



Criminal Justice (Scotland) Act 1987

1987 CHAPTER 41

^{F1}PART I

CONFISCATION OF PROCEEDS OF DRUG TRAFFICKING ETC.

Sequestration etc. of estate comprising realisable property

^{F1}34 **Bankruptcy in England and Wales of person holding realisable property.**

- (1) Where a person who holds realisable property is adjudged bankrupt—
 - (a) property for the time being subject to a restraint order made before the order adjudging him bankrupt, and
 - (b) any proceeds of property realised by virtue of section 13(1) of this Act for the time being in the hands of an administrator appointed under that section,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 of Session by sections 8, 11 to 13, 16, 24, 27 and 28 of this Act or on an administrator appointed under subsection (1) of the said section 13 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 [^{F2}308 or 308A] of the Insolvency Act 1986 (after-acquired property and tools, clothes etc. exceeding value of reasonable replacement [^{F2}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.

*Changes to legislation: There are currently no known outstanding effects for the
 Criminal Justice (Scotland) Act 1987, Section 34. (See end of Document for details)*

- (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 an implicative gift—
- (a) no order shall, at any time when proceedings for 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 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 Insolvency Act 1986 came into force, subsections (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 ^{M2}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) subsections (2)(b) and (4) are omitted.]

Textual Amendments

- F1** Pt. I (ss. 1-47) repealed (S.) (1.4.1996) by 1995 c. 40, ss. 6, 7(2), **Sch.5** (with Sch. 3 paras. 1, 3, 6, 16, 17)
- F2** Words substituted and inserted respectively by Housing Act 1988 (c. 50, SIF 61), s. 140, **Sch. 17 para. 82**
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Marginal Citations

- M1** 1986 c. 45.
M2 1914 c. 59.

Changes to legislation:

There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1987, Section 34.