



# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART VII

#### PROPERTY IN POSSESSION OF PERSONS TAKEN INTO POLICE CUSTODY

#### **80 Application of Part VII to property.**

- (1) Subject to subsection (2) below, this Part of this Act applies to all the property which is found in the possession of a person, or in his charge, at the time when he is taken into police custody, that is to say, when he is arrested and taken into custody by a constable or when he is detained under section 2 of the <sup>M1</sup>Criminal Justice (Scotland) Act 1980.
- (2) This Part of this Act does not apply to—
  - (a) property which is, or is reasonably suspected by a constable to be, in the unlawful possession of a person taken into police custody;
  - [<sup>F1</sup>(b) property which the prosecutor determines is or may be required as a production in criminal proceedings or which he determines is or may be required for any other purpose relating to such proceedings;]
  - (c) property consisting of the personal clothing and effects of a person taken into police custody.

#### **Textual Amendments**

**F1** S. 80(2)(b) substituted (19.5.1997) by 1997 c. 30, ss. 6(2), 7(2)

#### **Marginal Citations**

**M1** 1980 c. 62.

#### **81 Chief constable to take charge of property.**

- (1) The chief constable may take charge of any property to which this Part of this Act applies and shall make such arrangements as he considers appropriate for the care and custody of the property.

*Status: Point in time view as at 05/02/2003.*

*Changes to legislation: Civic Government (Scotland) Act 1982, Part VII is up to date with all changes known to be in force on or before 02 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) The chief constable shall keep a record of particulars connected with property of which he takes charge under subsection (1) above 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.

## **82 Provision as to property where the person in custody is the owner etc.**

- (1) If the chief constable is satisfied that the person taken into police custody is the owner or has right to the possession of the property—
- (a) he shall require that person to make suitable arrangements for the collection, care and custody of the property; and
  - (b) if that person fails to make such arrangements as are referred to in paragraph (a) above within a reasonable time of having been required under that paragraph to do so, the chief constable—
    - (i) may make such arrangements as he thinks fit for the care and custody of the property;
    - (ii) if the property cannot in his opinion be safely or conveniently kept, may dispose of it, or arrange for its disposal, as he thinks fit.
- (2) When a person in relation to whose property the chief constable has made arrangements under subsection (1)(b)(i) above ceases to be in police custody, the chief constable shall make the property available to him or to any person authorised by him to act on his behalf for the purposes of this subsection on such conditions as the chief constable thinks fit, including payment of any reasonable expenses incurred by him in connection with the custody of the property.
- (3) Any disposal of property under subsection (1)(b)(ii) above to a person taking in good faith shall vest the ownership of the property in that person.
- (4) Any right which the Crown might have in property by virtue of its abandonment by its owner shall be capable of being extinguished in accordance with subsection (3) above.
- (5) Any proceeds from the disposal of the property under subsection (1)(b)(ii) above shall, after deduction of any reasonable expenses incurred by the chief constable in connection with the custody and disposal of the property, be kept by the chief constable on behalf of the person in police custody and shall be paid to that person when he ceases to be in such custody or to another person authorised on his behalf.
- (6) Where the proceeds mentioned in subsection (5) above do not cover the reasonable expenses of the chief constable in connection with the custody or disposal of the property, the chief constable may recover those expenses from the person who was taken into police custody.

## **83 Provision as to property where the person in custody is not the owner etc.**

If the chief constable has reason to believe that the person taken into police custody is not the owner or the person having right to possession of [<sup>F2</sup>property to which this Part of this Act applies], the provisions of Part VI of this Act shall apply to the property as they apply to property to which section 67 of this Act applies [<sup>F3</sup>(the property being regarded, for the purposes of those provisions, as being found by the constable arresting or detaining the person so taken)].

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#### Textual Amendments

- F2** Words in s. 83 substituted (19.5.1997) by 1997 c. 30, ss. 6(3)(a), 7(2)  
**F3** Words in s. 83 added (19.5.1997) by 1997 c. 30, ss. 6(3)(b), 7(2)

#### 84 Appeal to sheriff.

Any person taken into police custody may appeal to the sheriff against the decision of the chief constable under this Part of this Act in relation to property found in that person's possession or in his charge when taken into custody, and subsections (3) to (5) of section 76 of this Act shall apply to an appeal under this section as they apply to an appeal under that section.

#### 85 Financial provisions: property of persons in custody.

- (1) Any moneys received by the chief constable as the proceeds of the disposal of property to which this Part of this Act applies shall, pending their payment under section 82(5) of this Act, be paid by him to the police authority, and shall be treated as part of the income of the police authority for the purposes of the <sup>M2</sup>Police (Scotland) Act 1967.
- (2) The expenses incurred by the chief constable in performing his functions under this Part of this Act shall be defrayed by the police authority, and shall be treated as part of the expenses of the police authority for the purposes of section 32 of the <sup>M3</sup>Police (Scotland) Act 1967.

#### Marginal Citations

- M2** 1967 c. 77.  
**M3** 1967 c. 77.

#### 86 Interpretation and Crown application of this Part.

- (1) In this Part of this Act, “chief constable” means the chief constable for the police area in which the person taken into custody, within the meaning of section 80 of this Act, is so taken and includes a constable acting under the direction of the chief constable for the purposes of this Part of this Act.
- (2) This Part of this Act binds the Crown.

**Status:**

Point in time view as at 05/02/2003.

**Changes to legislation:**

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