



# Proceeds of Crime (Scotland) Act 1995

## 1995 CHAPTER 43

### PART I

#### CONFISCATION OF THE PROCEEDS OF CRIME

##### *Exercise of powers*

#### **16 Exercise of powers by court or administrator**

- (1) This section applies to the powers as regards realisable property conferred on the court by sections 28, 29, 31, 32 and 33 of and paragraphs 1, 4, and 12 of Schedule 1 to this Act in relation to confiscation orders and on an administrator by that Schedule.
- (2) Subject to the following provisions of this section, the powers shall be exercised with a view to making available for satisfying the confiscation order or, as the case may be, any confiscation order that may be made in the case of a person mentioned in section 4(1)(a) of this Act the value for the time being of realisable property held by any person by the realisation of such property.
- (3) In the case of realisable property held by a person by virtue only of having received a gift made directly or indirectly by the accused which is caught by this Part of this Act, the powers shall be exercised with a view to realising no more than the value of the gift as assessed under section 7 of this Act.
- (4) The powers shall be exercised with a view to allowing any person other than a person mentioned in paragraph (a) and, in relation to a drug trafficking offence, paragraph (b) of section 4(1) of this Act or the recipient of any such gift to retain or recover the value of any property held by him.
- (5) An order may be made or other action taken in respect of a debt owed by the Crown.
- (6) In exercising those powers, no account shall be taken of any obligations of such a person or of the recipient of any such gift which conflict with the obligation to satisfy the confiscation order.

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*Status: This is the original version (as it was originally enacted).*

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- (7) Subsections (2) to (6) of section 31 of the 1994 Act (exercise of powers by High Court etc.) shall apply as regards the powers conferred on the court by sections 35, 36, 37 and 38 of this Act as those subsections apply as regards the powers conferred on the High Court (within the meaning that expression has in relation to England and Wales) by the sections mentioned in subsection (1) of the said section 31.