

SCHEDULE 3

THE DRUG TRAFFICKING ACT 1994 AS MODIFIED

Bankruptcy of defendant etc.

32.—(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 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,

is excluded from the bankrupt's estate for the purposes of Part IX of the Insolvency Act 1986 ("the 1986 Act").

(2) Where a person has been adjudged bankrupt, the powers conferred on the High Court by sections 26 to 30 of this Act 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 Part IX of the 1986 Act;
- (b) property in respect of which his trustee in bankruptcy may (without leave of the court) serve a notice under section 307, 308 or 308A of that Act (after—acquired property and tools, clothes etc. exceeding value of reasonable replacement, and certain tenancies); and
- (c) property which is to be applied for the benefit of creditors of the bankrupt by virtue of a condition imposed under section 280(2)(c) of that Act;

but nothing in that Act shall be taken as restricting, or enabling the restriction of, the exercise of those powers.

(3) Subsection (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.

(4) Where, in the case of a debtor, an interim receiver stands appointed under section 286 of the 1986 Act and any property of the debtor is subject to a restraint order, the powers conferred on the receiver by virtue of that Act do not apply to property for the time being subject to the restraint order.

(5) Where a person is adjudged bankrupt and has directly or indirectly made a gift caught by this Act—

- (a) no order shall be made under section 339 or 423 of the 1986 Act (avoidance of certain transactions), in respect of the making or the gift, at any time when 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 section 339 or 423 after the discharge of the restraint or charging order shall take into account any realisation under this Act of property held by the person to whom the gift was made.

(6) In any case where a petition in bankruptcy was presented, or a receiving order or an adjudication in bankruptcy was made, before 29th December 1986 (the date on which the 1986 Act came into force), subsection (2) above shall have effect as if—

- (a) for the reference to the bankrupt's estate for the purposes of Part IX of the 1986 Act there were substituted a reference to the property of the bankrupt for the purposes of the Bankruptcy Act 1914;
- (b) for the reference to section 280(2)(c) of the 1986 Act there were substituted a reference to section 26(2) of that Act; and

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(c) subsection (2)(b) were omitted.