



# Serious Crime Act 2015

## 2015 CHAPTER 9

### PART 1

#### PROCEEDS OF CRIME

### CHAPTER 2

#### SCOTLAND

#### *Confiscation*

#### **15 Restitution order and victim surcharge**

- (1) In section 97 of the Proceeds of Crime Act 2002 (effect of order on court's other powers), in subsection (3)(a), at the end insert “, a restitution order or a victim surcharge under section 253F(2) of the Procedure Act”.
- (2) After that section insert—

#### **“97A Application of receipts: restitution order and victim surcharge**

- (1) Subsection (2) applies if—
  - (a) a court makes a confiscation order and a relevant order against the same person in the same proceedings, and
  - (b) the court believes that the person will not have sufficient means to satisfy both orders in full.
- (2) In such a case the court must direct that so much of the amount payable under the relevant order as it specifies is to be paid out of any sums recovered under the confiscation order.
- (3) Subsection (4) applies if—

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*Status: This is the original version (as it was originally enacted).*

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- (a) a court makes a confiscation order, a compensation order under section 249 of the Procedure Act and a relevant order against the same person in the same proceedings, and
  - (b) the court believes that the person will not have sufficient means to satisfy all the orders in full.
- (4) In such a case the court must direct that so much of the compensation, and so much of the amount payable under the relevant order, as it specifies is to be paid out of any sums recovered under the confiscation order.
- (5) The amount a court specifies under subsection (2) or (4) must be the amount the court believes will not be recoverable because of the insufficiency of the person's means.
- (6) Where the amount a court specifies in a direction under subsection (4) is sufficient to satisfy in full the compensation, the direction must provide for the compensation to be so satisfied before payment of the amount payable under the relevant order.
- (7) Where the amount a court specifies in a direction under subsection (4) is not sufficient to satisfy in full the compensation, the direction must provide for the compensation to be satisfied to the extent of the amount specified in the direction.
- (8) In this section, "relevant order" means—
  - (a) a restitution order, or
  - (b) a victim surcharge under section 253F(2) of the Procedure Act.
- (9) In this Part, "restitution order" is to be construed in accordance with section 253A(2) of the Procedure Act."