
DRAFT SCOTTISH STATUTORY INSTRUMENTS

2019 No.

**The Insolvency (EU Exit) (Scotland)
(Amendment) Regulations 2019**

PART 1

Amendments to primary legislation

Amendment of the Bankruptcy (Scotland) Act 2016

- 4.—(1) The Bankruptcy (Scotland) Act 2016⁽¹⁾ is amended as follows.
- (2) In section 2 (sequestration of estate of living debtor) omit subsection (1)(b)(ii) and (iii).
- (3) In section 5 (sequestration of estate of deceased debtor) omit paragraphs (c) and (d).
- (4) In section 6 (sequestration of other estates) omit subsections (3)(b)(i) and (ii), (4)(c)(i) and (ii) and (7)(b)(i) and (ii).
- (5) In section 11 (debtor application: provision of information)—
- (a) in subsection (1)(a), for “another member State” substitute “a member State (other than Denmark)”;
- (b) for subsection (1)(b) substitute—
- “**(b)** if the debtor’s centre of main interests is situated in a member State (other than Denmark), whether or not the debtor possesses an establishment in the United Kingdom.”;
- (c) in subsection (2)(a), for “another member State” substitute “a member State (other than Denmark)”;
- (d) for subsection (2)(b) substitute—
- “**(b)** if the debtor’s centre of main interests was situated in a member State (other than Denmark), whether or not the debtor possessed an establishment in the United Kingdom.”; and
- (e) omit subsection (3).
- (6) In section 12 (petition for sequestration of estate: provision of information)—
- (a) in subsection (1)(a), for “another member State” substitute “a member State (other than Denmark)”;
- (b) for subsection (1)(b) substitute—
- “**(b)** if the debtor’s centre of main interests is situated in a member State (other than Denmark), whether or not the debtor possesses an establishment in the United Kingdom.”; and
- (c) omit subsection (2).

⁽¹⁾ 2016 asp 21. Relevant amendments have been made by [S.S.I. 2017/210](#).

- (7) In section 13 (further provisions relating to presentation of petitions)—
- (a) in subsection (2), omit paragraph (b)(ii) and (iii),
 - (b) in subsection (3), omit paragraph (b)(ii) and (iii), and
 - (c) in subsection (4)—
 - (i) after paragraph (b)(i), insert “or”, and
 - (ii) omit paragraph (b)(iii) and (iv).
- (8) Omit sections 14A and 14B(2).
- (9) In section 15 (jurisdiction) omit subsection (9).
- (10) In section 16 (meaning of “apparent insolvency”) omit subsections (1)(d) and (7)(c).
- (11) In section 79(2) (provision supplementary to section 78 and interpretation of Part 5) omit the words “and to section 231”.
- (12) In section 128 (voting and drawing a dividend) omit subsections (4) to (7).
- (13) In section 129 (priority in distribution) omit subsection (8).
- (14) In section 170 (protected trust deeds - documents to be sent to creditors) omit subsection (1)(d)(v).
- (15) Omit sections 190 to 192, 207, 208 and 226.
- (16) In section 228(1) (interpretation)—
- (a) omit the following definitions—
 - (i) “creditor”,
 - (ii) “main proceedings”,
 - (iii) “member State insolvency practitioner”(3),
 - (iv) “secondary proceedings”(4),
 - (v) “temporary administrator”, and
 - (vi) “territorial proceedings”, and
 - (b) in the definition of “the EU insolvency proceedings regulation” at the end insert “as it forms part of domestic law on and after exit day”.
- (17) Omit section 231 (proceedings under EU insolvency proceedings regulation: modified definition of estate).
- (18) In schedule 5 (information to be included in the sederunt book) omit paragraph 3A(5).

(2) Sections 14A and 14B were inserted by regulation 4(8) of the Insolvency (Regulation (EU) 2015/848) (Miscellaneous Amendments) (Scotland) Regulations 2017 (S.S.I. 2017/210).

(3) The definition of “member State insolvency practitioner” was inserted by regulation 4(21)(g) of S.S.I. 2017/210.

(4) The definition of “secondary proceedings” was inserted by regulation 4(21)(h) of S.S.I. 2017/210.

(5) Paragraph 3A was inserted by regulation 4(24) of S.S.I. 2017/210.