



Serious Crime Act 2015

2015 CHAPTER 9

PART 4

SEIZURE AND FORFEITURE OF DRUG-CUTTING AGENTS

Forfeiture etc or return of seized substances

61 Forfeiture and disposal, or return, of seized substances

- (1) A police or customs officer may apply to a magistrates' court for the forfeiture of a substance retained under section 59.
- (2) Where an application for the forfeiture of a substance is made under this section, the substance is to be retained while proceedings on the application are in progress.
- (3) The court must order the forfeiture of the substance if satisfied that it was intended for use as a drug-cutting agent.
- (4) A substance ordered to be forfeited may be disposed of in whatever way the officer who applied for the order thinks is suitable.
- (5) A substance must not be disposed of under subsection (4)—
 - (a) before the end of the period within which an appeal under section 62 may be made, or
 - (b) if an appeal is made, before it is determined or otherwise dealt with.
- (6) The court must order the substance to be returned to a person entitled to it if not satisfied that the substance was intended for use as a drug-cutting agent.
- (7) If an order is made under subsection (6), the substance may nevertheless be retained—
 - (a) until the end of the period within which an appeal under section 62 may be made against the order, or
 - (b) if an appeal is made, until the time when it is determined or otherwise dealt with.

But if it is decided before the end of the period mentioned in paragraph (a) that there is to be no appeal, the substance must be returned as soon as possible after that decision is made.

62 Appeal against decision under section 61

- (1) A party to proceedings for an order under section 61, or a person entitled to the substance in question (if not a party to those proceedings), may appeal against an order under that section.
- (2) Where—
 - (a) a police or customs officer brings an appeal under this section, and
 - (b) no person entitled to the substance in question was a party to the original proceedings,
 the officer must make reasonable efforts to give notice of the appeal to the person from whom the substance was seized and, if the officer thinks that the substance may belong to a different person, to that person.
- (3) An appeal under this section is to—
 - (a) the Crown Court, in England and Wales;
 - (b) the Sheriff Appeal Court, in Scotland;
 - (c) a county court, in Northern Ireland.
- (4) An appeal under this section must be made before the end of the period of 30 days starting with the date of the order appealed against.
- (5) Subject to subsections (6) and (7), the court hearing the appeal may make any order the court thinks appropriate.
- (6) If an appeal against an order for the return of the substance is allowed—
 - (a) the court must order the substance to be forfeited, and
 - (b) subsections (4) and (5) of section 61 apply with the necessary adaptations.
- (7) If an appeal against an order forfeiting the substance is allowed—
 - (a) the court must order the substance to be returned to a person entitled to it, and
 - (b) subsection (7) of section 61 applies with the necessary adaptations.

63 Return of substance to person entitled to it, or disposal if return impracticable

- (1) Where the retention of a substance has been, but is no longer, authorised under this Part—
 - (a) the substance must (subject to subsection (4)) be returned to a person entitled to it;
 - (b) a magistrates' court must, if asked to do so by a person entitled to the substance, order it to be returned to that person.
- (2) A person who claims to be entitled to a substance retained under this Part may apply to a magistrates' court for an order under subsection (1)(b) or section 60(6) or 61(6) (as appropriate).
- (3) Where—

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

- (a) a court makes an order under this Part requiring a substance to be returned to a particular person, and
 - (b) reasonable efforts have been made, without success, to find that person, or it is for some other reason impracticable to return the substance to that person,
- the order has effect as if it required the substance to be returned to any person entitled to it.

(4) Where—

- (a) a substance is required by a provision of this Part, or an order made under this Part, to be returned to a person entitled to it, and
- (b) reasonable efforts have been made, without success, to find a person entitled to the substance, or it is for some other reason impracticable to return the substance to a person entitled to it,

a police or customs officer may dispose of the substance in whatever way the officer thinks is suitable.