

*Status: Point in time view as at 01/06/2009.*

*Changes to legislation: Civic Government (Scotland) Act 1982, Cross Heading: Disposal is up to date with all changes known to be in force on or before 03 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)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 2A

#### RETENTION AND DISPOSAL OF PROPERTY SEIZED UNDER SECTION 54(2A) OF THIS ACT

##### Textual Amendments

**F1** Sch. 2A inserted (1.12.1998) by 1998 c. 37, s. 24(4), Sch. 1; S.I. 1998/2327, art. 4

#### *Disposal*

- 4 Where the period of retention permitted by paragraph 2 above expires and the chief constable has reason to believe that the person from whom the property was seized is not the owner or the person having right to possession of it, he shall take reasonable steps to ascertain the identity of the owner or of the person with that right and to notify him of the procedures determined under paragraph 5(1) below.
- 5 (1) Subject to sub-paragraphs (5) and (6) below, the owner or any person having right to possession of any property to which this Schedule applies and which, at the expiry of the period of retention permitted by paragraph 2 above, is in the possession of the chief constable may at any time prior to its disposal under paragraph 6 below claim that property in accordance with such procedure as the chief constable may determine.
- (2) Subject to sub-paragraphs (3), (5) and (6) below, where the chief constable considers that the person making a claim in accordance with the procedure determined under sub-paragraph (1) above is the owner of the property or has a right to possession of it, he shall deliver the property to the claimant.
- (3) Subject to sub-paragraph (4) below, the chief constable may impose such conditions connected with the delivery to the claimant of property under sub-paragraph (2) above as he thinks fit and, without prejudice to that generality, such conditions may relate to the payment of such reasonable charges (including any reasonable expenses incurred in relation to the property by or on behalf of him) as he may determine.
- (4) No condition relating to the payment of any charge shall be imposed by the chief constable on the owner or person having right of possession of the property where he is satisfied that that person did not know, and had no reason to suspect, that the property to which this Schedule applies was likely to be used in a manner which gave rise to its seizure.
- (5) This paragraph does not apply where the period of retention expires in such manner as is mentioned in paragraph 2(2)(b)(i) above and the court by which he was convicted has made a suspended forfeiture order or a restraint order in respect of the property to which this Schedule applies.
- (6) This paragraph shall cease to apply where at any time—
- (a) the property to which this Schedule applies—

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- (i) is seized under any other power available to a constable; or
    - (ii) passes into the possession of the prosecutor; or
  - (b) proceedings for an offence are instituted, where the property to which this Schedule applies is required as a production.
- 6 (1) Where this sub-paragraph applies, the chief constable may—
  - (a) sell property to which this Schedule applies; or
  - (b) if in his opinion it would be impracticable to sell such property, dispose of it.
- (2) Sub-paragraph (1) above applies—
  - (a) at any time after the expiry of the relevant period where, within that period—
    - (i) no claim has been made under paragraph 5 above; or
    - (ii) any such a claim which has been made has been rejected by the chief constable; and
  - (b) where a claim has been made under paragraph 5 above and not determined within the relevant period, at any time after the rejection of that claim by the chief constable.
- (3) In sub-paragraph (2) above, the “relevant period” means a period of six months beginning with the day on which the period of retention permitted by paragraph 2 above expired.
- (4) Sections 71, 72 and 77(1) of this Act shall apply to a disposal under this paragraph as they apply to a disposal under section 68 of this Act.]

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