
STATUTORY INSTRUMENTS

2015 No. 1490

The Criminal Procedure Rules 2015

PART 33

CONFISCATION AND RELATED PROCEEDINGS

CONFISCATION PROCEEDINGS

Application to realise seized property

33.25.—(1) This rule applies where—

- (a) property is held by a defendant against whom a confiscation order has been made;
- (b) the property has been seized by or produced to an officer; and
- (c) an officer who is entitled to apply wants a magistrates' court—
 - (i) to make an order under section 67A of the Proceeds of Crime Act 2002⁽¹⁾ authorising the realisation of the property towards satisfaction of the confiscation order, or
 - (ii) to determine any storage, insurance or realisation costs in respect of the property which may be recovered under section 67B of the 2002 Act⁽²⁾.

(2) Such an officer must—

- (a) apply in writing; and
- (b) serve the application on—
 - (i) the court officer, and
 - (ii) any person whom the applicant believes would be affected by an order.

(3) The application must—

- (a) specify the property;
- (b) explain—
 - (i) the applicant's entitlement to apply,
 - (ii) how the proposed realisation meets the conditions prescribed by section 67A of the 2002 Act, and
 - (iii) how any storage, etc. costs have been calculated;
- (c) attach any material on which the applicant relies; and
- (d) propose the terms of the order.

(4) The court may—

- (a) determine the application at a hearing, or without a hearing;

(1) 2002 c. 29; section 67A was inserted by section 58 of the Policing and Crime Act 2009 (c. 26) and amended by section 14 of the Serious Crime Act 2015 (c. 9).

(2) 2002 c. 29; section 67B was inserted by section 58 of the Policing and Crime Act 2009 (c. 26).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) consider an application made orally instead of in writing;
 - (c) consider an application which has not been served on a person likely to be affected by an order.
- (5) If the court authorises the realisation of the property, the applicant must—
- (a) notify any person affected by the order who was absent when it was made; and
 - (b) serve on the court officer a list of those so notified.

[Note. Under section 67A of the Proceeds of Crime Act 2002, one of the officers listed in section 41A of the Act may apply to a magistrates' court for authority to realise property seized by such an officer if—

- (a) a confiscation order has been made against the owner of the property;*
- (b) no receiver has been appointed in relation to that property; and*
- (c) any period allowed for payment of the confiscation order has expired.*

Under section 67B of the 2002 Act, if a magistrates' court makes an order under section 67A then on the same or a subsequent occasion the court may determine an amount which may be recovered by the applicant in respect of reasonable costs incurred in storing or insuring the property, or realising it.]