

SCHEDULES

SCHEDULE 5

Section 103

FORFEITURE ON CONVICTION

Power to order forfeiture

- 1 (1) Where a person is convicted of a relevant offence, the court may, as well as imposing any other penalty, order to be forfeited to OFCOM such of the things mentioned in sub-paragraph (2) as the court considers appropriate.
- (2) The things are—
 - (a) any vehicle, ship or aircraft, or any structure or other object, that was used in connection with the commission of the offence;
 - (b) any wireless telegraphy apparatus or other apparatus in relation to which the offence was committed;
 - (c) any wireless telegraphy apparatus or other apparatus that was used in connection with the commission of the offence;
 - (d) any wireless telegraphy apparatus or other apparatus (not falling within paragraph (b) or (c)) that—
 - (i) was in the possession or under the control of the person convicted of the offence at the time he committed it, and
 - (ii) was intended to be used (whether or not by that person) in connection with the making of a broadcast or other transmission that would contravene section 8 or any provision of Part 5.
- (3) References in sub-paragraph (2)(b) to (d) to apparatus other than wireless telegraphy apparatus include references to—
 - (a) recordings;
 - (b) equipment designed or adapted for use—
 - (i) in making recordings, or
 - (ii) in reproducing sounds or visual images from recordings;
 - (c) any other equipment that is connected, directly or indirectly, to wireless telegraphy apparatus.
- (4) A relevant offence is—
 - (a) an offence under Chapter 4 or 5 of Part 2 consisting in a contravention of any provision of that Part in relation to a wireless telegraphy station or wireless telegraphy apparatus (including an offence under section 37 or 38);
 - (b) an offence under section 66;
 - (c) an offence under section 68;
 - (d) an offence under Part 5.
- (5) But the following are not relevant offences—

Status: This is the original version (as it was originally enacted).

- (a) an offence under section 35 consisting in the installation or use of receiving apparatus;
- (b) an offence under section 36 committed in relation to receiving apparatus;
- (c) an offence under section 51(4).

Forfeiture in relation to restricted apparatus

- 2
- (1) Where a person is convicted of an offence under Part 2, 3 or 6 involving restricted apparatus, the court must order the apparatus to be forfeited to OFCOM unless the defendant or a person who claims to be the owner of, or otherwise interested in, the apparatus shows cause why it should not be forfeited.
 - (2) This paragraph does not affect the operation of paragraph 1 in relation to apparatus that is not restricted apparatus.
 - (3) Apparatus is restricted apparatus if custody or control of apparatus of any class or description to which it belongs is for the time being restricted by a restriction order under section 62.

Property of third parties

- 3
- Apparatus may be ordered to be forfeited under paragraph 1 or 2 even if it is not the property of the person by whom the offence giving rise to the forfeiture was committed.

Disposal of apparatus

- 4
- Apparatus ordered to be forfeited under paragraph 1 or 2 may be disposed of by OFCOM in such manner as they think fit.

Delivery to OFCOM

- 5
- (1) A court that orders apparatus to be forfeited under paragraph 1 or 2 may also order the person by whom the offence giving rise to the forfeiture was committed not to dispose of it except by delivering it up to OFCOM within 48 hours of being so required by them.
 - (2) A person against whom an order is made under sub-paragraph (1) commits a further offence if—
 - (a) he contravenes the order; or
 - (b) he fails to deliver up the apparatus to OFCOM as required.
 - (3) An offence under sub-paragraph (2) is punishable as if it were committed under the same provision, and at the same time, as the offence for which the forfeiture was ordered.

Provisions as to disposal of property disapplied

- 6
- Section 140 of the Magistrates' Courts Act 1980 (c. 43) and Article 58 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (under which magistrates sell or dispose of forfeited property) do not apply in relation to apparatus ordered to be forfeited under paragraph 1 or 2.

Provisions as to deprivation of property disapplied

- 7 The following provisions (under which a court convicting a person of an offence has power to deprive him of property used etc for purposes of crime) do not apply where a person is convicted of an offence under Part 2, 3 or 5—
- (a) section 143 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6);
 - (b) Part 2 of the Proceeds of Crime (Scotland) Act 1995 (c. 43);
 - (c) Article 11 of the Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15)).