

SCHEDULE 3

PART I OF THE CRIMINAL JUSTICE (SCOTLAND) ACT 1987 AS MODIFIED, AS APPLIED IN RELATION TO EXTERNAL CONFISCATION ORDERS

Functions of administrators

- 14.**—(1) Subject to section 17 of this Act, an administrator—
- (a) shall be entitled to take possession of, and if appointed (or empowered) under paragraph (b) of section 13(1) of this Act shall as soon as practicable take possession of, the property as regards which he has been appointed and of any document which both—
 - (i) is in the possession or control of the person (in this section referred to as “A”) in whom the property is vested (or would be vested but for an order made under subsection (3) of this section); and
 - (ii) relates to the property or to A’s assets, business or financial affairs;
 - (b) shall be entitled to have access to, and to copy, any document relating to the property or to A’s assets, business or financial affairs and not in such possession or control as is mentioned in paragraph (a) above;
 - (c) may bring, defend or continue any legal proceedings relating to the property;
 - (d) may borrow money in so far as it is necessary to do so to safeguard the property and may for the purposes of such borrowing create a security over any part of the property;
 - (e) may, if the administrator considers that to do so would be beneficial for the management or realisation of the property—
 - (i) carry on any business of A;
 - (ii) exercise any right of A as holder of securities in a company;
 - (iii) grant a lease of the property or take on lease any other property; or
 - (iv) enter into any contract, or execute any deed, as regards the property or as regards A’s business;
 - (f) may, where any right, option or other power forms part of A’s estate, make payments or incur liabilities with a view to—
 - (i) obtaining property which is the subject of; or
 - (ii) maintaining,
the right, option or power;
 - (g) may effect or maintain insurance policies as regards the property or A’s business;
 - (h) may, where A has an uncompleted title to any heritable estate, complete title thereto:
Provided that completion of title in A’s name shall not validate by accretion any unperfected right in favour of any person other than the administrator;
 - (j) may sell, purchase or exchange property or discharge any security for an obligation due to A:
Provided that it shall be incompetent for the administrator or an associate of his to purchase any of A’s property in pursuance of this paragraph;
 - (k) may claim, vote and draw dividends in the sequestration of the estate (or bankruptcy or liquidation) of a debtor of A and may accede to a voluntary trust deed for creditors of such a debtor;
 - (l) may discharge any of his functions through agents or employees:

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Provided that the administrator shall be personally liable to meet the fees and expenses of any such agent or employee out of such remuneration as is payable to the administrator by virtue of section 18(1) and (3) of this Act;

- (m) may take such professional advice as he may consider requisite for the proper discharge of his functions;
 - (n) may at any time apply to the Court of Session for directions as regards the discharge of his functions;
 - (o) may exercise any power specifically conferred on him by the Court of Session, whether such conferral was at the time of his appointment or on his subsequent application to the Court in that regard; and
 - (p) may do anything incidental to the above powers and duties.
- (2) Subject to the proviso to paragraph (j) of subsection (1) above –
- (a) a person dealing with an administrator in good faith and for value shall not require to determine whether the administrator is acting within the powers mentioned in that subsection; and
 - (b) the validity of any title shall not be challengeable by reason only of the administrator having acted outwith those powers.
- (3) The exercise of a power mentioned in any of paragraphs (c) to (k) above shall be in A's name except where and in so far as an order made by the Court of Session under this subsection (either on its own motion or on the application of the administrator) has vested the property in the administrator (or in his predecessor in that office).