



# Criminal Justice (Scotland) Act 1987

## 1987 CHAPTER 41

### PART I

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

##### *Confiscation orders*

#### **7 Application of provisions relating to fines to enforcement of confiscation**

(1) Section 196 and 203 [<sup>F1</sup>or, as the case may be, 402 and 412]of the 1975 Act and, [<sup>F2</sup>the provisions of that Act specified in subsection (2) below (or those provisions as applied by section 194 of that Act) shall], subject to the qualifications mentioned in subsection (2) below, apply in relation to confiscation orders as they apply in relation to fines; and section 91 of the <sup>M1</sup>Magistrates' Courts Act 1980 and Article 96 of the <sup>M2</sup>Magistrates' Courts (Northern Ireland) Order 1981 (provisions relating to transfer of fines from Scotland etc.) shall be construed accordingly.

(2) The provisions mentioned in subsection (1) above are—

section 396:

Provided that any allowance under that section (or section 397) of time (or further time) for payment shall be without prejudice to the exercise by any administrator appointed in relation to the confiscation order of his powers and duties under this Act; and the court may, pending such exercise, postpone any decision as to refusing or allowing time (or further time) for payment;

section 397;

section 398 [<sup>F3</sup>but as if subsection (1)—;

- (a) gave the prosecutor an opportunity to be heard at any enquiry thereunder; and
- (b) applied whether the offender was in prison or not;]

section 399;

Provided that any order of payment by instalments shall be without prejudice to such exercise as is above mentioned;

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*Status: Point in time view as at 31/03/1996. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1987, Section 7. (See end of Document for details)*

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section 400;

section 401(2) and (3);

section 403, except that for the purposes of subsections (4) and (6) of that section “confiscation order” in subsection (1) above shall be construed as including such an order within the meaning of the [F<sup>4</sup>Drug Trafficking Act 1994]or of any corresponding provision in Northern Ireland;

section 404;

section 406;

section 407;

Provided that where a court imposes a period of imprisonment both in respect of a fine and of a confiscation order the amounts in respect of which the period is imposed shall, for the purposes of subsection (1A) of that section, be aggregated:

Provided also that before imposing a period of imprisonment to which there is a liability by virtue of that section the court shall, if an administrator has been appointed in relation to the confiscation order, require a report from him as to whether and in what way he is likely to exercise his powers and duties under this Act and shall take that report into account; and the court may, pending such exercise, postpone any decision as to such imposition;

section 408;

section 409, except that the reference in subsection (1) of that section to the person paying a sum to the governor of the prison under conditions prescribed by rules made under the M<sup>3</sup>Prisons (Scotland) Act 1952 shall be construed as including a reference to an administrator appointed in relation to the confiscation order making such payment under this Act in respect of the person;

section 411, F<sup>5</sup>. . . :

Provided that an order for recovery by civil diligence shall not be made under the section where an administrator is appointed in relation to the confiscation order;

Schedule 7.

[F<sup>6</sup>(2A) Where a court, by virtue of subsection (1) above, orders the sum due under a confiscation order to be recovered by civil diligence under section 411 of the Criminal Procedure (Scotland) Act 1975, any arrestment executed by a prosecutor under subsection (2) of section 11A of this Act shall be deemed to have been executed by the court as if that subsection authorised such execution.]

(3) Where in any proceedings an order has been made under section 1(1) of this Act as regards a person and a period of imprisonment or detention is imposed on him in default of payment of its amount (or as the case may be of an instalment thereof), that period shall run from the expiry of any other period of imprisonment or detention (not being one of life imprisonment or detention for life) imposed on him in the proceedings.

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- (4) The reference in subsection (3) above to “any other period of imprisonment or detention imposed” includes (without prejudice to the generality of the expression) a reference to such a period on default of payment of a fine (or instalment thereof); but only where that default has occurred before the warrant for imprisonment is issued for the default in relation to the order.

#### Textual Amendments

- F1** Words in s. 7(1) inserted (31.3.1996) by 1995 c. 20, s. 113(3), **Sch. 5 para. 9(a)(i)**; S.I. 1996/517, **arts. 3(2), 5**
- F2** Words in s. 7(1) substituted (31.3.1996) by 1995 c. 20, s. 113(3), **Sch. 5 para. 9(a)(ii)**; S.I. 1996/517, **arts. 3(2), 5**
- F3** Words and paras (a) and (b) inserted (31.3.1996) by 1995 c. 20, s. 113(3), **Sch. 5 para. 9(b)(i)**; S.I. 1996/517, **arts. 3(2), 5**
- F4** Words in s. 7(2) entry substituted (3.2.1995) by 1994 c. 37, ss. 65, 69(2), **Sch. 1 para. 13**
- F5** Words in entry in s. 7(2) repealed (31.3.1996) by 1995 c. 20, ss. 113(3), 117(2), **Sch. 5 para. 9(b)(ii), Sch. 7 Pt. II**; S.I. 1996/517, **arts. 3(2), 5**
- F6** S. 7(2A) inserted (31.3.1996) by 1995 c. 20, s. 113(3), **Sch. 5 para. 9(c)**; S.I. 1996/517, **arts. 3(2), 5**

#### Marginal Citations

- M1** 1980 c. 43.
- M2** 1981/1675 (N.I. 26.)
- M3** 1952 c. 61.

**Status:**

Point in time view as at 31/03/1996. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1987, Section 7.