

EXPLANATORY MEMORANDUM TO
THE REGISTER OF JUDGMENTS, ORDERS AND FINES REGULATIONS
2005

2005 No. 3595

1. This memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by command of Her Majesty. The memorandum contains information for the House of Lords Select Committee on the Merits of Statutory Instruments and the Joint Committee on Statutory Instruments.

2. Description

The new Regulations come into force on 6 April 2006, but due to significant stakeholder interest it is intended to lay them before Parliament in January 06.

The Regulations replace both the Register of County Court Judgments Regulations 1985 and the Register of Fines Regulations 2003. They provide a regulatory framework for the keeper of the Public register of-

- County court judgments
- High court judgments
- Magistrate court fines
- County court Administration orders
- Child support agency liability orders

3. Matters of Special interest to the Joint Committee on Statutory Instruments.

None

4. Legislative Background

The Register of Judgments Orders and Fines Regulations 2005 (the new Regulations) consolidate the Register of County Court Judgments Regulations 1985 (SI 1985 No. 1807 as amended by 1990/491, 1990/768, 1991/1815, 1993/710 and 1993/2173) and the Register of Fines Regulations 2003 (SI 2003 No.3184).

The new Regulations are made under section 98 of the Courts Act 2003 (the Act), which also consolidates section 73 and section 73A of the County Courts Act 1984, with those provisions in the Act dealing with the registration of fines as a means of enforcement.

The new Regulations make provision in respect of a public Register to be kept of-

- (a) Judgments entered in the High court;
- (b) Judgments entered in county courts;
- (c) Administration orders made under section 112 of the County Courts Act 1984 (c.28); and

- (d) Sums registered by virtue of paragraph 38(1)(b) of schedule 5 to the Magistrates Courts Act 1980.

In particular the new Regulations provide for -

- (a) judgments, administration orders and fines to be registered (regulations 8 and 9)
- (b) cancellation of entries in the register and endorsement of notices against entries (regulations 11 to 17)
- (c) certification as to the payment in full of a debt owed under a judgment or administration order and as to the payment in full of a fine (regulations 18 to 20)
- (d) amendment of entries in the register (regulations 21 to 26);
- (e) removal of an entry in the register (regulation 27);
- (f) searches of the register and provision of certified copies (regulations 28 and 29)
- (g) refusal of access to the register and appeals against that refusal (regulation 30)

The new power for a registered debtor to amend his entry on the Register brings the Regulations up to date with the Data Protection Act 1998.

The new power for the Registrar to refuse access to the Register is intended to assist with the tackling of so called ‘credit repair’ companies, who sometimes use the data on the register to target potential customers, with advice on how to undermine the court process.

5. Extent

This instrument applies to England and Wales.

6. European Convention on Human Rights

The Lord Chancellor is satisfied that this instrument complies with the government’s obligations under the European Convention on Human Rights.

7. Policy Background

In 2003 the Department issued a consultation, “*Register of County Court Judgments*”, (*Report and Recommendations on a Review of the Service and Methods of Service Delivery*) and its Report on consultation was published in December 2003. This consultation demonstrated enthusiasm for the registration of fines and High court judgments, and the addition of an individual debtor’s date of birth (where known) onto the Register. The consultation particularly sought views from the Law Society, the Bar, banks, credit reference agencies, the Civil Court Users’ Association, the Finance & Leasing Association, High Court Enforcement Officers, the judiciary, and the advice sector.

In drafting the new Regulations, drafts were passed to the Civil Court Users’ Association, credit reference agencies and Registry Trust Ltd (the current Registrar) for comment. The final draft approved by the Minister had been cleared by these stakeholders.

8. Impact

No RIA was created for the registration of High Court judgments because the volumes are relatively small and they are very similar to county court judgments.

No RIA was created for the registration of an individual debtor's date of birth as this is not a mandatory requirement. This has been provided in response to requests from creditor and credit referencing stakeholders, as it will assist with the better identification of individual registered debtors. In June 2005, the Civil Procedure Rule Committee agreed new Civil Procedure Rules for the collection of a defendant's date of birth by the courts in anticipation of the new Regulations. The new rules were published in October 2005.

The original RIA relating to the fine registration powers under section 98 of the Act is attached at Annex A. This is part of a larger RIA dealing with the fine enforcement sanctions provided under Schedule V of the Act. It was believed at the time of drafting that the fine registration sanction could be self-financing. However, until the market for registered fines data has fully developed, this will be a cost to DCA, although some income from public searches will offset this.

The cost of setting up and running the fine registration scheme is estimated as follows–

- Development of courts IT support – £100,250
- Annual running costs (including Registrar's staff) – £237,750 per annum

The fine registration sanction has proved to be a most effective sanction, contributing significantly to the improved fine payment rate in pilots, and this will continue to be monitored as it is rolled out nationally.

9. Contact

David Canning
Her Majesty's Courts Service
5th Floor Selborne House
54-60 Victoria Street
London
SW1E 6QW

Tel. 020 7210 8944

David.Canning@hmcourts-service.gsi.gov.uk

ANNEX A

COURTS ACT 2003 – REGULATORY IMPACT ASSESSMENT (EXTRACT)

Option 2e – Registration of the fine with the registry of judgments

49. The threat to register default is potentially a powerful sanction because of the impact it would have on a defaulter's ability to obtain credit. The existing scheme for registration of county court judgements provides a model for the registration of fines. That scheme is self-financing: the cost of registration is covered by the fees charged to credit rating companies and the public to search the register. Although there might be a small initial cost in training court staff to use the new system, this would be recovered from the fees charged. While it is possible that the volume of fines registered might cost more than the additional search revenue generated, it would be possible to increase the search fees. We do not have data on the cost of adding fine defaulters to the register, nor on the numbers of fine defaulters who may be added to the register, in advance of the pilots.