

**EXPLANATORY MEMORANDUM TO
THE COLLECTION OF FINES (FINAL SCHEME) ORDER 2006**

2006 No.1737

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 This Order amends Schedule 5 to the Courts Act 2003 (collection of fines) and establishes the final fines collection scheme for all local justice areas in England and Wales. The Order also amends other enactments in light of the operation of the previous pilot schemes.

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

3.1 None

4. Legislative Background

4.1 Section 97(7) and (9) of the Courts Act 2003 confers power to permanently amend Schedule 5 (and other enactments) for the purpose of implementing the final fines collection scheme, at the end of the pilot period.

4.2 As those schemes have been tested the following Orders have been laid to extend and amend the pilots: The Collection of Fines (Pilot Schemes) (Amendment) Order 2004, the Collection of Fines (Pilot Schemes) (Amendment) Order 2005, the Collection of Fines (Pilot Schemes) (Amendment No 2) Order 2005, the Collection of Fines (Pilot Schemes) (Amendment No 3) Order 2005 and the Collection of Fines (Pilot Schemes) (Amendment No 4) Order 2005.

4.3 The Collection of Fines (Pilot Scheme) and Discharge of Fines by Unpaid Work (Pilot Schemes) (Amendment) Order 2006 established the final stage of piloting which expires on 2 July 2006.

4.4 This Order amends Schedule 5 to the Courts Act 2003 and it also amends the Attachment of Earnings Act 1971 and the Magistrates' Courts Act 1980 (which are both relevant to the fines collection scheme).

5. Extent

5.1 This order extends to England and Wales, but any amendment or repeal made by this Order has the same extent as the enactment to which it relates.

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 in 2003 the Government established 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. The evaluation report from the pilots recommended that the fines collection scheme should be implemented nationally, based on substantial benefits such as an improved payment rate, savings in court time, and improvements in the quality of means information.
- 7.4 The measures tested in the local pilot areas were collection orders, fines officers, fine increase, fine registration, clamping of vehicles and fines payment work.
- 7.5 This order brings into force the final scheme for the collection of fines, and—for that purpose—it sets out amendments to primary legislation.
- 7.6 This order will make one further change to the fines collection scheme about compensation orders.
- 7.6.1 The court must make either an attachment of earnings order or an application for deductions from benefit to secure the whole sum due in all cases where the offender is liable to pay a sum under a compensation order. This will enable compensation to be paid to victims quicker and with more certainty.

7.6.2 This will take place when the collection order is made, and does not require the offender to be in default or to consent. It will only happen when it appears to the court that it is not inappropriate or impractical to do so.

7.6.3 Therefore, an offender will still be able to pay his compensation (and fine/costs if appropriate) in full when sentenced if he so wishes.

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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