



# Policing and Crime Act 2009

## 2009 CHAPTER 26

### PART 5

#### PROCEEDS OF CRIME

##### *Confiscation*

#### **58 Power to sell seized personal property: England and Wales**

- (1) The [Proceeds of Crime Act 2002 \(c. 29\)](#) is amended as follows.
- (2) After section 67 insert—

##### **“67A Seized personal property**

- (1) This section applies to personal property which is held by a person and which—
  - (a) has been seized by an appropriate officer under a relevant seizure power, or
  - (b) has been produced to an appropriate officer in compliance with a production order under section 345.
- (2) This section applies if the following conditions are satisfied—
  - (a) a confiscation order is made against the person by whom the property is held;
  - (b) a receiver has not been appointed under section 50 in relation to the property;
  - (c) any period allowed under section 11 for payment of the amount ordered to be paid under the confiscation order has ended.
- (3) In such a case a magistrates’ court may by order authorise an appropriate officer to realise the property.

- (4) In this section “appropriate officer” and “relevant seizure power” have the same meaning as in section 41A.

#### **67B Costs of storage and realisation**

- (1) This section applies if a magistrates’ court makes an order under section 67A.
- (2) The court may determine an amount which may be recovered by the appropriate officer in respect of reasonable costs incurred in—
- (a) storing or insuring the property since it was seized or produced as mentioned in subsection (1) of that section;
  - (b) realising the property.
- (3) If the court makes a determination under this section the appropriate officer is entitled to payment of the amount under section 55(4).
- (4) A determination under this section may be made on the same occasion as the section 67A order or on any later occasion; and more than one determination may be made in relation to any case.
- (5) In this section “appropriate officer” has the same meaning as in section 41A.

#### **67C Sections 67A and 67B: appeals**

- (1) If a magistrates’ court decides not to make an order under section 67A, an appropriate officer may appeal to the Crown Court.
- (2) If a magistrates’ court makes an order under section 67A, a person affected by the order may appeal to the Crown Court.
- (3) But the person mentioned in section 67A(2)(a) may not appeal.
- (4) An appropriate officer may appeal to the Crown Court against—
- (a) a determination made by a magistrates’ court under section 67B;
  - (b) a decision by a magistrates’ court not to make a determination under that section.
- (5) In this section “appropriate officer” has the same meaning as in section 41A.

#### **67D Proceeds of realisation**

- (1) This section applies to sums which—
- (a) are in the hands of an appropriate officer, and
  - (b) are the proceeds of the realisation of property under section 67A.
- (2) The sums must be applied as follows—
- (a) first, they must be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under this subsection by virtue of section 432;
  - (b) second, they must be applied in making any payments directed by the magistrates’ court or the Crown Court;
  - (c) third, they must be paid to the appropriate designated officer on account of the amount payable under the confiscation order.

---

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

---

- (3) If the amount payable under the confiscation order has been fully paid and any sums remain in the appropriate officer's hands, the appropriate officer must distribute them—
  - (a) among such persons who held (or hold) interests in the property represented by the proceeds as the magistrates' court or the Crown Court directs, and
  - (b) in such proportions as it directs.
- (4) Before making a direction under subsection (3) the court must give persons who held (or hold) interests in the property a reasonable opportunity to make representations to it.
- (5) If the magistrates' court has made a direction under subsection (2)(b) or (3) in respect of the proceeds of realisation of any property, the Crown Court may not make a direction under either of those provisions in respect of the proceeds of realisation of that property; and vice versa.
- (6) In this section—
  - “appropriate officer” has the same meaning as in section 41A;
  - “appropriate designated officer” means the designated officer for the magistrates' court which, by virtue of section 35, is responsible for enforcing the confiscation order as if it were a fine.”
- (3) Accordingly, at the end of the cross-heading immediately above that section insert “and personal property”.
- (4) In section 55(3)(b) (payment of sums received by designated officer under section 54 or otherwise: insolvency practitioners' expenses) after “section 54(2)(a)” insert “or 67D(2)(a)”.
- (5) In section 55(4) (payment of sums received by designated officer under section 54)—
  - (a) after “section 54” insert “or 67D”,
  - (b) in paragraph (b) for “the receiver” substitute “any receiver”, and
  - (c) after paragraph (b) insert—
    - “(c) third, in payment to an appropriate officer of any amount to which the officer is entitled by virtue of section 67B.”