EXPLANATORY MEMORANDUM TO THE DISCHARGE OF FINES BY UNPAID WORK (PILOT SCHEMES) (AMENDMENT) ORDER 2008

2008 No. 621

1. This explanatory memorandum has been prepared by the Ministry of Justice 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 2008. The present order extends the pilot period in specified local justice areas within seven courts board areas until 31 March 2009 and adds new pilot areas in the courts board area of Cleveland. 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,
- Gloucester, Stroud and Forest of Dean in Gloucestershire, and
- Miskin, Cynon Valley, Merthyr Tydfil, Swansea County, Neath Port Talbot, Cardiff and Newcastle, Vale of Glamorgan and Ogmore in South Wales.

The new specified local justice areas are:

- Hartlepool, Langbaurgh East and Teesside in Cleveland.

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, but was very slow to start in some of the areas. The pilot areas are currently local justice areas in Cambridgeshire, Cheshire, Cumbria, Gloucestershire, Devon and Cornwall, South Yorkshire and South Wales. Cleveland Community Justice Project which began on 17th April 2007 in Middlesbrough wish to add fines payment work to the range of enforcement measures available to them. Fines payment work will be a useful tool in achieving the overall aims of the project.

7.3 The current piloting period will end on 31 March 2008. This will be extended to 31 March 2009. The pilots are being evaluated with the final report expected in July 2008. 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 2008/9 up to £12,000 will be met by the Ministry of Justice.

9. Contact

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