



# Bankruptcy (Scotland) Act 2016

## 2016 asp 21

### PART 15

#### MORATORIUM ON DILIGENCE

#### 198 Period of moratorium

- (1) The moratorium period applying in relation to a person is the period which—
- (a) begins on the day on which an entry is made under section 195(3) or 196(3) in the register of insolvencies, and
  - (b) ends on—
    - (i) the day which is [<sup>F1</sup>6 months] after that day,
    - (ii) such earlier day as is mentioned in subsection (2), or
    - (iii) if subsection (3), (5) or (7) applies, such later day as is determined in accordance with subsection (4), (6) or (8).
- (2) The earlier day is the day on which, in relation to the person who is the subject of the moratorium—
- (a) an entry is made in the register of insolvencies recording the award of sequestration of the estate,
  - (b) an entry is made in the register of insolvencies recording that a trust deed granted by the person has been granted or refused protected status,
  - (c) an entry is made in the DAS register recording the approval of a debt payment programme in accordance with section 2 of the 2002 Act, or
  - (d) written notice is given to AiB—
    - (i) by the person withdrawing the notice given under section 195(1), or
    - (ii) by or on behalf of the person withdrawing the notice given under section 196(1).
- (3) This subsection applies if, on the day which is [<sup>F2</sup>6 months] after the day on which the moratorium began under subsection (1)(a)—
- (a) a debtor application has been made for sequestration of the estate of the person who is the subject of the moratorium,
  - (b) the moratorium has not ended by virtue of subsection (2)(a), and
  - (c) no decision has been made by AiB under section 27(7)(b).

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*Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 198 is up to date with all changes known to be in force on or before 14 April 2024. 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*

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- (4) Where subsection (3) applies, the moratorium period ends on—
- (a) the day on which an entry is made in the register of insolvencies recording the award of sequestration of the estate,
  - (b) in the case of refusal to award sequestration—
    - (i) the day of the expiry of the period applying by virtue of section 27(6) where no application for review is made under section 27(5), or
    - (ii) the day on which a decision is made by AiB under section 27(7)(b) where an application for review is made, or
  - (c) the day on which written notice is given to AiB—
    - (i) by the person withdrawing the notice given under section 195(1), or
    - (ii) by or on behalf of the person withdrawing the notice given under section 196(1).
- (5) This subsection applies if, on the day which is [<sup>F3</sup>6 months] after the day on which the moratorium began under subsection (1)(a)—
- (a) an entry has been made in the register of insolvencies recording an application for a trust deed granted by or on behalf of the person who is the subject of the moratorium to be granted the status of protected trust deed, and
  - (b) the moratorium has not ended by virtue of subsection (2)(b).
- (6) Where subsection (5) applies, the moratorium period ends on—
- (a) the day on which an entry is made in the register of insolvencies recording that the trust deed granted by or on behalf of the person has been granted the status of protected trust deed,
  - (b) where such an entry is not made, the day which is [<sup>F4</sup>7 weeks after the day on which the moratorium would have ended but for this subsection]), or
  - (c) the day on which written notice is given to AiB by the person withdrawing the notice given under section 195(1).
- (7) This subsection applies if, on the day which is [<sup>F5</sup>6 months] after the day on which the moratorium began under subsection (1)(a)—
- (a) the person who is the subject of the moratorium has applied for approval of a debt payment programme under section 2 of the 2002 Act,
  - (b) the moratorium has not ended by virtue of subsection (2)(c), and
  - (c) the application has not been determined.
- (8) Where subsection (7) applies, the moratorium period ends on—
- (a) the day on which an entry is made in the DAS register recording the approval of the debt payment programme in accordance with section 2 of the 2002 Act,
  - (b) in the case of a rejection of a debt payment programme, the day on which an entry is made in the DAS register recording the rejection, or
  - (c) the day on which written notice is given to AiB by the person withdrawing the notice given under section 195(1).
- [<sup>F6</sup>(9) The Scottish Ministers may by regulations modify this section so as to vary any of the periods specified in subsections (1)(b)(i), (3), (5), (6)(b) or (7).]

#### Textual Amendments

- F1** Words in s. 198(1)(b)(i) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\)](#), ss. **23(2)(a)**, 59(1)

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- F2** Words in s. 198(3) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\), ss. 23\(2\)\(b\), 59\(1\)](#)
- F3** Words in s. 198(5) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\), ss. 23\(2\)\(c\), 59\(1\)](#)
- F4** Words in s. 198(6)(b) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\), ss. 23\(3\), 59\(1\)](#)
- F5** Words in s. 198(7) substituted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\), ss. 23\(2\)\(d\), 59\(1\)](#)
- F6** S. 198(9) inserted (1.10.2022) by [Coronavirus \(Recovery and Reform\) \(Scotland\) Act 2022 \(asp 8\), ss. 24\(2\), 59\(1\)](#)

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**Commencement Information**

- I1** S. 198 in force at 30.11.2016 by [S.S.I. 2016/294, reg. 2](#)

**Changes to legislation:**

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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\(2\)\(b\)](#)