



# Criminal Justice (Scotland) Act 1987

## 1987 CHAPTER 41

### PART I

#### CONFISCATION OF PROCEEDS OF DRUG TRAFFICKING ETC.

##### *Exercise of powers*

#### **23 Exercise of powers by Court of Session or administrator.**

- (1) The following provisions apply to the powers conferred on the Court of Session by sections 8, 11(1) to (5), 12 to 13, 16 and 24 of this Act, or on an administrator appointed under subsection (1) of the said section 13.
- (2) Subject to the following provisions of this section, the powers shall be exercised with a view to making available for satisfying a confiscation order the value for the time being of realisable property held by any person by the realisation of such property.
- (3) In the case of a person who holds realisable property by virtue only of having received an implicative gift, the powers shall, so far as is reasonably attainable, be exercised so as to realise, interdict dealing with, or permit the seizure or taking possession of, property of a value no greater than the value for the time being of that gift.
- (4) The powers shall be exercised with a view to allowing any person other than one mentioned in paragraph (a) or (b) of section 5(1) of this Act to retain or recover the value of any property held by him.
- (5) An order may be made or other action taken in respect of a debt owned by the Crown.
- (6) Subject to subsection (4) above and without prejudice to the power of the Court of Session to make an exception under section 9(1) or 13(2)(a) of this Act for the protection of a person or his family, in exercising those powers no account shall be taken of an obligation (other than an obligation having priority, within the meaning of section 5(8) of this Act) of a person holding realisable property if that obligation conflicts with the obligation to satisfy a confiscation order.

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*Status: Point in time view as at 03/02/1995. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1987, Section 23. (See end of Document for details)*

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(7) Subsections (2) to (6) of [<sup>F1</sup>section 31 of the Drug Trafficking Act 1994](exercise of powers by High Court etc.) shall apply as regards the powers conferred on the Court of Session by sections 27 and 28, or by virtue of section 11(6), of this Act as those subsections apply as regards the powers conferred on the High Court (within the meaning that expression has in relation to England and Wales) by the sections mentioned in subsection (1) of the said [<sup>F1</sup>section 31].

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**Textual Amendments**

**F1** Words in s. 23(7) substituted (3.2.1995) by 1994 c. 37, ss. 65, 69(2), **Sch. 1 para. 16**

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**Modifications etc. (not altering text)**

**C1** S. 23(2)–(6) extended by S.I. 1988/593, **art. 5**

**Status:**

Point in time view as at 03/02/1995. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1987, Section 23.