Draft Order laid before Parliament under paragraphs 1, 2 and 3 of Schedule 7 to the Scotland Act 1998, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2016 No.

CONSTITUTIONAL LAW

DEVOLUTION, SCOTLAND

BANKRUPTCY

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

Made - - - -	*2016*
Coming into force - -	*30th November 2016*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 104, 112(1) and 113(2) to (5) and (7) of the Scotland Act 1998(**a**).

In accordance with paragraphs 1, 2 and 3 of Schedule 7 to that Act a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016 and comes into force on 30th November 2016.

Interpretation

2.—(1) In this Order unless the context otherwise requires—

"the 2016 Act" means the Bankruptcy (Scotland) Act 2016(**b**);

"Accountant in Bankruptcy" is to be construed in accordance with section 199 of the 2016 Act;

"creditor" includes a member State liquidator deemed to be a creditor under section 207 of the 2016 Act(**c**);

(**a**) 1998 c.46.
(**b**) 2016 asp 21 ("the 2016 Act").
(**c**) A member State liquidator is defined in section 228(1) of the 2016 Act as a person falling within the definition of liquidator in Article 2(b) of Council Regulation (EC) No. 1346/2000 of 29th May 2000 on insolvency proceedings (OJ L 160, 30.6.2000, p.19) appointed in proceedings to which it applies in a member State other than the UK. That Regulation is replaced from 26th June 2017 by Regulation (EU) 2015/848 of the Council and the Parliament of 20th May 2015 on insolvency proceedings (OJ L 141, 5.6.2015, p.19).

"date of sequestration" has the meaning given by section 22(7) of the 2016 Act;

"debtor" includes, without prejudice to the expression's generality, an entity whose estate may be sequestrated by virtue of section 6 of the 2016 Act, a deceased debtor, a deceased debtor's executor or a person entitled to be appointed a deceased debtor's executor;

"debtor application" means an application for sequestration made to the Accountant in Bankruptcy under section 2(1)(a), 5(a) or 6(3)(a), (4)(b) or (7)(a) of the 2016 Act;

"trust deed" means—

(a) a voluntary trust deed granted by or on behalf of a debtor whereby the debtor's estate (other than such of that estate as would not, under any provision of the 2016 Act or of any other enactment, vest in the trustee were that estate sequestrated) is conveyed to the trustee for the benefit of the debtor's creditors generally; and

(b) any other trust deed which would fall within sub-paragraph (a) but for—

(i) the exclusion from the estate conveyed to the trustee of the whole or part of the debtor's dwellinghouse, where a secured creditor holds a security over it; and

(ii) the fact that the debtor's estate is not conveyed to the trustee for the benefit of creditors generally because the secured creditor has, at the debtor's request, agreed before the trust deed is granted not to claim under the trust deed for any of the debt in respect of which the security is held.

(2) Any reference in this Order, however expressed, to the time when a petition for sequestration is presented is to be construed as a reference to the time when the petition is received by the sheriff clerk.

(3) Any reference in this Order, however expressed, to the 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.

Provisions ancillary to sections 118 and 119 of the 2016 Act

3.—(1) If a debtor or relevant person is to be examined under section 118 or 119 of the 2016 Act and is residing in a part of the United Kingdom other than Scotland, the sheriff may on the application of the trustee grant a warrant for the arrest of the debtor or relevant person and to have the arrested person taken to the place of the examination.

(2) But a warrant under paragraph (1) must not be granted unless the sheriff is satisfied that it is necessary to grant it to secure the attendance of the debtor or relevant person at the examination.

(3) If the debtor or relevant person is for any good reason prevented from attending for examination, the sheriff may grant a commission to take the examination of the debtor or relevant person (the commissioner being, in this article and in section 121 of the 2016 Act, referred to as an "examining commissioner").

(4) Paragraph (3) is without prejudice to paragraph (5).

(5) The sheriff or the examining commissioner may at any time adjourn the examination to such day as the sheriff or examining commissioner may fix.

(6) The sheriff or examining commissioner may order the debtor or a relevant person to produce for inspection any document—

(a) in the custody or control of the person so ordered; and

(b) relating to the debtor's assets, the debtor's dealings with those assets or the debtor's conduct in relation to the debtor's business or financial affairs,

and to deliver the document or a copy of the document to the trustee in the sequestration for further examination by the trustee.

(7) In this article—

"examination" means a private examination under section 118, or a public examination under section 119, of the 2016 Act;

"relevant person" means a spouse, civil partner or any other person who the trustee believes can give information relating to the debtor's assets, the debtor's dealings with them or the debtor's conduct in relation to the debtor's business or financial affairs.

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(**a**));

(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(**b**) 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(**c**).

(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).

Regulations under section 103, 106 or 205(2) of, or schedule 3 to, the 2016 Act

5.—(1) Any power of the Secretary of State to make regulations under section 103(4), 106(4) or 205(2) of, or paragraph 2(1) or 3 of schedule 3 to, the 2016 Act is exercisable by statutory instrument.

(**a**) 1995 c.46.
(**b**) 1991 c.48.
(**c**) 2002 c.29.

(2) A statutory instrument containing such regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Such regulations may make different provision for different cases or classes of case.

Limitation of actions

6.—(1) The following bar the effect of any enactment or rule of law relating to the limitation of actions—

(a) the presentation of a petition for sequestration under section 2, 5 or 6 of the 2016 Act;

(b) concurrence in a debtor application under section 8 of that Act;

(c) the submission of a claim under section 46 or 122 of that Act;

(d) the submission by a creditor of a claim to the trustee acting under a trust deed.

(2) Reference to any of a creditor's acts mentioned in sub-paragraphs (a) to (d) of paragraph (1) barring the effect of any enactment or rule of law relating to the limitation of actions is to be construed as reference to that act having the same effect, for the purposes of the enactment or rule of law, as an effective acknowledgement of the creditor's claim.

(3) Reference in paragraph (1) or (2) to an enactment does not include reference to an enactment which implements or gives effect to any international agreement or obligation.

(4) This article extends to all parts of the United Kingdom other than Scotland (and is without prejudice to sections 13(5), 14(5), 46(8), and 125(3) of, and paragraph 4 of schedule 4 to, the 2016 Act).

Modifications, repeals, revocations and savings provisions

7.—(1) Schedule 1 makes provision for the modification of enactments.

(2) The enactments mentioned in Schedule 2 are repealed, or as the case may be revoked, to the extent mentioned in the second column of that Schedule.

(3) Nothing in this Order affects—

(a) any of the enactments repealed, revoked or modified by this Order in the enactment's operation in relation to—

(i) a sequestration as regards which the petition is presented, or the debtor application is made before; or

(ii) a trust deed executed before,

the coming into force of this Order, or

(b) any power to repeal, revoke or amend any such enactment, in so far as the power relates to such operation of the enactment.

(4) Any modification, repeal or revocation made by Schedule 1 or 2 has the same extent as the enactment to which it relates.

Sequestrations and trust deeds to which Order applies

8.—(1) This Order applies to sequestrations as regards which the petition is presented, or the debtor application is made, on or after the day on which section 236 of the 2016 Act comes into force.

(2) This Order applies to trust deeds executed on or after the day on which Part 14 of the 2016 Act comes into force.

Crown application

9. This Order binds the Crown as creditor only.

Dover House
London
Date

Name
Secretary of State
Scotland Office

SCHEDULE 1

Article 7(1)

Modification of enactments

PART 1

Primary legislation

Superannuation Act 1972

1. In section 5(2) of the Superannuation Act 1972(**a**) (benefits under civil service superannuation schemes not assignable)—

(a) omit "or section 32(2) and (4) of the Bankruptcy (Scotland) Act 1985"; and

(b) insert at the end "or the powers of any person under section 90 or 95 of the Bankruptcy (Scotland) Act 2016".

Control of Pollution Act 1974

2.—(1) The Control of Pollution Act 1974(**b**) is amended as follows.

(2) In section 30Y(1)(b)(i) (abandoned mines: introductory)—

(a) for "permanent" substitute "trustee"; and

(b) for "1985" substitute "2016".

(3) In section 30Z(5)(a) (mine operators to give SEPA six months' notice of any proposed abandonment)—

(a) for "permanent" substitute "trustee"; and

(b) for "1985" substitute "2016".

Customs and Excise Management Act 1979

3. In section 1(1) of the Customs and Excise Management Act 1979(**c**) (interpretation), in the definition of "representative", for "or interim or permanent trustee" substitute ", trustee or interim trustee in a sequestration".

Insolvency Act 1986

4.—(1) The Insolvency Act 1986(**d**) is amended as follows.

(2) In section 51(6)(**e**) (power to appoint receiver), in paragraph (a) of the definition of "bankruptcy restrictions order", for "56A of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "155 of the Bankruptcy (Scotland) Act 2016".

(**a**) 1972 c.11; section 5(2) was amended by the Bankruptcy (Scotland) Act 1985 (c.66), Schedule 7, paragraph 9.

(**b**) 1974 c.40; sections 30Y and 30Z were inserted by the Environment Act 1995 (c.25), section 59 and amended in relation to Scotland by the Regulatory Reform (Scotland) Act 2014 (asp 3), schedule 3, paragraph 16(3).

(**c**) 1979 c.2; the definition of "representative" was inserted by the Finance Act 1997 (c.16), Schedule 6, paragraph 2(4).

(**d**) 1986 c.45.

(**e**) Section 51(6) was amended by the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3) ("the 2007 Act"), section 3(4).

(3) In section 185 (effect of diligence: Scotland)—

(a) in subsection (1), for the words from "1985" to the end of paragraph (b) substitute—

"2016—

(a) subsections (3) to (10) of section 23A (effect of sequestration on land attachment)(**a**) and section 24 (effect of sequestration on diligence generally); and

(b) subsections (6), (7), (10) and (11) of section 109 (management and realisation of estate),"; and

(b) in subsection (2), for "1985" substitute "2016".

(4) In section 193 (unclaimed dividends: Scotland)—

(a) in subsection (2), for "73(1) of the Bankruptcy (Scotland) Act 1985" substitute "228(1) of the Bankruptcy (Scotland) Act 2016"; and

(b) in subsection (3)(**b**), for—

(i) "58 of the Bankruptcy (Scotland) Act 1985" substitute "150 of the Bankruptcy (Scotland) Act 2016"; and

(ii) "57" substitute "148".

(5) In section 242(3)(a) (gratuitous alienations: Scotland), for "1985" substitute "2016".

(6) In section 388 (meaning of "act as insolvency practitioner")—

(a) in subsection (2)(a), for "permanent or interim trustee" substitute "trustee (or interim trustee)";

(b) in subsection (3)(**c**), for "1985" substitute "2016";

(c) in subsection (4), for the definition of ""interim trustee" and "permanent trustee"" substitute—

""sequestration" means sequestration under the Bankruptcy (Scotland) Act 2016"; and

(d) in subsection (5)(b)(**d**), for "1985" substitute "2016".

(7) In section 389(2) (acting without qualification an offence)(**e**), for "1985" substitute "2016".

(8) In section 390(5)(a)(**f**) (persons not qualified to act as insolvency practitioners), after "1985" insert "or the Bankruptcy (Scotland) Act 2016".

(9) In section 426(10)(b)(**g**) (co-operation between courts exercising jurisdiction in relation to insolvency), for "1985" substitute "2016".

(10) In section 435(5)(a) (meaning of "associate"), for "1985" substitute "2016".

(11) In paragraph 14 of Schedule 8 (provisions capable of inclusion in company insolvency rules), for "1985" substitute "2016".

Company Directors Disqualification Act 1986

5. In section 11(2)(b)(i)(**h**) of the Company Directors Disqualification Act 1986(**i**) (undischarged bankrupts), after "1985" insert "or 2016".

(**a**) Section 23A of the 2016 Act is prospectively inserted by section 127A of the 2007 Act, as inserted by paragraph 23(2) of schedule 8 to the 2016 Act. This will allow section 23A to be brought into force at the same time as Chapter 2 (land attachment) of Part 4 of the 2007 Act.
(**b**) Section 193(3) was amended by S.I. 2009/1941, Schedule 1, paragraph 75(21).
(**c**) Section 388(3) was amended by S.I. 1994/2421, article 15(2).
(**d**) Section 388(5) was substituted by the Bankruptcy (Scotland) Act 1993 (c.6) ("the 1993 Act"), section 11(1).
(**e**) Section 389(2) was amended by the 1993 Act, section 11(2).
(**f**) Section 390(5) was substituted by the Small Business, Enterprise and Employment Act 2015 (c.26) ("the 2015 Act"), section 115(b).
(**g**) Section 426(10)(b) was amended by the Insolvency Act 2000, Schedule 4, paragraph 16(3)(b).
(**h**) Section 11(2) was substituted by the 2015 Act, section 113(1).
(**i**) 1986 c.46.

Companies Act 1989

6.—(1) The Companies Act 1989(**a**) is amended as follows.

(2) In section 159(2) (proceedings of exchange or clearing house take precedence over insolvency procedures)(**b**), for "1985" substitute "2016".

(3) In section 161 (supplementary provisions as to default proceedings)—

(a) in subsection (2), for "permanent trustee on the sequestrated" substitute "trustee in the sequestration of the"; and

(b) in subsection (4), for "1985" substitute "2016".

(4) In section 163(3) (net sum payable on completion of default proceedings)(**c**), for "73(1) of the Bankruptcy (Scotland) Act 1985" substitute "22(7) of the Bankruptcy (Scotland) Act 2016".

(5) In section 164 (disclaimer of property, rescission of contracts etc.)—

(a) in subsection (2)—

(i) for "permanent trustee on the sequestrated" substitute "trustee in the sequestration of the"; and

(ii) for "42 of the Bankruptcy (Scotland) Act 1985" substitute "110 of the Bankruptcy (Scotland) Act 2016"; and

(b) in subsection (3), in the words before paragraph (a)(**d**)—

(i) for "32(8) of the Bankruptcy (Scotland) Act 1985" substitute "87(4) of the Bankruptcy (Scotland) Act 2016"; and

(ii) omit "permanent".

(6) In section 165(2)(a) (adjustment of prior transactions), for "34 or 36 of the Bankruptcy (Scotland) Act 1985" substitute "98 or 99 of the Bankruptcy (Scotland) Act 2016".

(7) In section 175(4) (administration orders etc.)—

(i) for "32(8) of the Bankruptcy (Scotland) Act 1985" substitute "87(4) of the Bankruptcy (Scotland) Act 2016"; and

(ii) omit "permanent".

(8) In section 180(2) (proceedings against market property by unsecured creditors), for "1985" substitute "2016".

(9) In section 182(2) (powers of court in relation to certain proceedings begun before commencement), for "1985" substitute "2016".

(10) In section 189(1)(c) (meaning of "relevant office-holder")—

(a) for "1985" substitute "2016"; and

(b) for "permanent" substitute "trustee".

(11) In section 190 (minor definitions)—

(a) in subsection (1)(**e**)—

(i) for the definition of ""interim trustee" and "permanent trustee"" substitute—

""interim trustee" has the same meaning as in the Bankruptcy (Scotland) Act 2016"; and

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(**a**) 1989 c.40.
(**b**) Section 159(2) was amended by S.I. 2013/504, regulation 4(6)(c).
(**c**) Section 163(3) was amended by S.I. 2009/853, regulation 2(7)(b).
(**d**) Section 164(3) was amended by S.I. 2009/853, regulation 2(8).
(**e**) Section 190(1) was amended by S.I. 2001/3649, article 89, the Financial Services Act 2012 (c.21), Schedule 18, paragraph 70, S.I. 2013/504, regulation 4(18)(b)(i) and S.I. 2013/1908, regulation 2(12).

(ii) after the definition of ""recognised central counterparty", "recognised clearing house" and "recognised investment exchange"" insert—

""sequestration" means sequestration under the Bankruptcy (Scotland) Act 2016;";

(b) in subsection (6)(a)(**a**), for "1985" substitute "2016"; and

(c) in subsection (7)(b), for "or permanent trustee" substitute "trustee or to a trustee in the sequestration of an estate".

(12) In section 191 (index of defined expressions), in the table(**b**)—

(a) omit the entry relating to "permanent trustee"; and

(b) for the entry relating to "trustee, interim or permanent (in relation to Scotland)" substitute—

"interim trustee and trustee in the sequestration of an estate (in relation to Scotland)	section 190(1) and (7)(b)"

Environmental Protection Act 1990

7. In section 78X(4)(e) of the Environmental Protection Act 1990(**c**) (supplementary provisions)—

(a) for "permanent" substitute "trustee"; and

(b) for "1985" substitute "2016".

Water Resources Act 1991

8.—(1) The Water Resources Act 1991(**d**) is amended as follows.

(2) In section 91A(1)(b)(ii) (introductory)—

(a) for "permanent" substitute "trustee"; and

(b) for "1985" substitute "2016".

(3) In section 91B(5)(b) (mine operators to give the appropriate agency six months' notice before any proposed abandonment)—

(a) for "permanent" substitute "trustee"; and

(b) for "1985" substitute "2016".

Social Security Administration Act 1992

9. In section 78(3B) of the Social Security Administration Act 1992(**e**) (recovery of social fund awards), for "1985" substitute "2016".

Taxation of Chargeable Gains Act 1992

10. In section 66(5) of the Taxation of Chargeable Gains Act 1992(**f**) (insolvents' assets), in the definition of "trustee in bankruptcy"—

(a) for "permanent trustee within the meaning of" substitute "trustee in a sequestration under"; and

(b) for "1985" substitute "2016".

(**a**) Section 190(6) was substituted by S.I. 2013/504, regulation 4(18)(e).
(**b**) The table was substituted by S.I. 2013/504, Schedule 1, paragraph 1.
(**c**) 1990 c.43; section 78X(4)(e) was inserted by the Environment Act 1995 (c.25) ("the 1995 Act"), section 57.
(**d**) 1991 c.57; sections 91A and 91B were inserted by the 1995 Act, section 58.
(**e**) 1992 c.5; section 78(3B) was inserted by the Jobseekers Act 1995 (c.18), section 32(2).
(**f**) 1992 c.12.

Pension Schemes Act 1993

11.—(1) The Pensions Schemes Act 1993(**a**) is amended as follows.

(2) In section 47(7)(**b**) (entitlement to guaranteed minimum pensions for purposes of relationship with social security benefits), for "36A of the Bankruptcy (Scotland) Act 1985" substitute "101 of the Bankruptcy (Scotland) Act 2016".

(3) In section 127(2)(b) (transfer to Secretary of State of rights and remedies), for "1985" substitute "2016".

(4) In section 128 (priority in bankruptcy etc.), for "4 of Schedule 3 to the Bankruptcy (Scotland) Act 1985" substitute "1 of schedule 3 to the Bankruptcy (Scotland) Act 2016".

(5) In section 147(3) (death, insolvency or disability of authorised complainant), for "1985" substitute "2016".

(6) In paragraph 4(1)(b) of Schedule 4 (priority in bankruptcy etc.)—

(a) for "Part I" substitute "Part 1"; and

(b) for "1985" substitute "2016".

Value Added Tax Act 1994

12.—(1) The Value Added Tax Act 1994(**c**) is amended as follows.

(2) In section 73 (failure to make returns etc.), in each of subsections (5) and (10), for "interim or permanent trustee" substitute "trustee in sequestration".

(3) In section 75(4) (assessments in cases of acquisitions of certain goods by non-taxable persons), for "interim or permanent trustee" substitute "trustee in sequestration".

(4) In section 76(10) (assessment of amounts due by way of penalty, interest or surcharge), for "interim or permanent trustee" substitute "trustee in sequestration".

(5) In section 78A(8)(**d**) (assessment for interest overpayments), for "interim or permanent trustee" substitute "trustee in sequestration".

(6) In section 81(5)(c) (interest given by way of credit and set-off of credits), for "1985" substitute "2016".

(7) In section 96(1) (interpretation)—

(a) omit the definitions of "interim trustee" and "permanent trustee"; and

(b) after the definition of "tribunal", insert—

""trustee in sequestration" means a trustee (or interim trustee) in a sequestration under the Bankruptcy (Scotland) Act 2016".

(8) In paragraph 2(5)(b) of Schedule 11 (administration, collection and enforcement), for "interim or permanent trustee" substitute "trustee in sequestration".

Pensions Act 1995

13.—(1) The Pensions Act 1995(**e**) is amended as follows.

(2) In section 22(3) (circumstances in which certain provisions of the Act apply)—

(a) omit the definition of ""interim trustee" and "permanent trustee""; and

(b) omit the word "and" immediately preceding that definition.

(3) In section 75(8)(b) (deficiencies in the assets), for "1985" substitute "2016".

(**a**) 1993 c.48.
(**b**) Section 47(7) was inserted by the Welfare Reform and Pensions Act 1999 (c.30), Schedule 2, paragraph 6.
(**c**) 1994 c.23.
(**d**) Section 78A was inserted by the Finance Act 1997 (c.16), section 45(1).
(**e**) 1995 c.26.

(4) In section 94(3)(d) (assignment, forfeiture, bankruptcy: supplementary) for "32(2) of the Bankruptcy (Scotland) Act 1985" substitute "90 or 95 of the Bankruptcy (Scotland) Act 2016".

(5) In section 123(2) ("connected" and "associated" persons), for "74 of the Bankruptcy (Scotland) Act 1985 (associated persons)" substitute "229 of the Bankruptcy (Scotland) Act 2016 (meaning of "associate")".

Proceeds of Crime (Scotland) Act 1995

14.—(1) The Proceeds of Crime (Scotland) Act 1995(**a**) is amended as follows.

(2) In Schedule 2 (sequestration etc. of persons holding realisable or forfeitable property)—

(a) in paragraph 1(1)(a), for "12(4) of the 1985" substitute "22(7) of the 2016";

(b) in paragraph 1(2)—

(i) in paragraph (a), for "31(8) of the 1985" substitute "79 of the 2016";

(ii) for paragraph (b) substitute—

"(b) any income of the debtor which has been ordered, under section 90 or 95 of that Act, to be paid to the trustee or any estate which, under subsection (4) of section 79, or subsection (5) of section 86, of that Act vests in the trustee,"; and

(iii) for "permanent trustee in accordance with section 48" substitute "trustee in the sequestration in accordance with section 122";

(c) in paragraph 1(3), for "1985" substitute "2016";

(d) in paragraph 1(4), for "2(5) of the 1985" substitute "54(1) of the 2016";

(e) in paragraph 1(5)—

(i) in paragraph (a), for "34 or 36 of the 1985" substitute "98 or 99 of the 2016"; and

(ii) in paragraph (b), for "34 and 36" substitute "98 and 99";

(f) in paragraph 5—

(i) in sub-paragraph (1), for "1985" substitute "2016"; and

(ii) in sub-paragraph (3), omit the words from "the reference" to "sequestration and";

(g) in paragraph 6—

(i) in sub-paragraph (1), for "1985", in both places where it occurs, substitute "2016"; and

(ii) in sub-paragraph (3), for "interim or permanent trustee" substitute "trustee (or interim trustee)".

Finance Act 1996

15. In section 50(10) of the Finance Act 1996(**b**) (power to assess), for the words from "an" to "1985)" substitute "a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate".

Employment Rights Act 1996

16.—(1) The Employment Rights Act 1996(**c**) is amended as follows.

(2) In section 184(4) (debts to which Part 12 of the Act applies)—

(a) for the words from "permanent", where it first occurs, to "1985)" substitute "trustee or interim trustee in the sequestration of an estate under the Bankruptcy (Scotland) Act 2016"; and

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(**a**) 1995 c.43.
(**b**) 1996 c.8.
(**c**) 1996 c.18.

(b) in paragraph (b), for "permanent" substitute "trustee".

(3) In section 187(4)(a) (role of relevant officer)—

(a) for "permanent" substitute "trustee"; and

(b) for "1985" substitute "2016".

(4) In section 189(2)(b) (transfer to Secretary of State of rights and remedies), for "1985" substitute "2016".

Housing Grants, Construction and Regeneration Act 1996

17. In section 113 of the Housing Grants, Construction and Regeneration Act 1996(**a**) (prohibition of conditional payment provisions)—

(a) in subsection (3)(b), for "12 of the Bankruptcy (Scotland) Act 1985" substitute "22 of the Bankruptcy (Scotland) Act 2016"; and

(b) in subsection (4)(b), for "1985" substitute "2016".

Finance Act 1997

18. In paragraph 20(3) of Schedule 5 to the Finance Act 1997(**b**) (interpretation of Part 5 of that Schedule), for "interim or permanent trustee" substitute "trustee or interim trustee in a sequestration".

Welfare Reform and Pensions Act 1999

19.—(1) Section 13 of the Welfare Reform and Pensions Act 1999(**c**) (application of sections 11 and 12 of the Act to Scotland) is amended as follows.

(2) In subsection (2)—

(a) in paragraph (b), for "1985" substitute "2016";

(b) in paragraph (d), for "permanent trustee" substitute "trustee or interim trustee in a sequestration under the Bankruptcy (Scotland) Act 2016"; and

(c) in paragraph (e), for "12(4) of the Bankruptcy (Scotland) Act 1985" substitute "22(7) of the Bankruptcy (Scotland) Act 2016".

(3) In subsection (3), for "12(4) of the Bankruptcy (Scotland) Act 1985" substitute "22(7) of the Bankruptcy (Scotland) Act 2016".

Financial Services and Markets Act 2000

20.—(1) The Financial Services and Markets Act 2000(**d**) is amended as follows.

(2) In section 215 (rights of the scheme in insolvency)—

(a) in subsection (7)—

(i) in paragraph (b), for "5 of the 1985" substitute "2 or 5 of the 2016"; and

(ii) in paragraph (c), for "1985" substitute "2016"; and

(b) in subsection (9)—

(i) omit ""The 1985 Act","; and

(ii) after "Order" insert ", "the 2016 Act"".

(**a**) 1996 c.53.
(**b**) 1997 c.16.
(**c**) 1999 c.30.
(**d**) 2000 c.8.

(3) In section 220(3)(b) (scheme manager's power to inspect information held by liquidator etc.), for the words from "permanent" to "on" substitute "trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of".

(4) In section 355(1) (interpretation of Part 24 of the Act)—

(a) omit the definition of "the 1985 Act"; and

(b) after the definition of "the 1989 Order" insert—

""the 2016 Act" means the Bankruptcy (Scotland) Act 2016;".

(5) In section 358 (powers of FCA and PRA to participate in proceedings: trust deeds for creditors in Scotland)—

(a) in subsection (2)(b)(**a**), for "paragraph 5(1)(c) of Schedule 5 to the 1985" substitute "section 170 of the 2016";

(b) omit subsection (3);

(c) in subsection (6A)(a)(i)(**b**) omit ", (3)"; and

(d) in subsection (7), for "1985" substitute "2016".

(6) In section 372 (petitions), in each of subsections (1)(b) and (1A)(b)(**c**), for "5 of the 1985" substitute "2 or 5 of the 2016".

(7) In section 373(3) (insolvency practitioner's duty to report to FCA and PRA), for "12 of the 1985" substitute "22 of the 2016".

(8) In section 374 (powers of FCA or PRA to participate in proceedings)—

(a) in subsection (1)(**d**)—

(i) in paragraph (b), for "5 of the 1985" substitute "2 or 5 of the 2016"; and

(ii) in paragraph (c), for "1985" substitute "2016";

(b) in subsection (2)(b)(iii)(**e**), for "1985" substitute "2016"; and

(c) in subsection (4)(c), for "17 or 18 of Schedule 6 to the 1985" substitute "26 or 27 of Schedule 6 to the 2016".

Terrorism Act 2000

21.—(1) Schedule 4 to the Terrorism Act 2000(**f**) (forfeiture orders) is amended as follows.

(2) In paragraph 48(4), for "51(1) of the Bankruptcy (Scotland) Act 1985" substitute "129(1) of the Bankruptcy (Scotland) Act 2016".

(3) In paragraph 51(4), for "1985" substitute "2016".

(4) In paragraph 53(1)(c), for "permanent or interim trustee on the" substitute "trustee or interim trustee in the sequestration of a".

Limited Liability Partnerships Act 2000

22. In section 7(2)(b) of the Limited Liability Partnerships Act 2000(**g**) (ex-members), for the words from "or permanent" to "1985) or" substitute ", the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of the former member's estate or the former member's".

(**a**) Section 358(2) was amended by the Financial Services Act 2012 (c.21) ("the 2012 Act"), Schedule 14, paragraph 5(2) and (3).
(**b**) Section 358(6A) was inserted by the 2012 Act, Schedule 14, paragraph 5(6).
(**c**) Section 372(1) was amended by, and section 372(1A) inserted by, the 2012 Act, Schedule 14, paragraph 20(2) and (3).
(**d**) Section 374(1) was amended by the 2012 Act, Schedule 14, paragraph 22(2).
(**e**) Section 374(2) was amended by the 2012 Act, Schedule 14, paragraph 22(3).
(**f**) 2000 c.11.
(**g**) 2000 c.12.

Finance Act 2000

23. In Schedule 6 to the Finance Act 2000(**a**) (climate change levy)—

(a) in paragraph 75(2)(i), for "1985" substitute "2016";

(b) in paragraph 76(3), for paragraph (a) (but not the final "and") substitute—

"(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate;";

(c) in paragraph 91(4), for paragraph (a) (but not the final "and") substitute—

"(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate;";

(d) in paragraph 103(5), for paragraph (a) (but not the final "and") substitute—

"(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate;"; and

(e) in paragraph 120(7)(k), for "1985" substitute "2016".

Finance Act 2001

24.—(1) The Finance Act 2001(**b**) is amended as follows.

(2) In section 37(7)(k) (insolvency etc.), for "1985 (c.66)" substitute "2016".

(3) In paragraph 19(4) of Schedule 5 (aggregates levy: recovery and interest), for paragraph (a) (but not the final "and") substitute—

"(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate;".

(4) In Schedule 8 (aggregates levy: repayments and credits)—

(a) in paragraph 11(2)(i), for "1985 (c.66)" substitute "2016"; and

(b) in paragraph 12(3), for paragraph (a) (but not the final "and") substitute—

"(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate;".

(5) In paragraph 1(5) of Schedule 10 (aggregates levy: assessment of civil penalties and interest on them), for paragraph (a) (but not the final "and") substitute—

"(a) a trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016, of a person's estate;".

Proceeds of Crime Act 2002

25.—(1) The Proceeds of Crime Act 2002(**c**) is amended as follows.

(2) In section 84(2)(d) (property: general provisions), for the words from ", permanent" to the end substitute "or liquidator or in the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016), of his estate;".

(3) In section 95(3) (available amount), in the definition of "preferred debt", for "51(2) of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "129(2) of the Bankruptcy (Scotland) Act 2016".

(4) In section 150(2)(d) (property: general provisions)—

(a) omit the words from "permanent" to "(c.66)),"; and

(b) at the end insert "or in the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016), of his estate".

(**a**) 2000 c.17.
(**b**) 2001 c.9.
(**c**) 2002 c.29.

(5) In section 232(2)(d) (property: general provisions), for the words from ", permanent" to the end substitute "or liquidator or in the trustee or interim trustee in the sequestration, under the Bankruptcy (Scotland) Act 2016), of his estate;".

(6) In section 311 (insolvency)—

(a) in subsection (3)—

(i) in paragraph (c), for the words from "section 2" to "Order" substitute "section 286 of the 1986 Act, Article 259 of the 1989 Order or section 54 of the 2016 Act"; and

(ii) in paragraph (f), for "1985" substitute "2016",

(b) in subsection (7)—

(i) omit paragraph (a);

(ii) after paragraph (c) insert—

"(d) 2016 Act means the Bankruptcy (Scotland) Act 2016"; and

(iii) for "(a) to (c)" substitute "(b) to (d)" ; and

(c) in subsection (8)(a), for the words from "1985" to "1985" substitute "2016 Act is the applicable enactment, any property comprised in an estate to which that".

(7) In section 420 (modifications of the Bankruptcy (Scotland) Act 1985)—

(a) in subsection (2), for "1985"(**a**) substitute "2016";

(b) in subsection (4), for—

(i) "permanent trustee" substitute "trustee in the sequestration"; and

(ii) "48 of the 1985" substitute "122 of the 2016"; and

(c) in subsection (5), for "2(5) of the 1985" substitute "54(1) of the 2016".

(8) The title of section 420 becomes "Modifications of the 2016 Act".

(9) In section 421 (restriction of powers)—

(a) in subsection (3)(a), for "31(8) of the 1985" substitute "79 of the 2016";

(b) in subsection (3)(b) for—

(i) "32(2)" substitute "90 or 95"; and

(ii) "permanent trustee" substitute "trustee in the sequestration";

(c) in subsection (3)(c), for—

(i) "31(10) or 32(6)" substitute "79(4) or 86(4) and (5)"; and

(ii) "permanent trustee" substitute "trustee in the sequestration";

(d) in subsection (4), for "1985" substitute "2016"; and

(e) omit subsections (5) and (6).

(10) In section 422 (tainted gifts), in each of subsections (2) and (3), for "34 or 36 of the 1985" substitute "98 or 99 of the 2016".

(11) In section 432(4) (insolvency practitioners)—

(a) omit "the 1985 Act,"; and

(b) after "1989 Order" insert ", the 2016 Act".

(12) In section 434 (interpretation)—

(a) in subsection (1)—

(i) omit paragraphs (a) and (c); and

(ii) after paragraph (e) insert—

"(f) the 2016 Act is the Bankruptcy (Scotland) Act 2016;", and

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(**a**) Section 420(2) was substituted by the Policing and Crime Act 2009 (c.26), Schedule 7, paragraph 82.

(b) in subsection (2), for "12(4) of the 1985" substitute "22(7) of the 2016".

(13) In paragraph 3 of Schedule 3 (administrators: further provision), in sub-paragraph (10), for "74 of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "229 of the Bankruptcy (Scotland) Act 2016".

Pensions Act 2004

26.—(1) The Pensions Act 2004(**a**) is amended as follows.

(2) In section 38(10)(c) (contribution notices where avoidance of employer debt), for "74 of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "229 of the Bankruptcy (Scotland) Act 2016".

(3) In section 51(3)(c) (interpretation), for "74 of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "229 of the Bankruptcy (Scotland) Act 2016".

(4) In section 53(6)(c) (restoration orders: supplementary), for "74 of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "229 of the Bankruptcy (Scotland) Act 2016".

(5) In section 57(2)(c) (partnerships and limited liability partnerships), for "74 of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "229 of the Bankruptcy (Scotland) Act 2016".

(6) In section 121 (insolvency event, insolvency date and insolvency practitioner)—

(a) in subsection (4)(b), for "12 of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "22 of the Bankruptcy (Scotland) Act 2016"; and

(b) omit subsection (11)(a).

Income Tax (Trading and Other Income) Act 2005

27. In section 259(a) of the Income Tax (Trading and Other Income) Act 2005(**b**) (meaning of "statutory insolvency arrangement"), for the words from "Schedule" to the end substitute "the Insolvency (Northern Ireland) Order 1989 or schedule 4 to the Bankruptcy (Scotland) Act 2016".

Gambling Act 2005

28.—(1) The Gambling Act 2005(**c**) is amended as follows.

(2) In section 114(1)(d) (operating licences: lapse), for "12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "22(1) of the Bankruptcy (Scotland) Act 2016".

(3) In section 194(1)(d) (premises licences: lapse), for "12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "22(1) of the Bankruptcy (Scotland) Act 2016".

(4) In paragraph 15 of Schedule 10 (family entertainment centre gaming machine permits), in sub-paragraph (1)(d), for "12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "22(1) of the Bankruptcy (Scotland) Act 2016".

(5) In paragraph 15 of Schedule 14 (prize gaming permits), in sub-paragraph (1)(d), for "12(1) of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "22(1) of the Bankruptcy (Scotland) Act 2016".

Companies Act 2006

29.—(1) The Companies Act 2006(**d**) is amended as follows.

(**a**) 2004 c.35.
(**b**) 2005 c.5.
(**c**) 2005 c.19.
(**d**) 2006 c.46.

(2) In section 102(5) (re-registration of private limited company as unlimited)—

(a) for paragraph (a) substitute—

"(a) a trustee or interim trustee in the sequestration under the Bankruptcy (Scotland) Act 2016 of the estate of a member of the company;"; and

(b) in paragraph (b), for "1985" substitute "2016".

(3) In section 109(5) (re-registration of public company as private and unlimited)—

(a) for paragraph (a) substitute—

"(a) a trustee or interim trustee in the sequestration under the Bankruptcy (Scotland) Act 2016 of the estate of a member of the company;"; and

(b) in paragraph (b), for "1985" substitute "2016".

(4) In section 148(4)(a)(ii) (termination or suspension of nomination), for "1985 (c.66)" substitute "2016".

(5) In section 310(3)(b) (persons entitled to receive notice of meetings), for "1985 (c.66)" substitute "2016".

(6) In section 982(8) (further provision about consideration held on trust under section 981(9) of the Companies Act 2006)—

(a) for "58 of the Bankruptcy (Scotland) Act 1985 (c.66)" substitute "150 of the Bankruptcy (Scotland) Act 2016"; and

(b) for "57(1)(a)" substitute "148(3)".

(7) In Part 6 of Schedule 5 (communications by a company: supplementary provisions), in paragraph 17(5)—

(a) in paragraph (b), for "1985 (c.66)" substitute "2016"; and

(b) for "permanent or interim trustee (within the meaning of that Act)" substitute "trustee or interim trustee (under that Act)".

Armed Forces Act 2006

30. In section 356(4)(b)(ii) of the Armed Forces Act 2006(**a**) (avoidance of assignment of, or charge on, pay and pensions etc.)—

(a) for "permanent trustee in a sequestration" substitute "trustee in the sequestration of a person's estate"; and

(b) for "1985 (c.66)" substitute "2016".

Serious Crime Act 2007

31. In section 27(8) of the Serious Crime Act 2007(**b**) (powers to wind up companies etc: England and Wales), for "1985 (c.66)" substitute "2016".

Banking Act 2009

32. In section 103 of the Banking Act 2009(**c**) (general powers, duties and effect), in the entry in the table of applied provisions which relates to section 185 of the Insolvency Act 1986, for "section 37(1) of the Bankruptcy (Scotland) Act 1985" substitute "section 24(1) and (2) of the Bankruptcy (Scotland) Act 2016".

(**a**) 2006 c.52.
(**b**) 2007 c.27.
(**c**) 2009 c.1.

Corporation Tax Act 2009

33. In section 1319 of the Corporation Tax Act 2009(**a**) (other definitions), in paragraph (a) of the definition of "statutory insolvency arrangement"(**b**), for the words from "Schedule" to the end substitute "the Insolvency (Northern Ireland) Order 1989 or schedule 4 to the Bankruptcy (Scotland) Act 2016".

Coroners and Justice Act 2009

34.—(1) The Coroners and Justice Act 2009(**c**) is amended as follows.

(2) In section 164(6) (the available amount), for the definition of "preferred debts" substitute—

> ""preferred debts" has the meaning given by section 129(2) of the Bankruptcy (Scotland) Act 2016;".

(3) In section 165(3)(c) (property), for the words from "permanent" to "c.66))" substitute "trustee or interim trustee in a sequestration of the person's estate under the Bankruptcy (Scotland) Act 2016".

Third Parties (Rights against Insurers) Act 2010

35.—(1) The Third Parties (Rights against Insurers) Act 2010(**d**) is amended as follows.

(2) In section 4 (individuals)—

(a) in subsection (2)—

(i) for "any" substitute "either";

(ii) for the words from "that", where it first occurs, to "estate)" substitute "the individual's estate";

(iii) in paragraph (a), for "under section 5 of the Bankruptcy (Scotland) Act 1985" substitute "by virtue of section 2 or 5 of the Bankruptcy (Scotland) Act 2016";

(iv) at the end of paragraph (a) insert "or"; and

(v) omit paragraph (c) and the "or" which immediately precedes paragraph (c).

(b) in subsection (5), for "under section 5 of the Bankruptcy (Scotland) Act 1985" substitute "by virtue of section 2 or 5 of the Bankruptcy (Scotland) Act 2016"; and

(c) omit subsection (6).

(3) In section 5(2) (individuals who die insolvent)—

(a) in paragraph (b), for "under section 5 of the Bankruptcy (Scotland) Act 1985" substitute "by virtue of section 2 or 5 of the Bankruptcy (Scotland) Act 2016"; and

(b) in paragraph (c), for "1985" substitute "2016".

(4) In section 6 (corporate bodies etc.)—

(a) in subsection (3)—

(i) in paragraph (a), for "under section 6 of the Bankruptcy (Scotland) Act 1985" substitute "by virtue of section 6 of the Bankruptcy (Scotland) Act 2016";

(ii) in paragraph (b), for "under" substitute "by virtue of";

(iii) at the end of paragraph (b) insert "or";

(iv) in paragraph (c), for "1985" substitute "2016"; and

(v) omit paragraph (d) and the "or" which immediately precedes paragraph (d).

(**a**) 2009 c.4.
(**b**) The definition of "statutory insolvency arrangement" was inserted by the Corporation Tax Act 2010 (c.4), paragraph 701(3) of Schedule 1.
(**c**) 2009 c.25.
(**d**) 2010 c.10.

(b) in subsection (7), for "under section 6 of the Bankruptcy (Scotland) Act 1985" substitute "by virtue of section 6 of the Bankruptcy (Scotland) Act 2016";

(c) omit subsection (8); and

(d) in subsection (9)(c), for "under section 6 of the Bankruptcy (Scotland) Act 1985" substitute "by virtue of section 6 of the Bankruptcy (Scotland) Act 2016".

(5) In section 7 (Scottish trusts)—

(a) in subsection (1)—

(i) in paragraph (a), for "under section 6 of the Bankruptcy (Scotland) Act 1985" substitute "by virtue of section 6 of the Bankruptcy (Scotland) Act 2016";

(ii) at the end of paragraph (a) insert "or"; and

(iii) omit paragraph (c) and the "or" which immediately precedes paragraph (c);

(b) in subsection (2), for "under section 6 of the Bankruptcy (Scotland) Act 1985" substitute "by virtue of section 6 of the Bankruptcy (Scotland) Act 2016";

(c) omit subsection (3); and

(d) in subsection (4), for "under section 6 of the Bankruptcy (Scotland) Act 1985" substitute "by virtue of section 6 of the Bankruptcy (Scotland) Act 2016".

(6) In section 14 (effect of transfer on insured's liability) omit subsections (4) and (5).

(7) In section 19A(1) (interpretation) omit "and 14(4)".

PART 2

Secondary Legislation

Insolvency (Scotland) Rules 1986

36.—(1) The Insolvency (Scotland) Rules 1986(**a**) are amended as follows.

(2) In rule 0.2(1) (interpretation), omit the definition of "the Bankruptcy Act".

(3) For rule 4.76 (limitation) substitute—

"**Limitation**

4.76.—(1) The provisions in paragraph (2) apply in relation to the liquidation as they apply in relation to a sequestration subject to the substitution of "petition for winding up" for references to "petition for sequestration" and to any other necessary modifications.

(2) The provisions are—

(a) sections 13(5) and 46(8), as read with section 228(8) to (10), of the Bankruptcy (Scotland) Act 2016;

(b) article 6(1)(a) and (b), (2) and (3) of the Bankruptcy (Scotland) Act 2016 (Consequential Provisions and Modifications) Order 2016.".

Insolvency (Northern Ireland) Order 1989

37.—(1) The Insolvency (Northern Ireland) Order 1989(**b**) is amended as follows.

(2) In Article 4(5)(a) (definition of "associate"), for "1985" substitute "2016".

(**a**) S.I. 1986/1915, amended by S.I. 1987/1921, S.I. 1999/1820, S.I. 2002/2709, S.I. 2003/2108, S.I. 2003/2109, S.I. 2003/2111, S.I. 2006/734, S.I. 2007/2537, S.I. 2008/662, S.I. 2009/662, S.I. 2010/688 and S.I. 2012/2404, S.S.I. 2008/393 and S.S.I. 2014/114.

(**b**) S.I. 1989/2405; Article 349(5)(a) was substituted by the Small Business, Enterprise and Employment Act 2015 (c.26) ("the 2015 Act"), section 116(3).

(3) In Article 349(5)(a) (persons not qualified to act as insolvency practitioners), after "1985" insert "or 2016".

Company Directors Disqualification (Northern Ireland) Order 2002

38. In Article 15(1A)(b)(ii) of the Company Directors Disqualification (Northern Ireland) Order 2002(**a**) (undischarged bankrupts), after "1985" insert "or 2016".

Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005

39.—(1) The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005(**b**) is amended as follows.

(2) In article 3(4) (insolvency practitioners)—

(a) omit "the 1985 Act,"; and

(b) after "1986 Act," insert "the 2016 Act,".

(3) In article 4 (insolvency practitioners: interpretation)—

(a) omit paragraph (6)(c);

(b) insert after paragraph (6)(d)—

"(da) the 2016 Act is the Bankruptcy (Scotland) Act 2016"; and

(c) in paragraph (7), for "12(4) of the 1985" substitute "22(7) of the 2016".

(4) In article 141P (giving effect in England and Wales and Northern Ireland to External Requests by means of Civil Proceedings: insolvency)(**c**)—

(a) in paragraph (2)(c)—

(i) omit "section 2 of the 1985 Act,"; and

(ii) after "1986 Act," insert ", section 54 of the 2016 Act"; and

(b) in paragraph (2)(f), for "1985" substitute "2016".

(5) In article 141Q (giving effect in England and Wales and Northern Ireland to External Requests by means of Civil Proceedings: insolvency interpretation)(**d**)—

(a) omit paragraph (2); and

(b) insert after paragraph (3)—

"(3A) The 2016 Act means the Bankruptcy (Scotland) Act 2016.".

(6) In article 141ZL (giving effect in Scotland to External Requests by means of Civil Proceedings: insolvency)(**e**)—

(a) in paragraph (2)(c)—

(i) omit "section 2 of the 1985 Act,"; and

(ii) after "1986 Act," insert ", section 54 of the 2016 Act"; and

(b) in paragraph (2)(f), for "1985" substitute "2016".

(7) In article 141ZM (giving effect in Scotland to External Requests by means of Civil Proceedings: insolvency interpretation)(**f**)—

(a) omit paragraph (2); and

(b) insert after paragraph (3)—

"(3A) The 2016 Act means the Bankruptcy (Scotland) Act 2016.".

(**a**) S.I. 2002/3150; Article 15(1A) was inserted by the 2015 Act, section 114.
(**b**) S.I. 2005/3181, amended by S.I. 2013/2604.
(**c**) Article 141P was inserted by article 3 of S.I. 2013/2604.
(**d**) Article 141Q was inserted by article 3 of S.I. 2013/2604.
(**e**) Article 141ZL was inserted by article 3 of S.I. 2013/2604.
(**f**) Article 141ZM was inserted by article 3 of S.I. 2013/2604.

(8) In article 208 (insolvency)—

(a) in paragraph (2)(c)—

(i) omit "section 2 of the 1985 Act,"; and

(ii) after "1986 Act" insert ", section 54 of the 2016 Act";

(b) in paragraph (2)(f), for "1985" substitute "2016";

(c) in paragraph (6)—

(i) omit sub-paragraph (a); and

(ii) insert after paragraph (b)—

"(ba) the 2016 Act means the Bankruptcy (Scotland) Act 2016"; and

(d) in paragraph (7)(a) for "1985" it each place where it occurs substitute "2016".

SCHEDULE 2

Article 7(2)

REPEALS AND REVOCATIONS

PART 1

REPEALS

Enactment	*Extent of repeal*
Gas Act 1986 (c.44)	In Schedule 7, paragraph 32.
Criminal Justice Act 1988 (c.33)	In Schedule 15, paragraphs 106 to 109.
Housing Act 1988 (c.50)	Section 118.
Electricity Act 1989 (c.29)	In Schedule 16, paragraph 32.
Broadcasting Act 1990 (c.42)	In Schedule 20, paragraph 41.
Finance Act 1991 (c.31)	In Schedule 2, paragraph 21.
Child Support Act 1991 (c.48)	In Schedule 5, paragraph 6.
Social Security (Consequential Provisions) Act 1992 (c.6)	In Schedule 2, paragraph 69.
Pension Schemes Act 1993 (c.48)	In Schedule 8, paragraph 17.
Finance Act 1994 (c.9)	In Schedule 7, paragraph 7(3) to (5).
Value Added Tax Act 1994 (c.23)	In Schedule 14, paragraph 9.
Drug Trafficking Act 1994 (c.37)	Section 65(4).
	In Schedule 1, paragraph 10.
Jobseekers Act 1995 (c.18)	In Schedule 2, paragraph 8.
Pensions Act 1995 (c.26)	In Schedule 3, paragraphs 13 and 14.
Gas Act 1995 (c.45)	In Schedule 4, paragraph 13.
Scotland Act 1998 (c.46)	In Schedule 8, paragraph 22.
Welfare Reform and Pensions Act 1999 (c.30)	Section 16.
	In Schedule 2, paragraph 1.
	In Schedule 12, paragraphs 67 to 69.
Utilities Act 2000 (c.27)	In Schedule 6, paragraph 46.
Proceeds of Crime Act 2002 (c.29)	In Schedule 11, paragraph 15.

Enactment	*Extent of repeal*
Income Tax (Earnings and Pensions) Act 2003 (c.1)	In Schedule 6, paragraph 153.
Communications Act 2003 (c.21)	In Schedule 17, paragraph 78.
Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27)	Section 59(2).
Civil Partnership Act 2004 (c.33)	In Schedule 28, Part 3.
Pensions Act 2007 (c.22)	In Schedule 5, paragraphs 1 and 2.
Policing and Crime Act 2009 (c.26)	In Schedule 7, paragraphs 46 to 52.

PART 2

Revocations

Enactment	*Extent of revocation*
Insolvency (ECSC Levy Debts) Regulations 1987 (S.I. 1987 No. 2093)	Regulation 3.
Scotland Act 1998 (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999 No. 1820)	In Schedule 2, paragraph 82.
Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001 No. 3649)	Articles 224 and 225.
Insolvency (Scotland) Regulations 2003 (S.I. 2003 No. 2109)	Part 1 and Schedule 1.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 104, and other sections, of the Scotland Act 1998 ("the 1998 Act") and makes provision in consequence of the Bankruptcy (Scotland) Act 2016 (asp 21) ("the 2016 Act").

The 2016 Act is a consolidation of the law of Scotland relating to Bankruptcy. It contains some provisions which, but for paragraph 7 of Schedule 4 to the 1998 Act, would be outside the legislative competence of the Scottish Parliament. (By virtue of that paragraph an Act of the Scottish Parliament may restate the law even where the subject matter is a reserved matter).

But some provisions of the legislation consolidated require not merely to be restated in Scots law but to be law in other parts of the United Kingdom. The primary purpose of this Order is to make such provision as is needed to meet that requirement.

Article 3 of the Order relates to the examination, in certain Scottish Bankruptcy proceedings, of a person residing in a part of the United Kingdom other than Scotland.

Article 4 of the Order makes for other parts of the United Kingdom the same provision in relation to the effect of a debtor's discharge as is made for Scotland by section 145 of the 2016 Act.

Article 5 of the Order relates to the exercise of powers of the Secretary of State to make regulations as regards certain matters relating to pensions and as to fees and outlays payable to the Accountant in Bankruptcy in respect of the exercise of any of that officer's functions under the Insolvency Act 1986.

Article 6 of the Order makes for other parts of the United Kingdom the same provision in relation to the limitation of actions as is made for Scotland by sections 13(5), 14(5), 46(8) and 125(3) of, and paragraph 4 of schedule 4 to, the 2016 Act.

Article 7 of the Order provides for the consequential modification of enactments and for certain consequential repeals and revocations.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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