

## EXPLANATORY MEMORANDUM TO

# THE MAGISTRATES' COURTS ACT 1980 (AUTOMATIC ONLINE CONVICTION AND STANDARD STATUTORY PENALTY) (SPECIFICATION OF OFFENCES AND PENALTIES) REGULATIONS 2024

2024 No. [XXXX]

### 1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of His Majesty.

### 2. Purpose of the instrument

- 2.1 This instrument specifies the offences which may be dealt with under the automatic online conviction and standard statutory penalty process, and sets out the applicable level of fines, compensation and surcharge for each offence. The new process will enable prosecutors in cases involving these specified offences to offer adult defendants who wish to plead guilty the additional option of accepting a conviction and financial penalty online without the involvement of a magistrate. The aim of this provision is to save court time, allowing magistrates to focus on more serious cases, and help deliver swifter justice.

### 3. Matters of special interest to Parliament

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

- 3.1 None.

### 4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.2 The territorial application of this instrument is England and Wales.

### 5. European Convention on Human Rights

- 5.1 The Parliamentary Under Secretary of State Mike Freer MP has made the following statement regarding Human Rights:

“In my view the provisions of the Magistrates’ Courts Act 1980 (Automatic Online Conviction and Standard Statutory Penalty) (Specification of Offences and Penalties) Regulations 2024 are compatible with the Convention rights.”

### 6. Legislative Context

- 6.1 The Judicial Review and Courts Act 2022 (the Act) inserted provisions into the Magistrates’ Court Act 1980 which provide for the new automatic online conviction and standard statutory penalty process. The provisions provide that a person accused of a specified offence may receive a criminal conviction under a new automatic online conviction option if the “qualifying conditions” are met. It is a requirement that the offence must be summary-only and non-imprisonable.

- 6.2 Section 3 of the Act inserted new sections 16G to 16M into the Magistrates' Courts Act 1980 which set out the automatic online conviction and standard statutory penalty process. Section 3 of the Act has been brought into force by commencement regulations.
- 6.3 This instrument is made under section 16H(3)(a) of the Magistrates' Court Act 1980 and specifies, for the first time, the offences for which the automatic online conviction option can be offered and the applicable fine, victim surcharge and compensation.
- 6.4 Within two years of its implementation, a review will be undertaken of the impacts of the automatic online conviction and standard penalty process, with a view to expanding the number of offences that can be dealt with under it, in order to improve efficiency and consistency within the justice system.

## **7. Policy background**

### *What is being done and why?*

#### Offences

- 7.1 This instrument specifies the offences that the automatic online conviction option can be offered for. During the Bill stages of the Act, the Government made it clear that only the following three offences will initially be eligible for the procedure:
- Offence 1: failure to produce a valid ticket for travel on a train;
  - Offence 2: failure to produce a valid ticket for travel on a tram; and
  - Offence 3: fishing without a rod fishing licence.
- 7.2 These offences are considered suitable for the automatic online conviction option on the basis that they: i) meet the criteria in the Act; ii) are straightforward and sufficiently high volume to lend themselves to the automated process; and iii) provide enough sentencing data to give confidence in the standard penalty level that has been set for each offence. We will review the procedure within two years of implementation.

#### Penalties

- 7.3 This instrument also specifies the applicable fine, victim surcharge and maximum compensation. The automatic online conviction option is intended to replicate the court process and outcomes more efficiently.
- 7.4 This instrument adds an additional route for resolving cases more quickly that will operate alongside the Single Justice Procedure, which allows one magistrate to determine the case on the papers rather than at a hearing. Defendants are under no obligation to use the Single Justice Procedure or the new automatic online conviction option and can, instead, choose to have their case dealt with in court if they wish.

#### *Explanations*

##### What did any law do before the changes to be made by this instrument?

- 7.5 The specified offences can currently be dealt with either in court at a hearing or by a magistrate under the Single Justice Procedure who determines the case on the papers.

*Why is it being changed?*

- 7.6 The automatic online conviction option is being introduced for a limited number of offences as an additional process for resolving cases more quickly than under the Single Justice Procedure and is entirely voluntary.

*What will it now do?*

- 7.7 The automatic online conviction option will provide defendants with an alternative route for pleading guilty for a specified offence and to be given a penalty without having to attend court. The new process is available to adult defendants only.

**8. European Union Withdrawal and Future Relationship**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

**9. Consolidation**

- 9.1 This instrument does not consolidate any legislation.

**10. Consultation outcome**

- 10.1 In 2016, the then Government published a consultation paper, ‘Transforming our Justice System’<sup>1</sup>, with proposals for modernising the justice system. The ‘Transforming our Justice System’ paper was used to consult on whether an automatic online conviction and statutory standard penalty should be introduced. The consultation asked whether respondents agreed with the principle of a statutory penalty process for those who enter an online guilty plea to summary, non-imprisonable offences, if they are content to proceed with the process. While most respondents agreed with this proposal, 20% of respondents disagreed and reasons given included concern with the lack of judicial involvement in the procedure and concern that defendants should ‘have their day in court’.
- 10.2 In response<sup>2</sup>, the then Government reiterated that primary legislation limits the offences which can be prosecuted via the procedure to summary, non-imprisonable offences only. Additionally, only defendants who chose to plead guilty, offer no mitigating circumstances and opt into the automated process could choose to be prosecuted through this procedure and it will only apply to defendants over the age of 18. On that basis, the government legislated, as part of the Judicial Review and Courts Act 2022, to enable cases specified in regulation to progress swiftly through an entirely automated process which issues a predetermined standard penalty on entering a guilty plea, so removing the need for a magistrate to be involved.
- 10.3 This instrument specifies the initial offences to be made available, as specified in that consultation. The Ministry of Justice has worked with the Department for Transport, Department for the Environment, Food and Rural Affairs and relevant prosecutors to agree the offences that are in scope of this provision and the penalties to be imposed.

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<sup>1</sup> [Ministry of Justice - Transforming our courts and tribunals - summary of reforms and consultation paper](#)

<sup>2</sup> [Transforming our justice system: Assisted digital strategy, online conviction and statutory standard penalty, and panel composition in tribunals](#)

## **11. Guidance**

- 11.1 For defendants wishing to use the automatic online conviction option, there will be step-by-step guidance throughout the process with clear instructions provided on each screen.
- 11.2 Courts and Tribunals Service Centres are also available to provide a range of support, including over the telephone and digital assistance. If additional digital support is required defendants can contact the “We-Are-Digital” service either online or by telephone.
- 11.3 The Single Justice Procedure Notice provided to prosecutors to issue defendants with details of the proceedings will be revised to include the new automatic online conviction option and an FAQ for defendants.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector. Although we initially expect some income loss of £168,000, we expect some savings in future as more offences get added to the system.
- 12.3 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the [legislation.gov.uk](http://legislation.gov.uk) website.

## **13. Regulating small business**

- 13.1 This instrument does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 We will monitor use of the automatic online conviction option for the specified offences to which it will apply using HMCTS data. Reports will be published by HMCTS, and the data will include cases with eligible offences, number of cases where the new option is offered, uptake by defendants, and cases where the defendant changed their mind during the cooling off period (a short period during which defendants can withdraw their agreement to a conviction). This will inform any decision as to whether to make Regulations, which would be subject to the affirmative procedure, to include other offences in the automatic online conviction option.
- 14.2 As with the Single Justice Procedure, the new automatic online conviction option will be regularly reviewed and guidance can be updated in response to feedback from prosecutors and users to ensure it is operating effectively and is user-friendly.

## **15. Contact**

- 15.1 Shreya Masters, email: [shreya.masters@justice.gov.uk](mailto:shreya.masters@justice.gov.uk), and Zoe Scandrett, email: [zoe.scandrett@justice.gov.uk](mailto:zoe.scandrett@justice.gov.uk), at the Ministry of Justice, can be contacted with any queries regarding the instrument.
- 15.2 Christina Pride, Deputy Director for Sentencing and Parole Policy, and Ben Archibald, Deputy Director for Criminal Justice Strategy and Criminal Court Policy, at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Parliamentary Under Secretary of State Mike Freer MP at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.