

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, Cross Heading: Bankruptcy in England and Wales of person holding realisable or forfeitable property. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 4

SEQUESTRATION ETC. OF PERSONS HOLDING REALISABLE OR FORFEITABLE PROPERTY]

Textual Amendments

- F1** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt. II paras. 16(3), 17, Sch. 5; the repeal having effect in relation to s. 20(3)(5) on 1.4.1997 by virtue of 1995 c. 40, ss. 4, 6, Sch. 3 Pt. II para. 17, Sch. 5; 1995 c. 36, s. 105(4), Sch. 4 para. 60; S.I. 1996/3201, art. 3(7) and in relation to s. 66 on 1.8.1997 by virtue of 1997 c. 48, s. 62(1)(2), Sch. 1 para. 16, Sch. 3; S.I. 1997/1712, art. 3, Sch.

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- [^{F2}2 (1) Where a person who holds realisable or forfeitable property is adjudged bankrupt—
- (a) property, other than heritable property situated in Scotland, for the time being subject to a restraint order made before the order adjudging him bankrupt 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 the order adjudging him bankrupt was made; and
 - (b) any proceeds of property realised by virtue of paragraph 1 of Schedule 3 to this Act for the time being in the hands of an administrator appointed under that paragraph,
- is excluded from the bankrupt's estate for the purposes of Part IX of the ^{M1}Insolvency Act 1986.
- (2) Where a person has been adjudged bankrupt, the powers conferred on the court by sections 94 to 99 and 101 to 104 of this Act or on an administrator appointed under paragraph 1 of the said Schedule 3 shall not be exercised in relation to—
- (a) property for the time being comprised in the bankrupt's estate for the purposes of the said Part IX;
 - (b) property in respect of which his trustee in bankruptcy may (without leave of the court) serve a notice under section 307, 308 or 308A of the Insolvency

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- Act 1986 (after-acquired property and tools, clothes, etc. exceeding value of reasonable replacement and certain tenancies); and
- (c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 280(2)(c) of the Insolvency Act 1986.
- (3) Nothing in the Insolvency Act 1986 shall be taken as restricting, or enabling the restriction of, the exercise of the powers so conferred.
- (4) Where, in the case of a debtor, an interim receiver stands appointed under section 286 of the Insolvency Act 1986 and any property of the debtor is subject to a restraint order the powers conferred on the receiver by virtue of that Act do not apply to property for the time being subject to the restraint order.
- (5) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by Chapter I of Part II of this Act—
- (a) no order shall, at any time when proceedings for an offence to which Part VI of the ^{M2}Criminal Justice Act 1988 applies 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 order, be made under section 339 or 423 of the Insolvency Act 1986 (avoidance of certain transactions) in respect of the making of the gift, and
- (b) any order made under either of those sections 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.
- (6) In any case in which a petition in bankruptcy was presented, or a receiving order or adjudication in bankruptcy was made, before the date on which the ^{M3}Insolvency Act 1986 came into force, sub-paragraphs (2) to (5) above have effect with the following modifications—
- (a) for references to the bankrupt's estate for the purposes of Part IX of that Act there are substituted references to the property of the bankrupt for the purposes of the ^{M4}Bankruptcy Act 1914;
- (b) for references to the said Act of 1986 and to sections 280(2)(c), 286, 339, and 423 of that Act there are respectively substituted references to the said Act of 1914 and to sections 26(2), 8, 27 and 42 of that Act;
- (c) the references in subsection (4) to an interim receiver appointed as there mentioned include, where a receiving order has been made, a reference to the receiver constituted by virtue of section 7 of the said Act of 1914, and
- (d) subsection (2)(b) is omitted.]

Textual Amendments

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Marginal Citations

M1 1986 c. 45.

M2 1988 c. 33.

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M3 1986 c. 45.

M4 1914 c.59.

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