



Civic Government (Scotland) Act 1982

1982 CHAPTER 45

PART IV

OFFENCES, POWERS OF CONSTABLES, ETC.

Preventive offences

58 Convicted thief in possession.

- (1) Any person who, being a person to whom this section applies—
- (a) has or has recently had in his possession any tool or other object from the possession of which it may reasonably be inferred that he intended to commit theft or has committed theft; and
 - (b) is unable to demonstrate satisfactorily that his possession of such tool or other object is or was not for the purposes of committing theft
- shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [^{F1}level 4 on the standard scale] or to imprisonment for a period not exceeding 3 months or to both.
- (2) For the purposes of subsection (1) above, a person shall have recently had possession of a tool or other object if he had possession of it within 14 days before the date of—
- (a) his arrest without warrant for the offence of having so possessed it in contravention of subsection (1) above; or
 - (b) the issue of a warrant for his arrest for that offence; or
 - (c) if earlier, the service upon him of the first complaint alleging that he has committed that offence.
- (3) Where a court convicts a person of an offence under this section or discharges him absolutely ^{F2}... in respect of such an offence it may order the forfeiture of any tool or other object in respect of the possession of which he was convicted or [^{F3}, as the case may be, discharged absolutely].

Changes to legislation: Civic Government (Scotland) Act 1982, Section 58 is up to date with all changes known to be in force on or before 06 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(4) This section applies to a person who has two or more convictions for theft which are not, for the purposes of the ^{M1}Rehabilitation of Offenders Act 1974, spent convictions.

[^{F4}(4A) In subsection (4), the reference to a conviction for theft includes—

- (a) a reference to a conviction by a court in England and Wales or Northern Ireland, and
- (b) if the court considers appropriate, a reference to a conviction by a court in a member State of the European Union

of an offence that is equivalent to theft.]

(4B) Any issue of equivalence arising in pursuance of subsection (4A) is for the court to determine.

(5) In this section “theft” includes any aggravation of theft including robbery.

Textual Amendments

- F1** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**
- F2** Words in s. 58(3) repealed (1.2.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), **sch. 2 para. 35(3)(a)**; S.S.I. 2010/413, art. 2, sch. (with art. 3(1))
- F3** Words in s. 58(3) substituted (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), **ss. 24(3)(b)**, 206(1); S.S.I. 2011/178, art. 2, sch. (with sch.)
- F4** [S. 58\(4A\)](#) substituted (31.12.2020) by [The Criminal Justice \(EU Exit\) \(Scotland\) \(Amendment etc.\) Regulations 2020 \(S.S.I. 2020/339\)](#), regs. 1(3), **10** (with reg. 16)

Marginal Citations

- M1** 1974 c. 53.

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Changes and effects yet to be applied to :

- s. 58(3) words repealed by [2010 asp 13 s. 24\(3\)\(a\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 22(1)(c) repealed by [2015 asp 10 s. 65\(3\)](#)
- s. 49(9) added by [2010 asp 13 s. 200\(1\)\(b\)](#)