

2014 No. 293

BANKRUPTCY

**The Bankruptcy and Debt Advice (Scotland) Act 2014
(Consequential Provisions) Order 2014**

Made - - - - *5th November 2014*

Coming into force - - *1st April 2015*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 55 of the Bankruptcy and Debt Advice (Scotland) Act 2014^(a) and all other powers enabling them to do so.

In accordance with section 55(4) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation and commencement

1. This Order may be cited as the Bankruptcy and Debt Advice (Scotland) Act 2014 (Consequential Provisions) Order 2014 and comes into force on 1st April 2015.

Interpretation

2.—(1) In this Order “the 1985 Act” means the Bankruptcy (Scotland) Act 1985^(b).

(2) This Order is to be construed in accordance with section 73 (interpretation) of the 1985 Act^(c).

Modification of enactments

3.—(1) The Schedule, which makes modifications of certain enactments, has effect.

(a) 2014 asp 11 (“the 2014 Act”).

(b) 1985 c.66 (“the 1985 Act”).

(c) Section 73 was relevantly amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) (“the 2007 Act”), schedule 1, paragraph 60 and the 2014 Act, schedule 3, paragraph 35. Section 73(1) defines “debtor application” for the purposes of the 1985 Act and section 73(6A) provides that any reference in the 1985 Act to a time when a debtor application is made is to be construed as a reference to the time when the application is received by the Accountant in Bankruptcy.

(2) Nothing in this Order affects any of the enactments modified by this Order in their operation in relation to a sequestration in respect of which—

- (a) the petition is presented before 1st April 2015; or
- (b) a debtor application is made before that date.

St Andrew's House,
Edinburgh
5th November 2014

FERGUS EWING
Authorised to sign by the Scottish Ministers

SCHEDULE

Article 3

Modification of enactments

PART 1

Primary legislation

The Education (Scotland) Act 1980

1. In section 73B(12) (regulations relating to student loans) of the Education (Scotland) Act 1980(a) after “54” insert “, 54A or 54C”.

The International Criminal Court (Scotland) Act 2001

2. In paragraph 8(2)(b) (freezing orders in respect of sequestration) of schedule 6 to the International Criminal Court (Scotland) Act 2001(b) for “32(2)” substitute “32A”.

The Charities and Trustee Investment (Scotland) Act 2005

3. In section 70(3)(b)(i) (charity trustee disqualification: supplementary) of the Charities and Trustee Investment (Scotland) Act 2005(c) after “54” insert “, 54A, 54C”.

PART 2

Secondary legislation

The National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998

4. In regulation 18(2) of the National Health Service Superannuation Scheme (Scotland) (Additional Voluntary Contributions) Regulations 1998(d) for “the court makes an income payments order under 32(2) and (4) of the Bankruptcy (Scotland) Act 1985 or” substitute “a person makes or varies a debtor contribution order under section 32A or 32F of the Bankruptcy (Scotland) Act 1985 or the court makes an income payments order”.

The National Health Service (Scotland) (Injury Benefits) Regulations 1998

5. In regulation 20(3) of the National Health Service (Scotland) (Injury Benefits) Regulations 1998(e) for “the court makes an income payments order under 32(2) and (4) of the Bankruptcy (Scotland) Act 1985 or” substitute “a person makes or varies a debtor contribution order under section 32A or 32F of the Bankruptcy (Scotland) Act 1985 or the court makes an income payments order”.

(a) 1980 c.44. Section 73B was inserted by the Teaching and Higher Education Act 1998 (c.30), section 29 and was relevantly amended by the 2007 Act, section 34. There are other amendments to section 73B not relevant to this Schedule.

(b) 2001 asp 13.

(c) 2005 asp 10.

(d) S.I. 1998/1451, to which there are amendments not relevant to this Schedule.

(e) S.I. 1998/1594, to which there are amendments not relevant to this Schedule.

The National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003

6. In regulation 13(3) of the National Health Service (Compensation for Premature Retirement) (Scotland) Regulations 2003(a) for “the court makes an order under 32(2) and (4) of the Bankruptcy (Scotland) Act 1985 or” substitute “a person makes or varies an order under section 32A or 32F of the Bankruptcy (Scotland) Act 1985 or the court makes”.

The Teachers’ Superannuation (Scotland) Regulations 2005

7. In regulation E38(3) of the Teachers’ Superannuation (Scotland) Regulations 2005(b) for “the Court under section 32(2) and (4) of the Bankruptcy (Scotland) Act 1985 or” substitute “any person under section 32A or 32F of the Bankruptcy (Scotland) Act 1985 or of the Court”.

The Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006

8. In regulation 12 of the Education (Student Loans for Tuition Fees) (Scotland) Regulations 2006(c)—

- (a) in paragraph (a) for “sheriff shall not, in fixing an amount under section 32(2)” substitute “Accountant in Bankruptcy must not, in fixing an amount under section 32A”; and
- (b) in paragraph (c)(ii) after “54” insert “, 54A, 54C”.

The Education (Student Loans) (Scotland) Regulations 2007

9. In regulation 15 of the Education (Student Loans) (Scotland) Regulations 2007(d)—

- (a) in paragraph (a) for “sheriff shall not, in fixing an amount under section 32(2)” substitute “Accountant in Bankruptcy must not, in fixing an amount under section 32A”; and
- (b) in paragraph (c)(ii) after “54” insert “, 54A, 54C”.

The Local Government Pension Scheme (Administration) (Scotland) Regulations 2008

10. In regulation 49(3) of the Local Government Pension Scheme (Administration) (Scotland) Regulations 2008(e) for “an income payments order under section 32(2)” substitute “a debtor contribution order under section 32A”.

The Graduate Endowment (Scotland) Regulations 2008

11. In regulation 12 of the Graduate Endowment (Scotland) Regulations 2008(f)—

- (a) in paragraph (a) for “sheriff must not, in fixing an amount under section 32(2)” substitute “Accountant in Bankruptcy must not, in fixing an amount under section 32A”; and
- (b) in paragraph (c)(ii) after “54” insert “, 54A, 54C”.

The National Health Service Superannuation Scheme (Scotland) Regulations 2011

12. In regulation T4(3) of the National Health Service Superannuation Scheme (Scotland) Regulations 2011(g) for “the court makes an income payments order under section 32(2) and (4) of the Bankruptcy (Scotland) Act 1985 or” substitute “a person makes or varies a debtor

(a) S.S.I. 2003/344, to which there are amendments not relevant to this Schedule.
(b) S.S.I. 2005/393, to which there are amendments not relevant to this Schedule.
(c) S.S.I. 2006/333. Regulation 12 was relevantly amended by S.S.I. 2010/300. There are other amendments to S.S.I. 2006/333 which are not relevant to this Schedule.
(d) S.S.I. 2007/154. Regulation 15 was relevantly amended by S.S.I. 2010/300. There are other amendments to S.S.I. 2007/154 which are not relevant to this Schedule.
(e) S.S.I. 2008/228, to which there are amendments not relevant to this Schedule.
(f) S.S.I. 2008/235, to which there are amendments not relevant to this Schedule.
(g) S.S.I. 2011/117, to which there are amendments not relevant to this Schedule.

contribution order under section 32A or 32F of the Bankruptcy (Scotland) Act 1985 or the court makes an income payments order”.

The Local Government Pension Scheme (Scotland) Regulations 2014

13. In regulation 82(3) of the Local Government Pension Scheme (Scotland) Regulations 2014^(a) for “an income payment order or agreement under section 32(2) or (4A)” substitute “a debtor contribution order under section 32A or 32F”.

^(a) S.S.I. 2014/164, to which there are amendments not relevant to this Schedule.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in consequence of the Bankruptcy and Debt Advice (Scotland) Act 2014 (“the 2014 Act”). The Order comes into force on 1st April 2015.

Article 3 of, and the Schedule to, the Order make provision modifying primary and secondary legislation.

The modifications provided for are in consequence of provision in the 2014 Act which amends the 1985 Act by:

- introducing debtor contribution orders in place of existing arrangements for income payment orders and agreements (see, in particular, section 4 of, and schedule 4 to, the 2014 Act); and
- altering existing arrangements for discharge of a debtor who has been sequestrated (see, in particular, sections 7 and 17 of the 2014 Act).

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£6.00

S2014110611 11/2014 19585

<http://www.legislation.gov.uk/id/ssi/2014/293>

ISBN 978-0-11-102486-7



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