



# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART VI

#### LOST AND ABANDONED PROPERTY

##### Modifications etc. (not altering text)

C1 Pt. VI (ss. 67–79) extended with modifications by [Animals \(Scotland\) Act 1987 \(c. 9, SIF 4:6\)](#), s. 3(2)

#### 67 Duty of finder.

- (1) Subject to subsection (2) below, any person taking possession of any property without the authority of the owner in circumstances which make it reasonable to infer that the property has been lost or abandoned (“a finder”) shall take reasonable care of it and shall without unreasonable delay deliver the property or report the fact that he has taken possession of it to a constable or to any of the persons mentioned in subsection (3) below, giving a description of the property and information as to where it was found.
- (2) Subsection (1) above does not apply to—
  - (a) property found on the premises of, or used by, an undertaking which provides a transport service for the public, being premises such as omnibus stations, ports, airports or other similar places, or on any vehicle, vessel or aircraft used by the undertaking for such a service, if provision is made in relation to such lost or abandoned property by or under any enactment other than this Act;
  - (b) property found on the premises of, or used by, the British Railways Board or on any vehicle, train, or vessel used by the Board;
  - (c) motor vehicles which appear to be abandoned, whose removal is provided for by or under any enactment other than this Act; or
  - (d) any dog in relation to which provision is made under sections 3 and 4 of the <sup>MI</sup>Dogs Act 1906 (which relate to stray dogs).
- (3) The persons referred to in subsection (1) above are—

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- (a) the owner of the property;
  - (b) the person having right to possession of it;
  - (c) if the property has been found on land or premises, the owner or occupier thereof;
  - (d) any person apparently having the authority to act on behalf of any of those persons.
- (4) Where a person who takes possession of property or receives a report about its finding is—
- (a) a person referred to in paragraph (c) of subsection (3) above, he shall deliver the property or report the fact that he has taken possession of it to a constable or to any of the persons referred to in paragraphs (a), (b) or (d) of that subsection;
  - (b) a person referred to in paragraph (d) of subsection (3) above, he shall deliver the property or report the fact that he has taken possession of it to a constable or to any of the persons referred to in paragraphs (a), (b) or (c) of that subsection.
- (5) Any person who reports the fact that he has taken possession of any property to a constable under this section shall, on being required to do so by the chief constable, deliver the property to such person at such time as the chief constable may direct.
- (6) Any person who fails without reasonable excuse to comply with the provisions of this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £50.

#### Marginal Citations

M1 1906 c. 32.

## 68 Functions of chief constable.

- (1) This section applies to any property which has been delivered or the finding of which has been reported to a constable under section 67 of this Act, or which has been found by a constable.
- (2) The chief constable shall make such arrangements as he considers appropriate for the care and custody of the property.
- (3) The chief constable shall take reasonable steps to ascertain the identity of the owner or person having right to the possession of the property and to notify him where it can be collected.
- (4) The chief constable may, after the expiry of a period of 2 months from the date on which the property was delivered or its finding reported to a constable under section 67 of this Act, having regard to the whole circumstances including the nature and value of the property and the actings of the finder, offer it to the finder under section 70(1) (b) of this Act or, if in his opinion so to offer it would be inappropriate, may sell it or, if in his opinion it would be both inappropriate so to offer it and impracticable to sell it, may dispose of it or make arrangements for its disposal otherwise as he thinks fit; but he shall not do any of these things before the expiry of that period other than by returning it to the claimant under section 69 of this Act or by disposing of it under subsection (5) below.

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- (5) If the property cannot, in the opinion of the chief constable, be safely or conveniently kept for the period mentioned in subsection (4) above he may dispose of it or arrange for its disposal within that period in such manner as he thinks fit.
- (6) The chief constable shall keep a record of particulars connected with the property and shall retain the record so kept for a period of one year from the date on which the property is disposed of under the provisions of this Part of this Act.

## **69 Claims by owner etc. prior to disposal.**

- (1) The owner or person having right to possession of any property in the possession of the chief constable by virtue of section 67 of this Act, or of another person under arrangements made by the chief constable, may at any time prior to its disposal under section 68 of this Act claim that property from the chief constable in accordance with such procedure as the chief constable may direct.
- (2) The chief constable shall consider any claims to property made under subsection (1) above, and, on being satisfied that the claimant is the owner of that property or has a right to possession of it, shall deliver or arrange for the delivery of the property to the claimant on such conditions (if any) as he thinks fit, including payment of such reasonable charges (including any reasonable expenses incurred by him or on his behalf) as the chief constable may determine and payment of such sum as the claimant may be ordered to pay under section 70 of this Act.
- (3) Nothing in this section affects any right to or interest in the property arising otherwise than by virtue of this section.

## **70 Powers of chief constable regarding rewards.**

- (1) The chief constable may—
  - (a) in the event of a claim to property being made under section 69 of this Act by a person appearing to him to be the owner of it or having right to possession of it, order the claimant to pay to the chief constable such sum as he may determine as a reward to the finder; or
  - (b) in the event of any such property not being claimed by such a person, give that property or any part of it to the finder, or pay him such sum as he may determine as a reward.
- (2) In determining whether to make any reward under subsection (1) above and in determining the amount of any such reward the chief constable shall have regard to the whole circumstances including—
  - (a) the nature and value of the property;
  - (b) where there is a claimant to the property, the ability of the claimant to pay; and
  - (c) the actings of the finder.

## **71 Right arising on disposal of property.**

- (1) Any disposal of property under sections 68 or 70 of this Act to a person taking in good faith shall, subject to subsection (2) below, vest the ownership of the property in that person.

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- (2) In the case of any such disposal of property made otherwise than for value, any person who was immediately before the disposal the owner of the property (“the previous owner”) shall [<sup>F1</sup>subject to subsection (3) below] be entitled within the period of one year after the date of the disposal to recover possession of the property as owner.
- [<sup>F2</sup>(3) The one year period calculated in relation to a relevant cross-border dispute for the purposes of subsection (2) above is extended where it would, apart from this subsection, expire—
- (a) in the 8 weeks after the date that a mediation in relation to the dispute ends;
  - (b) on the date that a mediation in relation to the dispute ends; or
  - (c) after the date when all of the parties to the dispute agree to participate in a mediation in relation to the dispute but before the date that such mediation ends.
- (4) Where subsection (3) applies, the period is extended so that it expires on the date falling 8 weeks after the date on which the mediation ends.
- (5) For the purpose of this section, mediation in relation to a relevant cross-border dispute ends when any of the following occurs—
- (a) all of the parties reach an agreement in resolution of the dispute;
  - (b) all of the parties agree to end the mediation;
  - (c) a party withdraws from the mediation, which is the date on which—
    - (i) a party informs all of the other parties of that party’s withdrawal,
    - (ii) in the case of a mediation involving 2 parties, 14 days expire after a request made by one party to the other party for confirmation of whether the other party has withdrawn, if the other party does not respond in that period, or
    - (iii) in the case of a mediation involving more than 2 parties, a party informs all of the remaining parties that the party received no response in the 14 days after a request to another party for confirmation of whether the other party had withdrawn; or
  - (d) a period of 14 days expires after the date on which the mediator’s tenure ends (by reason of death, resignation or otherwise), if a replacement mediator has not been appointed.
- (6) In this section—
- “the Directive” means Directive [2008/52/EC](#) of the European Parliament and of the Council of 21st May 2008 on certain aspects of mediation in civil and commercial matters;
  - “mediation” and “mediator” have the meanings given by Article 3 of the Directive; and
  - “relevant cross-border dispute” means a cross-border dispute within the meaning given by Article 2 of the Directive which is about the recovery of property to which this section applies.]

#### Textual Amendments

- F1** Words in s. 71(2) inserted (6.4.2011) by [The Cross-Border Mediation \(Scotland\) Regulations 2011](#) (S.S.I. 2011/234), regs. 1(1), **7(2)** (with reg. 1(2)(3))

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**F2** S. 71(3)-(6) inserted (6.4.2011) by [The Cross-Border Mediation \(Scotland\) Regulations 2011 \(S.S.I. 2011/234\)](#), regs. 1(1), **7(3)** (with reg. 1(2)(3))

## **72 Rights to compensation.**

- (1) Subject to the provisions of this section, the previous owner of any property disposed of for value under section 68 of this Act shall be entitled to compensation.
- (2) A claim for compensation under subsection (1) above in respect of any property may be made within a period of one year after the date of its disposal under section 68 of this Act in such manner as the chief constable may direct.
- (3) The amount of compensation payable under subsection (1) above shall be the net proceeds of the sale of the property, but no compensation shall be payable where the net proceeds of the sale of the property are less than £100 or such other amount as the Secretary of State may, by order made by statutory instrument, specify, and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) In this section, “net proceeds of sale” means the sum received for any property on its disposal for value under section 68 of this Act after deduction of—
  - (a) any expenses incurred in connection with the disposal of the property;
  - (b) any amount paid as a reward by the chief constable under section 70 of this Act; and
  - (c) such reasonable charges (including any reasonable expenses incurred by him or on his behalf) as the chief constable may determine.

## **73 No right of ownership conferred by finding.**

No person who—

- (a) finds any property appearing to have been lost or abandoned;
- (b) is the employer of a finder of such property; or
- (c) owns or occupies the land or premises on which such property is found,

shall by reason only of the finding of that property have any right to claim ownership of it.

## **74 Living creatures.**

Where any person who has found any living creature, other than a stray dog or livestock (which expression shall have in this section the same meaning as it has for the purposes of section 129 of this Act), has been permitted to have, at his request, care and custody of that creature under arrangements made by the chief constable under section 68(2) of this Act and the creature—

- (a) has continued to be in his care and custody for a period of 2 months, and
- (b) has not been claimed during that period,

that person shall at the end of that period become the owner of that creature.

## **75 Stray dogs.**

In the <sup>M2</sup> Dogs Act 1906—

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- (a) in section 3 (seizure and disposal of stray dogs) there shall be inserted after subsection (7) the following subsection—
- “(7A) Where a dog is disposed of under this section to a purchaser in good faith, the sale shall vest the ownership of the dog in the purchaser.” ;  
and
- (b) in section 4 (duty of finder of stray dog)—
- (i) in subsection (3) after the word “of”, where secondly occurring, there shall be inserted the words “ subsections (1) and (2)” and for the words “ forty shillings” there shall be substituted the words “ £50” ;and
- (ii) after subsection (3) there shall be inserted the following subsection—
- “(4) Where a person has taken possession of a stray dog, and kept it in accordance with subsection (2)(a) above for a period of two months without its having been claimed by the person having right to it, the person who has taken possession of it shall, at the end of that period, become the owner of the dog.”

**Modifications etc. (not altering text)**

- C2** The text of ss. 75, 110, 119(5) and 137(7)(8) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M2** 1906 c. 32.

**76 Appeal to sheriff.**

- (1) Any person mentioned in subsection (2) below may appeal to the sheriff against any decision of the chief constable made under the sections specified in relation to that person in that subsection.
- (2) The persons referred to in subsection (1) are—
- (a) a claimant under section 69 of this Act;
- (b) a finder or claimant mentioned in section 70 of this Act;
- (c) a previous owner mentioned in section 72 of this Act.
- (3) An appeal under this section shall be made by way of summary application and shall be lodged with the sheriff clerk within 21 days from the date of the decision appealed against.
- (4) On good cause being shown, the sheriff may hear an appeal under this section notwithstanding that it was not lodged within the time mentioned in subsection (3) above.
- (5) In upholding an appeal under this section the sheriff may—
- (a) remit the case with the reasons for his decision to the chief constable for reconsideration of his decision; or
- (b) reverse or alter the decision of the chief constable.

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## 77 Financial provisions.

- (1) Any moneys received by the chief constable as the proceeds of the disposal of lost or abandoned property under the provisions of this Part of this Act shall be paid by him to the [<sup>F3</sup>Scottish Police Authority] .

<sup>F4</sup>(2) . . . . .

### Textual Amendments

- F3** Words in s. 77(1) substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 6\(5\)](#); S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)
- F4** S. 77(2) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 8 Pt. 1](#); S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)

## 78 Crown application of Part VI.

- (1) Subject to subsection (3) below, this Part of this Act binds the Crown.
- (2) Accordingly, rights which the Crown has in lost or abandoned property shall be capable of being extinguished in accordance with the provisions of sections 71 and 74 of this Act.
- (3) Subject to subsection (2) above, nothing in this Part of this Act affects the Crown’s right of ownership in lost or abandoned property.

## 79 Interpretation of Part VI.

In this Part of this Act—

[<sup>F5</sup>“chief constable” means the chief constable of the Police Service of Scotland;]

“finder” has the meaning given by section 67 of this Act;

“previous owner” has the meaning given by section 71(2) of this Act.

### Textual Amendments

- F5** Words in s. 79 substituted (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [sch. 7 para. 6\(6\)](#); S.S.I. 2013/51, [art. 2](#) (with transitional provisions and savings in S.S.I. 2013/121)

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