



Proceeds of Crime (Scotland) Act 1995

1995 CHAPTER 43

PART II

FORFEITURE OF PROPERTY USED IN CRIME

22 Forfeiture: district court.

- (1) Where, in respect of any offence tried in the district court, the accused is convicted or (without proceeding to conviction) an order is made discharging him absolutely the court may, if it is satisfied on the application of the prosecutor that any moveable property which was at the time of the offence or of the accused's apprehension in his ownership or possession or under his control—
 - (a) has been used for the purpose of committing, or facilitating the commission of, any offence; or
 - (b) was intended to be used for that purpose,order that the property shall be forfeited to and vest in the Crown or such other person as the court may direct.
- (2) Any application under subsection (1) above shall be made following upon the conviction of the accused or, as the case may be, the finding that he committed the offence with which he was charged.
- (3) Where, by itself, the use of property constitutes an offence in whole or in part, that property shall be regarded for the purpose of subsection (1)(a) above as used for the purpose of committing the offence, unless the enactment which created the offence expressly excludes the application of this section.
- (4) Subject to subsection (5) below, where the accused is convicted of an offence under any enactment, the court shall not be precluded from making an order under subsection (1) above in respect of any property by reason only that the property would not be liable to forfeiture under that enactment.
- (5) Subsection (4) above shall not apply—
 - (a) if the enactment concerned expressly excludes the application of this section; or

*Changes to legislation: There are currently no known outstanding effects for the
Proceeds of Crime (Scotland) Act 1995, Section 22. (See end of Document for details)*

- (b) to any property which has been used or has been intended to be used as mentioned in subsection (1)(a) or (b) above in relation to the offence of which the accused has been convicted, if the enactment concerned specifies the category of property which is to be liable to forfeiture thereunder, and the category so specified does not include the category of property which has been used or has been intended to be used as aforesaid.
- (6) Where the court makes—
- (a) an order under subsection (1) above that property shall be forfeited to the Crown; and
 - (b) a compensation order under section 249 of the 1995 Act,
- against the same accused in the same proceedings, it may order that the proceeds of sale of the property forfeited by virtue of subsection (1) above shall be first directed towards satisfaction of the compensation order.
- (7) For the purposes of any appeal or review an order under subsection (1) above is a sentence.
- (8) In this section “the court” means the district court.

Changes to legislation:

There are currently no known outstanding effects for the Proceeds of Crime (Scotland) Act 1995, Section 22.