SCHEDULES

SCHEDULE 3

Section 15

MONETARY PENALTIES: PROCEDURE, APPEALS AND RECOVERY ETC

Introduction

1 This Schedule applies in relation to the imposition by the OfS of a monetary penalty on a registered higher education provider under section 15.

Procedure

2 (1) Before imposing a monetary penalty on the provider under that section, the OfS must notify the provider of its intention to do so.

(2) The notice must—
- (a) specify the proposed amount of the penalty,
- (b) specify the OfS's reasons for proposing to impose the penalty,
- (c) specify the period during which the provider may make representations about the proposal ("the specified period"), and
- (d) specify the way in which those representations may be made.

(3) The specified period must not be less than 28 days beginning with the date on which the notice is received.

(4) The OfS must have regard to any representations made by the provider during the specified period in deciding whether to impose a monetary penalty on it.

(5) Having decided whether or not to impose a monetary penalty, the OfS must notify the provider of its decision.

(6) Where the decision is to impose a monetary penalty, the notice must specify—
- (a) the amount of the penalty, and
- (b) the period within which the penalty must be paid or the periods within which different portions of the penalty must be paid.

(7) The notice must also contain information as to—
- (a) the grounds for imposing the penalty,
- (b) how payment may be made,
- (c) rights of appeal,
- (d) the period within which an appeal may be made, and
- (e) the consequences of non-payment.

(8) The requirement to pay the penalty is suspended at any time when—
- (a) an appeal under paragraph 3(1)(a) or (b), or a further appeal, could be brought in respect of the penalty, or
- (b) such an appeal is pending.

(9) But that does not prevent the requirement to pay taking effect if the provider notifies the OfS that it does not intend to appeal.

Appeals

3 (1) The governing body of a provider may appeal to the First-tier Tribunal against—
(a) a decision under section 15 to impose a monetary penalty on the provider;
(b) a decision as to the amount of the penalty.

(2) An appeal under this paragraph may be made on the grounds—
(a) that the decision was based on an error of fact;
(b) that the decision was wrong in law;
(c) that the decision was unreasonable.

(3) On an appeal under this paragraph the Tribunal may—
(a) withdraw the requirement to pay the penalty;
(b) confirm that requirement;
(c) vary that requirement;
(d) remit the decision whether to confirm the requirement to pay the penalty, or any matter relating to that decision, to the OfS.

Interest and recovery

4 (1) This paragraph applies if all or part of a monetary penalty imposed on a provider under section 15 is unpaid by the time when it is required to be paid.

(2) The unpaid amount of the penalty for the time being—
(a) carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838, and
(b) does not also carry interest as a judgment debt under that section.

(3) The total amount of interest imposed under sub-paragraph (2) must not exceed the amount of the penalty.

(4) The OfS may recover from the provider, as a civil debt due to it, the unpaid amount of the penalty and any unpaid interest.

Retention of sums received

5 The OfS must pay the sums received by it by way of a penalty under section 15 or interest under paragraph 4 to the Secretary of State.