
Status: Point in time view as at 01/02/1991.

Changes to legislation: Bankruptcy (Scotland) Act 1985 (repealed), Part II is up to date with all changes known to be in force on or before 01 June 2024.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 7

PART II

RE-ENACTMENT OF CERTAIN PROVISIONS OF BANKRUPTCY (SCOTLAND) ACT 1913 (C. 20)

Arrestments and Poidings

- 24 (1) Subject to sub-paragraph (2) below, all arrestments and poidings which have been executed within 60 days prior to the constitution of the apparent insolvency of the debtor, or within four months thereafter, shall be ranked *pari passu* as if they had all been executed on the same date.
- (2) Any such arrestment which is executed on the dependence of an action shall be followed up without undue delay.
- (3) Any creditor judicially producing in a process relative to the subject of such arrestment or poiding liquid grounds of debt or decree of payment within the 60 days or four months referred to in sub-paragraph (1) above shall be entitled to rank as if he had executed an arrestment or a poiding; and if the first or any subsequent arrester obtains in the meantime a decree of furthcoming, and recovers payment, or a poiding creditor carries through a sale [F¹ or receives payment in respect of a poided article upon its redemption], he shall be accountable for the sum recovered to those who, by virtue of this Act, may be eventually found to have a right to a ranking *pari passu* thereon, and shall be liable in an action at their instance for payment to them proportionately, after allowing out of the fund the expense of such recovery.
- (4) Arrestments executed for attaching the same effects of the debtor after the period of four months subsequent to the constitution of his apparent insolvency shall not compete with those within the said periods prior or subsequent thereto, but may rank with each other on any reversion of the fund attached in accordance with any enactment or rule of law relating thereto.
- (5) Any reference in the foregoing provisions of this paragraph to a debtor shall be construed as including a reference to an entity whose apparent insolvency may, by virtue of subsection (5) of section 7 of this Act, be constituted under subsection (1) of that section.
- (6) This paragraph shall apply in respect of arrestments and poidings which have been executed either before or after the coming into force of this paragraph.
- (7) The repeal of the Bankruptcy (Scotland) Act 1913 shall not affect the equalisation of arrestments and poidings (whether executed before or after the coming into force of this paragraph) in consequence of the constitution of notour bankruptcy under that Act.

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[^{F2}(8) Nothing in this paragraph shall apply to an earnings arrestment, a current maintenance arrestment or a conjoined arrestment order.]

Textual Amendments

- F1** Words inserted by Debtors (Scotland) Act 1987 (c.18, SIF 45:2), s. 108(1)(2), Sch. 6 para. 28(a), Sch. 7 paras. 5, **9(1)**
- F2** Words added by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(1)(2), Sch. 6 para. 28(b), Sch. 7 paras. 5, **9(1)**

Modifications etc. (not altering text)

- C1** Sch. 7 para. 24 excluded by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), ss. 67, 108(2), Sch. 7 paras. 5, **9(1)**

Exemptions from stamp or other duties for conveyances, deeds etc. relating to sequestrated estates

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Any—

- (a) conveyance, assignation, instrument, discharge, writing, or deed relating solely to the estate of a debtor which has been or may be sequestrated, either under this or any former Act, being estate which after the execution of such conveyance, assignation, instrument, discharge, writing, or deed, shall be and remain the property of such debtor, for the benefit of his creditors, or the interim or permanent trustee appointed or chosen under or by virtue of such sequestration,
- (b) discharge to such debtor,
- (c) deed, assignation, instrument, or writing for reinvesting the debtor in the estate,
- (d) article of roup or sale, or submission,
- (e) other instrument or writing whatsoever relating solely to the estate of any such debtor; and
- (f) other deed or writing forming part of the proceedings ordered under such sequestration,

shall be exempt from all stamp duties or other Government duty.

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