

**EXPLANATORY MEMORANDUM TO  
THE FINES COLLECTION REGULATIONS 2006**

**2006 No. 501**

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 These Regulations support the provisions of Schedule 5 (collection of fines) to the Courts Act 2003. They set out the way that the fines collection scheme will operate during the final stage of piloting, including further steps such as clamping and registration.
  - 2.2 These Regulations replace the Fines Collection Regulations 2004 (No. 176) and they should be read together with the Collection of Fines (Pilot Scheme) and Discharge of Fines by Unpaid Work (Pilot Schemes) (Amendment) Order 2006, which establishes the final stage of piloting.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative Background**
  - 4.1 The Fines Collection Regulations 2004 supported Schedule 5 (collection of fines) to the Courts Act 2003 for the purposes of the first pilot schemes established under the Collection of Fines (Pilot Schemes) Order 2004 (No.175). The 2004 Regulations were amended by the Fines Collection (Amendment) Regulations 2004 (No.1407) and the Fines Collection (Amendment) Regulations 2005 (No.484). Whilst these regulations are based on the earlier regulations, they also make some further changes to the fines collection scheme.
  - 4.2 These regulations modify the Magistrates' Courts (Attachment of Earnings) Rules 1971 and the Fines (Deductions from Income Support) Regulations 1992.
5. **Extent**
  - 5.1 This instrument applies 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 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 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 The Regulations support the amended scheme and clarify the clamping procedures and requirements. They also contain modifications to the Fines (Deductions from Income Support) Regulations 1992 and the Magistrates' Courts (Attachment of Earnings) Rules 1971. (Modifications have also been made to the Attachments of Earnings Act 1971 and the Magistrates' Courts Act 1980, but these are contained in the accompanying Collection of Fines (Pilot Scheme) and Discharge of Fines by Unpaid Work (Pilot Schemes) (Amendment) Order 2006).
- 7.5.1 The fines collection regulations (2004) were drafted prior to the creation of HMCS, when the Magistrates' Courts Committees operated their enforcement functions independently. Hence the sections about clamping orders were extremely detailed to ensure that the scheme operated as intended. However, after HMCS creation, magistrates' courts enforcement functions will be covered by regional contracts, the existence of which make many of the provisions in the regulations unnecessary.
- 7.5.2 These include sections on 'matters to be included in a clamping contract' and 'duties of the clamping contractor' which have been removed, as well as various other requirements.

- 7.5.3 Uniform requirements for clamping contractors and their staff have been removed.
- 7.5.4 The requirement for clamping contractors' vehicles to have name, address and phone number prominently displayed have been removed.
- 7.5.5 The requirement for clamping contractors and their staff to have gained the Parking Control NVQ has been removed.
- 7.5.6 The requirement for clamping contractors to display the clamping sign of an approved clamping organisation has been removed.
- 7.5.7 The requirement for clamping contractors to display the approved clamping sign on stationary, signs and literature has been removed.
- 7.5.8 The complaints procedure has been simplified.

7.6 The modifications to the Magistrates' Courts (Attachment of Earnings) Rules 1971 and the Fines (Deductions from Income Support) Regulations 1992 are made for the purpose of giving effect to Schedule 5 of the Courts Act 2003.

## **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**

James Mansfield at the Department for Constitutional Affairs Tel: 020 7210 0440 or e-mail: [james.mansfield@hmcourts-service.gsi.gov.uk](mailto:james.mansfield@hmcourts-service.gsi.gov.uk) can answer any queries regarding the instrument.