

## SCHEDULES

### SCHEDULE 8

Section 16.

#### FINANCIAL PENALTY ENFORCEMENT ORDERS

1 The following section shall be inserted after section 133 of the Army Act 1955:—

**“133A Financial penalty enforcement orders.**

(1) If—

- (a) a financial penalty has been awarded against any person under this Act, and
- (b) it was awarded against him on his being convicted of a qualifying offence or as the parent or guardian of a person convicted of such an offence, and
- (c) no term of imprisonment was imposed in default of payment, and
- (d) no appeal is outstanding and the time provided for the giving of notice of appeal against the award has expired, and
- (e) the whole or any part of the penalty remains unpaid or unrecovered, and
- (f) the person against whom the award was made is a person to whom this section applies,

the Defence Council or an officer authorised by them may make an order (in this section referred to as a " financial penalty enforcement order ") for the registration of the penalty by the relevant court.

(2) This section applies to a person who is, or would be but for section 131 above, neither subject to service law nor a civilian to whom Part II of this Act is applied by section 209 below, Part II of the Air Force Act 1955 is applied by section 209 of that Act or Parts I and II of the Naval Discipline Act 1957 are applied by section 118 of that Act.

(3) In this section " qualifying offence " means

- (a) an offence under section 36 above committed outside the United Kingdom and consisting of or including acts or omissions that would constitute a comparable foreign offence or a local road traffic offence ;
- (b) an offence under section 70 above ;
- (c) an offence under any provision of this Act other than section 70 above consisting of or including acts or omissions which would also constitute an offence under section 70 above ;

and for the purposes of this definition—

" comparable foreign offence " means an offence under the civil law of any place outside the United Kingdom which is comparable to an offence under the law of England and Wales; and

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*Status: This is the original version (as it was originally enacted).*

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" local road traffic offence " means an offence under the civil law of any place outside the United Kingdom relating to road traffic.

- (4) A financial penalty enforcement order shall contain a certificate issued on behalf of the Defence Council or by an officer authorised by them and stating—
- (a) that a financial penalty has been awarded against the person named in the order ;
  - (b) that the conditions specified in paragraphs (b) to (f) of subsection (1) above are satisfied ;
  - (c) the nature and amount of the penalty ;
  - (d) the date on which and the charge or charges in respect of which it was awarded ;
  - (e) if it was awarded against the person named in the order as the parent or guardian of some other person, the fact that it was so awarded and the name of that other person ;
  - (f) sufficient particulars of the case (including particulars of any offences taken into consideration at the trial);
  - (g) the date of any payment or recovery of a sum on account of the penalty ;
  - (h) the sum outstanding ; and'
  - (j) the authority to whom and address to which any stoppages or compensation included in the penalty will fall, on recovery, to be remitted under subsection (7) below.
- (5) A document purporting to be a financial penalty enforcement order and to be signed on behalf of the Defence Council or by an officer authorised by them shall be deemed to be such an order unless the contrary is proved, and a certificate under subsection (4) above shall be evidence of the matters stated.
- (6) Subject to subsection (7) below, upon registration of a financial penalty enforcement order—
- (a) service enforcement procedures shall cease to be available for the recovery of the sum certified as outstanding, and
  - (b) that sum shall be treated for all purposes as if it had been a fine imposed upon a conviction by the relevant court.
- (7) Stoppages or compensation recovered under this section shall be remitted to the authority at the address specified in the certificate under subsection (4) above.
- (8) Where it appears from a financial penalty enforcement order that the penalty was imposed in respect of more than one offence, it shall be deemed for the purposes of enforcement to be a single penalty only.
- (9) Where—
- (a) a financial penalty enforcement order has been made against any person, and
  - (b) he ceases to be a person to whom this section applies at a time when the whole or any part of the certified sum is still outstanding,
- service enforcement procedures shall apply to the amount outstanding as if it were a sum payable by way of a fine imposed by a civil court.

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*Status: This is the original version (as it was originally enacted).*

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(10) In this section—

" financial penalty " means—

- (a) a fine, including a fine imposed by virtue of paragraph 13 of Schedule 5A below ;
- (b) stoppages ;
- (c) a compensation order imposed by virtue of paragraph 11 or 13 of Schedule 5A below ; or
- (d) a fine together with stoppages or a compensation order;

" the relevant court " means—

- (a) the magistrates' court in England or Wales,
- (b) the sheriff court in Scotland, or
- (c) the court of summary jurisdiction in Northern Ireland,

within whose jurisdiction the person against whom a financial penalty enforcement order is made appears to the Defence Council or an officer authorised by them to reside or to be likely to reside ;

" service enforcement procedures " means any procedure available by virtue of any of the following enactments, namely—

- (a) sections 144, 146 and 209(4) and (4A) below and sections 144, 146 and 209(4) and (4A) of the Air Force Act 1955, and
- (b) sections 128A and 128B of the Naval Discipline Act 1957 ; and

" stoppages " does not include sums awarded by virtue of section 147 or 148 below.”.

2 The said section shall also be inserted after section 133 of the Air Force Act 1955, but with the substitution of the word " Army " for the words " Air Force " wherever occurring.

3 (1) The said section shall also be inserted after section 128E of the Naval Discipline Act 1957 and shall have effect as section 128F of that Act but with the modifications specified in sub-paragraphs (2) and (3) below.

(2) The following subsections shall be substituted for subsections (2) and (3):—

“(2) This section applies to a person who is, or would be but for section 119 above, neither subject to service law nor a civilian to whom Parts I and II of this Act are applied by section 118 above, Part II of the Army Act 1955 is applied by section 209 of that Act or Part II of the Air Force Act 1955 is applied by section 209 of that Act.

(3) In this section " qualifying offence " means—

- (a) an offence under section 14A above committed outside the United Kingdom and consisting of or including acts or omissions that would constitute a comparable foreign offence or a local road traffic offence ;
- (b) an offence under section 42 above ;
- (c) an offence under any provision of this Act other than section 42 above consisting of or including acts or omissions which would also constitute an offence under section 42 above;

and for the purposes of this definition—

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*Status: This is the original version (as it was originally enacted).*

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" comparable foreign offence " means an offence under the civil law of any place outside the United Kingdom which is comparable to an offence under the law of England and Wales ; and

" local road traffic offence " means an offence under the civil law of any place outside the United Kingdom relating to road traffic”.

- (3) The following definitions shall be substituted for the definitions of " financial penalty ", " service enforcement procedures" and " stoppages" in subsection (10), namely—
- “" financial penalty " means—
- (a) a fine, including a fine imposed by virtue of paragraph 13 of Schedule 4A below ;
- (b) stoppages ;
- (c) a compensation order imposed by virtue of paragraph 11 or 13 of Schedule 4A below ; or
- (d) a fine together with stoppages or a compensation order;
- " service enforcement procedures " means any procedure available by virtue of any of the following enactments, namely—
- (a) section 128A and section 128B above ; and
- (b) sections 144, 146 and 209(4) and (4A) of the Army Act 1955 and the Air Force Act 1955 ;
- " stoppages " has the meaning assigned to it by section 43(1)(l) above except that it does not include sums awarded by virtue of section 128C above.”
- 4 (1) The following subsections shall be inserted after section 215(5) of the Army Act 1955—
- “(5A) Where a financial penalty enforcement order has been registered under section 133A above by a court of summary jurisdiction in Northern Ireland in respect of any person, a justice of the peace may issue a summons to that person requiring him to appear before the court which registered that penalty or a warrant for the arrest of that person.
- (5B) Where a person appears before a court of summary jurisdiction in Northern Ireland in pursuance of a summons or warrant issued under subsection (5A) above, the court may exercise the like powers as are conferred on it by Part X of the Magistrates' Courts Act (Northern Ireland) 1964 (satisfaction and enforcement of orders).
- (5C) A financial penalty enforcement order shall be registered in Northern Ireland under section 133A above in accordance with Magistrates' Courts Rules.”.
- (2) The said subsections shall also be inserted after section 213(5) of the Air Force Act 1955.
- (3) The said subsections shall also be inserted, as subsections (6A) to (6C), after section 124(6) of the Naval Discipline Act 1957, but with the substitution—
- (a) of the words " 128F below " for the words " 133A above " (wherever they occur); and
- (b) of the words " (6A)" for the words " (5A)" in subsection (5B).