

**RULE [32] 142. PROCEDURES GOVERNING DEFAULTS IN PAYMENT OF FINE IMPOSED AS PUNISHMENT FOR CONTEMPT.**

(A) If a contemnor defaults on the payment of a fine imposed as punishment for contempt pursuant to 42 Pa.C.S. §§ 4137(c), 4138(c), or 4139(c), the issuing authority shall notify the contemnor in person or by first class mail that within 10 days of the date on the default notice the contemnor must either:

- (1) pay the amount due as ordered, or
- (2) appear before the issuing authority to show cause why the contemnor should not be imprisoned for nonpayment as provided by law,

or a warrant for the contemnor's arrest shall be issued.

(B) When the contemnor appears either in response to the paragraph (A)(2) notice or following an arrest with a warrant issued pursuant to paragraph (A), the issuing authority shall conduct a hearing to determine whether the contemnor is financially able to pay as ordered.

- (1) Upon a determination that the defendant is financially able to pay as ordered, the issuing authority may impose imprisonment for nonpayment, as provided by law.
- (2) Upon a determination that the contemnor is financially unable to pay as ordered, the issuing authority may order a schedule for installment payments.

(C) A contemnor may appeal an issuing authority's determination pursuant to this rule by filing a notice of appeal within 30 days of the issuing authority's order. The appeal shall proceed as provided in Rule **[31] 141**.

COMMENT: This rule provides the procedures governing defaults in the payment of fines imposed as punishment for contempt in proceedings before district justices, Pittsburgh Magistrates Court judges, and Philadelphia Traffic Court judges. See 42 Pa.C.S. §§ 4137(c), 4138(c), or 4139(c).

As used in this rule, "issuing authority" refers only to district justices, Pittsburgh Magistrates Court judges, and Philadelphia Traffic Court judges when acting within the scope of their contempt powers. See 42 Pa.C.S. §§ 4137, 4138, and 4139.

For contempt procedures generally, see Rule **[30] 140**.

When a contemnor defaults on a payment of a fine, paragraph (A) requires the issuing authority to notify the contemnor of the default, and to provide the contemnor with an opportunity to either pay the amount due or appear within a 10-day period to show cause why the contemnor should not be imprisoned for nonpayment. If the contemnor fails to pay or appear, the issuing authority must issue a warrant for the arrest of the contemnor.

If the hearing on the default cannot be held immediately, the issuing authority may set bail as provided in Chapter **[4000] 5 Part C**.

This rule contemplates that when there has been an appeal pursuant to paragraph (C), the case would return to the issuing authority who presided at the default hearing for completion of the collection process.

NOTE: **Rule 32 [A]** adopted October 1, 1997, effective October 1, 1998 [.] ; **renumbered Rule 142 and amended March 1, 2000, effective April 1, 2001.**

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**COMMITTEE EXPLANATORY REPORTS:**

**Final Report explaining the provisions of new Rule 32 published with the Court's Order at 27 Pa.B. 5405 (October 18, 1997).**

**Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at Pa.B. ( \_\_\_\_\_, 2000).**