

# DEREGULATION ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 6: Insolvency and company law*

#### **Part 5: Bankruptcy**

#### **After-acquired property of bankrupt**

589. *Paragraph 16* amends section 307 of the Insolvency Act 1986 to facilitate banks offering accounts to undischarged bankrupts. There is some uncertainty at present about the way in which section 307 operates in relation to bank accounts and the amendments seek to reduce a burden by removing that uncertainty. Paragraph 16, like section 307, forms part of the law of England and Wales only. It will come into force on a day to be appointed by the Secretary of State in a commencement order.
590. *Section 307* allows a trustee in bankruptcy to claim by notice after-acquired property which becomes the property of the bankrupt before they are discharged (usually 12 months after the bankruptcy order was made). Where that property is or becomes money that passes through a bank account, and the trustee is unable to recover it from the bankrupt or ultimate recipient, the trustee may claim against the bank for its loss to the bankruptcy estate. Currently the trustee can consider such a claim as the bank would have been aware of the bankruptcy order.
591. Section 307(4) of the Insolvency Act 1986 prevents the trustee from taking action against certain persons who have dealt with after-acquired property in good faith and without notice of the bankruptcy – namely persons acquiring property for value and bankers entering into transactions. The amendment takes bankers outside the scope of section 307(4) and instead provides protection for them by means of a new subsection (4A) inserted into section 307. The new subsection (4A) prevents a trustee making a claim against a bank in circumstances where the bank has not been served with notice by the trustee specifically regarding the after-acquired property he or she wishes to claim, regardless of whether the bank has notice of the bankruptcy.