
Status: Point in time view as at 22/08/2007.

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SCHEDULES

SCHEDULE 4

FORFEITURE AND DETENTION OF VEHICLES ETC.

2 After section 60 (sections 57 to 59: interpretation and jurisdiction) insert—

“60A Forfeiture of land vehicle, ship or aircraft

- (1) This section applies if a person is convicted on indictment of an offence under sections 57 to 59.
- (2) The court may order the forfeiture of a land vehicle used or intended to be used in connection with the offence if the convicted person—
 - (a) owned the vehicle at the time the offence was committed;
 - (b) was at that time a director, secretary or manager of a company which owned the vehicle;
 - (c) was at that time in possession of the vehicle under a hire-purchase agreement;
 - (d) was at that time a director, secretary or manager of a company which was in possession of the vehicle under a hire-purchase agreement; or
 - (e) was driving the vehicle in the course of the commission of the offence.
- (3) The court may order the forfeiture of a ship or aircraft used or intended to be used in connection with the offence if the convicted person—
 - (a) owned the ship or aircraft at the time the offence was committed;
 - (b) was at that time a director, secretary or manager of a company which owned the ship or aircraft;
 - (c) was at that time in possession of the ship or aircraft under a hire-purchase agreement;
 - (d) was at that time a director, secretary or manager of a company which was in possession of the ship or aircraft under a hire-purchase agreement;
 - (e) was at that time a charterer of the ship or aircraft; or
 - (f) committed the offence while acting as captain of the ship or aircraft.
- (4) But in a case to which subsection (3)(a) or (b) does not apply, forfeiture may be ordered only—
 - (a) in the case of a ship, if subsection (5) or (6) applies;
 - (b) in the case of an aircraft, if subsection (5) or (7) applies.
- (5) This subsection applies where a person who, at the time the offence was committed, owned the ship or aircraft or was a director, secretary or manager of a company which owned it, knew or ought to have known of the intention

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to use it in the course of the commission of an offence under sections 57 to 59.

- (6) This subsection applies where a ship's gross tonnage is less than 500 tons.
- (7) This subsection applies where the maximum weight at which an aircraft (which is not a hovercraft) may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes.
- (8) Where a person who claims to have an interest in a land vehicle, ship or aircraft applies to a court to make representations on the question of forfeiture, the court may not make an order under this section in respect of the vehicle, ship or aircraft unless the person has been given an opportunity to make representations.

60B Detention of land vehicle, ship or aircraft

- (1) If a person has been arrested for an offence under sections 57 to 59, a constable or a senior immigration officer may detain a relevant vehicle, ship or aircraft—
 - (a) until a decision is taken as to whether or not to charge the arrested person with that offence;
 - (b) if the arrested person has been charged, until he is acquitted, the charge against him is dismissed or the proceedings are discontinued; or
 - (c) if he has been charged and convicted, until the court decides whether or not to order forfeiture of the vehicle, ship or aircraft.
- (2) A vehicle, ship or aircraft is a relevant vehicle, ship or aircraft, in relation to an arrested person if it is a land vehicle, ship or aircraft which the constable or officer concerned has reasonable grounds for believing could, on conviction of the arrested person for the offence for which he was arrested, be the subject of an order for forfeiture made under section 60A.
- (3) A person (other than the arrested person) may apply to the court for the release of a land vehicle, ship or aircraft on the grounds that—
 - (a) he owns the vehicle, ship or aircraft;
 - (b) he was, immediately before the detention of the vehicle, ship or aircraft, in possession of it under a hire-purchase agreement; or
 - (c) he is a charterer of the ship or aircraft.
- (4) The court to which an application is made under subsection (3) may, on such security or surety being tendered as it considers satisfactory, release the vehicle, ship or aircraft on condition that it is made available to the court if—
 - (a) the arrested person is convicted; and
 - (b) an order for its forfeiture is made under section 60A.
- (5) In this section, “court” means—
 - (a) in relation to England and Wales—
 - (i) if the arrested person has not been charged, or he has been charged but proceedings for the offence have not begun to be heard, a magistrates' court;

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- (ii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings;
- (b) in relation to Northern Ireland—
 - (i) if the arrested person has not been charged, a magistrates' court for the county court division in which he was arrested;
 - (ii) if he has been charged but proceedings for the offence have not begun to be heard, a magistrates' court for the county court division in which he was charged;
 - (iii) if he has been charged and proceedings for the offence are being heard, the court hearing the proceedings.
- (6) In this section, “senior immigration officer” means an immigration officer (appointed or employed as such under the Immigration Act 1971) not below the rank of chief immigration officer.

60C Sections 60A and 60B: interpretation

- (1) In this section and sections 60A and 60B, unless the contrary intention appears—
 - “aircraft” includes hovercraft;
 - “captain” means master (of a ship) or commander (of an aircraft);
 - “land vehicle” means any vehicle other than a ship or aircraft;
 - “ship” includes every description of vessel used in navigation.
- (2) In sections 60A and 60B, a reference to being an owner of a vehicle, ship or aircraft includes a reference to being any of a number of persons who jointly own it.”

Commencement Information

II Sch. 4 para. 2 in force at 12.2.2007 by S.I. 2007/74, art. 2(b)

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