



# Powers of Criminal Courts Act 1973

## 1973 CHAPTER 62

### PART I

#### POWERS OF COURTS TO DEAL WITH OFFENDERS

##### *Criminal bankruptcy orders*

### **39 Criminal bankruptcy orders against convicted persons**

- (1) Where a person is convicted of an offence before the Crown Court and it appears to the court that—
  - (a) as a result of the offence, or of that offence taken together with any other relevant offence or offences, loss or damage (not attributable to personal injury) has been suffered by one or more persons whose identity is known to the court; and
  - (b) the amount, or aggregate amount, of the loss or damage exceeds £15,000;the court may, in addition to dealing with the offender in any other way (but not if it makes a compensation order against him), make a criminal bankruptcy order against him in respect of the offence or, as the case may be, that offence and the other relevant offence or offences.
- (2) In subsection (1) above " other relevant offence or offences " means an offence or offences of which the person in question is convicted in the same proceedings or which the court takes into consideration in determining his sentence.
- (3) A criminal bankruptcy order shall specify—
  - (a) the amount of the loss or damage appearing to the court to have resulted from the offence or, if more than one, each of the offences;
  - (b) the person or persons appearing to the court to have suffered that loss or damage ;
  - (c) the amount of that loss or damage which it appears to the court that that person, or each of those persons, has suffered; and

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*Status: This is the original version (as it was originally enacted).*

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- (d) the date which is to be the relevant date for the purpose of the exercise by the High Court of its powers under paragraph 10 of Schedule 2 to this Act in relation to dispositions made by the offender, being the date which appears to the court to be the earliest date on which the offence or, if more than one, the earliest of the offences, was committed.
- (4) A criminal bankruptcy order may be made against two or more offenders in respect of the same loss or damage.
- (5) Schedule 2 to this Act shall have effect in relation to criminal bankruptcy orders and the operation of the enactments relating to bankruptcy in a case where such an order has been made, and also for supplementing those enactments in relation to dispositions made by an offender against whom such an order has been made.
- (6) The Secretary of State may by order direct that subsection (1) above shall be amended by substituting, for the amount specified in that subsection as originally enacted or as previously amended under this subsection, such amount as may be specified in the order.

#### **40 Appeals in the case of criminal bankruptcy orders**

- (1) No appeal shall be against the making of a criminal bankruptcy order.
- (2) Where a person successfully appeals to the Court of Appeal against his conviction of an offence by virtue of which such an order was made, the court shall rescind the order unless he was convicted in the same proceedings of another offence of which he remains convicted and a criminal bankruptcy order could have been made without reference to loss or damage caused by the first-mentioned offence; and where, accordingly, it does not rescind the order it shall amend it by striking out so much of it as relates to such loss or damage.
- (3) Where on an appeal by a person against his conviction of an offence by virtue of which a criminal bankruptcy order was made the Court of Appeal substitutes a verdict of guilty of another offence, the court shall—
  - (a) rescind the order if a criminal bankruptcy order could not have been made against that person if he had originally been convicted of that other offence;
  - (b) in any other case, amend the order so far as may be required in consequence of the substitution of a verdict of guilty of the other offence.
- (4) Where the Court of Appeal rescinds or amends a criminal bankruptcy order, the rescission or amendment shall not take effect—
  - (a) in any case until the expiration of the time for applying for leave to appeal to the House of Lords against the Court of Appeal's decision on the appeal against conviction (disregarding any extension of time which may be granted under section 34 of the Criminal Appeal Act 1968);
  - (b) if an application for leave to appeal is made within that time, so long as an appeal to the House of Lords is pending; and
  - (c) if on such an appeal the conviction is restored by that House.
- (5) For the purposes of this section an appeal to the House of Lords shall be treated as pending until any application for leave to appeal is disposed of and, if leave to appeal is granted, until the appeal is disposed of; and for the purposes of this subsection an application for leave to appeal shall be treated as disposed of at the expiration of the time within which it may be made if it is not made within that time.

#### **41 The Official Petitioner**

- (1) For the purpose of discharging, in relation to cases in which a criminal bankruptcy order is made, the functions assigned to him by Schedule 2 to this Act, there shall continue to be an officer known as the Official Petitioner ; and the Director of Public Prosecutions shall, by virtue of his office, continue to be the Official Petitioner.
- (2) Neither the Official Petitioner nor any person acting under his authority shall be liable to any action or proceeding in respect of anything done or omitted in the discharge, or purported discharge, of the functions of the Official Petitioner under or by virtue of this Act.
- (3) Any expenses of the Official Petitioner shall be defrayed out of moneys provided by Parliament.