



# Coronavirus (Recovery and Reform) (Scotland) Act 2022

2022 asp 8

## PART 3

### PUBLIC SERVICE REFORM

#### *Bankruptcy*

#### **19 Bankruptcy: service of documents**

- (1) The Bankruptcy (Scotland) Act 2016 is modified by subsections (2) and (3).
- (2) After section 224 insert—

#### **“224A Service of documents**

- (1) Where a provision of this Act or of any regulations made under it authorises or requires a document to be served on a person (whether the expression “serve”, “give”, “send” or any other expression is used), the document may be served on the person—
  - (a) by being delivered personally to the person,
  - (b) by being sent to the proper address of the person—
    - (i) by a registered post service (as defined in section 125(1) of the Postal Services Act 2000), or
    - (ii) by a postal service which provides for the delivery of the document to be recorded, or
  - (c) by being transmitted to the person electronically.
- (2) For the purpose of subsection (1)(b), the proper address of a person is—
  - (a) in the case of a body corporate, the address of the registered or principal office of the body,
  - (b) in the case of a partnership, the address of the principal office of the partnership,
  - (c) in any other case, the last known address of the person.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Where a document is served as mentioned in subsection (1)(b) on an address in the United Kingdom it is to be taken to have been received 48 hours after it is sent unless the contrary is shown.
- (4) For the purpose of subsection (1)(c)—
- (a) electronic transmission of a document must be effected in a way that the recipient has indicated to the sender that the recipient is willing to receive the document,
  - (b) the recipient’s indication of willingness to receive a document in a particular way may be—
    - (i) specific to the document in question or generally applicable to documents of that kind,
    - (ii) expressed specifically to the sender or generally (for example on a website),
    - (iii) inferred from the recipient having previously been willing to receive documents from the sender in that way and not having indicated unwillingness to do so again,
  - (c) the sender’s uploading of a document to an electronic storage system from which the recipient is able to download the document may constitute electronic transmission of the document, where the recipient is sent a notification that the document has been uploaded in that way,
  - (d) a notice transmitted electronically is taken to have been received on the day of transmission unless the contrary is shown.
- (5) This section does not apply where some other form of delivery is required by rules of court or by order of the court.”.
- (3) Section 187 is repealed.
- (4) The modifications made by subsection (2) have no effect in relation to any document served before 1 October 2022.

## **20 Bankruptcy: meaning of “qualified creditor” and “qualified creditors”**

- (1) The Bankruptcy (Scotland) Act 2016 is modified by subsection (2).
- (2) In section 7(1) (qualified creditor and qualified creditors)—
- (a) in the definition of “qualified creditor”, for “£3,000” substitute “£5,000”,
  - (b) in the definition of “qualified creditors”, for “£3,000” substitute “£5,000”.
- (3) The modifications made by subsection (2) have no effect in relation to any sequestration in respect of which the petition was presented before 1 October 2022.

## **21 Bankruptcy: remote meetings of creditors**

- (1) The Bankruptcy (Scotland) Act 2016 is modified as follows.
- (2) In schedule 6 (meetings of creditors and commissioners)—
- (a) for paragraph 13 and the italic heading immediately preceding it substitute—

*“Holding of meeting*

- 13 Every meeting must be held either—
- (a) in such place (whether or not in the sheriffdom) as is, in the opinion of the person calling the meeting, the most convenient for the majority of the creditors, or
  - (b) by such electronic means as would, in the opinion of the person calling the meeting, be most convenient to allow the majority of the creditors to participate in the meeting without being together in the same place.

13A Where a meeting is to be held in pursuance of paragraph 13(b), the references in paragraphs 4 and 6 to the place fixed for the holding of the meeting are to be read as references to the electronic means by which attendees are to be able to attend the meeting without being together in the same place.”

- (b) in paragraph 24—
  - (i) for “and place” substitute “, and at the same place or by the same electronic means,”,
  - (ii) for “in” to “specified” substitute “the resolution specifies otherwise”.