

2016 No. 140

BANKRUPTCY

**The Bankruptcy and Debt Advice (Scotland) Act 2014
(Consequential Provisions) Order 2016**

Made - - - - *2nd March 2016*

Coming into force - - *9th March 2016*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 55 of the Bankruptcy and Debt Advice (Scotland) Act 2014^(a) and all other powers enabling them to do so.

In accordance with section 55(4) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Bankruptcy and Debt Advice (Scotland) Act 2014 (Consequential Provisions) Order 2016 and comes into force on 9th March 2016.

Interpretation

2.—(1) In this Order, “the 1985 Act” means the Bankruptcy (Scotland) Act 1985^(b).

(2) This Order is to be construed in accordance with section 73 (interpretation) of the 1985 Act^(c).

Consequential amendments to the Bankruptcy (Scotland) Act 1985

3.—(1) In section 7(2)(b) of the 1985 Act (continuation of apparent insolvency) after “(c)” insert “, (ca), (cb), (cc)”.

(2) In section 7(4) of the 1985 Act (apparent insolvency of entities which cannot be sequestrated under the 1985 Act) omit “paragraph (a) or (b) of”.

Sequestration before 1st April 2015

4. Nothing in this Order affects the operation of section 7 of the 1985 Act in relation to a sequestration in respect of which—

(a) 2014 asp 11 (“the 2014 Act”).

(b) 1985 c.66.

(c) Section 73 was relevantly amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3), schedule 1, paragraph 60 and the 2014 Act, schedule 3, paragraph 35. Section 73(1) defines “debtor application” for the purposes of the 1985 Act and section 73(6A) provides that any reference in the 1985 Act to a time when a debtor application is made is to be construed as a reference to the time when the application is received by the Accountant in Bankruptcy.

- (a) the petition was presented before 1st April 2015; or
- (b) a debtor application was made before that date.

St Andrew's House,
Edinburgh
2nd March 2016

FERGUS EWING
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes minor amendments to the Bankruptcy (Scotland) Act 1985 in consequence of paragraphs 6(a) and 7 of schedule 3 to the Bankruptcy and Debt Advice (Scotland) Act 2014 (“the 2014 Act”) which made clear that limited liability partnerships cannot be sequestrated, and clarified the meaning of apparent insolvency.

The Order comes into force on 9th March 2016. It applies in respect of sequestration where the petition for sequestration was presented or the debtor application for sequestration was made before that date, but not before 1st April 2015 (the date on which the relevant provisions of the 2014 Act came into force).

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