

**46. Duties of bailiff as to goods taken in execution**

- (1) Where any movable property or negotiable instruments or money of a debtor are taken in execution, and before the receipt or recovery by the judgment creditor of the full amount of the levy, notice is served on the bailiff that a bankruptcy order has been made against the debtor, the bailiff shall on request deliver the movable property, negotiable instruments or money, or any money received in satisfaction or part satisfaction of the execution, to the trustee, but the costs of the execution shall be a first charge on the property so delivered and the trustee may sell the movable property or negotiable instruments, or an adequate part thereof, or apply the money, for the purpose of satisfying the charge. (*Amended 76 of 1996 s. 73; 17 of 2018 s. 33*)
- (2) Where, under an execution in respect of a judgment for a sum exceeding \$100, the property of a debtor is sold or money is paid in order to avoid sale, the bailiff shall deduct his costs of the execution from the proceeds of sale or the money paid and pay the balance into court, and if within 14 clear days of such sale or payment as aforesaid a bankruptcy petition is presented by or against the debtor, the said balance shall remain in court and if the debtor is adjudged bankrupt the balance shall be paid out to the trustee in the bankruptcy, who shall be entitled to retain the same as against the execution creditor, but otherwise it shall be dealt with as if no bankruptcy petition had been presented.
- (3) The rights conferred by this section on the trustee in relation to executions against any movable property or negotiable instruments or money of the debtor may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court may think fit. (*Added 47 of 1984 s. 7*)

*(Amended 18 of 2005 s. 14)*

*[cf. 1914 c. 59 s. 41(1) U.K.]*