

Status: Point in time view as at 07/02/2023.

Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2015, Cross Heading: Proceeds of Crime Act 2002 (c. 29). (See end of Document for details)

SCHEDULES

SCHEDULE 4

MINOR AND CONSEQUENTIAL AMENDMENTS

Proceeds of Crime Act 2002 (c. 29)

- 19 In section 6 of the Proceeds of Crime Act 2002 (making of order), at the end of subsection (5) insert— “Paragraph (b) applies only if, or to the extent that, it would not be disproportionate to require the defendant to pay the recoverable amount.”

Commencement Information

- II** Sch. 4 para. 19 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

- 20 In section 12 of that Act (interest on unpaid sums), in subsection (1)—
- (a) for “the amount required to be paid” substitute “ any amount required to be paid ”;
 - (b) for “must pay interest on the amount” substitute “ must pay interest on that amount ”.

Commencement Information

- I2** Sch. 4 para. 20 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

- 21 In section 14 of that Act (postponement), after paragraph (c) of subsection (12) insert—
- “(ca) made an order under section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge);”.

Commencement Information

- I3** Sch. 4 para. 21 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

- 22 (1) Section 15 of that Act (effect of postponement) is amended as follows.
- (2) In subsection (2)—
 - (a) at the end of paragraph (c) omit “or”;
 - (b) after that paragraph insert—
 - “(ca) make an order for the payment of a surcharge under section 161A of the Criminal Justice Act 2003, or”.
 - (3) In subsection (3)—
 - (a) at the end of paragraph (c) omit “or”;
 - (b) after that paragraph insert—

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“(ca) making an order for the payment of a surcharge under section 161A of the Criminal Justice Act 2003, or”.

Commencement Information

I4 Sch. 4 para. 22 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

- 23 (1) Section 19 of that Act (no order made: reconsideration of case) is amended as follows.
- (2) In subsection (7), after paragraph (d) insert—
- “(da) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge);”.
- (3) In subsection (8), after “Sentencing Act” insert “, a surcharge under section 161A of the Criminal Justice Act 2003 ”.

Commencement Information

I5 Sch. 4 para. 23 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

- 24 (1) Section 20 of that Act (no order made: reconsideration of benefit) is amended as follows.
- (2) In subsection (11), after paragraph (d) insert—
- “(da) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge);”.
- (3) In subsection (12), after “Sentencing Act” insert “, a surcharge under section 161A of the Criminal Justice Act 2003 ”.

Commencement Information

I6 Sch. 4 para. 24 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

- 25 (1) Section 21 of that Act (order made: reconsideration of benefit) is amended as follows.
- (2) In subsection (9), after paragraph (c) insert—
- “(ca) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge);”.
- (3) In subsection (10), after “(9)(c)” insert “, (ca) ”.

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I7 Sch. 4 para. 25 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

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26 (1) Section 22 of that Act (order made: reconsideration of available amount) is amended as follows.

(2) In subsection (5), after paragraph (c) insert—

“(d) any order which has been made against the defendant in respect of the offence (or any of the offences) concerned under section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge).”

(3) In subsection (6), after “(5)(c)” insert “ or (d). ”

Commencement Information

I8 Sch. 4 para. 26 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

27 (1) Section 31 of that Act (appeal to Court of Appeal) is amended as follows.

(2) In the heading, after “**prosecutor**” insert “ **etc** ”.

(3) In subsection (3), after “by virtue of section” insert “ 10A, ”.

Commencement Information

I9 Sch. 4 para. 27 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

28 In section 32 of that Act (Court of Appeal's powers on appeal), in subsection (7), after “(compensation orders)” insert “ , section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge) ”.

Commencement Information

I10 Sch. 4 para. 28 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

29 In section 33 of that Act (appeal to Supreme Court), in subsection (9), after “(compensation orders)” insert “ , section 161A of the Criminal Justice Act 2003 (orders requiring payment of surcharge) ”.

Commencement Information

I11 Sch. 4 para. 29 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

30 In section 35 of that Act (enforcement as fines), in subsection (2), for “139(2) to (4)” substitute “ 139(2), (3) ”.

Commencement Information

I12 Sch. 4 para. 30 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

31 In section 41 of that Act (restraint orders), after subsection (7C) (inserted by section 11 above) insert—

“(7D) In considering whether to make an order under subsection (7), the court must, in particular, consider whether any restriction or prohibition on the

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defendant's travel outside the United Kingdom ought to be imposed for the purpose mentioned in that subsection.”

Commencement Information

I13 Sch. 4 para. 31 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

32 (1) Section 42 of that Act (application, discharge and variation of restraint orders) is amended as follows.

(2) In subsection (4), for “(7)” substitute “(8)”.

(3) For subsection (7) substitute—

“(7) If the condition in section 40 which was satisfied was that an investigation was started—

- (a) the court must discharge the order if within a reasonable time proceedings for the offence are not started;
- (b) otherwise, the court must discharge the order on the conclusion of the proceedings.

(8) If the condition in section 40 which was satisfied was that an application was to be made—

- (a) the court must discharge the order if within a reasonable time the application is not made;
- (b) otherwise, the court must discharge the order on the conclusion of the application.”

Commencement Information

I14 Sch. 4 para. 32 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

33 In section 55 of that Act (sums received by designated officer), in subsection (5), for “an amount of compensation or all or part of an amount payable under an unlawful profit order” substitute “an amount payable under a priority order (or orders)”.

Commencement Information

I15 Sch. 4 para. 33 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

34 In section 89 of that Act (procedure on appeal to the Court of Appeal), in subsection (4), before paragraph (a) insert—

“(za) section 31(4) (appeals against determinations under section 10A),”.

Commencement Information

I16 Sch. 4 para. 34 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iii)

35 In section 92 of that Act (making of order), at the end of subsection (6) insert—

“Paragraph (b) applies only if, or to the extent that, it would not be disproportionate to require the accused to pay the recoverable amount.”

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Commencement Information

I17 Sch. 4 para. 35 in force at 1.3.2016 by S.S.I. 2016/11, reg. 2(j)

36 In section 99 of that Act (postponement), after paragraph (c) of subsection (11) insert—

- “(d) made a restitution order;
- (e) ordered the accused under section 253F(2) of the Procedure Act to pay a victim surcharge.”

Commencement Information

I18 Sch. 4 para. 36 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, reg. 2

I19 Sch. 4 para. 36 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, reg. 2(1)(c)

37 (1) Section 100 of that Act (effect of postponement) is amended as follows.

(2) In subsection (3)—

- (a) at the end of paragraph (b) omit “or”;
- (b) after paragraph (c) insert—
 - “(d) make a restitution order, or
 - (e) order the accused under section 253F(2) of the Procedure Act to pay a victim surcharge.”

(3) In subsection (4)—

- (a) at the end of paragraph (b) omit “or”;
- (b) after paragraph (c) insert—
 - “(d) making a restitution order, or
 - (e) ordering the accused under section 253F(2) of the Procedure Act to pay a victim surcharge.”

Commencement Information

I20 Sch. 4 para. 37 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, reg. 2

I21 Sch. 4 para. 37 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, reg. 2(1)(c)

38 (1) Section 104 of that Act (no order made: reconsideration of case) is amended as follows.

(2) In subsection (7), after paragraph (d) insert—

- “(e) any restitution order which has been made against the accused in respect of the offence (or any of the offences) concerned;
- (f) any order under section 253F(2) of the Procedure Act requiring the accused to pay a victim surcharge in respect of the offence (or any of the offences) concerned.”

(3) After subsection (8) insert—

“(8A) If a restitution order or an order under section 253F(2) of the Procedure Act has been made against the accused in respect of the offence or offences concerned, section 97A(2) and (4) does not apply.”

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Commencement Information

I22 Sch. 4 para. 38 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, reg. 2

I23 Sch. 4 para. 38 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, reg. 2(1)(c)

39 (1) Section 105 of that Act (no order made: reconsideration of benefit) is amended as follows.

(2) In subsection (10), after paragraph (d) insert—

- “(e) any restitution order which has been made against the accused in respect of the offence (or any of the offences) concerned;
- (f) any order under section 253F(2) of the Procedure Act requiring the accused to pay a victim surcharge in respect of the offence (or any of the offences) concerned.”

(3) After subsection (11) insert—

“(11A) If a restitution order or an order under section 253F(2) of the Procedure Act has been made against the accused in respect of the offence or offences concerned, section 97A(2) and (4) does not apply.”

Commencement Information

I24 Sch. 4 para. 39 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, reg. 2

I25 Sch. 4 para. 39 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, reg. 2(1)(c)

40 (1) Section 106 of that Act (order made: reconsideration of benefit) is amended as follows.

(2) In subsection (8), after paragraph (c) insert—

- “(d) any restitution order which has been made against the accused in respect of the offence (or any of the offences) concerned;
- (e) any order under section 253F(2) of the Procedure Act requiring the accused to pay a victim surcharge in respect of the offence (or any of the offences) concerned.”

(3) In subsection (9)—

(a) for “the court must not” substitute “the court—

(a) must not”;

(b) at the end insert—

“(b) must not have regard to an order falling within subsection (8)(d) or (e) if a court has made a direction under section 97A(2) or (4).”

Commencement Information

I26 Sch. 4 para. 40 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, reg. 2

I27 Sch. 4 para. 40 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, reg. 2(1)(c)

41 (1) Section 107 of that Act (order made: reconsideration of available amount) is amended as follows.

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- (2) In subsection (4), after paragraph (c) insert—
- “(d) any restitution order which has been made against the accused in respect of the offence (or any of the offences) concerned;
 - (e) any order under section 253F(2) of the Procedure Act requiring the accused to pay a victim surcharge in respect of the offence (or any of the offences) concerned.”
- (3) In subsection (5)—
- (a) for “the court must not” substitute “the court—
 - (a) must not”;
 - (b) at the end insert—
 - “(b) must not have regard to an order falling within subsection (4)(d) or (e) if a court has made a direction under section 97A(2) or (4).”

Commencement Information

I28 Sch. 4 para. 41 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, reg. 2

I29 Sch. 4 para. 41 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, reg. 2(1)(c)

- 42 In section 118 of that Act (application of provisions about fine enforcement), in subsection (2) omit paragraph (k).

Commencement Information

I30 Sch. 4 para. 42 in force at 1.3.2016 by S.S.I. 2016/11, reg. 2(j) (with reg. 3)

- 43 (1) Section 121 of that Act (application, recall and variation) is amended as follows.
- (2) In subsection (5), for “(9)” substitute “ (10) ”.
- (3) For subsection (9) substitute—
- “(9) In the case of a restraint order, if the condition in section 119 which was satisfied was that an investigation was instituted—
 - (a) the court must discharge the order if within a reasonable time proceedings for the offence are not instituted;
 - (b) otherwise, the court must recall the order on the conclusion of the proceedings.
 - (10) In the case of a restraint order, if the condition in section 119 which was satisfied was that an application was to be made—
 - (a) the court must discharge the order if within a reasonable time the application is not made;
 - (b) otherwise, the court must recall the order on the conclusion of the application.”

Commencement Information

I31 Sch. 4 para. 43 in force at 1.3.2016 by S.S.I. 2016/11, reg. 2(j)

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- 44 In section 131 of that Act (sums received by clerk of court)—
- (a) in subsection (6), after “97(6)” insert “ or 97A(4) ”;
 - (b) after that subsection insert—

“(6A) If a direction was made under section 97A(2) or (4) for an amount payable under a restitution order or a victim surcharge under section 253F(2) of the Procedure Act to be paid out of sums recovered under the confiscation order, the clerk of court must next apply the sums in payment of that amount.”

Commencement Information

I32 Sch. 4 para. 44 in force at 25.11.2019 for specified purposes by S.S.I. 2019/281, **reg. 2**

I33 Sch. 4 para. 44 in force at 10.2.2021 in so far as not already in force by S.S.I. 2020/407, **reg. 2(1)(c)**

- 45 In section 153 of that Act (satisfaction of confiscation orders), in subsection (1) omit paragraph (b).

Commencement Information

I34 Sch. 4 para. 45 in force at 1.3.2016 by S.S.I. 2016/11, **reg. 2(j)** (with **reg. 3**)

- 46 In section 156 of that Act (making of order), at the end of subsection (5) insert—
- “Paragraph (b) applies only if, or to the extent that, it would not be disproportionate to require the defendant to pay the recoverable amount.”

Commencement Information

I35 Sch. 4 para. 46 in force at 1.6.2015 by S.R. 2015/190, **reg. 3(2)(b)**

- 47 In section 162 of that Act (interest on unpaid sums), in subsection (1)—
- (a) for “the amount required to be paid” substitute “ any amount required to be paid ”;
 - (b) for “must pay interest on the amount” substitute “ must pay interest on that amount ”.

Commencement Information

I36 Sch. 4 para. 47 in force at 1.6.2015 by S.R. 2015/190, **reg. 3(2)(b)**

- 48 (1) Section 181 of that Act (appeal to Court of Appeal) is amended as follows.
- (2) In the heading, after “**prosecutor**” insert “ **etc** ”.
 - (3) In subsection (3), after “by virtue of section” insert “ 160A, ”.

Commencement Information

I37 Sch. 4 para. 48 in force at 1.6.2015 by S.R. 2015/190, **reg. 3(2)(b)**

- 49 In section 185 of that Act (enforcement as fines)—

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- (a) in subsection (2) omit “(2),”;
- (b) in subsection (3), after “Criminal Justice” insert “ (Children) ”.

Commencement Information

I38 Sch. 4 para. 49 in force at 1.6.2015 by S.R. 2015/190, reg. 3(2)(b)

- 50 In section 190 of that Act (restraint orders), after subsection (7C) (inserted by section 33 above) insert—

“(7D) In considering whether to make an order under subsection (7), the court must, in particular, consider whether any restriction or prohibition on the defendant's travel outside the United Kingdom ought to be imposed for the purpose mentioned in that subsection.”

Commencement Information

I39 Sch. 4 para. 50 in force at 1.6.2015 by S.R. 2015/190, reg. 3(2)(b)

- 51 (1) Section 191 of that Act (application, discharge and variation of restraint orders) is amended as follows.

(2) In subsection (4), for “(7)” substitute “ (8) ”.

(3) For subsection (7) substitute—

“(7) If the condition in section 189 which was satisfied was that an investigation was started—

- (a) the court must discharge the order if within a reasonable time proceedings for the offence are not started;
- (b) otherwise, the court must discharge the order on the conclusion of the proceedings.

(8) If the condition in section 189 which was satisfied was that an application was to be made—

- (a) the court must discharge the order if within a reasonable time the application is not made;
- (b) otherwise, the court must discharge the order on the conclusion of the application.”

Commencement Information

I40 Sch. 4 para. 51 in force at 1.6.2015 by S.R. 2015/190, reg. 3(2)(b)

- 52 In section 273 of that Act (payments in respect of rights under pension schemes), in subsection (4)(b), after “section 245E,” insert “ PPO receiver, ”.

Commencement Information

I41 Sch. 4 para. 52 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iv)

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- 53 In section 277 of that Act (consent orders: pensions), in subsection (7)(b), after “section 245E,” insert “ PPO receiver, ”.

Commencement Information

I42 Sch. 4 para. 53 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iv)

- 54 In section 316 of that Act (Part 5: general interpretation), in subsection (1), at the appropriate place insert—

““PPO receiver” has the meaning given by section 255G(2);”.

Commencement Information

I43 Sch. 4 para. 54 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(iv)

- 55 In section 341 of that Act (investigations), in subsection (1) omit “or” at the end of paragraph (a).

Commencement Information

I44 Sch. 4 para. 55 in force at 1.3.2016 by S.I. 2016/148, reg. 3(g)

- 56 In section 416 of that Act (other interpretative provisions), after subsection (3) insert—

“(3A) The expressions “realisable property” and “confiscation order”—

- (a) in the application of this Part to England and Wales, have the same meanings as in Part 2;
- (b) in the application of this Part to Scotland, have the same meanings as in Part 3;
- (c) in the application of this Part to Northern Ireland, have the same meanings as in Part 4.”

Commencement Information

I45 Sch. 4 para. 56 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(v)

- 57 (1) Section 459 of that Act (orders and regulations) is amended as follows.

(2) In subsection (4)(a)—

- (a) after “section” insert “ 35(2C), ”;
- (b) before “75(7) or (8)” insert “ 67(7A), ”.

(3) In subsection (7A)—

- (a) after “section” insert “ 185(2B), ”;
- (b) before “223(7) or (8)” insert “ 215(7A), ”.

Commencement Information

I46 Sch. 4 para. 57 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(v)

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- 58 (1) In Schedule 2 to that Act (lifestyle offences: England and Wales), in paragraph 8 (prostitution and child sex), sub-paragraph (2) is amended as follows.
- (2) In paragraph (b), for “child prostitution or pornography” substitute “ sexual exploitation of a child ”.
- (3) In paragraph (c), for “prostitute or a child involved in pornography” substitute “ in relation to sexual exploitation ”.
- (4) In paragraph (d), for “child prostitution or pornography” substitute “ sexual exploitation of a child ”.

Commencement Information

I47 Sch. 4 para. 58 in force at 3.5.2015 by S.I. 2015/820, reg. 2(r)(v)

- 59 In Schedule 10 to that Act, in paragraph 1 (disapplication of special income tax and capital gains tax rules for receivers), after paragraph (d) insert—
“(da) a PPO receiver appointed under section 255G;”.

Commencement Information

I48 Sch. 4 para. 59 in force at 1.6.2015 by S.I. 2015/820, reg. 3(q)(vi)

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Changes to legislation:

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