

**EXPLANATORY MEMORANDUM TO**  
**THE COLLECTION OF FINES (PILOT SCHEME) AND DISCHARGE OF FINES BY**  
**UNPAID WORK (PILOT SCHEMES) (AMENDMENT) ORDER 2006**

**2006 No. 502**

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 modifies Schedule 5 to the Courts Act 2005 (collection of fines) and establishes the final stage of piloting for the fines collection scheme which extends to all local justice areas in England and Wales, for a period of 3 months. The Order also modifies 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 of the Courts Act 2003 confers power using the negative resolution procedure to modify Schedule 5 (and other enactments) for the purpose of piloting the fines collection scheme. That section also 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. (The power to implement the final scheme has not yet been exercised).
  - 4.2 The Collection of Fines (Pilot Schemes) Order 2004 was made under the power to pilot the fines collection scheme. It established a national pilot scheme and several local pilot schemes.
  - 4.3 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.
  - 4.4 This Order establishes a final stage of piloting which applies to all local justice areas in England and Wales. It is intended to be the last pilot scheme before the implementation of a final scheme. The Order modifies Schedule 5 to the Courts Act 2003 and it also modifies 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 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 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 The fines payment work pilots are being extended until March 2007 in this order, so that the Home Office can continue to pilot the scheme before they complete their final evaluation.

7.6 This Order brings into force a final stage of piloting for the collection of fines, and—for that purpose—it sets out modifications to primary legislation. Changes since the earlier pilot schemes are as follows:

7.6.1 The fine discount incentive in Schedule 5 has been removed.

- 7.6.2 The heading to Schedule 5 has been amended, so that it is now clear that it relates to the collection of fines and other sums imposed on conviction.
- 7.6.3 Fines officers are given the power to transfer fines between areas. This is in line with the policy aim of giving court staff more of the administrative work previously done by magistrates.
- 7.6.4 This Order should be read together with the Fines Collection Regulations 2006, which support the scheme established by this Order.
- 7.7 National rollout of the fines collection scheme is being undertaken in three phases:
- Phase 1: North West and South West, 26 September 2005.
  - Phase 2: Midlands, Wales and Cheshire and North East London, 12 December 2005.
  - This order extends the fines collection scheme to all of England and Wales, which includes the Phase 3 areas: North East, South East and other London areas.

## **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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