
DRAFT STATUTORY INSTRUMENTS

2016 No.

**The Bankruptcy (Scotland) Act 2016 (Consequential
Provisions and Modifications) Order 2016**

Effect of discharge under section 137, 138 or 140 of the 2016 Act

4.—(1) On the discharge of the debtor under section 137, 138 or 140 of the 2016 Act, the debtor is discharged of all debts and obligations contracted by the debtor, or for which the debtor was liable, at the date of sequestration.

(2) Paragraph (1) is subject to paragraphs (3) and (5).

(3) The debtor is not discharged by virtue of paragraph (1) from—

- (a) any liability to pay a fine or other penalty due to the Crown;
- (b) any liability to pay a fine imposed in Scotland in a justice of the peace court (or a district court);
- (c) any liability under a compensation order (within the meaning of section 249 of the Criminal Procedure (Scotland) Act 1995⁽¹⁾);
- (d) any liability to forfeiture of a sum of money deposited in court under section 24(6) of the Criminal Procedure (Scotland) Act 1995;
- (e) any liability incurred by reason of fraud or breach of trust;
- (f) any obligation to pay—
 - (i) aliment, or any sum of an alimentary nature, under any enactment or rule of law; or
 - (ii) any periodical allowance payable on divorce by virtue of a court order or under an obligation; or
- (g) the obligation imposed on the debtor by section 215 of the 2016 Act.

(4) The obligations mentioned in sub-paragraph (f) of paragraph (3) do not include—

- (a) aliment, or a periodical allowance, which could be included in the amount of a creditor's claim under paragraph 2 of schedule 2 to the 2016 Act; or
- (b) child support maintenance within the meaning of the Child Support Act 1991⁽²⁾ which was unpaid in respect of any period before the date of sequestration of—
 - (i) any person by whom it was due to be paid; or
 - (ii) any employer by whom it was, or was due to be, deducted under section 31(5) of that Act.

(5) The discharge of the debtor under section 137, 138 or 140 of the 2016 Act does not affect any right of a secured creditor for an obligation in respect of which the debtor has been discharged, to enforce the security in respect of that obligation.

(6) In paragraph (3)(a), the reference to a fine or other penalty due to the Crown includes a reference to a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002⁽³⁾.

(1) 1995 c.46.
(2) 1991 c.48.
(3) 2002 c.29.

(7) This article extends to all parts of the United Kingdom other than Scotland (and is without prejudice to section 145 of the 2016 Act).