

SCHEDULES

SCHEDULE 4

FORFEITURE ORDERS

PART II

SCOTLAND

Implementation of forfeiture orders

- 11 (1) Where a court in Scotland makes an order under section 13(2), (3) or (4) of this Act (in this Part of this Schedule referred to as a “forfeiture order”) it may make an order—
- (a) directing any property to which the forfeiture order applies other than money or land to be sold or otherwise disposed of in such manner as the court may direct;
 - (b) appointing an administrator to take possession, subject to such conditions and exceptions as may be specified by the court, of any such property which is land and to realise it in such manner as the court may direct;
 - (c) directing a specified part of any money, or of the proceeds of the sale, disposal or realisation of any property, to which the forfeiture order applies to be paid to or for a specified person falling within section 13(6) of this Act;
 - (d) making such other provision as appears to the court to be necessary for giving effect to the forfeiture order or to any order made by virtue of paragraph (a), (b) or (c) above.
- (2) The Court of Session may by rules of court prescribe the powers and duties of an administrator appointed under sub-paragraph (1)(b) above.
- (3) A forfeiture order shall not come into force so long as an appeal is pending against the order or against the conviction on which it was made; and for this purpose where an appeal is competent but has not been brought it shall be treated as pending until the expiry of a period of fourteen days from the date when the order was made.
- (4) Any balance remaining after making any payment required under sub-paragraph (1) (c) above or paragraph 12 below shall be treated for the purposes of section 203 of the Criminal Procedure (Scotland) Act 1975 (fines payable to HM Exchequer) as if it were a fine imposed in the High Court.
- (5) The clerk of court shall, on the application of the prosecutor or defender in the proceedings in which a forfeiture order is made, certify in writing the extent (if any) to which, at the date of the certificate, effect has been given to the order in respect of the money or other property to which it applies.
- (6) In this paragraph references to the proceeds of the sale, disposal or realisation of property are references to the proceeds after deduction of the costs of sale, disposal or realisation.

Status: This is the original version (as it was originally enacted).

- 12 (1) Where an administrator appointed under paragraph 11 above takes any action—
- (a) in relation to property which is not subject to forfeiture, being action which he would be entitled to take if it were such property;
 - (b) believing, and having reasonable grounds for believing, that he is entitled to take that action in relation to that property,
- he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.
- (2) An administrator appointed under paragraph 11 above shall be entitled to be paid his remuneration and expenses out of the proceeds of the property realised by him or, if and so far as those proceeds are insufficient, by the Lord Advocate.
- (3) The accountant of court shall supervise an administrator appointed under paragraph 11 above in the exercise of the powers conferred, and discharge of the duties imposed, on him under or by virtue of that paragraph.