
SCOTTISH STATUTORY INSTRUMENTS

2008 No. 82

The Bankruptcy (Scotland) Regulations 2008

Definition of “associate”

8.—(1) Section 74 of the 1985 Act (meaning of “associate”) shall be amended or modified in accordance with the following paragraphs.

(2) In subsection (3) for “and of the husband or wife or a relative of any individual with whom he is in partnership;”, substitute “and of any person who is an associate of any person with whom he is in partnership;”.

(3) After subsection (5), insert the following subsections:—

“(5A) A company is an associate of another company—

- (a) if the same person has control of both, or a person has control of one and persons who are his associates, or he and persons who are his associates, have control of the other; or
- (b) if a group of two or more persons has control of each company, and the groups either consist of the same persons or could be regarded as consisting of the same persons by treating (in one or more cases) a member of either group as replaced by a person of whom he is an associate.

(5B) A company is an associate of another person if that person has control of it or if that person and persons who are his associates together have control of it.

(5C) For the purposes of this section a person shall be taken to have control of a company if—

- (a) the directors of the company or of another company which has control of it (or any of them) are accustomed to act in accordance with his directions or instructions; or
- (b) he is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the company or of another company which has control of it,

and where two or more persons together satisfy either of the above conditions, they shall be taken to have control of the company.”.

(4) Subsection (6) shall apply subject to the modification that, “In subsection (5) above,” there shall be substituted “In subsections (5), (5A), (5B), and (5C) above,”⁽¹⁾.

⁽¹⁾ This regulation re-enacts regulation 11 of the 1985 Regulations.