

**32. Forfeiture and delivery other than on conviction**

- (1) A person claiming to be lawfully entitled to possess anything seized and retained under this Act may, if the application is not prevented by subsection (2) and the last day for applying has not passed, apply to the Magistrates Court for an order that the thing be delivered to the person.
- (2) An application cannot be made under subsection (1) for an order for the delivery of anything if —
  - (a) an order has been made under section 31(1) for its forfeiture or delivery;
  - (b) a relevant juvenile justice team matter that has commenced has not been finally disposed of by the team; or
  - (c) a relevant charge that has been laid has not been withdrawn or heard and determined.
- (3) In subsection (2) —

**“relevant charge”** means a charge of an offence to which the thing that was seized relates;

**“relevant juvenile justice team matter”** means a matter to which the thing that was seized relates that is or was being dealt with by a juvenile justice team.
- (4) The last day for applying for an order under subsection (1) is the 21<sup>st</sup> day after the day on which the thing was seized unless the last day for applying is postponed by subsection (5).
- (5) If, for any part of the time when an application could otherwise be made in accordance with subsection (4), the making of the application is prevented by subsection (2)(b) or (c), the last day for applying (whether under subsection (4) or as postponed by this subsection) is postponed until the 21<sup>st</sup> day after the day on which the making of the application ceases to be prevented by subsection (2)(b) or (c).
- (6) On an application under subsection (1), the court may order that the thing seized be delivered to the person making the application if the court is satisfied on the balance of probabilities that the person is lawfully entitled to possess it.
- (7) The court may adjourn the application if it is satisfied that the thing seized should, for the time being, continue to be retained because it is required for a reason described in section 30(2)(a).
- (8) If the last day for applying under subsection (1) for an order for the delivery of a thing has passed and either no application has been made or each application made has been dealt with without ordering that the thing be delivered to a person, that thing is forfeited to the Crown.

*[Section 32 amended by No. 59 of 2004 s. 141.]*