



# Criminal Justice (Scotland) Act 1987

## 1987 CHAPTER 41

### PART I

#### CONFISCATION OF PROCEEDS OF DRUG TRAFFICKING ETC.

##### *Variation of confiscation orders*

#### **25 Variation of confiscation order.**

- (1) If, on an application by a person in respect of whom a confiscation order has been made, the Court of Session is satisfied that the realisable property is inadequate for the payment of any amount remaining to be recovered under that order, the Court shall issue a certificate to that effect giving the Court's reasons for being so satisfied.
- (2) For the purposes of subsection (1) above the Court of Session—
  - (a) in the case of realisable property held by a person whose estate has been sequestrated, or who has been adjudged bankrupt in England and Wales or in Northern Ireland, shall take into account the extent to which any property held by him may be distributed among creditors; and
  - (b) may disregard any inadequacy in the realisable property if that inadequacy appears to the Court to be attributable wholly or partly to anything done by the person for the purpose of preserving such property from realisation under this Act.
- (3) Where a certificate has been issued under subsection (1) above, the person may apply to the High Court for the amount to be recovered under the order to be reduced.
- (4) The High Court shall, on an application under subsection (3) above—
  - (a) substitute for the amount to be recovered under the order such lesser amount as the High Court thinks just in all the circumstances of the case; and
  - (b) substitute for any period of imprisonment imposed under section 407 of the <sup>MI</sup>1975 Act (or period of detention imposed under section 415(2) of that Act by virtue of the said section 407) in respect of the amount to be recovered under the order a shorter period, determined in accordance with

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*Status: Point in time view as at 18/09/1993.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1987, Cross Heading: Variation of confiscation orders. (See end of Document for details)*

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subsection (1A) of the said section 407 (as it has effect by virtue of section 7 of this Act), in respect of the lesser amount.

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**Marginal Citations**

**M1** [1975 c. 21.](#)

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