

SCHEDULES

SCHEDULE 4

FORFEITURE ORDERS

PART IV

INSOLVENCY: UNITED KINGDOM PROVISIONS

Protection of creditors against forfeiture

- 31 (1) During the period of six months following the making of a forfeiture order no money which is subject to the order, or which represents any property subject to it, shall be finally disposed of under this Schedule.
- (2) If, in a case where any money or other property is subject to a forfeiture order—
- (a) the commencement of an insolvency occurs, or has occurred, in the course of any qualifying insolvency proceedings,
 - (b) any functions in relation to that property would (apart from the forfeiture order) be exercisable by an insolvency practitioner acting in those proceedings, and
 - (c) during the period of six months following the making of the forfeiture order any such insolvency practitioner gives written notice to the relevant officer of the matters referred to in paragraphs (a) and (b) above,
- then sub-paragraph (3) below shall apply in relation to the property in question.
- (3) Where this sub-paragraph applies then, subject to the following provisions of this Part of this Schedule, the property in question or, if it has been sold, the proceeds of sale—
- (a) shall cease to be subject to the forfeiture order and any ancillary order; and
 - (b) shall fall to be dealt with in the insolvency proceedings as if the forfeiture order had never been made.
- (4) In any case where—
- (a) sub-paragraph (3) above would, apart from this sub-paragraph, apply in relation to any property, but
 - (b) the relevant officer, or any person acting in pursuance of an ancillary order, has entered into a contract for the sale of that property or has incurred any other obligations in relation to it,
- that sub-paragraph shall not take effect in relation to that property, or its proceeds of sale, unless and until those obligations have been discharged.
- (5) Where in consequence of sub-paragraph (3) above any money or other property falls to be dealt with in insolvency proceedings, the Secretary of State shall be taken

Status: This is the original version (as it was originally enacted).

to be a creditor in those proceedings to the amount or value of that property but, notwithstanding any provision contained in or made under any other enactment—

- (a) except in sequestration proceedings, his debt shall rank after the debts of all other creditors and shall not be paid until they have been paid in full with interest under section 189(2) or, as the case may be, section 328(4) of the 1986 Act or Article 25 of the Bankruptcy Amendment (Northern Ireland) Order 1980; and
- (b) in sequestration proceedings, his debt shall rank after all the debts mentioned in section 51(1) of the Bankruptcy (Scotland) Act 1985 and shall not be paid until they have been paid in full.

(6) In any case where—

- (a) by virtue of sub-paragraph (3) above any property ceases to be subject to a forfeiture order in consequence of the making of a bankruptcy order or an award of sequestration, and
- (b) subsequently the bankruptcy order is annulled or the award of sequestration is recalled or reduced,

the property shall again become subject to the forfeiture order and, if applicable, any ancillary orders.

(7) If any of the property referred to in sub-paragraph (6) above is money, or has been converted into money, then—

- (a) the court which ordered the annulment, or which recalled or reduced the award of sequestration, shall make an order specifying, for the purposes of paragraph (b) below, property comprised in the estate of the bankrupt or debtor to the amount or value of the property in question; and
- (b) the property so specified shall become subject to the forfeiture order, and any applicable ancillary orders, in place of the property in question.

(8) In this paragraph—

“the commencement of an insolvency” means—

- (a) the making of a bankruptcy order;
- (b) the date of sequestration of a person’s estate, within the meaning of section 12(4) of the Bankruptcy (Scotland) Act 1985;
- (c) in England and Wales, in the case of the insolvent estate of a deceased person, the making of an insolvency administration order;
- (d) in the case of a company—
 - (i) the passing of a resolution for its winding up; or
 - (ii) the making of an order by the court for the winding up of the company where no such resolution has been passed;

“final disposal under this Schedule”, in relation to any money, means—

- (a) in England and Wales, its payment to the Secretary of State in accordance with paragraph 1(3) or 9(5) above;
- (b) in Scotland, its payment to the proper officer in Exchequer under section 203 of the Criminal Procedure (Scotland) Act 1975;
- (c) in Northern Ireland, its payment into, or its disposal for the benefit of, the Consolidated Fund in accordance with paragraph 21(3) or 29(5) above;

and “finally dispose” shall be construed accordingly.