



# Powers of Criminal Courts Act 1973 (repealed)

## 1973 CHAPTER 62

### PART I

#### POWERS OF COURTS TO DEAL WITH OFFENDERS

##### *Miscellaneous Powers*

#### 42 Power of Crown Court on committal for sentence.

Where an offender is committed by a magistrates' court for sentence under [F1section 38 [F2or 38A] of the Magistrates' Courts Act 1980]. . . , the Crown Court shall enquire into the circumstances of the case and shall have power to deal with the offender in any manner in which it could deal with him if he had just been convicted of the offence on indictment before the court.

[F3(2) Where an offender is committed by a magistrates' court for sentence under section 37 of the Magistrates' Courts Act 1980 (committal for sentence of offender aged 15 or 16 convicted of indictable offences), the Crown Court shall enquire into the circumstances of the case and shall have power—

- (a) F4 . . . , to sentence him to a term of youth custody not exceeding the maximum term of imprisonment for the offence on conviction on indictment; or
- (b) to deal with him in any manner in which the magistrates' court might have dealt with him.]

#### Textual Amendments

**F1** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 7 para. 121](#)

**F2** Words in s. 42(1) inserted (1.10.1997) by [1997 c. 43, s. 55\(2\)](#), [Sch. 4 para. 8\(4\)](#); S.I. 1997/2200, [art. 2\(2\)\(d\)](#).

**F3** S. 42(2) is inserted as subsection (2) of section 42 by virtue of the [Criminal Justice Act 1982 \(c. 48\)](#), [Sch. 14 para. 34](#)

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**F4** Words in s. 42(2)(a) repealed (1.10.1992) by **Criminal Justice Act 1991 (c. 53, SIF 39:1)**, s. 101(2), **Sch. 13**; S.I. 1992/333, art. 2(2), **Sch. 2**

**Modifications etc. (not altering text)**

**C1** S. 42 excluded (1.10.1997) by **1980 c. 43, s. 38A(4)** (as inserted by **1997 c. 43, s.51**; S.I. 1997/2200, **art. 2(1)(k)**).

**43 Power to deprive offender of property used, or intended for use, for purposes of crime.**

[<sup>F5</sup>(1) Subject to the following provisions of this section, where a person is convicted of an offence and—

- (a) 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—
  - (i) has been used for the purpose of committing, or facilitating the commission of, any offence; or
  - (ii) was intended by him to be used for that purpose; or
- (b) the offence, or an offence which the court has taken into consideration in determining his sentence, consists of unlawful possession of property which—
  - (i) has been lawfully seized from him; or
  - (ii) 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 make an order under this section in respect of that property, and may do so whether or not it also deals with the offender in respect of the offence in any other way and without regard to any restrictions on forfeiture in an enactment contained in an Act passed before the Criminal Justice Act 1988.

(1A) In considering whether to make such an order 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).]

[<sup>F6</sup>(1B) 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 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 Road Traffic Act 1988 (duty to stop and give information or report accident),

the vehicle shall be regarded for the purposes of subsection (1)(a) above (and subsection (4)(b) below) as used for the purpose of committing the offence (and for

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the purpose of committing any offence of aiding, abetting, counselling or procuring the commission of the offence).

(1C) Subsection (1B) above applies to—

- (a) an offence under the 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 Person Act 1861 (wanton and furious driving).]

- (2) Facilitating the commission of an offence shall be taken for the purposes of this section and section 44 of this Act 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, and references in this or that section to an offence punishable with imprisonment shall be construed without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of young offenders.
- (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) The <sup>M1</sup>Police (Property) Act 1897 shall apply, with the following modifications, to property which is in the possession of the police by virtue of this section—
  - (a) no application shall be made under section 1(1) of that Act by any claimant of the property after the expiration of six months from the date on which the order in respect of the property was made under this section; and
  - (b) no such application shall succeed unless the claimant satisfies the court either that he had not consented to the offender having possession of the property [<sup>F7</sup>or, where an order is made under subsection (1)(a) 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 paragraph].
- (5) In relation to property which is in the possession of the police by virtue of this section, the power to make regulations under [<sup>F8</sup>section 2] of the <sup>M2</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 thereto) shall [<sup>F9</sup>subject to subsection (6) below] include power to make regulations for disposal [<sup>F9</sup>(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 (4) (a) above or no such application has succeeded.
- [<sup>F10</sup>(6) 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 43A of this Act.
- (7) Nothing in subsection (2A)(a) or (3) of section 2 of the <sup>M3</sup>Police (Property) Act 1897 limits the power to make regulations under that section by virtue of subsection (5) above.
- (8) In subsections (5) and (6) above “relevant authority” has the meaning given by section 2(2B) of the Police (Property) Act 1897.]

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#### Textual Amendments

- F5** S. 43(1)(1A) substituted for s. 43(1) by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 69(1), **Sch. 8 para. 16**
- F6** S. 43(1B)(1C) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 36; S.I. 1992/1286, art. 2, **Sch.**
- F7** Words substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, **Sch. 15 para. 41**
- F8** Words in s. 43(5) substituted (19.5.1997) by 1997 c. 30, **ss. 2(2)(a)**, 7(2).
- F9** Words in s. 43(5) inserted (19.5.1997) by 1997 c. 30, **ss. 2(2)(b)(c)**, 7(2).
- F10** S. 43(6)-(8) inserted (19.5.1997) by 1997 c. 30, **ss. 2(3)**, 7(2).

#### Modifications etc. (not altering text)

- C2** S. 43 excluded by Telecommunications Act 1984 (c. 12, SIF 96), s. 75, **Sch. 3 para. 3(a)**
- C3** S. 43 restricted by Drug Trafficking Offences Act 1986 (c. 32, SIF 39:1), s. 1(5)
- C4** S. 43 restricted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 5(c)(ii), **Sch. 8 para. 16**
- C5** S. 43 extended by Protection of Military Remains Act 1986 (c. 35, SIF 7:1), s. 7(1)
- C6** S. 43 restricted (*prosp.*) by 1986 c. 32, s. 4B (as inserted (*prosp.*) by 1993 c. 36 ss. 14(1), 78(4)).  
 S. 43 restricted (3.2.1995) by 1994 c. 37, **ss. 2(5)(b)(iii)**, 20(1)(a)(iii), 69(2) (with s. 66(2)).

#### Marginal Citations

- M1** 1897 c. 30.  
**M2** 1897 c. 30.  
**M3** 1897 c. 30.

### [<sup>F11</sup>43A Application of proceeds of forfeited property.

- (1) Where a court makes an order under section 43 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.
- (2) The court may only make an order under this section if it is satisfied that but for the inadequacy of the means of the offender 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 43(4)(a) above; or
  - (b) if a successful application under section 1(1) of the <sup>M4</sup>Police (Property) Act 1897 has been made.]

#### Textual Amendments

- F11** S. 43A inserted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 107, **Sch. 8 para. 16**

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#### Marginal Citations

M4 1897 c.30(95).

#### 44 Driving disqualification where vehicle used for purposes of crime.

- (1) This section applies where a person is convicted before the Crown Court of an offence punishable on indictment with imprisonment for a term of two years or more or, having been convicted by a magistrates' court of such an offence, is committed under <sup>F12</sup>section 38 of the Magistrates' Courts Act 1980] to the Crown Court for sentence.
- <sup>F13</sup>(1A) 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).]
- (2) If in a case to which this section applies <sup>F14</sup>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 (within the meaning of section 43 of this Act), the court may order the person convicted to be disqualified, for such period as the court thinks fit, for holding or obtaining a licence to drive a motor vehicle granted under <sup>F15</sup>Part III of the Road Traffic Act 1988].
- <sup>F16</sup>(2A) If in a case to which this section applies by virtue of subsection (1A) 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 such a licence.]
- (3) A court which makes an order under this section disqualifying a person for holding or obtaining any such licence as is mentioned in subsection (2) above shall require him to produce any such licence held by him <sup>F17</sup>together with its counterpart] <sup>F18</sup>or, in the case where he holds a Community licence (within the meaning of Part III of the Road Traffic Act 1988), his Community licence and its counterpart (if any)]; <sup>F19</sup> . . .
- <sup>F19</sup>(a) . . . . .
- <sup>F19</sup>(b) . . . . .

#### Textual Amendments

- F12** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 7 para. 122**
- F13** S. 44(1A) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 38(2)**; S.I. 1992/1286, art. 2, **Sch.** (with art. 6(5) (as amended by S.I. 1992/1410, **art. 2**))
- F14** Words in s. 44(2) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 38(3)**; S.I. 1992/1286, art. 2, **Sch.** (with art. 6(5) (as amended by S.I. 1992/1410, **art. 2**))
- F15** Words substituted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, **Sch. 3 para. 11(a)**
- F16** S. 44(2A) inserted (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), **s. 38(4)**; S.I. 1992/1286, art. 2, **Sch.** (with art. 6(5) (as amended by S.I. 1992/1410, **art. 2**))
- F17** Words inserted by S.I. 1990/144, reg. 2(4), **Sch. 4** (by reg. 3 of the S.I. it is provided that the amendment shall have effect only in relation to driving licences which came into force on or after 1st June 1990 (or in their application to licences to drive a motor vehicle granted under the law of Northern Ireland, to such licences which come into force on or after 1st January 1991))
- F18** Words in s. 44(3) inserted (1.1.1997) by S.I. 1996/1974, reg. 5, **Sch. 4 para.1.**

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**F19** S. 44(3): paras. (a)(b) and the word "and" immediately preceding them repealed (1.7.1992) by Road Traffic Act 1991 (c. 40, SIF 107:1), s. 83, **Sch. 8**; S.I. 1992/1286, art. 2, **Sch.** (with art. 6(5) (as amended by S.I. 1992/1410, **art. 2**))

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