

2004 No. 175

MAGISTRATES' COURTS, ENGLAND AND WALES

The Collection of Fines (Pilot Schemes) Order 2004

Made - - - - - 27th January 2004

Laid before Parliament 30th January 2004

Coming into force in accordance with article 1(2)

The Lord Chancellor, in exercise of the powers conferred on him by sections 97(5) and (6), 108(6) and 109(2) of, and paragraph 15 of Schedule 9 to, the Courts Act 2003^(a), hereby makes the following Order:

Citation, commencement, duration, interpretation and transitional provision

- 1.—(1) This Order may be cited as the Collection of Fines (Pilot Schemes) Order 2004.
- (2) This Order shall come into force—
- (a) on 23rd February 2004 in respect of the petty sessions areas specified in columns 1 and 3 of Part I of the Schedule;
 - (b) on 29th March 2004 in respect of the petty sessions areas specified in columns 1 and 3 of Part II of the Schedule; and
 - (c) on 5th April 2004 in respect of all other petty sessions areas in England and Wales, and shall cease to have effect on 31st March 2005.
- (3) In this Order—
- “the Schedule” means the Schedule to this Order;
 - “Schedule 5” means Schedule 5 to the Courts Act 2003,
- and a reference to “the specified period” means in relation to a petty sessions area or areas the period starting with the coming into force of this Order in respect of the petty sessions area or areas, and ending when this Order ceases to have effect, in accordance with paragraph (2) above.
- (4) The start or ending of the specified period in respect of a petty sessions area does not, unless the contrary intention appears—
- (a) affect the operation of any enactment or anything duly done or suffered under that enactment;
 - (b) affect any right, obligation or liability acquired, accrued or incurred under that enactment;
 - (c) affect any penalty or punishment incurred in respect of an offence committed against that enactment,
- before the specified period starts or, as the case may be, after it starts but before it ends, in respect of that area;

(a) 2003 c. 39.

and any such right may be enjoyed, any such obligation or liability may be enforced, any such penalty or punishment may be imposed or enforced and any investigation, legal proceeding or remedy in respect of any such right, obligation, liability, penalty or punishment may be instituted, continued or enforced, as if the specified period had not started or, as the case may be, had not ended, in respect of that petty sessions area.

In this paragraph references to an enactment include an enactment comprised in subordinate legislation.

National pilot scheme

2. In relation to all petty sessions areas in England and Wales (including those specified in column 3 of Parts I and II of the Schedule), except those specified in column 1 of Parts I and II of the Schedule, Schedule 5 has effect for the specified period subject to the following modifications—

- (a) delete the following provisions—
 - (i) Parts 2 (immediate payment of fines discounts) and 5 (discount where collection order made);
 - (ii) Parts 4 (making of collection orders), 6 (variation of collection orders containing payment terms) and 8 (operation of collection orders containing reserve terms);
 - (iii) in paragraph 3 (meaning of “existing defaulter” etc.), sub-paragraph (7);
 - (iv) paragraphs 27 (increase in fine) and 28 (notice of increase etc.);
 - (v) paragraph 49 (offence of meddling with vehicle clamp); and
- (b) in paragraph 3, for sub-paragraphs (1)(c) and (d) substitute—

“(c) he is in default in payment of another sum falling within paragraph 1(1).”;
- (c) for paragraph 25 (application of Part) substitute the following paragraph—

“**25.** Paragraph 26 applies on the first occasion P is in default on an order allowing time for payment of the sum due or for payment of the sum due by instalments.”;
- (d) in paragraph 26 (attachment of earnings order or application for benefit deductions to be made), at the end, insert the following subparagraph—

“(4) Notwithstanding section 36 (fines officers), in this paragraph “the fines officer”, in relation to P, means the officer of the court responsible for enforcing payment of the sum due nominated by the justices’ chief executive for that court.”;
- (e) for Part 9 (operation of collection orders after increase imposed) substitute the following part—

“PART 9

REFERENCE OF CASE TO THE MAGISTRATES’ COURT

Duty of fines officer to refer case to magistrates’ court

35.—(1) The fines officer must refer P’s case to the magistrates’ court if the attachment of earnings order or, as the case may be, the application for benefit deductions under paragraph 26 fails.

- (2) For the purposes of this paragraph, an attachment of earnings order fails if—
 - (a) P’s employer fails to comply with the order, or
 - (b) the order is discharged at a time when P remains liable to pay any part of the sum due.
- (3) For the purposes of this paragraph, an application for benefit deductions fails if—
 - (a) the application is withdrawn,
 - (b) the Secretary of State decides not to make deductions,
 - (c) an appeal against a decision of the Secretary of State to make deductions succeeds, or
 - (d) the Secretary of State ceases to make deductions at a time when P remains liable to pay any part of the sum due.

- (4) On a reference of a case to the court under this paragraph, the court may exercise any of its standard powers in respect of persons liable to pay fines.”;
- (f) in paragraph 42(3) for “or paragraph 37” substitute “or paragraph 35 or 37”; and
- (g) in paragraph 47 for “a person who is subject to a collection order” substitute “P who is liable to pay the sum due”.

Local pilot schemes

3. In relation to the petty sessions areas specified in column 1 of Parts I and II of the Schedule, Schedule 5 has effect for the specified period subject to the modifications in Part III of the Schedule respectively specified in relation to them in column 2 of Parts I and II of that Schedule.

On the authority of the Lord Chancellor

27th January 2004

Christopher Leslie
Parliamentary Under Secretary of State
Department for Constitutional Affairs

SCHEDULE
LOCAL PILOT SCHEMES

| <i>Column 1</i> <i>(petty sessions areas)</i> | <i>Column 2</i> <i>(modifications)</i> | <i>Column 3</i> <i>(petty sessions areas)</i> |
|--|---|--|
|--|---|--|

PART I

- | | | |
|--|--|------------------------|
| 1. In Cambridgeshire— Peterborough Huntingdon Wisbech | the modifications in paragraphs 1, 6 and 7 | Cambridge Ely |
| 2. In South Yorkshire— Sheffield Barnsley | the modifications in paragraphs 1, 2, 3, 5 and 7 | Rotherham Doncaster |

PART II

- | | | |
|---|---|---|
| 3. In Cheshire— Halton Warrington | the modification in paragraph 1 | Chester, Ellesmere Port and Neston Vale Royal |
| 4. In Cumbria— Kendal (South Lakeland) Barrow (Furness and District) | the modifications in paragraphs 1, 6 and 7 | Carlisle and District Penrith (Eden) |
| 5. In Devon and Cornwall— South Devon Central Devon East Cornwall West Cornwall | the modifications in paragraphs 1, 2, 3 and 4 | Plymouth North Devon |
| 6. In Gloucestershire— Gloucester Forest of Dean Stroud | the modification in paragraph 1 | Cheltenham (North Gloucestershire) Cirencester (Cirencester, Fairford, Tetbury) |

PART III

Modifications of Schedule 5

1. Delete Parts 2 (immediate payment of fines discounts) and 5 (discount where collection order made).
2. Delete paragraphs 27 (increase of fine) and 28 (notice of increase etc.).
3. In paragraph 31(1)(a) for “before an increase is imposed under paragraph 33” substitute “before a further steps notice is delivered under paragraph 37”, delete paragraphs 33 to 36 and for paragraphs 37 and 39 substitute the following paragraphs—

“Functions of fines officer in relation to defaulters: referral or further steps notice

- 37.—(1) This paragraph applies if—
 - (a) an attachment of earnings order, or
 - (b) an application for benefit deductions, made under paragraph 26 fails.
- (2) This paragraph also applies if the fines officer does not make—
 - (a) an attachment of earnings order, or
 - (b) an application for benefit deductions, under paragraph 26.
- (3) The fines officer must—
 - (a) refer P’s case to the magistrates’ court, or

- (b) deliver to P a notice (a “further steps notice”) that he intends to take one or more of the steps listed in paragraph 38.
- (4) Any of the steps that the fines officer intends to take must be specified in the notice.
- (5) A further steps notice must be in writing and dated.
- (6) P may, within 10 working days from the date of the further steps notice, appeal to the magistrates’ court against it.

Powers of court on referral or appeal

- 39.**—(1) This paragraph applies if the magistrates’ court is hearing P’s case following—
- (a) a referral under paragraph 37(3)(a) (functions of fines officer in relation to defaulters), or
 - (b) an appeal under paragraph 37(6) (appeal against a further steps notice).
- (2) On a referral within subparagraph (1)(a), the court may—
- (a) vary the payment terms (or the reserve terms);
 - (b) take any of the steps listed in paragraph 38;
 - (c) discharge the order and exercise any of its standard powers in respect of persons liable to pay fines.
- (3) On an appeal against a further steps notice, the court may—
- (a) confirm or quash the notice;
 - (b) vary the notice so as to specify any step listed in paragraph 38;
 - (c) vary the payment terms (or reserve terms);
 - (d) discharge the order and exercise any of its standard powers in respect of persons liable to pay fines.”.
4. In paragraph 38 (the range of further steps available against defaulters) delete subparagraph (1)(b).
 5. In paragraph 38 delete subparagraphs (1)(d), (2) and (3).
 6. In paragraph 38 delete subparagraphs (1)(b) and (d), (2) and (3).
 7. Delete paragraphs 41 (power to order sale of clamped vehicle) and 49 (offence of meddling with vehicle clamp).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order establishes schemes for piloting the various provisions of Schedule 5 (collection of fines) to the Courts Act 2003 (c. 39) during periods specified in the order (article 1(2)).

Article 2 (national pilot scheme) provides for the piloting in all petty sessions areas, except those covered by article 3 (local pilot schemes), of the provisions of Schedule 5 concerning attachment of earnings orders (“AEOs”) and applications for benefit deductions (“DBs”).

Article 3 (local pilot schemes) provides for the piloting of certain provisions of Schedule 5 in certain petty sessions areas as follows (in addition to the provisions of that schedule concerning AEOs and DBs)—

- (i) in the Peterborough, Huntingdon and Wisbech petty sessions areas in Cambridgeshire, the provisions concerning collection orders and increase in the fine on first default;
- (ii) in the Sheffield and Barnsley petty sessions areas in South Yorkshire, the provisions concerning collection orders and the registration of fines;
- (iii) in the Warrington and Halton petty sessions areas in Cheshire, the provisions concerning collection orders, increase in the fine on first default, the registration of fines and the clamping of vehicles;
- (iv) in the Barrow (Furness and District) and Kendal (South Lakeland) petty sessions areas in Cumbria, the provisions concerning collection orders and increase in the fine on first default;
- (v) in the East Cornwall, West Cornwall, Central Devon and South Devon petty sessions areas in Devon and Cornwall, the provisions concerning collection orders and the clamping of vehicles;
- (vi) in the Gloucester, Forest of Dean and Stroud petty sessions areas in Gloucestershire, the provisions concerning collection orders, increase in the fine on first default, the registration of fines and the clamping of vehicles.

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