

**2005 No. 487**

**MAGISTRATES' COURTS, ENGLAND AND WALES**

**The Collection of Fines (Pilot Schemes) (Amendment) Order  
2005**

*Made* - - - - - *6th March 2005*

*Laid before Parliament* *8th March 2005*

*Coming into force in accordance with article 1(1)*

The Lord Chancellor, in exercise of the powers conferred upon him by sections 97(5) and (6) and 108(6) of the Courts Act 2003(a) hereby makes the following Order:

**Citation, commencement, duration, definition and transitional provision**

1.—(1) This Order may be cited as the Collection of Fines (Pilot Schemes) (Amendment) Order 2005 and shall come into force—

- (a) for the purposes of article 2 of this order and this article on 30th March 2005; and
- (b) for all other purposes on 1st April 2005.

(2) This Order shall cease to have effect on the 31st March 2006.

(3) In this Order a reference to the “Collection of Fines (Pilot Schemes) Order 2004(b)” means a reference to that Order as amended by the Collection of Fines (Pilot Schemes) (Amendment) Order 2004(c).

(4) In this Order, unless the context otherwise requires, a reference to an article by number alone is a reference to the article so numbered in the Collection of Fines (Pilot Schemes) Order 2004.

(5) Unless the court or fines officer orders otherwise any orders made by virtue of the Collection of Fines (Pilot Schemes) Order 2004 before 1st April 2005 shall continue to have effect as if this Order, other than article 2, had not been made.

**Amendments to the Collection of Fines (Pilot Schemes) Order 2004**

2. In paragraph (2) of article 1 (citation, commencement, duration, interpretation and transitional provision) for “31st March 2005” substitute “31st March 2006”.

3.—(1) In paragraph (3) of article 1—

- (a) amend the definition of “sum imposed by a court” as follows—
  - (i) for “consists of or includes a fine, and” substitute “is a fine, or”; and

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(a) 2003 c.39  
(b) S.I. 2004/175  
(c) S.I. 2004/1406

- (ii) omit “In (i) a “fine” does not include any pecuniary forfeiture or pecuniary compensation payable on conviction”.
  - (b) for each occurrence of “petty sessions area” substitute “local justice area”.
  - (2) In paragraph (6) after “petty sessions area” insert “or local justice area”.
- 4.—(1) Amend article 2 (national pilot scheme) as follows.
- (2) For the words “petty sessions areas” to “column 1 of Parts I and II of the Schedule” substitute “local justice areas in England and Wales, except those listed in the Schedule”.
  - (3) In paragraph (a)(iii) for “sub-paragraph” substitute “sub-paragraphs (1)(a), (5), (6) and”.
  - (4) After paragraph (a) insert—
    - “(aa) amend paragraph 1 (application of Schedule) as follows—
      - (i) in sub-paragraph (1)(a) for “consists of or includes a fine, and” substitute “is a fine, or”; and
      - (ii) omit sub-paragraph (2); and”.
  - (5) After paragraph (b) insert—
    - “(bb) amend paragraph 7 (application of part) as follows—
      - (i) omit sub-paragraph (1); and
      - (ii) in sub-paragraph (2)(b) omit “if sub-paragraph (1)(b) applies,”.
  - (6) In the inserted sub-paragraph (4) of paragraph (d) for “justices’ chief executive” substitute “designated officer”.
5. For article 3 substitute the following—

**“Local pilot scheme**

3. In relation to the local justice areas listed in the Schedule, Schedule 5 has effect for the specified period subject to the following modifications—

- (a) amend paragraph 1 (application of Schedule) as follows—
  - (i) in sub-paragraph (1)(a) for “consists of or includes a fine, and” substitute “is a fine, or”; and
  - (ii) omit sub-paragraph (2); and
- (b) amend paragraph 3 (meaning of “existing defaulter” etc) as follows—
  - (i) omit sub-paragraphs (1)(a) and (6);
  - (ii) for sub-paragraph (5) substitute—
 

“(5) For the purposes of this Schedule, P is in default on a collection order if he fails to pay any amount due under the payment terms (or, if they have effect, the reserve terms) on or before the date on which it is required to be paid.”; and
- (c) omit Part 2 (immediate payment of fines: discounts);
- (d) amend paragraph 7 (application of part) as follows—
  - (i) for sub-paragraph (1) substitute—
 

“(1) This Part does not apply where the case before the court is an appeal under paragraphs 23, 32 or 39(4).”; and
  - (ii) in sub-paragraph (2)(b) omit “if sub-paragraph (1)(b) applies,”; and
- (e) in paragraph 11 for sub-paragraph (1) substitute—
 

“(1) This Part applies whether or not the relevant court has made an attachment of earnings order or application for benefit deductions under Part 3 of this Schedule.”;
- (f) in paragraph 15(2) omit “, 35, 36”;
- (g) omit Part 5 (discount where collection order made);

- (h) omit paragraphs 27 (increase in fine) and 28 (notice of increase);
- (i) in sub-paragraph (1)(a) of paragraph 31 (application to fines officer for variation of reserve terms) for “before an increase is imposed under paragraph 33” substitute “before a further steps notice is delivered under paragraph 37”;
- (j) omit paragraphs 33 and 34;
- (k) for the Part 9 title “OPERATION OF COLLECTION ORDERS AFTER INCREASE IMPOSED” substitute “FURTHER STEPS”;
- (l) omit paragraphs 35 and 36;
- (m) for sub-paragraphs (1) to (5) of paragraph 37 substitute—
  - “(1) This paragraph applies if—
    - (a) P is in default of the reserve terms (whether or not they have been varied) of the collection order, or the fines officer has not made an attachment of earnings order or an application for deductions from benefits under paragraph 26, and
    - (b) no application under paragraph 31(1) (application to fines officer for variation of reserve terms) or 32(1) (appeal against decision of fines officer) is pending, and
    - (c) no reference under paragraph 42 (power of fines officer to refer case to magistrates’ court) is pending.”.
- (n) in the title of paragraph 39 omit “after increase”;
- (o) amend paragraph 39 as follows—
  - (i) omit sub-paragraphs (1)(a) and (2);
  - (ii) in sub-paragraph (3) for “an appeal or” substitute “a” and omit “(a) or ”; and
- (p) amend paragraph 42 as follows—
  - (i) in sub-paragraph (2)(b) omit “discharge the order and”;
  - (ii) after sub-paragraph (2) insert—
    - “(2A) Where a court exercises its standard powers under sub-paragraph 2(b) it may also discharge the collection order.”; and
- (q) in sub-paragraph (b) in paragraph 50 after “Schedule” insert—
  - “, or
  - (c) of the court under paragraph 50A of this Schedule”;
- (r) after paragraph 50 insert—

*“Increase in fine by court*

**50A.**—(1) This paragraph applies where the fines officer has referred a case to the court under paragraph 37(6)(a) or after any further steps measures taken under paragraph 38 have not been successful.

(2) Where the court is satisfied that the default is due to P’s wilful refusal or culpable neglect, the court may increase the fine which is the subject of the order.

(3) For the purposes of an increase, the fine does not include any pecuniary forfeiture or pecuniary compensation payable on conviction.

(4) The increase is given effect by treating it as part of the fine imposed on P on his conviction.

(5) The amount of the increase is to be determined in accordance with fines collections regulations but must not be greater than 50% of the fine.”

**6.** Replace the Schedule with the following Schedule.

“SCHEDULE  
Local Pilot Areas

Barnsley District  
Furness and District  
Central Devon  
East Cornwall  
Gloucestershire  
Fenland  
Peterborough  
Halton  
Huntingdonshire  
South Lakeland  
Sheffield  
South Devon  
Warrington  
West Cornwall’

On the authority of the Lord Chancellor

6th March 2005

*Christopher Leslie*  
Parliamentary Under Secretary of State  
Department of Constitutional Affairs

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Collection of Fines (Pilot Schemes) (Amendment) Order 2004 (“the 2004 Order”). The 2004 Order established schemes for the piloting of different provisions of the fines collection scheme contained in Schedule 5 of the Courts Act 2003. The initial stage of the piloting has been completed and evaluated and this Order has the effect of extending the period of the 2004 Order to allow piloting to continue and to implement changes to the scheme as identified by the evaluation. There will now be one local pilot scheme piloting all aspects of the proposed new scheme rather than several local pilot schemes piloting different parts. Article 4 amends the existing national pilot scheme and article 5 the existing local pilot schemes.

This Order is being commenced (article 1(1)(a)) on 30th March 2005 for the purposes of extending the operation of the 2004 Order, before it would otherwise cease to have effect. Other amendments made by this Order come into force on the 1st April 2005. This is because certain amendments are made in relation to the commencement of the unified administration provisions in the Courts Act 2003 on the 1st April 2005, which will alter the references to “petty sessions areas” and remove the post of “justices’ chief executives”.

Articles 3(1)(b) and (2) and 4(6) are being made to update references in the 2004 Order to be consistent with alterations being brought into force on 1st April by the unified administration provisions in the Courts Act 2003.

Articles 3(1)(a), 4(4) and 5(3)(a) amend the definition of a “sum due” or “sum imposed” to incorporate the collection of costs and compensation into the scheme where they are imposed on their own without a fine.

Article 4(2) ensures that the national pilot applies to all local justice areas apart from those listed in the Schedule.

Articles 4(3) and (5)(the inserted (bb)(i)) and 5(3)(b), (3)(d)(i) and (e) remove the definition of immediate payments and alters the scheme so that no difference is made between the treatment of cases where an offender is required to pay immediately or is given time to pay.

Article 4(5)(the inserted (bb)(ii)) and 5(3)(d)(ii) provide for a fines enforcement court to impose orders under Part 3 of Schedule 5 to the Courts Act 2003 on any outstanding fine that is in default that comes before it, although the court does not have to consider this as the first option when the case is before the court because of an appeal against a fines officer’s decision.

Article 5(inserted 3) ensures that the local pilot schemes apply to the areas listed in the Schedule.

Article 5(3)(b)(ii) moves the definition of “default on a collection order” from paragraph 20 of Schedule 5 of the Courts Act 2003 and places it in the definition of existing defaulter so it is not lost when Part 5 of Schedule 5 is omitted.

Articles 5(3)(c) and (g) omit any discounts from the pilot schemes.

Articles 5(3)(f), (h), (i), (j), (k), (l), (m), (n), (o), (q) and (r) removes the automatic nature of increase from the pilot schemes and allows it to be imposed at the discretion of the court.

Article 5(3)(p) allows the court to exercise its standard powers and keep a collection order in place if required.

Article 6 replaces the Schedule with a list of local justice areas to which the local pilot scheme in Article 5 is applied.





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