
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 342

The Mutual Recognition of Criminal Financial Penalties in the European Union (Scotland) Order 2009

PART II

AMENDMENT OF THE CRIMINAL PROCEDURE (SCOTLAND) ACT 1995

Requests for recognition of financial penalties to other member States: fines enforcement officers and their functions

4. After section 226H of the Criminal Procedure (Scotland) Act 1995, insert—

“226HA Judicial co-operation in criminal matters: mutual recognition of financial penalties: requests to other member States

(1) Subsection (4) applies where—

- (a) an offender is subject to a relevant penalty (including such a penalty in relation to the payment of which an enforcement order has been made);
- (b) the relevant penalty is not paid (or, where relevant, has not been paid in accordance with the enforcement order);
- (c) there is no appeal outstanding in relation to the relevant penalty;
- (d) a FEO is exercising (or intends to exercise) the function conferred—
 - (i) by paragraph (a) of section 226A(2) of this Act in respect of the relevant penalty; or
 - (ii) by paragraph (b) of that section in respect of any enforcement order relating to the relevant penalty; and
- (e) it appears to the FEO that the offender is normally resident, or has property or income, in a member State of the European Union other than the United Kingdom.

(2) For the purposes of subsection (1)(c), there is no appeal outstanding in relation to a financial penalty if—

- (a) no appeal has been brought in relation to the imposition of the financial penalty within the time allowed for making such an appeal; or
- (b) such an appeal has been brought but the proceedings on appeal have been concluded.

(3) In subsections (1)(c) and (2) “appeal” in respect of financial penalties mentioned in section 223A(5)(b) and (c) includes a request made under section 302C of this Act that such a penalty be recalled.

(4) The FEO may issue a certificate as mentioned in section 223A(1) of this Act.

(5) Subsection (4) does not apply where the designated officer of the competent authority for Scotland has issued such a certificate in respect of the financial penalty.

(6) The FEO must give the central authority for Scotland any certificate issued under subsection (4), together with a copy, or extract, of the decision requiring payment of the relevant penalty.

(7) Where the central authority for Scotland receives the documents mentioned in subsection (6) above, subsections (3) to (6) of section 223B of this Act apply as if the documents had been given under subsection (2) of that section.”.