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STATUTORY INSTRUMENTS

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**2006 No. 502**

**MAGISTRATES' COURTS,  
ENGLAND AND WALES**

**The Collection of Fines (Pilot Scheme) and Discharge of Fines  
by Unpaid Work (Pilot Schemes) (Amendment) Order 2006**

*Made* - - - - *6th March 2006*

*Laid before Parliament* *6th March 2006*

*Coming into force in accordance with article 1(1)*

The Lord Chancellor makes the following Order in exercise of the powers conferred on him by section 97(5) and (6) and section 108(6) of the Courts Act 2003(1):

**Citation, commencement, duration and revocation**

1.—(1) This Order may be cited as the Collection of Fines (Pilot Scheme) and Discharge of Fines by Unpaid Work (Pilot Schemes) (Amendment) Order 2006 and shall come into force—

- (a) for the purposes of article 2 of this Order on 30<sup>th</sup> March 2006; and
- (b) for all other purposes on 27<sup>th</sup> March 2006.

(2) This Order, with the exception of article 2, shall cease to have effect on 2<sup>nd</sup> July 2006.

(3) The provisions in the Schedule to this Order are revoked.

**Amendment to the Discharge of Fines by Unpaid Work (Pilot Schemes) Order 2004**

2. In article 2 of the Discharge of Fines by Unpaid Work (Pilot Schemes) Order 2004(2) for “31<sup>st</sup> March 2006”, substitute “31<sup>st</sup> March 2007”.

**Interpretation**

3. In this Order—

- (a) “Schedule 5” means Schedule 5 to the Courts Act 2003; and

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(1) 2003 c. 39.

(2) S.I. 2004/2198, as amended by S.I. 2005/563.

- (b) a reference to “the specified period” means the period starting on 27<sup>th</sup> March 2006 and ending when this Order ceases to have effect, in accordance with article 1(2).

### **Transitional provision**

4.—(1) Unless a court orders otherwise, where a collection order has not been made in relation to a sum imposed by a court before 27<sup>th</sup> March 2006, enforcement to recover that sum shall continue as if this Order had not been made.

(2) In this article—

“collection order” means an order made under Part 4 of Schedule 5;

“enforcement” means any process or order for the purposes of recovering a sum imposed by a court;

“sum imposed by a court” means a sum to which paragraph 1(1) of Schedule 5 applies.

### **Pilot Scheme: modifications of Schedule 5**

5. In relation to all local justice areas in England and Wales, Schedule 5 has effect for the specified period subject to the following modifications—

- (a) in the heading to that Schedule after “FINES” insert “OR OTHER SUMS IMPOSED ON CONVICTION”;
- (b) in paragraph 1 (application of Schedule), in sub-paragraph (1)—
- (i) in sub-paragraph (a)—
    - (aa) for “consists of or includes” substitute “is”;
    - (bb) for “and” substitute “or”; and
  - (ii) in sub-paragraph (b), at the beginning insert “is any other sum which”;
- (c) in paragraph 3 (meaning of “existing defaulter” etc), omit—
- (i) sub-paragraph (1)(a);
  - (ii) sub-paragraph (5); and
  - (iii) sub-paragraph (6);
- (d) omit Part 2 (immediate payment of fines: discounts);
- (e) in paragraph 7 (application of Part 3)—
- (i) for sub-paragraph (1) substitute—
 

“(1) This Part does not apply where the court is hearing P’s case following an appeal under paragraph 23, 32 or 37(9).”; and
  - (ii) in sub-paragraph (2)(b) omit “if sub-paragraph (1)(b) applies.”;
- (f) in paragraph 11 (application of Part 4), for sub-paragraph (1) substitute—
- “(1) This Part applies whether or not the relevant court has made an attachment of earnings order or an application for benefit deductions under Part 3 of this Schedule.”;
- (g) in paragraph 13 (contents of collection orders: general), in sub-paragraph (1)(a) for the words from “sum due, the” to the end of that sub-paragraph substitute—
- (i) the sum due, and
  - (ii) where that sum consists of or includes a fine, the amount of the fine and the amount of any other part of the sum due.”;

- (h) in paragraph 15 (contents of collection orders: attachment of earnings order etc made), in sub-paragraph (2) omit “, 35, 36”;
- (i) omit Part 5 (discount where collection order made);
- (j) after paragraph 24 (nature of power to vary terms of collection order), insert—

“Meaning of “in default on a collection order”

**24A.** For the purposes of this Schedule, P is in default on a collection order if he fails to pay any amount due under the payment terms (or, if they have effect, the reserve terms) on or before the date on which it is required to be paid.”;

- (k) omit—
  - (i) paragraph 27 (increase in fine); and
  - (ii) paragraph 28 (notice of increase etc);
- (l) in paragraph 31 (application to fines officer for variation of reserve terms), in sub-paragraph (1)(a) for “an increase is imposed under paragraph 33” substitute “a further steps notice is delivered to him under paragraph 37”;
- (m) in paragraph 32 (appeal against decision of fines officer), in sub-paragraph (2)(b), at the end of that sub-paragraph insert “or other sums”;
- (n) omit—
  - (i) paragraph 33 (increase in fine on first default); and
  - (ii) paragraph 34 (notice of increase etc);
- (o) for the heading to Part 9 substitute “FURTHER STEPS”;
- (p) omit—
  - (i) paragraph 35 (effect of compliance with requirement to contact fines officer); and
  - (ii) paragraph 36 (application to fines officer after increase for variation of payment terms);
- (q) in paragraph 37 (functions of fines officer in relation to defaulters: referral or further steps notice)—
  - (i) for sub-paragraph (1) substitute—

“(1) This paragraph applies if—

    - (a) P is in default on a collection order,
    - (b) paragraph 26 does not apply, and
    - (c) none of the following is pending—
      - (i) an application under paragraph 31(1) (application to fines officer for variation of reserve terms),
      - (ii) an appeal under paragraph 32(1) (appeal against decision of fines officer),
      - (iii) a reference under paragraph 42 (power of fines officer to refer case to magistrates' court).”;
  - (ii) omit sub-paragraphs (2) to (5);
- (r) in paragraph 38 (the range of further steps available against defaulters), for sub-paragraph (1)(e) substitute—

“(e) taking proceedings by virtue of section 87(1) of the 1980 Act (enforcement of payment of fines by High Court and county court)”;

- (s) in paragraph 39 (powers of court after increase)—
  - (i) omit sub-paragraphs (1)(a) and (2);
  - (ii) in sub-paragraph (3)—
    - (aa) for “an appeal or” substitute “a”; and
    - (bb) for “(1)(a) or (b)” substitute “(1)(b)”;
  - (iii) in the following sub-paragraphs, at the end of each sub-paragraph insert “or other sums”—
    - (aa) sub-paragraph (3)(c); and
    - (bb) sub-paragraph (4)(d);
  - (iv) in the heading to paragraph 39, omit “after increase”;
- (t) in paragraph 42 (power of fines officer to refer case to magistrates' court)—
  - (i) in sub-paragraph (2)(b)—
    - (aa) omit “discharge the order and”; and
    - (bb) after “fines” insert “or other sums”;
  - (ii) in sub-paragraph (2)(c) omit “to the extent permitted by fines collection regulations,”; and
  - (iii) after sub-paragraph (2) insert—
    - “(2A) Where the court exercises any of its standard powers under sub-paragraph (2)(b) it may also discharge the order.”;
- (u) after paragraph 42 insert—
  - “Increase in fine by court
  - 42A.**—(1) This paragraph applies where—
    - (a) P is in default on a collection order,
    - (b) the sum due consists of or includes a fine, and
    - (c) the fines officer has referred P’s case to the court—
      - (i) under paragraph 37(6)(a), or
      - (ii) after taking any of the steps listed in paragraph 38.
  - (2) Where the court is satisfied that the default is due to P’s wilful refusal or culpable neglect, the court may increase the fine which is the subject of the order.
  - (3) But the court may not increase any other sum mentioned in paragraph 1(1).
  - (4) The amount of the increase is to be determined in accordance with fines collection regulations but must not be greater than 50% of the fine.
  - (5) The increase is given effect by treating it as part of the fine imposed on P by his conviction.”;
- (v) omit paragraph 47 (fines collection regulations);
- (w) in paragraph 49 (offence of meddling with vehicle clamp), in sub-paragraph (1) omit “after increase”; and
- (x) for paragraph 50 (meaning of “standard powers in respect of persons liable to pay fines”) substitute—

“Meaning of “standard powers in respect of persons liable to pay fines or other sums”

**50.** In this Schedule “standard powers in respect of persons liable to pay fines or other sums” means any power that a magistrates' court would have had if P had not been subject to a collection order but had been liable to pay the sum due.”.

### **Modifications of the Attachment of Earnings Act 1971**

**6.** In the case of a person aged 18 or over liable to pay a sum to which Schedule 5 applies, the provisions of the Attachment of Earnings Act 1971(3) specified below apply with the following modifications—

- (a) in section 1 (courts with power to attach earnings), omit—
  - (i) subsection (3)(b); and
  - (ii) subsection (4);
- (b) after section 1 insert—

#### **“Orders to which this Act applies**

**1A.** The following provisions of this Act apply, except where otherwise stated, to attachment of earnings orders made, or to be made, by any court under this Act or under Schedule 5 to the Courts Act 2003, or by a fines officer under that Schedule.”;

- (c) in section 3(4) (application for order and conditions of court’s power to make it)—
  - (i) before subsection (1) insert—

“(A1) This section shall not apply to an attachment of earnings order to be made under Schedule 5 to the Courts Act 2003.”; and
  - (ii) omit—
    - (aa) subsection (3B); and
    - (bb) subsection (3C);
- (d) in section 6 (effect and contents of order)—
  - (i) in subsection (1)—
    - (aa) after “to the court” insert “, or the fines officer, making the order, as the case may be,”; and
    - (bb) in paragraph (b) after “as the court” insert “or, where the order is made under Schedule 5 to the Courts Act 2003, as the court or the fines officer, as the case may be,”;
  - (ii) in subsection (5), at the beginning insert “Subject to subsection (5A) below,”; and
  - (iii) after subsection (5) insert—

“(5A) If the order is made under Schedule 5 to the Courts Act 2003 then it shall specify the percentage deduction rate in accordance with fines collection regulations made under that Schedule.”;

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(3) 1971 c. 32.

(4) 1971 c. 32; so far as relevant, in section 3, subsections (3B) and (3C) were inserted by the Criminal Procedure and Investigations Act 1996 (c. 25) and subsection (3B) was amended by the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6), Schedule 9, paragraph 4.

- (e) in section 8 (interrelation with alternative remedies open to creditors), in subsection (5) for “1(3)(b) or (c) of this Act” substitute “1(3)(c) of this Act or to secure the payment of any liability specified in paragraph 1 of Schedule 5 to the Courts Act 2003”;
- (f) in section 9 (variation, lapse and discharge of orders)—
  - (i) in subsection (1) after “The court” insert “or, where an attachment of earnings order is made under Schedule 5 to the Courts Act 2003, the court or the fines officer, as the case may be,”;
  - (ii) in subsection (3)—
    - (aa) in paragraph (a) after “order” insert “made under this Act”; and
    - (bb) after paragraph (a) insert—
      - “(aa) as to the circumstances in which an attachment of earnings order made under Schedule 5 to the Courts Act 2003 may be varied or discharged by the court or the fines officer of its or his own motion;” and
  - (iii) in subsection (4)—
    - (aa) after “until the court” insert “or, where the order was made under Schedule 5 to the Courts Act 2003, unless and until the court or the fines officer, as the case may be,”; and
    - (bb) after “to the court” insert “or the fines officer, as the case may be,”;
- (g) in section 14(5) (power of court to obtain statement of earnings etc)—
  - (i) in subsection (1)—
    - (aa) after “power” insert “under this Act or under Schedule 5 to the Courts Act 2003, or a fines officer has power under that Schedule,”;
    - (bb) for “it” substitute “the court or the fines officer, as the case may be,”;
    - (cc) in paragraph (a) after “court” insert “or the fines officer, as the case may be,”;
    - (dd) in paragraph (b) after both occurrences of “the court” insert “or the fines officer, as the case may be,”;
  - (ii) in subsection (2)—
    - (aa) after “the court” insert “or the fines officer, as the case may be,”; and
    - (bb) in paragraph (b) for “it” substitute “the court”; and
  - (iii) in subsection (5)—
    - (aa) after “power” insert “under this Act or under Schedule 5 to the Courts Act 2003, or a fines officer has power under that Schedule,”; and
    - (bb) after “the court” insert “or the fines officer, as the case may be,”;
- (h) in section 15 (obligation of debtor and his employers to notify changes of employment and earnings)—
  - (i) the existing words become subsection (1);
  - (ii) in subsection (1)(c) for “what court” substitute “, or (if the order was made by a fines officer) for, which court”; and
  - (iii) after subsection (1) insert—

- “(2) In the case of an attachment of earnings order made by a fines officer, the reference to “the court” in sub-paragraph (1)(a) above shall mean the court for which that order was made.”;
- (i) in section 17 (consolidated attachment orders)—
- (i) in subsection (1)—
- (aa) after “those sections” insert “or under Schedule 5 to the Courts Act 2003, and the powers of a fines officer under that Schedule,”; and
- (bb) after “section 1(3)” insert “of this Act and paragraph 1 of Schedule 5 to the Courts Act 2003”; and
- (ii) in subsection (3)(a) after “another” insert “or (where Schedule 5 to the Courts Act 2003 applies) from a court or a fines officer, as the case may be, acting in one local justice area, to a court or fines officer, as the case may be, acting in another local justice area”;
- (iii) in subsection (3)(b)—
- (aa) for “to which” substitute “or a fines officer, as the case may be, to which or to whom”;
- (bb) after “another court” insert “or fines officer, as the case may be,”; and
- (cc) after “the court” insert “or fines officer, as the case may be,”;
- (iv) in subsection (3)(c) for “of its” substitute “or a fines officer, as the case may be, of its or his”;
- (j) in section 25 (general interpretation), after the definition of “the employer” insert—
- ““the fines officer”, in relation to a debtor who is subject to a collection order made under Schedule 5 to the Courts Act 2003, means any fines officer working at the fines office specified in that order;”;
- (k) in Part 1 of Schedule 3 (deductions by employer under attachment of earnings order)—
- (i) in paragraph 6 (employer’s deduction: other cases) in sub-paragraph (1) for “does” substitute “and paragraph 6A below do”; and
- (ii) after paragraph 6 insert—
- “**6A.** In the case of an attachment of earnings order made under Schedule 5 to the Courts Act 2003, the employer shall make deductions from the debtor’s earnings in accordance with fines collection regulations made under that Schedule.”.

### **Modifications of the Magistrates' Courts Act 1980**

7. In the case of a person aged 18 or over liable to pay a sum to which Schedule 5 applies, the provisions of the Magistrates' Courts Act 1980(6) specified below apply with the following modifications—

- (a) in section 83 (process for securing attendance of offender for purposes of section 82)—
- (i) in subsection (2) after “this section” insert “, or by virtue of Schedule 5 to the Courts Act 2003,”; and
- (ii) in the heading to section 83, omit “for the purposes of section 82”;

- (b) in section 87(7) (enforcement of payment of fines by High Court and county court)—
- (i) after subsection (1) insert—
- “(1A) For the purposes of paragraph 38(1)(e) of Schedule 5 to the Courts Act 2003, the reference in subsection (1) above to “the designated officer for the magistrates’ court” shall be interpreted as a reference to the fines officer.”;
- (ii) after subsection (3) insert—
- “(3A) The fines officer shall not, for the purposes of paragraph 38(1)(e) of Schedule 5 to the Courts Act 2003, take proceedings by virtue of subsection (1) above to recover from any person a sum to which that Schedule applies, unless the fines officer has made an inquiry into that person’s means and he appeared to the fines officer to have sufficient means to pay the sum forthwith.”;
- (c) in section 89(8) (transfer of fine order)—
- (i) in subsection (1)—
- (aa) after “to the court” insert “or, where that sum is the subject of a collection order, it appears to the court or the fines officer, as the case may be,”; and
- (bb) after “Wales, the court” insert “or the fines officer, as the case may be,”;
- (ii) in subsection (2)—
- (aa) after “Act” insert “or under Schedule 5 to the Courts Act 2003, as the case may be,”; and
- (bb) for “by the court which made the order, or” substitute “, as the case may be, by the court which, or fines officer who, made the order or the court or the fines officer acting in the same local justice area as the first mentioned court or fines officer, or”;
- (cc) after “a court” insert “or, where the sum is the subject of a collection order, shall be exercisable by a court or a fines officer”;
- (iii) in subsection (2A) after “court” insert “under this Part of this Act”; and
- (iv) in subsection (3) for “by which” substitute “or a fines officer, as the case may be, by which or whose”;
- (d) in section 90(9) (transfer of fines to Scotland or Northern Ireland)—
- (i) in subsection (1)—
- (aa) after the first occurrence of “the court” insert “or, where that sum is the subject of a collection order, it appears to the court or the fines officer, as the case may be,”;
- (bb) after the second occurrence of “the court” insert “or the fines officer, as the case may be,”; and
- (ii) in subsection (3)—
- (aa) after “Act” insert “or under Schedule 5 to the Courts Act 2003, as the case may be,”; and
- (bb) for “by the court which made the order” substitute “, as the case may be, by the court which, or fines officer who, made the order, or the court or fines

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(7) 1980 c. 43; so far as relevant, in section 87, subsection (1) was amended by the Courts Act 2003 (c. 39), Schedule 8, paragraph 223(1) and (2) and subsection (3) was amended by the Criminal Procedure and Investigations Act 1996 (c. 25), section 50.

(8) 1980 c. 43; so far as relevant, in section 89, subsections (1) and (2) were amended by the Courts Act 2003, Schedule 8, paragraph 225; subsection (2A) was inserted by the Criminal Justice and Public Order Act 1994 (c. 33), section 47(1).

(9) 1980 c. 43; so far as relevant, in section 90, subsection (3) was amended by the Courts Act 2003 (c. 39), Schedule 8, paragraph 226; subsection (3A) was inserted by the Criminal Justice and Public Order Act 1994 (c. 33), section 47(2).



- officer acting in the same local justice area as the first mentioned court or fines officer, or”;
- (iii) in section (3A) after “court” insert “under this Part of this Act”;
- (e) in section 91(10) (transfer of fines from Scotland or Northern Ireland)—
- (i) in subsection (1)—
- (aa) after “Wales, a magistrates' court” insert “or a fines officer, as the case may be,”;
- (bb) after “this Act” insert “or under Schedule 5 to the Courts Act 2003, as the case may be,”; and
- (ii) in subsection (3)—
- (aa) after “Court, a magistrates' court” insert “or a fines officer, as the case may be,”
- (bb) after “this Act” insert “or under Schedule 5 to the Courts Act 2003, as the case may be,”;
- (f) in section 125A(11) (civilian enforcement officers), after subsection (3) insert—
- “(3A) Subsection (1) also applies to any warrant of distress issued under Schedule 5 to the Courts Act 2003 by a magistrates' court or a fines officer, as the case may be.”; and
- (g) in section 150 (interpretation of other terms)—
- (i) after the definition of “bail in criminal proceedings” insert—
- ““collection order” means an order made under Part 4 of Schedule 5 to the Courts Act 2003”; and
- (ii) after the definition of “fine” insert—
- ““the fines officer”, in relation to a person subject to a collection order, means any fines officer working at the fines officer specified in that order;”.

On the authority of the Lord Chancellor

6th March 2006

*Harriet Harman*  
Minister of State  
Department for Constitutional Affairs

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(10) 1980 c. 43; so far as relevant, in section 91, subsection (1) were amended by (NI) SI 1981/1675 and the Courts Act 2003 (c. 39), Schedule 8, paragraph 227.

(11) 1980 c. 43; section 125A was inserted by the Access to Justice Act 1999 (c. 22), section 92.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

## SCHEDULE

Article 1(3)

## Revocations

<i>Orders revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Collection of Fines (Pilot Schemes) Order 2004	S.I. <a href="#">2004/175</a>	The whole Order
The Collection of Fines (Pilot Schemes) (Amendment) Order 2004	S.I. <a href="#">2004/1406</a>	The whole Order
The Collection of Fines (Pilot Schemes) (Amendment) Order 2005	S.I. <a href="#">2005/487</a>	The whole Order
The Collection of Fines (Pilot Schemes) (Amendment No. 2) Order 2005	S.I. <a href="#">2005/642</a>	The whole Order
The Collection of Fines (Pilot Schemes) (Amendment No. 3) Order 2005	S.I. <a href="#">2005/2410</a>	The whole Order
The Collection of Fines (Pilot Schemes) (Amendment No. 4) Order 2005	S.I. <a href="#">2005/3166</a>	The whole Order

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order establishes a single scheme for piloting, in all local justice areas, the various provisions of Schedule 5 (collection of fines) to the Courts Act 2003<sup>(12)</sup>. This is the final pilot scheme and it replaces the national and local pilot schemes that were established under the Collection of Fines (Pilot Schemes) Order 2004<sup>(13)</sup>, as amended. This Order also amends the Discharge of Fines by Unpaid Work (Pilot Schemes) Order 2004<sup>(14)</sup>, with the effect of extending those schemes for a further year ending 31<sup>st</sup> March 2007.

This Order comes into force—

- (a) for the purposes of establishing a pilot scheme for the Collection of Fines, on 27<sup>th</sup> March 2006

<sup>(12)</sup> 2003 c. 39.

<sup>(13)</sup> S.I. [2004/175](#), as amended by S.I. [2004/1406](#), S.I. [2005/487](#), S.I. [2005/642](#), S.I. [2005/2410](#) and S.I. [2004/3166](#).

<sup>(14)</sup> S.I. [2004/2198](#), as amended by S.I. [2005/563](#).

- (b) for the purposes of extending the Discharge of Fines by Unpaid Work (Pilot Schemes) Order 2004, on 30<sup>th</sup> March 2006.

The provisions of the Order (with the exception of the amendment to the Discharge of Fines Unpaid Work (Pilot Schemes) Order 2004) will cease to have effect on 2<sup>nd</sup> July 2006.

### **Modifications of Schedule 5 (collection of fines) to the Courts Act 2003**

Article 5(b) amends the application of Schedule 5 to the Courts Act 2003 (the “2003 Act”), with the effect that the final scheme will apply to the collection of any sum imposed on conviction (such as fines, costs or sums required to be paid under compensation or confiscation orders), regardless of whether those sums are imposed together with a fine, or on their own without a fine.

Article 5, paragraphs (a), (m), s(iii), t(i)(bb) and (x) are consequential to article 5(b).

Article 5, paragraphs (c), (e) and (f) remove the definition of immediate payments and alters the scheme so that no difference is made between the treatment of cases where an offender is required to pay immediately or is given time to pay.

Article 5(e) also ensures that the provisions of Part 3 (attachment of earnings orders and applications for benefit deductions) apply in every case where the relevant court is dealing with a person who is liable to pay a sum imposed on conviction (“P”), other than where the court is hearing an appeal.

Article 5, paragraphs (d) and (i) remove those provisions giving discounts for early payments.

Article 5, paragraphs (k) and (n) together remove those provisions imposing automatic increases in fines.

Article 5, paragraphs (h), (l), (o) to (q) and (s) are consequential to article 5(k) and (n).

Article 5(r) specifies a further step available against defaulters. This step allows a fines officer to take enforcement proceedings in a county court or the High Court, where a third party debt order or a charging order can be made to secure the payment of the sum due.

Article 5(u) inserts a new provision allowing the court to increase a fine in cases where P is in default on a collection order due to his wilful refusal or culpable neglect.

Article (t)(i)(aa) and (t)(iii) allows the court, on the referral of a case to it under paragraph 42 of Schedule 5, to exercise any of its standard powers whilst keeping the collection order in place, if required.

Article (t)(ii) removes the reference to the fines collection regulations.

Article 5(v) removes the power to make provision in fines collection regulations for cases that are transferred from one area to another. That power was required only for the purposes of transferring a case from a pilot local justice area to a non-pilot local justice area and this Order now establishes a national pilot in all local justice areas.

Article 5(x) substitutes the definition of “standard powers in respect of persons liable to pay fines”, with the effect that those powers will no longer be applied (with or without modifications) by fines collection regulations. Instead, the standard powers will be all of those powers that the court would have had if a collection order had not been made under Schedule 5, but P had been liable to pay the sum due.

### **Modifications of the Attachment of Earnings Act 1971**

The modifications to the Attachment of Earnings Act 1971(15) (the “1971 Act”) apply only for the purposes of the fines collection pilot scheme established by this Order.

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(15) 1971 c. 32.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Article 6(a)(i) removes the power of a court to make an attachment of earnings order (“AEO”) under the 1971 Act to secure the payment of a sum imposed on conviction. It ensures that the only powers and obligations to make AEOs in relation to those sums, are the powers and obligations under Schedule 5 to the 2003 Act.

Article 6, paragraphs (a)(ii) and (b) to paragraph (i) ensure that the relevant provisions of the 1971 Act apply to AEOs made by the court, or by the fines officer under Schedule 5 to the 2003 Act.

Article 6(c)(i) disapplies the provisions about applications for AEOs in cases where the AEO is to be made under Schedule 5 to the 2003 Act. Schedule 5 gives powers to, and imposes obligations on, the courts and fines officers to make AEOs of their own motion.

Article 6(c)(ii) repeals the powers to make attachment of earnings orders, without the need for an application, in relation to fines and compensation orders. This is because those provisions are superseded by equivalent powers contained in Schedule 5 to the 2003 Act, as modified by this Order.

Article 6, paragraph (d)(ii) and (iii) and paragraph (k) together ensure that, where an AEO is made under Schedule 5 to the 2003 Act, the deductions from earnings are calculated and made in accordance with fines collections regulations made under Schedule 5 to the 2003 Act.

Article 6(j) inserts a definition of “the fines officer” into the 1971 Act.

### **Modifications of the Magistrates' Courts Act 1980**

The modifications of the Magistrates' Courts Act 1980(16) (the “1980 Act”) apply only for the purposes of the fines collection pilot scheme established by this Order.

Article 7(a) allows the court to issue a warrant of arrest to secure P’s attendance before it following his failure to appear in answer to a summons issued by a fines officer by virtue of Schedule 5 to the 2003 Act.

Article 7(b) allows the fines officer to take proceedings in the High Court or county court (where, for example, a charging order or third party debt order can be made) to recover a sum imposed on conviction. This is one of the “further steps” specified in paragraph 38 of Schedule 5 to the 2003 Act, as modified by this Order.

Article 7, paragraphs (c) to (e) ensure that the provisions relating to the transfer of fines, from one area or jurisdiction to another, apply to fines that are being enforced under Schedule 5 of the 2003 Act. It also allows a fines officer to make the relevant order for transfer.

Article 7(f) ensures that any warrant of distress issued by a fines officer under Schedule 5 to the 2003 Act, can be executed in the same way that a warrant of distress issued by a justice of peace is executed.

Article 7(g) inserts definitions of “collection order” and “the fines officer” into the 1980 Act.

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(16) 1980 c. 43.