

**EXPLANATORY MEMORANDUM TO THE
COLLECTION OF FINES (PILOT SCHEME) (AMENDMENT) ORDER 2005**

2005 No.487

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 Collection of Fines (Pilot Schemes) (Amendment) Order 2005 amends the Collection of Fines (Pilot Schemes) Order 2004 (“the 2004 Order”) to incorporate the findings of the evaluation of pilots to test the fines collection scheme, as set up by the Courts Act 2003, before national rollout, and to take into account the inclusion of the magistrates courts in Her Majesty’s Court Service.

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

3.1 This Order is being commenced on 30th March 2005 for the purposes of extending the operation of the 2004 Order, before it would otherwise cease to have effect. Other amendments made by this Order come into force on the 1st April 2005. This is because certain amendments are made in relation to the commencement of the 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” and those changes cannot be brought into force before the 2004 order falls.

4. Legislative background

4.1 Schedule 5 of the Courts Act 2003 established a fines collection scheme. Provision was made in that Act for the scheme to be piloted and for legislation to be modified to give effect to the pilots. The Fines Collection Regulations 2004 were laid in January of 2004 modifying the legislation and providing the details of the fines collection scheme. At the same time, the Collection of Fines (Pilot Schemes) Order 2004 was laid to set up the pilots, modifying Schedule 5 so that different parts of the scheme could be tested in different areas. The initial piloting and evaluation was expected to take about a year so the 2004 Order ceases to have effect on 31st March 2005. The amendment Order now being provided is to extend the pilot schemes taking into account alterations that have been identified by the evaluations. Consequential amendments have also been made to the 2004 Order to take into account the commencement on the 1st April of the unified administration provisions in the Courts Act.

4.2 These Regulations work alongside the Fines Collection (Amendment) Regulations 2005 and the Register of Fines (Amendment) Regulations 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 Acts 2003, under the authority of which this Order is 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. The collection scheme set up by the Courts Act is based on three principles:

7.2.1 Fine enforcement should be an administrative process, and should not take up the time of magistrates.

7.2.2 There should be every opportunity for the offender to co-operate and to pay the fine promptly, but persistent offenders should not be able to play the system.

7.2.3 Help should be available for those who are genuinely struggling to pay.

7.3 Before these new measures were introduced nationally it was decided to test them in a number of areas to determine whether they worked, to what extent and how they might best be deployed. These areas were designated as pilot areas. The pilots started in February 2004 and were formally evaluated in September 2004.

7.4 The automatic use of Attachment of Earnings orders (AEOs) and Deductions from Benefit orders (DBs), together with a new means form - were rolled out across all magistrates courts in England and Wales in a national pilot commencing in April 2004. However, the scope of the evaluation was limited to the local pilot areas and the control areas (that only implemented the national pilot measures). Comparisons between the results in the pilot and control courts enabled the study to evaluate the benefits of new measures compared to traditional methods.

7.5 Other measures were tested in the pilot areas alone:

7.5.1 A new instrument was created – the collection order – to regulate the enforcement process.

7.5.2 The role of fines officer was created to take on the administrative management of fine collection.

7.5.3 Increasing the fine if the offender failed to pay. The increase was disapplied if the offender then made further arrangements for payment and maintained those agreed payments.

7.5.4 Registration of the fine, to initiate processes which may lead to the offender being denied credit.

7.5.5 Clamping the offender’s vehicle and selling it if the offender still refuses to pay.

- 7.5.6 Fines Payment Work assigned to the offender to pay off the fine.
- 7.6 In light of information gained from the evaluation of the pilots amendments have been made to the 2004 Order. The amendments to the 2004 Order have the following effects:
- 7.6.1 The increase sanction was altered so that it will no longer be automatic but at the discretion of the magistrate. It will only be applied when the court believes the prompt payment is possible, the default is due to wilful refusal or culpable neglect and that increase is the most effective sanction and will prompt payment. Only the fine will be increased, not costs and compensation and the increase will stand even if payment takes place immediately after it is applied. This revised scheme is designed to enable deployment of the sanction in the most effective way.
- 7.6.2 All new Attachment to Earnings will be able to be made under the new style to ensure consistency.
- 7.6.3 Costs and compensation payments have been brought into the scheme in their own right. A collection order will be issued in every case, unless there is a compelling reason not to, even if it is paid immediately. These amendments will ensure that nothing falls out of the scheme inadvertently.
- 7.7 Other amendments to the fines collection scheme are being introduced in the Fines Collection (Amendment) Regulations 2005 and the Register of Fines (Amendment) Regulations 2005, which operate alongside this Order.

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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