



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 18

GENERAL

234 Modifications, repeals, savings, revocations and transitional provisions

- (1) Schedule 8 makes provision for the modification of enactments.
- (2) The enactments mentioned in schedule 9 are repealed, or as the case may be revoked, to the extent mentioned in the second column of that schedule.
- (3) Nothing in this Act affects—
 - (a) any of the enactments repealed, revoked or amended by this Act in the enactment's operation in relation to—
 - (i) a sequestration as regards which the petition was presented, or the debtor application was made before, or
 - (ii) a trust deed executed before, the coming into force of this Act, or
 - (b) any power to repeal, revoke or amend any such enactment, in so far as the power relates to such operation of the enactment.
- (4) The apparent insolvency of a debtor may be constituted for the purposes of this Act even though the circumstance founded on for such constitution occurred on a date before the coming into force of this Act; and for those purposes the apparent insolvency is taken to have been constituted on the date in question.
- (5) If a debtor whose estate is sequestrated after the coming into force of this Act is liable, by virtue of a transaction entered into before the date on which section 102 of the Bankruptcy (Scotland) Act 1913 was repealed, to pay royalties or a share of the profits to any person in respect of copyright, or interest in copyright, comprised in the sequestrated estate, then that section applies in relation to the trustee in the sequestration as it applied, before its repeal, in relation to any trustee in bankruptcy (within the meaning of that Act).
- (6) Where sequestration of a debtor's estate is awarded under this Act a person—

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 234 is up to date with all changes known to be in force on or before 10 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

- (a) does not commit an offence under any provision of this Act in respect of anything done before the date of commencement of that provision, but
 - (b) instead commits an offence under the Bankruptcy (Scotland) Act 1985 (or as the case may be under the Bankruptcy (Scotland) Act 1913) in respect of anything so done which would have been an offence under that Act if the award of sequestration had been made under that Act.
- (7) Unless the context otherwise requires, any reference in any enactment or document—
- (a) to notour bankruptcy, or to a person being notour bankrupt, is to be construed as a reference to apparent insolvency, or to a person being apparently insolvent, within the meaning of section 16 of this Act,
 - (b) to a person's estate being sequestrated under the Bankruptcy (Scotland) Act 1913 or the Bankruptcy (Scotland) Act 1985 is to be construed as, or as including, a reference to its being sequestrated under this Act, and
 - (c) to a trustee in sequestration or to a trustee in bankruptcy, is to be construed as a reference to a trustee in a sequestration within the meaning of this Act,
- (analogous references being construed accordingly).
- (8) Unless the context otherwise requires, any reference in any enactment or document—
- (a) to a “gratuitous alienation” is to be construed as including a reference to an alienation challengeable under section 98(2), or
 - (b) to a “fraudulent preference” or to an “unfair preference” is to be construed as including a reference to an unfair preference within the meaning of this Act.

Commencement Information

II S. 234 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\(2\)\(b\)](#)