
Changes to legislation: There are currently no known outstanding effects for the Proceeds of Crime (Scotland) Act 1995,
Cross Heading: Sequestration of person holding realisable or forfeitable property. (See end of Document for details)

SCHEDULES

SCHEDULE 2

SEQUESTRATION ETC. OF PERSONS HOLDING REALISABLE OR FORFEITABLE PROPERTY

Sequestration of person holding realisable or forfeitable property

- 1 (1) Where the estate of a person who holds realisable or forfeitable property is sequestrated—
- (a) property, other than heritable property situated in Scotland, for the time being subject to a restraint order made before the date of sequestration (within the meaning of section [F122(7) of the 2016] Act) and heritable property situated in Scotland 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 date of sequestration; 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,
- is excluded from the debtor's estate for the purposes of that Act.
- (2) Where an award of sequestration has been made, the powers conferred on the court by sections 28 to 33 ^{F2}. . . 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—
- (a) property comprised in the whole estate of the debtor (within the meaning of section [F379 of the 2016] Act); or
 - [F4(b) any income of the debtor which has been ordered, under section 90 or 95 of that Act, to be paid to the trustee or any estate which, under subsection (4) of section 79, or subsection (5) of section 86, of that Act vests in the trustee,]
- and it shall not be competent to submit a claim in relation to the confiscation order to the [F5trustee in the sequestration in accordance with section 122] of that Act.
- (3) Nothing in the [F62016] Act shall be taken as restricting, or enabling the restriction of, the exercise of the powers so conferred.
- (4) Where, during the period before sequestration is awarded, an interim trustee stands appointed under section [F754(1) of the 2016] Act and any property in the debtor's estate is subject to a restraint order, the powers conferred on the interim trustee by virtue of that Act do not apply to property for the time being subject to the restraint order.
- (5) Where the estate of a person is sequestrated and he has directly or indirectly made a gift caught by Part I of this Act or an implicative gift—
- (a) no decree shall, at any time when proceedings as regards an offence to which Part I of this Act applies or, as the case may be, a drug trafficking offence have been instituted against him and have not been concluded or when property of the person to whom the gift was made is subject to a restraint

Changes to legislation: *There are currently no known outstanding effects for the Proceeds of Crime (Scotland) Act 1995,*
Cross Heading: Sequestration of person holding realisable or forfeitable property. (See end of Document for details)

- order, be granted under section [F898 or 99 of the 2016] Act (gratuitous alienations and unfair preferences) in respect of the making of the gift; and
- (b) any decree granted under either of the said sections [F998 and 99] after the conclusion of the proceedings shall take into account any realisation under this Act of property held by the person to whom the gift was made.

Textual Amendments

- F1** Words in Sch. 2 para. 1(1)(a) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 14(2)(a)**
- F2** Words in Sch. 2 para. 1(2) repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456-458(1), [Sch. 11 para. 28\(4\)\(a\)](#), **Sch. 12**; [S.S.I. 2003/210](#), **art. 2**, Sch. (subject to arts. 3-7)
- F3** Words in Sch. 2 para. 1(2)(a) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 14(2)(b)(i)**
- F4** Words in Sch. 2 para. 1(2)(b) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 14(2)(b)(ii)**
- F5** Words in Sch. 2 para. 1(2) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 14(2)(b)(iii)**
- F6** Word in Sch. 2 para. 1(3) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 14(2)(c)**
- F7** Words in Sch. 2 para. 1(4) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 14(2)(d)**
- F8** Words in Sch. 2 para. 1(5) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 14(2)(e)(i)**
- F9** Words in Sch. 2 para. 1(5) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, **Sch. 1 para. 14(2)(e)(ii)**

Modifications etc. (not altering text)

- C1** Sch. 2 para. 1(2)(3) modified (S.) (1.4.1996) by [1995 c. 40](#), ss. 4, 7(2), **Sch. 3 Pt. II para. 15(4)**

Changes to legislation:

There are currently no known outstanding effects for the Proceeds of Crime (Scotland) Act 1995,
Cross Heading: Sequestration of person holding realisable or forfeitable property.