



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 11

#### DISCHARGE

##### *Discharge of debtor*

#### **145 Effect of discharge under section 137, 138 or 140**

- (1) On the discharge of the debtor under section 137, 138 or 140 the debtor is discharged of all debts and obligations contracted by the debtor, or for which the debtor was liable, at the date of sequestration.
- (2) Subsection (1) is subject to subsections (3) and (5).
- (3) The debtor is not discharged by virtue of subsection (1) from—
  - (a) any liability to pay a fine or other penalty due to the Crown,
  - (b) any liability to pay a fine imposed in a justice of the peace court (or a district court),
  - (c) any liability under a compensation order (within the meaning of section 249 of the Criminal Procedure (Scotland) Act 1995,
  - (d) any liability to forfeiture of a sum of money deposited in court under section 24(6) of the Criminal Procedure (Scotland) Act 1995,
  - (e) any liability incurred by reason of fraud or breach of trust,
  - (f) any obligation to pay—
    - (i) aliment, or any sum of an alimentary nature, under any enactment or rule of law, or
    - (ii) any periodical allowance payable on divorce by virtue of a court order or under an obligation, or
  - (g) the obligation imposed on the debtor by section 215.
- (4) The obligations mentioned in paragraph (f) of subsection (3) do not include—
  - (a) aliment, or a periodical allowance, which could be included in the amount of a creditor's claim under paragraph 2 of schedule 2, or

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**Changes to legislation:** Bankruptcy (Scotland) Act 2016, Section 145 is up to date with all changes known to be in force on or before 16 May 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](#)

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- (b) child support maintenance within the meaning of the Child Support Act 1991 which was unpaid in respect of any period before the date of sequestration of—
  - (i) any person by whom it was due to be paid, or
  - (ii) any employer by whom it was, or was due to be, deducted under section 31(5) of that Act.
- (5) The discharge of the debtor under section 137, 138 or 140 does not affect any right of a secured creditor for an obligation in respect of which the debtor has been discharged, to enforce the security in respect of that obligation.
- (6) In subsection (3)(a), the reference to a fine or other penalty due to the Crown includes a reference to a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002.
- (7) Nothing in this section affects regulations in relation to which section 73B of the Education (Scotland) Act 1980 (regulations relating to student loans) applies.

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**Commencement Information**

**II** S. 145 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\(2\)\(b\)](#)