



Powers of Criminal Courts (Sentencing) Act 2000

2000 CHAPTER 6

PART VII

FURTHER POWERS OF COURTS

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.
- (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;

Status: This is the original version (as it was originally enacted).

- 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 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 Theft Act 1968 (read with the provisions of that Act relating to the construction of section 1(1)).
- (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 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.

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.