



Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

PART 1

BANKRUPTCY

Duration of bankruptcy

^{F1} Discharge of debtor

.....

Annotations:

Amendments (Textual)

- F1** Ss. 1, 2 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Bankruptcy restrictions orders and undertakings

^{F2} Bankruptcy restrictions orders and undertakings

.....

Annotations:

Amendments (Textual)

- F1** Ss. 1, 2 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1 is up to date with all changes known to be in force on or before 06 January 2019. 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)

Effect of bankruptcy restrictions orders and undertakings

3 Disqualification from being appointed as receiver

(1) Section 51 of the Insolvency Act 1986 (c. 45) (appointment of receiver) is amended as follows.

(2) In subsection (3), after paragraph (b), insert—

“(ba) a person subject to a bankruptcy restrictions order;”.

(3) In subsection (5), after “bankrupt” insert “or a person subject to a bankruptcy restrictions order”.

(4) In subsection (6), after “receivers” insert “; and

“bankruptcy restrictions order” means—

- (a) a bankruptcy restrictions order made under section 56A of the Bankruptcy (Scotland) Act 1985 (c. 66);
- (b) a bankruptcy restrictions undertaking entered into under section 56G of that Act;
- (c) a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to this Act; or
- (d) a bankruptcy restrictions undertaking entered into under paragraph 7 of that Schedule.”.

4 Disqualification for nomination, election and holding office as member of local authority

In section 31 of the Local Government (Scotland) Act 1973 (c. 65) (disqualifications for nomination, election and holding office as member of local authority)—

(a) after subsection (1)(b), insert—

“(ba) he is subject to a bankruptcy restrictions order;”;

(b) after subsection (3A), insert—

“(3B) In subsection (1)(ba) above, “bankruptcy restrictions order” means—

- (a) a bankruptcy restrictions order made under section 56A of the Bankruptcy (Scotland) Act 1985;
- (b) a bankruptcy restrictions undertaking entered into under section 56G of that Act;
- (c) a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to the Insolvency Act 1986 (c. 45); or
- (d) a bankruptcy restrictions undertaking entered into under paragraph 7 of that Schedule.”.

F25 Orders relating to disqualification

.....

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1 is up to date with all changes known to be in force on or before 06 January 2019. 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)

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

The trustee in the sequestration

F26 Amalgamation of offices of interim trustee and permanent trustee

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F27 Repeal of trustee's residence requirement

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F28 Duties of trustee

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F29 Grounds for resignation or removal of trustee

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1 is up to date with all changes known to be in force on or before 06 January 2019. 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)

F²10 Termination of interim trustee's functions

.....

Annotations:

.....

Amendments (Textual)

- F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F²11 Statutory meeting and election of trustee

.....

Annotations:

.....

Amendments (Textual)

- F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F²12 Replacement of trustee acting in more than one sequestration

.....

Annotations:

.....

Amendments (Textual)

- F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F²13 Requirement to hold money in interest bearing account

.....

Annotations:

.....

Amendments (Textual)

- F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Debtor applications

F²14 Debtor applications

.....

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1 is up to date with all changes known to be in force on or before 06 January 2019. 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)

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F²15 Debtor applications by low income, low asset debtors

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Jurisdiction

F²16 Sequestration proceedings to be competent only before sheriff

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Vesting of estate and dealings of debtor

F²17 Vesting of estate and dealings of debtor

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by Bankruptcy (Scotland) Act 2016 (asp 21), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Income received by debtor after sequestration

F²18 Income received by debtor after sequestration

.....

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1 is up to date with all changes known to be in force on or before 06 January 2019. 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)

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Debtor's home and other heritable property

F219 Debtor's home and other heritable property

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Protected trust deeds

F220 Modification of provisions relating to protected trust deeds

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

...

F221 Modification of composition procedure

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1 is up to date with all changes known to be in force on or before 06 January 2019. 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)

Status and powers of Accountant in Bankruptcy

F22 Status of Accountant in Bankruptcy as officer of the court

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F23 Accountant in Bankruptcy's power to investigate trustees under protected trust deeds

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Offences

F24 Modification of offences under section 67 of the 1985 Act

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Miscellaneous and general

F25 Debt limits in sequestrations

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1 is up to date with all changes known to be in force on or before 06 January 2019. 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)

F226 Creditor to provide debt advice and information package

.....

Annotations:

.....

Amendments (Textual)

- F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F227 Continuation of sequestration proceedings

.....

Annotations:

.....

Amendments (Textual)

- F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F228 Abolition of summary administration

.....

Annotations:

.....

Amendments (Textual)

- F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F229 Non-vested contingent interest reinvested in debtor

.....

Annotations:

.....

Amendments (Textual)

- F2** Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F230 Debtor's requirement to give account of state of affairs

.....

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1 is up to date with all changes known to be in force on or before 06 January 2019. 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)

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F231 Restriction of debtor's right to appeal under sections 49(6) and 53(6) of the 1985 Act

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F232 Status of order on petition to convert protected trust deed into sequestration

.....

Annotations:

Amendments (Textual)

F2 Ss. 5-32 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 9 pt. 1](#) (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

33 Power to provide for lay representation in sequestration proceedings

In section 32(1) of the Sheriff Courts (Scotland) Act 1971 (c. 58) (power of Court of Session to regulate civil procedure in sheriff court), after paragraph (l) insert—

“(m) permitting a debtor appearing before a sheriff under section 12 of the Bankruptcy (Scotland) Act 1985 (c. 66) (award of sequestration) to be represented, in such circumstances as may be specified in the act of sederunt, by a person who is neither an advocate nor a solicitor.”

34 Treatment of student loans on sequestration

(1) In section 73B(12) of the Education (Scotland) Act 1980 (c. 44) (power to make provision in relation to treatment of student loans upon discharge under the 1985 Act), after “receive,” insert “before, on or”.

(2) In paragraph 6 of Schedule 2 to the Education (Student Loans) Act 1990 (c. 6) (treatment of student loans on sequestration), which, notwithstanding its repeal by section 44 of and Schedule 4 to the Teaching and Higher Education Act 1998 (c. 30), is saved by virtue of article 3 of the Teaching and Higher Education Act 1998 (Commencement No. 2 and Transitional Provisions) Order 1998 (S.I. 1998 No. 2004)

—
(a) after “Where,” insert “before, on or”; and

Changes to legislation: Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1 is up to date with all changes known to be in force on or before 06 January 2019. 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)

(b) after “before” insert “, on”.

F³35 Certain regulations under the 1985 Act: procedure

.....

Annotations:

Amendments (Textual)

F3 Ss. 35, 36 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

F³36 Minor and consequential amendments of the 1985 Act

.....

Annotations:

Amendments (Textual)

F3 Ss. 35, 36 repealed (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 9 pt. 1** (with ss. 232, 234(3), 235, 236); S.S.I. 2016/294, reg. 2

Changes to legislation:

Bankruptcy and Diligence etc. (Scotland) Act 2007, Part 1 is up to date with all changes known to be in force on or before 06 January 2019. 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.

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

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#)