



# Law Reform (Miscellaneous Provisions) (Scotland) Act 1985

## 1985 CHAPTER 73

*Criminal courts, procedure, evidence and justice*

### 39 Fines in respect of drug offences

After section 193A of the Criminal Procedure (Scotland) Act 1975 there shall be inserted the following section—

**“193B Offences relating to controlled drugs.**

- (1) Without prejudice to section 395(1) of this Act (as applied to solemn proceedings by section 194), where a person is—
  - (a) convicted on indictment of an offence to which this section relates, and
  - (b) sentenced in respect of that offence to a period of imprisonment or detention,the Court shall, unless it is satisfied that for any reason it would be inappropriate to do so, also impose a fine.
- (2) In determining the amount of a fine imposed pursuant to subsection (1), the Court shall have regard to any profits likely to have been made by the offender from the crime in respect of which he has been convicted.
- (3) This section relates to any of the offences mentioned in paragraphs (a) to (c) of subsection (4) or any offence mentioned in paragraphs (d) to (g) of that subsection where such latter offence involves a controlled drug as defined in section 2(1)(a) of the Misuse of Drugs Act 1971 ("the 1971 Act").
- (4) The offences are those created by—
  - (a) section 4(2) of the 1971 Act (production, or being concerned in the production of, a controlled drug);
  - (b) section 4(3) of the 1971 Act (supply, or offer to supply, or being concerned in the supply, of a controlled drug);

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*Status: This is the original version (as it was originally enacted).*

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- (c) section 5(3) of the 1971 Act (possession of a controlled drug with intent to supply);
  - (d) section 50(2) and (3) of the Customs and Excise Management Act 1979 (" the 1979 Act") (importation etc. of prohibited goods);
  - (e) section 68(2) of the 1979 Act (exportation etc. of prohibited goods);
  - (f) section 170(1) of the 1979 Act (possessing or dealing with prohibited goods); and
  - (g) section 170(2) of the 1979 Act (being concerned in evasion or attempt at evasion of a prohibition).
- (5) Where a fine has been imposed pursuant to subsection (1) in respect of an offence to which this section relates, and the offender is sentenced to a period of imprisonment or detention because he has not paid that fine, that period of imprisonment or detention shall be served consecutively upon—
- (a) the period of imprisonment or detention in respect of the offence, and
  - (b) any period of imprisonment or detention imposed in respect of any other offence dealt with in the same proceedings,
- unless either of the latter periods is one of life imprisonment or detention for life.”.