



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.

Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Section 58. (See end of Document for details)

- (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.

Changes to legislation: There are currently no known outstanding effects for the Policing and Crime Act 2009, Section 58. (See end of Document for details)

- (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.”

Commencement Information

II S. 58 in force at 1.6.2015 by S.I. 2015/983, art. 2(2)(a)

Changes to legislation:

There are currently no known outstanding effects for the Policing and Crime Act 2009, Section 58.