

Changes to legislation: There are currently no known outstanding effects for the Proceeds of Crime (Scotland) Act 1995,
Cross Heading: Insolvency practitioners dealing with property subject to restraint order. (See end of Document for details)

SCHEDULES

SCHEDULE 2

SEQUESTRATION ETC. OF PERSONS HOLDING REALISABLE OR FORFEITABLE PROPERTY

Insolvency practitioners dealing with property subject to restraint order

- 5 (1) Without prejudice to the generality of any enactment contained in the Insolvency Act 1986 or in the [F12016] Act, where
- (a) any person acting as an insolvency practitioner seizes or disposes of any property in relation to which his functions are, because that property is for the time being subject to a restraint order, not exercisable; and
 - (b) at the time of the seizure or disposal he believes, and has reasonable grounds for believing, that he is entitled (whether in pursuance of a court order or otherwise) to seize or dispose of that property,
- he shall not be liable to any person in respect of any loss or damage resulting from the seizure or disposal except in so far as the loss or damage is caused by the insolvency practitioner's negligence; and the insolvency practitioner shall have a lien on the property, or the proceeds of its sale, for such of his expenses as were incurred in connection with the liquidation, sequestration or other proceedings in relation to which the seizure or disposal purported to take place and for so much of his remuneration as may reasonably be assigned for his actings in connection with those proceedings.
- (2) Any person who, acting as an insolvency practitioner, incurs expenses—
- (a) in respect of such realisable property as is mentioned in sub-paragraph (1) (a) above and in so doing does not know and has no reasonable grounds to believe that the property is for the time being subject to a restraint order; or
 - (b) other than in respect of such realisable property as is so mentioned, being expenses which, but for the effect of a restraint order, might have been met by taking possession of and realising the property,
- shall be entitled (whether or not he has seized or disposed of that property so as to have a lien under sub-paragraph (1) above) to payment of those expenses under paragraph 4(2) or (4)(a) of Schedule 1 to this Act.
- (3) In the foregoing provisions of this paragraph, the expression “acting as an insolvency practitioner” shall be construed in accordance with section 388 (interpretation) of the said Act of 1986 except that for the purposes of such construction F2... subsection (5) of that section shall be disregarded; and the expression shall also comprehend the official receiver acting as receiver or manager of the property.

Textual Amendments

- F1** Word in Sch. 2 para. 5(1) substituted (30.11.2016) by The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, Sch. 1 para. 14(2) (f)(i)

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F2 Words in Sch. 2 para. 5(3) omitted (30.11.2016) by virtue of The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 (S.I. 2016/1034), art. 1, **Sch. 1 para. 14(2)(f)(ii)**

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