

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1995, Cross Heading: Property subject to floating charge. (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- F1** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt.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.

[^{F1}Property subject to floating charge]

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- F1** Act repealed (S.)(1.4.1996, except ss. 20(3)(5), 66) by 1995 c. 40, ss. 4, 6, 7(2), Sch. 3 Pt.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.

- [^{F2}4 (1) Where any property held subject to a floating charge by a company is realisable or forfeitable property and a receiver has been appointed by, or on the application of, the holder of the charge, the powers of the receiver in relation to the property so held shall not be exercisable in relation to—
- (a) so much of it, not being heritable property situated in Scotland, as is for the time being subject to a restraint order made before the appointment of the receiver and so much of it, being heritable property situated in Scotland, as is 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 such appointment; 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.
- (2) Where, in the case of a company, such an appointment has been made, 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 any realisable property held by the company in relation to which the powers of the receiver are exercisable—
- (a) so as to inhibit the receiver from exercising his powers for the purpose of distributing any property held by the company to the company's creditors; or

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- (b) so as to prevent the payment out of any property of expenses (including the remuneration of the receiver) properly incurred in the exercise of the receiver’s powers in respect of the property.
- (3) Nothing in the ^{M1}Insolvency Act 1986, shall be taken as restricting, or enabling the restriction of, the exercise of the powers so conferred.
- (4) In this paragraph—
“company” has the same meaning as in paragraph 3 above; and
“floating charge” includes a floating charge within the meaning given by section 462 of the ^{M2}Companies Act 1985 (power of incorporated company to create floating charge).
- (5) In any case in which a receiver was appointed as is mentioned in sub-paragraph (1) above before the date on which the Insolvency Act 1986 came into force, sub-paragraphs (2) to (4) above have effect with the substitution for references to that Act of references to the Companies Act 1985.]

Textual Amendments

- F2** 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.

Marginal Citations

- M1** 1986 c. 45.
M2 1985 c. 6.

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