

## SCHEDULE 1

Article 7(1)

### Modification of enactments

## PART 1

### Primary legislation

#### **Superannuation Act 1972**

**1.** In section 5(2) of the Superannuation Act 1972(1) (benefits under civil service superannuation schemes not assignable)—

- (a) omit “or section 32(2) and (4) of the Bankruptcy (Scotland) Act 1985”; and
- (b) insert at the end “or the powers of any person under section 90 or 95 of the Bankruptcy (Scotland) Act 2016”.

#### **Control of Pollution Act 1974**

**2.—(1)** The Control of Pollution Act 1974(2) is amended as follows.

(2) In section 30Y(1)(b)(i) (abandoned mines: introductory)—

- (a) for “permanent” substitute “trustee”; and
- (b) for “1985” substitute “2016”.

(3) In section 30Z(5)(a) (mine operators to give SEPA six months’ notice of any proposed abandonment)—

- (a) for “permanent” substitute “trustee”; and
- (b) for “1985” substitute “2016”.

#### **Customs and Excise Management Act 1979**

**3.** In section 1(1) of the Customs and Excise Management Act 1979(3) (interpretation), in the definition of “representative”, for “or interim or permanent trustee” substitute “, trustee or interim trustee in a sequestration”.

#### **Insolvency Act 1986**

**4.—(1)** The Insolvency Act 1986(4) is amended as follows.

(2) In section 51(6)(5) (power to appoint receiver), in paragraph (a) of the definition of “bankruptcy restrictions order”, for “56A of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “155 of the Bankruptcy (Scotland) Act 2016”.

(3) In section 185 (effect of diligence: Scotland)—

- (a) in subsection (1), for the words from “1985” to the end of paragraph (b) substitute—  
“2016—

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(1) 1972 c.11; section 5(2) was amended by the Bankruptcy (Scotland) Act 1985 (c.66), Schedule 7, paragraph 9.  
(2) 1974 c.40; sections 30Y and 30Z were inserted by the Environment Act 1995 (c.25), section 59 and amended in relation to Scotland by the Regulatory Reform (Scotland) Act 2014 (asp 3), schedule 3, paragraph 16(3).  
(3) 1979 c.2; the definition of “representative” was inserted by the Finance Act 1997 (c.16), Schedule 6, paragraph 2(4).  
(4) 1986 c.45.  
(5) Section 51(6) was amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (“the 2007 Act”), section 3(4).

*Status: This is the original version (as it was originally made).*

- (a) subsections (3) to (10) of section 23A (effect of sequestration on land attachment)<sup>(6)</sup> and section 24 (effect of sequestration on diligence generally); and
- (b) subsections (6), (7), (10) and (11) of section 109 (management and realisation of estate),<sup>7</sup>; and
- (b) in subsection (2), for “1985” substitute “2016”.
- (4) In section 193 (unclaimed dividends: Scotland)—
  - (a) in subsection (2), for “73(1) of the Bankruptcy (Scotland) Act 1985” substitute “228(1) of the Bankruptcy (Scotland) Act 2016<sup>8</sup>”; and
  - (b) in subsection (3)<sup>(7)</sup>, for—
    - (i) “58 of the Bankruptcy (Scotland) Act 1985” substitute “150 of the Bankruptcy (Scotland) Act 2016<sup>9</sup>”; and
    - (ii) “57” substitute “148<sup>10</sup>”.
- (5) In section 242(3)(a) (gratuitous alienations: Scotland), for “1985” substitute “2016”.
- (6) In section 388 (meaning of “act as insolvency practitioner”)—
  - (a) in subsection (2)(a), for “permanent or interim trustee” substitute “trustee (or interim trustee)<sup>11</sup>”; and
  - (b) in subsection (3)<sup>(8)</sup>, for “1985” substitute “2016<sup>12</sup>”; and
  - (c) in subsection (4), for the definition of ““interim trustee” and “permanent trustee”” substitute—
    - ““sequestration” means sequestration under the Bankruptcy (Scotland) Act 2016<sup>13</sup>”; and
  - (d) in subsection (5)(b)<sup>(9)</sup>, for “1985” substitute “2016”.
- (7) In section 389(2) (acting without qualification an offence)<sup>(10)</sup>, for “1985” substitute “2016”.
- (8) In section 390(5)(a)<sup>(11)</sup> (persons not qualified to act as insolvency practitioners), after “1985” insert “or the Bankruptcy (Scotland) Act 2016<sup>14</sup>”.
- (9) In section 426(10)(b)<sup>(12)</sup> (co-operation between courts exercising jurisdiction in relation to insolvency), for “1985” substitute “2016”.
- (10) In section 435(5)(a) (meaning of “associate”), for “1985” substitute “2016”.
- (11) In paragraph 14 of Schedule 8 (provisions capable of inclusion in company insolvency rules), for “1985” substitute “2016”.

### **Company Directors Disqualification Act 1986**

- 5.** In section 11(2)(b)(i)<sup>(13)</sup> of the Company Directors Disqualification Act 1986<sup>(14)</sup> (undischarged bankrupts), after “1985” insert “or 2016”.

<sup>(6)</sup> Section 23A of the 2016 Act is prospectively inserted by section 127A of the 2007 Act, as inserted by paragraph 23(2) of schedule 8 to the 2016 Act. This will allow section 23A to be brought into force at the same time as Chapter 2 (land attachment) of Part 4 of the 2007 Act.

<sup>(7)</sup> Section 193(3) was amended by [S.I. 2009/1941](#), Schedule 1, paragraph 75(21).

<sup>(8)</sup> Section 388(3) was amended by [S.I. 1994/2421](#), article 15(2).

<sup>(9)</sup> Section 388(5) was substituted by the Bankruptcy (Scotland) Act 1993 [\(c.6\)](#) (“the 1993 Act”), section 11(1).

<sup>(10)</sup> Section 389(2) was amended by the 1993 Act, section 11(2).

<sup>(11)</sup> Section 390(5) was substituted by the Small Business, Enterprise and Employment Act 2015 [\(c.26\)](#) (“the 2015 Act”), section 115(b).

<sup>(12)</sup> Section 426(10)(b) was amended by the Insolvency Act 2000, Schedule 4, paragraph 16(3)(b).

<sup>(13)</sup> Section 11(2) was substituted by the 2015 Act, section 113(1).

<sup>(14)</sup> [1986 c.46](#).

## Companies Act 1989

- 6.—(1) The Companies Act 1989(15) is amended as follows.
- (2) In section 159(2) (proceedings of exchange or clearing house take precedence over insolvency procedures)(16), for “1985” substitute “2016”.
- (3) In section 161 (supplementary provisions as to default proceedings)—
- (a) in subsection (2), for “permanent trustee on the sequestrated” substitute “trustee in the sequestration of the”; and
  - (b) in subsection (4), for “1985” substitute “2016”.
- (4) In section 163(3) (net sum payable on completion of default proceedings)(17), for “73(1) of the Bankruptcy (Scotland) Act 1985” substitute “22(7) of the Bankruptcy (Scotland) Act 2016”.
- (5) In section 164 (disclaimer of property, rescission of contracts etc.)—
- (a) in subsection (2)—
    - (i) for “permanent trustee on the sequestrated” substitute “trustee in the sequestration of the”; and
    - (ii) for “42 of the Bankruptcy (Scotland) Act 1985” substitute “110 of the Bankruptcy (Scotland) Act 2016”; and
  - (b) in subsection (3), in the words before paragraph (a)(18)—
    - (i) for “32(8) of the Bankruptcy (Scotland) Act 1985” substitute “87(4) of the Bankruptcy (Scotland) Act 2016”; and
    - (ii) omit “permanent”.
- (6) In section 165(2)(a) (adjustment of prior transactions), for “34 or 36 of the Bankruptcy (Scotland) Act 1985” substitute “98 or 99 of the Bankruptcy (Scotland) Act 2016”.
- (7) In section 175(4) (administration orders etc.)—
- (i) for “32(8) of the Bankruptcy (Scotland) Act 1985” substitute “87(4) of the Bankruptcy (Scotland) Act 2016”; and
  - (ii) omit “permanent”.
- (8) In section 180(2) (proceedings against market property by unsecured creditors), for “1985” substitute “2016”.
- (9) In section 182(2) (powers of court in relation to certain proceedings begun before commencement), for “1985” substitute “2016”.
- (10) In section 189(1)(c) (meaning of “relevant office-holder”)—
- (a) for “1985” substitute “2016”; and
  - (b) for “permanent” substitute “trustee”.
- (11) In section 190 (minor definitions)—
- (a) in subsection (1)(19)—
    - (i) for the definition of ““interim trustee” and “permanent trustee”” substitute—  
““interim trustee” has the same meaning as in the Bankruptcy (Scotland) Act 2016”; and

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(15) 1989 c.40.

(16) Section 159(2) was amended by S.I. 2013/504, regulation 4(6)(c).

(17) Section 163(3) was amended by S.I. 2009/853, regulation 2(7)(b).

(18) Section 164(3) was amended by S.I. 2009/853, regulation 2(8).

(19) Section 190(1) was amended by S.I. 2001/3649, article 89, the Financial Services Act 2012 (c.21), Schedule 18, paragraph 70, S.I. 2013/504, regulation 4(18)(b)(i) and S.I. 2013/1908, regulation 2(12).

*Status: This is the original version (as it was originally made).*

(ii) after the definition of ““recognised central counterparty”, “recognised clearing house” and “recognised investment exchange”” insert—

““sequestration” means sequestration under the Bankruptcy (Scotland) Act 2016;”;

(b) in subsection (6)(a)(20), for “1985” substitute “2016”; and

(c) in subsection (7)(b), for “or permanent trustee” substitute “trustee or to a trustee in the sequestration of an estate”.

(12) In section 191 (index of defined expressions), in the table(21)—

(a) omit the entry relating to “permanent trustee”; and

(b) for the entry relating to “trustee, interim or permanent (in relation to Scotland)” substitute—

“interim trustee and trustee in the sequestration of an estate (in relation to Scotland)	section 190(1) and (7)(b)”
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**Environmental Protection Act 1990**

7. In section 78X(4)(e) of the Environmental Protection Act 1990(22) (supplementary provisions)—

(a) for “permanent” substitute “trustee”; and

(b) for “1985” substitute “2016”.

**Water Resources Act 1991**

8.—(1) The Water Resources Act 1991(23) is amended as follows.

(2) In section 91A(1)(b)(ii) (introductory)—

(a) for “permanent” substitute “trustee”; and

(b) for “1985” substitute “2016”.

(3) In section 91B(5)(b) (mine operators to give the appropriate agency six months’ notice before any proposed abandonment)—

(a) for “permanent” substitute “trustee”; and

(b) for “1985” substitute “2016”.

**Social Security Administration Act 1992**

9. In section 78(3B) of the Social Security Administration Act 1992(24) (recovery of social fund awards), for “1985” substitute “2016”.

(20) Section 190(6) was substituted by S.I. 2013/504, regulation 4(18)(e).

(21) The table was substituted by S.I. 2013/504, Schedule 1, paragraph 1.

(22) 1990 c.43; section 78X(4)(e) was inserted by the Environment Act 1995 (c.25) (“the 1995 Act”), section 57.

(23) 1991 c.57; sections 91A and 91B were inserted by the 1995 Act, section 58.

(24) 1992 c.5; section 78(3B) was inserted by the Jobseekers Act 1995 (c.18), section 32(2) and is prospectively repealed by the Welfare Reform Act 2012 (c.5), Schedule 14, Part 8.

## **Taxation of Chargeable Gains Act 1992**

**10.** In section 66(5) of the Taxation of Chargeable Gains Act 1992<sup>(25)</sup> (insolvents' assets), in the definition of "trustee in bankruptcy"—

- (a) for "permanent trustee within the meaning of" substitute "trustee in a sequestration under"; and
- (b) for "1985" substitute "2016".

## **Pension Schemes Act 1993**

**11.**—(1) The Pension Schemes Act 1993<sup>(26)</sup> is amended as follows.

(2) In section 47(7)<sup>(27)</sup> (entitlement to guaranteed minimum pensions for purposes of relationship with social security benefits), for "36A of the Bankruptcy (Scotland) Act 1985" substitute "101 of the Bankruptcy (Scotland) Act 2016".

(3) In section 127(2)(b) (transfer to Secretary of State of rights and remedies), for "1985" substitute "2016".

(4) In section 128 (priority in bankruptcy etc.), for "4 of Schedule 3 to the Bankruptcy (Scotland) Act 1985" substitute "1 of schedule 3 to the Bankruptcy (Scotland) Act 2016".

(5) In section 147(3) (death, insolvency or disability of authorised complainant), for "1985" substitute "2016".

(6) In paragraph 4(1)(b) of Schedule 4 (priority in bankruptcy etc.)—

- (a) for "Part I" substitute "Part 1"; and
- (b) for "1985" substitute "2016".

## **Value Added Tax Act 1994**

**12.**—(1) The Value Added Tax Act 1994<sup>(28)</sup> is amended as follows.

(2) In section 73 (failure to make returns etc.), in each of subsections (5) and (10), for "interim or permanent trustee" substitute "trustee in sequestration".

(3) In section 75(4) (assessments in cases of acquisitions of certain goods by non-taxable persons), for "interim or permanent trustee" substitute "trustee in sequestration".

(4) In section 76(10) (assessment of amounts due by way of penalty, interest or surcharge), for "interim or permanent trustee" substitute "trustee in sequestration".

(5) In section 78A(8)<sup>(29)</sup> (assessment for interest overpayments), for "interim or permanent trustee" substitute "trustee in sequestration".

(6) In section 81(5)(c) (interest given by way of credit and set-off of credits), for "1985" substitute "2016".

(7) In section 96(1) (interpretation)—

- (a) omit the definitions of "interim trustee" and "permanent trustee"; and
- (b) after the definition of "tribunal", insert—

"“trustee in sequestration” means a trustee (or interim trustee) in a sequestration under the Bankruptcy (Scotland) Act 2016”.

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<sup>(25)</sup> 1992 c.12.

<sup>(26)</sup> 1993 c.48.

<sup>(27)</sup> Section 47(7) was inserted by the Welfare Reform and Pensions Act 1999 (c.30), Schedule 2, paragraph 6.

<sup>(28)</sup> 1994 c.23.

<sup>(29)</sup> Section 78A was inserted by the Finance Act 1997 (c.16), section 45(1).

(8) In paragraph 2(5)(b) of Schedule 11 (administration, collection and enforcement), for “interim or permanent trustee” substitute “trustee in sequestration”.

### **Pensions Act 1995**

**13.**—(1) The Pensions Act 1995<sup>(30)</sup> is amended as follows.

(2) In section 22(3) (circumstances in which certain provisions of the Act apply)—

- (a) omit the definition of ““interim trustee” and “permanent trustee””; and
- (b) omit the word “and” immediately preceding that definition.

(3) In section 75(8)(b) (deficiencies in the assets), for “1985” substitute “2016”.

(4) In section 94(3)(d) (assignment, forfeiture, bankruptcy: supplementary) for “32(2) of the Bankruptcy (Scotland) Act 1985” substitute “90 or 95 of the Bankruptcy (Scotland) Act 2016”.

(5) In section 123(2) (“connected” and “associated” persons), for “74 of the Bankruptcy (Scotland) Act 1985 (associated persons)” substitute “229 of the Bankruptcy (Scotland) Act 2016 (meaning of “associate”)”.

### **Proceeds of Crime (Scotland) Act 1995**

**14.**—(1) The Proceeds of Crime (Scotland) Act 1995<sup>(31)</sup> is amended as follows.

(2) In Schedule 2 (sequestration etc. of persons holding realisable or forfeitable property)—

(a) in paragraph 1(1)(a), for “12(4) of the 1985” substitute “22(7) of the 2016”;

(b) in paragraph 1(2)—

(i) in paragraph (a), for “31(8) of the 1985” substitute “79 of the 2016”;

(ii) for paragraph (b) substitute—

“(b) any income of the debtor which has been ordered, under section 90 or 95 of that Act, to be paid to the trustee or any estate which, under subsection (4) of section 79, or subsection (5) of section 86, of that Act vests in the trustee,”; and

(iii) for “permanent trustee in accordance with section 48” substitute “trustee in the sequestration in accordance with section 122”;

(c) in paragraph 1(3), for “1985” substitute “2016”;

(d) in paragraph 1(4), for “2(5) of the 1985” substitute “54(1) of the 2016”;

(e) in paragraph 1(5)—

(i) in paragraph (a), for “34 or 36 of the 1985” substitute “98 or 99 of the 2016”; and

(ii) in paragraph (b), for “34 and 36” substitute “98 and 99”;

(f) in paragraph 5—

(i) in sub-paragraph (1), for “1985” substitute “2016”; and

(ii) in sub-paragraph (3), omit the words from “the reference” to “sequestration and”;

(g) in paragraph 6—

(i) in sub-paragraph (1), for “1985”, in both places where it occurs, substitute “2016”;  
and

<sup>(30)</sup> 1995 c.26.

<sup>(31)</sup> 1995 c.43.

- (ii) in sub-paragraph (3), for “interim or permanent trustee” substitute “trustee (or interim trustee)”.

### **Finance Act 1996**

**15.** In section 50(10) of the Finance Act 1996(**32**) (power to assess), for the words from “an” to “1985” substitute “a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person’s estate”.

### **Employment Rights Act 1996**

**16.**—(1) The Employment Rights Act 1996(**33**) is amended as follows.

(2) In section 184(4) (debts to which Part 12 of the Act applies)—

(a) for the words from “permanent”, where it first occurs, to “1985” substitute “trustee or interim trustee in the sequestration of an estate under the Bankruptcy (Scotland) Act 2016”;

and

(b) in paragraph (b), for “permanent” substitute “trustee”.

(3) In section 187(4)(a) (role of relevant officer)—

(a) for “permanent” substitute “trustee”; and

(b) for “1985” substitute “2016”.

(4) In section 189(2)(b) (transfer to Secretary of State of rights and remedies), for “1985” substitute “2016”.

### **Housing Grants, Construction and Regeneration Act 1996**

**17.** In section 113 of the Housing Grants, Construction and Regeneration Act 1996(**34**) (prohibition of conditional payment provisions)—

(a) in subsection (3)(b), for “12 of the Bankruptcy (Scotland) Act 1985” substitute “22 of the Bankruptcy (Scotland) Act 2016”; and

(b) in subsection (4)(b), for “1985” substitute “2016”.

### **Finance Act 1997**

**18.** In paragraph 20(3) of Schedule 5 to the Finance Act 1997(**35**) (interpretation of Part 5 of that Schedule), for “interim or permanent trustee” substitute “trustee or interim trustee in a sequestration”.

### **Welfare Reform and Pensions Act 1999**

**19.**—(1) Section 13 of the Welfare Reform and Pensions Act 1999(**36**) (application of sections 11 and 12 of the Act to Scotland) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (b), for “1985” substitute “2016”;

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(32) 1996 c.8.

(33) 1996 c.18.

(34) 1996 c.53.

(35) 1997 c.16.

(36) 1999 c.30.

*Status: This is the original version (as it was originally made).*

- (b) in paragraph (d), for “permanent trustee” substitute “trustee or interim trustee in a sequestration under the Bankruptcy (Scotland) Act 2016”; and
- (c) in paragraph (e), for “12(4) of the Bankruptcy (Scotland) Act 1985” substitute “22(7) of the Bankruptcy (Scotland) Act 2016”.

(3) In subsection (3), for “12(4) of the Bankruptcy (Scotland) Act 1985” substitute “22(7) of the Bankruptcy (Scotland) Act 2016”.

## **Financial Services and Markets Act 2000**

**20.**—(1) The Financial Services and Markets Act 2000<sup>(37)</sup> is amended as follows.

(2) In section 215 (rights of the scheme in insolvency)—

(a) in subsection (7)—

- (i) in paragraph (b), for “5 of the 1985” substitute “2 or 5 of the 2016”; and
- (ii) in paragraph (c), for “1985” substitute “2016”; and

(b) in subsection (9)—

- (i) omit ““The 1985 Act”,”; and
- (ii) after “Order” insert “, “the 2016 Act””.

(3) In section 220(3)(b) (scheme manager’s power to inspect information held by liquidator etc.), for the words from “permanent” to “on” substitute “trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of”.

(4) In section 355(1) (interpretation of Part 24 of the Act)—

- (a) omit the definition of “the 1985 Act”; and
- (b) after the definition of “the 1989 Order” insert—

““the 2016 Act” means the Bankruptcy (Scotland) Act 2016;”.

(5) In section 358 (powers of FCA and PRA to participate in proceedings: trust deeds for creditors in Scotland)—

- (a) in subsection (2)(b)<sup>(38)</sup>, for “paragraph 5(1)(c) of Schedule 5 to the 1985” substitute “section 170 of the 2016”;
- (b) omit subsection (3);
- (c) in subsection (6A)(a)(i)<sup>(39)</sup> omit “, (3)”; and
- (d) in subsection (7), for “1985” substitute “2016”.

(6) In section 372 (petitions), in each of subsections (1)(b) and (1A)(b)<sup>(40)</sup>, for “5 of the 1985” substitute “2 or 5 of the 2016”.

(7) In section 373(3) (insolvency practitioner’s duty to report to FCA and PRA), for “12 of the 1985” substitute “22 of the 2016”.

(8) In section 374 (powers of FCA or PRA to participate in proceedings)—

(a) in subsection (1)<sup>(41)</sup>—

- (i) in paragraph (b), for “5 of the 1985” substitute “2 or 5 of the 2016”; and
- (ii) in paragraph (c), for “1985” substitute “2016”;

<sup>(37)</sup> 2000 c.8.

<sup>(38)</sup> Section 358(2) was amended by the Financial Services Act 2012 (c.21) (“the 2012 Act”), Schedule 14, paragraph 5(2) and (3).

<sup>(39)</sup> Section 358(6A) was inserted by the 2012 Act, Schedule 14, paragraph 5(6).

<sup>(40)</sup> Section 372(1) was amended by, and section 372(1A) inserted by, the 2012 Act, Schedule 14, paragraph 20(2) and (3).

<sup>(41)</sup> Section 374(1) was amended by the 2012 Act, Schedule 14, paragraph 22(2).



- (b) in subsection (2)(b)(iii)(42), for “1985” substitute “2016”; and
- (c) in subsection (4)(c), for “17 or 18 of Schedule 6 to the 1985” substitute “26 or 27 of schedule 6 to the 2016”.

### **Terrorism Act 2000**

**21.**—(1) Schedule 4 to the Terrorism Act 2000(43) (forfeiture orders) is amended as follows.

(2) In paragraph 48(4), for “51(1) of the Bankruptcy (Scotland) Act 1985” substitute “129(1) of the Bankruptcy (Scotland) Act 2016”.

(3) In paragraph 51(4), for “1985” substitute “2016”.

(4) In paragraph 53(1)(c), for “permanent or interim trustee on the” substitute “trustee or interim trustee in the sequestration of a”.

### **Limited Liability Partnerships Act 2000**

**22.** In section 7(2)(b) of the Limited Liability Partnerships Act 2000(44) (ex-members), for the words from “or permanent” to “1985) or” substitute “, the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of the former member’s estate or the former member’s”.

### **Finance Act 2000**

**23.** In Schedule 6 to the Finance Act 2000(45) (climate change levy)—

(a) in paragraph 75(2)(i), for “1985” substitute “2016”;

(b) in paragraph 76(3), for paragraph (a) (but not the final “and”) substitute—

“(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person’s estate;”;

(c) in paragraph 91(4), for paragraph (a) (but not the final “and”) substitute—

“(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person’s estate;”;

(d) in paragraph 103(5), for paragraph (a) (but not the final “and”) substitute—

“(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person’s estate;”;

(e) in paragraph 120(7)(k), for “1985” substitute “2016”.

### **Finance Act 2001**

**24.**—(1) The Finance Act 2001(46) is amended as follows.

(2) In section 37(7)(k) (insolvency etc.), for “1985 (c.66)” substitute “2016”.

(3) In paragraph 19(4) of Schedule 5 (aggregates levy: recovery and interest), for paragraph (a) (but not the final “and”) substitute—

“(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person’s estate;”.

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(42) Section 374(2) was amended by the 2012 Act, Schedule 14, paragraph 22(3).

(43) 2000 c.11.

(44) 2000 c.12.

(45) 2000 c.17.

(46) 2001 c.9.

- (4) In Schedule 8 (aggregates levy: repayments and credits)—
- (a) in paragraph 11(2)(i), for “1985 (c.66)” substitute “2016”; and
  - (b) in paragraph 12(3), for paragraph (a) (but not the final “and”) substitute—
    - “(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person’s estate;”.
- (5) In paragraph 1(5) of Schedule 10 (aggregates levy: assessment of civil penalties and interest on them), for paragraph (a) (but not the final “and”) substitute—
- “(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person’s estate;”.

### **Proceeds of Crime Act 2002**

**25.**—(1) The Proceeds of Crime Act 2002<sup>(47)</sup> is amended as follows.

- (2) In section 84(2)(d) (property: general provisions), for the words from “, permanent” to the end substitute “or liquidator or in the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of his estate;”.
- (3) In section 95(3) (available amount), in the definition of “preferred debt”, for “51(2) of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “129(2) of the Bankruptcy (Scotland) Act 2016”.
- (4) In section 150(2)(d) (property: general provisions)—
- (a) omit the words from “permanent” to “(c.66),”; and
  - (b) at the end insert “or in the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of his estate”.
- (5) In section 232(2)(d) (property: general provisions), for the words from “, permanent” to the end substitute “or liquidator or in the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of his estate;”.
- (6) In section 311 (insolvency)—
- (a) in subsection (3)—
    - (i) in paragraph (c), for the words from “section 2” to “Order” substitute “section 286 of the 1986 Act, Article 259 of the 1989 Order or section 54 of the 2016 Act”; and
    - (ii) in paragraph (f), for “1985” substitute “2016”,
  - (b) in subsection (7)—
    - (i) omit paragraph (a);
    - (ii) after paragraph (c) insert—
      - “(d) the 2016 Act means the Bankruptcy (Scotland) Act 2016”; and
    - (iii) for “(a) to (c)” substitute “(b) to (d)” ; and
  - (c) in subsection (8)(a), for the words from “1985” to “1985” substitute “2016 Act is the applicable enactment, any property comprised in an estate to which that”.
- (7) In section 420 (modifications of the Bankruptcy (Scotland) Act 1985)—
- (a) in subsection (2), for “1985”(48) substitute “2016”; and
  - (b) in subsection (4), for—
    - (i) “permanent trustee” substitute “trustee in the sequestration”; and
    - (ii) “48 of the 1985” substitute “122 of the 2016”; and

<sup>(47)</sup> 2002 c.29.

<sup>(48)</sup> Section 420(2) was substituted by the Policing and Crime Act 2009 (c.26), Schedule 7, paragraph 82.

- (c) in subsection (5), for “2(5) of the 1985” substitute “54(1) of the 2016”.
- (8) The title of section 420 becomes “Modifications of the 2016 Act”.
- (9) In section 421 (restriction of powers)—
  - (a) in subsection (3)(a), for “31(8) of the 1985” substitute “79 of the 2016”;
  - (b) in subsection (3)(b) for—
    - (i) “32(2)” substitute “90 or 95”; and
    - (ii) “permanent trustee” substitute “trustee in the sequestration”;
  - (c) in subsection (3)(c), for—
    - (i) “31(10) or 32(6)” substitute “79(4) or 86(4) and (5)”; and
    - (ii) “permanent trustee” substitute “trustee in the sequestration”;
  - (d) in subsection (4), for “1985” substitute “2016”; and
  - (e) omit subsections (5) and (6).
- (10) In section 422 (tainted gifts), in each of subsections (2) and (3), for “34 or 36 of the 1985” substitute “98 or 99 of the 2016”.
- (11) In section 432(4) (insolvency practitioners)—
  - (a) omit “the 1985 Act,”; and
  - (b) after “1989 Order” insert “, the 2016 Act”.
- (12) In section 434 (interpretation)—
  - (a) in subsection (1)—
    - (i) omit paragraphs (a) and (c); and
    - (ii) after paragraph (e) insert—
      - “(f) the 2016 Act is the Bankruptcy (Scotland) Act 2016,”; and
  - (b) in subsection (2), for “12(4) of the 1985” substitute “22(7) of the 2016”.
- (13) In paragraph 3 of Schedule 3 (administrators: further provision), in sub-paragraph (10), for “74 of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “229 of the Bankruptcy (Scotland) Act 2016”.

## **Pensions Act 2004**

**26.**—(1) The Pensions Act 2004(49) is amended as follows.

- (2) In section 38(10)(c) (contribution notices where avoidance of employer debt), for “74 of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “229 of the Bankruptcy (Scotland) Act 2016”.
- (3) In section 51(3)(c) (interpretation), for “74 of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “229 of the Bankruptcy (Scotland) Act 2016”.
- (4) In section 53(6)(c) (restoration orders: supplementary), for “74 of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “229 of the Bankruptcy (Scotland) Act 2016”.
- (5) In section 57(2)(c) (partnerships and limited liability partnerships), for “74 of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “229 of the Bankruptcy (Scotland) Act 2016”.
- (6) In section 121 (insolvency event, insolvency date and insolvency practitioner)—
  - (a) in subsection (4)(b), for “12 of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “22 of the Bankruptcy (Scotland) Act 2016”; and

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(49) 2004 c.35.

- (b) omit subsection (11)(a).

### **Income Tax (Trading and Other Income) Act 2005**

**27.** In section 259(a) of the Income Tax (Trading and Other Income) Act 2005<sup>(50)</sup> (meaning of “statutory insolvency arrangement”), for the words from “Schedule” to the end substitute “the Insolvency (Northern Ireland) Order 1989 or schedule 4 to the Bankruptcy (Scotland) Act 2016”.

### **Gambling Act 2005**

**28.**—(1) The Gambling Act 2005<sup>(51)</sup> is amended as follows.

(2) In section 114(1)(d) (operating licences: lapse), for “12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “22(1) of the Bankruptcy (Scotland) Act 2016”.

(3) In section 194(1)(d) (premises licences: lapse), for “12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “22(1) of the Bankruptcy (Scotland) Act 2016”.

(4) In paragraph 15 of Schedule 10 (family entertainment centre gaming machine permits), in sub-paragraph (1)(d), for “12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “22(1) of the Bankruptcy (Scotland) Act 2016”.

(5) In paragraph 15 of Schedule 14 (prize gaming permits), in sub-paragraph (1)(d), for “12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “22(1) of the Bankruptcy (Scotland) Act 2016”.

### **Companies Act 2006**

**29.**—(1) The Companies Act 2006<sup>(52)</sup> is amended as follows.

(2) In section 102(5) (re-registration of private limited company as unlimited)—

(a) for paragraph (a) substitute—

“(a) a trustee or interim trustee in the sequestration under the Bankruptcy (Scotland) Act 2016 of the estate of a member of the company;”;

(b) in paragraph (b), for “1985” substitute “2016”.

(3) In section 109(5) (re-registration of public company as private and unlimited)—

(a) for paragraph (a) substitute—

“(a) a trustee or interim trustee in the sequestration under the Bankruptcy (Scotland) Act 2016 of the estate of a member of the company;”;

(b) in paragraph (b), for “1985” substitute “2016”.

(4) In section 148(4)(a)(ii) (termination or suspension of nomination), for “1985 (c.66)” substitute “2016”.

(5) In section 310(3)(b) (persons entitled to receive notice of meetings), for “1985 (c.66)” substitute “2016”.

(6) In section 982(8) (further provision about consideration held on trust under section 981(9) of the Companies Act 2006)—

(a) for “58 of the Bankruptcy (Scotland) Act 1985 (c.66)” substitute “150 of the Bankruptcy (Scotland) Act 2016”; and

(b) for “57(1)(a)” substitute “148(3)”.

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(50) 2005 c.5.  
 (51) 2005 c.19.  
 (52) 2006 c.46.

(7) In Part 6 of Schedule 5 (communications by a company: supplementary provisions), in paragraph 17(5)—

- (a) in paragraph (b), for “1985 (c.66)” substitute “2016”; and
- (b) for “permanent or interim trustee (within the meaning of that Act)” substitute “trustee or interim trustee (under that Act)”.

#### **Armed Forces Act 2006**

**30.** In section 356(4)(b)(ii) of the Armed Forces Act 2006(**53**) (avoidance of assignment of, or charge on, pay and pensions etc.)—

- (a) for “permanent trustee in a sequestration” substitute “trustee in the sequestration of a person’s estate”; and
- (b) for “1985 (c.66)” substitute “2016”.

#### **Serious Crime Act 2007**

**31.** In section 27(8) of the Serious Crime Act 2007(**54**) (powers to wind up companies etc: England and Wales), for “1985 (c.66)” substitute “2016”.

#### **Banking Act 2009**

**32.** In section 103 of the Banking Act 2009(**55**) (general powers, duties and effect), in the entry in the table of applied provisions which relates to section 185 of the Insolvency Act 1986, for “section 37(1) of the Bankruptcy (Scotland) Act 1985” substitute “section 24(1) and (2) of the Bankruptcy (Scotland) Act 2016”.

#### **Corporation Tax Act 2009**

**33.** In section 1319 of the Corporation Tax Act 2009(**56**) (other definitions), in paragraph (a) of the definition of “statutory insolvency arrangement”(**57**), for the words from “Schedule” to the end substitute “the Insolvency (Northern Ireland) Order 1989 or schedule 4 to the Bankruptcy (Scotland) Act 2016”.

#### **Coroners and Justice Act 2009**

**34.**—(1) The Coroners and Justice Act 2009(**58**) is amended as follows.

(2) In section 164(6) (the available amount), for the definition of “preferred debts” substitute—  
““preferred debts” has the meaning given by section 129(2) of the Bankruptcy (Scotland) Act 2016;”.

(3) In section 165(3)(c) (property), for the words from “permanent” to “c.66))” substitute “trustee or interim trustee in a sequestration of the person’s estate under the Bankruptcy (Scotland) Act 2016”.

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(53) 2006 c.52.

(54) 2007 c.27.

(55) 2009 c.1.

(56) 2009 c.4.

(57) The definition of “statutory insolvency arrangement” was inserted by the Corporation Tax Act 2010 (c.4), paragraph 701(3) of Schedule 1.

(58) 2009 c.25.

**Third Parties (Rights against Insurers) Act 2010**

**35.**—(1) The Third Parties (Rights against Insurers) Act 2010(**59**) is amended as follows.

- (2) In section 4 (individuals)—
- (a) in subsection (2)—
    - (i) for “any” substitute “either”;
    - (ii) for the words from “that”, where it first occurs, to “estate” substitute “the individual’s estate”;
    - (iii) in paragraph (a), for “under section 5 of the Bankruptcy (Scotland) Act 1985” substitute “by virtue of section 2 or 5 of the Bankruptcy (Scotland) Act 2016”;
    - (iv) at the end of paragraph (a) insert “or”; and
    - (v) omit paragraph (c) and the “or” which immediately precedes paragraph (c).
  - (b) in subsection (5), for “under section 5 of the Bankruptcy (Scotland) Act 1985” substitute “by virtue of section 2 or 5 of the Bankruptcy (Scotland) Act 2016”; and
  - (c) omit subsection (6).
- (3) In section 5(2) (individuals who die insolvent)—
- (a) in paragraph (b), for “under section 5 of the Bankruptcy (Scotland) Act 1985” substitute “by virtue of section 2 or 5 of the Bankruptcy (Scotland) Act 2016”; and
  - (b) in paragraph (c), for “1985” substitute “2016”.
- (4) In section 6 (corporate bodies etc.)—
- (a) in subsection (3)—
    - (i) in paragraph (a), for “under section 6 of the Bankruptcy (Scotland) Act 1985” substitute “by virtue of section 6 of the Bankruptcy (Scotland) Act 2016”;
    - (ii) in paragraph (b), for “under” substitute “by virtue of”;
    - (iii) at the end of paragraph (b) insert “or”;
    - (iv) in paragraph (c), for “1985” substitute “2016”; and
    - (v) omit paragraph (d) and the “or” which immediately precedes paragraph (d).
  - (b) in subsection (7), for “under section 6 of the Bankruptcy (Scotland) Act 1985” substitute “by virtue of section 6 of the Bankruptcy (Scotland) Act 2016”;
  - (c) omit subsection (8); and
  - (d) in subsection (9)(c), for “under section 6 of the Bankruptcy (Scotland) Act 1985” substitute “by virtue of section 6 of the Bankruptcy (Scotland) Act 2016”.
- (5) In section 7 (Scottish trusts)—
- (a) in subsection (1)—
    - (i) in paragraph (a), for “under section 6 of the Bankruptcy (Scotland) Act 1985” substitute “by virtue of section 6 of the Bankruptcy (Scotland) Act 2016”;
    - (ii) at the end of paragraph (a) insert “or”; and
    - (iii) omit paragraph (c) and the “or” which immediately precedes paragraph (c);
  - (b) in subsection (2), for “under section 6 of the Bankruptcy (Scotland) Act 1985” substitute “by virtue of section 6 of the Bankruptcy (Scotland) Act 2016”;
  - (c) omit subsection (3); and

- (d) in subsection (4), for “under section 6 of the Bankruptcy (Scotland) Act 1985” substitute “by virtue of section 6 of the Bankruptcy (Scotland) Act 2016”.
- (6) In section 14 (effect of transfer on insured’s liability) omit subsections (4) and (5).
- (7) In section 19A(1) (interpretation) omit “and 14(4)”.

## PART 2

### Secondary Legislation

#### **Insolvency (Scotland) Rules 1986**

- 36.**—(1) The Insolvency (Scotland) Rules 1986(**60**) are amended as follows.
- (2) In rule 0.2(1) (interpretation), omit the definition of “the Bankruptcy Act”.
- (3) For rule 4.76 (limitation) substitute—

##### **“Limitation**

**4.76.**—(1) The provisions in paragraph (2) apply in relation to the liquidation as they apply in relation to a sequestration subject to the substitution of “petition for winding up” for references to “petition for sequestration” and to any other necessary modifications.

- (2) The provisions are—
  - (a) sections 13(5) and 46(8), as read with section 228(8) to (10), of the Bankruptcy (Scotland) Act 2016;
  - (b) article 6(1)(a) and (b), (2) and (3) of the Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016.”.

#### **Insolvency (Northern Ireland) Order 1989**

- 37.**—(1) The Insolvency (Northern Ireland) Order 1989(**61**) is amended as follows.
- (2) In Article 4(5)(a) (definition of “associate”), for “1985” substitute “2016”.
- (3) In Article 349(5)(a) (persons not qualified to act as insolvency practitioners), after “1985” insert “or 2016”.

#### **Company Directors Disqualification (Northern Ireland) Order 2002**

- 38.** In Article 15(1A)(b)(ii) of the Company Directors Disqualification (Northern Ireland) Order 2002(**62**) (undischarged bankrupts), after “1985” insert “or 2016”.

#### **Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005**

- 39.**—(1) The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005(**63**) is amended as follows.
- (2) In article 3(4) (insolvency practitioners)—

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**(60)** S.I. 1986/1915, amended by S.I. 1987/1921, S.I. 1999/1820, S.I. 2002/2709, S.I. 2003/2108, S.I. 2003/2109, S.I. 2003/2111, S.I. 2006/734, S.I. 2007/2537, S.I. 2008/662, S.I. 2009/662, S.I. 2010/688 and S.I. 2012/2404, S.S.I. 2008/393 and S.S.I. 2014/114.

**(61)** S.I. 1989/2405; Article 349(5)(a) was substituted by the Small Business, Enterprise and Employment Act 2015 (c.26) (“the 2015 Act”), section 116(3).

**(62)** S.I. 2002/3150; Article 15(1A) was inserted by the 2015 Act, section 114.

**(63)** S.I. 2005/3181, amended by S.I. 2013/2604.



*Status: This is the original version (as it was originally made).*

- (a) omit “the 1985 Act,”; and
  - (b) after “1986 Act,” insert “the 2016 Act,”.
- (3) In article 4 (insolvency practitioners: interpretation)—
- (a) omit paragraph (6)(c);
  - (b) insert after paragraph (6)(d)—
    - “(da) the 2016 Act is the Bankruptcy (Scotland) Act 2016,”; and
  - (c) in paragraph (7), for “12(4) of the 1985” substitute “22(7) of the 2016”.
- (4) In article 141P (giving effect in England and Wales and Northern Ireland to External Requests by means of Civil Proceedings: insolvency)(**64**)—
- (a) in paragraph (2)(c)—
    - (i) omit “section 2 of the 1985 Act,”; and
    - (ii) after “1986 Act,” insert “, section 54 of the 2016 Act”; and
  - (b) in paragraph (2)(f), for “1985” substitute “2016”.
- (5) In article 141Q (giving effect in England and Wales and Northern Ireland to External Requests by means of Civil Proceedings: insolvency interpretation)(**65**)—
- (a) omit paragraph (2); and
  - (b) insert after paragraph (3)—
    - “(3A) The 2016 Act means the Bankruptcy (Scotland) Act 2016.”.
- (6) In article 141ZL (giving effect in Scotland to External Requests by means of Civil Proceedings: insolvency)(**66**)—
- (a) in paragraph (2)(c)—
    - (i) omit “section 2 of the 1985 Act,”; and
    - (ii) after “1986 Act,” insert “, section 54 of the 2016 Act”; and
  - (b) in paragraph (2)(f), for “1985” substitute “2016”.
- (7) In article 141ZM (giving effect in Scotland to External Requests by means of Civil Proceedings: insolvency interpretation)(**67**)—
- (a) omit paragraph (2); and
  - (b) insert after paragraph (3)—
    - “(3A) The 2016 Act means the Bankruptcy (Scotland) Act 2016.”.
- (8) In article 208 (insolvency)—
- (a) in paragraph (2)(c)—
    - (i) omit “section 2 of the 1985 Act,”; and
    - (ii) after “1986 Act” insert “, section 54 of the 2016 Act”;
  - (b) in paragraph (2)(f), for “1985” substitute “2016”;
  - (c) in paragraph (6)—
    - (i) omit sub-paragraph (a); and
    - (ii) insert after paragraph (b)—
      - “(ba) the 2016 Act means the Bankruptcy (Scotland) Act 2016,”; and

(64) Article 141P was inserted by article 3 of [S.I. 2013/2604](#).

(65) Article 141Q was inserted by article 3 of [S.I. 2013/2604](#).

(66) Article 141ZL was inserted by article 3 of [S.I. 2013/2604](#).

(67) Article 141ZM was inserted by article 3 of [S.I. 2013/2604](#).



(d) in paragraph (7)(a) for “1985” it each place where it occurs substitute “2016”.