



# 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.

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*Status: This is the original version (as it was originally enacted).*

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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 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) 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 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).
- (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.

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

- (1) The 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 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 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 Police (Property) Act 1897.

#### **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.
- (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 Police (Property) Act 1897 has been made.