



# Policing and Crime Act 2009

## 2009 CHAPTER 26

### PART 5

#### PROCEEDS OF CRIME

##### *Confiscation*

#### 53 Power to retain seized property: Scotland

- (1) The [Proceeds of Crime Act 2002 \(c. 29\)](#) is amended as follows.
- (2) After section 120 insert—

##### **“120A Restraint orders: power to retain seized property etc.**

- (1) A restraint order may include provision authorising the detention of any property to which it applies if the property—
  - (a) is seized by an appropriate officer under a relevant seizure power, or
  - (b) is produced to an appropriate officer in compliance with a production order under section 380.
- (2) Provision under subsection (1) may, in particular—
  - (a) relate to specified property, to property of a specified description or to all property to which the restraint order applies;
  - (b) relate to property that has already been seized or produced or to property that may be seized or produced in future.
- (3) “Appropriate officer” means—
  - (a) a constable;
  - (b) an officer of Revenue and Customs;
  - (c) a member of staff of SOCA.
- (4) “Relevant seizure power” means a power to seize property conferred by or by virtue of—

- (a) section 127C or 387,
- (b) a warrant granted under any other enactment or any rule of law, or
- (c) any other enactment, or any rule of law, under which the authority of a warrant is not required.”

(3) After section 122 insert—

**“122A Detention of property pending appeal**

- (1) This section applies where—
  - (a) a restraint order includes provision under section 120A authorising the detention of property, and
  - (b) the restraint order is recalled under section 121(7).
- (2) This section also applies where—
  - (a) a restraint order includes provision under section 120A authorising the detention of property, and
  - (b) the restraint order is varied under section 121(7) so as to omit any such provision.
- (3) The property may be detained until there is no further possibility of an appeal against (or review of)—
  - (a) the decision to recall or vary the restraint order, or
  - (b) any decision made on an appeal against (or review of) that decision.”