

Draft Regulations laid before the Scottish Parliament under section 225(4)(a) of the Bankruptcy (Scotland) Act 2016, section 62(4) of the Debt Arrangement and Attachment (Scotland) Act 2002, and section 72(2) and (3)(a)(iib), (iic) and (b) of the Bankruptcy (Scotland) Act 1985 for approval by resolution of the Scottish Parliament.

DRAFT SCOTTISH STATUTORY INSTRUMENTS

2018 No.

**BANKRUPTCY
DEBT**

The Common Financial Tool (Scotland) Regulations 2018

Made - - - - 2018

Coming into force - - 29th October 2018

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 4(2)(b), 89, 170(1)(d)(ii), 194(1) and (3), 224(1) and 225(2) of the Bankruptcy (Scotland) Act 2016(1) (“the 2016 Act”), sections 2(3)(d), 7(2)(bd) and 62(2)(a) of the Debt Arrangement and Attachment (Scotland) Act 2002(2) (“the 2002 Act”), sections 5C(2)(b), 5D, 71C, 72(1A) and paragraph 5 of schedule 5 of the Bankruptcy (Scotland) Act 1985(3) (“the 1985 Act”), and all other powers enabling them to do so.

In accordance with section 225(4)(a) of the 2016 Act, section 62(4) of the 2002 Act(4) and section 72(2) and (3)(a)(iib), (iic) and (b) of the 1985 Act(5), a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

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- (1) [2016 asp 21](#) (“the 2016 Act”). Section 228(1) of the 2016 Act contains a definition of “prescribed” relevant to the powers under which these Regulations are made.
 - (2) [2002 asp 17](#) (“the 2002 Act”), as amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 ([asp 3](#)) (“the 2007 Act”), sections 173, 209(1), 211 and 212 and schedule 4, paragraph 10, schedule 5, paragraph 30 and schedule 6, Part 1. Section 7(2)(bd) was inserted by the Bankruptcy and Debt Advice (Scotland) Act 2014 ([asp 11](#)) (“the 2014 Act”), section 3(2). Section 9 of the 2002 Act contains a definition of “prescribed” relevant to the powers under which these Regulations are made.
 - (3) [1985 c.66](#) (“the 1985 Act”). The 1985 Act is repealed by the 2016 Act, schedule 9, Part 1; by virtue of section 234(3)(a) and (b) of the 2016 Act the powers to make amendments under which these Regulations are made are not affected by that repeal in so far as they relate to the operation of the 1985 Act in relation to sequestrations initiated or trust deeds executed before 30th November 2016. Sections 5C, 5D, 71C and 72(1A) were inserted by sections 1(2), 3(1), 36 and paragraph 34 of schedule 3 of the 2014 Act. Paragraph 5 of Schedule 5 was amended by section 20 of the 2007 Act. Section 73(1) of the 1985 Act contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 ([c.46](#)).
 - (4) Section 62(4) was amended by the 2014 Act, schedule 3, paragraph 38(b) and has been modified by paragraph 5(2) of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)).
 - (5) Sections 72(2) and (3) were inserted by section 35(c) of the 2007 Act and amended by paragraph 34 of schedule 3 of the 2014 Act and have been modified by paragraph 5(2) of schedule 3 of the Interpretation and Legislative Reform (Scotland) Act 2010 ([asp 10](#)) (“the 2010 Act”). The powers to make these Regulations are exercised together by virtue of sections 33(2) and (3) of the 2010 Act.