

## SCHEDULES

### SCHEDULE 4

#### FORFEITURE ORDERS

#### PART I

#### ENGLAND AND WALES

##### *Implementation of forfeiture orders*

- 1 (1) Where a court in England and Wales 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) requiring any money or other property to which the forfeiture order applies to be paid or handed over to the proper officer or to a constable designated for the purpose by the chief officer of police of a police force specified in the order;
  - (b) directing any such property other than money or land to be sold or otherwise disposed of in such manner as the court may direct and the proceeds to be paid to the proper officer;
  - (c) appointing a receiver to take possession, subject to such conditions and exceptions as may be specified by the court, of any such property which is land, to realise it in such manner as the court may direct and to pay the proceeds to the proper officer;
  - (d) 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 by the proper officer to or for a specified person falling within section 13(6) of this Act;
  - (e) 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), (c) or (d) above.
- (2) A forfeiture order shall not come into force until (disregarding any power of a court to grant leave to appeal out of time) there is no further possibility of the order being set aside.
- (3) Any balance in the hands of the proper officer after making any payment required under sub-paragraph (1)(d) above or paragraph 2 below shall be treated for the purposes of section 61 of the Justices of the Peace Act 1979 (application of fines etc.) as if it were a fine imposed by a magistrates' court.
- (4) The proper officer shall, on the application of the prosecutor or defendant 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.

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*Status: This is the original version (as it was originally enacted).*

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- (5) In this paragraph “the proper officer” means, where the forfeiture order is made by a magistrates' court, the clerk of that court and, where the order is made by the Crown Court —
- (a) the clerk of the magistrates' court by which the defendant was committed to the Crown Court; or
  - (b) if the proceedings were instituted by a bill of indictment preferred by virtue of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933, the clerk of the magistrates' court for the place where the trial took place;
- and in this sub-paragraph references to the clerk of a magistrates' court shall be construed in accordance with section 141 of the Magistrates' Courts Act 1980 taking references to that Act as references to this Act.
- (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.
- (7) This paragraph has effect to the exclusion of section 140 of the said Act of 1980.
- 2 (1) Where a receiver appointed under paragraph 1 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) A receiver appointed under paragraph 1 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 prosecutor.