



Criminal Justice and Immigration Act 2008

2008 CHAPTER 4

PART 6

INTERNATIONAL CO-OPERATION IN RELATION TO CRIMINAL JUSTICE MATTERS

Recognition of financial penalties: requests from other member States

84 Requests from other member States: England and Wales

- (1) This section applies where—
 - (a) the competent authority or central authority of a member State other than the United Kingdom gives the Lord Chancellor—
 - (i) a certificate requesting enforcement under the Framework Decision on financial penalties, and
 - (ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, and
 - (b) the financial penalty is suitable for enforcement in England and Wales (see section 91(1)).
- (2) If the certificate states that the person required to pay the financial penalty is normally resident in England and Wales, the Lord Chancellor must give the documents mentioned in subsection (1)(a) to the designated officer for the local justice area in which it appears that the person is normally resident.
- (3) Otherwise, the Lord Chancellor must give the documents mentioned in subsection (1) (a) to the designated officer for such local justice area as appears appropriate.
- (4) Where the Lord Chancellor acts under subsection (2) or (3), the Lord Chancellor must also give the designated officer a notice—
 - (a) stating whether the Lord Chancellor thinks that any of the grounds for refusal apply (see section 91(2)), and

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- (b) giving reasons for that opinion.
- (5) Where the person required to pay the financial penalty is a body corporate, subsection (2) applies as if the reference to the local justice area in which it appears that the person is normally resident were a reference to the local justice area in which it appears that the person has its registered office.
- (6) Where—
 - (a) the competent authority or central authority of a member State other than the United Kingdom gives the central authority for Scotland the documents mentioned in subsection (1)(a), and
 - (b) without taking any action to enforce the financial penalty in Scotland, the central authority for Scotland gives the documents to the Lord Chancellor,
 this section applies as if the competent authority or central authority of the other member State gave the documents to the Lord Chancellor.

Commencement Information

II S. 84 in force at 1.10.2009 by [S.I. 2009/2606](#), [art. 2\(e\)](#)

85 Procedure on receipt of certificate by designated officer

- (1) This section applies where the Lord Chancellor gives the designated officer for a local justice area—
 - (a) a certificate requesting enforcement under the Framework Decision on financial penalties,
 - (b) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, and
 - (c) a notice under section 84(4).
- (2) The designated officer must refer the matter to a magistrates' court acting for that area.
- (3) The magistrates' court must decide whether it is satisfied that any of the grounds for refusal apply (see section 91(2)).
- (4) The designated officer must inform the Lord Chancellor of the decision of the magistrates' court.
- (5) Subsection (6) applies unless the magistrates' court is satisfied that one or more of the grounds for refusal apply.
- (6) The enactments specified in subsection (7) apply in relation to the financial penalty as if it were a sum adjudged to be paid by a conviction of the magistrates' court on the date when the court made the decision mentioned in subsection (4).
- (7) The enactments specified in this subsection are—
 - (a) Part 3 of the Magistrates' Courts Act 1980 (c. 43) (satisfaction and enforcement);
 - (b) Schedules 5 and 6 to the Courts Act 2003 (c. 39) (collection of fines etc. and discharge of fines etc. by unpaid work);
 - (c) any subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made under the enactments specified in paragraphs (a) and (b).

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- (8) If the certificate requesting enforcement under the Framework Decision on financial penalties states that part of the financial penalty has been paid, the reference in subsection (6) to the financial penalty is to be read as a reference to such part of the penalty as remains unpaid.

Commencement Information

I2 S. 85 in force at 1.10.2009 by [S.I. 2009/2606](#), [art. 2\(f\)](#)

86 Modification of Magistrates' Courts Act 1980

- (1) Section 90 of the Magistrates' Courts Act 1980 is modified as follows in its application to financial penalties by virtue of section 85(6) of this Act.
- (2) Subsection (1) applies as if for the words from “he is residing” to the end of that subsection there were substituted “he is residing, or has property or a source of income, in any petty sessions district in Northern Ireland—
- (a) the court or the fines officer (as the case may be) may order that payment of the sum shall be enforceable in that petty sessions district, and
 - (b) if such an order is made, the court or the fines officer must notify the Lord Chancellor.”

Commencement Information

I3 S. 86 in force at 1.10.2009 by [S.I. 2009/2606](#), [art. 2\(g\)](#)

87 Requests from other member States: Northern Ireland

- (1) This section applies where—
- (a) the competent authority or central authority of a member State other than the United Kingdom gives the Lord Chancellor—
 - (i) a certificate requesting enforcement under the Framework Decision on financial penalties, and
 - (ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, and
 - (b) the financial penalty is suitable for enforcement in Northern Ireland (see section 91(1)).
- (2) If the certificate states that the person required to pay the financial penalty is normally resident in Northern Ireland, the Lord Chancellor must give the documents mentioned in subsection (1)(a) to the clerk of petty sessions for the petty sessions district in which it appears that the person is normally resident.
- (3) Otherwise, the Lord Chancellor must give the documents mentioned in subsection (1) (a) to the clerk of petty sessions for such petty sessions district as appears appropriate.
- (4) Where the Lord Chancellor acts under subsection (2) or (3), the Lord Chancellor must also give the clerk of petty sessions a notice—

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- (a) stating whether the Lord Chancellor thinks that any of the grounds for refusal apply (see section 91(2)), and
 - (b) giving reasons for that opinion.
- (5) Where the person required to pay the financial penalty is a body corporate, subsection (2) applies as if the reference to the petty sessions district in which it appears that the person is normally resident were a reference to the petty sessions district in which it appears that the person has its registered office.
- (6) Where—
- (a) the competent authority or central authority of a member State other than the United Kingdom gives the central authority for Scotland the documents mentioned in subsection (1)(a), and
 - (b) without taking any action to enforce the financial penalty in Scotland, the central authority for Scotland gives the documents to the Lord Chancellor,
- this section applies as if the competent authority or central authority of the other member State gave the documents to the Lord Chancellor.

Commencement Information

I4 S. 87 in force at 1.10.2009 by [S.I. 2009/2606](#), [art. 2\(h\)](#)

88 Procedure on receipt of certificate by clerk of petty sessions

- (1) This section applies where the Lord Chancellor gives the clerk of petty sessions for a petty sessions district—
- (a) a certificate requesting enforcement under the Framework Decision on financial penalties,
 - (b) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, and
 - (c) a notice under section 87(4).
- (2) The clerk must refer the matter to a magistrates' court acting for the petty sessions district.
- (3) The magistrates' court must decide whether it is satisfied that any of the grounds for refusal apply (see section 91(2)).
- (4) The clerk must inform the Lord Chancellor of the decision of the magistrates' court.
- (5) Subsection (6) applies unless the magistrates' court is satisfied that one or more of the grounds for refusal apply.
- (6) Part 9 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26)), and any instrument made under that Part, apply in relation to the financial penalty as if it were a sum adjudged to be paid by a conviction of the magistrates' court on the date when the court made the decision mentioned in subsection (4).
- (7) If the certificate requesting enforcement under the Framework Decision on financial penalties states that part of the financial penalty has been paid, the reference in subsection (6) to the financial penalty is to be read as a reference to such part of the penalty as remains unpaid.

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Commencement Information

I5 S. 88 in force at 1.10.2009 by [S.I. 2009/2606](#), [art. 2\(i\)](#)

89 Modification of Magistrates' Courts (Northern Ireland) Order 1981

- (1) Part 9 of the Magistrates' Courts (Northern Ireland) Order 1981 is modified as follows in its application to financial penalties by virtue of section 88(6) of this Act.
- (2) Article 92 applies in relation to any financial penalty for an amount exceeding £20,000 as if for paragraph (5) there were substituted—
 - “(5) The period for which a person may be committed to prison under this Article in default of payment or levy of any sum or part of such sum shall not exceed the maximum period which the Crown Court could have fixed under section 35(1) (c) of the Criminal Justice Act (Northern Ireland) 1945 had the financial penalty been a fine imposed by the Crown Court.”
- (3) For the purposes of subsection (2), if the amount of a financial penalty is specified in a currency other than sterling, that amount must be converted to sterling by reference to the London closing exchange rate on the relevant date.
- (4) In subsection (3), the “relevant date” means the date on which the decision imposing the financial penalty was made.
- (5) Article 95 applies as if for the words from “he is residing” in paragraph (1) to the end of that paragraph there were substituted “he is residing, or has property or a source of income, in any local justice area in England and Wales—
 - (a) the court may order that payment of the sum shall be enforceable in that local justice area, and
 - (b) if such an order is made, the court must notify the Lord Chancellor.”

Commencement Information

I6 S. 89 in force at 1.10.2009 by [S.I. 2009/2606](#), [art. 2\(j\)](#)

90 Transfer of certificates to central authority for Scotland

- (1) This section applies where—
 - (a) the competent authority or central authority of a member State other than the United Kingdom gives the Lord Chancellor—
 - (i) a certificate requesting enforcement under the Framework Decision on financial penalties, and
 - (ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, but
 - (b) the Lord Chancellor is not required by section 84 or 87 to give the documents to a designated officer for a local justice area in England and Wales or to a clerk of petty sessions for a petty sessions district in Northern Ireland.

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- (2) If the certificate states that the person is normally resident or has property or a source of income in Scotland, the Lord Chancellor must give the documents to the central authority for Scotland.

Commencement Information

I7 S. 90 in force at 1.10.2009 by [S.I. 2009/2606](#), [art. 2\(k\)](#)

Status:

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Changes to legislation:

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