



Bankruptcy (Scotland) Act 2016

2016 asp 21

PART 17

MISCELLANEOUS

223 Disqualification provisions: power to make regulations

- (1) The Scottish Ministers may make regulations under this section in relation to a disqualification provision.
- (2) A “disqualification provision” is a provision, made by or under any enactment, which disqualifies (whether permanently or temporarily and whether absolutely or conditionally) a relevant debtor or a category of relevant debtors from—
 - (a) being elected or appointed to an office or position,
 - (b) holding an office or position, or
 - (c) becoming or remaining a member of a body or group.
- (3) In subsection (2), the reference to a provision which disqualifies a person conditionally includes a reference to a provision which enables the person to be dismissed.
- (4) Regulations under subsection (1) may repeal or revoke the disqualification provision.
- (5) Regulations under subsection (1) may amend, or modify the effect of, the disqualification provision—
 - (a) so as to reduce the category of relevant debtors to whom the disqualification provision applies,
 - (b) so as to extend the disqualification provision to some or all natural persons who are subject to a bankruptcy restrictions order,
 - (c) so that the disqualification provision applies only to some or all natural persons who are subject to a bankruptcy restrictions order,
 - (d) so as to make the application of the disqualification provision wholly or partly subject to the discretion of a specified person, body or group.
- (6) Regulations made by virtue of subsection (5)(d) may provide for a discretion to be subject to—
 - (a) the approval of a specified person or body,
 - (b) appeal to a specified person, body, court or tribunal.

Changes to legislation: Bankruptcy (Scotland) Act 2016, Section 223 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](#)

- (7) The Scottish Ministers may be specified for the purposes of subsection (5)(d) or (6) (a) or (b).
- (8) In this section, “bankruptcy restrictions order” includes—
- (a) a bankruptcy restrictions order made under paragraph 1 of schedule 4A of the Insolvency Act 1986, and
 - (b) a bankruptcy restrictions undertaking entered into under paragraph 7 of that schedule.
- (9) In this section, “relevant debtor” means a debtor—
- (a) whose estate has been sequestrated,
 - (b) who has granted (or on whose behalf has been granted) a trust deed,
 - (c) who has been adjudged bankrupt by a court in England and Wales or in Northern Ireland, or
 - (d) who, in England and Wales or in Northern Ireland, has made an agreement with the debtor's creditors—
 - (i) for a composition in satisfaction of the debtor's debts,
 - (ii) for a scheme of arrangement of the debtor's affairs, or
 - (iii) for some other kind of settlement or arrangement.
- (10) Regulations under this section may make—
- (a) provision generally or for a specified purpose only,
 - (b) different provision for different purposes, and
 - (c) transitional, consequential or incidental provision.

Commencement Information

II S. 223 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\(2\)\(b\)](#)