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**Changes to legislation:** There are currently no known outstanding effects for the Proceeds of Crime (Scotland) Act 1995, Cross Heading: Property subject to floating charge. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 2

#### SEQUESTRATION ETC. OF PERSONS HOLDING REALISABLE OR FORFEITABLE PROPERTY

##### *Property subject to floating charge*

- 4 (1) Where any property held subject to a floating charge by a company is realisable or forfeitable property and a receiver has been appointed by, or on the application of, the holder of the charge, the powers of the receiver in relation to the property so held shall not be exercisable in relation to—
- (a) so much of it, not being heritable property situated in Scotland, as is for the time being subject to a restraint order made before the appointment of the receiver and so much of it, being heritable property situated in Scotland, as is for the time being subject to a restraint order recorded in the General Register of Sasines or, as the case may be, registered in the Land Register of Scotland before such appointment; and
  - (b) any proceeds of property realised by virtue of paragraph 1 of Schedule 1 to this Act for the time being in the hands of an administrator appointed under that paragraph.
- (2) Where, in the case of a company, such an appointment has been made, the powers conferred on the court by sections 28 to 33<sup>F1</sup> . . . of and the said Schedule 1 to this Act or on an administrator appointed under paragraph 1 of that Schedule shall not be exercised in relation to any realisable property held by the company in relation to which the powers of the receiver are exercisable—
- (a) so as to inhibit the receiver from exercising his powers for the purpose of distributing any property held by the company to the company's creditors; or
  - (b) so as to prevent the payment out of any property of expenses (including the remuneration of the receiver) properly incurred in the exercise of the receiver's powers in respect of the property.
- (3) Nothing in the<sup>M1</sup> Insolvency Act 1986, shall be taken as restricting, or enabling the restriction of, the exercise of the powers so conferred.
- (4) In this paragraph—
- “company” has the same meaning as in paragraph 3 above; and
  - “floating charge” includes a floating charge within the meaning given by section 462 of the<sup>M2</sup> Companies Act 1985 (power of incorporated company to create floating charge).

#### Textual Amendments

- F1** Words in Sch. 2 para. 4(2) repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456-458(1), Sch. 11 para. 28(4)(d), Sch. 12; S.S.I. 2003/210, art. 2, Sch. (subject to arts. 3-7)

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

**C1** Sch. 2 para. 4(2)-(4) modified (S.) (1.4.1996) by 1995 c. 40, ss. 4, 7(2), **Sch. 3 Pt. II para. 15(7)**

**Marginal Citations**

**M1** 1986 c. 45.

**M2** 1985 c. 6.

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