



# Powers of Criminal Courts (Sentencing) Act 2000

## 2000 CHAPTER 6

### PART VII

#### FURTHER POWERS OF COURTS

##### *Powers to deprive offender of property used etc. for purposes of crime*

#### **143 Powers to deprive offender of property used etc. for purposes of crime.**

- (1) Where a person is convicted of an offence and the court by or before which he is convicted is satisfied that any property which has been lawfully seized from him, or which was in his possession or under his control at the time when he was apprehended for the offence or when a summons in respect of it was issued—
  - (a) has been used for the purpose of committing, or facilitating the commission of, any offence, or
  - (b) was intended by him to be used for that purpose,the court may (subject to subsection (5) below) make an order under this section in respect of that property.
- (2) Where a person is convicted of an offence and the offence, or an offence which the court has taken into consideration in determining his sentence, consists of unlawful possession of property which—
  - (a) has been lawfully seized from him, or
  - (b) was in his possession or under his control at the time when he was apprehended for the offence of which he has been convicted or when a summons in respect of that offence was issued,the court may (subject to subsection (5) below) make an order under this section in respect of that property.

*Status: Point in time view as at 25/08/2000.*

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- (3) An order under this section shall operate to deprive the offender of his rights, if any, in the property to which it relates, and the property shall (if not already in their possession) be taken into the possession of the police.
- (4) Any power conferred on a court by subsection (1) or (2) above may be exercised—
- (a) whether or not the court also deals with the offender in any other way in respect of the offence of which he has been convicted; and
  - (b) without regard to any restrictions on forfeiture in any enactment contained in an Act passed before 29th July 1988.
- (5) In considering whether to make an order under this section in respect of any property, a court shall have regard—
- (a) to the value of the property; and
  - (b) to the likely financial and other effects on the offender of the making of the order (taken together with any other order that the court contemplates making).
- (6) Where a person commits an offence to which this subsection applies by—
- (a) driving, attempting to drive, or being in charge of a vehicle, or
  - (b) failing to comply with a requirement made under section 7 of the <sup>M1</sup>Road Traffic Act 1988 (failure to provide specimen for analysis or laboratory test) in the course of an investigation into whether the offender had committed an offence while driving, attempting to drive or being in charge of a vehicle, or
  - (c) failing, as the driver of a vehicle, to comply with subsection (2) or (3) of section 170 of the <sup>M2</sup>Road Traffic Act 1988 (duty to stop and give information or report accident),
- the vehicle shall be regarded for the purposes of subsection (1) above (and section 144(1)(b) below) as used for the purpose of committing the offence (and for the purpose of committing any offence of aiding, abetting, counselling or procuring the commission of the offence).
- (7) Subsection (6) above applies to—
- (a) an offence under the <sup>M3</sup>Road Traffic Act 1988 which is punishable with imprisonment;
  - (b) an offence of manslaughter; and
  - (c) an offence under section 35 of the Offences Against the <sup>M4</sup>Person Act 1861 (wanton and furious driving).
- (8) Facilitating the commission of an offence shall be taken for the purposes of subsection (1) above to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.

#### **Marginal Citations**

- M1** 1988 c. 52.  
**M2** 1988 c. 52.  
**M3** 1988 c. 52.  
**M4** 1861 c. 100.

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#### **144 Property which is in possession of police by virtue of section 143.**

- (1) The <sup>M5</sup>Police (Property) Act 1897 shall apply, with the following modifications, to property which is in the possession of the police by virtue of section 143 above—
  - (a) no application shall be made under section 1(1) of that Act by any claimant of the property after the end of six months from the date on which the order in respect of the property was made under section 143 above; and
  - (b) no such application shall succeed unless the claimant satisfies the court either—
    - (i) that he had not consented to the offender having possession of the property; or
    - (ii) where an order is made under subsection (1) of section 143 above, that he did not know, and had no reason to suspect, that the property was likely to be used for the purpose mentioned in that subsection.
- (2) In relation to property which is in the possession of the police by virtue of section 143 above, the power to make regulations under section 2 of the <sup>M6</sup>Police (Property) Act 1897 (disposal of property in cases where the owner of the property has not been ascertained and no order of a competent court has been made with respect to it) shall, subject to subsection (3) below, include power to make regulations for disposal (including disposal by vesting in the relevant authority) in cases where no application by a claimant of the property has been made within the period specified in subsection (1) (a) above or no such application has succeeded.
- (3) The regulations may not provide for the vesting in the relevant authority of property in relation to which an order has been made under section 145 below (court order as to application of proceeds of forfeited property).
- (4) Nothing in subsection (2A)(a) or (3) of section 2 of the <sup>M7</sup>Police (Property) Act 1897 limits the power to make regulations under that section by virtue of subsection (2) above.
- (5) In this section “relevant authority” has the meaning given by section 2(2B) of the <sup>M8</sup>Police (Property) Act 1897.

#### **Marginal Citations**

- M5** 1897 c. 30.  
**M6** 1897 c. 30.  
**M7** 1897 c. 30.  
**M8** 1897 c. 30.

#### **145 Application of proceeds of forfeited property.**

- (1) Where a court makes an order under section 143 above in a case where—
  - (a) the offender has been convicted of an offence which has resulted in a person suffering personal injury, loss or damage, or
  - (b) any such offence is taken into consideration by the court in determining sentence,the court may also make an order that any proceeds which arise from the disposal of the property and which do not exceed a sum specified by the court shall be paid to that person.

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- (2) The court may make an order under this section only if it is satisfied that but for the inadequacy of the offender's means it would have made a compensation order under which the offender would have been required to pay compensation of an amount not less than the specified amount.
- (3) An order under this section has no effect—
  - (a) before the end of the period specified in section 144(1)(a) above; or
  - (b) if a successful application under section 1(1) of the <sup>M9</sup>Police (Property) Act 1897 has been made.

**Marginal Citations**

**M9** 1897 c. 30.

*Driving disqualifications*

**146 Driving disqualification for any offence.**

- (1) The court by or before which a person is convicted of an offence committed after 31st December 1997 may, instead of or in addition to dealing with him in any other way, order him to be disqualified, for such period as it thinks fit, for holding or obtaining a driving licence.
- (2) Where the person is convicted of an offence the sentence for which is fixed by law or falls to be imposed under section 109(2), 110(2) or 111(2) above, subsection (1) above shall have effect as if the words “instead of or” were omitted.
- (3) A court shall not make an order under subsection (1) above unless the court has been notified by the Secretary of State that the power to make such orders is exercisable by the court and the notice has not been withdrawn.
- (4) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce—
  - (a) any such licence held by him together with its counterpart; or
  - (b) in the case where he holds a Community licence (within the meaning of Part III of the <sup>M10</sup>Road Traffic Act 1988), his Community licence and its counterpart (if any).
- (5) In this section—
 

“driving licence” means a licence to drive a motor vehicle granted under Part III of the <sup>M11</sup>Road Traffic Act 1988;

“counterpart”—

  - (a) in relation to a driving licence, has the meaning given in relation to such a licence by section 108(1) of that Act; and
  - (b) in relation to a Community licence, has the meaning given by section 99B of that Act.

**Marginal Citations**

**M10** 1988 c. 52.

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**M11** 1988 c. 52.

#### **147 Driving disqualification where vehicle used for purposes of crime.**

- (1) This section applies where a person—
  - (a) is convicted before the Crown Court of an offence punishable on indictment with imprisonment for a term of two years or more; or
  - (b) having been convicted by a magistrates' court of such an offence, is committed under section 3 above to the Crown Court for sentence.
- (2) This section also applies where a person is convicted by or before any court of common assault or of any other offence involving an assault (including an offence of aiding, abetting, counselling or procuring, or inciting to the commission of, an offence).
- (3) If, in a case to which this section applies by virtue of subsection (1) above, the Crown Court is satisfied that a motor vehicle was used (by the person convicted or by anyone else) for the purpose of committing, or facilitating the commission of, the offence in question, the court may order the person convicted to be disqualified, for such period as the court thinks fit, for holding or obtaining a driving licence.
- (4) If, in a case to which this section applies by virtue of subsection (2) above, the court is satisfied that the assault was committed by driving a motor vehicle, the court may order the person convicted to be disqualified, for such period as the court thinks fit, for holding or obtaining a driving licence.
- (5) A court which makes an order under this section disqualifying a person for holding or obtaining a driving licence shall require him to produce—
  - (a) any such licence held by him together with its counterpart; or
  - (b) in the case where he holds a Community licence (within the meaning of Part III of the <sup>M12</sup>Road Traffic Act 1988), his Community licence and its counterpart (if any).
- (6) Facilitating the commission of an offence shall be taken for the purposes of this section to include the taking of any steps after it has been committed for the purpose of disposing of any property to which it relates or of avoiding apprehension or detection.
- (7) In this section “driving licence” and “counterpart” have the meanings given by section 146(5) above.

#### **Marginal Citations**

**M12** 1988 c. 52.

#### *Restitution orders*

#### **148 Restitution orders.**

- (1) This section applies where goods have been stolen, and either—
  - (a) a person is convicted of any offence with reference to the theft (whether or not the stealing is the gist of his offence); or
  - (b) a person is convicted of any other offence, but such an offence as is mentioned in paragraph (a) above is taken into consideration in determining his sentence.

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- (2) Where this section applies, the court by or before which the offender is convicted may on the conviction (whether or not the passing of sentence is in other respects deferred) exercise any of the following powers—
- (a) the court may order anyone having possession or control of the stolen goods to restore them to any person entitled to recover them from him; or
  - (b) on the application of a person entitled to recover from the person convicted any other goods directly or indirectly representing the stolen goods (as being the proceeds of any disposal or realisation of the whole or part of them or of goods so representing them), the court may order those other goods to be delivered or transferred to the applicant; or
  - (c) the court may order that a sum not exceeding the value of the stolen goods shall be paid, out of any money of the person convicted which was taken out of his possession on his apprehension, to any person who, if those goods were in the possession of the person convicted, would be entitled to recover them from him;
- and in this subsection “the stolen goods” means the goods referred to in subsection (1) above.
- (3) Where the court has power on a person’s conviction to make an order against him both under paragraph (b) and under paragraph (c) of subsection (2) above with reference to the stealing of the same goods, the court may make orders under both paragraphs provided that the person in whose favour the orders are made does not thereby recover more than the value of those goods.
- (4) Where the court on a person’s conviction makes an order under subsection (2)(a) above for the restoration of any goods, and it appears to the court that the person convicted—
- (a) has sold the goods to a person acting in good faith, or
  - (b) has borrowed money on the security of them from a person so acting,
- the court may order that there shall be paid to the purchaser or lender, out of any money of the person convicted which was taken out of his possession on his apprehension, a sum not exceeding the amount paid for the purchase by the purchaser or, as the case may be, the amount owed to the lender in respect of the loan.
- (5) The court shall not exercise the powers conferred by this section unless in the opinion of the court the relevant facts sufficiently appear from evidence given at the trial or the available documents, together with admissions made by or on behalf of any person in connection with any proposed exercise of the powers.
- (6) In subsection (5) above “the available documents” means—
- (a) any written statements or admissions which were made for use, and would have been admissible, as evidence at the trial; and
  - (b) such written statements, depositions and other documents as were tendered by or on behalf of the prosecutor at any committal proceedings.
- (7) Any order under this section shall be treated as an order for the restitution of property within the meaning of section 30 of the <sup>M13</sup>Criminal Appeal Act 1968 (which relates to the effect on such orders of appeals).
- (8) Subject to subsection (9) below, references in this section to stealing shall be construed in accordance with section 1(1) of the <sup>M14</sup>Theft Act 1968 (read with the provisions of that Act relating to the construction of section 1(1)).

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- (9) Subsections (1) and (4) of section 24 of that Act (interpretation of certain provisions) shall also apply in relation to this section as they apply in relation to the provisions of that Act relating to goods which have been stolen.
- (10) In this section and section 149 below, “goods”, except in so far as the context otherwise requires, includes money and every other description of property (within the meaning of the <sup>M15</sup>Theft Act 1968) except land, and includes things severed from the land by stealing.
- (11) An order may be made under this section in respect of money owed by the Crown.

#### Marginal Citations

- M13 1968 c. 19.  
M14 1968 c. 60.  
M15 1968 c. 60.

### 149 Restitution orders: supplementary.

- (1) The following provisions of this section shall have effect with respect to section 148 above.
- (2) The powers conferred by subsections (2)(c) and (4) of that section shall be exercisable without any application being made in that behalf or on the application of any person appearing to the court to be interested in the property concerned.
- (3) Where an order is made under that section against any person in respect of an offence taken into consideration in determining his sentence—
  - (a) the order shall cease to have effect if he successfully appeals against his conviction of the offence or, if more than one, all the offences, of which he was convicted in the proceedings in which the order was made;
  - (b) he may appeal against the order as if it were part of the sentence imposed in respect of the offence or, if more than one, any of the offences, of which he was so convicted.
- (4) Any order under that section made by a magistrates’ court shall be suspended—
  - (a) in any case until the end of the period for the time being prescribed by law for the giving of notice of appeal against a decision of a magistrates’ court;
  - (b) where notice of appeal is given within the period so prescribed, until the determination of the appeal;but this subsection shall not apply where the order is made under section 148(2)(a) or (b) and the court so directs, being of the opinion that the title to the goods to be restored or, as the case may be, delivered or transferred under the order is not in dispute.

#### *Young offenders*

### 150 Binding over of parent or guardian.

- (1) Where a child or young person (that is to say, any person aged under 18) is convicted of an offence, the powers conferred by this section shall be exercisable by the court by

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which he is sentenced for that offence, and where the offender is aged under 16 when sentenced it shall be the duty of that court—

- (a) to exercise those powers if it is satisfied, having regard to the circumstances of the case, that their exercise would be desirable in the interests of preventing the commission by him of further offences; and
- (b) if it does not exercise them, to state in open court that it is not satisfied as mentioned in paragraph (a) above and why it is not so satisfied;

but this subsection has effect subject to section 19(5) above and paragraph 13(5) of Schedule 1 to this Act (cases where referral orders made or extended).

- (2) The powers conferred by this section are as follows—
  - (a) with the consent of the offender’s parent or guardian, to order the parent or guardian to enter into a recognizance to take proper care of him and exercise proper control over him; and
  - (b) if the parent or guardian refuses consent and the court considers the refusal unreasonable, to order the parent or guardian to pay a fine not exceeding £1,000;

and where the court has passed a community sentence on the offender, it may include in the recognizance a provision that the offender’s parent or guardian ensure that the offender complies with the requirements of that sentence.
- (3) An order under this section shall not require the parent or guardian to enter into a recognizance for an amount exceeding £1,000.
- (4) An order under this section shall not require the parent or guardian to enter into a recognizance—
  - (a) for a period exceeding three years; or
  - (b) where the offender will attain the age of 18 in a period shorter than three years, for a period exceeding that shorter period.
- (5) Section 120 of the<sup>M16</sup>Magistrates’ Courts Act 1980 (forfeiture of recognizances) shall apply in relation to a recognizance entered into in pursuance of an order under this section as it applies in relation to a recognizance to keep the peace.
- (6) A fine imposed under subsection (2)(b) above shall be deemed, for the purposes of any enactment, to be a sum adjudged to be paid by a conviction.
- (7) In fixing the amount of a recognizance under this section, the court shall take into account among other things the means of the parent or guardian so far as they appear or are known to the court; and this subsection applies whether taking into account the means of the parent or guardian has the effect of increasing or reducing the amount of the recognizance.
- (8) A parent or guardian may appeal to the Crown Court against an order under this section made by a magistrates’ court.
- (9) A parent or guardian may appeal to the Court of Appeal against an order under this section made by the Crown Court, as if he had been convicted on indictment and the order were a sentence passed on his conviction.
- (10) A court may vary or revoke an order made by it under this section if, on the application of the parent or guardian, it appears to the court, having regard to any change in the circumstances since the order was made, to be in the interests of justice to do so.



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(11) For the purposes of this section, taking “care” of a person includes giving him protection and guidance and “control” includes discipline.

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**Marginal Citations**

**M16** 1980 c. 43.

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