



Criminal Justice (Scotland) Act 1995

1995 CHAPTER 20

PART II

PROCEEDS OF CRIME AND PROPERTY USED IN CRIME

CHAPTER I

CONFISCATION OF THE PROCEEDS OF CRIME

Exercise of powers

82 Exercise of powers by court or administrator

- (1) This section applies to the powers as regards realisable property conferred on the court by sections 94, 95, 97, 98 and 99 of and paragraphs 1, 4 and 12 of Schedule 3 to this Act in relation to confiscation orders and on an administrator by that Schedule.
- (2) Subject to the following provisions of this section, the powers shall be exercised with a view to making available for satisfying the confiscation order or, as the case may be, any confiscation order that may be made in the case of a person mentioned in section 72(1)(a) of this Act, the value for the time being of realisable property held by any person by the realisation of such property.
- (3) In the case of realisable property held by a person by virtue only of having received a gift made directly or indirectly by the accused which is caught by this Chapter, the powers shall be exercised with a view to realising no more than the value of the gift as assessed under subsection (2), (3) or (4) of section 73 of this Act.
- (4) The powers shall be exercised with a view to allowing any person other than a person mentioned in section 72(1)(a) of this Act or the recipient of any such gift to retain or recover the value of any property held by him.
- (5) An order may be made or other action taken in respect of a debt owed by the Crown.

Status: This is the original version (as it was originally enacted).

- (6) In exercising those powers, no account shall be taken of any obligations of such a person or of the recipient of any such gift which conflict with the obligation to satisfy the confiscation order.