



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 1

### BANKRUPTCY

#### *Duration of bankruptcy*

#### **<sup>F1</sup> Discharge of debtor**

.....

##### **Textual Amendments**

- F1** Ss. 1, 2 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

#### *Bankruptcy restrictions orders and undertakings*

#### **<sup>F2</sup> Bankruptcy restrictions orders and undertakings**

.....

##### **Textual Amendments**

- F1** Ss. 1, 2 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Status: Point in time view as at 30/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1. (See end of Document for details)*

*Effect of bankruptcy restrictions orders and undertakings*

**3 Disqualification from being appointed as receiver**

- (1) Section 51 of the Insolvency Act 1986 (c. 45) (appointment of receiver) is amended as follows.
- (2) In subsection (3), after paragraph (b), insert—  
“(ba) a person subject to a bankruptcy restrictions order;”.
- (3) In subsection (5), after “bankrupt” insert “or a person subject to a bankruptcy restrictions order”.
- (4) In subsection (6), after “receivers” insert “; and  
“bankruptcy restrictions order” means—  
(a) a bankruptcy restrictions order made under section 56A of the Bankruptcy (Scotland) Act 1985 (c. 66);  
(b) a bankruptcy restrictions undertaking entered into under section 56G of that Act;  
(c) a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to this Act; or  
(d) a bankruptcy restrictions undertaking entered into under paragraph 7 of that Schedule.”.

**4 Disqualification for nomination, election and holding office as member of local authority**

In section 31 of the Local Government (Scotland) Act 1973 (c. 65) (disqualifications for nomination, election and holding office as member of local authority)—

- (a) after subsection (1)(b), insert—  
“(ba) he is subject to a bankruptcy restrictions order;”; and
- (b) after subsection (3A), insert—  
“(3B) In subsection (1)(ba) above, “bankruptcy restrictions order” means—  
(a) a bankruptcy restrictions order made under section 56A of the Bankruptcy (Scotland) Act 1985;  
(b) a bankruptcy restrictions undertaking entered into under section 56G of that Act;  
(c) a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to the Insolvency Act 1986 (c. 45); or  
(d) a bankruptcy restrictions undertaking entered into under paragraph 7 of that Schedule.”.

**F25 Orders relating to disqualification**

.....

*Status: Point in time view as at 30/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1. (See end of Document for details)*

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*The trustee in the sequestration*

**F26 Amalgamation of offices of interim trustee and permanent trustee**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F27 Repeal of trustee's residence requirement**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F28 Duties of trustee**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F29 Grounds for resignation or removal of trustee**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F210 Termination of interim trustee's functions**

.....

*Status: Point in time view as at 30/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1. (See end of Document for details)*

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F211 Statutory meeting and election of trustee**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F212 Replacement of trustee acting in more than one sequestration**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F213 Requirement to hold money in interest bearing account**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Debtor applications*

**F214 Debtor applications**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F215 Debtor applications by low income, low asset debtors**

.....

*Status: Point in time view as at 30/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1. (See end of Document for details)*

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Jurisdiction*

**F216 Sequestration proceedings to be competent only before sheriff**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Vesting of estate and dealings of debtor*

**F217 Vesting of estate and dealings of debtor**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Income received by debtor after sequestration*

**F218 Income received by debtor after sequestration**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Debtor's home and other heritable property*

**F219 Debtor's home and other heritable property**

.....

*Status: Point in time view as at 30/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1. (See end of Document for details)*

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Protected trust deeds*

**F220 Modification of provisions relating to protected trust deeds**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

...

**F221 Modification of composition procedure**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Status and powers of Accountant in Bankruptcy*

**F222 Status of Accountant in Bankruptcy as officer of the court**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F223 Accountant in Bankruptcy's power to investigate trustees under protected trust deeds**

.....

*Status: Point in time view as at 30/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1. (See end of Document for details)*

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Offences*

**F224 Modification of offences under section 67 of the 1985 Act**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Miscellaneous and general*

**F225 Debt limits in sequestrations**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F226 Creditor to provide debt advice and information package**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**F227 Continuation of sequestration proceedings**

.....

**Textual Amendments**

**F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

*Status: Point in time view as at 30/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1. (See end of Document for details)*

## **F228 Abolition of summary administration**

.....

### **Textual Amendments**

- F2** Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

## **F229 Non-vested contingent interest reinvested in debtor**

.....

### **Textual Amendments**

- F2** Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

## **F230 Debtor's requirement to give account of state of affairs**

.....

### **Textual Amendments**

- F2** Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

## **F231 Restriction of debtor's right to appeal under sections 49(6) and 53(6) of the 1985 Act**

.....

### **Textual Amendments**

- F2** Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

## **F232 Status of order on petition to convert protected trust deed into sequestration**

.....

### **Textual Amendments**

- F2** Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2



*Status: Point in time view as at 30/11/2016.*

*Changes to legislation: There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1. (See end of Document for details)*

### **33 Power to provide for lay representation in sequestration proceedings**

In section 32(1) of the Sheriff Courts (Scotland) Act 1971 (c. 58) (power of Court of Session to regulate civil procedure in sheriff court), after paragraph (l) insert—

“(m) permitting a debtor appearing before a sheriff under section 12 of the Bankruptcy (Scotland) Act 1985 (c. 66) (award of sequestration) to be represented, in such circumstances as may be specified in the act of sederunt, by a person who is neither an advocate nor a solicitor.”

### **34 Treatment of student loans on sequestration**

(1) In section 73B(12) of the Education (Scotland) Act 1980 (c. 44) (power to make provision in relation to treatment of student loans upon discharge under the 1985 Act), after “receive,” insert “before, on or”.

(2) In paragraph 6 of Schedule 2 to the Education (Student Loans) Act 1990 (c. 6) (treatment of student loans on sequestration), which, notwithstanding its repeal by section 44 of and Schedule 4 to the Teaching and Higher Education Act 1998 (c. 30), is saved by virtue of article 3 of the Teaching and Higher Education Act 1998 (Commencement No. 2 and Transitional Provisions) Order 1998 (S.I. 1998 No. 2004)

- (a) after “Where,” insert “before, on or”; and
- (b) after “before” insert “, on”.

### **<sup>F3</sup>35 Certain regulations under the 1985 Act: procedure**

.....

#### **Textual Amendments**

**F3** Ss. 35, 36 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

### **<sup>F3</sup>36 Minor and consequential amendments of the 1985 Act**

.....

#### **Textual Amendments**

**F3** Ss. 35, 36 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

**Status:**

Point in time view as at 30/11/2016.

**Changes to legislation:**

There are currently no known outstanding effects for the Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1.