EXPLANATORY MEMORANDUM TO

THE COLLECTION OF FINES (PILOT SCHEMES) (AMENDMENT NO 3) ORDER 2005

2005 No. 2410

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

2. Description

2.1 This Order amends the Collection of Fines (Pilot Schemes) Order 2004 to extend the fines collection pilot scheme contained in Schedule 5 to the Courts Act 2003 to further local justice areas.

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

3.1 None

4. Legislative Background

4.1 The Collection of Fines (Pilot Schemes) Order 2004 was laid pursuant to section 97 of the Courts Act 2003 to pilot the fines collection scheme set out in Schedule 5 to the 2003 Act. As the scheme has 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 and the Collection of Fines (Pilot Schemes) (Amendment No 2) Order 2005.

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 the Government has therefore launched 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.

7.4 The automatic use of Attachment of Earnings orders (AEOs) and Deductions from Benefit orders (DBs), together with a new means form - were rolled out across all magistrates courts in England and Wales in a national pilot commencing in April 2004. However, the scope of the evaluation was limited to the local pilot areas and the control areas (that only implemented the national pilot measures). Comparisons between the results in the pilot and control courts enabled the study to evaluate the benefits of new measures compared to traditional methods.

7.5 Other measures were tested in the pilot areas alone:

7.4.1 A new instrument was created – the collection order – to regulate the enforcement process.

7.4.2 The role of fines officer was created to take on the administrative management of fine collection.

7.4.3 Increasing the fine if the offender failed to pay. The increase was disapplied if the offender then made further arrangements for payment and maintained those agreed payments.

7.4.4 Registration of the fine, to initiate processes which may lead to the offender being denied credit.

7.4.5 Clamping the offender's vehicle and selling it if the offender still refuses to pay.

7.4.6 Fines Payment Work assigned to the offender to pay off the fine. This has not yet been evaluated and therefore is not being extended at this stage.

7.6 In light of information gained from the evaluation of the pilots were amendments were made to the 2004 Order in the Fines Collection (Amendment) Regulations 2005 and the Register of Fines (Amendment) Regulations 2005, and the Collection of Fines (Pilot Schemes) (Amendment No 2) Order 2005.

7.7 The amended scheme has been scheduled for national rollout in three phases. This Order rolls the scheme out to the Phase 1 areas, the North West and South West

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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