



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 17

MISCELLANEOUS

223 Disqualification provisions: power to make regulations

- (1) The Scottish Ministers may make regulations under this section in relation to a disqualification provision.
- (2) A “disqualification provision” is a provision, made by or under any enactment, which disqualifies (whether permanently or temporarily and whether absolutely or conditionally) a relevant debtor or a category of relevant debtors from—
 - (a) being elected or appointed to an office or position,
 - (b) holding an office or position, or
 - (c) becoming or remaining a member of a body or group.
- (3) In subsection (2), the reference to a provision which disqualifies a person conditionally includes a reference to a provision which enables the person to be dismissed.
- (4) Regulations under subsection (1) may repeal or revoke the disqualification provision.
- (5) Regulations under subsection (1) may amend, or modify the effect of, the disqualification provision—
 - (a) so as to reduce the category of relevant debtors to whom the disqualification provision applies,
 - (b) so as to extend the disqualification provision to some or all natural persons who are subject to a bankruptcy restrictions order,
 - (c) so that the disqualification provision applies only to some or all natural persons who are subject to a bankruptcy restrictions order,
 - (d) so as to make the application of the disqualification provision wholly or partly subject to the discretion of a specified person, body or group.
- (6) Regulations made by virtue of subsection (5)(d) may provide for a discretion to be subject to—
 - (a) the approval of a specified person or body,
 - (b) appeal to a specified person, body, court or tribunal.

- (7) The Scottish Ministers may be specified for the purposes of subsection (5)(d) or (6) (a) or (b).
- (8) In this section, “bankruptcy restrictions order” includes—
- (a) a bankruptcy restrictions order made under paragraph 1 of schedule 4A of the Insolvency Act 1986, and
 - (b) a bankruptcy restrictions undertaking entered into under paragraph 7 of that schedule.
- (9) In this section, “relevant debtor” means a debtor—
- (a) whose estate has been sequestrated,
 - (b) who has granted (or on whose behalf has been granted) a trust deed,
 - (c) who has been adjudged bankrupt by a court in England and Wales or in Northern Ireland, or
 - (d) who, in England and Wales or in Northern Ireland, has made an agreement with the debtor’s creditors—
 - (i) for a composition in satisfaction of the debtor’s debts,
 - (ii) for a scheme of arrangement of the debtor’s affairs, or
 - (iii) for some other kind of settlement or arrangement.
- (10) Regulations under this section may make—
- (a) provision generally or for a specified purpose only,
 - (b) different provision for different purposes, and
 - (c) transitional, consequential or incidental provision.