



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 7

SAFEGUARDING INTERESTS OF CREDITORS

Excessive contributions

102 Orders under section 101

- (1) Without prejudice to the generality of section 101(3), an order under that section may include provision—
 - (a) requiring the person responsible for the arrangement to pay an amount to the trustee,
 - (b) adjusting the liabilities of the arrangement in respect of the debtor,
 - (c) adjusting any liabilities of the arrangement in respect of any other person that derive, directly or indirectly, from rights of the debtor under the arrangement,
 - (d) for the recovery by the person responsible for the arrangement (whether by deduction from any amount which that person is ordered to pay or otherwise) of costs incurred by that person in complying in the debtor's case with any requirement under section 103(1) or in giving effect to the order.
- (2) In subsection (1), references to adjusting the liabilities of the arrangement in respect of a person include, in particular, reducing the amount of any benefit or future benefit to which that person is entitled under the arrangement.
- (3) In subsection (1)(c), the reference to liabilities of the arrangement does not include liabilities in respect of a person which result from giving effect to an order or provision falling within section 28(1) of the 1999 Act (pension sharing orders).
- (4) The maximum amount which the person responsible for an arrangement may be required to pay by an order under section 101 is the lesser of—
 - (a) the amount of the excessive contributions, and
 - (b) the value of the debtor's rights under the arrangement (if the arrangement is an approved pension arrangement) or of the debtor's excluded rights under the arrangement (if the arrangement is an unapproved pension arrangement).

Status: This is the original version (as it was originally enacted).

- (5) An order under section 101 which requires the person responsible for an arrangement to pay an amount (“the restoration amount”) to the trustee must provide for the liabilities of the arrangement to be correspondingly reduced.
- (6) For the purposes of subsection (5), liabilities are correspondingly reduced if the difference between—
 - (a) the amount of the liabilities immediately before the reduction, and
 - (b) their amount immediately after the reduction,is equal to the restoration amount.
- (7) An order under section 101 in respect of an arrangement—
 - (a) is binding on the person responsible for the arrangement, and
 - (b) overrides provisions of the arrangement to the extent that they conflict with the provisions of the order.