



Criminal Law (Consolidation) (Scotland) Act 1995

1995 CHAPTER 39

PART III

[^{F1}INVESTIGATION OF REVENUE AND CUSTOMS OFFENCES]

[^{F1}Production orders

Textual Amendments

- F1** Ss. 23A-23P and cross-headings inserted (1.12.2007) by [Finance Act 2007 \(c. 11\), s. 85, Sch. 23 paras. 3, 14; S.I. 2007/3166, art. 3](#)

23B Production orders

- (1) The sheriff may, if satisfied on information on oath given by an authorised officer as to the matters mentioned in subsection (2) below, make an order under subsection (3) below (in this Part, a “production order”).
- (2) Those matters are—
 - (a) that there are reasonable grounds to suspect that a Revenue and Customs offence has been or is being committed; and
 - (b) that a person (in this Part, a “haver”) specified by the officer has possession or control of a document which may be required as evidence for the purposes of any proceedings in respect of such an offence.
- (3) A production order is an order requiring the haver, before the expiry of the period specified in the order—
 - (a) to deliver the document to an officer; or
 - (b) to—
 - (i) give an officer access to the document; and

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- (ii) permit the officer to make copies of or remove the document.
- (4) The period specified in a production order is—
 - (a) the period of 10 working days beginning with the day on which the order is made; or
 - (b) such other period as the sheriff considers appropriate.
- (5) A sheriff may make a production order in relation to a haver residing or having a place of business in an area of Scotland notwithstanding that it is outside the area of that sheriff and any such order shall, without being backed or endorsed by another sheriff, have effect throughout Scotland.
- (6) Subject to section 23J of this Act, a production order has effect in spite of any restriction on disclosure of information (however imposed).
- (7) Without prejudice to section 23D(1) of this Act, failure by a person to comply with a production order may be dealt with as a contempt of court.
- (8) In subsection (4)(a) above, “working day” means any day other than—
 - (a) a Saturday;
 - (b) a Sunday; or
 - (c) any day which is a public holiday in the area in which the production order is to have effect.

23C Production orders: supplementary

- (1) The sheriff may deal with an application for a production order ex parte in chambers.
- (2) The sheriff may, on the application of a person mentioned in subsection (3) below—
 - (a) vary; or
 - (b) discharge,
 a production order.
- (3) The persons referred to in subsection (2) above are—
 - (a) the authorised officer who applied for the production order;
 - (b) a person affected by the order.
- (4) Without prejudice to section 305 of the Criminal Procedure (Scotland) Act 1995, rules of court made by Act of Adjournal may make provision in relation to—
 - (a) proceedings relating to the making of production orders; and
 - (b) the variation or discharge of such orders.

23D Offences in relation to production orders

- (1) A person who intentionally—
 - (a) falsifies;
 - (b) conceals;
 - (c) destroys or otherwise disposes of,
 a document to which this section applies, or who causes or permits any of those acts, commits an offence.

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- (2) This section applies to a document which the person is required, under a production order, to—
- (a) deliver to an officer; or
 - (b) give an officer access to.
- (3) A person does not commit an offence if the person acts—
- (a) with the written permission of—
 - (i) an officer; or
 - (ii) the sheriff who made the order,after the document has been delivered or the officer has had access to it;
 - (b) subject to subsection (4) below, after the expiry of the period of 2 years beginning with the day on which the order is made.
- (4) Subsection (3)(b) above does not apply where, before the expiry of the period referred to in that paragraph, an officer gives notice in writing to the person that the order has not been complied with to that officer's satisfaction.
- (5) A person who commits an offence under subsection (1) above is liable—
- (a) on summary conviction, to imprisonment for a period not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
 - (b) on conviction on indictment, to imprisonment for a period not exceeding 2 years or to a fine or both.]

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 30(8) added by [2010 asp 13 s. 200\(2\)\(a\)](#)
- s. 45(6) added by [2010 asp 13 s. 200\(2\)\(c\)](#)
- s. 46(5) added by [2010 asp 13 s. 200\(2\)\(d\)\(ii\)](#)