

SCHEDULE 3

Mutual recognition of financial penalties: amendments of Criminal Justice and Immigration Act 2008

5.—(1) Section 85 (procedure on receipt of certificate by designated officer) is amended as follows.

(2) In subsection (1), for paragraphs (a) and (b) substitute—

- “(a) a decision, or a certified copy of a decision, requiring payment of a financial penalty,
- (b) a certificate requesting enforcement under the Framework Decision on financial penalties, and”.

(3) After subsection (4) insert—

“(4A) If the magistrates’ court is of the view that one or more of the grounds for refusal mentioned in paragraphs A1, 2A and 6 of Schedule 19 may apply, the designated officer for the magistrates’ court or the Lord Chancellor must, before the magistrates’ court takes a decision under subsection (3)—

- (a) consult the competent authority or central authority concerned, and
- (b) request the authority to supply without delay any further information required.”.

(4) After subsection (7) insert—

“(7A) But any power of a magistrates’ court to impose a relevant alternative sanction in connection with a default in paying the financial penalty—

- (a) may be exercised only if its exercise is authorised by the certificate, and
- (b) is subject to any provision of the certificate specifying the maximum level of sanction that may be imposed.

(7B) “Any power of a magistrates’ court to impose a relevant alternative sanction” means any of the following powers conferred on a magistrates’ court by virtue of subsection (6)—

- (a) the power under section 76 of the Magistrates’ Courts Act 1980 to issue a warrant committing a person to prison;
- (b) the power under Schedule 6 to the Courts Act 2003 to make an order requiring a person to perform unpaid work;
- (c) the power under section 300 of the Criminal Justice Act 2003 to order a person to comply with an unpaid work requirement, a curfew requirement or an attendance centre requirement;
- (d) the power under section 301 of that Act to order a person to be disqualified for holding or obtaining a driving licence;
- (e) the power under section 39 of this Act to order a person aged under 18 to comply with an unpaid work requirement, a curfew requirement or an attendance centre requirement.”.

(5) After subsection (7B) (as inserted by sub-paragraph (4) above) insert—

“(7C) If the person required to pay the financial penalty to which the certificate relates provides evidence that all or part of the penalty has been paid in any State, the designated officer for the magistrates’ court or the Lord Chancellor must—

- (a) consult the competent authority or central authority concerned, and
- (b) request the authority to supply without delay any further information required.”.

(6) For subsection (8) substitute—

“(8) If—

- (a) the certificate requesting enforcement under the Framework Decision on financial penalties states that part of the financial penalty has been paid,
- (b) the Lord Chancellor is informed, in accordance with Article 15(3) of that Decision, that all or part of the financial penalty has been paid, or
- (c) the magistrates’ court is satisfied, having regard to evidence provided as mentioned in subsection (7C) and following consultation under that subsection, that all or part of the financial penalty has been paid in any State,

the references in subsections (6) and (7A) to the financial penalty are to be read as references to so much of the penalty as remains unpaid (and, accordingly, if none of the penalty remains unpaid, subsection (6) ceases to have effect in relation to the penalty).”.

(7) In relation to any time before the coming into force of section 61 of the Criminal Justice and Court Services Act 2000 (abolition of sentences of detention in a young offender institution), section 85(7B) of the Criminal Justice and Immigration Act 2008 applies as if after paragraph (a) there were inserted—

“(aa) the power under section 108 of the Powers of Criminal Courts (Sentencing) Act 2000 to commit a person to detention;”.

(8) In relation to any time before the coming into force of section 303(b)(iii) of the Criminal Justice Act 2003 (repeal of sections 35 and 40 of the Crime (Sentences) Act 1997), section 85(7B) of the Criminal Justice and Immigration Act 2008 applies as if after paragraph (aa), as treated as inserted by sub-paragraph (7) above, there were inserted—

“(ab) the power under section 35 of the Crime (Sentences) Act 1997 to make a community service order or a curfew order;

(ac) the power under section 40 of that Act to order a person to be disqualified for holding or obtaining a driving licence;”.

(9) In relation to any time before the coming into force of section 6(1) of the Criminal Justice and Immigration Act 2008 (abolition of certain youth orders) as respects the abolition of attendance centre orders, section 85(7B) of that Act applies as if after paragraph (ac), as treated as inserted by sub-paragraph (8) above, there were inserted—

“(ad) the power under section 60 of the Powers of Criminal Courts (Sentencing) Act 2000 to order a person to attend an attendance centre;”.