

2014 No. 172 (C. 13)

INSOLVENCY

BANKRUPTCY

DEBT

**The Bankruptcy and Debt Advice (Scotland) Act 2014
(Commencement No. 1 and Saving) Order 2014**

Made - - - - - *16th June 2014*

Laid before the Scottish Parliament *18th June 2014*

Coming into force *30th June 2014*

The Scottish Ministers make the following Order in exercise of the power conferred by section 57(2) and (3) of the Bankruptcy and Debt Advice (Scotland) Act 2014^(a) and all other powers enabling them in that behalf.

Citation and commencement

1. This Order may be cited as the Bankruptcy and Debt Advice (Scotland) Act 2014 (Commencement No. 1 and Saving) Order 2014 and comes into force on 30th June 2014.

Day appointed

2.—(1) The day appointed for the coming into force of the provisions of the Bankruptcy and Debt Advice (Scotland) Act 2014 (“the 2014 Act”) specified in column 1 of the table in the Schedule to this Order (the subject matter of which is specified in column 2 of that table) is 30th June 2014.

(2) Where a purpose is specified in column 3 of that table, a provision mentioned in column 1 comes into force in accordance with paragraph (1) only for that purpose.

^(a) 2014 asp 11 (“the 2014 Act”). Section 8 of the Interpretation and Legislative Reform (Scotland) Act 2010 (asp 10) allows the power to be exercised so as to appoint different days for different purposes.

Saving: debt arrangement scheme

3. Section 53 of, and paragraph 38 of schedule 3 to, the 2014 Act as brought into force by this Order do not affect regulations made under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002(a), except to allow regulations to be made on or after 30th June 2014.

FERGUS EWING

Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
16th June 2014

(a) 2002 asp 17. The relevant regulations are the Debt Arrangement Scheme (Scotland) Regulations 2011 (S.S.I. 2011/141) and the Debt Arrangement Scheme (Interest, Fees, Penalties and Other Charges) (Scotland) Regulations 2011 (S.S.I. 2011/238), both amended by S.S.I. 2013/225. Part 1 was amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), sections 211 and 212, S.S.I. 211/141, and prospectively by the 2014 Act, sections 3(2) and 53.

SCHEDULE

Article 2

<i>Column 1 (provision of the Bankruptcy and Debt Advice (Scotland) Act 2014)</i>	<i>Column 2 (subject matter)</i>	<i>Column 3 (purpose)</i>
Section 1(2)	Sequestration of estate of living debtor - money advice	For the purpose of making regulations, orders or rules of court
Section 2	Financial education for debtor	For the purpose of making regulations, orders or rules of court
Section 3	Debtor's contribution: common financial tool	
Section 4	Debtor contribution order	For the purpose of making regulations, orders or rules of court
Section 5 and schedule 1	Debtor application (sequestration where debtor has few assets)	For the purpose of making regulations, orders or rules of court
Section 7	Discharge, conditions etc.	For the purpose of making regulations, orders or rules of court
Section 9(1)	Statement of undertakings	For the purpose of making regulations, orders or rules of court
Section 17	Discharge of debtor	For the purpose of making regulations, orders or rules of court
Section 19	Deferral of discharge where debtor cannot be traced	For the purpose of making regulations, orders or rules of court
Section 21	Assets discovered after trustee discharge: appointment of trustee	For the purpose of making regulations, orders or rules of court
Section 22	Register of insolvencies	For the purpose of making regulations, orders or rules of court
Section 23(1)	Sederunt book: format	For the purpose of making directions, regulations, orders or rules of court
Section 23(3)	Sederunt book: inspection	For the purpose of making

<i>Column 1 (provision of the Bankruptcy and Debt Advice (Scotland) Act 2014)</i>	<i>Column 2 (subject matter)</i>	<i>Column 3 (purpose)</i>
		regulations, orders or rules of court
Section 36	Regulations: applications to Accountant in Bankruptcy etc.	
Section 44	Representation of Accountant in Bankruptcy in Sheriff Court	
Section 46	Time limits for sequestration of limited partnership	For the purpose of making regulations, orders or rules of court
Section 48	Effect of sequestration: renewal of period of inhibition etc.	For the purpose of making regulations, orders or rules of court
Section 53(1)	Debt arrangement scheme: amendments	For the purpose of amendments insofar as brought into force by this Order.
Section 53(2) and (4)	Debt arrangement scheme: non-natural persons	For the purpose of making regulations, orders or rules of court.
Section 53(3)	Debt arrangement scheme: remuneration	
Section 56	Minor and consequential amendments and repeals	For the purpose of amendments insofar as brought into force by this Order.
In schedule 3—	(Minor and consequential amendments)	
(a) paragraph 1	Lay representation on discharge appeal	

<i>Column 1 (provision of the Bankruptcy and Debt Advice (Scotland) Act 2014)</i>	<i>Column 2 (subject matter)</i>	<i>Column 3 (purpose)</i>
(b) paragraph 2	Minor and consequential amendments of the Bankruptcy (Scotland) Act 1985 (a)	For the purpose of amendments insofar as brought into force by this Order.
(c) paragraph 34	Regulations	
(d) paragraph 35(h)	Interpretation: statement of undertakings	
(e) paragraph 38	Debt arrangement scheme: regulation procedure	
In schedule 4—	(Repeals)	
(a) in relation to the Bankruptcy (Scotland) Act 1985—		
(i) the repeal of section 5B(5)(d) (b)	Regulations	
(ii) the repeal in section 72(1)	Regulations	
(iii) the repeal of Schedule 5, paragraph 5(2)(aa) (c)	Regulations	
(b) the repeal in the Home Owner and Debtor Protection (Scotland) Act 2010 (d)	Regulations	

(a) 1985 c.66. The 1985 Act was significantly amended by the Bankruptcy (Scotland) Act 1993, sections 1 to 8 and Schedule 1, by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (“the 2007 Act”), Part 1 (except for sections 3, 4, 33 and 34), schedule 1, schedule 5, paragraph 13, and schedule 6, Part 1, article 8 of S.S.I. 2008/82, S.S.I. 2011/141 and S.S.I. 2013/225 and the Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11).

(b) Section 5B was inserted by the 2007 Act, section 15(2).

(c) Paragraph 5(2)(aa) was inserted by section 13(2) of the Home Owner and Debtor Protection (Scotland) Act 2010 (asp 6).

(d) 2010 asp 6.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Bankruptcy and Debt Advice (Scotland) Act 2014 (“the 2014 Act”).

It commences from 30th June 2014 the provisions of the 2014 Act set out in the Schedule to this Order to allow subordinate legislation to be made under the Bankruptcy (Scotland) Act 1985, and the Debt Arrangement and Attachment (Scotland) Act 2002 (section 53 and paragraph 38 of schedule 3). It also commences from that date section 44 of the 2014 Act on representation of the Accountant in Bankruptcy in the Sheriff Court.

Article 3 makes saving provision for the avoidance of doubt so it is clear there is no effect on the operation of the debt arrangement scheme under Part 1 of the Debt Arrangement and Attachment (Scotland) Act 2002 before new regulations are made to amend that scheme.

The 2014 Act received Royal Assent on 29th April 2014. Sections 54, 55, 57 and 58 came into force on the day after Royal Assent.

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