



# Bankruptcy and Diligence etc. (Scotland) Act 2007

2007 asp 3

## PART 1

### BANKRUPTCY

#### *Effect of bankruptcy restrictions orders and undertakings*

#### 5 Orders relating to disqualification

After section 71A of the 1985 Act, insert—

##### **“71B Disqualification provisions: power to make orders**

- (1) The Scottish Ministers may make an order under this section in relation to a disqualification provision.
- (2) A “disqualification provision” is a provision made by or under any enactment which disqualifies (whether permanently or temporarily and whether absolutely or conditionally) a relevant debtor or a class of relevant debtors from—
  - (a) being elected or appointed to an office or position;
  - (b) holding an office or position; or
  - (c) becoming or remaining a member of a body or group.
- (3) In subsection (2) above, the reference to a provision which disqualifies a person conditionally includes a reference to a provision which enables him to be dismissed.
- (4) An order under subsection (1) above may repeal or revoke the disqualification provision.
- (5) An order under subsection (1) above may amend, or modify the effect of, the disqualification provision—
  - (a) so as to reduce the class of relevant debtors to whom the disqualification provision applies;

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*Status: This is the original version (as it was originally enacted).*

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- (b) so as to extend the disqualification provision to some or all individuals who are subject to a bankruptcy restrictions order;
  - (c) so that the disqualification provision applies only to some or all individuals who are subject to a bankruptcy restrictions order;
  - (d) so as to make the application of the disqualification provision wholly or partly subject to the discretion of a specified person, body or group.
- (6) An order by virtue of subsection (5)(d) above may provide for a discretion to be subject to—
- (a) the approval of a specified person or body;
  - (b) appeal to a specified person, body, court or tribunal.
- (7) The Scottish Ministers may be specified for the purposes of subsection (5)(d) or (6)(a) or (b) above.
- (8) In this section—
- “bankruptcy restrictions order” includes—
- (a) a bankruptcy restrictions undertaking;
  - (b) a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to the Insolvency Act 1986 (c. 45); and
  - (c) a bankruptcy restrictions undertaking entered into under paragraph 7 of that Schedule;
- “relevant debtor” means a debtor—
- (a) whose estate has been sequestrated;
  - (b) who has granted (or on whose behalf there has been granted) a trust deed;
  - (c) who has been adjudged bankrupt by a court in England and Wales or in Northern Ireland; or
  - (d) who, in England and Wales or in Northern Ireland, has made an agreement with his creditors for a composition in satisfaction of his debts or a scheme of arrangement of his affairs or for some other kind of settlement or arrangement.
- (9) An order under this section—
- (a) may make provision generally or for a specified purpose only;
  - (b) may make different provision for different purposes; and
  - (c) may make transitional, consequential or incidental provision.
- (10) An order under this section—
- (a) shall be made by statutory instrument; and
  - (b) shall not be made unless a draft has been laid before and approved by a resolution of the Scottish Parliament.”.