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SCOTTISH STATUTORY INSTRUMENTS

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**2020 No. 339**

**The Criminal Justice (EU Exit) (Scotland)  
(Amendment etc.) Regulations 2020**

**PART 2**

**Council Framework Decision 2005/214/JHA on the application  
of the principle of mutual recognition of financial penalties**

**Interpretation**

**2.** In this Part, “the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(1).

**Amendment of the 1995 Act**

**3.—(1)** The 1995 Act is amended as follows.

(2) In section 211(6)(2) (fines) for “Except where the provisions of section 223R(2) apply, all” substitute “All”.

(3) Omit sections 223A to 223FA and 223H to 223T(3).

(4) In section 226B(4) (enforcement orders)—

(a) omit subsection (6A), and

(b) in subsection (7), for “,(6) or (6A)” substitute “or (6)”.

(5) Omit section 226HA(5).

(6) In section 226I(6) (enforcement of fines etc.: interpretation)—

(a) in subsection (1)—

(i) for “Subject to subsection (1A), in” substitute “In”,

(ii) for “226HA” substitute “226H”,

(iii) omit the definitions of “central authority for Scotland”, “certificate”, “competent authority for Scotland”, “decision”, “financial penalty” and “Framework Decision on financial penalties”,

(iv) in the definition of “enforcement order” for “(6A)” substitute “(6)”,

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(1) 1995 c.46.

(2) Section 211(6) was amended by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6), schedule 1, paragraph 20(1)(b) and S.S.I. 2009/342.

(3) Sections 223A, 223B, 223C, 223D, 223E, 223F, 223G, 223H, 223I, 223K, 223L, 223M, 223N, 223O, 223P, 223Q, 223R, 223S and 223T were inserted by S.S.I. 2009/342; section 223FA was inserted by S.S.I. 2014/322. Sections 223E, 223H and 223I were amended by S.S.I. 2014/322; section 223G was repealed by S.S.I. 2014/322. Section 223H and 223T were amended by S.S.I. 2014/336.

(4) Section 226B was added by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, section 55 and amended by S.S.I. 2009/342.

(5) Section 226HA was added by S.S.I. 2009/342.

(6) Section 226I was added by the Criminal Proceedings etc. (Reform) (Scotland) Act 2007, section 55 and amended by S.S.I. 2009/342.

- (v) in the definition of “relevant court” omit paragraph (d); and
- (b) omit subsection (1A).
- (7) Omit schedules 11 and 12(7).

#### **Amendment of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007**

- 4.—(1) The Criminal Proceedings etc. (Reform) (Scotland) Act 2007(8) is amended as follows.
- (2) Omit section 56(9).
- (3) In section 81(3)(a)(10) (orders), omit “56,”.

#### **Consequential revocations**

- 5. The following are revoked—
  - (a) paragraph 19 of the schedule of the Civil Jurisdiction and Judgments Regulations 2007(11),
  - (b) the Mutual Recognition of Criminal Financial Penalties in the European Union (Scotland) Order 2009(12),
  - (c) the Mutual Recognition of Criminal Financial Penalties in the European Union (Scotland) (No. 1) Order 2014(13),
  - (d) the Mutual Recognition of Criminal Financial Penalties in the European Union (Scotland) (No. 2) Order 2014(14), and
  - (e) paragraph 6 of schedule 4 of the Civil Jurisdiction and Judgments (Amendment) Regulations 2014(15).

#### **Transitional and saving provision: decisions requiring payment of financial penalties received before IP completion day**

6.—(1) The following provisions of the 1995 Act continue to apply to relevant decisions requiring payment of financial penalties as if the provisions had not been repealed or amended by regulation 3(16)—

- (a) sections 223A to 223E,
- (b) sections 223F and 223FA,
- (c) sections 223H to 223T,
- (d) section 226B(6A) and (7),
- (e) section 226I(1) and (1A),
- (f) schedule 11,
- (g) schedule 12.

(2) In paragraph (1) “relevant decisions requiring payment of financial penalties” are decisions which, together with a certificate, have been received before IP completion day by—

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(7) Schedules 11 and 12 were inserted by S.S.I. 2009/342. Schedule 12 was amended by S.S.I. 2014/322 and S.S.I. 2014/336.  
 (8) 2007 asp 6.  
 (9) Section 56 was amended by S.I. 2007/1655, paragraph 19 of the schedule and S.I. 2014/2947 schedule 4, paragraph 6.  
 (10) Section 81(3)(a) was amended by the Courts Reform (Scotland) Act 2014 (asp 18), section 127(4).  
 (11) S.I. 2007/1655.  
 (12) S.S.I. 2009/342.  
 (13) S.S.I. 2014/322.  
 (14) S.S.I. 2014/336.  
 (15) S.I. 2014/2947.  
 (16) See Article 62(1)(d) of the withdrawal agreement and sections 7A and 7C of the European Union (Withdrawal) Act 2018.

- (a) the central authority, or the competent authority, of a member State under section 223B(3) of the 1995 Act (requests to other member States: procedure on issue of certificate), or by any other authority of the member State with no jurisdiction to enforce a penalty but which transmits the decision and certificate to the competent authority, or
  - (b) the central authority for Scotland under section 223F(1)(a) of the 1995 Act (recognition of financial penalties: requests from other member States), or by any other authority in Scotland with no jurisdiction to enforce a penalty but which transmits the decision and certificate to the competent authority, where the financial penalty to which the certificate relates meets the requirements of section 223F(1)(b) of the 1995 Act.
- (3) For the purposes of this regulation—
- (a) “central authority”, “central authority for Scotland” and “certificate” have the same meaning as in section 223T of the 1995 Act (interpretation of sections 223A to 223S),
  - (b) “competent authority” in relation to a member State means an authority designated by the State as a competent authority for the purposes of Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties<sup>(17)</sup> as amended by Council Framework Decision 2009/299/JHA<sup>(18)</sup>,
  - (c) the provisions of the 1995 Act referred to in paragraph (1) are to be read as if the term “member State” included the United Kingdom.

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<sup>(17)</sup> OJ L 76, 22.03.2005, p.16.

<sup>(18)</sup> OJ L 81, 27.03.2009, p.24.