

*Changes to legislation: Bankruptcy (Scotland) Act 2016, PART 2 is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

## SCHEDULE 3 PREFERRED DEBTS

### PART 2

#### INTERPRETATION OF PART 1

##### *Meaning of “the relevant date”*

- 9 In Part 1, “the relevant date” means—
- (a) in relation to a debtor other than a deceased debtor, the date of sequestration, and
  - (b) in relation to a deceased debtor, the date of death.

#### **Commencement Information**

**II** Sch. 3 para. 9 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

##### *Amounts payable by way of remuneration*

- 10 (1) For the purposes of paragraph 2, a sum is payable by the debtor to a person by way of remuneration in respect of any period if—
- (a) it is paid as wages or salary (whether payable for time or for piece work or earned wholly or partly by way of commission) in respect of services rendered to the debtor in that period, or
  - (b) it is an amount falling within sub-paragraph (2) and is payable by the debtor in respect of that period.
- (2) An amount falls within this sub-paragraph if it is—
- (a) a guarantee payment under section 28(1) to (3) of the Employment Rights Act 1996 (entitlement to payment for workless day),
  - (b) a payment for time off under section 53(1) (looking for new employment or making arrangements for training for future employment) or 56(1) (antenatal care) of that Act,
  - (c) remuneration on suspension on medical grounds under section 64 of that Act,
  - (d) a payment for time off under section 169(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (trade union duties), or
  - (e) remuneration under a protective award made by an employment tribunal under section 189 of that Act (redundancy dismissal with compensation).
- (3) For the purposes of paragraph 2(2), holiday remuneration is deemed, in the case of a person (“P”) whose employment has been terminated by or in consequence of the award of sequestration of P’s employer’s estate, to have accrued to P in respect of a period of employment if, by virtue of P’s contract of employment or of any enactment, that remuneration would have accrued in respect of that period if P’s employment had continued until P became entitled to be allowed the holiday.
- (4) In sub-paragraph (3), “enactment” includes an order made or direction given under an enactment.
- (5) Without prejudice to the preceding provisions of this paragraph—

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- (a) any remuneration payable by the debtor to a person in respect of a period—
- (i) of holiday, or
  - (ii) of absence from work through sickness or other good cause,
- is deemed to be wages, or as the case may be salary, in respect of services rendered to the debtor in that period, and
- (b) references in this paragraph to remuneration in respect of a period of holiday include references to any sums which, if they had been paid, would have been treated for the purposes of the enactments relating to social services as earnings in respect of that period.

#### Commencement Information

**I2** Sch. 3 para. 10 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

#### *Meaning of “prescribed”*

- 11 In paragraphs 2 and 3, “prescribed” means prescribed by regulations made by the Secretary of State.

#### Commencement Information

**I3** Sch. 3 para. 11 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

#### *Meaning of “scheme manager”*

- 12 In paragraph 5, “the scheme manager” has the meaning given in section 212(1) of the Financial Services and Markets Act 2000.

#### Commencement Information

**I4** Sch. 3 para. 12 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

#### *Meaning of “eligible deposit”*

- 13 (1) In paragraphs 6 to 8, “eligible deposit” means a deposit in respect of which the person, or any of the persons, to whom it is owed would be eligible for compensation under the Financial Services Compensation Scheme.
- (2) For the purposes of those paragraphs and of this paragraph, a “deposit” means rights of the kind described in paragraph 22 of schedule 2 of the Financial Services and Markets Act 2000 (deposits).
- (3) In paragraphs 7 and 8, “eligible person” means—
- (a) an individual, or
  - [<sup>F1</sup>(b) any micro, small or medium-sized enterprise, as defined with regard to the annual turnover criterion referred to in Article 2(1) of the Annex to Commission Recommendation 2003/361/EC.]
- (4) In paragraph 8—

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- (a) “credit institution” has the meaning given in Article 4.1(1) of the capital requirements regulation,
- [<sup>F2</sup>(b) “UK branch” means a branch, as defined in Article 4(1)(17) of the capital requirements regulation, which is established in the United Kingdom, and
- (c) “non-UK branch” means a branch, as so defined, which is established outside the United Kingdom.]

[<sup>F3</sup>(5) In sub-paragraph (4)(a) and (b), “the capital requirements regulation” means [Regulation \(EU\) No. 575/2013](#) of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending [Regulation \(EU\) No. 648/2012](#).]

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#### Textual Amendments

- F1** Sch. 3 para. 13(3)(b) substituted (17.8.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2022 \(S.I. 2022/838\)](#), regs. 1(2), **8(3)(a)** (with regs. 24-26)
- F2** Sch. 3 para. 13(4)(b)(c) substituted (17.8.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2022 \(S.I. 2022/838\)](#), regs. 1(2), **8(3)(b)** (with regs. 24-26)
- F3** Sch. 3 para. 13(5) substituted (17.8.2022) by [The Financial Services Act 2021 \(Prudential Regulation of Credit Institutions and Investment Firms\) \(Consequential Amendments and Miscellaneous Provisions\) Regulations 2022 \(S.I. 2022/838\)](#), regs. 1(2), **8(3)(c)** (with regs. 24-26)

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#### Commencement Information

- I5** Sch. 3 para. 13 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

#### *Transitional provisions*

- 14 Regulations under paragraph 2 or 3 may contain such transitional provisions as may appear to the Secretary of State necessary or expedient.

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#### Commencement Information

- I6** Sch. 3 para. 14 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 78(2)(a) words in s. 78(2) renumbered as s. 78(2)(a) by [2019 asp 4 s. 7\(2\)\(a\)](#)
- s. 78(2)(b) and word inserted by [2019 asp 4 s. 7\(2\)\(b\)](#)