
STATUTORY INSTRUMENTS

2016 No. 1034

The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016

Interpretation

2.—(1) In this Order unless the context otherwise requires—

“the 2016 Act” means the Bankruptcy (Scotland) Act 2016(1);

“Accountant in Bankruptcy” is to be construed in accordance with section 199 of the 2016 Act;

“creditor” includes a member State [^{F1}insolvency practitioner] deemed to be a creditor under section 207 of the 2016 Act(2);

“date of sequestration” has the meaning given by section 22(7) of the 2016 Act;

“debtor” includes, without prejudice to the expression’s generality, an entity whose estate may be sequestrated by virtue of section 6 of the 2016 Act, a deceased debtor, a deceased debtor’s executor or a person entitled to be appointed a deceased debtor’s executor;

“debtor application” means an application for sequestration made to the Accountant in Bankruptcy under section 2(1)(a), 5(a) or 6(3)(a), (4)(b) or (7)(a) of the 2016 Act;

“trust deed” means—

- (a) a voluntary trust deed granted by or on behalf of a debtor whereby the debtor’s estate (other than such of that estate as would not, under any provision of the 2016 Act or of any other enactment, vest in the trustee were that estate sequestrated) is conveyed to the trustee for the benefit of the debtor’s creditors generally; and
- (b) any other trust deed which would fall within sub-paragraph (a) but for—
 - (i) the exclusion from the estate conveyed to the trustee of the whole or part of the debtor’s dwellinghouse, where a secured creditor holds a security over it; and
 - (ii) the fact that the debtor’s estate is not conveyed to the trustee for the benefit of creditors generally because the secured creditor has, at the debtor’s request, agreed before the trust deed is granted not to claim under the trust deed for any of the debt in respect of which the security is held.

(2) Any reference in this Order, however expressed, to the time when a petition for sequestration is presented is to be construed as a reference to the time when the petition is received by the sheriff clerk.

(3) Any reference in this Order, however expressed, to the 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.

(1) [2016 asp 21](#) (“the 2016 Act”).

(2) A member State liquidator is defined in section 228(1) of the 2016 Act as a person falling within the definition of liquidator in Article 2(b) of Council Regulation (EC) No. 1346/2000 of 29th May 2000 on insolvency proceedings (OJ L 160, 30.6.2000, p.19) appointed in proceedings to which it applies in a member State other than the UK. That Regulation is replaced from 26th June 2017 by Regulation (EU) 2015/848 of the Council and the Parliament of 20th May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p.19).

Changes to legislation: There are currently no known outstanding effects for the The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016, Section 2. (See end of Document for details)

Textual Amendments

- F1** Words in [art. 2\(1\)](#) substituted (26.6.2017) by [The Insolvency Amendment \(EU 2015/848\) Regulations 2017 \(S.I. 2017/702\)](#), reg. 1, [Sch. para. 92\(2\)](#) (with reg. 3)
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Commencement Information

- I1** [Art. 2](#) in force at 30.11.2016, see [art. 1](#)

Changes to legislation:

There are currently no known outstanding effects for the The Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016, Section 2.