

**EXPLANATORY MEMORANDUM TO THE  
COLLECTION OF FINES (PILOT SCHEMES) (AMENDMENT NO 2) ORDER 2005**

**2005 No.642**

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by command of Her Majesty.

**2. Description**

2.1 The Collection of Fines (Pilot Schemes) (Amendment No 2) Order 2005 amends the Collection of Fines (Pilot Schemes) Order 2004 (S.I. 2004/175) to correct an inadvertent omission in the Collection of Fines (Pilot Schemes) (Amendment) Order 2005 (S.I. 2005/487).

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

3.1 None

**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 Collection of Fines (Pilot Schemes) Order 2004 (“the 2004 Order”) 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 31<sup>st</sup> March 2005. The Collection of Fines (Pilot Schemes) (Amendment) Order 2005 (“the 2005 Order”) extended the pilot schemes taking into account alterations that were identified by the evaluations. This Order adds to the 2005 Order to include an omission from that 2005 Order.

4.2 This Order works alongside the Collection of Fines (Pilot Schemes) (Amendment) Order 2005, Fines Collection (Amendment) Regulations 2005 and the Register of Fines (Amendment) Regulations 2005.

4.3 This Order amends the Collection of Fines (Pilot Schemes) Order 2004.

**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 The intention of the Government is that if a fine defaulter fails to meet the payment terms set by the court, and an Attachment to Earnings Order (AEO) or Deductions from Benefits Order (DBO) subsequently applied by the Fines Officer fails, the Fines Officer should be able to apply sanctions (clamping, registration etc.) under Further Steps.
- 7.2 Due to an omission in drafting Fines Officers will not have the legal authority to proceed to Further Steps once payment terms have not been met and an AEO or DBO has failed, and will have to refer the case back to the court.
- 7.3 This Order corrects that drafting error and gives the Fines Officer that legal power, as was always intended.
- 7.4 This Order is being laid so that they will come into force before a Fines Officer will need to use the legal power to proceed to Further Steps in such a case, and so the operation of the scheme will not be impaired by the initial omission and this correction.

## **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**

Ben Elton, Department for Constitutional Affairs can answer any queries relating to the instrument. Tel 020 7210 0440, email [benjamin.elton@dca.gsi.org.uk](mailto:benjamin.elton@dca.gsi.org.uk)