

Status: Point in time view as at 01/01/2015.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Paragraph 17 is up to date with all changes known to be in force on or before 17 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 4

DISCHARGE ON COMPOSITION

- 17 (1) Without prejudice to any rule of law relating to the reduction of court decrees, the Court of Session, on the application of any creditor, may recall the order of the sheriff approving the offer of composition and discharging the debtor and the ^{F1} . . . trustee where it is satisfied—
- (a) that there has been, or is likely to be, default in payment of the composition or of any instalment thereof; or
 - (b) that for any reason the composition cannot be proceeded with or cannot be proceeded with without undue delay or without injustice to the creditors.
- (2) The effect of a decree of recall under this paragraph where the debtor has already been discharged shall be to revive the sequestration:
- Provided that the revival of the sequestration shall not affect the validity of any transaction which has been entered into by the debtor since his discharge with a person who has given value and has acted in good faith.
- (3) Where the ^{F1} . . . trustee has been discharged, the Court may, on pronouncing a decree of recall under this paragraph, appoint a judicial factor to administer the debtor's estate, and give the judicial factor such order as it thinks fit as to that administration.
- (4) The clerk of court shall send a copy of a decree of recall under this paragraph to the ^{F1} . . . trustee or judicial factor for insertion in the sederunt book.

Textual Amendments

- F1** Words in Sch. 4 para. 17(1)(3)(4) repealed (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), ss. 226, 227(3), [Sch. 6 Pt. 1](#) (with s. 223); S.S.I. 2008/115, [art. 3\(2\)\(3\)](#), Sch. 2 (with arts. 4-6, 10 (as amended (with effect from 31.1.2011) by S.S.I. 2011/31, art. 5))

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