

**EXPLANATORY MEMORANDUM TO**  
**THE MAGISTRATES' COURTS WARRANTS (SPECIFICATION OF PROVISIONS)**  
**(AMENDMENT) ORDER 2018**

**2018 No. 961**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 The main purpose of this instrument is to amend the Magistrates' Courts Warrants (Specification of Provisions) Order 2000 ("the 2000 Order") and extend the type of warrants which can be executed by Civilian Enforcement Officers (CEOs) and Approved Enforcement Agents (AEAs). This is needed because there have been changes to primary legislation which introduced additional warrants and these are not included in the 2000 Order. The 2000 Order makes provision for the execution of warrants which relate to failure to comply with court sentences or for applications to vary or revoke them.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this instrument is England and Wales.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

- 6.1 The Magistrates' Courts Warrants (Specification of Provisions) Order 2000 enables CEOs and AEAs to execute certain warrants of arrest. The Order has been amended on two previous occasions: first, by the Magistrates' Courts Warrants (Specification of Provisions) (Amendment) Order 2004 (S.I 2004/1835), which extended the warrants listed in the 2000 Order. It was amended further by the Magistrates' Courts Warrants (Specification of Provisions) (Amendment) Order 2007 (S.I 2007/3011),

which added warrants for breaches of Community Orders made under the Criminal Justice Act 2003. The 2000 Order has been amended again to keep up with changes in the types of sentences made by the criminal courts and additional warrants that require enforcement.

## **7. Policy background**

### *What is being done and why?*

- 7.1 Her Majesty's Courts and Tribunals Service (HMCTS) has responsibility for ensuring orders of the Court are effectively enforced, which includes the execution of Warrants of Arrest in relation to criminal offences. These warrants are executed by the Police, by Civilian Enforcement Officers (HMCTS employees) and by Approved Enforcement Agents (private contractors who are regulated and certificated by the Lord Chancellor).
- 7.2 When the court issues a warrant of arrest for an individual that warrant is sent to either the Police or to the National Compliance and Enforcement Service (NCES), which is part of HMCTS, to be executed. Those that are sent to NCES are allocated to CEOs and AEAs to execute.
- 7.3 The warrants that are executed by CEOs and AEAs fall into two categories. The first category relates to the non-payment of financial penalties and can be, for example, a warrant to take control of goods or a warrant of arrest to bring the defendant before the court. The second category relates to failures to comply with court sentences or for applications to vary or revoke them. These sentences include, for example, failing to comply with any of the requirements of a community order or the supervision requirement of a detention and training order.
- 7.4 There have been numerous changes to primary sentencing legislation, which, as a result, have introduced a number of types of warrant which are not included in the Magistrates' Courts Warrants (Specification of Provisions) Order 2000. The impact of this is that these warrants could only be executed by the police, despite being in the same category as warrants already included in the 2000 Order and routinely issued in the magistrates' courts. The benefit of this Order is that all breach warrants will now be enforceable by CEOs/AEAs and the necessary resource will be directly available through NCES (HMCTS).

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

- 9.1 Given the nature of the instrument, no consolidation is required.

## **10. Consultation outcome**

- 10.1 This instrument does not create new powers or new offence types and therefore no formal consultation has taken place in relation to it.
- 10.2 We have consulted the National Police Chiefs Council on an informal basis and they are very supportive of the instrument and are keen for it be progressed as soon as possible.

## **11. Guidance**

11.1 No guidance is being issued with this Explanatory Memorandum.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

## **13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

14.1 As the instrument only makes amendments to the types of warrants included in the previous Orders no monitoring or review is considered necessary.

## **15. Contact**

15.1 Debbie Naughton at the National Compliance and Enforcement Service (Telephone: 01522 582836 or email: [deborah.naughton@justice.gov.uk](mailto:deborah.naughton@justice.gov.uk)) can be contacted with any queries regarding the instrument.

15.2 Lisa John the Delivery Director at the National Compliance and Enforcement Service can confirm that this Explanatory Memorandum meets the required standard.

15.3 Lucy Frazer at the Ministry of Justice can confirm that this Explanatory Memorandum meets the required standard.