



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 9

#### INSOLVENCY ETC.

##### *Bankruptcy in Northern Ireland*

#### **423 Modifications of the 1989 Order**

- (1) This section applies if a person is adjudged bankrupt in Northern Ireland.
- (2) The following property is excluded from his estate for the purposes of Part 9 of the 1989 Order—
  - (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the order adjudging him bankrupt;
  - (b) any property in respect of which an order under section 50 or 52 is in force;
  - (c) any property in respect of which an order under section 128(3) is in force;
  - (d) any property in respect of which an order under section 198 or 200 is in force.
- (3) Subsection (2)(a) applies to heritable property in Scotland only if the restraint order is recorded in the General Register of Sasines or registered in the Land Register of Scotland before the order adjudging the person bankrupt.
- (4) If in the case of a debtor an interim receiver stands at any time appointed under Article 259 of the 1989 Order and any property of the debtor is then subject to a restraint order made under section 41, 120 or 190, the powers conferred on the receiver by virtue of that Order do not apply to property then subject to the restraint order.

#### **424 Restriction of powers**

- (1) If a person is adjudged bankrupt in Northern Ireland the powers referred to in subsection (2) must not be exercised in relation to the property referred to in subsection (3).

- (2) These are the powers—
- (a) the powers conferred on a court by sections 41 to 67 and the powers of a receiver appointed under section 48, 50 or 52;
  - (b) the powers conferred on a court by sections 120 to 136 and Schedule 3 and the powers of an administrator appointed under section 125 or 128(3);
  - (c) the powers conferred on a court by sections 190 to 215 and the powers of a receiver appointed under section 196, 198 or 200.
- (3) This is the property—
- (a) property which is for the time being comprised in the bankrupt's estate for the purposes of Part 9 of the 1989 Order;
  - (b) property in respect of which his trustee in bankruptcy may (without leave of the court) serve a notice under Article 280 or 281 of the 1989 Order (after-acquired property etc);
  - (c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under Article 254(2)(c) of the 1989 Order;
  - (d) in a case where a confiscation order has been made under section 6 or 156 of this Act, any sums remaining in the hands of a receiver appointed under section 50, 52, 198 or 200 of this Act after the amount required to be paid under the confiscation order has been fully paid;
  - (e) in a case where a confiscation order has been made under section 92 of this Act, any sums remaining in the hands of an administrator appointed under section 128 of this Act after the amount required to be paid under the confiscation order has been fully paid.
- (4) But nothing in the 1989 Order must be taken to restrict (or enable the restriction of) the powers mentioned in subsection (2).
- (5) In a case where a petition in bankruptcy was presented or an adjudication in bankruptcy was made before 1 October 1991 (when the 1989 Order came into force) this section has effect with these modifications—
- (a) for the reference in subsection (3)(a) to the bankrupt's estate for the purposes of Part 9 of that Order substitute a reference to the property of the bankrupt for the purposes of the Bankruptcy Acts (Northern Ireland) 1857 to 1980;
  - (b) omit subsection (3)(b);
  - (c) for the reference in subsection (3)(c) to Article 254(2)(c) of the 1989 Order substitute a reference to Articles 28(4), (5)(c) and (11) and 30(6)(c) of the Bankruptcy Amendment (Northern Ireland) Order 1980 ([S.I. 1980/561 \(N.I. 4\)](#));
  - (d) for the reference in subsection (4) to the 1989 Order substitute a reference to the Bankruptcy Acts (Northern Ireland) 1857 to 1980.

#### **425 Tainted gifts**

- (1) This section applies if a person who is adjudged bankrupt in Northern Ireland has made a tainted gift (whether directly or indirectly).
- (2) No order may be made under Article 312, 313 or 367 of the 1989 Order (avoidance of certain transactions) in respect of the making of the gift at any time when—
- (a) any property of the recipient of the tainted gift is subject to a restraint order under section 41, 120 or 190, or

- (b) there is in force in respect of such property an order under section 50, 52, 128(3), 198 or 200.
- (3) Any order made under Article 312, 313 or 367 of the 1989 Order after an order mentioned in subsection (2)(a) or (b) is discharged must take into account any realisation under Part 2, 3 or 4 of this Act of property held by the recipient of the tainted gift.
- (4) A person makes a tainted gift for the purposes of this section if he makes a tainted gift within the meaning of Part 2, 3 or 4.
- (5) In a case where a petition in bankruptcy was presented or an adjudication in bankruptcy was made before 1 October 1991 (when the 1989 Order came into force) this section has effect with these modifications—
  - (a) for a reference to Article 312 of the 1989 Order substitute a reference to section 12 of the Bankruptcy Amendment Act (Northern Ireland) 1929 (c. 1 (N.I.));
  - (b) for a reference to Article 367 of the 1989 Order substitute a reference to section 10 of the [Conveyancing Act \(Ireland\) 1634 \(c. 3\)](#).