



# Drug Trafficking Act 1994

## 1994 CHAPTER 37

### PART I

#### CONFISCATION ORDERS

##### *Protection for insolvency officers etc*

### **35 Insolvency officers dealing with property subject to restraint order**

- (1) Without prejudice to the generality of any enactment contained in the Insolvency Act 1986 or in any other Act, where—
  - (a) any person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because it is for the time being subject to a restraint order, and
  - (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of an order of the court or otherwise) to seize or dispose of that property,he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by his negligence in so acting.
- (2) A person acting as an insolvency practitioner shall, in the circumstances mentioned in subsection (1)(a) and (b) above, have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, bankruptcy or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his acting in connection with those proceedings.
- (3) Where a person acting as an insolvency practitioner—
  - (a) incurs expenses in respect of such property as is mentioned in paragraph (a) of subsection (1) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order, or

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*Status: This is the original version (as it was originally enacted).*

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(b) incurs expenses other than expenses in respect of such property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,

that person shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under subsection (2) above) to payment of those expenses under section 30(2) or (5) of this Act.

(4) In this Act the expression “acting as an insolvency practitioner” shall be construed in accordance with section 388 of the Insolvency Act 1986 (interpretation) except that for the purposes of such construction—

(a) the reference in subsection (2)(a) of that section to a permanent or interim trustee in sequestration shall be taken to include a reference to a trustee in sequestration; and

(b) subsection (5) of that section (which includes provision to the effect that nothing in the section is to apply to anything done by the official receiver) shall be disregarded;

and the expression shall also comprehend the official receiver acting as receiver or manager of the property.

### **36 Receivers: supplementary provisions**

(1) Where a receiver appointed under section 26 or 29 of this Act or in pursuance of a charging order—

(a) takes any action in relation to property which is not realisable property, being action which he would be entitled to take if it were such property, and

(b) believes, and has reasonable grounds for believing, that he is entitled to take that action in relation to that property,

he shall not be liable to any person in respect of any loss or damage resulting from his action except in so far as the loss or damage is caused by his negligence.

(2) Any amount due in respect of the remuneration and expenses of a receiver so appointed shall, if no sum is available to be applied in payment of it under section 30(6) of this Act, be paid by the prosecutor or, in a case where proceedings for a drug trafficking offence are not instituted, by the person on whose application the receiver was appointed.