect in accordance with The Collection of Fines (Pilot Schemes) Order 2004(b).

(4) In these Regulations a reference to the “Fines Collection Regulations 2004(c)” means a reference to that Regulation as amended by the Fines Collection (Amendment) Regulations 2004(d).

(5) In these Regulations, unless the context otherwise requires, a reference to a regulation by number alone is a reference to the regulation so numbered in the Fines Collection Regulations 2004.

(6) Unless the court or fines officer orders otherwise, any orders made by virtue of the Fines Collections Regulations 2004 before 1st April 2005 shall continue to have effect as if these Regulations, other than regulation 2, had not been made.

**Amendments to the Fines Collection Regulations 2004**

2. In paragraph (3) of regulation 1 (citation, commencement, duration, application and interpretation) for “31st March 2005” substitute “31 March 2006”.

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(a) 2003 c.39

(b) S.I. 2004/175 as amended by The Collection of Fines (Pilot Schemes) (Amendment) Order 2004 S.I. 2004/1406 and The Collection of Fines (Pilot Schemes) (Amendment) Order 2005 S.I. 2005/487

(c) S.I. 2004/176

(d) S.I. 2004/1407

3.—(1) Amend regulation 1 as follows.

(2) In paragraph (4) after “petty sessions areas” insert “or local justice areas”.

(3) In paragraph (5) in the definition of “clamping contractor” for “justices chief executive” substitute “designated officer”.

4.—(1) Amend regulation 3 (transitional provision) as follows.

(2) In paragraph (1) after “any such order or application” insert “in the local justice area equivalent to that petty sessions area”.

(3) In paragraph (2) after “any such order or application” insert “in the local justice area equivalent to that petty sessions area”.

5.—(1) Amend regulation 4 (Application with modifications of the Attachment of Earnings Act 1971) as follows.

(2) After paragraph (d) insert—

“(dd) delete section 6(5);

(de) in paragraph 1 of Part I of Schedule 3 for “three” substitute “two”;

(3) In paragraph (e)—

(a) for the words from the beginning to “following Part I—”, substitute “for paragraphs 4, 5 and 6 of Part I of Schedule 3 substitute the following paragraph 4—”;

(b) in the substituted text—

(i) omit “PART I”; and

(ii) for each occurrence of “Net earnings” substitute “Attachable Earnings”;

(c) at the end of the tables inserted by regulation 4(e) insert the following—

“5. Subject to paragraphs 6 and 7, the sum to be deducted by an employer under an attachment of earnings order on any pay-day shall be—

(a) where the debtor’s earnings from the employer are payable weekly, a sum equal to the appropriate percentage of the attachable earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table A in paragraph 4 in relation to the band in column 1 of that Table within which the attachable earnings fall;

(b) where his earnings from the employer are payable monthly, a sum equal to the appropriate percentage of the attachable earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table B in paragraph 4 in relation to the band in column 1 of that Table within which the attachable earnings fall;

(c) where his earnings from the employer are payable at regular intervals of a whole number of weeks or months, the sum arrived at by—

(i) calculating what would be his weekly or monthly attachable earnings by dividing the attachable earnings payable to him by the employer on the pay-day by that whole number (of weeks or months, as the case may be),

(ii) ascertaining the percentage (or percentages) specified in column 2 of Table A (if the whole number is of weeks) or of Table B (if the whole number is of months) in paragraph 4 opposite the band in column 1 of that Table within which the notional attachable earnings calculated under paragraph (i) fall, and

(iii) calculating the sum which equals the appropriate percentage (or percentages) of the notional attachable earnings for any of those weeks or months and multiplying that sum by the whole number of weeks or months, as appropriate.

6. Where paragraph 5 applies and the amount to be paid to the debtor on any pay-day includes an advance in respect of future pay, the sum to be deducted on that pay-day shall

be the aggregate of the amount which would otherwise fall to be deducted under paragraph 5 and—

- (a) where the amount advanced would otherwise have been paid on a single pay-day, the sum which would have been deducted on that pay-day in accordance with paragraph 5 if the amount advanced had been the amount of attachable earnings on that day; or
- (b) where the amount advanced would otherwise have been paid on more than one pay-day, the sums which would have been deducted on each of the relevant pay-days in accordance with paragraph 5 if—
  - (i) an equal proportion of the amount advanced had been paid on each of those days; and
  - (ii) the attachable earnings of the debtor on each of those days had been an amount equal to that proportion.

7. Where the amount payable to the debtor on any pay-day is reduced by reason of an earlier advance of pay, the attachable earnings of the debtor on that day shall, for the purposes of paragraph 5, be the amount defined in paragraph 3 less the amount of the deduction.

8. Subject to paragraphs 9 and 10, where the debtor's earnings from the employer are payable at regular intervals other than at intervals to which paragraph 5 applies, the sum to be deducted on any pay-day shall be arrived at by—

- (a) calculating what would be his daily attachable earnings by dividing the attachable earnings payable to him by the employer on the pay-day by the number of days in the interval,
- (b) ascertaining the percentage (or percentages) specified in column 2 of Table C in paragraph 4 opposite the band in column 1 of that Table within which the notional attachable earnings calculated under sub-paragraph (a) fall, and
- (c) calculating the sum which equals the appropriate percentage (or percentages) of the notional daily attachable earnings and multiplying that sum by the number of days in the interval.

9. Where the debtor's earnings are payable as mentioned in paragraph 8, and the amount to be paid to the debtor on any pay-day includes an amount advanced in respect of future pay, the amount of the debtor's notional attachable earnings under sub-paragraph (a) of that paragraph shall be calculated in accordance with the formula—

$(A + B) \text{ divided by } (C + D)$

where:

A is the amount of attachable earnings payable to him on that pay-day (exclusive of the amount advanced);

B is the amount advanced;

C is the number of days in the period for which the amount of attachable earnings is payable; and

D is the number of days in the period for which, but for the agreement to pay in advance, the amount advanced would have been payable.

10. Paragraph 7 applies in relation to paragraph 8 as it applies in relation to paragraph 5.

11. Where earnings are payable to a debtor by the employer by 2 or more series of payments at regular intervals—

- (a) if some or all of the intervals are of different lengths—
  - (i) for the purpose of arriving at the sum to be deducted, whichever of paragraphs 5, 6, 7, 8, 9 and 10 is appropriate shall apply to the series with the shortest

interval (or, if there is more than one series with the shortest interval, such one of those series as the employer may choose), and

(ii) in relation to the earnings payable in every other series, the sum to be deducted shall be 20 per cent of the attachable earnings or, where on any pay-day an amount advanced is also paid, 20 per cent of the aggregate of the attachable earnings and the amount advanced;

(b) if all of the intervals are of the same length, whichever of paragraphs 5, 6, 7, 8, 9 and 10 is appropriate shall apply to such series as the employer may choose and sub-paragraph (a)(ii) shall apply to every other series,

and paragraph 7 shall apply in relation to sub-paragraph (a)(ii) above as it applies in relation to paragraph 5.

**12.** Subject to paragraphs 13 and 14, where the debtor's earnings from the employer are payable at irregular intervals, the sums to be deducted on any pay-day shall be arrived at by—

(a) calculating what would be his daily attachable earnings by dividing the attachable earnings payable to him by the employer on the pay-day—

(i) by the number of days since earnings were last payable by the employer to him, or

(ii) if the earnings are the first earnings to be payable by the employer to him with respect to the employment in question, by the number of days since he began the employment;

(b) ascertaining the percentage (or percentages) specified in column 2 of Table C in paragraph 4 opposite the band in column 1 of that Table within which the notional attachable earnings calculated under sub-paragraph (a) fall; and

(c) calculating the sum which equals the appropriate percentage (or percentages) of the daily attachable earnings and multiplying that sum by the same number as that of the divisor for the purposes of the calculation mentioned in sub-paragraph (a).

**13.** Where on the same pay-day there are payable to the debtor by the employer both earnings payable at regular intervals and earnings payable at irregular intervals, for the purpose of arriving at the sum to be deducted on the pay-day under the foregoing paragraphs all the earnings shall be aggregated and treated as earnings payable at the regular interval.

**14.** Where there are earnings payable to the debtor by the employer at regular intervals on one pay-day, and earnings are payable by the employer to him at irregular intervals on a different pay-day, the sum to be deducted on each of the pay-days on which the earnings which are payable at irregular intervals are so payable shall be 20 per cent of the attachable earnings payable to him on the day.”.

**6.—**(1) Amend regulation 6 (application with modifications of the Magistrates' Courts Act 1980) as follows.

(2) In paragraph (a), the text substituted or inserted into section 89(2) and (5) of the Magistrates' Court Act 1980(a)—

(a) for each occurrence of “petty sessions area” substitute “local justice area”, and

(b) for each occurrence of “justices' chief executive” substitute “designated officer”.

(3) In paragraphs (b) and (c), the text substituted into section 90(3) and the text in relation to the insertion into section 91(1), for “justices' chief executive” substitute “designated officer”.

**7.** For regulation 7 (increase in fine) substitute—

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(a) 1980 c.43

**“7. The increase in the fine under paragraph 50A shall be 50% of the fine.”**

**8.** In regulation 8 (delivery of increase notice or further steps notice) for “An increase notice under paragraph 28 or a” substitute “A”.

**9.—**(1) Amend regulation 9 (another step available against defaulters) as follows.

(2) In paragraph (2) sub-paragraphs (a) and (b)—

(i) for “paragraph” substitute “subsection”; and

(ii) for “justices’ chief executive” substitute “designated officer”.

(3) Omit sub-paragraph (c) of paragraph (2).

**10.** In regulation 11 (summons for ensuring attendance of P before the court) omit “35,”.

**11.** In regulation 14 (matters to be included in a clamping order) omit paragraph (c).

**12.** In regulation 19 (duties of an authorised person and other members of the contractor’s staff) omit paragraph (6).

**13.** In paragraph (3)(b) of regulation 21 (payment of the fine and any charge or charges and release of vehicle) after “guarantee card)” insert “or may be accepted by credit card (up to the credit limit for which the card is valid)”.

**14.** In paragraph (1) of regulation 22 (removal for storage) for “7 clear days from the date” substitute “24 hours from the time”

**15.** In paragraph (1), (3)(c) and (6) of regulation 24 (sale of clamped vehicles) for “3 months” substitute “1 month”.

**16.** Amend paragraph (1) of regulation 25 (complaints procedure) as follows—

(a) Omit “and the fines officer”; and

(b) After “release of the vehicle.” insert “A complaint can be made to the fines officer during the fines officers’ office hours.”.

On the authority of the Lord Chancellor

6th March 2005

*Christopher Leslie*  
Parliamentary Under Secretary of State  
Department of Constitutional Affairs

## EXPLANATORY NOTE

*(This note is not part of the Order)*

These Regulations amend the Fines Collection Regulations 2004 (“the 2004 Regulations”). The 2004 Regulations implemented the fines collection scheme contained in Schedule 5 of the Courts Act 2003 in accordance with the Collection of Fines (Pilot Schemes) Order 2004, which established schemes for the piloting of different provisions of that Schedule. The initial stage of the piloting has been completed and evaluated and these Regulations have the effect of extending the period of the 2004 Regulation to allow piloting to continue and to implement changes to the scheme as identified by the evaluation.

The Regulations are being commenced (regulation 1(1)(a)) on 30th March 2005 for the purposes of extending the operation of the 2004 Regulations before they would otherwise cease to have effect. Other amendments made by these Regulations come into force in the 1st April 2005. This is because certain amendments are made in relation to the commencement of unified administration provisions in the Courts Act 2003 on the 1st April 2005, which will alter the references to “petty sessions areas” and remove the post of “justices’ chief executives”.

Regulations 3(2) and (3), 4, 6, 9, are made to update references in the 2004 Regulations to be consistent with alterations being brought into force on 1st April by the unified administration provisions in the Courts Act 2003.

Regulation 5 inserts amendments into the modification of the Attachment to Earnings Act 1971. Paragraphs 2 and 3(a) and (b) of Regulation 5 amend the 2004 Regulations so that the definitions of pay-day and attachable earnings in paragraphs 2 and 3 of Schedule 3 to the 1971 Act are still included in the modified Schedule. The effect of paragraph 3(c) is to modify Schedule 3 of the 1971 Act by inserting new paragraphs 5 to 14 (as detailed below) to provide instructions for employers to calculate the attachable earnings in different circumstances in line with the tables set out (now) in paragraph 4 of the modified Schedule.

Paragraph 5 applies to normal pay-days where the employee is paid weekly or monthly or by whole multiples of weeks or months.

Paragraph 6 applies to pay-days where an advance of pay is made, as may be the case for holiday pay.

Paragraph 7 prevents an advance of pay already taken into account in paragraph 6 from being taken into account again.

Paragraphs 8, 9 and 10 apply where an employee is paid at regular intervals other than weeks, months or multiples thereof and include both normal pay and advances of pay.

Paragraph 11 applies when an employee is paid in two or more series of regular intervals.

Paragraph 12 applies where an employee is paid at irregular intervals.

Paragraph 13 applies where an employee is paid at both regular and irregular intervals and receives those payments on the same pay-day.

Paragraph 14 applies where an employee is paid at both regular and irregular intervals and receives those payments on different pay-days.

Regulation 7 substitutes regulation 7 of the 2004 Regulations in its entirety fixing the increase level at 50% in accordance with the recommendations from the evaluation of the pilots.

The amendments in regulations 8, 10 and 11 are made pursuant to the alteration in the pilot schemes removing the automatic increase.

Regulation 12 removes the need for photographs to be taken of repositioned vehicles during the carrying out of a clamping order.

Regulation 13 makes allowance for those clamping a vehicle to accept credit card payments.

Regulations 14 and 15 reduces the time that a vehicle remains clamped before removal and the time that the vehicle is to be kept in storage before it can be sold.

Regulation 16 alters the need for the fines officer to be available during all times when clamping takes place.

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STATUTORY INSTRUMENTS

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