



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 9

#### INSOLVENCY ETC.

#### *Floating charges*

#### 430 Floating charges

- (1) In this section “company” means a company which may be wound up under
  - (a) the 1986 Act, or
  - (b) the 1989 Order.
- (2) <sup>[F1]</sup>If a company holds property which is subject to a floating charge, and a receiver has been appointed by or on the application of the holder of the charge, the functions of the receiver are not exercisable in relation to the following property—
  - (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the relevant time;
  - (b) property for the time being detained under or by virtue of section 44A, 47J, 47K, 47M, 47P, 122A, 127J, 127K, 127M, 127P, 193A, 195J, 195K, 195M or 195P;
  - (c) property in respect of which an order under section 50, 128(3) or 198 is in force;
  - (d) property in respect of which an order under section 67A, 131A or 215A is in force.]
- (3) Subsection (2)(a) applies to heritable property in Scotland only if the restraint order is recorded in the General Register of Sasines or registered in the Land Register of Scotland before the appointment of the receiver.
- (4) If a company holds property which is subject to a floating charge, and a receiver has been appointed by or on the application of the holder of the charge, the powers referred to in subsection (5) must not be exercised in the way mentioned in subsection (6) in relation to any property—

*Status: Point in time view as at 01/06/2015.*

*Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Floating charges is up to date with all changes known to be in force on or before 09 August 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)*

- (a) which is held by the company, and
  - (b) in relation to which the functions of the receiver are exercisable.
- (5) These are the powers—
- (a) the powers conferred on a court by sections 41 to [F4]67B, the powers conferred on an appropriate officer by section 47C] and the powers of a receiver appointed under section 48 [F5]or 50 ] ;
  - (b) the powers conferred on a court by sections 120 to 136 and Schedule 3 [F6], the powers conferred on an appropriate officer by section 127C] and the powers of an administrator appointed under section 125 or 128(3);
  - (c) the powers conferred on a court by sections 190 to 215 and the powers of a receiver appointed under section 196 [F7]or 198 ] .
- (6) The powers must not be exercised—
- (a) so as to inhibit the receiver from exercising his functions for the purpose of distributing property to the company’s creditors;
  - (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 his functions in respect of the property.
- (7) But nothing in the 1986 Act or the 1989 Order must be taken to restrict (or enable the restriction of) the exercise of the powers referred to in subsection (5).
- (8) In this section “floating charge” includes a floating charge within the meaning of section 462 of the Companies Act 1985 (c. 6).

#### Textual Amendments

- F1** S. 430(2) substituted (1.6.2015 for specified purposes) by Policing and Crime Act 2009 (c. 26), s. 116(1), **Sch. 7 para. 92(2)**; S.I. 2015/983, arts. 2(2)(e), 3(cc)
- F2** Words in s. 430(2)(b) repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 8 para. 82(2)(a), **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F3** Words in s. 430(2)(d) repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 8 para. 82(2)(b), **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F4** Words in s. 430(5)(a) substituted (1.6.2015) by Policing and Crime Act 2009 (c. 26), s. 116(1), **Sch. 7 para. 92(3)(a)**; S.I. 2015/983, arts. 2(2)(e), 3(cc)
- F5** Words in s. 430(5)(a) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 82(3)(a)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)
- F6** Words in s. 430(5)(b) inserted (1.6.2015) by Policing and Crime Act 2009 (c. 26), s. 116(1), **Sch. 7 para. 92(3)(b)**; S.I. 2015/983, arts. 2(2)(e), 3(cc)
- F7** Words in s. 430(5)(c) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 82(3)(b)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

#### Commencement Information

- I1** S. 430 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.**

**Status:**

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**Changes to legislation:**

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