

**EXPLANATORY MEMORANDUM TO
THE DISCHARGE OF FINES BY UNPAID WORK (PILOT SCHEMES)
(AMENDMENT) ORDER 2007**

2007 No. 773

1. This explanatory memorandum has been prepared by the Department of Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

2. **Description**

2.1 The Discharge of Fines by Unpaid Work (Pilot Schemes) Order 2004 (SI 2004 No. 2198) enabled the piloting of fine payment work to take place in specified local justice areas (previously known as petty sessions areas) from 21 September 2004 to 31 March 2005. The Order has since been amended to extend the period of the pilots, which now ends on 31 March 2007. The present order extends the pilot period in specified local justice areas within seven courts board areas until 31 March 2008 and adds new pilot areas in the courts board area of South Wales. Fine payment work is unpaid work carried out by an offender whom the court believes is genuinely unable to pay a fine and from whom the fine cannot be recovered by any of the usual means, such as deduction from benefit or attachment of earnings. The work done discharges the liability to pay the fine at a standard, statutory rate of £6 per hour. The specified local justice areas where the provisions may currently be piloted are:

- Peterborough, Huntingdon and Wisbech in Cambridgeshire;
- Sheffield and Barnsley in South Yorkshire;
- Halton and Warrington in Cheshire;
- Kendal and Barrow in Cumbria;
- South Devon, Central Devon, East Cornwall and West Cornwall in Devon and Cornwall, and
- Gloucester, Stroud and Forest of Dean in Gloucestershire.

The new specified local justice areas are:

- Miskin, Cynon Valley, Merthyr Tydfil, Swansea County, Neath Port Talbot, Cardiff, Newcastle and Ogmore and Vale of Glamorgan in South Wales.

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

3.1 None.

4. **Legislative Background**

4.1 The power for a court to allow an offender to discharge his fine by unpaid work is provided by section 97(2) of, and Schedule 6 to, the Courts Act 2003. Section 97(5) gives the Lord Chancellor the power to make an order to give the Schedule effect in relation to the local justice areas specified in the order, for the period specified in the order.

5. Territorial Extent and Application

5.1 This Order extends to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Fine payment work - or the conversion of fines into work - is designed to enable an offender who cannot afford to pay a fine to work it off instead. Schedule 6 to the Courts Act 2003 enables a court to allow an offender sentenced to a fine to discharge his sentence by means of unpaid work, where it appears to the court that the amount owing cannot be collected by any of the normally available methods, such as a distress warrant or attachment of earnings. The court achieves this by making a "work order". The offender must consent to the making of such an order. The Schedule applies to people aged 18 or over who are liable to pay a fine or a sum treated for enforcement purposes as a fine, such as an unpaid fixed penalty, but excludes compensation, costs and confiscation orders.

7.2 Fine payment work was being piloted alongside other fine enforcement measures in the Courts Act 2003, but these have now been rolled out nationally. The piloting of fine payment work began during December 2004 and January 2005 (although the power had been available since September 2004), but was very slow to start in some of the areas. The pilot areas are currently local justice areas in Cumbria, South Yorkshire, Cheshire, Cambridgeshire, Gloucestershire and Devon and Cornwall. This order adds 8 new local justice areas in South Wales. South Wales are keen to join the pilot, so the numbers of work orders made should rise significantly. Many of the existing pilot sites are in rural areas, which has partially accounted for the low numbers of orders to date. Adding the more urban locations in South Wales, such as Cardiff and Swansea, gives the potential for more suitable cases to come before the courts and consequently for more work orders to be made. This will in turn provide more data on which to base a meaningful evaluation of the pilots as a whole, on which a decision can then be based over whether or not to extend fine payment work nationally.

7.3 The current piloting period will end on 31 March 2007. This will be extended to 31 March 2008. This will allow time for the new local justice areas in South Wales to join the pilot and to contribute data on how fine payment work operates in practice to that already collected from the other

areas. It will also enable more data to be collected from all areas so that there is enough information available to carry out a qualitative and quantitative evaluation of the scheme. This is scheduled to take place during 2007/8. A decision will then be taken over national roll-out and/or any amendments to the scheme that might be needed.

7.4 Fine payment work is regarded as an integral part of the package of Courts Act 2003 provisions designed to improve fine enforcement and it is hoped that it will make a valuable contribution towards increasing confidence in the fine as a sentence and increasing its use by the courts. This will contribute to achieving the Government's aim of rebuilding the fine as a credible punishment.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no adverse impact on business, charities or voluntary bodies. In practice, those providing work placements, such as charity shops, farms, a zoo, etc., benefit from the unpaid work.

8.2 Funding of the pilots during the 2007/8 financial year will, as before, be met jointly by the DCA and Home Office

9. Contact

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