



# Criminal Justice Act 1993

## 1993 CHAPTER 36

### PART II

#### DRUG TRAFFICKING OFFENCES

##### *Confiscation orders*

**F17** .....

**Textual Amendments**

**F1** S. 7 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), Sch. 3

**F28** .....

**Textual Amendments**

**F2** S. 8 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), Sch. 3

**F39** .....

**Textual Amendments**

**F3** S. 9 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), Sch. 3

**F410** .....

*Changes to legislation: There are currently no known outstanding effects  
for the Criminal Justice Act 1993, Part II. (See end of Document for details)*

**Textual Amendments**

**F4** S. 10 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**

**F5** **11** .....

**Textual Amendments**

**F5** S. 11 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**

**F6** **12** .....

**Textual Amendments**

**F6** S. 12 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**

**F7** **13** .....

**Textual Amendments**

**F7** S. 13 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**

*Death or absence of defendant*

**F8** **14** .....

**Textual Amendments**

**F8** S. 14 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**

**F9** **15** .....

**Textual Amendments**

**F9** S. 15 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**

*Offences*

**F10** **16** .....

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*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice Act 1993, Part II. (See end of Document for details)*

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### Textual Amendments

**F10** S. 16 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), Sch. 3

## 17 Acquisition, possession or use of proceeds of drug trafficking: Scotland.

- (1) The following section shall be inserted in the <sup>M1</sup>Criminal Justice (Scotland) Act 1987, after section 42—

### “42A Acquisition, possession or use of proceeds of drug trafficking.

- (1) A person is guilty of an offence if, knowing that any property is, or in whole or in part directly or indirectly represents, another person’s proceeds of drug trafficking, he acquires or uses that property or has possession of it.
- (2) It is a defence to a charge of committing an offence under this section that the person charged acquired or used the property or had possession of it for adequate consideration.
- (3) For the purposes of subsection (2) above—
- (a) a person acquires property for inadequate consideration if the value of the consideration is significantly less than the value of the property; and
  - (b) a person uses or has possession of property for inadequate consideration if the value of the consideration is significantly less than the value of his use or possession of the property.
- (4) The provision for any person of services or goods which are of assistance to him in drug trafficking shall not be treated as consideration for the purposes of subsection (2) above.
- (5) Where a person discloses to a constable or to a person commissioned by the Commissioners of Customs and Excise a suspicion or belief that any property is, or in whole or in part directly or indirectly represents, another person’s proceeds of drug trafficking, or discloses to a constable or a person so commissioned any matter on which such a suspicion or belief is based—
- (a) the disclosure shall not be treated as a breach of any restriction upon the disclosure of information imposed by statute or otherwise; and
  - (b) if he does any act in relation to the property in contravention of subsection (1) above, he does not commit an offence under this section if—
    - (i) the disclosure is made before he does the act concerned and the act is done with the consent of the constable or person so commissioned, or
    - (ii) the disclosure is made after he does the act, but on his initiative and as soon as it is reasonable for him to make it.
- (6) For the purposes of this section having possession of any property shall be taken to be doing an act in relation to it.
- (7) In proceedings against a person for an offence under this section, it is a defence to prove that—

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- (a) he intended to disclose to a constable or a person so commissioned such a suspicion, belief or matter as is mentioned in subsection (5) above; but
  - (b) there is reasonable excuse for his failure to make the disclosure in accordance with paragraph (b) of that subsection.
- (8) In the case of a person who was in employment at the relevant time, subsections (5) and (7) above shall have effect in relation to disclosures, and intended disclosures, to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to a constable or a person so commissioned.
- (9) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding fourteen years or to a fine or to both.
- (10) No constable, person so commissioned or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or of any other enactment relating to drug trafficking or the proceeds of such trafficking.”.
- (2) In section 3(3) of the Act of 1987 (circumstances where assumptions are not to be made), after the word “section” where it first occurs there shall be inserted the words “ 42A or ”.

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**Marginal Citations**  
M1 1987 c. 41.

<sup>F11</sup>18 .....

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**Textual Amendments**  
F11 S. 18 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), Sch. 3

**19 Offences in connection with laundering money from drug trafficking: Scotland.**

(1) The following sections shall be inserted after section 43 of the <sup>M2</sup>Criminal Justice (Scotland) Act 1987—

**“43A Failure to disclose knowledge or suspicion of money laundering.**

- (1) A person is guilty of an offence if—
- (a) he knows, or suspects, that another person is engaged in drug money laundering,

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- (b) the information, or other matter, on which that knowledge or suspicion is based came to his attention in the course of his trade, profession, business or employment, and
  - (c) he does not disclose the information or other matter to a constable or to a person commissioned by the Commissioners of Customs and Excise as soon as is reasonably practicable after it comes to his attention.
- (2) Subsection (1) above does not make it an offence for a professional legal adviser to fail to disclose any information or other matter which has come to him in privileged circumstances.
- (3) It is a defence to a charge of committing an offence under this section that the person charged had a reasonable excuse for not disclosing the information or other matter in question.
- (4) Where a person discloses to a constable or a person so commissioned—
  - (a) his suspicion or belief that another person is engaged in drug money laundering, or
  - (b) any information or other matter on which that suspicion or belief is based,the disclosure shall not be treated as a breach of any restriction imposed by statute or otherwise.
- (5) Without prejudice to subsection (3) or (4) above, in the case of a person who was in employment at the relevant time, it is a defence to a charge of committing an offence under this section that he disclosed the information or other matter in question to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures.
- (6) A disclosure to which subsection (5) above applies shall not be treated as a breach of any restriction imposed by statute or otherwise.
- (7) In this section “drug money laundering” means doing any act which constitutes an offence under—
  - (a) section 42A or 43 of this Act; or
  - (b) section 14 of the <sup>M3</sup>Criminal Justice (International Co-operation) Act 1990 (concealing or transferring proceeds of drug trafficking),or, in the case of an act done otherwise than in Scotland, would constitute such an offence if done in Scotland.
- (8) For the purposes of subsection (7) above, having possession of any property shall be taken to be doing an act in relation to it.
- (9) For the purposes of this section, any information or other matter comes to a professional legal adviser in privileged circumstances if it is communicated, or given, to him—
  - (a) by, or by a representative of, a client of his in connection with the giving by the adviser of legal advice to the client;
  - (b) by, or by a representative of, a person seeking legal advice from the adviser; or
  - (c) by any person—

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- (i) in contemplation of, or in connection with, legal proceedings;  
and
  - (ii) for the purpose of those proceedings.
- (10) No information or other matter shall be treated as coming to a professional legal adviser in privileged circumstances if it is communicated or given with a view to furthering any criminal purpose.
- (11) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or to both, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine, or to both.

### **43B Tipping-off.**

- (1) A person is guilty of an offence if—
- (a) he knows or suspects that a constable or a person commissioned by the Commissioners of Customs and Excise is acting, or is proposing to act, in connection with an investigation which is being, or is about to be, conducted into drug money laundering within the meaning of subsections (7) and (8) of section 43A of this Act; and
  - (b) he discloses to any other person information or any other matter which is likely to prejudice that investigation, or proposed investigation.
- (2) A person is guilty of an offence if—
- (a) he knows or suspects that a disclosure has been made to a constable, or a person so commissioned, under section 42A, 43 or 43A of this Act; and
  - (b) he discloses to any other person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure.
- (3) A person is guilty of an offence if—
- (a) he knows or suspects that a disclosure of a kind mentioned in section 42A(8), 43(4A) or 43A(5) of this Act has been made; and
  - (b) he discloses to any person information or any other matter which is likely to prejudice any investigation which might be conducted following the disclosure.
- (4) Nothing in subsections (1) to (3) above makes it an offence for a professional legal adviser to disclose any information or other matter—
- (a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client; or
  - (b) to any person—
    - (i) in contemplation of, or in connection with, legal proceedings;  
and
    - (ii) for the purpose of those proceedings.
- (5) Subsection (4) above does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

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- (6) In proceedings against a person for an offence under subsection (1), (2) or (3) above, it is a defence to prove that he did not know or suspect that the disclosure was likely to be prejudicial in the way mentioned in that subsection.
  - (7) A person guilty of an offence under this section shall be liable—
    - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or to both, or
    - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or a fine, or to both.
  - (8) No constable, person so commissioned or other person shall be guilty of an offence under this section in respect of anything done by him in the course of acting in connection with the enforcement, or intended enforcement, of any provision of this Act or of any other enactment relating to drug trafficking or the proceeds of such trafficking.”
- (2) In section 43 of the Act of 1987 (assisting another to retain the proceeds of drug trafficking)—
- (a) in subsection (3), after the words “trafficking or” there shall be inserted the words “discloses to a constable or a person so commissioned”; and
  - (b) in paragraph (a) of subsection (3), for the word “contract” there shall be substituted “statute or otherwise”.
- (3) After subsection (4) of that section, there shall be inserted the following subsection—
- “(4A) In the case of a person who was in employment at the relevant time, subsections (3) and (4) above shall have effect in relation to disclosures, and intended disclosures, to the appropriate person in accordance with the procedure established by his employer for the making of such disclosures as they have effect in relation to disclosures, and intended disclosures, to a constable or a person commissioned as aforesaid.”

**Marginal Citations**

- M2** 1987 c. 41.
- M3** 1990 c. 5.

**20 Prosecution by order of the Commissioners of Customs and Excise.**

<sup>F12</sup>(1) . . . . .

- (2) The following section shall be inserted in the <sup>M4</sup>Criminal Justice (Scotland) Act 1987, after section 40—

**“40A Prosecution by order of the Commissioners of Customs and Excise.**

- (1) Summary proceedings for a specified offence may be instituted by order of the Commissioners and shall, if so instituted, be commenced in the name of an officer.

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- (2) In the case of the death, removal, discharge or absence of the officer in whose name any proceedings for a specified offence were commenced, those proceedings may be continued by another officer.
- (3) Where the Commissioners investigate, or propose to investigate, any matter with a view to determining—
- (a) whether there are grounds for believing that a specified offence has been committed, or
  - (b) whether a person should be prosecuted for a specified offence,
- that matter shall be treated as an assigned matter within the meaning of the <sup>M5</sup>Customs and Excise Management Act 1979.
- (4) Nothing in this section shall be taken—
- (a) to prevent any person (including any officer) who has power to arrest, detain or prosecute any person for a specified offence from doing so; or
  - (b) to prevent a court from proceeding to deal with a person brought before it following his arrest by an officer for a specified offence, even though the proceedings have not been instituted by an order made under subsection (1) above.
- (5) In this section—
- “the Commissioners” means the Commissioners of Customs and Excise;
- “officer” means a person commissioned by the Commissioners; and
- “specified offence” means—
- (a) an offence under section 42, 42A, 43, 43A or 43B of this Act or section 14 of the <sup>M6</sup>Criminal Justice (International Co-operation) Act 1990 (concealing or transferring proceeds of drug trafficking);
  - (b) attempting to commit, conspiracy to commit or incitement to commit, any such offence; or
  - (c) any other offence of a kind prescribed in regulations made by the Secretary of State for the purposes of this section.
- (6) Regulations under subsection (5) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

#### **Extent Information**

**E1** S. 20 extends to England and Wales except for s. 20(2) which extends only to Scotland

#### **Textual Amendments**

**F12** S. 20(1) repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**

#### **Marginal Citations**

**M4** 1987 c. 41.

**M5** 1979 c. 2.

**M6** 1990 c. 5.



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*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice Act 1993, Part II. (See end of Document for details)*

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## Enforcement

### 21 Enforcement of certain orders.

(1) In section 9 of the <sup>M7</sup>Criminal Justice (International Co-operation) Act 1990 (enforcement of overseas forfeiture orders), in subsection (1)(b), the words “ or intended for use ” shall be inserted after “used”.

<sup>F13</sup>(2) . . . . .

(3) The same subsection as is inserted in section 24A of the Act of 1986 by subsection (2) shall be inserted in—

<sup>F13</sup>(a) . . . . .

<sup>F13</sup>(b) . . . . .

(c) section 29 of the <sup>M8</sup>Criminal Justice (Scotland) Act 1987 (but in substitution for subsection (4));

(d) section 30 of the Act of 1987 (but in substitution for subsection (5));

<sup>F14</sup>(e) . . . . .

<sup>F14</sup>(f) . . . . .

<sup>F14</sup>(g) . . . . .

(h) section 9 of the <sup>M9</sup>Criminal Justice (International Co-operation) Act 1990 (but in substitution for subsection (5)).

#### Extent Information

**E2** For the extent of s. 21, see s. 79

#### Textual Amendments

**F13** S. 21(2)(3)(a)(b) repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3** (with saving in Sch. 2 para. 8)

**F14** S. 21(3)(e)-(g) repealed (24.3.2003) by **Proceeds of Crime Act 2002** (c. 29), s. 458(1), **Sch. 12**; S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

#### Marginal Citations

**M7** 1990 c. 5.

**M8** 1987 c. 41.

**M9** 1990 c. 5.

### 22 Enforcement of Northern Ireland orders: drug trafficking.

<sup>F15</sup>(1) . . . . .

(2) In section 29 of the Criminal Justice (Scotland) Act 1987 (enforcement of Northern Ireland orders), the following subsection shall be inserted after subsection (3)—

“(3A) An Order in Council under this section may, in particular, provide for section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of United Kingdom judgments in other parts of the United Kingdom) not to apply in relation to such orders as may be prescribed by the Order.”.

*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice Act 1993, Part II. (See end of Document for details)*

**Extent Information**

**E3** S. 22 extends to E & W. except for s. 22(2) which extends only to Scotland

**Textual Amendments**

**F15** S. 22(1) repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3**

**23 Transfer of certain enforcement powers to the Commissioners of Customs and Excise.**

- (1) The functions of the Secretary of State under section 20 of the Criminal Justice (International Co-operation) Act 1990 (enforcement powers in relation to ships) are transferred to the Commissioners of Customs and Excise.
- (2) The following consequential amendments shall be made in the Act of 1990—
  - (a) in section 20, for “Secretary of State”, “he” and “his”, wherever they occur, there shall be substituted, respectively, “ Commissioners of Customs and Excise ”, “ they ” and “ their ”;
  - (b) in section 21(3), for “ Secretary of State”, where first occurring, there shall be substituted “ Commissioners of Customs and Excise ”; and
  - (c) in paragraph 2(2) of Schedule 3, for “Secretary of State” there shall be substituted “ Commissioners of Customs and Excise ”.
- (3) The transfer of functions effected by this section shall not affect the validity of any action taken or begun under section 20 of the Act of 1990 before the coming into force of this section.

*Miscellaneous*

**24 Miscellaneous amendments.**

- F16(1) .....
- F16(2) .....
- F16(3) .....
- F16(4) .....
- F16(5) .....
- F16(6) .....
- F16(7) .....
- F16(8) .....
- F16(9) .....
- F16(10) .....
- F16(11) .....

*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice Act 1993, Part II. (See end of Document for details)*

- (12) Section 1 of the <sup>M10</sup>Criminal Justice (Scotland) Act 1987 (confiscation orders in relation to drug trafficking offences) shall be amended in accordance with subsections (13) to (15).
- (13) In subsection (2) (offences in relation to which confiscation orders may be made), the following paragraph shall be inserted after paragraph (b)—  
“(bb) an offence under section 42A of this Act;”.
- (14) In subsection (6) (definition of “drug trafficking”), after paragraph (e) there shall be inserted the following paragraphs—  
“(f) acquiring, having possession of or using property in contravention of section 42A of this Act;  
(g) concealing or transferring the proceeds of drug trafficking in contravention of section 14 of the Act of 1990;  
(h) using any ship for illicit traffic in controlled drugs in contravention of section 19 of the Act of 1990;”.
- (15) After subsection (6) there shall be inserted the following subsection—  
“(7) In paragraphs (e) to (g) of subsection (6) above, references to conduct in contravention of the enactments mentioned in those paragraphs include conduct which would contravene the enactments if it took place in Scotland.”.

**Extent Information**

**E4** S. 24 extends to U.K. but s. 24(12)-(15) extend only to Scotland

**Textual Amendments**

**F16** S. 24(1)-(11) repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), Sch. 3

**Commencement Information**

**I1** S. 24 partly in force; S. 24 not in force at Royal Assent; S. 24(12)-(15) in force for S. at 3.2.1995 by S.I. 1995/43, arts. 2, 3(2)

**Marginal Citations**

**M10** 1987 c. 41.

<sup>F17</sup>25 .....

**Textual Amendments**

**F17** S. 25 repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), Sch. 3

**26 Disclosure of information etc. received in privileged circumstances.**

<sup>F18</sup>(1) .....

- (2) The same subsections as are inserted in section 31 of the Act of 1986 by subsection (1) shall be inserted in section 42 of the <sup>M11</sup>Criminal Justice (Scotland) Act 1987 (corresponding Scottish provision).

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*Changes to legislation: There are currently no known outstanding effects  
for the Criminal Justice Act 1993, Part II. (See end of Document for details)*

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**Extent Information**

**E5** S. 26 extends to E & W except for s 26(2) which extends only to Scotland

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**Textual Amendments**

**F18** S. 26(1) repealed (3.2.1995) by 1994 c. 37, ss. 67, 69(2), **Sch. 3** (with saving in Sch. 2 para. 9)

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**Marginal Citations**

**M11** 1987 c. 41.

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Justice Act 1993, Part II.