

Changes to legislation: Bankruptcy (Scotland) Act 2016, SCHEDULE 3 is up to date with all changes known to be in force on or before 16 September 2021. 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) View outstanding changes

SCHEDULE 3
(introduced by section 129(2) and (3))

PREFERRED DEBTS

PART 1

LIST OF PREFERRED DEBTS

Contributions to occupational pension schemes etc.

- 1 Any sum which is owed by the debtor and is a sum to which schedule 4 of the Pension Schemes Act 1993 (contributions to occupational pension scheme and state scheme premiums) applies.

Commencement Information

- I1** Sch. 3 para. 1 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

Remuneration of employees etc.

- 2 (1) So much of any amount which—
(a) is owed by the debtor to a person who is or has been an employee of the debtor, and
(b) is payable by way of remuneration in respect of the whole or any part of the 4 months which immediately precedes the relevant date,
as does not exceed the prescribed amount.
- (2) An amount owed by way of accrued holiday remuneration, in respect of any period of employment before the relevant date, to a person whose employment by the debtor has been terminated (whether before, on or after that date).
- (3) So much of any amount owed in respect of money advanced for the purpose as has been applied for the payment of a debt which, if it had not been paid, would have been a debt falling within sub-paragraph (1) or (2).

Commencement Information

- I2** Sch. 3 para. 2 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

- 3 So much of any amount which—
(a) is ordered, whether before or after the relevant date, to be paid by the debtor under the Reserve Forces (Safeguard of Employment) Act 1985, and
(b) is so ordered in respect of a default made by the debtor before that date in the discharge of the debtor's obligations under that Act,
as does not exceed such amount as may be prescribed.

Commencement Information

- I3** Sch. 3 para. 3 in force at 30.11.2016 by [S.S.I. 2016/294](#), **reg. 2**

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Levies on coal and steel production

- 4 Any sums due at the relevant date from the debtor in respect of—
- (a) the levies on the production of coal and steel referred to in Articles 49 and 50 of the Treaty establishing the European Coal and Steel Community, or
 - (b) any surcharge for delay provided for in Article 50(3) of that Treaty and Article 6 of Decision 3/52 of the High Authority of that Community.

Commencement Information

I4 Sch. 3 para. 4 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

Debts owed to the Financial Services Compensation Scheme

- 5 Any debt owed by the debtor to the scheme manager of the Financial Services Compensation Scheme under section 215(2A) of the Financial Services and Markets Act 2000.

Commencement Information

I5 Sch. 3 para. 5 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

Deposits covered by Financial Services Compensation Scheme

- 6 So much of any amount owed at the relevant date by the debtor in respect of an eligible deposit as does not exceed the compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to the person or persons to whom the amount is owed.

Commencement Information

I6 Sch. 3 para. 6 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

Other deposits

- 7 So much of any amount owed at the relevant date by the debtor to one or more eligible persons in respect of an eligible deposit as exceeds any compensation that would be payable in respect of the deposit under the Financial Services Compensation Scheme to that person or those persons.

Commencement Information

I7 Sch. 3 para. 7 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

- 8 An amount owed at the relevant date by the debtor to one or more eligible persons in respect of a deposit which—
- (a) was made through a non-EEA branch of a credit institution authorised by the competent authority of an EEA state, and
 - (b) would have been an eligible deposit if it had been made through an EEA branch of that credit institution.

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Commencement Information

18 Sch. 3 para. 8 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

[^{F1}Certain HMRC debts

Textual Amendments

F1 [Sch. 3 para. 8A](#) and cross-heading inserted (with application in accordance with s. 98(7) of the amending Act) by [Finance Act 2020 \(c. 14\), s. 98\(4\)](#)

- 8A** (1) Any amount owed at the relevant date by the debtor to the Commissioners in respect of—
- (a) value added tax, or
 - (b) a relevant deduction.
- (2) In sub-paragraph (1), the reference to “any amount” is subject to any regulations under section 99(1) of the Finance Act 2020.
- (3) For the purposes of sub-paragraph (1)(b) a deduction is “relevant” if—
- (a) the debtor is required, by virtue of an enactment, to make the deduction from a payment made to another person and to pay an amount to the Commissioners on account of the deduction,
 - (b) the payment to the Commissioners is credited against any liabilities of the other person, and
 - (c) the deduction is of a kind specified in regulations under section 99(3) of the Finance Act 2020.
- (4) In this paragraph “the Commissioners” means the Commissioners for Her Majesty's Revenue and Customs.]

PART 2

INTERPRETATION OF PART 1

Meaning of “the relevant date”

- 9** In Part 1, “the relevant date” means—
- (a) in relation to a debtor other than a deceased debtor, the date of sequestration, and
 - (b) in relation to a deceased debtor, the date of death.

Commencement Information

19 Sch. 3 para. 9 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

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Amounts payable by way of remuneration

- 10 (1) For the purposes of paragraph 2, a sum is payable by the debtor to a person by way of remuneration in respect of any period if—
- (a) it is paid as wages or salary (whether payable for time or for piece work or earned wholly or partly by way of commission) in respect of services rendered to the debtor in that period, or
 - (b) it is an amount falling within sub-paragraph (2) and is payable by the debtor in respect of that period.
- (2) An amount falls within this sub-paragraph if it is—
- (a) a guarantee payment under section 28(1) to (3) of the Employment Rights Act 1996 (entitlement to payment for workless day),
 - (b) a payment for time off under section 53(1) (looking for new employment or making arrangements for training for future employment) or 56(1) (antenatal care) of that Act,
 - (c) remuneration on suspension on medical grounds under section 64 of that Act,
 - (d) a payment for time off under section 169(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (trade union duties), or
 - (e) remuneration under a protective award made by an employment tribunal under section 189 of that Act (redundancy dismissal with compensation).
- (3) For the purposes of paragraph 2(2), holiday remuneration is deemed, in the case of a person (“P”) whose employment has been terminated by or in consequence of the award of sequestration of P’s employer’s estate, to have accrued to P in respect of a period of employment if, by virtue of P’s contract of employment or of any enactment, that remuneration would have accrued in respect of that period if P’s employment had continued until P became entitled to be allowed the holiday.
- (4) In sub-paragraph (3), “enactment” includes an order made or direction given under an enactment.
- (5) Without prejudice to the preceding provisions of this paragraph—
- (a) any remuneration payable by the debtor to a person in respect of a period—
 - (i) of holiday, or
 - (ii) of absence from work through sickness or other good cause,
 is deemed to be wages, or as the case may be salary, in respect of services rendered to the debtor in that period, and
 - (b) references in this paragraph to remuneration in respect of a period of holiday include references to any sums which, if they had been paid, would have been treated for the purposes of the enactments relating to social services as earnings in respect of that period.

Commencement Information

I10 Sch. 3 para. 10 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

Meaning of “prescribed”

- 11 In paragraphs 2 and 3, “prescribed” means prescribed by regulations made by the Secretary of State.

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Commencement Information

I11 Sch. 3 para. 11 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

Meaning of “scheme manager”

- 12 In paragraph 5, “the scheme manager” has the meaning given in section 212(1) of the Financial Services and Markets Act 2000.

Commencement Information

I12 Sch. 3 para. 12 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

Meaning of “eligible deposit”

- 13 (1) In paragraphs 6 to 8, “eligible deposit” means a deposit in respect of which the person, or any of the persons, to whom it is owed would be eligible for compensation under the Financial Services Compensation Scheme.
- (2) For the purposes of those paragraphs and of this paragraph, a “deposit” means rights of the kind described in paragraph 22 of schedule 2 of the Financial Services and Markets Act 2000 (deposits).
- (3) In paragraphs 7 and 8, “eligible person” means—
- (a) an individual, or
 - (b) a micro-enterprise, a small enterprise or a medium-sized enterprise, each of those terms having the meaning given in Article 2.1(107) of the Directive 2014/59/EU of 15th May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms.
- (4) In paragraph 8—
- (a) “credit institution” has the meaning given in Article 4.1(1) of the capital requirements regulation,
 - (b) “EEA branch” means a branch, as defined in Article 4.1(17) of the capital requirements regulation, which is established in an EEA state, and
 - (c) “non-EEA branch” means a branch, as so defined, which is established in a country which is not an EEA state.
- (5) In sub-paragraph (4)(a) and (b), “the capital requirements regulation” means Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending regulation (EU) NO. 648/2012.

Commencement Information

I13 Sch. 3 para. 13 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

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Transitional provisions

- 14 Regulations under paragraph 2 or 3 may contain such transitional provisions as may appear to the Secretary of State necessary or expedient.

Commencement Information

I14 Sch. 3 para. 14 in force at 30.11.2016 by [S.S.I. 2016/294](#), [reg. 2](#)

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 78(2)(a) words in s. 78(2) renumbered as s. 78(2)(a) by [2019 asp 4 s. 7\(2\)\(a\)](#)
- s. 78(2)(b) and word inserted by [2019 asp 4 s. 7\(2\)\(b\)](#)