

**EXPLANATORY MEMORANDUM TO THE
REGISTER OF FINES (AMENDMENT) REGULATIONS 2005**

2005 No. 485

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

2. Description

- 2.1 The Register of Fines (Amendment) Regulations 2005 amends Register of Fines Regulations 2003 (“the 2003 Regulations”) to incorporate the findings of the evaluation of pilots to test the fines collection scheme, as set up by the Courts Act 2003, which include registration as a sanction to be used to obtain payment from defaulters.

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

- 3.1 These Regulations are being commenced on 30th March 2005 for the purposes of extending the operation of the 2003 Regulations, before it would otherwise cease to have effect. Other amendments made by these Regulations come into force on the 1st April 2005. This is to keep it in line with the commencement of the substantive provisions in related SI’s.

4. Legislative background

- 4.1 The Regulations derive their authority from section 98 of the Courts Act 2003. That section, when fully commenced, will create a Register of judgements, fines and orders, for the High Court, county court and magistrate court fines. This will replace the existing county court register. The parts of section 98 relevant to the registration of fines were commenced in 2003 to allow for fines to be registered in accordance with the piloting of a fines collection scheme under Schedule 5 to the 2003 Act. The fines collection scheme included the introduction of registration of fine defaulters as a sanction to obtain payment. The Register of Fines Regulations 2003 were laid in December of 2003 detailing the Registration procedure. The initial piloting and evaluation of the fines collection scheme was expected to take about a year so the 2003 Regulations cease to have effect on 31st March 2005. The amendment Regulations are now provided to extend the use of the Register for the pilot schemes to continue taking into account alterations that have been identified by the evaluations.
- 4.2 These Regulations work alongside the Fines Collection (Amendment) Regulations 2005 and the Collection of Fines (Pilot Schemes) (Amendment) Order 2005.

5. Extent

- 5.1 The Regulations apply to England and Wales

6. European Convention on Human Rights

- 6.1 Lord Falconer has made the following statement concerning the Courts Act 2003, under the authority of which these Regulations are laid, regarding Human Rights: “In my view, the provisions of the Courts Act 2003 are compatible with the Convention rights.”

7. Policy background

- 7.1 One of the Government’s key objectives is to improve confidence in the criminal justice system. One of the ways it has identified to do that is to improve the effectiveness of fines as a penalty. There is a history of poor performance in this area and the Government has therefore launched a major programme of work to deliver sustainable improvements in performance.
- 7.2 Part of this work was contained in the Courts Act 2003, which was passed to provide the legislative framework for more effective and efficient enforcement. The Act introduced a number of new measures to ensure offenders pay their fines, one of which was the registration of fines. This measure was introduced to elicit payment from those who do not want their fine registered. The details of the registered debt would be obtainable by the public and may affect the offender’s ability to obtain credit.
- 7.3 The amendments to the 2003 Regulations have the following effects:
- 7.4 To extend the Regulations to 31 March 2006 to enable the altered pilots to continue.
- 7.4.1 To make the regulations for fine registration wholly equivalent to the regulations for the registration of civil debts, and to tie in with monthly salary payments, the period during which a fine can be paid thereby causing the name of the defaulter to be removed from the Register has been changed from 28 days to one calendar month.
- 7.4.1.1 In order to align this measure with provisions in relation to rehabilitation of offenders the name of a defaulter will now be removed from the Register on the fifth anniversary of conviction, rather than registration.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 No impact on the public sector is anticipated.

9. Contact

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