



Drug Trafficking Act 1994

1994 CHAPTER 37

PART I

CONFISCATION ORDERS

Insolvency of defendants etc

34 Winding up of company holding realisable property.

[^{F1}(1) Where realisable property is held by a company and an order for the winding up of the company has been made or a resolution has been passed by the company for the voluntary winding up of the company, the functions of the liquidator (or any provisional liquidator) shall not be exercisable in relation to—

- (a) property for the time being subject to a restraint order made before the relevant time; and
- (b) any proceeds of property realised by virtue of section 26(7) or 29(5) or (6) of this Act for the time being in the hands of a receiver appointed under section 26 or 29 of this Act.

(2) Where, in the case of a company, such an order has been made or such a resolution has been passed, the powers conferred on the High Court or a county court by sections 26 to 30 of this Act or on a receiver so appointed shall not be exercised in relation to any realisable property held by the company in relation to which the functions of the liquidator are exercisable—

- (a) so as to inhibit him from exercising those functions for the purpose of distributing any property held by the company to the company's creditors; or
- (b) so as to prevent the payment out of any property of expenses (including the remuneration of the liquidator or any provisional liquidator) properly incurred in the winding up in respect of the property;

but nothing in the Insolvency ^{MI} Act 1986 shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

Status: Point in time view as at 24/02/2003. This version of this provision has been superseded.

Changes to legislation: Drug Trafficking Act 1994, Section 34 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Subsection (2) above does not affect the enforcement of a charging order made before the relevant time or on property which was subject to a restraint order at the relevant time.
- (4) In this section—
- “ company” means any company which may be wound up under the Insolvency Act 1986; and
- “the relevant time” means—
- (a) where no order for the winding up of the company has been made, the time of the passing of the resolution for voluntary winding up;
- (b) where—
- (i) such an order has been made, but
- (ii) before the presentation of the petition for the winding up of the company by the court, such a resolution had been passed by the company,
- the time of the passing of the resolution; and
- (c) in any other case where such an order has been made, the time of the making of the order.]

Textual Amendments

- F1** Ss. 1-54 repealed (30.12.2002 for the repeal of ss. 42-48; 24.2.2003 for the repeal of ss. 49-54; 24.3.2003 for the repeal ss. 1-38, 41) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 457, 458(1), Sch. 11 para. 25(1)(2)(a), [Sch. 12](#); S.I. 2002/3015, [art. 2](#), Sch. (with art. 3); S.I. 2003/120, art. 2, Sch. (with arts. 3-6) (as amended (20.2.2003) by S.I. 2003/333, art. 14); S.I. 2003/333, [art. 2](#), Sch. (with arts. 10-13); and ss. 26, 28 amended (13.10.2003) in so far as still in force by [Land Registration Act 2002 \(c. 9\)](#), s. 136(2), Sch. 11 para. 32, Sch. 13 (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

Marginal Citations

- M1** 1986 c. 45.

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