



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 17

MISCELLANEOUS

219 General offences: supplementary and penalties

- (1) For the purpose of calculating an amount of credit mentioned in subsection (13) of section 218 or of debts mentioned in paragraph (b) of that subsection, no account is to be taken of any credit obtained or, as the case may be, of any liability for charges in respect of—
 - (a) any of the supplies mentioned in section 222(4), and
 - (b) any council tax (within the meaning of section 99(1) of the Local Government Finance Act 1992.
- (2) For the purposes of section 218(13)—
 - (a) “debtor” means—
 - (i) a person whose estate has been sequestrated,
 - (ii) a person who has been adjudged bankrupt in England and Wales or in Northern Ireland, or
 - (iii) a person subject to a bankruptcy restrictions order, or a bankruptcy restrictions undertaking, made in England and Wales,being, in the case of a person mentioned in sub-paragraph (i) or (ii), a person who has not been discharged,
 - (b) the reference to the debtor obtaining credit includes a reference to a case where goods—
 - (i) are hired to the debtor under a hire-purchase agreement, or
 - (ii) are agreed to be sold to the debtor under a conditional sale agreement,and
 - (c) the “relevant information” about the status of the debtor is the information that (as the case may be)—
 - (i) the debtor’s estate has been sequestrated and that the debtor has not been discharged,
 - (ii) the debtor is an undischarged bankrupt in England and Wales or in Northern Ireland, or

Status: This is the original version (as it was originally enacted).

- (iii) the debtor is subject to a bankruptcy restrictions order, or a bankruptcy restrictions undertaking, made in England and Wales.
- (3) In section 218—
 - “the relevant period” means the period commencing one year immediately before the date of sequestration of the debtor’s estate and ending with the debtor’s discharge, and
 - references to intent to prejudice creditors include references to intent to prejudice an individual creditor.
- (4) If a person does, or fails to do, in England and Wales or in Northern Ireland anything which if done, or as the case may be not done, in Scotland is an offence under section 218(2), (4), (7), (8), (10) or (12), then that person commits an offence under the subsection in question.
- (5) A person convicted of an offence under section 218 is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, or—
 - (i) in a case where the person has previously been convicted of an offence inferring dishonest appropriation of property or an attempt at dishonest appropriation of property, to imprisonment for a term not exceeding 6 months, or
 - (ii) in any other case, to imprisonment for a term not exceeding 3 months, or both to a fine not exceeding the statutory maximum and to such imprisonment as is mentioned, in relation to the case in question, in sub-paragraph (i) or (ii), or
 - (b) on conviction on indictment, to a fine, or—
 - (i) in the case of an offence under section 218(2), (4), (7) or (12), to imprisonment for a term not exceeding 5 years, or
 - (ii) in any other case, to imprisonment for a term not exceeding 2 years, or both to a fine and to such imprisonment as is mentioned, in relation to the case in question, in sub-paragraph (i) or (ii).