
Changes to legislation: Bankruptcy (Scotland) Act 2016, SCHEDULE 7 is up to date with all changes known to be in force on or before 17 December 2023. 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 7

(introduced by section 233)

RE-ENACTMENT OF SECTIONS 10 AND 189 OF THE BANKRUPTCY (SCOTLAND) ACT 1913

Arrestments and attachments

- 1 (1) Subject to sub-paragraph (2), all arrestments and attachments which have been executed within 60 days prior to the constitution of the apparent insolvency of the debtor, or within 4 months after its constitution, rank *pari passu* as if they had all been executed on the same date.
- (2) Any such arrestment which is executed on the dependence of an action must be followed up without undue delay.
- (3) A creditor judicially producing, in a process relative to the subject of such arrestment or attachment, liquid grounds of debt or decree of payment within the 60 days or 4 months referred to in sub-paragraph (1) is entitled to rank as if the creditor had executed an arrestment or an attachment.
- (4) If, in the meantime—
- (a) the first or any subsequent arrester obtains a decree of furthcoming and recovers payment, that arrester, or
 - (b) an attaching creditor carries through an auction or receives payment in respect of an attached article upon its redemption, that attaching creditor,
- is accountable for the sum recovered to those who, by virtue of this Act, may eventually be found to have a ranking *pari passu* on the sum; and is liable in an action at their instance for payment to them proportionately, after allowing out of the fund the expense of such recovery.
- (5) Arrestments executed for attaching the same effects of the debtor after the 4 months subsequent to the constitution of the debtor's apparent insolvency do not compete with those within the 60 days or 4 months referred to in sub-paragraph (1) but may rank with each other on any reversion of the fund attached in accordance with any enactment or rule of law relating to such ranking.
- (6) Any reference in sub-paragraphs (1) to (5) to a debtor is to be construed as including a reference to an entity whose apparent insolvency may, by virtue of subsection (6) of section 16 of this Act, be constituted under subsection (1) of that section.
- (7) This paragraph applies in respect of arrestments and attachments executed whether before or after the coming into force of this Act.
- (8) Nothing in this paragraph applies to an earnings arrestment, a current maintenance arrestment or a conjoined arrestment order.

Commencement Information

II Sch. 7 para. 1 in force at 30.11.2016 by S.S.I. 2016/294, reg. 2

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*Exemptions from stamp or other duties for
conveyances, deeds etc. relating to sequestrated estates*

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Any—

- (a) conveyance, assignation, instrument, discharge, writing or deed relating solely to the estate of a debtor which has been or may be sequestrated, under either this or any former Act, being estate which after the execution of the document in question is and remains the property of the debtor, for the benefit of the debtor's creditors, or of the trustee in the sequestration,
- (b) discharge to the debtor,
- (c) deed, assignation, instrument, or writing for reinvesting the debtor in the estate,
- (d) article of roup or sale, or submission,
- (e) other instrument or writing whatsoever relating solely to the estate of the debtor, and
- (f) other deed or writing forming part of the proceedings ordered under such sequestration,

is exempt from all stamp duties or other Government duty.

Commencement Information

I2 [Sch. 7 para. 2](#) 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\(2\)\(b\)](#)