

## SCHEDULES

### SCHEDULE 18

Amendments relating to Article 15(1) to (4) etc

#### PART 1

Acts of the Parliament of the United Kingdom

*Criminal Justice and Immigration Act 2008*

**83.** Amend the Criminal Justice and Immigration Act 2008(1) as follows.

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**Commencement Information**

**I1** Sch. 18 para. 83 in force at 12.4.2010, see [art. 1\(2\)](#)

**84.** In section 82(4)(a) and (b)(vi) (requests to other member States: Northern Ireland) for “Lord Chancellor” substitute “Department of Justice”.

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**Commencement Information**

**I2** Sch. 18 para. 84 in force at 12.4.2010, see [art. 1\(2\)](#)

**85.** In section 83 (procedure on issue of certificate: Northern Ireland)—

- (a) omit subsection (2);
- (b) in subsection (3) for the words from the beginning to “those documents” substitute “The Department of Justice must give the documents mentioned in subsection (3A)”;
- (c) after subsection (3) insert—
  - “(3A) The documents are—
  - (a) the certificate;
  - (b) a certified copy of the decision requiring payment of the financial penalty.”;
- (d) in subsection (4) for “Lord Chancellor” substitute “Department of Justice”.

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**Commencement Information**

**I3** Sch. 18 para. 85 in force at 12.4.2010, see [art. 1\(2\)](#)

**86.** In section 84 (requests from other member States: England and Wales) after subsection (6) insert—

**Changes to legislation:** There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Criminal Justice and Immigration Act 2008. (See end of Document for details)

“(7) Where the documents mentioned in subsection (1)(a) are given to the Lord Chancellor by the Department of Justice under section 90A, 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** Sch. 18 para. 86 in force at 12.4.2010, see [art. 1\(2\)](#)

**87.** In section 87 (requests from other member States: Northern Ireland)—

- (a) in subsections (1), (2), (3), (4) and (6) for “Lord Chancellor” (wherever occurring) substitute “Department of Justice”;
- (b) after subsection (6) insert—

“(7) Where the documents mentioned in subsection (1)(a) are given to the Department of Justice by the Lord Chancellor under section 90A, this section applies as if the competent authority or central authority of the other member State gave the documents to the Department of Justice.”

**Commencement Information**

**I5** Sch. 18 para. 87 in force at 12.4.2010, see [art. 1\(2\)](#)

**88.** In section 88(1) and (4) (procedure on receipt of certificate by clerk of petty sessions) for “Lord Chancellor” substitute “Department of Justice”.

**Commencement Information**

**I6** Sch. 18 para. 88 in force at 12.4.2010, see [art. 1\(2\)](#)

**89.** In section 89(5) (modification of the Magistrates’ Courts (Northern Ireland) Order 1981(2)), in the modification of Article 95 of that Order, for “Lord Chancellor” substitute “Department of Justice”.

**Commencement Information**

**I7** Sch. 18 para. 89 in force at 12.4.2010, see [art. 1\(2\)](#)

**90.** In section 90 (transfer of certificates to central authority for Scotland)—

- (a) in subsection (1)(a) after “Lord Chancellor” insert “or the Department of Justice”;
- (b) for subsection (1)(b) substitute—
  - “(b) the financial penalty is not suitable for enforcement in England and Wales or Northern Ireland for the purposes of section 84(1) or 87(1).”;
- (c) in subsection (2) for the words from “Lord Chancellor” to the end substitute
  - “documents must be given to the central authority for Scotland—
    - (a) in a case to which paragraph 6 of Schedule 18 applies, by the Lord Chancellor;

- (b) in a case to which paragraph 7 of Schedule 18 applies, by the Department of Justice;
- (c) in any other case, by whoever was given the documents by the competent authority or central authority of the other member State”.

**Commencement Information**

**18** Sch. 18 para. 90 in force at 12.4.2010, see [art. 1\(2\)](#)

**91.** After section 90 insert—

**“90A Transfer of certificates by Department of Justice to Lord Chancellor and vice versa**

- (1) Subsection (2) applies where—
  - (a) the competent authority or central authority of a member State other than the United Kingdom gives the Department of Justice—
    - (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, or
  - (b) 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 paragraph (a) and the central authority for Scotland, without taking any action to enforce the financial penalty in Scotland, gives the documents to the Department of Justice.
- (2) The Department of Justice must give the documents to the Lord Chancellor if—
  - (a) it is a case to which paragraph 6 of Schedule 18 applies, or
  - (b) other than by virtue of that paragraph, the financial penalty is suitable for enforcement in England and Wales for the purposes of section 84(1).
- (3) Subsection (4) 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, or
  - (b) 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 paragraph (a) and the central authority for Scotland, without taking any action to enforce the financial penalty in Scotland, gives the documents to the Lord Chancellor.
- (4) The Lord Chancellor must give the documents to the Department of Justice if—
  - (a) it is a case to which paragraph 7 of Schedule 18 applies, or
  - (b) other than by virtue of that paragraph, the financial penalty is suitable for enforcement in Northern Ireland for the purposes of section 87(1).”

**Changes to legislation:** There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Criminal Justice and Immigration Act 2008. (See end of Document for details)

**Commencement Information**

**I9** Sch. 18 para. 91 in force at 12.4.2010, see [art. 1\(2\)](#)

**92.**—(1) Amend section 91 (recognition of financial penalties: general) as follows.

(2) After subsection (4) insert—

“(5) In the application of this section to Northern Ireland, in subsection (3) the reference to the Lord Chancellor is to be read as a reference to the Department of Justice.”

**Commencement Information**

**I10** Sch. 18 para. 92 in force at 12.4.2010, see [art. 1\(2\)](#)

**93.** In section 92(1) (interpretation), at the appropriate place, insert—

““Department of Justice” means the Department of Justice in Northern Ireland;”.

**Commencement Information**

**I11** Sch. 18 para. 93 in force at 12.4.2010, see [art. 1\(2\)](#)

**94.** In section 147 (orders, rules and regulations)—

(a) after subsection (1) insert—

“(1A) Orders made by the Department of Justice in Northern Ireland under this Act are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(3).”;

(b) in subsection (2) for “such orders or regulations” substitute “orders or regulations falling within subsection (1) or (1A)”;

(c) in subsection (5)(d) omit “, 83(4)”;

(d) after subsection (5) insert—

“(5A) Subject to subsection (5B), orders made by the Department of Justice in Northern Ireland under this Act are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(4)).

(5B) Subsection (5A) does not apply to an order made by the Department of Justice containing (whether alone or with other provision) provision under section 83(4) or 91(3) which amends or repeals any provision of an Act; and no such order may be made by the Department unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(5C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(5) applies for the purposes of subsection (5B) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

(3) [S.I. 1979/1573 \(N.I. 12\)](#).

(4) [1954 c. 33 \(N.I.\)](#). Section 41(6) was amended by [S.I. 1999/663](#).

(5) Section 41(3) was substituted by [S.I. 1999/663](#).

**Commencement Information**

**I12** Sch. 18 para. 94 in force at 12.4.2010, see [art. 1\(2\)](#)

**95.**—(1) Amend Schedule 18 (penalties suitable for enforcement in England and Wales or Northern Ireland) as follows.

(2) In paragraph 5—

(a) in sub-paragraph (2) for “The” substitute “If the certificate was given to the Lord Chancellor by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Department of Justice under section 90A), the”;

(b) after sub-paragraph (3) insert—

“(4) If the certificate was given to the Department of Justice by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Lord Chancellor under section 90A), the financial penalty is suitable for enforcement in Northern Ireland unless it is suitable for enforcement in England and Wales by virtue of sub-paragraph (5).

(5) The financial penalty is suitable for enforcement in England and Wales if the Department of Justice thinks that it is more appropriate for the penalty to be enforced in England and Wales than in Northern Ireland.”

(3) In paragraph 6—

(a) in sub-paragraph (2) after “(3)” insert “or (4)”;

(b) in sub-paragraph (3)(a) after “Scotland” insert “or by the Department of Justice under section 90A”;

(c) after sub-paragraph (3) insert—

“(4) This sub-paragraph applies if—

(a) the Lord Chancellor was given the certificate by the Department of Justice under section 90A,

(b) the Department of Justice was not given the certificate by the central authority for Scotland, and

(c) the Lord Chancellor thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in England and Wales.”

(4) In paragraph 7—

(a) in sub-paragraph (2) after “(3)” insert “or (4)”;

(b) in sub-paragraph (3)(a) and (b) for “Lord Chancellor” substitute “Department of Justice”;

(c) in sub-paragraph (3)(a) after “Scotland” insert “or by the Lord Chancellor under section 90A”;

(d) after sub-paragraph (3) insert—

“(4) This sub-paragraph applies if—

(a) the Department of Justice was given the certificate by the Lord Chancellor under section 90A,

(b) the Lord Chancellor was not given the certificate by the central authority for Scotland, and

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- (c) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in Northern Ireland.”
- (5) In paragraph 8—
- (a) in sub-paragraph (2) for “The” substitute “If the certificate was given to the Lord Chancellor by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Department of Justice under section 90A), the”;
- (b) after sub-paragraph (5) insert—
- “(6) If the certificate was given to the Department of Justice by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Lord Chancellor under section 90A), the financial penalty is suitable for enforcement in Northern Ireland unless—
- (a) it is suitable for enforcement in England and Wales by virtue of sub-paragraph (7) or (8), or
- (b) sub-paragraph (9) applies.
- (7) The financial penalty is suitable for enforcement in England and Wales if—
- (a) the Department of Justice was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland), and
- (b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in England and Wales than in Northern Ireland or Scotland.
- (8) The financial penalty is suitable for enforcement in England and Wales if—
- (a) the Department of Justice was given the certificate by the central authority for Scotland, and
- (b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in England and Wales than in Northern Ireland.
- (9) This sub-paragraph applies if—
- (a) the Department of Justice was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland), and
- (b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in Northern Ireland or England and Wales.”

**Commencement Information**

**I13** Sch. 18 para. 95 in force at 12.4.2010, see [art. 1\(2\)](#)

- 96.** In paragraph 7 of Schedule 19 after sub-paragraph (3) insert—

“(4) In the application of this Schedule to Northern Ireland, in sub-paragraph (3) the reference to the Lord Chancellor is to be read as a reference to the Department of Justice.”

**Commencement Information**

**I14** Sch. 18 para. 96 in force at 12.4.2010, see [art. 1\(2\)](#)

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**Changes to legislation:** *There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Criminal Justice and Immigration Act 2008. (See end of Document for details)*

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