

BANKRUPTCY AND DEBT ADVICE (SCOTLAND) ACT 2014

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Administration of estate

Section 14 – Submission of claims to trustee

31. This section amends section 48 of the 1985 Act ('Submission of claims') in order to introduce a requirement that creditors should submit claims within a period of not more than 120 days after the trustee has given notice to creditors inviting them to submit claims, unless there is a reasonable explanation. Accordingly, if a creditor does not submit their claim before this deadline, there must be exceptional circumstances to explain why this was not possible or the creditor risks losing a dividend. This is additional to the existing time limits in respect of meetings and accounting periods.

Section 15 – First accounting period

32. **Section 52** ('Estate to be distributed in respect of accounting periods') of the 1985 Act provides for the payment of interim dividends on the basis of accounting periods – essentially 12 month periods, subject to variation in various circumstances. This section amends that provision in order to allow the trustee to make a dividend payment to creditors at an earlier stage in the administration of the bankrupt debtor's estate, should sufficient funds be ingathered. This would be done by shortening accordingly the first accounting period under the 1985 Act.

Section 16 – Vesting of estate after sequestration

33. This section amends section 31(5A) (about the reinvestment of non-vested contingent interests, such as an expectation to inherit under a will) and section 32(10) (the meaning of 'relevant date' for purposes of vesting etc.) of the 1985 Act. It extends the period for which *acquirenda*, i.e. property or rights acquired or received by the debtor after the date of sequestration (see section 12(4) of the 1985 Act), at present up to the debtor's discharge, which would have vested in the trustee had it been part of the estate on the date of sequestration, transfers to the trustee for the benefit of creditors. It will under the Act fall to the trustee for up to 4 years from the date of sequestration. The same will apply to non-vested contingent interests, such as a legacy under a will, the right to which will reinvest in the debtor at the end of the same 4 year period.