



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

##### *Enforcement of fines etc.: fines enforcement officers*

VALID FROM 10/03/2008

#### **[<sup>F1</sup>226D Seizure of vehicles**

- (1) A FEO may, for the purpose mentioned in subsection (2) below, direct that a motor vehicle belonging to the offender be—
  - (a) immobilised;
  - (b) impounded.
- (2) The purpose is of obtaining the amount of a relevant penalty which has not been paid in accordance with an enforcement order.
- (3) For the purposes of this section—
  - (a) a vehicle belongs to an offender if it is registered under the Vehicle Excise and Registration Act 1994 (c. 22) in the offender's name;
  - (b) a reference—
    - (i) to a vehicle being immobilised is to its being fitted with an immobilisation device in accordance with regulations made under subsection (12) below;
    - (ii) to a vehicle being impounded is to its being taken to a place of custody in accordance with regulations made under that subsection;
  - (c) a direction under subsection (1) above is referred to as a “seizure order”.
- (4) A FEO shall notify the offender concerned that a seizure order has been carried out.
- (5) Where—

*Status: Point in time view as at 01/08/1997. This version of this provision is not valid for this point in time.*

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- (a) a seizure order has been carried out; and
  - (b) at the end of such period as may be specified in regulations made under subsection (12) below, any part of the relevant penalty remains unpaid,
- a FEO may apply to the relevant court for an order under subsection (6) below.
- (6) The court may make an order under this subsection—
- (a) for the sale or other disposal of the vehicle in accordance with regulations made under subsection (12) below;
  - (b) for any proceeds of the disposal to be applied in accordance with regulations made under that subsection in payment of or towards the unpaid amount of the relevant penalty;
  - (c) for any remainder of those proceeds to be applied in accordance with regulations made under that subsection in payment of or towards any reasonable expenses incurred by the FEO in relation to the seizure order;
  - (d) subject to paragraphs (b) and (c) above, for any balance to be given to the offender.
- (7) Where, before a vehicle which is the subject of a seizure order is disposed of—
- (a) a third party claims to own the vehicle; and
  - (b) either—
    - (i) a FEO is satisfied that the claim is valid (and that there are no reasonable grounds for believing that the claim is disputed by the offender or any other person from whose possession the vehicle was taken); or
    - (ii) the sheriff, on an application by the third party, makes an order that the sheriff is so satisfied,
- the seizure order ceases to have effect.
- (8) An application for the purposes of subsection (7)(b)(ii) above does not preclude any other proceedings for recovery of the vehicle.
- (9) A person commits an offence if, without lawful authority or reasonable excuse, the person removes or attempts to remove—
- (a) an immobilisation device fitted;
  - (b) a notice fixed,
- to a motor vehicle in pursuance of a seizure order.
- (10) A person guilty of an offence under subsection (9) above is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) A seizure order must not be made in respect of a vehicle—
- (a) which displays a valid disabled person's badge; or
  - (b) in relation to which there are reasonable grounds for believing that it is used primarily for the carriage of a disabled person.
- (12) The Scottish Ministers may make regulations for the purposes of and in connection with this section.
- (13) Regulations under subsection (12) above may, in particular, include provision—
- (a) as to circumstances in which a seizure order may (or may not) be made;
  - (b) as regards the value of a vehicle seizable compared to the amount of a relevant penalty which is unpaid;

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- (c) by reference to subsection (3)(a) and (7) above or otherwise, for protecting the interests of owners of vehicles apart from offenders;
  - (d) relating to subsections (3)(b), (5)(b) and (6) above;
  - (e) as to the fixing of notices to vehicles to which an immobilisation device has been fitted;
  - (f) as to the keeping and release of vehicles immobilised or impounded (including as to conditions of release);
  - (g) as to the payment of reasonable fees, charges or other costs in relation to—
    - (i) the immobilisation or impounding of vehicles;
    - (ii) the keeping, release or disposal of vehicles immobilised or impounded.
- (14) Regulations under subsection (12) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (15) In this section—
- “disabled person's badge” means a badge issued, or having effect as if issued, under regulations made under section 21 of the Chronically Sick and Disabled Persons Act 1970 (c. 44);
  - “immobilisation device” has the same meaning as in section 104(9) of the Road Traffic Regulation Act 1984 (c. 27);
  - “motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads (except that section 189 of the Road Traffic Act 1988 (c. 52) applies for the purposes of this section as it applies for the purposes of that Act).]

#### Textual Amendments

- F1** Ss. 226A-226I and preceding cross-heading inserted (10.3.2008 for certain purposes and otherwise prosp.) by [Criminal Proceedings etc. \(Reform\) \(Scotland\) Act 2007 \(asp 6\)](#), **ss. 55, 84**; S.I. 2008/42, **art. 3, Sch.**

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