

## **EXPLANATORY MEMORANDUM TO STATUTORY INSTRUMENTS**

### **FROM THE DEPARTMENT OF CONSTITUTIONAL AFFAIRS**

#### **The Collection of Fines (Pilot Schemes) (Amendment) Order 2004 No. 1406**

**This explanatory memorandum is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.**

#### **Description**

This Order is an amendment to the Collection of Fines (Pilot Schemes) Order 2004<sup>1</sup> (the original Order) and is being laid to correct an error in article 2(f), and to re-draft the transitional provision, article 4(1), of that Order.

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

The correction in article 1(4) is pursuant to a report by the Joint Committee on Statutory Instruments (Eleventh Report of Session 2003-04).

#### **Legislative Background**

The original Order was made to allow piloting of the fines collection scheme contained in Schedule 5 of the Courts Act 2003<sup>2</sup>. Article 4(1) of the original Order was a transitional provision with the intention of allowing cases to proceed in accordance with the law existing at the time despite the fact that the pilots created a new system, and for cases that are started under the pilot scheme to be able to finish under that scheme when the pilots end. Article 2(f) of the original order was purporting to allow regulations to be made to allow a fines officer to issue a summons to get an offender back to court if their attachment order failed. However, the paragraph of Schedule 5 of the Courts Act 2003 that the article was amending to achieve this (paragraph 42(3)) had been substituted by article 2(e).

#### **Extent**

The extent of the amendment Order is to England and Wales.

#### **Policy Background**

The policy was to introduce an improved scheme for the collection of fines. The full scheme contains a range of sanctions which can be used by the Courts to enforce the payment of outstanding fines. It was decided that the scheme should be piloted prior to national rollout to determine the most effective shape of the final scheme. Two pilots are underway:

a national pilot involving all Magistrates Courts Committees which will be testing the extended use of Attachment to Earnings Orders and Deductions from Benefits Orders and also the new offences of failing to provide means information and/or providing false information;

a local pilot involving six Magistrates Courts Committees, where a combination of the various strands of the new Fines Collection Scheme is being tested. The areas involved in the local pilots are Cumbria, Cheshire, Devon & Cornwall, South

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<sup>1</sup> S.I. 2004/175

<sup>2</sup> c.39

Yorkshire, Gloucestershire and Cambridgeshire. Of these six areas, only Cheshire and Gloucestershire are piloting the full scheme as set out in the Courts Act 2003. The remaining 4 areas are testing one of each of the sanctions contained in the scheme. The sanctions are registration of unpaid fines which is the primary sanction for South Yorkshire, clamping of vehicles which is the primary sanction for Devon & Cornwall and fines increase which is the primary sanction for Cambridgeshire.

The pilots are due to run for six months after which there will be a full and formal evaluation to determine the shape and content of the final scheme. That will be set in legislation by a further set of Regulations which will also set out how and by when the final scheme will be implemented.

The alterations are legally important: as there was doubt as to whether the drafting in article 1(4) of the original order did what it purported to do; and article 2(e)(f) was amending a paragraph in Schedule 5 of the Courts Act 2003 which had been substituted by article 2(e).

### **Impact**

The impact on the original Order by this amendment Order is for clarity for all those involved in the pilot schemes (those running them and those on whom they are imposed). Making it clear as to what happens in enforcement terms with cases where the fine was imposed before the pilots started and on cases which are in the pilot scheme which are not completed before the pilots finish. The amendments also provide clarity as to whether a summons can be issued by a fines officer on a reference back to court in the National pilot scheme.

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