
Status: Point in time view as at 03/02/1995. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Northern Ireland (Emergency Provisions) Act 1991 (repealed 25.8.1996), Paragraph 16. (See end of Document for details)

SCHEDULES

SCHEDULE 4

CONFISCATION ORDERS: SUPPLEMENTARY PROVISIONS

Bankruptcy of defendant

- 16 (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 paragraph 5(8) or 10(5) or (6) above for the time being in the hands of a receiver appointed under paragraph 5 or 10 above,
- is excluded from the bankrupt's estate for the purposes of Part IX of the ^{M1}Insolvency (Northern Ireland) Order 1989.
- (2) Where a person has been adjudged bankrupt, the powers conferred on the High Court and the Secretary of State by paragraphs 5 to 10 and 12 above or on a receiver so appointed shall not be exercised in relation to—
- (a) property for the time being comprised in the bankrupt's estate for the purposes of that Part of the said Order of 1989;
 - (b) property in respect of which his trustee in bankruptcy may (without leave of the High Court) serve a notice under Article 280 or 281 of that Order (after-acquired property and tools, clothes, etc. exceeding value of reasonable replacement); and
 - (c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under Article 254(2)(c) of that Order.
- (3) Nothing in that Order shall be taken as restricting, or enabling the restriction of, the exercise of those powers.
- (4) Sub-paragraph (2) above does not affect the enforcement of a charging order—
- (a) made before the order adjudging the person bankrupt; or
 - (b) on property which was subject to a restraint order when the order adjudging him bankrupt was made.
- (5) Where, in the case of a debtor, an interim receiver stands appointed under Article 259 of the said Order of 1989 and any property of the debtor is subject to a restraint order, the powers conferred on the receiver by virtue of that Order do not apply to property for the time being subject to the restraint order.
- (6) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by Part VII of this Act—

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- [^{F1}(a) no order shall be made under Article 312 or 367 of the said Order of 1989 (avoidance of certain transactions) in respect of the making of the gift at any time when—
- (i) proceedings for a relevant offence have been instituted against him and have not been concluded;
 - (ii) an application has been made in respect of the defendant under section 48A, 48B or 52B of this Act or paragraph 11 below and has not been concluded; or
 - (iii) property of the person to whom the gift was made is subject to a restraint order or charging order; and
- (b) any order made under either of those Articles after the conclusion of the proceedings or of the application shall take into account any realisation under this Schedule of property held by the person to whom the gift was made.]

Textual Amendments

F1 Sch. 4 para. 16(6)(a)(b) substituted (3.2.1995) by 1993 c. 36, ss. 41(8), 78(3) (with s. 78(6)); S.I. 1995/43, arts. 2,3, Sch..

Marginal Citations

M1 S.I. 1989/2405 (N.I.19).

Status:

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