

SCHEDULES

SCHEDULE 1

Section 9.

DETENTION AND FORFEITURE OF CERTAIN VEHICLES, SHIPS AND AIRCRAFT

Forfeiture on conviction of offence under section 1 or 2

1.—(1) This paragraph applies if a person is convicted of an offence under section 1 or 2.

(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 where sub-paragraph (3)(a) or (b) does not apply to the convicted person, forfeiture of a ship or aircraft may be ordered only if sub-paragraph (5) applies or—

- (a) in the case of a ship (other than a hovercraft), its gross tonnage is less than 500 tons;
- (b) in the case of an aircraft, the maximum weight at which it may take off in accordance with its certificate of airworthiness is less than 5,700 kilogrammes.

(5) This sub-paragraph applies where a person who, at the time the offence was committed—

- (a) owned the ship or aircraft, or
- (b) was a director, secretary or manager of a company which owned it,

knew or ought to have known of the intention to use it in the course of the commission of an offence under section 1 or 2.

(6) Where a person who claims to have an interest in a land vehicle, ship or aircraft applies to a court to make representations about its forfeiture, the court may not order its forfeiture without giving the person an opportunity to make representations.

Detention of certain vehicles, ships and aircraft

2.—(1) If a person (“P”) has been arrested for an offence under section 1 or 2, a constable may detain a relevant land vehicle, ship or aircraft.

(2) A land vehicle, ship or aircraft is relevant if the constable has reasonable grounds to believe that an order for its forfeiture could be made under paragraph 1 if P were convicted of the offence.

(3) The land vehicle, ship or aircraft may be detained—

- (a) until a decision is taken as to whether or not to charge P with the offence,
- (b) if P has been charged, until P is acquitted, the charge against P is dismissed or the proceedings are discontinued, or
- (c) if P has been charged and convicted, until the court decides whether or not to order forfeiture of the vehicle, ship or aircraft.

(4) A person (other than P) may apply to the court for the release of the land vehicle, ship or aircraft on the grounds that the person—

- (a) owns the vehicle, ship or aircraft,
- (b) was, immediately before the detention of the vehicle, ship or aircraft, in possession of it under a hire-purchase agreement, or
- (c) is a charterer of the ship or aircraft.

(5) The court to which an application is made under sub-paragraph (4) may, if satisfactory security or surety is tendered, release the land vehicle, ship or aircraft on condition that it is made available to the court if—

- (a) P is convicted, and

- (b) an order for its forfeiture is made under paragraph 1.
- (6) In this paragraph “the court” means—
 - (a) if P has not been charged, or P has been charged but proceedings for the offence have not begun to be heard, a magistrates’ court;
 - (b) if P has been charged and proceedings for the offence have begun to be heard, the court hearing the proceedings.

Interpretation

- 3.—(1) In this Schedule—
- “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 (including a hovercraft) used in navigation.
- (2) In this Schedule 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.