



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 9

INSOLVENCY ETC.

Bankruptcy in England and Wales

417 Modifications of the 1986 Act

- (1) This section applies if a person is adjudged bankrupt in England and Wales.
- (2) The following property is excluded from his estate for the purposes of Part 9 of the 1986 Act—
 - (a) property for the time being subject to a restraint order which was made under section 41, 120 or 190 before the order adjudging him bankrupt;
 - (b) any property in respect of which an order under section 50 or 52 is in force;
 - (c) any property in respect of which an order under section 128(3) is in force;
 - (d) any property in respect of which an order under section 198 or 200 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 order adjudging the person bankrupt.
- (4) If in the case of a debtor an interim receiver stands at any time appointed under section 286 of the 1986 Act and any property of the debtor is then subject to a restraint order made under section 41, 120 or 190 the powers conferred on the receiver by virtue of that Act do not apply to property then subject to the restraint order.

418 Restriction of powers

- (1) If a person is adjudged bankrupt in England and Wales the powers referred to in subsection (2) must not be exercised in relation to the property referred to in subsection (3).

- (2) These are the powers—
- (a) the powers conferred on a court by sections 41 to 67 and the powers of a receiver appointed under section 48, 50 or 52;
 - (b) the powers conferred on a court by sections 120 to 136 and Schedule 3 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, 198 or 200.
- (3) This is the property—
- (a) property which is for the time being comprised in the bankrupt's estate for the purposes of Part 9 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 the 1986 Act (after-acquired property, tools, tenancies etc);
 - (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 the 1986 Act;
 - (d) in a case where a confiscation order has been made under section 6 or 156 of this Act, any sums remaining in the hands of a receiver appointed under section 50, 52, 198 or 200 of this Act after the amount required to be paid under the confiscation order has been fully paid;
 - (e) in a case where a confiscation order has been made under section 92 of this Act, any sums remaining in the hands of an administrator appointed under section 128 of this Act after the amount required to be paid under the confiscation order has been fully paid.
- (4) But nothing in the 1986 Act must be taken to restrict (or enable the restriction of) the powers referred to in subsection (2).
- (5) In a case where a petition in bankruptcy was presented or a receiving order or adjudication in bankruptcy was made before 29 December 1986 (when the 1986 Act came into force) this section has effect with these modifications—
- (a) for the reference in subsection (3)(a) to the bankrupt's estate for the purposes of Part 9 of that Act substitute a reference to the property of the bankrupt for the purposes of the 1914 Act;
 - (b) omit subsection (3)(b);
 - (c) for the reference in subsection (3)(c) to section 280(2)(c) of the 1986 Act substitute a reference to section 26(2) of the 1914 Act;
 - (d) for the reference in subsection (4) to the 1986 Act substitute a reference to the 1914 Act.

419 Tainted gifts

- (1) This section applies if a person who is adjudged bankrupt in England and Wales has made a tainted gift (whether directly or indirectly).
- (2) No order may be made under section 339, 340 or 423 of the 1986 Act (avoidance of certain transactions) in respect of the making of the gift at any time when—
- (a) any property of the recipient of the tainted gift is subject to a restraint order under section 41, 120 or 190, or
 - (b) there is in force in respect of such property an order under section 50, 52, 128(3), 198 or 200.

Status: This is the original version (as it was originally enacted).

- (3) Any order made under section 339, 340 or 423 of the 1986 Act after an order mentioned in subsection (2)(a) or (b) is discharged must take into account any realisation under Part 2, 3 or 4 of this Act of property held by the recipient of the tainted gift.
- (4) A person makes a tainted gift for the purposes of this section if he makes a tainted gift within the meaning of Part 2, 3 or 4.
- (5) In a case where a petition in bankruptcy was presented or a receiving order or adjudication in bankruptcy was made before 29 December 1986 (when the 1986 Act came into force) this section has effect with the substitution for a reference to section 339, 340 or 423 of the 1986 Act of a reference to section 27, 42 or 44 of the 1914 Act.