

*These notes refer to the Serious Crime Act 2015 (c.9)
which received Royal Assent on 3rd March 2015*

SERIOUS CRIME ACT 2015

EXPLANATORY NOTES

TERRITORIAL EXTENT

Part 4: Seizure and Forfeiture of Drug-Cutting Agents

Commentary on Sections

Section 61: Forfeiture and disposal, or return, of seized substances

243. This section enables a magistrates' court (in England and Wales), a sheriff (in Scotland) or a court of summary jurisdiction (in Northern Ireland), on application by a police or customs officer (*subsection (1)*) to order the forfeiture of a substance if the court is satisfied that it is intended for use as a drug-cutting agent (*subsection (3)*). The civil standard of proof, namely on the balance of probabilities, will apply to such proceedings. It is expected that court procedure rules would provide that it is open to both the applicant and any person with an interest in the substance to make oral representations to the court at a forfeiture hearing. Where the court is so satisfied it is for the applicant to arrange for the disposal of the forfeited substance (*subsection (4)*), although any action to dispose of the substance is to be stayed pending the outcome of any appeal (*subsection (5)*). The section also makes further provision authorising the continued retention of a substance pending the outcome of an application for forfeiture or any appeal against a decision by the court to order the substance to be returned to the person from whom it was seized or the owner of the substance (*subsections (2) and (7)*).