



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 9

INSOLVENCY ETC.

Insolvency practitioners

432 Insolvency practitioners

- (1) Subsections (2) and (3) apply if a person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are not exercisable because—
- (a) it is for the time being subject to a restraint order made under section 41, 120 or 190, or
 - (b) it is for the time being subject to [F1a property freezing order made under section 245A, an interim receiving order made under section 246, a prohibitory property order made under section 255A] or an interim administration order made under section 256,
- and at the time of the seizure or disposal he believes on reasonable grounds that he is entitled (whether in pursuance of an order of a court or otherwise) to seize or dispose of the property.
- (2) He is not liable to any person in respect of any loss or damage resulting from the seizure or disposal, except so far as the loss or damage is caused by his negligence.
- (3) He has a lien on the property or the proceeds of its sale—
- (a) for such of his expenses as were incurred in connection with the liquidation, bankruptcy, sequestration or other proceedings in relation to which he purported to make the seizure or disposal, and
 - (b) for so much of his remuneration as may reasonably be assigned to his acting in connection with those proceedings.

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- (4) Subsection (2) does not prejudice the generality of any provision of ^{F2}... the 1986 Act, the 1989 Order^{F3}, the 2016 Act] or any other Act or Order which confers protection from liability on him.
- (5) Subsection (7) applies if—
- (a) property is subject to a restraint order made under section 41, 120 or 190,
 - (b) a person acting as an insolvency practitioner incurs expenses in respect of property subject to the restraint order, and
 - (c) he does not know (and has no reasonable grounds to believe) that the property is subject to the restraint order.
- (6) Subsection (7) also applies if—
- (a) property is subject to a restraint order made under section 41, 120 or 190,
 - (b) a person acting as an insolvency practitioner incurs expenses which are not ones in respect of property subject to the restraint order, and
 - (c) the expenses are ones which (but for the effect of the restraint order) might have been met by taking possession of and realising property subject to it.
- ^{F4}(6A) Subsection (7) also applies if—
- (a) property is detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P,
 - (b) a person acting as an insolvency practitioner incurs expenses which are not ones in respect of the detained property, and
 - (c) the expenses are ones which (but for the effect of the detention of the property) might have been met by taking possession of and realising the property.]
- (7) ^{F5}Whether or not the insolvency practitioner has seized or disposed of any property, the insolvency practitioner is entitled to payment of the expenses under—
- (a) section 54(2), 55(3) or 67D(2) if the restraint order was made under section 41 or (as the case may be) the property was detained under or by virtue of section 44A, 47J, 47K, 47M or 47P,
 - (b) section 130(3), 131(3) or 131D(2) if the restraint order was made under section 120 or (as the case may be) the property was detained under or by virtue of section 122A, 127J, 127K, 127M or 127P, and
 - (c) section 202(2), 203(3) or 215D(2) if the restraint order was made under section 190 or (as the case may be) the property was detained under or by virtue of section 193A, 195J, 195K, 195M or 195P.]
- (8) Subsection (10) applies if—
- (a) property is subject to ^{F6}a property freezing order made under section 245A, an interim receiving order made under section 246, a prohibitory property order made under section 255A] or an interim administration order made under section 256,
 - (b) a person acting as an insolvency practitioner incurs expenses in respect of property subject to the order, and
 - (c) he does not know (and has no reasonable grounds to believe) that the property is subject to the order.
- (9) Subsection (10) also applies if—
- (a) property is subject to ^{F7}a property freezing order made under section 245A, an interim receiving order made under section 246, a prohibitory property order

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- made under section 255A] or an interim administration order made under section 256,
- (b) a person acting as an insolvency practitioner incurs expenses which are not ones in respect of property subject to the order, and
 - (c) the expenses are ones which (but for the effect of the order) might have been met by taking possession of and realising property subject to it.
- (10) Whether or not he has seized or disposed of any property, he is entitled to payment of the expenses under section 280.

Textual Amendments

- F1** Words in s. 432(1)(b) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 6 para. 23; S.I. 2005/3136, art. 3\(c\)](#)
- F2** Words in s. 432(4) omitted (30.11.2016) by virtue of [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\), art. 1, Sch. 1 para. 25\(11\)\(a\)](#)
- F3** Words in s. 432(4) inserted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\), art. 1, Sch. 1 para. 25\(11\)\(b\)](#)
- F4** S. 432(6A) inserted (1.6.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\), s. 116\(1\), Sch. 7 para. 93\(2\); S.I. 2015/983, arts. 2\(2\)\(e\), 3\(dd\); S.I. 2016/147, art. 3\(i\)](#)
- F5** S. 432(7) substituted (1.6.2015 for specified purposes, 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\), s. 116\(1\), Sch. 7 para. 93\(3\); S.I. 2015/983, arts. 2\(2\)\(e\), 3\(dd\); S.I. 2016/147, art. 3\(i\)](#)
- F6** Words in s. 432(8)(a) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 6 para. 23; S.I. 2005/3136, art. 3\(c\)](#)
- F7** Words in s. 432(9)(a) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 6 para. 23; S.I. 2005/3136, art. 3\(c\)](#)

Commencement Information

- I1** S. 432 in force at 24.3.2003 by [S.I. 2003/333, art. 2, Sch.](#)

433 Meaning of insolvency practitioner

- (1) This section applies for the purposes of section 432.
- (2) A person acts as an insolvency practitioner if he so acts within the meaning given by section 388 of the 1986 Act or Article 3 of the 1989 Order; but this is subject to subsections (3) to (5).
- (3) The expression “person acting as an insolvency practitioner” includes the official receiver acting as receiver or manager of the property concerned.
- (4) In applying section 388 of the 1986 Act under subsection (2) above—
 - (a) the reference in section 388(2)(a) to a permanent or interim trustee in sequestration must be taken to include a reference to a trustee in sequestration;
 - (b) section 388(5) (which includes provision that nothing in the section applies to anything done by the official receiver or the Accountant in Bankruptcy) must be ignored.

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- (5) In applying Article 3 of the 1989 Order under subsection (2) above, paragraph (5) (which includes provision that nothing in the Article applies to anything done by the official receiver) must be ignored.

Commencement Information

I2 S. 433 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)