

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.

Status: This is the original version (as it was originally enacted).

- (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.