



# Serious Crime Act 2015

## 2015 CHAPTER 9

### PART 1

#### PROCEEDS OF CRIME

#### CHAPTER 2

##### SCOTLAND

##### *Confiscation*

## 16 Orders for securing compliance with confiscation order

After section 97A of the Proceeds of Crime Act 2002 (inserted by section 15(2) above) insert—

### **“97B Orders for securing compliance with confiscation order**

- (1) This section applies where the court makes a confiscation order.
- (2) The court may make such order in relation to the accused as it believes is appropriate for the purpose of ensuring that the confiscation order is effective (a “compliance order”).
- (3) The court must consider whether to make a compliance order—
  - (a) on the making of the confiscation order, and
  - (b) if it does not make a compliance order then, at any later time (while the confiscation order is still in effect) on the application of the prosecutor.
- (4) In considering whether to make a compliance order, the court must, in particular, consider whether any restriction or prohibition on the accused’s travel outside the United Kingdom ought to be imposed for the purpose mentioned in subsection (2).

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*Status: This is the original version (as it was originally enacted).*

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- (5) The court may discharge or vary a compliance order on an application made by—
- (a) the prosecutor;
  - (b) the accused.
- (6) For the purposes of any appeal or review, a compliance order is a sentence.

### **97C Breach of compliance order**

- (1) This section applies where—
- (a) a compliance order has been made in relation to an accused, and
  - (b) it appears to the court that the accused has failed to comply with the compliance order.
- (2) The court may—
- (a) issue a warrant for the accused’s arrest, or
  - (b) issue a citation to the accused requiring the accused to appear before the court.
- (3) If the accused fails to appear as required by a citation issued under subsection (2)(b), the court may issue a warrant for the arrest of the accused.
- (4) The unified citation provisions (as defined in section 307(1) of the Procedure Act) apply in relation to a citation under subsection (2)(b).
- (5) The court must, before considering the alleged failure—
- (a) provide the accused with written details of the alleged failure,
  - (b) inform the accused that the accused is entitled to be legally represented, and
  - (c) inform the accused that no answer need be given to the allegation before the accused—
    - (i) has been given an opportunity to take legal advice, or
    - (ii) has indicated that the accused does not wish to take legal advice.
- (6) If the court is satisfied that the accused has failed without reasonable excuse to comply with the compliance order, the court may—
- (a) impose on the accused a fine not exceeding level 3 on the standard scale,
  - (b) revoke the compliance order and impose on the accused a sentence of imprisonment for a term not exceeding 3 months,
  - (c) vary the compliance order, or
  - (d) both impose a fine under paragraph (a) and vary the order under paragraph (c).
- (7) The court may vary the compliance order if the court is satisfied—
- (a) that the accused has failed to comply with the order,
  - (b) that the accused had a reasonable excuse for the failure, and
  - (c) that, having regard to the circumstances which have arisen since the order was imposed, it is in the interests of justice to vary the order.

- (8) Evidence of one witness is sufficient for the purpose of establishing that an accused has failed without reasonable excuse to comply with a compliance order.

**97D Appeals against variation or discharge of compliance orders**

The prosecutor or the accused may appeal against a decision of the court under section 97B(5)—

- (a) to vary or refuse to vary a compliance order, or
- (b) to discharge or refuse to discharge a compliance order.”