EXPLANATORY MEMORANDUM

THE DISCHARGE OF FINES BY UNPAID WORK (PILOT SCHEMES) ORDER 2004 No. 2198

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

2. Description

2.1 This Order allows the piloting of fine payment work in specified petty sessions areas within six Magistrates' Courts Committee areas until 31 March 2005. Fine payment work is unpaid work carried out by an offender whom the court believes is genuinely unable to pay a fine. The work done discharges the liability to pay the fine at a standard, statutory rate per hour. The specified petty sessions areas 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.

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

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.

4.2 Paragraph 15 of Schedule 9 provides that if section 97 is brought into force before section 8 (which creates local justice areas to replace petty sessions areas) then Schedule 6 is to have effect as if a reference to a local justice area is a reference to a petty sessions area. This is to continue until section 8 comes into force. Section 8 is scheduled to come into force after the end of the period specified in the Order.

5. Extent

5.1 This Order extends to England and Wales.

6. European Convention on Human Rights

6.1 The Lord Chancellor has signed a statement that the legislation is compatible with Convention rights.

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 is to be piloted together with other fine enforcement measures in the Courts Act. The pilots started in February and March 2004, with fine payment work due to start this autumn. The pilot areas are as listed above in the Magistrates' Courts Committee areas of Cumbria, South Yorkshire, Cheshire, Cambridgeshire, Gloucestershire and Devon and Cornwall. Fine payment work is regarded as an integral part of the package of Courts Act 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 No impact is anticipated on the private or voluntary sector, nor any costs to the Exchequer as a result of this Order.

9. Contact

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